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AFGHANISTAN

Country of Origin Information Reports are produced by the Science & Research Group of the Home Office to provide caseworkers and others involved in processing asylum applications with accurate, balanced and up-to-date information about conditions in asylum seekers' countries of origin.

They contain general background information about the issues most commonly raised in asylum/human rights claims made in the UK.

The reports are compiled from material produced by a wide range of recognised external information sources. They are not intended to be a detailed or comprehensive survey, nor do they contain Home Office opinion or policy.

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1. Scope of Document

- 1.01 This Country of Origin Information Report (COI Report) has been produced by Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to 1 September 2005.
- 1.02 The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office 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.
- 1.03 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- 1.04 The structure and format of the COI Report reflects the way it is used by Home Office caseworkers 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.
- 1.05 The information included in this COI 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.
- 1.06 As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI 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.
- 1.07 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.

- 1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link 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 the Home Office upon request.
- 1.09 COI Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.
- 1.10 In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

- 1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk.
- 1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel'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.

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2. Geography

- 2.01 The Central Intelligence Agency (CIA) World Factbook, updated on 30 June 2005, gives the conventional long form of the country name as the “Islamic Republic of Afghanistan” and the conventional short form as “Afghanistan”. [23] (p4) The same source records that Afghanistan is a land-locked country, sharing borders of 5,529 kilometres with six neighbouring states: China (76 km), Iran (936 km), Pakistan (2,430 km), Tajikistan (1,206 km), Turkmenistan (744 km) and Uzbekistan (137 km). [23] (p2) The CIA World Factbook states that there are 34 provinces. [23] (p4)
- 2.02 Europa Regional Surveys of the World: South Asia 2005 records that the five largest towns are Kabul (the capital), Kandahar, Herat, Mazar-i-Sharif and Jalalabad and gives a 2003 estimated population figure of 23,897,000. [1a] (p74-75) The CIA World Factbook recorded an estimated July 2005 population figure of 29,928,987. [23] (p2)
- 2.03 A June 2005 UNHCR paper recorded that the official languages are Dari (a Persian dialect) spoken by 50 per cent of the population and Pashtu (spoken by an estimated 38%). [11b] (p7) The Constitution states “In areas where the majority of people speak one of the Uzbeki, Turkmani, Baluchi, Pashai, Nuristani and Pamiri languages, that language shall be recognized as third official language in addition to Pashtu and Dari, the modality of its implementation shall be regulated by law”. [81] (Article 16) The UNHCR paper states that languages and dialects other than Pashtu and Dari are spoken by about 12 per cent of the population. [11b] (p7)
- 2.04 Europa 2005 records that Dari and Pashto (Pashtu/Pakhto) have been the official languages of the country since 1936, using an augmented Arabic script. Pashto, one of the eastern group of Iranian languages, is also spoken across the border in Pakistan. [1a] (p50) The Ethnologue: Languages of the World 2004 records that the formal style of Dari is closer to Tehrani Persian (Farsi) and the informal style in some parts of Afghanistan is closer to Tajiki of Tajikistan. Phonological and lexical differences between Iran and Afghanistan cause little difficulty in comprehension. [16]
- 2.05 The June 2005 UNHCR paper recorded:
- “In terms of ethnic composition, which is considered to have become an increasingly defining feature during the Constitutional Loya Jirga and also the presidential elections, Afghanistan’s population is rich and diverse:
- The Pashtuns are the largest group (about 38%) and are divided into two main subgroups of Durrani and Ghilzai (besides further sub-groups and tribes within these two). While most of the Pashtuns are settlers, some of them, the Kuchis, lead a semi-nomadic or nomadic life, based on animal husbandry.
 - The Tajiks (about 25%) are Persian (Dari) – speaking Afghans.
 - Hazaras (about 19%), Uzbeks (about 6%), Turkmen, Baluch, Pashai, Nuristani, Aymaks, Arab, Qirghiz, Qizilbash, Gujur, Brahwui and others (12%).

The new Afghan constitution refers to these different ethnic groups, which 'comprise the nation of Afghanistan' and stipulates 'equality among all ethnic groups and tribes'.

Islam is the official religion in Afghanistan, as stipulated in Article 2 of the Constitution. It is practiced by a majority of Sunni Muslims (84%) as well as by the Shi'a (including a smaller group of Ismaili). Afghanistan is home to minority Hindus and Sikhs." [11b] (p7-8).

For further information on geography, refer to Europa 2005 source. [1a]

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3. Economy

- 3.01 On 9 September 2004, the World Bank published their first Economic Report on Afghanistan in a quarter of a century. The report noted:

“Afghanistan’s economy has been devastated and distorted by more than two decades of protracted conflict, capped by a severe nationwide drought in 1999-2001, but has bounced back in the last two years. The strong economic recovery is attributable to the end of drought and major conflict and initiation of reconstruction, and has been supported by sound, conservative Government macroeconomic policies, a highly successful currency reform, and structural reforms most notably in trade and the financial sector. Nevertheless Afghanistan remains one of the poorest countries in the world, and numerous people suffer from low food consumption, loss of assets, lack of social services, disabilities (e.g. from land-mine accidents), disempowerment, and insecurity. Moreover, daily life is still shaped by the consequences of almost a quarter century of conflict. One of these is ‘informality’ – most economic activities do not follow, and are not protected by, official and legal rules and some of them, such as cultivating opium poppy and the arms trade, are criminal. This has important implications for economic structure, policies, and reforms.” [69a] (para. 1.01)

- 3.02 The September 2004 World Bank report noted: “The Afghan economy is dominated by agriculture (32% of estimated total GDP in 2003), mainly cereal crops (27%), and by the opium economy (an estimated 35% of GDP). Other sectors are relatively small, including manufacturing (9%) – most of it small-scale agricultural processing and other small-scale activities, construction (3%), and public administration (3%).” [69a] (para. 1.16)

- 3.03 A World Bank report dated December 2004 noted:

“In conditions of lawlessness and impoverishment, opium has become Afghanistan’s leading economic activity, accounting for one third of (opium inclusive) GDP in 2003, even more in 2004. Despite current attempts to stem it, the opium economy is expanding, driven by good prices and by rural poverty and debt, as well as by pressures from criminal networks. Production is now found in all 34 provinces. Drops in the opium price in 2003 and 2004, high labor costs, and some attempts at eradication have apparently not reduced incentives, and farmers harvested opium on a record area in 2004.” [69c] (p3)

- 3.04 The United Nations Office on Drugs and Crime (UNODC) 2005 World Drug Report observed that “A Rapid Assessment conducted by UNODC earlier in 2005 indicated that the area under poppy cultivation has declined in 2005 as compared to the record levels in 2004”. [87] (p9) On 29 August 2005, the UNODC announced that Afghanistan remained the largest supplier of opium, accounting for 87 per cent of world supplies. “In terms of opium cultivation, however, Afghanistan’s share in the global total dropped from 67 per cent in 2004 to 63 per cent in 2005.” [40aw]

- 3.05 A booklet by the Department for International Development (DFID) dated 1 April 2004 noted that 70 per cent of the Afghan population earn less than US\$1 per day. [51] In August 2004, UNICEF reported that the average monthly wage for unskilled workers in Afghanistan was \$100. [44a]

- 3.06 The exchange rates on 15 July 2005 indicated that one pound sterling was equal to 75.35 Afghan Afghanis. [58]

(See also Section 6.C: [Humanitarian Situation](#) paragraphs 6.344 to 6.359)

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4. History

OVERVIEW TO DECEMBER 2001

4.01 A Freedom House report published in August 2005 recorded:

“Located at the crossroads of the Middle East, Central Asia, and the Indian subcontinent, Afghanistan has for centuries been caught in the middle of great power and regional rivalries. After besting Russia in a contest for influence in Afghanistan, Britain recognized the country as an independent monarchy in 1921. King Zahir Shah ruled from 1933 until he was deposed in a 1973 coup. Afghanistan entered a period of continuous civil conflict in 1978, when a Communist coup set out to transform this highly traditional society. The Soviet Union invaded in 1979, but faced fierce resistance from U.S.-backed mujahideen (guerrilla fighters) until troops finally withdrew in 1989.

The mujahideen factions overthrew the Communist government in 1992 and then battled each other for control of Kabul, killing more than 25,000 civilians in the capital by 1995. The Taliban militia, consisting largely of students in conservative Islamic religious schools, entered the fray and seized control of Kabul in 1996. Defeating or buying off mujahideen commanders, the Taliban soon controlled most of the country except for parts of northern and central Afghanistan, which remained in the hands of the Tajik-dominated Northern Alliance coalition.

In response to the terrorist attacks of September 11, 2001, the United States launched a military campaign in October 2001 aimed at toppling the Taliban regime and eliminating Saudi militant Osama bin Laden’s terrorist network, al-Qaeda. Simultaneously, Northern Alliance forces engaged the Taliban from the areas under their control. The Taliban crumbled quickly, losing Kabul to Northern Alliance forces in November [2001] and surrendering the southern city of Kandahar, the movement’s spiritual headquarters, in December [2001].”
[41b] (p16-17)

POST-TALIBAN

4.02 Europa Regional Surveys of the World: South Asia 2005 records:

“Because the US-led coalition had been slow to exercise the ‘southern option’ – troops were not sent into southern Afghanistan until late November 2001 – a great number of Taliban members, possibly as many as 18,000 were able to flee to Pakistan, where they could find refuge among the frontier tribes. Many al-Qa’ida members also escaped. Two major operations against al-Qa’ida – in the Tora Bora mountains south of Jalalabad in December [2001] and in the Shah-i-Kot mountains east of Gardez in March 2002 – achieved meagre results. As of 2004 the al-Qa’ida leadership remains largely intact, while Mullah Mohammad Omar [leader of the Taliban] has also managed to evade capture.”
[1a] (p61)

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4.03 Europa also records:

“Following the defeat of the Taliban, there were two urgent requirements. One was that Kabul should be protected from any repetition of the infighting between the mujahidin groups that had devastated the capital prior to the Taliban occupation. The other was to fill the dangerous political vacuum that had been created by the Northern Alliance’s seizure of the capital. A 5000-strong International Security Assistance Force (ISAF) was accordingly deployed, under UN authorization, in Kabul and at Bagram airbase to help maintain security in the area...To deal with the political exigencies, a conference of representatives of various Afghan groups assembled in Bonn, Germany, at the end of November 2001. After several days of intense negotiations, and after former President Burhanuddin Rabbani had been quietly sidelined by his own Tajik associates, an agreement [the Bonn Agreement] was reached on the composition of a 30-member broadly-based multi-ethnic interim government under a Pashtun chief, Hamid Karzai. The Interim Authority was inaugurated on 22 December [2001] and comprised 11 Pashtuns, eight Tajiks, five Hazaras, three Uzbeks and three members of smaller tribal and religious groups. Preparations were also launched for the convening of a loya jirga, to meet within six months and carry the process forward.” [1a] (p61)

- 4.04 Europa noted that the Emergency Loya Jirga (ELJ) duly met in May-June 2002. Karzai was re-elected President and the Transitional Authority Cabinet retained most of the incumbent members of the Interim Authority. [1a] (p61)
- 4.05 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated on 26 April 2005 recorded that: “In October 2002, President Karzai appointed a Constitutional Drafting Committee, chaired by Vice-President Shahrani, to produce a draft constitution. The draft was examined by the 35-member Constitutional Review Commission, seven of whom were women, and a final draft was published on 3 November [2003]. This was submitted for discussion and approval to an elected Constitutional Loya Jirga, which convened on 14 December 2003. The new constitution was agreed on 4 January 2004”. [15c] (p3) The CIA World Factbook dated 30 June 2005 recorded that the new constitution was signed on 16 January 2004. [23] (p4)

(See also Section 5: The Constitution paragraphs 5.1-5.6)

- 4.06 Europa Online, accessed on 11 July 2005, recorded:

“Throughout 2004 violence continued to affect significant areas of the country. In February five Afghan aid workers died following an ambush east of Kabul. In March the Minister of Civil Aviation and Tourism and son of Ismail Khan, Mirwais Sadiq, was killed in a reported grenade attack in Herat. Khan held the regional government commander, Gen. Zahir Nayebyzada, responsible for his son’s death, and violent clashes ensued between rival forces in the province. Nayebyzada eventually fled, and Khan regained control of the city. President Karzai subsequently deployed forces of the ANA [Afghan National Army] to Herat in an attempt to restore order. The level of provincial instability in the country was illustrated further in April [2004], when fighters loyal to Gen. Dostam seized control of the city of Maymana, the capital of the northern province of Faryab, forcing the Governor of Faryab to flee, allegedly following a dispute over power-sharing in the region. Karzai reportedly sent soldiers into the city to stabilize the situation. Meanwhile, US troops continued to engage in operations against the Taliban.

In May [2004] Taliban forces took control of the Mizan district of Zabul province, but were swiftly repelled. By the end of that month it was reported that 90 US soldiers had been killed in Afghanistan since the commencement of military action in the country. In the following month [June 2004] the murder of 11 Chinese construction workers during an attack on a camp in the northern province of Kunduz, generally perceived to be one of the safer areas of the country, raised concerns regarding security for the forthcoming national elections.” [1b] (p29)

- 4.07 BBC News subsequently reported on 29 October 2004 that three men had been sentenced to death for the killing of 11 Chinese road workers in June 2004 and eight defendants had been given jail terms of up to 15 years. The report noted that General Mohammad Akbar, one of those sentenced to death, was formerly a commander in Kunduz for the Northern Alliance. The Taliban had denied any involvement. [25u]

- 4.08 Europa Online, accessed on 11 July 2005, also recorded that in June 2004, the killing of five Dutch workers from the international aid organisation Médecins Sans Frontières (MSF), during an ambush of their vehicle in the province of Badghis, prompted MSF to suspend all its operations in Afghanistan.

“The organization subsequently announced that, after 24 years of aid work in the country, it had decided to withdraw completely from Afghanistan. MSF criticized the US-led coalition for putting aid workers at risk by failing to distinguish properly between humanitarian and military operations. Meanwhile, the Governor of Ghor, Ibrahim Malikzada, was ousted from his position following a violent power struggle between local militia commanders in the province. In an attempt to increase security in the country, and to ensure its expansion outside Kabul, NATO pledged to increase the size of the ISAF to 10,000, from 6,500. The Government expressed its concern that the additional forces would be deployed only in the north of the country, stressing that they were most urgently needed in the southern and eastern provinces.” [1b] (p29)

- 4.09 On 30 August 2004, Reuters reported:

“The Taliban warned on Monday of further deadly attacks in the run-up to Afghanistan’s first presidential election after a car bomb in the heart of the capital killed up to a dozen people. Three Americans were among those killed in the blast, aimed at the offices of international security company DynCorp, which provides bodyguards for Afghan president Hamid Karzai and also helps train the national police force. The explosion in Kabul came less than 24 hours after another blast killed 10 people, including nine children, at a religious school in Paktia province, south of Kabul. And in a separate incident on Sunday, Afghan troops captured five Taliban in the southeastern city of Kandahar before they could carry out an attack on U.S.-led forces, Khalid Pashtun, a spokesman for the provincial governor, told Reuters.” [40u]

- 4.10 Europa Online, accessed on 11 July 2005, recorded:

“In September 2004, in an apparent attempt to assert his jurisdiction outside Kabul in advance of the [presidential] election, President Karzai dismissed Ismail Khan, the powerful Governor of Herat province, and offered him the cabinet post of Minister of Mines and Industries. Khan’s dismissal provoked rioting in the province as his supporters confronted US troops, reportedly

resulting in the deaths of seven people and injuries to a further 60, including 15 US soldiers. Khan subsequently rejected the ministerial portfolio, and Mohammed Khaikhwa was appointed to succeed him as Governor of Herat. Shortly afterwards President Karzai survived an assassination attempt when a rocket narrowly missed the US military helicopter in which he was travelling on an official visit to the south-east of the country. The Taliban claimed responsibility for the attack. In the same month the UN Security Council adopted a resolution extending the mandate of the ISAF for one year.”
[1b] (p30-31)

- 4.11 An International Crisis Group (ICG) report dated 23 November 2004 recorded:

“The lead-up to the election was marked by insecurity as insurgent forces, principally the Taliban but also including Hizb-i Islami forces loyal to Gulbuddin Hikmatyar, increased their activities, hoping to disrupt the process, including voter registration. Regional and local militia commanders refused to disarm, seeking to preserve their authority through the election period. Mounting centre-province tensions also resulted in armed clashes between commanders backed by the Kabul government and those resisting the extension of its authority.”
[26d] (section 11.C)

- 4.12 Europa Online noted that the kidnapping of three foreign UN workers by armed militants in Kabul in late October 2004 raised fears that insurgents were adopting new tactics in their efforts to undermine democracy in the country.

“The kidnappers were reportedly members of the Jaish-e-Muslimeen (Army of Islam), a militant group. In a videotape released shortly after the kidnapping, the group threatened that the hostages would be killed unless its demands for the release of prisoners and the withdrawal of foreign troops from Afghanistan were met. However, the hostages were released unharmed in the following month, following a series of raids by US soldiers and Afghan security forces. It was later reported that the Afghan security personnel had killed one of the kidnappers during the raid and tortured another suspected kidnapper while in custody until he died.” [1b] (p31)

- 4.13 It was reported on 13 December 2004 by the Afghanistan Daily Digest that the alleged leader of the Army of the Muslims (Jaiysh al-Muslimin/Jaish-e-Muslimeen), the group involved in the recent kidnapping of three UN employees in Kabul, had been arrested by Pakistani security forces on 11 December 2004
[54]

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PRESIDENTIAL ELECTION 9 OCTOBER 2004 AND THE NEW CABINET

- 4.14 Europa Online, accessed on 11 July 2005, recorded:

“On 9 October 2004 Afghanistan held its first direct presidential election. Despite some sporadic violence on the day of the election, no widespread disturbances were reported. Shortly after polling had begun, all 15 opposition candidates launched a boycott of the vote and demanded that it be abandoned, owing to alleged widespread electoral fraud. However, international observers announced in the following month that they had concluded, following an inquiry, that alleged irregularities during the poll were not considered significant enough

to have altered the final result. Interim President Hamid Karzai was subsequently declared the winner, receiving 55.37% of the votes, sufficient to ensure that a second round of voting would not be necessary. Former Minister of Education Yunus Qanooni came second, with 16.28% of the votes, followed by Mohammad Mohaqqueq, with 11.66%, and Gen. Abdul Rashid Dostam, with 10.03%. A reported 83.66% of those registered to vote did so. Concerns were, however, raised by the regional nature of Karzai's victory, which seemed largely to have been secured by voters in the Pashtun-majority provinces, indicating that he had not succeeded in appealing to all ethnic groups." [1b] (p30-31)

- 4.15 The report of the Impartial Panel of Election Experts published on 1 November 2004 concluded: "In summary, this was a commendable election, particularly given the very challenging circumstances. There were shortcomings, many of which were raised by the candidates themselves. These problems deserved to be considered, to ensure the will of the voters was properly reflected, and to help shape improvements for future elections. The Panel concludes, however that these concerns could not have materially affected the overall result of the election." [68] (p7)

- 4.16 The Human Rights Watch (HRW) 2005 Afghanistan report observed:

"Surprisingly few problems occurred on election day and over eight million votes were cast. But the international community failed to supply adequate numbers of international monitors to observe the election, and the majority of election sites were not adequately monitored. In many cases Afghans were able to vote relatively freely, but in many other places – especially rural areas – voters did not receive adequate civic education about the secrecy of the ballot and were likely threatened by local leaders how to vote. Independent political organizers unaffiliated with factions or their militia forces faced death threats and harassment and in many areas struggled just to organize. In the months before the election, Human Rights Watch documented continuing political repression by local factional leaders." [17f] (p2)

- 4.17 Keesing's Record of World Events for October 2004 noted that the security situation in Kabul during the course of polling was largely calm until a suicide attack on 24 October in which three people, including a US woman, were killed in Chicken Street, a busy commercial area popular with foreigners. The Taliban subsequently claimed responsibility for the attack. [5b] BBC News reported on 1 January 2005 that a man had been detained for his part in the bombing attack. The report also noted that another man, a Tajik national, had been arrested and had admitted to organising a car bombing attack in Kabul in August 2004 against a US security company, Dyncorp, which killed ten people, including three Americans. [25ag] On 8 January 2005, Reuters reported that Afghan security forces had also detained a supreme court judge, Judge Naqibullah, on suspicion of being involved in the August 2004 car bomb attack. [24e]

- 4.18 Europa Online, accessed on 11 July 2005, recorded:

"In December 2004, following his inauguration, President Karzai announced the composition of his Cabinet. While Minister of Foreign Affairs Dr Abdullah Abdullah and Minister of Interior Affairs Ali Ahmad Jalali retained their portfolios, Marshal (formerly Gen.) Muhammad Qassim Fahim was replaced as Minister of Defence by Gen. Abdul Rahim Wardak. Hedayat Amin Arsala was allocated the commerce portfolio. Ismail Khan became Minister of Energy and Water,

although several powerful regional commanders were not included in the new Cabinet, ostensibly owing to the fact that they did not satisfy a requirement that all cabinet ministers be educated to university level. Karzai was criticized for his failure to allocate more portfolios in the Pashtun-dominated Cabinet to other ethnic groups. In an attempt to address Afghanistan's continued problems with the widespread cultivation of opium, a Ministry of Anti-narcotics was created, headed by Habibullah Qaderi... Meanwhile, defeated presidential candidate Yunus Qanooni announced that he had decided to form a political party, New Afghanistan, to contest the 2005 legislative elections, which, it was announced in March 2005, would be held in September of that year." [1b] (p31)

(See [Annex B](#) for details of political parties registered for the elections)

- 4.19 On 10 January 2005, the Special Representative of the UN Secretary-General reported that the composition of the 27-member Cabinet met the requirements of the Afghan constitution that all ministers have higher education and hold only Afghan citizenship. "It also reflects broadly the ethnic composition of the country, with ten Pashtuns, eight Tajiks, five Hazaras, two Uzbeks, one Turkmen and one Baloch. Three women are in the cabinet – among them is the only female presidential candidate, Masuda Jalal." [40k]
- 4.20 News reports from the BBC [25af] and Institute of War and Peace Reporting (IWPR) [73k] dated 24 and 27 December 2004 respectively also noted that there would be three women in the new government. The IWPR report said that the government would include Dr. Masouda Jalal as Minister of Women's Affairs, Amena Afzali as Minister of Youth Affairs and Sidiqa Balkhi as Minister of Matyrs and the Disabled. [73k] A Radio Free Europe/Radio Liberty (RFE/RL) report of 30 December 2004 noted that Amena Afzali's position was described as Ministerial Adviser for Youth Affairs. [29g] On 19 July 2005, however, the Afghan Ministry of Foreign Affairs website did not show Amena Afzali as a Cabinet Minister. [67]
- 4.21 On 1 March 2005, Reuters reported that President Karzai had appointed General Abdul Rashid Dostum, as his personal military chief of staff, despite calls by human rights groups for him to sideline warlords. [24b] On 3 March 2005, BBC News reported the view of Human Rights Watch (HRW) that Dostum should not have been given the high-profile military post. HRW expressed concern that it could mean he will not be held accountable for alleged past human rights abuses. Amnesty International also expressed concern over the appointment. [25c] An earlier BBC News report dated 20 January 2005 reported that General Dostum had survived an assassination attempt by a suicide bomber outside a mosque in the northern town of Sheberghan. He was unhurt but about 20 others were wounded. "The Taleban said it carried out the attack to avenge the killing of its members...His fighters are accused of leaving hundreds of Taleban fighters to perish inside sealed steel containers after their defeat and capture." [25ah]

DEVELOPMENTS SINCE THE PRESIDENTIAL ELECTION

- 4.22 BBC News reported on 11 December 2004 that the US military had launched a new offensive, known as Operation Lightning Freedom, against Taleban and al-Qaeda militants ahead of elections planned for 2005. A US spokesman was quoted as saying that all 18,000 troops in the US-led force would be involved.

“Analysts say the offensive also aims to persuade Taleban militants to accept a recent US amnesty offer and disarm.” [25x]

(See also Section 6: [Taliban](#) for more details on the amnesty offer)

- 4.23 On 8 March 2005, the BBC reported that a British man working as an advisor to the Afghan government had been shot dead in Kabul late on 7 March. [25k] A report dated 11 March 2005 by the Institute of War and Peace Reporting (IWPR) said

“The Taleban were quick to claim responsibility for his killing but few observers take this seriously as the group has a history of making such claims. “The Taleban are trying to exaggerate the extent of their power,” said Najibullah Najib, press chief at the interior ministry. “They have claimed they were behind many incidents but later it proved to be unfounded.” A security analysis group agrees with this view. “They [the Taleban] frequently make these claims merely to take advantage of the situation,” said a spokesman who did not wish to be named.” [73v]

- 4.24 On 12 April 2005, BBC News reported that two deputy government ministers, Atta-Urahman Salim and Sayed Ahmad Jamal Mobarez, and six of their officials had been jailed for corruption in connection with the organisation of the January 2005 Haj pilgrimage to Saudi Arabia. The deputy ministers were jailed for three years and the other officials for up to two years. [25a]

- 4.25 In May and June 2005, observers noted that Afghanistan’s security situation had deteriorated. On 24 May 2005, Human Rights Watch said that Afghanistan’s security situation had deteriorated significantly in recent weeks, with a spate of political killings, violent protests and attacks on humanitarian workers. “The recent violence includes the assassination of a parliamentary candidate in Ghazni two weeks ago, the murder of three female aid workers, the kidnapping of an aid worker in Kabul, and clashes between armed factions in the northern province of Maimana.” The HRW report noted several other examples of violence throughout May 2005 including:

“May 9-13, 2005: Sixteen protesters were killed by police and army troops during violent demonstrations against a Newsweek report of U.S. interrogators desecrating a copy of the Koran during interrogations at Guantanamo Bay. Riots occurred in several Afghan cities, including Jalalabad, Ghazni, Kabul, and Maimana, during which some protesters set fire and loot government and U.N. buildings.

May 7, 2005: A suicide bomber set off a bomb in a Kabul internet café, killing two Afghan civilians and a Burmese engineer working for the United Nations.” [17k]

- 4.26 Radio Free Europe/Radio Liberty reported on 21 June 2005 that the Afghan Government said it had arrested three Pakistani men on charges of trying to assassinate the Afghan-born former US envoy [ambassador] to Afghanistan, Zalmay Khalilzad. A government spokesman, Jawed Ludin, was reported as saying that the plot was just one example of recent violence by Pakistanis or Arab foreigners within Afghanistan. “Ludin’s remarks echo an accusation made on 17 June by Khalilzad, who suggested that Pakistani forces are not doing

enough to capture remnants of the Taliban regime within Pakistan's territory." [29c]

- 4.27 The United Nations Assistance Mission in Afghanistan (UNAMA) published a statement dated 25 June 2005 by the Special Representative of the UN Secretary-General which advised:

"After a period of relative security since the presidential election in October of last year, Afghanistan is witnessing an escalation in violence. This is illustrated by the murder of cleric Maulawi Abdullah Fayaz and the massacre at the Abdul Rab Akhundzada Mosque in Kandahar city; the murder of eleven employees of Chemonics and their relatives in Zabul and Helmand; the murder of five deminers in Farah; the beheading of Mullah Ida Khan in his madrassa in the Barmal district of Paktika province; last week's cold-blooded execution of at least four Afghan police in Kandahar province; and several fatal attacks against people involved in the upcoming elections. While the country's South has been most affected, other parts of the country are far from immune. In Paktika, members of local shuras, a teacher and a religious figure have been killed by extremist elements. And in Kunar, Nuristan and districts of Nangarhar, insecurity has also worsened." [46]

- 4.28 A *Guardian* newspaper report dated 2 June 2005 stated that the Afghan authorities blamed al-Qaida for the bombing of the Kandahar mosque that killed 20 people and was the biggest ever suicide bombing in Afghanistan. The Taliban denied involvement in the attack. The report noted:

"Although Taliban insurgents regularly plant roadside bombs or ambush coalition troops, they rarely use suicide tactics and attacks on mosques are unheard of. 'It's not a traditionally Afghan thing. That may actually be the significance of this attack – it shows the influence of a global jihadi network' said Joanna Nathan, a senior analyst with the International Crisis Group. Threatening 'night letters' were distributed to homes in Kandahar on Tuesday, she said. 'They said that anyone who took part in the elections would meet the same fate as the assassinated mullah.' Nick Downie of Anso, a security group for non-governmental organisations, said there had been a 'massive' increase in night letters over the past week. 'This time they are all over the country, not just in the southern areas.'" [18a]

(See also Section 6: [Taliban](#))

- 4.29 On 11 July 2005, BBC News reported that the body of a US special forces soldier who went missing in a mountainous area of eastern Konar [Kunar] province on 28 June had been found. "The US said all indications were that the commando died in fighting, dismissing a claim by the Taliban that they had captured and killed him... A US Chinook helicopter carrying reinforcements to the region was shot down on 28 June 2005, killing all 16 soldiers on board...The downing of the helicopter was followed by a US bombing raid in Konar province which, the provincial governor said, left at least 17 civilians, including women and children, dead". [25d] A *Guardian Unlimited* report dated 4 July 2005 said that, according to US officials, the Taliban had shot down the Chinook with a rocket-propelled grenade. [18c]
- 4.30 On 11 July 2005, Radio Free Europe/Radio Liberty reported that in recent months three senior pro-government clerics had been assassinated in southern

Afghanistan. "Afghan Defense Minister Abdul Rahim Wardak said yesterday that foreign fighters from Arab and neighboring countries are carrying out the attacks with the Taliban... His comments came as authorities in southern Afghanistan confirmed the death of 10 Afghan police officers. Six of them were beheaded and their bodies and heads were dumped near the border with Pakistan. Beheading has been rare in the conflict in Afghanistan." [40x]

- 4.31 On 13 July 2005, BBC News reported "Suspected Taliban militants have shot dead a pro-government cleric in southern Afghanistan, the fourth such killing in the past two months." It was noted, however, that although the Taliban had admitted they carried out the earlier attacks on three clerics, no-one had yet claimed responsibility for this fourth attack. [25f] Agence France-Presse (AFP) reported on 23 August 2005: "On Sunday [21 August] Taliban insurgents shot dead Mullah Abdullah Malang, deputy head of the religious council of the Panjwaey district in restive Kandahar province, and his companion." The AFP report also stated that another Islamic cleric had escaped unhurt after suspected Taliban militants bombed his house on 23 August 2005. This was the sixth attack on pro-government Muslim clerics in the previous three months. [40av]
- 4.32 On 25 July 2005, Agence France-Presse reported that an Afghan electoral worker had been shot dead in Paktika Province, the fourth Afghan working in support of the elections to die in violence this year. According to a Joint Electoral Management Body (JEMB) spokesman it was unclear whether any of them were directly targeted because of their work. AFP also reported that at least 13 electoral workers were killed in the run-up to the presidential election in October 2004. "So far this year more than 770 people have been killed in political violence in Afghanistan, most of them militants in the south and east of the country, compared to some 850 people in 2004." [40ad]
- 4.33 Radio Free Europe/Radio Free Liberty (RFE/RL) reported on 22 August 2005 that Afghanistan's Islamic militants, primarily the Taliban, had been quoted as vowing to disrupt the forthcoming September elections and had left a trail of bloodshed in recent months.

"They have been targeting pro-government Islamic clerics, officials, electoral workers, and foreign aid workers, as well as Afghan and coalition troops. In the latest attack on clerics, Taliban guerrillas on 21 August [2005] claimed responsibility for shooting moderate mullah Abdullah Malang, deputy head of the religious council of Panjway District in Kandahar Province. Malang is the fifth pro-government mullah to be killed. The Taliban says such clerics have defied the jihad, or holy war, declared against the Western-supported Karzai government.

However, a Taliban spokesman, Abdul Latif Hakimi, now says the organization has no intention of attacking polling stations... Given their record in the last few months, it's hard to take the Taliban comments at face value. Kabir Ranjbar is the head of the Afghan Lawyers Association and an expert on Afghan affairs. He told Radio Free Afghanistan that Hakimi's comments may mean the Taliban is seeking a future political role." [29h]

- 4.34 The RFE/RL report of 22 August 2005 also stated that four US soldiers had been killed and three wounded the day before in Zabul Province. "Just three days before that, a US Marine was killed in fighting in Kunar Province. The

previous day, two US soldiers were killed in Kandahar Province. In total, 65 Americans have been killed in Afghanistan this year.” [29h]

(See also **Section 5:** [Security situation in different regions](#) and **Section 6:** [Anti-coalition forces](#))

For history prior to September 2001 refer to Europa, source [1a]. See also [Annex A](#) for a Timeline of Afghanistan

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5. State structures

THE CONSTITUTION

- 5.01 The Freedom House Afghanistan Report 2005 published in August 2005 noted:

“In December 2003, a 502-member constitutional loya jirga (CLJ) met to debate a draft constitution, which had been prepared by a constitutional commission earlier in the year and widely circulated in order to elicit feedback from Afghan citizens. Because of disagreements among the delegates over issues such as the system of government and national languages, proceedings stretched on for three weeks before the amended draft was ratified in January 2004. It describes Afghanistan as an Islamic republic in which no law should contravene the beliefs and practices of Islam, and provides for a presidential system of government and a National Assembly composed of two houses. Equal rights for women and men are guaranteed, as is the right to practice minority religions, although human rights advocates expressed concern that inadequate mechanisms were put in place to guarantee the provision of these and other rights.” [41b] (p17-18)

- 5.02 Commenting on the new constitution in January 2004, Human Rights Watch stated:

“Despite the democratic shortcomings of the Constitutional Loya Jirga, the new Afghan constitution it approved in January 2004 included significant provisions, notably on women’s rights. The constitution guarantees women a substantial number of seats in Afghanistan’s bicameral National Assembly. Approximately 25 percent of seats in the Wolesi Jirga (House of the People) are reserved for women; the president is obligated to appoint additional women in the Meshrano Jirga (House of Elders). Another provision of the constitution specifically guarantees equality between men and women under law.

The document contains several provisions enunciating basic political, civil, economic, and social rights, but little strong language empowering institutions to uphold them. The Afghan Independent Human Rights Commission (AIHRC) is given a mandate, but lacks many of the powers necessary for it to credibly protect basic rights. The constitution fails to adequately address the role of Islamic law and its relationship to human rights protections. Human Rights Watch is concerned that extremist factions could use appointments to the new judiciary to implement laws that violate human rights standards. The issue of accountability for past atrocities is also not addressed in the document. Despite Afghanistan’s recent history, the charter does not directly address issues of past war crimes and serious human rights abuses. The AIHRC may be able to delve further into this area, but it lacks any specific constitutional mandate to do so.” [17c] (p3)

- 5.03 The World Bank Economic Report on Afghanistan of 9 September 2004 noted

“The Constitution establishes a unitary state with a strong central government, providing for a democratically elected President and for separation of powers among the judiciary, executive, and legislative branches. The Government is allowed to delegate certain authorities to local administrative units (provinces) in the areas of economic, social, and cultural affairs, and to increase the

participation of the people in development. To this end, it establishes a role for elected provincial, district, and village level councils to work with the sub-national administration. Municipalities are to administer city affairs under the oversight of elected mayors and municipal councils.” [69a] (para. 4.15)

- 5.04 The UN Secretary-General noted on 26 November 2004 that

“It [the constitution] provides for a pure presidential system, but one that places a great emphasis on parliamentary control of the executive. The Constitution vests most powers in the central Government and does not devolve much authority to the provinces. It also calls for an independent judiciary, headed by a Supreme Court, and a legal framework that is consistent with the ‘beliefs and prescriptions’ of Islam. In an important measure to advance national unity, the Constitution explicitly includes all minority groups in the definition of the nation and recognizes Dari and Pashto as official languages, and other languages as official in the area where the majority speaks them. The Constitution provides equal rights to men and women and guarantees that women will make up at least 25 per cent of the representatives in the lower house of parliament.” [39f] (p3)

- 5.05 The preamble of the adopted constitution states as two of its aims, “Observing the United Nations Charter and respecting the Universal Declaration of Human Rights” and “For creation of a civil society free of oppression, atrocity, discrimination, and violence and based on the rule of law, social justice, protection of human rights, and dignity, and ensuring the fundamental rights and freedoms of the people.” [81]
- 5.06 Article 29 of the constitution decrees that “Torture of human beings is prohibited. No person, even with the intention of discovering the truth, can resort to torture or order the torture of another person who may be under prosecution, arrest, detention or convicted to be punished. Punishment contrary to human integrity is prohibited.” [81]

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CITIZENSHIP AND NATIONALITY

- 5.07 The United States Office of Personnel Management document Citizenship Laws of the World dated March 2001 records:

“Citizenship laws [in Afghanistan] are based upon the Official Gazette of the Ministry of Justice for the Republic of Afghanistan dated March 19, 1992.

BY BIRTH: Birth within the territory of Afghanistan does not automatically confer citizenship. Exception is a child of unknown/stateless parents.

BY DESCENT: Child whose mother or father is a citizen, regardless of the country of birth.

MARRIAGE: Foreign national who marries a citizen of Afghanistan is granted citizenship upon application.

BY NATURALIZATION: Afghan citizenship may be acquired upon fulfillment [sic] of the following conditions: Person was born in Afghanistan and has resided continually in country for at least five years.

DUAL CITIZENSHIP: NOT RECOGNIZED.

Exceptions: A former citizen of Afghanistan, who fled the country due to political instability or war and has acquired new citizenship, may still hold 'unofficial' Afghan citizenship. This is recognition that those who fled the country might some day want to return as Afghan citizens without losing new citizenship. The Afghani spouse of a foreign national is not required to renounce Afghan citizenship unless demanded by the spouse's country.

LOSS OF CITIZENSHIP: VOLUNTARY: Voluntary renunciation of Afghan citizenship is permitted by law... The following persons are not allowed to renounce citizenship:

- Person who has continuing financial obligations to the government or other institutions.
- Person who has been convicted of a crime and sentenced to jail.
- Persons involved in national security, whose loss to the country might endanger Afghan security.

INVOLUNTARY: The following is grounds for involuntary loss of Afghan citizenship: Person voluntarily acquires foreign citizenship and does not fall under the exempted status described under 'Dual Citizenship'. Persons concerned with dual citizenship should not assume their Afghan citizenship was lost by default. Embassy should be contacted and citizenship formally renounced." [61] (p13)

5.08 Article Four of the Constitution of January 2004 states "The word Afghan applies to every citizen of Afghanistan. No member of the nation can be deprived of his/her citizenship of Afghanistan. Affairs related to the citizenship and asylum are regulated by law." [81]

5.09 A Danish fact-finding mission to Kabul in March/April 2004 reported:

"The Ministry of the Interior explained that Afghan nationality cards (tazkara) [ID cards] represent a difficult area. Such cards have not been issued for the last 25 years. It is difficult to verify a person's true identity if they request a nationality card, including whether a person comes from Afghanistan or from one of the neighbouring counties [sic] due to problems with false passports. According to the Ministry of Interior, national identity cards can currently only be issued by the authorities in Kabul. Previously, such identity cards were issued in the format of a small book. Today, such cards are issued on a piece [sic] of paper size A4 (29,6 x 21 cm.)." [8] (section 8.1.1)

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POLITICAL SYSTEM

OVERVIEW

- 5.10 The Central Intelligence Agency (CIA) World Factbook 2004 records:

“Following the 11 September 2001 terrorist attacks, a US, Allied, and Northern Alliance military action toppled the Taliban for sheltering Osama Bin Laden. In late 2001, a conference in Bonn, Germany, established a process for political reconstruction that ultimately resulted in the adoption of a new constitution and presidential election in 2004. On 9 October 2004, Hamid Karzai became the first democratically elected president of Afghanistan.” [23] (p1)

- 5.11 In their report of 9 September 2004, the World Bank recorded “Afghanistan is a unitary state with a highly centralised government structure. Politically, all formal authority is vested in the center. Leaders at sub-national level – provincial Governors and municipal mayors, for instance – are appointed by the center. Most government services are delivered at provincial and district levels, but powers and responsibilities of sub-national administration are determined by the center.” [69a] (para. 4.05)

- 5.12 The World Bank report also noted:

“Despite this very high degree of de jure centralization, the defacto reality is that central control is very weak, given the strength of regional and local warlords who command substantial revenues and military power, and have captured the government administration in the localities they control. Certainly in the revenue-rich provinces, Governors make resource allocation decisions other than on basic salaries. Staff appointments from Kabul are often rejected in favor [sic] of those loyal to regional factions; and even Kabul-based appointments often reflect loyalties and ethnic ties rather than merit. In these areas, where the warlords (and in some cases Governors) have ‘captured’ both strategic decision-making and overall fiscal resources, the public sector is essentially autonomous from the central government.” [69a] (para. 4.08)

PARLIAMENTARY ELECTIONS

- 5.13 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated on 26 April 2005, stated:

“Parliamentary elections are planned for 18 September 2005. They will be far more complex and present a far greater logistical challenge than the 2004 Presidential elections. Afghans will get the opportunity to elect, via a Single Non-Transferable Vote (SNTV), constituency members to the 249-seat lower chamber of an all-new parliament, the Wolesi Jirga. The upper house, the Meshrano Jirga, will be elected indirectly by local councils. Under the Constitution, the Afghan President nominates one third of the seats in the upper house, and has an obligation to ensure that minorities such as the disabled and the nomad Kuchi are represented. On the advice of the Independent Electoral Commission, President Karzai has decided to postpone the district elections to a later date, because of uncertainty over district boundaries and associated issues, which can best be resolved by the new parliament.” [15c] (p4)

- 5.14 An International Crisis Group (ICG) Report dated 21 July 2005 observed that:

“Elections for Afghanistan’s National Assembly (Shura-e Milli) and Provincial Councils (Shura-e Weelayati) rank among the most ambitious democratic exercises ever attempted in a post-conflict nation. On 18 September 2005, 69 separate polls will take place: two in each of the country’s 34 provinces and one for the nomadic Kuchi community.” [26c] (1. Introduction)

- 5.15 The UN Secretary-General reported on 12 August 2005 that “Despite a significant deterioration in security, particularly in the south and parts of the east of the country, the Joint Electoral Management Body has managed to keep the technical preparations for the elections on track. Offices are fully operational in the eight regional centres and the 34 provinces. On election day, between six and seven thousand polling sites will operate simultaneously across the country.” [39c] (p5)

The BBC reported on 24 August 2005 that “Thousands of US and Nato troops will be on hand during the elections although security at polling stations will be in the hands of the Afghan police and army.” [25g]

- 5.16 On 30 August 2005, Radio Free Europe/Radio Liberty reported that the report of the head of the EU observation mission to Afghanistan for the September elections, Emma Bonino, stated that voter registration for the 2004 presidential elections had been “clearly incomplete.” The report also noted that “This year, approximately 1.7 million new voting cards have been issued. The process of registration is still ongoing, and will only end on 8 September [2005]. The total number is expected to exceed 12.5 million. Women currently make up 44 per cent of the registered voters, although Bonino notes that there are many indications of “proxy registration of female voters.” [40ax]

POLITICAL PARTIES LAW

- 5.17 An International Crisis Group Policy Briefing dated 2 June 2005 noted:

“The Political Parties Law provides the framework for legal registration [of political parties] in accordance with the constitution but its anomalies need to be addressed urgently.

The law prohibits legalisation of political parties whose charters are ‘opposed to the principles of the holy religion Islam’. Since Islamic principles are open to interpretation, influential Islamist groups have been given a tool to block parties they deem politically unacceptable, including those that question their own practices and/or religious preferences. They also have been given a window of opportunity to limit women’s political participation as contradictory to sharia (religious law) and by blocking the registration of sympathetic parties despite Article 22 of the constitution, which affirms women’s equality. This is a matter of concern since many powerful Islamists are in or have influence over governmental institutions, including the judiciary. Article 6, paragraph 3 stipulates that political parties shall not incite violence on ethnic, racial, religious or sectarian grounds. The vague wording can be used to deny or revoke registration on spurious grounds, of parties that are deemed politically unacceptable. While it is essential to outlaw any group that advocates violence, restrictions on the legalisation of ethnic, sectarian and language based parties would run contrary to the country’s political realities. Indeed, most political parties, regardless of their formal manifestos and platforms, derive popular support along those lines. Narrowing legal channels within which to articulate

ethnic, sectarian or regional priorities and grievances could promote sub-state tensions and discord.

Because the law also prohibits the legalisation of political parties with links to military or quasi-military formations, it has usefully forced some of the militarised groups to cooperate with the disarmament, demobilisation and reintegration (DDR) process. However, because illegal armed groups, which are outside the mandate of the formal DDR process, have yet to be identified, some parties that have continued to maintain armed wings could gain accreditation, thus undermining the disarmament process.” [26e] (p4)

A copy of the Political Parties Law may be accessed via the link given in Annex E for source. [66]

POLITICAL PARTIES

- 5.18 The US State Department Report 2004 (USSD 2004), published on 25 February 2005 recorded:

“Political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security. Joint reports by UNAMA and AIHRC revealed that officials sometimes interfered with political parties, mainly due to a lack of awareness of citizens’ political rights. Political parties also exercised significant self-censorship. Political activities were visibly discouraged or curtailed in some parts of the country. For example, the Republican Party’s activities were restricted in provinces that were controlled by Ismail Khan and General Rashid Dostum. However, UNAMA and AIHRC’s conclusions were that political freedom improved substantially and steadily during the year.” [2d] (section 3)

(See Annex C: Prominent People for current information on Ismail Khan and Rashid Dostum.)

- 5.19 In September 2004 a Human Rights Watch (HRW) briefing paper noted that the political parties applying for registration in order to contest the forthcoming parliamentary elections varied in scope of organisation, membership characteristics, and links to different or governmental officials:

“Some are comprised of former government officials from pre-1992 governments, including the Soviet-supported governments of Najibullah and Babrak Karmal, the government of Daoud Khan (1973-1978) and even the government of the former King of Afghanistan, Zahir Shah. Some are reincarnations of political parties from the 1960s-1980s which never held any significant political power, including various socialist and communist groups, secularist groups, and various Islamist groups. Some parties are entirely new and are headed by youth leaders.

But much of Afghanistan’s political activity is being dominated by the warlord factions. There are numerous parties – the most powerful ones in fact – which are merely proxies for the various military factions, or sub-factions within them. Afghanistan’s registration law prohibits parties from maintaining their own private militias, but since most militia forces have an official status as divisions or battalions under the control of the Ministry of Defense, faction ‘parties’ can disingenuously claim that they have no private forces. The 10th Army Division, for instance – official units under the control of the Kabul government – are

actually factional forces controlled by the Ittihad-e Islami faction ('Ittihad'), which in turn is controlled by the powerful faction leader Abdul Rabb al-Rasul Sayyaf.

(See also [Annex C: Prominent People](#) for more information on Abdul Sayyaf)

Moreover, some factions changed their party names for registration purposes, possibly to avoid running afoul of the law. Most members of Jamiat-e Islami (Jamiat), for instance, a mujahidin military force which fought against the Soviet occupation, are now organized as the political party Nehzat-e Melli. Ittihad, a Pashtun armed faction, is now known as Daw'at-e Islami... Parties which change their name can then disingenuously claim that they have no official link with any military faction, and claim to be independent." [17i] (p5-6)

5.20 The ICG briefing of 2 June 2005 concurred, noting:

"There are very few strong, non-militarised parties, and many influential political actors continue to favour deal-making over constituency building... Former mujahidin leaders, whose vote base is limited to their own ethnic groups and regions, lead many of the parties that are registered or seeking registration. That said, in multi-ethnic, multi-regional Afghanistan, political bargaining inevitably takes place along regional, ethnic and sectarian lines, and will likely continue to do so even when the democratic transition has been consolidated and mature parties have become vehicles for broader participation." [26e] (p7)

5.21 The ICG briefing of 2 June 2005 also recorded:

"The ministry of justice's Department of Registration of Political Parties and Social Organisations is responsible for reviewing and registering political parties after ensuring they conform to the terms of the Political Parties Law, the constitution and other laws. It refers registration applications to the ministries of interior, finance, defence, the national security directorate and the UN Mission in Afghanistan (UNAMA) to verify whether an applicant has links to military or quasi-military groups; if funding is received from foreign sources and/or illicit domestic sources; and that party members do not hold government posts which are prohibited by the Political Parties Law, including as judges, prosecutors, military personnel, police officers and personnel of national security agencies." [26e] (p4-5)

5.22 A further ICG report dated 21 July 2005 observed that the legal framework for the forthcoming polls is found in the May 2005 Electoral Law: "Importantly, this law stripped out what few provisions there were for meaningful political party participation by watering down their right to nominate candidates. Parties were also deprived of the right to put their symbols on ballots." [26c] (p5) The report also noted that only four parties had chosen to apply for registration with the Ministry of Justice since May 2005 when it became clear how little power they would have under the new Electoral Law. [26c] (p15)

5.23 The 2 June 2005 ICG report also observed that the process for registering political parties was highly politicised:

"For example, the Islamists, who have considerable influence within and outside government, have tried with some success to obstruct registration of their leftist rivals. Thus, Islamist leaders and officials such as Abdur Rab Rasul Sayyaf and Supreme Court Chief Justice Fazl Hadi Shinwari delayed the registration of the

United National Party led by Noorul Haq Olomi, a former Parchami general, for almost a year and half. Olomi criticised the government, the UN and the international community for their indifference towards this political manipulation of the registration process.” [26e] (p5)

(See also [Annex B](#) for more information on political parties and organisations and a list of political parties approved by the Ministry of Justice)

PARLIAMENTARY CANDIDATES

5.24 The ICG Report dated 21 July 2005 recorded:

“By close of the nomination process, there were 2,838 potential candidates for the 239 provincially-elected Wolesi Jirga seats, 67 for the ten Kuchi seats, and 3,198 for the 420 Provincial Council seats. While the JEMB said it was pleased with the number of women candidates, there were only 342 for the Wolesi Jirga and 286 for the twice as numerous Provincial Council seats. There were very few female Provincial Council candidates in Nangarhar, Zabul and Uruzgan; hence seats reserved for women will remain vacant. Even Bamiyan, where the percentage of women voters in the presidential poll was impressive, had few female nominations.” [26c] (p14)

5.25 On 30 August 2005, Radio Free Europe/Radio Liberty reported the head of the EU observation mission to Afghanistan for the elections as saying that women make up ten per cent of the candidates. [40ax]

(See also [Section 6: Women’s participation in the 2004 and 2005 elections](#))

5.26 The JEMB released the final certified list of candidates on 12 July 2005. The JEMB press release noted that “The Final List incorporates more than 250 withdrawals and 17 final exclusions...Of the 17 candidates excluded, 11 were indentified by the Joint Secretariat of the Disarmament and Reintegration Commission as still linked to an unofficial armed group; five failed to provide a complete list of supporters’ signature with their candidacy application; and one had failed to resign a senior government post as required under the Electoral Law. Their exclusion is final.” [74b]

5.27 A Joint Verification of Political Rights report by the Afghan Independent Human Rights Commission (AIHRC) and UNAMA covering the period 4 June to 16 August 2005 stated:

“Overall, the results of the [candidate vetting] process were met with disappointment. Many expressed the view that a number of armed and powerful figures never appeared on the list due to political calculations. The fact that the vast majority of the provisionally excluded candidates were restored led to greater disillusionment with the process. While the disarmament of the candidates led to the handing in of 4,052 weapons, many have expressed the view that the weapons relinquished represent only a fraction of arms held by the identified candidates and their armed links. Provincial authorities have been tasked with verifying whether candidates are still maintaining links to armed groups. Disqualification of candidates violating the Electoral Law are possible until electoral results are certified by the JEMB.

There are also concerns that candidates accused of having committed human rights violations and criminal acts were included in the final list. The ECC has responded to these criticisms by noting that its mandate is limited to adjudicating challenges and complaints based on the Electoral Law, which specifies that candidates can only be excluded if convicted of a criminal offence. It has also noted that 90% of the complaints submitted could not be properly investigated due to the fact that the complainants had not provided sufficient information and supporting evidence.” [48d] (p4)

- 5.28 A Human Rights Watch report of 17 August 2005 stated “The final candidate list includes many commanders with links to illegal armed groups and individuals associated with perpetrators of grave human rights abuses, including women’s rights abuses. Unlike groups aligned with the Taliban, many such commanders have official government positions or do not actively oppose the central government of Afghanistan. However, they are keen to maintain and even expand their existing dominance through armed force.” [17d] (p20)

- 5.29 The Radio Free Europe/Radio Liberty (RFE/RL) news article dated 30 August reported on the contents of a report by the head of the EU observation mission to Afghanistan for the elections, Emma Bonino. The article noted:

“The EU observer mission offers some criticism of what the report describes as a ‘highly questionable’ vetting process of candidates suspected of past human rights violations or links to armed groups. Bonino told the parliament today that process appears to be opaque to outside scrutiny. So far, only 11 candidates out of a total of more than 200 suspected warlords have been struck from the list of candidates. Bonino says this appears to reflect a conscious policy on the part of the Afghan government. ‘It is clear that the political line that has been chosen is one of inclusion of commanders, one of not excluding anyone, so as to avoid a violent backlash during the transition. It is therefore possible that commanders with known links to militias will end up in parliament.’” [40ax]

- 5.30 A BBC News article dated 30 August 2005 reported that following the decision to exclude just 11 election candidates for being linked to illegal armed groups, several other candidates who are still commanding militia groups would be disqualified, according to officials.

“More than 20 alleged ‘commander candidates’ are in the frame, although the final number excluded is expected to be much lower...It is a surprising move because all 5,800 candidates have already been vetted by the Election Complaints Commission (ECC) and the ballot papers printed weeks ago...Grant Kippen, the ECC’s chairman, rejects accusations the body is trying to make up for being initially too lenient. He says they are considering new accusations that certain individuals have not done enough to disarm. ‘At any point in time, any person or organisation can bring forward a complaint.’” [25aa]

- 5.31 On 30 August 2005, Radio Free Europe/Radio Liberty (RFE/RL) reported the head of the EU observation mission to Afghanistan for the elections as saying that there had been numerous reports of intimidation of election candidates. The reports, however, were “difficult” to verify independently. “Four candidates have been killed so far, the last on 28 August [2005].” [40ax]

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JUDICIARY

5.32 Europa Regional Surveys of the World: South Asia 2005 records:

“After 23 years of civil war, which ended in December 2001 with the defeat of the Taliban, there no longer existed a functioning national judicial system. In accordance with the Bonn Agreement, Afghanistan temporarily reverted to the Constitution of 1964, which combined Shari’a with Western concepts of justice. A new Constitution was introduced in early 2004, which made no specific reference to the role of Shari’a but stated that Afghan laws should not contravene the main tenets of Islam.” Europa also notes that the Chief Justice is Fazul Hadi Shinwari. [1a] (p81)

5.33 The Constitution adopted in January 2004 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, structure and authorities of which are determined by law.” [Article 116]... “Judges are appointed with the recommendation of the Supreme Court and approval of the President.” [Article 132] Article 3 of the Constitution states that “In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam.” [81]

5.34 Amnesty International reported in March 2004 that “Lack of proper security for the courts, judicial personnel, victims and witnesses further undermines the capacity of the judicial system to act independently. Low level and irregular salaries contribute to corruption being widespread among judges and prosecutors in every region of Afghanistan. As a result, certain individuals remain above the law because of their place in the community or their ability to threaten, intimidate and use other forms of pressure to influence judicial proceedings.” [7a] (p2)

5.35 The Freedom House 2005 Afghanistan country report, published in August 2005 stated:

“There is no functioning, nationwide legal system, and justice in many places is administered on the basis of a mixture of legal codes by judges with minimal training. In addition, outside influence over the judiciary remains strong; in many areas, judges and lawyers are frequently unable to act independently because of threats from local power brokers or armed groups, and bribery is also a concern. The Supreme Court, stacked with 150 religious scholars who have little knowledge of jurisprudence and headed by an 80-year-old conservative, is particularly in need of reform. The Karzai administration’s plans to rebuild the judiciary have proceeded slowly, although a new criminal procedure code was promulgated in early 2004 and some progress has been made with the construction of courts and correctional facilities.” [41b] (p20)

5.36 On 4 February 2005, an article by the Institute for War and Peace Reporting (IWPR) noted that President Karzai had reappointed all but one of the nine high court judges he had initially appointed to the Supreme Court in December 2001. The article reported that observers said the President had missed an

opportunity to reform the country's ineffective judicial system. "But instead, President Karzai made only one change in the previous court's composition, removing Fazal Ahmad Manawi, who had been deputy head of the supreme court, and appointing Ayatollah Mohammad Hashim Salehi, a Shia cleric. Salehi is the first Shia to be appointed to the court in overwhelmingly Sunni Afghanistan. Chief Justice Fazl Hadi Shinwari, seen as a conservative, retained his post." [73I] (p1-2)

- 5.37 The IWPR article also reported political analyst Mohammad Qasim Akhgar as saying that the supreme court is currently made up of "fundamentalists". The article noted "The concern is that supreme court members have different views toward democracy, because all of them are mullahs [Muslim preachers] and maulavis [Islamic scholars] and don't have contemporary knowledge of international and [Afghan] civil law,' said Akhgar. 'Another concern is the judges' opinion about real democracy because they are all mullahs who don't have knowledge of modern human rights.'" The report concluded that "So far, any and all attempt[s] to reform the country's court system in general and the supreme court in particular have been unsuccessful." [73I] (p2-3)

- 5.38 The report of the UN independent expert on the situation of human rights in Afghanistan dated 11 March 2005 noted:

"The justice system currently suffers from severe and systematic problems related to: limited public resources; the legacy of decades of violent conflict; the absence of strong State institutions, especially in rural areas; corruption; and significant problems of basic capacity and infrastructure. While the Government has sought to address these issues, the formal justice system remains inadequate and lacks public confidence and legitimacy...

The administration of justice suffers from an array of problems including: lengthy pre-trial detentions that sometimes exceed the length of potential sentences; institutionalized corruption; violations of due process; severe lack of public defenders; capacity-building needs; and systematic inequities that negatively impact women, children, minorities and others. Problems regarding the fair and impartial administration of justice are associated with a lack of political will to enforce the law, powerful patronage relationships, systemic corruption and other factors that allow politically empowered individuals and groups to circumvent their legal responsibilities. In addition, judges and others willing to uphold the rule of law are often asked to act against factional commanders and other empowered groups without being provided with adequate security." [39i] (paras 26 & 27)

- 5.39 An April 2005 report from the Netherlands Institute of International Relations observed:

"The Afghan judicial system is in a deep crisis of public confidence. During the public consultations over the constitution, people frequently cited judicial corruption as a concern. The courts have shown less improvement than other security sectors. Because of the role of Islam and ulama [Doctors of Islamic sciences] in the judiciary, it is the most difficult sector for a largely non-Muslim international community to help reform.

Most Afghans rely on customary procedures for dispute settlement. These procedures treat criminal offences as disputes, a practice that undermines the

authority of the state, but they should be a valuable resource for the country if their functions are limited to genuine civil disputes... Foreign experts, including Afghans from the Diaspora, have suggested regulating rather than replacing these traditions.” [89] (p41)

5.40 On 11 April 2005 UNOCHA – IRIN reported:

“The Afghan authorities have called for strengthening of the justice system in Afghanistan saying that more than 50 percent of Afghans do not have access to judicial and legal services in the post-conflict country. Afghan Minister of Justice Ghulam Sarwar Danish, told IRIN on Sunday in the capital Kabul that donors and international organisations had spent millions of dollars on improving the justice sector, but that there had been little tangible sign of improvement... After three decades of conflict, civil war and rule by the hardline Taliban regime, the legal system in rural areas remains ineffective, or in many places, nonexistent. Even in Kabul, despite the existence of courts and a justice system, people complain of corruption, long delays in cases coming to court, the rule of the gun and general inefficiency in the legal system...

Civil servants have told IRIN that legal resources outside the cities were in very short supply. ‘In fact all the lawyers and judges are in three or four key cities, no one wants to go to rural areas due to insufficient salaries and insecurity’, he said. Danish said his ministry needed over US \$100 million to improve provincial and district justice systems in 2005. ‘We have nearly 5,000 judges in the entire country and we need to double the number and raise their capacities to meet our most urgent needs,’ he said.” [40f]

5.41 A UNHCR paper dated June 2005 stated:

“Efforts to reform Afghanistan’s justice system are underway. Given the nature of the judicial reform process and the challenges this presents, this is a long process... In terms of the current state of the judicial system, 9% of the courts and 12% of prosecutors’ offices are run by administrative personnel only. Of the total number of prosecutors, 44% are in Kabul, 30% are in provincial capitals and only 26% of the prosecutors are in the districts. Whilst 31% of judges are based in Kabul, 23% are in provincial capitals and 46% are located in the districts. Studies show that the majority of disputes outside Kabul are dealt with by customary justice mechanisms. This indicates poor access to courts in large parts of the country, aside from the question as to whether court-decisions could actually be enforced...

