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BUILDING A SAFE, JUST AND TOLERANT SOCIETY

COUNTRY OF ORIGIN INFORMATION REPORT

AFGHANISTAN

23 APRIL 2007

RDS-IND
COUNTRY OF ORIGIN INFORMATION SERVICE

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Preface

i 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. The main body of the report includes information available up to 16 October 2006. The 'latest news' section contains further brief information on events and reports accessed from 17 October 2006 to 23 April 2007.

ii 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.

iii 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.

iv 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.

v 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.

vi 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.

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

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

viii This 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.

ix COI Reports are published regularly on the top 20 asylum intake countries. COI Bulletins are produced on lower asylum intake countries according to operational need. Home Office officials also have constant access to an information request service for specific enquiries.

x 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

xi 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.

xii 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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Latest News

EVENTS IN AFGHANISTAN FROM 17 OCTOBER 2006 TO 23 APRIL 2007

19 April — Disaster management system needs urgent improvement
IRIN News,Afghanistan: Disaster management system needs urgent improvement, 19 April 2007
http://www.irinnews.org/Report.aspx?ReportId=71701
Date accessed 12 April 2007

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IRIN News, Afghanistan: Roadside bomb kills five UN staff and contractors, 17 April 2007
http://www.irinnews.org/Report.aspx?ReportId=71659
Date accessed 12 April 2007

16 April — Ten policeman are killed in a suicide attack in the north-eastern city of Kunduz
BBC Online, Ten police dead in Afghan blast, 16 April 2007
http://news.bbc.co.uk/1/hi/world/south_asia/6558599.stm
Date accessed 12 April 2007

13 April — More than 35 Taeliban killed in heavy fighting in Helmand, Southern Afghanistan
BBC Online, 'Heavy fighting' in Afghanistan, 13 April 2007
http://news.bbc.co.uk/1/hi/world/south_asia/6552857.stm
Date accessed 12 April 2007

12 April — At least 35 Taliban are reported to have been killed in fighting in the province of Zabul, southern Afghanistan
BBC Online, Afghan Battle 'kills 35 Taleban' [Taliban], 12 April 2007
http://news.bbc.co.uk/1/hi/world/south_asia/6548673.stm
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IRIN News, Aid reaches flood victims, 9 April 2007
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Returning Afghanistan's 5 million children back to school
BBC Online, Afghan schools' money problems, 9 April 2007
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IRIN News, Afghanistan: More than 80 killed and thousands dispolaced by floods and avalanches, 1 April 2007
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http://news.bbc.co.uk/1/hi/world/south_asia/6483779.stm
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http://www.irinnews.org/Report.aspx?ReportId=70637
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BBC Online, Afghan warlords in amnesty rally
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Date accessed 23 February 2007

6 March — Severe winter causes increase in child deaths
IRIN News, Afghanistan: Severe winter causes more pneumonia child deaths.
http://www.irinnews.org/Report.aspx?ReportId=70526
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28 February — Taliban send 1,000 suicide bombers to northern Afghanistan
Reuters, War-weary Afghans fear new offensive
http://www.reuters.com/articlePrint?articleId=USSP14705420070228
Date accessed 13 March 2007

5 February — Returned failed asylum seeker killed in Afghanistan
BBC, Another true story of our asylum policy
http://news.independent.co.uk/uk/politics/article2237648.ece
Date accessed 23 February 2007

25 January — 28,000 Afghanistans who were forced out of Penjwayi and Zhari districts in Kandahar, southern Afghanistan have returned home. 90,000 are believed to have fled in September 2006 when NATO-led forces launched a military operation against the Taliban fighters.
IRIN News, Afghanistan: Returnees need urgent assistance, 25 January 2007
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Date accessed 31 January 2007

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BBC News, 'Ten die' in Afghan suicide blast, 23 January 2007
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Date accessed 23 January 2007

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Girls and women traded for opium debts
IRIN News, Afghanistan: Girls and women traded for opium debts, 23 January 2007
http://www.irinnews.org/report.asp?ReportID=57163&SelectRegion=&SelectCountry=AFGHANISTAN

Date accessed 23 January 2007

22 January — UN sends medicine as Afghanistan experiences the coldest winter for more than 70 years
Reliefweb, UN sends medicine to fight infections brought on by deadly cold snap in Afghanistan, 22 January 2006
http://www.reliefweb.int/rw/RWB.NSF/db900SID/YSAR-6XPQGF?OpenDocument&rc=3&cc=afg
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16 January — Over one million Afghans have benefitted from the UNHCR shelter project since 2002, which has provided assistance for them to help build their homes
UNHCR shelter kits reach more than a million Afghan returnees, 16 January 2007
http://www.unhcr.org/news/NEWS/45accef34.html
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11 December — President Hamid Karzai launches 'Action plan for justice'
IRIN News. Afghanistan: Action plan for justice launched, 11 December 2006
http://www.irinnews.org/report.asp?ReportID=56702&SelectRegion=Asia&SelectCountry=AFGHANISTAN
Date accessed 23 January 2007

10 November — Khalil Naramgo, who was arrested on 28 October after reportedly writing an article criticising a government minister, was released on 2 November, allowing him to return home to the northern province of Baghlan
Reporters Without Boarders, Khalil Naramgo freed after promising not to critcise government officials
http://www.rsf.org/article.php3?id_article=19531
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At least 4 people die in flash flooding in the eastern province of Nangarhar
IRIN News, Leathal floods strike the east, 10 November 2006
http://www.irinnews.org/report.asp?ReportID=56321&SelectRegion=Asia&SelectCountry=AFGHANISTAN
Date accessed 24 January 2007

7 November — Schools reopen in Southern Afghanistan
IRIN News, Afghanistan: Tribal elders reopening southern schools, 7 November 2006
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Date accessed 23 January 2007

3 November — Italian photographer Gabriele Torsello released after being held hostage for three weeks in southern Afghanistan
Reporters Without Boarders, Italian photographer freed after being held hostage for three weeks, 3 November 2006
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Dozens of civillians are killed during NATO air strikes on the southern province of Kandahar
IRIN News, Afghanistan: Scores of civillians killed in air strikes, say officials and elders, 26 October 2006
http://www.irinnews.org/report.asp?ReportID=56077&SelectRegion=Asia&SelectCountry=AFGHANISTAN
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25 October Record amount of marijuana seized
IRIN News, Afghanistan: Record amount of marijuana seized, 25 October 2006
http://www.irinnews.org/report.asp?ReportID=56064&SelectRegion=Asia&SelectCountry=AFGHANISTAN
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http://www.asiafoundation.org/pdf/AG-survey06.pdf
Date accessed 20 March 2007

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http://www.hrw.org/wr2k7/wr2007master.pdf
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Human Rights Annual Report 2006
http://www.fco.gov.uk/Files/kfile/hr_report2006.pdf
Date accessed 17 October 2006

Background information

1. GEOGRAPHY

1.01 The Central Intelligence Agency (CIA) World Factbook, updated on 18 January 2007, gives the conventional long form of the country name as the "Islamic Republic of Afghanistan" and the conventional short form as "Afghanistan". Afghanistan is a land-locked country, made up of 34 provinces and 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] (p2-5)**

1.02 The towns with the largest population are Kabul (the capital), Kandahar [Qandahar], Herat, Mazar-i-Sharif, Jalalabad and Kunduz. (Europa World Online, accessed 28 July 2006) **[1b]** In July 2005 the population was estimated as 31,056,997. (CIA World Factbook 18 January 2007) **[23] (p2)**

1.03 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 per cent). **[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)**

1.04 Many languages are spoken in Afghanistan; the principal two are Pashto (Pakhto, Pashtu, Pushtu) and Dari (a dialect of Farsi or Iranian). (Europa World Online, accessed 28 July 2006) **[1b]** The former is also spoken in Pakistan. (Europa World Online, accessed 28 July 2006) **[1c]** The Ethnologue: Languages of the World 2005 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]**

1.05 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)**

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MAPS

1.06 United Nations (UN) Map of Afghanistan Provinces published in October 2005:

On 1 December 2005 the United Nations High Commissioner for Refugees (UNHCR) published an operational map highlighting the available logistical facilities of Afghanistan, which can be accessed via: http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=43706ed62

A map of the ethnic groups of Afghanistan can be accessed via:

http://www.nationalgeographic.com/landincrisis/ethnic_enlarge.html.

2. ECONOMY

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

"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)**

2.02 An International Monetary Fund Review of Afghanistan dated 22 November 2005 stated that:

"The authorities have made great strides in stabilizing the economy, but the challenges remain formidable. The commendable achievements to date are due, in no small measure, to the government's sound macroeconomic and structural policies since March 2004, in the context of an SMP [Staff monitored programme] framework that has emphasized macroeconomic stability, economic reform, capacity building, and transparency. However, lingering insecurity, illicit drug industry activities, the poor state of infrastructure, and weak institutions remain the key constraints to investment, sustainable growth, and improvements in social welfare. Crucial legislation still needs to be adopted." **[97] (Paragraph 21)**

2.03 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)**

2.04 The Department for International Development (DFID) Afghanistan Country Profile, updated on 7 April 2006, stated that, as a rough estimate, 70 per cent of the Afghan population lived on less than US$2 per day. **[51b]**

2.05 The UN Secretary-General's Report dated 7 March 2006 stated that:

"The illicit narcotics industry poses a profound threat to achieving peace and stability in Afghanistan…This thriving economy, equivalent to more than 50 per cent of the country's legal gross domestic revenues, has provided fertile ground for criminal networks, illegal armed groups and extremist elements. Government-led eradication and interdiction efforts have yielded modes [sic] results in some areas; however, this has been offset by high crop yields. Poppy cultivation has spread throughout the country… Poppy cultivation remains an attractive option for farmers, who earn 10 times more per hectare for poppy than for cereals." **[39h] (p6)**

2.06 The United Nations Office on Drugs and Crime (UNODC) Afghanistan Opium Survey 2006, published in September 2006, found that:

"This year, opium cultivation rose to 165,000 hectares, a 59% increase over 2005. An unprecedented 6,100 tons of opium has been harvested, making Afghanistan virtually the sole supplier to the world. 'Revenue from the harvest will be over three billion dollars this year, making a handful of criminals and corrupt officials extremely rich' Mr Costa [Executive Director of UNODC] said. 'This money is also dragging the rest of Afghanistan into a bottomless pit of destruction and despair.'

"This year the largest cultivation took place in the South, especially in Helmand and Kandahar provinces, where governance has collapsed under the weight of insurgency, drugs, crime and corruption. In other provinces, like Badakhshan in the north-east, opium crop increases are the fault of greedy officials and arrogant warlords. Around the country, the number of people involved in opium cultivation increased by almost a third to 2.9 million – 12.6% of the total population.

"Only six of the country's 34 provinces are opium-free. They are also the country's poorest regions (mostly in the East). Cultivation fell this year in eight provinces, mainly in the more stable north." **[87] (Preface)**

2.07 The UN Secretary-General's Report of 11 September 2006 noted that "The sizeable harvest in 2006 comes in spite of increased eradication programmes, which were carried out relatively peacefully, except for a few incidents in Helmand and Badakshan provinces." **[39n]**

2.08 On 21 September 2006, the xe.com exchange rate indicated that one pound sterling was equal to 95.45 Afghan Afghanis. **[58]**

3. HISTORY

OVERVIEW TO DECEMBER 2001

3.01 "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]." (Freedom House, August 2005) **[41b] (p16-17)**

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POST-TALIBAN

3.02 "In the mean time, US ground forces were strengthened in an effort to find bin Laden and his supporters. Following unconfirmed reports that bin Laden and Mullah Mohammad Omar were hiding in the Tora Bora caves with the rest of the Islamist forces, the US-led coalition and United Front intensified the air and ground assault on the cave complex. However, after much of the region had been destroyed, there was no sign of the two leaders and their close associates. Some unconfirmed reports suggested that bin Laden had fled to Pakistan. Meanwhile, the USA and its allies continued to search for remaining Taliban and al-Qa'ida forces in Afghanistan." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.03 "After the fall of the Taliban regime in November 2001, the United Nations brought together leaders of Afghan ethnic groups in Germany. The Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions (the Bonn Agreement), signed on 5 December 2001, set out a road map for the restoration of representative government in Afghanistan." (Foreign & Commonwealth Office Afghanistan Country Profile, reviewed August 2006) **[15c]**

3.04 "On 22 December 2001 the Interim Authority was inaugurated; [Hamid] Karzai was sworn in as Chairman. The country returned to the Constitution of 1964, which combined Shari'a with Western concepts of justice. One of Karzai's first decisions was to appoint Gen. Dostam, who initially boycotted the Government in protest at his exclusion, as Vice-Chairman and Deputy Minister of Defence. At the end of December the UN Security Council authorized, as envisaged in the Bonn Agreement, the deployment of an International Security Assistance Force (ISAF) to help maintain security in Kabul over the next six months. Some 19 countries were authorized to form a 5,000-strong security force, led by the United Kingdom." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.05 "In June 2002 an Emergency Loya Jirga (Grand Assembly) established a Transitional Administration to govern until elections could be held in 2004. The arrangements for the Loya Jirga were designed to enable a broad-based representation. Seats were reserved for women, refugees, displaced persons, nomads, businessmen, intellectuals and religious scholars. The Loya Jirga concluded on 19 June 2002 with the inauguration of Hamid Karzai as President of the Transitional State of Afghanistan. The Emergency Loya Jirga marked the first opportunity for decades for the Afghan people to play a decisive role in choosing their future.

"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. This was submitted for discussion and approval to an elected Constitutional Loya Jirga, under the chairmanship of former President Mojadeddi, which convened on 14 December 2003.

"The new constitution was agreed on 4 January 2004 and established a presidential system of government with all Afghans equal before the law." (Foreign & Commonwealth Office Afghanistan Country Profile, reviewed August 2006) **[15c]**

(See also Section 5.01: Constitution)

3.06 "Throughout 2004 violence and instability 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 Nayebzada, responsible for his son's death, and violent clashes ensued between rival forces in the province. Nayebzada 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. Meanwhile, US troops continued to engage in operations against the Taliban." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.07 "In September 2004, in an apparent attempt to assert his jurisdiction outside Kabul in advance of the presidential election due to take place in the following month, 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 Khairkhwa 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." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.08 "The lead-up to the presidential 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." (International Crisis Group, 23 November 2004) **[26d] (section 11.C)**

PRESIDENTIAL ELECTION 9 OCTOBER 2004 AND THE NEW CABINET

3.09 "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 Mohaqqeq, 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." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.10 "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 Counter Narcotics was created, headed by Habibullah Qaderi." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.11 "In May 2005 anti-US demonstrations occurred in several cities in Afghanistan, prompted by reports in the US-based publication Newsweek that interrogators at the US detention centre in Guantánamo Bay, Cuba, had allegedly desecrated copies of the Islamic holy text, the Koran. The demonstrations became violent in some places when police fired on protesters. At least 16 people were subsequently reported to have died. Newsweek later retracted the allegations." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

PARLIAMENTARY AND PROVINCIAL ELECTIONS 18 SEPTEMBER 2005

3.12 "On 18 September 2005 an estimated 5,800 candidates, including several former Taliban officials, contested elections to the 249-member Wolasi Jirga and 34 provincial legislatures. Sixty-eight seats in the Wolasi Jirga were reserved for women. The polls constituted Afghanistan's first democratic legislative elections since 1969. The nation-wide turn-out was an estimated 53% of those eligible to vote, with the figure decreasing to only 36% in Kabul, a significant decline compared with the level of participation at the 2004 presidential election. The widespread disruption that al-Qa'ida and the Taliban had threatened to orchestrate on polling day did not materialize." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

3.13 "The elections were held in extremely difficult conditions, and to a timetable that was very tight… Overall, given their complexity and the operational challenges, the elections are an accomplishment, although there were notable shortcomings which will need to be addressed for the future. Pre-election preparations were generally good and voting on Election Day was largely peaceful. Although the turn-out was markedly lower than in 2004, millions of Afghan voters and thousands of candidates took part often in a challenging security environment. However, post-Election Day developments revealed significant deficiencies in the wider electoral process. Irregularities and fraud cast a shadow over the integrity of the elections in a number of provinces, a worrying development that should be honestly analysed and effectively addressed in the future." (European Union Election Observation Mission final report, 10 December 2005) **[98] (executive summary)**

3.14 A Press Release issued by the Electoral Complaints Commission (ECC) on 10 November 2005 noted that a number of candidates had been disqualified:

"A total of 37 candidates have been disqualified since mid-July [2005], when 17 candidates were excluded from the ballot, bringing the overall number of candidates disqualified or excluded to 54. Of the 37 disqualified candidates who were on the ballot, 11 were disqualified for holding a prohibited government post, 23 were disqualified for having links to illegal armed groups, and 3 were disqualified for violating the Code of Conduct for Candidates or various provisions of the Electoral Law." **[99]**

The ECC Press Release lists the names of all 37 candidates disqualified and may be accessed directly via the link given for source **[99]** in Annex G.

3.15 "The [election] results, announced in November [2005], showed that many of those who had been elected were powerful factional figures, not aligned with any particular party, leading to fears that the country's legislature would be less a unified mechanism through which the central Government could assert its authority, and more a conduit for the re-emergence of provincial 'warlordism'. The newly elected National Assembly convened for the first time in December. Younis Qanooni, widely perceived to be the most prominent opposition figure in the legislature, was subsequently elected Speaker of the Wolasi Jirga, and Sibghatullah Mojaddedi Speaker of the Meshrano Jirga." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

The full certified election results for the Wolesi Jirga and Provincial Councils may be accessed via the Joint Electoral Management Body (JEMB) web site: **www.jemb.org/index.html**

AFGHANISTAN COMPACT 31 JANUARY 2006

3.16 "With September's elections and the inaugural session of the Afghan National Assembly in December 2005 marking the formal completion of the Bonn Process, the UK hosted the London Conference on Afghanistan on 31 January – 1 February 2006. Co-chaired by the Afghan Government, the UK and the UN, the conference saw the launch of the Afghanistan Compact (an agreement between the Afghan Government and the international community led by the UN), the interim Afghanistan National Development Strategy (I-ANDS), and the National Drug Control Strategy.

"The Afghanistan Compact provides the framework for international engagement in Afghanistan for the next five years, setting outcomes, benchmarks and mutual obligations that aim to ensure greater coherence of effort between the Afghan government and the international community… Many delegations made new financial pledges at the Conference, making available over $10.5 billion." (Foreign & Commonwealth Office Afghanistan Country Profile, reviewed August 2006) **[15c]**

3.17 On 18 September 2006 the Special Representative of the UN Secretary-General for Afghanistan reported that the first benchmark of the Afghan Compact, to establish a transparent mechanism for appointing senior level government posts, had been met. President Karzai had signed a decree to this effect:

"The new appointment mechanism is meant to ensure that all senior appointments to the central Government and the judiciary, as well as for provincial Governors, deputy Ministers, Chiefs of Police are made on a merit based system that is transparent and ensures that ably qualified people assume these positions of responsibility.

"I would like to stress that the appointment mechanism includes vetting procedures to ensure that people with questionable pasts or histories will be prevented from securing positions of responsibility." **[46d]**

Full details of the Afghanistan Compact may be accessed via the link given in Annex F for source number **[15a].**

See also Annex A for a Timeline of Afghanistan.

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4. RECENT DEVELOPMENTS

4.01 "In March 2006 Karzai announced an extensive reorganization of his Cabinet, in which Dr Abdullah Abdullah was replaced as Minister of Foreign Affairs by Dr Rangin Dadfar Spanta, and Zarar Ahmad Moqbel was allocated the interior affairs portfolio on a permanent basis. The Cabinet was presented for approval to the Meli Shura in the following month. Of the 25 ministers nominated, 20 were approved by majority vote, while the remaining five were rejected.

"Provincial instability and violence, often co-ordinated by a resurgent Taliban, continued throughout 2005 and into 2006, partly as a result of the insecurity surrounding the holding of the September legislative elections. More than 1,400 people were believed to have died over the course of 2005 during fighting with Taliban insurgents, while a number of US and British soldiers were also killed. Violence escalated towards the end of that year, with a number of suicide bombings, hitherto a rarity in Afghanistan, taking place. The attacks were believed to have been instigated by al-Qa'ida and the Taliban and carried out by foreign militants. In December 2005 NATO announced that it was to expand its presence in the country and would deploy approximately 6,000 additional troops in the southern provinces, increasing the number of NATO troops in Afghanistan to an estimated 15,000. Meanwhile, the USA announced its intention simultaneously to reduce the number of its troops in

the country, from 19,000 to 16,500, over the course of 2006." (Europa World Online, accessed 23 June 2006) **[1b] (Recent history)**

4.02 On 2 May, 20 new cabinet members, including Ministers of Defence, Foreign Affairs, Interior and Finance, were sworn in after receiving parliament's approval. Parliament rejected the renomination of the conservative head of the Supreme Court, Sheikh Hadi Shinwari, who had been seen as a major impediment to judicial reform. (International Crisis Group, 1 June 2006) **[26i]** On 31 July 2006, it was reported that the Afghan parliament had approved President Karzai's second nominee, Abdul Salam Hazami, as chief justice of the Supreme Court. **[54a]**

4.03 On 1 June 2006 the International Crisis Group (ICG) reported that the situation in Afghanistan had deteriorated during May 2006 and that "Afghanistan saw its worst violence since 2001, with some 350 insurgents, civilians and security personnel killed across its southern provinces." Moreover "Resurgent Taliban used large units, reportedly teaming up with drug traffickers and other anti-government elements, to attack coalition troops and Afghan security forces." **[26i]**

4.04 "Repeated attacks, including suicide bombings and ambushes, by Talibaan [Taliban] militants against foreign and Afghan forces as part of a spring offensive continued into June [2006]. The [Taliban] offensive had resulted in the highest number of fatalities in the conflict since the Talibaan regime was ousted in 2001. A defence ministry report on June 22 claimed that more than 1,000 people had been killed during the past three months." (Keesing's Record of World Events) **[5c]**

4.05 The US-led coalition launched Operation Mountain Thrust on 15 June 2006 in response to the Taliban offensive. "Around 11,000 Afghan, UK, Canadian, and US troops were deployed under Operation Mountain Thrust throughout four southern provinces, and according to US officials 'significant fighting' was likely to continue for several months." (Keesing's Record of World Events) **[5c]**

4.06 The NATO-led International Security Assistance Force (ISAF) assumed command of military operations in southern Afghanistan from US-led coalition forces on 31 July 2006. "The southern Afghanistan area of operations includes six provinces – Day Kundi, Helmand, Kandahar, Nimroz, Uruzgan and Zabul." (NATO Press Release, 31 July 2006) **[63a]**

4.07 In July 2006 it was reported that the Afghan government proposed to recreate the Department for the Promotion of Virtue and Prevention of Vice, which under Taliban rule had enforced numerous restrictions on both men and women. The proposal has raised serious concerns among human rights groups. (IRIN News, 24 July 2006) **[36h]**

4.08 Human Rights Watch reported that the proposed department's enforcement power is unclear:

"Nematullah Shahrani, the minister of Haj and religious affairs, who would oversee the department, has stated that it would focus on alcohol, drugs, crime and corruption. Afghanistan's criminal laws already address these issues…President Karzai came under pressure from conservative political figures two months ago to reestablish the department in order to counter anti-

Western propaganda by opposition groups. The president then appointed a panel with representatives from the Ministry of Interior, Ministry of Haj and Religious Affairs, and the Supreme Court, which drafted a proposal and presented it to the cabinet. The cabinet approved the draft and plans to submit it for parliamentary approval when the Afghan National Assembly reconvenes later this summer." **[17q]**

4.09 On 7 August 2006 it was reported that the Afghan parliament approved five ministers nominated by President Karzai, which completed the 25-member cabinet. These ministers were the second nominations made after the President's first choices were rejected earlier in the year. One woman, Hosna Banu Ghazanfar, is among those approved and she will be in charge of women's affairs:

"The other four are Mir Muhammad Amin Farhang (commerce and industry), Namatollah Ehsan Jawed (transport and aviation), Abdul Karim Khorram (culture and youth), and Mohammad Jalil Shams (economy and labor). Shams has dual Afghan-German citizenship. Afghan authorities have previously said that, should he be approved by parliament, he would have to relinquish his German citizenship." (Radio Free Europe/Radio Liberty, 7 August 2006) **[29j]**

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5. CONSTITUTION

5.01 A new constitution was agreed on 4 January 2004. (Foreign & Commonwealth Office, August 2006) **[15c] (p3)**

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

"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." **[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 A report by the Afghan Independent Human Rights Commission in May 2006 noted the main international human rights treaties that Afghanistan is a party to (see Section 7: Human Rights Overview) and also stated that:

"The 2004 Constitution of Afghanistan reaffirms the Government's commitment to human rights:

"Article Seven
The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.

"Article Six
The state shall create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization of democracy, attainment of national unity as well as equality between all peoples and tribes and balance development of all areas of the country. Other provisions of the 2004 Constitution reflect International Human Rights Law, such as the principle of equality between all peoples (Article 6) and between men and women (Article 22)."

The Constitution may be accessed directly via
http://www.idlo.org/AfghanLaws/Laws%201921_todate.htm

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6. POLITICAL SYSTEM

OVERVIEW

6.01 The Central Intelligence Agency (CIA) World Factbook updated on 18 January 2007 recorded that:

"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 included the adoption of a new constitution in 2003, a

presidential election in 2004, and National Assembly elections in 2005." **[23] (p2)**

6.02 "On 9 October 2004, Afghanistan held its first ever Presidential elections. On Wednesday 3 November, Hamid Karzai was officially confirmed as the winner with 55.4% of the vote (70% turnout)… The inauguration ceremony took place on 7 December 2004 and the new Afghan cabinet was announced on 23 December 2004… Elections to the Lower House of Parliament (Wolesi Jirga) and to the Provincial Councils were held in Afghanistan on 18 September 2005…The inaugural session of the Afghan National Assembly took place on 19 December 2005." (Foreign & Commonwealth Office Afghanistan Country Profile, August 2006) **[15c] (p3-4)**

6.03 On 17 January 2006, the UN Secretary-General's Special Representative noted that the inauguration of the National Assembly marked the completion of Afghanistan's political transition set out in the Bonn Agreement of 2001. Following the inauguration, Yunus Qanooni had been elected as chairperson of the Lower House and Sebghatulla Mojaddedi was elected as chairperson of the Upper House. **[39g] (p2)**

6.04 A United Nations Assistance Mission in Afghanistan (UNAMA) Fact Sheet dated 5 December 2005 stated that:

"The new Afghan Parliament, or National Assembly, is made up of a Lower House (Wolesi Jirga, or House of People) and an Upper House (Meshrano Jirga, or House of Elders)… The Wolesi Jirga has 249 members, all directly elected by the people of Afghanistan. The Meshrano Jirga is composed of 102 members (three times the number of provinces). Two-thirds of the Meshrano Jirga are elected by the Provincial Councils, another one-third are appointed by the President. Members of the Wolesi Jirga serve a five-year term, Meshrano Jirga members a four-year term." **[46b]**

6.05 On 7 March 2006 the UN Secretary-General reported that:

"The new Lower House reflects Afghanistan's political and ethnic diversity, including a large number of professionals, a contingent of liberals, many of whom were prominent in the Communist Government of the 1980s, some former commanders, jihadis, a small number of reconciled Taliban, and some individuals accused of serious human rights abuses. In an encouraging development, of the 68 women elected to the Lower House (27 per cent of all seats), several received sufficient votes to secure their seats without recourse to quotas for women. For the 420 available seats on the provincial councils, 121 women were elected. Five provincial seats reserved for women remain vacant, however, owing to the lack of women candidates in three provinces." **[39h] (p3)**

6.06 "The 34 [provincial] councils are elected for a four-year term by a proportional representational system based on the estimated population of each province, and they then select their own chairperson. But the constitution is less clear about their job and their powers vis-à-vis other government bodies, particularly the regional administrations led by governors which are appointed by Kabul rather than elected…Council members grumble that the current law binds them hand and foot, giving them no authority at all. Among the areas in which they are demanding more power are provincial budgets and the appointments

made by the regional administrations." (Institute for War & Peace Reporting, 19 March 2006) **[73z]**

6.07 The UN Secretary-General's report of 11 September 2006 noted that:

"Strong provincial government leadership, starting with the Governor, remains one of the most important factors in achieving progress in the fields of security, development and service delivery at the provincial level. Recent appointments of highly qualified officials in some provinces have led to notable improvements in those areas.

"Provincial councils continue to function to varying degrees in all 34 provinces. The inexperience of members in discharging their roles, the ambiguity of their role vis-à-vis the executive and the lack of supporting infrastructure has presented challenges to their operations. As a result, relations between the provincial executive and the councils have been uneven. Moreover, provincial development committees have been established in almost all provinces. These new structures will help to bring focus and rigor to priority-setting and planning at the provincial level.

"In an attempt to address the weaknesses of the provincial councils, the Wolesi Jirga approved amendments to the Provincial Council Law that strengthen their monitoring responsibilities. The amended law has yet to be signed by the President." **[39n] (p4-5)**

6.08 A report by the International Crisis Group (ICG) dated 15 May 2006 stated that, within the Wolesi Jirga:

"Any analysis of allegiances is complicated because Afghan culture is characterised by multiple, overlaying ties, and information about those ties is at a premium… An examination of past allegiances and actions shows that the largest apparent grouping, probably just over half the Wolesi Jirga, consists of those who fought as part of the mujahidin. This is not a homogeneous group, however, as the civil war made clear. But most likely support a broadly conservative agenda and will resist attempts at re-examining the past." **[26h] (p8)**

6.09 The ICG report also noted that the Wolesi Jirga included up to 40 Hizb-I Islami affiliates and 34 members associated with former communist regimes or politics. **[26h] (p8)**

6.10 The ICG report stated that former mujahidin were also the largest group in the Meshrano Jirga. Leading figures included former Defence Minister Mohammad Qasim Fahim and

"…Abdul Saboor Farid, former deputy to Gulbuddin Hekmatyar; and Qurban Ali Urfani, former deputy leader of Hizb-e-Wahdat. The second largest group consists of community leaders and tribal elders who have traditional influence as intermediaries between the government and their communities. A much smaller group includes academics and human rights activists, none of whom are as prominent as those in the Wolesi Jirga." **[26h] (p8)**

6.11 The UN Secretary-General's report of 11 September 2006 stated that:

"The National Assembly or Parliament, composed of the Wolesi Jirga (Lower House) and the Mesharano Jirga (Upper House), has been functioning effectively since my last report. The end of the first session of the National Assembly and the start of the second were largely dedicated to reviewing internal rules of procedure, defining the membership of standing committees and discussing issues of immediate concern including national security, reviewing the national budget and conducting hearings for high-level appointments…

"Despite its achievements, the nascent Afghan National Assembly also revealed worrying trends in its first few months. Several members have failed to break their links with illegal armed groups and criminal networks, and reports of corruption are rife. In addition, traditional power brokers and former commanders have repeatedly threatened and intimidated elected representatives. In one particularly serious case, an Uzbek member of parliament was forced to leave the country temporarily after being severely beaten." **[39n] (p3-4)**

(See also Section 16: Former Communists' participation in the 2005 elections; Section 23: Women's participation in the 2004 and 2005 elections; Section 11: Former Taliban participation in 2005 elections; and Section 11: Former Hizb-e Islami members' participation in the 2005 elections for more information on election results)

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POLITICAL PARTIES

6.12 In September 2004 a Human Rights Watch (HRW) briefing paper noted that the political parties applying for registration in order to contest the 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.

"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)**

6.13 The International Crisis Group (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)**

6.14 The 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 [former] 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)**

6.15 A report by the Afghan Research and Evaluation Unit (AREU) dated December 2005 stated that:

"Political parties are generally very weak institutions and the political orientations of their members often vary tremendously. For example, some parties like Jamiat-e-Islami and its numerous factions, whose origins were as a strongly Islamic fundamentalist party with links to the Muslim Brotherhood, now include members from the left of the political spectrum. Similarly, the secular Uzbek nationalist party, Junbesh-e-Milli, now also includes members who are Islamic fundamentalists. This is in part due to the impact of electoral politics and the imperative of winning seats." **[22c] (section 2.1.2)**

6.16 The AREU report also stated that most political parties currently have very few resources and even less power and influence. Furthermore:

"Political parties are also actively discouraged by President Karzai's government, which is best illustrated by the selection of a voting system that made an already difficult situation for political parties even worse. But by far the biggest challenge confronting political parties in Afghanistan is their major image problem among Afghans, who associate them with the various

communist or jihad-era political parties that have played such a negative role in Afghanistan's tragic history…

"Another characteristic of most political parties in Afghanistan is their personalised and therefore factionalised nature. Individual personalities tend to dominate political parties rather than particular ideologies or policy agendas, and it is usually these individuals who win votes for parties, not parties that win votes for candidates. Parties often have difficulty accommodating many strong personalities, which contributes to the proliferation of party factions and splinter groups. Jamiat-e Islami, the largest political party in Afghanistan, is a good case in point. In the WJ [Wolesi Jirga] elections candidates affiliated informally and formally with the original Jamiat party won 47 seats, more than double the amount of any other party. These seats, however, were divided between approximately ten different factions of the party and new parties that have split off from Jamiat, which were relatively evenly distributed between those that either opposed or supported the government." **[22c] (section 2.2)**

6.17 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that:

"The 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. 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. At year's end there were 91 registered political parties." **[2a] (Section 2)**

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

6.18 Commenting on political parties and the elections, the USSD 2005 Report stated that "Unlike in previous years, the government did not ban any political parties, other than the Taliban." **[2a] (Section 3)**

6.19 A May 2006 report by the International Crisis Group (ICG), however, stated that the Single Non-Transferable Vote (SNTV) system used in the 2005 elections "… forced all candidates to stand as individuals, virtually excluding political parties. Only 12 per cent of candidates entered any such affiliation on their registration form. Of the winners, 14.5 per cent (36) were thus 'officially' affiliated… Furthermore, many other successful candidates were unofficially affiliated." **[26h] (p7)** The ICG report also stated that "The term 'political party' has become virtually a dirty word to many Afghans but they are needed for a robust political transition." **[26h] (p23)**

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

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Human Rights

7. INTRODUCTION

7.01 A May 2006 report by the Afghan Independent Human Rights Commission (AIHRC) stated that:

"Afghanistan is a party to the following main international human rights instruments:

International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified April 1983;
International Covenant on Civil and Political Rights (ICCPR) – ratified April 1983;
Convention Against Torture and other Cruel Inhuman or Degrading Treatment (CAT) – ratified June 1987;
International Convention on the Elimination of all forms of Racial Discrimination (CERD) – ratified August 1987;
Convention on the Rights of the Child (CRC) – ratified April 1994;
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography – ratified October 2002;
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – ratified March 2003;
Optional Protocol on the involvement of Children in Armed Conflict – ratified September 2003." **[78f] (p4-5)**

Afghanistan also ratified the International Criminal Court (ICC) Treaty on 10 February 2003. (Human Rights Watch, 2004) **[17g]**

7.02 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)**

7.03 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] (paras. 6-7)**

7.04 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)**

7.05 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)**

7.06 A UNHCR paper dated June 2005 recorded:

"Afghans in a number of areas of the country … 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 [sic]. 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)**

7.07 A Human Rights Watch (HRW) Afghanistan Overview of 2005, published in January 2006, stated that "Human rights abuses, poverty, and insecurity increase markedly with distance away from city centers." **[17o] (p1)** The HRW report also stated that "Armed clashes between rival factions decreased in 2005, but in many areas warlords and their troops continue to engage in arbitrary arrests, illegal detentions, kidnapping, extortion, torture, murder, extrajudicial killings of criminal suspects, forced displacement, and rape of women, girls, and boys." **[17o] (p2)**

7.08 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that:

"Afghanistan's human rights record remained poor due to weak central institutions, a deadly insurgency, and the country's ongoing recovery from two decades of war. While the government struggled to expand its authority over provincial centers, a few areas remained under the control of regional commanders. There continued to be instances in which security and factional forces committed extrajudicial killings and torture. Extensive reporting of human rights abuses led to increased action against abusers. The following human rights problems were reported:

- extrajudicial killings
- torture
- poor prison conditions
- official impunity
- prolonged pretrial detention
- abuse of authority by regional commanders
- restrictions on freedoms of press, religion, movement, and association
- violence and societal discrimination against women and minorities
- trafficking in persons
- abuse of worker rights
- child labor

Terrorist attacks, armed insurgency, and violence continued during the year. Taliban and other antigovernment forces threatened, robbed, attacked, and occasionally killed local villagers, political opponents, and nongovernmental organization (NGO) workers. Increased Taliban, al-Qa'ida, and other antigovernment activity, particularly in the south and southeast, compounded security challenges faced by the government. UN agencies and NGOs temporarily cancelled or curtailed their activities at various times during the year." **[2a] (Introduction)**

7.09 On 11 January 2006, IRIN News reported that:

"The human rights picture in 2005 was very mixed. The Afghan Independent Human Rights Commission (AIHRC) pointed to many more girls going to school and significant participation of women in the landmark parliamentary polls as two of the highlights. But the commission cautioned that very serious violations of human rights continued in the country. AIHRC received 2,698 human rights complaints and heard about 4,236 different human rights violations during 2005." **[36b]**

7.10 The UN Secretary-General's report dated 7 March 2006 stated that:

"The human rights situation in Afghanistan remains challenging, above all owing to the security situation and weaknesses in governance. Impunity of factional commanders and former warlords has also served to undermine incremental improvements. The significant upsurge in violence in some parts of the country has limited the access to those areas by both international humanitarian actors and Government representatives, denying the population access to entitlements, services and protection.