The new Constitution foresees a three-layer judicial system comprising of a Supreme Court, Courts of Appeal and Primary Courts. The Supreme Court of Afghanistan is the highest judicial organ in the country and upon request of the Government or the Courts can review compliance of laws with the Constitution, legislative decrees, international treaties and conventions, and interpret them, in accordance with the law. This will require a change in the current court-system.” [11b] (p20-22)

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LEGAL RIGHTS/DETENTION

- 5.42 Article 31 of the Constitution adopted in January 2004 states: "Every person upon arrest can seek an advocate to defend his/her rights or to defend his/her case for which he/she 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." [81] The constitution also states that "All final decisions of the courts are enforceable, except for capital punishment, which is conditional upon approval of the President." [81]
- 5.43 Human Rights Watch (HRW) recorded in 2004 that Afghanistan had ratified the International Criminal Court Treaty on 10 February 2003: "The International Criminal Court (ICC) is able to investigate and prosecute those individuals accused of crimes against humanity, genocide, and crimes of war. The ICC complements existing national judicial systems and will step in only if national courts are unwilling or unable to investigate or prosecute such crimes. The ICC will also help defend the rights of those, such as women and children, who have often had little recourse to justice." [17g]
- 5.44 The Danish fact-finding mission of March/April 2004 reported that according to the Lawyers Union of Afghanistan:
- "After the fall of the Taliban regime, the Afghan nation has been striving to reconstruct the legal system and to bring in new laws or to reintroduce laws from Najibullah's time. In the meantime, only Sharia laws are used in the provinces. The source also mentioned that punishment like amputation has not been used since the fall of the Taliban regime. The source pointed out that everybody deploys Sharia law even in Kabul. This extends to prosecutors, judges and defence lawyers." [8] (section 5.2.2)
- 5.45 The same report also noted:
- "The UNAMA explained that in practice secular law, Sharia law, tribal law and local customs are applied. The Constitution solely implies that the country is Islamic. Sharia law is often practiced in courts and other laws are used as a supplement...The Italian ambassador explained that secular law is above Sharia law. Thus, it is forbidden to use Sharia law when it conflicts with secular law. In this context it is problematic that most judges only possess [sic] religious training and have no training in secular law...The President of the Supreme Court said that the old laws are still being practiced everywhere in the country. The source mentioned that Sharia laws and the Koran are applied in the courts in relation to penal cases and they are supplemented with secular law if necessary. The source mentioned that the Afghan government in collaboration with the Italians has made a new code of penal law but underlined that according to the new constitution, Afghan law may still not be in conflict with Islam." [8] (section 5.2.2)
- 5.46 The Danish fact-finding report also stated that "The Italian ambassador explained that as a part of the law reform they are trying to include a law guiding the relationship between Shuras/Jirgas and the formal legal system. People have recognised that it is impossible to do away with the traditional institutions and are therefore trying to incorporate the Shuras into the formal legal system to the extent that their work are [sic] not in conflict with human rights." [8] (section 5.2.3)

- 5.47 The Danish fact-finding report further noted:

“The Lawyers Union of Afghanistan stated that the court system is almost in a state of chaos. When meeting in court, it is possible to be confronted on the first day with a judge who is trained only in religious law. On the next day it might be a judge who has a law degree but uses Sharia law to protect himself against criticism. As a consequence, women continue to be imprisoned for infidelity. The source expected that in time the law reforms would have an impact that will change the present situation. The source explained that corruption is so widespread that access to legal institutions and to rule of law does not exist. Only a few percent of the cases come out with a just or correct ruling. Anybody can start a legal case, but it is the most powerful or influential person who will come out as the winner of the case.” [8] (section 5.2.1)

- 5.48 The Danish fact-finding mission reported that according to UNAMA “Court sentences are not enforced if the local warlord disagrees with the ruling. It was pointed out by the UNAMA that judges are intimidated in several districts. In many areas, judges and prosecutors are in need of protection.” [8] (section 5.2.1)

- 5.49 The Lawyers Union of Afghanistan explained to the Danish fact-finding mission that, in principle, any ruling made by a district court can be appealed and taken to a provincial court and to the Supreme Court, but in reality there are only three ways of solving problems. According to the source, in order of priority:

“The first is to go to the warlords, which means that you turn to the most powerful person in your local area with your problem. The most powerful person is the one who possess [sic] most weapons and controls the area/local community. If a warlord or a commander has decided that a certain case should be settled in a particular way, the district or provincial court will not make a ruling that will overrule this. The second is to go to the local tribal council. Tribal councils consist of people who are considered by the local population to be clever, reasonable individuals, and who can solve conflicts... The third and last possibility is to turn to the formal legal system.” [8] (section 5.2.1)

- 5.50 The Danish fact-finding mission of March/April 2004 noted that opinions differed on the situation regarding double jeopardy: “The UNHCR had no general information about the occurrence of double jeopardy. They found that the risk of double jeopardy depends on whether a sentence, passed and served abroad, comes to the attention of the authorities in Afghanistan. It is difficult in practical terms to follow up on what happens in Afghanistan and therefore it is even more difficult to keep track on [sic] what sentences have been passed abroad.” [8] (section 7.2)

- 5.51 The President of the Supreme Court was reported as saying that generally a person will serve his sentence where he committed the crime. However, he also pointed out that it depended on whether the crime was committed against society or against an individual. If a crime against society had been committed, the individual would not be prosecuted on returning to Afghanistan. However, if someone had committed a crime against a person, for example a murder, there was a risk that the family of the victim could demand the perpetrator to be punished according to Afghan Law. In such cases there could be a risk of double jeopardy. On the other hand, “The Minister for Justice argued that if a sentence has been served abroad it is final. According to the Minister of Justice

it does not make any difference whether one is sentenced and punished for murder and there are relatives who wish to present themselves as injured parties. There is no risk of double jeopardy if the offender has served his sentence abroad. The Justice Minister stated in this context that he disagreed with the President of the Supreme Court on this matter.” [8] (section 7.2)

5.52 The Freedom House Afghanistan Country Report 2004 stated:

“As law-enforcement and judicial institutions function at varying levels in different parts of the country, procedures for taking people into custody and bringing them to justice do not follow an established code and often rely on the whims of local officials. Authorities subject Afghans to arbitrary arrest and detention, often with the aim of extracting bribes in exchange for a prisoner’s release... According to Article 28 of the criminal procedure code of 1965, which remains in force, police can detain suspects without charge for up to 24 hours during the course of an investigation, which can be extended for up to a week if the police apply to the attorney general’s office. However, in many police detention centers, suspects are routinely held for weeks or months on end. This is in large part due to the lack of a functioning judicial system, as well as inadequate police infrastructure in terms of personnel, transport equipment, and holding facilities, especially in the remoter provinces.” [41a] (p4)

5.53 On 12 August 2004 the UN Secretary-General reported:

“Because of competing fiscal priorities facing the Government and the low level of donor support for the rehabilitation of the corrections system, very limited progress has been possible in that area. There is still little capacity at the district level for the police to appropriately detain accused persons at the time of arrest. These limitations notwithstanding, restructuring of corrections facilities is under way in Kabul and the refurbishment of the female detention centre in Kabul has been completed.” [39d] (p11)

5.54 The report of the UN-appointed independent expert of the Commission on Human Rights, dated 21 September 2004, noted:

“Individuals held in Government-controlled prisons are frequently held for months without being charged. Persons who are charged are held for extended periods of time without being tried. In some cases, pre-trial detentions exceed the sentence for the alleged crimes. These individuals, who may well be innocent of any crime, are held in detention with hardened criminals. In addition, children and juveniles are commonly held in the same cells as violent adult criminals. Corruption throughout the system is rampant.” [39k] (para. 60)

5.55 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded:

“The Constitution prohibits arbitrary arrest or detention; however, arbitrary arrest and detention were serious problems. Legal and law enforcement institutions operated unevenly throughout the country, and justice was administered on an intermittent basis according to a mixture of codified law, Shari’a law, and local custom.

Human rights groups reported that local police authorities extorted bribes from civilians in return for their release from prison or to avoid arrest...Judicial and

police procedures and practices for taking persons into custody and bringing them to justice followed no established code and varied depending on the area and local authorities. Some areas had a more formal judicial structure than others. Limits on lengths of pretrial detention were not respected. The AIHRC received several hundred reports of pretrial detention during the year. According to the laws, police can detain suspects for up to 24 hours, primary and secondary courts can detain for up to 2 months, and the final court can detain for up to 5 months.” [2d] (p3)

5.56 The USSD 2004 also recorded:

“Private prisons were a problem. The country’s intelligence agency ran at least two prisons, and there were unconfirmed reports of private detention facilities around Kabul and in northern regions of the country. Representatives of international agencies and the AIHRC were unable to gain access to these prisons during the year. The AIHRC reported numerous cases of arbitrary arrest and detention. For example, in Ghazni Province, Governor Asadulah arbitrarily arrested seven suspects in December and did not allow anyone to visit these detainees. No charges were filed, and these detainees remained incarcerated at year’s end. During the year, the Governor of Helmand arbitrarily arrested a suspect and detained him for 4 months. At year’s end, no charges were filed against the suspect, and the suspect remained in prison at year’s end.

The Constitution provides for access to legal counsel. The country’s law limited pretrial detention to 9 months; however, there were documented cases where suspects were held for longer periods. There were credible reports that some detainees were tortured to elicit confessions while awaiting trial.” [2d] (p3-4)

5.57 The report of the UN independent expert on human rights in Afghanistan, dated 11 March 2005 noted:

“Currently, most Afghans, especially in rural areas, rely on customary law rather than the official legal system to resolve disputes...While customary law in Afghanistan varies widely by region, there are significant structural, procedural and conceptual similarities throughout the country, particularly as regards the reliance on respected community members not trained in civil law or Shariah and known by a variety of terms, such as tribal qadi(s), jirga and shura. Decisions by customary law bodies tend to be accepted by both parties and contribute to restoring community harmony. However, from the human rights perspective, customary law raises serious concerns regarding due process protections, the uniformity of judgement and punishment, and fundamental principles of equality, especially as regards women.” [39i] (para 31)

5.58 In a report published 30 May 2005, Amnesty International stated that “Access to legal defence is severely compromised for many in Afghanistan. Legal representation for detained and accused women is almost negligible.” [7d] (p20)

5.59 On 16 June 2005, UNICEF reported that “Afghanistan has taken several steps in recent months to strengthen legal systems for children. The Juvenile Code, officially published in May [2005], raised the age of criminal responsibility from 7 to 12 years, recognized the definition of a child as being anyone under the age of 18 and set out a number of measures to improve the protection of children in conflict with the law, children at risk and in need of care and protection.” [40c]

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DEATH PENALTY

- 5.60 The Constitution of January 2004 allows for capital punishment, conditional on the approval of the President. [81]

- 5.61 In June 2004, Amnesty International reported:

“Afghanistan has carried out its first execution since the establishment of the interim government in late 2001. Abdullah Shah, a military commander from Paghman, was executed in the Afghan capital, Kabul, around 19 April 2004. He had been convicted in October 2002 on 20 counts of murder in special court proceedings which fell far short of international fair trial standards. Abdullah Shah had no defence lawyer at his trial, the hearing was held in a closed court and the chief judge in the initial trial was dismissed for accepting bribes.

Another death sentence was imposed by an Afghan court in May [2004]. Reuters news agency reported on 29 May that a suspected member of the former Taleban government, Abdullah Jan, had been sentenced to death in connection with a bomb attack in the southern city of Kandahar which killed 15 schoolchildren and wounded 50 others. Abdullah Jan maintained that he was not involved in the attack. No further information was available on his trial...After AI issued a public statement in April [2004] concerning the execution of Abdullah Shah, the Presidential chief spokesperson publicly stated that all judicial executions will be suspended for the time being.” [7h] (p3-4)

- 5.62 On 28 April 2004, BBC News reported that, according to Afghan officials, the execution for murder of a former military commander does not mean a policy of capital punishment has been reintroduced. The report noted that “Jawed Ludin, chief spokesman for President Hamid Karzai, said the case was an exception, not the rule... He told Reuters news agency it was “premature” to say the execution of Shah meant capital punishment had resumed in Afghanistan.” [25t] The 2005 Foreign and Commonwealth Office (FCO) Annual Report on Human Rights observed that “Although several courts have handed down the death sentence since Abdullah Shah’s death, none has been followed through.” [15d] (chapter 2, p33)
- 5.63 On 26 April 2005, Amnesty International (AI) reported that a woman had been executed for committing adultery in Badakshan province. Reportedly, the woman had been condemned to death by a local court and then stoned to death within approximately 48 hours. It is alleged to be the first execution of a woman for committing adultery since the removal of the Taliban regime in 2001. AI welcomed the promised investigation by the Afghan government into the incident. [7m] A news article dated 23 May 2005 by Advocacy Project reported that following an international outcry over the murder, the government arrested seven of those involved, including the victim’s own father. [40z]
- 5.64 Amnesty International reported on 19 August 2005 that seven men had been sentenced to death in Kabul. One of the men was convicted of the kidnapping of three foreign election workers in October 2004 and the others were sentenced to death for committing a series of highway robberies. All the men had reportedly confessed to the crimes. AI said that it was not known if any of the men had access to legal representation. The AI report also stated that

“According to reports, at least 50 individuals are under sentence of death, issued by various courts, which are awaiting a decision by President Karzai.” [7n]

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INTERNAL SECURITY

DEVELOPMENTS FOLLOWING 11 SEPTEMBER 2001

5.65 In a report dated 27 September 2004, Save the Children recorded that “Twenty-five days after the terrorist attacks of 11 September 2001 against the USA, Coalition troops were deployed to Afghanistan under OEF [Operation Enduring Freedom] – the US-led war on terrorism.” [5o] (section 3.4.1.) On 29 July 2004, a House of Commons Foreign Affairs Committee reported that the primary objective of the ongoing US-led OEF in Afghanistan is to extinguish the remaining groups of al Qaeda and other foreign fighters, and the diehard remnants of the former Taliban regime. [53] (p72)

5.66 The Save the Children report of September 2004 recorded “Since the fall of the Taliban regime three distinct formulations of military engagement have been pursued by the international community in Afghanistan: Operation Enduring Freedom (OEF); the International Security Assistance Force (ISAF); and the PRTs [Provincial Reconstruction Teams].” [5o] (section 3.4)

(See also [ISAF and PRTs](#) and [The Role of PRTs](#) for more detailed information)

5.67 The April 2005 report by the Netherlands Institute of International Relations recorded “After the fall of the Taliban, the military consisted of recently uniformed armed factions of common ethnic or tribal origin under the personal control of commanders, originating as anti-Soviet mujahidin or tribal militia of the Soviet-installed regime.” [89] (p36). The final provisions of the Bonn Agreement of 5 December 2001 included: “Upon the official transfer of power, all mujahidin, Afghan armed forces and armed groups in the country shall come under the command and control of the Interim Authority, and be reorganised according to the requirements of the new Afghan security and armed forces.” [39b]

5.68 An April 2005 report by the Netherlands Institute of International Relations recorded:

“Annex 1 of the Bonn Agreement called upon the Security Council to deploy an international security force to Kabul and eventually other urban areas, for the militias to withdraw from Kabul and eventually those other areas to which the force would deploy and for the international community to help Afghans establish new security forces. Those new security forces have made the first steps away from factional control and toward professionalism based on legal authority, and the power of warlords and commanders at the national and regional level has diminished. Many if not most localities, however, are still under their sway, as the central government initially appointed commanders to official positions, often in the police, in the areas where they seized power. The government is now trying to transfer some of them away from their places of origin, and hence their power bases...

The security forces consist of the army and air force under the Ministry of Defence, the police forces, including national, border, highway, and counter-narcotics under the Ministry of the Interior and the intelligence service, the National Directorate of Security (NDS). All consist of a combination of: low to mid-level personnel who have served all governments, commanders and others from the militias that took power at the end of 2001 and new units trained by donor and troop-contributing countries.” [89] (p37)

- 5.69 On 21 September 2004 the UN-appointed independent expert of the commission on human rights reported:

“The Government has distinct security forces: ANA [Afghan National Army], under the direction of the Ministry of Defence, the Afghan police services (composed of the National Police, the Border Police, as well as local and regional police), under the direction of the Ministry of the Interior, and an intelligence apparatus, the National Security Directorate (NSD), under the direction of the Presidency. The personnel of these institutions are for the most part poorly trained, underpaid, and lack motivation to serve the Government’s policies of security, reconstruction and the affirmation of the rule of law. The allegiances of these bodies’ personnel remain linked to ethnic and local leaders. There is poor coordination between these bodies, reducing their effectiveness. There is also no system of internal control over illegal, corrupt, or unauthorized practices or to stem human rights violations. Even combined, these forces are unable to control the warlords, local commanders, drug cultivation and trafficking, common criminality and human rights abuses.” [39k] (para. 39)

- 5.70 The Human Rights Watch World Report on Afghanistan published in January 2005 noted that “The United States, the most important and involved international actor in the country, has started addressing Afghanistan’s security problems more seriously, but has not taken the steps necessary to lead other nations in providing security, troops, funding, and political leadership to secure Afghanistan’s future. NATO member states and other potential troop contributors are also to blame for not providing more troops to ISAF and adequate overall funding for international efforts in Afghanistan.” [17f] (p4)

- 5.71 On 12 August 2005 the UN Secretary-General reported:

“Throughout the Bonn process, the security environment has continued to be of paramount concern. From 2002 to 2004, powerful commanders and their militias, dominated the security environment. Narcotics trade and related criminal activities also expanded rapidly. More recently, there have been troubling indications that remnants of the Taliban and other extremist groups are reorganizing. The unusually severe winter of 2004-2005 brought about a relative calm. Although most observers had expected a resumption of violence in the spring, the extent and reach of the violence have exceeded the levels of previous years. Afghanistan today is suffering from a level of insecurity, especially in the south and parts of the east, not seen since the departure of the Taliban. The growing influence of non-Afghan elements in the security environment is of particular concern.

Since the issuance of my previous report [dated 18 March 2005], the level of insurgency in the country has risen, as has the sophistication of the insurgents’ weaponry. Their tactics are more brutal and effective and have been expanded

to target community leaders. They are better organized, better funded and more clearly aim to destabilize the Afghan political transition. Their attacks range from the use of improvised explosive devices, targeted killings and small ambushes, to more open confrontations with Afghan and international security forces. A comparison of mine and improvised explosive device attacks carried out in the south and south-east in May 2004 and May 2005 shows a 40 per cent increase in May 2005. Furthermore, only 50 per cent of the attacks in May 2004 caused damage, injury or loss of life, compared to 80 per cent in May 2005. In recent months, several major weapons caches have been discovered by the Afghan authorities and international forces.” [39c] (p14-15)

- 5.72 The UN Secretary-General’s report also noted that “The increased insecurity has had a direct impact on reconstruction, economic development and the expansion of State authority, particularly in the south and east, which account for an estimated one third of the country.” [39c] (p16)

(See also sections on Army, Police and National Security Directorate)

SECURITY SECTOR REFORM (SSR)

- 5.73 The UNDP National Human Development Report 2004 on Afghanistan recorded that:

“Over the past two years, there has been remarkably little progress in security sector reform. Forward movement has been stalled by the lack of national ownership, poor donor coordination, the absence of an integrated political process, the lack of stable governance provided in coordination by the centre and peripheral bodies, the slow pace of administrative reforms in the security sector, and the high level of offbudget defence spending. As a result, two key strategies have not been met: The establishment of an adequate national army and police force loyal to the central Government, and the effective demobilization of ex-combatants. The absence of a peace agreement and an agreed process for political representation, combined with the dominance of regional powerbrokers, has undermined these two critical reform paths.” [47] (chapter 5)

(See Sections on DDR; Police and Army for more detailed information)

- 5.74 An International Crisis Group (ICG) Report dated 21 July 2005 noted:

“A success of the last three years has been the creation of a new Afghan National Army (ANA), which has received relatively generous resources and international attention, particularly from the U.S. However, other important areas of security sector reform have lagged behind. These include professionalising the Afghan National Police (ANP) and reforming the judiciary, as well as expanding more rapidly the International Security Assistance Force (ISAF) outside Kabul and disarming illegal armed groups.” [26c] (p18)

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WARLORDS AND COMMANDERS

- 5.75 On 21 September 2004 the UN-appointed independent expert of the Commission on Human Rights reported:

“As a result of decades of armed conflict, ethnic allegiances and the prolonged absence of a legitimate centralized State, local and regional power within Afghanistan is subject to the authority exercised by a variety of armed actors commonly referred to as warlords. These warlords’ local commanders wield authority through a combination of arms, mutually supportive relationships with other armed actors, social networks and ethnic allegiances. Some key figures in Afghan politics might be described as classic warlords through their exercise of a monopoly of economic and military authority over a sizeable area. Others, who might be termed petty warlords or local commanders, exercise authority over a relatively small area and have only minor backing by genuine force. Often, the power of less dominant commanders is the result of linkages and networks with a number of armed actors. Overall, there exist numerous non-State armed groups throughout the country. Alone, few of these groups and their leaders pose a fatal threat to a unified, central Government, but combined, they do. They also present a significant impediment to a unified national Government capable of preventing these groups from committing gross violations of fundamental human rights.” [39k] (para. 29)

- 5.76 A later report by the independent expert, dated 11 March 2005, stated that “While the Government is making progress in delegitimizing and disarming some of these actors, they continue to pose a threat to national security and human rights, especially in light of their involvement in the rapidly expanding drug trade.” [39i] (para. 16)
- 5.77 The Amnesty International Afghanistan annual report covering events from January to December 2004 stated that “Armed groups across the country consolidated their control over the local population and were responsible for killing civilians, aid workers, election officials and potential voters.” [7o] (p1)
- 5.78 The Human Rights Watch (HRW) World Report on Afghanistan published in January 2005 noted:

“Political repression, human rights abuses, and criminal activity by warlords – the leaders of militias and remnants of past Afghan military forces, who were brought to power with the assistance of the United States after the Taliban’s defeat – are consistently listed as the chief concerns of most Afghans. However, the marginalization of two major warlords – Marshall Fahim, the first vice president and defense minister, and Ismail Khan, self-styled Emir of Herat – raised hopes that President Karzai and the international community had begun to reverse their policy of relying on warlords to provide security.” [17f] (p1)
- 5.79 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded that “Although a few major provincial centers remained under the effective control of regional commanders for most of the year [2004], the Government made progress in asserting its authority, and the commanders acknowledged the central government’s legitimacy. Karzai dismissed and appointed new governors to many of the 34 provinces.” [2d] (p1)
- 5.80 A report by the Netherlands Institute of International Relations dated April 2005 stated that “No international organization has a mandate to protect Afghans from the commanders and warlords whom they identify as the main threat to their security. The partial exception is UNAMA, whose mandate is restricted to monitoring and investigating human rights violations.” [89] (p56)

5.81 On 29 April 2005, the Institute of War and Peace Reporting (IWPR) reported that “Some are disappointed the president has given several of the warlords he has long railed against key positions in his government.” The IWPR report noted that although technically three of Karzai’s more controversial appointments, Abdul Rashid Dostum (Chief of Staff of the Armed Forces), Abdul Karim Khalili (second Vice-President) and Ismail Khan (Minister of Water and Energy) are no longer warlords, “All three men have been cited by numerous human rights organisations as being responsible for thousands of deaths and numerous war crimes committed between the fall of the Najibullah government in 1992 and the Taleban takeover in 1996.” [73x]

5.82 A UNHCR paper dated June 2005 recorded:

“Commanders continue to pose a threat to national security and human rights, in particular in light of their involvement in, what is considered, a rapidly expanding drug trade. Concern has been expressed by observers that such individuals and groups have been allowed to gain access to political power and are now, in several areas, within or parallel to the local administration. In its Common Country Assessment, the United Nations considers the continued influence of non-statutory forces and persistence of incidents of armed violence the most significant threat to security for Afghans, causing a general climate of impunity and limited power of sanction by the central state. Parts of the country remain under the control of armed commanders and by groups engaged in illicit drug trade. As a result, local commanders continue to act with near impunity and use their positions to for factional and personal interest. The power and influence of armed political groups, commanders and militias extends into the formal and informal justice systems, leaving Afghans in many areas of the country with little ability to access justice.” [11b] (p28-29)

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SECURITY SITUATION IN DIFFERENT REGIONS

KABUL

5.83 The UN Secretary-General’s report dated 19 March 2004 noted:

“Kabul itself is not invulnerable. Sophisticated attacks were directed against the International Security Assistance Force (ISAF) on 27 and 28 January [2004], when successive suicide car bomb attacks struck a Canadian and a United Kingdom patrol, killing two soldiers, injuring seven, and killing three Afghan civilians. This suggests that, while the preferred modus operandi of extremist groups is to carry out attacks against soft targets, the risk of suicide attacks against well-protected, international military targets remains of concern.” [39g] (p4)

5.84 UNAMA advised the Danish fact-finding mission of March/April 2004 that the presence of ISAF forces is the main reason for the relatively good security situation in Kabul. According to the Danish Committee for Aid to Afghan Refugees (DACAAR), it is a long time since there were any attacks directed against the civilian population in Kabul. The Swedish Committee for Afghanistan (SCA) said that Kabul is a relatively peaceful city and the degree of crime is on a level one would expect in a city the size of Kabul. The source

mentioned, however, that there have been bomb attacks in Kabul. [8] (section 3.2.1)

5.85 In May 2004, the European Council on Refugees and Exiles advised:

“In Kabul, the security and human rights situation has been, to a limited degree, alleviated by the presence of the International Security Assistance Force (ISAF) and by the significant international presence in the capital. However, the Afghan government continues to lack effective control over Kabul, and efforts to create a new national army and police force and to reform the judicial system throughout the country remain at an embryonic stage. It is clear from human rights and other reports that the militia, which carry out the primary policing function in the capital, offer the population no protection from human rights abuses.” [37] (p2)

5.86 The UN Secretary-General’s report, dated 18 March 2005, noted that the ISAF had provided an essential contribution to the security of Kabul. [39j] (p8)

5.87 The UN Secretary-General’s report dated 12 August 2005 stated: “In Kabul, a number of serious attacks against international workers have occurred in recent months. The most serious were the suicide bombing of an Internet café on 7 May [2005], in which two Afghans and one international worker were killed, and the abduction on 16 May of a Care International aid worker, who was subsequently released on 9 June.” [39c] (p15) On 12 June 2005, BBC News reported that, according to Afghan officials, five people had been charged in connection with the kidnapping of the aid worker freed on 9 June 2005. [25ab]

(See also Sections on [ISAF](#) and [PRTs](#), [Army](#) and [Police](#))

THE WEST AND HERAT

5.88 In a report dated September 2004, Human Rights Watch (HRW) noted: “Until recently, western provinces in and around Herat were controlled by the militia of Ismail Khan, an Islamist mujahidin leader. Ismail Khan is loosely allied with Jamiat and Shura-e Nazar but has remained essentially autonomous. Until he was removed by President Karzai on September 12, 2004, he controlled almost all aspects of government and security forces in Herat and surrounding districts. He is still believed to have significant power over militia forces in the Herat area.” [17i] (p48)

5.89 HRW further noted “Human Rights Watch received consistent and repeated testimony through August 2004 that local military, police, and intelligence forces under Ismail Khan were continuing to threaten independent political activity and stifle free speech.” [17i] (p26). The HRW report also noted that President Karzai had appointed a new governor for Herat, Sayed Mohammad Khairkwa. “The same day the new governor took office, September 12 [2004], supporters of Ismail Khan attacked, looted, or burned five UN offices, including the headquarters of UNAMA, and AIHRC.” [17i] (p26)

5.90 On 27 December 2004, the Institute of War and Peace Reporting reported that Ismail Khan had been given the position of Water and Energy Minister in the new Cabinet sworn in on 24 December 2004. The report also noted that “Khan was accused of torture while governor of Herat, but was also credited with bringing stability and relative prosperity to the region.” [73k]

- 5.91 On 24 May 2005 Human Rights Watch reported that during protests in Herat by several hundred supporters of Ismail Khan on 30 April and 1 May 2005, police shot several civilians, killing an old man, a 36-year old woman and her 11-year-old daughter. [17k] The report of the UN Secretary-General dated 12 August 2005 noted that minor factional clashes and criminal activity continued to be reported in most of the western region. [39c] (p15)
- 5.92 In a report dated 17 August 2005 on women's participation in the 2005 elections, Human Rights Watch noted that "Women in western Herat province describe a more open environment after the former governor Ismael Khan was removed, but intimidation by local commanders remains a concern especially in rural areas." [17d] (p16)

(See also Sections 6A, [Human Rights](#) paragraphs 6.18, 6.224 and 6.277)

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CENTRAL

- 5.93 On 12 November 2003, BBC News reported:
- "The central Afghanistan region of Bamiyan became the focus of world attention in February, 2001, when the ruling Taleban destroyed two giant statues of the Buddha there that were 1,800 years old. The bitter international condemnation of the Taleban also brought to light the suffering of the local Hazara people at the hands of the Taleban. Now the people are getting much better food, health and education. And officials say that much of the thanks for that goes to the international troops now stationed there. 'The people of Bamiyan are very happy with this force' Muhammad Raheem Alliyah, governor of Bamiyan province, told the BBC World Service's Assignment programme. 'Its presence here is a big help both for security and for the economy.'" [25ad]
- 5.94 On 9 June 2005, BBC News reported that "Members of Bamiyan's foreign security and reconstruction force from New Zealand say the greatest threat to security in the province has been criminal activity – not anti-coalition militias such as the Taliban, although they are prepared for any such threat. In a country of continuing turbulence, Bamiyan sits in its own political and security microclimate. Afghanistan's explosion in opium production and associated crime, militant activity, even political instability have largely passed it by." [25w]
- 5.95 The UN Secretary-General reported on 12 August 2005 that minor factional clashes and criminal activity continued to be reported in the central highlands and central regions. [39c] (p15)

(See also Section 6B [Hazaras](#))

SOUTH AND SOUTH-EAST

- 5.96 Most sources interviewed by the Danish fact-finding mission in March/April 2004 were reported as saying that security in southern, south-eastern and eastern Afghanistan was deplorable. As a result, many organisations do not operate in these areas. The International Organisation for Migration (IOM) said that security in these areas is poor for foreigners and Afghans working with

foreigners but the situation is reasonably good for ordinary Afghans. [8] (section 3.2.3)

5.97 The Danish report further noted:

“According to the UNHCR, very few people return to the provinces of Kunar and Nuristan in eastern Afghanistan. Gulbuddin Hekmatyar’s party Hezb-e Islami operates in these areas...The Swedish Committee for Afghanistan (SCA) found that local warlords, who use all their means to maintain control and to exploit the local resources especially for the growing of opium, intimidate the local population. The source found that in some areas the security situation is very unstable and equivalent to the situation before Taliban achieved power. The SCA was informed that in the eastern provinces conflicts are particularly related to the access of land.” [8] (section 3.2.3)

5.98 The Danish report also noted “The ICG [International Crisis Group] took the view that the local populations in southern, south-eastern and eastern Afghanistan works [sic] under pressure from both Taliban and the coalition forces. Taliban put pressure on the civilian population not to work with the coalition forces and the coalition forces pressurise the civilian population not to work with Taliban.” [8] (section 3.2.3)

(See also Section 6C Taliban paragraphs 6.393 to 6.410)

5.99 A Human Rights Watch report dated 13 January 2005 noted:

“In the south and southeast of the country, Taliban remnants and other anti-government forces outside Afghanistan’s political framework have continued to attack humanitarian workers and coalition and Afghan government forces. As a result of attacks, international agencies suspended many of their operations in affected areas, and development and humanitarian work has suffered as a result. In some areas – like Zabul and Kunar province – whole districts are essentially war zones, where U.S. and Afghan government forces engage in military operations against Taliban and other insurgent groups. Hundreds of Afghan civilians were killed in 2004 during these operations – in some cases because of violations of the laws of war by insurgents or by coalition or Afghan forces.” [17f] (p2)

5.100 A UNHCR paper dated June 2005 stated some areas of the south, south-east and east were out of reach for the central government authorities and had been largely off-limits for humanitarian work since the end of 2003. [11b] (p23) The report also noted that “There was a sharp rise in the number of attacks on elections workers and voter registration centers, particularly in the southern and southeastern parts of the country in the run up to the presidential election.” [11b] (p14)

5.101 On 11 July 2005, Radio Free Europe/Radio Liberty reported that “Since the arrival of spring in March, the Taliban and their allies have increased their attacks in the southern and eastern regions of Afghanistan. The attacks have resulted in the death of hundreds of people, mostly militants.” [29f]

5.102 On 12 August 2005 the UN Secretary-General reported:

“The southern and parts of the eastern regions of the country have borne the brunt of the recent upsurge in violence. Attacks by extremist elements

(including elements claiming allegiance to the Taliban and Al-Qaida) take place on an almost daily basis. In a significant departure from their previous tactics, which focused on provincial authorities, international and national forces and election workers, insurgents are now also targeting local communities and their leaders. Since 29 May [2005], four pro-government clerics have been murdered in separate incidents; one cleric was beheaded outside his religious school in Paktika province. On 1 June, at the memorial service for a cleric who had been assassinated a few days earlier, a suicide bomber detonated a massive charge in a mosque in Kandahar province, killing more than 40 people, including the chief of police of Kabul province.

An increasing number of attacks against members of the international community has resulted in significant reductions in or, in some cases, suspension of activities. After attacks on 19 and 20 May resulted in the deaths of 11 national staff of Chemonics, a subcontractor for an alternative livelihood programme, in Zabol province, the company suspended its activities. Three separate improvised explosive device attacks on deminers resulted in the temporary suspension of their activities also. On 1 June, two deminers were killed and five were injured when their vehicle was bombed on the outskirts of Grishk city, Helmand province; on 29 May, another demining team was the subject of a bomb attack, fortunately without casualties; and on 18 May three demining staff were killed in a roadside attack in Farah province...

On 2 July, a vehicle convoy, including UNAMA personnel, was the target of an improvised explosive device attack in Paktika province which resulted in the deaths of five Afghan police officers and two Afghan Military Forces personnel. The Afghan National Army and the coalition forces have intensified their operations in the south and parts of the east of the country, engaging insurgents in often prolonged combat. In an incident lasting several days in late June, coalition and Afghan National Army forces engaged in an operation in Kandahar and Zabol provinces that resulted in the deaths of at least 80 suspected insurgents. On 28 June, a coalition forces helicopter was brought down by enemy fire near Asadabad in Konar province. All 16 troops on board were killed. On 9 July, an Afghan National Police patrol was ambushed in Helmand province, leaving at least 10 policemen dead, of whom six had been decapitated." [39c] (p15)

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NORTH AND NORTH-EAST

- 5.103 On 2 December 2004, the Institute of War and Peace Reporting (IWPR) reported that there had been an apparent surge in the number of violent crimes being committed in the Mazar-e-Sharif area since the October 2004 presidential election. Two political analysts were reported as saying that Mohammad Younis Qanuni, Haji Mohammed Mohaqiq and General Abdul Rashid Dostum, who came second, third and fourth respectively in October's presidential elections, were involved in the crimes. The report noted that "Representatives of Mohaqiq and Dostum have categorically denied their involvement in any increase in crime, and have pledged cooperation with the government. A spokesman for Jamiat-e-Islami [with whom Qanuni was linked], who did not want to be named, told IWPR that 'gunmen in groups involved in the crimes in the northern region are not linked to our party'. [73m]

- 5.104 The UN-appointed independent expert's report dated 11 March 2005 recorded that the ISAF had extended operations to the northern provinces of Mazar-i-Sharif, Karyab, Badakhshan, Kunduz, and Baghlan. [39j] (para 18) The UN Secretary-General's report dated 18 March 2005 noted that the ISAF had provided an essential contribution to the security of the northern and north-eastern regions. [39j] (p8)
- 5.105 The UN Secretary-General reported on 12 August 2005 that minor factional clashes and criminal activity continued to be reported in the north and north-east of the country: "However, on 11 May [2005] a public demonstration of more than 1,000 people was begun in Jalalabad (Nangarhar province) to protest against the arrest by the coalition forces of three Afghans and the alleged desecration of the Holy Quran at the United States detention centre in Guantanamo. The demonstration quickly turned violent and protestors attacked several United Nations and NGO premises, causing widespread damage to offices and guest houses. The protest spread over three consecutive days, with violent demonstrations being held in the provinces of Badakhshan, Konar, Vardak, Lowgar, Gardez and Badghis. Several casualties were reported among the population and the police. Peaceful demonstrations were also held in the capital and in a few other provinces." [39c] (p15-16)

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INTERNAL SECURITY ASSISTANCE FORCE (ISAF) AND PROVINCIAL RECONSTRUCTION TEAMS (PRTs)

- 5.106 A report published by Save the Children in September 2004 recorded:
- "At the end of 2001, parties to the Bonn Agreement anticipated the need for a United Nations-mandated international force to assist in providing security throughout Afghanistan. The ISAF was subsequently authorised by UN Security Council resolution 1386 (20 December 2001) to 'assist the Afghan Interim Authority in the maintenance of security in Kabul and its surrounding areas'. ISAF has a peace-enforcement mandate under Chapter VII of the UN Charter. Initially controlled by various coalition members, NATO took over command of ISAF in August 2003... ISAF's mandate was expanded by the UN Security Council in October 2003, to support the ITGA [Islamic Transitional Government of Afghanistan] in the maintenance of security in areas outside Kabul. On the basis of this same Resolution, NATO, in December 2003, expanded the role of ISAF to cover the whole country." [5o] (para. 3.4.2)
- 5.107 NATO reported on 10 November 2004 that NATO countries had agreed a schedule for commanding the ISAF up to 2007. [63b]
- 5.108 The UN-appointed independent expert's report, dated 21 September 2004, noted that "Despite the volatile political context of post-Taliban Afghanistan and the country's long history of violent factional conflict, the international community has contributed an exceedingly small number of foreign troops in comparison with other post-conflict contexts." [39k] (para. 33)
- 5.109 A NATO Factsheet, updated on 21 February 2005, stated that "ISAF's role is to assist the Government of Afghanistan and the International Community in maintaining security within its area of operation. ISAF supports the Government of Afghanistan in expanding its authority to the rest of the country, and in

providing a safe and secure environment conducive to free and fair elections, the spread of the rule of law, and the reconstruction of the country.” [63a] (p1)

- 5.110 The NATO Factsheet also stated that ISAF is structured into four main components: ISAF Headquarters; The Kabul Multinational Brigade (tactical headquarters); Kabul Afghan International Airport and Provincial Reconstruction Teams (PRTs). The Factsheet notes that “PRTs are arranged as civil-military partnerships to facilitate the development of a secure environment and reconstruction in the Afghan regions.” [63a] (p2)

(See also [The Role of PRTs](#))

- 5.111 The UN independent expert’s report dated 11 March 2005 advised that “ISAF is a NATO-led multinational force of over 8,300 troops from 36 countries, created to support domestic security. ISAF was originally based in Kabul and has extended operations to the northern provinces of Mazar-i-Sharif, Karyab, Badakhshan, Kunduz, and Baghlan. Recently, NATO ministers have agreed to increase the size of the force and establish a presence in western Afghanistan.” [39i] (para 18)

- 5.112 The UN Secretary-General’s report of 18 March 2005 observed that “The North Atlantic Treaty Organization (NATO)-led ISAF has provided an essential contribution to the security of Kabul, and the northern and north-eastern regions.” [39j] (p8) The NATO website, updated on 13 June 2005, stated that “On 31 May 2005, ISAF expanded into the West of Afghanistan, taking command of two additional PRTs, in the provinces of Herat and Farah and of a Forward Support Base (a logistics hub) in Herat.” [63c]

- 5.113 The NATO website also stated that:

“ISAF has been helping, through its presence, in creating a secure environment, developing Afghan security structures, identifying reconstruction needs, as well as training and building up future Afghan security forces. ISAF troops conduct 20 to 50 patrols in Kabul and its surrounding areas each day. Over a third of the patrols are carried out jointly with Kabul City Police. NATO-led Provincial Reconstruction Teams (PRTs) also carry out presence and patrol activities within their respective areas of operations, in nine northern provinces of the country, an area of approximately 185,000 square kilometres.” [63c]

THE ROLE OF PROVINCIAL RECONSTRUCTION TEAMS (PRTs)

- 5.114 A briefing paper by the Afghanistan Research and Evaluation Unit (AREU), dated June 2004, stated that “The PRT concept was formally announced in November 2002...The PRT concept has become the central focus for much of the security debate within and between the military, NGOs, policy-makers and academics.” [22a] (p12)

- 5.115 The Human Rights Watch World Report of January 2005 noted:

“The United States, along with coalition partners including Germany, New Zealand, and the United Kingdom, has been expanding small Provincial Reconstruction Teams (PRTs) of fifty to one hundred troops to several areas, but they have had only limited successes in improving human rights protections and security. The small size of the teams, their vague mandates, and their

sometimes close working relationship with local Afghan militias – the very forces who are creating abusive and insecure environments in the first place – have stymied further progress.” [17f] (p3)

- 5.116 On 29 July 2004, a report by the House of Commons Foreign Affairs Committee reported evidence they had heard about the work of the PRTs:

“Peter Marsden of the Refugee Council told us that US forces working in the US-run PRTs do not focus on their primary task of providing a secure environment within which the Afghan authorities and international aid organisations can function safely. Instead, they too often engage directly in reconstruction projects. By doing so, he argued...they have seriously undermined the humanitarian neutrality and impartiality the NGOs working in Afghanistan have taken 15 years to build up, and it is now highly dangerous for the aid community to work anywhere where PRTs exist.” [53] (p67)

- 5.117 The June 2004 AREU briefing paper noted:

“In the end, it is difficult to generalize with regards to the PRTs. Behavior is not only dependent on the nationality of the military contingent, but also on the local security situation, the commander’s experience, and the support and strength of the provincial governor and AMF [Afghan Militia Forces] corps commander. Still, most ‘successful’ PRT commanders are developing remarkably similar institutions, distancing themselves from aid projects as time goes on (wells and schools), aligning whatever projects they do provide with provincial and national priority lists, forming provincial bodies for security coordination and gradually beginning to tread into stabilisation support issues such as police mentoring.” [22a] (p12)

- 5.118 The House of Commons Foreign Affairs Committee report of 29 July 2004 stated: “We conclude that the Provincial Reconstruction Teams are one of the success stories of international engagement in Afghanistan and that their expansion should be regarded as a priority. However, there are real differences between the approaches adopted by the various PRTs as well as between Afghan perceptions of NATO’s ISAF forces and those which are part of Operation Enduring Freedom.” [53] (p68)

- 5.119 A NATO Factsheet updated on 21 February 2005 stated:

“Only the military elements of PRTs are integrated in the ISAF chain of command. The primary purposes of PRTs are:

- to help the Government of Afghanistan extend its authority,
- to facilitate the development of a secure environment in the Afghan regions, including the establishment of relationships with local authorities,
- to support, as appropriate, security sector reform activities, within means and capabilities, to facilitate the reconstruction effort.” [63a] (p6)

- 5.120 A Foreign and Commonwealth Office (FCO) paper dated 20 January 2005 noted that “PRTs also aim to support reform of the Afghan security sector (‘Security Sector Reform’ or SSR) – the demobilisation and disarmament of militias; building an accountable national army and national police force under

democratic control; stamping out the drugs trade; and building a legal system. But there is no fixed template for a PRT. Each is tailored to the prevailing security situation, socio-economic conditions, terrain, and reach of the central government.” [15b]

- 5.121 The FCO report also stated that the UK-led PRT in Mazar-e Sharif has worked hard to establish good relations with NGOs active in its area. “This has done much to dispel initial concerns from within the assistance community that the UK PRT would attempt to militarize development aid and blur the line between military and humanitarian activity. The PRT has made clear that it seeks neither to control nor co-ordinate development work. It does not task its military element with humanitarian assistance work.” [15b]
- 5.122 On 18 March 2005, the UN Secretary-General reported that “In different forums of discussions, the provincial reconstruction teams and other partners continue to debate how best to integrate their development and relief work under the overall planning of the Government. These discussions stress the delicate task of merging civilian and military planning approaches and the challenges of managing the expected 24 provincial reconstruction teams soon to be deployed throughout the country.” [39j] (p12-13)
- 5.123 The April 2005 report by the Netherlands Institute of International Relations stated:
- “The expansion across the country forced a debate to generate a common mission for PRTs, more than two years after their first deployment. The PRT terms of reference now put the first emphasis on provision of security and mention reconstruction only later (see PRT TORs in appendix 1 of source [89])... The performance of PRTs in meeting these goals and abiding by these guidelines appears to vary widely, depending on the nature of the PRT leadership (both national and individual), the nature of the local Afghan authorities, and whether the Afghan national government has a viable political strategy for the province.” [89] (p58)

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DISARMAMENT, DEMOBILISATION AND REINTEGRATION PROGRAMME (DDR)

- 5.124 On 7 July 2005, the United Nations Assistance Mission in Afghanistan (UNAMA) reported:
- “The Disarmament, Demobilisation, and Reintegration [DDR] programme began in October 2003 with the aim of replacing the former armed forces of Afghanistan with a new, professional Afghan National Army. In the space of just over 20 months it has seen 250 units decommissioned, which has included ten corps, with their divisions, brigades and supporting elements. It has also allowed almost 63,000 former combatants to trade in their weapons for the chance to build a future in civilian life. This makes DDR in Afghanistan among the largest DDR efforts completed worldwide...
- DDR is an important phase in the disarmament of Afghanistan. It was not intended to completely disarm the nation, but the demobilisation and disarmament of the former army is an important first step. It is now paving the

way for wider disarmament efforts that are being pursued in the Disbanding of Illegal Armed Groups (DIAG) initiative. As a result of lengthy conflict, large stocks of military weapons remain in private hands. With the continued support of the international community, full disarmament will remain a central objective of the Government of Afghanistan.” [40aa]

- 5.125 An update briefing on the DDR process by the International Crisis Group (ICG) dated 23 February 2005 stated:

“The DDR effort has undoubtedly had a positive impact on the democratic political process...Progress in DDR has enhanced space for political party development and the wider democratic process. The ANA and ISAF do not have to factor thousands of now demobilised AMF [Afghan Militia Forces] troops into their security precautions for the elections. However, although some combatants have been disarmed, others could take their place, financed by what is still a war economy, indeed one that is primarily driven by a booming drug trade. And unless a more concerted attempt is made to disarm unofficial militias, the rule of the gun might continue to prevail.” [26b] (section III.E)

- 5.126 The ICG report also noted:

“Unofficial militias, that is, armed groups that are not recognised as AMF units by the ministry of defence, continue to lie outside the ANBP’s [Afghan New Beginnings Programme] mandate, a glaring omission in the plans to disarm Afghanistan’s warring factions that is only now – very late – being addressed. Most are linked to political parties, backed or led by former commanders; some are even supported by government officials. They exercise considerable authority in rural areas and undermine the centre’s attempts to extend its authority. The progressive decommissioning of AMF units could even strengthen these militias further, creating new challenges for the Karzai government and its international allies.” [26b] (section IV)

- 5.127 The same report noted that “In July 2004, President Karzai issued a decree ordering ‘the severest of punishments’ for individuals who refuse to disarm or who maintain private militias but it has not been enforced, and no arrest warrants have been issued. According to the ANBP’s assessments, there are 853 ‘illegal armed groups’ but the number could be more than 1,000, with anywhere between 65,000 to 80,000 armed personnel.” [26b] (section IV)

- 5.128 A report dated 18 March 2005 by the UN Secretary-General advised:

“Disarmament of the Afghan militia forces remains insufficient to create a secure environment for parliamentary elections. The Government, with the support of the international community, must now tackle the problem of illegal armed groups. These groups, who are not on the payroll of the Ministry of Defence, exist throughout the country and may include ex-combatants from decommissioned units who did not enter the disarmament, demobilization and reintegration process. These groups perpetuate the drug industry, impose illegal taxes on individuals in reconstruction programmes and impede the progress of State expansion.” [39j] (p6)

- 5.129 A report dated 6 June 2005, published through the Japan Afghan NGO Network (JANN), noted positive results about the DDR programme but also expressed some concerns about it. The report noted that “Most disturbingly, some low-level commanders have rearmed or stockpiled weapons and the attempts by

the ANBP in the Commanders Programme have been hobbled by the lack of commitment by donors to tackle to [sic] main culprits of criminal activities, the low-level commanders. This oversight has allowed for a re-entrenchment of the commanders positions, strengthening their hands, and their criminal activities.” [90] (p10)

- 5.130 On 13 May 2005, the Institute of War and Peace Reporting reported that at least 34 people had been killed and at least 11 injured in an explosion of a former militia commander’s munitions dump:

“Local militia commanders are supposed to have disarmed but recent deadly explosion shows many have kept their arms caches... Commander Jalal Bashgah, a former leader of the Jamiat-e-Islami party and an army division commander in Baghlan province, is one of scores of strongmen who ostensibly surrendered his weapons under the UN-sponsored Disarmament, Demobilization and Reintegration programme. On May 2 [2005], however, a bunker next to the commander’s house in the village of Kohna Deh, exploded. The commander was absent at the time, but eight of his family were killed in the blast, which also levelled five nearby houses and a mosque. Nearly 60 other houses in the village were also damaged...The cause of the blast remains under investigation but Delbar Khan, an official in the province, said that Bashgab had held back 100 kilogrammes of explosives from the disarmament drive to help build roads in his area, located about 200 kilometres miles north of Kabul.” [73u]

- 5.131 An International Crisis Group report dated 21 July 2005 stated that “DDR has had a positive impact on the democratic political process. Around 60,000 fighters have now been disarmed. While imperfect, this progress has undoubtedly enhanced political space, since thousands of armed men no longer have to be factored into the security equation. But because the DDR process was mandated to disarm only the formally recognised armed groups on the government payroll, other militias, now termed Illegal Armed Groups, still pose a significant threat.” [26c] (p20)

DISBANDMENT OF ILLEGAL ARMED GROUPS (DIAG)

- 5.132 On 13 June 2005, the UN News Service announced:

“As programs for disarming the regular military are completed in Afghanistan, the Government has announced the official start of a program to disband illegal armed groups, to be carried out with the support of the international community, including the United Nations. According [to] the UN Assistance Mission in Afghanistan (UNAMA), the program, known as the ‘Disbandment of Illegal Armed Groups’ (DIAG), will represent the next crucial step in the disarming of all irregular forces in Afghanistan.” [40an]

- 5.133 On 19 June 2005, UNAMA reported that the Disarmament of Illegal Armed Groups process was officially announced by Vice President Khalili on 11 June 2005. [40s]
- 5.134 On 12 July 2005, IRIN news reported that the DIAG is aiming to dismantle an estimated 1,800 illegal armed bands of men consisting of up to 100,000 individuals who are still seen as a security problem in many parts of the country. The report noted that “Membership of any armed group is forbidden for

candidates standing for election to the 249-seat lower house of parliament or provincial councils. Some 245 commanders have surrendered weapons under DIAG in different parts of the country and of them, 105 are prospective candidates in September's elections." [36b]

- 5.135 The IRIN report also noted that, according to the deputy head of the Disarmament and Reintegration Commission, the groups or individuals holding arms illegally would not be rewarded in the same way that ex-combatants were under the DDR process. "They will not be offered cash or other incentives but a particular community or area can be granted some development projects if they help the process," he noted." [36b]

UNDERAGE SOLDIERS DEMOBILISATION AND REINTEGRATION PROCESS (DR)

- 5.136 On 25 July 2005, UNAMA reported the Acting Head of UNICEF Child Protection Programme as saying:

"The UNICEF supported community-based and child-specific demobilization and reintegration process began on 13th February 2004 in the North-Eastern region, and has been working with the Ministry of Labour and Social Affairs (the focal government body for the underage soldier DR programme)...With technical and organizational support from UNICEF, 4,124 underage soldiers have been demobilized in the Phase I of the programme...

The underage soldiers demobilization and reintegration programme has been receiving support from the communities, local authorities and fighting forces. There has been no incidence of security threat or disturbance from any quarter in all the operational locations where demobilization has been carried out. The reintegration process is closely linked to the demobilization process. Reintegration support has been provided to 7,688 at-risk young people in the central highlands, central, north east and eastern regions including 2,955 underage soldiers. New opportunities and alternatives to military life are being provided through a community based reintegration support process to demobilized underage soldiers, including street, working, IDP, returnee young people...

The Phase II started on 18 July 2005 and will cover the following locations – west, south, south east and north. The expected time for the completion of the demobilization is September 2005 to be followed by reintegration assistance. So far the demobilization process in Heart [Herat] province was completed on 23 July with 119 underage soldiers demobilized. The cumulative total of demobilized soldiers now stands at 4,243." [40ar] (p3-4)

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NATIONAL SECURITY DIRECTORATE (NSD) (AMNIAT-E MELLI)

- 5.137 An Amnesty International report dated March 2003 recorded:

"The National Security Directorate (NSD), Afghanistan's intelligence service, was established during the period of Soviet rule, and in theory reports directly to the Head of State. There are widespread reports that the NSD engages in ordinary police work at the provincial level through its local offices and uses its

influence with powerful local armed groups that operate their own, unofficial 'police forces'. The legal basis for these activities is unclear. According to a member of NSD interviewed by Amnesty International, the power to arrest and detain is delegated by the central government to the NSD. Article 23 of the Criminal Procedure Law states, 'When the ministries and public or private institutions resort to actions which [are] part of police duties, the written approval of [the] authorised department of police must be obtained.' However, it is not known whether police authorities have given this permission to the NSD. Members of the NSD have committed human rights violations, including arbitrary detention and torture." [7g] (p9-10)

- 5.138 In July 2003, an Amnesty International report stated that the NSD was carrying out arrests and detention across the country. According to the report "This intelligence system is a legacy of the Communist period. In Kabul there are widely reported to be at least two NSD prisons, one holding prisoners suspected of being members of al-Qa'ida and Taleban, and another holding political opponents of certain powerful members of the ATA [Afghan Transitional Administration]. Amnesty International was able to visit the former. All those in detention are foreign nationals." [7e] (p28)
- 5.139 The Danish fact-finding mission of March/April 2004 reported that the Co-operation Centre for Afghanistan (CCA) had not heard of the present security forces using torture and committing mass murders like Khidamat-i-Ittala'at-i-Dawlati (KhAD), but found that the use of torture by the security forces could not be excluded. [8] (section 5.2.5) The fact-finding mission also reported the CCA as saying that about half of the officers working in the present Afghanistan Intelligence Services are former officers of the KHAD. The report stated that "It has been necessary to introduce them into intelligence work, as there is a lack of qualified personnel in this field. The organization gave as an example that the director in the 7th department of the present intelligence service earlier served the same position in the KHAD." [8] (section 6.5.1)
- 5.140 In April 2004, a Progress Report on the implementation of the Bonn Agreement, attached to the Berlin Declaration, stated that "The National Directorate of Security (NDS) is undergoing a programme of substantial reform and restructuring both in Kabul and the provinces on the basis of a new charter that restricts its previously held wide powers." [40t] (p11) A report by the Netherlands Institute of International Relations dated April 2005 noted that "The NDS leadership was changed after the Constitutional Loya Jirga, and the new director is gradually introducing new personnel and structures." [89] (p37)

(See also Prisons and Prison conditions paragraph 5.160 and Torture, inhuman and degrading treatment paragraph 6.17 for further information on the NSD)

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ARMY

- 5.141 On 12 August 2005 the UN Secretary-General stated:

"On 1 December 2002, President Karzai signed a decree establishing the Afghan National Army (ANA). The decree brought all Afghan military forces,

mujahideen and other armed groups under the control of the Ministry of Defence. The reform of the Ministry and general staff began in the spring of 2003 with the aim of creating a broad-based organization staffed by professionals from a balance of ethnic groups.

The training of the Afghan National Army, led by the United States of America with support from France and the United Kingdom of Great Britain and Northern Ireland, continues to progress. It currently has 25,000 trained combat troops (all ranks) and is expected to reach its target strength of 43,000 by September 2007, three years ahead of schedule, under an accelerated training programme. An increasingly capable force, ANA participates in joint combat operations with coalition forces. The composition of the Afghan National Army today mirrors the ethnic and regional diversity of Afghanistan. The building of the army has demonstrated the importance of taking a comprehensive approach to institution building, combining selecting, vetting, equipping and mentoring with sweeping reforms in the corresponding ministry.” [39c] (p8)

5.142 An earlier report by the UN Secretary-General dated 26 November 2004 noted:

“The main accomplishment of the Afghan National Army over the past year [2004] was the provision of security for the presidential election...The Afghan National Army also provided security, in isolated cases, for the mobile disarmament units conducting the disarmament, demobilization and reintegration programme. In addition, it was instrumental in separating the forces of Ismail Khan and his opponents, Amanullah Khan (Shindand) and Zahir Khan (Qala-e-Naw), in western Afghanistan during the conflict in August 2004, when it deployed two battalions to the area at short notice, where they provided a buffer between the belligerent forces to allow negotiations to continue.” [39f] (p7)

5.143 On 18 March 2005 the UN Secretary-General reported that “The reform of the Ministry of Defence is currently in its fourth and last phase, making it more representative of the demographic realities of the country.” [39j] (p5)

5.144 An April 2005 report by the Netherlands Institute of International Relations stated:

“It [the ANA] appears to have overcome to some extent the problems of ethnic imbalance and high turnover that plagued it at the start. Growth has been slow, due to a valid emphasis on quality of recruits and training...The ANA has performed well in the limited tasks it has been assigned, mainly involving stabilization operations where warlords have been weakened. It has not been consistently deployed on the front lines in the war against the Taliban... Currently, the ANA is entirely funded by international donors, mainly the US, and also relies on the direct participation of embedded US trainers. The troops are currently paid several times more than civil servants.” [89] (p40)

5.145 An International Crisis Group report dated 21 July 2005 noted that the creation of a new Afghan National Army had been a success. “However, other important areas of security sector reform have lagged behind”. [26c] (p18)

(See also Section 5: [Security Sector Reform](#))

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POLICE

5.146 A report by the UN Secretary-General dated 12 August 2005 noted:

“The German-led programme for the training of police officers and noncommissioned officers began in August 2002, following the renovation of the Kabul police academy. Regional training centres were opened in seven cities in the course of 2003 and 2004. At present, the Afghan National Police force comprises some 58,000 police officers, including border police, of whom more than 40,000 have been trained through German and United States training programmes. The current target is to have a force of 62,000 trained police officers by the end of this year [2005]. [39c] (p8-9)

5.147 A June 2004 Briefing Paper by the Afghanistan Research and Evaluation Unit (AREU) stated “Once trained, the police generally return to their original police forces with no further monitoring, mentoring or training in the field... Many local police agencies in Afghanistan are little different from the ethnic-based, factional militias... There are real and chronic problems in Afghanistan with police salaries not set at adequate levels and often not paid. Police not being adequately equipped, and Afghan police are under-gunned, under-resourced, and under-paid.” [22a] (p17)

5.148 On 26 November 2004, the UN Secretary-General reported that training, staffing and sustaining an effective police force had proved to be challenging: “The existing police force continues to suffer from a lack of well-trained officers, appropriate equipment and effective command structures.” [39f] (p8)

5.149 The UN Secretary-General also noted:

“At the Doha conference on police reconstruction, held on 18 and 19 May 2004, co-hosted by the Governments of Afghanistan, Germany and Qatar and the United Nations, participants pledged \$350 million for police programmes over the next few years. The UNDP-administered Law and Order Trust Fund for Afghanistan (LOTFA), which pays for police salaries and equipment, currently suffers from a financing shortfall of \$72.6 million. The Afghan police force proved itself during the electoral process despite its limited means. Police, who were provided with specific electoral training, accompanied registration teams to ensure their security and provide order during registration. Police also guarded polling sites on election day and, along with the Afghan National Army, formed the first line of defence against those who might have attacked the election process.” [39f] (p8)

5.150 An April 2005 report by the Netherlands Institute of International Relations noted that “Many police are rehatted militia fighters still loyal to their commanders, rather than the national government. Without embedded monitoring, the reform may not last. The trained police return to an environment with enormous pressures from drug traffickers and corrupt officials.” [89] (p40-41)

5.151 The same report also noted “There is a particularly grave lag in police training and institution building. ‘National Police, Law Enforcement and Stabilisation’ remains the second most under-resourced sector of the National Development Program. By March 2005, of \$545 million in commitments to this sector, only \$267 million had been disbursed by donors, and only \$169 million had been

activated for implementing programs. Unlike the ANA, there are no embedded monitors with the police.” [89] (p59)

- 5.152 In comments prepared for the Advisory Panel on Country Information (APCI) meeting on 8 March 2005, UNHCR stated “Whether or not recourse can be had to law enforcement authorities, in particular the police in major cities, depends on the links of the police officers to whom Afghans refer and ask for protection. Those that are loyal to the Bonn process and to the reforms conducted by the government of the IRA [Islamic Republic of Afghanistan] provide protection as much as they can. In several cities it is therefore not a question of willingness but ability to provide protection.” [11d] (5.75)

- 5.153 The UN Secretary-General’s report of 12 August 2005 noted:

“In June 2005, Germany and the United States-led coalition forces proposed a major new police reform and mentoring programme – totalling around \$1 billion – to the Government of Afghanistan and the international community. The new programme will draw heavily on the approach adopted for the formation of the Afghan National Army. Field mentoring and the reform of the Ministry of the Interior, including the creation of a department for police and security affairs, will be central components of the programme. Pay and rank reform, including severance packages, will be introduced to achieve parity with ANA salaries.

Further study will be required to identify how the future recurrent costs of the new police, including salaries, can be funded in a sustainable manner once the startup investment has been made. Donors will need to ensure that a credible audit and quality control mechanism is introduced to maintain public confidence. Police reform must be more fully aligned with reform of the other pillars of security sector. Furthermore, the Government must take resolute measures to remove patently corrupt or incompetent senior police officials.” [39c] (p9)

(See also Section 6A Human Rights paragraphs 6.10, 6.13, 6.15, 6.19 and Section 6B Women paragraphs 6.203 for information regarding police and human rights)

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PRISONS AND PRISON CONDITIONS

- 5.154 An Amnesty International (AI) report of 8 July 2003 stated:

“Prisons in Afghanistan have a long and disturbing history of serious abuses. Amnesty International (AI) has repeatedly raised its concerns over conditions of detention in Afghanistan including reports of torture and cruel, inhuman and degrading treatment and punishment. During the last two and a half decades, prisoners have been held in overcrowded detention centres, deprived of adequate food, sleeping space and toilet facilities. Imprisonment has been used as a political tool for the repression of political opponents.” [7e] (p3)

- 5.155 The AI report noted that “In March 2003 the administration of prisons was transferred from the Ministry of Interior to the Ministry of Justice.” [7e] (p1) UNAMA stated on 28 July 2003 that the key objective of this transfer was to improve the general standard of prisons starting with Kabul. [40as]

5.156 In March 2004 Amnesty International reported:

“Conditions in prisons and detention facilities in Kabul have seen an improvement but there remains an urgent need for the rehabilitation and reconstruction of detention facilities elsewhere. Furthermore, prison conditions (sanitation, food, overcrowding) and legal rights of prisoners fall far short of international standards as laid out in the UN Body of Principles for All Persons under Any Forms of Detention or Imprisonment and the UN Standard Minimum Rules for the Treatment of Prisoners...To date, the central government has responsibility to administer provincial prisons but in reality they remain under the control of various armed groups and human rights violations continue to be reported. The prison service continues to be plagued by insufficient personnel, inadequate training facilities for officers, inconsistent payment of salaries and a marked lack of donor interest. Despite a plan drawn up by Italy, the lead donor government for justice reform, to tackle this, lack of resources hamper reform and development.” [7a] (p2-3)

5.157 The report of the UN-appointed independent expert of the Commission on Human Rights dated 21 September 2004 noted:

“The inability of national prisons to provide those detained with conditions that meet minimal international standards is shocking. The independent expert visited the Pol-e Charkhi prison outside of Kabul, and found overcrowding and unhealthy conditions. The independent expert has heard reports that jails in the countryside are often in an appalling state, with crumbling walls, no water and limited access to nutritious food. Prisoners are seldom allowed out of their cells, in the best of cases for between less than one hour to three hours a day. Medical facilities are almost non-existent. Bribery is rampant and physical abuse is routine.” [39k] (para. 59)

5.158 The same report noted that the women’s detention centre in Kabul holds 40 women and these women are often held for unsubstantiated crimes. According to the report “They [the women] live in the prison with their children in a situation, though far better than that of Pol-e Charkhi, which is nonetheless below contemporary standards.” [39k] (para. 61)

(See Section 6 Imprisonment of Women for further details of conditions for women)

5.159 A further report by the UN independent expert on Human Rights dated 11 March 2005, recorded that:

“The independent expert returned to the Pol-e Charkhi prison, where conditions continue to be sub-standard despite some improvements. Cells are often overcrowded, prisoners are inappropriately shackled, medical facilities are rudimentary and medical supplies and ambulance services are dangerously limited. The independent expert witnessed poor general conditions, including inadequate sanitation, open electrical wiring, and broken and missing windows during freezing temperatures.

Whatever problems exist at Pol-e Charkhi, the prison is in much better condition than detention facilities in other parts of the country, which authorities describe as inadequate and in need of significant repair. Prison officials stated that in 20

of 34 provinces, prisons are rented homes converted, often with limited and inadequate structural additions. The independent expert witnessed these abhorrent conditions first-hand during a visit to a detention centre in Logar. These facilities consisted of a metal shipping container buried in the ground with limited lighting and heat that housed 10 inmates, and a cramped basement with a single skylight, in which over 20 inmates were detained. Several prisoners were kept constantly shackled, a practice that appears common throughout the country. These appalling, dangerous, and overcrowded conditions demand immediate attention. It should be noted that for over a year the Government of Italy has offered to fund the construction of new prison facilities, yet the Government of Afghanistan has inexplicably been unable to identify an adequate plot of land for the project.” [39i] (paras 28 & 29)

5.160 The UN independent expert’s September 2004 report also noted that “The independent expert has received reports of serious violations, such as torture committed in secret detention centres run by NSD, and has notified the Attorney-General...The independent expert has received reports of numerous informal prisons located around the country, which are generally run by warlords and local commanders. They exist outside the control of the State and beyond the reach of the law.” [39k] (paras 63 and 64)

5.161 Keesing’s Record of World Events for September 2004 recorded that “An Afghan court sentenced three US citizens to between eight and 10 years in prison on Sept. 15 [2004] after they were found guilty of operating a private prison without legal authority and of torturing detainees.” [5a]

(See also Section 5 Legal Rights/Detention paragraph 5.56 for further information on private prisons)

5.162 The September 2004 UN independent expert’s report also noted that on 12 September 2004 President Karzai had ordered the release of all detainees transferred from Shiberghan prison in May 2004 and held in Pol-e Charkhi prison. The report noted:

“The detainees were Taliban combatants who were captured in 2001 by Northern Alliance forces under the command of General Dostum. They had been held for over 30 months in violation of the Geneva Conventions. Originally, the detainees numbered between 3,200-4,000, and were kept in the Shiberghan prison facility under the control of General Dostum. Many prisoners obtained their release by paying ransom. Others died under conditions that have been described as murder and torture, such as those who reportedly died of suffocation in metal cargo containers.” [39k] (para. 65)

5.163 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded that:

“Prison conditions remained poor, and there were reportedly many other secret or informal detention centers in the country. Prisoners lived in overcrowded, unsanitary conditions in collective cells and were not sheltered adequately from severe winter conditions. Prisoners reportedly were beaten, tortured, or denied adequate food. The Justice Ministry’s assumption of prison management from the Interior Ministry in March 2003 improved conditions marginally. The humanitarian NGO Emergency reported in January [2004] that infectious diseases were common among prisoners.” [2d] (section 1c)

5.164 The Amnesty International 2005 Country Report covering events in 2004 stated that “Insufficient attention was paid to the prisons service by the Afghan government and donor community. Inhumane conditions and gross human rights violations were reported, especially outside Kabul where provincial prisons remained under the control of armed groups. [70] (p3)

5.165 On 30 July 2005, the Institute of War and Peace Reporting (IWPR) reported on a new prison law ratified on 11 May 2005:

“Afghanistan’s new law explicitly bans torture, saying ‘no one is allowed to torture any prisoner’. But if a detainee tries to escape, resist, attack others or cause any disturbance, prison officers may use force – the nature of which is not defined. Article 3 of the law states ‘prisons officials, attorneys, judges and other people who deal with prisoners must observe their human rights while carrying out their duties and should treat them impartially’ – in other words without regard to ethnic background, religion and gender...Under the law, prison officers cannot walk around inside the prison carrying guns. Prisoners must be given a chance to learn a trade such as carpentry or tailoring, they should be allowed special leave, for example to attend a funeral, and they should have access to television, radio and newspapers.” [73t]

5.166 The IWPR report also noted:

“Televisions in prisons seems a long-term objective when millions of law-abiding Afghans lack basic facilities in towns and villages. Justice ministry legal expert Halim acknowledges that not everything will change immediately. Noting that the food currently on offer is poor, he said only 60 US cents was spent per prisoner per day – not enough to provide each inmate with three good meals a day. Zahrudin Zahir, the head of Pul-i-Charkhi prison, also accepts that some parts of the law will be difficult to put into practice in the present situation. “We can implement the whole prisons law eventually, but we have problems with some articles,” he said.” [73t]

5.167 The UN Development Programme (UNDP) Afghanistan Newsletter dated 1 August 2005 noted:

“The passing of the Penitentiary Law which incorporates all the required protections according to international standards signals a significant commitment by Afghanistan to implement the provisions of international human rights treaties. Steps are underway to train prison officials on the new law and the changes that it brings in the way they do their job. Important changes brought by the law include provisions for separate facilities for juveniles, convicted and awaiting trial detainees, and requirements for adequate facilities for women. The law also sets out important matter such as the minimum space to be allocated to each prisoner to ensure that the conditions are humane.” [40j]

5.168 The International Committee of the Red Cross (ICRC) Afghanistan Annual Report 2004 advised that the ICRC had visited nearly 3,000 detainees held by either the Afghan or US governments during 2004. The ICRC reported that they had made improvements to prison water-supplies and sanitation facilities, delivered blankets and winter clothes and brought together prison and health authorities to ensure there was appropriate tuberculosis treatment in prisons. [42c]

US MILITARY BASES

5.169 In March 2004, Human Rights Watch (HRW) published a report alleging that the United States is maintaining a system of arrests and detention in Afghanistan as part of its ongoing military and intelligence operations that violates international human rights law and international humanitarian law (the laws of war). [17b] (p1)

5.170 The HRW report noted:

“Afghans detained at Bagram airbase in 2002 have described being held in detention for weeks, continuously shackled, intentionally kept awake for extended periods of time, and forced to kneel or stand in painful positions for extended periods. Some say they were kicked and beaten when arrested, or later as part of efforts to keep them awake. Some say they were doused with freezing water in the winter. Similar allegations have been made about treatment in 2002 and 2003 at U.S. military bases in Kandahar and in U.S. detention facilities in the eastern cities of Jalalabad and Asadabad.” [17b] (p4)

5.171 On 13 May 2004, AI also reported that “Amnesty International has received consistent reports of torture and abuse of detainees held in US military bases across Afghanistan during the past two and a half years. Whilst Amnesty International welcomes official statements from the US authorities that the allegations are being taken seriously, to date, fundamental principles of law and human rights continue to be violated.” [7j]

5.172 In December 2004, BBC News reported “The US army has admitted that eight detainees have died in its custody in Afghanistan – two more than it had previously acknowledged. The army’s admission came after the campaign group Human Rights Watch said it knew of three new incidents... HRW says it is aware of ‘only a handful of criminal investigations’ into the cases and into many claims of torture by detainees.” [25j]

5.173 The Amnesty International 2005 Annual Report covering events in 2004 stated: “Evidence emerged that US forces had tortured and ill-treated detainees in the ‘war on terror’ in Afghanistan. Former detainees reported being made to kneel, stand or maintain painful postures for long periods, and being subjected to hooding, sleep deprivation, stripping and humiliation. Suspects were detained without legal authority and held incommunicado, without access to lawyers, families or the courts.” [7o] (p2)

5.174 In their report of 20 May 2005:

“Human Rights Watch said that at least six detainees in U.S. custody in Afghanistan have been killed since 2002, including one man held by the CIA. More than two years later, no U.S. personnel have been charged with homicide in any of these deaths, although U.S. Department of Defense documents show that five of the six deaths were clear homicides [see also paragraph 5.175 below]...Human Rights Watch called on the Department of Defense to release the results of the Army’s own investigation on treatment of detainees in Afghanistan. The study, concluded in July by Army General Charles H. Jacoby Jr., remains classified.” [17i]

- 5.175 On 24 August 2005, BBC News reported that “A soldier from a US military intelligence unit has been sentenced to two months in prison for abusing an Afghan detainee who later died. [25o] On 25 August 2005, the BBC further reported that a second US soldier had been sentenced to three months in prison and two other soldiers had been convicted in connection with the case, but neither was jailed. The Afghan government, the Afghan Independent Human Rights Commission and Human Rights Watch all criticised the leniency of the sentence. [25p]

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MILITARY SERVICE

- 5.176 A UNHCR paper dated June 2005 recorded that in 2002 “In order to prevent forced recruitment by the local commanders, respond to the nature of military service in the new army of Afghanistan, and make this service for the first time in history of the country a voluntary military service, a Presidential Decree on ‘Voluntary Military Service’ was issued.” [11b] (p26)
- 5.177 In January 2004, the UN Office for the Coordination of Humanitarian Affairs (UN OCHA) Integrated Regional Information Network (IRIN) reported that at the beginning of the process to build a national army, local commanders were instructed to send their troops to join and this element of compulsion appears to have contributed to some recruits leaving the Afghan National Army (ANA). According to a spokesman for the Afghan Ministry of Defence, more than 80 per cent of those who escaped had been forcibly sent to join the ANA by local commanders. However, according to the spokesman, this process had stopped and now it is a totally voluntary recruitment system. [40v]
- 5.178 On 9 February 2005, the UN Secretary-General reported that there had been no reported cases of recruitment of children into the Afghan National Army. [39e] (p2-3)

(See also Section 6B [Child Soldiers](#) paragraphs 6.303-6.306)

- 5.179 The CIA World Factbook, updated on 30 June 2005, recorded that males between the ages of 22 and 49 are eligible for military service and inductees are contracted into service for a four year term. [23]

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MEDICAL SERVICES

GENERAL

- 5.180 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated in April 2005, recorded: “The health sector in Afghanistan is in a very poor state. The health infrastructure has been damaged or destroyed by years of conflict. Professional health workers have fled the country. Epidemic-prone diseases, malnutrition and poverty have increased demands on the limited remaining healthcare providers. The situation is exacerbated by poor hygiene and sanitation, high vulnerability to natural disasters, and cultural sensitivities, which restrict access for women and girls.” [15c] (p7)

- 5.181 The FCO profile also provided the following statistics supplied from the United Nations Development Programme (UNDP):

“average life expectancy is 42 years

1 in 6 babies dies during or shortly after birth

1 in 4 children dies before reaching the age of 5

15,000 women die each year from pregnancy related causes

1 doctor for every 50,000 of the population

12% of the population have adequate sanitation

23% of the population have clean drinking water” [15c] (p7)

- 5.182 The FCO Profile noted:

“There have been some positive developments. Since April 2002, 72 hospitals, clinics and women’s healthcare centres have been rebuilt. The Ministry of Health has established a Child and Adolescent Health Department and a Department of Women and Reproductive Health to tackle high infant and maternal mortality rates. The World Bank, the United States Agency for International Development and the European Community are helping the Afghan Ministry of Health, through NGOs, to provide a basic healthcare service [BPHS] to the entire population. The package consists of services for (i) maternal and newborn health; (ii) child health and immunisation; (iii) nutrition; (iv) communicable disease; (v) mental health; (vi) disability; and (vii) supply of essential drugs.

Immunisation is having a real impact. Since 2002 UN agencies have administered 12 million immunisations against polio and 16 million vaccinations against measles, saving an estimated 30,000 lives. Cholera and diarrhoeal diseases are being tackled through health education, water chlorination and the construction of wells throughout the country. A programme to vaccinate 4 million girls and women aged 15-45 against tetanus by 2005 is now underway (UNICEF).” [15c] (p7)

- 5.183 A January 2004 report by the British Agencies Afghanistan Group (BAAG) stated that “Afghanistan’s Basic Health Care Package [BPHS] concentrates its resources on providing basic health care to serve the whole population rather than on specialist care for the few. NGOs play an important part in filling gaps in specialist areas such as working with the blind, psycho-social care, orthopaedics, family planning and, increasingly, HIV.” [71a] (p7)
- 5.184 In January 2004, Action Contre La Faim Afghanistan (ACF) published a paper giving the results of their study into vulnerability in Kabul. According to the paper “The health care system in Afghanistan’s capital continues to be strikingly inadequate.” [33] (p16) The paper also noted that “While health services in the capital are markedly superior to that of rural areas, there are parts of the city, which are remote or difficult to access. Communities in the peri-urban areas face difficulty in accessing care.” [33] (p 17)

5.185 The ACF paper also reported:

“Many international agencies and an increasing number of national agencies are technically and financially supporting sections of the clinics and hospitals. Despite this support, obvious discrepancies in the staffing and equipment of health facilities results in failure to effectively serve the burgeoning urban population. In fact, the lack of regular funding or investment over the last ten years has made quality care a virtual impossibility. The public system, largely subsidised by foreign funds, continues to be characterised by a lack of qualified staff and appropriate care. It is important to note that the high salaries of the UN and INGOs have drawn the more experienced medical personnel thus creating a drain on the availability of staff for the public system.” [33] (p16)

5.186 The ACF paper further noted that doctors in both hospitals and clinics in Kabul are reportedly used to referring patients to their own private clinics and demand that a particular private drug vendor in the “bazaar” fill prescriptions. The report continued “Indeed the majority of doctors registered under the Ministry of Public Health run private clinics after their shifts in public hospitals and clinics. The impact this dysfunctional system has on the population should not be underestimated as the poorest are not financially able to access the treatment they need...The lack of regulatory bodies regarding certification of medical personnel is apparently a real cause for concern.” [33] (p16)

5.187 On 28 July 2004, Médecins Sans Frontières (MSF) announced the closure of all medical programmes in Afghanistan following the killing of five MSF aid workers on 2 June 2004. The MSF Press Release stated that its programmes in the country would be handed over to the Ministry of Health and other organisations. [72]

5.188 On 13 August 2004 the Institute for War and Peace Reporting (IWPR) reported that:

“Untrained or under-trained individuals claiming to be doctors are at work all across Afghanistan prescribing drugs and even carrying out surgeries at unregulated private clinics on unsuspecting patients. In some cases, the treatments performed by these so-called doctors have led to permanent injury or even death, according to interviews with patients or the relatives conducted by IWPR. Government officials admit that the problem exists throughout much of the country. ‘There are lots of unlawful clinics and pharmacies all over the provinces,’ said Abdul Manan Saidi, the deputy president of law and assessment in the ministry of health. ‘Even those people who were hospital cleaners in Pakistan and Iran have opened their own clinics.’ But with trained medical professionals in short supply, especially in rural areas, many feel they have no choice but to turn to these unqualified and unregistered individuals.... [73e] (p1)

Most legitimate doctors in Afghanistan have undergone seven years of university training before receiving their medical degree. But many of the so-called doctors have taken as little as three months of medical courses, often when they were refugees in Pakistan. Others received some basic first-aid training when the mujahedin were in power in the late 1980s and have simply declared themselves doctors since then.” [73e] (p2)

- 5.189 The World Bank report of 9 September 2004 noted that “Inaccessibility to health centers, hospitals, or doctors that could provide preventive and curative services, as well as lack of medicines including essential drugs, are major contributing factors to the poor state of public health. Forty percent of health facilities do not have female staff, which implies that women are very unlikely to use those facilities.” [69a] (para. 2.06)
- 5.190 A USAID report dated January 2005 noted that “The basic health and nutrition of Afghans, particularly women, children, and displaced persons, improved this year [2004]. REACH (Rural Expansion of Afghanistan’s Rural-based Healthcare) brought basic services and health education to under-served communities, focusing on maternal and child health, hygiene, water and sanitation, immunization and the control of infectious diseases.” [60a]
- 5.191 On 28 January 2005, the International Committee of the Red Cross (ICRC) reported that the 100-bed Wazir Akbar Khan Hospital in Kabul had been handed over to the Ministry of Public Health, following extensive renovations. The hospital is the main referral hospital for orthopaedic and emergency surgery in Afghanistan. [40a] The ICRC’s 2004 annual report on Afghanistan, published in June 2005, advised that the organisation had kept up its substantial assistance to Afghan hospitals during 2004. “It regularly provided medicines, medical and other basic supplies, carried out repair and maintenance on buildings, trained staff and supplemented salaries as needed to maintain quality services in nine hospitals in Kabul (Karteh Seh and Wazir Akbar Khan), Jalalabad (Public Health Hospital), Kandahar (Mirwais), Mazari-Sharif (Military), Shiberghan, Samangan, Taloqan and Ghazni.” [42c]
- 5.192 A UNHCR report dated June 2005 noted that “In terms of access to healthcare, Afghanistan’s poor health care system has a very strong urban bias in its existing infrastructure. Overall, there are only 210 health facilities with beds to hospitalize patients and with the exception of 4 provinces, the ratio of doctors per 10,000 persons is less than 1 doctor.” [11b] (p33)
- 5.193 The same report advised that the following medicines are not available in Afghanistan:

“Antineoplasms; Antiviral drugs; Immunoglobulins; Blood factors; Immunosuppressant: most importantly Cyclosporine, Cellcept, Imuran; Azatuprine; Some antibiotics: Imipenemcilastatine, Neomycine Sulfate, Piperacillin; Pralidoxine Chlorid; Acnocooumarol (Anticoagulant Agent); Acetylcysteine (Antidote (Acetonaminophene); Colfusecril palmitate (Pulmonary Surfactant); Some hormones: Corticoptopine (Hypophysical Hormone), Parathormone (Parathyroid Hormone); Desoxycorticosterone Pivalate (Mineralocorticoid); Dimercaprol (Antdote (Au, As, Hg, Pb); Fluorometholone (Ophthalmic Gloecorticoid); Pentaerythritol Tetramitrate (Vasodilator/Anti Angina); Prostaglandin E1; Oruine (Anti Malaria); Finasteride (Antiandrogen); Isoproterenol (Antiarythmia).” [11b] (p65)

WOMEN AND CHILDREN

- 5.194 On 19 May 2005, UNAMA reported Dr. Adbi Ahmed, a medical officer with the World Health Organization (WHO) as saying:

“Maternal and child mortality in Afghanistan is the second highest in the world, which means that the socio-economic factors here are very poor. Coupled with protracted warfare, it has meant that child and maternal health care in Afghanistan is in an appalling state. A total of 1,600 women die from pregnancy related problems, per 100,000 births or pregnancies. This is the national average. In certain provinces, such as Badakhshan or Nuristan, the number is different. A UNICEF study estimated that this number could be as high as 6,500 maternal deaths...

In terms of health services, maternal health services are not equally distributed. The majority of women do not have access to essential health care. Some estimates indicate that only 12 percent have access to anti-natal care in health facilities where only male personnel offer care. The utilization of these facilities is very low, as women are reluctant to go and undertake anti-natal care where only males are providing services. In addition to this their children do not benefit from this health care, as their mothers are reluctant to utilize them. One of the major concerns relating to female health care is the lack of female health workers in Afghanistan. The figures we have suggest that in some areas, such as Kandahar and Helmand, the rate is as low as 0.2 per 10,000 population.” [40ae] (p4-5)

5.195 On 22 June 2004 a US State Department Report on US Support for Afghan Women, Children and Refugees noted that over 90 per cent of Afghan women delivered their babies without trained medical assistance. [2a] (p9)

5.196 In a report dated October 2004, Human Rights Watch (HRW) noted “Women and girls no longer confront Taliban-era restrictions to gain access to health care services.” Nevertheless, the report noted that Afghan women’s reproductive health and mental health indicators were alarming. [17j] (p6-7)

5.197 The International Medical Corps (IMC) noted in June 2004 that the Rabia Balkhi Women’s Hospital is the only women’s hospital in Kabul. IMC reported that

“Its 13,000 births per year make up only a tiny fraction of the more than one million births nationwide annually, but, nonetheless, the hospital is an irreplaceable starting point for building the capacity of the Afghan health system to care for women.” [40d]

5.198 On 21 May 2004, the ICRC reported:

“The first ever centre for Afghan children with cerebral palsy was officially opened in Kabul on 17 May [2004]. Financed by the Italian Red Cross and operated under the auspices of the International Committee of the Red Cross (ICRC), the centre is housed in the Indira Ghandi Children’s Hospital in the Wazir Akbar Khan district of the Afghan capital. The cerebral palsy programme will initially run for two years. In addition to providing physiotherapy to its young patients, it offers counselling for families and training courses.” [42a]

5.199 In August 2004, Afghan Connection, an organisation which refurbishes and equips clinics and hospitals and provides medical training, advised that the Indira Gandhi Paediatric Hospital in Kabul is the only paediatric teaching hospital in Afghanistan. Afghan Connection advised that the hospital had only 250 beds and was originally funded by the Indian government. According to the source, “The Ministry of Public Health now fund[s] most of the hospital, but

some of the individual wards are supported by non-government organisations (NGOs) from overseas.” [9] (p1)

- 5.200 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded that “Children did not have adequate access to health care, and only one children’s hospital existed in the country; however, it was not accessible to citizens in distant provincial districts outside Kabul.” [2d] (p11)

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PEOPLE WITH DISABILITIES

- 5.201 On 22 November 2004, IRIN News reported:

“The country has more than a million people living with disabilities, according to the Afghan Ministry of Martyrs and Disabled (MOMD) and a quarter of them – at least 250,000 – are victims of landmines and unexploded ordnance (UXOs). The number is rising, with at least 40 people still falling victim to mines each month, as people return to villages that used to be on front lines. But this figure has now fallen considerably compared to the last few years when 300-400 people became victims of UXOs and mines every month.” [40am]

- 5.202 The IRIN report also noted that although there are several national and international organisations and a government ministry with mandates to assist the disabled, the head of Afghanistan’s Disabled Women’s Association, Nafisa Sultani, believes there is little happening to help them reintegrate. “Despite hundreds of millions of dollars of international aid for Afghanistan, the disabled community has not been addressed.” As Afghanistan already has a high rate of unemployment, finding jobs for mine victims is very difficult. Even though the government has passed a decree that disabled people must comprise five per cent of every ministry’s staff, ‘that has not been implemented’, Sultani said.” [40am]

- 5.203 The same IRIN report noted “The government is paying 300 afghanis (about US \$7) disability pension monthly. Some distribution of land for shelter or monthly food items through aid agencies for disabled families also takes place.” However, one UXO victim was reported as saying that disabled ex-combatants are often prioritised over civilians. The source said that there had recently been land distribution for the disabled, but they were told that it was for ex-officers and soldiers, not civilian victims. [40am]

- 5.204 The IRIN report further noted:

“The International Committee of Red Cross (ICRC) is running the largest orthopaedic centres in major Afghan cities providing limb prostheses and physiotherapy. According to Alberto Cairo, head of ICRC orthopaedic projects in Afghanistan, the committee is running vocational training, a back-to-school programme, micro-credit schemes and a job centre to promote reintegration...The prevalent attitude among Afghans is that those maimed by mines are unworthy ex-fighters responsible for all the destruction in Kabul, rather than innocent victims who need public support and understanding. Victim support is part of the Ottawa convention, which the Afghan government signed up to in 2002. ‘I wouldn’t agree that we are not assisting them. The government is well aware of the scale of the problem and is trying to assist victims as much

as possible,' Mohammad Haidar Reza, Afghan deputy foreign minister and chairperson of demining activities in Afghanistan, told IRIN. 'But because of the limited resources that the government has, it cannot take care of all of their [the disabled] needs,' he maintained." [40am]

- 5.205 An article by the Institute for War and Peace Reporting dated 6 August 2005 reported that "Treatment by the ICRC is free, but transport and medicines are still a burden on families...There are now six ICRC-sponsored centres providing orthopaedic services in Afghanistan." [73w]

- 5.206 On 2 December 2004 the UN Children's Fund advised that their new report had shown people with disabilities in Afghanistan are hampered by negative attitudes from society.

"The report, drawing upon a two month survey in Kabul, Jalalabad and Herat, identifies some of the key difficulties facing people with disabilities as they strive to play a role in reconstruction efforts and underlines the continuing stigma associated with disabilities in Afghan society. Segregation from society affects most disabled people, according to the report. This takes the form of verbal and physical abuse, lack of access to education and health care, lack of social opportunities, barriers to employment and discrimination. Such isolation affects not just people with disabilities, but also their families' status in society." [40al]

- 5.207 A UNHCR paper dated June 2005 advised "Physically disabled Afghans who cannot work or live on their own in Afghanistan, should not return unless they have family or community support. Examples are persons permanently disabled by diseases such as polio or meningitis, land mine victims, persons injured during the war, accident victims, persons with severe handicaps or birth defects, including blind, deaf and mute persons." [11b] (p63)

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HIV/AIDS

- 5.208 In June 2005 the World Bank Group noted that there was no reliable data on the prevalence of HIV/AIDS in Afghanistan:

"To date 36 cases have been reported through blood bank branches. However, the actual number has been estimated at between 700 and 800 cases, using a point prevalence software package developed by UNAIDS and the World Health Organization. Three deaths due to AIDS are registered so far in Afghanistan. There are reports, however, of people dying of the disease in the border provinces who were diagnosed and treated in neighboring countries. The sharing of contaminated needles during drug use is increasing and a major source of HIV infection." [69b] (p1)

- 5.209 The World Bank Group also noted:

"Much of the population lacks access to basic health services. There is also an acute shortage of health facilities and trained staff, particularly female staff, in most rural areas. Of the facilities that exist, most are ill-equipped and unable to treat opportunistic infections, or prevent mother-to-child transmission. WHO estimates that only half of the 44 medical facilities that transfuse blood are able to screen the blood for HIV infection..."

The Government of Afghanistan has established a National HIV/AIDS/STI-control department, developed a five-year (2003-2007) strategic plan, and drawn up an annual plan of action to combat HIV/AIDS. Focal persons for HIV/AIDS have been assigned at the Ministries of Religious Affairs, Education, and Women's Affairs." [69b] (p2)

- 5.210 The World Bank Group brief further noted that "The World Bank has approved a \$59.6 million project that will help rebuild the public health system in Afghanistan with a strong emphasis on prevention and education. Although there is no specific HIV/AIDS component in the project, interventions to improve maternal health and prevent STDs [sexually transmitted diseases] are included and will also prevent the spread of HIV." [69b] (p3)

(See also paragraph [5.223](#) for UNHCR view on treatment for HIV/AIDS)

MENTAL HEALTH

- 5.211 In March 2004, an article on mental health in Afghanistan was published in *Lemar-Aftaab*, an independent magazine that focuses on Afghan culture. The report by Dr. Amin Azimi noted "Currently, there are only a handful of mental health professionals in Afghanistan, mainly psychiatrists. They are poorly equipped to treat patients, and their only method of treatment is medication. These professionals don't have training in psychotherapy...Afghanistan is in need of trained psychologists to design mental health programs, treat these patients, and train the art of counseling to qualified individuals." [40a] (p1)
- 5.212 In July 2004, the World Health Organisation (WHO) reported that an estimated 20-30 per cent of the Afghan population suffer from a mental disorder and, in addition, some 30-40 per cent faced psychosocial problems which interfered with their daily routines and could lead to serious mental disorders in the future [43] (p11). The WHO report also noted some achievements in the area of mental health including the establishment of four community mental health centres in Kabul city to offer services through consultations in clinics and community/home visits in Khair Khana, Central Polyclinic, Rahman Mina and Arzan Qeemat; the development of a strategy paper to integrate mental health service into primary care services in a three phase initiative (the first phase has started); and the procurement of essential psychotherapeutic medicine for mental health centres in regions and Kabul. [43] (p12)
- 5.213 On 4 August 2004, Medical News Today reported:

"Exposure to trauma and mental health symptoms of depression, anxiety, and post-traumatic stress disorder (PTSD) are prevalent among people in Afghanistan but, often go untreated because of lack of resources and mental health care professionals, according to two studies in the August 4 issue of JAMA, the Journal of the American Medical Association, a theme issue on Violence and Human Rights...

Barbara Lopes Cardozo, M.D., M.P.H., from the Centers for Disease Control and Prevention, Atlanta, and colleagues, conducted a nationally representative survey of 799 Afghan adult household members (699 nondisabled and 100 disabled respondents) aged 15 years or older from July to September 2002 to

assess respondents exposure to trauma during the previous 10 years, mental health symptoms, resources for emotional support, and disability...

In conclusion, the authors write: 'Our survey demonstrates a high prevalence of exposure to trauma and the magnitude of mental health problems among Afghan individuals in post-war Afghanistan. Prevalences of symptoms of depression, anxiety, and PTSD were high, even when compared with other communities traumatized by war and conflict. Women and disabled respondents had significantly poorer mental health status than men and nondisabled respondents. These data underscore the need for donors and health care planners to address the current lack of mental care resources, facilities, and trained mental health care professionals in Afghanistan.'" [86]

- 5.214 The second study reported by Medical News Today focused on residents of the eastern province of Nangarhar:

"During the past 10 years, 432 respondents (43.7 percent) experienced between 8 and 10 traumatic events; 141 respondents (14.1 percent) experienced 11 or more. High rates of symptoms of depression were reported by 391 respondents (38.5 percent); anxiety, 524 (51.8 percent); and PTSD, 207 (20.4 percent)," the authors report. Symptoms were more prevalent in women than men. "The main resources for emotional support were religion and family. Medical care was reported to be insufficient by 228 respondents (22.6 percent)." [86]

- 5.215 A February 2005 Discussion Paper produced by the Health, Nutrition and Population (HNP) Family of the World Bank's Human Development Network recorded that "Afghanistan is severely under-equipped to address mental health and psychosocial problems. Supplies, staff and training are limited". [80] (p35) The HNP paper notes that there is one 60-bed mental hospital in Kabul, a 50-bed psychiatric ward in another Kabul hospital, and one outpatient centre in Jawzjan Province (IRIN 2003). "There are no mental health services in the provinces. Although doctors in 10 provinces have been trained, they do not have drugs and no support supervision is provided after training, as MOH [Ministry of Health] does not have the vehicles or resources." [80] (p36)

- 5.216 The HNP report further recorded:

"The Mental Hospital in Kabul is the only mental hospital in the country. It has 60 beds and bed occupancy is often over 100 percent. Fifty to seventy percent of patients are seen daily in the outpatient department, which is a small room in the hospital where children and adults are treated. There are no other facilities for children, except for the Children's Neurological Clinic. The hospital has 25 'psychiatrists,' who received a three-month diploma in psychiatry, funded by WHO [World Health Organisation]. The 50-bed neuropsychiatric unit in one of Kabul's hospitals also serves patients with mental disorders. Problems range from stroke and psychotic disorders to drug abuse; a big problem in Afghanistan, especially among returnees from Iran and Pakistan...

MOH [Ministry of Health] provides salary for staff and food for patients but has no money for drugs. Patients have to buy drugs in the bazaars and the quality is often not ensured. The hospital has no laboratory, no X-ray unit, no ambulance and no toxicology laboratory. Self-medication is common among patients with mental disorders." [80] (p36)

- 5.217 The HNP paper also states “Psychiatrist Sayed Afundi estimates that 70 percent of Afghan mental disorders are war induced (Liu 2001). According to Khitab Kaker, director of the Kabul Mental Hospital, 20-30 percent of Afghans suffer from mental disorders, while 40-50 percent suffer from anxiety (Sharifzada 2004). Kaker’s estimates are considerably lower than figures published in the Journal of the American Medical Association in 2002, which indicated that 68 percent of Afghans were depressed and 72 percent showed symptoms of anxiety.” [8o] (p35)
- 5.218 A report by the Netherlands Institute of International Relations dated April 2005 stated that in Afghanistan, “Mental health has been neglected. Some surveys indicate that Afghans are among the world’s most traumatized populations, and that post-traumatic stress disorder, depression, sleep disturbance, substance abuse, domestic violence, and other syndromes are widespread. The current government includes a psychiatrist, Dr. Mohammad Azam Dadfar (Minister of Refugees), who has studied and tried to treat these disorders, but thus far Afghans have virtually no access to mental health services.” [89] (p17)
- 5.219 A UNHCR paper dated June 2005 advised:
- “There is no form of psycho-social trauma support in Afghanistan. The concept of ‘counseling’ as a profession does not yet exist. All trauma is, if at all, dealt with by discourse with family and friends. Many Afghans, however, are seriously traumatized given their experiences of war and human rights violations. Of particular concern, in this regard, is the situation of women, many of who have suffered sexual violence, including rape. In addition, for both women and men who have suffered sexual violence, strong cultural taboos surrounding disclosure as a victim inhibit discussion, even with close family members. In more conservative areas, identification as a victim of rape or other sexual abuse can lead to family rejection and social ostracism, therefore it is reasonable to conclude that some victims of this form of trauma may fear return to Afghanistan on the basis that they will be discovered as a victim and face further persecution.” [11b] (p62-63)
- 5.220 The UNHCR paper also advised: “Traumatized Afghans who are in need of treatment and counseling, which is not available in Afghanistan, should be allowed to remain on humanitarian grounds...Mentally ill persons who need long term treatment or special care will not be able to cope in Afghanistan unless they have family to take care of them. There are no specialized institutions and personnel. This is particularly true for severe mental illness such that the person cannot be self-sufficient.” [11b] (p63)

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OTHER MEDICAL CONDITIONS

- 5.221 The Danish fact-finding mission of March/April 2004 reported on the availability of treatment for certain illnesses. “The WHO [World Health Organisation] was of the opinion that the initial treatment for diabetes can be carried out in Afghanistan but that there are problems with long term treatments. Insulin is very expensive and paid by the patient himself. Another problem in this context is the general lack of the required facilities to store medicines in a safe manner.

An international NGO was of the opinion that no regular and continuous possibilities for treating diabetes exist in Afghanistan.” [8] (section 9.3.3)

- 5.222 The WHO told the Danish fact-finding mission that simple heart and lung diseases could not be treated in district or provincial hospitals, but required referral to larger hospitals where such problems could be dealt with to a certain extent. The Danish report noted “There is however no possibility for carrying out e.g. a bypass operation in the large hospitals. An international NGO found that treatment for serious heart and lung diseases is not available at all in Afghanistan. The source said in this connection that it is not possible to perform a bypass operation in Afghanistan. Patients in need of such an operation must travel either to Iran or Pakistan.” [8] (section 9.3.3)
- 5.223 A UNHCR paper dated June 2005 advised: “For some medical cases, return to Afghanistan is not recommended, unless family or community support and care is available during the treatment period. For others, there may be no treatment possibilities in Afghanistan for the time being. Examples are those with HIV or AIDS and injuries or conditions requiring sophisticated surgical procedures (i.e. transplants), which are not available in Afghanistan.” [11b] (p63)
- 5.224 The UNHCR paper also advised: “The following diseases and other serious medical conditions cannot currently be treated in Afghanistan”: congenital heart diseases; valvular heart diseases; liver cirrhosis; renal failure; thalassemia, hemophilia and leukemia (blood diseases); aids; post measles encephalopathy, cerebral palsy, hydrocephalus and CVA(Cerebral Vascular Accident); All cancerous diseases; post organ transplantation; viral diseases (medicines not available) [11b] (p64)
- 5.225 UNHCR further noted that the following surgical operations cannot be performed and post-operative care is unavailable in Afghanistan: micro-neurosurgery; heart surgery; vascular surgery (only one expert in Kabul who can do peripheral vascular surgery); radiotherapy for treatment of cancer; all kinds of organ transplantation; dialysis; eye and ear surgery. [11b] (p64-65)
- 5.226 The June 2005 UNHCR report also recorded:
- “The following chronic diseases are treatable in Afghanistan but the patient requires family care and support, which varies based on the condition of the patient”: leprosy; myocardial infarction; tb; bone fractures; complicated diabetes; complicated COPDs (Chronic Obstructive Pulmonary Diseases); osteomyelitis; mental diseases; juvenile rheumatic arthritis; severe burns. [11b] (p66)
- 5.227 The same report also noted that “In Afghanistan, patients are hospitalized for short periods, because of the limited space for patients in hospitals. When patients come out of a life-threatening condition, they are discharged. The family or relatives are required to take care of the patient at home.” [11b] (p66)
- 5.228 In his report dated 22 December 2004, the UN Secretary-General advised that tuberculosis is a major killer in Afghanistan and 70 per cent of those affected are women. [39] (p13) A USAID update of 16 February 2005 reported that “According to World Health Organization (WHO) estimates, approximately 70,000 new TB cases occur annually in Afghanistan, and 20,000 people in the

country die from TB every year. Two-thirds of Afghanistan's reported TB cases are women." [60b]

5.229 On 26 November 2004 the UN Secretary-General reported:

"Tuberculosis remains a serious public health problem in Afghanistan. With support from the World Health Organization (WHO), 162 health facilities in the country are offering services in 141 districts that represent 54 per cent of the country's population...Under the Roll Back Malaria project, WHO is assisting the Ministry of Health and local health authorities to combat malaria in 14 provinces where the disease is endemic. Through this project, 600,000 individuals are receiving full treatment for malaria every year. In addition 750,000 individuals are protected from malaria and leishmaniasis by sleeping under insecticide-treated nets provided under the project." [39f] (p14)

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EDUCATIONAL SYSTEM

5.230 A report by the Netherlands Institute of International Relations dated April 2005 recorded:

"Under the Taliban in 2000, only 32 percent of Afghan school-aged children and only 3 percent of Afghan girls were reported to be enrolled in school. Reported school registration in Afghanistan is now at record highs for both boys and girls, passing 4 million children, one third of them girls, in 2003. UNICEF now estimates school attendance at 56 percent.

While these trends are positive, Afghanistan's National Human Development Report, released in February 2005, stated that Afghanistan still has 'the worst educational system in the world.' Buildings and equipment are still lacking, the quality of teaching is low, and fewer than 15 percent of teachers have professional credentials. Afghanistan's literacy rate of 36 percent is one of the world's lowest, and, at 19.6 percent, it probably has the lowest female literacy rate in the world...With a tremendous youth bulge in the population and a transformation of attitudes toward education, the demand for education is growing rapidly, while expansion is constrained by the lack of schools, teachers, texts, and equipment. International assistance has concentrated on elementary education, and secondary and higher education are still limited, especially outside of major cities." [89] (p15)

5.231 A Human Rights Watch report of October 2004 noted:

"Since late 2001, enrollment in schools has significantly increased, with over four million children in school. Despite this improvement, more than half of Afghanistan's children do not attend primary school. Approximately 34 percent of those enrolled are girls, but their drop-out rates are high. Of those attending primary school, only 9 percent go on to secondary school. While the government reports that over 80 percent of girls in Kabul attend primary school, in some provinces girls' enrollment rates have shown little or no progress. Only one out of every one hundred girls in Zabul and Badghis provinces attend primary school. Increasing the number of female teachers is essential to increase the enrollment of girls because many families forbid their daughters to

attend schools with male teachers. Security is also key – the Taliban and local military factions have attacked or burned dozens of girls' schools in the past two years." [17] (p7)

- 5.232 The Constitution adopted in January 2004 recognised that education is the right of all citizens of Afghanistan. [81] The Human Rights Research and Advocacy Consortium reported in March 2004 that "In the newly adopted constitution education for all is free and compulsory until 9th grade. This is an ambitious and commendable target, but one that requires strategic and long term resource allocation, yet most donors only provide funding on a one year basis. "There are no quick fixes in education. The education system was on its knees in 2001. It will take sustained support to ensure that all Afghan children can enjoy a quality education' says Sally Austin, Care." [40o] (p2) The US State Department Report 2004 recorded that "The Constitution makes education to the intermediate level mandatory, and provides for free education to the college, or bachelor's degree level." [2d] (p11)
- 5.233 A report by the Human Rights Research and Advocacy Consortium (HRRAC) dated March 2004 reported that "Where a child lives in Afghanistan has a huge impact on his/her access to education. There is a great divide between urban and rural areas in terms of enrollment figures...As well as an urban-rural divide there is a very significant geographical division between enrollment rates in northern and southern provinces." The report also noted that out of the nine provinces with the lowest enrolment rates, seven were southern provinces. [7o] (p2)
- 5.234 A June 2004 report from the Office of International Women's Issues, submitted to Congress by the USSD also noted:
- "Educational opportunities in Afghanistan vary significantly among the country's different regions. Cultural barriers to educating girls persist, more strongly in some areas than in others, and are heightened by a lack of trained teachers, especially women teachers. Physical limitations such as insufficient or inaccessible spaces and structures, lack of access to safe water, lack of books and other materials, and inadequate sanitation mechanisms provide further barriers to educating all Afghan children. In many areas of Afghanistan, classes are held out-of-doors without books or materials." [2a] (p11)
- 5.235 The HRRAC report of March 2004 also noted that "Children do not enroll and/or drop out of school for a whole range of reasons including: cultural restraints, economic constraints, security, distance to school, poor teaching and inadequate buildings and supplies. When children's time or labour contributes to the household economy, going to school is an opportunity cost that many families can ill-afford." [7o] (p3)
- 5.236 The Danish fact-finding mission of March/April 2004 reported that, according to the Swedish Committee for Afghanistan (SCA):
- "The policy of the government is that no child should be denied access to school, which means that the number of children in each class is very high in some areas. According to the organization, it is not unusual to find up to one hundred pupils from the age of four to twenty-eight in one class, which was intended for 30-35 (thirty to thirty-five) students...The source stated that there is access both to primary and secondary schools in Kabul. However, the

population had grown extensively during the last three years in Kabul and many schools are overfull.” [8] (section 9.2)

- 5.237 On 29 July 2004 the World Bank approved a US\$35 million grant to improve access to and the quality of education in Afghanistan. The grant will support the Education Quality Improvement Program which will be implemented by the Ministry of Education. [40q]
- 5.238 On 4 April 2005 the Institute of War and Peace Reporting observed that “The education ministry, with help from the United Nations children’s fund UNICEF, has begun a campaign to enroll an extra 500,000 girls in schools across the country, particularly in rural districts. Because many remote areas lack school buildings, the programme will pay for mosques and homes to be fitted out as classrooms. About 75,000 girls are already studying in such temporary schools.” [73j]
- 5.239 On 19 May 2005, the World Bank Group advised that it had approved a US\$40 million grant assistance to fund higher education. Their report stated that “Over the past three years, the government of Afghanistan has made notable efforts to revive the higher education sector in parallel with ongoing progress in primary and secondary education. Eighteen higher education institutions have reopened their doors and enrollment has jumped from 4,000 students in 2001 to 37,000 in the fall of 2004.” [69d]

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6 Human rights

6A HUMAN RIGHTS ISSUES

OVERVIEW

6.01 On 31 August 2005, the Afghan Independent Human Rights Commission (AIHRC) website showed that Afghanistan is a party to the following principle international Human Rights Treaties,

1. The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict, ratified on 24th September 2003.
2. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) ratified on 5th March 2003.
3. 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, ratified on 19th October 2002.
4. The Convention on the Rights of the Child (CRC), ratified on 27th April 1994.
5. The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) ratified on 26th June 1987.
6. The International Convention on the Elimination of all Forms of Racial Discrimination (CERD) ratified on 5th August 1983.
7. The International Covenant on Economics, Social and Cultural Rights (CESCR) ratified on 24th April 1983.
8. The International Covenant on Civil and Political Rights (CCPR) ratified on 24th April 1983. [78b]

Human Rights Watch (HRW) recorded in 2004 that Afghanistan had also ratified the International Criminal Court (ICC) Treaty on 10 February 2003. [17g]

6.02 On 21 September 2004, the first report of the UN-appointed independent expert on Human Rights in Afghanistan stated:

“The human rights situation in Afghanistan involves an extensive range of issues, including past and present violations committed by both State and non-State actors, operating beyond the reach of the law as elements of widespread and systematic policies, and by individuals. The violations identified constitute gross violations of fundamental human rights such as extrajudicial execution, torture, rape, arbitrary arrest and detention, inhuman conditions of detention, illegal and forceful seizure of private property, child abduction and trafficking in children, various forms of abuse against women and a variety of other violations committed against the weaker elements of society, such as minorities, returning refugees, women, children, the poor, and the handicapped. Key to understanding these violations are the problems of security in a country that is still dominated by the

military power of warlords and local commanders and by the rising economic power of those engaged in poppy cultivation and heroin traffic. The absence of security has a direct and significant impact on all human rights.” [39k] (Paras. 4 & 5)

6.03 The independent expert’s report also recorded:

“Most human rights violations occur at the hands of warlords, local commanders, drug traffickers and other actors who wield the power of force and who exercise varying degrees of authority in the different provinces and districts. These actors’ control and influence is in some provinces and districts absolute, while in others, it is partial or marginal. The Government is for the most part unable to exercise effective control over these actors, and has in that respect limited support from the Coalition forces and the International Security Assistance Force (ISAF)...

The Coalition forces, which at one time could have marginalized these warlords, did not do so, and even worked with them to combat the Taliban regime and to pursue Al-Qaida. This situation contributed to the entrenchment of the warlords. Subsequently, however, the Coalition forces and ISAF have supported the Government’s programme of disarmament, demobilization, and reintegration (DDR) of combatants, with so far only marginal success... It is this power equation that has an impact on the human rights situation and on the Government’s ability to prevent and redress human rights violations that derive from it.” [39k] (para.6-7)

6.04 The independent expert’s report also observed:

“The [human rights] situation is not, however, uniform throughout the country. In Kabul, where the Government’s strength is concentrated and where ISAF and the international community are headquartered, violations are the fewest in number and improvements are most visible. Other regions also have more security and fewer human rights violations. As political tensions ebb and flow in different regions, the human rights situation worsens or improves. Consequently, any regional reporting will differ, not only according to place, but also to time and circumstances.” [39k] (para. 54)

6.05 The Human Rights Watch (HRW) Afghanistan World Report 2005, published in January 2005, stated:

“Despite some improvements, Afghanistan continued to suffer from serious instability in 2004. Warlords and armed factions, including remaining Taliban forces, dominate most of the country and routinely abuse human rights, particularly the rights of women and girls. The international community has failed to contribute adequate troops or resources to address the situation, and basic human rights conditions remain poor in many parts of the country, especially outside of Kabul...U.S. forces operating against Taliban insurgents continue to generate numerous claims of human rights abuses against the civilian population, including arbitrary arrests, use of excessive force, and mistreatment of detainees, many of whom are held outside the protection of the Geneva Conventions.” [17f] (p1)

6.06 The same HRW report further noted: “Without adequate international support, the government has continued to struggle in addressing Afghanistan’s security and human rights problems. The central government has acted to sideline several abusive commanders, but in most cases the government has negotiated and cooperated with leaders implicated in abuses, as have U.S. government officials in

the country, who continue to be influential actors in Afghanistan's political processes." [17f] (p3)

- 6.07 In June 2004 the Afghan Research and Evaluation Unit published a briefing paper which stated "At the level of the individual Afghan citizen, where a local commander or police officer arbitrarily jails a villager or forces a family's daughter into an unwanted marriage, where a corrupt local official extorts an unlawful tax, or where two families engage in a violent dispute over land or water rights, to date no one – Afghan or international – is likely to play a visible or effective role to redress the situation." [22a] (p1)

- 6.08 On 12 December 2004 the Head of Human Rights Unit at UNAMA stated:

"The situation of human rights in Afghanistan has improved but there are still many challenges to overcome. Human rights violations continue to be committed in different parts of the country by both state and non-state actors. This has been documented by numerous agencies, including the AIHRC [Afghan Independent Human Rights Commission], the independent expert on human rights, Professor Cherif Bassiouni, and NGOs, as well as UNAMA. Violations continue to occur largely because the institutions of the state that should protect human rights are not yet strong enough to function effectively throughout the country. Human rights depends upon the rule of law and, despite progress by the Afghan Government, in quite a number of places the law is not followed and there are still a few actors who continue to behave as if they are above it... In his inauguration speech, President Karzai committed his Government to 'the rule of law, and the protection of civil liberties and human rights; the acceleration of administrative reform to strengthen administration, and to root out corruption.'" [40aq] (p2)

- 6.09 On 22 December 2004, IRIN reported an interview with the head of the Afghanistan Independent Human Rights Commission, Dr Sima Samar. Dr Samar was reported as saying:

"The human rights situation in Afghanistan is better than in previous years... But there are still some very serious violations of human rights in the country, which is due to a lack of law and order. Some people are beyond the law. Meanwhile, lack of security is another issue. People don't feel secure and there is no government system to defend the rights of the people. The public has no trust in the government system. Lack of security fuels these violations as local powers [warlords] are beyond the law and do whatever they want. With the rule of the gun taking precedence over the rule of law, rights violations can take place as long as these powers remain in place." [40at]

- 6.10 The IRIN report also stated:

"Political analysts in Kabul believe that the greatest challenge for human rights protection in Afghanistan is the state of law-enforcement bodies. In most of the rural areas the law abusers were local police who remained loyal to armed militia and powerful warlords [rather] than to the central government. While there is an ongoing programme on police training, supported by Germany and the United States, much more work needs to be done before the provincial police departments become fully professional and centrally accountable institutions, Vikram Parekh, a Kabul-based analyst of the International Crisis Group (ICG), a multinational advocacy NGO, said. 'In particular, disengaging the police from militia control should be prioritised by the new government – appointing militia

leaders as police chiefs helps preserve their power and only delays the process of security sector reform,' Parekh told IRIN." [40ap]

- 6.11 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded:

"The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. There were instances where local security forces and police committed extrajudicial killings, and officials used torture in prisons. Efforts to bring to justice serious human rights offenders were often ineffective; impunity from the law remained a serious concern. Punishment of officials usually took the form of administrative actions rather than prosecution. Prolonged pretrial detention and poor prison conditions led to deteriorating health conditions and death among some prisoners. The Government generally provided for freedom of speech, the press, assembly, association, religion, and movement; however, problems remained. Violence-including rape and kidnapping-and societal discrimination against women and minorities continued. Trafficking of persons was a problem. There was widespread disregard for, and abuse of, internationally recognized worker rights. Child labor continued to be a problem." [2d] (p1)

- 6.12 An April 2005 report by the Netherlands Institute of International Relations stated:

"In contrast to other governments since 1978, the current government does not carry out mass killings, mass arrests, or systematic torture of political opponents. Most abuse results from the weakness of national government compared to armed commanders, who often took power in localities in 2001-2002 and have seen their positions legitimized by official appointments, including to the police. One detainee held for investigation during the recent UN hostage crisis died in custody, apparently as a result of torture, despite police reform. There are occasional charges of blasphemy levied against liberal or secular writers or newspapers, which have caused a few people to flee the country. Rights are also violated by the Coalition, including homicides of detainees, arbitrary detention, and torture and mistreatment of detainees. There is no legal recourse for these violations, at least within Afghanistan. Taliban and elements linked to al-Qaida conduct regular attacks on the government (especially police) and terrorist acts". [89] (p20)

- 6.13 The Amnesty International 2005 Afghanistan country report covering events in 2004 stated:

"The judiciary remained ineffective, corrupt and susceptible to intimidation from armed groups. Courts barely functioned in rural areas. Judges and lawyers were frequently unaware of the law and allowed severe discrimination against women. Rape, forced marriage and the exchange of girls to settle disputes were frequently not treated as crimes. There remained widespread confusion among officials in the criminal justice system, including judges, as to the exact legal basis of the 'crime' of 'running away'. Such an offence does not exist in the Afghan Penal Code. Detainees were held for prolonged periods of time without legal basis and denied a fair trial.

Abuses by police officers were not investigated, and the effectiveness of the force was hampered by a lack of oversight mechanisms, affiliation to regional armed groups, non-payment of salaries and lack of equipment. Despite internationally

supported police training programmes few women were recruited. Progress in the reform of the judiciary and police was particularly slow outside Kabul.” [7o] (p2)

6.14 A UNHCR paper dated June 2005 recorded:

“Afghans in a number of areas of the country (therefore) continue to face abuses at the hands of local commanders, the most common of which are the extortion of money or economic assets by way of illegal taxation, forced recruitment and forced labor or payment in lieu as well as land occupation and confiscation. Illegal taxation by local commanders and warlords continues to be a major human rights issue and is having an impact on rural food security, with vulnerable local people being forced to give away a proportion of their crop or limited resources to illegal militias and local strongman. The illegal taxes, often in the form of ‘ushur’ (one-tenth of the harvest, in kind or cash) are demanded even before the harvest, or not linked to harvest, and some of those demanding them, are central government appointed officials, placed there to maintain law and order. Inability or unwillingness to pay or comply by the demands of such commanders leads to serious abuses, that is, harassment, physical abuses, threat with property confiscation, detention as well as ill-treatment.” [11b] (p29)

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TORTURE, INHUMAN AND DEGRADING TREATMENT

6.15 The Danish fact-finding mission of March/April 2004 reported:

“The Lawyers Union of Afghanistan stated that law forbids torture, but in practice the situation is different. In the regions governed by warlords, it is common that people in custody are beaten up until they confess the crime of which they are being accused. The punishment depends on the crime and on the captive’s relationship with the commander. The source was of the opinion that the police force’s use of torture in Kabul is less widespread because of the presence of journalists and western organisations, etc, but even there the police can behave roughly.” [8] (section 5.2.5)

6.16 In May 2004, the European Council on Refugees and Exiles (ECRE) advised:

“Beyond Kabul, the absence of an effective system of law and order means that the various power holders can act with impunity. The population at large is thus subject to the arbitrary use of power and the government is not in a position to accord protection from abuses of such power. Allegations continue that communities are often deprived of their basic rights and are victims of serious human rights abuses, sometimes by the police themselves. Continuing efforts are being made by the international community to help build a new Afghan National Army and police, yet the Afghan Transitional Administration has very little capacity to seriously address the prevailing insecurity or to impose its authority.” [37] (p2)

6.17 The UN-appointed independent expert on human rights report of September 2004 noted: “The independent expert has received reports of serious violations, such as torture committed in secret detention centres run by NSD, and has notified the Attorney-General.” [39k] (para. 63)

- 6.18 A Human Rights Watch (HRW) report dated September 2004 stated that most of the military factional forces in Afghanistan were deeply involved in ongoing human rights abuses and criminal enterprises. HRW reported:

“The list of documented violations is extensive. Local military and police forces, even in Kabul, are involved in arbitrary arrests, kidnapping and extortion, and torture and extrajudicial killings of criminal suspects. Outside of Kabul, commanders and their troops in many areas are implicated in widespread rape of women and girls, rape of boys, murder, illegal detention and forced displacement, and other specific abuses against women and children, including human trafficking and forced marriage. In several areas, Human Rights Watch has documented how commanders and their troops have seized property from families and levied illegal per capita ‘taxes’ (paid in cash or with food or goods) from local populations. In some remote areas, there are no real governmental structures or activity, only abuse and criminal enterprises by factions: trafficking in opium, smuggling of duty-free goods into Pakistan, and smuggling of natural resources or antiquities exploited from government-owned land.

In cities, militias are relatively less audacious, but abuses do occur – including extortion and harassment or sexual attacks against women and girls. High-level commanders in Kabul, Kandahar, Herat, and other cities have been directly involved in property seizures and forced displacement.” [17i] (p13-14)

(See also Section 5: [Warlords and commanders](#))

- 6.19 On 22 December 2004, the head of the Afghanistan Independent Human Rights Commission (AIHRC), Dr Sima Samar, was reported by IRIN as saying that “Some past violations still continue: arbitrary detentions, private jails, the torture of prisoners and detainees. The police still think it is their right to torture a suspect or culprit.” [40at]
- 6.20 The Amnesty International 2005 Afghanistan Annual Report covering events in 2004 recorded:
- “Evidence emerged that US forces had tortured and ill-treated detainees in the ‘war on terror’ in Afghanistan. Former detainees reported being made to kneel, stand or maintain painful postures for long periods, and being subjected to hooding, sleep deprivation, stripping and humiliation. Suspects were detained without legal authority and held incommunicado, without access to lawyers, families or the courts...Regional officials and commanders with a record of human rights violations flaunted their impunity, some of them maintaining links with armed groups responsible for abuses. Little progress was made in bringing to justice those responsible for war crimes, including mass killings and rape, committed during the armed conflicts since 1978.” [7o] (p3)
- 6.21 The March 2005 report by the UN-appointed independent expert on human rights noted “While the independent expert recognizes the importance of national security, he draws attention to allegations that the Coalition forces and special units of the Afghan security agencies and police act above and beyond the reach of the law by engaging in arbitrary arrests and detentions and committing abusive practices, including torture.” [39i] (para. 4)

WAR CRIMES AND HUMAN RIGHTS ABUSES PRIOR TO 2001

- 6.22 A nationwide survey by the Afghan Independent Human Rights Commission (AIHRC) on past human rights violations, published in January 2005, found that:

“The atrocities that were committed in Afghanistan are of an enormous scale, and the sense of victimization among the people we spoke to is widespread and profound. Almost everyone had been touched by violence in some way. When we asked 4151 respondents as part of the survey whether they had been personally affected by violations during the conflict, 69% identified themselves or their immediate families as direct victims of a serious human rights violation during the 23-year period. Out of over 2000 focus group participants, over 500 referred to killings among their relatives. Almost 400 had experienced torture or detention either themselves or in their immediate family. These are staggering statistics, in comparison to any other conflict in the world.” [78a] (Chapter 1b)

- 6.23 In March 2004, Amnesty International (AI) reported:

“Despite the scale of war crimes, crimes against humanity and other serious human rights violations committed in Afghanistan over nearly a quarter of a century, justice to date, has been denied to the victim. Amnesty International welcomes the Afghan government’s ratification of the Rome Treaty of the International Criminal Court (ICC) as a demonstration of its commitment to the principle of truth, justice and peace but concrete measures have yet to be taken to hold to account individual perpetrators of human rights violations in Afghanistan. No process has so far been set up to systematically investigate serious crimes both past and present.

Amnesty International welcomes the provision in the Constitution that persons who have been convicted by a court for committing a crime, specially mentioning crimes against humanity, are prohibited from holding public office. Given the weak state of the judicial system in Afghanistan and the lack of progress in ensuring accountability for past violations, this provision is at present meaningless as no one has yet been tried by a competent court for crimes committed during the long years of the conflict. In the meanwhile, suspects are free and in some cases holding government positions.” [7a] (p4-5)

- 6.24 On 12 December 2004, the Head of Human Rights Unit, UNAMA said that there is little doubt that past human rights violations need to be properly addressed. He stated: “And I think we need to bear in mind that the functioning of the judicial system in Afghanistan still needs to be strengthened probably before it can take on some of these cases either from the past or in some cases, the serious cases in the present.” [40aq]
- 6.25 In July 2005, Human Rights Watch published a report focusing on human rights abuses in Kabul and its immediate environs in the early 1990s. HRW stated:

“Many of the main commanders and political faction leaders implicated in the crimes detailed in this report are now officials in the Afghan government – serving in high level positions in the police, military, intelligence services, and even as advisors to President Hamid Karzai. Others may be actively seeking such positions... Many of these warlords and factions, named in this report as being implicated in past abuses, have been involved in contemporary human rights abuses in the Kabul area since 2001, including looting of homes, abduction, torture of detainees, rape, and murder... Simply put, many of the warlords involved in abuses in the early 1990s are repeat offenders.” [17m] (p3)

For more detailed information on particular political parties and individuals involved, refer to source. [17m]

- 6.26 A report by the Afghanistan Justice Project (AJP) dated 17 July 2005 gives details of human rights abuses committed between 1978 and 2001. The report gives the names of commanders during this period who were involved in the abuses. The report notes:

“To say that all of the armed forces that fought in Afghanistan committed war crimes is not to say that every single fighter has been guilty of such actions. What the Afghanistan Justice Project has documented are incidents in which senior officers and commanders ordered actions amounting to war crimes by their forces, or allowed such actions to take place and did nothing to prevent or stop them. The Afghanistan Justice Project’s intent in documenting these incidents is not to impugn the cause for which any of the armed groups fought, but rather to call for accountability where those actions amounted to war crimes.” [13b] (p4)

(For detailed information refer to source [13b])

- 6.27 On 4 August 2005, Eurasianet reported that in London:

“On July 18 [2005], Faryadi Zardad, 42, a former Afghan warlord whose militia brutalized travelers at a checkpoint east of Kabul in the 1990s, was found guilty of conspiracy to torture people and take hostages. Zardar [sic] commanded troops, including one called ‘the human dog’, who bit travelers and ate their testicles. Zardad had moved to England in 1998 and was running a pizza parlor in south London when he was arrested in 2002. He has been sentenced to two concurrent 20 year jail terms. It is the first time that a Western court has tried a foreigner for torture carried out in a foreign country.” [45b]

- 6.28 The same Eurasianet report also noted: “The Afghan Human Rights Commission says the [Afghan] government is considering setting up a truth commission to document atrocities and a special war crimes court, although trials would be unlikely to start for another five years. A justifiable argument of those against any accountability process has been that the country has no proper judicial system that can deal with war crimes.” [45b]

UNHCR AND ECRE GUIDELINES

- 6.29 UNHCR (United Nations High Commissioner for Refugees) and ECRE (European Council on Refugees and Exiles) have both published profiles of persons who may be at particular risk of human rights violations. The European Council on Refugees and Exiles (ECRE) guidelines for the treatment of Afghan asylum seekers and refugees in Europe dated May 2004 stated:

“ECRE considers that certain categories of individuals amongst the Afghan population may have ongoing protection needs that remain unchanged despite recent political developments in Afghanistan. These groups include:

- Pushtuns, who have suffered violence and harassment in the northern provinces because of their perceived allegiance to the Taliban...

- Many former members of the former ruling communist party PDPA and the agents of the secret service KhADD [KHAD] who still fear violence, harassment and discrimination for their roles in the communist government, despite the co-operation of many with the new administration.
- Former members of the Taliban, many of whom will have been forcibly recruited, who may be at risk from the Northern Alliance.
- Religious groups in areas where they constitute minorities at risk of persecution including Hindus, Sikhs, Shiites [Shias], Sunnis and Ismailis.
- Groups at risk of forced recruitment, which is still being carried out by militia groups in the North, with reports of executions of those refusing recruitment.
- People at risk of persecution on grounds of sexual orientation.
- Journalists who have been receiving anonymous threats, for example in Kabul and Herat. [See also paragraph 6.64 regarding journalists in Herat]
- Others who fear that they would be victims of violence, in a situation in which there is no law or order, on the basis of a settling of old scores.
- Women and girls who suffer gender-based persecution such as forced marriages.” [37] (p3)

6.30 The UNHCR report dated June 2005 advised:

“In determining the protection needs of Afghans today, the re-emergence of past and new commanders in many parts of the country necessitates the examination of possible risks emanating from non-State actors. The analysis of an application should include a full picture of the asylum-seeker’s background and personal circumstances and the prevailing situation in his or her area of origin or previous residence in Afghanistan. This assessment should include consideration of the existence and strength of family and extended family links and community networks (or their absence) in order to identify possible traditional protection and coping mechanisms vis-à-vis the current de-facto local authorities. It is thus important to establish for each case the profile of nuclear and extended family members, their location, their previous and current social status, and their political and tribal affiliations in Afghanistan or abroad.” [11b] (p43)

6.31 The same UNHCR report further noted:

“Based on currently available information regarding Afghanistan, UNHCR is able to provide for a number of groups specific considerations that are relevant to the determination of refugee status as defined within Article 1A(2) of the 1951 Convention relating to the Status of Refugees.

The fact that a category is identified herein does not, in itself, suggest that all persons falling within the category should be recognized as refugees under the 1951 Convention. Information on some categories is provided as UNHCR and other actors have and continue to receive numerous requests for information on persons with such profiles. Similarly, an Afghan who is not within a category identified herein may nevertheless fall within the scope of Article 1A of the 1951

Convention or have a need for a complementary form of international protection.”
[11b] (p44)

- 6.32 The UNHCR paper identified the following categories of Afghans who may have protection needs:

Afghans perceived as critical of factions or individuals exercising control over an area;

Afghans associated with the People’s Democratic Party of Afghanistan (PDPA) including KHAD;

Journalists;

Afghans associated with the Taliban or other groups opposed to the current transition process;

Afghans in areas where they constitute an ethnic minority;

Afghans belonging to religious minorities (Ismailis);

Afghans belonging to religious minorities (Hindu/Sikh);

Converts;

Women of specific profiles;

Homosexuals;

Afghans working for international organisations and international security forces;

Landowners. [11b] (p44-56)

- 6.33 The UNHCR guidelines also stated: “When reviewing the cases of military, police and security services officials, as well as those of high-ranking Government officials of particular ministries during the Taraki, Hafizullah Amin, Babrak Karmal, and Najibullah regimes [1978-1992] it is imperative to carefully assess the applicability of the exclusion clauses in Article 1 F of the 1951 Geneva Convention. This includes cases of former members of Khad (Khadamate Ettelaate Dowlati), the State Information Service.” [11b] (p57)

- 6.34 The UNHCR guidelines further stated:

“During the period of the armed resistance against the communist regimes and the Soviet occupation from 27 April 1978 until the fall of Najibullah in April 1992, the activities of members of armed factions need to be assessed carefully. Many activities amount to war crimes and crimes against humanity, both against combatants of rival factions as well as against civilians: Political assassinations, reprisals and extrajudicial killings, as well as rape, including of Afghan civilians for reasons such as working for Government institutions and schools or transgressing Islamic social mores. Other violations included extra judicial executions of prisoners of war and attacks on civilian targets.” [11b] (p58)

- 6.35 The UNHCR report also stated that during the period 1992 to 1996 the armed conflict between various factions was also accompanied by serious violations of international human rights law and humanitarian law. Therefore:

“Among others, specific commanders and members of the following Islamic parties with armed factions require a close assessment: Hezb-e-Islami, (Hekmatyar and Khalis), Hezb-e-Wahdat (both branches/or all nine parties that formed Hezb-e-Wahdat), Jamiat-e-Islami (including Shura-e-Nezar), Jonbesh-e-Melli-Islami, Ittehad-e-Islami, Harakat-e-Inqilabe-Islami (lead by Mohammad Nabi Mohammadi) and Harakat-e-Islami.