"Complaints of serious human rights violations committed by representatives of national security institutions, including arbitrary arrest, illegal detention and torture are numerous." **[39h] (p7)**

7.11 The UN Secretary-General's report of 11 September 2006 stated that "The human rights implications of the deteriorating security situation are grave and civilians have at times become indirect victims of attacks by insurgents and military forces." **[39n] (p9)** On 18 September 2006, a UNAMA spokesman stated that "The fighting in Afghanistan has caused a high number of casualties… Suicide bombings have caused more than 154 deaths only in this year." **[46d]**

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8. SECURITY SITUATION

8.01 A review of 2005 published on 11 January 2006 by IRIN News stated that:

"Insecurity remained a key feature in Afghanistan in 2005. Although the country continued to receive strong donor support, humanitarian aid and reconstruction work remained hampered by poor security, particularly in the south and east. Despite the deployment of some 20,000 US troops in the country, along with the presence of an international protection force, largely confined to the capital, 2005 was the bloodiest since the end of the Taliban in late 2001. At least 1,600 people died in conflict-related violence last year. Ninety-one US troops died in combat and through accidents in 2005, more than double the total for the previous year." **[36b]**

(See also Section: 11: Anti-Coalition Forces)

8.02 A Human Rights Watch (HRW) Afghanistan Human Rights Overview, published in January 2006, stated that:

"Four years after U.S. forces ousted the Taliban from Kabul, Afghanistan faces an increasingly violent insurgency in southern and southeastern areas, while in the rest of the country regional military commanders—warlords—further

entrench themselves by subverting the political process and controlling the country's drug trade. Insecurity hampers development in much of Afghanistan, one of the least developed countries in the world." **[17o] (p1)**

8.03 Human Rights Watch reported on 30 January 2006 that:

"Afghans consistently rank insecurity as their top concern. Resurgent Taliban forces have managed to contest the government's control over much of the southern part of the country, curtailing the delivery of desperately needed development and reconstruction assistance. In other areas, warlords are further entrenched and have even been elected to and placed their supporters in parliament." **[17p]**

8.04 The UN Secretary-General's report dated 7 March 2006 stated that:

"The security situation over the past six months was characterized by a clear consolidation of previously reported trends in extremist activity. The operational tempo and tactical sophistication of insurgent and other anti-Government elements have continued to develop. These activities pose an increasing threat to the local population, national security forces, international military forces and the international assistance effort. Violence and threats against local officials, religious leaders, teachers and staff and facilities of the education system have continued and intensified, in particular in the south and south-east of the country…

"Kidnapping is not a new trend in Afghanistan and numerous incidents of abductions of nationals for revenge or criminal reasons continue. Foreigners have also been targets in the past. The cases of the three United Nations election workers in 2004, the CARE aid worker in May 2005, the Indian road engineer (later killed) in November 2005 and the recent kidnapping of two Nepalese on 11 February (one released and one killed) are stark examples. Numerous reports received in January and February 2006 indicate criminal and anti-Government elements intent to kidnap foreigners for political leverage and/or ransom, primarily in Kabul and the eastern region of the country." **[39h] (p10-11)**

8.05 The same report also stated that "Publications in Europe depicting caricatures of the Prophet Muhammad sparked country-wide demonstrations in February [2006], some of which turned violent, resulting in 6 persons dead and 14 injured. Clashes with provincial reconstruction teams in Meymana (Faryab) and Pul-i-Khumri (Baghlan) also broke out." **[39h] (p11)**

8.06 The most recent UN Secretary-General's report, dated 11 September 2006, stated that:

"Since my previous report [7 March 2006] the most significant development in Afghanistan has been the upsurge in violence, particularly in the south, south-east and east of the country. Security has, once again, become the paramount concern of a majority of Afghans. It is estimated that over 2,000 people, at least one third of them civilians, have lost their lives in the fighting since the start of 2006. This represents a three- to four-fold increase in the rate of casualties compared to 2005. The number of security incidents involving anti-Government elements has increased from fewer than 300 per month at the end of March 2006 to close to 500 per month subsequently…

"In the south-east, where major military operations are only just getting under way, insurgent activity has been conducted largely unchecked. Suicide attacks continue to be a highly emotive issue and are widely reported in the international media. The phenomenon is now well established in Afghanistan. The number of suicide attacks already stood in mid-August at 65, against 17 such incidents during all of 2005.

"While previous reporting periods have been marked by progressive and significant deteriorations in the security situation, the recent upsurge of violence represents a watershed. At no time since the fall of the Taliban in late 2001 has the threat to Afghanistan's transition been so severe…

"The insurgency is being conducted mostly by Afghans operating inside Afghanistan's borders. However, its leadership appears to rely on support and sanctuary from outside the country. The insurgency's current centre of gravity falls in and around the provinces of Kandahar, Helmand, Uruzgan and increasingly, Farah. Anti-Government operations nevertheless continue in many parts of the east and south-east and have become an acute concern in Wardak and Logar provinces, close to the capital [Kabul]. The insurgency now covers a broad arc of mostly Pashtun-dominated territory, extending from Kunar province in the east to Farah province in the west; it also increasingly affects the southern fringe of the central highlands, in Ghor and Day Kundi provinces." **[39n] (p1-2)**

(See also Section 11: Anti-Coalition Forces, Hizb-e Islami and Taliban)

8.07 News articles on the security situation and security incidents in Afghanistan are regularly published by the international press and are too numerous to detail individually in this report. See the Latest News page at the beginning of this report for information on the most recent reported incidents. The BBC News South Asia web site also gives details of incidents as they occur. See: http://news.bbc.co.uk/1/hi/world/south_asia/default.stm

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SECURITY SITUATION IN DIFFERENT REGIONS

Kabul

8.08 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)** and his later report, dated 7 March 2006, stated that the ISAF continued to assist the government in maintaining security in Kabul. **[39h] (p11)**

8.09 On 23 December 2005, the Institute of War and Peace Reporting (IWPR) reported that:

"... heavily guarded and relatively peaceful Kabul has become increasingly vulnerable. In mid-November [2005], two cars packed with explosives drove into the middle of a convoy belonging to the International Security Assistance Force, ISAF, killing eight people including a German soldier and injuring 14

civilians. On December 16, another suicide bomber blew himself up trying to attack an ISAF convoy in Kabul, injuring three Afghan civilians." **[73a]**

8.10 On 11 September 2006 the UN Secretary-General reported that the insurgency was concentrated in the southern provinces of Kandahar, Helmand, Uruzgan and Farah. However:

"Anti-Government operations nevertheless continue in many parts of the east and south-east and have become an acute concern in Wardak and Logar provinces, close to the capital [Kabul]…

"The trend towards instability has not been restricted to areas affected by the insurgency. A sense of volatility has also gripped Kabul over the past three months, triggered by the violent riots that broke out in the capital on 29 May [2006] following a tragic traffic incident involving the United States-led coalition forces in the northern districts of the city. At least 25 people died on that day, and several properties were looted or burned, including four United Nations guesthouses and several compounds belonging to aid organizations." **[39n] (p2-3)**

8.11 "During the violence, vehicles and foreign aid agency offices were set on fire, businesses were looted, and stones were thrown at US soldiers. Some observers reported that US and Afghan personnel had opened fire on an incensed and hostile crowd at the scene in the aftermath of the collision. The main protest also prompted smaller riots elsewhere in the city until a government curfew and heavy security presence eventually halted the violence. The unrest was reported to be the worst in the capital since 2001 and analysts said that it underlined the population's growing resentment towards the foreign military presence." (Keesing's Record of World Events, May 2006) **[5b]**

8.12 A number of explosions have been reported in Kabul since May 2006. On 21 May a suicide bomb attack killed at least two civilians and injured several others. Although the attack occurred in an area primarily used by foreign forces there were no reports of any coalition casualties. (Voice of America) **[53]** Two children were wounded in an attack on US-led coalition forces on 26 June. (BBC News) **[25d]** On 5 July it was reported that one person had been killed and at least 40 injured in two explosions targeting government buses. (BBC News) **[25n]** Three NATO soldiers were slightly injured in a bomb explosion on 14 August. (BBC News) **[25ab]**

8.13 On 4 September 2006 it was reported that at least four civilians and a British soldier had been killed in a suicide bomb attack on the Kabul-Jalalabad road. At least three other UK soldiers and four civilians were wounded in the attack. (BBC News, 4 September 2006) **[25ac]** On 8 September, a suicide car bomb attack targeted a US military convoy near the American embassy in Kabul, killing at least 16 people and wounding nearly 30. (BBC News, 8 September 2006) **[25ao]** The *Christian Science Monitor* commented on this incident, reporting that "The notion that Kabul remains an oasis of relative stability was punctured by Friday's bombing. 'Through our intelligence sources, we know there's a cell here in Kabul, at least one, whose primary mission is to seek coalition or international troops and hit them with suicide bombs,' Col. Tom Collins, a US military spokesman, told reporters in Kabul." **[19b]**

8.14 It was reported that three people were killed by a suicide bomber in Kabul on 18 September 2006 (BBC News, 18 September 2006) **[25ap]** and at least 12 people died and a significant number were injured (estimates varied from 42 to 54) after a suicide bomber blew himself up outside the Interior Ministry on 30 September. (BBC News, 30 September 2006) **[25aq]**

8.15 In August 2006 the British Agencies Afghanistan Group (BAAG) reported that Kabul had begun to be targeted with rockets again as it had been during the time of the previous Soviet-backed and mujahidin governments. On 29 August 2006 four rockets were fired, followed by two rockets two days later. There were no reported casualties. **[71a] (p3)**

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The West and Herat

8.16 In a report dated September 2004, Human Rights Watch (HRW) noted that:

> "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)**

8.17 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]**

8.18 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)**

8.19 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)**

8.20 Radio Free Europe/Radio Liberty (RFE/RL) reported on 17 January 2006 that a suicide bomb in Herat province on 20 December 2005 injured three ISAF soldiers. **[29g]**

8.21 "In February 2006, six persons were killed during the Shi'a Ashura processions in Herat… It is believed that rural politicians took advantage of the holiday to foment violence to further their own agendas." (USSD International Religious Freedom Report 2006, 15 September 2006) **[2c] (Section II)**

8.22 On 7 March 2006, the UN Secretary-General reported that ISAF assisted Afghanistan's government to maintain security in the western regions of the country. **[39h] (p11)**

8.23 On 15 June 2006, the Institute for War and Peace Reporting reported that Herat had formerly been considered one of the most stable major towns in the country:

"But in recent months, it too has witnessed an upsurge in insurgency-related violence. 'In the last three months, there have been three suicide attacks in Herat and 25 bomb explosions, as well as 10 people killed in private quarrels,' said police spokesman Abdulrauf Ahmadi.

"The most spectacular attack occurred in April [2006], when a suicide bomber exploded a car in front of the offices of the Provincial Reconstruction Team, PRT, in Herat, killing five people and wounding nine… In another attack in May, added Ahmadi, one American and one Afghan were killed…" **[73v]**

8.24 On 19 September 2006 Times Online reported that 11 Afghans had died and 18 were wounded when a suicide bomber on a motorcycle detonated explosives outside Herat's main mosque. **[68b]**

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Central

8.25 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)**

8.26 On 15 June 2006, the Institute for War and Peace Reporting reported that the Taliban appeared to be on the move in areas where they would not have been active about a year ago, such as Wardak, a central province with a largely Pashtun population bordering Kabul province:

"The interior ministry's Stanezai insisted, 'Wardak province is completely under police control. Police are patrolling the whole province.'
But residents tell a different story, especially after a spate of attacks on fuel tankers shuttling between the Coalition's main base at Bagram near Kabul and other US facilities close to the Pakistani border.

"People in Wardak, a province from which some of the drivers came and through which the Kabul-Kandahar highway runs, said as many as 20 were killed in the attacks on tankers on May 26 and 27 [2006]…

"The insurgents in Wardak are working to classic guerrilla tactics designed to cut the American troops' fuel and supply lines, and to intimidate the local population and erode cooperation with the foreign troops, and with the central Afghan government they protect." **[73v]**

South, South-East and East

8.27 A Human Rights Watch Overview dated January 2006 stated that "In 2005, Taliban and other anti-government forces, some allied with Gulbuddin

Hekmaytar [sic], significantly expanded their insurgency in the predominantly Pashtun areas in southern Afghanistan." **[17o]** A 2005 review published on 11 January 2006 by IRIN News stated that "Violence blamed on Taliban militia and other insurgent groups has left many southern and eastern parts of Afghanistan off-limits to aid workers, government officials and police." **[36b]**

8.28 On 6 February 2006, The Guardian reported that Taliban violence in the south had increased dramatically in recent months, casting doubt on claims that they are a waning force. **[18c]**

8.29 A Human Rights Watch Report published in July 2006 stated that:

"Nearly a third of Afghanistan's population lives in the country's southern and southeastern provinces. The south is the heartland of Afghanistan's Pashtun community and the cradle of the Taliban movement. By all accounts and benchmarks, security has deteriorated sharply in this area over the past two years. Opposition forces and well-armed criminal gangs operate extensively in this area, and the population receives little succor from the regional warlords nominally operating under government authority…

"In past years, opposition attacks decreased markedly during the winter months, when cold weather hampered movement, particularly across the mountainous border to Pakistan. In 2006, the attacks have continued at an ever higher pace and intensity…

"In 2004, a more robust and aggressive strategy by the coalition managed to push the opposition forces out of some of these areas, prompting the U.S. and Afghan governments to pronounce (again) that the Taliban were on the verge of defeat. But in 2005, Taliban and other opposition forces changed tactics, away from direct confrontations and instead began focusing on civilians and civilian institutions, such as teachers, low-level bureaucrats, schools, and aid workers, an approach similar to that used by anti-U.S. forces in Iraq. At least nine clerics were killed in Afghanistan in 2005." **[17l] (p21-22)**

8.30 On 22 May 2006 Radio Free Europe/Radio Liberty (RFE/RL) reported that the former governor of Paktika province, Mohammad Ali Jalali, had been killed in Ghazni province, following his abduction on 21 May. He was a key ally of President Karzai. A purported Taliban spokesman said that Taliban fighters carried out the killing. Four other abductees were released alive. **[29f]** The Governor of Paktika province, Abdul Hakim Taniwal, was killed in a suicide attack on 10 September 2006. At least five people were killed and several wounded in a subsequent suicide attack at the governor's funeral. **[25j]**

8.31 A Senlis Council report published on 5 September 2006 stated that:

"Following the fall of the Taliban regime, southern Afghanistan was largely ignored, with reconstruction and development efforts focusing on Kabul and its immediate surroundings, and more benign regions such as northern Afghanistan. Taliban remnants and other disaffected actors exploited this opportunity to regroup, and with the Afghan transitional government and international community's attention focused elsewhere, the Taliban and other insurgent groups became entrenched in the border provinces between Afghanistan and Pakistan. Consequently, Kandahar and Helmand effectively became training grounds for anti-state actors.

"The neo-Taliban offensive really started at the end of 2005 and early 2006. Since this date, southern Afghanistan has been plunged into a wave of increasing violence, the outcome of which will be difficult to determine." **[20b] (p59)**

8.32 The same report also stated that:

"The Taliban strongholds are located in the southern and eastern provinces of Afghanistan. Over the past few months, insurgents intensified their offensive in these areas, inflicting several dozen casualties on US and NATO-ISAF forces, especially in the provinces of Kandahar and Helmand. Despite their losses, which amount to several hundred combatants, anti-government elements are extending the scale of their operations…" **[20b] (p61)**

"In the southern half of the country, the neo-Taliban have de facto military and psychological control. This is manifest in everyday activities: men grow beards, women wear the burka and they all refuse to work for foreigners, whilst at the same time, people are scared to send their children to schools or have any contact with foreigners." **[20b] (p63)**

8.33 The UN Secretary-General's report of 11 September 2006 stated that since March 2006:

"… the most significant development in Afghanistan has been the upsurge in violence, particularly in the south, south-east and east of the country…

"The growing number of casualties in the south can be attributed both to a rise in anti-Government attacks and to a corresponding increase in offensive military operations being conducted by the Afghan National Army and its international partners. In the south-east, where major military operations are only just getting underway, insurgent activity has been conducted largely unchecked." **[39n] (p1-2)**

8.34 IRIN News reported on 14 July 2006 that:

"Local people and rights groups in southern Afghanistan are increasingly concerned about what they say is an escalation in civilian deaths and injuries resulting from the growing insurgency in the region…

"According to the Afghan Independent Human Rights Commission (AIHRC), at least 600 of the 1,100 deaths in southern Afghanistan this year have been civilians killed by insurgents or coalition attacks. Ahmad Nader Nadery, a spokesman for the AIHRC, said that his organisation's regional office in Kandahar had received several complaints from local people about civilian casualties during the coalition air strikes." **[36q]**

8.35 On 21 September 2006 the US general commanding American forces in Afghanistan was reported by Deutsche Presse Agentur as saying that he had not anticipated the strength of the Taliban in the south of the country:

"The Taliban has been able to take advantage of the weakness of the Afghan government in the south to establish a presence that NATO and US forces have been working to roll back for months, Lieutenant General Karl Eikenberry

[said]... NATO has inflicted heavy casualties on the Taliban since Operation Medusa began and forced them to retreat and disperse, the alliance's chief commander, US General James Jones, told reporters Wednesday…

"Defeating the Taliban has been complicated by the militia's ability to scurry across the border into Pakistan and then later launch raids. The porous border has been a source of tension between Afghan President Hamid Karzai and his Pakistani counterpart, Pervez Musharraf." **[40e]**

8.36 "It was the sanctuary of this international border that allowed Taliban leadership to survive the 2001 war and regroup in the intervening years. Today, Taliban leadership and spokespeople operate brazenly in areas bordering Afghanistan's Pashtun belt in the south and east. Its fundamentalist religious schools, never reformed despite countless promises by President General Musharraf, offer almost limitless recruits." (International Crisis Group, 17 August 2006) **[26a]**

8.37 On 17 September 2006, Reuters reported that:

"NATO and Afghan government forces have forced Taliban troops out of a southern Afghan district after a two-week operation in which NATO said hundreds of militants were killed.

"'This has been a significant success and clearly shows the capability that Afghan, NATO and coalition forces have when they operate together,' the British commander of NATO troops in Afghanistan, Lieutenant General David Richards told a news conference on Sunday." **[24c]**

8.38 NATO has taken charge of military operations in eastern Afghanistan, which has been under the control of US forces since the Taliban were ousted in late 2001. "Afghanistan represents the biggest ground deployment in NATO's history…. The addition of US troops brings the total number of troops under Nato command on the ground in Afghanistan to about 31,000." (BBC, 5 October 2006) **[25av]**

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North and North-East

8.39 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. **[39i] (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)**

8.40 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)**

8.41 An article dated 23 December 2005 by the Institute of War and Peace Reporting stated that "The situation in the northern provinces, where Taleban activity had previously been rare, has become more perilous recently. In late November [2005], a bomb attack against an ISAF convoy in Mazar-e-Sharif killed a Swedish soldier and seriously injured another. The attack came one month after a British soldier was killed in the city." **[73a]**

8.42 On 22 February 2006, BBC News reported that one person had been killed and at least 12 injured in a bomb blast near NATO peacekeepers in Kunduz: "The NATO-led peacekeeping force in the relatively calm north of the country has suffered several recent attacks." **[25ad]** The UN Secretary-General's report of 7 March 2006 stated that there had been clashes with Provincial Reconstruction Teams in the northern areas of Meymana (Faryab) and Pul-i-Khumri (Baghlan) in February 2006 during country-wide demonstrations against publications in Europe depicting caricatures of the Prophet Muhammad. **[39h] (p11)**

8.43 On 15 June 2006, the Institute of War and Peace Reporting reported that Taliban activity had spread further north:

"… to the formerly secure provinces of Balkh, Jowzjan, Sar-e-Pul, and even remote Badakhshan in the northeast – historically the only part of Afghanistan the Taleban never conquered.

"In late May [2006], two people were killed and two injured in an attack on a non-government organisation, NGO, in Badakhshan. Four employees of Action Aid, an NGO helping with the national reconstruction programme in the north, were killed in Jowzjan, also in late May.

"Arson attacks on schools are also on the rise in the north: six have been burned down since the end of April, three in Sar-e-Pul, two in Balkh, and one in Faryab." **[73v]**

8.44 On 13 July 2006 two bombs exploded in Mazar-e-Sharif: "One detonated near the historic Blue Mosque and the other on a road on the city's outskirts. City police chief Abdul Raof Taj said five people were wounded in the bombing near the Blue Mosque. There were no reports of injuries from the other bomb." (Radio Free Europe/Radio Liberty) **[29q]**

8.45 "Police in the north-western province of Faryab reported that 14 people including four civilians died in a week of fighting in the Pashtun Kot district at the beginning of August [2006]. The clash involved close to 300 militia members aligned with rival commanders Abdul Rahman Shamal and Khalifa Saleh…News reports are full of the conflict with the Taleban in the south of Afghanistan, but this northern confrontation involved combatants linked to figures who are supposed to share the government's vision of stability and rule

of law. Shamal has been linked to Junbesh-e-Melli-ye-Islami, the faction formerly led by General Abdul Rashid Dostum, while Saleh is said to be part of the Hizb-e-Azadi faction led by General Abdul Malik Pahlavan…

"Saleh and 15 of his men were detained by the Afghan National Army immediately after the fighting, while police and army units are currently pursuing Shamal, who fled with his forces into the mountains nearby. The justice ministry has so far responded with extreme caution to the suggestion [by the interior ministry] it should take tough action against the two parties.

"'When we were registering these two parties, the interior and defence ministries and the security agency reported to us that neither of them had a military wing,' Elyas Ghiasi, the justice ministry official in charge of registering political parties, told IWPR. 'The interior ministry has yet to send us reliable documents, but if we receive proof that a given party has a military force, we will begin the process of dissolving it.'" (Institute of War and Peace Reporting, 1 September 2006) **[73m]**

8.46 "Factional fighting between former commanders continues to pose a threat to security in some provinces such as Faryab, which was rocked by violent clashes between the Hizb-e-Azadi (Azadi) and National Islamic Movement of Afghanistan (Junbesh) factions. On 30 July [2006], a confrontation between armed groups linked to both parties resulted in the death of four Azadi members and the injury of three others. Fighting continued until 9 August, reportedly killing another Azadi member and three Junbesh members. Serious human rights abuses were also reported, including numerous rapes." (UN Secretary-General, 11 September 2006) **[39n] (p3)**

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9. SECURITY FORCES

DEVELOPMENTS FOLLOWING 11 SEPTEMBER 2001

9.01 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." **[50] (section 3.4.1.)**

9.02 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]." **[50] (section 3.4)**

(See also Section 9: ISAF and PRTs and The role of PRTs for more detailed information)

9.03 An 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)**

9.04 The same report 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)**

9.05 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)**

9.06 A report by the United States Government Accountability Office (GAO) dated June 2005 stated that "… establishing viable Afghan army and police forces will almost certainly take years and substantial resources. Available information suggests that these programs could cost up to $7.2 billion to complete and about $600 million annually to sustain." **[57] (Preface: What GAO found)**

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POLICE

Structure and Reform

9.07 A report by the UN Secretary-General dated 12 August 2005 noted that "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." **[39c] (p8-9)**

9.08 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)**

9.09 A June 2005 report by the United States Government Accountability Office stated that "Germany and the United States have made progress in training individual Afghan policemen and policewomen but have not addressed many limitations impeding the reconstitution of a national police force." **[57] (p3)**

9.10 A June 2005 report by the Vera Institute of Justice for the UK Department for International Development (DFID) and the Foreign and Commonwealth Office (FCO) stated that the men working as police were

> "… generally untrained, ill-equipped, illiterate (70-90 percent), and may owe their allegiance to local warlords and militia commanders and not to the central government. Many of those serving as police are former Mujahedeen who have experienced a lifetime of armed conflict and are accustomed to acting with impunity. A few professional police officers remain from the Afghan National Police of the Soviet period, but these officers have little understanding of the role of police in a democratic society." **[105] (p16)**

9.11 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)**

9.12 The Afghanistan Compact agreed by the Afghan Government with the support of the international community at the London Conference on Afghanistan on 31 January and 1 February 2006, stated that "By end-2010, a fully constituted, professional, functional and ethnically balanced Afghan National Police and Afghan Border Police with a combined force of up to 62,000 will be able to meet the security needs of the country effectively and will be increasingly fiscally sustainable." **[15a] (Annex 1)**

9.13 On 1 June 2006, the Institute for War and Peace Reporting (IWPR) reported that: "Corruption is a growth industry for Afghanistan's police. They stand accused of extorting money from drug smugglers, gun runners, brothel owners

and gamblers, in return for looking the other way. Those who refuse to pay can be arrested as part of an apparently virtuous clean-up campaign, and then released once they hand over the cash." The provincial governor of the northern province of Balkh, Atta Mohammad Noor, was reported as saying that:

"… high-level corruption in the police force meant that the Balkh authorities were unable to provide security for residents. He acknowledged that much of the new Afghan National Police is made up of former mujahedin, the forces who fought and ultimately triumphed over the Soviet invaders. Atta, a former leading militia commander himself, said it was partly out of respect for their past record that he had been reluctant to remove them." **[73b]**

9.14 The same IWPR article also stated that:

"Law enforcement officials argue that much has been done to improve the situation since the fall of the Taleban regime in 2001. Over the past four and a half years, police academies have been established in all of Afghanistan's main provinces. International trainers from the United States, Britain, and Germany have been working with the Afghan police to improve their performance.

"Police from the five northern provinces get their training at the Mazar-e-Sharif police academy, where they receive basic lessons in policing, human rights, penal law and traffic regulations… As of March 2006, over 57,000 had been trained, with the rest due to graduate by September.

"But Afghans brush aside the notion that trained police are any improvement over the old force… Analysts tend to agree, saying that despite the best efforts of the international community, the police system is riddled with corruption and nepotism." **[73b]**

9.15 "On June 3 [2006] Amanullah Guzar was appointed by President Karzai as the chief of police in Kabul, replacing Jamil Junbish. A further 86 police officers were also promoted to senior posts on the recommendation of Interior Minister Zarar Ahmad Moqbel. The appointments were part of a new campaign to reform the corrupt police force.

"However, Western diplomats were critical of the appointment of Guzar, who had been linked to land theft and extortion in his home territory on the Shomali plains, north of Kabul. Concerns were also cited over the replacement by Karzai of 13 out of 86 new officers who had been selected by a group of US, German, and Afghan officials. It was alleged that the 13 replacements were linked to drug smuggling, organised crime, or illegal militias. Jawed Ludin, Karzai's chief of staff, said that the changes were made to ensure ethnic balance and greater representation of former mujaheddin fighters." (Keesing's Record of World Events, June 2006) **[5c]**

9.16 "Efforts by the Afghan government to recruit militia fighters as security along the Afghan-Pakistan border have raised concerns about reforms in the country. President Hamid Karzai's government says it does not want to bring entire militia groups into Afghanistan's security services. But experts remain skeptical, saying any move to arm or pay militia fighters in southern Afghanistan as police is a dangerous step that could set back years of work to

disarm warlords and their fighters." (Radio Free Europe/Radio Liberty, 15 June 2006) **[29c]**

9.17 "Within each province the police have significant power, especially now that the militias associated with the Ministry of Defence have been disbanded. Former warlords appointed as chiefs of police will appoint their own foot soldiers into the police, who therefore are often reappointed each time there is a change of power in an area. Although there is pressure from the Americans to improve the police forces, this is limited by the lack of desire to undermine traditional factional alliances. Training is limited (2–8 weeks) and purely technical in character, except for the Police Academy which has 1–3 years courses but so far has only graduated a limited number of trainees. As a result there are few professional police and it is very difficult to enforce standards, or agree crime reporting standards – hence some sections in Kabul report zero crime rates out of a desire to avoid communicating bad news." (Dr Antonio Giustozzi, Afghanistan Notes, 28 June 2006) **[37]**

9.18 On 11 September 2006, the UN Secretary-General reported that:

"The Afghan National Police force continues to make modest strides in its overall development as a dependable public security provider…The restructuring of the leadership of the Afghan National Police continued during the reporting period… On the whole, the second tier restructuring has been a positive step and has resulted in the appointment of a more professional core group of police officers to critical positions. There have been, however, some deficiencies. Fourteen officers who had failed in the selection process were added to the final list at the last minute and were appointed to key positions within the Afghan National Police force. They include a small number of well-known human rights offenders and officers with links to criminal and illegal armed groups. Following concern expressed from within the Government and démarches by several members of the international community, the Ministry of the Interior agreed that the 14 officers would be appointed for a probationary period of only four months, after which their performance would be reviewed…

"The challenges facing the Afghan National Police remain daunting: command and control arrangements are weak; administrative and logistical support capacity lags behind operational capability; lack of discipline is common; corruption remains rampant; and disregard for human rights and due process are also major concerns. As a result, the level of public trust in the police remains very low. The Government continues to struggle to provide adequate equipment and logistical support to the Afghan National Police." **[39n] (p7-8)**

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Torture

9.19 The Danish fact-finding mission of March/April 2004 reported in November 2004 that:

"The Lawyers Union of Afghanistan stated that [the] 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)**

9.20 On 22 December 2004, the head of the Afghanistan Independent Human Rights Commission (AIHRC), Dr Sima Samar, was reported by IRIN as saying that "The police still think it is their right to torture a suspect or culprit." **[40ab]**

9.21 The USSD 2005 stated "NGOs reported that security forces used excessive force during their fight against Taliban and al-Qa'ida remnants, including looting, beating, and torturing civilians. Violence and instability hampered relief and reconstruction efforts in different parts of the country and led to numerous human rights abuses." **[2a] (Section 1c)**

9.22 "Physical beatings are common to try and obtain information, both within the NSD [National Security Directorate] and the police." (Dr Antonio Giustozzi, Afghanistan Notes, 28 June 2006) **[37]**

Extrajudicial Killings

9.23 The Human Rights Watch Afghanistan Country Summary, published in January 2006, stated that: "In early May 2005, sixteen protesters were killed by police and army troops during violent demonstrations in several cities in response to reports of U.S. interrogators desecrating a copy of the Koran during interrogations at Guantanamo Bay." **[17o] (p1)** In May 2005, HRW reported that some of the cities in which riots occurred were Jalalabad, Ghazni, Kabul and Maimana. **[17k]** The HRW Summary also noted that in 2005, many warlords and their men continued to engage in extrajudicial killings. **[17o] (p2)**

9.24 The report of the United Nations High Commissioner for Human Rights dated 3 March 2006 stated that:

"Serious procedural flaws have been observed in one of the few cases of crimes relating to the conflict that has so far been brought to trial in Afghanistan. Asadullah Sarwary, an intelligence chief under the pro-communist regime of April 1978 to September 1979, is accused of the extrajudicial killing and illegal detention of an unspecified number of people. Detained without charge since 1992, his trial in the National Security primary court commenced in December 2005. He had no legal representation, and standards of evidence, as well as other due process safeguards, were ignored. He was sentenced to death on 25 February 2006." **[39l] (p10)**

ARMED FORCES

9.25 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… 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." **[39c] (p8)**

9.26 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." **[89] (p40)**

9.27 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)**

9.28 The Afghanistan Compact, agreed by the Afghan Government with the support of the international community at the London Conference on Afghanistan on 31 January and 1 February 2006, stated that:

"By end-2010: A nationally respected, professional, ethnically balanced Afghan National Army will be fully established that is democratically accountable, organized, trained and equipped to meet the security needs of the country and increasingly funded from Government revenue, commensurate with the nation's economic capacity; the international community will continue to support Afghanistan in expanding the ANA towards the ceiling of 70,000 personnel articulated in the Bonn talks; and the pace of expansion is to be adjusted on the basis of periodic joint quality assessments by the Afghan Government and the international community against agreed criteria which take into account prevailing conditions." **[15a] (Annex 1)**

9.29 A report by the UN Secretary-General dated 7 March 2006 stated that "The Afghan National Army has been well received by local communities, and was especially commended by authorities for its performance during the 2005 elections. It has however, increasingly become a focus of attacks by anti-Government elements. The Afghan National Army will continue to participate in joint combat operations with Coalition Forces." **[39h] (p5)** The report also noted that achieving the goal of 70,000 troops by 2010 as stated in the Afghanistan Compact presented a number of challenges. **[39h] (p4)**

9.30 On 2 June 2006, the *Washington Post* reported that the US was keen to cut its contributions to the Afghan army: "Against Kabul's objections, the U.S. military hopes to cut the planned end-strength of the Afghan defense sector by more than 25 percent; rather than building the 70,000-man force previously agreed upon, the goal is now 50,000." **[32]**

9.31 "The Government and donors continue to work towards the goal of a well–trained, ethnically balanced Afghan National Army force of 70,000 by the year 2010. The current strength of the Army stands at around 34,700 personnel deployed at headquarters and in five regional commands. This marks a collective increase of some 3,900 officers and enlisted men and other support personnel over the reporting period.

"The Afghan National Army has been particularly successful in building its image as a symbol of Afghan unity, and in recent months its effectiveness has improved significantly, but it still faces a number of key challenges, including recruitment and retention of staff and timely and secure payment of salaries. It must also attend to the poor supply of equipment, weapons, food and accommodation for troops. The Army has been obliged to be on the front lines of an insurgency which did not feature in the operational plans drawn up after the fall of the Taliban regime. As a result, the Army appears sometimes ill-prepared to take on that role, and its operational capabilities are being substantially tested. The contrast between the firepower and protection of international military forces and that of the Afghan National Army is most evident when they are operating in close proximity. Nevertheless, notwithstanding heavy losses, the Army, the Police and the international military forces continue to show dedication and courage. The challenge for the Army and for the international community will be to develop the support systems and deploy the resources needed to retain and build the current core of the Army." (UN Secretary-General, 11 September 2006) **[39n] (p8)**

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OTHER GOVERNMENT FORCES

National Security Directorate (NSD) (Amniat-e Melli)

9.32 An Amnesty International report dated March 2003 recorded that: "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…Members of the NSD have committed human rights violations, including arbitrary detention and torture." **[7g] (p9-10)**

9.33 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to the Co-operation Centre for Afghanistan (CCA), about half of the officers working in the present Afghanistan Intelligence Services are former officers of the Khidamat-i-Ittala'at-i-Dawlati (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)**

9.34 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) [NSD] 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 Section 14: Prison conditions for further information on the NSD)

9.35 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)** A September 2005 Amnesty International report stated that "Amnesty International is alarmed at reports indicating that The Afghan National Security Directorate, Afghanistan's intelligence service, is carrying out arbitrary arrests and detention cross [sic] the country, some allegedly on the request of US forces." **[7e] (p3)**

9.36 Notes on Afghanistan by Dr Antonio Giustozzi presented at a conference on 28 June 2006 stated that physical beatings by the NSD to try to obtain information were common. **[37]**

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INTERNATIONAL FORCES

International Security Assistance Force (ISAF) and Provincial Reconstruction Teams (PRTs)

9.37 The UN Secretary-General reported on 12 August 2005 that:

"In annex I to the Bonn Agreement the Security Council was requested to authorize the deployment of a United Nations-mandated force that would assist in the maintenance of security in Kabul and that could, as appropriate, be progressively expanded to other areas. This multinational force, the International Security Assistance Force (ISAF), was deployed to Kabul in January 2002, under the lead of the United Kingdom, in accordance with Security Council resolution 1386 (2001) of 20 December 2001. The positive effect of the ISAF presence in Kabul was immediate and welcome. ISAF continued to play a major role in maintaining the peace in Kabul. It played a crucial role in assisting the Bonn process by providing security during the emergency Loya Jirga in June 2002. Following the emergency Loya Jirga, the United Kingdom handed over the lead to Turkey for six months, whose command was followed by a joint command of Germany and the Netherlands. In August 2003, the North Atlantic Treaty Organization (NATO) assumed command of ISAF indefinitely…

"In early 2003, members of the international coalition in Afghanistan began to deploy provincial reconstruction teams [PRTs] outside of Kabul. These teams assisted in establishing security in the areas of their deployment to facilitate the establishment and work of provincial administrations and development organizations and to promote the rule of law." **[39c] (p16)**

9.38 The UN Secretary-General's report also stated that:

"While welcoming the innovation of the deployment of provincial reconstruction teams, the Government of Afghanistan and the United Nations continued to view them as an insufficient response to the enduring problem of insecurity beyond Kabul. In October 2003, by its resolution 1510 (2003) of 13 October 2003, the Security Council authorized the expansion of ISAF beyond Kabul. This expansion took the form of ISAF assuming control over provincial reconstruction teams, beginning with the German-led team in Kondoz, in northeastern Afghanistan. ISAF committed itself to taking over provincial reconstruction teams in a counter-clockwise direction, beginning in the north-east. A number of provincial reconstruction teams were established in southern Afghanistan." **[39c] (p17)**

9.39 The NATO website, updated on 1 August 2006, stated that:

"Through ISAF, NATO has been helping in creating a secure environment, training and building up future Afghan security forces, identifying reconstruction needs and facilitating reconstruction. ISAF forces conduct regular patrols throughout Kabul and their area of operation in the north, west and south of Afghanistan, covering approximately 75 per cent of the country's territory. Approximately 600 patrols are conducted each week – around 100 jointly with the Afghan National Police and the Afghan National Army." **[63b]**

9.40 Radio Free Europe/Radio Liberty (RFE/RL) reported on 28 July 2006 that pending the expansion of NATO into the south of the country "…the rules of engagement for NATO troops in Afghanistan have been expanded dramatically beyond those of a peacekeeping mission. Appathurai [NATO spokesman] says NATO action will be 'robust.' And he notes that NATO commanders have the authority to order preemptive strikes if they deem it necessary." **[29p]**

9.41 On 31 July 2006, the ISAF assumed command of the southern region of the country from US-led coalition forces, extending ISAF's mission:

"NATO-ISAF had previously expanded from Kabul into 13 provinces of northern and western Afghanistan, regions in which it also commands the military components of nine Provincial Reconstruction Teams [see below]. NATO-ISAF is made up of 37 nations from NATO and non-NATO states, showing the level of international support for the mission.

"The southern Afghanistan area of operations includes six provinces – Day Kundi, Helmand, Kandahar, Nimroz, Uruzgan and Zabul… The US-led Coalition retains responsibility for Afghanistan's eastern region, also known as Regional Command East. Afghan and Coalition forces there conduct regular combat patrols to defeat the Taliban and related movements, and the Coalition will also retain its counter-terrorist mission throughout Afghanistan." (NATO, 31 July 2006) **[63a]**

9.42 "There are currently about 18,500 troops within ISAF and 18,000 troops operating as part of the coalition forces." (UN Secretary-General, 11 September 2006) **[39n] (p8)**

(See also Latest News page for information on NATO's expansion in October 2006)

The Role of Provincial Reconstruction Teams (PRTs)

9.43 "Provincial Reconstruction Teams (PRTs) are the leading edge of NATO-ISAF's presence in Afghanistan. These are small teams of civilian and military personnel working in Afghanistan's provinces to provide security for aid workers and help reconstruction work. They are a key component of a three-part strategy for Afghanistan – security, governance and development – helping to spread stability across the country."

"In addition to regular patrols and security operations, NATO-ISAF PRTs also assist in rehabilitating schools and medical facilities, restoring water supplies,

providing agricultural technical assistance and many other civil-military projects.

"At present, NATO is leading the military components of 13 PRTs in the north [Mazar-e-Sharif, Feyzabad, Konduz, Pol-e Khomri, Maimana], west [Herat, Farah, Qal-e-Now, Chaghcharan] and south [Kandahar, Lashkar-Gah, Tarin Kowt, Qalat] of the country." (NATO, 1 August 2006) **[63b]**

9.44 The US Department of State released a Fact-Sheet on 31 January 2006 noting that, there were 23 PRTs currently in Afghanistan; 14 run by coalition forces and nine by NATO. **[2d]**

9.45 A Foreign and Commonwealth Office (FCO) paper dated 20 January 2005 stated that PRTs aimed to support the Security Sector Reform (SSR) programme including "…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]**

9.46 A 2005 report by the Danish Institute for International Studies concluded that:

"… the PRTs are successful because they have helped to extend the authority of the Afghan government beyond Kabul, facilitated reconstruction and dampened violence. At the same time, it is equally clear that they cannot address the underlying causes of insecurity in Afghanistan. The PRTs only make sense as part of an overall strategy in which they serve to buy time while other instruments are employed to tackle the military threat posed by the Taliban and Al Qaida; the infighting between the warlords; the increased lawlessness and banditry; and the booming opium poppy cultivation and the drug trade." **[104] (p9-10)**

9.47 "Looking ahead, PRTs will remain the main vehicle through which ISAF expansion will take place. While relatively new and subject to some criticism in the early stages of international military deployment to Afghanistan, the PRT concept, in general, has evolved and is seen as a highly effective means of assisting the Afghan government extend its influence to the provinces. As joint military-civilian teams varying in size and led by different lead nations, they are deployed to selected provincial capitals of Afghanistan and provide a viable alternative to a full-fledged international peacekeeping presence, which is not an option for Afghanistan nor part of the ISAF mandate. ISAF's current PRTs are run by Germany, Italy, Lithuania, the Netherlands, Norway, Spain, Sweden and the United States. Several other NATO Allies and Partners make important contributions with either military or civilian personnel. ISAF-led PRTs have helped with countless reconstruction projects; they have mediated between conflicting parties; contributed to the disarmament process of Afghan militias; assisted with the deployment of national police forces and the Afghan National Army (ANA); and generally helped improve the security environment through contacts with local authorities and population." (NATO, 22 June 2006) **[40n]**

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AVENUES OF COMPLAINT

9.48 A UNHCR paper dated June 2005 stated that the central government, the developing Afghan National Army (ANA), the Afghan National Police (ANP) forces and the traditional governance structures had limited ability to address violence and threats of violence against civilians. **[11b] (p22)**

9.49 Referring to the judicial system, the same UNHCR paper stated that "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." **[11b] (p20-22)**

9.50 The Afghan Independent Human Rights Commission (AIHRC) was established with the purpose of "monitoring the observation of human rights in Afghanistan, to promote their advancement and protection." **[78f]** "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." (UN-appointed independent expert, 21 September 2004) **[39k] (para. 42)**

(See also Section 18.01: Afghanistan Independent Human Rights Commission)

9.51 A report by the Afghanistan Independent Human Rights Commission (AIHRC) in May 2006 presented its findings on the willingness of persons and institutions to resolve 3,200 disputes over property, water, security and other issues. The report noted that "… over 85% of interviews were conducted in rural areas, therefore the data in this report is predominantly representative of rural populations and does not capture the situation of those living in urban areas, which are often of a different nature." **[78f] (p39)**

9.52 The AIHRC report concluded that:

"Over half (54.8%) of interviewees who tried to solve their problems approached traditional/customary justice mechanisms (shuras, elders and/or mullah), compared with 38.4% of interviewees who approached the formal justice mechanisms (government, court and/or police).

"Interviewees (67.9%) identified formal justice mechanisms as most often failing to provide assistance.

"Although an equal proportion of interviewees consulted with shuras (30.0%) as with government (28.0%) to resolve their problems, over half of interviewees (57.9%) who tried to resolve problems reported that government had failed to help them, compared with only 13.0% who stated that local shura had failed to help them.

"The main reasons interviewees considered that they were not given assistance to solve their problems (either by formal or customary justice mechanisms) related to economic factors – 50.9% of interviewees who had not been given assistance stated that this was because of poverty (43.7%) or failure to pay a bribe (7.2%).

"Ethnicity (16.2%) was the second main reason interviewees considered they had not been given assistance either by formal or customary justice mechanisms." **[78f] (p43)**

9.53 The AIHRC report also noted that the third reason why they had been refused help was because they were returnees (7.1%). **[78f] (p42)**

9.54 "In the tribal environment, disputes might be settled by going to village elders. The preferred solution is that a culprit should be executed by his own family, to avoid the start of a blood feud or any form of rivalry. This is more likely to happen in the case of women. However, according to the tribal code, negotiation is always possible and even the worst crime can be forgiven in exchange for an agreed payment, whether cash, land or women. In the non-tribal areas of the countryside (mainly among Tajiks), Islamic law is more likely to be followed, which is more rigid and does not allow for compensation. Executions even by stoning are still common in the countryside. In the cities, matters such as these would be referred to the police in the majority of cases, but it has to be taken into account that continuing rural immigration into the cities blurs the distinction between rural and urban. Even in some neighbourhoods of Kabul the police have little influence and matters are still dealt with in the traditional way." (Dr Antonio Giustozzi, Afghanistan Notes, 28 June 2006) **[37]**

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10. MILITARY SERVICE

10.01 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)**

10.02 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]**

10.03 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 24: Child Soldiers)

10.04 The Central Intelligence Agency (CIA) World Factbook, updated on 18 January 2007, recorded that males between the ages of 22 and 49 are eligible for military service and inductees are contracted into service for a 4 year term. **[23] (p12)**

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11. ABUSES BY NON-GOVERNMENT ARMED FORCES

WARLORDS AND COMMANDERS

11.01 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)**

11.02 A Human Rights Watch (HRW) report of September 2004 reported 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)**

11.03 A report by the UN-appointed 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)**

11.04 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)**

11.05 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 [sic] 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)**

11.06 A November 2005 report by Foreign Policy In Focus (FPIF) stated that:

"Media reports about Afghanistan continue to present the familiar narrative of a stable Kabul, governed by a beleaguered central government, encircled by a lawless periphery that is dominated by voracious warlords. This picture, perhaps accurate in 2001 and 2002, has given way to a more nuanced situation today. Through the implementation of the Bonn process and complex bargaining that reaches down to the district and village level, the Karzai government has been able to extend its authority to most areas of the country and to curtail the overbearing influence of warlords in national level politics. The de facto veto that prominent warlords seemingly held over national policy from 2001-03 has largely been removed.

"This is not to say that the threat of warlordism has receded. Politics at the local level are [sic] still highly militarized and factionalized, and regional commanders remain the dominant presence in the political and economic life of villages and districts across the country. But the Bonn process, buttressed by international military and development assistance, has positioned the government to challenge these local power dynamics. As Francesc Vendrell, the Special Representative of the European Union, notes, 'the authority of the central government of Karzai, which was reduced to Kabul at the beginning, has extended virtually everywhere, even if his commands are not always followed.'" **[59] (p3)**

11.07 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, stated that, although the Afghan National Police had primary responsibility for internal order, "…some local and regional commanders maintained considerable power since the government did not control security nationwide." **[2a] (Section 1d)**

11.08 An article published in the Financial Times on 29 January 2006 by the president of the International Crisis Group stated that:

"Governors with records of human rights abuses and involvement in drugs are on a merry-go-round of presidential appointments: when locals in one area object to an official, he is simply moved to the next province. In many regions police commanders with no professional training run what are, in effect, private militias. That such positions of power have been awarded to the very people who fed the civil war has been a major source of public disillusionment with the transition process." **[26f]**

11.09 An International Crisis Group report dated 15 May 2006 stated that:

"The glaring downside of the new body [the National Assembly] is the presence of warlords, drug dealers and human rights violators – many of whom continue their abuses with impunity. The deputy head of the Afghanistan Independent Human Rights Body, Ahmad Fahim Hakim, has estimated that more than 80 per cent of members from the provinces and more than 60 per cent from Kabul have links to armed groups." **[26h] (p6)**

11.10 On 21 August 2006, Radio Free Europe/Radio Liberty reported that "A decision by the Afghan Interior Ministry to request the disbandment of two political parties could signal an attempt by the government to curb 'warlordism.'" The article stated that Interior Minister Zarar Ahmad Moqbel had called for Abdul Rashid Dostum's and General Abdul Malik's political parties to be disbanded following recent armed clashes in the northern Faryab province. Minister Moqbel argued that:

"… the two parties – Dostum's National Islamic Movement of Afghanistan (Hizb-e Junbish-e-Melli-ye Islami-ye Afghanistan), known as Junbish, and Malik's Freedom Party of Afghanistan (Hizb-e Azadi-ye Afghanistan) – continue to maintain military wings and that these militia are responsible for the unrest in the northern province of Faryab…

"Warlords have been the bane of centralization efforts for decades. It is too early to say whether this move signals a new government willingness to tackle 'warlordism,' and curb the power of militias." **[29z]**

11.11 "Afghans throughout the country have told Human Rights Watch that they view regional warlords, ostensibly allied with the government, as a major source of insecurity. In southern Afghanistan, tribal chiefs, like Sher Mohammad Akhundzada the former governor of Helmand province who was removed due to allegations of corruption and involvement in the drug trade, have been allowed to operate private militias with the blessing of President Karzai. Warlords with records of war crimes and serious abuses during Afghanistan's civil war in the 1990s, such as parliamentarians Abdul Rabb al Rasul Sayyaf and Burhanuddin Rabbani, General Abdul Rashid Dostum, and current Vice President Karim Khalili, have been allowed to hold and misuse positions of

power, to the dismay of ordinary Afghans." (Human Rights Watch, 27 September 2006) **[17f]**

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WAR CRIMES AND HUMAN RIGHTS ABUSES PRIOR TO 2001

11.12 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)**

11.13 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]**

11.14 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 and states:

"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]**)

11.15 Amnesty International's 2006 report, covering events in 2005, stated that:

"In January [2005], the Afghanistan Independent Human Rights Commission (AIHRC) issued a report examining measures to address past human rights violations. In December, the government passed the Transitional Justice Action Plan, which calls for the commemoration of victims, vetting of state employees to exclude human rights violators, the creation of a truth-seeking mechanism, the promotion of national reconciliation and the establishment of justice mechanisms for past crimes.

"In July [2005] Faryadi Sarwar Zardad, a commander who had fled to the UK in 1988, was sentenced to 20 years' imprisonment in connection with human rights violations carried out by him and those under his command. The UK authorities cited their obligations under the UN Convention against Torture as the basis for prosecution.

"In September [2005], Habibullah Jalalzai and Hesamuddin Hesam, both former senior officials of KHAD, a security body during the 1980s, were sentenced to nine and 12 years' imprisonment respectively following a trial in the Netherlands.

"Many regional officials and commanders – often called warlords – continued to wield power within Afghanistan. Some continued to maintain links with armed groups responsible for abuses that included war crimes committed during armed conflicts since 1979–80, including mass killings and rape. In December [2005] a national conference on truth-seeking and reconciliation was held." **[7a]**

11.16 On 25 February 2006, BBC News reported that the first sentence for war crimes had been passed in Afghanistan. Asadullah Sarwari, a former head of the Afghan intelligence department set up under the communist Government in 1978, had been sentenced to death for ordering hundreds of killings in the late 1970s. **[25o]**

(See also Section 16.08: Treatment of former KHAD members for more information on Asadullah Sarwari's trial and Section 30: UNHCR guidelines Section 30.01)

PERSONS IN CONFLICT WITH PRESENT POWER BROKERS

11.17 The Danish fact-finding mission to Kabul in March/April 2004 reported in November 2004 that, according to UNHCR:

"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)**

11.18 The Danish report also noted that, according to the Co-operation Centre for Afghanistan [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 in 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)**

11.19 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 … 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 Section 30: UNHCR guidelines)

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DISARMAMENT, DEMOBILISATION AND REINTEGRATION PROGRAMME (DDR)

11.20 "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." (United Nations Assistance Mission in Afghanistan (UNAMA), 7 July 2005) **[40aa]**

11.21 "DDR supported the disarmament of 63,380 former officers and soldiers of the Afghan Military Forces (AMF) as well as the decommissioning of 259 AMF units. Fifty-five thousand eight hundred and four (55,804) ex-combatants chose one of the reintegration options, which further benefited 53,415 of them, leaving aside 2,759 drop-outs.

"The approach to reintegration has been holistic and reintegration options have ranged from agriculture, vocational training and job placement, small business opportunities, demining, teaching, government jobs, wage labor and joining [the] Afghan National Army (ANA) or the Police." **[40o]**

11.22 "DDR has had a positive impact on the democratic political process… 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." (International Crisis Group, 21 July 2005) **[26c] (p20)**

DISBANDMENT OF ILLEGAL ARMED GROUPS (DIAG)

11.23 UNAMA recorded on 25 January 2006 that "The DIAG (Disarmament of Illegal Armed Groups) process was launched on 11 June, 2005 when officially announced by Vice President Khalili." **[40x]**

11.24 An IRIN news article of 27 September 2005 stated that the DIAG, the successor to the DDR programme, "…aims to dismantle an estimated 1,800 illegal armed bands of men, comprised of up to 100,000 individuals, who continue to pose a major security concern in many parts of the country." **[36i]** A UNAMA press briefing dated 29 September 2005 clarified that the DIAG programme dealt with illegal armed groups and it was, therefore, different from the DDR programme, which dealt with members of the former armed forces. **[46c]**

11.25 The Afghanistan Compact launched on 31 January 2006 stated that "All illegal armed groups will be disbanded by end-2007 in all provinces." **[15a] (Annex 1)**

11.26 "DIAG has three phases, the first of which was for commanders to disarm voluntarily, something that many of them did in the run-up to the parliamentary election last September… The second phase of DIAG involves asking local commanders to hand in their weapons. This programme depends heavily on cooperation from the law enforcement agencies, since it is up to them to help DIAG officials locate arms caches and their owners…If commanders fail to surrender their arms in response to official requests, DIAG will then disarm them by force." (Institute for War and Peace Reporting, 12 May 2006) **[73c]**

11.27 On 25 September 2006, UNAMA reported a spokesperson from Afghanistan's New Beginnings Programme (ANBP) as saying that the DIAG programme was currently in the first phase of voluntary disarmament: "We are still negotiating with the commanders of illegal groups in the provinces to abide by this phase. We have had this phase in five provinces and we have had a lot of achievement across the country, but our best achievement has been in Takhar province [in the north-east]." **[40r]**

11.28 The UN Secretary-General reported on 11 September 2006 that:

"In spite of widespread popular support for the programme and the commitment shown by some concerned ministries and officials of the central Government, compliance to date has been disappointing, with few commanders willing to take part in the programme…

"By far the largest impediment to the implementation of the disbandment of illegal armed groups programme has been mounting alarm over the insurgency in the southern provinces. Across the north and central highlands, community leaders who are otherwise strongly supportive of the programme have raised concerns about a possible Taliban push beyond the south, south-east and east and the capacity of the Afghan national security forces to protect them. Many commanders have exploited those fears to avoid dismantling their armed groups. At the same time, increasing rumours about authorized pro-

Government militias in some areas have fuelled perceptions of a double standard in programme implementation." **[39n] (p6)**

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ANTI- GOVERNMENT AND ANTI-COALITION FORCES (ACF)

Overview

11.29 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)**

11.30 The International Crisis Group (ICG) report of 23 November 2004 stated that "By most accounts, many of the Taliban and forces loyal to Hikmatyar [Hekmatyar] operate from Pakistan's border provinces." **[26d] (p26)**

11.31 The United States State Department (USSD 2005) Report, published on 8 March 2006, recorded that during 2005:

"Terrorists and insurgents, including Taliban, al-Qa'ida, and Hizb-e-Islami Gulbuddin, killed numerous civilians during their attacks. There were reports that the Taliban and its allies summarily executed NGO workers and other persons. Attacks on international organizations, international aid workers and their local counterparts, and foreign interests and nationals increased significantly during the year and prompted some organizations to leave." **[2a] (Section 1a)**

11.32 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 [Gulbudin Hekmatyar], have joined the peace process under a general amnesty announced by [sic] 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 [sic] the withdrawal of foreign troops from Afghanistan." **[40p]**

11.33 The January 2006 Human Rights Watch report stated that:

"In 2005, Taliban and other anti-government forces, some allied with Gulbuddin Hekmaytar, significantly expanded their insurgency in the predominantly Pashtun areas in southern Afghanistan. It was also the deadliest year for U.S. forces and their coalition allies in Afghanistan: more

than eighty-five U.S. troops were killed, more than fifty of them as a result of hostile fire. Over 1,500 Afghan civilians died because of this political violence…The sharp increase in violence indicates that the Taliban has succeeded in regrouping, with significant assistance from across the Pakistani border. It also reflects growing resentment by local Afghans against a central government that fails to deliver on promises of development and the heavy-handed tactics employed by U.S. and coalition forces." **[17o] (p1-2)**

11.34 The HRW 2006 report also recorded that several suicide attacks, previously rare in Afghanistan, had taken place in 2005, mostly in the south of the country and "Another alarming development was the Taliban's assassination of at least eight clergymen supportive of the central government." **[17o] (p1-2)**

11.35 Amnesty International's 2006 report concurred, stating that, during 2005 "Hundreds of civilians including aid workers, election officials and clerics were killed by armed groups such as the Taleban, who were resurgent in the southern region. Most of the killings resulted from suicide attacks and roadside bombs." **[7a]**

11.36 "The level of insurgency has dramatically increased over the last two years, with a spectacular upsurge of attacks since spring 2006…

"The insurgent movement currently operating in Afghanistan can be described as the 'neo-Taliban', comprising a loose collection of anti-government groups which operate somewhat independently of each other. The neo-Taliban can be distinguished from two other groups, with whom they form an official alliance. The first one is Al Qaeda, which consisted in the main target of Operation Enduring Freedom but has substantially suffered after the removal of the Taliban regime. The second one is formed by factions, politically and militarily organised, benefiting from local support, and answering to warlords. However, both Al Qaeda and political and military factions do not play a significant role in the insurgency and their impact should not be over-estimated." (The Senlis Council, 5 September 2006) **[20b] (Chapter 1, p53)**

11.37 Numerous attacks by insurgents were reported throughout 2006. A Senlis Council report of June 2006 stated that "In Afghanistan, general attacks, surged from a monthly average of 5 in 2002 to 25 in 2006. This is a five-fold increase over less than 4 years. In the South of Afghanistan reports suggest that there has been a 600% increase in violent attacks in the last six months." **[20a] (p30)**

11.38 "Civilians have increasingly become victims of the insurgency as they get caught up in attacks targeted at international forces or government security personnel. The past month [August 2006] has seen some particularly horrific incidents:

"On 3rd August, over 21 people were killed and 13 injured in a suicide-car bomb attack at a market in Panjwai, near Kandahar…On 4th August, two children were killed when a rocket, targeted at the ISAF base in Kandahar, missed the camp and hit their house. On 28th August, at least 17 people were killed and over 47 injured, six of them critically, when a suicide bomber blew himself up outside a police station in a crowded bazaar in Lashkar Gah, the administrative centre of Helmand Province… On 29th August, two civilians were killed and one injured when a suicide bomber drove a vehicle into an

ISAF convoy between Kandahar and the nearby ISAF base." (British Agencies Afghanistan Group (BAAG), August 2006) **[71a]**

11.39 "A third of the country is racked by violent insurgency. The situation in the south, south-east and east is unlikely to improve in the near future and the prospect of further deterioration cannot be excluded. While the rest of the country remains relatively secure, Afghans everywhere understand that the insurgency poses a grave threat to the political transition nationwide. If not addressed urgently and comprehensively, the insurgency could jeopardize the considerable achievements of the Bonn process and plunge parts of the country into chaos and uncertainty, with considerable spillover effects across Afghanistan." (UN Secretary-General, 11 September 2006) **[39n] (p16)**

11.40 "Five distinct leadership centres of the insurgency can be identified. They appear to act in loose coordination with each other and a number benefit from financial and operational links with drug trafficking networks. They include: the wing of the Hezb-i-Islami party led by Gulbuddin Hekmatyar, in Kunar province and neighbouring areas; the Taliban northern command, for Nangarhar and Laghman provinces; networks led by Jalaluddin Haqqani, a former minister in the Taliban regime, mainly for Khost and Paktya provinces; the Wana Shura, for Paktika; and the Taliban southern command, for the provinces of Zabul, Kandahar, Hilmand, and Uruzgan. The Taliban southern command has recently begun to establish parallel civil administrations and courts in its area of operations, although they remain marginal in most districts. Leadership and support structures for the insurgency straddle the southern border of Afghanistan.

"The leadership centres form the hard core of the insurgency and are widely considered not to be open to reconciliation. The 'strengthening peace' programme, a national initiative to reintegrate Taliban and other insurgent combatants, has had successes with mid-level Taliban commanders but has not focused on attracting senior commanders.

"The leadership relies heavily on cross-border fighters, many of whom are Afghans drawn from nearby refugee camps and radical seminaries in Pakistan. The fighters are typically indoctrinated, unemployed young men whose sense of identity has been blurred by years in exile. They are trained and paid to serve as medium-level commanders, leading operations inside Afghanistan, and they are able to retreat back to safe havens outside the country.

"The foot soldiers of the insurgency are Afghans recruited within Afghanistan; they are driven by poverty, poor education and general disenchantment with their place in society. These internal fighters are not ideologically driven, but their ranks have expanded to support the growing upper echelons of the insurgency. They are thought to be ready to disengage from the insurgency if the appropriate incentives, particularly economic, are provided." (UN Secretary-General, 11 September 2006) **[39n] (p2-3)**

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Taliban/neo-Taliban

11.41 A June 2005 UNHCR report recorded that:

"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 [sic] 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)**

11.42 "A significant number of the original Taliban militants were killed during Operation Enduring Freedom's initial phases, and the Taliban defeat was guaranteed by the defection of the many warlords to the US-sponsored Northern Alliance. Since late 2001, the remnants of the Taliban have been based mainly in Pakistan, and have been supported by a loose coalition comprising Afghans loyal to the former Taliban regime, disenchanted and nationalist Pashtuns, religious conservatives, criminal gangs, opium traffickers, and a new generation of Pakistani and Afghan scholars educated in the madrassas along the Pakistan-Afghan border. This coalition of supporters can be described as the neo-Taliban.

"Both the original Taliban and the neo-Taliban share a common faith in an extreme interpretation of Sunni-Islam. The cohesion of the two Taliban groups, and their local support, is based on a common dislike of political leaders such as the warlords of the 1990s, or the current US-backed Karzai government. However, the tactics employed by the neo-Taliban differ from those of the original Taliban. The neo-Taliban has adopted high-impact terrorist tactics, and has indiscriminately targeted civilians, rather than specific groups of people like the teachers, criminals and Hazara people targeted by the Taliban.

"As a disparate assemblage of several different groups, the neo-Taliban movement has no clear political purpose. However, the strength of their current offensives against NATO-ISAF troops indicates an increase in coordination and military preparation between these groups. Indeed, field research indicates that the composition of the neo-Taliban exposes a proxy war dynamic, especially given the well-funded, highly organised and technologically sophisticated nature of parts of the insurgency. On closer inspection, there appear to be two aspects to the insurgency. One aspect is highly funded, and technologically sophisticated, while the other conforms to low-level, classic guerrilla-warfare techniques. Pakistan has been implicated in the coordination, financing and organisation of the insurgency.

"The Karzai government tried to create divisions inside the neo-Taliban by offering and making [a] distinction between 'good Taliban' and 'bad Taliban'. So far, the strategy for reconciliation has produced no substantial results in softening the insurgency." (The Senlis Council, 5 September 2006) **[20b] (Chapter 1, p55-56)**

(See also paragraphs 11.66–11.73 on the reconciliation programme)

11.43 An April 2005 report by the Netherlands Institute of International Relations stated that counter-productive efforts to defeat the insurgency had, in part, contributed to its growth: "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." **[89] (p47)**

11.44 Radio Free Europe/Radio Free Liberty (RFE/RL) reported on 22 August 2005 that Afghanistan's Islamic militants, primarily the Taliban, 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" **[29h]**

11.45 A number of high–profile Taliban arrests were reported during 2005: Commander Haji Sultan was captured in Farah province and Mullah Mohammed Rahim, a senior Taliban official was also arrested. (BBC News, 5 June 2005) **[25ai]** Neo-Taliban commander, Qari Baba, was arrested 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 (Radio Free Europe/Radio Liberty, 15 August 2005) **[29k]**. The head of the Taliban's Culture and Information Council, Maulvi Muhammad Yasir, was arrested in Pakistan. (Dawn.com, 18 August 2005) **[65]**

11.46 Security forces in Pakistan arrested the leading Taliban spokesman, Latifullah Hakimi, in Balochistan province. (BBC News, 4 October 2005) **[25q]** 14 Taliban suspects, including Hakimi and another senior figure, Mohammad Yasar, were extradited from Pakistan to Kabul, in Pakistan's first extradition of Taliban suspects. (BBC News, 27 October 2005) **[25am]**

11.47 BBC News subsequently reported on 14 October 2005 that the Taliban had appointed three new spokesmen following Hakimi's arrest. The men were named as Abdul Hai Mutmain, the former culture and information chief in Kandahar, Qari Yousuf and Dr Hanif. **[25v]**

11.48 On 11 December 2005, Reuters reported that "Afghanistan's Taliban guerrillas have issued an Islamic decree [fatwa] calling for President Hamid Karzai to be killed for serving American and British 'infidels'." **[24d]**

11.49 A Guardian news article dated 29 September 2005 reported that suicide bombings used to be almost unknown in Afghanistan. However, "Afghan officials believe al-Qaida has renewed its ties with the Taliban." **[18d]** On 27 December 2005 RFE/RL reported that Taliban commander, Mullah Dadullah had said that more than 200 Taliban fighters had volunteered to carry out suicide attacks against US forces and their allies. **[29n]**

11.50 Following the increase in suicide bombings in Afghanistan, reported by Amnesty International in January 2006 **[7j]** and the UN Secretary-General on 7 March 2006 **[39h]**, various news articles reported that the Taliban had claimed responsibility for many of the bombings. **[25f] [25g] [25x]**

11.51 An article dated 17 January 2006 by RFE/RL stated that "A purported spokesman for the Taliban has claimed responsibility for all of the recent suicide attacks in Kandahar Province. However, that claim could not be independently confirmed. Analysts and some military officials said the rise in suicide attacks reflects an increase in the influence of Al-Qaeda since the presidential election in October 2004." **[29m]** On 2 June 2005 the Guardian had reported a senior analyst with the International Crisis Group as saying that

suicide bombings were not traditionally Afghan and the June bombing of a mosque in Kandahar showed "… the influence of a global jihadi network." **[18a]**

11.52 A report by Foreign Policy in Focus (FPIF) dated November 2005 stated that:

"The Taliban has evolved considerably since its removal from power in the fall of 2001. Deterred from operating in large numbers due to superior Coalition technology and airpower, the insurgents function in small cadres under a loose command structure. Taliban operations primarily focus on soft targets such as aid workers, government employees, and Afghan citizens deemed to be collaborating with the government. For example, in June 2005 the Taliban began targeting mullahs that endorsed the Karzai government, killing six by the time of the parliamentary elections. The Taliban has become younger, recruiting men typically in the 18-25 age range from madrassas straddling the border with Pakistan. Profits from its involvement in the drug trade coupled with increased support from benefactors overseas (including al-Qaida) have enabled the Taliban to purchase more sophisticated weaponry, including Russian and Chinese surface-to-air missiles. The downing of an MH-47 helicopter carrying 16 U.S. personnel in June 2005 demonstrated the operational advantage that such weapons have conferred on the Taliban." **[59] (p11)**

11.53 The FPIF report also stated that:

"The Taliban operates openly in Pakistani territory, greatly complicating Afghan government and Coalition efforts to combat the group. In Pakistani cities like Quetta, the Taliban recruits soldiers and raises funds. There is strong evidence that elements of the Pakistani Directorate for Inter-Services Intelligence, the military, and even local police have provided clandestine assistance to the Taliban." **[59] (p11)**

11.54 "Ahmed Rashid, a Pakistani journalist and author of the book *Taliban*, believes the Taliban are much stronger than military officials report… Rahimullah Yusafzai, a Pakistani journalist and expert on Afghan affairs, says the Taliban continues to operate freely in parts of southern provinces like Kandahar, Oruzgan, and Helmand. Yusafzai stresses that the Taliban were never completely defeated in Afghanistan. Rather, U.S. air strikes forced the Taliban regime out of cities like Kabul.