Similarly, the need to consider the application of the exclusion clauses in relation to individual members and military commanders of the Taliban will be triggered where there [are] indications of their participation in serious violations of human rights and humanitarian law or their involvement in terrorist activities. The pattern of deliberate attacks on civilians by Taliban forces, summary execution and massacres and the deliberate land systematic destruction of livelihoods through a “scorched earth” policy and forcible relocation are amply documented.” [11b] (p58-59)

For more information on the categories in this section, see Treatment of former KhAD members 6.323 – 6.327; Former members of the PDPA 6.328 – 6.337; Women 6.196 – 6.283; Freedom of speech and media 6.58 – 6.64; Pashtuns 6.160 – 6.167; Former Taliban members 6.411 – 6.420; Ismailis 6.108-6.109; Sikhs and Hindus 6.110 – 6.125; Converts 6.126 – 6.132; Persons in Conflict with present power brokers 6.440 – 6.444; Homosexuals 6.312 – 6.315; War Crimes and human rights abuses prior to 2001 6.22 – 6.28; Land disputes 6.373 – 6.380

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AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION (AIHRC)

- 6.36 The report of the UN-appointed independent expert of the Commission on Human Rights dated 21 September 2004 noted:

“AIHRC is the central human rights organization in Afghanistan...It has separate units for children’s rights, human rights education, monitoring and investigation, transitional justice, and women’s rights. The Commission receives complaints from people around the country and seeks to resolve them through negotiation, court cases, complaints to government ministries and general social activism. The independent expert commends AIHRC for its courageous efforts to document human rights violations throughout the country and to assist Afghans in seeking redress for harm.” [39k] (para. 42)

- 6.37 A report by the UN Secretary-General dated 12 August 2005 stated:

“The Afghan Independent Human Rights Commission was established by presidential decree on 6 June 2002 and its mandate was later enshrined in the Constitution. With a presence in 11 locations across the country, its 400 staff is comprised of experts, both men and women, from all major ethnic groups. Since its inception, the Commission, with support from UNAMA, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and UNDP, has undertaken a number of important initiatives. These included the verification of the

exercise of political rights prior to elections, activities in the area of transitional justice, the investigation of human rights cases, monitoring of at-risk communities and monitoring of prisons. The work of the Commission has had a positive impact on the protection and promotion of human rights. The number of violations of human rights by State actors is decreasing. Nonetheless, addressing the sources of human rights abuses and the creation of an environment in which the population can enjoy the full respect of human rights will require sustained efforts over the long term.” [39c] (p11)

6.38 An earlier report by the UN Secretary-General dated 18 March 2005 stated:

“In addition to its regular monitoring functions, the Afghanistan Independent Human Rights Commission has recently negotiated a partnership with the Office of the United Nations High Commissioner for Refugees (UNHCR) whereby it will monitor the rights of refugees and internally displaced persons in support of UNHCR activities in particular in areas with large numbers of returnees. This is a novel development that should serve both to strengthen the Commission’s capacity and to nationalize some of the protection work previously undertaken by UNHCR.” [39j] (p9)

6.39 The Danish fact-finding mission to Kabul in March/April 2004 reported that, according to UNAMA, the AIHRC cannot follow up on many of the complaints on the abuses of human rights because the perpetrator may be a warlord or a powerful person within or close to the government [8] (section 4.4)

6.40 The Danish report also noted:

“As an example of a case where the AIHRC have influenced the situation, they mentioned the Shirpul [Shirpur] case, where the AIHRC was instrumental in having the chief of Kabul police dismissed...Moreover, the AIHRC has initiated investigations against three provincial police chiefs and has later received threats from the police chiefs concerned. The AIHRC explained that one of the Commission’s major problems is the ensuring of the employees safety. According to the AIHRC, the warlords all around the country do not implicitly accept the Commission reports, and instead they try to maintain their present positions and power. Investigators of the AIHRC have been attacked and shot at. The source himself was hiding for two weeks due to death threats in the wake of the publication of the Shirpul [Shirpur] report.” [8] (section 4.4)

6.41 The Danish fact-finding report noted that, according to the EU Special Representative, the AIHRC’s regional offices are good at monitoring and reporting violations but cannot protect people who are subject to abuse. “A more effective protection of people who are subject to abuse would require a proper operating legal system. At the same time powerful warlords counteract the work of the AIHRC. Some topics are sensitive to an extent that the AIHRC cannot raise them. This concerns cases involving conflicts with warlords.” [8] (section 4.4)

6.42 An IRIN report of 9 December 2004 reported activists of the AIHRC as saying that the top human rights concerns in the country were “land grabbing from former farmers by local commanders; arbitrary killing and torture; and the general state of impunity. Moreover, violence against women continued unabated.” The IRIN report quoted the views of a commissioner of the AIHRC, Nader Nadery:

“According to Nadery, in the first six months of 2004 land grabbing accounted for 31 percent of all violations that AIHRC had investigated, while currently that figure has dropped to 18 percent. Some improvement has also been observed regarding the issues of torture, forced migration and forced marriages. ‘But at the same time there are some concerning points like arbitrary arrests’, he [the commissioner] maintained, adding that they increased from 16 percent of all investigated violations in the first six months of the year to 44 percent in the second half. There was also a further breakdown in law and order and a rise in kidnappings, he noted.” [40ap]

- 6.43 On 22 December 2004, IRIN reported Dr Sima Samar, the head of the AIHRC as saying:

“I think that one of the main achievements is justification of the commission by the people. We have offices in Kabul and some of the provinces. At least the people of Afghanistan have seen AIHRC as somewhere to share their concerns and complaints. It is a significant development. In this country, three years ago no one could even mention the phrase ‘human rights’...

As far as the development of human rights is concerned, we have noticed some improvements in the courts and prisons. We were able to create a national plan on child trafficking with the help of UNICEF [United Nations children agency] and Save the Children. For the first time a national action plan on child trafficking was drawn up. We were able to ensure women’s rights in the new constitution. After much effort we could maintain equal rights for men and women in the constitution. Also, after quite some time, we are now able to go inside prisons and talk to prisoners. This is some of the progress in the field of human rights. We have been able to tackle some 30 percent of human rights problems in the country but we have a long way to go...Unfortunately, the culture of protecting the human rights does not exist. We need the power to force [the implementation of] human rights on the ground.” [40at]

- 6.44 A further report of an interview with Dr Samar by the Institute of War and Peace Reporting (IWPR) dated 31 January 2005 noted:

“Samar does get frustrated by the commission’s limitations. ‘We hand over all the reports of our investigations to the president’s office’, she said. His office is then responsible for following the cases up, but because central authority does not extend across the country, some cases are not taken further. She admits that some Afghans have unrealistic expectations of her staff. Some people even expect the commission to judge criminals –but it doesn’t have that authority, she says.

And she and her staff do feel under a lot of pressure. ‘I am threatened every day – I’ve never counted how many times’, she said. ‘I’m threatened by people who have no faith in human rights and by people who committed crimes and know that the very existence of the commission is a threat to them’.” [73o]

- 6.45 On 16 May 2005, the AIHRC and NGOs expressed their concern that the UN Human Rights Commission had not extended the mandate of the Independent Expert on Human Rights in Afghanistan. A letter, signed by Dr. Sima Samar and NGOs said

“We call on the UN Human Rights Commission to renew the mandate of the Independent Expert at its next session, and to explain how the High Commissioner for Human Rights intends to ensure proper and adequate monitoring of the human rights situation in Afghanistan in the meantime...The role of the Independent Expert is essential, especially as the Independent Expert has provided critical support to the Afghan Independent Human Rights Commission in fulfilling its mandate.” [57]

- 6.46 The Foreign and Commonwealth Office (FCO) 2005 Annual Report on Human Rights, published in July 2005, recorded: “The AIHRC has matured into an effective and valuable organisation since its creation in 2002. It plays an active role as a defender of human rights and is central to the promotion of human rights in Afghanistan. However, it continues to operate without enabling legislation, which we urge the government to put in place soon...There is now a growing civil society network of over 30 domestic and international human rights organisations in Afghanistan.” [15d] (Chapter 2, p 32)

- 6.47 On 25 August 2005, the UN News Service reported that the AIHRC had just released its annual report for the period June 2004 to May 2005:

“As part of its monitoring process, the report records human rights violations and abuses received by the AIHRC. In the past year alone 2698 human rights complaints were lodged, representing 4236 different human rights violations. The report also highlights the commission’s efforts to protect Afghans. So far their work has resulted in the closure of four illegal detention centres, released close to 1400 illegally detained persons and through advocacy efforts has ensured the building of child correction centers in four provinces (Mazar, Gardez, Khost, and Kunduz).” [39a]

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DOMESTIC AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS (NGOs)

- 6.48 In a paper published in January 2004, the British Afghan Agencies Group (BAAG) reported: “The NGO sector is the largest implementer of humanitarian assistance in Afghanistan today.” [71a] (p50) Reuters AlertNet noted on 12 May 2005 that, according to ANSO (Afghanistan NGO Security Office), there are more than 3,000 NGOs in Afghanistan, including national organisations. [40w]

- 6.49 The BAAG paper also noted: “NGOs have worked in Afghanistan and Pakistan for decades providing humanitarian assistance to Afghans through agriculture, health, education, water supply, sanitation and income generation programmes.” The paper highlights the challenges faced by NGOs working under different regimes and varying levels of insecurity. The paper also stated:

“Post September 11th physical insecurities have increased to a point where many programmes have been suspended or in some cases halted, particularly in the South and South East of the country. Despite the dangers inherent in Afghanistan in the 1980s and 1990s, NGOs could carry out their work knowing they were relatively safe unless they fell victim to opportunistic crime or factional crossfire. Times have changed. NGOs and the UN are now being deliberately targeted and risks to aid personnel have become too great for programmes to continue in some areas.” [71a] (p6)

- 6.50 The BAAG report noted: "International organisations are being targeted by radical elements because of a perceived association with the West and Western values, and with what is seen as a US supported government. Particularly unsafe are the Pushtun areas, mainly in the south and southeast including Kandahar and Zabul." [71a] (p50)
- 6.51 On 28 July 2004 Médecins Sans Frontières (MSF) announced the closure of all medical programmes in Afghanistan in the aftermath of the killing of five MSF aid workers in a deliberate attack on 2 June 2004, when a clearly marked MSF vehicle was ambushed in the northwestern province of Badghis. [72] On 15 June 2005, BBC News reported that a local police chief had been arrested over the killing of the five MSF aid workers in 2004. The report stated: "Interior ministry spokesman Lutfullah Mashal said the detained officer was head of police in the Qadis district of the province of Badghis, in the north-west of the country. The officer 'is a suspect of the murder of MSF staff and has been detained for questioning' Mr Mashal told the AFP news agency." [251]
- 6.52 On 5 January 2005 IRIN News reported:
- "Aid workers in the capital Kabul have raised concern about the increase in violent attacks on aid agencies over the last couple of months. In just four weeks, several NGOs have been targeted by gunmen and criminals in the capital... According to the Agency Coordinating Body for Afghan Relief (ACBAR), an umbrella group representing over 90 national and international aid agencies in Afghanistan, the problem is not confined to Kabul. 'In addition to insurgent attacks, the NGOs are the victims of irresponsible and irregular militias in Kabul and the provinces', Mohammad Hashim Mayar, a programme coordinator with ACBAR, told IRIN." [40y]
- 6.53 The IRIN report continued
- "The killings and robberies are part of a growing trend of criminality, rather than being politically or ideologically motivated, aid workers say. 'The majority of the killings have not been conducted by the insurgency but are instead criminal killings by various people in different categories'. Although tens of thousands of ex-combatants have been disarmed, poverty-stricken Afghanistan remains a dangerous and lawless place, according to NGO heads. 'Jobs are scarce, weapons are still freely available and foreign organisations and NGOs make tempting targets because of their relative wealth', one told IRIN on condition of anonymity." [40y]
- 6.54 A May 2005 report by the Afghanistan NGO Safety Office (ANSO) and CARE recorded that in 2003, 12 NGO staff were killed; in 2004, 24 were killed; and five staff had been killed to date in 2005. The report also noted:
- "Attacks against NGOs were also more geographically widespread in 2004 as compared to 2003. In 2003, fatal attacks were all confined to the southern and eastern parts of the country – especially the land bordering Pakistan's Northwest Frontier Province, where the insurgency is most entrenched. In 2004, fatal attacks against NGO staff spread to provinces in the north and in the west of Afghanistan as well; this trend has continued in 2005.
- Beyond the direct impacts of humanitarian aid worker deaths, a dangerous trend is developing in which NGOs are forced to curtail projects or operate in fewer

districts due to violence. This reduction in access to beneficiaries makes it more difficult for NGOs to ensure they are reaching those most in need, and potentially leads to certain areas receiving less humanitarian and development assistance, so critically needed across Afghanistan.” [94]

6.55 On 31 May 2005 IRIN News reported:

“Aid organisations in the Afghan capital, Kabul, launched a new code of conduct to regulate their activities on Monday, following a series of accusations that NGOs had misused funds allocated for post-war Afghanistan. The 21-article code, signed by 90 national and international NGOs, sets high standards to ensure greater transparency and accountability, as well as to improve the quality of services provided by NGOs, according to the Agency Coordinating Body for Afghan Relief (ACBAR)...The Afghan government has several times accused aid agencies of hindering the growth of local firms and squandering billions of US dollars earmarked for reconstruction efforts in the country. But aid workers say the government is confusing them with highly paid private contractors and profitable organisations, many of which are registered as NGOs with the country’s ministry of economy.” [36c]

6.56 The UN Secretary-General report dated 12 August 2005 noted:

“To address concerns within the Government regarding the extent of the operations of non-governmental organizations (NGOs), President Karzai signed an executive decree on 15 June excluding NGOs from participating in construction projects and contracts. Exceptions can be granted by the Ministry of the Economy on a case-by-case basis at the request of a donor country. In accordance with the decree, the re-registration of NGOs has started and is expected to last for six months.” [39c] (p13)

(See also Section 5 [Internal Security](#), paragraphs 5.116 and 5.121)

AFGHANS WORKING FOR INTERNATIONAL ORGANISATIONS AND INTERNATIONAL SECURITY FORCES

6.57 A UNHCR paper dated June 2005 stated:

“Afghans working with international organizations and international security forces where there are anti-Government insurgent activities or infiltrations of Taleban and Hezb-e-Islami forces continue to be at risk, as they constitute, what is often referred to as ‘soft targets’. This is particularly the case in some of the Southern provinces such as Zabul, Uruzgan, and Helmand, in the East in Kunar and Nuristan, as well as the Southeast such as in Khost, Paktia and Paktika provinces. Reasons in the increase in targeted attacks and threats against Afghans working for international organizations and security forces, includes the perceived association with international forces, and the central and local administrations, perceived by some as ‘US-backed’ as well as the association with the electoral process through voter registration during the Presidential and in the upcoming Parliamentary elections. Leaflets warning Afghans not to work for the aid community, including NGOs, have regularly been found in these areas.” [11b] (p55-56)

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FREEDOM OF SPEECH AND MEDIA

OVERVIEW

- 6.58 The Danish fact-finding mission of March/April 2004 reported: "A number of sources believed that freedom of speech have [sic] improved after the fall of the Taliban regime, although there are still limits to which extent this 'freedom' is exercised." The AIHRC was reported as saying that freedom of speech has improved in Kabul but its limits depend on who is being criticised. The International Crisis Group (ICG) was of the view that people who openly report on human rights risk reprisals." [8] (section 5.3)
- 6.59 The Reporters without Borders' (RSF's) Third Annual Worldwide Press Freedom Index, dated 26 October 2004, placed Afghanistan in 97th place out of 167 countries and noted that the situation in the country had improved markedly with growing news diversity and the media daring to tackle sensitive topics. "But threats to journalists, especially from provincial warlords, remain very real." [62b] (p3)
- 6.60 The US State Department Report 2004 (USSD 2004) published on 25 February 2005 stated:
- "The independent media were active and publicly reflected differing political views, although this varied from region to region. The Government owned at least 35 publications and most of the electronic news media. Many other newspapers were published only sporadically, and many were affiliated with different provincial authorities. Factional authorities tightly controlled media in some parts of the country, and the degree of freedom of expression varied significantly between regions. The foreign media was covered under the freedom of speech law; however, they were prohibited from commenting negatively on the Islamic religion and from publishing materials that were considered a threat to the President." [2d] (section 2a)
- 6.61 In March 2005, the Committee to Protect Journalists (CPJ) gave the following overview of 2004:
- "In Afghanistan, press conditions improved, the number of news outlets expanded, and an emerging culture of independent journalism continued to develop. In its coverage of the nation's first direct election in October, the press was credited with successfully educating voters and monitoring election-day events. But a lack of security and a spike in ethnic and cultural tensions interfered with reporting and put journalists in danger. Warlords, armed groups, security services, and government ministries threatened and harassed journalists." [91b]
- 6.62 The March 2005 CPJ report on Afghanistan also stated:
- "Conditions for the blossoming Afghan press improved in many areas, with a significant expansion of news media outlets and fortified constitutional protections for freedom of expression and the press. Yet considerable challenges remain. The lack of security, ethnic and cultural tensions, and a lack of access to information impede and endanger reporters. Afghanistan's powerful warlords, armed groups, security services, and even government ministries continue to pressure, threaten, and harass journalists who report on their activities or cross sensitive cultural

barriers. As a result, local reporters say, self-censorship became more prevalent in 2004.” [91a]

- 6.63 A report by the International Federation of Journalists (IFJ) covering events from May 2004 to April 2005 stated:

“The media industry in Afghanistan has seen a boom since May 2004. However, attacks and intimidation of journalists and curtailment of the freedom of speech and expression continue. More than 57 publications, including newspapers, magazines and television stations, have registered with the Ministry of Information and Culture since May 2004. These include 32 newspapers, 14 magazines, two daily newspapers, five television channels and 17 TV cable networks covering national, international, social and political news. Significantly, this is the first time Afghanistan has had independent television.” [92a] (p7)

- 6.64 The Freedom House 2005 report on Afghanistan, published in August 2005, recorded:

“Afghanistan’s media environment remained fragile although some improvements were seen in 2004. A new press law adopted in May [2004] guarantees the right to freedom of expression and prohibits censorship, but does retain certain restrictions such as registration requirements and overly broad guidelines on content. Authorities have granted more than 250 licenses to independent publications, and several dozen private radio stations and a number of television stations are now broadcasting. Media diversity and freedom are markedly higher in Kabul, and some warlords do not allow independent media in the areas under their control. However, pressures on journalists in Herat eased considerably following the ouster of local strongman Ismael Khan in September [2004]. A number of journalists were threatened or harassed by government ministers and others in positions of power as a result of their reporting. Many practice self-censorship or avoid writing about sensitive issues such as Islam, national unity, or crimes committed by specific warlords. The two employees of the Kabul based newspaper Aftab who were charged with blasphemy in 2003 fled the country and remain abroad. In September [2004], U.S. military personnel seized a BBC reporter from his house and took him to Bagram air base, where he was interrogated for 24 hours before being released with an apology.” [41b] (p19)

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MEDIA LAW AND INSTITUTIONS

- 6.65 A UNHCR paper dated June 2005 stated: “The new Constitution of Afghanistan and the new Media Law of March 2004 guarantee the inviolability of freedom of expression and the right to print and publish without prior submission to State authorities. This is a positive development since the previous Press Law introduced in February 2002 was not comprehensive, had some provisions on penalising “insult” that could be arbitrarily interpreted and contained 37 crimes which potentially affect journalists.” [11b] (p47)
- 6.66 A Media Directory produced by Internews Kabul dated 31 March 2004 noted that since the first media law was introduced in 2002, nearly 260 publications had registered with the Ministry of Information and Culture. [77a] (chapter 1) The directory also noted: “Newspapers have enjoyed a quick resurgence following the

fall of the Taliban...However, there are almost no financially independent papers; most are either sponsored by governmental agencies, international organizations, or political parties...There are nearly a dozen women's magazines." [77a] (chapter 1)

- 6.67 The Internews Media Directory dated 31 March 2004 is the result of a media monitoring project. It is a lengthy document including in-depth information on media developments in Afghanistan, names of current publications (newspapers and magazines) and interviews with prominent media players. (The entire report can be accessed via the link given for source [77a] in Annex E.)

- 6.68 Article 34 of the Constitution adopted in January 2004 states: "Freedom of expression is inviolable. Every Afghan has the right to express thoughts through speech, writing, or illustration or other means, by observing the provisions of this Constitution. Every Afghan has the right to print or publish topics without prior submission to the state authorities in accordance with the law. Directives related to printing house, radio, television, press, and other mass media, shall be regulated by the law." [81]

- 6.69 The Reporters without Borders' 2005 Annual Report noted:

"As nearly 65 per cent of the population is illiterate, a strategic role is played by television and radio, which receive considerable support from international organisations. There are now at least 45 FM radio stations in Afghanistan. The print media, on the other hand, have been undermined by recurring financial problems. Abdul Sami Ahmed, the editor of an independent monthly in the northern city of Mazar-i-Sharif, deplored the fact that most newspapers are financially dependent on one of the three main factions: the former mujahideen, the king's supporters or those backing Karzai." [62c]

- 6.70 The USSD 2004, published on 28 February 2005, stated:

"In practice, many persons listened to the dozen international stations that broadcast in Dari or Pashto. The BBC, Voice of America, Radio Liberty, and Radio Free Afghanistan were available throughout the country. In the countryside, some radio and television stations were under the control of local authorities. There were approximately 300 publications, 40 radio stations, and several television stations in the country. Mazar-e-Sharif alone had an estimated 50 publications. On September 12 [2004], the first independent radio station established entirely by private sector funds was inaugurated in Ghazni Province...

There were a few reports that government forces prohibited music, movies, and television on religious grounds. For example, in January [2004], the Supreme Court briefly stopped a television station from airing female singers. The Government lifted the ban in late January, saying female singers on television were permitted under the new Constitution. In April, officials in Nangarhar Province briefly banned the performance of female singers on television and radio; however, this decision was reversed a few days later. The central Government has not banned any form of media, although there was a brief ban on cable television in early 2003. Cable operators provided a wide variety of channels, including Western movie and music channels. The Government did not restrict the ownership of satellite dishes by private citizens." [2d] (section 2a)

- 6.71 On 18 January 2005, BBC News reported:

“The first radio station dedicated to the interests of women has been relaunched in Afghanistan. The Voice of Women station promises to help women deal with the violence and discrimination they still face in many parts of the country. It is expected to reach hundreds of thousands of women in the capital, Kabul, and more distant provinces. The station was taken back on air by its director – and one of the country’s most famous women – Jamileh Mujahed...She told the BBC that forced marriages, violence in the home, the rearing of children and women’s participation in social and political institutions would be regular themes. The station’s relaunch was attended by cabinet ministers in Kabul, and President Hamid Karzai sent a message of support.” [25q]

6.72 The Reporters without Borders’ 2005 Annual Report stated:

“Afghanistan adopted a new press law in March 2004. While giving the media a relatively liberal framework in which to develop it also lets the political authorities maintain a degree of control over the press. New newspapers and printers, for example, must get a licence from the information ministry. The commissions in charge of regulating the print and broadcasting media are under the government’s thumb. And foreign investment in the media is strictly limited. The government and the UN mission in Afghanistan praised this ‘historic step for the Afghan press’ but many journalists voiced disappointment. ‘Why is the commission that evaluates the media run by the government’, asked Shukria Dawi Barekzai of the weekly Aina Zan. An editorial in the Kabul Weekly said the new law would do nothing to improve the lot of Afghan journalists. While the new press law says everyone has the right to disseminate information without prior permission, article 31 bans the publication of news which is contrary to Islam and other religions or dishonours or defames persons. Article 34 of the Islamic Republic of Afghanistan’s new constitution also says the right to inform is guaranteed.

The commission that evaluates the press is chaired by the information minister and includes no representatives of news media owners or independent journalists. Article 2 of the press law empowers it to censor news media. In a report analysing the press law in detail, the press freedom group Article 19 criticised the lack of consultation prior to the law’s approval and called for 10 of its provisions to be rescinded, including article 30, which forces editors to grant someone who is criticised a right of reply with as much space as the original criticism.” [62c]

6.73 The Institute for War and Peace Reporting (IWPR) reported on 7 April 2004 that the new law governing the news media bans criticism of Islam or insults to officials. IWPR noted that :

“The law has come under attack from both journalists and legal experts for its vague provisions and imposition of a form of censorship...Among the most controversial provisions of the law are prohibitions against journalists writing articles that are critical of Islam or are insulting to public or private individuals. Journalists complained that the law lacks specific definitions of what constitutes either an insult or a criticism of Islam, leaving both offences open to interpretation by the commission or religious authorities...The new law does eliminate some of the restrictions included in earlier statutes. For example, criticism of the national army and the publication of photos of partially clothed women are no longer banned.” [73f]

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POLITICAL EXPRESSION IN THE RUN-UP TO THE PARLIAMENTARY ELECTIONS

- 6.74 A report by the AIHRC-UNAMA, covering the period 19 April to 3 June 2005 commented on freedom of expression in respect of political rights in different parts of the country in the run-up to the parliamentary elections:

“Kabul province continues to be the most open in terms of freedom of expression, as exemplified by an active and diverse media which carries reports openly reflecting a variety of political views. However, threats against individual presenters of the privately owned TOLO TV are of concern. Journalists involved in investigative and musical programmes have been threatened without law enforcement agencies taking any action. Herat has witnessed a significant improved in political expression since the presidential elections. Compared to a year ago, there are numerous media outlets in the province and the quality of Herat Radio and Television has improved. The candidate nomination period was well covered and the state media has cooperated with the JEMB efforts in the distribution of information on the electoral process.

At the same time, in large parts of country the media – particularly radio and television - continue to be seen as largely in the hands of local authorities. Reporting critical of local officials is considered to lead to reprisals against journalists. In Khost, a private magazine had its office shut down after it published a satirical piece on the Governor. While officials claimed that they closed down the publication because it had failed to register, the fact that many other un-registered publications have been allowed to operate suggests that the decision to target this particular publication was linked to its criticism of the Governor.” [48c] (p4)

- 6.75 The AIHRC-UNAMA report also stated:

“In Ghazni, the Governor insisted that the Radio Voice of Ghazni People broadcast its program only after its contents were cleared by him. The Governor has agreed to drop these demands following intervention by the verification unit. Media is limited in remote provinces such as Farah, Bamyan, Badghis and virtually nonexistent in outlying districts and villages. Inadequate access to media has already posed challenges to the civic information campaign and is seen as potentially detrimental to the campaigning phase of the electoral process.” [48c] (p4)

- 6.76 The UNHCR paper of June 2005 stated:

“The role of the Mujahhedin in the past and future of the country’s government is at a point of contention that may create risks. While the last two years have seen an increase in the formation of political parties throughout the country, uneven conditions have been observed for the exercise of political rights in the regions. Whereas conditions have been conducive for a wide variety of political activities in Kabul, in other areas political activities are discouraged or curtailed. The space for political rights is restricted by the factional elements in power and the extent to which they tolerate political activities and freedom of expression. There is also a large degree of self-censorship practiced by political parties and by political or civil society activists. Decades of conflict have created a culture of fear, leading many parties to operate clandestinely.

The exercise of political rights is also a problem of physical safety of individual Afghans especially in the rural areas. Violent attacks carried out by the Taliban and anti-Government forces have contributed to a deterioration of the security situation in the eastern, central, southeastern and southern regions where a number of Afghan civilians, particularly those involved in the electoral process, have been targeted and killed. Commonplace in some of these areas are so-called 'night-letters' warning civilians in general or specific individuals not to vote for or support the current US-backed Government. Persons at risk include Afghans raising the issue of past crimes and gross human rights violations committed during the period between 1992 to 1996, those denouncing ongoing human rights violations in parts of the country, those critical of powerful factions and local commanders as well as those affiliated with 'Western' organizations or perceived as propagating 'Western' values." [11b] (p45)

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JOURNALISTS

- 6.77 The 2004 Reporters Without Borders' Annual Report, published on 3 May 2004, noted: "The many physical attacks and threats against journalists in March and April [2003] forced the information ministry to set up a protection programme. 'When a journalist fears for his safety, we immediately inform the interior ministry to obtain protection', the deputy information minister said." [62a] (p2)
- 6.78 A Human Rights Watch (HRW) publication dated 4 November 2004 noted that Habib Rahiab, an Afghan human rights activist who had helped research five major HRW reports had to flee Afghanistan with his family in late 2003 and was granted asylum in the US in early 2004. HRW stated that Rahiab had interviewed civilians about abuses by Afghan warlords for the Human Rights Watch report, 'Killing You Is a Very Easy Thing for Us': Human Rights Abuses in Southeast Afghanistan. HRW noted: "After the report was released, several Afghan warlords and government officials publicly condemned the report and targeted local human rights activists. The Afghan intelligence service, or Amniat-e Melli, started searching for Rahiab. One local warlord in the east of the country sent 17 gunmen to Rahiab's house to arrest or possibly kill him." [17n]
- 6.79 Amnesty International's Afghanistan country report, covering events from January to December 2003, reported that "Many independent newspapers, periodicals and radio stations were operating, although journalists regularly received threats for criticizing the authorities. Two journalists, Sayed Mirhassan Mahdavi, editor of Aftab newspaper, and Ali Payam Sistani, the newspaper's designer, were arrested on 17 June [2003] and accused of 'insulting Islam' for publishing an article criticizing the involvement of religion in politics. They were released after just over a week, but President Karzai stated that both men would be tried. After their release the men went to live in exile. [7i] (p3) In their 2004 Annual Report on Afghanistan, Reporters Without Borders (RWB) noted that the two journalists left for Pakistan with their families, where they were recognised in their Islamabad hotel by Afghan mujahideen, who attacked them and threatened to kill them. With UNHCR help the men obtained asylum in a western country. [62a] (p3)
- 6.80 The USSD 2004, published on 28 February 2005, noted:

“During the year [2004], some government departments were predisposed to crack down on journalists, and members of the intelligence service reportedly intimidated and threatened journalists. General unspecified threats against media organizations were also a common occurrence.

While some independent journalists and writers published magazines and newsletters, according to Reporters Without Borders, circulation largely was confined to Kabul, and many publications were self-censored...Journalists were subjected to harassment, intimidation, and violence during the year. In June [2004], authorities in Herat interfered in the functioning of an independent women’s community radio station, Radio Sahar. The situation was resolved through negotiation and dialogue with the authorities, according to Internews. In August, the Ministry of Information and Culture announced the creation of a commission of religious clergy to monitor the media, but its authority in practice to censor content was not specified.” [2d] (section 2a)

- 6.81 The first Internews newsletter on the freedom of journalism in Afghanistan, included in a September 2004 Media Monitor report on elections, noted that:

“The fact that journalists in Afghanistan work under extremely difficult circumstances is well-established. The problems faced by them range from violence, threats, intimidation to harassment and hurdles that prevent them from carrying out their work. The perpetrators vary: government officials, members of the security apparatus, political figures, war lords, extra-constitutional authorities, armed militias and hostile groups. While some of the incidents are publicized and documented by international bodies working for the protection of media, the majority of incidents go unreported. Not only is the international community unaware of them, but even journalists are often uninformed about what is happening to their colleagues.

The reasons for this are fairly straightforward – the absence of adequate communication, the difficulties of investigation and the fear of repercussions prevent the documentation of most instances. Many journalists, especially in the provinces, regard it as a way of life, concomitant with their profession. For the various vested interests which are challenged by the media, journalists are fair game in a context where institutional structures of protection are still in a nascent stage.” [77b] (Appendix A)

The September 2004 Internews report details cases where journalists experienced difficulties in working and other information on the situation for the media in the run up to the presidential elections. (The report can be accessed via the link given for source [77b] in Annex E.)

- 6.82 The USSD 2004 reported: “Article 34 of the Constitution provides for freedom of speech and of the press; however, some senior officials, particularly at the local level, attempted to intimidate journalists and influence their reporting.” [2d] (section 2a)
- 6.83 The Committee to Protect Journalists (CPJ) report on events in 2004, published on 14 March 2005, stated:

“Outside Kabul, press freedom conditions varied widely and regionally. In rural provinces, where regional governors can wield absolute power, journalists were particularly vulnerable to intimidation... Afghanistan’s female journalists made

progress in 2004 but still faced risks... Since 2002, female journalists have presented news programs and appeared as reporters on television and radio, although this has not been universally welcomed. In April, Haji Din Mohammed, governor of the southeastern Nangarhar Province, ordered a ban on women 'performing' on television and radio – including reporting the news – because it was 'un-Islamic', according to international news reports. Although President Karzai lifted the ban days later, it demonstrated the obstacles female reporters continue to face." [91a]

6.84 The CPJ report also noted:

"Local journalists say the rule of the gun still prevails in many press issues; even government ministers can be at risk. After Deputy Minister of Information Mobarez wrote several articles in the spring calling for more openness and an end to censorship, armed men raided his home. Mobarez did not blame any specific group for the raid, but local journalists say the assailants were likely associated with powerful warlord Abdul Rasul Sayyaf." [91a]

6.85 The International Federation of Journalists (IFJ) report covering May 2004 to April 2005 noted that despite making some progress, press freedom in Afghanistan has also been severely tested:

"Journalists were jailed for independent and unbiased reporting, and even for challenging the authority of the police. Ghulam Rasool Khushbakht, famous poet, author and journalist, continues to languish in jail even whilst the authorities deny that anyone by that name is in the Kabul jail. Khushbakht, in detention since October 2004, is a freelance journalist and also heads a literary association in Helmand province in the south of Afghanistan. He was arrested when he protested against police who were frisking passengers in a humiliating way by touching their genitals. Khushbakht says that the police stole 19,500 Afghani from him, forcibly put his thumbprint on a piece of paper and took him to a prison in Kabul. Khushbakht has remained in jail for the last eight months, presumably on trumped up charges of drug smuggling." [92a] (p7)

6.86 The IFJ report further noted:

"Ethnic conflicts were also reflected in the attacks on the media. Salih Mohammad, editor-in-chief of the monthly magazine Hosey, was beaten by soldiers from the Afghan security police near Kabul on June 25, 2004. Hosey is a Pashto-language magazine focusing on the culture of Pashtuns, the largest ethnic group in Afghanistan. The soldiers destroyed copies of the magazines and beat Salih with their rifles. They accused him of being a Pakistani and a member of al Qaeda, and criticised Pashtun people in general. Unfortunately, there was no reaction from the government about this incident, despite more than 20 cultural associations outside Afghanistan condemning the security forces' actions.

Harassment and intimidation also continued unabated. Abdul Ahmad Mohammad Yar, the director of Binawa Cultural Association in Kandahar City in southwestern Afghanistan and owner of a news website and publishing company, was harassed by the Kandahar police for publishing an article that criticised the Information and Culture Minister."

The IFJ report also gives details of other media persons who have been harassed and/or intimidated in the period May 2004 to April 2005. [92a] (p8)

- 6.87 On 24 May 2005 a Human Rights Watch publication recorded that on 18 May 2005 a female Afghan television presenter had been shot in the head at her Kabul home. She had been fired from her position at a Kabul independent television station, Tolo TV, in March 2005 after several clerics in Kabul said her show was 'anti-Islamic' and should be taken off the air [17k]. Reporters without Borders (RSF) noted that the presenter was the first journalist to be killed in Afghanistan since the end of the war in 2001. RSF also noted: "Tolo TV has been the target of constant criticism from religious leaders, who have waged several campaigns for it to be banned. President Karzai's cabinet threatened to withdraw the station's licence in November 2004 for broadcasting "Islamically incorrect" programmes." [62d]
- 6.88 The Reporters without Borders (RSF) 2005 Annual Report, published in May 2005, stated that in 2004, one journalist was kidnapped, six were physically attacked and nine were threatened. [62c]
- 6.89 The RSF May 2005 report also stated:
- "Under threat from warlords and conservatives It is very hard for journalists to work in areas where the Taliban and the most aggressive warlords hold sway, especially in the south and southeast. 'Threats from gunmen are an everyday event', said the BBC World Service's stringer in the south. The United Nations said in July [2004] that 'all regions of Afghanistan suffer from the self-censorship syndrome' and that the 'media remain under the strict control of the local authorities'. Because of delays in the programme for disarming private militia, there was no reduction in the risk for government opponents, women and journalists before the presidential election in October. Conservative clerics, whether supporters or opponents of the government in Kabul, continued to be the chief enemies of the independent press." [62c]
- 6.90 The RSF report further noted that Reza Khan was sentenced to death by a national security court on 20 November 2004 for his role in the murder of four journalists on 19 November 2001. RSF noted: "Khan said he had acted on the orders of two local warlords, Mohammad Agha and Mahmood Zar Jan, who were never detained. Jan was linked to the Taliban. Observers said the trial failed to determine whether or not the murders were politically motivated. In an interview broadcast by the state TV station, Khan said the gang he belonged to had attacked the journalists with the aim of robbing them." [62c] On 5 June 2005, BBC News reported that the leader of the gang accused of killing the four journalists in 2001 had been arrested. [25v]
- 6.91 On 20 June 2005, the IFJ noted: "The inaugural meeting of over 200 Afghan journalists to form an independent Afghan journalists' organisation was held on June 17-18. The two-day meeting established the Afghan Independent Journalists' Association (AIJA) as the representative, democratic body representing journalists in Afghanistan." [92b]
- 6.92 The UNHCR paper dated June 2005 stated:
- "Realities of the Afghan society and the problems with the law led to a number of journalists being threatened, detained, beaten or harassed during the last two years. Some of these journalists were followed and threatened by commanders. 143 Journalists working for newspapers and radio and TV stations

have also been harassed by Government officials. Due to serious threats to their life, some of them had to leave the country. The climate of fear among journalists is widely considered a major challenge. There is limited understanding of freedom of expression, which is exacerbated by a climate of intimidation resulting from the dominance of strong political and armed factions as well as the absence of rule of law. This leads journalists to self-censorship on sensitive issues and to present their work as moderate and mainstream. In particular, conservative forces have tried to exercise media control by threatening and physically attacking journalists.

Reporting critical of local officials is considered to lead to reprisals against journalists. As a result, journalists may be exposed to a risk of persecution by non-State agents if they publish opinions critical of the Mujaheddin, disclose human rights abuses, corruption and bribery, or express views on religion, secularism, and freedoms at odds with conservative social norms.” [11b] (p47)

- 6.93 On 11 July 2005, the Committee to Protect Journalists welcomed the release of two radio journalists in Kabul. “Intelligence officers did not clarify the reasons behind the detention for more than a week of Rohullah Anwari and Shershah Hamdard, both reporters for the U.S.-government funded Radio Free Europe/Radio Liberty (RFE/RL). Intelligence officers arrested Anwari, a reporter based in eastern Afghanistan’s Konar Province, and Hamdard, who is based in Jalalabad, while they were covering the aftermath of the crash of a U.S. military helicopter that was shot down on June 28 [2005].” [91c]

(See also [Section 6A](#) paragraph 6.29 for ECRE guidelines)

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FREEDOM OF RELIGION

BACKGROUND AND DEMOGRAPHY

- 6.94 The US State Department (USSD) Report on Religious Freedom 2004 published on 15 September 2004, noted that reliable data on the country’s religious demography was not available as a census had not been taken for decades. The USSD 2004 report further noted:

“In the past, small communities of Hindus, Sikhs, Jews, and Christians lived in the country; however, most members of these communities have left. Even at their peak, these non-Muslim minorities constituted less than 1 percent of the population. Most of the country’s small Hindu and Sikh population, which once numbered about 50,000 persons, emigrated or took refuge abroad during the many years of conflict. However, after the fall of the Taliban, some minorities have begun to return. Non-Muslims such as Hindus, Sikhs, and Jews were estimated to number only in the hundreds at the end of Taliban rule. According to a Sikh community leader in Kabul, an estimated 3,000 Sikh and Hindu families were living in the country at the end of 2003; however, this figure could not be verified.” [2c] (p2)

- 6.95 In June 2005 UNHCR reported: “Islam is the official religion in Afghanistan, as stipulated in Article 2 of the Constitution. It is practiced by a majority of Sunni Muslims (84%) as well as by the Shi’a (including a smaller group of Ismaili). Afghanistan is home to minority Hindus and Sikhs. Followers of other religions are

free to exercise their faith and perform their religious rites within the limits of the provisions of the new Constitution and laws.” [11b] (p8)

- 6.96 On 25 January 2005, BBC News reported: “A 45-year-old man is believed to have become the last Jew in Afghanistan after the death of the caretaker of the only functioning synagogue in Kabul. It has emerged that the caretaker, Ishaq Levin, aged about 80, died of natural causes about a week ago...Correspondents say that around 5,000 Afghan Jews left the country after the creation of Israel in 1948, with others leaving after the 1979 Soviet Invasion.” [25r]

- 6.97 The USSD 2004 Report on Religious Freedom noted:

“Traditionally, Sunni Islam of the Hanafi school of jurisprudence has been the dominant religion. For the last 200 years, Sunnis often have looked to the example of the Darul Uloom madrassah (religious school) located in Deoband near Delhi, India. The Deobandi school has long sought to purify Islam by discarding supposedly un-Islamic accretions to the faith and reemphasizing the models that it believes were established in the Koran and the customary practices of the Prophet Mohammed. Additionally, Deobandi scholars often have opposed what they perceive as Western influences. Much of the population adheres to Deobandi-influenced Hanafi Sunnism, but a sizable (sic) minority adheres to a more mystical version of Islam, generally known as Sufism. Sufism, which could be characterized as a branch of Sunni Islam, centers on orders or brotherhoods that follow charismatic religious leaders.

Several areas of the country are religiously homogenous. Sunni Muslim Pashtuns, centered around the city of Kandahar, dominate the south and east of the country. The homeland of the Shi’a Hazaras is in the Hazarajat or the mountainous central highlands around Bamiyan. Northeastern provinces traditionally have Ismaili populations. Other areas, including Kabul, the capital, are more heterogenous. For example, in and around the northern city of Mazar-e Sharif, there is a mix of Sunnis (including ethnic Pashtuns, Turkmen, Uzbeks and Tajiks) and Shi’a (Hazaras and Qizilbash), including Shi’a Ismailis.” [2c] (p2)

- 6.98 The Freedom House 2005 country report, published in August 2005, noted: “The minority Shia population, particularly those from the Hazara ethnic group, has traditionally faced discrimination from the Sunni majority, and relations between the two groups remain somewhat strained. The small numbers of non-Muslim residents in Afghanistan are now generally able to practice their faith, although Hindus and Sikhs have had difficulty in obtaining cremation grounds and building new houses of worship.” [41b] (p19)

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CONSTITUTIONAL RIGHTS, RELIGIOUS LAW AND INSTITUTIONS

- 6.99 Article 2 of the Constitution adopted on 4 January 2004 states: “The religion of the state of the Islamic Republic of Afghanistan is the sacred religion of Islam. Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.” Article 3 states that “In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam.” [81]

- 6.100 On 26 January 2004, the Institute of War and Peace Reporting (IWPR) reported that the discussion of religious issues throughout the three-week Constitutional Loya Jirga in December 2003 had been heated. IWPR reported:

“Whilst Islamic law is given an explicit place in the final draft [constitution] it is at least on the face of it, a limited role. Article 130 says that Hanafi jurisprudence – the school of Sunni law that prevails in Afghanistan – should provide a guide when no explicit laws apply. At the same time, Article 131 says Shia jurisprudence should be used in personal matters affecting the minority religious community, or when no other laws apply.... But much could depend on Article 3 – ‘In Afghanistan, no law can be contrary to the sacred Islamic beliefs and commands’ which some say could, in the hands of a conservative Supreme Court, open the back door to Sharia law.” [73b] (p4-5)

- 6.101 The USSD 2004 Report on Religious Freedom, published on 15 September 2004, recorded:

“After the fall of the Taliban, there continued to be episodic reports of individuals at the local level using coercion to enforce social and religious conformity. During the reporting period, President Karzai and other moderates in the central government opposed attempts by conservative elements to enforce rules regarding social and religious practices based on their interpretation of Islamic law. The Taliban’s religious police force, the Department of Vice and Virtue, was replaced by the Department of Accountability and Religious Affairs, with a stated goal of promoting “Islamic values”; however, the department lacks any enforcement or regulatory authority.” [2c] (p7)

- 6.102 The USSD 2004 Report on Religious Freedom also noted:

“The Government has stressed reconciliation and cooperation among all citizens. Although the Government primarily is concerned with ethnic reconciliation, it also has expressed concern about religious tolerance. The TISA responded positively to all international approaches on human rights, including religious freedom. The Government emphasized ethnic and intra-faith reconciliation indirectly through the creation and empowerment of the Judicial, Constitutional, and Human Rights Commissions, comprised of members of different ethnic and Muslim religious (Sunni and Shi’a) groups. The Constitutional Commission also included a Hindu member to represent non-Muslim religious minorities.” [2c] (p5)

- 6.103 The US State Department Report 2004 (USSD 2004) published on 28 February 2005, recorded:

“The new Constitution proclaims that Islam is the ‘religion of the state’, but provides that non-Muslim citizens are free to perform their rituals within the limits determined by laws for public decency and public peace; however, there was some harassment of foreign missionaries and others. The Constitution also declares that no law can be contrary to the beliefs and provisions of the sacred religion of Islam. The new Constitution does not grant preferential status to the Hanafi school of Islamic jurisprudence associated with the Sunnis, and makes no reference to Shari’a law. The Government continued a policy of religious tolerance during the year; however, custom and law required all citizens to profess a religious affiliation.

Historically, the minority Shi'a community faced discrimination from the majority Sunni population. The authorities did not require licensing and registration of religious groups in any part of the country. There were no laws forbidding proselytizing, although proselytizing was viewed as contrary to the beliefs of Islam. Blasphemy and apostasy were in theory punishable by death under the current, unreformed penal code. In early September [2004], the Supreme Court ruled that presidential candidate Latif Pedram be disqualified for making allegedly un-Islamic remarks in public. After some government offices, the AIHRC, and the international community questioned the constitutionality of this ruling, Pedram was allowed to remain in the race." [2d] (section 2c)

(See also section on [Converts and Christians](#) paragraphs 6.126 and 6.132 for more information on religious freedom under the constitution)

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RELIGIOUS GROUPS

SHIA (SHIITE) MUSLIMS

- 6.104 The US State Department (USSD) Report 2004 on Religious Freedom, published on 15 September 2004, recorded:

"Relations between the different branches of Islam in the country have been difficult. Historically, the minority Shi'a faced discrimination from the majority Sunni population. Some conservative elements advocated that a new constitution should favor the Hanafi school of Islamic jurisprudence associated with the Sunnis over the Jafari school used by the Shi'as. In family disputes, courts relied on a civil code that is based on the Sunni Hanafi school, regardless of whether the parties involved were Shi'a or Sunni; the civil code also applies to non-Muslims. The Shari'a Faculty of Kabul University followed the Hanafi school of jurisprudence. Conservative elements also called for the primacy of Shari'a law in the country's legal system. However, the new Constitution does not grant preferential status to the Hanafi school, nor does it make specific reference to Shari'a law. The Constitution also grants that Shi'a law will be applied to cases dealing with personal matters involving Shi'as; there is no separate law applying to non-Muslims." [2c] (p1-2)

- 6.105 The Institute for War and Peace Reporting (IWPR) reported that Shia Muslims made important gains in the new constitution passed on 4 January 2004 at the end of the Loya Jirga. The IWPR reported that "Unlike the previous constitution of 1964, when the king who then ruled Afghanistan had to be a follower of the Hanafi Sunni school of Islam, a Shia Muslim can now become leader of the country. The qualifications for the president under the new constitution only require a candidate to be a Muslim. It recognises in Article 131 that Shia – who represent perhaps 15 per cent of the population – can use their own school of law in court cases involving personal matters...The Shia have their own school of law, Jafari." [73c]
- 6.106 The USSD 2004 Report on Religious Freedom also noted that:

"The Shi'a community in the country is able to celebrate openly the birthday of Imam Ali, one of the most revered figures in the Shi'a tradition, as well as commemorate the 10th of Muharram (Ashura), which marks the murder of the

Prophet Mohammad's grandson, Hussein. Under the Taliban, Shi'a could not celebrate their holy days openly, although they were able to do so in prior years. There were no reported incidents surrounding Shi'a religious celebrations during the year-and-a-half following the Taliban's fall, but there was an incident during the reporting period (See Section III)." [2c] (p3)

- 6.107 Section III of the same report recorded that "On March 1 [2004], a riot that began when 2 individuals were seen mocking a Shi'a procession in Kabul to commemorate the Battle of Karbala led to 2 deaths and over 30 injuries. This was the only reported incident surrounding Shi'a religious celebrations during the reporting period [1 July 2003 – 30 June 2004]." [2c] (p6)

(See also [Section 6A](#) paragraph 6.29 for ECRE guidelines and Section 6B Hazaras)

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ISMAILIS

- 6.108 A UNHCR report dated June 2005 stated:

"The Ismailis are a Muslim minority group that split from the Shias in the year 765 A.D.151. They are estimated to comprise 2% of the total Muslim population of Afghanistan and living mainly in parts of Badakhshan, Baghlan, Bamyan, Maidan/Wardak and Takhar. Their political leadership in Afghanistan is the family of Sayeed Kayan. Kayan is the name of a valley in Baghlan province. During the Najibullah regime, the head of this family was the governor of Baghlan province. His son was commander of a military division, which continued to exist throughout the Mujaheddin years. Ismailis fought along-side the Northern Alliance against the Taliban and suffered reprisals when the Taliban captured the areas they previously controlled. After the fall of the Taliban, the Jamiat-e-Islami prevented the Ismailis from re-forming the military structures that they previously maintained.

Conservative elements of the Afghan population, both Sunni and Shia, regard the community of Ismaili with suspicion, often because of their more liberal approach to religious duties and social norms, including with regard to women. While Ismailis are not generally targeted or seriously discriminated, they continue to be exposed to risks in some areas of the country. In Doshi and Tala-wa-Barfak Districts of Baghlan Province, Ismaili land and property was occupied or confiscated and then sold by local commanders. They have been unable to reclaim their property. The Baghlan provincial court and other provincial authorities have refused to dispense justice for Ismailis in landrelated cases. They face illegal taxation and extortion by local commanders. In Tala-wa-Barfak District, cases of rape of Ismaili women have been reported, with perpetrators facing impunity." [11b] (p50)

- 6.109 The USSD 2004 Report on Religious Freedom, published on 15 September 2004, noted that the active persecution of Afghanistan's Shi'a minority, including Ismailis, under the Taliban regime had ended. Although some discrimination continued at the local level, Shi'a generally were once again free to participate fully in public life. [2c] (p6)

(See also [Section 6A](#) paragraph 6.29 for ECRE guidelines)

SIKHS AND HINDUS

- 6.110 In comments submitted to the Advisory Panel on Country Information (APCI) in September 2004, UNHCR stated that many Sikhs and Hindus left Kabul following the arrival of the Mujahideen in 1992:

“This was due to the general increase in insecurity and reported increase in discrimination against the group. Until 1992, they had not suffered from discrimination and exercised their religion freely. Another wave left after 1996 when the Taliban came to power. While in power, the Taliban passed a law that stipulates that Hindus and Sikhs should wear a yellow marker to distinguish them from other Afghans and that they should place a sign over their shops and businesses marking them as Sikhs. The law was never strictly enforced.” [11c]

- 6.111 A report by the Afghan Professional Alliance for Minority Rights (APAMR) on 22 May 2003 noted that, following the fall of the Taliban, some Sikhs and Hindus, mostly from India, returned to Afghanistan to see if they could rebuild their lives again in Afghanistan. Many of their houses and temples were found to be totally ruined and many of their shops, houses and lands were being occupied by some powerful commanders and armed groups. [64a] (p3)

- 6.112 The USSD 2004 Report on Religious Freedom published on 15 September 2004, recorded that “The fall of the Taliban and the subsequent establishment of the AIA [Afghan Interim Authority] and TISA [Transitional Islamic State of Afghanistan] resulted in a major improvement in religious freedom. Sikh and Hindu representatives at the Emergency Loya Jirga in June 2002 reported that they no longer were repressed and felt free to practice their religions. The Government encouraged Sikhs, Hindus, and other minorities to return, and there was a small but steady flow of returnees during the year.” [2c] (p5)

- 6.113 In June 2003, an Amnesty International report noted:

“Three Sikh asylum seekers, who were forcibly returned by the UK, were forced to seek shelter in a Sikh temple in Kabul as they had nowhere else to go. Two of them were originally from Jalalabad but had no idea whether they had any relatives still left in that city and so were reluctant to return. Yet, they also felt vulnerable as potential targets of persecution in Kabul as the majority of the Afghan Sikh population has not returned to that city (**See also paragraph 6.123**). Three days after their return, they reported that they had been singled out for abuse in a market place in Kabul.” [7f] (p12)

- 6.114 In October 2003, a HRW open letter to President Karzai expressing concerns about the CLJ election process noted that a grenade had been thrown into a Sikh temple in Kabul the previous week. HRW also noted that “A prominent leader for the Sikh community in Kabul recently received anonymous threats on the telephone, telling him not to favor a secular government when he represents the community at the constitutional loya jirga.” [17a]

- 6.115 The USSD 2004 Report on Religious Freedom noted:

“Sikh and Hindu leaders were consulted regularly during the preparation of the draft Constitution and elected three delegates, including a woman, to the CLJ.... The Human Rights Commission also advocated for the rights of Sikhs and Hindus, when this community complained in late 2003 that it was being denied access to

its traditional cremation ground in Kabul by local residents. The Ministry of Hajj and Religious Affairs was also sympathetic and responded to this complaint. In March [2004] Kabul municipal authorities allocated an alternative cremation site to the Sikh-Hindu community; however, by the end of the reporting period, this community had not yet assumed control of the allocated site. During the reporting period, the Government provided guards for the five or six unused Sikh gurdwaras in Kabul, as well as a shuttle for worshippers.” [2c] (p6)

6.116 The USSD 2004 Religious Freedom Report further noted that “Non-Muslim minorities such as Sikhs and Hindus continue to face social discrimination and harassment, but this circumstance is not systematic and the Government is trying to address their concerns.” [2c] (p6)

6.117 In March 2004, the Secretary General of APAMR reported to the United Nations Working Group on Minorities:

“In Hilmand [Helmand] province:

- The governor to the province demolished Hindu minority shops in the centre of provinces and the governor allocated some lands for the Muslims whose shops were demolished but refused to allocate lands for Hindus.
- As a policy, people leasing their houses to the Hindus were pressurized by the governor to expel the Hindus from their houses.

In Kabul city:

- Some of returnee Hindu minority are not able to get back their houses from powerful commanders, which is a violation of article 40 of the new constitution.
- The returnee Hindu minority are left to live inside temples.
- Their children don't have facilities to go to Muslim schools, due to discrimination in violation of the provisions under the Convention on the Rights of the Child.
- They don't have a special place to burn their dead, which is contrary to item 2 article of UN declaration on Minority Rights.
- They have not receive [sic] sufficient assistance to rebuild their houses, temples or schools.
- They are not exempted from paying electricity taxation in temples, which is opposite item 2 article 4 UN declaration on Minority Rights.” [64b] (p2-3)

6.118 The Danish fact-finding mission of March/April 2004 reported that “The AIHRC mentioned that Sikhs and Hindus had some problems under the Taliban, but today they can generally practice their religion without encountering any major problems.” The Co-operation Centre for Afghanistan (CCA) told the delegation that Sikhs and Hindus can practise their religion without any risk of harassment. The EU Special Representative had no information on Sikhs or Hindus being

subjected to any form of harassment but had the impression that they might be subjected to discrimination. [8] (section 5.4)

- 6.119 A Khalsa Aid mission to Kabul in May/June 2004 reported that during their visit, they were referred to as “Kafers” and other derogatory terms on a number of occasions but surprisingly these references were more from young children than adults. [20]

- 6.120 In comments to the APCI dated September 2004, UNHCR commented on the situation for Sikhs in Ghazni:

“There are currently around 30 houses, totalling 70 Sikhs that are living in Ghazni city. An additional 30 families still remain in asylum, mostly in London and in India. In Ghazni, most of these families live in Shahmir in Plan 3. The majority of these families have their own houses and also their own shops.

Since the collapse of the Taliban regime, under whom they have suffered, five families returned from India. Two of these returnee families owned property and did not face any difficulty in recovering them. The other three families did not have any property and lived in rented houses. According to them, they are not facing any problems with the authorities or the communities. The three other families that did not have any property are living in rented houses

As far as education is concerned, there are two schools for their children, both for girls and for boys. One school is for religious subjects and the other one is for formal primary education, run by the NGO Ockenden International. The representative of the Sikh community mentioned that they requested some land from the provincial authorities in order to build a new school. According to their representative, the Head of the Education Department explained that, as they constitute a part of the Afghan people, their children should study with other students in the same schools.” [11c]

- 6.121 On 25 October 2004, the Navhind Times reported:

“The Afghan Sikhs, slowly trickling back to their homeland after the ouster of the fundamentalist Taliban regime, have appealed to the Indian government to allow them travel between the two countries overland via Pakistan. Mr Ravinder Singh, a member of the Afghan Gurdwara Prabhandak Committee, complained to visiting Indian newsmen here recently that most of the Sikh families could not afford direct air travel to India... The Indian government had imposed a ban on overland entry of Afghan Sikhs following warning from intelligence agencies that Pakistani agencies were trying to infiltrate Sikh extremists in the garb of Afghan Sikhs...

Afghan Sikhs and Hindus were predominant in Afghanistan’s unique ‘money market’ working as commission money changers, while others had shops and trading establishments. However, after the fall of Najibullah regime, the Sikhs and Hindus fell prey to bloody inter-Mujaheddin warfare. ‘For the past few years we have been trickling back and trying to reclaim our properties. We are facing lot of hardships’, the Sikh leaders said. ‘But we are upbeat. The recent events taking place in the country are very positive’, said Mr Avtar Singh, another prominent Sikh leader.” [84]

- 6.122 The USSD 2004 Report on Human Rights Practices, published on 28 February 2005, recorded that “Sikhs and Hindus returning to the country faced difficulties in

obtaining housing and land in Kabul and other provinces. Both communities did not receive land on which to cremate their dead; however, unlike in previous years, the Hindu and Sikh communities reportedly did not face any acts of discrimination.” [2d] (section 2c)

6.123 A UNHCR paper dated June 2005 stated:

“According to available information, there are an estimated 600 Sikh and Hindu families (about 3,700 persons) living in Afghanistan today with small but steady numbers of individuals and families returning, particularly from India. The majority live in Kabul (185 families), in Jalalabad (160 families) and Kunduz (100 families), others live in Ghazni, Kandahar and Khost. Previously, there may have been as many as 200,000 Sikhs and Hindus living in Afghanistan. Most of eight Sikh and four Hindu temples in Kabul were destroyed or used as military bases during years of fighting. Today, there are three temples operating in Kabul. In Jalalabad, there are two Sikh temples and one Hindu temple.

The Sikh and Hindu communities complain of experiencing harassment. They face intimidation and verbal as well as, at times, physical abuse in public places. In terms of property, many homes and businesses were lost or occupied during the fighting. The property of some Sikhs and Hindus in Kabul is still occupied by commanders. In both Jalalabad and Kabul, the community representatives have expressed concerns that they will not be able to accommodate returning families. While Hindus and Sikhs do have access to recourse to dispute resolution mechanisms such as the Special Land and Property Court, in practice the community feels unprotected. Particularly where their property is occupied by commanders, Hindus and Sikhs have generally chosen not to pursue matters through the courts for fear of retaliation.

With regard to education, parents are hesitant to send their children to mainstream schools, as the children continue to face verbal and sometimes physical harassment. In Kabul, the community has started its own school located near the religious temple (Daramsal). The subjects taught in this school are Punjabi, Dari, religious studies and mathematics. While the Punjabi language teacher is paid by the community, the Dari and mathematics teachers are sent by the Department of Education. At present, the school has only 120 students in first and second grade. A common complaint from the community is that although they have raised their concerns about accommodation and education with various ministries and with representatives of the international community, they believe that no action has been taken to alleviate their problems. A positive development for the Sikh community has been that it was represented at the Loya Jirga and a member of the community is in the Electoral Commission. With regard to freedom of religion, the Sikh community suffers from the inability to cremate their dead due to the lack of support by the authorities and occupation of sacred places for ritual cremations.” [11b] (p50-51)

(See also [UNHCR/ECRE guidelines](#))

6.124 On 13 June 2005, the Pajhwok Afghan News Agency reported that “The Sikh community in the northern province of Kunduz celebrated the religious festival of Baisakhi after 15 years...20 year-old Jageet Singh who had returned to Kunduz two years ago said that they had no security problem and could now celebrate their religious ceremonies freely.” [95]

- 6.125 On 25 August 2005, the Indo-Asian News Service (IANS) reported that seven gurdwaras [Sikh places of worship] destroyed in Afghanistan's civil war are to be rebuilt in Kabul. The article noted:

"After considerable delay, the authorities have cleared the gurdwaras of both encroachers and rubble. 'We are thankful to the Hamid Karzai government for giving us all assistance in reclaiming the damaged gurdwaras in Kabul and getting them freed from encroachers', says Ravinder Singh, president of the Gurdwara Singh Sabha. 'It is a huge task to get back these historic gurdwaras', Singh told IANS, reflecting the happiness of the 4,000 strong Sikh and Hindu residents here...

Hindus and Sikhs maintain good relations with Muslims and are addressed as 'Lala', which in Dari and Pushtu languages means elder brother. Many Afghans consider Hindus and Sikhs as their elder brothers because the forefathers of many of them were Hindus before they converted to Islam around the 7th century. Under the new constitution, though Afghanistan has been named the Islamic Republic of Afghanistan, it ensures due representation to Hindus and Sikhs and guarantees their religious rights. The Loya Jirga, which drafted the new constitution last year, had five Hindu-Sikh members, including a woman. The nine-member Election Commission, constituted to conduct the parliamentary elections next month, has a Sikh representative. All this has given confidence to the community and they are re-establishing their trade and business in Kabul as well as in Kandahar, Ghazni and Jalalabad. But they are still waiting to shift their families from India, the US and Europe where they fled during the Taliban regime." [88]

(See also Section on [Constitutional Rights, Religious Law and Institutions](#))

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CONVERTS AND CHRISTIANS

- 6.126 The World Evangelical Alliance (WEA) Geneva Report 2004, last modified on 1 April 2004, stated:

"The U.S.-led war on terrorism abolished the oppressive Taliban regime with its strict Islamic code, yet concerns about the future of religious freedoms for Christians in Afghanistan still remain. Though the U.S. has been pushing for a new governmental system in the country that recognizes religious freedoms and that allows for conversion from the majority religion, doubts remain as to whether such freedoms could ever exist in an Islamic state. The Afghan Minister of Justice, Asharaf Rasooli, stated openly that 'no Muslim is allowed to convert to another religion. But if a person wants to convert to Islam, there is no problem with that.' Afghanistan's Supreme Court Chief Justice, Mullah Fazul Shinwari, also issued a warning that if anyone is found guilty in his courtroom of professing the Gospel, he or she may face the death penalty.