"'The Taliban could not fight the Americans and their allies, so they just retreated into the countryside,' Yusafzai said. 'They melted into the Afghan villages and now they are back with a vengeance.'" (Radio Free Europe/Radio Liberty, 28 July 2006) **[29p]**

11.55 On 9 August 2006, BBC News reported that, according to the Deputy Governor of Helmand province, the Taliban had executed a mother and her son and hung their bodies in public for spying for foreign forces. Taliban spokesman Qari Mohammad Yousuf denied that this report was true but said "We have executed a number of people for spying, but only after careful investigation beforehand." **[25h]**

11.56 "On 9th August, a spokesman of the US-led coalition forces stated that there were widespread reports that the Taliban were forcing young men in the province of Ghazni to join the insurgency. If these reports are credible, this

would indicate that the Taliban are returning to a practice which was common during the latter period of their rule." (British Agencies Afghanistan Group, august 2006) **[71a] (p5)**

11.57 A Senlis report published on 5 September 2006 stated that the Taliban were using a mixture of threats and compensation to gain new recruits, particularly in the south of the country where their offensive had intensified:

"These recruits have different motives. They may share the religious beliefs of the combatants. They may also be attracted by the nationalist rhetoric against the foreign troops. They can also join the Taliban because of family or tribal relations. Similarly, the Taliban have generated support by giving poppy farmers protection and financial compensation when their crops are eradicated…

"In addition, anti-government elements use money to enrol Afghan people in their combat units. The Taliban are also recruiting trained Afghan policemen and guards, who are offered a choice between fighting for the Taliban, and facing death…

"They [the Taliban] have achieved success because the Afghan Government, backed by US and NATO-ISAF forces, has shown itself incapable of keeping its promises and responding to people's needs." **[20b] (p69-70)**

11.58 The Senlis report also stated that Afghanistan was gradually being reclaimed by the Taliban and the Taliban frontline now cut through the centre of the country:

"The Taliban offensive is moving quickly towards the centre of the country. The offensive appears more a coordination of small attacks against police stations or military convoys than a coherent movement of armoured battalions. Even in those areas where US and NATO-ISAF troops have a strong presence, the Taliban threat is still evident. For instance, in the areas of Kandahar City and Lashkar Gah, the Taliban are moving freely and transforming houses into bases and checkpoints. Even the capital Kabul is increasingly targeted by suicide bombers and Improvised Explosive Devices, with Taliban groups launching rocket attacks at the end of August. The provinces surrounding Kabul have also experienced attacks by the Taliban, including schools being burnt down – generally a prelude to more deadly attacks." **[20b] (p62)**

11.59 A spokesman for the British Foreign and Commonwealth Office was reported as rejecting the Senlis Council's claim that Afghanistan was falling back into the hands of the Taliban and insisted that progress had been made in the country. A NATO spokesman also opposed the Senlis report's claims, saying that the NATO offensive was working to corner the Taliban. (BBC News, 5 September 2006) **[25k]**

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Former Taliban Members

11.60 The Danish fact-finding mission to Kabul in March/April 2004 reported in November 2004 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)**

11.61 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." **[8] (section 6.7)**

11.62 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 [sic] 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)**

11.63 The September 2004 UN independent expert's report 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)**

11.64 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]**

11.65 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 Section 30: UNHCR guidelines)

11.66 A Radio Free Europe/Radio Liberty (RFE/RL) news report dated 23 November 2005 stated that President Karzai had renewed calls for the armed opposition to the Afghan Government to join the national reconciliation programme, announced in early 2003:

"In April 2003, Karzai urged Afghans to draw a 'clear line' between 'the ordinary Taliban who are real and honest sons of this country,' on one hand, and those 'who still use the Taliban cover to disturb peace and security in the country,' on the other … While the reconciliation program has garnered some success in attracting a limited number of the latter (neo-Taliban), most of the major success cases have represented former detainees or low-level figures within the insurgency.

"The reconciliation policy, articulated more clearly by Karzai after April 2003, initially maintained that some 100-150 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, could begin living like normal citizens by denouncing violence and renouncing their opposition to the central Afghan government…

"Then in May, Sebghatullah Mojaddedi, who heads the Peace Commission, said that government policy had been changed and that the amnesty offer included all members of the Taliban regime—including its spiritual leader, Mullah Mohammad Omar … Karzai initially backed Mojaddedi's comments before—seemingly on the heels of domestic and international outcry—both backed away from their statements." **[29t]**

11.67 Reuters reported on 14 November 2005 that Taliban fighters had rejected President Karzai's call for them to join the reconciliation process. **[40f]** BBC News reported on 9 January 2006 that a further offer of talks from President Karzai had been rejected by claimed Taliban spokesman, Mohammed Hanif. **[25u]**

11.68 On 4 March 2005, Radio Free Europe/Radio Liberty (RFE/RL) reported that four senior former Taliban members who had fled to Pakistan after the Taliban were driven from power in late 2001, had responded to an amnesty offer by the Afghan Government: Habibullah Fawzi, a former Taliban diplomat; Abdul Hakim Mujahid, a former envoy to the United Nations; Arsullah Rahmani, the former Deputy Minister of Higher Education; and Rahmatullah Wahidyar, a former Deputy Minister of Refugees and Returnees.

11.69 The RFE/RL report also stated that "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." **[29b]**

11.70 On 21 April 2005 Agence France-Presse reported the surrender of two more senior members of the former Taliban regime under the amnesty offer. They were named as Mullah Mohammed Naseem, the former governor of Zabul

province and former police chief of Farah province Akhtar Mohammed. It was also reported that Another Taliban commander, Mullah Abdul Wahid, had surrendered last month in Helmand. The Afghan interior ministry spokesman was quoted as saying that many Taliban had come forward under the amnesty offer. **[40ac]**

11.71 An article by an independent journalist in the New York Times dated 20 March 2005 also reported on the reconciliation programme:

"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." **[28a]**

11.72 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." **[28a]**

11.73 The RFE/RL article of 23 November 2005 also stated that:

"At the November meeting of provincial officials in Kabul, Karzai singled out the presence among attendees of former Taliban Foreign Minister Mawlawi Wakil Ahmad Mutawakkil as a positive development in the work of the [reconciliation] commission, which Mojaddedi says has managed to offer reconciliation to around 700 opponents of the government. While Mutawakkil was an important figure within the Taliban regime, he was not part of the neo-Taliban; in fact, he was arrested in Pakistan soon after the collapse of the Taliban government and handed over to U.S. authorities, who imprisoned him before releasing him in October 2003 as part of Karzai's early attempts to make peace with resurgent militants. Moreover, the 700 figure presented by Mojaddedi does not include any key figures from among those who have kept parts of southern and eastern Afghanistan in a constant state of insecurity." **[29t]**

11.74 Radio Free Europe/Radio Liberty also reported that "As Kabul has sought to garner support from among the ranks of neo-Taliban or former members of the Taliban regime, government sources have gradually begun to refer to the armed opposition—which calls itself either 'mujahedin' or simply 'Taliban'—as 'antigovernment forces' or 'enemies of Afghanistan's peace and prosperity.'" **[29t]**

11.75 On 14 January 2006, BBC News reported that Mullah Abdul Samad Khaksar, a former Taliban intelligence chief who defected to the new Afghan government, had been shot dead by two unknown gunmen on a motorbike in Kandahar. The report noted that Mullah Khaksar is the most senior Taliban defector to be killed and he had previously told the BBC that he had received threats from the Taliban. **[25f]**

11.76 The former Taliban envoy to Pakistan, Mullah Abdul Salem Zaeef, was released from Guantanamo Bay detention centre on condition that he would remain in Afghanistan and not join the Taliban or participate in attacks against the US, its allies or the Afghan Government. He was reported as saying that he didn't want to join the Taliban in waging war against coalition and Afghan forces but he would always remain a talib, "a student of truth and knowledge." Mullah Zaeef now lives in Kabul with his family. (Radio Free Europe/Radio Liberty, 11 September 2006) **[29y]**

Former Taliban Participation in 2005 Elections

11.77 The European Union Election Observation Mission final report on the 2005 parliamentary and provincial elections, published on 10 December 2005, stated that the new parliament included "…a handful of former Taliban, although several prominent ex-Taliban candidates were soundly defeated at the polls." **[98] (p34)** A New York Times article dated 23 October 2005 stated that four former Taliban commanders had gained seats in the Wolesi Jirga or lower house of parliament. **[28c]**

11.78 Pajhwok Afghan News reported on 13 November 2005 that successful former Taliban figures and supporters in the September 2005 parliamentary elections included Mullah Abdul Salam Rocketi (Zabul), who acquired the nickname "Rocketi" because of his skill in handling rockets. Other successful candidates included former Bamyan governor Maulavi Mohammad Islam Mohammadi (Samangan), Deputy Planning Minister Haji Moosa Hotak (Maidan Wardak), army division commander Maulavi Hanif Shah (Khost), military commander Mullah Tarakhail Kuchi, provincial revenues department chief Khiyal Mohammad Husseini (Ghazni), Ustad Akbari (Bamyan) and Sangar Dost (Maidan Wardak). **[95d]**

11.79 On 11 December 2005, the Daily Times reported that President Karzai had decreed the appointment of former Taliban Deputy Minister, Arsalan Rahmani, to the Meshrano Jirga, the Upper House of parliament. **[75]**

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Hizb-e-Islami (Hisb-e-Islami/Hezb-e-Islami/Hizb-i-Islami)

11.80 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 Hikmaytar. 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]**

11.81 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]**

11.82 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)**

11.83 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… 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)**

11.84 A Danish fact-finding mission to Kabul in March/April 2004 reported in November 2004 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." **[8] (section 6.8)**

11.85 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." **[8] (section 6.8)**

11.86 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 F source numbers **[13a] [13b])**

11.87 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." **[48a] (p7)**

11.88 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

11.89 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 in their report published in November 2004. 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 was 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)**

11.90 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)**

11.91 The Danish fact-finding mission also reported:

"The UNAMA mentioned a case in which a person had been arrested by the ANA [Afghan National Army] 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)**

11.92 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)**

11.93 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)**

11.94 Notes on Afghanistan, presented on 28 June 2006 at a Country of Origin Information Conference by Dr Antonio Giustozzi, an expert on Afghanistan, stated that Hezb-e-Islami, like most Afghan political groups, were known to recruit by way of family connections:

"Current activists will approach former members, perhaps right up to the age of 45–50 years, with a view to asking them to collaborate with political or terrorist activities. The security services (NSD) are aware of this policy, and try and keep tract of their progress. The NSD have stated their ambition is to have an informant in every village, but this remains an ambition due to budget constraints and to the difficulty of recruiting in areas of the country where the population is hostile.

"The security services in Communist times enjoyed significant resources and strong intelligence, but now have to rely more exclusively on more basic methods. Physical beatings are common to try and obtain information, both within the NSD and the police. Occasionally deaths in custody are reported. Those formerly associated with the Hezb are singled out for harassment, either to obtain intelligence or simply to intimidate them into avoiding future associations – the message being sent is that 'We are with the government, We can hurt you.'" **[37]**

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Former Hizb-e-Islami Members' Participation in the 2005 Elections

11.95 On 26 September 2005, Eurasia Daily Monitor reported that it was suspected that as many as 20 per cent of candidates in the parliamentary elections of 18 September 2005 were from Hizb-i-Islami (Asia Times Online, 19 September 2005). The article stated that Hizb-i-Islami had deep links to Pakistan's Intelligence Service (ISI): "The speculation is that with the ISI's backing, Hekmatyar is pursuing 'a two-pronged strategy: mounting terrorist strikes against Kabul, while also planting a foot firmly within the emerging democratic structure.' Hizb-i-Islami's 'democratic incarnation' is led by none other than Hekmatyar's son-in-law and close confident, Humayun Jarir, who was a candidate from Kabul (Indian Express, September 19)." **[101]** The final election results from the Joint Electoral Management Body (JEMB), however, showed that Humayun Jarir was unsuccessful in the elections. **[74b]**

11.96 An article dated 11 November 2005 from Pajhwok Afghan News reported that other Hezb-i-Islami followers contested the elections from Kabul but were also unsuccessful. Analysts were reported as attributing their failure in the capital to the fighting in Kabul during 1992 which claimed more than 60,000 lives; tough opponents, a dispute with the Government and officials of the Electoral Commission and quarantined ballot boxes. **[95c]**

11.97 However, the same Pajhwok Afghan News article also reported that in other parts of the country "As many as 40 seats in the new Afghan parliament have been won by candidates loyal to the Hezb-i-Islami led by fugitive warlord Gulbadin Hekmatyar. The MPs-elect have been associated with the Hezb during the jihad era and the ensuing civil strife." **[95c]** The Afghan Research and Evaluation Unit analysis of the parliamentary elections gave an estimate of factional alignments in the Wolesi Jirga (WJ), which stated that 'pro-Government' Hezb-i-Islami factions had won 12 seats in the WJ. **[22c] (section 2.1.1)**

11.98 The Pajhwok Afghan News article of 11 November 2005 stated that the Ministry of Justice had initially turned down a registration request from Hezb-i-Islami's splinter group to be registered to participate in the elections and asked the party to change its name because Hezb-i-Islami was a proscribed organisation; however, the party was granted registration as Hezb-i-Islami less than a month after the parliamentary elections of 18 September 2005, under the leadership of Khalid Farooqi. **[95c]** The JEMB final results showed that Farooqi won a Wolesi Jirga seat from Paktika province. **[74b]**

11.99 The Pajhwok Afghan News article also stated that "Although the elected members did not use the Hezb platform during their election campaign and most of them contested the polls as independent candidates, analysts believe their old bonds and ideology would bring them together in the new set-up. But few of them will have a soft corner for Hekmatyar as most of them are believed to be staunch supporters of the government-backed national reconciliation programme." **[95c]**

11.100 Other elected Hezb-i-Islami leaders noted by Pajhwok Afghan News included:

"Haji Ali Mohammad from Logar, Fazlur Rehman Samkani from Paktia and Haji Amir Khan, Maulvi Hanif Shah al-Husaini and Sahira Sharif from Khost. In the eastern region, elected Hezb leaders are Ataullah Ludin and Haji Azizur Rahman from Nangarhar, Maulvi Shahzada Shahid from Kunar and Engineer Mohammad Alam Qarar from Laghman…Haji Amir Lali from Kandahar, Haji Mir Wali Khan from Helmand, Abdul Qader Imami from Ghor and former Zabul governor Hamidullah Tokhi from Zabul.

"Similarly Maulvi Abdul Aziz from Badakhshan, Engineer Mohammad Asim from Baghlan, Haji Abdur Rauf Baryalai from Kunduz, Haji Mulla Abdullah from Badghis, Haji Aziz Ahmad Nadim and Saadat Fatahi from Herat, Dr Naimatullah from Kabul, Abdul Sattar Khawasi and Mohammad Almas from Parwan, Dr Roshanak Wardak from Maidan Wardak, Engineer Khiyal Mohammad (Mohammad Khan), al-Haj Mamoor Abdul Jabbar Shalgari from Ghazni and Haji Alam, a nomadic candidate, have won parliamentary seats." **[95c]**

11.101 The Daily Times reported on 11 December 2005 that President Karzai had decreed the appointment of Ustad Abdul Saboor Farid, a former premier and one-time Gulbuddin Hekmatyar loyalist, to the Meshrano Jirga, the Upper House of the new parliament. **[75]**

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Al Qa'ida (Al-Qaeda)

11.102 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]**

11.103 A Guardian news article dated 29 September 2005 reported that, according to the Afghan Intelligence Agency, the National Security Directorate (NSD), Al Qa'ida had formed a new group, named Fedayani Islam (Sacrifices for Islam) and sent suicide bombers into southern Afghanistan. This information was described as "fairly accurate" by ANSO, an aid agency security group. **[18d]**

11.104 "A video message from al-Qaida deputy leader Ayman al-Zawahiri was posted on an Islamist website on June 22 [2006], urging Afghans to rise against 'infidel invaders'. The three-minute message, the sixth from Osama bin Laden's deputy in 2006, appeared to have been recorded on May 30, the day after the crash of a US military truck in Kabul, the capital, provoked serious riots President Hamid Karzai subsequently denounced al-Zawahiri, an Egyptian, as 'the enemy of the Afghan people'." (Keesing's Record of World Events, June 2006) **[5c]**

(See also Section 8: Kabul)

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12. JUDICIARY

ORGANISATION

12.01 Europa World Online, accessed on 8 February 2006, recorded that:

"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. Following the inauguration of a directly elected President in December 2004, in January 2005 an interim Supreme Court was created, as required by the Constitution if a presidential election preceded legislative elections. The Court comprised nine members, including the Chief Justice." **[1b] (Judicial system)**

12.02 The Constitution adopted in January 2004 states that:

"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] **[81]**

12.03 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." **[11b] (p20-22)**

12.04 A report from the UN Secretary-General dated 7 March 2006 stated that:

"The justice system continues to suffer from a lack of sufficiently qualified judges, prosecutors and lawyers, and the necessary physical infrastructure to administer justice fairly and effectively. Institutionalized corruption, political interference, lengthy pretrial detentions, the lack of availability of legal representation and other due process violations remain the norm and contribute to the low level of public trust and confidence in the justice system. A strategic framework for justice sector reform was endorsed by the Cabinet in October 2005. Entitled 'Justice for All', the plan was developed through the Consultative Group on Justice chaired by the Ministry of Justice with support

from the United Nations Development Programme (UNDP), UNAMA and other key stakeholders." **[39h] (p6-7)**

12.05 In a report dated 15 May 2006, the International Crisis Group stated that:

"The lack of reform of the judicial system – crucial for investment and for tackling the mounting land rights issues, human rights abuses and the narcotics trade – has been one of the major failings of both national political will and international donor attention since the fall of the Taliban. The conservative Supreme Court has been seen as a major factor for this lack of momentum. A welcome initiative under the Afghanistan Compact [the January 2006 agreement setting out international commitments] is a high–level appointments panel to vet candidates for senior appointments – including the judiciary." **[26h] (p17)**

12.06 In May 2006, Afghanistan's parliament rejected President Karzai's nominee for Chief Justice of the Supreme Court, Fazel Hadi Shinwari, who had headed the Supreme Court since the fall of the Taliban in 2001. Parliament also rejected three other nominees and approved two. A decision had not been made on the remaining three nominees. A spokesman for the Afghan Independent Human Rights Commission reportedly called for "… wider reform of the judiciary, which is dominated by religious conservatives." (BBC News, 27 May 2006) **[25al]**

12.07 On 31 July 2006 Associated Press reported that President Karzai's second nominee for Chief Justice of the Supreme Court, Abdul Salam Hazami, had been approved by parliament. "Hazami said that he would work to end corruption within the judiciary and to protect it from political interference, including from Karzai." The appointment was welcomed by the acting head of the Afghan Independent Human Rights Commission, who reportedly stated that "This new appointment is positive because there are people within the new team who are believers in reform, are professionals and are experts on the judiciary and legal affairs… They do believe in an independent judiciary." **[54a]**

12.08 The UN Secretary-General's report of 11 September 2006 stated that:

"Although some progress in the reform efforts is being made, Afghanistan's justice system continues to suffer from severe and systemic problems. With the support of the United Nations and donor nations (led by Italy and the United States), judges and prosecutors are being trained, more defendants are receiving legal representation, courthouses and prisons are being built or refurbished and the capacity of the permanent justice institutions has been enhanced. Key legislation has already been put into place and, with United Nations and donor support, a new criminal procedure code, an anti-terrorism law, a new law on the organization of the prosecutor's office and a law establishing an independent bar association for Afghanistan are in the process of being drafted…

"The quality of the Supreme Court has been regarded as a touchstone for the Government's commitment to justice reform in Afghanistan. The new composition of the Supreme Court reflects a fairly even ethnic balance. However, no female judges were nominated.

"Considerable challenges continue to face the judiciary. They include low levels of education and competency, inadequate salaries, insecurity of judges in terms of career progression, tenure and personal safety. The findings of the Supreme Court's report on judicial education issued in May 2006 highlighted the fact that only about a third of the 1,415 judges currently working in Afghanistan have higher education qualifications and that there remains a system-wide lack of fundamental judicial competencies. Approximately 170 new judges are currently finishing their training under the auspices of the Supreme Court. Once the graduates take up their posts, the Supreme Court estimates that a further 300 posts, out of a total of 1,884 approved positions, will need to be filled.

"The failure to ensure a secure environment for courts and judicial personnel undermines recent reform efforts, as well as the overall capacity of the legal system to act impartially and independently. In May 2006, the deputy civil court judge of Farah province was shot dead. In June, suspected Taliban-linked militants abducted and killed a local judge in Ghazni province." **[39n] (p11)**

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INDEPENDENCE

12.09 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)**

12.10 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)**

12.11 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." **[89] (p41)**

12.12 The 2006 Amnesty International Country Report stated that "Flaws in the administration of justice remained a key source of human rights violations, especially in rural areas. All stages of the legal process were hampered by corruption, the influence of armed groups, lack of oversight mechanisms, non-payment of salaries and inadequate infrastructure." **[7a]**

FAIR TRIAL

12.13 The 2006 Amnesty International Country Report stated that "Detainees continued to be held unlawfully for prolonged periods and denied a fair trial." **[7a]**

12.14 The report of the United Nations High Commissioner for Human Rights dated 3 March 2006 stated that:

"The judicial sector remains chronically weak with the result that Afghanistan is currently incapable of meeting its international obligations to investigate and prosecute violations of international humanitarian and human rights law in a manner that is consistent with internationally recognized standards for fair trial. Serious procedural flaws have been observed in one of the few cases of crimes relating to the conflict that has so far been brought to trial in Afghanistan. Asadullah Sarwary, an intelligence chief under the pro-communist regime of April 1978 to September 1979, is accused of the extrajudicial killing and illegal detention of an unspecified number of people. Detained without charge since 1992, his trial in the National Security primary court commenced in December 2005. He had no legal representation, and standards of evidence, as well as other due process safeguards, were ignored. He was sentenced to death on 25 February 2006." **[39l] (p10)**

CODE OF CRIMINAL PROCEDURE

12.15 The International Development Law Organisation (IDLO) website, accessed on 24 July 2006, noted that "Libraries and legal collections have been largely depleted or destroyed in Afghanistan during the twenty-four years of conflict, erasing signs of a rich and elaborate legal tradition. No comprehensive collection or official record of laws has survived, while institutions and lawyers still have little or no access to most texts." The IDLO, however, has assembled

a unique collection of Afghan laws, consisting of over 2,400 texts in Dari and Pashto and 100 in English: "The laws date from 1921 to present day and represent most of the legislation produced during the last century." **[81]**

This collection of Afghan laws is available on the IDLO website: http://www.idlo.org/AfghanLaws/Laws%201921_todate.htm

12.16 A report by the UN Secretary-General dated 12 August 2005 stated that: "Following the establishment of the Judicial Reform Commission in 2002, an interim criminal procedure code has been adopted and a number of other relevant laws essential to justice reform have been enacted or drafted. **[39c] (p10)**

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13. ARREST AND DETENTION – LEGAL RIGHTS

13.01 A report published by the Center on Democracy, Development and the Rule of Law (CDDRL) dated 1 September 2004 stated that:

"Afghanistan's [sic] has a mixed civil law and Sharia-based formal legal system. This system has emerged and evolved in the last 120 years, since the creation of the bureaucratic state. The state legal system interacts with a deeply-rooted system of customary law and practices. This non-state system is comprised of tribal custom and 'folk sharia' – local conceptions of Islamic law. These three bodies of law: state law, sharia law, and customary law, overlap in subject matter, and each provides challenges of implementation for the other two. Due to the significance of the sharia in both the state and non-state systems, the clergy straddles both." **[102] (p5)**

13.02 The CDDRL report also stated that:

"Applicable law in Afghanistan is difficult to determine due to the numerous regime changes since 1964… In addition to the lack of clarity about the controlling law, many judges do not have access to legal texts and/or simply apply their version of sharia law to many disputes. Under Afghan law, the application of sharia has been allowed only in a very narrow segment of cases when no Afghan law exists. The current application of sharia however extends to many areas covered by Afghan law." **[102] (p9)**

13.03 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."

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]**

13.04 Regarding double jeopardy, the Danish fact-finding mission of March/April 2004 reported in November 2004 that:

"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)**

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

"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)**

13.06 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)**

13.07 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)**

13.08 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that:

"The law prohibits arbitrary arrest or detention; however, both remained serious problems. Justice was administered on an intermittent basis according to a mixture of codified law, Shari'a (Islamic law), and local custom...

"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. The authorities did not respect limits on lengths of pretrial detention. The law provides for access to legal counsel, the use of

warrants, and bail; however, all three were inconsistently applied. There were no confirmed reports of political detainees." **[2a] (Section 1d)**

[But see also Section 14: US military bases for information on people detained by the US]

13.09 The same report also stated that:

"Arbitrarily lengthy pretrial detention remained a problem. The United Nations Human Rights Commission (UNHRC) reported that arbitrary and prolonged detentions were a frequent occurrence throughout the country. The AIHRC received several hundred reports of lengthy pretrial detention during the year. According to the law, police can detain suspects for up to 72 hours; primary and secondary courts can detain for up to 2 months; and the final court can detain for up to 5 months. The country's law limited pretrial detention to 9 months; however, there were documented cases where suspects were held for longer periods. For example NGOs reported that prison authorities detained individuals for over a year without charging them. There were credible reports that police continued to detain prisoners in Kabul and Ghazni after they were found innocent." **[2a] (Section 1d)**

13.10 The same report also recorded that:

"There were continued reports of private and illegal prisons. The AIHRC [Afghan Independent Human Rights Commission] claimed that the country's intelligence agency ran at least two such prisons, and there were allegations that private detention facilities existed around Kabul and in northern regions of the country. The AIHRC claimed it closed 36 such detention centers over the past 3½ years. During the year AHIRC [sic] allegedly discovered private prisons in Faryab and Mazar-e-Sharif." **[2a] (Section 1c)**

13.11 In January 2006, Human Rights Watch reported that:

"Ordinary civilians arrested in military operations are unable to challenge the legal basis for their detention or obtain hearings before an adjudicative body. They have no access to legal counsel. Generally, the United States does not comply with legal standards applicable to its operations in Afghanistan, including the Geneva Conventions and other applicable standards of international human rights law. At least six detainees in U.S. custody in Afghanistan have been killed since 2002. U.S. Department of Defense documents show that five of the six deaths were homicides." **[17o]**

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14. PRISON CONDITIONS

14.01 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)**

14.02 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)**

14.03 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 23: Imprisonment of Women for further details of conditions for women)

14.04 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." **[39i] (paras 28 & 29)**

14.05 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 13: Arrest and Detention – Legal Rights paragraph 13.10 for further information on private prisons)

14.06 On 30 July 2005, the Institute for 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." **[73t]**

14.07 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]**

14.08 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that:

"Prison conditions remained poor, and prisons were severely overcrowded and unsanitary. Prisoners shared collective cells and were not sheltered adequately from severe winter conditions. Living conditions did not meet international standards, and conditions in women's facilities were worse than in men's facilities. Some prisons held more than twice their capacity. In district prisons, shipping containers were frequently used when other structures were unavailable. Prisoners were reportedly beaten, tortured, and denied adequate food. On October 10 [2005], the Afghanistan Independent Human Rights Commission (AIHRC) reported that inadequate food, poor sanitation facilities, insufficient blankets, and infectious diseases were common in the country's prisons." **[2a] (section 1c)**

14.09 The USSD 2005 Report also stated that the law prohibits torture and other cruel, inhuman or degrading treatment or punishment but such abuses were reported:

"For example, credible observers reported that local authorities in Herat, Helmand, and other locations routinely tortured and abused detainees. Torture and abuse consisted of pulling out fingernails and toenails, burning with hot oil, sexual humiliation and sodomy. In Kabul, prisoner Abdul Rahman alleged that local authorities beat him with rubber hoses and wood batons during his four-month-detention. According to the UN, police in the northern district of Faryab reported that a commander and former district governor severely beat

a group of teachers and detained them in his private jail during the year." **[2a] (Section 1c)**

14.10 On 27 February 2006 The Independent reported that "Afghan, Nato and US forces with tanks surrounded the main high security prison in Kabul yesterday after it was taken over by more than 1,500 Taliban and al-Qa'ida prisoners during a violent riot." **[35]** BBC News reported on 1 March 2006 that the 4 day riot was over with at least five deaths and a number of injured prisoners being reported. **[25p]**

14.11 The UN Secretary-General's report of 7 March 2006 stated that:

"The human rights situation regarding imprisonment in Afghanistan remains critical. Most prisons are old, dilapidated and overcrowded while others have been destroyed by war and years of neglect. Despite the threat to community security posed by a weak prison infrastructure, reform of the prison system has not yet attracted sufficient funding. Reforms require not only functioning prisons in general, but the establishment of separate facilities for women and juvenile offenders in each of the 34 provinces. Strategies for reconstruction and reform efforts are being developed by a high-level working group under the direct leadership of the Ministry of Justice. A number of specific rehabilitation activities have also been undertaken in the past year, including the reconstruction of the main detention facility in Kabul and major renovations to the central Pol-e-Charkhi Prison. However, the aftermath of the riot at Pol-e-Charkhi Prison, which commenced on 26 February 2006, will necessitate an urgent reassessment of reform approaches and priorities." **[39h] (p7)**

14.12 The Amnesty International 2006 report stated that, during 2005 "There were reports of inhumane conditions in prisons." **[7a]**

14.13 On 11 September 2006, the UN Secretary-General reported that:

"The situation regarding prisons in Afghanistan remains serious. However, with the support of the international community, significant reforms are being carried out. A number of major prison projects are currently being carried out including two new prison facilities in Gardez and Mazar-e-Sharif, and a women's facility and a juvenile reformatory in Kabul. As part of the Government's anti-narcotics strategy the construction of a high security unit at Pol-e-Charkhi prison for high-profile drug offenders is nearing completion." **[39n] (p11)**

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US MILITARY BASES

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

14.15 "Two Afghan detainees, Dilwar and Habibullah died from multiple blunt force injuries inflicted while they were held in an isolation section of Bagram US airbase in December 2002. Army investigative reports later revealed that both

men were kept hooded and chained to a ceiling while being kicked and beaten during sustained assaults by military personnel. A soldier who acknowledged inflicting more than 30 consecutive knee strikes to Dilawar (a slight, 22 year old taxi driver) as he stood in shackles, told investigators that the blows were standard operating procedure for uncooperative detainees. An army criminal investigation report said both deaths were caused primarily by severe trauma to the men's legs, adding that 'sleep deprivation at the direction of military intelligence soldiers' was also a 'direct contributing factor' in Dilwar's death. Army medical examiners found the prolonged shackling had also contributed to his death. 7 low-ranking soldiers, charged variously with assault, maltreatment, dereliction of duty and making false statements eventually received sentences ranging from five months' imprisonment to reprimand, loss of pay and reduction in rank." (Amnesty International, 3 May 2006) **[7i] (p1)**

14.16 "During a visit to Afghanistan in December [2005], AI [Amnesty International] met some of the hundreds of people whom US/CF [US and Coalition] forces had detained in mass, arbitrary arrests, following raids on villages and towns. These raids relied on often flawed intelligence about alleged centres of 'insurgents'. The soldiers' conduct in the raids humiliated and degraded local people, notably through their treatment of women and the manner of their searches. Dozens of people reported months of arbitrary detention under US custody at Bagram airbase, held without charge, trial or access to legal representation." (Amnesty International, 1 March 2006) **[7k] (p3)**

14.17 "There are signs that the goodwill widely felt towards US and Coalition (US/CF) forces following the removal of the Taleban from power is being replaced by resentment and opposition because of the human rights violations perpetrated by US/CF forces." (Amnesty International, 1 March 2006) **[7k] (p3)**

14.18 "Hundreds of detainees continue to be held in US custody in Afghanistan, with no recourse to due legal process or human rights protection. Some have been detained without charge or trial at Bagram US airbase for two or three years, yet have no access to lawyers, relatives or the courts. Some of the worst abuses of detainees (including torture and deaths in custody) in 2002/3 are reported to have occurred in a section of the Bagram facility to which the ICRC had no access. While Amnesty International has been told that the ICRC now visits detainees in Bagram every two weeks, detainees remain incommunicado during the initial period of detention as well as between visits. The ICRC still has no access to detainees held in an unknown number of US Forward Operating Bases, where detainees may reportedly be held for up to ten days, or possibly longer…**[7i] (p4)**

"… there have been reports of detainees held in forward operating bases, at least up to March 2005, being subjected to abuses including hooding, shackling and deprivation of food and water. In October 2005 the Pentagon announced an investigation into television footage purportedly showing a group of US soldiers burning the bodies of two Taliban members and using their charred corpses to taunt villages suspected of harbouring insurgents. While conditions in the Bagram detention facility are reported to have improved, they are still very basic with many prisoners held in wire pens or living under bright indoor lights which are dimmed for only a few hours a night. It has also been reported that detainees have been subjected to cruel punishments, including being handcuffed for hours in a small cell or placed in

isolation for days, for minor rule infractions." (Amnesty International, 3 May 2006) **[7i] (p6)**

14.19 On 30 June 2006, the International Committee of the Red Cross (ICRC) stated that "In line with its mandate, the ICRC regularly visits detainees held in connection with conflict by the Afghan authorities and US forces [see section below] to assess whether they are being detained in accordance with international norms and standards." **[42a]**

14.20 On 17 August 2006 BBC News reported that a former CIA contractor had been convicted in the US of assaulting an Afghan prisoner who later died during questioning on a US military base in Afghanistan in June 2003. He faces a jail sentence of up to 11 and a half years. It was the first case of a US civilian being charged with abusing a prisoner since the wars in Afghanistan and Iraq began. **[25an]**

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15. DEATH PENALTY

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

15.02 Amnesty International reported on 2 February 2006 that:

"Afghanistan's Supreme Court has reportedly upheld the death sentences of Zar Jan, his brother Abdul Wahid and Reza Khan, who were found guilty of involvement in the 2001 murder of four journalists. Amnesty International is concerned that the three men may not have received a fair and independent trial in accordance with international standards. Their fate is now in the hands of President Hamid Karzai, who has the power to approve or overturn their death sentences… According to news reports, at least four members of the criminal gang allegedly involved in the killings have been sentenced to between 18 and 20 years in prison for highway robbery and other crimes, but not for the murders of the journalists…

"At least nine men were sentenced to death in 2004. Military commander Abdullah Shah was secretly executed in April 2004 for multiple murders, after a trial by a special court in which he was denied basic rights of defence. He had no legal counsel and was not allowed to cross-examine witnesses. The court failed to investigate allegations that he had been tortured or visible evidence of his injuries, and reportedly imposed the death penalty under political pressure. The trial was not open to the public." **[7h]**

15.03 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)**

15.04 The Amnesty International 2006 report stated that in 2005:

"At least 24 death sentences were passed by lower and appeal courts. AI did not learn of any executions. In February [2005], three people were sentenced to death in connection with the killing of a taxi driver. They appealed against

the sentence. In May [2005], four men were sentenced to death in connection with armed robbery and murder. In August, seven men were sentenced to death in connection with the kidnapping of election workers and, in a separate case, robbery." **[7a]**

15.05 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. **[7b]** 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]**

15.06 The USSD 2006 Religious Freedom Report stated that:

"In March 2006, Abdul Rahman, who converted to Christianity while living abroad during the Taliban regime, was detained for approximately one month and could have faced the death penalty for apostasy, but he was deemed not fit to stand trial before those charges could be brought against him. He was granted asylum in Italy due to potential threats on his life." **[2c] (Section II)**

15.07 On 8 June 2006, the UN Special Rapporteur on independence of judges and lawyers reported that:

"It has been reliably reported that the Taliban claim to have carried out a public execution of an alleged murderer following a trial by a local Taliban court, in Ququr village in the district headquarters town of Gizab in Daikundi… The execution of Badshah Khan reportedly took place early last month in front of a large crowd. There is currently no effective central judicial and government authority in Gizab hence the community's reliance continues on traditional community leaders for resolution of conflicts. It has been reported that in some regions like Gizab the Taliban have succeed on [sic] influencing the decisions of these traditional communities' leaders." **[39o]**

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16. POLITICAL AFFILIATION

PERSONS WITH LINKS TO THE FORMER COMMUNIST REGIME

KHAD (KhAD) (Former Security Services)

16.01 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)**

16.02 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)**

16.03 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)**

16.04 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)**

16.05 The Netherlands' report stated that all KhAD and WAD NCOs 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 (Azmajchi) 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)**

16.06 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)**

16.07 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 internment 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

16.08 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 their report published in November 2004, 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)**

16.09 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)**

16.10 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)**

16.11 In a June 2005 report, the 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)**

16.12 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)**

16.13 The Human Rights Watch (HRW) 2005 Afghanistan Report, published in January 2006, stated that "… on October 14, a Dutch court convicted Hesamuddin Hesam and Habibullah Jalalzoy, both high level members of

KHAD, Afghanistan's infamous communist-era intelligence service, of engaging in torture and sentenced them to twelve years and nine years in prison, respectively." **[17o] (p4)**

16.14 On 25 February 2006, BBC News reported that Asadullah Sarwari, a former head of the Afghan intelligence department set up under the communist Government in 1978, had been sentenced to death for ordering hundreds of killings in the late 1970s. "His sentence is the first to be passed for war crimes in Afghanistan…Sarwari ran the intelligence service for a year. He then held posts as deputy prime minister and Afghanistan's ambassador to Yemen.