The new constitution for Afghanistan, passed in early January [2004] by the Loya Jirga, provides little guarantee that religious persecution will be diminished under the new Islamic government. For, missing from the constitution is the essential assurance of the protection for freedom of thought, conscience, and religion. Islam remains the supreme religion in the country, with a constitutional declaration that 'no law can be contrary to the beliefs and provisions of the sacred religion of

Islam.’ This wording allows for much interpretation of difficult issues by the future Afghan Supreme Court, a body of judges who will be educated in Islamic law. If these judges believe that Christian practices are contrary to Islamic law, there is great potential for believers to continue to suffer persecution.

Thus, while Afghanistan’s new constitution claims to allow for religious freedom, Nina Shea, a member of the U.S. Commission on International Religious Freedom states that ‘religious freedom means educating your children in the faith or being able to possess religious literature, Bibles, being able to designate your leaders, being able to meet with co-religionists, being able to carry out charities, being able to raise money, or to take collections.’ With a constitution still entrenched in Islamic law, it is doubtful that any of these freedoms will be enjoyed by non-Muslim Afghani citizens in the near future.” [82] (p3-4)

- 6.127 The Danish fact-finding mission of March/April 2004 reported that the sources consulted said that conversion from Islam to other religions is not allowed. The AIHRC said that there were no reports on whether Christian families have any difficulties practising their religion. People converting from Islam to other religions, however, are sentenced to death. According to the Co-operation Centre for Afghanistan (CCA) “Conversion is not permitted and the CCA did not know of persons who have converted from Islam to other religions in Afghanistan. The CCA assumed that a person who has converted will in the first instance encounter problems with his/her own family and social network, which will not accept the conversion, and later he/she will get problems with the surrounding community.” [8] (section 5.4)

- 6.128 On 1 July 2004, Reuters reported:

“Afghanistan’s Taliban guerrillas say they cut the throat of a Muslim cleric after they discovered him propagating Christianity and warned foreign aid workers they would face similar treatment if they did the same. Taliban spokesman Abdul Latif Hakimi telephoned Reuters on Thursday to say that the guerrillas killed Maulawi Assadullah in the remote Awdand district of Ghazni province the previous day.... Hakimi charged that a number of foreign aid agencies were also involved in spreading Christianity in Afghanistan, where the adherents to the religion are in a tiny minority. ‘We warn them that they face the same destiny as Assadullah if they continue to seduce people,’ he said.” [24a]

- 6.129 The USSD 2004 Report 2004, published on 28 February 2005 recorded that “There was an unconfirmed report that the Taliban killed a former Muslim cleric on June 30 [2004], allegedly for preaching Christianity.” [2d] (section 2c)
- 6.130 The US State Department recorded in their 2004 Report on Religious Freedom published on 15 September 2004 that “Conversion from Islam is considered apostasy and is punishable by death under Shari’a. During the reporting period, there were unconfirmed allegations that converts to Christianity faced societal discrimination and threats. There was no information available concerning restrictions on the general training of clergy. Immigrants and noncitizens were free to practice their own religions. In Kabul 200 to 300 expatriates meet regularly at Christian worship services.” [2c] (p4) The USSD report also advised that there had been no reports of forced religious conversion in the reporting period of 1 July 2003 to 30 June 2004. [2c] (p5) The same report also noted that “In at least one instance, U.S. officials met with and assisted an Afghan Christian allegedly being persecuted for his faith.” [2c] (p8)

6.131 The USSD 2004 Report, published on 28 February 2005, recorded that “Militants sometimes harassed foreign missionaries and other religiously oriented organizations... There were unconfirmed allegations that converts to Christianity faced societal discrimination and threats”. [2d] (section 2c)

6.132 A UNHCR paper dated June 2005 advised:

“The risk of persecution continues to exist for Afghans who have converted, or are suspected or accused of having converted, to Christianity or Judaism. The current Constitution of Afghanistan does not provide sufficient protection for converts. Article 2 of the Constitution states ‘Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.’ The boundaries of the law however are open to interpretation. The situation for converts is further compounded by the fact that Article 3 of the 2004 Constitution states that ‘In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution.’

In Islamic law as interpreted today in Afghanistan, conversion is punishable by death throughout the country. The judicial system in Afghanistan is also largely comprised of conservative Islamic judges who follow Hanafi or Jafari doctrines recommending execution for converted Muslims. Conversion to Christianity is seen by family members and tribes as a source of shame and embarrassment for them in the community. Converts are likely also to face serious problems by the members of their families and their communities. Converts would face strong pressure to reverse their decision and to repent. In case of refusal, family members could resort to threats, intimidation, and in some cases physical abuse that could amount to persecution. However, there is no report of any Afghan being executed by court order for conversion. Small communities of Afghan converts are believed to practice Christianity in secrecy.” [11b] (p51-52)

(See also [UNHCR and ECRE guidelines](#))

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MIXED MARRIAGES

6.133 The Danish fact-finding mission of March/April 2004 reported:

“The UNHCR stated that the organization does not have any information concerning governmental persecution of people in mixed marriages. The source informed that the government has announced that all Afghan citizens can return to Afghanistan with a partner of non-Afghan origin, and that citizenship will automatically be given to the non-Afghan partner [in accordance with the provisions of Afghan law on nationality. [11c] However, the source was of the opinion that foreign women generally have more problems than foreign men, of being made an integral part of the community.

The source stated that, the question as to whether the couple will be subject to persecution from their families depends on the attitude of the families. The source knew about cases where mixed couples had returned from their exile to Afghanistan without encountering problems. However the source was of the opinion that partners in mixed marriages should return to larger cities to avoid

problems. The source explained that the UNHCR had been involved in a case in which a mixed couple, an Afghan Hazara man and a Pakistani woman were subject to persecution and threats from their families due to their marriage. The couple had tried to settle in various towns in Afghanistan but in the end they had been forced to leave the country.” [8] (section 6.9)

6.134 The same Danish report also noted:

“The CCA mentioned that it was almost impossible for a Muslim Afghan woman to marry a non-Muslim man. The source found that in the majority of cases the families would not accept the marriage. The marriage will not be recognized and the relationship will be regarded as co-habitation outside marriage, which is severely punished. A woman who violates these norms runs a severe risk of being rejected by her family or, in the worst case, being murdered. A Muslim man can marry a woman with a Jewish or Christian background, but not a woman who is a Sikh or a Hindu.

The CCA knew of a number of cases in which women from the former Soviet Union had moved to Afghanistan because of their marriage to Afghan men. Such couples do not encounter any problems in Afghanistan, but in several cases the source found that the women could have difficulties in settling down in Afghanistan due to the traditional view on women.” [8] (section 6.9)

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FREEDOM OF ASSEMBLY AND ASSOCIATION

6.135 Article 35 of the new Constitution adopted in January 2004 states:

“The citizens of Afghanistan have the right to form social organizations for the purpose of securing material or spiritual aims in accordance with the provisions of the law. The citizens of Afghanistan have the right to form political parties in accordance with the provisions of the law, provided that:

1. The program and charter of the party are not contrary to the principles of sacred religion of Islam, and the provisions and values of this Constitution.
2. The organizational structure, and financial sources of the party are made public.
3. The party does not have military or paramilitary aims and structures.
4. Should have no affiliation to a foreign political party or sources.

Formation and functioning of a party based on ethnicity, language, religious sect and region is not permissible.

A party set up in accordance with provisions of the law shall not be dissolved without lawful reasons and the decision of an authorized court.” [81]

Article 36 states “The citizens of Afghanistan have the right to un-armed demonstrations, for legitimate peaceful purposes in accordance with the law.” [81]

- 6.136 On 17 July 2004, a report by AIHRC-UNAMA in the run-up to the presidential election noted:

“In Kabul, the politically diverse environment has generally allowed for peaceful assembly. In the last two months, two different political parties held demonstrations in which participants criticized authorities openly. In addition, there have been numerous political conferences, workshops and forums in which attendance has been unrestricted. However, isolated incidents have been reported of government authorities disrupting political activities. On 18 June [2004] a meeting of party activists was disrupted by the police in District Two. Party members were harassed and warned not to register with the party. The police denied that this incident had taken place.” [48a] (p3)

- 6.137 This AIHRC-UNAMA report concluded that verification efforts had indicated that the last two years had led to the emergence of a more robust political life in Kabul, the east and other areas. The report notes that “This trend towards pluralism – contrary to the view that political activities are destabilizing – has in fact provided a peaceful venue for working out political differences, thereby strengthening stability in these regions. This model should be popularized and disseminated throughout the country by civil society, provincial authorities and local actors.” [48a] (p7-8)

- 6.138 The USSD 2004 Report, published on 28 February 2005 recorded:

“The Constitution provides for freedom of assembly, association, and the right to form political parties without prior permission; however, this right was restricted in practice. Insecurity and interference from local authorities inhibited freedom of assembly and association in some areas outside Kabul. Political parties based on ethnicity, language, Islamic school of thought, and region were not allowed; however, political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security. The October 2003 Political Parties Law obliges parties to register with the Ministry of Justice and requires political parties to pursue objectives that are consistent with the principles of Islam. There was a report that Noorulhaq Olomi’s Afghanistan National United Party was denied the right to registration, allegedly because Noorulhaq was a communist, despite meeting all legal requirements.” [2d] (section 2b)

(See [Annex B](#) for a list of registered and unregistered political parties)

- 6.139 The USSD further stated that “On September 12 [2004], Afghan security forces killed seven demonstrators in Herat. In September, demonstrators protesting the removal of Ismail Khan as Governor allegedly attacked U.N. offices and government-allied forces.” [2d] (section 2b)

- 6.140 The first report by the AIHRC-UNAMA on the forthcoming September 2005 elections, covering the period 19 April to 3 June 2005, recorded:

“On 11 May [2005] violent demonstrations triggered by a Newsweek article on the desecration of the Holy Quran in the Guantanamo detention center resulted in the death of 14 people, the destruction and looting of buildings – including government buildings, the AIHRC office, UN agencies and national and international NGO offices - and the temporary closure of several nomination centers...”

A protest that started on 29 May [2005] against a local commander accused of raping a girl in Chahab district, Takhar province [in the north-east], inspired demonstrations against commanders in two neighboring districts, Rustaq and Dasht-e Qala. The demonstrators in Rustaq requested the dismissal of provincial and district authorities, and the disarmament of the most powerful commanders in the district, Piram Qul – who is also a Wolesi Jirga candidate and his deputy, Subhan Qul. They also asked for deployment of the ANA and police in the province. Inaction on the part of the Governor of Takhar resulted in increased tensions, leading to a violent clash between Piram Qul's militiamen and the demonstrators. Militiamen struck the demonstrators, injuring several. The deployment of the ANA and ISAF support, including patrols by the Kunduz PRT, helped defuse tensions, and allowed a new district manager and police chief to assume office." [48c] (p4-5)

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EMPLOYMENT RIGHTS

6.141 Article 48 of the new Constitution adopted in January 2004 states: "Work is the right of every Afghan. Working hours, paid holidays, right of employment and employee and other related affairs are regulated by law. Choice of occupation and craft is free within the limits of law." [81]

6.142 The US State Department Report 2004 (USSD 2004), published on 28 February 2005 recorded:

"The Constitution and a mixture of labor laws from earlier periods provide broad provisions for protection of workers; however, little was known about their enforcement or practices. Labor rights were not understood outside of the Ministry of Labor, and workers were not aware of their rights. There was no effective central authority to enforce them. The only large employers in Kabul were the minimally functioning ministries and local and international NGOs." [2d] (Section 6a)

6.143 The USSD 2004 Report also noted:

"The law does not provide for the right to strike; however, the country lacks a tradition of genuine labor-management bargaining. There were no known labor courts or other mechanisms for resolving labor disputes. Wages were determined by market forces, or, in the case of government workers, dictated by the Government. There were no reports of labor rallies or strikes.... [2d] (Section 6b)

The Constitution prohibits forced or compulsory labor, including by children; however, little information was available. [2d] (Section 6c) The Constitution prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. Children from the age of 6 often worked to help support their families by herding animals, collecting paper, scrape metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines. [2d] (Section 6d)

There was no available information regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many workers

were allotted time off regularly for prayers and observance of religious holidays.”
[2d] (Section 6e)

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PEOPLE TRAFFICKING

- 6.144 A report by the International Organisation for Migration (IOM) dated October 2003 stated:

“Trafficking in Afghanistan includes many forms, including forced marriages through abduction and for debt release; early marriages; the exchange of women for dispute settlement; abductions of women and children, including boys, for sexual and domestic servitude; situations of forced labour; forced prostitution and sexual exploitation of children... Other human rights abuses with trafficking-related elements are also being inflicted upon Afghans. These include forced recruitment into armed groups, forced labour for poppy cultivation activities, such as harvesting and transportation, hostage-taking of smuggled persons subjected to forced labour and other forms of exploitation, and the abduction or deception used for forced religious training of minors.” [38a] (p65)

- 6.145 The IOM report also stated that “Over 22 years of internal conflict, the continued presence of armed militias across the country, the present stage of national reconstruction, and lack of central government authority in the provinces, are all factors and security concerns that have a direct impact on the prevalence of trafficking in Afghanistan.” [38a] (p66)

- 6.146 A 2004 review paper by the International Organisation for Migration (IOM) reiterated that their assessment of trafficking in persons in Afghanistan led them to conclude that the following forms of trafficking are taking place:

- exploitation of prostitution (forced prostitution and prostitution of minors);
- forced labour;
- slavery and practices similar to slavery (abductions for forced marriage, marriage for debt relief, and exchange of women for disputes settlement);
- servitude (sexual servitude and domestic servitude); and,
- removal of organs. [38b] (p3)

- 6.147 A US State Department Report on Trafficking in Persons, published on 3 June 2005, stated:

“Afghanistan is a country of origin for women and children trafficked for the purposes of sexual exploitation and labor. Children are trafficked to Iran, Pakistan, and Saudi Arabia for forced begging, labor, and sexual exploitation. Some parents pay smugglers to take their children into Iran and Saudi Arabia, hoping their children will find work and send remittances; once there, the children become subject to coercive arrangements that constitute involuntary servitude. Children are also ‘loaned’ by their parents to perform agricultural and domestic work within Afghanistan in return for wages paid to the parents; these arrangements often

develop into involuntary servitude. Women and girls are kidnapped, lured by fraudulent marriage proposals, or sold into forced marriage and commercial sexual exploitation in Pakistan. Women and girls are also trafficked internally as a part of the settlement of disputes or debts as well as for forced marriage and labor and sexual exploitation.

Afghanistan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Afghanistan has a taskforce and national action plan focusing exclusively on child trafficking. It now needs to implement its comprehensive national plan of action against all forms of trafficking. Afghanistan needs to establish a shelter for women victims of trafficking as it has done for child victims. It should also deal with corruption within its police forces, as many perpetrators are not brought to justice.” [2b] (p1)

6.148 The same USSD report also noted:

“Afghanistan’s law enforcement actions against trafficking are hard to quantify and evaluate, as the government does not compile and keep central data on its prosecution activities. Reports indicate that out of a possible 20 suspected cases of child trafficking, two resulted in convictions, three resulted in acquittals, and six are still being prosecuted. Afghanistan does not have anti-trafficking legislation; however, it can use its other laws to prosecute trafficking and related crimes...Afghanistan improved its victim protection activities in 2004. It continued operating a transit center in Kabul to assist children deported from destination countries. It also used innovative family tracing and reunification systems to facilitate the return and reintegration of children. In addition, Afghanistan has a procedure by which parents/guardians are required to certify their children’s safe return to them – a procedure meant to reduce the re-trafficking of child victims.” [2b] (p1)

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FREEDOM OF MOVEMENT

6.149 The USSD 2004 Report, published on 28 February 2005, reported that the Constitution provides for freedom of movement but certain laws limited citizens’ movement. The USSD recorded:

“The passport law requires women to obtain permission from a male family member before having a passport application processed. In some areas of the country, women were forbidden by local custom or tradition to leave the home except in the company of a male relative. The law also prohibits women from traveling alone outside the country without a male relative, and male relatives must accompany women participating in Hajj. Additionally, sporadic fighting, brigandage and landmines hampered travel within the country. Despite these obstacles, many men and women continued to travel relatively freely, with buses using routes in most parts of the country. Taxi, truck, and bus drivers complained that militia and police personnel operated illegal checkpoints and extorted them for money and goods; however, the number of such checkpoints decreased during the year [2004]. In March, local militants shot and injured a police chief at an illegal checkpoint in Mazar-e-Sharif.” [2d] (section 2d)

6.150 The Danish fact-finding mission of March/April 2004 reported:

“The IOM explained that Afghans from country districts are migrating to larger cities to look for work and housing. The source mentioned that apart from Kandahar, the population in the large towns is ethnically mixed. In spite of this it is rare that people try to settle down in towns where they do not have a network or where they have not lived earlier. The source was nevertheless of the opinion that the Afghan people are very mobile and do not have problems in settling down in a new place if possible.” [8] (section 5.5.)

6.151 In June 2005 UNHCR noted:

“The freedom of movement of women is severely limited, especially in rural areas. In most villages, women are restricted to family compounds except for necessary movements to water points. In some rural areas, tribal culture provides women with marginally greater freedom of movement for example to work in the fields. In urban areas, freedom of movement is less restricted but normally requires a male escort (mahram). Single women of marriageable age rarely move alone because they risk exposure to harassment and social disrepute.” [11b] (p53)

(See also Section 6B Women paragraphs. 6.167 – 6.169 for further information on restrictions on movement for women)

6.152 A report by AIHRC-UNAMA covering the period 19 April to 3 June 2005 noted:

“Anti-government attacks are the greatest impediment to the freedom of movement in the South. In Uruzgan and Zabul an increase in incidents – including improvised explosive devices, remote controlled mines and an attack on government and private vehicles by armed groups – has been observed. The killing by the Taliban of two de-miners and one child and the serious injury of five de-miners on 1 June [2005] in Grishk district, Helmand province, on the Kandahar – Herat road, have also escalated fears about traveling in the area.” [48c] (p5-6)

6.153 The second AIHRC-UNAMA report covering the period 4 June to 16 August 2005 observed that attacks by anti-government elements also impeded freedom of movement in the south-east, some provinces of the east such as Kunar and the west. [48d] (p10)

INTERNAL FLIGHT OR RELOCATION

6.154 A UNHCR paper of June 2005 advised:

“Given the fragmented nature of power and control in parts of Afghanistan, an examination of the availability of internal flight or relocation alternatives may appear to be warranted. UNHCR however continues to recommend against the application of the internal flight or relocation alternative in the context of Afghan claims, for reasons noted below.

The assessment of whether or not there is a relocation alternative in the individual case requires two main sets of analysis – its relevance and its reasonableness. For both, the personal circumstances of the individual applicant and the conditions in the area to which the internal flight or relocation alternative is proposed must be examined. With regard to the ‘relevance’ of an internal flight or relocation alternative, it is of particular importance to assess the willingness and the ability of

the State to protect from risks emanating from non-State agents. Local commanders and armed groups act as agents of persecution in the Afghan context that have set themselves above the law, both at the local and central levels. In some cases, they are closely associated to the local administration while in others they may be linked to and protected by more powerful and influential actors, including at the central level. As a result, they largely operate with impunity, with the State authorities being unable to provide protection against risks emanating from these actors. In most instances, the State is still unable to provide effective protection against persecution by non-State actors. The links to other actors may, depending on the circumstances of the individual case, expose an individual to risk beyond the zone of influence of a local commander, including in Kabul. Even in a city like Kabul, which is divided into neighbourhoods (gozars) where people tend to know each other, the risk remains, as news about a person arriving from elsewhere in the country travel fast.

Additional to the ‘relevance’ of internal relocation to the individual case, it must also be ‘reasonable’ for a claimant to relocate to that location in order to overcome his or her well-founded fear of persecution elsewhere in the country of origin. It is particularly with regard to this ‘reasonableness analysis’ that UNHCR continues to advise against resort to the notion of an internal flight or relocation alternative in the Afghan context, considering elements of safety and security, human rights standards as well as options for economic survival during the relocation journey and upon arrival at the destination of relocation. The traditional family, extended family and community structures of Afghan society continue to constitute the main protection and coping mechanism in the current situation. It is these structures and links on which Afghans rely for their safety as well as for economic survival, including access to accommodation and an adequate level of subsistence. The protection provided by families, extended families and tribes is limited to areas where family or community links exist and without them, a relatively normal life without undue hardship at another location than one’s place of origin or residence is unlikely. As documented in studies on urban vulnerability, the household and the extended family remains the basic social network in Afghanistan and there are indications that existing traditional systems of sharing and redistribution function less in the extended urban family. It would therefore, in UNHCR’s view, be unreasonable to expect any Afghan to relocate to an area to which he or she has no effective links, including in urban areas of the country.” [11b] (p66-67)

(See also Section 6A [Single Women and Widows](#) paras 6.187 to 6.196)

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6B HUMAN RIGHTS – SPECIFIC GROUPS

ETHNIC GROUPS

INTRODUCTION

6.155 The Freedom House Afghanistan Country Report 2004 recorded:

“Afghanistan is made up of a mélange of ethnic groups, the largest of whom are the Pashtuns, Tajiks, Uzbeks and Hazaras. Historically there has been a certain level of inequality between ethnic groups, as well as discrimination based on ethnicity. The predominantly Shia Hazaras, who are believed to make up between

15 percent and 20 percent of Afghanistan's population, have traditionally been the most politically and economically disadvantaged group. Observers believe that protracted wars and instability have led to an increase in ethnic polarization, tension, and conflict." [41a] (p6)

- 6.156 Article 22 of the new Constitution adopted in January 2004 states: "Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited. The citizens of Afghanistan – whether woman or man – have equal rights and duties before the law". [81] On 4 January 2004, the Institute for War and Peace Reporting (IWPR) noted that the final document named fourteen different ethnic groups as comprising the nation of Afghanistan. The IWPR reported that the national anthem will be in Pashtu, but will include the phrase "Allah-o-akbar" – the jihadi rallying cry – and mention all the names of Afghanistan's ethnic groups. [40n]
- 6.157 On 10 January 2005, the Special Representative of the UN Secretary-General reported that the new Afghan cabinet inaugurated in December 2004 broadly reflected the ethnic composition of the country, with ten Pashtuns, eight Tajiks, five Hazaras, two Uzbeks, one Turkmen and one Baloch. [40k]
- 6.158 A UNHCR paper dated June 2005 stated:

"While attempts are made to address the problems faced by Afghans belonging to ethnic minorities and there have been improvements in some areas, the situation of ethnic minorities may still give rise to a well-founded fear of persecution in other areas. While there have been no reports of renewed large-scale displacement of ethnic minorities, confiscation and illegal occupation of land by commanders have caused displacement in isolated situations. Discrimination, at times serious and at times amounting to persecution, of Afghans belonging to ethnic minorities by local commanders and local power-holders continue in some areas, in the form of extortion of money through illegal taxation, forced recruitment and forced labor, physical abuses and detention. Other forms of discrimination concern access to education, political representation and civil service." [11b] (p49)

- 6.159 The same UNHCR paper also advised:

"Afghans of Pashtun ethnic origin from areas of Northern Afghanistan, in particular Jowzjan, Sar-i-Pul and Faryab, as well as from the provinces of Kapisa and Logar are at greater risk of persecution upon return. Similarly, while most Afghan Gujurs from Baghlan were able to return, Afghan Gujurs from Takhar continue to face serious difficulties. Afghans of Hazara ethnic origin from areas of the West and South of Afghanistan might also be exposed to discrimination, including discrimination amounting to persecution. Generally, asylum claims of Afghans originating from areas where they are the ethnic minority continue to require particular attention, especially during the electoral process for parliamentary elections in September 2005." [11b] (p49)

(See also sections on [Pashtuns](#) and [Hazaras](#) below)

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PASHTUNS

- 6.160 In June 2005 UNHCR stated that Pashtuns are the largest ethnic group, constituting about 38 per cent of the population. [11b] (p8) The World Directory of Minorities (1997) records that Pashtuns are Sunni Muslims, living mainly in the east and south of the country adjacent to Pakistan. Pashtuns have always played a central role in Afghan politics, and their dominant position was a major catalyst in triggering the civil war. President Rabbani's regime represented the Tajik minority, whereas troops led by Gulbuddin Hekmatyar (and later those of the Taliban) were mainly Pashtun. [27] (p539)
- 6.161 A1997 UNHCR background paper on refugees and asylum seekers from Afghanistan noted that the Pashtun tribal population of Pakistan's North-West Frontier Province (NWFP) still had much in common in terms of culture, language and traditions with their fellow Pashtu-speakers across the border (the 'Duran Line') in Afghanistan. The Duran Line of 1893 demarcated the border of modern-day Pakistan and Afghanistan. There is a long tradition of mobility among the Pashtuns who live in the NWFP and those of eastern Afghanistan. [11a] (p5)
- 6.162 The World Directory of Minorities (1997) notes that "The social structure of the Pashtuns is based on the Pashtunwali (or Pukhtunwali) code. This requires the speaking of Pashtu and adherence to established customs. Hospitality is an important principle, as are a reliance on the tribal council (jirga) for the enforcement of disputes and local decision-making, and the seclusion of women from all affairs outside the home." [27] (p539)
- 6.163 A Christian Science Monitor report dated 24 June 2004 noted:
- "Most Pashtuns are divided into two major tribes, the Ghalji and the Durrani. The Ghalji are larger in number, but the Durrani have long been dominant. Mr. Karzai is a Durrani. In parts outside Afghanistan's Pashtun-dominated south, tribal identity takes a backseat to broader ethnic, sectarian, and regional affiliations which form the backbone of support for many of the country's powerful warlords. But in southern Afghanistan, where the tribal system has primacy, power is much less concentrated. Within the two larger tribes there are numerous sub-tribes, conflicting claims to leadership, and small-scale militias. Each village has a tribal chief, and these chiefs choose from among their own ranks leaders who will represent the tribe in Kabul. Most tribes, however, have a number of factions claiming to represent the whole tribe, leading to rivalries and chaos." [75]
- 6.164 The Freedom House Afghanistan Country Report 2004 recorded:
- "Pashtuns, who are the largest ethnic group in Afghanistan, are predominant in the southwest and southeast of the country. Pashtun leaders have controlled political power for most of Afghanistan's history as a state, and most recently some Pashtun leaders were broadly supportive of the Taliban regime. Following the collapse of Taliban rule, Pashtun civilians residing in the north were targeted in a wave of ethnically motivated violence that left a large number displaced and dispossessed of their land... While Pashtuns in Kabul have not been systematically targeted to the same extent, they do face some harassment and discrimination by local police and intelligence officials." [41a] (p6)
- 6.165 A review paper of 31 December 2004 by the International Organisation for Migration (IOM) stated that "This year [2004] has seen the first returns of ethnic Pashtuns to their places of origin in Faryab and Badghis provinces in northwestern Afghanistan." [38b] (p1) The US State Department 2004 (USSD 2004) Report,

published on 28 February 2005, recorded that “There was no further significant displacement of Pashtuns and others from Faryab, Jawzjan, and Badghis Provinces; however, continued harassment and insecurity limited the return of Pashtun families to their villages in northern areas.” [2d] (section 1g) The same report also noted that “Pashtuns in Herat Province accused [former] Governor Ismail Khan, a Tajik, of discrimination and abuses against their ethnic group.” [2d] (section 5)

- 6.166 On 24 May 2005, IRIN News reported on the first group of Pashtun Internally Displaced Persons (IDPs) to return home to the north-western province of Faryab in 2005. An information officer with UNHCR was reported as saying that “This is one step towards national reconciliation and it is important that IDPs are convinced that the security situation for Pashtuns has improved.” [36f]
- 6.167 A UNHCR report dated June 2005 recorded that some 30,000 Pashtuns from the north-west (Faryab, Badghis, Jowzjan, Sar-e-Pul) remained displaced. [11b] (p37)

(See also [UNHCR and ECRE guidelines paragraphs 6.29 – 6.32](#))

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TAJIKS

- 6.168 The World Directory of Minorities (1997) records: “Most [Tajiks] are Sunni Muslims and speak a form of Farsi close to the national language of Iran. Tajiks are of Central Asian origin and 4 million of this ethnic group live in the neighbouring Central Asian state of Tajikistan. Tajiks have significant political influence in Afghanistan because of their level of education and wealth. Unlike in the case of Pashtuns, there is no specific Tajik social structure. They are divided between the north, the west and Kabul and have adopted the social and cultural patterns of their neighbours.” [27] (p540)
- 6.169 In June 2005, UNHCR noted that Tajiks comprise about 25 per cent of the population making them the second largest ethnic group and they are Persian (Dari) speaking Afghans [11b] (p8). According to a UNHCR paper published in June 1997, most Tajiks are Sunni Muslims, but Shia Muslim Tajiks are also found in the west of the country (in and around the city of Herat) and in Kabul. [11a] (p5)
- 6.170 The Danish fact-finding mission of March/April reported UNHCR as saying that “Previously there have been conflicts between Tadjiks [Tajiks] and Hazaras, not only in Bamian district but also in the districts of Shiber and Yakaowlang. These conflicts no longer exist. The Tadjiks, who earlier had to flee from the region due to conflicts with the Hazaras have now returned and live in peace with the Hazaras. Moreover, the Tadjiks have been able to reclaim their houses.” [8] (section 3.2.2)

HAZARAS

- 6.171 A booklet by the Aboriginal Catholic Ministry dated August 2002 stated:

“Most Hazaras live in Afghanistan’s rugged central mountainous core of approximately 50,000 square kilometres known as the Hazarajat (or Hazarestan), Land of the Hazara. Others live in Badakhshan, and, following Kabul’s campaigns against them in the late nineteenth century; some settled in western Turkestan, in

JauzJan and Badghis provinces...The population of the Hazara tribe is estimated to be between 4 and 6 million...Hazaragi (Ha-zar-ra-gee) is the language of the Hazaras and is a Farsi dialect. Hazaragi is a mixed dialect composed of mainly Farsi (80%), Mongolian (10%), and Turkish (10%) words." [96] (p5)

- 6.172 A report dated May 2004 by the Afghanistan Research and Evaluation Unit (AREU) noted that "Hazarajat is known for its out-migration, both to Kabul and internationally. Iran is the preferred destination, since many Hazara are Shi'a and feel safer among people of their own religion. Some areas have had a pattern of seasonal migration, mostly to Kabul, during the winter months." [22b] (p19) In June 2005 UNHCR advised that Hazaras constituted about 19% of the country's population. [11b] (p8)
- 6.173 A Minority Rights Group (MRG) briefing dated November 2003 stated that Hazaras have been traditionally marginalised in Afghan society. MRG reported:
- "The Hazaras are thought to be descendants of the Mongol tribes who once devastated Afghanistan, and are said to have been left to garrison the country by Genghis Khan. The Hazaras have often faced considerable economic discrimination – being forced to take on more menial jobs – and have also found themselves squeezed from many of their traditional lands by nomadic Pashtuns. Starting at the end of the nineteenth century, successive Pashtun leaders pursued active policies of land colonization, particularly in the northern and central regions, rewarding their supporters, often at the expense of the Hazaras. This policy was partially reversed during the Soviet occupation, but started again under the Taliban." [76] (p6)
- 6.174 The MRG report also noted that a Hazara-backed political party/militia group, Hisb-e-Wahdat, had sought to expand its influence when the Mujahidin captured Kabul in 1992. Hisb-e-Wahdat had been formed as a result of an initiative by the Iranian government: "They [Hisb-e-Wahdat] were opposed on this occasion by a Saudi-backed Pashtun militia, Ittihad-I-Islami, and eventually driven back from the city after suffering heavy casualties. Five years later [1997] the Hazaras helped to inflict a significant defeat on the Taliban in the northern town of Mazar-e-Sharif. Thousands of Hazara civilians were systematically murdered in retaliation when the Taliban finally recaptured Mazar in 1998." MRG also reported that Hazara civilians were massacred by the Taliban at Robatak Pass in 2000 and Yakawlang in 2001. [76] (p6)
- 6.175 Amnesty International reported in June 2003 that some Hazara returnees in western Kabul had been targets of violence and petty crime in that area, some of which was carried out by rival ethnic groups. Returnees alleged that the police usually made no attempt to investigate their complaints. [7f] (p24)
- 6.176 In a report on land issues published in September 2003, UNHCR noted a land tenure problem in Kabul involving Hazaras. In sub-districts 8 and 10, a number of Hazara families from Sharistan, had claimed that persons affiliated to two major commanders, Toran Abdiul Ali and Arif Dawari, had occupied their houses and land. [11e] (p4)
- 6.177 On 7 January 2004, Reuters reported that unidentified gunmen had killed 12 ethnic minority Hazaras in southern Afghanistan: "The Hazaras were travelling in a vehicle when they came under attack in Baghran district of Helmand province on Tuesday night [6 January], said Haji Mohammad Wali, spokesman for the

province's governor." Reuters reported that the victims were residents of neighbouring Uruzgan province, where tension had reportedly erupted recently between some Hazaras and ethnic Pashtuns. [40ai] The USSD 2004 Report on Religious Freedom noted that "According to the Human Rights Commission, the motive for the attack was a family feud." [2c] (p7)

6.178 The Danish fact-finding mission of March/April 2004 reported that UNHCR had advised that there were ethnic conflicts in the Ghazni and Uruzgan provinces between the Hazaras and the Pashtuns. "In some areas the Hazaras cannot travel through areas controlled by Pashtuns. Moreover the source stated that there have been tensions in Ghazni province between the Hazaras and the Kuuchis [Kuchis], Afghanistan's nomadic people. These disputes were concerning the right to land and water and have not resulted in major fights." [8] (section 6.1)

6.179 On 28 June 2004, Agence France-Presse (AFP) reported that most of the 16 people killed in an attack by suspected Taliban in Uruzgan province the previous Friday were Hazaras who had recently returned from Iran. The report noted that the Interior Ministry Spokesman said that most of the people had registration cards and some of them were due to get cards and participate in the elections. AFP reported that "Uruzgan has a small ethnic Hazara population but is mainly ethnic Pashtun." [40m]

6.180 On 29 July 2004, the Pakistan Tribune reported on the position of Hazaras in Bamian [Bamiyan]:

"Armed with a new constitution that guarantees equal rights to minority groups, Hazaras are engaged in an intense campaign to grasp some power and lift themselves from the bottom of Afghan society. The Hazaras have a great stake in seeing that the Taliban does not return to power. When the extremist Islamic movement controlled Afghanistan in the 1990s, its fighters killed hundreds – by some estimates thousands – of Hazaras in an effort to break the back of resistance to Taliban rule. Now, the Hazaras' efforts to maintain the peace before the election have helped make Bamian one of the safest areas of the country... Mohammed Mohaqiq, the first Hazara presidential candidate, said the new constitution had improved morale among Hazaras, who toil in the fields or do menial work in the cities." [30a]

6.181 In a report dated 21 September 2004, the UN-appointed independent expert of the Commission on Human Rights in Afghanistan commented on a case of human rights violations, which UNHCR had verified and brought to his attention. The case involved approximately 200 Hazara families (about 1,000 individuals) displaced from Daikundi over the last decade by local commanders and now living in Kabul. The independent expert noted:

"Some members of the community arrived during the past year, having fled ethnically based persecution, including the expropriation of land and property, killings, arbitrary arrests and a variety of acts of severe intimidation perpetrated by warlords and local commanders who control the Daikundi districts and who are directly linked to a major political party whose leader occupies a senior governmental post. Some of the displaced families have petitioned the Ministry of the Interior, AIHRC, UNAMA and UNHCR, requesting intervention on their behalf. The newly appointed governor has pledged to tackle the ongoing human rights violations and the monopoly of power by warlords and commanders in the region. However, the fact that the main protagonists reportedly enjoy the support of a

senior member of the Government means that a satisfactory solution is highly unlikely unless there is concerted and meaningful pressure exerted by the international community in tandem with internal actors.” [39k] (para. 72)

6.182 On 7 October 2004 the Institute of War and Peace Reporting (IWPR) reported:

“Hazaras are the third largest ethnic group in the country, and now live mainly in the central and north of the country. They have historically suffered discrimination. Yusuf Waezi, manager of the main Hazara party, Hizb-e-Wahdat-e-Islami, said, ‘Hazara people are the most oppressed community and their only job was being porters. An Hazara child wasn’t allowed to study more than the six grade [13 years] and there wasn’t any school in majority of the areas this community lived in,’ he said. But he said that conditions had improved significantly under the transitional government. ‘After the fall of the Taleban, the rights of the Hazara people became satisfactory,’ he said.” [73h]

6.183 On 10 January 2005, the Special Representative of the UN Secretary-General reported that the new Afghan Cabinet inaugurated in December 2004 included five Hazaras. [40k]

6.184 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, noted that “The Shi’a religious affiliation of the Hazaras was historically a significant factor leading to their repression, and there was continued social discrimination against Hazaras.” [2d] (section 2c) The USSD 2004 also recorded that “Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands for a number of reasons, including allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s. Hazaras also found difficulty in returning to the country. In December [2004], a local leader from Karukh district in Herat blocked the return of approximately 200 Hazara refugees from Iran.” [2d] (section 2d)

6.185 On 21 July 2005, Agence France-Presse (AFP) reported:

“Suspected Taliban guerrillas attacked an ethnic Hazara village in the southcentral province of Uruzgan on Monday, killing 10 villagers, provincial governor Jan Mohammad Khan told AFP. A day later, Hazara tribesmen from Uruzgan’s Kejran district -- blaming the attack on their neighboring Pashtun-dominated village -- launched a raid that killed four people, the governor said.

The attack in which 10 Hazara were killed was carried out by Taliban. The Hazaras thought the attack was by Pashtuns, he said. The governor said that tensions between the two tribes ceased after elders from the two villages launched an investigation and found that Monday’s attack was carried out by Taliban fighters. However, Mullah Abdul Latif Hakimi, purported spokesman for the ousted militia said his men were not involved in the bloodshed. ‘We were not involved in that. We’re not killing innocent people either Hazara or Pashtuns,’ he told AFP by satellite telephone from an unknown location.” [40ah]

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UZBEKS AND TURKMENS

- 6.186 The World Directory of Minorities (1997) records that “Uzbeks and Turkmen are Sunni Muslims. They are ethnically and linguistically Turkic, closely related to the people of modern Turkey to the west, and identical to the majority Muslim population of Central Asia across the border to the north. They occupy the greatest share of Afghanistan’s arable land in the north. In addition, the production of carpets by Uzbek and Turkmen women has brought considerable supplementary income. Cotton production has added significantly to the wealth of these two groups. Because of their relative prosperity, Uzbeks and Turkmen have not been dependent on the central government and not attempted to gain political influence.” [27] (p 540). A UNHCR background paper recorded in June 1997 that “The Far Eastern Economic Review also reported that a significant Turkoman population in Western Afghanistan has historically been victimised by the Pashtuns.” [11a] (p21)
- 6.187 UNHCR in June 2005 advised that Uzbeks constitute about six per cent of the population. Turkmen, Baluch, Pashai, Nuristani, Aymaks, Arab, Qirghiz, Qizilbash, Gujur, Brahwi and other groups constitute about 12 per cent. [11b] (p8)
- 6.188 The Institute of War and Peace Reporting (IWPR) reported in January 2004 that arguments took place during the Loya Jirga in December 2003 about which languages should be named “official languages” in the new constitution. The IWPR reported “Where the original draft named Dari and Pashtu, it was eventually concluded that six further languages including Uzbek, widely spoken in the north, should also be official in the areas where they are most widely spoken. The northern leader General Abdul Rashid Dostum was influential in promoting language rights for the Uzbeks – his own group – and the related Turkmen.” [73b] (p6-7) Article 16 of the constitution approved in January 2004 states that six additional languages, besides Dari and Pashtu, will be recognised as official languages in the regions where they are spoken by the majority of the population. These include Uzbek and Turkmen. [81]

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BALUCHIS

- 6.189 The World Directory of Minorities published in 1997 records that Baluchis numbered around 384,000 in Afghanistan, around two per cent of the population. The directory also noted:

“They live in the pastoral lands of the south-west and south and practise Sunni Islam. Their language is Baluchi, and their main economic activity is agriculture and animal husbandry. Divided between three countries – Pakistan, Iran and Afghanistan – they have a tradition of rebellion against their respective central governments to maintain their autonomy, and they have also had ambitions to create an independent state of Baluchistan. In the past their demands have faded after they experienced political repression at the hands of all three countries.... The Baluchis’ struggle for independence has rarely attracted attention in the outside world.” [27] (p541)

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NURISTANIS

- 6.190 The World Directory of Minorities (1997) records that Nuristanis had a population of around 100,000 in Afghanistan residing mainly in the east and the north:

“Their scattered settlement is another result of Amir Abdul Rahman’s late 19th Century expansionism. During his rule, what was then called Karifistan was converted to Nuristan (‘land of light’) by forced Islamization of the tribe. Even in recent times, many other ethnic groups were suspicious of them for still being ‘kafirs’ – a word which can be interpreted as ‘infidel’. Nuristan is located in the middle of the Hindu Kush mountain range in four valleys, with each valley having its own distinct language/dialect: Kati, Waigali, Ashkum and Parsun. Nuristan has very little arable land, the vast majority of the territory being covered by forest. The main base of the economy is animal husbandry – mostly goat herding... Very few Nuristanis have had access to education. Yet, among those who have travelled to Kabul and been able to gain access to schools, some have gained prominence as well-known figures in the army and the government in Kabul.” [27] (p 541)

PANJSHERIS

- 6.191 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005, UNHCR stated that “Panjshiris are not ethnically a separate group or sub-group.” They are of Tajik ethnic origin and define themselves by the location in which they reside, that is, the Panjshir valley. “The Panjshiris are also Tajiks, practise Sunni Islam, and speak Dari with Panjsheri dialect.” [11d]
- 6.192 The World Directory of Minorities (1997) records that Panjshiris live in the mountainous areas north of Kabul and traditionally derive their livelihood from animal husbandry. The Directory further notes that “Socially and politically, Panjshiris have been as insignificant as Hazaras and Nuristanis, with only a few people in high-ranking positions in the army and government in Kabul. All three groups initially remained independent, without affiliation to any political party, during the war with the Soviet Union, but Panjshiris later achieved prominence under the command of Ahmad Shah Masoud, when their army came to control vast areas of northern Afghanistan [Northern Alliance].” [27] (p541)

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KUCHIS

- 6.193 In December 2003 Refugees International (RI) reported that Kuchis are Pashtuns from southern and eastern Afghanistan. RI noted that “Kuchi means ‘nomad’ in the Afghan Dari language. The livelihood and culture of the Kuchis have been all but destroyed by conflict, drought, and demographic shifts. Some 200,000 Kuchis are displaced in Afghanistan; an equal or larger number are refugees in Pakistan; and hundreds of thousands of others are eking out a precarious existence in urban or rural areas in Afghanistan. Only a small number of Kuchis still follow their traditional livelihood of nomadic herding.” [40I] (p1)
- 6.194 The RI report also noted:
- “In the south, Kuchis lost most of their animals due to a severe drought from 1998 to 2002. Pastures and water sources in the drought stricken areas still have not recovered. In the northwest, Uzbeks and Tajiks resent the presence of Kuchis, and have forced them to flee their lands. Many ended up in dismal displaced

person camps near Herat or Kandahar or in dangerous and isolated refugee camps in Pakistan. Kuchis who have livestock are often unable to drive their flocks to their traditional summer grazing pastures in the central highlands. On a visit in June 2003, RI encountered few Kuchis in the highlands, and the local Hazaras were hostile to the Kuchis due to association with the hated Taliban. In some areas, landmines hinder access to grazing land.” [40i] (p2)

- 6.195 The USSD 2004 Report, published on 28 February 2005, recorded that “Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands for a number of reasons, including allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s.” [2d] (section 2d) In addition “The nomadic Kuchis expressed concern that the voter registration process underrepresented their population; however, the Government and the Joint Electoral Management Body (JEMB) worked with this group to address their concerns.” [2d] (section 5)

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WOMEN

OVERVIEW

- 6.196 In an October 2004 report, Human Rights Watch (HRW) reported on women and girls’ status in post-Taliban Afghanistan. The report noted:

“Women’s and girls’ lives have improved since the overthrow of the Taliban in late 2001. Once confined to their homes, over one million girls are enrolled in school. Women and girls no longer confront Taliban-era restrictions to gain access to health care services. The Afghan government and NGOs have initiated several programs targeted at improving women’s status and public participation. Improvements in women’s and girls’ rights can especially be seen in urban centers such as Kabul, where security is stronger, infrastructure has improved, and the central government exercises firm control.

Still, many Afghan women and girls continue to struggle to exercise fundamental rights to health, education, work, and freedom of movement. Scarcity of data makes it difficult to assess the full scope of the situation or to monitor changes over time. Despite increased flows of international aid after the fall of the Taliban, poor security in many parts of the country, lack of infrastructure, and inadequate numbers of trained personnel have limited real change. For example, Afghan women’s reproductive health and mental health indicators are alarming. A 2002 study found that Afghan women’s maternal mortality rate stood at 1,600 deaths per 100,000 live births, and the eastern province of Badakshan had the highest rate ever recorded in the world at 6,500 per 100,000 live births.” [17j] (p6-7)

(See also Section 5: [Medical Services](#) paras 5.194 – 5.200 for more information on medical services for women, and [Educational System](#) 5.230 – 5.239)

- 6.197 The HRW report continued:

“Restrictions on movement and continuing security threats continue to affect women’s lives and in particular impede their ability to travel, study, and work...

The continuing control of some areas by conservative military commanders, the social barriers imposed by some religious leaders, and the lack of effective control by the central government means that women do not have choices about traveling [sic] with mahram (close male relatives), wearing the burqa, or restricting their movements.

Violence against women and the absence of effective redress for victims, whether through informal or formal justice mechanisms, is a pervasive human rights problem in Afghanistan. The practice of exchanging girls and young women to settle feuds or to repay debts continues, as do high rates of early and forced marriage. According to a study by the Ministry of Women's Affairs and women's NGOs, approximately 57 percent of girls get married before the age of sixteen. The Afghanistan Independent Human Rights Commission (AIHRC), women's activists, and NGOs point to domestic violence being a widespread problem for which there is still little public awareness, prevention effort, or response. Local commanders and their men have also been implicated in cases of sexual violence against women and girls." [17j] (p7-8)

- 6.198 A report by the UN Secretary-General on the situation for women and girls in Afghanistan dated 22 December 2004 advised that "During the past few years, Afghan women have made important strides in the enjoyment of their human rights and political participation... This remarkable progress, however, is overshadowed by the persistently volatile and unstable security situation, the ongoing violence against women and girls as well as extreme poverty." [39I] (p3)

- 6.199 The UN Secretary-General also noted:

"Women's full enjoyment of human rights continues to be limited due to the overall lack of security, different forms of violence, lack of a functioning law enforcement system and the dominance of social and cultural norms that discriminate against women. Women and girls continue being abducted for forced marriage for debt release and as a means of dispute settlement or the cessation of blood feuds. The practice of giving young girls in marriage as a payment for so-called blood money continues to violate girls' right to life and physical integrity. Women are also victims of so-called honour crimes and death threats when they try to escape from a forced or arranged marriage. The lack of legal and social protection systems has left many women trapped in abusive situations which have caused a number of women to commit suicide or self-immolation. There are also continuing reports of kidnapping of girls and forced virginity tests. The United Nations Children's Fund (UNICEF) is supporting the establishment of a nation-wide birth registration campaign, which would safeguard children's right to an identity and age and provide girls with some protection against early marriage." [39I] (p10)

- 6.200 The Amnesty International 2005 Annual Report stated that "Women continued to face systematic and widespread violence, and public and private discrimination. Fear of abductions by armed groups forced women to restrict their movements outside the home. In the family, extreme restrictions on women's behaviour and high levels of violence persisted. Election officials registering women voters were among those killed by armed groups." [7o] (p2)
- 6.201 A report dated 11 March 2005 by the UN-appointed independent expert on the situation of human rights in Afghanistan stated:

“Women in Afghanistan face a wide array of human rights violations, including high rates of poverty; severe, inadequately addressed and preventable health risks; significant political marginalization; high rates of illiteracy, especially in rural areas; violence, especially domestic violence; limited access to justice; and the inability to obtain redress of wrongs from the customary legal system. Limited access to health facilities exposes women to the risk of disease, disability and death, and the country’s maternal mortality rate is one of the highest in the world. Women are systematically excluded from positions of authority and are commonly subjected to the inequitable and abusive exercise of power by State agents and institutions. Women face significant violations of basic rights within the formal legal system and through customary law practices.” [39i] (para 33)

6.202 In a report dated 30 May 2005, Amnesty International stated:

“In spite of the general improvement of women’s situation following the collapse of the Taliban regime, Amnesty International was informed by women and girls in focus groups and interviews that they felt their situation had remained largely unchanged. Interviews conducted with women in Kabul, Kandahar, Herat and Mazar-e Sharif, highlight the vulnerability of women to abduction, rape, sexual violence and the fear that this brings... Women have not witnessed a significant improvement in their abilities to enjoy their human rights. Discriminatory practices institutionalised prior to and during the war have not disappeared and in some ways have grown stronger. The insecure environment exacerbates this further. In the Afghanistan context, violence suffered during the conflict years was an extreme manifestation of the discrimination and abuses they suffered in before the conflict began as well as the unequal power relations between Afghan men and women.

Such attitudes contribute to the widespread acceptance of domestic violence, rape and other forms of sexual abuse against women. Women’s right to choose a marriage partner is still severely curtailed and subject to the authority of male members of the family; they continue to be abducted and forced into marriage; early marriage and childbirth is commonplace; and prohibited interaction between unrelated men and women greatly inhibits women’s access to, amongst others, higher education, the workplace and both formal and informal justice mechanisms as these bodies continue to be almost exclusively male and largely segregated.” [7d] (p6-7)

6.203 The same AI report also stated:

“Confidence in Afghan law enforcement is abysmally low, especially among women. The police are reluctant to prevent and investigate family violence, including, the violent deaths of girls. There is popular recognition of the following as facts, that constrain the willingness of victims to seek help: reluctance and inability to investigate allegations of torture and mistreatment by their own officers, lack of arrests of perpetrators who commit domestic and other forms of violence, arbitrary and unlawful detentions, allegiances to militia forces and imprisonment of women and girls outside the applicable law.

Law enforcement agencies do not ensure that men, in rare instances where they are served with court orders, comply with them... When women have sought assistance from the police after suffering violence or escaping forced marriages, the police have in the majority of cases known to Amnesty International sent them home, accused them of tarnishing their family reputations. Alternatively, the police

have imprisoned women for their own supposed protection... Women view the police as a threat rather than an impartial, professional law enforcement agency. Corruption is widespread amongst the police and male abusers employ bribery to allow them to escape justice. Afghan women in their current state do not have the economic means to extract themselves from such situations, consequently they struggle to progress from being victims.” [7d] (p19)

UNHCR/ECRE GUIDELINES

6.204 In May 2004, the European Council on Refugees and Exiles (ECRE) issued guidelines for the treatment of Afghan asylum seekers and refugees in Europe. The guidelines included women and girls who suffer gender-based persecution such as forced marriages in the categories of individuals who may have ongoing protection needs, which have remained unchanged, despite the recent political developments in Afghanistan. [37] (p3)

6.205 A UNHCR position paper published in June 2005 noted that, despite some positive legal and institutional developments, Afghanistan was ranked lowest in the world on the October 2003 UNDP Development Report's Gender-related Development Index (GDI). Furthermore, women continue to face serious discrimination and violation of their rights. The report stated:

“Women and girls are particularly affected by the overall security situation, which limits their freedom of movement to reach schools, health-care facilities and work. A majority of women are banned by their male family members, tribal and religious leaders from working outside their homes and many girls do not have access to education. At least 11 incidents that affected girls' schooling, including arson and explosive attacks have been confirmed. Some attacks on women Government officials, journalists, potential candidates, teachers, NGO activists and humanitarian aid workers seem to have had the specific goal of intimidating them and undermining their efforts to strengthen women's status in society. Restrictive cultural norms continue to severely affect Afghan women. This includes engagement and marriage at early ages, forced marriages, so-called honor killings and using girls or women as chattel to settle disputes (Bad). Women and girls continue to be abducted for forced marriage for debt release and as a means of dispute settlement or the cessation of blood feud. They are also victims of honour-crimes or death-threats when they try to escape from forced or arranged marriage. There are reports of domestic violence, and women remain deprived of basic civil rights, including in cases of divorce, custody and with regard to inheritance rights.” [11b] (p52-53)

6.206 The UNHCR paper concluded:

“Against this background, the following categories of women are at greater risk of persecution if they return to Afghanistan:

- Single women without effective male or community support.
- Women perceived as or actually transgressing prevailing social mores, including women rights activists.
- Afghan women who have married in a country of asylum without the consent of their family or have married non-Muslims and are perceived as having violated tenets of Islam.

- Afghan women who have adopted a Westernized way of life and unable or unwilling to re-adjust". [11b] (p55)

(See also [Single Women and Widows](#) paragraphs 6.225 – 6.233)

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VIOLENCE AGAINST WOMEN AND GIRLS

6.207 An Amnesty International (AI) report published on 8 December 2004 advised:

"Despite the formal cessation of hostilities and the establishment of an interim government in Afghanistan, various armed groups continue to control large parts of the country. Women and girls continue to be threatened with violence in many aspects of their life, both private and public. The disarmament and demobilization process has made progress, albeit slowly, but weapons remain a mainstay of Afghan men's lives. Violence against women and girls, including rape, mental and physical cruelty, forced marriages and exchange of girls to settle disputes are widespread. Institutions for the protection of human rights and the implementation of the rule of law remain weak. As a consequence, a climate of impunity prevails, enjoyed by armed groups across Afghanistan. In the absence of protection and justice, women remain extremely vulnerable." [7I] (p13)

6.208 The Amnesty International 2005 Annual Report noted the following examples of violence against women in 2004:

"A woman was detained in mid-2004 in Kandahar and held without charge for several weeks while the prosecutor considered accusations against her of adultery and attempted murder of her 'husband', a member of an armed group who had abducted her at the age of seven. He had routinely beaten and abused her, and by the age of 20 she had three children by him. No charges against him were considered.

A campaigner against violence against women was attacked in September because of her human rights work. She was outside her home in Kabul when three men drove up in a car. One jumped out and threw acid at her, burning her neck." [7o] (p2)

6.209 The 2005 AI report also stated:

"Most acts of violence against women were not reported for fear of reprisals or harsh judicial punishment of the victim, and very few were subject to investigation or prosecution. Tradition and social codes of behaviour governed judges' decisions on cases involving violence against women. Many women were imprisoned for alleged crimes such as running away from home, adultery and other sexual activity outside marriage – known as zina crimes. In some cases, despite lack of evidence, they were imprisoned to protect them from their families. Outside Kabul, refuges, counselling and health care for women were almost non-existent. In all regions, but particularly in Herat, hundreds of women set fire to themselves to escape violence in the home or forced marriage." [7o] (p2)

6.210 The same AI report further stated:

“There were several reports that gunmen attached to armed groups abducted and raped girls, and forced some into marrying them. Girls were increasingly sold into early marriages to alleviate poverty or in an attempt to guarantee their security.

One 17-year-old was abducted by three armed men from her aunt’s home in Kapisa province in May [2004] after she refused to marry one of them. Her uncle was shot and wounded. The girl was returned to her parents in Kabul after they filed a complaint with the authorities and the Afghan Independent Human Rights Commission (AIHRC).” [7o] (p2)

6.211 The US State Department Report 2004 (USSD 2004), published on 28 February 2005 recorded:

“Violence against women persisted, including beatings, rapes, forced marriages, and kidnappings. Such incidents generally went unreported, and most information was anecdotal. The Ministry of Women’s Affairs estimated that more than 50 percent of marriages involved women under 16, the legal minimum age of marriage for women. It was difficult to document rapes, in view of the social stigma that surrounded them. Information on domestic violence and rape was limited. In the climate of secrecy and impunity, domestic violence against women and rape remained a serious problem...

In previous years, women in the north, particularly from Pashtun families, were the targets of sexual violence perpetrated by commanders from other ethnic groups. During the year, there were at least four credible reports of soldiers and commanders loyal to local warlords raping girls, boys, and women in provinces in the eastern, southeastern, and central part of the country. In one of these cases, a perpetrator was arrested and his trial was ongoing at year’s end.” [2d] (p10)

6.212 On 2 December 2004, a UNAMA spokesman reported that, according to the Ministry of Women’s Affairs, the ministry had analysed and solved 193 cases of violence against women in 2003. [40ak] (p3)

6.213 On 26 April 2005 Amnesty International (AI) reported on the killing by stoning of a woman accused of adultery the previous week in Urgu District, Badakhan province. AI reported that, according to eyewitnesses, the victim was dragged out of her parents’ house by her husband and local officials before being publicly stoned to death. AI noted that “The man accused of committing adultery with her is alleged to have been whipped a hundred times and freed.” [7m] An Advocacy Project news article dated 23 May 2005 reported that following an international outcry over the murder, the Government arrested seven of those involved, including the victim’s own father. The article also noted that the stoning of the woman was particularly harsh as she had sought to divorce her husband on the grounds that he could not support her. “Under Afghan law, the husband’s complaint should have been registered with the local authorities and investigated by the prosecutor. The case should have gone before the local court, not the shura, and the accused woman guaranteed a fair trial and legal defense. According to the United Nations Development Fund for Women (UNIFEM), Islamic law permits stoning for adultery, but also requires that four ‘honest and impartial’ men be eye witnesses to the adulterous act. There were no eye witnesses in this case.” [40z]

6.214 On 2 May 2005, BBC News reported that “Afghan police are investigating the killing and sexual assault of three women whose bodies were left on a road in northern Baghlan province... Interior ministry spokesman Lutfallah Mashal confirmed the murders but could not say if the women were killed for working with foreign aid groups... A group called the Afghan Youths Convention called the BBC in Mazar-e-Sharif to say it carried out the killings because the women were having relationships with Americans.” [25ac]

6.215 On 24 May 2005 a Human Rights Watch publication recorded that on 18 May 2005 a female Afghan television presenter had been shot in the head at her Kabul home. She had been fired from her position at a Kabul independent television station, Tolo TV, in March 2005 after several clerics in Kabul said her show was ‘anti-Islamic’ and should be taken off the air. [17k]

6.216 An AI report published 30 May 2005, recorded:

“In Afghanistan, violence against women by family members is widespread and can range from deprivation of education to economic opportunities, through verbal and psychological violence, beatings, sexual violence and killings. Many acts of violence involve traditional practices including the betrothal of young girls in infancy, early marriage and crimes of ‘honour’, where a female, is punished for having offended custom, tradition or honour. From infancy, girls and women are under the authority of the father or husband, have restricted freedom of movement from childhood, restriction on their choice of husband and very limited possibilities to assert their economic and social independence. Most unmarried and married women are faced with the stark reality of enduring abuse. Should they try and extricate themselves from the situation of abuse, they invariably face stigma and isolation as well as possible imprisonment for leaving the home.” [7d] (p10-11)

6.217 The same AI report also stated:

“Despite the Afghan government’s declared commitment to stop violence against women, concrete services for victims of violence remain few and far between. Amnesty International is aware of four shelters operating in Kabul. In 2004, the German NGO Medica Mondiale, financed by UNHCR, had begun a project in Mazar-e Sharif, aimed in creating a mechanism to foster coordination between various government ministries, law enforcement agencies and NGOs in providing services to victims who have been subject to domestic and other forms of violence. In Herat, the GTC [Gorzargah Transit Centre] shelter houses unaccompanied females and victims of violence. Amnesty International is not aware of the existence of shelters in Kandahar or Jalalabad. The increasing presence of agencies such as the AIHRC and Afghan and international NGOs has begun to offer the local population channels through which to register complaints of violence and abuse.

There is an apparent resistance from municipal and central government officials to the concept of shelters. There is a sense that shelters are not part of Afghan culture and are breeding ground for ‘immoral’ and ‘un-Islamic’ behaviour. The women who seek refuge in such places are perceived to not only transgress traditional norms and codes of behaviour for Afghan females but are also liable to influence other girls and women to leave their families and homes.” [7d] (p12)

6.218 An IRIN News article dated 13 April 2005 reported that the four shelters in Kabul were home to more than 100 women and girls:

“Supported by different agencies and the Ministry of Women’s Affairs (MoWA), the confidential centres are designed to give protection, accommodation, food, training and healthcare to women who are escaping violence in the home or are seeking legal support due to family feuds. ‘Often they are introduced to MoWA by the office of the attorney general or supreme court, while sometimes they come directly to our ministry’, Shakila Afzalyar, a legal officer at the ministry, told IRIN. All the women IRIN interviewed at the shelter said they had broken no laws, but were fleeing from brutality or forced marriages.” [36e]

6.219 The IRIN report also noted that, according to the MoWA, up to 20 women and girls were referred to the MoWA’s legal department every day. “But space at the specialised shelters is limited. Many of the women who cannot find a place in the four secure hostels in Kabul end up in prison.” [36e]

6.220 The May 2005 AI report noted:

“Traditional and cultural taboos surrounding rape and other forms of sexual violence have allowed rape to remain unspoken for decades in Afghanistan. As a weapon of war, it was used strategically and tactically to advance specific objectives in the many forms of conflict... It is a weapon still being employed in various parts of the country... Rape flourishes where perpetrators of such abuse are not brought to justice by the state. Armed groups and militia members, with reported and actual ties to high-ranking government and local officials and powerful, armed, regional leaders have in very few instances been held accountable.” [7d] (p13)

6.221 The UNHCR report dated June 2005 stated:

“The threat to the physical safety of women often comes from within the family. Family disputes often revolve around the position of women as it has direct implications on family honor. Women also continue to be imprisoned for social or sexual offences, such as refusing to proceed with a forced marriage, escaping an abusive marriage, or involvement in extramarital relationships. Women continue to face prison for these ‘crimes’. Authorities point out that sometimes such detention is necessary to protect the women from violent acts of revenge by their family members.” [11b] (p55)

6.222 On 26 July 2005, a Radio Free Europe/Radio Liberty interview with the UN Special Rapporteur on Violence against Women reported the Special Rapporteur, Yakin Erturk, as saying that the majority of people she met on her visit to Afghanistan earlier that month pointed to forced marriage and child marriages as the primary source of violence against women. The article stated:

“The Afghan Independent Human Rights Commission (AIHRC) estimates that between 60 percent and 80 percent of marriages in the country are forced marriages which the woman has no right to refuse. Many of those marriages, especially in rural areas, involve girls below the age of 15. The UN rapporteur on violence against women says forced marriages make it far more likely that women will be subjected to domestic violence, including sexual abuse...