Following the collapse of the communist government in 1992, he was held in prison until his trial began last December." The news report stated that Sarwari denied the charges and would appeal against the verdict. **[25o]**

16.15 On 2 March 2006, Human Rights Watch reported that Sarwari's trial had:

"…violated basic fair trial and due process standards... Sarwari did not have legal counsel at his trial because he could not afford a lawyer and the court could not find any lawyers willing to represent him. The trial was summary in nature, taking only one day for the prosecution and defense to present their cases. Because the proceedings were conducted so quickly, Sarwari did not have adequate time to question witnesses or challenge the evidence against him. While Sarwari challenged the authenticity of a document he allegedly signed ordering illegal executions, no evidence was offered to show it was authentic and the court turned down his request for a forensic test. The National Security Court that conducted the trial is a special branch established by the Supreme Court, but its exact mandate and procedures are unclear." **[17n]**

(See also paragraphs 16.23 – 16.24 below for UNHCR information on Afghans associated with the PDPA and consideration of exclusion clauses under Article 1F of the Geneva Convention)

(See also Section 30: UNHCR guidelines)

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Former Members of the PDPA (People's Democratic Party of Afghanistan)

16.16 The Danish fact-finding mission of March/April 2004 reported in November 2004 that "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)**

16.17 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)**

16.18 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)**

16.19 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)**

16.20 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)**

16.21 A Radio Free Europe/Radio Liberty report on the presidential election of 9 October 2004, accessed on 22 February 2005, noted the candidacy of Abdul Latif Pedram:

"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]**

16.22 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 per cent of the vote). **[74c]**

16.23 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)**

16.24 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 1F 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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FORMER COMMUNISTS' PARTICIPATION IN THE 2005 ELECTIONS

16.25 An International Crisis Group (ICG) report dated 15 May 2006 stated that following the 2005 parliamentary election 34 members of the Wolesi Jirga:

"… were associated with former communist regimes or politics. The most prominent include Sayed Mohammad Gulabzoi, member for Khost and a former Khalq general and key figure in the 1978 coup, and Nurul Haq Oloomi, the principal heir to the Parcham faction from the Najibullah era, who was elected in Kandahar. Again, this is a broad group, one just as divided, if not more so, than the mujahidin. Better educated than most members, many have held highly technical or authoritative positions. They tend to seek distance from their pasts and to position themselves as 'democrats' and 'moderates', in some cases emphasising ethnic and tribal allegiances." **[26h] (p8)**

16.26 The New York Times article of 5 September 2005 stated that "General Gulabzoi took part in the overthrow of King Zaher Shah in 1973 – and virtually every coup since – and was aide de camp to the ruthless Communist leader Nur Muhammad Taraki and then interior minister for all of the Soviet occupation. He returned to Afghanistan 16 months ago after 17 years in exile in Russia." **[28b]**

16.27 The December 2005 AREU analysis of the elections stated that:

"Noorulhaq Ulomi [Oloomi] was one of the most senior communist era officials contesting the 2005 elections, and as such his candidacy generated considerable controversy in Kandahar. Opponents accused him of being a communist with blood on his hands and supporters contrasted him with jihadi commanders who they claimed had blood on their hands. The fact that he nearly secured the top position in Kandahar, narrowly losing to the President's brother Qayoom Karzai, indicates that for many voters his communist past was not a big issue." **[22c] (section 3.1.2)** The final results certified by the JEMB recorded that Noorulhaq Ulomi was elected to the Wolesi Jirga from Kandahar with 12,952 votes (7.6 per cent). **[74b]**

16.28 The New York Times article of 5 September 2005 stated that another former communist who had made a political comeback was General Tanai, the former Afghan chief of staff and Defence Minister in the 1980s Soviet occupation. "General Tanai is perhaps most infamous for leading a coup in 1990, with the renegade mujahedeen commander Gulbuddin Hekmatyar, against President Muhammad Najibullah. The coup failed and he fled to Pakistan, where he lived in exile until Aug. 7 **[2005].**" **[28b]**

16.29 The same article noted that General Tanai was not running in the parliamentary and provincial elections, but candidates from his Afghanistan Peace Movement Party and two other parties of former Communists who had joined him in a coalition had fielded 200 candidates around the country, "most of them former Communists and some Soviet-era ministers and participants in the half a dozen coups of the last three decades." **[28b]**

16.30 An analysis of the elections by the Afghanistan Research Evaluation Unit (AREU) dated December 2005 stated that "Given the bitter conflict between the mujaheddin and the Soviet-backed People's Democratic Party of Afghanistan (PDPA) regime in the eighties and early nineties, the election of approximately 23 candidates with leftist or communist backgrounds, including 15 who were formerly affiliated with the PDPA, surprised many observers." **[22c] (section 2.1.2)** An article in the New York Times dated 5 September 2005 stated that the political return of dozens of former communists was one of the most contentious issues of the 2005 election campaign. **[28b]**

16.31 A Pajhwok Afghan News article of 15 November 2005 reported that, according to a Professor of Law at Kabul University and another independent candidate from Kabul, the few communists elected would not be numerous enough to influence government policies. Another Professor of Law at Kabul University was reported as attributing the former communists' success to their tribal and ethnic backgrounds. "They had roots in their respective rural and tribal areas and people, disregarding their past, voted [for] them." **[95b]**

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FREEDOM OF ASSOCIATION AND ASSEMBLY

16.32 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 permissable.

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]**

16.33 The US State Department Report 2005 Report (USSD 2005), published on 8 March 2006 recorded that "The law provides for freedom of assembly and association; however, this right was restricted in practice. A lack of physical security and interference from local authorities inhibited freedom of assembly in areas outside Kabul." **[2a] (section 2b)**

16.34 The first report by the AIHRC-UNAMA during the run-up to the 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." **[48a] (p4-5)**

16.35 The UN Secretary-General's report of 7 March 2006 stated that "Publications in Europe depicting caricatures of the Prophet Muhammad sparked country-wide demonstrations in February [2006], some of which turned violent, resulting in 6 persons dead and 14 injured. Clashes with provincial reconstruction teams in Meymana (Faryab) and Pul-i-Khumri (Baghlan) also broke out." **[39h] (p11)**

OPPOSITION GROUPS AND POLITICAL ACTIVISTS

16.36 A violent insurgency is currently taking place in Afghanistan, mainly in the south, south-east and east of the country:

"Five distinct leadership centres of the insurgency can be identified… They include: the wing of the Hezb-i-Islami party led by Gulbuddin Hekmatyar, in

Kunar province and neighbouring areas; the Taliban northern command, for Nangarhar and Laghman provinces; networks led by Jalaluddin Haqqani, a former minister in the Taliban regime, mainly for Khost and Paktya provinces; the Wana Shura, for Paktika; and the Taliban southern command, for the provinces of Zabul, Kandahar, Hilmand, and Uruzgan. The Taliban southern command has recently begun to establish parallel civil administrations and courts in its area of operations, although they remain marginal in most districts. Leadership and support structures for the insurgency straddle the southern border of Afghanistan." (UN Secretary-General, 11 September 2006) **[39n] (p2)**

(See Section 11: Abuses by Non-Government Armed Forces and Annex C for more detailed information)

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17. FREEDOM OF SPEECH AND MEDIA

OVERVIEW

17.01 A statement from the Media Commission Chairperson dated 14 September 2005 stated that "The Afghan media is being re-established after an extended period of severe media repression. In the years before 2001, television was abolished, pictures were banned from newspapers, and any kind of music and even sport was kept off the radio." **[64]**

17.02 The Reporters without Borders Worldwide Press Freedom Index 2005 rated Afghanistan in 125th place out of 167 countries and stated that it was one of the countries "…where journalists have the toughest time and where government repression or armed groups prevent the media operating freely." **[62b]**

17.03 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 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. **[48a] (p3-4)**

17.04 A UNHCR paper of June 2005 stated that:

"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… 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)**

17.05 A Freedom House report on Afghanistan, published in August 2005, recorded that "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]." **[41b] (p19)** A 2005 report by the AIHRC-UNAMA stated that "Herat has witnessed a significant improved [sic] 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." **[48a] (p3-4)** The president of the Afghanistan Independent Journalists Association (AIJA) was reported by IRIN News on 26 December 2005, however, as saying that Herat had the worst record of violence against journalists in 2005. **[36a]**

17.06 In a speech to the London conference on 1 February 2006, Dr Sima Samar, Chairwoman of the Afghanistan Independent Human Rights Commission said that:

"In regards to freedom of expression, Kabul province presents the most open environment, as exemplified by an active and diverse media that carries reports openly reflecting a variety of political views. However, threats against individual journalists, editors, those who involved [sic] in investigative programs, and human rights activist who speak out are still of high concern. 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 has led to reprisals against journalists. Judicial authorities and the conservative elements who hold official posts are continuing to impose restrictions on freedom of expression." **[78e]**

17.07 The US State Department Report 2005 (USSD 2005) published on 8 March 2006 stated that:

"The law provides for freedom of speech and of the press; however, there were instances of governmental intimidation of journalists to influence their reporting. The law prohibits information that 'could mean insult to the sacred religion of Islam and other religions.' The ambiguity over what was considered offensive material offered the potential for restricted press freedom.

"The independent media were active and publicly reflected differing political views, although the extent 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 were covered under

the freedom of speech law; however, they were prohibited from commenting negatively on Islam and from publishing materials that were considered a threat to the president." **[2a] (Section 2a)**

17.08 The 2005 Committee to Protect Journalists (CPJ) Report stated that the number of news outlets continued to grow during 2005:

"With journalism's higher profile, however, came increases in threats, attacks, and detentions targeting the press. These cases had a chilling effect on the news media, leading to greater self-censorship and creating a more complex press freedom landscape.

"Conservative religious elements clashed with liberal factions over journalists' rights, and the country's recently ratified media laws ensnared journalists in a volatile cultural debate. Afghanistan retains deeply traditional societal mores that have been tested by the rapid emergence of electronic media and print publications that push boundaries on sensitive topics such as religion, women's rights, and the regional warlords who continue to control much of the country. Those who broached these subjects faced threats, harassment, arrest, and jail time as part of an emerging pattern of press freedom abuse that targets such reporting as 'anti-Islamic.'" **[91a] (p1)**

17.09 "On June 12 and 19 [2006], Afghanistan's intelligence agency, the National Security Directorate (NSD), distributed a list of restrictions to Afghan journalists demanding that they curtail their reporting on the country's deteriorating security situation. The NSD directive states that "[I]t is important that the media must ban or restrict broadcasting those materials which deteriorate the morale of the public, cause security problems and which are against the national interest."

"'The intelligence service's restrictions are a blatant intrusion on the freedom of Afghanistan's fledgling media,' said Sam Zarifi, research director of Human Rights Watch's Asia Division. 'These directives are an insult to the hard work and personal sacrifice of Afghan journalists who try to get the truth out to the public.' Afghan journalists told Human Rights Watch that the NSD directive was a form of intimidation and would have a chilling effect on reporting the news." (Human Rights Watch, 22 June 2006) **[17a]**

17.10 The head of Reporter Sans Frontiers' (RSF's) Asia Pacific desk was quoted by IRIN news as saying that the new media directives meant that:

"… the media cannot talk about the reality of what is going on in Afghanistan – the killings, car bombs and military operations'…

"A list of banned subjects – including the activities of foreign troops – was distributed to editors on Sunday. But a spokesman for President Karzai said that the restrictions were not government policy, but simply directives from the government's security organs to provide more balanced reporting of the national security situation." **[36n]**

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MEDIA LAW

17.11 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)**

17.12 The 2005 CPJ report stated that "Writings considered anti-Islamic are prohibited under a revised media law signed in March 2004, but the law is vaguely worded, and local journalists have been uncertain about what constitutes a violation. The media law also stipulates that journalists be detained only with the approval of a 17-member commission of government officials and journalists." **[91a] (p1)**

(But see also Journalists, paragraphs 17.32 – 17.33 for details of the arrest of journalist Ali Nasab)

17.13 On 4 May 2006, the Institute of War and Peace Reporting reported that President Karzai had signed off Afghanistan's third media law in four years, "But the government's latest attempt to liberalise the media may come under attack from a parliament that is largely under the control of fundamentalist mujahedin, some of whom seem to have a poor grasp of the concept of press freedom… The new media law has not yet been submitted to parliament, say legislators." **[73j]**

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NEWSPAPERS, RADIO AND TELEVISION

17.14 The 2005 CPJ Report stated that:

"Radio remained the most popular news medium because of the country's low literacy rates and mountainous terrain, which makes transporting newspapers and magazines difficult. International broadcasters such as the BBC and two U.S. government–funded stations, Radio Free Europe/Radio Liberty and Voice of America, continue to draw wide audiences and respect…The new generation of radio reporters says it faces growing risks. A study by the Afghan media organization Nai found that 54 percent of radio reporters reported being intimidated, primarily by warlords and local government officials." **[91a] (p2)**

17.15 A report by the AIHRC-UNAMA, dated June 2005 stated that "… 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." **[48a] (p4)**

17.16 The Reporters without Borders (RSF) 2006 Annual Report stated that "In a country in which nearly 65 % of the population is illiterate, TV and radio have strategic importance. There are now at least 59 FM radio stations, while the written press has been weakened by constant financial problems. Many

publications are financially dependant on political parties, NGOs or religious groups." **[62c]**

17.17 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, stated that:

"Unlike in previous years there were no reports that government forces prohibited music, movies, and television on religious grounds. Journalistic self-censorship was common in many areas because of fear of retaliation. 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." **[2a] (section 2a)**

17.18 An article by the Institute for War and Peace Reporting (IWPR) dated 4 February 2006 reported that the Government had cracked down on a private television station in Kabul for violating traditional values. The article stated: "In its first move against a private television station, the government has imposed a 1,000 US dollars fine on Afghan TV for broadcasting 'un-Islamic' materials. The fine was levied by a special media commission, composed of six members from various government organs, and headed by the minister of information, culture and tourism." **[73f]**

17.19 On 1 September 2006, the IWPR reported that:

"Under Afghanistan's post-Taleban government the country has seen an unprecedented flourishing of the media, but the apparent choice of print publications belies the fact that no one is actually reading them.

"The easiest explanation should be Afghanistan's high rates of illiteracy, especially but not only among women. Yet that does not appear to be the main reason – instead, the papers themselves have yet to become attractive enough to win a regular readership in a country where radio has traditionally been the major source of information…

"Mubarez Rashidi, recently appointed as deputy minister for information and youth, told IWPR that there are now 532 newspapers across the country registered with his ministry, 437 of them independent and the rest state-run.

"But what these figures do not show is that most titles are based in Kabul, and circulation figures are low – even a prominent newspaper like *Arman-e-Milli* has a daily circulation of just over 4,000 – and many of the ostensibly independent ones serve as the mouthpieces of the politicians or factions that stand behind them." **[73g]**

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JOURNALISTS

17.20 The International Federation of Journalists (IFJ) report covering May 2004 to April 2005 noted that despite making some progress, press freedom in Afghanistan was also severely tested: "Journalists were jailed for independent and unbiased reporting, and even for challenging the authority of the police." **[92a] (p7)**

The IFJ report also gave details of media persons who have been harassed and/or intimidated in the period May 2004 to April 2005 and may be accessed by following the link given in Annex G for source number **[92a].**

17.21 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, stated that "Journalistic self-censorship was common in many areas because of fear of retaliation." The report also stated that:

"During the year [2005], members of the intelligence service intimidated and threatened journalists. Threatening calls and messages against media organizations also were common. For example in mid-January, an Iranian radio station reported that the Herat government banned a weekly newspaper, Payam-e-Hambastagi, allegedly for supporting Ismail Khan, the former governor of Herat. Radio Bamyan, an independent radio station, received occasional threats because the station provided programming deemed un-Islamic. While some independent journalists and writers published magazines and newsletters, circulation largely was confined to Kabul, and many publications were self-censored…

"Authorities subjected journalists to harassment, intimidation, and violence during the year. In June the Media Commission prosecuted Massood Qiam, a Tolo TV journalist, for defaming the country's chief justice. The charges were later dropped at the request of the minister of information and culture. In September authorities beat two Sada-e-Afghan reporters and detained them for eight hours for allegedly taking illegal pictures and not having an invitation to the event they were attending. No actions were taken against the members of the president's security force." **[2a] (section 2a)**

17.22 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]**. The CPJ 2005 Report stated that "A female music video presenter, Shaima Rezayee, was fired soon afterward and was found murdered in her home in May [2005]. Police blamed members of her family for her murder but were unable to substantiate those accusations, and no arrests were reported." **[91a] (p2)**

17.23 The CPJ 2005 Report also stated that:

"Another popular presenter, Shakeb Isaar, a member of the Hazara ethnic minority, was threatened and forced to flee the country in the summer. A senior journalist with the channel was forced off the air for several months. Sayed Sulaiman Ashna, host of the evening news program 'Tawdi Kharabari' (Hot Talk), began receiving threatening phone calls after an interview with ex-Taliban Foreign Minister Wakil Ahmad Mutawakil. He told CPJ that unidentified callers threatened to kill him and his family. He left Kabul for several months before returning to the show in late September." **[91a] (p2)**

17.24 The CPJ publication "Cases of attacks on the press in 2005" included further details of journalists attacked, threatened, abducted and imprisoned between April and October 2005 and may be accessed directly via the link given in Annex G for source number **[91b].**

17.25 On 26 December 2005 IRIN News reported the president of the Afghanistan Independent Journalists Association (AIJA) as saying that there had been 30 cases of violence against journalists in 2005 compared to 15 cases in 2004 and that "… journalists faced killings, kidnappings, threats and imprisonment." The president noted two killings during 2005; one of a worker at a private TV channel in Kabul and the other of a local journalist in Khost province. **[36a]**

17.26 The 2005 CPJ Report stated that:

"In June [2005], after two years of debate within the media community, journalists finally formed two organizations dedicated to protecting press freedom, publicizing attacks against local journalists, and pressuring authorities to defend their rights. The Afghan Independent Journalists Association and the Committee to Protect Afghan Journalists monitored and documented press freedom abuses, met with officials to lobby for their colleagues, and alerted the international community when egregious attacks on the press occurred, such as the jailing of editor Nasab [see paragraphs 17.32 – 17.33]." **[91a] (p2)**

17.27 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. 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)**

17.28 On 17 September 2005, Reporters without Borders (RSF) reported that journalists had been targeted in the run-up to the parliamentary and provincial assembly elections in September 2005. **[62a]** The RSF article included the following examples:

"A reporter in Kabul with the Afghan Voice Agency (AVA), Salim Wahdat, was beaten and then detained on 8 September [2005] by members of the secret service Afghan national security agency while he was covering a ceremony organised by the Afghan education minister.

"Another AVA journalist, Ruhullah Jalali, was held in a secret services cell after trying to visit his detained colleague. They were both released eight

hours later and after the intervention of a representative of the Afghanistan Independent Journalists' Association. Salim Wahdat said the secret service agents had accused him of taking photos for al-Qaeda." **[62a]**

17.29 The 2005 CPJ Report stated that Afghanistan's media helped monitor the September 2005 parliamentary elections. The report further stated that:

"Covering the campaign brought risks. Unknown assailants kidnapped Mohammed Taqi Siraj, editor of the weekly Bayam, and cameraman Baseer Seerat on September 14 as they returned from Nuristan province, where they had filmed the campaign of a female parliamentary candidate, Hawa Alam Nuristani. They escaped from their kidnappers one week later." **[91a] (p2-3)**

17.30 The 2005 CPJ Report stated that:

"In October [2005], a court sentenced two brothers to death for their role in the November 2001 murders of four journalists from Western news organizations who were traveling from Pakistan into Afghanistan during the fall of the Taliban… Zar Jan and Abdul Wahid, brothers, confessed to involvement in the killings, which took place on a highway 50 miles (80 kilometers) east of Kabul. Another suspect in the brutal slaying, Reza Khan, was found guilty of the murder last year and sentenced to death. Khan claimed that the group had acted on the orders of a Taliban commander." **[91a] (p3)**

17.31 The CPJ Report also stated that "Despite many obstacles, journalists continued to start independent newspapers, radio stations, and television channels." **[91a] (p3)**

17.32 The HRW 2005 Afghanistan Report, published in January 2006, stated that "On October 11 [2005], Ali Mohaqiq Nasab, editor of the monthly Haqooq-i-Zan (Woman's Rights), was sentenced to two years in prison on blasphemy charges for allegedly offending Islam by suggesting the need for reinterpreting Islamic law to protect women's rights. His sentence was the first such conviction in post-Taliban Afghanistan." **[17o] (p3)** The 2005 CPJ report stated that the media law of March 2004 stipulates that journalists may be detained, "…only with the approval of a 17-member commission of government officials and journalists." However, the CPJ noted that the police did not have such consent when they arrested Nasab. **[91a] (p1)**

17.33 Reporters Without Borders (RSF) announced on 21 December 2005 that the High Court in Kabul had allowed the release of Mr Nasab after reducing his sentence to six months, three months and nine days of which were suspended. RSF also noted that "The appeal ruling came as several Afghan religious groups were calling for Nasab to be sentenced to death for blasphemy." [62d] On 10 February 2006, an article by the Institute for War and Peace Reporting stated that Mr Nasab had resumed his position as editor of the Woman's Rights magazine. **[73s]**

17.34 A media release dated 3 August 2006 from the International Federation of Journalists (IFJ) stated that:

"The International Federation of Journalists (IFJ) is deeply concerned by reports from the Afghan Independent Journalists Association (AIJA) and the

Committee to Protect Afghan Journalists (CPAJ) of recent violence against journalists and assaults on press freedom in Afghanistan.

"The IFJ has fears for the safety of journalists in Afghanistan after three television journalists were beaten while covering a political demonstration on July 29 [2006], only a week after a cameramen [sic] was killed in a double suicide bombing in on [sic] July 22. 'These latest attacks are further indications that the safety situation for journalists in Afghanistan is rapidly deteriorating,' IFJ President Christopher Warren said." **[92b]**

17.35 The UN Secretary-General's report of 11 September 2006 noted that the journalists involved in the incident in the Paghman area of Kabul on 29 July were "… attacked by armed men, reportedly close to senior governmental officials from the area." **[39n] (p10)**

17.36 On 19 September 2006, IRIN News reported that Afghanistan's leading media association, the Afghanistan Independent Journalists Association (AIJA) had warned that journalists in the country were facing increasing pressure and threats, mainly from government authorities and regional warlords but also from the Taliban:

"The Afghan media watchdog has registered nearly 40 cases of violence against journalists over the past eight months of the year alone, including killing, beating and imprisonments. In 2004, there were only 15 cases of violence, while in 2005 those cases reached 30 across the country…

"Earlier this month, Mullah Dadullah, a top Taliban military commander in southern Afghanistan, warned that his men would target journalists who reported 'wrong information' given by the US-led coalition or NATO forces that more than 200 Taliban had been killed in the Panjwayi district of Kandahar.

"Zia Bumai from the Committee to Protect Afghan Journalists (CPAJ) said that violence against journalists was increasing, particularly in the volatile south and west of the country."

The AIJA were also reported as saying that US-led coalition and ISAF troops had not allowed journalists to report freely on civilian casualties and displacements during their military operations. **[36p]**

17.37 The BBC reported on 8 October 2006 that two german journalists, Karen Fischer and Christain Struwe, working on a documentary in Afghanistan had been "shot in the early hours of Saturday [7 October 2006] while en route from Baghlan province to Bamiyan province in the north of the country." The report noted that they had been killed while they were in their tent. **[26aw]**

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18. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION (AIHRC)

18.01 The Afghanistan Independent Human Rights Commission's (AIHRC) mandate was set out in their report of May 2006:

"According to Article 58 of the 2004 Constitution of Afghanistan, the Independent Human Rights Commission of Afghanistan was established with the purpose of 'monitoring the observation of human rights in Afghanistan, to promote their advancement and protection.'

"Article 5 of the new Law on the Structure, Duties and Authorities of the Afghanistan Independent Human Rights Commission (Official Gazette, Issue No. 855, 21 June 2005), sets out the Commission's objectives and responsibilities, which include:

"The promotion and protection of human rights (Article 5);

"Monitoring the implementation of the Constitution and other laws as well as Afghanistan's commitment to human rights (Article 21, 2);

"Monitoring the performance of State authorities and NGO's [sic] regarding the equal distribution of services and welfare (Article 21, 4).

"Where violations and abuses of human rights are identified, the Commission has a mandate to take steps to protect and to promote human rights, including through advocacy and submission of reports to the Government." **[78f] (p4)**

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

"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)**

18.03 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)**

18.04 A report of an interview with Dr Samar, the Chairwoman of the AIHRC, by the Institute of War and Peace Reporting (IWPR) dated 31 January 2005 noted her frustrations with the AIHRC'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." **[73o]**

18.05 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, p32)**

18.06 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]**

18.07 In a speech at the London Conference on Afghanistan (31 January – 1 February 2006), Dr Samar, the Chairwoman of the AIHRC, stated that:

"The work undertaken by the Afghanistan Independent Human Rights Commission for the promotion and protection of human rights helped to begin to instill a human rights culture in the country through addressing some of major human rights problems and the conduct of human rights awareness programs… While a lot has been done to promote and respect human rights in Afghanistan there are still enormous challenges ahead of us." **[78e]**

18.08 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, stated that:

"The constitutionally mandated AIHRC continued its role in addressing human rights problems within the country. The nine-member appointed commission generally acted independently of the government, often voicing strong criticism of government institutions and actions, and accepting and investigating complaints of human rights abuses. The AIHRC established 10 offices outside Kabul." **[2a] (Section 4)**

18.09 On 11 September 2006 the UN Secretary-General reported that:

> "The Afghan Independent Human Rights Commission continues to function effectively, in close cooperation with UNAMA, although Government support for the Commission should be reinforced. The terms of office for the current members of the Commission expired in June 2004 and the President has yet to formally appoint nine Commissioners for a five-year term. Seven members of the original group of Commissioners continue to act in this capacity. For the first time since its establishment four years ago, the Commission has restricted its activities, particularly in the south and south-east, owing to security concerns." **[39n] (p10)**

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DOMESTIC AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS (NGOS)

18.10 Reuters AlertNet noted on 12 May 2005 that, according to ANSO (Afghanistan NGO Security Office), there were more than 3,000 NGOs in Afghanistan, including national organisations. **[40w]**

18.11 A report dated October 2005 by the United States Institute of Peace (USIP), based on the US experience with PRTs stated that:

> "The involvement of PRTs in reconstruction provoked extensive and, at times, bitter critricism from private relief, humanitarian, and development organizations. In Afghanistan, the United States was a combatant and its forces were engaged in ongoing military operations. NGOs argued that the aura of neutrality that relief workers relied on for their personal safety would be compromised if local people were unable to differentiate between foreign civilian and military actors. If military personnel engaged in relief and reconstruction activities, the boundary between civilian and military efforts would be blurred, if not erased altogether. PRTs were accused of contributing to this ambiguity when troops wearing the same uniforms were seen fighting insurgents and building clinics. Relations with NGOs became strained, and many refused to have direct contact with PRTs, fearing retaliation from insurgents. This fear grew as attacks on aid workers increased and the security environment eroded in the spring of 2005. One NGO, Doctors without Borders [Médecins Sans Frontières], withdrew from Afghanistan, claiming the presence of a PRT in its area of operations contributed to a deadly attack on its personnel." **[103]**

18.12 A May 2005 report by the Afghanistan NGO Safety Office (ANSO) and CARE recorded that in 2003, 12 NGO staff were killed and in 2004, 24 were killed. "Though comparative statistics are not readily available, the NGO fatality rate in Afghanistan is believed to be higher than in almost any other conflict or post-conflict setting."**[94]** Christian Aid reported on 27 October 2005 that "NGOs have become soft targets…If this trend continues…we will not be able to achieve our development goals which in turn will affect the lives of ordinary Afghans whom we seek to serve." **[90]**

18.13 The US State Department 2005 Report, published on 7 March 2006, stated that:

"A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Some of these human rights groups were based in Pakistan, with branches inside the country. The lack of security and instability in parts of the country severely reduced NGO activities in these areas. During the year suspected Taliban members fired on NGO vehicles, attacked NGO offices, and killed at least 30 aid workers… In May [2005] authorities in Baghlan Province discovered the bodies of three women. Authorities suspected that at least one of the women was killed because she worked for an NGO. In October a Taliban ambush killed five Afghan aid workers from Afghan Help Development Services…

"Intimidation or violence directed at NGO workers increased during the year. There were reports in Kandahar that antigovernment forces increasingly attacked those accepting foreign assistance, causing villagers to begin refusing aid. On May 11, hundreds in Jalalabad rioted after reports of Koran desecration became public, resulting in 17 deaths and the burning of an AIHRC regional office. On October 12, unknown assailants killed five aid workers in Kandahar province. On October 16, Taliban members killed three men employed by international organizations for allegedly spying for foreign troops." **[2a] (Section 4)**

18.14 The USSD 2005 Report also stated that "In June the government passed a new NGO law in an effort to reduce the number of for-profit companies operating as NGOs. Many NGOs supported this action as a way to differentiate themselves from those organizations taking advantage of the system to pose as NGOs." **[2a] (Section 4)**

18.15 On 7 February 2006, RFE/RL reported that the Afghan Government had stripped more than 1,600 NGOs of their operating licences. Economics Minister Mohammad Amin Farhang was reported as saying that the NGOs concerned were accused of economic fraud or corruption. "The work of NGOs was a frequent theme during campaigning for the 18 September [2005] elections to the country's national legislature and provincial councils, with critics accusing such groups of siphoning off aid intended for development and other projects." **[29r]**

18.16 A Human Rights Watch report dated July 2006 stated that "For aid workers, 2006 has been a particularly bloody year, with 24 killed as of June 20, 2006. This marks a serious escalation in the risk facing aid workers compared with the previous year, when thirty-one aid workers were killed – itself a significant increase compared to twenty-four aid workers killed in 2004 and twelve in 2003, according to ANSO." **[17l] (p18)**

18.17 "[It is] more than two years since five staff members of Médecins Sans Frontières (MSF) were murdered in Afghanistan, and no one has been convicted of the crime and the prime suspect has just been released – before completion of the judicial process.

"The prime suspect of [sic] the murder had already been acquitted last January due to lack of evidence. He remained, however, in custody pending a prosecution appeal. It then transpired that his file had been lost. Now we learn that he was released because he had been detained for the maximum time

allowed by Afghanistani law." (Médecins Sans Frontières (MSF), 26 September 2006) **[40m]**

AFGHANS WORKING FOR INTERNATIONAL ORGANISATIONS AND INTERNATIONAL SECURITY FORCES

18.18 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 [sic] the increase in targeted attacks and threats against Afghans working for international organizations and security forces, includes [sic] 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)**

18.19 On 3 July 2006, Agence France-Presse (AFP) reported that:

"More than 100 people employed by the US Agency for International Development (USAID), most of them Afghans, have been killed in hostile incidents in Afghanistan over the past three years… The casualties have been victims of the Taliban-led insurgency plaguing much of southern and eastern Afghanistan as well as crime, including warlordism and tribal disputes, USAID mission head Alonzo Fulgham said." **[40l]**

18.20 The August 2006 Monthly Review by British Agencies Afghanistan Group (BAAG) stated that "Those associated with the aid and reconstruction processes have continued to be targets." **[71a] (p3)**

18.21 On 15 September 2006 UN-HABITAT reported that a staff member, Mr Yar Mohammed, the Social Organiser of the National Solidarity Programme, had been shot dead by gunmen in the western province of Farah. In the same incident a colleague was wounded in the leg. **[40h]**

18.22 BBC News reported on 22 September 2006 that 19 construction workers had been killed and three others hurt when a bus was hit by a bomb and fired on by insurgents in the southern province of Kandahar. **[25l]**

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WOMEN'S RIGHTS ACTIVISTS

18.23 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)**

18.24 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)**

18.25 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)**

18.26 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 Annex G, source **[17j]** for more detailed information.)

18.27 Dr Samar, the Chairwoman of the AIHRC, has been reported as saying that she and her staff felt 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'." (Institute of War and Peace Reporting, 31 January 2005) **[73o]**

18.28 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**)

18.29 On 26 September 2006 the *Guardian* reported that a leading women's rights campaigner had been shot dead in the southern province of Kandahar the day before by suspected Taliban gunmen: "Women's Affairs director, Safia Ama Jan, was killed on the city outskirts as she left for work yesterday morning. The assailants shot her four times in the head, through a burka, before fleeing. Ms Ama Jan, 56, has been an advocate for women's rights in Kandahar, the former Taliban headquarters, since the fundamentalists were ousted five years ago." **[18f]**

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19. FREEDOM OF RELIGION

BACKGROUND AND DEMOGRAPHY

19.01 "Reliable data on religious demography was not available because an official, nationwide census has not been conducted in decades. Observers estimated that 80 percent of the population was Sunni Muslim; approximately 19 percent was Shi'a Muslim; and other religious groups, including Sikhs, Hindus, and one Jew, made up less than 1 percent of the population. There also was a small, hidden Christian community; there were no reliable figures on its size, but estimates ranged from 500 to 8 thousand. In addition there were small numbers of adherents of other religious groups, mostly Buddhist foreigners." (United States State Department (USSD) International Religious Freedom Report 2006, 15 September 2006) **[2c] (section I)**

19.02 "In the past, small communities of Hindus, Sikhs, Jews, and Christians lived in the country; however, most members of these communities emigrated. Even at their peak, these non-Muslim minorities constituted less than 1 percent of the population. Most of the small Hindu and Sikh populations, which once numbered approximately 50 thousand persons, took refuge abroad during the many years of conflict; however, since the fall of the Taliban some minority members have begun to return. Non-Muslims, such as Hindus, Sikhs, and Jews, were estimated to number in the hundreds at the end of Taliban rule. During the reporting period, there were approximately 1,500 Sikhs and 100 Hindu families living in the country." (USSD Report on Religious Freedom 2006, 15 September 2006) **[2c] (section I)**

19.03 "Traditionally, the dominant religion has been the sect of Sunni Islam that follows the Hanafi school of jurisprudence. 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 Qur'an and the customary practices of the Prophet Mohammed. Additionally, Deobandi scholars often have opposed what they perceive as Western influences. Much of the population adhered to Deobandi-influenced Hanafi Sunnism, but a sizable [sic] minority adhered to a more mystical version of Islam, generally known as Sufism. Sufism centers on orders or brotherhoods that follow charismatic religious leaders.