Erturk says for the majority of Afghan girls and women, there is no alternative to enduring the violence they encounter. Afghanistan’s law-enforcement and judicial systems offer no special protection from female victims of violence, and officials

often subject such women to humiliation before returning them to the abusive environments from which they are trying to escape. Many of the women in the country's prisons are wives who have run away from home or been charged with adultery. Erturk says these women have little reason to expect their lives will improve.

'When a woman is away from home, even if it's not her fault, her reentry into normal life is very difficult, because she's already been tarnished with a stigma that she is no longer pure – especially the runaways, who have dared to run away from their husbands or their abusive fathers. They have no place to go', Erturk says." [29j]

- 6.223 On 10 August 2005, Radio Free Europe/Radio Liberty reported that, according to Afghan officials, Taliban guerillas had executed an Afghan woman after accusing her of spying for US-led forces. "District chief Mohammad Younus said the unidentified woman was shot dead in her house last night in the southern district of Zabul. He said Taliban fighters also kidnapped the brother and father of the victim. Abdul Latif Hakimi, who claims he speaks for the Taliban, confirmed the report and said the Taliban had killed the woman because 'she was a spy for the Americans.'" [29i]
- 6.224 In a report dated 17 August 2005, Human Rights Watch reported that "Violence against women, forced marriage, and early marriage remain endemic problems in Afghanistan. Competing formal and informal justice mechanisms mean that victims of violence rarely have avenues for redress. There have been improvements in major cities, for example, Kabul and Herat, but the challenges of reconstruction and continuing insecurity mean that an environment where women and girls are able to realize their full range of rights remains far from reality." [17d] (p6)

(See also [UNHCR and ECRE guidelines](#))

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SINGLE WOMEN AND WIDOWS

- 6.225 An Amnesty International report of June 2003 noted that "Many unaccompanied returnee women have been forced to beg on the streets of Kabul as their only means of survival." Amnesty International advised that they had received reports of verbal and physical harassment of women returnees to Kabul. [7f] (p24)
- 6.226 A Danish fact-finding mission of March/April 2004 reported the views of a variety of sources on the position of single women in Afghanistan. The UNHCR and the Vice Minister for Women's Affairs were both reported as being of the opinion that Afghan culture does not include the concept of "a single woman" and there is no understanding of such a concept." [8] (section 6.2.5)
- 6.227 The same Danish report noted:
- "The EU Special Representative mentioned that it is very difficult for single women to settle down in Afghanistan. It is not possible without some kind of social network. The Vice Minister for Women's Affairs explained that in the Afghan society single women's safety cannot be guaranteed...A woman who returns to Afghanistan alone and lives alone risks being robbed, raped or murdered. If she is

robbed people will believe that she has also been raped. The source explained that she returned from Germany without her husband after the fall of the Taliban. The Vice Minister is a highly educated woman who is married and has children. Nevertheless she was not able to settle down alone in Kabul, but had to get in contact with an uncle on her mother's side and ask if she could live in his house." [8] (section 6.2.5)

- 6.228 In his report of 22 December 2004, the UN Secretary-General advised that "Women returnees, widows and female-headed households face numerous obstacles to their right to adequate housing. This is mainly due to: forced eviction and the illegal occupation of land; difficulties in claiming inheritance; increased speculation on housing and land; forced marriages of widows to ensure that land and property remain within the family; and the inability to obtain access to courts." [39] (p11)

- 6.229 A report by the Institute of War and Peace Reporting (IWPR) dated 31 January 2005 noted:

"Afghanistan is full of young widows. The wars and violence that have plagued the country for the past 25 years have decimated the male population. According to Fauzia Amini, head of the legal branch of the ministry of women's affairs, 'The large number of widows is due to the fighting that began when Russia invaded Afghanistan in 1979. This was followed by more fighting between Afghans themselves.'

These widows are caught between Afghan culture and Islamic law. According to Afghan tradition, they can only marry close relatives of the deceased husband. But six years ago, during the Taleban's ultra-conservative reign, its leader Mullah Omar issued a decree allowing widows to marry whomever they wished. Since the fall of the Taleban, a little over three years ago, the temporary freedom of choice accorded them has eroded, leaving a woman who has lost her husband very little choice about her future. If she is allowed to marry again, it will be to her brother-in-law or another close relative in her husband's family...

The government is attempting to help. Fauzia Amini told IWPR, 'The custom of forcing a widow to marry her brother-in-law or another close relative of her dead husband is very bad; we are trying to break the hold these traditions have on the population.' The ministry is working with mullahs, or religious leaders, she said, to try and get more freedom of choice for women whose husbands have died." [73p]

- 6.230 A UNHCR report dated June 2005 advised:

"In some areas of the country, it is common practice for a widow to marry a family member of the late husband, including against their will. Where a widow does not remarry, her husband's family takes on the decision-making role in relation to her family. Although often deemed a burden, the family of the husband maintains a strong sense of 'ownership' of the sons of the widow and her deceased husband. Sons with rights to paternal inheritance can pose a threat to uncles, particularly where the land has been divided over generations and is too small for subsistence farming. As such, widows display a high level of vulnerability to exploitation and poverty. Generally, women returnees, widows and female-headed households face numerous obstacles, including forced eviction and illegal occupation of land, difficulties in claiming inheritance, increased speculation on housing and land, forced marriage of widows to ensure that land and property remain within the

family and their inability to access courts. This is exacerbated where they have been disconnected from their own families or the families of their late husbands.” [11b] (p53)

6.231 The UNHCR report also stated:

“Women without effective male or family-support and single women of marriageable age are rarities in Afghanistan, and are always viewed with some suspicion. Afghan women returning from Western countries may be subjected to social opprobrium or harassment from unwanted suitors. They face a high risk of being married off by their families against their will. Single women are likely to be ostracized by the Afghan community or fall prey to malicious gossip which could destroy their reputation or social status. This exposes them to an increased risk of abuse, threats, harassment and intimidation by Afghan men, including at risk of being kidnapped, sexually abused and raped. In majority of these cases, the Government is not in a position to protect women...

In urban areas, there are increasing numbers of Afghan women who have returned from USA, Europe, and UK to live and to seek work. A number achieve it but there is much adjustment to be made. There is no public entertainment that accepts women together with men. Women cannot travel freely without male escorts. Dress and behavior are conservative. Women’s rights activists face threats and intimidation, particularly if they speak out about women’s rights, the role of Islam or the behavior of commanders.” [11b] (p54)

6.232 The same UNHCR report further noted:

“Single females who do not have family or other close relatives in Afghanistan who are willing to support them should be allowed to remain in countries of asylum, where support mechanisms are in place and a less difficult social environment for their well-being exists. Long term solutions are not available for most single females in Afghanistan unless they have effective male family or community support. Their vulnerability is the result of social traditions and gender values in Afghanistan, where women cannot live independently from a family. Where there is no family to care and protect them, single women can only be accommodated temporarily in shelters run by some NGOs in Kabul and Herat, which have a negative reputation as hosting criminals or prostitutes and constitute but a short term ‘safe haven’.” [11b] (p61)

6.233 UNHCR also noted in this report that “Single parents (especially women) with small children who do not have the support of relatives or the community) and no member of a household with the ability to act as the breadwinner, will be unable to sustain their lives in Afghanistan.” [11b] (p61)

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LEGAL PROVISIONS AND ACCESS TO THE LAW

6.234 A Human Rights Watch Briefing Paper dated October 2004 stated:

“The Afghan Constitution of 2004 contains specific provisions guaranteeing certain women’s rights. Article 22 guarantees women’s equal rights and duties before the law. Article 44 states: ‘The state shall devise and implement effective programs for balancing and promoting of education for women, improving of education of

nomads and elimination of illiteracy in the country.’ Analysts point to provisions in the Constitution barring any laws contradicting the beliefs and provisions of Islam, which could facilitate punitive adultery laws and could be used in efforts to block measures to protect women’s equal rights in divorce or inheritance.

The Constitution also guarantees seats for women in Afghanistan’s bicameral National Assembly. Approximately 25 percent of the seats in the Wolesi Jirga (House of the People) are reserved for women and the president must appoint additional women to the Meshrano Jirga (House of the Elders). The Constitution also obliges the government ‘to create a prosperous and progressive society based on social justice,’ and to ‘protect human rights.’ The Constitution expressly requires the state to “abide by the U.N. charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.” Afghanistan acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) without any reservations on March 5, 2003.” [17j] (p10)

- 6.235 A US State Department report on Afghan women, children and refugees dated 22 June 2004 noted that “Implementing the new Constitution, which is one of the most progressive on women’s human rights of any in the entire Muslim world, is one of the many challenges ahead for women in Afghanistan. It will take time and effort to translate this model document into living, lasting reality.” [2a] (p13)
- 6.236 In a report dated 28 October 2004, Amnesty International (AI) reported that “The New Constitution guarantees fundamental equality for men and women. However, implementing legislation is not yet in place and there is a lack of both understanding and implementation of those rights that are protected by law.” The report also observed that “Efforts are underway to train police recruits to be aware of gender issues, but AI found that such training has been brief and perfunctory so far. AI has also received testimonies about bribery and corruption among police and of failure to follow up on cases involving violence against women. There are virtually no effective safeguards to protect women in custody.” [7k] (p1)
- 6.237 A later report by Amnesty International published on 30 May 2005, recorded that almost two years after the publication of their 2003 report on the needs and treatment of women in the Afghan justice system [see source [7c]] “Amnesty International found that justice, security and redress remain outstanding issues for women and that women and girls continue to face major obstacles in seeking and obtaining protection and remedy from key law enforcement institutions.” The AI report stated:

“Amnesty International recognises the challenges facing Afghanistan as it emerges from many long years of conflict and attempts to rebuild its institutions and establish the rule of law. However, as the situation currently stands, state institutions, through their lack of effective and prompt action in response to complaints of violence and threats of violence against women and their failure to bring perpetrators to justice, are allowing widespread discrimination and violence against women to continue. The police frequently fail to investigate or press charges against perpetrators of violence against women. Women are not encouraged to bring complaints against their attackers and fear bringing ‘dishonour’ on the family as well as facing reprisals from the attacker and relatives. Women receive almost no effective protection from the state and it is rare for a court to convict and punish a perpetrator. Traditional attitudes of judges, whereby women are held responsible for having been attacked, raped or killed, show a

shocking failure to uphold the law by its custodians and have contributed to influencing the generally permissive attitude toward violence against women. The failure of state institutions to protect women's rights, to ensure that abusers are brought to justice and provide redress points to official apathy towards, and at times blatant sanctioning of violence against women." [7d] (p4)

6.238 The same AI report also stated that

"Legal representation for detained and accused women is almost negligible. Women seeking legal aid, especially, are perceived to be acting outside certain codes of behaviour for women. The international NGO Medica Mondiale's (MM) has established a project providing legal aid to some female prisoners in Kabul and is one of the few INGOs to provide this service. In July 2004, MM had a number of cases of female prisoners to whom they were providing representation. Out of these, five women were in jail for the crime of zina, one for an illegal marriage, and three for elopement. Some of the women had been prison for periods ranging from 3 to 14 months. Some had been detained without charge and only a few convicted. None had been provided legal representation by the state. Moreover, female human right advocates are few and face prejudice from a predominantly male judiciary." [7d] (p20)

6.239 In the same report "Amnesty International welcomed the new Constitution, adopted in January 2004 which enshrined the equality of men and women. However, Amnesty International remains concerned, among other things, at the lack of explicit protection and promotion of women's rights, despite Afghanistan's international obligations under various treaties, including CEDAW." [7d] (p25)

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WOMEN'S PARTICIPATION IN PUBLIC LIFE AND INSTITUTIONS

6.240 The Foreign and Commonwealth Office 2004 Annual Report on Human Rights stated that:

"The new Afghan constitution [of January 2004] includes an explicit statement of the equality of men and women, and includes guarantees for women's representation in the legislative assembly. Implementation of these provisions in legislation is the next step, and the AIHRC and the Judicial Commission have an important role in ensuring that women's rights are included in future legislation. Women are represented throughout the ministries of the Afghan transitional administration, and on the Judicial Commission and the AIHRC.

In Kabul, at least, life has improved for many ordinary women, who are now able to work and move about freely in a way that was impossible under the Taliban." [15a] (Chapter 1.3)

6.241 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded:

"Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the lack of education perpetuated during the Taliban years, and limited employment possibilities, continued to impede the ability of many women to improve their situation. In February [2004], the Government established the first unit of female police, and

small numbers of women began to join the police force during the year... Government regulations prohibited married women from attending high school classes; however, during the year this regulation was changed, and married women are allowed to attend high school classes.” [2d] (p10)

6.242 The HRW October 2004 report advised that:

“The dominance of armed political factions and continuing attacks by the Taliban and other insurgent forces have greatly impeded women’s participation in the public sphere, and also present grave obstacles to implementing desperately needed women’s development projects, including education, health, and income-generating programs. When insurgent forces or armed factions attack a women’s rights NGO staff member or the office of a women-focused development project – they affect the provision of services and opportunities to dozens and sometimes hundreds of women. This intimidation is often symbolic, as with attacks on girls’ schools, and it creates an atmosphere of fear sending a message to women, girls, and their families that they may be targeted if they participate in these programs. Local commanders, Taliban, and other insurgent forces have attacked dozens of girls’ schools in the past two years.

The presence of international security forces makes a critical difference. In places with greater assurances of safety and where NGOs feel safe to work, for example, Kabul, Afghan women and girls have participated enthusiastically in education, rights awareness programs, and other activities. In other locations, threats and harassment of staff working on women’s development projects, intimidation of beneficiaries, and attacks on offices and vehicles has contributed to premature closure of projects or has prevented projects from even getting started.” [17j] (p16)

6.243 In their report dated 28 October 2004, Amnesty International advised: “With the exception of the heads of the juvenile and family courts in Kabul, women continue to be excluded from key positions in the judiciary. Where women do serve as judges, they do not perform the same functions as their male counterparts. Female judges tend to act in the capacity of judicial clerks and are rarely involved in the adjudication of cases. Female judges outside Kabul are rare.” [7k] (p1)

6.244 On 9 December 2004, the Institute of War and Peace Reporting stated:

“In a country where their activities are still often severely restricted, women are playing a leading role in developing small businesses all across the country. At an awards ceremony last month honouring entrepreneurs who have successfully started up small businesses with the assistance of various microfinance programmes, 18 of the 23 recipients were women... While the ministry of commerce could not provide figures on how many women work outside the home, Mina Sherzoy, head of the Entrepreneurship Development Office for Afghan Women at the ministry of commerce, said that the number is increasing day by day.

Sherzoy noted that women make up more than half the country’s population and more than half are widows. It makes sense, then, that they should play a leading role not only in supporting their families but also in the country’s economic development... She said the ministry is working on a five-year plan to implement policies and programmes for women entrepreneurs. The ministry has already established an Afghan Women’s Business Association, and plans to build

business centres throughout the provinces for women that will include training and workshops and to develop a marketing strategy for exporting products made by women.” [73q]

6.245 On 22 December 2004, a report by the UN Secretary-General advised:

“The Constitution provides for a minimum representation of women in both houses of parliament. According to article 83 of the Constitution, at least two women should be elected from each province with the aim of guaranteeing a minimum of 68 seats or 27 per cent for women in the lower house, which consists of 249 seats and is proportional to the population in the provinces. This provision was included in the Constitution as a result of intensive lobbying and advocacy by women in the Government and non-governmental organizations (NGOs). For the house of elders, the Constitution provides in article 84 that the President appoints one third of the members, of which 50 per cent are to be women.” [39I] (p7)

6.246 In the same report, the UN Secretary-General said:

“There is a growing number of national NGOs working on women’s issues... The growing involvement of women in NGOs and community groups is an important opportunity for women to increase their role in public life. Consequently, any reports of targeted attacks and threats against women’s rights advocates must be taken seriously, and stronger measures are needed to ensure safety and to identify and bring to justice those who seek to undermine the work of women’s NGOs.” [39I] (p16-17)

6.247 The UN Secretary-General’s report also noted that “The Ministry of Women’s Affairs continued to gradually extend its reach from Kabul to 31 provincial departments of women’s affairs. [39I] (p8) On 20 December 2004, IRIN reported that:

“Afghanistan’s Ministry of Women’s Affairs (MOWA) is seeking employment opportunities for tens of thousands of unqualified women in the country. The initiative is part of newly created UN backed employment services centres which are expected to operate in nine provinces of the country, according to MOWA. The centres will be established to tackle unemployment and provide training opportunities for unqualified job seekers, according to the International Labour Organisation (ILO).

‘Unemployment is very, very high among women. In fact most Afghan women are dependent on men as they lack skills due to illiteracy and years of conflict,’ Habiba Sarabi, Afghan women’s affairs minister, told IRIN. The minister established the first women’s employment centre in Kabul last Thursday. Sarabi said the only skill most of the women job seekers had was tailoring and embroidery, which was not applicable to the current labour market...

Women suffer not just a lack of skills but also cultural barriers to the world of work. In many rural areas of male-dominated Afghan society, women are not allowed to even leave the house... Meanwhile, according [to] Sarabi, in some provinces MOWA was not even able to find capable women to work in the women’s affairs departments. ‘We could not find a single woman to work in a MOWA department in certain provinces of the south,’ she said. More than 25 percent of work-eligible people are jobless and most of these need proper training to gain up-to-date skills. ‘There are 260,000 civil servants in the government and only 25 percent are

women,' Mohammad Ghaus Bashiri, deputy ministry of labour and social affairs, told IRIN." [36a]

6.248 The HRW Afghanistan World Report 2005, published on 13 January 2005, noted:

"Afghan women who organise politically or criticize local rulers face threats and violence. Soldiers and police routinely harass women and girls, even in Kabul city. Many women and girls continue to be afraid to leave their homes without the burqa. Because many women and girls continue to fear violence by factions, many continue to spend the majority of their time indoors and at home, especially in rural areas, making it difficult for them to attend school, go to work, or actively participate in the country's reconstruction. The majority of school-age girls in Afghanistan are still not enrolled in school." [17f] (p3)

6.249 A paper by the Asia researcher for the women's rights division of Human Rights Watch on the struggle for rights faced by women in Afghanistan was published on 1 March 2005. The paper noted:

"In theory, women's political rights are clearly outlined in the new constitution. It guarantees men and women equal rights and duties before the law, and reserves a quarter of the seats in the lower house of parliament, the Wolesi Jirga, for women. One-sixth of the upper house, the Meshrano Jirga, is also reserved for women, by presidential appointment. In practice, things look very different. Independent candidates face violent retaliation if they run campaigns advocating justice and women's rights. The worry is that the only women who will feel safe enough to stand [in the parliamentary elections] will be compliant daughters, sisters and wives of local commanders, or other proxies, who promise to toe the party line." [17h] (p1)

6.250 The paper continued:

"Women still struggle to participate in the country's evolving political institutions. This is not just a question of social expectations, or about the conservatism of Afghan society, it is to do with power. Those who put their heads above the parapet powerfully describe the dangers that they face. From Kabul to Kandahar to Herat, women talk of how the failure of disarmament and the continued dominance of regional warlords threatens their ability to work and speak freely.

Women aid workers, government officials, and journalists face harassment, violent attacks, and death threats. Those who challenge the powerful, conservative elements of the country's political structures are targeted because they can be made into chilling examples for other women considering political activity." [17h] (p1)

6.251 The same paper also noted:

"Part of the underlying problem is that many of the men who replaced the Taliban share the same views on women that made the Taliban so notorious. But another key reason is that the United States and its allies have helped prop up regional warlords and their factions – many with atrocious human rights records – in the fight against the Taliban and Al Qaeda. These warlords have had a chokehold on regional and local governments.

There has been no coherent strategy for helping President Hamid Karzai remove the warlords from power and replace them with civilians loyal to the central government. The replacement of General Mohamed Qasim Fahim as defence minister in Karzai's new cabinet, is welcome. However, the president failed to appoint women to powerful cabinet posts, relegating them to traditional roles overseeing ministries for women and young people. And at the local level, many influential provincial governors – in effect, more militia leaders than civilian governors – remain in place.” [17h] (p2)

6.252 On 9 June 2005, BBC News reported that President Karzai had appointed former Women's Minister, Habiba Sarabi, as governor of Bamiyan province. She is Afghanistan's first female governor. [25w]

6.253 The UNHCR paper dated June 2005 stated:

“Any woman who works in the public sphere of life, smokes or dresses in non-traditional clothing runs a high risk of being perceived as ‘loose’ or even as a prostitute. She has crossed gender boundaries, which customarily defines the woman's place as in the home. Return to Afghanistan, be it to urban or rural areas, therefore invariably means to conform to conservative and traditional standards of behavior in order to be safe. Pressure to conform is very strong, both from within families and communities, as well as by the public. The conduct of women in the workplace is carefully watched. Interaction with the opposite sex is frowned upon and can put Afghan women and their reputation in trouble. A ‘westernized’ woman would only be able to continue to live the life that she was accustomed to abroad if she enjoys strong social protection. That would be more possible in Kabul than in the Provinces. Women returning from Iran have expressed frustration at the lack of available public and social opportunities and activities for women. In Iran, they were allowed to go out by themselves to shop, walk in the park, visit relatives and engage in other social activities. Such possibilities hardly exist in Afghanistan. Many women do not wish to wear a burka or chador but give in to these pressures out of fear of harassment or bringing shame to their families.” [11b] (p54)

(See also [Freedom of Movement](#) for further information)

WOMEN'S RIGHTS ACTIVISTS

6.254 The HRW report “Between Hope and Fear”, published on 5 October 2004, reported on the situation for women's rights activists:

“Politically powerful military factions, the Taliban, and conservative religious leaders continue to threaten and intimidate women who promote women's rights. Human Rights Watch interviewed a wide range of women targeted for intimidation and harassment. These women had chosen to participate in public life as journalists, potential political candidates, aid workers, teachers, and donors. Women whose behavior challenged social expectations and traditional roles also faced harassment. In other cases, factional leaders or Taliban have launched rockets and grenades against the offices of women's development projects, such as those providing health, literacy, and rights awareness programs. Such symbolic attacks sent a clear message that women and girls seeking to claim the most basic rights could face retaliation.

Continuing violent attacks and threats against women in the public sphere have also created an environment of fear and caution. Women's rights activists and journalists carefully word their statements or avoid publishing on some topics because they are afraid of violent consequences. Many women, ranging from community social workers to Afghan U.N. officials, told Human Rights Watch they wore burqas when traveling outside of Kabul. These decisions were made not out of choice, but compulsion due to the lack of safety guarantees. Many women blamed the failure of disarmament, the entrenchment of warlords in both regional and central governments, and the limited reach of international peacekeeping troops as the reasons why they felt unsafe." [17j] (p11)

6.255 The HRW report continued:

"Using threatening phone calls, 'night letters,' armed confrontations, and bomb or rocket attacks against offices, factional and insurgent forces are attempting to scare women into silence, casting a shadow on the Afghan women's movement and governmental attempts to promote women's and girls' development. [Note: 'Night letters' refer to threats or letters that arrive at night, often directly to the recipient's home or office, demonstrating that whoever is threatening her knows where to find her.] Women rights activists expressed frustration at the inadequate security provided to them by the central government and international peacekeeping forces." [17j] (p12)

6.256 The HRW report also noted:

"Armed groups have targeted prominent women government officials who have been active in promoting women's rights. In mid-July, 2004, an official with the Ministry and Rehabilitation and Rural Development and prominent women's rights activist, Safia Sidiqui, was traveling in Nangarhar province. As her convoy left a gathering where she had been the key speaker, her vehicle came across three men who were apparently trying to plant a landmine ahead of her convoy. After a gun battle, one man committed suicide and the other two escaped. She echoed the frustration of many other women about the government's inability to provide adequate security: 'Sometimes the government cannot intervene and that is a fact. The [central] government does not have full authority in Afghanistan. The gun is still leading the people. The people with guns are the ones who cause problems...especially for women.'" [17j] (p12)

6.257 The October 2004 HRW report also gives detailed examples of the types of threats and intimidation experienced by Afghan women, including women's rights advocates and women's development projects, in the previous twelve months. (See source [17j] for more detailed information.)

6.258 The Amnesty International report dated 30 May 2005 stated:

"Afghan women human rights defenders arouse more hostility than their male colleagues because of their gender. Their activities are perceived as defying cultural, religious or social norms about the role of women in Afghan society. In this context, not only do they face human rights violations for their work as human rights defenders but even more so because of their gender and the fact that their work may run counter to societal stereotypes about women's submissive nature or challenge notions of the society about the status of women. In some instances, they face threats, acid attacks and fear of reprisals against their families..."

Despite this climate of intimidation and fear, numerous women's organisations, groups of female journalists and human rights activists have recently been established or re-surfaced. Afghan NGOs and activists have been extremely resourceful in ensuring women have a chance to find out about their organisations and support available." [7d] (p17-18)

WOMEN'S PARTICIPATION IN THE 2004 AND 2005 ELECTIONS

- 6.259 The Human Rights Watch Report on women's participation in Afghanistan's 2005 elections dated 17 August 2005 recorded:

"Positive reforms and grave obstacles mark Afghanistan's efforts to integrate women into its political process. Given the context of continuing insecurity, restrictive social norms about women's role in public life, and slow progress to prosecute warlords suspected of abuses, women have taken great risks to participate in Afghanistan's emerging political institutions..."

Women comprised approximately 12 percent of the [June 2002] Emergency Loya Jirga delegates. Intimidation, threats, and the participation of powerful commanders accused of war crimes marred the process. Many women participants felt they were prevented from giving any substantive input. Only a few women were able to speak, and some reported their microphones were cut off after five minutes. In contrast, powerful mujahidin leaders, some of whom are alleged war criminals, were given half-hour-long speaking slots. Despite pressure to withdraw and vote for Hamid Karzai, Massouda Jalal, a physician and U.N. staff member from Kabul stood for the presidency at the Emergency Loya Jirga and went on to win 171 votes, second to Karzai's 1,295.

Women participated with greater freedom in the [December 2003] Constitutional Loya Jirga. Intimidation still figured strongly, however, and many observers accused military factions of preventing some individuals from standing as candidates, buying votes, and unfairly influencing the election of delegates. Despite improvement compared to the Emergency Loya Jirga, many female delegates still faced threats and harassment during the proceedings, or censored themselves due to fear of retaliation upon return to their home communities. Human Rights Watch interviewed several delegates who left the country temporarily or delayed their return home because of such fears. Several women delegates subsequently faced retaliation for their participation in the form of harassment, dismissals from their jobs, and transfers to less desirable positions." [17d] (p7-8)

- 6.260 The HRW report also stated that "The Afghan government, international donors, and non-governmental organizations (NGOs) took many positive steps to encourage female voter registration in advance of the 2004 presidential election... On election day, despite threats by the Taliban and various logistical difficulties, in fact 40 percent of the voters were women." [17d] (p9) HRW also recorded that in provinces such as Herat, Daikundi, Faryab and Paktika, more than 45 per cent of voters were women. However:

"The percentage of women voters out of total voters in southern provinces was extremely low: Uruzgan (2 percent), Helmand (7 percent), Zabul (11 percent), and Kandahar (22 percent). In some areas, election officials did not recruit enough women poll workers to staff separate voting sites for women, likely preventing some women from casting their votes. A woman working as an election observer

in Kandahar province during the presidential elections said, 'One old man voted for all the family. He voted with twelve cards. A woman voted for her daughter-in-laws. The same thing might happen this year [2005].'

Obstacles to women's equal participation in the presidential election also extended to the sole female presidential candidate, Massouda Jalal. A cabinet member barred her from speaking at an Afghan New Year celebration in Mazar-e Sharif because she was a woman and the event was at the central religious shrine. Male government officials and other potential political candidates spoke, including [former] Defense Minister Mohammed Fahim and General Abdul Rashid Dostum. She also reported receiving death threats." [17d] (p9-10)

6.261 In a statement dated 17 August 2005:

"Human Rights Watch said that that a pervasive atmosphere of fear persists for women involved in politics and women's rights in Afghanistan, despite significant improvements in women's lives since the fall of the Taliban in late 2001. In the south and the east of the country, Taliban forces have reemerged and are trying to disrupt the elections, while in other areas local military commanders seek to influence election results and intimidate voters and women candidates, who often are not aligned with parties." [17e]

6.262 The first report on the Wolesi Jirga and Provincial Council Elections by AIHRC-UNAMA covering events from 19 April to 3 June 2005 stated:

"According to JEMB figures, over twelve percent of all candidates for the Wolesi Jirga and nearly nine of candidates for the Provincial Councils, are women. It is also noteworthy that over ten percent of the Kuchi candidates are women. The latter is in stark contrast to the Constitutional Loya Jirga where women were entirely absent from the Kuchi special elections. The fact that women from all provinces have registered as candidates for the Wolesi Jirga elections is significant and serves to illustrate that the participation of women in politics is gaining a degree of acceptance even in conservative areas. However, the registration of women for the Provincial Council elections fall short in a few provinces. In Uruzgan, there are no women candidates. In Zabul, Kunar, Nuristan and Nangahar, their numbers are insufficient to cover all seats allocated for women. The electoral law provides that where there are no female candidates, the seats allocated to them shall remain vacant until the next Wolesi Jirga elections...

On the whole, the number of female candidates is less than what could have been expected given the level of participation of women in the Presidential election. Several factors may account for this situation. Foremost among these is the fact that, while women were mobilized and encouraged to register by their communities and families to support candidates in the presidential election, a degree of ambivalence continues to exist in Afghan society regarding women serving as public figures. Women to a large extent internalize these norms and fear bringing dishonor to their families if they expose themselves to public critique by standing as candidates.

Moreover, the fact that women have limited access to money and resources restricted the ability of female candidates – particularly independents – to raise the 4,000 Afghanis required for registration. On the other hand, some female candidates linked to powerful elements – including political parties, government authorities and commanders – have received financial and political support from

their affiliates. Women also cite limited access to information about the nomination criteria and the election, as well as mobility restrictions, as factors contributing to low female participation in the candidacy process.” [48c] (p10)

6.263 On 12 August 2005, Eurasianet reported:

“Several of the women who have submitted their candidacy for September’s parliamentary elections in Afghanistan say they have been threatened with personal harm. Some of the threats reportedly come from Islamic militant groups as well as from ordinary people who oppose a public role for women in Afghan society. Some female candidates have also complained of a lack of funding and resources for their campaigns. Earlier this week, the Afghan women’s affairs minister called for the state to provide protection for female candidates.” [45c]

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MARRIAGE

6.264 The Danish fact-finding mission of March/April 2004 noted:

“According to the EU Special Representative, it is customary practice that young women are married against their will to older men, which contributes to a high incidence of suicide among young women.... The Vice Minister for Women underlined that forced marriages are widespread. It is also common that a 12-year-old girl has to marry a 50-year-old man. A woman runs the risk of being murdered by her family, if she does not marry the person whom the family has chosen. The source said that it is not in reality possible for a young girl to seek support from the authorities or the police against a marriage her parents have decided upon”. [8] (section 6.2.4) The AAWU [All Afghan Women’s Union] was also reported as saying that women are subjected to forced marriages. [8] (section 6.2.1) The President of the Supreme Court, however, held a different view and stated that according to Islamic law, it is not permitted to force women to marry against their will. He stated that a woman could always make a complaint to the courts in such a situation. [8] (section 6.2.4)

6.265 The Danish fact-finding report also noted that, according to the AAWU, a man can order his spouse to leave if he wants to remarry. She will then be forced to go to live with her family. “The man can go to the police after two or three months and say that his wife has run away, and she will risk being imprisoned. The source explained that it is very rare that a man will grant his wife a divorce, partly in respect of his own honour and partly because he might have to pay money to the divorcee.” The Vice-Minister for Women’s Affairs said that “It is common that women who run away from their husbands end up in prison. This creates major problems for women because after being imprisoned they no longer are regarded as honourable.” [8] (section 6.2.3)

6.266 The Amnesty International (AI) report dated 30 May 2005 recorded:

“There remains an absence of statistical data for recording births, marriages and deaths throughout almost all of the country. Local clerics conduct marriage ceremonies in communities but it is not clear if they keep records... Through the focus groups and individual interviews, Amnesty International was informed that underage marriages do occur and that the typical age varies from 12 to 16. They

believed that girls do marry younger and are generally perceived to be from economically deprived backgrounds with very little, if any education. According to a preliminary survey done by the German NGO Medica Mondiale (MM) the lack of data on child marriages is a huge barrier in understanding the scale of the problem. Their survey also revealed that child marriages are viewed as much more prevalent amongst poorer and illiterate families... Under Afghan law, the legal age for marriage is 16 for girls and 18 for men.” [7d] (p9-10)

6.267 The same AI report also noted that “A study conducted by the Ministry of Women’s Affairs in 2004 showed that 57 per cent of women surveyed were married before they were 16. Some were reported to be as young as nine. MOWA highlighted the negative impact of early marriage, including on a child’s health, the denial of education and the repeated childbirth and pregnancy.” [7d] (p10)

6.268 The AI report further noted:

“Under Afghan national law, forced marriage is a crime. The failure of the judiciary, the police and the wider society to treat forced marriage as a criminal offence, due to deep-seated attitudes towards women, has ensured that there is a consistent failure by the state to initiate criminal proceedings against perpetrators... Arranged marriages are the dominant, almost exclusive form of marriage in Afghanistan. However, research has indicated that there is a degree of coercion in the vast majority of marriages, with the Ministry of Women’s Affairs placing the figure as high as 80 per cent.” [7d] (p8)

6.269 The AI report dated 30 May 2005 also stated that “Under the new Constitution, women do not have the right freely to choose a spouse; women and men do not have the same rights and responsibilities in marriage and at the time of termination of marriage; and mothers and fathers do not have clearly shared responsibilities and rights in the raising of their children.” [7d] (p25)

6.270 A UNHCR report dated June 2005 stated:

“Marriage is generally arranged in Afghanistan and females do not participate in the decision making process. The term ‘forced marriages’ is used to describe the situation in which a family ‘gives’ its daughter to an economically or socially more privileged individual, either as partial repayment of a financial debt or to realize a financial gain, particularly if the family is poor or destitute. Under-age marriages remain a common practice, as well as exchange marriages, whereby the girl from one family is married to a boy from another, and in exchange, his family is married into his wife’s family. Cousin marriages are one form of this exchange marriage. The reason for this phenomenon is general poverty. Dowries for girls range between \$400 and \$1600, which most single men can not afford. Exchange marriages are also common in order to pay debts or resolve disputes.” [11b] (p53)

DIVORCE

6.271 On 27 August 2004, the Institute of War and Peace Reporting (IWPR) reported:

“Although the numbers are still small, women are increasingly turning to the courts to end their marriages. Since the fall of the Taleban, more and more women have been reclaiming the legal right to initiate divorce that they always had but were too afraid to exercise under the mujahedin and Taleban regimes.

According to Aziza Adalat Khwa Kohistani, an attorney who works for Medica Mondiale, an international women's organisation operating in Kabul, women have always been able to seek a civil divorce on the following grounds; if her husband cannot financially support her; disappears for a set period of time; harms her without cause; or is weak. Kohistani said that 'harm' covers inhumane treatment while 'weak' can apply to men who are impotent, insane, or have a serious disease that cannot be cured or treated. Women now have an additional option that was not available under the Taleban. Hamida, the president of the family court in Kabul, which handles divorce cases in the capital, said a woman will also be granted a divorce if her husband agrees to end their marriage and she consents to pay him an agreed amount of money.

Interpretation of the nation's divorce laws often depend on attitudes of the regime in power. According to Ali Mateen, a family court judge, a husband needed to be missing for 90 years before a woman could be granted a divorce under the Taleban regime. But under the current regime, that period has been reduced to three years. This difference is because the Taleban follow the Hanafi branch of Islam, and the current administration adheres to the Shafee variant." [73g] (p1)

- 6.272 The IWPR also reported that "According to Mateen, the family court in Kabul, which was founded on March 21, 2003, granted divorces to 39 women during the first seven months of this year, compared to 22 for nine months in 2003. Outside the capital, women can also file for a divorce in district courts, but there was no available data on how many were granted." According to the family court judge, the court usually attempted to reconcile the couple before granting a separation. The court also has the authority to block marriages and the judge said that 17 potential unions have been stopped so far this year. [2004] Although men could initiate divorce proceedings through the courts, most men preferred to obtain divorces without going through the court system and this is their right according to civil law. [73g] (p2-3)
- 6.273 The IWPR report of 27 August 2004 also noted that, according to a Kabul city government official, a man could divorce his wife under Islamic law in three ways: by declaring to her without becoming angry that she is no longer his wife and that they are divorced; or by angrily telling his wife that she is divorced; or by telling her three times that they are divorced. The report noted that "If he later wants to take her back as his wife, he could do so without having to remarry her in the first case; would have to remarry her in the second; and could not have her back as a wife in the third (she is free to marry someone else after three months, but until she remarries, he will be responsible for her living costs)." [73g] (p3)
- 6.274 IWPR noted that, according to Kohistani, the attorney working for Medica Mondiale, Afghanistan still has further to go in implementing civil law and women are still learning about their rights. "The difference between the capital and the provinces is that [in the latter] we have warlords, people are using weapons, and women still do not know their rights and they feel they cannot say anything against their husbands,' Kohistani said. In an effort to mitigate this, the ministry of women has formally requested to the government that the family court be established in all the provinces, said Hamida, president of the family court. This would take family cases out of the district courts to a more private setting." [73g] (p3-4)
- 6.275 The Amnesty International report dated 30 May 2005 noted:

“Divorce is traditionally viewed as un-Islamic in Afghan society and contradictory to Afghan culture and customs. As such, tradition and custom leave women no choice but to stay in abusive marriages; support from other family members, including women, is rare. Women and relatives who support victims have been killed for applying for a divorce. The deputy prosecutor in Kandahar informed Amnesty International of a case in early 2002 where a woman was forced into marriage by her parents and suffered years of abuse. She applied to the courts in Kandahar for a divorce and was accused by the judge of lying, as she could not prove the abuse. Her husband subsequently divorced her because she had complained. After the divorce, the ex husband killed the woman’s father, mother and sister of his ex wife and became a fugitive. Amnesty International is not aware of any state instigated investigation into the deaths of the victim’s family members or any effort by the state to arrest the perpetrator.” [7d] (p12)

(The AI report details further examples of individual cases. Refer to source [7d] for more information.)

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SELF-HARM

6.276 The report of the UN-appointed independent expert of the Commission on Human Rights dated 21 September 2004 noted that the absence of a legal and social support system had left many women trapped in abusive situations and had possibly led to an increased incidence of suicides, in particular through self-immolation. [39k] (para. 56)

6.277 The AI report dated 30 May 2005 stated:

“Over the last two years, there have been increasing reports of Afghan women and girls attempting suicide by dousing themselves with petrol and setting themselves alight. Some have died whilst others suffer horrific burns for life. Although this phenomenon has been most commonly reported from Herat, it is not limited to the one city but is taking place across the country. Such acts of desperation suggest that women have a sense of being overwhelmed by their situation, perhaps through increased pressures, discrimination and violence...

From 22 September 2003 until 19 April 2004, the AIHRC office in Herat documented 380 cases, some of which were attempted suicides and others that actually resulted in death. Eighty percent are attributed to family violence, but it is not clear if family members are setting the women alight or if the victims have committed the act independently. From 20 March to 21 September 2004, 184 cases were reported with again eighty percent due to violence from a family member. Between 22 September and 21 December 2004 eighty cases were reported, again the overwhelming majority of the victims reported that they had attempted to kill themselves as a result of violence in the family.

According to the AIHRC in Herat, the decrease in number of cases of self immolation in the latter part of 2004 was the result of the AIHRC workshops and seminars, the increase in families approaching the office of the AIHRC to discuss family problems and the appointment of a ‘security commander’ as a contact point with families of burns victims...Medical staff treating the victims have pointed to forced and underage marriages, restrictions on women’s movement by husbands

and family members and violence in the home as causal factors in such acts of self-harm...In a welcome move, in March 2004, a government fact-finding mission into the causes of self burning in Herat, and composed of representatives of ministries such as MoWA and the Ministry of Interior, concluded that they could not determine the true number of suicides but 'forced marriages, lack of education and unacceptable customs are the main reasons for the suicides'. Amnesty International is not aware of any arrests in connection with the suicides." [7d] (p14-15)

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IMPRISONMENT OF WOMEN

- 6.278 The report of the UN-appointed independent expert of the Commission on Human Rights dated 21 September 2004 noted:

"The human rights situation of women in Afghanistan remains of serious concern. Particularly worrisome is the detention of women for offences against social mores, women and couples under threat of being killed by their families for 'honour crimes' and death threats that often follow a woman's escape from a forced or arranged marriage. Complaints and reports of forced marriages, including of girl children, have not decreased. Additionally, the absence of a legal and social support system has left many women trapped in abusive situations and has possibly led to an increased incidence of suicides, in particular through self-immolation." [39k] (para 56)

- 6.279 The report of the UN-appointed independent expert also stated:

"Because of the absence of detention facilities for women in the districts (there are only three detention facilities for women in the country), women found to be guilty of acts that may not constitute legal offences are confined to the personal custody of tribal leaders and others. These women are sometimes forced into slave-like conditions outside the reach of the law and are reportedly subject to sexual and physical abuse. The charges brought against them are reported to arise in large part out of allegations of 'immoral conduct', which does not, however, constitute a legal violation. In addition, some cases allegedly involve crimes committed by spouses and fathers for which the women are forced to accept responsibility." [39k] (para 62)

- 6.280 A later report by the independent expert dated 11 March 2005, noted:

"Women are sometimes detained in private homes as the result of decisions taken by customary law actors or forced to marry as compensation for killings, creating highly abusive situations. The independent expert has serious concerns that women are convicted on the basis of false evidence and without access to legal representation. In addition, women are often denied special detention facilities and are commonly detained with their children, often in cells that hold more children than adults. No additional food, blankets, beds or other material is provided for these children." [39i] (para 30)

- 6.281 The International Committee of the Red Cross's Afghanistan Annual Report 2004, published in June 2005, noted that "A countrywide shortage of female health professionals made it particularly hard for prisons to provide health care for women detainees." [42c]

6.282 An Amnesty International report dated 30 May 2005 stated:

“In August and September 2004, Amnesty International visited state prisons in Kabul, Kandahar and Mazar-e-Sharif. The bulk of women in the prisons had experienced forced marriages and violence in the home. Except for some women in Kabul Welayat jail, they had no legal representation.

Prison conditions are abysmal and do not conform to minimal international standards. Endemic problems of overcrowding, poor sanitation and insufficient food were rife, particularly in the prisons visited in Kandahar and Mazar-e Sharif. Some inmates were accompanied by very young children; there were 30 children ranging from two months to 12 years in Kabul prison. Mazar-e Sharif prison contained six women and two babies: 10 and three days old, and a one year old. The two infants had been born in prison. Women were sleeping six to a room and the female prison officer also slept with the prisoners.

There were 54 women prisoners in Kabul. Fifteen were imprisoned for the offence of ‘running away’. Amnesty International interviews in Kandahar revealed that almost all the prisoners had been forced into marriage and been victims of violence from husbands, male relatives and in some cases, female relatives. Some had fled forced marriages and eloped with boyfriends. In many cases, families had requested the police to arrest women. A few were incarcerated to protect them from reprisals from families and husbands.

Pre-trial detainees were mixed with convicted offenders and most had been on remand beyond their pre-trial period. Not a single prisoner had been provided legal representation. The Police Commissioner of Kandahar told Amnesty International delegate that there was not a single woman in prison who had not committed a ‘sin’ and that there were no cases of women being imprisoned following the need for protection from families or husbands.

Amnesty International also received unconfirmed reports of women being sexually abused in Kabul prison. These included accounts of women being taken out of the prison by police officers, with the alleged collusion of certain prison guards, raped and returned to the prison. In another unconfirmed report, a female inmate was rumoured to have disappeared, her whereabouts unknown.” [7d] (p21)

6.283 The Foreign and Commonwealth Office (FCO) 2005 Annual Human Rights Report stated that, following an allegation in 2004 that prison officials at the Walayat detention facility in Kabul had beaten and sexually abused female prisoners, the prisoners had now been moved to a female-only detention centre [15d] (chapter 2 p33)

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CHILDREN

OVERVIEW

6.284 The Foreign and Commonwealth Office’s 2004 Annual Report on Human Rights noted that “Afghanistan is a signatory to the Convention on the Rights of the Child. In practice, however, social attitudes and the lack of functioning judicial institutions

mean that child rights are poorly protected in many parts of Afghanistan.” [15a] (chapter 1.3)

- 6.285 The US State Department Report 2004 (USSD 2004), published on 28 February 2005, recorded:

“Local administrative bodies and international assistance organizations took action to ensure children’s welfare to the extent possible; however, the situation of children was very poor. A back-to-school campaign launched by the Ministry of Education and coalition supporters increased school enrollment from 4.2 million children in 2003 to over 4.8 million during the year...Child abuse was endemic throughout the country. Abuses ranged from general neglect, physical abuses, abandonment, and confinement to work in order to pay off families’ debts. There were no child labor laws or other legislation to protect child abuse victims... Child trafficking was widespread and continued to be a problem during the year. Police were investigating 85 cases of children reportedly kidnapped and killed for their organs.” [2d] (section 5)

- 6.286 The USSD 2004 Report further noted that “Children under 12 years were incarcerated with their mothers [in detention]. Juveniles (under 18 years) were detained in juvenile correctional facilities; however, juveniles charged with murder were detained in adult facilities but were assigned to a separate area within the facilities.” [2d] (section 1c) The September 2004 report of the UN-appointed independent expert of the Commission on Human Rights in Afghanistan advised that children and juveniles are commonly held in the same cells as violent adult criminals. [39k] (para 60)

- 6.287 The USSD 2004 Report recorded: “While most girls throughout the country were able to attend school, a climate of insecurity persisted in some areas. On April 28 [2004], suspected Taliban burned and destroyed two primary schools in Kandahar Province. Girls’ schools also continued to be the target of attacks by Taliban and other extremists. The Government and international donors built more than 2,000 schools during the year.” [2d] (section 5)

(See also Section 5 [Educational System](#))

- 6.288 In January 2004, the United Nations estimated that “97 percent of children under 16 have witnessed violence and 65 per cent have experienced the death of a close relative.” [39h]

- 6.289 A UNICEF donor update report dated 30 September 2004 noted:

“This month, new data has been released on the condition of women and children in Afghanistan in the form of the 2003 Multiple Indicator Cluster Survey (MICS) findings. Key indicators highlighted in the report include:

- 1 in 9 children born in Afghanistan will probably die before the first birthday.
- 1 in 6 children will probably not survive until the age of five.
- The national illiteracy rate amongst Afghans over the age of 15 is 71 per cent.
- Nearly 60 per cent of primary school age girls are not attending classes.

- Nearly 90 per cent of births take place at home, and a similar percentage are attended by unskilled birth attendants rather than properly trained health practitioners.
- Diarrhoeal disease affects nearly 30% of children under the age of five, but treatment of the condition is limited, with nearly half of children suffering from diarrhea [sic] not being given adequate fluids during their illness.
- 1 in 5 children under five years old suffers from acute respiratory infections, but nearly three-quarters of these children are not taken to hospital or other health centres for treatment.
- Nearly 60 per cent of Afghan households do not have a safe water point, while one-third of households do not have a sanitary latrine.
- Nearly 7 per cent of primary school age children age [sic] work for an income.
- Nearly 6 per cent of children do not live with both parents". [44b] (p1-2)

6.290 A UNHCR report of June 2005 stated:

"Afghanistan acceded to the Convention on the Rights of the Child in 2002 and has strengthened legal provisions to protect children. However, in the current situation, characterized by weak rule of law and governance structures, the presence of local commanders, high levels of criminality with reports of incidences of child trafficking, as well as child labor and forced recruitment, children continue to be exploited. Many children are working on the streets of Kabul, Jalalabad, and Mazar-I-Sharif with numbers increasing. The child labor force in Afghanistan is predominately boys aged 8-14 with a smaller numbers [sic] of girls 8-10 years old. The main reasons that children work are poverty-related." [11b] (p62)

6.291 On 16 June 2005, UNICEF reported:

"Nearly 1,000 street working children in the Afghan capital of Kabul will benefit from a new agreement signed between the local non-governmental organization Aschiana and UNICEF. The agreement secures Aschiana's use of two sites in the city to provide training and education for the children, as part of an on-going partnership between the two organizations... An Aschiana survey in 2002 estimated that there were at least 37,000 children working on the streets of Kabul and that number has probably increased in recent years." [40ao]

(See also Section 5: [Legal Rights](#) for details of revised Juvenile Code from May 2005)

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CHILD LABOUR

6.292 The USSD 2004 Report, published on 28 February 2005, noted that "The Constitution prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. Children from the age of 6 often worked to help support their families by herding animals,

collecting paper, scrape metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines.” [2d] (section 6d)

6.293 On 28 June 2004, IRIN reported:

“While millions of Afghan children have returned to school following the collapse of the Taliban regime in late 2001, tens of thousands of school-age youngsters, restricted by economic hardship, must still work on the streets of the Afghan capital, Kabul, to sustain their families... The children, both male and female, often assume the duty or responsibility of earning income for their families after the main breadwinners are killed or disabled. For many children in Kabul, the families are unable to provide even the basics. To support the family, the children have to work to earn something for food, often under particularly dire conditions.” [40i]

6.294 The IRIN report also noted that, according to a UNICEF spokesman, an estimated 40,000 children were now working on the city’s streets. Aschiana, an NGO, is working to cut the number of children working on the streets and they have trained 2,600 children in a variety of vocational fields since 1995. The report noted that “According to UNICEF, in order to better assist children who do work, or who live in vulnerable families, Afghanistan needed a strong social care system. ‘The fact that so many children have to work in the first place is an indication of the economic hardship and stress faced by many Afghan families,’ the UNICEF official said.” [40i]

CHILD KIDNAPPINGS

6.295 In October 2003, a report by the International Organisation for Migration noted:

“Women and children, including girls and boys, have been abducted in provinces across Afghanistan. People are taken by armed men, as well as by lone individuals. The individuals abducted, aged 4 years to adulthood, (and) are held captive between 1-2 days to many months. They have been held in locations in the city where the abduction occurs, as well as taken to other provinces. During captivity, they are subjected to perpetual rape, as well as forced to perform domestic labour (the latter pertains primarily to women and girls). Threats of abductions are also occurring. The captives’ actions, movements, and freedom are completely controlled by the abductors. Sexual services demanded of the victims vary in terms of whether he or she is kept for the exclusive use of one individual, or shared with others.

Substantial anecdotal reports indicate that boys, as young as 4 and 5 years of age, are frequently abducted by armed men in the South. They are held overnight, and occasionally for up to 2-3 days. When the boys are released, there is evidence of rape, i.e. rectal bleeding. There is a trend of sexual abuse of boys in Afghanistan, particularly by those who bear arms. Although homosexuality and paedophilia is against Afghan law, such sexual interaction does not constitute adultery or premarital sexual relations. Men, ‘particularly military commanders...take boys as young as 14 to wedding parties and other celebrations, to get them to dance and, in some cases, have sex with them. They use these boys as their slaves.’” [38a] (p36-37)

6.296 Radio Free Europe/Radio Liberty (RFE/RL) reported on 26 November 2004:

“In an effort to crackdown on child kidnapping, President Hamid Karzai issued a decree in June [2004] imposing the death sentence on those found guilty of killing a kidnap victim. He also increased the jail term for those guilty of injuring an abducted child. At the same time, the decree called upon the attorney-general in Kabul and related offices to investigate child-kidnapping cases speedily and forward them to the appropriate court. Afghanistan saw its first prosecution for child kidnapping in June, when three men were tried in a Kabul court. The court sentenced two of the defendants to five years in jail and the third man to four years.” [29e]

6.297 On 1 August 2004, Reuters reported that “Two child kidnappers suspected of removing captives’ body parts for sale had been arrested in southern Afghanistan and could face the death penalty, a local official said yesterday... Afghan authorities have highlighted the problem of child kidnapping in the country, which they say is alarmingly common. At least 47 cases are being investigated in Kabul alone.” [24d]

6.298 A September 2004 UNICEF update advised:

“By August 2004, 270 Afghan children (suspected of having been trafficked) were deported from Saudi Arabia. The children received interim care support in the transit centre in Kabul, run by the Ministry of Labour and Social Affairs (MoLSA) with UNICEF support. Reintegration assistance has recently started for these children in northeast provinces. A pilot project to raise awareness among children on Commercial Sexual Exploitation of Children through children’s groups is reaching 500 children in Badakhshan Province. A committee was established for Combating Child Trafficking and the Nation Plan of Action to counter child trafficking was finalized in July [2004], soon to be presented by the MoLSA to the Cabinet for its approval.” [44b] (p3)

6.299 The RFE/RL report of 26 November 2004 noted that “Each year several hundred children – both boys and girls – are kidnapped in Afghanistan. The children are often sold as brides into forced marriages or as slaves to be worked hard and, sometimes, sexually exploited. Ill treatment does not always end with the children’s release from their abductors.” RFE/RL reported the case of a 12-year-old girl who was kidnapped on her way home from school in the city of Kunduz in northern Afghanistan. She was detained for 18 days during which time she was raped before being released by law-enforcement agencies. According to the report the girl now lived in the home of a private Kunduz resident, chosen by a Council of Elders to protect her from possible honour killing by her relatives for her perceived immoral behaviour. [29e]

6.300 On 7 January 2005, the Institute of War and Peace Reporting (IWPR) reported that “The troubling practice of powerful commanders kidnapping and sexual abusing young boys appears to be continuing in Afghanistan, despite efforts to build a civil society... Abdul Ghafoor Baseem, chief of Baghlan’s human rights department, fears the problem may be getting worse. He said that in November [2004] he received 12 reports of child rape in the province, a number he described as ‘unprecedented’.” [73r]

6.301 On 31 January 2005 the Institute of War and Peace Reporting (IWPR) reported an interview with Dr Sima Samar, the head of the AIHRC. IWPR noted:

“One of the most active campaigns the commission [AIHRC] has done, together with non-governmental organisations and the United Nation’s Children’s Fund, is to try to tackle the growing problem of kidnapped children, Samar said. Several hundred boys and girls have disappeared over the last year-and-a-half, abducted for sexual abuse, slavery, child marriage and prostitution. Some are taken abroad while others are moved to another part of Afghanistan. To combat this, Samar said, the commission has worked on a National Action Plan against child kidnapping. In 2004, the government responded to the problem by issuing tougher sentences for those convicted.” [73o]

6.302 On 10 March 2005, IRIN News reported:

“Government officials and human rights activists have been alarmed at the increasing number of child kidnappings in the southern Kandahar province after several kidnapped children were allegedly killed when their parents failed to meet ransom demands.

Thousands of people rallied in Kandahar on Sunday calling for action to arrest and prosecute the kidnappers... Protesters IRIN interviewed were angry no measures had been taken against child abductions in the Kandahar region... Child kidnapping is still a serious issue in many parts of Afghanistan. According to officials at the interior ministry in Kabul, at least 200 children were kidnapped during 2004. The problem existed in the northern province of Mazar-e Sharif, the northeastern province of Kunduz, Takhar and Badakhshan and now it is becoming an issue in the south, government officials said in Kabul after Sunday’s protest... The president said terrorists and anti-government elements were behind these acts. Karzai assigned Afghan Interior Minister Ali Ahmad Jalali to Kandahar to look into the issue closely... The UN’s children’s agency UNICEF said it was also working to eradicate the problem.” [36h]

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CHILD SOLDIERS

- 6.303 The USSD 2004 Report, published on 28 February 2005, noted that “In May 2003, President Karzai issued a decree that prohibited the recruitment of children and young persons under the age of 22 to the Afghan National Army.” [2d] (section 5)
- 6.304 On 9 February 2005, the UN Secretary-General reported that the recruitment and use of child soldiers by factional armed groups had declined significantly. The report noted that “In the reporting period [November 2003 to December 2004], the United Nations country team could not obtain specific and reliable information on which factional armed groups may have continued to use children. No commitments have been made by these groups to end this practice.” [39e] (p2-3)
- 6.305 On 26 July 2005, IRIN News reported that the UN had begun demobilising hundreds of child soldiers in western Afghanistan: “According to UNICEF, there are an estimated 8,000 child soldiers in the entire country. Up to 4,000 boys – the majority aged between 14 and 17 – have already been demobilised and successfully reintegrated in north, northeast, east and central Afghanistan since the programme was first launched in February 2004... To date, the programme has been operating in 17 of Afghanistan’s 34 provinces. After completion in the west, the programme is expected to begin in the south.” [36d]

- 6.306 The same IRIN report also noted, however, that despite the progress made with demobilisation, there were still some children embedded with local commanders in rural areas of the north, north-east and central regions. “According to local analysts, children are still sexually abused and often made to dance for the entertainment of local commanders...Meanwhile, a commander for the US-led coalition forces in Afghanistan said on Saturday that Taliban-led rebels were being forced to recruit children following the demise of their command structure – despite a recent surge in violence.” [36d]

(See also [Section 5 Educational System](#) paragraphs 5.230 – 5.239 and [Medical Services](#) paragraphs 5.194 – 5.200)

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CHILD CARE ARRANGEMENTS

- 6.307 On 28 July 2004, IRIN noted that a report by the Afghan Ministry of Labour and Social Affairs and UNICEF issued that month emphasised the need for more dramatic measures to be taken for children deprived of parental care. The source noted that there was a range of institutions, from orphanages to hostels and day care centres which children of beleaguered families were encouraged to attend. They provided food, education or vocational training. [40ab]
- 6.308 The same report also noted that “Following decades of neglect of support structures, coupled with a general decline in social services as a result of Afghanistan’s isolation from the international community during the Taliban era, many communities have grown reliant upon orphanages to care for such children, depriving them of individual parental care and attention.” IRIN noted that “The report also underlined how children who had lost one or both parents face discrimination in wider society, from other youngsters, relatives and people in the community.” According to the UNICEF officer, if family and community-based care alternatives were to be supported, awareness-raising measures would be needed to tackle discrimination against children who did not have the support of parents.” [40ab]
- 6.309 A UNICEF donor update dated 30 September 2004 noted:
- “An assessment on the situation of children in institutions, jointly carried out by MoLSA and UNICEF in 2003, revealed that over 80% of the children in the institutions have a living parent and that placement of children in orphanages is being used as coping mechanism by vulnerable families. As a result, the government has made a commitment to adopt a non-institutional approach and support family-based alternatives for these children. UNICEF has been providing technical support to MoLSA, to develop a Plan of Action for the reform of social protection systems and services and enhance technical capacity of the Ministry.” [44b] (p4-5)
- 6.310 On 29 November 2004, the Institute of War and Peace Reported (IWPR) noted:
- “Following the release of a report called “Children Deprived of Parental Care in Afghanistan – Whose Responsibility” this summer calling for a national plan of action for children, the Afghan government, UNICEF, and the British non-government group Children in Crisis launched a programme designed to reunite

children now housed in orphanages with their parents... There are 35 public and private orphanages in Afghanistan, according to Mohammad Ihsan Asadi, head of the department of planning in the ministry of labour and social affairs. They care for over 8,300 children from 25 provinces, about 1,400 of them girls. Nine of those orphanages are run by non-government organisations, NGOs, and 26 are state-run." [73s]

6.311 The UNHCR report dated June 2005 stated:

"The few existing orphanages in Kabul and marastoons [see below] in other main cities, mostly run by the government and the Afghan Red Crescent Society, are no durable solution for unaccompanied and separated children. They have very strict criteria for temporary admission. Boys 15 or over are not admitted. Children and adolescents under 18 years of age who do not have families, close relatives or extended family support in Afghanistan are therefore at risk of becoming homeless and risk further exploitation. Where family tracing and reunification efforts have not been successful and special and coordinated arrangements cannot be put in place to facilitate safe and orderly return, UNHCR recommends that such children be allowed to remain in the country of asylum." [11b] (p62)

[Note: "Marastoon is a Pashtun term meaning, 'help the poor people'. The Afghan Red Crescent Society's Marastoon homes seek to assist the very poor, homeless and vulnerable to live a relatively normal life, and to benefit from skills training toward improving their chances of economic self reliance, and for reintegration into their original communities." Source: IFRC [42b] (p7)]

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HOMOSEXUALS

6.312 The Danish fact-finding mission of March/April 2004 reported that, according to UNHCR and the CCA (Co-operation Centre for Afghanistan) homosexuality is forbidden in Afghanistan. UNHCR noted that it is difficult to say anything definite about conditions for homosexuals because there is no one who is prepared to declare that he is a homosexual or whose homosexuality is publicly known. The CCA knew of the existence of homosexuals but had never heard about homosexuals being punished. UNHCR were unaware of any cases under the new Government in which homosexuals had been punished. UNHCR also noted, however, that behaviour between men which would arouse curiosity in many western countries such as holding hands, kissing or embracing is not considered explicitly sexual behaviour in Afghanistan. UNHCR were of the view that homosexuality was common in Afghanistan due to the strong degree of separation between the sexes. Moreover, according to the source, homosexuals do not have problems provided they keep their sexual orientation secret and do not overstep other social norms within their family. For example, men of homosexual orientation can be forced into marriage and a possible conflict would only arise if the man refused to marry. [8] (section 6.3)

6.313 The US State Department Report 2004 published on 28 February 2005 recorded that "The law criminalizes homosexual activity, and this was enforced in practice. In August [2004], a foreign national was arrested in Kabul, initially on the charge of homosexual rape; however, the charges were later dropped." [2d] (section 5c)

6.314 On 1 September 2005, the Pakistan Tribune reported that “Afghan officials say homosexuality remains a crime, even though it no longer brings the brutal punishment handed out under the Taliban before its ouster in 2001. Under its harsh interpretation of Shariah, or Islamic law, homosexuals were crushed to death by having walls toppled on them, although Afghans say closet gay relationships remained widespread.” The article also reported a prosecutor involved with the case of an American arrested in August 2004 for having homosexual relations [see paragraph 6.313 above] as saying ‘Islam doesn’t allow homosexuality,’ and ‘prostitution is also punishable in Afghanistan under Islamic law’. [30b]

6.315 A UNHCR report dated June 2005 stated:

“There is only limited information on the issue of homosexuality, given that this subject is taboo in Afghanistan. It is, however, reported that – in the past and particularly during the conflict – commanders, tribal leaders and others kept boys for sexual and other purposes. As one study has termed it, ‘the prevalence of sex between Afghan men is an open secret’. The practice of using young boys as objects of pleasure seems to have been more than a rare occurrence. Such relations were often coercive and opportunistic in that more influential, older men are taking advantage of the poor economic situation of some families and young males, leaving them with little choice. There are also a few documented cases of abduction of young boys for sexual exploitation by men.

Open homosexual relations, however, are not possible to entertain. Homosexual persons would have to hide their sexual orientation. Homosexuality is generally outlawed under Islam and punishable by death as a Hudood crime.” [11b] (p55)

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PERSONS WITH LINKS TO THE FORMER COMMUNIST REGIME

KHAD (KHAD) (FORMER SECURITY SERVICES)

6.316 A UNHCR report of June 2005 noted names other than KHAD by which the State Information Service has been known, in chronological order: “Department for Safeguarding the Interests of Afghanistan (AGSA); Workers’ Intelligence Institute (KAM); General Directorate of State Information Service or Active members of PDPA; Ministry of State Security (WAD); Directorate of State Security; Directorate of Intelligence Service; and General Directorate of National Security.” [11b] (p92)

6.317 An April 2001 report by a Netherlands delegation to the European Union on the security services in Afghanistan between 1978 and 1992 noted that the Khadimat-e Atal’at-e Dowlati (meaning “State Intelligence Service” in Dari) was set up in 1980 and transformed into a ministry in 1986. [34] (p4) The UNHCR June 2005 report noted that Dr Najibullah became the General Secretary of the Central Committee of PDPA in late 1985 and the President of Afghanistan in 1986: “In this capacity he was able to exercise party and state authority over all security organs, including those attached to the Khalq-dominated defense and interior ministries.” [11b] (p93)

6.318 The UNHCR report further noted:

“KHAD became an important political institution during the 1980s, and was considered as key to the PDPA. As the successor to AGSA and KAM, KHAD was nominally part of the Afghan state, and firmly under the control of the Soviet KGB... A system of conducting intelligence activities in all spheres of life inside and outside the country was established, particularly in the areas where opposition groups were functioning. Links were made with different actors in order to encourage support for the administration system, educational and cultural programs run by the State. As an example of one of their activities, the staff members of KHAD infiltrated groups of Mujaheddin, created differences in their positions and worked towards their dissolution or encouraged allegiance to the government.

Aside from its secret police work, KHAD had a presence in all government, intellectual and educational institutions, including Kabul Polytechnic Institute, universities, schools, and civil and military institutions where its members conducted their activities, including ideological education... In order to consolidate the regime, KHAD's operations, conducted by skilled intelligence agents, penetrated all aspects of life inside Afghanistan and abroad, and succeeded in achieving the Ministry's objectives, particularly through the infiltration of opposition groups. KHAD's activities reached beyond the borders to Pakistan and Iran.”
[11b] (p93-94)

6.319 The April 2001 Netherlands delegation reported:

“It was the task of the KhAD and of the WAD to ensure the continued short and long-term existence of the Communist regime, which had already been exposed to strong pressure shortly after the Great Saur Revolution. In practice, this meant that the KhAD and the WAD had a licence to track down and fight the regime's external and internal enemies as they saw fit... In practice, the slightest sign of disloyalty or opposition provided a pretext for being branded an enemy... Persons branded enemies of the PDPA could be eliminated in many ways. Thus, KhAD leaders could instruct their subordinates to carry out arrest, detention, judicial sentencing, exile, torture, attempted murder and extra-judicial execution of real or alleged opponents of the Communist regime. If required, KhAD and WAD agents also attempted to murder persons outside Afghanistan, especially in Pakistan. Through their ruthless and mostly arbitrary behaviour the KhAD and WAD deliberately created a climate of terror aimed at nipping any opposition among the civil population to the Communist regime in the bud.” [34] (p12-13) The report noted “There was precious little support for the Communist Party among the population.” [34] (p31)

6.320 The Netherlands' report stated that all KhAD and WAD NCO's and officers were guilty of human rights violations. [34] (p33) However, NCOs and officers could not operate within KhAD and WAD unless they had proved their unconditional loyalty to the Communist regime. During their trial period (Azmaichi) officers had to pass a severe loyalty test. On their first assignment NCOs and officers were transferred to KhAD and WAD sections actively engaged in tracking down “subversive elements.” Only those who proved their worth were promoted or transferred to sections with more administrative or technical activities. In practice this meant that all KhAD and WAD NCOs and officers took part in the arrest, interrogation, torture and even execution of real and alleged opponents of the Communist regime. [34] (p28-29) The report considered that it was inconceivable that anyone working for the Afghan security services, regardless of the level at which they were

working, was unaware of the serious human rights violations that were taking place, which were well known both within and outside Afghanistan. [34] (p31)

6.321 The UNHCR report dated June 2005 recorded:

“KHAD operated several detention centers in the capital, which were located at KHAD headquarters, in the Ministry of Interior, in the Ministry of Defense, in some of the Departments described above [see pages 95 to 99 of UNHCR report] and also in some of the provinces. It was reported that although the use of torture was widespread under the Taraki and Amin regimes, KHAD was the first to employ it in a systematic manner at its network of detention centers in Kabul and in other parts of the country. Torture was both physical and psychological. Treatment included deprivation of food and sleep, beatings, burning victims’ bodies with cigarettes, immersion in water, confinement in shackles for long periods, and electric shock treatment. Detainees were sometimes threatened with execution or forced to watch the torture of their relatives. Victims included people of both sexes ranging from adolescents to adults in their early sixties. Quite often, detainees were confined incommunicado for months and even years. Following the investigations, the detainees were taken to military bases and kept in about 29 KHAD detention centers including two blocks in Pul-i-Charkhi jail and Sedarat KHAD headquarters in Kabul city.” [11b] (p100)

6.322 The UNHCR report also observed:

“After the fall of Najibullah regime, all aspects of security, political economic and administrative life came under the control of the Mujaheddin. Uneducated Mujaheddin commanders were appointed to direct important security institutions. Many KHAD or WAD agents now worked for the new Directors of the intelligence services but under a different authority. Instead of the structure and functioning of one Ministry, as had been the case with KHAD, each commander and faction in the areas of their control had their own intelligence service structures, investigation and detention centers, and jails. Some of their private jails continue to function to this day, amongst reports that interment and torture is still practiced. Many other KHAD or WAD staff members were killed, arrested or left the country during the Mujaheddin regimes...

After the establishment of the Interim Administration in December 2001, the Intelligence Service Department (formerly WAD, and KHAD) was renamed the National Security Directorate (NSD). Since the fall of Kabul in November 2001 this has been controlled and staffed by the Panshiri Shura-i-Nazar.” [11b] (p101)

(See also Section 5: [National Security Directorate](#))

For further information on the history and structure of KHAD, refer to the June 2005 UNHCR report source [11b]

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TREATMENT OF FORMER KHAD MEMBERS

6.323 A Danish fact-finding mission to Kabul in March/April 2004 reported the views of several sources on the position of former members of KHAD and the PDPA. According to the report UNHCR said “Regarding the question as to whether a

person from the former PDPA or KHAD runs the risk of any form of persecution depends on whether he, in the course of his activities for the PDPA or KHAD, has had concrete conflicts with or has come in opposition to people who are in power at the present time... The UNHCR did not know of any former members of the KHAD who have returned.” [8] (section 6.5.1)

6.324 The same Danish report also noted the views of UNAMA:

“The source [UNAMA] had the impression that the political environment in Afghanistan currently is not open to all political viewpoints. The source stated that in this connection personal conflicts are more important than political conflicts. The source mentioned a case in which a former employee of the KHAD had returned to Afghanistan and was now working for the security forces. The person has complained that powerful individuals have threatened him, persons he in his previous position had been investigating. He had allegedly been stopped in the street and threatened into silence.” [8] (section 6.5.1)

6.325 The Danish report noted that the CCA (Co-operation Centre for Afghanistan) said that about half of the officers working in the present Afghanistan Intelligence Services are former officers of the KHAD. The report stated that “It has been necessary to introduce them into intelligence work, as there is a lack of qualified personnel in this field. The organization gave as an example that the director in the 7th department of the present intelligence service earlier served the same position in the KHAD.” [8] (section 6.5.1)

6.326 In a June 2005 report, UNHCR stated that “A large number of former People’s Democratic Party of Afghanistan (PDPA) members as well as former officials of the Khad (the intelligence service) are working in the Government, including the security apparatus.” [11b] (p45)

6.327 The UNHCR paper also recorded: “Former military officials, members of the police force and Khad (security service) of the Communist regime also continue to be at risk, not only from current powerholders but more so from the population (families of victims), given their identification with human rights abuses during the Communist regime.” [11b] (p46)

(See also paragraphs 6.336 – 6.337 below for more UNHCR information on Afghans associated with the PDPA and consideration of exclusion clauses under Article 1F of the Geneva Convention)

(See also [UNHCR and ECRE guidelines](#))

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FORMER MEMBERS OF THE PDPA (PEOPLE’S DEMOCRATIC PARTY OF AFGHANISTAN)

6.328 The Danish fact-finding mission of March/April 2004 reported: “The UNAMA was of the opinion that former members of the PDPA who did not have a high profile could settle in Afghanistan. However, the source found that ex- members of the PDPA would find it difficult to reorganize politically in an organization with a communist ideology without experiencing some form of harassment. The degree of harassment according to the source depends on the history of the person.” [8] (section 6.5.1)

6.329 The Danish report further noted:

“The ICG [International Crisis Group] was of the opinion that whether an ex-member of the PDPA was able to return to Afghanistan depends on whether the person tries to exercise any political influence as a communist. If this is not the case, such an individual will be able to live in the country.

The source mentioned the leader of the United National Party as an example of a former highly positioned PDPA member who lives in Afghanistan. The person is a former member of the central committee of the PDPA, and President Karzai is considering employing him in a high ranking position. The United National Party is a new party with a non-communist ideology... The source explained, however, that the above-mentioned former member of the central committee of the PDPA is forced to live under a considerable degree of protection.

The source was of the opinion that there exist former PDPA members who cannot return to Afghanistan. The source mentioned that a number of the former members have been selected by President Karzai to work for the government, and that many ministries could not exist if they had not been employed. The source pointed out that many of the former members of the PDPA are not war criminals, but have relevant training, which can be used to contribute to the reconstruction of the country. Many of these people are only trying to find a meaningful way of using their resources for the rest of their lives, and have no strong political interests.” [8] (section 6.5.1)

6.330 The same Danish report stated: “The CCA was of the opinion that former communists do not experience serious problems in Afghanistan today. A number of former members of the PDPA have organized themselves again, and there are many examples of former highly placed supporters of the PDPA working in the current government. The CCA was of the opinion that former high-ranking members of the PDPA can remain in Afghanistan if they do not get involved in conflicts with powerful individuals.” [8] (section 6.5.1)

6.331 The Danish report further noted:

“The AAWU [All Afghan Women’s Union] explained that there are still prejudices in Afghan society against former members of the PDPA. The source explained that former members have problems when registering their political parties and they have difficulties in finding jobs in the administration within the government.

According to the Lawyers Union of Afghanistan there is no greater risk in Afghanistan today for former members of the PDPA than for Afghans in general. In this context it has no importance what position one occupies in the PDPA. The source stated however that very highly profiled former members of the PDPA have not returned to Afghanistan yet.” [8] (section 6.5.1)

6.332 Regarding individuals with connections to the former Soviet Union, the Danish fact-finding mission in 2004 noted: “The UNHCR and the UNAMA both said that they did not have information supporting the fact, that people returning from longer-term stays in the former Soviet Union have problems in Afghanistan today, solely for the reason that they have been staying in the Soviet Union for a longer period. The CCA explained that people who return after a long stay in the former Soviet Union do not experience major problems in Afghanistan, except if they

have had any specific conflicts with people who want to make revenge.”
[8] (section 6.5.2)

- 6.333 A Radio Free Europe/Radio Liberty report on the presidential election of 9 October 2004, accessed on 22 February 2005 via azadiradio, noted that Abdul Latif Pedram was one of the candidates:

“Pedram is running as a candidate of the recently established National Congress Party of Afghanistan [Hezb-e-Congra-e-Mili Afghanistan], which he co-founded and for whom he currently serves as party leader. He is a former journalist, poet, and professor of Oriental studies who served as editor in chief of ‘Haqiqat-e Inqelab-e Sawr’ – the official mouthpiece of the communist People’s Democratic Party of Afghanistan (PDPA) – during the Soviet occupation of Afghanistan (1979-89). After the downfall of the communists in 1992, Pedram spent years in Parisian exile. He is an ethnic Tajik.” [29a]

- 6.334 The Joint Electoral Management Body (JEMB) presidential election results of 3 November 2004 showed that Mr. Pedram came fifth in the election with 110,160 votes (1.4% of the vote). [74c]

- 6.335 The US State Department Report 2004, published on 28 February 2005, recorded that the Supreme Court banned communists from forming a political party because it alleged that communists were atheists. “The Ministry of Justice courted claims of selective discrimination because it avoided registering the National Unity Party, whose leaders were former communists, although the party met all legal requirements for registration.” [2d] (section 3) In June 2005 the International Crisis Group stated that “Islamist leaders and officials such as Abdur Rab Rasul Sayyaf and Supreme Court Chief Justice Fazl Hadi Shinwari delayed the registration of the United National Party led by Noorul Haq Olomi, a former Parchami general, for almost a year and half.” [26e] (p5) Europa: South Asia 2005 records that the political party Hizb-i Muttahid-i Melli (Party of National Unity), formed in 2003 by members of the former communist People’s Democratic Party of Afghanistan (PDPA), was proscribed until 2004 but was registered with the Ministry of Justice by the end of July 2004. [1a] (p80)

- 6.336 A UNHCR report dated June 2005 stated:

“A large number of former People’s Democratic Party of Afghanistan (PDPA) members as well as former officials of the Khad (the intelligence service) are working in the Government, including the security apparatus. A congress of the People’s Democratic Party of Afghanistan (PDPA) in late 2003 which led to the creation of Hezb-e-Mutahid-e-Mili (National United Party) with 600 members and other former PDPA officials have founded several other new parties.

While many former PDPA members and officials of the Communist Government, particularly those who enjoy the protection of and have strong links to currently influential factions and individuals, are safe from exposure due to their political and professional past, a risk of persecution may persist for some members of the PDPA, later re-named Watan (Homeland). The exposure to risk depends on the individual’s personal circumstances, family background, professional profile, links, and whether he was associated with the human rights violations of the Communist regime in Afghanistan between 1979 and 1992.

Some former high-ranking members of PDPA without factional protection from Islamic political parties or tribes or influential personalities are at greater risk of persecution. They include:

- High ranking members of PDPA, irrespective of whether they belonged to the Parcham or Khalq faction of the party. They will be at risk only if they are known and had a public profile. This includes (i) high ranking members of Central and Provincial Committees of the PDPA and their family members; and (ii) high ranking members of social organizations such as the Democratic Youth Organization and the Democratic Women's Organization.
- Former military officials, members of the police force and Khad (security service) of the Communist regime also continue to be at risk, not only from current powerholders but more so from the population (families of victims), given their identification with human rights abuses during the Communist regime.
- Members of the following parties if they openly promote these parties led by former leaders of PDPA, particularly in rural areas of the country:
 1. Hezb-e-Mutahid-e-Mili, (National United Party) led by Noor Ul Haq Uloomi,
 2. De Afghanistan De Solay Ghorzang Gond, (Peace Movement Party of Afghanistan) led by Shahnawaz Tanai,
 3. Hezb-e-Mili Afghanistan, (National Party of Afghanistan) led by Abdul Rasheed Aaryan,
 4. Hezb-e-Wahdat-e-Mili Afghanistan (National Solidarity Party of Afghanistan) led by Abdul Rasheed Jalili." [11b] (p45-46)

6.337 The same UNHCR paper also advised "When reviewing the cases of military, police and security service officials as well as high-ranking Government officials of particular ministries it is imperative to undertake an analysis of the potential applicability of exclusion clauses of Article 1 F of the 1951 Geneva Convention. To some extent, many of these previous Afghan officials were involved, directly or indirectly, in widespread human rights violations." [11b] (p46)

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6C HUMAN RIGHTS – OTHER ISSUES

MINES AND UNEXPLODED ORDNANCE

6.338 In June 2005 UNHCR reported:

"Despite continued progress made by the Mine Action Programme for Afghanistan (MAPA) and its implementing partners over the past decade, Afghanistan is still believed to be one of the most severely contaminated countries in the world. MAPA continues to discover, at a rate of 12 to 14 km² per year, areas that were mined years ago but remained inaccessible due to armed conflict. The known mine and UXO contaminated area is estimated to total approximately 810.7 km² in

206 districts of 31 provinces. Of this total, 157.7 km² affects high-impacted communities. The areas affected include important agricultural land, irrigation systems, residential areas, grazing land and roads.” [11b] (p33)

6.339 The Afghanistan Landmine Monitor Report 2004 recorded:

“Afghanistan acceded to the Mine Ban Treaty on 11 September 2002 and the treaty entered into force on 1 March 2003. Since the war and dramatic political and military changes in late 2001 and early 2002, mine action activities have expanded... The estimated number of new mine casualties has declined from 150 to 300 people a month in 2000 to 100 people a month in 2004. Since 1999, mine/UXO casualties have been reported in 33 of the 34 provinces in Afghanistan. As of July 2004, UNMACA had collected data on 13,874 mine/UXO casualties since 1988, but stressed that this was not a comprehensive figure. The ICRC recorded 7,197 new mine/UXO casualties between 1999 and June 2004. In 2002, the Transitional Islamic Government of Afghanistan approved the establishment of a National Disability Commission. Since 1999, the ICRC opened two new orthopedic centers; and several local and international NGOs have opened or expanded programs that assist mine survivors and other persons with disabilities.” [14] (p1)

6.340 The same report also noted that “There are mined areas in almost every province, with heavier concentration and greater impact in the western, eastern, and southern regions... Mine contamination continues to be a major hindrance to economic rehabilitation and development.” [14] (p4)

6.341 On 5 January 2005, the UN News Service reported that programmes against landmines around the world were severely underfunded with Afghanistan likely to sustain the largest single shortfall of \$49 million, according to the United Nations Mine Action Service. Afghanistan has the largest mine-action budget of \$81 million and has received just \$32 million. [40ag]

6.342 On 28 January 2005, the Institute of War and Peace Reporting (IWPR) reported that “Huge amounts of ordnance are thought to be hidden at old military bases, in the hands of former commanders and in private stockpiles. Now the government has set an ambitious goal of collecting more than 100,000 tonnes of unexploded munitions through the UN-backed Afghanistan New Beginning Programme, ANBP.” [73a]

6.343 A later report from the IWPR dated 6 August 2005 noted that “According to figures provided by the United Nations Mine Action Centre for Afghanistan, UNMACA, an average of 80 people a month have been killed or disabled by such devices [landmines] so far this year [2005], compared with an average of 70 a month for 2004.” [73w]

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HUMANITARIAN SITUATION

OVERVIEW

6.344 The World Bank’s first economic report on Afghanistan for 25 years, published on 9 September 2004 recorded:

“The starting point – in late 2001 at the fall of the Taliban – for recent developments in Afghanistan was dire. The Afghan economy was reeling from protracted conflict and severe drought, with cereal grain production down by half, livestock herds decimated, orchards and vineyards destroyed by war and drought, more than five million people displaced as refugees in neighboring countries, and remaining economic activities steered in an informal or illicit direction by insecurity and lack of support services. The Afghan state had become virtually non-functional in terms of policymaking and service delivery, although the structures and many staff remained.

Numerous people were suffering (and still are) from low food consumption, loss of assets, lack of social services, disabilities (e.g. from land-mine accidents), and disempowerment and insecurity. The effective Taliban ban on opium poppy cultivation, imposed in 2000, did not much affect trade in opium (apparently based on accumulated inventories) but was devastating to the livelihoods of many poor farmers and rural wage laborers, including through opium-related indebtedness. The collapse of the state virtually excluded the poor from access to services, and moreover the poor tended to be disproportionately affected by insecurity, one of whose important impacts has been a very large number of female-headed households. Even though the fabric of families, kinship groups, and other traditional clusters has held together rather well (demonstrated concretely by the large volume of inward remittances), the penetration of the “warlord” and “commander” culture at the local level has had deleterious effects. In sum, Afghanistan was essentially left out of the last 25 years of global development, with virtually no increase in per-capita income during this period and average life expectancy of only 43 years.” [69a] (Executive summary paras. 5 & 6)

(See also Section 3: [Economy](#))

- 6.345 The UNDP National Human Development Report 2004 on Afghanistan recorded that:

“Years of conflict and neglect have taken a devastating toll on human, social and economic indicators in Afghanistan, resulting in some of the lowest human development indicators in the world. With an estimated HDI [Human Development Indicator] value of 0.346, Afghanistan falls at the bottom of the 177 countries ranked by the global Human Development Report of 2004, just above Burundi, Mali, Burkina Faso, Niger and Sierra Leone. The GDI [Gender Development Index], valued at 0.300 for Afghanistan, puts it above just two countries in the world, namely Burkina Faso and Niger. The HPI [Human Poverty Index] places Afghanistan just above Niger and Burkina Faso, and far below its two neighbouring countries, Iran and Pakistan.” [47] (chapter 2)

- 6.346 The UNDP report stated that the majority of the Afghan population could be classified as poor: “Some groups and/or households, such as women, the disabled and Kuchi nomads, are more vulnerable to poverty.” [47] (chapter 2)
- 6.347 A booklet published by the Department for International Development (DFID) in April 2004 recorded that “Although the humanitarian situation in Afghanistan is no longer an emergency, millions of poor people are still vulnerable.” DFID stated that those still vulnerable included Afghan refugees returning home since 2002, mainly from Pakistan and Iran, refugees still living in neighbouring countries, internally displaced people in the South and those disabled, disinherited, widowed or

orphaned by war or simply living in areas too remote or inhospitable to gain access to sufficient food and services. [51]

6.348 In January 2005, the International Federation of Red Cross and Red Crescent Societies (IFRC) reported: "Humanitarian organizations, including the Afghan Red Crescent Society (ARCS) and the Federation, were hampered by deteriorating security in 2004. The difficult operating environment, access problems etc. limited the overall humanitarian effort. Several organisations pulled their operations back to Kabul, while others withdrew from Afghanistan altogether; thus significant needs still persist in all sectors." [42b] (p2)

6.349 A June 2005 report by UNHCR stated that "Overall, only 23% of the Afghan population has access to safe water, 18% in rural and 43% in urban areas. Access to adequate sanitation is even lower, with an estimated 12%." [11b] (p33)

6.350 A report by the UN Secretary-General dated 12 August 2005 stated:

"Faced with the aftermath of years of conflict, the Government of Afghanistan has received extensive assistance from the international community in the delivery of basic social services to poor and vulnerable populations. The United Nations has played a key role in responding to humanitarian crises, including through the provision of shelter, food aid and other life-saving measures. A smooth transition from relief to recovery has, however, been hampered by natural disasters (six years of continuous drought were followed in 2005 by extensive flooding), internal displacement, land rights issues and urban pressures due to the large influx of returnees. A lack of public-sector capacity and access to vulnerable populations has hindered attempts at a comprehensive response to these issues.

The Government has increasingly assumed responsibility for disaster relief and humanitarian assistance. The Ministry of Rural Rehabilitation and Development has taken the lead in disaster-response management. Areas of activity have included the coordination of drought mitigation and winterization programmes, as well as assistance to flood victims. Most recently, the Ministry coordinated the Government's response to nationwide floods in the spring and summer of 2005. Rains in March and April particularly affected Oruzgan, Ghazni and Jowzjan provinces, notably resulting in the bursting of the Ghazni dam on 29 March [2005]. A second round of floods occurred in May and June, affecting the north-east and east. The province of Badakhshan was particularly hard-hit, causing significant population displacement. Flooding also affected Kapisa, Konar and Nangarhar provinces in the east and Bamian, Sar-e Pol, Konduz, Samangan and Balkh provinces in the central and north-western regions.

The disaster-response mechanisms developed jointly by the Government and UNAMA have grown increasingly effective in collecting information on and facilitating the response to humanitarian crises...With respect to the recent floods, the Center reported that 13,637 families had been affected, that there had been 332 deaths and 4,192 injuries, and that 12,672 houses had been destroyed, close to 11,000 livestock killed and over 11,000 hectares of agricultural land spoiled. In response, the Office for the Coordination of Humanitarian Affairs authorized the release of \$120,000 from the Emergency Reserve Grant and UNICEF has begun the distribution of non-food items donated by Norway." [39c] (p13-14)

(See also Section 6C [Returnees/IDPs](#))

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INTERNATIONAL AID

6.351 The World Bank report of September 2004 advised:

“US\$1.1 billion of external assistance was disbursed in late 2001 and 2002, mainly for humanitarian purposes and not through Government channels. The Government presented its National Development Framework (NDF) in April 2002, which formed the basis of the National Development Budget. Subsequently the Securing Afghanistan’s Future (SAF) report detailed medium-term investment and recurrent expenditure requirements and external financing needs and was presented at a major donor conference in Berlin in March 2004. The composition of external assistance, which increased to US\$2.5 billion in the 2003/04 financial year, has shifted in favor of reconstruction, with increasing Government leadership.” [69a] (para 1.15)

6.352 Europa Regional Surveys of the World: South Asia 2005 records:

“Owing partly to the lack of security, progress over reconstruction and development, crucial to the success of the political process, has been less than satisfactory. An international donors’ conference was held in Tokyo, Japan, in January 2002, and US \$4,500m was pledged over a five year period, against an estimated requirement of \$15,000m over the next decade. Cash disbursements have been slow to arrive, however, and much funding has had to be applied to relief activity, owing to the return of some 2m refugees from Pakistan and Iran. A further conference was subsequently held in Berlin, Germany, in March 2004, at which pledges of \$4,400m were made for that year and \$8,200m for the next three years.” [1a] (p62)

6.353 On 1 April 2004, CARE International reported that the \$8.2bn pledged by international donors in Berlin had brought a welcome increase in funding but fell short on long-term commitment. CARE noted that “According to a recent needs assessment prepared by the Afghan government, reconstruction will require \$27.5 billion over the next seven years.” [40aj]

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HUMANITARIAN SITUATION IN KABUL

6.354 In January 2004, a report by Action Contre La Faim (ACF) noted that “The recent influx of population in Kabul city has put a significant additional stress on an already fragile water and sanitation situation... Indeed the soaring population in Kabul has turned the sanitation situation into a pressing issue, especially as it bears potential health risks in terms of water contamination and vector-borne diseases.” The ACF report also noted that access to water remained insufficient in many neighbourhoods. Furthermore: “Daily life appears as extremely precarious for a large part of the families encountered, though many respondents held quite an optimistic vision of their changing situation as they declared that their situation had improved over the past year. Focus group discussions with both men and women confirmed their confidence in the future thanks to the reassuring feeling that so many newcomers had settled in.” [33] (p3)

6.355 In February 2004, Terre des hommes (Tdh), an organisation working for the rights of the child, commented on the conditions in Kabul in which the women and children they targeted lived: "Many mothers and children of the target group are living in extreme states of impoverishment. Still, in many areas the homes of clients are, in fact, remnants of bombed buildings, without any access to potable water." [40h]

6.356 A report by the International Peace Research Institute in Oslo in early 2004 noted:

"Kabul has the looks of a boom town with attendant large-scale poverty and squalor. There is rebuilding on a large scale and streets with shops selling building equipment are congested with traffic. The foreign presence has visibly increased in step with the inflow of aid money. The bustling activity has attracted numerous internal migrants and returning refugees, who have decided go to the capital rather than their home areas. Over one-third of Kabul's population is estimated to be returning refugees and IDPs... Real estate prices in the best areas of the city approach those of downtown New York, but a few blocks away there is squalor. Trading and movement of people has visibly increased over the past year. Five airlines now serve Kabul International airport, while the national airline, Ariana, flies regularly to the provinces and is heavily booked." [19] (p24)

6.357 On 9 July 2004, Refugees International reported that a large percentage of returnees from Iran and Pakistan, especially the urbanised returnees from Iran, were remaining in Kabul.

"The population of Kabul is already three to four million people, including a million or more returned refugees and displaced persons who swelled the city's population in the last two years. Water, sanitation, and housing are severely strained; families are paying \$15 to \$20 per month to rent a single bare room – a huge expense in a city in which workers may make as little as \$2 per day in wages. Despite a large number of shelter projects by foreign aid donors, the need for low-cost housing exceeds supply by a large margin. A survey by the NGO Action Against Hunger showed that 'having a place of our own' was the top priority of many poor people in Kabul. As a continued inflow into Kabul by returning refugees seems probable for the next year or two urban services and shelter will be even more strained in the future." [3] (p2)

6.358 An article in the New York Times dated 4 February 2005 reported:

"An estimated 10,000 homeless people are in Kabul, about 4,000 of them in two squatter camps. In addition, groups of displaced people are living in public buildings and abandoned ruins in as many as 25 locations throughout the city. Most are refugees who have returned from camps in Pakistan in the three years since the fall of the Taliban. Some families have been living all that time in tents, with the men scraping up a little work as porters in nearby fruit markets. Meanwhile, scores of expensive private villas are going up around Kabul, some of them built by commanders and government officials on former government land, a sign of growing inequities." [4]

6.359 The New York Times article further noted:

"The population of Kabul has swelled chaotically, to 3.4 million from 700,000 in just a few years, creating a dire need for housing, said Srinivasa B. Popuri, of the United Nations Habitat Human Settlements Program, which is advising the

Ministry of Urban Development. The United States Agency for International Development is looking at a site south of the city where it plans to provide housing for 2,000 homeless families. But that project, like so many others, remains in the 'concept design' stage, a spokeswoman, Joan Ablett, said. In any case, the plan is only for people from Kabul and not for those in the camps, many of whom are the landless poor from rural areas with no homes to go back to. The government fears that providing land or housing to squatters will only encourage more to come, officials said." [4]

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RETURNEES AND INTERNALLY DISPLACED PERSONS (IDPs)

6.360 The report of the UN-appointed independent expert of the Commission on Human Rights in Afghanistan dated 21 September 2004 stated:

"As a result of three decades of conflict, large portions of the Afghan population were forced to become refugees or IDPs. With the fall of the Taliban, large numbers of refugees have returned to Afghanistan... The Government estimates that at least 2.5-3 million Afghans are still living outside the country as refugees. Given current refugee return patterns, it is likely that many of these individuals will return to Afghanistan sometime in the near future. There are also hundreds of thousands of IDPs, most of whom live in the south and west of the country...

As these individuals return to the country, whether to their original homes or to new settlement areas, they face an array of problems and, as highly vulnerable populations, they are often the victims of serious human rights violations. Returning refugees and resettled IDPs are commonly subjected to acts of violence, including killing; arbitrary arrest and detention; illegal occupation and confiscation of their land by warlords, commanders and others; forced labour, extortion, illegal taxation and other abusive economic practices; discrimination and persecution based on ethnic identity; and sexual violence and gender-related discrimination. There are thousands of reported cases of returnees being subjected to these violations in many communities." [39k] (para 70-72)

6.361 On 26 November 2004 the UN Secretary-General reported:

"A high percentage of returnees are landless (70 per cent), or claim not to have a house or shelter to return to (27 per cent). Returns from the Islamic Republic of Iran have increased significantly relative to last year, largely as a result of measures put in place by its Government to encourage returns to Afghanistan. In Pakistan, some 80,000 persons returned from the 'new camps' that were established after 11 September 2001. Those refugees who remained in Pakistan were relocated to other camps, and the new camps were closed by the end of September 2004.

Some 35,000 internally displaced persons were able to find a solution to their displacement either by returning to their places of origin or settling locally. However, security conditions in a number of provinces in the north and the central highlands still prevent the return of many internally displaced persons and refugees originating from these areas. The reintegration assistance programme continued to focus on the construction of rural houses – a high-priority request from returnees – for the most vulnerable groups. An average of 15 to 20 per cent

of returnees have benefited from this activity. Between 2002 and the end of 2004, UNHCR will have built some 120,000 houses, mostly in areas receiving large numbers of returnees. Lack of employment and slow progress in reconstruction in rural areas pose a continuing challenge to the sustainable reintegration of returnees. The increased number of returns to urban areas is placing an additional burden on the already stretched infrastructure capacity of major cities and highlights the need for the development of a social housing scheme.

Reports indicate that returnees did not face marked discrimination in terms of access to basic social services, though they experienced occupation or confiscation of their land and related abuses such as extortion, illegal taxation or forced recruitment.” [39f] (p16)

- 6.362 A report by the Institute of War and Peace Reporting (IWPR) dated 9 December 2004 stated that “Some [Afghans] who remained in the country through the years of turmoil are suspicious of those who have come back from the West to help their homeland develop.” The report noted that since 2003, the International Organisation for Migration (IOM), a European-based intergovernmental organisation that works in co-operation with the UN, has been encouraging Afghan professionals in European Countries to return to help rebuild the country. The IWPR noted that:

“IOM’S Return for Qualified Afghans programme, EU-RQA, which is co-funded by the European Commission, focuses on the development of critical sectors in Afghanistan, including private businesses providing goods and services for the domestic market, civil and social services, public infrastructure, and rural development as well as government agencies. Hamid Hamdard, deputy head of the IOM project in Kabul, said that in addition to matching returnees to positions in Afghanistan, his organisation provides 300 euros a month in assistance for successful applicants.

Since 2003, 652 Afghan professionals from European countries have come to work through the IOM programme. But only about half that number decide to remain in the country after their contract expires, Hamdard noted... Among the problems returning professionals face, especially those who maintain dual citizenship, is the frequently cool reception they receive from their countrymen who stayed behind throughout the years of turmoil. Many Afghans are sceptical about the loyalties of returnees, and some even consider them foreign spies.” [73i]

- 6.363 On 20 December 2004, IRIN reported:

“While unemployment is very high among both men and women, the return of hundreds of thousands of Afghan refugees from neighbouring Pakistan and Iran means that the problem is getting even worse. Bashiri [deputy ministry of labour and social affairs] said unemployment in Afghanistan was estimated to be around 30 percent, with another 30 percent working part-time or in jobs for which they are overqualified... The first employment centre was established in the capital earlier this year. Nearly 4,000 job seekers used the centre in its first three months. ‘So far we have been able to facilitate employment opportunities for thousands of job seekers through our Kabul centre,’ Masood Parwanfar, an officer of the German aid agency AGEF, which runs these centres, told IRIN. AGEF is an association of experts in the fields of migration and development cooperation that works in employment projects in Afghanistan.” [36a]

6.364 A UNOCHA/IRIN report of 25 February 2005 stated:

“Many of those refugees and Internally Displaced Persons (IDPs) who have returned home in the last two years complain of a lack of assistance. Unemployment and the lack of public services, including health clinics, schools and roads, are the chief concerns... For the millions of Afghans who have returned home since the end of the Taliban era in late 2001, life is hard and reintegration is slow. Although undeniable progress has been made in many sectors, returnees are often more destitute than the local population.” [40e]

6.365 The report also noted that some returnees have managed to earn a living and reintegrate, citing the case of a widow who opened a small health centre for women in the Dash Barchi district of Kabul with a US \$200 loan from a local micro finance agency. [40e]

6.366 The IRIN report further noted:

“After another year of drought and crop failure in 2004, more than a third of the Afghan population remains dependent on food aid... In addition to drought, one of the main challenges that IDPs face after return is land grabbing and continuous harassment by local militias. In Faryab, while many have been able to regain their land and houses and managed to secure some level of sustainable livelihood, others have found that their homes have either been destroyed or are now occupied by others. In January 2005, hundreds of people, including women and children, had to flee to the mountains after their houses were entirely looted by armed local militia groups in Kohistan district of Faryab. ‘We were told that these commanders were no longer in power, but that was not true,’ Fazal Rabi, a returnee in the northern city of Baghlan, told IRIN. He said he had harvested a good crop of wheat, but had been forced to give a third of it to a local commander as compulsory taxation.” [40e]

6.367 A UNHCR report dated June 2005 noted that 3,081,121 Afghans had returned to Afghanistan from Pakistan, Iran and other countries since 2002. [11b] (p38) 32 per cent of the returnees from Iran and Pakistan returned to Kabul province and 15 per cent to Nangarhar. [11b] (p39) UNHCR also observed that “ So far, in 2005, the rate of return has been significantly lower than for the same time period in 2004: Numbers of daily returns from Pakistan and Iran in March of this year were down to less than a quarter (around 20%) in comparison with daily return rates for March 2004. One possible contributing factor to the lower numbers of people deciding to return during the early part of the year could be the exceptionally harsh winter conditions which prevailed throughout February and March.” [11b] (p38)

6.368 The UNHCR report also recorded:

“Most of Afghanistan’s IDPs have been able to return home during the last three years, mainly due to improved security and reduced impact of drought. Of an estimated 1 million IDPs at the beginning of 2002, only some 140,000 remain in camps and settlements mainly in the South and some 20,000 live mostly in urban areas. Despite the successful return of more than 800,000 IDPs since 2001, a caseload with particular difficulties remains mainly in camps in the Southern Afghanistan, some in Maslakh (Herat). They are mainly nomadic Kuchis who have lost their live stocks during the drought and some 30,000 Pushtoos from the North West (Faryab, Badghis, Jowzjan, Sar-e-Pul)... In 2004, the return of some 90.000 IDPs was planned, however due to a renewed drought in the main

potential return areas (North-West and South), and due to instability in Faryab, Sar-e-Pul and Badghis, the return of IDPs remained limited to some 18,000 persons in 2004.” [11b] (p37)

6.369 On 19 June 2005, a UNHCR representative stated that “The main challenges to the reintegration of returnees are unemployment, poor urban infrastructures including social housing, and landlessness.” [40s] (p5)

6.370 On 24 August 2005, UNHCR advised that “An analysis of the information gathered during the census of Afghans in Pakistan by the government earlier this year has revealed a young population whose families arrived mainly in the early years of the conflict in Afghanistan...The census of Afghans, undertaken in all locations in Pakistan, shows that 548,105 Afghan families, constituting 3,049,268 individuals, currently reside in Pakistan...Some 19 percent of Afghans in Pakistan are under the age of five, compared to about 14.8 percent of Pakistan’s population in this age group. This demographic profile underlines the fact that much of the Afghan population was born in exile, and points to the considerable challenge ahead for the Afghan government to ensure sustainable reintegration by providing schools and employment for returnees.” [40ay]

6.371 UNHCR also noted that their voluntary repatriation programme had assisted more than 2.5 million Afghans to return from Pakistan since 2002, including 245,000 so far in 2005. Furthermore:

“More than 17 percent of Afghans told the enumerators they intended to return to Afghanistan during 2005 – a total of 532,000 – which is a bit higher than the 400,000 Afghans that UNHCR predicted would return to Afghanistan during this year. But the reasons cited for not returning showed a shift from that given by Afghans earlier in the repatriation programme. More than 57 percent said a lack of shelter and access to land in Afghanistan was stopping them from repatriating, with a further 18 percent naming a lack of livelihood opportunities there. The census responses underline the need for continuing development assistance in Afghanistan. Interestingly, security concerns inside Afghanistan – once the main reason given for not returning from Pakistan – was named by less than 18 percent of all those in the census.” [40ay]

6.372 On 31 August 2005, Agence France-Presse (AFP) reported that Pakistan had extended the deadline for the expulsion of thousands of Afghan refugees from tribal regions near the Afghan border to 15 September 2005. The report stated “Pakistan ordered the closure of all refugee camps in the semi-autonomous tribal regions by August 31 because of ‘security concerns’. The authorities asked the refugees to either go back to Afghanistan or relocate inside the country ahead of parliamentary elections in Afghanistan due on September 18.” [40az]

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LAND DISPUTES

5.373 In a report on land issues published in September 2003, UNHCR advised:

“There is a strong and evident lack of faith in the effectiveness of the existing judicial system. As such, returnees, similar to other Afghans, hardly resort to the local courts when exploring solutions to land disputes... In the few cases where

returnees have accessed the legal channel, they have had to wait for many years before their cases were processed... Given the lack of faith in the legal channel, the parties continue to largely rely on the informal and tribal dispute resolution mechanisms. Most villages establish councils of representatives or elders, otherwise known as 'shuras' in order to tackle various kinds of disputes that arise at the village level. The effectiveness of these informal mechanisms has been mixed, and is also affected by the power structure in the village or district. It has however managed to solve many disputes and conflicts among individuals in a peaceful manner that is acceptable to both parties." [11e] (p11-12)

- 6.374 The report of the UN-appointed independent expert of the Commission on Human Rights in Afghanistan dated 21 September 2004 stated:

"Another significant human rights issue involves illegal forcible seizure of land, access to land and housing, and the violations associated with land disputes. The problems regarding land are linked to many years of conflict, lack of clarity regarding land ownership, irregularities in the exercise of local and regional power, and the large number of returning refugees and IDPs. The value of land has increased substantially, and the country's highly irregular titling system and general lawlessness have allowed those with political power and armed backing to grab large tracts of land throughout the country. The general corruption of the legal system makes it easy for those with power to obtain false title to land, and the inability of the State to provide basic legal protection for landowners makes it difficult for those without connections or power to defend their rights.

The land situation in Afghanistan involves an array of interconnected problems. For example, different people often hold legal title to the same land. At various times, more than one titling agency existed or subsequent administrations provided different titles, so it is possible for legitimate competing claims to the same piece of property to exist. Also, those with title to land (or someone who has lived somewhere for a long time and may not have legal title) are often forcibly removed or denied access to their property by powerful individuals and groups. Sometimes this occurs at the order of an individual such as a warlord or local commander. Other times, a person may be forced off the land by a less dominant figure who possesses arms or has political connections." [39k] (para 73 & 74)

- 6.375 The same report also noted:

"In November 2003, the Special Property Disputes Resolution Court was established by presidential decree. It replaced an earlier system involving a commission, widely viewed as corrupt, that passed cases on to the Supreme Court. The Court can accept claims dating back to 1978, and is divided into sections dealing with claims in Kabul and those in other provinces. The Court can order compensation for illegally occupied land, and also determine who the proper owner is. The Court is underfunded, fails to take into account the special needs of IDPs in this domain, does not cover disputes where one side is the Government, and provides limited coverage for cases from the provinces." [39k] (para. 76).

- 6.376 In December 2004, the Afghanistan Research and Evaluation Unit reported:

"Rural land policy is non-existent, although steps have been taken to generate this in the hands of a special commission... Land disputes are rife, with two-thirds of all cases brought to the normal court system relating to landed property and a recently established dedicated land court additionally swamped. This is so even

though many poor (and those wary of ethnic bias) do not go to courts at all. Communal (ethnic) and communal property-related disputes dominate in practice and reflect a simmering 'war' over pastures, in which a common trigger is expansion of cultivation into pastureland. Neither the terms of law nor the centralist and court-driven regime of rural land administration in place are competent to resolve these often ethnically heated, and sometimes warlord-abetted disputes." [40r] (p2)

6.377 A UNHCR report dated June 2005 stated that in rural areas:

"Up to 36 percent of owners have their land under a form of mortgage that is to the full advantage of creditors, resulting in high and increasing indebtedness and increasing vulnerability. Formal land records are unreliable, where they exist. Traditional or statutory controls relating to boundaries between arable and pastoral lands have broken down, resulting in rampant encroachment, contestation and environmental degradation. This situation is aggravated by the fact that there are inconsistencies among and within bodies of law, often resulting in a generally unclear legal status both in formal and informal justice systems. The weak rule of law renders application or enforcement of the law unlikely at this point. The power and influence of armed political groups, commanders and militias extends into the formal and informal justice systems, leaving rural Afghans at the mercy of these groups and with little ability to access justice." [11b] (p34)

6.378 The UNHCR report further noted:

"The situation with regard to land tenure in urban areas indicates similar problems and challenges. Property law is outdated and disregarded, there is no consistency in the recognition of ownership by the authorities, multiple ownership is a problem due to the sales of State owned apartments and plots as well as the sale without regard for inheritance rights of others. The municipal property administration is inconsistent and the existing master-plan outdated and not corresponding to realities. It is against this background, that land and property issues pose a serious challenge for many Afghans, including many returnees, both in terms of livelihoods as well as in terms of respect for their rights and legal safety." [11b] (p34-35)

6.379 The same report noted that "Land occupation and confiscation of land by powerful local commanders or members of the majority ethnic group in areas of return has been reported by returnees or stated as an obstacle to return by refugees. Returnees therefore face difficulties in recovery of property upon return from exile." [11b] (p35)

6.380 The UNHCR report also advised:

"There may be circumstances in which Afghan landowners may be exposed to a risk of persecution by non-state agents. The risk is acute in circumstances where houses have been occupied by powerful commanders and restitution is being pursued by a landowner, including where there is a court decision for the return of the property. In such circumstances, the rightful owners are at greater risk if they do not have political, tribal or family protection and the authorities are unable to protect their rights (including the enforcement of a court-decision)." [11b] (p56)

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UNHCR GUIDELINES ON RETURN TO AFGHANISTAN

6.381 A UNHCR report dated June 2005 advised:

“In the context of Afghanistan, the traditional family and community structures of the Afghan tribal system constitute the main protection and survival (coping) mechanism. The support provided by families, extended families and tribes is limited to areas where family or community links exist, in particular in the place of origin or habitual residence. Return to places other than places of origin or previous residence, may therefore expose Afghans to insurmountable difficulties, not only in sustaining and re-establishing livelihoods but also to security risks. While there has been significant progress on the reintegration front of returnees to Afghanistan, the needs continue to be immense and urban centers continue to be faced with numbers of returnees which are difficult to absorb.” [11b] (p42)

6.382 The UNHCR report also advised:

“In addition to the categories of Afghans that are in need of international protection, there are certain individuals currently outside Afghanistan, for whom return would not constitute a durable solution and would endanger the physical safety and well-being of the persons concerned, given their extreme vulnerability. In the context of return to Afghanistan, extremely vulnerable cases can be divided into two broad categories:

- (i) Individuals whose vulnerability is the result of a lack of effectively functioning family- and/or community support mechanisms and who cannot cope, in the absence of such structures.
- (ii) Individuals whose vulnerability is the result of a lack of effectively functioning Government and other support mechanisms and treatment opportunities.” [11b] (p61)

6.383 UNHCR therefore advised that this may be the case for Afghans who fall into the following categories:

unaccompanied females;

single parents with small children and without a breadwinner;

unaccompanied elderly people;

unaccompanied children;

victims of serious trauma (including rape);

physically disabled persons;

mentally disabled persons;

persons with medical illness (contagious, long-term or short-term) [11b] (p61-63).

(See sections on Medical Services, Women and Children for more detailed information on the situation for people who fall into these categories)

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ANTI-COALITION FORCES (ACF)

OVERVIEW

- 6.384 In June 2004 a report by the Afghanistan Research and Evaluation Unit (AREU) observed that small-scale attacks by Anti-Coalition Forces, generally considered to comprise the Taliban, Al Qaeda [Al Qa'ida] and Hezb-i-Islami Gulbuddin (HIG), have replaced large-scale combat in Afghanistan and these attacks are designed to subvert the Karzai government. [22a] (p7)
- 6.385 The September 2004 report of the UN-appointed independent expert of the Commission on Human Rights noted:
- “There currently exists a significant security threat on the part of a variety of forces referred to as ‘anti-Coalition forces’ (when operating in areas of Coalition influence and control) or ‘anti-Government forces’ (when staging operations against the Government and international assistance programmes that support national reconstruction). These groups are composed of former Taliban, Al-Qaida, members of Hezb-i-Islami, and perhaps others. They have engaged in steady acts of relatively small-scale violence, targeted assassinations, bombings, rocket attacks and occasional armed assaults.” [39k] (para 36)
- 6.386 A Human Rights Watch (HRW) report of September 2004 reported that, in the run up to the October 2004 presidential election, Taliban and insurgent groups intimidated and threatened Afghans, particularly in the south and south-east. The report also noted that “While many observers inside and outside Afghanistan continue to focus on the Taliban as the main threat to human rights and political development, in most parts of the country Afghans told Human Rights Watch that they are primarily afraid of the local factional leaders and military commanders – not the Taliban insurgency.” [17i] (p2)
- 6.387 The ICG report of 23 November 2004 stated that in the run-up to the presidential election of October 2004: “Taliban and insurgents with allegiance to Hikmatyar [Hekmatyar], crossed into Afghanistan along the porous border with Pakistan, with the avowed intention of disrupting the elections.” [26d] (p6) The report also noted that “By most accounts, many of the Taliban and forces loyal to Hikmatyar operate from Pakistan’s border provinces.” [26d] (p26)
- 6.388 In a report of 13 January 2005, Human Rights Watch noted that “In the south and southeast of the country, Taliban remnants and other anti-government forces outside Afghanistan’s political framework have continued to attack humanitarian workers and coalition and Afghan government forces.” [17f] (p2)
- 6.389 On 13 June 2005, the Xinhua News Agency reported:
- “Dozens of anti-government militants, including low and medium ranking Taliban leaders as well as supporters of the former prime minister [Gulbuddin Hekmatyar], have joined the peace process under a general amnesty announced by Afghan government in last November [2004]. However, Taliban’s elusive chief Mullah Mohammad Omar and Hekmatyar, who termed the US-backed Afghan leader

Hamid Karzai as 'US puppet,' have rejected the amnesty and called for Jihad or holy war till the withdrawal of foreign troops from Afghanistan." [40p]

- 6.390 In a report dated 12 August 2005, the UN Secretary-General said that extremist violence had not diminished and had, in fact, increased. [39c] (p19) The report noted: "The southern and parts of the eastern regions of the country have borne the brunt of the recent upsurge in violence. Attacks by extremist elements (including elements claiming allegiance to the Taliban and Al-Qaida) take place on an almost daily basis. In a significant departure from their previous tactics, which focused on provincial authorities, international and national forces and election workers, insurgents are now also targeting local communities and their leaders." [39c] (p15)
- 6.391 In the same report the UN Secretary-General also said that "The Taliban and Hezb-Islami- Gulbuddin Hekmatyar are not autonomous operations; their external sources of support must be tackled if Afghanistan is to be spared the prospect of a lasting insurgency with unpredictable consequences, for the country and for the region as a whole." [39c] (p19) The Secretary-General also noted that "There is an increase in the sophistication of weapons used and in the type of attacks being carried out by insurgents and anti-government elements, especially in the south and parts of the east of the country." [39c] (p2)
- 6.392 On 24 August 2005, the BBC reported the UN Secretary-General's special representative, Jean Arnault, as saying that extremist groups had stepped up their violence in recent months, using ambushes and explosive devices to deadly effect: "Mr Arnault said it appeared the extremists were targeting pro-government and international forces rather than election candidates and electoral workers, but that it was too soon to rule out attempts to cause major disruptions to the elections." [25g]

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TALIBAN

- 6.393 A June 2005 UNHCR report recorded:

"A combination of US and coalition-bombing, ground military actions, which started on 7 October 2001, military support to Afghan factions and other commanders belonging to Northern Alliance and the retreat or hand-over of power by the Taliban to local groups resulted in the effective collapse of the Taliban regime. Some Taliban and Al-Qaeda elements escaped, largely into border-areas with Pakistan, where they set-up bases and re-grouped. There, military activities in response to infiltration of anti-government elements are continuing by US and Coalition-forces, at times jointly with Afghan national forces." [11b] (p8)

- 6.394 An April 2005 report by the Netherlands Institute of International Relations stated:

"The Taliban are still mounting an insurgency in the east and south of the country, with bases and recruitment areas in Pakistan. Until recently the insurgency appeared to be growing, in part, due to counter-productive efforts to defeat it. Anyone associated with the Taliban felt threatened with indefinite detention and possibly torture by the US without judicial review. Aggressive counter-insurgency

tactics, especially house searches and bombings of villages, also generated vendettas against the US.

The peaceful conduct of the [presidential] election, including in areas considered to be Taliban strongholds may have marked a turning point, however. Pashtuns no longer feel excluded from power.” [89] (p47)

(See also Former Taliban Members for more information from this report)

6.395 During 2004 there were reported arrests of prominent Taliban members. On 25 January 2004, BBC News reported that “Police in Pakistan have arrested a former Afghan provincial chief and ally of Taleban leader Mullah Mohammad Omar. Maulvi Abdul Mannan Khawajazai, ex-governor of the western Badghis region, was captured near the Afghan border”. [25e] On 20 July 2004, Reuters reported that Afghan security forces had captured Mullah Amanullah, a brother-in-law of the fugitive Taliban leader Mullah Mohammad Omar in Uruzgan after a shoot-out that killed one government soldier. [24c] On 21 July 2004, the Center for Defense Information (CDI) reported that US forces had arrested Mullah Mujahid, a top Taliban commander, on 5 July in Kandahar province. The report noted that “Mujahid was charged with distributing more than \$1 million to supporters of the ousted militia. Two weeks later, on July 18, US forces detained Ghulum Mohammed Hotak, a former Taliban commander, in Wardak province, southwest of Kabul.” [55] (p1)

6.396 On 6 May 2004, the Independent newspaper reported:

“Two Britons and their local translator were shot dead in Afghanistan yesterday. The Taliban claimed responsibility for the murders... A Taliban commander, Mullah Sabir Momin, said that his men had carried out the killings in the province of Nuristan, 85 miles east of Kabul, the capital. In a telephone call to the Reuters news agency, Mullah Momin said: ‘The two British non-believers and their Afghan translator were killed by the Taliban because we are killing all locals and foreigners who are helping the Americans to consolidate their occupation of Afghanistan’” [35]

6.397 Following the presidential election in October 2004, a number of observers reported that the Taliban failed to cause disruptions on polling day. The International Crisis Group (ICG) stated on 23 November 2004 “Clearly, they [the Taliban] were unable or unwilling to carry through their avowed intention to disrupt the presidential election.” [26d] (p25)

6.398 On 19 November 2004 the Washington Post reported:

“The Taliban movement suffered a serious psychological and military setback after failing to disrupt Afghanistan’s presidential election last month, but the radical Islamic militia still poses a formidable military threat, and one faction has begun carrying out daring, al Qaeda-style urban terrorist attacks, according to Afghan and foreign analysts. Experts said the movement was beset by leadership rivalries and internal divisions after a year of revived strength and cohesion. They also said the Taliban was increasingly being squeezed by a new Pakistani military offensive along the border, where many Taliban renegades were believed to be hiding...

Most officials and experts concede that much of what is known about the Taliban’s current military and political state is guesswork. Estimates of its size range from

less than 2,000 armed fighters to more than 10,000. The militia mostly bases itself on the Pakistani side of the border, where Afghan forces have little on-the-ground intelligence. One Afghan intelligence officer, speaking on condition of anonymity, said the Afghan government should have more intelligence agents in Pakistan. It is also unclear why the Taliban did not attempt any large-scale election day attacks. In the days leading up to the vote, there were scattered attacks on voter registration sites and workers, but the election was largely peaceful, which surprised Afghan security officials.” [32]

- 6.399 The October 2004 monthly review of the British Agencies Afghanistan Group (BAAG) stated:

“Fears that the Taliban would orchestrate a terrorist campaign to disrupt the elections proved to be unjustified. However, it is unclear whether this reflected a lack of organisational capacity on their part or, as has been suggested by a number of observers, it was because those providing support to the Taliban, both in Afghanistan and Pakistan, did not want to see the potential Pushtun vote undermined by terrorist activity. The decision of tribal groups in the south to provide their own security for the elections is also likely to have been a key factor. It is difficult to assess the extent to which the combined efforts of the US-led coalition forces, the International Security Assistance Force and the Afghan National Army pre-empted potential terrorist activity. The ISAF contingent was increased by 2,000, to 9,000 on 1st October [2004] to provide additional security in Kabul and the northern areas. However, voter turnout in Zabul and Uruzgan Provinces, where the Taliban have been particularly active, proved to be as low as 40%, as compared with the national average of 70% of those registered.” [71b]

- 6.400 The Washington Post article of 19 November 2004 noted:

“A third contributing factor [to the Taliban’s failure to disrupt the election] might be far more germane to the Taliban’s future; there are growing signs of a serious, three-way split within a once hierarchical movement dominated by a single religious leader. The first indications of a split came soon after the Taliban was ousted from power in late 2001. Wahid Mojdah, an Afghan court official who worked in the Taliban foreign ministry, said some fighters became active in the armed resistance to the new government headed by President Hamid Karzai. Others began cooperating with authorities and some fled to Pakistan, hoping to eventually return under an amnesty. The last group is the largest, he said, and includes some ex-ministers... Recently, Mojdah and others said, there had been a further split among the fighters. Last year, a Taliban commander named Akbar Agha announced he was forming Jaish-e-Muslimeen in a challenge to the rule of Mohammad Omar, the longtime Taliban commander who is being hunted by U.S. troops... The mainline Taliban accused Agha of indiscipline and corruption. Agha’s group has asserted responsibility for kidnapping the three U.N. workers [on] Oct. 28 [2004], a daring, first-ever assault against Westerners in the heavily guarded capital. But Yusufzai, the journalist, said Jaish-e-Muslimeen had used the tactic before, kidnapping several Turkish and Indian highway workers during the last two years. Most were released after a ransom was paid.

Analysts said the new kidnappings, as well as the suicide bombing on a street of tourist handicraft shops, were troubling signs that Jaish-e-Muslimeen and the mainstream Taliban movement might be moving toward tactics inspired by al Qaeda and used against U.S. forces in Iraq... Still, Yusufzai and others said they believed the suicide attack and kidnappings indicated a borrowing of al Qaeda

tactics by one group rather than a major new influence on the Afghan conflict. They said mainstream Taliban forces were probably maintaining a low profile, waiting to strike if the new government faltered or foreign troops began to withdraw.” [32]

- 6.401 The ICG report of 23 November 2004 commented on possible Taliban activity during the forthcoming parliamentary elections:

“It is difficult to ascertain the extent to which the Taliban could disrupt the parliamentary polls... President Karzai is downplaying the threat even as he pursues a policy of dialogue with moderate Taliban factions, a carrots and sticks strategy in which the Coalition plays an important part. While the Coalition continues to carry out military operations against Taliban insurgents, Karzai has, as in the past few months, again offered an amnesty to Taliban fighters and supporters, calling upon them to play an active role in rebuilding Afghanistan.” [26d] (p26)

- 6.402 The ICG report further noted:

“There are early indications that the Taliban’s influence will remain extensive in the wake of the presidential elections. On 21 October [2004], Taliban insurgents killed Mullah Abdul Jalil, a cleric who had been a member both of the Zabul Solidarity Shura, a council promoting voter registration and participation in the elections, and Karzai’s provincial election campaign committee. Three days later the Taliban claimed responsibility for an attack in central Kabul, which killed a U.S woman, and a ten-year old Afghan child.” [26d] (p26)

- 6.403 On 16 November 2004, BBC News reported that “Taleban guerrillas say they carried out an attack in central Afghanistan that left four policemen dead. It is the most serious attack on the security forces in Afghanistan since last month’s presidential election.” [25h]

- 6.404 On 25 February 2005, BBC News reported that “Taleban rebels have shot dead nine Afghan soldiers in an ambush in southern Helmand province. The attack took place in the Chakul area close to the Pakistan border late on Thursday [24 February], an official said. Taleban spokesman Mullar Latif Hakimi confirmed its fighters had carried out the raid, one of the bloodiest attacks on government troops in months. In another incident on Thursday in eastern Khost province, the US military said it killed 10 Taleban rebels.” [25n]

- 6.405 On 4 March 2005, Radio Free Europe/Radio Liberty (RFE/RL) reported that four senior former Taliban members had responded to an amnesty offer by the Afghan government:

“Habibullah Fawzi, a former Taliban diplomat, says talks between former members of the Taliban militia and the Afghan government aimed at national reconciliation have been going on for two years... The Afghan government has called on former Taliban members to join the country’s social and political life. The only individuals excluded are those involved with terrorist groups or committing atrocities. The call is supported by the United States... Fawzi, along with Abdul Hakim Mujahid, a former envoy to the United Nations; Arsullah Rahmani, the former deputy minister of higher education; and Rahmatullah Wahidiyar, a former deputy minister of refugees and returnees, are the highest-ranking former Taliban to participate in

the talks. All four fled to Pakistan after U.S. and Afghan forces drove the Taliban from power in late 2001.

The former Taliban officials distance themselves from militants who are continuing attacks in the southern and eastern regions of the country. They say they are talking to the government in the name of their party – not as Taliban members. ‘We talked to the government representing the Khuddam ul Furqan [Servants of the Koran] – not the Taliban,’ Fawzi says. ‘Of course there are some groups who are in favor of military actions, but we believe the majority of people think that for establishing peace and stability in the country conflict and clashes should end.’”

The ousted Taliban leader Mullah Mohammad Omar and his supporters have condemned the talks as a plot and say they will continue their fight against foreign forces and the Afghan government.” [29b]

6.406 On 21 April 2005 Agence France-Presse reported:

“Two senior members of the former Taliban regime have surrendered to the Afghan government as part of an amnesty offer, an official said Thursday. Mullah Mohammed Naseem, the governor of souther Zabul province under the Taliban, and former police chief of western Farah province Akhtar Mohammed surrendered late Wednesday to authorities in southern Helmand province, said Mohammed Wali, the spokesman for provincial governor. Earlier in March another key Taliban commander named Mullah Abdul Wahid also surrendered in Helmand.

Afghan interior ministry spokesman Lutfullah Mashal said the amnesty process was gathering pace in Afghanistan but could not confirm the latest surrender of the two senior Taliban in Helmand. ‘The reconciliation process is well ongoing around Afghanistan especially in the south and southeast of the country and lots of Taliban have come under the national amnesty umbrella,’ Mashal said.” [40ac]

6.407 BBC News reported on 5 June 2005 that a high-ranking Taliban commander, Haji Sultan, was captured in Farah province and Mullah Mohammed Rahim, a senior Taliban official was also arrested. [25ai] On 15 August 2005 Radio Free Europe/Radio Liberty (RFE/RL) reported that Afghan security forces and US troops had captured a key neo-Taliban commander, Qari Baba, in Ghazni province. Baba was governor of Ghazni during the Taliban’s rule and he is believed to be responsible for attacks on US and Afghan forces in the province [29k]. On 18 August 2005, Dawn.com reported that the head of the Taliban’s Culture and Information Council, Maulvi Muhammad Yasir, had been arrested in Pakistan. [65]

6.408 On 17 June 2005 the Asia Times reported: “In line with the expectations of Afghan authorities and US-led coalition forces, disruptive activities and terrorist acts either committed by or in the name of the Taliban and their allies have increased since the weather improved in southern and eastern Afghanistan.” Commenting on anti-US demonstrations in May 2005 and the 1 June suicide bombing of a Kandahar mosque that killed mourners of an anti-Taliban cleric, the report stated:

“The possible role of the Taliban is unclear. No one has pointed a finger at the Taliban for fueling the demonstrations and the militia’s spokesman, Mufti Latifullah Hakimi, has denied any involvement. The Taliban did claim responsibility for the May 29 [2005] murder of Mawlawi Abdullah Fayyaz, head of the Council of Ulema of Kandahar and an ardent opponent of the Taliban. However, Hakimi,

commenting on the suicide attack in the Kandahar mosque during services held for Fayyaz, said: 'This shouldn't have occurred. We strongly condemn this act.'"