"Several regions were religiously homogenous. Sunni Muslim Pashtuns, centered around the city of Kandahar, dominated the south and east of the country. The homeland of the Shi'a Hazaras was in the Hazarajat, the mountainous central highlands around Bamiyan. Northeastern provinces traditionally have had Ismaili populations. Other areas, including Kabul, the capital, were more heterogeneous. In and around the northern city of Mazar-e Sharif, for example, there was a mix of Sunnis (including ethnic Pashtuns, Turkmen, Uzbeks and Tajiks) and Shi'a (Hazaras and Qizilbash), including Shi'a Ismailis." (USSD Report on Religious Freedom 2006, 15 September 2006) **[2c] (section I)**

19.04 "Despite reform efforts, there was an increase in the number of reports of problems involving religious freedom compared to previous years. Several high-profile cases involving religious freedom sparked demonstrations in major cities during the period covered by this report. The Danish cartoon controversy, in particular, resulted in several large demonstrations and more than a dozen deaths across the country. Condemnations of conversions from Islam and censorship increased concerns about citizens' ability to freely practice their religion. The country's population was nearly entirely Muslim. Non-Muslim minority groups faced some incidents of discrimination and persecution." (USSD Report on Religious Freedom 2006, 15 September 2006) **[2c] (introduction)**

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CONSTITUTIONAL RIGHTS, RELIGIOUS LAW AND INSTITUTIONS

19.05 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]**

19.06 Commentators have pointed out contradictions between Articles 2 and 3 of the Constitution. For example, a *Christian Science Monitor (CSM)* article of 27 March 2006 stated that "The issue of religious freedoms is one in which, as in Afghanistan, modern laws are clashing with ancient traditions." *CSM* observed that the recent case of Abdul Rahman, who converted to Christianity [see paragraphs 19.35 – 19.39], "… illustrates a glaring contradiction [in] Afghanistan's constitution, which upholds the right to freedom of religion on one hand but enshrines the supremacy of sharia law on the other." **[19a]**

19.07 The US State Department Report on Religious Freedom 2006, published on 15 September 2006, recorded that:

"After the fall of the Taliban, there continued to be episodic reports of persons at the local level using coercion to enforce social and religious conformity. In January 2006, religious scholars in Kunduz province issued a resolution describing the celebration of non-Muslim religious festivals as against Shari'a; however, the governor of the province stressed the importance of respecting religious freedom. During the reporting period, President Karzai and other moderates in the Government opposed attempts by conservative elements to enforce rules regarding social and religious practices based on their interpretation of Islamic law." **[2c] (section III)**

19.08 The USSD Report on Religious Freedom 2006 also noted that:

"Proselytism was practiced discreetly; there are no laws forbidding the practice, even though it is viewed as contrary to the beliefs of Islam. The Government worked on revising the penal code to bring it in line with international standards during the reporting period…

"The Government continued to stress reconciliation and cooperation among all citizens. Although it primarily was concerned with reconciliation of former Taliban combatants, it also expressed concern about religious intolerance. The Government responded positively to international approaches on human rights, including religious freedom, and worked effectively on high profile cases such as those of Mohaqeq Nasab [see paragraphs 17.32 – 17.33] and Abdul Rahman [see paragraphs 19.35 – 19.39]. The Government continued to indirectly emphasize ethnic and intrafaith reconciliation through the support of the judicial, constitutional, and human rights commissions composed 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. The Ministry of Women's Affairs and the Ministry of Religious Affairs and the Hajj also worked together to give women the opportunity to attend mosques. While women have always had the right to attend mosques, separate areas had to be designated for them. The new initiative provided for such spaces in larger mosques where room was available." **[2c] (section II)**

19.09 In July 2006 human rights groups expressed concerns over the Afghan Government's proposal to create a Department for the Promotion of Virtue and Prevention of Vice: "They warn that the plan reminds them of the Taliban's Ministry for the Promotion of Virtue and Prevention of Vice, which forcefully imposed religious and moral codes. However, government officials say the new department will not use force to promote Islamic principles in society." (Radio Free Europe/Radio Liberty, 18 July 2006) **[26u]** Human Rights Watch stated that "President Hamid Karzai's cabinet has approved the proposal to re-establish the department, and it will go to Afghanistan's parliament when it reconvenes later this summer. It is not clear what the department's enforcement power would be." **[17q]**

(See also Section 19: Converts and Christians for more information on religious freedom under the constitution)

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RELIGIOUS GROUPS

Shia (Shiite) Muslims

19.10 The US State Department (USSD) Report 2006 on Religious Freedom, published on 15 September 2006, recorded that:

"Relations between the different branches of Islam continued to be difficult. Historically, the minority Shi'a faced discrimination from the Sunni population. However, since Shi'a representation increased in government, there apparently was less hostility from Sunnis. Most Shi'a were members of the Hazara ethnic group, which traditionally has been segregated from the rest of society for a combination of political, ethnic, and religious reasons. Throughout the country's history, there have been many examples of conflicts between the Hazaras and other citizens. These conflicts often have had economic and political roots but also have religious dimensions. The treatment of the Shi'a community varied by locality. The active persecution of the Shi'a minority, including Ismailis, that existed under the Taliban regime has ended. Although some discrimination continued at the local level, Shi'as generally were free to participate fully in public life. The rigid policies adopted both by the Taliban and by certain opposition groups adversely affected adherents of other branches of Islam and other religious groups." **[2c] (Section 111)**

19.11 The USSD 2006 Religious Freedom Report stated that:

"Some conservative elements advocated that the constitution should favor the Hanafi school of Islamic jurisprudence associated with the Sunnis over the Jafari school used by the Shi'as. These elements also called for the primacy of Shari'a in the legal system; however, the 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 would be applied in cases dealing with personal matters involving Shi'as; there is no separate law applying to non-Muslims…"

"The Shi'a community is able to celebrate openly the birthday of Imam Ali, one of the most revered figures in the Shi'a tradition…

"In family disputes, courts continue to rely on a civil code that is based on the Sunni Hanafi school, regardless of whether the parties involved are Shi'a or Sunni." **[2c] (section II)**

19.12 The USSD 2006 Religious Freedom Report recorded that:

"In February 2006, six persons were killed during the Shi'a Ashura processions in Herat. Rumors circulated that Shiites were planning to perform their ritual self-flagellations at Herat's Blue Mosque, an important Sunni religious site. These rumors sparked a countermarch after Shi'a Governor Anwari made a public speech commemorating the holiday. Although the incident took place between religious groups, the event was possibly more politically than religiously motivated. It is believed that rural politicians took advantage of the holiday to foment violence to further their own agendas." **[2c] (Section II)**

19.13 On 21 March 2006, BBC News reported that police in Kabul said they had defused two powerful bombs near a major Shia shrine just before thousands of people were expected to visit the shrine to celebrate the New Year festival of Nowruz. "Police blamed the attempted attack on the Taleban, who banned the festival when they were in power." **[25a]**

(See also Section 20: Hazaras)

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Ismailis

19.14 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)**

19.15 The US State Department 2006 Report on Religious Freedom, published on 15 September 2006, noted that "The active persecution of the Shi'a minority, including Ismailis, that existed under the Taliban regime has ended. Although some discrimination continued at the local level, Shi'as generally were free to participate fully in public life." **[2c] (section III)**

Sikhs and Hindus

19.16 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]**

19.17 The USSD 2006 Religious Freedom Report stated that "There are five or six gurdwaras, Sikh places of worship, in Kabul, where worshippers generally were free to visit, and few threats were reported. The less distinguishable Hindu population faced little harassment. There were approximately six Hindu temples in four cities. An additional eighteen were destroyed during the many years of war." **[2c] (section I)**

19.18 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]**

19.19 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 [sic] 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]**

19.20 The USSD 2005 Report on Human Rights Practices, published on 8 March 2006, recorded that:

"Sikhs and Hindus returning to the country faced difficulties in obtaining housing and land in Kabul and other provinces, and the communities reportedly continued to face acts of discrimination during the year…

"Non-Muslims faced discrimination in schools. The AIHRC received numerous reports that students belonging to the Sikh and Hindu faiths stopped attending schools due to harassment from both teachers and students, and the government had not implemented measures to protect these children." **[2a] (section 2c)**

19.21 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." **[11b] (p50-51)**

(See also Section 30: UNHCR Guidelines)

19.22 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." **[95a]**

19.23 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]**

19.24 On 11 December 2005, the Daily Times reported that a representative for the Sikh and Hindu community had been appointed to the Meshrano Jirga, the Upper House of parliament. **[75]**

19.25 "After living in Afghanistan for more than two centuries, economic hardship is pushing many in the country's dwindling Sikh community to emigrate to India, their spiritual homeland… Sikhs who left Afghanistan since the Taliban was deposed by a US invasion in 2001 cite economic instability and lawlessness – not the threat of communal violence – as reasons for their departure." (Aljazeera.net, 14 June 2006) **[3]**

19.26 The USSD 2006 Religious Freedom Report, published on 15 September 2006, stated that:

"Non-Muslim minorities such as Sikhs, Hindus, and Christians continued to face social discrimination and harassment and, in some cases, violence. This treatment was not systematic, but the Government did little to improve conditions in the last year. For example, in early October 2003, a grenade was lobbed at the only functioning Sikh gurdwara in Kabul. There were no casualties. Prior to the incident, local police had warned the gurdwara authorities of a possible attack. Although police and intelligence officials investigated, no suspects had been apprehended by the end of the reporting period. In April 2005, a Sikh gurdwara in Khost was attacked and robbed by twenty-one armed men. The incident was still under investigation at the end of the reporting period. According to the Sikh community, in the fall of 2005, there was a report of the disappearance of a Sikh traveling from Kabul to Jalalabad. There was no additional information available at the end of the reporting period.

"The AIHRC 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 sympathetic and responsive to this complaint. In March 2004, Kabul municipal authorities allocated an alternative cremation site to the Sikh-Hindu community. The Sikh-Hindu community still alleged that they did not have access to the land and were working with the Kabul Municipality to resolve land titling problems. The site was reported to be in use by the end of the period covered by this report.

"Some Sikh and Hindu children were unable to attend government schools due to harassment from teachers and students. The Government did not take sufficient steps to protect these children and reintegrate them into the classroom environment…

"The Government failed to provide funding or assistance for Sikh schools. The Sikh community chose to send its children to its own schools because of reported abuse and harassment in government-run schools. A Sikh school in Kabul now reported having only one full-time teacher for 120 students. Four

part-time teachers were assigned to the school for adult education but instead taught the children for two hours a week." **[2c] (section II)**

(See also Section 19: Constitutional Rights, Religious Law and Institutions)

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Converts and Christians

19.27 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 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." **[82a] (p3-4)**

19.28 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to the sources they consulted, 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." **[8] (section 5.4)**

19.29 On 1 July 2004, Reuters reported that "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." A Taliban spokesman told Reuters by phone that they had killed Maulawi Assadullah in the Awdand district of Ghazni province. **[24a]**

19.30 The US State Department (USSD) Report on Religious Freedom 2006 published on 15 September 2006, stated that:

"Conversion from Islam is considered apostasy and is punishable by death under some interpretations of Shari'a. While the constitution makes no direct reference to Shari'a, and Article 7 of the constitution commits the state to abide by the international treaties and conventions requiring protection of religious freedom, no law contrary to the beliefs and provisions of Islam is permissible under the constitution. While not legally prohibited, conversion

from Islam is strongly discouraged, and the legal consequences of conversion are subject to legal interpretation." **[2c] (Section II)**

19.31 The USSD 2006 Religious Freedom Report also stated that:

"Conversion, which was generally held by many citizens to contravene Islam and Shari'a, garnered much public attention due to a high profile case that occurred during the reporting period. Due to societal pressure, most local Christians hid their religion from their neighbors and others. As a result, little information was available about this community or the challenges it faced…

"While not legally prohibited, conversion is strongly discouraged since it is considered by many to be against the tenets of Islam. During the reporting period, there was one arrest of a convert to Christianity. In March 2006, Abdul Rahman, who converted to Christianity while living abroad during the Taliban regime, was detained for approximately one month and could have faced the death penalty for apostasy, but he was deemed not fit to stand trial before those charges could be brought against him. He was granted asylum in Italy due to potential threats on his life. There were no reports of abuse while in custody.

"Immigrants and noncitizens were free to practice their own religions. In Kabul 200 to 300 expatriates met regularly at Christian worship services held in private locations due to the existence of only one Christian church in the country. This church, located within the diplomatic enclave, was not open to local nationals." **[2c] (Section II)**

19.32 The USSD 2006 Religious Freedom Report also stated that "There was one Christian church and one synagogue. Some who converted to Christianity as refugees have returned… **[2c] (Section I)** There were no Christian or Jewish schools in the country. **[2c] (Section II)**

19.33 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 [but see also paragraph 19.35]. Small communities of Afghan converts are believed to practice Christianity in secrecy." **[11b] (p51-52)**

19.34 The USSD 2005 Report, published on 8 March 2006, recorded that:

"In May [2005] Herat University expelled two students and had them arrested following a classroom discussion in which they debated the role of Christianity in Muslim society. The students were detained for more than three months until the AIHRC intervened and had both released and reinstated at the university. However, police did not drop charges against both students, and at year's end the case remained ongoing." **[2a] (section 2a)**

19.35 In March 2006 numerous news agencies, including BBC News **[25t]**, reported on the case of Abdul Rahman, an Afghan who faced execution in Afghanistan under Sharia law for converting from Islam to Christianity unless he reconverted to Islam. On 30 March 2006, Times Online reported that "Mr Rahman became a Christian while working for an aid group helping Afghan refugees in Pakistan 15 years ago. He lived in Germany before returning to Afghanistan, where he was detained when his relatives told authorities that he had converted to Christianity after a dispute involving two daughters." Following his release from prison due to pressure from Western countries and doubts about his mental state, Mr Rahman was in Italy where he had been granted asylum. **[68a]**

19.36 The decision to release Mr Rahman provoked anger in Afghanistan and Mr Rahman's release was criticised by the leader of the lower house of parliament, Yunus Qanuni, who told the assembly that he should not be allowed to leave the country. **[68a]** *The Guardian* reported on 28 March 2006 that "Around 1,000 protestors marched through the northern city of Mazar-i-Sharif, chanting 'Death to Christians' and 'Death to America' after court officials announced they were dismissing the case." **[18e]**

19.37 "While President Karzai defended the release of Abdul Rahman, [former] Chief Justice Fazl Hadi Shinwari complained that Islamic laws were being ignored in Afghanistan and some government officials were not upholding Islamic values. The Taliban issued a statement that claimed the release of Rahman was a conspiracy masterminded by foreign forces." (World Evangelical Alliance, 7 April 2006) **[82b]**

19.38 The *Guardian* article of 28 March 2006 stated that the Rahman case had put President Karzai in a difficult position: "He relies on the support of western nations who ousted the hardline Taliban regime in 2001, but is also wary of offending religious sensibilities in Afghanistan." **[18e]**

19.39 It was widely reported that the Rahman case had aroused much international debate regarding tensions in Afghanistan between Islam, democracy and human rights. For example, on 29 March 2006, the Institute of War and Peace Reporting stated that "The contradiction is enshrined in Afghanistan's new constitution. Article Seven states that the country supports the Universal Declaration of Human Rights, with its unambiguous mandate of religious freedom. But Article Three states just as clearly that Islamic law takes precedence over any other legal considerations." **[73x]**

19.40 On 22 March 2006, Radio Free Europe/Radio Liberty (RFE/RL) reported that:

"The constitution also provides little legal guidance about how other faiths can live or operate in this Islamic republic. While followers of other religions enjoy the right to freely exercise 'their faith and perform their religious rites within the limits and the provisions of law,' neither the constitution nor the country's law set those limits. For example, there is no law that makes it clear whether a church can operate in the country. The unstated understanding seems to be that churches can operate inside diplomatic missions or in military bases but not publicly." **[29v]**

19.41 RFE/RL reported on 3 August 2006 that:

"Members of a South Korean Christian aid group that tried to organize a three-day 'peace festival' in Afghanistan have been expelled after Islamic clerics accused them of trying to convert Muslims to Christianity… Officials in Kabul say hundreds of South Korean Christians who arrived for the peace festival were warned not to 'preach religion.' But the officials say some group members ignored the warnings and were seen trying to convert Muslims – a serious crime in the Islamic republic… Scores of group members who have arrived at Kabul Airport since August 2 have been refused entry visas and turned back by customs officials. Afghan authorities say all group members will be expelled from Afghanistan 'as soon as possible' because their safety cannot be guaranteed."

A director for the Institute of Asian Culture and Development, who were organising the peace festival, denied the allegations that his group were undertaking evangelistic activities. **[29w]**

19.42 On 11 September 2006, the UN Secretary-General reported that following the case of Abdul Rahman in March 2006:

"There have since been three similar cases in which Afghan citizens were accused of apostasy by local religious leaders and were forced to leave the country. Those cases highlight the obstacles to the enjoyment of freedom of conscience and religion that exist in Afghanistan and the necessity of the Government to take proactive measures to protect those rights. In that regard, the proposal to reinstate the Department for the Promotion of Virtue and Prevention of Vice within the Ministry of Hajj and Religious Affairs is a development that will need to be closely monitored." **[39n] (p10)**

(See also Section 30: UNHCR guidelines)

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Mixed Marriages

19.43 The Danish fact-finding mission of March/April 2004 reported in November 2004 that:

"The CCA [Co-operation Centre for Afghanistan] 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)**

20. ETHNIC GROUPS

INTRODUCTION

20.01 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)**

20.02 Article 4 of the Constitution adopted in January 2004 states: "The nation of Afghanistan is comprised of Pashtun, Tajik, Hazara, Uzbak, Turkman, Baluch, Pashai, Nuristani, Aymaq, Arab, Qirghiz, Qizilbash, Gujur, Brahwui and other ethnic groups." **[81]**

20.03 Following the parliamentary elections in September 2005, a report by the Afghanistan Research and Evaluation Unit dated December 2005 provided the following breakdown of the ethnic/religious groups in the newly elected Wolesi Jirga:

Groups	**WJ seats**	**Percent**
Pashtun	118	47.4%
Tajik & Aimaq	53	21.3%
Hazara	30	12.0%
Uzbek	20	8.0%
Non-Hazara		
Shi'a	11	4.4%
Turkmen	5	2.0%
Arab	5	2.0%
Ismaili	3	1.2%

Pashai	2	0.8%
Baloch	1	0.4%
Nuristani	1	0.4%
TOTAL	**249**	**100%**

[22c] (Section 2.1.3)

20.04 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 [sic] 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)**

20.05 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…" **[11b] (p49)**

(See also sections on Pashtuns and Hazaras below)

20.06 An International Crisis Group report dated 15 May 2006 stated that "… ethnic identity is imprecise; even when people positively identify with one group, they may have mixed parentage or, in the case of women, sometimes claim that of their husband." **[26h] (p7)**

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PASHTUNS (PATHANS)

20.07 In June 2005 UNHCR stated that Pashtuns are the largest ethnic group in Afghanistan, constituting about 38 per cent of the population. **[11b] (p8)** The 2005 Encyclopedia of the World's Minorities records that there are also Pashtuns in Pakistan, mainly in the North West Frontier and Baluchistan provinces. Their language, Pashto, became an official language of Afghanistan in 1936. The Encyclopedia also stated that: "Sociopolitical strife, droughts, and resulting famine have led to mass immigration eastward across

a shared border into Pakistan, producing large refugee communities." **[27] (p955)**

20.08 The 2005 Encyclopedia of the World's Minorities also records that:

"Pashtun/Pakhtun society is organized along hierarchical, patrilineal lines allegedly connecting tribesfolk back to an eponymous common ancestor. Affiliations to lineages and clans (zai, khel) are fairly fluid in practice. Major groups include the Durrani, Ghilzai, and Karlanri, each consisting of several tribes and clans. Overall there are at least 60 tribes. Tribal genealogy determines societal rank, land use, and patterns of inheritance. Social conduct, especially for men, revolves around the concept of pashtunwali or pakhtunwali – an idealised system of hospitality, honor, and revenge used to regulate interactions and mediate disputes. This system is overseen by tribal chiefs (khans), a title bestowed on Pashtun leaders by Indian Mogul and Iranian Safawid rulers in the sixteenth century CE, and by tribal assemblies (jirgas). Blood feuds often arise between tribesmen over issues relating to personal or familial honor, especially involving women, and over the exercise of property rights, particularly grazing of livestock." **[27] (p955-956)**

20.09 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)**

20.10 The USSD 2005 Report, published on 8 March 2006, stated that "In northern areas, commanders targeted women, especially from Pashtun families for sexual violence." **[2a] (Section 5)**

20.11 A report by the Afghanistan Research and Evaluation Unit dated December 2005 stated that, following the parliamentary elections of September 2005, Pashtuns had 118 seats in the Wolesa Jirga (47.4 per cent). **[22c] (Section 2.1.3)**

20.12 On 21 August 2006, UNHCR reported that the Pashtun minority of northern Afghanistan was gradually returning to their native Jawzjan province in the north of the country from the Zhari Dasht refugee camp in the southern province of Kandahar:

"Many of the returning IDPs have been away for up to 25 years, fleeing during the 1979–89 Soviet occupation. More left after the predominantly ethnic Pashtun Taliban regime was toppled in late 2001, fearing reprisals from ethnic Tajiks and Uzbeks in the north. Yet others sought greener pastures when the long drought hit the region in the late 1990s…

"To facilitate their return, the UN refugee agency provides returning IDPs with transport assistance and gives each family an assistance package consisting

of household items – including sleeping mats and tools – a stock of flour, and agricultural supplies such as vegetable and wheat seeds, fertilizer and shovels.

"Additional assistance in Jawzjan province includes the provision of shelter and portable water along with income-generation projects to help vulnerable returnees reintegrate. Some 600 shelter units for the returning IDPs and refugees are being prepared this year.

"To date, some 11,000 internally displaced Afghans and more than 100,000 refugees from Pakistan and Iran have returned to Jawzjan. So far this year, some 360 families comprising 2,097 individuals from Zhari Dasht have been assisted to return to their places of origin. UNHCR will help another 1,000 families, registered in Zhari Dasht, to go home to the north and west of the country." **[11h]**

(See also Section 30: UNHCR guidelines)

Blood Feuds

20.13 "There is a culture of blood feuds in the country. These are mainly a Pashtun phenomenon, but because of the close proximity of different communities they might now to some extent be practised by other ethnic groups. There are some famous feuds which run for many years, for example there is a famous feud that has been running in Nangarhar province which has lasted at least 30 years century [sic], taking the lives of some 500 people. In a blood feud the most senior man would normally be targeted, but the feud could extend all the way to daughters. Blood feuds arise when a wrongdoing has not been settled through tribal mechanisms such as councils of elders. Individuals will assess the risk to their family before taking revenge, so a male who was the breadwinner for a whole family would be much less likely to risk his own death by pursuing a blood feud." (Dr Antonio Giustozzi, Afghanistan Notes, 28 June 2006) **[37]**

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TAJIKS

20.14 The 2005 Encyclopedia of the World's Minorities records that the Tajik population in Afghanistan is difficult to determine:

"Most estimates range between three and four million, only slightly less than the number in Tajikistan. Tajik-speakers settle primarily in northeastern Afghanistan extending south to Kabul. A second center exists in the west of the country, in the province of Herat. Tajiks, under the leadership of Ahmad Shah Masud, were very active in the fight of the Northern Alliance against the Taliban. They used to compose a significant portion of the lower and middle level of the state administration as the state capital is located in a Tajik-speaking area. Tajik, or Dari, is one of the two state languages and is also a medium of interethnic communication as minority groups speak Tajik rather than Pashtu as a second language." **[27] (p1175-1176)**

20.15 In June 2005, the UNHCR noted that Tajiks comprised about 25 per cent of the population making them the second largest ethnic group; they are Persian

(Dari) speaking Afghans. **[11b] (p8)** The 2005 Encyclopedia of the World's Minorities records that the majority of Tajiks are Sunni Muslims. **[27] (p1175)**

20.16 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to UNHCR "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)**

20.17 The report by the Afghanistan Research and Evaluation Unit dated December 2005 stated that, following the parliamentary elections of September 2005, Tajiks and Aimaqs had 53 seats in the Wolesa Jirga (21.3 per cent). **[22c] (Section 2.1.3)**

HAZARAS

20.18 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; [sic] some settled in western Turkestan, in JauzJan and Badghis provinces…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)**

20.19 In June 2005 UNHCR advised that Hazaras constituted about 19 per cent of the country's population. **[11b] (p8)**

20.20 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)**

20.21 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." **[30a]**

20.22 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 the 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." **[39k] (para. 72)**

20.23 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]**

20.24 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, noted that "The Shi'a religious affiliation of the Hazaras historically was a significant factor leading to their repression, and there was continued social discrimination against Hazaras." **[2a] (section 2c)** The USSD 2005 Report also recorded that; "Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands, in part because of 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." **[2a] (section 2d)**

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

"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 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."

A Taliban spokesman, however, denied that the Taliban had been involved in the bloodshed. **[40u]**

20.26 A report by the Afghanistan Research and Evaluation Unit dated December 2005 stated that, following the parliamentary elections of September 2005, Hazaras had 30 seats in the Wolesa Jirga (12 per cent). **[22c] (Section 2.1.3)**

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UZBEKS AND TURKMEN

20.27 The 2005 Encyclopedia of the World's Minorities records that Turkmen reside "… in northwestern and northeastern Afghanistan where they are minorities among Pushtun and Hazara. "The Turkmen are Sunni Muslims and relatively few are Shia Muslims." **[27] (p 1223).** The same source also states that "Uzbeks were one of the major ethnic groups in the north of the country for centuries. Today, the majority of them are settled in the provinces of Kunduz and Mazar-i Sharif… Uzbeks became known as one of the key elements in the Northern Alliance against the Taliban, under the leadership of General Dostum." **[27] (p 1288)**

20.28 The UNHCR in June 2005 advised that Uzbeks constitute about six per cent of the population. Turkmen, Baluch, Pashai, Nuristani, Aymaks, Arab, Qirghiz, Qizilbash, Gujur, Brahwui and other groups constitute about 12 per cent. **[11b] (p8)**

20.29 Article 16 of the Constitution recognises six additional languages, besides Dari and Pashtu, as official languages in the regions where they are spoken by the majority of the population. These include Uzbeki and Turkmani. **[81]**

20.30 A report by the Afghanistan Research and Evaluation Unit dated December 2005 stated that, following the parliamentary elections of September 2005, Uzbeks had 20 seats in the Wolesa Jirga (8 per cent) and Turkmen, 5 seats [2 per cent]. **[22c] (Section 2.1.3)**

PANJSHERIS

20.31 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005, the UNHCR stated that "Panjsheris 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 Panjsheris are also Tajiks, practise Sunni Islam, and speak Dari with Panjsheri dialect." **[11d]**

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KUCHIS

20.32 Kuchis means "nomads" in the Pashtu language.

"Officials estimate there are about three million Kuchis among the 25 million or so Afghans, with about 60 per cent of them still following the nomadic life. They are among the poorest of the battered country's poor, owning little more than a tent and a few sheep and cows… Armed villagers and warlords often chase them off the land guaranteed to them under the new constitution.

Hospitals refuse their sick, and graveyards reject their dead. They earn money by selling milk from their animals, but many also make their children work or beg. Even if they wanted to settle down, most couldn't afford to buy or rent a house.

"Yet not all Kuchis share the same lot. Some have bought property and use it as a base to return to after several months of travel. And there is a smaller, more affluent group that settled down long ago, leaving the roaming lifestyle behind." (Associated Press, 14 May 2006) **[54b]**

20.33 A news article by the Institute of War and Peace Reporting (IWPR) dated 25 August 2005 stated that it was unknown how many of the recorded 3.7 million Kuchis in the latest official census conducted in the 1970s still existed in Afghanistan: "A preliminary count puts their number now at no more than 1.5 million, and the true figure may be as low as 600,000." IWPR also noted:

"Afghanistan's Kuchis have been hardest hit by the catastrophic events of recent years… Promises of mobile clinics, schools, and other facilities for Kuchis have gone unfulfilled, they say, leaving them poor, sick, and uneducated. Kuchi women bear the brunt of the burden. With little access to medical care, they have an extremely high rate of maternal and infant mortality, and illnesses related to reproductive health are common." **[73q]**

20.34 The USSD 2005 Report, published on 8 March 2006, recorded that:

"Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands, in part because of allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s." **[2a] (section 5)**

20.35 The final report of the Joint Electoral Management Body (JEMB) on the September 2005 elections, published in December 2005, stated that the Kuchis were allotted ten seats in the Wolesi Jirga. **[74d] (p20)** The IWPR news article of 25 August 2005 reported the Kuchi community as saying this number was insufficient to give them any significant power in the 249-seat parliament. **[73q]** The Daily Times reported on 11 December 2005 that President Karzai had decreed the appointment of two Kuchis to the Meshrano Jirga, the Upper House of the new parliament. **[75]**

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21. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

21.01 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to the UNHCR and the CCA (Co-operation Centre for Afghanistan) homosexuality is forbidden in Afghanistan. The 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. The UNHCR was unaware of any cases under the new Government in which homosexuals had been punished. The 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. The 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)**

21.02 The US State Department Report 2005 published on 8 March 2006 recorded that "The law criminalizes homosexual activity; however, the prohibition was only sporadically enforced." **[2a] (section 5c)**

21.03 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 as saying "Islam doesn't allow homosexuality," and "prostitution is also punishable in Afghanistan under Islamic law". **[30b]**

21.04 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**)

21.05 On 27 February 2006, a Canadian Press article published on 365gay.com stated that the Afghan authorities were "… still jailing teenagers convicted of homosexuality…" **[77]**

21.06 The Sodomylaws.org website, last edited on 5 March 2006, stated that recent events had rendered previous laws invalid and the position regarding current laws, if there were any, was unclear. **[33]**

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22. DISABILITY

22.01 "War in Afghanistan has created a population dramatically affected by trauma and disability. Estimates suggested two million people may have a physical disability of some sort. This figure excludes those who have some sort of mental trauma, perhaps from something they witnessed or the high level of domestic violence." It is estimated that 75 per cent of children with disabilities do not attend school and 80 per cent of people with disabilities are unemployed. (United Nations Development Programme (UNDP) Afghanistan, accessed 10 August 2006) **[47]**

22.02 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." **[40ad]**

22.03 The 2006 Afghanistan Landmine Monitor Report stated that:

"Afghanistan has no law protecting the rights and needs of people with disabilities, but the 2004 constitution provides some basic protection. Two people with disabilities have a seat in the Afghan parliament…The Ministry of Martyrs and Disabled is the focal point for all issues relating to people with disabilities, including all aspects of mine survivor assistance, legislation and awareness-raising…

"Social security benefits of 300 Afghanis per month (about $6) is paid to some 300,000 recipients registered at the Ministry of Martyrs and Disabled, including mine survivors and other people disabled by the war, and the families of those killed in the war. People with less than 50 percent disability receive 150 Afghanis ($3) per month. The benefit is reported to be insufficient to maintain a basic standard of living, and the bureaucratic application procedure prevents many disabled people from receiving the benefit." **[14] (p30-31)**

22.04 An International Committee of the Red Cross (ICRC) Operational Update of 30 June 2006 stated that:

"Since 1988 the ICRC has been involved in orthopaedic and rehabilitation services to disabled people in Afghanistan, including those injured in mine accidents. Patients are also offered assistance for their social reintegration once their physical rehabilitation is complete. In eighteen years, around 73,000 patients have been registered and treated. Currently, the ICRC runs six orthopaedic centres in Kabul, Mazar-e-Sharif, Herat, Gulbahar, Faizabad and Jalalabad. In each location, home care services are provided for spinal cord injury patients offering paraplegics and their families medical, economic

and social support." **[42a] (p2)** 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." **[73w]**

22.05 The ICRC 2005 Annual Report on Afghanistan stated that:

"By 2005, the government had not yet begun to provide the rehabilitation services enabling them to lead active lives and avoid being a burden on their families and communities. Some areas of the south and east had no rehabilitation services, and facilities serving the rest of the country were run by international organizations or NGOs which coordinated closely and reported to the Ministry of Public Health and Ministry of Martyrs and the Disabled.

"Having played the leading role in the provision of rehabilitation services in Afghanistan for over 15 years, by 2005 the ICRC had fitted some 80% of all the prostheses and orthoses worn in the country. In addition to fitting appliances and providing physiotherapy, the ICRC's six centres around the country organized schooling and offered vocational training, microcredit schemes or job placement to help patients reintegrate into society. The centres themselves employed more than 500 disabled people." **[42c] (p161)**

22.06 The 2006 Afghanistan Landmine Monitor Report stated that:

"Between 21 March 2005 and the end of December 2005, the Paraplegic Hospital in Kabul registered 3,801 patients with disabilities and assisted 596 of those as inpatients, including mine survivors. It also assessed the degree of disability of patients who are then referred to the Ministry of Martyrs and Disabled for assistance and employment support; 2,400 people with disabilities, including 1,500 mine survivors, were assessed in 2005. The Paraplegic Hospital also has an orthopedic center that provides prosthetic and rehabilitation services to people with disabilities. In 2005, it provided 300 people with prostheses…

"The rehabilitation and reintegration needs of mine survivors and other people with disabilities are not being met; only about 20 to 40 percent of mine/ERW [explosive remnants of war] survivors have access to rehabilitation. In 2005, there were approximately 200 physiotherapists, 126 orthopedic technicians and 105 artisans providing services in 20 of the 34 provinces. Rehabilitation programs are available free of charge in several major cities, but distances, a limited number of services, transport and accommodation costs, as well as cultural barriers for women, impede access." **[14] (p23-25)**

The Landmine Monitor Report 2006 also gives more detailed information on the hospitals and clinics providing services to people with disabilities and may be accessed directly via the link given in Annex F for source number **[14]**.

22.07 UNDP's Action on Disability Programme Manager stated on 12 June 2006 that "New reforms in the government have seen the Ministry of Martyrs and Disabled merge to create the new Ministry of Martyrs, Disabled and Social Affairs." UNDP viewed this "… as an important development and an important commitment on the part of the government to the cause of people with disabilities in Afghanistan." The programme manager reported that disability was still very much marginalised in Afghan society except if the disability was

war related; however, the UNDP public awareness programmes had been positively received in the areas in which they had been broadcast. **[40s]**

22.08 The same source also reported the completion of Afghanistan's first Disability Resource Centre in Kabul: "The centre is the only fully accessible building for people with disabilities in Afghanistan… Other centres will be developed in Jalalabad, Mazar[-i-Sharif] and Kandahar." **[40s]**

22.09 A UNHCR paper dated May 2006 advised that:

"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." **[11g] (p3)**

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23. WOMEN

OVERVIEW

23.01 A great deal of information has been published on the situation of women in Afghanistan since the fall of the Taliban in 2001. The United Nations, Human Rights Watch and Amnesty International published reports during 2005 from which a consensus emerged that, although progress has been made, women and girls in Afghanistan still face formidable challenges in all aspects of their lives.