It is difficult to differentiate between wanton acts of violence in Afghanistan. Some attacks, carried out in the name of the Taliban, are actually committed by drug dealers or other criminals. And the Taliban often claims responsibility for acts of violence that it has not committed... Suicide bombings are very rare in Afghanistan and the Taliban seldom resort to this tactic to achieve their goals... The Kandahar attack may be the beginning of a new front by al-Qaeda-inspired terrorists, possibly backed by regional countries, to recalibrate their anti-US activities in Afghanistan." [93]

6.409 On 25 July 2005, BBC News reported that "Fugitive Taleban leader Mullah Mohammed Omar has purportedly called on the movement's supporters to unite and fight Afghan and foreign troops. In an audio tape, a man said to be Mullah Omar is heard telling his forces not to harass civilians while waging war against foreign invaders... More than 700 people have been killed this year in violence blamed largely on supporters of the movement." [25ae]

6.410 On 29 August 2005, IRIN News reported that a Taliban spokesman had announced that they do not intend to attack polling stations on polling day for the parliamentary elections in September: "The announcement from the Taliban, who did little to disrupt the presidential election in October 2004, was welcomed by Kabul, but some international bodies have questioned the credibility of the statement." A spokesman for the ISAF said they did not trust the statement because the Taliban have lied about several other issues in the past. Moreover,

"JEMB spokeswoman, Bronwyn Curran, said the electoral body was also suspicious about the statement that the Taliban would not attack voters, candidates or security personnel. 'We are not in a position to judge how centrally coordinated the insurgents are, as insurgents, notoriously, are not centrally coordinated. They are factionalised, they are a long way from having a central command, so we don't put a lot of weight into what a purported spokesperson – one man – says for a faction of insurgents'... Washington is confident the Taliban threat has been significantly reduced ahead of the historic poll. The US military said it has killed at least 105 militants in a series of clashes over recent weeks in two provinces." [36g]

(See also Section 4: [Developments since the presidential election](#) for more information on incidents involving the Taliban)

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FORMER TALIBAN MEMBERS

6.411 The Danish fact-finding mission to Kabul in March/April 2004 reported that, according to UNHCR, former members of the Taliban who were guilty of human rights abuses were likely to get into trouble with the local community. However,

"The source mentioned that low profiled, or ordinary Taliban members generally do not face problems when integrating in the local community... The Norwegian Chargé d'Affaires pointed out that not all Taliban supporters committed crimes. The source was of the opinion that many ordinary people choose [sic] to join the

Taliban just in order to get a job and are therefore not necessarily guilty of human rights abuses. The source found that at the present time there is very little persecution going on of the Taliban supporters. They have adapted to the society and have no problems solely because they are former members of the Taliban.” [8] (section 6.7)

6.412 The Danish report further noted:

“The UNHCR explained that it is most likely that some of the people who earlier supported the Taliban are now living in Kabul and other areas without having difficulties with the existing people in power. However the UNHCR pointed out that people who are known for having supported the Taliban run the risk of receiving serious threats if they return to the areas of Faryab, Badghis, Bamian and Ghazni in northern, north western and central Afghanistan. The source explained that a number of the acts of revenge related to the conflicts that aroused [sic] during the Taliban period is [sic] being carried out. The source [k]new of episodes where the local population had imposed certain conditions towards a refugee wishing to return, whom they believed had committed human rights violations. The source said in this context that the battle of the coalition forces in southern and southeastern Afghanistan is directed against high profile Taliban members and Al-Qaeda members. In relation to this, the source did not know of highly profiled Taliban members who had returned to Afghanistan.” [8] (section 6.7)

6.413 The Danish report also stated:

“The UNAMA found that the situation for former members of the Taliban is complex. The questions as to whether a former member will have problems in Afghanistan today depends on whether the person concerned has a solid network, and is in a position to persuade that he has changed side to the people in power. An international NGO mentioned that people who formerly worked for the Taliban can have problems in Afghanistan today, but that the extent of the problems depends on how highly placed the person was.” [8] (section 6.7)

6.414 An article published by the Jamestown Foundation dated 21 October 2004 stated: “On October 19 [2004], U.S. Ambassador to Afghanistan Zalmi Khalilzad told a news briefing in Washington that the United States wants to coax lower-level Taliban members away from their organization. He explained that although Taliban leaders should still be brought to justice and that the military should press its fight to ‘finish off’ the hardliners, the door should be open to lure lower-ranking Taliban members who are willing to renounce past violence and enter civilian life.” [59]

6.415 The April 2005 report by the Netherlands Institute of International Relations recorded:

“While President Karzai has rejected the term ‘national reconciliation,’ which Najibullah [former Soviet-backed President] used for a program of co-opting mujahidin commanders, the President is now proposing such a process to reintegrate the Taliban, called ‘Strengthening Peace’... The Strengthening Peace program seeks a kind of piecemeal peace agreement with Taliban rank-and-file rather than a comprehensive agreement with the leadership... Resistance by elements of the former Northern Alliance has prevented approval of this program by the cabinet. The Coalition is implementing its own version, the ‘allegiance program.’ [89] (p47)

- 6.416 An article by an independent journalist in the New York Times dated 20 March 2005 reported on the Allegiance programme:

“Working closely with provincial officials, the Americans already have accepted 30 fighters with links to the Taliban into the program, requiring them to take an oath of allegiance to the Afghan government and giving them an identification card to guarantee their safety. Although many senior officials in the frontline provinces were initially skeptical last year when Mr. Karzai spoke of an amnesty for all except the Taliban senior leadership, many of them now voice support for the policy. In the absence of the federal program, some provincial and even national law enforcement officials around the country have been welcoming the former Taliban officials and fighters home if they promise to eschew violence and support the government.” [28]

- 6.417 The New York Times article also reported a former Taliban recruiter as saying that a lot of people have not joined the process because their friends and relatives are still in Bagram [Afghanistan] and Guantanamo [Cuba] prisons and they fear they will also be arrested and jailed. The article further noted:

“The American military, recognizing that there is some risk involved, has released a few former Taliban with the assurances of tribal elders that they will vouch for the men’s good intentions. Two of those freed have been appointed district police chiefs in the border provinces most prone to Taliban-led incursions. A third man had been accused of involvement in an explosion in Paktika Province last October that killed five people, including a local doctor who was a senior election official.

‘We had every reason to keep him detained, but a lot of elders came and promised to keep him restrained,’ said Col. Gary Cheek, the American commander of eastern Afghanistan. He acknowledged mixed feelings about the release, but he said he was following the local governor’s advice.

Four or five former Taliban members completed the allegiance program in his region in recent months, and more would come if the government pushed the program, Colonel Cheek said. ‘We are not sure that the government is ready to make a commitment yet,’ he said. ‘There are pretty deep wounds,’ he added, saying that some groups in the ethnic mix were opposed to allowing the Taliban to return ‘with a free rein.’” [28]

- 6.418 On 6 June 2005, Radio Free Europe/Radio Liberty (RFE/RL) reported:

“The [government’s] reconciliation policy, more articulated by Karzai since April 2003, essentially maintains that other than between 100 to 150 former members of the Taliban regime are known to have committed crimes against the Afghan people; all others, whether dormant or active within the ranks of the neo-Taliban, can begin living as normal citizens of Afghanistan by denouncing violence and renouncing their opposition to the central Afghan government.

The list of the unpardonable former Taliban members has never been made public by Karzai despite requests for such an action by the Afghan media and politicians. Moreover, comments made in May by Sebghatullah Mojaddedi – which were initially supported by Karzai – has changed the issue of who cannot be pardoned into a contentious political problem. As the head of the Independent National Commission for Peace in Afghanistan, an organ established to facilitate the

reconciliation process with the former Taliban members, Mojaddedi announced that the amnesty offer from Karzai's government extended to all Taliban leaders, including the regime's former head, Mullah Mohammad Omar. Both Mojaddedi and Karzai have since backed off of those statements, but distrust has increased and the door of misuse of the reconciliation policy has opened wider." [29d]

6.419 On 10 July 2005, CagePrisoners.com reported:

"The U.S. military freed 76 Taliban suspects on Saturday as part of an effort to encourage rank and file guerrillas to lay down their arms, the latest batch freed this year despite a surge in militant violence... They were the latest freed since President Hamid Karzai called for release from custody of all Afghan prisoners in U.S. detention following an outcry over reports of abuse, including the deaths of two inmates at Bagram. Another group of 57 were freed early this month, 53 in June [2005], 86 in May [2005] and 81 in January [2005].

The government reconciliation programme announced last year has seen only limited success and Afghanistan has seen a surge in Taliban-linked violence in the run up to Sept. 18 elections. U.S. forces have captured hundreds of suspected militants since toppling the Taliban for harbouring al Qaeda chief Osama bin Laden, architect of the Sept. 11 attacks. U.S. military spokeswoman Lieutenant Cindy Moore said about 450 remained in custody." [12]

6.420 In a June 2005 report, UNHCR stated:

"It can be presumed that most of the 'rank and file' Taliban has already returned to their communities of origin, either in Afghanistan or in Pakistan. Many former Taliban fighters have been released from detention on grounds that they were conscripts and 'innocent,' starting in 2002 and in smaller groups since. There are also attempts to include a number of moderate Taliban in the political process to further national unity. To this end, a Commission, headed by Sigbatullah Mojadeddi, has been established, which follows issues of reconciliation, including questions related to amnesties for specific Afghans wishing to return to and participate in the political process in Afghanistan. However, the country has seen surges in the level of violent incidents in some parts directed against the transition process, against the Government and its institutions, which is largely attributed to remnants of the Taliban as well as segments of the Hezb-e-Islami (Hekmatyar). The factions openly oppose and try to disrupt the process toward democracy, and object in particular to the presence of US military forces in Afghanistan. Active association with Taliban or other anti-Government elements may therefore entail serious consequences for the individual concerned, including arbitrary and prolonged detention, ill-treatment and torture, intimidation and extortion by military forces. There are reports from the Eastern and Southeastern regions that Afghans are falsely accused of supporting active Taliban networks. The accusers may be local commanders or members of security forces intent on extorting money from influential and rich Afghans. The co-operation, in many instances, of these local commanders, with Coalition forces to counter remnants of the Taliban and Al-Qaida, has increased the real and perceived authority of these. In other instances, accusations may be a means to take revenge against an Afghan individual for private reasons.

When reviewing the cases of persons associated with the Taliban and similar groups, it is imperative to undertake an analysis of the potential applicability of exclusion clauses of Article 1 F of the 1951 Refugee Convention. To some extent,

many of these individuals were involved, directly or indirectly, in widespread human rights violations.” [11b] (p48-49)

(See also [UNHCR and ECRE guidelines](#))

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HIZB-E-ISLAMI (HISB-E-ISLAMI/HEZB-E-ISLAMI/HIZB-I-ISLAMI)

- 6.421 On 9 August 2005, the Terrorism Knowledge Base, sponsored by the National Memorial Institute for the Prevention of Terrorism (MIPT), recorded:

“The Hizb-i-Islami (Islamic Party) of Afghanistan was formed by Gulbuddin Hikmatyar [Hekmatyar] in the mid-1970s. Originally the party acted as an Islamist insurgency against the Daud regime in Kabul. After the Soviet invasion the group was heavily involved in anti-Soviet attacks funded through the Pakistani Inter-Services Intelligence (ISI) and the United States. In the factional fighting that emerged after the Soviet withdrawal from Afghanistan, the Islamic Party forged a number of non-durable political alliances, first with officials in the Najibullah regime and later with Uzbek warlord Dostam. After repeated attacks on Kabul and the regime of Rabbani Hikmatyar, the Islamic Party finally entered into the Afghan government in 1996, only to be driven from power shortly thereafter with the rise of the Taliban.

The Hizb-i-Islami split in the late 1970s, with Maluvi Mohammad Yunus Khalis’s faction breaking away from the dominant group led by Hikmatyar. Recent reports suggest that the fragmentation of the Islamic Party has continued, with a group led by Khalid Farooqi proclaiming to support the transitional regime of Hamid Karzai and end their struggle against the Afghan government and coalition troops. Farooqi has claimed that his faction of the group has cut off all contact with Hikmatyar, who remains at large. The precise balance of power within the Hizb-i-Islami remains unknown.” [52]

- 6.422 On 14 September 2004, the Institute for War and Peace Reporting reported that Hekmatyar was designated a terrorist by the US State Department in February 2003 for participation in and support for terrorist acts committed by al-Qaeda and the Taleban. [73n]

- 6.423 In September 2004 the UN-appointed independent expert of the Commission on Human Rights noted that Hizb-I Islami is one of the groups in addition to the Taliban and Al-Qaida known as “anti-Coalition forces” or “anti-Government forces” which represent a significant security threat in Afghanistan. “They have engaged in steady acts of relatively small-scale violence, targeted assassinations, bombings, rocket attacks and occasional armed assaults.” [39k] (para 36)

- 6.424 An International Crisis Group (ICG) briefing dated 2 June 2005 stated:

“In May 2004, a delegation from the party’s executive committee, based in Peshawar, Pakistan, travelled to Kabul to pledge support for the Karzai government. Led by Khaled Farooqi, a Pashtun from Paktiya province, the group claimed to have broken with Hikmatyar [Hekmatyar] and declared its intentions to participate in the political process. The registration of Farooqi’s group as a political party has been delayed by its insistence on retaining the party’s original name

[Hizb-e Islami Hikmatyar (Party of Islam Hikmatyar)]. Ministry of justice officials argue that Farooqi and his group must then assume responsibility for the weaponry of a party that was a major contender during the civil war. Given Hikmatyar's long-time absolute control over the party machinery, many observers believe he may still have influence, especially since Farooqi has yet to demonstrate his ability to lead the party. However, many former Hizb-e Islami commanders in the north and south did support Karzai during the presidential elections, and many of them now hold key positions in Kabul and provincial administrations." [26e] (p8)

- 6.425 An earlier ICG Asia Briefing published on 30 March 2004 noted: "In the weeks since the Constitutional Loya Jirga, the president has appointed a number of former Hizb-i Islami (Hikmatyar) [Hekmatyar] commanders and political figures to high-level posts, including Bashir Baghlani as governor of Farah, Khyal Mohammad as governor of Zabul, and Sabawoon as minister-adviser in the Ministry of Border and Tribal Affairs." [26a] (p8) ICG also noted that the incorporation of former Hizb-i Islami personalities into the government indicated that the support extended to President Karzai by former Hizb-i Islami members may be more than a short-term alliance. [26a] (p8)
- 6.426 A Danish fact-finding mission to Kabul in March/April 2004 reported that, according to UNHCR, there are small groups of Hezb-e-Islami (Hekmatyar) in Kunar province. According to the source, "Nobody knows where Hekmatyar himself is living. Some of his men work with the Taliban. In the opinion of the source, Hekmatyar's position is weak. Khalis has joined Shura-e-Nazar and various Khalis supporters work for the government." [8] (section 6.8)
- 6.427 The Danish fact-finding report also noted: "The ICG [International Crisis Group] was of the opinion that Hezb-e-Islami does not exist today as a political party, but could be characterized better as a loose structure of individual warlords. The source found that the Hekmatyar's faction of the Hezb-e-Islami is not regarded as an important factor in the resistance against the government, but rather as a factor of annoyance." [8] (section 6.8)
- 6.428 Reports by the Afghanistan Justice Project (AJP) published on 29 January 2005 [13a] and 17 July 2005 [13b] give detailed information on war crimes committed by various individuals and parties, including Hizb-i-Islami, during the years of conflict (1978-2001) in Afghanistan. The January report focuses particularly on the post 1992 period. The reports should be referred to directly if further information on the activities of Hizb-i-Islami during those years is required. (See Annex E source numbers [13a] [13b])
- 6.429 On 17 July 2004, a report by the AIHRC and UNAMA on the political rights situation noted that "In Nangarhar two members of a political party have been repeatedly threatened and warned to cease their political activities by Hezbi-Islami [sic] supporters. Following these threats, one of the member's party was the target of an arson attack." [48a] (p6)
- 6.430 On 22 November 2004, an article on Eurasianet noted:

"In a newly released recording, renegade warlord and former Afghan Prime Minister Gulbuddin Hekmatyar stepped up calls for Afghans to engage in jihad, or holy war, against the United States, AFP [Agence France-Presse] reported on 21 November [2004]... Hekmatyar, the leader of the militant group Hizb-e Islami,

urged Afghans to employ suicide attacks, which so far have been rare in Afghanistan. 'If [Afghans] cannot fight in an organized front, they can risk their lives and carry out suicide guerrilla attacks, which have given great defeats to the enemy,' Hekmatyar said. 'We have lots of young fighters who are ready to sacrifice their lives and wealth to save the religion.'" [45a]

- 6.431 A report by the AIHRC and UNAMA dated June 2005, published prior to the parliamentary elections in September 2005, stated "In Barr village of Mazina town, Rodat District, Nangarhar tribal elders under the command of Haji Rohullah, a former Hezbi-Islami commander, threatened to extract 25,000 rupees from those who did not vote for him, in addition to burning down their homes." [48c] (p7)
- 6.432 On 13 June 2005, the Xinhua News Agency reported that, according to a state-run newspaper, Anis, eighteen opposition commanders affiliated with Hekmatyar had laid down their arms and joined the government. The report said that the commanders surrendered to the government in Paktia's provincial capital Gerdiz the previous day. "All of them have expressed their readiness to defend the government against enemies, said the report." [40p]

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FORMER HIZB-E-ISLAMI MEMBERS

- 6.433 The Danish fact-finding mission of March/April 2004 reported the views of various sources on the position for people with connections to Hezb-e-Islami. According to UNHCR, ex-Hezb-e-Islami, including former commanders, do not have any problems with the government in Afghanistan today if they make it clear that they are no longer working with Hekmatyar. UNHCR were reported as saying that "A number of ex-Hezb-e-Islami members occupy high positions within the government. As an example the source mentioned that Hekmatyar's former right-hand [man] currently holds a high position in the government. The present situation taken into consideration, the source found that it depends on the history of a former member of the Hezb-e-Islami whether or not he/she risks being persecuted in Afghanistan." [8] (section 6.8)
- 6.434 The Danish report also noted that, according to UNHCR, Hezb-e-Islami (Hekmatyar) previously had a lot of civil servants attached to the group and it was likely that President Karzai would include such former officials in the government:
- "President Karzai has among other things appointed various former supporters of the Hekmatyar as governors. The question as to whether a former member of Hezb-e-Islami risks being persecuted today, depends on the person's connection with Hekmatyar, and to what extent the person still is in conflict with powerful people in Afghanistan." An international NGO agreed that the scope of the problems that may be experienced by people who formerly worked for Hezb-e-Islami would depend on their connections to Hekmatyar and whether or not they were currently in conflict with people in power. [8] (section 6.8)
- 6.435 The Danish fact-finding mission also reported "The UNAMA mentioned a case in which a person had been arrested by the ANA and was accused of being connected with Hezb-e-Islami. The person was released because his brother was able to prove to the ANA that the person in question no longer supported the Hezb-e-Islami. The source stated that if the security forces believe that one is

connected to the Hezb-e-Islami's Hekmatyar faction, one risks being arrested. There is also a risk that people will accuse others of having connections to Hekmatyar for personal motives." [8] (section 6.8)

6.436 The Danish report also noted:

"The CCA [Co-operation Centre for Afghanistan] confirmed that there are people connected with the government who earlier belonged to Hezb-e-Islami. The source mentioned that one of President Karzai's advisors was formerly the deputy head of Hezb-e-Islami's security forces in Peshawar. The source was of the opinion that a former member of the Hezb-e-Islami who has changed side, and who is clearly expressing his support for the government can remain in Afghanistan without being involved in problems. However, it is a pre-condition that one is no longer connected with the party. People who are currently active for the Hezb-e-Islami are considered to be at war with the current government like the Taliban supporters. They will not be able to remain in the country without encountering problems." [8] (section 6.8)

6.437 The April 2005 report by the Netherlands Institute of International Relations recorded that "Hikmatyar [Hekmatyar] is active in the northeast corner of the Pashtun belt, but he is not a strategic threat. Most of his former party members around the country have accepted the government, and some serve as governors, police chiefs, and other officials." [89] (p47)

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AL QA'IDA (AL-QAEDA)

6.438 A BBC News timeline dated 22 April 2005 recorded that the US launched attacks on Afghanistan, where Osama bin Laden had been operating, six weeks after the attacks of 11 September 2001 in the US. Hundreds of suspected Al Qa'ida fighters were subsequently held in custody in the US base in Guantanamo Bay, Cuba. [25i]

The Al Qa'ida organisation is proscribed in the UK under the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2001. [21]

6.439 On 29 July 2004, a House of Commons Foreign Affairs Committee reported that the primary objective of the ongoing US-led Operation Enduring Freedom (OEF) in Afghanistan was to extinguish the remaining groups of Al Qaeda and other foreign fighters, and the diehard remnants of the former Taliban regime. The report noted that "Coalition forces, principally the Americans, continue their search for Osama bin Laden in the border area between Afghanistan and Pakistan." [53] (p72)

PERSONS IN CONFLICT WITH PRESENT POWER BROKERS

6.440 The Danish fact-finding mission to Kabul in March/April 2004 reported:

"The UNHCR found that Kabul is not a safe place if a person has been involved in a serious conflict with General Dostum or with any other powerful warlord. The source was of the opinion that individuals can do very little to hide from the warlords or from the local commanders. The source pointed out that President

Karzai is close to General Dostum. The government is not in a position to offer any form of protection against warlords or local commanders. The source stated that a conflict in which a person was guilty of attacking the honour or reputation of a warlord should be regarded as serious. The UNHCR explained that the situation for people involved in past conflicts with persons from the Northern Alliance will depend upon the specific area the person concerned will return to, and what kind of conflict.” [8] (section 6.6)

6.441 The Danish report also noted that

“The CCA [Co-operation Centre for Afghanistan] found that it is not certain that people in Kabul will have problems with General Dostum if it concerns minor conflicts. As an example, they mentioned that the Kabul magazine ‘Rozana’ had written about the situation of women in General Dostum’s territory without getting problems. The source was of the opinion that a similar publication in the areas controlled by General Dostum himself could not have taken place.” [8] (section 6.6.3)

6.442 The Danish report also noted that, according to the CCA, people who have been involved in conflicts with Jamiat-e-Islami would have problems in Afghanistan today:

“The problems depend on the profile of the person and the character of the conflict. The organization further explained that the question as to whether a person who has previously been involved [sic] in conflicts with people from Shura-e-Nazar will continue to have problems if he returns to Afghanistan, will depend on the type of the conflict, the importance of the person concerned and the other person involved in the conflict. At the same time it depends upon where too [sic] one returns. As an example the source mentioned that if one is involved in a ten-year-old conflict with a single man from the countryside, and returns to Kabul, it is not likely that one will get any problems. If one has any problems with powerful individuals within Shura-e-Nazar one runs, according to the organization, the risk of being persecuted in Afghanistan as the situation is today.” [8] (section 6.6.1)

6.443 Regarding people in conflict with Hezb-e-Wahdat, the Danish report noted:

“The UNHCR was of the opinion that it can be difficult to return to Afghanistan for persons in conflicts with Hezb-e-Wahdat commanders. People can be persecuted if they return to areas where they are in conflict with the local commander. The UNAMA found that it is not possible finding an internal flight alternative, if a person has serious conflicts with one of the two Hezb-e-Wahdat factions.

The CCA mentioned that there are several powerful people in the government belonging to Hezb-e-Wahdat. The CCA was of the opinion that there has been a softening in the fights between the two Hezb-e-Wahdat factions, and that old conflicts no longer are of the same importance. The source found that the question as to whether a person still has something to fear in Afghanistan if he has been in conflict with one of the two Hezb-e-Wahdat factions depends on the person’s position, the character of the problem and where to he wants to return. Such a person would have a better chance avoiding problems in Kabul than in the provinces.” [8] (section 6.6.2)

- 6.444 The June 2005 UNHCR position paper stated that “Afghans expressing their political opinions are at greater risk of persecution, if these opinions are perceived as critical of the interests of local and regional commanders and powerful factions. Risks continue to exist (and may increase in the period leading to Parliamentary elections now postponed to September 2005) for persons known to have political affiliations different from those of persons linked to armed factions exercising de-facto power at the local level.” [11b] (p44)

(See also [UNHCR](#) and [ECRE](#) guidelines)

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DOCUMENTS AND REGISTRATION OF BIRTHS AND MARRIAGES

- 6.445 The US State Department Report 2004 published on 28 February 2005 recorded that “The passport law requires women to obtain permission from a male family member before having a passport application processed.” [2d] (section 2d)

- 6.446 The Danish fact-finding mission of March/April 2004 noted that, according to the Ministry of Interior (Mol):

“The applicant has to submit his request for a passport in person. The applicant should at the same time prove his identity, for example by showing an identity card. If the applicant is not in possession of such documentation, his identity can be established by other means among other things by conducting a personal interview. In order to have an Afghan national passport extended it is necessary to appear in person. According to the source a male Afghan citizen can have his wife and children up to age of 14 registered in his passport without his wife having to appear at the passport office to sign the passport. However, pictures of wife and children have to be submitted.” [8] (section 8.1)

- 6.447 The Danish report also noted:

“According to the Ministry of the Interior, the provincial authorities have the authority to issue national passports. Police headquarters have passport departments. The validity for such passports is one or two years depending on the period requested... When issuing a passport the applicant has to pay a fee of 1,160 Afghanis (approximately US \$ 20-22) per year the passport is valid.

According to the Ministry of the Interior all Afghan embassies and consulates have the authority to issue passports for Afghan citizens. One has to appear in person to be identified at the representative office abroad in order to have a passport issued. However the source informed that the Afghan authorities consider the identity determined if a government, e.g. the Danish government, forwards passports to the Afghan representative office abroad.

The Afghan authorities have begun to register all passports that are being issued. The serial number, photograph and fingerprint are noted in a book. In this way, it is possible to verify whether a passport has actually been issued to the person holding it. The Ministry of Interior was of the opinion that many citizens from Afghanistan’s neighbouring countries have illegally been issued an Afghan national passport. This applies to people from Pakistan, Iran, Uzbekistan and

Tadjikistan [Tajikistan]. This has happened because it has not been possible to check the identity of the applicants.” [8] (section 8.1)

6.448 The Danish report also noted that “The Ministry for the Interior informed that there are very few Afghans who have a marriage certificate and that in general such certificates are not issued at all outside large towns. The source pointed to the fact that there does not exist systematic registration of marriages making it impossible to check whether or not two Afghan citizens are in fact married to one another. The Vice Minister for Women’s Affairs mentioned in this connection that in Afghanistan there is a lack of offices where marriages can be registered.” An international NGO agreed that very few couples possess a marriage certificate. According to the source only about 25-30 per cent of all couples in Kabul possess a marriage certificate and outside Kabul only ten per cent of married couples have one. [8] (section 8.2)

6.449 The Danish report continued:

“Both the Ministry of the Interior and the international NGO said that a marriage certificate can be issued after the marriage. In such cases one should approach the court where a form has to be filled in. It is necessary to go to the court accompanied by persons who can testify being witnesses to the marriage, e.g. the witnesses who took part in the marriage ceremony, or the families of the partners.

The Ministry of the Interior explained furthermore that the Afghan representations abroad are not in principle authorized to issue proofs of marriage, because they cannot check whether or not the couple is married. If embassies issue such proofs, this is more an expression of goodwill than a proper confirmation in the legal sense.” [8] (section 8.2)

6.450 The Afghan Ministry of Interior has produced a Project Document for Birth Registration of All Children under five. The undated document shows that the timescale for the registration of children under five is April 2004 to March 2005 and states:

“Afghanistan has a legal provision for birth registration, but 23 years of war and fractured social and public administration system has led the system to fall into disuse. No formal birth registration mechanism existed except for certification of birth by the person/institution who assisted in the delivery of the child. Previous data on the Multiple Indicator Cluster survey in 2000 showed that only 2 percent of children under five years of age in the south-eastern region and 18 percent of children in the Eastern region had birth certificates before the recent campaign conducted for under 1s during 2003.” [10]

(See also Section 5 Citizenship and Nationality paragraph 5.9 for information on ID cards)

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Annex A: Chronology of major events [25b]

- 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. [NB. Europa records that Amanullah succeeded his father, Habibullah, after Habibullah's assassination in 1919.] [1a] (p53)
- 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** 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** Mujahideen 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** **June:** Clashes between Taleban fighters and government forces in Kandahar province leave 49 people dead.
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% of the vote. He is sworn in, amid tight security, in December.
- 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.

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Annex B: Political organisations and other groups

In September 2003 a new law allowing the formation of political parties was passed.
Source: Europa: South Asia 2005. [1a] (p80)

REGISTERED POLITICAL PARTIES

The Joint Electoral Management Body (JEMB) website showed the following 76 Political Parties as being registered and approved by the Ministry of Justice on 20 August 2005 [74a]:

1. **Hezb-e-Jamhoree Khwahan-e-Afghanistan**
Leader: Sebghatullah Sanjar
2. **Hezb-e-Isteqlal-e-Afghanistan**
Leader: Dr.Ghulam Farooq Nejrabee
3. **Hezb-e-Hambastagee Mili Jawanan-e-Afghanistan**
Leader: Mohammad jamil Karzai
4. **Hezb-e-Wahdat-e-Mili Afghanistan**
Leader: Abdul Rashid Jalili (The International Crisis Group (ICG) noted in June 2005 that Jalili is a former education minister and dean of the agriculture faculty at Kabul University under the PDPA's Amin. The party depends on support from intellectual Pashtuns and former Khalqi Pashtuns. [26e] (p9))
5. **Hezb-e-Mili Wahdat-e-Aqwam-e-Islami-e-Afghanistan**
Leader: Mohammad Shah Khogyani
6. **Hezb-e-Kar Wa Tawsiha-e-Afghanistan**
Leader: Zulfiqar Omid
7. **Hezb-e-Nahzat-e-Hambastagee Mili-e-Afghanistan**
Leader: Peer Sayed Eshaq Gailanee
8. **Hezb-e-Mahaz-e-Mili Islami-e-Afghanistan**
Leader: Peer Sayed Ahmad Gailanee
9. **Hezb-e-Nahzat-e-Aazadee Wa Democracy-e-Afghanistan**
Leader: Abdul Raqib Jawid Kohistanee
10. **Hezb-e-Afghan Melat**
Leader: Anwarul Haq Ahadi
11. **Hezb-e-Harakat-e-Islami-e-Afghanistan**
Leader: Mohammad Ali Jawid
12. **Hezb-e-Sahadat-e-Mardom-e-Afghanistan**
Leader: Mohammad Zubair Pairoz
13. **Hezb-e-Harakat-e-Mili Wahdat-e-Afghanistan**
Leader: Mohammad Nadir Aatash
14. **Hezb-e-Ifazat Az Uqooq-e-Bashar Wa Inkishaf-e-Afghanistan**
Leader: Baryalai Nasrati
15. **Hezb-e-Mili Afghanistan**
Leader: Abdul Rashid Aryan (ICG noted in June 2005 that the party has its roots in the Khalq faction of the PDPA. [26e] (p8))
16. **Hezb-e-Kangra-e-Mili-e-Afghanistan**
Leader: Abdul Latif Pedram
17. **De Afghanistan De Solay Ghorzang Gond**
Leader: Shahnawaz Tanai

18. **Hezb-e-Harakat-e-Islami Mardom-e-Afghanistan**
Leader: Ilhaj Sayed Hussin Anwary
19. **Hezb-e-Adalat-e-Islami Afghanistan**
Leader: Mohammad Kabir Marzban
20. **Hezb-e-Resalat-e-Mardom-e-Afghanistan**
Leader: Noor Aqa Roeene
21. **Hezb-e-Refah-e-Mardom-e-Afghanistan**
Leader: Mia Gul Wasiq
22. **Hezb-e-Sulh Wa Wahdat-e-Mili-e-Afghanistan**
Leader: Abdul Qader Emami?
23. **Hezb-e-Tafahum Wa Democracy-e-Afghanistan**
Leader: Ahmad Shaheen
24. **Hezb-e-Islami-e-Afghanistan**
Leader: Jawan Sayed Jawad Hussinee
25. **Hezb-e-Sulh-e-Mili Islami Aqwam-e-Afghanistan**
Leader: Abdul Qaher Shariatee
26. **Hezb-e-Wahdat-e-Islami-e-Afghanistan**
Leader: Mohammad Karim Khalili (ICG noted in June 2005: "The rump faction of the party led by Vice President Karim Khalili maintains a larger and more powerful network of former commanders than its competitor led by Mohaqqueq [see party 27 below] but appears to have comparatively little infrastructure or public support. It did badly in the elections to the Constitutional Loya Jirga, when Khalili was criticised by Hazara delegates for soft-peddling the issues of language and parliamentary powers. He has yet to regain lost ground with his Hazara base." [26e] (p8))
27. **Hezb-e-Wahdat-e-Islami Mardom-e-Afghanistan**
Leader: Haji Mohammad Muhageq [Mohaqqueq] (ICG noted in June 2005 that this faction of the Wahdat had gained support, as shown in its leader's credible performance [third [25y]] in the presidential elections. "It [the party] appears to have shifted its identity from primarily Shia to Hazara nationalism. Avowedly anti-Karzai and fearful of 're-Pashtunisation' of the government -- which plays on historical Hazara concerns about political and economic marginalisation -- the party has gained support from many Hazara intellectuals" [26e] (p8).
28. **Hezb-e-Lebiral Aazadee Khwa-e-Afghanistan**
Leader: Ajmal Suhail
29. **Hezb-e-Falah-e-Mardom-e-Afghanistan**
Leader: Ustad Mohammad Zareef
30. **Hezb-e-Hambastagee-e-Afghanistan**
Leader: Abdul Khaleq Nemat
31. **Hazb-e-Jamahat-ul-Dawat ilal Quran-wa-Sunat-e-Afghanistan**
Leader: Mawlawee Samiullah Najeebee
32. **De Afghanistan De Solay Mili Islami Gond**
Leader: Shah Mohammood Popal Zai
33. **Hezb-e-Arman-e-Mardom-e-Afghanistan**
Leader: Ilhaj Saraj-u-din Zafaree
34. **Hezb-e-Paiwand Mili Afghanistan**
Leader: Sayed Mansoor Nadree
35. **Hezb-e-Sahadat-e-Mili Islami-e-Afghanistan**
Leader: Mohammad Osman Salekzada

36. **Hezb-e-Azadee-e-Afghanistan**
Leader: Ilhaj Abdul Malek
37. **Hezb-e-Rastakhaiz-e-Mardom-e-Afghanistan**
Leader: Sayed Zahir Qayed Omul Beladi
38. **Hezb-e-Majmeh Mili Faleen Sulh-e-Afghanistan**
Leader: Shamsul Haq Noor Shams
39. **De Afghan Watan Islami Gond**
Leader: Mohammad Hassan Firooz Khail
40. **Hezb-e-Aazadee Khwahan Mardom-e-Afghanistan**
Leader: Feda Mohammad Ehsas
41. **Hezb-e-Hambastagee Mili Aqwam-e-Afghanistan**
Leader: Mohammad Zarif Naseri
42. **Hezb-e-Eatedal-e-Mili Islami-e-Afghanistan**
Leader: Qara Bik Eized yaar
43. **Hezb-e-Taraqee Mili Afghanistan**
Leader: Dr. Asef Baktash
44. **Hezb-e-Esteqlal-e-Mili Afghanistan**
Leader: Taj Mohammad Wardak
45. **Hezb-e-Tanzim Jabha Mili Nejat-e-Afghanistan**
Leader: Sebghatullah Mujadadi
46. **Hezb-e-Wahdat-e-Mili Islami-e-Afghanistan**
Leader: Mohammad Akbaree
47. **Hezb-e-Afghanistan-e-Wahid**
Leader: Mohammad Wasil Rahimee
48. **Hezb-e-Tahreek Wahdat-e-Mili-e-Afghanistan**
Leader: Sultan Mahmood Ghazi
49. **Nahzat-e-Mili Afghanistan**
Leader: Ahmad Wali Massoud
50. **Hezb-e-Tahreek Wahdat-ul-Muslmeen Afghanistan**
Leader: Wazir Mohammad Wahdat
51. **Nahzat-e-Hakemyat-e-Mardom-e-Afghanistan**
Leader: Hayatullah Subhane
52. **Hezb-e-Aazaadi Khwahan Maihan**
Leader: Abdul Hadi Dabeer
53. **Hezb-e-Nakhbagan-e-Mardom-e-Afghanistan**
Leader: Abdul Hamid Jawad
54. **Hezb-e-Junbish Mili Islami-e-Afghanistan**
Leader: Sayed Noorullah
55. **Hezb-e-Paiwand Miahani Afghanistan**
Leader: Sayed Kamal Sadat
56. **Hezb-e-Jamihat-e-Islami-e-Afghanistan**
Leader: Ustad Rabanee
57. **Tanzim Dawat-e-Islami-e-Afghanistan [Daw'at-e Islami]**
Leader: Abdul Rab Rasoul Sayaf [Sayyaf]
58. **Hezb-e-Mutahed Mili**
Leader: Noorul Haq Uloomi (ICG noted in June 2005 that this party is the principal heir to the Parcham faction of the PDPA. "Its support base cuts across ethnic, regional and gender lines. Many former Parchamis have retained

important positions in the bureaucracy and security institutions, and analysts believe it is capable of mobilising existing Parchami networks countrywide.”

[26e] (p8)

59. **Hezb-e-Mardom-e-Afghanistan**
Leader: Ahmad Shah Asar
60. **Hezb-e-Subat-e-Mili Islami-e-Afghanistan**
Leader: Mohammad Same Kharoti
61. **Hezb-e-Mili Hewad**
Leader: Ghulam Mohammad
62. **Hezb-e-Wahdat-e-Islami-e-Melat-e-Afghanistan**
Leader: Qurban Ali Urfani
63. **Hezb-e-Domcrat-e-Afghanistan**
Leader: Abdul Kabir Ranjbar
64. **De Afghanistan De Mili Mubarizeeno Islami Gond**
Leader: Amanat Ningarharee
65. **De Afghanistan De Mili Wahdat Wolessi Tahreek**
Leader: Abdul Hakim Noorzai
66. **Hezb-e-Afghanistan-e-Naween**
Leader: Mohammad Younus Qanoni
67. **Hezb-e-Eqtedar-e-Mili**
Leader: Sayed Mustafa Kazemi
68. **Mili Dreez Gong**
Leader: Habibullah Janbdad
69. **Hezb-e-Refah-e-Mili Afghanistan**
Leader: Mohammad Hassan Jahfaree
70. **Hezb-e-Refah-e-Afghanistan**
Leader: Meer Moh. Asef Zaeefi
71. **Hezb-e-Umat-e-Islam-e-Afghanistan**
Leader: Toran Noor Aqa Ahmad zai
72. **Hezb-e-Mili Islami-e-Afghanistan**
Leader: Rohullah Loudin
73. **Hezb-e-Junbish Democracy Mardom-e-Afghanistan**
Leader: Sharif Nazari
74. **Hezb-e-Taraqee Democrat Afghanistan**
Leader: Wali Arya
75. **Hezb-e-Democracy Afghanistan**
Leader: Tawos Arab
76. **Hezb-e-Mardom-e-Mosalman-e-Afghanistan**
Leader: Besmellah Joyan

OTHER POLITICAL PARTIES AND GROUPS

Hizb-e Islami Gulbuddin [or Hizb-e Islami Hekmatyar]

(NB. Spellings differ e.g. Hezb-e Islami/Hisb-i Islami/Hisb-e Islami)

Pashtun/Turkmen/Tajik

Leader: Gulbuddin Hekmatyar. c. 50,000 supporters (estimate); based in Iran 1998-99. [1a] Founded in the 1970s and reached the height of its power in 1992 when the Soviet-backed government of President Najibullah fell to a coalition of mujahedin factions,

including Hizb-i-Islami. Hekmatyar served as prime minister in 1995. [73n] Hekmatyar was designated a terrorist by the US State Department in February 2003 for participation in and support for terrorist acts committed by Al-Qaeda and the Taleban, and is currently in hiding. [73n]

(See also Section 6C [Hisb-i Islami](#))

Hizb-e Islami Khalis (Islamic Party Khalis): Pashtun

Leader: Maulvi Muhammed Younis Khalis. c. 40,000 supporters. [1a]

(See also Section 6C [Hisb-i Islami](#))

Ittihad-i Islami Bara i Azadi Afghanistan (Islamic Union for the Liberation of Afghanistan): Pashtun;

Leader: Prof. Abdul Rasul Sayef [Sayyaf]; Deputy leader: Ahmad Shah Ahmadzay; c. 18,000 supporters [1a]. Sayef's party has been renamed and registered as Tanzim Dawat-e-Islami-e-Afghanistan to run in the September 2005 parliamentary elections. [74a]

Jamiat-i Islami (Islamic Society): Turkmen/Uzbek/Tajik; [1a]

The ICG noted in June 2005: "Led by former President Burhanuddin Rabbani, the Jamiat is one of the country's oldest Islamist political organisations but its support has been undermined by internal fissures, stemming from discontent with Rabbani's leadership as well as sub-regional rivalries in the north. [26e] (p9) In June 2005, the ICG [26e] (p5) and UNHCR [11b] (p19) noted that Rabbani's Jamiat-i Islami were among the major parties recently registered for the September 2005 elections. The JEMB list of political parties approved by the Ministry of Justice dated 20 August 2005 included Jamiat-i Islami [Hezb-e-Jamiat-e-Islami-e-Afghanistan], led by Ustad Rabanee. [74a]

Junbesh-i Melli-i Islami [Jombesh-e Melli Islami] (National Islamic Movement)

Formed in 1992 mainly from troops of former Northern Command of the Afghan army; predominantly Uzbek/Tajik/Turkmen/Isma'ili and Hazara Shi'a; 65,000-150,000 supporters. [1a] Leader: General Abdul Rashid Dostam [Dostum] until 17 April 2005 [40b] Agence France-Presse reported on 18 April 2005 that the faction had been registered as a formal political party, allowing it to run in the forthcoming parliamentary elections. [40b] The JEMB list of political parties approved by the Ministry of Justice dated 20 August 2005 included Junbish-i Melli [Hezb-e-Junbish Mili Islami-e-Afghanistan], led by Sayed Noorullah. [74a]

Khudamul Furqan Jamiat (KFJ) – Society of Servants of the Holy Koran

Eurasianet reported on 27 December 2001: "The KFJ is a Pashtun-dominated organization, and, according to sources, is led by so-called moderate Taliban. KFJ leaders include former Taliban Minister of Foreign Affairs Wakil Ahmed Muttawakil, Education Minister Maulvi Arsala Rahmani, and the Taliban's envoy to the United Nations, Abdul Hakim Mujahid." [45d] Radio Free Europe/Radio Liberty reported on 4 March 2005 that the KFJ were involved in talks with the Afghan government following the amnesty offer made to many Taliban members. [29b]

National Understanding Front (NUF)

The ICG recorded in June 2005: "On 1 April 2005, the leader of the Hizb-e Afghanistan-e Nawin (New Afghanistan Party), Yunus Qanooni, and a group of mainly Islamist parties announced formation of a new coalition, the National Understanding Front (NUF), comprised of eleven re-branded mujahidin groups and personalities, including three former presidential candidates...Although the NUF's leadership is multi-ethnic and includes Ahmad Shah Ahmadzai, a Pashtun, Qanooni, a Tajik and Mohammad

Mohaqqueq, a Shia Hazara, many of its parties share common perceptions that Afghanistan, under Karzai, will again become a Pashtun-dominated state.” [26e] (p10-11)

Northern Alliance

Europa records that the Northern Alliance (NA) was an anti-Taliban coalition formed in 1996 by Ahmed Shah Masoud [Masood], General Dostam [Dostum] of Uzbek origin [Jonbesh-e-Melli-e-Islami], and the Hazara leader, Gen. Karim Khalili [Hizb-i-Wahdat] under the presidency of Burhanuddin Rabbani. The NA was expanded and strengthened in June 1997 and restyled as the United Islamic Front for the Salvation of Afghanistan (commonly known as the Northern Alliance or United Front). Following the terrorist attacks on the US on 11 September 2001, US-led coalition forces strengthened and assisted the NA, resulting in the defeat of the Taliban. [1a] (p60-61) A report by the Netherlands Institute of International Relations dated April 2005 noted that the Northern Alliance has essentially disappeared as “Little had held it together other than opposition to the Taliban.” [89] (p48)

(See also [UIFSA](#) below.)

People’s Democratic Party of Afghanistan (PDPA)

UNHCR recorded in June 2005: “The PDPA was founded in 1965 and split in to two factions in 1967: Khalq (The People), led by Nur Mohammed Taraki and Hafizullah Amin and Parcham (The Banner), led by Babrak Kamal. Khalq was more rural-based, mostly comprising of members of the Pashtun tribes. Parcham was more urban oriented and was dominated by Dari speakers. In 1977, the two factions reunited under Soviet pressure. In 1988 the name of the party was changed to Watan (Homeland) Party. The PDPA based government collapsed in 1992 when, following the Peshawar Accords, Mujaheddin troops entered Kabul and the last President of a ‘communist’ government in Afghanistan, Mohammed Najibullah (previously head of the secret service Khad) had to seek refuge in a UN-building in Kabul where he stayed until he was killed by Taliban troops entering Kabul in September 1996.” [11b] (p46)

Revolutionary Association of the Women of Afghanistan (RAWA)

The RAWA website, accessed in February and March 2005, advised: “RAWA, the Revolutionary Association of the Women of Afghanistan, was established in Kabul, Afghanistan, in 1977 as an independent political/social organization of Afghan women fighting for human rights and for social justice in Afghanistan. The founders were a number of Afghan woman intellectuals under the sagacious leadership of Meena who in 1987 was assassinated in Quetta, Pakistan, by Afghan agents of the then KGB in connivance with fundamentalist band of Gulbuddin Hekmatyar. RAWA’s objective was to involve an increasing number of Afghan women in social and political activities aimed at acquiring women’s human rights and contributing to the struggle for the establishment of a government based on democratic and secular values in Afghanistan.” [49]

On 25 August 2004, Women’s Web reported that membership of RAWA was 2,000 with at least as many male supporters including husbands, relatives and friends.

“RAWA is strongly political but also active in assisting the most needy, especially women and children and runs many lifesaving programmes: health care, orphanages, small business programmes for widows and prostitutes and the like... They have conscientiously documented and photographed instances of abuse and put them into the public arena. They are well known, even though they are under cover. They put out many political publications. They have their ‘Payam-e-Zan’ or ‘Women’s Message’ magazine which is a very strong political analysis of what is happening and a clear statement of the direction they want for the future of Afghanistan. They are very strongly outspoken against the Taliban and fundamentalist warlords who have been

responsible for the enormous amount of violence against women and men. They regularly organise political demonstrations in Pakistan, despite the risk. In Afghanistan it would be much too dangerous: a women's only organisation, a publicly outspoken one at that, is completely outrageous in a conservative environment like Afghanistan. They don't use their own names – they don't even know the names of other members, for security reasons. If anyone is caught they can't give information about anyone else. They have no headquarters and no landline phone." [56]

Shura-yi Nazar

Originally a military co-ordination council established by Jamiat-e Islami commander Ahmad Shah Massoud, Shura-yi Nazar now refers to a more amorphous network of mainly Tajik military and political figures. [26b] (section IIA)

Taliban [Taleban]

Emerged in 1994; Islamist fundamentalist; mainly Sunni Pashtuns; in power 1996–2001; largely disbanded; Leader: Mullah Mohammad Omar. [1a] The core of the Taliban was educated in madrassas (religious schools) in Pakistan which adhere to the Deobandi orthodox legal and state doctrine and promote taqlid, the obedience to the Koran in its original letter. The political aims of the Taliban were to re-establish security in Afghanistan, to create a truly Islamic State, to disarm the population and to implement a strict interpretation of Shari'a law throughout the country." [11b] (p48)

(See also [Taliban](#))

United National Islamic Front for the Salvation of Afghanistan (UIFSA) – commonly known as the Northern Alliance or United Front

An anti-Taliban coalition which superseded the Supreme Council for the Defence of Afghanistan in June 1997. [1a] (p60) Reported to include the groups of the Northern Alliance (see above) plus the forces of Gulbuddin Hekmatyar (Hizb-e Islami – Gulbuddin) Harakat-e Islami (Islamic Movement of Mohammed Asif Mohseni), Ittihad-i-Islami Barai Azadi Afghanistan (Islamic Union for the Liberation of Afghanistan, of Abdul Rasul Sayaf). [85] (p82)

Annex C: Prominent people

ALI Hazrat

The British Agencies Afghanistan Group (BAAG) reported in July 2004 that Hazrat Ali (a close ally of Jamiat-i-Islami) had been appointed Security Commander for Nangarhar Province by President Karzai on 20 July 2004 and his position as a powerful regional power-holder had been strengthened and legitimised through the appointment. [71c] (p7) On 5 June 2005 Agence France-Presse reported that Hazrat Ali had stepped down from his position as provincial police commander in May 2005 in order to stand for the September 2005 parliamentary election. [40au] In September 2004, Human Rights Watch (HRW) reported that Hazrat Ali was one of the military commanders having *de facto* control of the eastern provinces of Nangarhar and Laghman, including Nangarhar's capital, Jalalabad (another commander in the same area is Haji Zahir). HRW noted that Hazrat Ali and Haji Zahir's commanders operated criminal enterprises and continued to engage in numerous human rights abuses, including the seizure of land and other property, kidnapping civilians for ransom and extorting money. Their forces have also been involved in political abuses, including past threats against Loya Jirga candidates and purchasing of votes. [17i] (p16)

BALKHI Sediqa

Appointed Minister of Martyrs and Disabled in the December 2004 cabinet. [67] A profile on the Embassy of Afghanistan website in January 2005 noted that she is the daughter of Sayed Ismaeel and was born in 1946 in a religious and educated family. She holds a bachelors degree in Islamic Studies. "She also followed religious studies in Iran. Besides teaching and working as a manager, she was involved in fighting the Soviet invasion through publishing articles and holding seminars. She has made endeavors for providing the young generation of Afghan refugees with education and providing the vulnerable women and girls with business skills." [83]

DOSTUM (General) Abdul Rashid

BBC News recorded on 23 December 2004: "The Uzbek general was one of the most high profile candidates to challenge President Karzai [in the October 2004 presidential election]. A former warlord based in northern Afghanistan, Dostum heads the Jombesh-e Melli Islami (National Islamic Movement), a predominantly Uzbek militia faction. The veteran of many wars, he has displayed an uncanny ability to switch sides and stay on the right side of those in power. Since the fall of the Taleban his forces have been involved in a bloody fight for territorial supremacy with another powerful northern commander, the Tajik general, Atta Mohammad." [25y] BBC News reported that General Dostum survived an assassination by the Taliban in January 2005. [25ah] Reuters reported on 1 March 2005 that Dostum had come fourth in the presidential elections. He was appointed President Karzai's personal military chief of staff on 1 March 2005. [24b] Agence France-Presse reported that Dostum officially joined President Karzai's administration on 18 April 2005 after resigning as leader of Junbesh-i Melli-i Islami. [40b] However, the ICG in June 2005 stated that "Dostum will undoubtedly remain the *de facto* head [of Junbesh-i Melli-i Islami]." [26e] (p9)

HEKMATYAR (Engineer) Gulbuddin [also spelt 'Hikmatyar']

On 23 December 2004, BBC News recorded that "Leader of the Hezb-e Islami, 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 US forces in Afghanistan and is blamed for carrying out several major attacks in the country. Last year [2003] the US labelled him a terrorist. Hekmatyar's Hizb-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. His bombardment of the capital in 1994 is said to have resulted in the deaths of more than 25,000 civilians.” [25y] Hekmatyar renewed his call for jihad against the US in November 2004. [45a]

(See also [Hizb-e-Islami](#))

JALAL Masooda

BBC News recorded on 23 December 2004 that “The only female candidate in the October 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 forbade women from work. 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.” [25y]

KHAN Mohammed Fahim (Marshal Mohammad Qasem Fahim)

BBC News recorded on 23 December 2004: “He was head of intelligence of the Northern Alliance and replacement to General Ahmad Shah Masood, who was assassinated shortly before the 11 September [2001] attacks on the US. Held the powerful post of defence minister in Mr Karzai’s interim administration, but has now been removed from the cabinet.” [25y] The Kabul newspaper, Erada, reported on 29 January 2005 that following his removal from the cabinet Fahim had been given the rank of marshal and a few token privileges. “Marshal is a senior government rank. A marshal, just like a president or a king, has the right to participate in all official ceremonies. In the past the rank included the privileges of having a few hundred jeribs of land [one jerib is 1,936 sq.m.], a salary, a special vehicle and house security. The marshal enjoyed legal and judicial protection. Now the privilege of land has been removed, but all other privileges have been retained.” Some believe that his present status is symbolic and he has completely lost his military power. “Division No 2 of Jabalosaraj [district of Parwan Province north of Kabul] and Division No 6 which were under his command have been disarmed.” Others believe that, as a prominent member of Jamiat-i Islami and a fighter who struggled for his country and people, his moral influence and social status cannot be reduced or damaged. It was also reported that analysts said Fahim intended to stand in the parliamentary elections to enter the political stage once again. [79]

KARZAI Hamid

On 23 December 2004, BBC News recorded: “Hamid Karzai, who was sworn in as Afghanistan’s first elected president in December 2004, is a powerful Pashtun leader from Kandahar. A charismatic and stylish member of the influential Popolzal 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.” [25y]

KHALILI (General) Abdol Karim

Hazara; Economic Minister of Afghanistan 1993-1995; Vice-President in the Interim Government of 2001. [31] Mr. Khalili is currently the second Vice-President in the present Government inaugurated in December 2004 [67]. Khalili is also the leader of Hezb-e-Wahdat-e-Islami-e-Afghanistan. The party is registered to participate in the September 2005 parliamentary elections. [74a]

KHAN Ismail

Tajik [25y] On 9 December 2004, IWPR noted that Ismail Khan was a major figure in Jamiat-e-Islami and was ruler of the western city of Herat, which he ran as a private fiefdom for many years. He was dismissed from his position as formal governor in September 2004. "Once known by the less exalted title of Captain Ismail – he was a junior Afghan army officer when the jihad against Soviet occupation began – Ismail Khan took power in the western provinces of Herat, Ghor, Farah and Nimroz after the collapse of the Russian-backed government of Najibullah and awarded himself the title of Amir. Imprisoned by the Taleban for three years, he escaped and eventually regained control of his traditional stronghold. He maintained a distance from Karzai's interim administration, and particularly irked Kabul by holding on to the substantial customs revenues earned on the border with Iran." [73d] Appointed Minister of Energy in the new Cabinet of December 2004. [67]

MASOUD [MASSOOD] (General) Ahmed Shah

Tajik. Commander allied to Jamiat-i-Islami. [85] 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." [25z]

MASOUD [Massood] Ahmad Zia

Tajik; formerly Afghanistan's ambassador to Russia and a brother of Ahmad Shah Massoud [Masoud], who led the resistance to the Taliban regime until he was killed by Al-Qaida terrorists on 9 September 2001 (see above). [18b] He is the first Vice-President in the Government inaugurated in December 2004. [67]

MOHAQEQ [MOHAQIQ] Haji Mohammad

BBC News recorded on 23 December 2004: "A member of the minority ethnic Hazara community, he hails from Mazar-e-Sharif and teamed up with General Dostum and Atta Mohammad to liberate the city from the Taleban in 2001. He has considerable support among the Shia Hazaras, many of whom fought under his command." He was Planning Minister in the Interim Administration and finished third behind Karzai and Qanuni in the presidential election but did not keep his post in the new Cabinet. [25y] ICG recorded on 2 June 2005 that Mohammad Mohaqqueq is the leader of the Hizb-e Wahdat-e Islami Mardum Afghanistan (Party of Islamic Unity of the People of Afghanistan). [26e] (p8) The party is registered and approved by the Ministry of Justice to participate in the September 2005 parliamentary election. [74a]

MOHAMMAD (General) Atta

The British Agencies Afghanistan Group (BAAG) noted in July 2004 that "Atta Mohammed, the northern Jamiat-i-Islami commander who has been locked in intermittent conflict with the Uzbek leader, Rashid Dostam [Dostum] and with the Hazara party, Hizb-e-Wahdat over many years, has been made governor of Balkh Province, of which Mazar-i-Sharif is the capital." [71c] (p7) BBC News recorded on 23 December 2004 that Atta Mohammad is an arch rival of General Dostum. "Their bitter history goes back to the days of the Soviet occupation, when they fought on opposite sides. A former teacher, Atta briefly joined forces with Dostum to recapture Mazar-e-Sharif from the Taleban in 2001. For now, he remains a key regional player in Afghanistan with considerable influence." [25y]

OMAR (Mullah) Mohammad

BBC News noted on 16 December 2003 that Omar is the leader of the Taliban who lost his right eye fighting the occupying forces of the Soviet Union in the 1980s. He survived the US-led military action, which led to the fall of the Taliban in late 2001 and has evaded capture. [25s]

QANOONI [Qanuni] Yunus

Formerly a prominent figure in the Tajik dominated Jamiat-e-Islami party and the Shura-e-Nezar, its Panjsher-based faction. [73d] BBC News recorded on 23 December 2004: "A former education minister, Mr Qanuni is a leading figure in the Northern Alliance which helped the US overthrow the Taleban in 2001. In the [October 2004] election he secured the backing of the powerful defence minister, Mohammad Fahim, who was dropped by Mr Karzai as his running mate. He consequently secured a comfortable second place, but far behind Mr Karzai. Mr Qanuni will hope to use the result to bolster his ethnic Tajik constituency. However, Mr Karzai has dropped him from the cabinet in his December [2004] reshuffle." [25y] The list of political parties approved by the Ministry of Justice to run in the parliamentary elections of 18 September 2005, published by the JEMB on 20 August 2005, includes Qanooni's new party, Hezb-e-Afghanistan-e-Naween. [74a] The ICG recorded in June 2005 that Qanooni's party is part of a new coalition of mainly Islamist parties known as the National Understanding Front (NUF) [See Annex B]. [26e]

RABBANI Burhanuddin

BBC News recorded on 23 December 2004 that "A former Afghan president, Mr Rabbani remains an influential Tajik figure although he is not a frontline political player. He heads the conservative Jamiat-e-Islami, which was the largest political party in the Northern Alliance that helped sweep the Taleban from power in 2001." [25y]

SAMAR Sima

A 2004 report by the Global Health Council noted that Sima Samar is Chair of the Afghanistan Independent Human Rights Commission (AIHRC). She was winner of the 2004 Jonathan Mann Award for Health and Human Rights. "Dr. Sima Samar founded and directs the Shuhada Organization, the oldest Afghan non-governmental organization (NGO) operating in the region and the largest woman-led NGO." She was the first Minister of Women's Affairs in the Transitional Administration. [6]

SAYYAF Abdul Rassoul

BBC News recorded on 23 December 2004: "A former mujahideen leader, Sayyaf was a member of the constitutional loya jirga held in 2002. Leader of Islamic Union for the Liberation of Afghanistan [Ittihad-i-Islami], 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 Sayyaf was the neutral chairman of the first rebel alliance in 1980." [25y] In June 2005, the ICG noted that Sayyaf's influence was eroding because the tenth division of the Afghan military forces was being dismantled under the DDR programme and this militia had helped him assert control over much of western Kabul province, including his home district of Paghman. [26e] (p10) The list of political parties approved by the Ministry of Justice to run in the parliamentary elections of 18 September 2005, published by the JEMB on 20 August 2005, includes Sayyaf's party, renamed as Tanzim Dawat-e-Islami-e-Afghanistan. [74a]

SEDDIQI Suhaila

A BBC News Profile, accessed on 14 March 2005, recorded that Suhaila Seddiqi is a Tajik, a respected doctor and well-known former army general who lives in Kabul. She served as a surgeon in Kabul's military hospital for two decades. She never left Afghanistan and played a key role in keeping the hospital functioning through the 1990s

when rocket attacks caused thousands of casualties. Even the Taleban were forced to give Seddiqi back her job after briefly removing her from the post. She was Health Minister in the Interim Government. [25m]

SHERZAI Gul Agha

BBC News recorded on 23 December 2004: "Urban minister in the interim government, this powerful Pashtun leader was governor of Kandahar from 2001 to 2003, when President Karzai moved him to the federal cabinet. Many believed the move was made to check Sherzai's growing prominence as a rival centre of power in Karzai's native Kandahar. He is still believed to command considerable loyalty among the Pashtuns in an area where the Taleban is still very popular. Within hours of the Northern Alliance taking Kabul in 2001, Sherzai led a force of men across the border from the Pakistani city of Quetta towards the city he ruled before the Taleban took power in 1994. He was dropped from the cabinet in the December 2004 reshuffle." [25y] A Radio Free Europe/Radio Liberty report of 30 December 2004 stated that Sherzai had been appointed as a ministerial adviser and [reappointed] governor of Kandahar Province in December 2004. [29g]

Annex D: List of Cabinet Ministers ^[67]

President:

H.E. Hamid Karzai

Vice Presidents:

Ahmad Zia Massoud (First)

Karim Khalili (Second)

Commerce Minister and Senior Advisor to the President:

Hedayat Amin Arsala

Foreign Minister:

Dr. A. Abdullah

Defence Minister:

General Abdurrahim Wardak

Interior Minister:

Ali Ahmad Jalali

Finance Minister:

Anwar-ul Haq Ahadi

Education Minister:

Noor Mohmamad Qarqin

Borders & Tribal Affairs Minister:

Abdul Karim Brahui

Economics Minister:

Dr. M. Amin Farhang

Mines and Industries Minister:

Engineer Mir Mohammad Sediq

Women's Affairs Minister:

Dr. Masouda Jalal

Public Health Minister:

Dr. Sayed Mohammad Amin Fatemi

Agriculture Minister:

Obaidullah Ramin

Justice Minister:

Sarwar Danish

Communications Minister:

Engineer Amirzai Sangeen

Information & Culture Minister:

Dr. Said Makhdoom Rahin

Refugees Affairs Minister:
Dr. Azam Dadfar

Haj and Religious Affairs Minister:
Professor Nematullah Shahrani

Urban Affairs Minister:
Eng. Yusuf Pashtun

Public Work Minister:
Dr. Suhrab Ali Safari

Labour and Social Affairs Minister:
Sayed Ekramuddin Masoomi

Energy Minister:
General Mohammad Ismael [Khan]

Martyrs and Disabled Minister:
Sediqa Balkhi

Higher Education Minister:
Sayed Amir Shah Hassanyar

Transportation Minister:
Dr. Enayatullah Qasemi

Rural Development and Rehabilitation Minister:
Hanif Atmar

Counter-Narcotics Minister:
Habibullah Qadery

National Security Advisor:
Dr. Zalmay Rassoul

Supreme Court Chief Justice:
Sheikh Hadi Shinwari

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ANNEX F: List of abbreviations

ACBAR	Agency Co-ordinating Body for Afghan Relief
ACF	Anti-coalition Forces
ARCS	Afghan Red Crescent Society
AIHRC	Afghan Independent Human Rights Commission
AMF	Afghan Militia Forces
ANA	Afghan National Army
ANBP	Afghanistan New Beginnings Programme
ANP	Afghan National Police
ANSO	Afghan NGO Security Office
AREU	Afghanistan Research and Evaluation Unit
ARTF	Afghanistan Reconstruction Trust Fund
ASP	Afghanistan Stabilisation Programme
ATA	Afghan Transitional Administration
BPHS	Basic Health Care Package
BAAG	British Agencies Afghanistan Group
CCA	Co-operation Centre for Afghanistan
CLJ	Constitutional Loya Jirga
DACAAR	Danish Committee for Aid to Afghan Refugees
DDR	Disarmament, Demobilisation and Reintegration
DIAG	Disbanding of Illegal Armed Groups
ELJ	Emergency Loya Jirga
EU	European Union
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IOM	International Organization for Migration
IAGs	Illegal Armed Groups
IDPs	Internally Displaced Persons
IFRC	International Federation of the Red Cross
IMF	International Monetary Fund
ISAF	International Security Assistance Force
JRC	Judicial Reform Commission
KHAD	Khidamat-i-Ittala'at-i-Dawlati (Ministry for State Security under the Communist government of Afghanistan)
LOTFA	Law and Order Trust Fund for Afghanistan
MSF	Médecins sans Frontières
NA	Northern Alliance
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organization
NSD	National Security Directorate
NSP	National Solidarity Programme
OEF	Operation Enduring Freedom
OHCHR	Office of the High Commissioner for Human Rights
PDPA	People's Democratic Party of Afghanistan
PRTs	Provincial Reconstruction Teams
SCA	Swedish Committee for Afghanistan
SNTV	Single Non-Transferable Vote
SSR	Security Sector Reform
PRT	Provincial Reconstruction Teams
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UNIFSA	United National Islamic Front for the Salvation of Afghanistan

UNHCR	United Nations High Commissioner for Refugees
USSD	United States State Department
WHO	World Health Organization