23.02 In a report dated 30 December 2005, the UN Secretary-General stated that:

"Given the oppression from which Afghan women emerged in late 2001, the gains they have made in the past few years, including in the legal, political and educational areas, are significant. Progress made in stabilizing Afghanistan's system of governance contributed to the enhancement of women's participation in the political process. Nevertheless, women and girls in Afghanistan remain beset with formidable security, economic, social and human rights challenges…" **[39b] (p3)**

"The security situation and basic human rights conditions remain poor in many parts of the country, especially outside of Kabul. Armed factions, including the remaining Taliban forces, routinely abuse women's human rights. Many advances by women in the economic, employment and educational spheres are offset by the continuing effects of widespread poverty. Continuing discrimination against women in access to education, health care, land, credits and productive means stifle reconstruction and development efforts." **[39b] (p16-17)**

23.03 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)**

23.04 The 2005 Human Rights Watch Report on Afghanistan, published in January 2006, stated that:

"Women and girls continue to face severe discrimination and suffer the worst effects of Afghanistan's insecurity. Conditions are better than under the Taliban, but four years later progress has been inadequate and too slow. Women who are active in public life as political candidates, journalists, teachers, or NGO workers, or who criticize local rulers, still face disproportionate threats and violence.

"Women and girls are subject to both formal and informal (customary) justice mechanisms that fail to protect their rights. Violence against women and girls remains rampant, including domestic violence, sexual violence, and forced marriage. Authorities often fail to investigate or prosecute these cases. Dozens of women are imprisoned around the country for 'running away' from abusive or forced marriages, or for transgressing social norms by eloping. Some are placed in custody to prevent violent retaliation from family members. Women and girls continue to confront tight restrictions on their mobility, and many are not free to travel without a male relative and a burqa." **[17o] (p2)**

23.05 In an open letter to candidates in the parliamentary elections dated September 2005, Amnesty International stated that:

"The women and girls of Afghanistan face an uncertain future. Millions suffer a hidden, pervasive violence at the hands of their own families and communities. They are cornered by an absence of the rule of law, by the primal place of traditional practices or customs, including forced or underage marriage and those relating to 'honour', depriving them of a voice in their own lives; and by codified laws that demean women and fail to give them the same protection enjoyed by men…

"While the Afghan Constitution provides for equality between men and women, it does not contain clear and unequivocal safeguards against violations and abuses of their rights by individuals, state and non-state actors. A Constitution cannot be sufficient to prevent human rights violations.

"Though the perpetrators are invariably ordinary members of the Afghan population, the lack of effective protection and prosecution from the state towards the abusers has created a culture of acceptance and impunity." **[7e]**

23.06 The February 2006 report of the UN Special Rapporteur on violence against women noted the changes which had taken place in the past four years:

"Women have played a role in the Constitutional Loya Jirga of April 2003. The Constitution enshrines the principle of equal rights for men and women, obliges Afghanistan to respect international human rights, and reserves a certain amount of seats in the legislature to [sic] women. Afghanistan has ratified the Convention on the Elimination of All Forms of Discrimination against Women without reservations. A Ministry of Women's Affairs was created. Although insufficient, there are several shelters in the country offering refuge to women and girls who dare to escape an abusive environment.

"Despite these significant developments, the situation of women in Afghanistan remains dramatic, and severe violence against them is all-pervasive." **[39m] (p18)**

23.07 In July 2006, Human Rights Watch (HRW) said that:

"A proposal to reestablish the Department for the Promotion of Virtue and Prevention of Vice in Afghanistan raises serious concerns about potential abuse of the rights of women and vulnerable groups… Under the Taliban, the vice and virtue department became a notorious symbol of arbitrary abuses, particularly against Afghan women and girls. The department ruthlessly enforced restrictions on women and men through public beatings and imprisonment." **[17q]**

23.08 A United Nations Development Fund for Women (UNIFEM) factsheet of 31 August 2006 stated that "Afghan women continue to be among the worst-off in the world, especially in measures of health; poverty; deprivation of rights and protection against violence; in education and literacy; and public participation. Afghan women die at least 20 years younger than other women in the world." **[40y]**

(See also Section 26: Medical Issues: Women and Children)

23.09 On 11 September 2006, the UN Secretary-General reported that:

"The deteriorating security situation in parts of the country has further restricted Government efforts to ensure Afghan women and girls' full enjoyment of their rights. For example, the Women's Provincial Departments of the Ministry of Women's Affairs have ceased or curtailed operations in Kandahar, Uruzgan and Hilmand. Continuing attacks against educational institutions are having a disproportionate impact on girls, as they have lower initial rates of enrolment and literacy than boys." **[39n] (p10)**

23.10 Reports published prior to 2005 on the situation for women in Afghanistan may be accessed from the Amnesty International, Human Rights Watch and UN Secretary-General's websites. See the web site links given in Annex G for source numbers **[7], [17]** and **[39]**.

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UNHCR GUIDELINES

23.11 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)**

23.12 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 Section 23: Single women and widows)

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LEGAL RIGHTS

23.13 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)… 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)**

23.14 A World Bank Report dated March 2005 stated that:

"As citizens, Afghan women face constitutional equality but legal inequality. Furthermore, there are great discrepancies between customary law, civil law and Islamic Law – as well as the informal justice system, which tends to grant women even less rights. Years of conflict and violence have further eroded the protection of women's (limited) rights, and a culture of impunity reigns as far as violence is concerned, including violence against women inside and outside the household. The present deteriorating security situation in many parts of the country constitutes the most serious obstacle to promoting rule of law, respect for human rights and introduction of legal reform, which would benefit women more than any other group in society." **[69e] (Executive summary, p xv)**

23.15 A 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 Annex G, 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)**

23.16 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." **[7d] (p20)**

23.17 In an open letter to candidates in the parliamentary elections dated September 2005, Amnesty International stated that:

"Changes to the criminal justice sector have been slow to positively affect the lives of the majority of women in Afghanistan. Amnesty International has received numerous accounts from Afghan women of continuing impediments in accessing justice. They include a judiciary that lacks adequate professional training and is overwhelmingly male and sentences for 'crimes' such as 'running away' which have no legal basis There is evidence that discriminatory attitudes of police officials condemn female victims to further violence: in many instances, women fleeing violent abusers are often returned to their perpetrators, or placed in jail.

"Prisons across Afghanistan contain women who allege that they have not committed a criminal act. Many jailed women claim to be incarcerated for transgressing social norms and morals, such as refusing to marry against their wishes or fleeing violence from family members. " **[7e]**

23.18 An article by the Institute for War and Peace Reporting dated 1 December 2005 stated that, although it was almost unheard of for women to approach the courts to defend their rights, the situation was beginning to change, with human rights institutions and the media working to make women aware of their rights. The head of the Women's Development Section at the AIHRC was reported as emphasising, however, that such gains were largely confined to the large cities with little change being seen in the provinces. **[73p]**

23.19 A March 2006 report by the Afghan Independent Human Rights Commission (AIHRC) found that women had been discriminated against in many provinces: "Because of weak investigation, lack of ordinance, and rule of law, improper traditions and intimidation, women could rarely refer to justice for solving their disputes." **[78b] (p6)**

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Marriage

23.20 A UNIFEM publication dated September 2005 stated that "In Afghanistan marriage is regulated by civil law, various interpretations of Sharia law, and traditional and customary practices. While Sharia law sets the minimum age for females at 15, and customary practices approve marriage at earlier ages, civil law sets the minimum marriage age for females at 16." **[72b] (p2)**

23.21 A report by the World Bank dated March 2005 stated that:

"…there is no clear provision in the Criminal Procedure Law to penalize those who arrange forced or underage marriages. Article 99 of the Law on Marriage states that marriage of a minor may be conducted by a guardian, known under Shari'a law as a Shari'a-wali, i.e. the legal minimum age for marriage can, and is safely ignored. There is currently a failure to treat forced marriage as a criminal offence due to the attitudes of judicial personnel and of the wider society. The Ministry of Women's Affairs is currently advocating for an increase of the legal age of marriage for women to 18 years, as well as a reenactment of the requirement to register marriages also at provincial level." **[69e] (p 84-85)**

23.22 A report by the UN Special Rapporteur dated 15 February 2006 stated that:

"The status of women and family law are governed by the provisions of the 1977 Civil Code, which establishes the legal age of marriage at 15 for girls and 18 for boys, and the right of women to choose a husband without the prior consent of their guardian. Registration of marriages is required. The Code contains provisions aimed at ensuring that the bride money is actually received by the wife and not seized by the husband's family. Polygamy is not outlawed, but subjected to stringent conditions. Yet none of these provisions are applied in practice. Men can divorce their wives extrajudicially by pronouncing a divorce either orally or in writing. Women however can only obtain a divorce by court on a limited number of grounds, proof of which is by witnesses. This places women at considerable disadvantage, as their word counts less and they wield less influence over potential witnesses." **[39m] (p11)**

23.23 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." **[7d] (p9-10)**

23.24 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)**

23.25 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)**

23.26 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)**

23.27 The February 2006 report of the UN Special Rapporteur on violence against women stated that:

"The AIHRC estimates that between 60 and 80 per cent of all marriages in Afghanistan are forced marriages and approximately 57 per cent of girls are married before the age of 16. In addition to being the cause of much subsequent physical and psychological violence, the practice in itself constitutes a serious form of violence against women. Relevant laws are neither enforced nor perpetrators punished. Since only 5 per cent of marriages are registered, these unlawful acts remain outside the formal and legal domains." **[39m] (p7-8)**

23.28 The UN Special Rapporteur also stated that:

"…the Penal Code provisions criminalizing forced marriages (of adult women) and the Civil Code provisions regarding the validity of marriages and divorce, which would constitute a legal protection for women against male arbitrariness, exist only on paper.

"The normative framework governing the lives of most Afghan women, particularly in rural areas, is in fact dictated by tribal customs. These customs include practices such as child and forced marriages, bad [see next paragraph], the total subordination of women to men, the denial of women's inheritance rights, their exclusion from public life, and harsh punishment for women who violate social mores. Of course, tribal customs vary geographically and according to prevailing power dynamics, and not all these forms of violence are sanctioned by all customary law regimes in Afghanistan." **[39m] (p12)**

23.29 The same report also stated that:

"Another particularly heinous type of forced marriage is the Pashtu practice of bad, where a woman or girl is ceded by one family to another to settle a dispute upon the orders of a local council (jirga), thus preventing a potential blood feud between them. While bad may serve to settle a dispute between two families, it does so at the expense of women, who are reduced to property

to be exchanged and disposed of as desired. In this sense it constitutes a high risk situation for women who are married under such an arrangement." **[39m] (p8)**

(See also Section 24: Child Marriage for more information on marriages involving underage girls)

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Divorce

23.30 The World Bank report dated March 2005 stated that:

"The right of divorce rests with a husband rather than a wife. However, a woman has the right to a judicial divorce while a husband can divorce his wife through extra-judicial pronouncement of a divorce (talaq) either orally or in writing. The grounds for judicial separation include the husband suffering an incurable disease, his failure or inability to maintain his wife, his absence from his wife without reason for more than three years or his imprisonment for ten years or more, in which event the wife can ask for divorce after the first five years of imprisonment. Divorce is not common in Afghanistan, and it is considered shameful for a woman to seek divorce. She also loses custody over older children and her livelihood, and has to return to her own family if they will accept her." **[69e] (p87)**

23.31 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 Annex F, source **[7d]** for more information.)

POLITICAL RIGHTS

23.32 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." **[17h] (p1)**

23.33 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)**

23.34 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." **[17h] (p2)**

23.35 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]**

23.36 On 7 August 2006 it was reported that the Afghan parliament had approved the appointment of Hosna Banu Ghazanfar as Minister of Women's Affairs. (Radion Free Europe/Radio Liberty) **[29j]** She is the only woman in the current Cabinet.

(See Annex D for a list of Cabinet members)

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Women's Participation in Public Life and Institutions

23.37 A Human Rights Watch (HRW) report dated October 2004 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)**

23.38 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 Section 28: Freedom of Movement)

23.39 In August 2005, just before the September 2005 parliamentary elections, HRW issued a statement which said 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." **[17e]** The Human Rights Watch (HRW) Afghanistan Human Rights Overview, published in January 2006, stated that "Women who are active in public life as political candidates, journalists, teachers, or NGO workers, or who criticize local rulers, still face disproportionate threats and violence." **[17o] (p2)**

23.40 In his report of 30 December 2005, the UN Secretary-General said "It is noted that women still remain grossly underrepresented in the judiciary, making up only 7 per cent of the total number of judges in Afghan courts." **[39b] (p10)**

23.41 The UN Secretary-General's report also stated that:

"Female wage labour is still viewed as a solution of last resort for households in desperate straits and their wage rates are normally only half the level of men's, or even less. Women's involvement in the formal sector has mainly been urban-based, mostly as civil servants in the health and education sectors. In agricultural production, women have continued to play an important role. While most of women's labour remains non-remunerative [sic], they make major labour contributions to a number of marketed products such as dried fruits, fuel wood, dairy products and handicrafts. However, even when women's domestic production, such as carpet weaving, forms the main income of the household, they rarely control the marketing of these products, which is most often managed by male relatives or middle men." **[39b] (p14)**

23.42 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that:

"Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the denial of education opportunities during the Taliban years, as well as 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; however, there were reports that female police officers found it difficult to be accepted as equals among their colleagues. For example, six female police officers in Kunduz faced discrimination and hostility, and spent the first four months on the job cleaning the police station. They were paid $60 (3,000 AFNs), $10 dollars (495 AFNs) less than their official salary, and they were forced to wear burkas over their uniforms under threats of violence. The Ministry of Interior reported that female recruitment was difficult because of cultural differences." **[2a] (Section 5)**

23.43 On 7 August 2006 it was reported that one woman, Hosna Banu Ghazanfar, was among five candidates approved by parliament to complete the 25-member cabinet: "She will be in charge of women's affairs. With 159 lawmakers endorsing her candidacy, Ghazanfar garnered more support than the other four candidates." (Radio Free Europe/Radio Liberty) **[29j]**

23.44 A UNIFEM Factsheet dated 31 August 2006 noted that:

"Women represent some 30 percent of agricultural workers, are engaged in livestock, micro enterprises, and home industries but have limited access to capital, information, technology and markets. Progress has been noted in women's participation in public life, but they still constitute a minority and are often marginalised in policy and decision-making." **[40y]**

23.45 On 11 September 2006 the UN Secretary-General reported that "Women's participation in State institutions remains low. Civil society groups and some members of the international community have urged the President to appoint more women to the Cabinet, the Supreme Court and the Civil Service." **[39n] (p10)**

(See also Section 18: Women's Rights Activists)

WOMEN'S PARTICIPATION IN THE 2004 AND 2005 ELECTIONS

23.46 A Human Rights Watch (HRW) Report dated 17 August 2005 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…

"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)**

23.47 The EU Election Observation Mission report on the September 2005 parliamentary elections, published 10 December 2005, stated that:

"Women's participation in the [parliamentary] elections was marked by a higher share of female voters (44.4%) compared to 2004. Surprisingly, however, the highest increase in the rates of female registrants took place in provinces which happen to be among the most socially conservative areas of Afghanistan, which may be an indicator of considerable proxy registration in these provinces. Female candidates accounted for some 10% of the total and some of them had an impressive showing, but these were exceptions rather than the rule." **[98] (executive summary)**

23.48 The December 2005 Afghanistan Research and Evaluation Unit (AREU) analysis of the 2005 parliamentary elections stated that "One of the unexpected results of the election was the strong performance of female candidates." The report stated that 19 Wolesi Jirga and 29 Provincial Council female candidates won seats irrespective of the reserved seats quota. **[22c] (section 2.3)**

23.49 The March 2006 report of the UN High Commissioner for Human Rights in Afghanistan gave the following summary of women's participation in the 2005 election campaign:

"Women's political participation advanced substantially during the reporting period with the election of [sic] 18 September [2005] of 68 women to the 249-seat Wolesi Jirga (lower house of Parliament) and two women to each of the 34 provincial councils. Of the 633 women who initially submitted their candidacies, 51 withdrew citing economic and logistic problems including access to information, and social restrictions. However, other factors such as the targeting of women candidates for violent attacks, threats and intimidation

by anti-Government forces, and traditional community leaders' opposition to their participation also contributed to their decisions. Nevertheless, a large number of women openly campaigned. Voter turnout among women was substantial; however, it was marred by significant proxy voting by male relatives, especially in Paktia, Paktika and Khost provinces. In the Walesi [Wolesi] Jirga, 10 female candidates won in their own right, contesting against men, without the need for reserved seats. In the Meshrano Jirga (upper house of Parliament), two thirds (68) of candidates were elected, one third (34) was appointed by the President. Six women won their seats directly through election and 17 were appointed by the President, resulting in overall female membership of 22 per cent." **[39l] (p5)**

23.50 In May 2006 the International Crisis Group noted that:

"The women in the National Assembly are not the uneducated and illiterate group some feared they might be. Those prepared to aim for high office and live in Kabul, sometimes away from their families, tend to be doctors, teachers and former government and NGO workers. Approximately 50 per cent of the female members of the Wolesi Jirga claim to hold a university qualification compared to 40 per cent of the male members." **[26h] (p7)**

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SOCIAL AND ECONOMIC RIGHTS

Single Women and Widows

23.51 An October 2005 research report by the Friedrich Ebert Stiftung (FES) political foundation stated that "Similar to other patriarchal societies, gender roles in Afghanistan are shaped by socio-cultural factors largely based on women's role as keepers of the family honor. 'Women don't exist in isolation', an Afghan man explained. Attempts to separate women from family and community are met with strong resistance." **[83] (p14**) The FES report also stated that "In Afghanistan, women are being increasingly castigated for being 'Western-influenced." **[83] (p18)**

23.52 A June 2005 UNHCR report stated that:

"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 [sic] 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)**

23.53 A UNHCR paper dated May 2006 stated that:

"Single females who do not have family or other close relatives in Afghanistan who are willing and able 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 support. What is necessary is that such family links are effective and that the family-members are willing and able to support the woman in question. This would need to be determined in the individual case and can not be assumed. It is also important to note that, generally, in Afghanistan, a woman, when she marries, moves to the husband's family and her in-laws. She becomes part of the in-laws family, with responsibilities for the parents of her husband and their relatives. This also, generally, applies when the woman becomes a widow. What needs consideration in such cases as well is, whether or not, family-members of the late husband of a widow would expect her to re-marry (including against her will), which is tradition in parts of the country, often a brother of the late husband even if he is married. Another more general consideration, underlining the need to establish, in the individual case, the effectiveness of family-links of unaccompanied female Afghans is the fact that decades of war and poverty have affected the traditional family protection mechanisms and relationships. Even if a woman has close relatives, they may not be ready to receive her because of poverty, [or] difficult living conditions in terms of accommodation. Family-members, even if willing, may simply not be in a position to provide for a close female relative, and in some instances, due to the economic situation of a family, the risk of exploitation and forced marriages exist.

"The vulnerability of unaccompanied female Afghans 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 take care [of] and protect them, single women, at risk of [sic] victims of violence, can only be accommodated temporarily in safe houses run by Afghan NGOs in Kabul and Herat, which constitute but a short term 'safe haven'." **[11g] (p1)**

23.54 The UNHCR May 2006 report also noted that "Single parents (especially women) with small children who do not have the support of relatives or the community) [sic] and no member of a household with the ability to act as the breadwinner, will be unable to sustain their lives in Afghanistan." **[11g] (p1)**

23.55 A UNIFEM publication dated November 2005 stated that widows in Kabul are among the most vulnerable members of Afgan society "Because so many men have died, the social system is overloaded. Families cannot absorb all the widow in the country…Remarriage is not an option. Even though there are many single men, marrying a widow is not considered socially acceptable." **[72a]**

23.56 The UNHCR report dated June 2005 advised:

"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)**

23.57 The UNIFEM publication of November 2005 stated that:

"Widows in Afghanistan, whether young or old, face many economic and social problems, particularly if they have no male relatives to support them. They eke out a meager living by begging, washing clothes or working on construction sites carrying bricks… While widows theoretically now have more opportunities in Afghan society, including working outside their homes and participating in the country's development process, the living conditions this vulnerable group faces have yet to change, largely as a result of a complex set of economic, cultural and social factors… Some NGOs (like CARE, HAWA, AWEC, ARYA) and some UN agencies such as WFP provide assistance and educational programs for widows, but many widows do not have the opportunity of accessing such programs." **[72a]**

23.58 The same report also stated that "Among the main constraints facing female-headed households today, in addition to shelter, is high illiteracy levels due to poverty and cultural reasons, family restrictions on girls traveling long distances, early marriages, a perceived low value put on education by the family, and the need for girls to take care of siblings or do domestic work." **[72a]**

23.59 "There are 50,000 widow/women heads of households in Kabul, and given the limited opportunities for women to find gainful employed [sic] and to be able to support a whole family, 65 percent of these were found to have suicidal tendencies and 16 percent have actually attempted suicide." (UNIFEM, 31 August 2006) **[40y]**

23.60 "Since a widow is perceived as the property of her in-laws, she can be forced to marry a brother-in-law, who may already have a wife, and any property left by her late husband is seized by his family. In the absence of a male in the family, the widow may be given to an outsider in a degrading manner. Given the early marriage age and the low life expectancy, women can encounter widowhood in their 20s and 30s." (UN Special Rapporteur, 15 February 2006) **[39m]**

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Imprisonment of Women

23.61 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… 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)**

23.62 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)**

23.63 The UN Secretary-General's report of 30 December 2005 stated that:

"There is continued concern about the situation of women in detention and the issue of illegal detention. The Prison and Detention Centre Law, which was passed on 31 May 2005, stipulated that men and women in detention should be in separate facilities with special attention to women with children. The United Nations Office on Drugs and Crime provided support in drafting the new law and has taken steps to ensure that new premises would be built with due attention to the needs of women, in particular women with children. Where there are no local detention facilities, women accused of crimes have reportedly been placed in 'private detention', usually in the house of the head of a village, where they are treated as prisoners and forced to work for the family. There are also reports of women arbitrarily detained when reporting crimes perpetrated against them, for violating social mores and as substitutes for their husbands or male relatives who have been convicted of crimes. Women and girls have also been detained for 'running away', an offence which has no basis in statutory law. These cases often have their roots in forced marriages or violence.

"The Human Rights Unit of UNAMA has continued to monitor the situation of women in detention and has advocated for the release of women in cases of arbitrary or illegal detention." **[39b] (p11)**

23.64 The USSD 2005 Report, published on 8 March 2006, stated that in 2005:

"There were over 219 detained women, many of whom were imprisoned at the request of a family member. Many of the incarcerated opposed the wishes of the family in the choice of a marriage partner, contended with adultery charges, or faced bigamy charges from husbands who originally granted a divorce but changed their minds when the divorced wife remarried. Women also faced bigamy charges from husbands who had deserted their wives and then reappeared after the wives had remarried. Some women resided in

detention facilities because they had run away from home because of domestic violence or the prospect of forced marriage; there were no shelters for women in these situations [but see Shelters paragraph 23.85]. In Pul-I-Charkhi Prison, there were several girls between the ages of 17 and 21 years of age who were detained because they were captured after fleeing abusive forced marriages.

"There were approximately seven detention centers for women. In locations where detention facilities were not available, women were held separately from men or given to members of the community to be watched over in their homes." **[2a] (Section 5)**

23.65 The February 2006 report of the UN Special Rapporteur stated that:

"Only a minority of the women detained in the prisons visited by the Special Rapporteur are incarcerated for 'ordinary' offences such as theft, drug trafficking, assault or murder. The majority of these women are detained on charges related to sexual offences, such as adultery, illicit sexual intercourse or prostitution. Both the legal basis for considering these sexual conducts criminal (i.e. are they rendered punishable by the criminal code, or was sharia law applied, or customary law?) and the delimitation between these offences remain hazy after conversations with detainees and legal practitioners. Many of these women typically explained that they remarried after being divorced by their husband, who then filed a complaint that his wife was having an illegitimate relationship. With no means of proof, these women, some of whom have children from their second partner, are charged with adultery. On the other hand, 'running away from home' is clearly not an offence, neither under the Penal Code nor under the sharia; nonetheless Afghanistan's prisons are full of women detained for this 'crime', as it is assumed that they have engaged in illegitimate sexual relations during their absence from home.

"In addition to the legal and more generally conceptual difficulties that police officers, prosecutors and judges have in identifying criminally punishable sexual conduct, women are often unjustifiably criminalized due to the law of evidence. When a woman is forced to have sexual intercourse against her will, and raped, she will need four adult witnesses to prove that sex took place against her will. If she cannot muster the four witnesses required, she risks being accused herself of illicit sexual intercourse. Similarly, many of the women in detention have been charged with adultery, but claim that they were divorced by their husband, which again they have difficulty proving." **[39m] (p11)**

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VIOLENCE AGAINST WOMEN AND GIRLS

23.66 An Amnesty International paper dated 30 May 2005 stated that:

"Violence against women and girls in Afghanistan is pervasive; few women are exempt from the reality or threat of violence. Afghan women and girls live with the risk of: abduction and rape by armed individuals; forced marriage; being traded for settling disputes and debts; and face daily discrimination from all segments of society as well as by state officials. Strict societal codes, invoked in the name of tradition and religion, are used as justification for denying

women the ability to enjoy their fundamental rights, and have led to the imprisonment of some women, and even to killings. Should they protest by running away, the authorities may imprison them." **[7d]**

23.67 The AI paper also stated that:

"Husbands, brothers and fathers are the main perpetrators of violence in the home but the social control and the power that they exercise is reinforced by the authorities, whether of the state or from informal justice systems such as shuras and jirgas. Members of factional and militia forces are also responsible for perpetrating violence. In some instances, female members of the family have a role in upholding patriarchal structures, and may also commit violence. However, male members of society perpetrate the overwhelming majority of acts of violence against women.

"Violence against women is widely tolerated by the community and widely practiced. It is tolerated at the highest levels of government and judiciary. Abusers are rarely prosecuted; if cases are prosecuted, the accused are often exonerated or punished lightly. Impunity seems to exist for such violence. The authorities seldom carry out investigations into complaints of violent attacks, rape, murders or suicides of women. Women who report rape face being locked up and accused of having committed crimes of zina [Zina laws are laws which criminalize sexual relations outside marriage]. Laws frequently discriminate against women and are otherwise inadequate to protect the rights of women." **[7d]**

23.68 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded:

"Violence against women persisted, including beatings, rapes, forced marriages, kidnappings, and honor killings. Such incidents generally went unreported, and most information on the abuse 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 associated social stigma; however, rape and domestic violence against women remained serious problems. Authorities considered rape to be a serious crime in the country, punishable by death, although this punishment did not extend to spousal rape…

"Honor killings continued to be a problem. For example on December 30 [2005], in Watapour District of Konar Province, a married woman and her lover were killed along with the lover's mother. The provincial police chief alleged that the honor killing was committed by the family of the woman's husband, and he registered a case against the attackers." **[2a] (Section 5)**

23.69 The USSD 2005 Report also stated that:

"In northern areas, commanders targeted women, especially from Pashtun families, for sexual violence. 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, police arrested two perpetrators, but the case remained open at year's end. A total of 21 such cases were reported to the AIHRC during the year." **[2a] (Section 5)**

23.70 A Human Rights Watch report of January 2006 drew attention to the following women's murders in 2005: "In mid-April 2005, a twenty-nine-year-old woman was beaten to death by her own family for adultery in Badakhshan province. And on May 4 [2005], three women were found murdered in Baghlan province with notes attached to the bodies warning women not to work for non-governmental organizations or Western aid agencies." **[17o] (p2)**

23.71 A Human Rights Watch publication of 24 May 2005 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]**

23.72 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 women 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." A Taliban spokesman confirmed the report and said the Taliban had killed the woman because 'she was a spy for the Americans.'" **[29i]**

23.73 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)**

23.74 The AI report published on 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)**

23.75 The UNHCR report dated June 2005 concurred, stating that:

"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)**

23.76 The May 2005 AI report also stated that:

"The police are reluctant to prevent and investigate family violence, including, the violent deaths of girls…"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 [sic] 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)**

23.77 In February 2006 the findings of the visit to Afghanistan in July 2005 by the UN Special Rapporteur on violence against women were published. The report found that:

"In the three and a half years between the fall of the Taliban and the Special Rapporteur's visit, policy, legal and institutional framework has been considerably changed to improve women's status. This has also included access to education and employment. However, the principle of equality is far from being an everyday reality for women at large. As a consequence, gender-based discrimination is pervasive and violence against women remains dramatic in its intensity, in both public and private spheres of life…

23.78 The same report also stated that:

"There is a lack of data on violence against women, however, anecdotal evidence as well as documentation of cases in hospitals suggest that it is widespread and that girls and women are at risk in the home and on the street, in intimate relations, [or] in an encounter with strangers, within the context of hegemonic interpretations of tradition and the sharia, and of discriminatory laws and administration of justice. Furthermore, cases of rape, abduction and forced marriage by powerful commanders are not rare.

"Marital rape, sexual assault and other forms of violence against women within the household are on the one hand a taboo, but on the other accepted as a norm. Therefore, such incidents come to light only when the victim seeks help. The Special Rapporteur's interviews with such victims, with organizations assisting them and with government and international officials, as well as a review of reports reveal that the phenomenon is pervasive.

"The practice of child marriages and forced marriages are [sic] at the root of most violence that takes place in the household, but ramifies also to other spheres." **[39m] (p7)**

(See also Marriage and Child Marriage for further information on forced and underage marriage)

23.79 The report of the UN Special Rapporteur also stated that:

"Women who experience multiple forms of violence in the private and in the public sphere are victimized a second time by the failure of the authorities to protect them. Violence against women is tolerated and perpetrators enjoy impunity because the law enforcement and justice systems are generally dysfunctional and are heavily biased against women. From the legal and institutional point of view, this failure to protect is grounded in or at least greatly abetted by the multiplicity of normative systems in Afghanistan, and the predominance of the so-called 'informal' justice over the formal justice machinery." **[39m] (p9-10)**

23.80 The findings of a UNIFEM report published in August 2006 supported the views of the UN Special Rapporteur, Amnesty International, the USSD and Human Rights Watch given above. The UNIFEM report detailed the results of data collected on violence against women between 1 January 2003 and 30 June 2005:

"Although the results of this study are not sufficient to make firm conclusions on the nature and extent of violence against women in Afghanistan, it nonetheless provides considerable insight into the problem. Some preliminary conclusions that have been reached by this study are that:

● Violence affects women of all ages without regard to marital status, education or employment.
● Violence against women is committed by actors within the family, community and State.
● Violence begins to affect women at an early age.
● Abuse perpetrated by a member of a woman's family or someone known to her is widespread.
● Violence against women perpetrated by an intimate partner appears endemic.
● Perpetrators of violence against women are largely men, but in our study women account for 10.4% of the total perpetrators.
● Anecdotal evidence about the rampant and entrenched nature of violence in the family can be further substantiated by the high rate of domestic violence revealed in this study.
● Various forms of psychological violence are used to keep women in a position of subordination.
● Acts of violence against women are taking place with impunity. It appears that the government, communities and families are not doing enough to prevent violence against women.
● Women need better access to services, particularly when they are seeking help from violence perpetrated by the family, which is almost exclusively the traditional support structure for women in Afghanistan.

"This sample is likely a small portion of cases of violence against women in the country, which tend to be hugely under-reported." **[72c]**

23.81 The February 2006 report of the Special Rapporteur noted that:

"There are very few women in the police. At the time of the Special Rapporteur's visit, there was not one woman in the police force in Herat, a city of two million inhabitants. On the other hand, the Special Rapporteur met a female police general in the human rights unit in the Ministry of Interior, and a female police officer who is the focal point for domestic violence in the Kandahar police force. In a society where segregation by sex is strictly observed and sexual and domestic violence are taboos, the absence or scarcity of female police officers constitutes a considerable obstacle to access to police protection for women who experience violence." **[39m] (p12)**

23.82 A report dated 3 March 2006 by the UN High Commissioner for Human Rights in Afghanistan also noted that domestic violence was widespread in the country and gave details of current Government initiatives:

"Public attention was drawn to the issue when one of Afghanistan's best-known female poets, Nadia Anjuman, died as a result of a reported beating by her husband in November 2005. He was subsequently arrested. The incident sparked public concern and opened the debate on violence against women. Herat hospital admitted 82 women, of whom 46 died, with severe burn injuries in the last nine months of 2005. The causes were not investigated but they are suspected to be suicide attempts related to domestic violence and forced marriage. Authorities repeatedly fail to conduct proper investigations and perpetrators are rarely brought to justice.

"The Government has undertaken a number of initiatives aimed at redressing the current failures and inadequacies of the justice system, including the need to pay special attention to women's access to justice and the critical importance of legal assistance. Legal aid programmes targeting women, established by a number of national and international non-governmental organizations (NGOs), as well as the United Nations Development Fund for Women (UNIFEM) in coordination with the Ministry of Women's Affairs (MoWA), aim to address this shortfall.

"The Ministry of the Interior, recognizing the shortcomings of a police force without sufficient female police staff, has created a gender-mainstreaming unit tasked to address this through targeted recruitment and capacity-building. The Ministry has started to register cases of violence against women in pilot police stations, and domestic violence units have been established at the Herat provincial police department and Kabul District 10 police station. MoWA has promoted the establishment of safe houses for victims throughout the country and a draft protocol establishing a referral mechanism is under discussion." **[39l] (p6-7)**

23.83 An IRIN News article dated 15 September 2006 reported that honour killings in Afghanistan were on the rise:

"A weak judiciary, a lack of law enforcement and widespread discriminatory practices against women are fuelling a rise in honour killings in Afghanistan, officials from the Afghan Independent Human Rights Commission (AIHRC) said on Friday… So-called honour killings, which rights activists say have become increasingly common in Afghanistan, are murders of women or girls who are believed to have brought shame on the family name. They are usually carried out by male family members, or sometimes by 'contractors' who are

paid to carry out the killing and occasionally by children too young to face the law.

"The killings are commonly carried out on women and girls refusing to enter into an arranged marriage or for having a relationship that the family considers to be inappropriate. Due to such pressures from families, many women are driven to suicide or flee their homes to escape an honour killing.

"According to AIHRC, some 185 women and girls have been killed by family members so far this year, a significant increase on the previous year. But rights activists say that the real number is much higher as many such cases go unreported, particularly in rural areas." **[36m]**

23.84 The same article stated that the head of the AIHRC "... blamed weak prosecution of perpetrators and a lack of awareness among women about their rights as the key factors driving the practice." Furthermore:

"A change in attitude on the part of the police and judiciary was also needed. 'Regrettably, police forces in Afghanistan either don't arrest such killers or they don't treat them as murderers,' Rahmatullah Weda, an information officer at AIHRC, remarked.

"Afghanistan's government, which says it is committed to human rights and ending discrimination against women, hopes to end the practice but admits there are challenges ahead.

"Dad Mohammad Rasa, an interior ministry spokesman, said honour crimes were prosecuted, but that the practice was so entrenched that stamping it out would be a long-term project…

"The Afghan rights watchdog has registered some 704 cases of violence against women, including 89 cases of forced marriages and 50 cases of self-immolation so far in 2006, again, a significant increase over last year, it said." **[36m]**

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SHELTERS

23.85 The February 2006 report of the UN Special Rapporteur stated that:

"A very important and highly sensitive activity undertaken by a number of Afghan NGOs with support from international organizations is the establishment and running of safe houses for women. There are currently six safe houses, four in Kabul, one in Herat and one in Mazar-I-Sharif. The transit shelter in Herat, which is supported by UNHCR, receives 'unaccompanied' female refugees returning from the Islamic Republic of Iran…

"In general, women who are forced to find shelter in a safe house risk finding themselves in a dead end. Since 'unaccompanied' women are not accepted in Afghan society, women who cannot be reunified with their family have nowhere to go. The difficulty of finding durable solutions for women who end

up in a shelter is compounded by the societal attitude towards shelters, which to a large extent are regarded as places of doubtful reputation, bringing dishonour upon the women and their families. This attitude is in turn linked to the already mentioned perception of 'running away from home' as a serious violation of social mores and a criminal act. The misapprehension that safe houses are a 'safe haven' for immoral women has been reinforced by the occasional practice of sending released female prisoners to shelters. This public perception of safe houses further forces them to operate nearly clandestinely and in a precarious security situation.

"In the safe houses, women receive a certain degree of education and vocational training. Many women in these shelters are seriously traumatized by their past experiences of violence, including incest, and need psychological support. Due to their limited capacities and the difficult circumstances under which the shelters operate, the NGOs running them have only been able to provide limited access to psychosocial counselling." **[39m] (p16-17)**

23.86 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]**

23.87 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]**

23.88 The UN Secretary-General's report of 30 December 2005 stated that:

"The women in the shelters are often unaccompanied deportees and women escaping from forced marriages (often with much older men), domestic violence and so-called honour killings. While in many cases, solutions can be found through mediation, family-reunification, intervention of the authorities or legal and psychological counselling, many women have no option but to live in the shelters for prolonged periods. Women residing in the shelters have been offered income generating opportunities following educational and professional training. However, it is difficult for single Afghan women without male family support to live independent lives outside shelters." **[39b] (p9)**

23.89 The report by the UN Secretary-General dated 30 December 2005 stated that:

"Serious challenges in addressing issues related to violence against women in Afghanistan remain. The vast majority of cases of violence against women are unreported, and when they are reported there is inadequate or non-existing protection or remedy. Psychosocial support and mental health services to women survivors of violence and harmful traditional practices are very limited. Violence in the private sphere is perceived as a family issue and women and

girls who experience violence are either unable or afraid to report the problem to the authorities. If they leave their family environment they risk criminal charges, incarceration and stigmatization from the community. Furthermore, the limited information available indicates that only in very rare cases do perpetrators face any sanctions. This is illustrated by the absence of criminal charges against those who marry under-age girls in all regions of the country." **[39b] (p9)**

23.90 On 24 January 2006, UNIFEM reported that:

"A new centre that deals with family violence, children in trouble, and female victims of crime started its operations in Kabul on Sunday, 22 January. The Family Response Unit is the first of its kind in Afghanistan, where violence against women and children is so common that it has become a serious public health problem…The new unit will allow policewomen to react to violence against women, family violence, children in trouble, and kidnappings. They will also be able to interrogate, detain and investigate female suspects; provide support to female victims of crime and ensure the security of women in communities." **[40i]**

(See also Section 30: UNHCR guidelines and Education)

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Self-Harm

23.91 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." **[7d] (p14)**

23.92 On 30 September 2005 an article by the Institute for War and Peace Reporting reported that:

"Sajia Behgam, an official with the German aid agency Medica Mondiale, said her organisation's figures showed around 500 cases of self-immolation and other forms of suicide each year in Afghanistan – but she said most cases were concealed by the families because of the shame involved. Around half the known cases involved women setting fire to themselves, and between 60 and 70 per cent of them died. The other half involved women killing themselves by other methods.

"In Kabul's Istiqlal hospital – the main burns treatment centre – director Sayed Hassan Kamel said 40 per cent of the hospital was dedicated to burn victims. In August [2005] they had received 558 such casualties, of which five per cent – 28 patients – were women who had attempted suicide by setting themselves on fire." **[73r]**

23.93 "Family violence is reportedly associated to the phenomenon of self-immolation reported in Herat, whereby women and girls attempt suicide by setting themselves on fire. The hospital in Herat has registered approximately 100 cases a year in the last three years. The AIHRC documented 380 cases between September 2003 and April 2004, the majority of which resulted in death. The victims are mostly girls and young women from middle- and lower-class families. Self-immolations, according to some, result from a sense of deprivation as women compare the harsh reality of their lives with what they see on television. On the other hand, many of the victims are refugees who have returned from Iran, and some observers suggest that it is the difficulty to cope [sic] with the hardships of displacement that might contribute to driving these young women to self-immolation. A fact-finding mission conducted by the Government in March 2004, however, concluded that while they could not assess the exact extent of the suicides, 'forced marriages, lack of education and unacceptable customs are the main reasons for the suicides'." (UN Special Rapporteur, 15 February 2006) **[39m] (p8)**

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24. CHILDREN

GENERAL INFORMATION

24.01 A May 2006 UNHCR paper stated that:

"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, children continue to be exposed to exploitation." **[11g] (p2)**

24.02 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that "Child abuse was endemic throughout the country, ranging from general neglect, physical abuse, 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." **[2a] (section 5)**

24.03 The USSD 2005 Report also stated that "Exchanging women or girls remained a customary method of resolving disputes or satisfying debts. For example, a six-year-old girl's parents traded her to work as a housemaid to another family after the girl's brother backed out of an engagement with the family's daughter." **[2a] (Section 5)**

24.04 Information on the AIHRC website dated 5 April 2005 stated that there were still concerns about children held in detention centres. Children were normally kept in centres which lacked appropriate facilities and they were exposed to physical and sexual exploitation. The AIHRC noted that "There are about 134 juvenile offenders in correction facilities, but in 12 provinces of the country specialized correction centers are non-existent and the offending children are kept in detention with the elders." The AIHRC also stated that a number of

children who had not committed any offences were detained in jail with their mothers because there was no one to care for them at home. **[78c] (p3)**

24.05 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]**

24.06 Information provided by the AIHRC dated April 2005 stated that 60 per cent of children had lost a family member (statistics from UNICEF and Save the Children, Sweden). UNICEF statistics also showed that 35 per cent of children had lost relatives or friends. **[78c] (p1)**

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CHILD LABOUR

24.07 "The 2004 Constitution of Afghanistan prohibits forced labour for [sic] children (Article 49). The Convention on the Rights of the Child (CRC), which Afghanistan has ratified, sets out the right of the child to be protected from economic exploitation; and from any work that is likely to be hazardous, or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development… Afghanistan is not a party to ILO (International Labour Organisation) conventions relating to child labour." (Afghan Independent Human Rights Commission, May 2006) **[78f] (p18)**

24.08 The USSD 2005 Report, published on 8 March 2006, stated that:

"The law 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. UNICEF reported an estimated one million child laborers under the age of 14 in the country. UNICEF also estimated that over 24 percent of children between the ages of 7 and 14 were working. Children from the age of six often worked to help support their families by herding animals, collecting paper, scrap metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines." **[2a] (section 6d)**

24.09 A report dated 5 April 2005 by the Afghan Independent Human Rights Commission stated that:

"Children born during the war have now become the breadwinner for their families. War, mines and explosives have resulted in 700,000 widows and 200,000 disabled who are mostly supported by the post war children. These children work in the factories, workshops and carpet waving industries under very difficult and unsafe situations. In Kabul there are about 60,000 child laborers, the majority of whom have migrated to the city from other provinces. Many of them are working under unscrupulous employers who subject the children to sexual exploitation and forced labor." **[78c] (p2)**

24.10 A UNHCR paper dated May 2006 stated that "Many children are working in the streets of Kabul, Jalalabad, and Mazar-i-Sharif with numbers increasing. The child work 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." **[11g] (p2)**

24.11 On 7 December 2005, IRIN News reported that:

"UNICEF has expressed its concern that a considerable number of children were involved in heavy and dangerous works, such as construction… According to officials at the Ministry of Labour and Social Affairs, the government is working to tackle the problem of child labour in Afghanistan. 'We have provided vocational training and literacy programmes to around 38,000 child labourers across the country,' Mohammad Ghaus Bashiri, the deputy minister, said." **[36c]**

24.12 A May 2006 report by the AIHRC, reflecting research from April to December 2005, found that:

"Child labour can also be linked to poverty and an adequate standard of living since it is understood that the more economically vulnerable a household is the higher the proportion of working children (under age 15), and the less likely it is that the household will be able to afford to educate their children … 48.8% of interviewees reported that at least one child in their family works and 19.4% of all interviewees said that most or all of the children in their family work." **[78f] (p14)**

24.13 Research involving 18,443 child labourers carried out by the AIHRC from July 2005 to March 2006 found that "… Afghan children are involved in a range of different works [sic], but most of them have been seen to be involved in working on the streets, carpet-weaving, work in farms, selling, blacksmithing, labouring and begging." **[78g] (p11)** The survey also found that 65 per cent of children who worked did not attend school. The 35 per cent who said they did go to school experienced low–quality education due to weariness, inability to follow courses and lack of time to do homework. **[78g] (p16)**

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CHILD KIDNAPPINGS

24.14 The RFE/RL report of 26 November 2004 also 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." **[29e]**

24.15 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]**

24.16 The AIHRC report dated 5 April 2005 stated that:

"Trafficking and kidnapping of children in Afghanistan has become a major problem for families and the government. Many children have been trafficked across borders for sexual exploitation, forced labor or removal of organs and limbs. In 2004, 300 cases of child trafficking were reported. Police and the relevant authorities have been ineffective in preventing incidents of child trafficking due to lack of professionalism and logistics. Fortunately, with the attempts of AIHRC and cooperation of the government and the international community a national plan of action against child trafficking was developed and approved by the government in July 2004… The AIHRC is one of the institutions committed to monitor the implementation of the national plan of action against trafficking and has had an active role in the process of family reintegration for children who were deported from Saudi Arabia. The deportation of these children is indicative of the existence and severity of this problem." **[78c] (p2)**

(See also Section 25: Trafficking for more information)

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CHILD MARRIAGE

24.17 A UNIFEM publication dated September 2005 stated that "In Afghanistan marriage is regulated by civil law, various interpretations of Sharia law, and traditional and customary practices. While Sharia law sets the minimum age for females at 15, and customary practices approve marriage at earlier ages, civil law sets the minimum marriage age for females at 16." **[72b] (p2)**

24.18 The UNIFEM report also stated, however, that "Nearly 60 percent of marriages in Afghanistan involve girls below the legal age of 16, according to reports from the Ministry of Women's Affairs and NGOs." **[72b] (p1)** Furthermore "Dr. Sima Samar, Head of the Afghan Independent Human Rights Commission said that surveys conducted by the Commission found that 'many girls aged 6 and 7 get married with men aged 30 to 40 years old.'" **[72b] (p2)**

24.19 The February 2006 report of the UN Special Rapporteur stated that:

"Economic reasons are said to play a significant role in such marriages. Due to the common practice of bride money, the girl child becomes an asset exchangeable for money or goods. Families see committing a young daughter (or sister) to a family that is able to pay a high price for the bride as a viable solution to their poverty and indebtedness. In another typical scenario, a brother and a sister are married to another pair of siblings to avoid, by mutual compensation, any payment having to be made.

"The custom of bride money may motivate families that face indebtedness and economic crisis to 'cash in' the 'asset' as young as 6 or 7, with the understanding that the actual marriage is delayed until the child reaches puberty. However, reports indicate that this is rarely observed, and that little

girls may be sexually violated not only by the groom but also by older men in the family, particularly if the groom is a child too." **[39m] (p8)**

(See also Section 23: Marriage for more information on marriages)

CHILD SOLDIERS

24.20 The USSD 2005 Report, published on 8 March 2006, stated that:

"There were no new reports of the recruitment of child soldiers since President Karzai's 2003 decree prohibiting the recruitment of children and young persons under the age of 22 into the army. In 2004 UNICEF initiated a program that demobilized and reintegrated approximately four thousand of an estimated eight thousand former child soldiers. The remaining four thousand soldiers were transitioned out of the military during the year. "**[2a] (section 5)**

24.21 In April 2005, the AIHRC stated that, as a result of two decades of war, most Afghan children became familiar with firearms and some as young as 15 were recruited into armed groups. Most of these children had now been disarmed by the DDR (Disarmament, Demobilisation, and Reintegration) process, rehabilitated and returned to their normal civil life. Nevertheless, the AIHRC also stated that even though Afghanistan was committed to the Convention on the Rights of the Child, human rights offices had been created in national army and police centres and the national army, had stopped recruiting children, "… some of the local commanders continue to retain children for physical and sexual exploitations." **[78c] (p3)**

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EDUCATION

24.22 The Constitution adopted in January 2004 recognised that education is the right of all citizens of Afghanistan. **[81]** The US State Department Report 2005 recorded that "The law makes education up to the intermediate level mandatory, and provides for free education up to the college, or bachelor's degree level." **[2a] (Section 5)**

24.23 On 19 May 2005, a World Bank Group 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]**

24.24 A Human Rights Watch report published in July 2006 stated that:

"Since 2001, the participation of children and adults in education has improved dramatically and, as explained below, there is great demand. Afghanistan has one of the youngest populations on the planet – although exact numbers do not exist, an estimated 57 percent of the population is under the age of eighteen. Unexpectedly large numbers showed up when schools reopened in 2002, and enrollments have increased every year since, with the Ministry of

Education reporting that 5.2 million students were enrolled in grades one through twelve in 2005. This includes, they told us, an estimated 1.82 – 1.95 million girls and women. An additional 55,500 – 57,000 people, including 4,000 – 5,000 girls and women, were enrolled in vocational, Islamic, and teacher education programs, and 1.24 million people were enrolled in non-formal education. These numbers represent a remarkable improvement from the Taliban era. Indeed, more Afghan children are in school today than at any other period in Afghanistan's history.

"Despite these improvements, the situation is far from what it could or should have been, particularly for girls. The Ministry of Education estimates that 40 percent of children aged six to eighteen, including the majority of primary school-age girls, were still out of school in 2005. Older girls have particularly low rates of enrollment: at the secondary level, just 24 percent of students were girls in 2005; and the gross enrollment rate for girls in secondary education was only 5 percent in 2004, compared with 20 percent for boys. In six of Afghanistan's then thirty-four provinces, girls made up 20 percent or less of the students officially enrolled in school in 2004 – 2005. Even at the primary level, girls are not catching up: the gap in primary enrollment between boys and girls has remained more or less constant despite overall increases in enrollment.

"Enrollment also has varied tremendously by province and between urban and rural areas. Many children in rural areas have no access to schools at all. Seventy-one percent of the population over age fifteen – including 86 percent of women – cannot read and write, one of the highest rates of illiteracy in the world." **[17l] (p25-26)**

24.25 A report by the UN Secretary-General dated 30 December 2005 stated that: "Schools also continue struggling with high drop-out rates and serious shortages of teachers, especially female teachers. In Uruzgan province, for example, there are no female teachers at all." **[39b] (para. 52)**

24.26 The UN Secretary-General's report further stated that:

"The Government also aims for 100 per cent enrolment as part of the MDG [Millennium Development Goal] targets for 2015, with girls' enrolment at 50 per cent. The Government faces challenges to the achievement of this goal, for example lack of school facilities, in particular girls' schools in rural areas. The challenge is more formidable with regard to girls' secondary schools, which are very few and scattered. Other [sic] challenges, such as insecurity, the distance children have to go to get to schools, poverty, lack of female teachers, negative attitudes to girls' education and early marriages remain. Armed factions opposed to the Government have also targeted girls' schools and carried out terrorist attacks such as bombings or burning down schools and campaigning against female education." **[39b] (para. 55)**

24.27 The Human Rights Watch July 2006 report documented 204 incidents of attacks on schools, teachers and students from January 2005 to 21 June 2006, indicating a sharp rise in attacks on the education system in late 2005 and 2006: "… while southern and southeastern provinces generally experienced more attacks, northern provinces were not exempt. Indeed, attacks were reported in twenty-eight of Afghanistan's thirty-four provinces." **[17l] (p125)** In addition, "There have been reports of at least seventeen

assassinations of teachers and education officials in 2005 and 2006…Even more common have been threatening "night letters," alone or preceding actual attacks, distributed in mosques, around schools, and on routes taken by students and teachers, warning them against attending school and making credible threats of violence." **[17l] (p4)**

24.28 HRW stated that they were unable to determine with certainty who the perpetrators of the attacks and threats were:

"But it is clear that many attacks on teachers, students, and schools have been carried out by Taliban forces (now apparently a confederation of mostly Pashtun tribal militias and political groups) or groups allied with the Taliban, such as the forces of Gulbuddin Hekmatyar's Hezb-e Islami (previously bitter rivals of the Taliban). But the Taliban are clearly not the only perpetrators of such attacks, because in many areas local observers and Human Rights Watch's investigation indicated the involvement of militias of local warlords (for instance in Wardak province, where forces loyal to the warlord Abdul Rabb al Rasul Sayyaf hold sway) or criminal groups (such as those controlling smuggling routes in Kandahar and Helmand provinces)." **[17l] (p8)**

24.29 On 11 September 2006, the UN Secretary-General reported that:

"The right to education has been compromised owing to a marked increase in the number of attacks on schools since late 2005. The majority of attacks have taken place in the southern and south-eastern regions, where they are mainly attributed to insurgents or in some cases to criminal elements. From January to July [2006] a total of 202 violent incidents against schools, teachers or pupils have been recorded as compared with 99 during the previous year, partly or completely denying education to at least 105,000 Afghan children in the south. The Ministry of Education, the United Nations Children's Fund (UNICEF) and other partners have set up a special national task force to strengthen the protection of students, teachers, school officials and schools themselves and facilitate a rapid response when incidents arise." **[39n] (p9)**

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CHILD CARE

24.30 The AIHRC Report on the situation of Afghan children, dated 5 April 2005, stated that:

"Despite the efforts made by state and specifically by the ministry of labor and social affairs in providing active orphanages in 29 provinces of Afghanistan, the living conditions for the children are not satisfactory and they don't have access to health services, recreational facilities or stimulation.

"Whereas, 9,165 orphan children are living in the orphanages supported by the government, about 300 children live under the support of aid agencies. Until present, no regular disbursement of support or a vocational training program for the families of such children is in existence (excepting a small number of limited services available to some of the children in orphanages).

Some poor families who can not support their children also send them to orphanages." **[78c] (p3)**

24.31 A UNICEF paper dated 24 May 2006 stated that "An estimated 80 per cent of children living in orphanages are believed to have at least one living parent." **[44a]**

24.32 A UNHCR paper dated May 2006 stated:

"The few existing orphanages in Kabul and marastoons [see note 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, return for unaccompanied children to Afghanistan therefore exposes them to exploitation and risk." **[11g] (p2)**

[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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HEALTH ISSUES

24.33 A UNICEF News note dated 4 August 2005 stated that:

"While Afghanistan is progressing from a state of emergency to a focus on development, women and children continue to face an 'acute emergency' because of exceptionally high maternal and child mortality rates. 'Infant mortality and under five mortality are very high, girls' enrolment is one of the lowest in the world and malnutrition affects almost half of the country's child population,' said Cecilia Lotse, UNICEF's Regional Director for South Asia, after a week-long visit to the region.

"An Afghan child today had a one in seven chance of dying before their first year as a result of illness and malnutrition. Moreover, one child in five died before his or her fifth birthday as a result of common, but preventable childhood diseases such as diarrhoea, pneumonia, malaria, typhoid and others that could be prevented by simple immunisations and sanitary practices, she added." **[44b]**

24.34 The Foreign & Commonwealth Office Afghanistan Country Profile, reviewed in August 2006, noted that:

"Immunisation is having a real impact. In March 2006, a Ministry of Public Health, UNICEF and World Bank nationwide campaign was launched to immunise 7 million children, in all of Afghanistan's 34 provinces, against polio. Since 2002 UN agencies have administered 16 million vaccinations against measles, saving an estimated 30,000 lives. Cholera and diarrhoeal diseases are being tackled through health education, water chlorination and the construction of wells throughout the country." **[15c] (p9)**

(See also Section 26: Medical Issues Women and children)

25. TRAFFICKING

25.01 A 2004 review paper by the International Organization for Migration (IOM) concluded that the following forms of trafficking are taking place in Afghanistan:

- 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. **[38] (p3)**

25.02 The US State Department (USSD) Report on Trafficking in Persons, published in June 2006, stated:

"Afghanistan is a source country for women and children trafficked internally and to Iran, Pakistan, and Saudi Arabia for forced labor and commercial sexual exploitation. Children are trafficked internally for forced labor as beggars or into debt bondage in the brick kiln and carpet-making industries. Afghan women and girls are kidnapped, lured by fraudulent marriage or job proposals, or sold into marriage or commercial sexual exploitation within the country and in Iran, Pakistan, and Saudi Arabia. Women are also exchanged to settle debts or resolve conflicts. The Afghan Independent Human Rights Commission reported 150 cases of child trafficking this year, though many suspect the actual level of trafficking is higher.

The Government of Afghanistan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Although the government has had an interagency working group on trafficking for two years, little discernable action has resulted due in large part to limited resources and lack of capacity. Afghanistan did not enact a trafficking law in 2005, though it continued to rely on kidnapping and other criminal laws to prosecute trafficking offenses. Afghanistan also has not taken sufficient action to address the reportedly high degree of corruption among police and border guards. Police officers, prosecutors, and judges often lack training and sensitivity to trafficking issues. As a result, the government's prosecution level is low and many cases are never heard." **[2b] (p55)**

25.03 The same report also stated that:

"Over the year, Afghanistan made some progress in its anti-trafficking law enforcement efforts…This year, Afghanistan reported 40-70 arrests of child

traffickers. Four prosecutions resulted in 15 convictions, with six traffickers sentenced to jail terms ranging from eight months to 20 years and seven traffickers sentenced to death… The Government of Afghanistan, with limited resources, made modest improvements in its protection efforts, but deficiencies remain. The government cooperated with Saudi Arabia to repatriate children trafficked for forced begging. While the Government of Afghanistan still lacks a shelter providing medical, psychological, and legal aid to trafficking victims, there are shelters operated by NGOs. Adult victims are sometimes jailed. The government also does not encourage victims to participate in trials of their traffickers." **[2b] (p55)**

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26. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

26.01 The Foreign & Commonwealth Office (FCO) Afghanistan Country Profile, reviewed in August 2006, stated that:

"The health infrastructure in Afghanistan damaged or destroyed by years of conflict, is gradually being reestablished by the Afghan Government with the help of the international community. The health services inherited at the end of 2001 were limited in capacity and coverage, and while the Ministry of Health has shown leadership the health status of the Afghan people is still among the worst in the world. The majority of the population lacks access to safe drinking water and sanitary facilities. Disease, malnutrition and poverty are rife and an estimated 6.5 million people remain dependant on food aid." **[15c] (p8-9)**

26.02 Statistics in the FCO Country Profile on Afghanistan showed that:

"average life expectancy is 44.5 years (UNDP, July 2005)

1 in 6 babies dies during or shortly after birth (UNDP, July 2005)

20% of children die before reaching the age of 5 (UNICEF, 2005)

17,000 women die each year from pregnancy related causes (UNICEF, 2005)

12% of the population have adequate sanitation (World Bank, July 2005)

13% of the population have clean drinking water" (World Bank, July 2005) **[15c] (p8-9)**

26.03 The same FCO Country Profile also stated that:

"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 to the entire population. The package consists of services for maternal and newborn health; child health and immunisation; nutrition; communicable disease; mental health; disability; and the supply of essential drugs. 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. There are now over 900 clinics and approximately 40% of the population have access to healthcare." **[15c] (p9)**

26.04 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)** A March 2006 report by the Afghan Independent Human Rights Commission (AIHRC) recorded statistics of one doctor and five nurses for every 100,000 persons and one bed for every 300 persons. **[78b]**

26.05 On 24 February 2006, a news article by the Institute of War and Peace Reporting stated that:

"The right to free healthcare is enshrined in the country's constitution. Yet, if they can afford it, many Afghans would rather go to a private medical facility than to the government's underequipped, understaffed, and underfunded institutions. Most people, however, don't have that option as the fees charged by private hospitals, while modest by Western standards, put them beyond their reach." **[73i]**

26.06 The 2005 annual report by the International Committee of the Red Cross (ICRC), published in June 2006, stated that:

"By the end of 2005, people living in some of the poorest areas of the country still had no access to primary-health-care services, and donors backing the Basic Package of Health Services were looking for NGOs to extend coverage in underserved districts. The Essential Package of Hospital Services, the national plan for provision of secondary health care, was adopted during the year." **[42c] (p160)**

26.07 A May 2006 report by the AIHRC, based on research conducted in mainly rural areas between April and December 2005, found that "75.4% of all interviewees (5,979) stated that health care facilities [i.e. clinics and hospitals] were available to them; 24.6% of all interviewees (1,950) stated that health care services were not available." However, "Despite the fact that over 70% of interviewees stated that health care facilities were available, 54.8% of all interviewees (4,343) reported that they do not use the existing facilities." The main reasons given for not accessing health facilities were:

Difficult to get to – 33.8 per cent (2,683);
Health facilities not available – 24.6 per cent (1,950);
Bad quality – 10 per cent (791);
Inability to pay for services and medicines – 3.7 per cent (290);
No female staff – 3.6 per cent (287);
Discrimination – 1.6 per cent (125).
[78f] (p27)

26.08 The ICRC's report also stated that the organisation had continued to support hospitals not yet covered by government schemes, and its support to hospitals

in Shiberghan, Jalalabad (Public Health Hospital 1) and Kandahar (Mir Wais) continued throughout 2005:

"As government coverage of hospitals increased, it scaled back its hospital assistance, handing three of the hospitals it was supporting over to the Ministry of Public Health [in Ghazni, Taloqan and Kabul]. ICRC activities focused largely on cities, which remained accessible throughout the year. Staff movements were seriously restricted in rural areas, especially in the south and the east of the country, where all but Kandahar and Jalalabad remained offlimits to both national and expatriate staff." **[42c]**

26.09 A UNHCR paper dated May 2006 advised that:

"For some medical cases, return to Afghanistan is impossible, unless effective family or community support and care is available during the treatment period. For others, there may be no treatment possibilities and no medication in Afghanistan for the time being. Particularly secondary, depending on the location, and tertiary health care services are very limited, with the major priorities of Afghanistan's National Health Policy for the period 2005 to 2009 being the following:

Implementing health services:
- Implement the basic package of health services
- Implement the essential package of hospital services
- Establish prevention and promotion programmes

Reducing morbidity and mortality:
- Improve the quality of maternal and reproductive health care
- Improve the quality of child health initiatives
- Strengthen the delivery of cost effective integrated communicable diseases control programs

Institutional development:
- Promote institutional and management development
- Strengthen human resources development, especially of female staff
- Strengthen health planning, monitoring and evaluation." **[11g] (p3)**

26.10 The same UNHCR paper also advised that: "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.)" **[11g] (p2)**

26.11 UNHCR further noted that the following surgical operations cannot be performed and post-operative care is unavailable in Afghanistan: micro-neurosurgery; heart surgery ("One hospital in Kabul, supported by the international community has started to undertake the surgical operation of children with congenital heart diseases (payment)" [see also paragraph 26.22 below]; 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. **[11g] (p4-5)**

26.12 The May 2006 UNHCR report also recorded that "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; minor mental diseases; juvenile rheumatic arthritis." The report also noted that patients with these conditions require family care in the hospital and at home. **[11g] (p5)**

26.13 UNHCR also noted that:

"The hospitals may provide only about 30% of the medicine required. The caretaker [family member or relative] is required to purchase about 70% of the medicine in [the] bazaar… 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.

The services and medicines available in governmental hospitals are free of charge. However, the prices for medical services in the private sector vary from Afs.100–150 (US $.2–3) for a doctor's visit fee up to Afs.100, 000 (US $.2, 000) for some basic surgeries. Ambulance services, which are only available in few private clinics in major cities, cost Afs.200 – Afs.500 (US $.4–10) within city limits. An ultrasound examination costs Afs.150 – 300 (US $.3–6) whereas a dialysis, which is only available in Kabul, costs Afs.7,000 (US $140)." **[11g] (p5)**

26.14 UNHCR also advised in May 2006 that the following medicines were 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; Acnocoumarol (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 Gloeocorticoid); Pentaerythritol Tetramitrate (Vasodilator/Anti Angina); Prostaglandin E1; Oruinine (Anti Malaria); Finasteride (Antiandrogen); Isoproterenol (Antiarythmia)." **[11g] (p5-6)**

26.15 In August 2006 the World Bank reported that "Afghanistan has around 50 international NGOs and about 100 national NGOs involved in the area of health. Eighty percent of existing health facilities are either operated or supported by NGOs. The support [by] NGOs [of] the health care system is critical, [in areas] including drug supplies, supervision, training, and incentives." **[69b] (p3)**

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WOMEN AND CHILDREN

26.16 "Afghanistan's Maternal Mortality Ratio (MMR) is estimated at 1,600 to 1,900 maternal deaths per 100,000 live births, which is one of the highest in the world. Skilled attendants are present at only 14.3 percent of births and one survey found that between 30 percent and 90 percent of women in rural areas could not access health care during pregnancy." (United Nations Development Fund for Women, 31 August 2006) **[40y]**

26.17 A March 2006 report from the Afghan Independent Human Rights Commission indicated that, according to their studies "… 24.6% of people have no access to acceptable health service[s] and the majority of them are women. In addition 54.8% of people can not use the so called health centers due to long distances… The level of accessibility to health services is different in various provinces. Women['s] access to health service[s] is only 5 to 7% in the south west (Zabul, Helmand), in some districts of central Afghanistan, there isn't any female doctor or health worker. Difficult roads are another obstacle for women to have access to health services." **[78b]**

26.18 A report by the UN Secretary-General dated 30 December 2005 stated that:

"Enhanced and coordinated efforts are urgently needed to improve women's access to health services, particularly reproductive health services, and to support the Government in meeting its goal of reducing maternal mortality by 25 per cent by 2008. Insecurity and lack of female doctors still prevent many women from seeking health care. Corrective action must address these problems as well." **[39b] (para. 51)**

26.19 In July 2006, Isobel Coleman, the Director of Foreign Policy and Women Programme at the Council on Foreign Relations, was reported as saying that the figure of one out of six women destined to die in childbirth in Afghanistan was incredibly high compared to other countries such as the US (one out of 2,500) and Sweden (one out of 29,000):

"The Afghan government… is well aware of the monumental challenges it is facing, not only with the maternal-mortality rate but with women's issues in general. At the same time, there is little that President Hamid Karzai's government can do in the short term to improve the situation.

"'There are very few trained midwives and doctors in the country and the government is taking action to try to address that, but it's very expensive,' she says. 'And training of midwives, and improving girls' literacy, all of these things are what it [sic] is going to be required to address the frankly medieval maternal–mortality statistics in Afghanistan today.'

"Coleman says that problems with maternal mortality in Afghanistan are compounded by cultural values, such as poor treatment of women. As a result, she says, women are not only deprived of the basic health care but are often malnourished during pregnancy and do not have access to obstetricians and medicines when emergencies occur. In some parts of Afghanistan, she says, religious stigma toward gender separation is so deeply ingrained that a husband would rather let his wife die in childbirth than allow a male physician to treat her." (Radio Free Europe/Radio Liberty, 4 July 2006) **[29x]**

26.20 The Rabia Balkhi Women's Hospital is the only women's hospital in Kabul. "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." In 2005, doctors at the hospital carried out the first ever blood transfusion that saved a newborn baby's life. (International Medical Corps, 2006) **[86b]**

26.21 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that "Children did not have adequate access to health care; only one children's hospital existed in the country, and it was not readily accessible to those outside Kabul." **[2a] (Section 5**) However, information on the US Embassy in Kabul's website, accessed on 13 September 2006, showed that there were two children's hospitals in Kabul: the Indira Ghandi and the Ataturk. **[9]**

26.22 In June 2006, the Institute for War and Peace Reporting reported on the French Medical Institute for Children (also known as the Mother and Child Hospital) in the Kart-e-Sakhi area of west Kabul, which is funded by French donors. It was reported that the hospital had just carried out the first ever open-heart surgery in Afghanistan, on a 13-year-old girl:

"Hospital manager Abdul Rauf Baha said the hospital has about 100 beds and four operating theatres. The 230 staff include 20 doctors, two of them French. Baha said 26 cardiac operations have been carried out at the hospital since it started working, 12 of them involving open-heart surgery. The cardiac operations are performed by French doctor Alain Deloche, with Afghan physicians assisting…

"Younus Delyab, who heads the hospital's charitable arm which assesses patients' ability to pay, explained how discounts are awarded, 'Many patients aren't able to pay a lot of money. Fees vary from 25,000 to 30,000 afghanis (500–600 dollars) per operation. But most patients pay 16 per cent of the fees.' The hospital has carried out around 500 operations of various kinds, but Delyab said only two patients had been charged the full rate." **[73e]**

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HIV/AIDS

26.23 An April 2005 survey of groups at high risk of contracting sexually transmitted infections and HIV/AIDS in Kabul by ora international, the first survey of its kind in Afghanistan, found that "Staff in clinics and hospitals … have limited knowledge regarding HIV/AIDS and at times discriminate against those who are HIV positive (thinking that HIV/AIDS is something the 'foreigners' have brought into the country)." **[93] (p5)** The survey detailed a case in which a father and two children had died from HIV/AIDS. The two children had been referred to the Infectious Diseases Hospital (IDH). Subsequently, "ora international were informed that the staff at the IDH were uncooperative, had no facilities to deal with AIDS patients and had no correct information about HIV/AIDS. As a result they had no idea how to deal with the two patients. Both children were sent home after a few hours and both died within the next 24 hours. The principle reason for death was severe and sustained diarrhoea." **[93] (p20-21)**

26.24 In August 2006 the World Bank Group reported that there was no reliable data on the prevalence of HIV/AIDS in Afghanistan. They reported that 48 cases had been reported through blood bank branches. **[69b] (p1)** On 30 August 2006, IRIN news reported the number of registered cases of HIV as 58 and also said that health officials believed the real number was much higher: "Dr Shokrullah Waheedi, head of preventive medicine in the Ministry of Public Health (MoPH), said a countrywide survey of the virus had not been conducted and it was spreading due to a lack of awareness." **[36k]**

26.25 The World Bank report noted that:

"… UNAIDS and the World Health Organization (WHO) estimate the number of people living with HIV could be between 1,000 and 2,000. Three deaths due to AIDS have been registered so far. There are reports, however, of people dying of AIDS in the border provinces who were diagnosed and treated in neighboring countries. The use of non-sterile injecting equipment during drug use is increasing and a major source of HIV transmission." **[69b] (p1)**

26.26 The IRIN News report of 30 August 2006 also stated that:

"Health experts have warned that war-ravaged Afghanistan faces a high risk of an HIV/AIDS epidemic due to the growing number of injecting drug users, refugees returning from Pakistan and Iran, the high number of internally displaced people, high illiteracy and ignorance, the low status of women, poor safe sex practices, a weak public health system and low awareness of the virus." **[36k]**

26.27 The August 2006 World Bank Group brief also noted that "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 by the Ministries of Religious Affairs, Education, and Women's Affairs." **[69b] (p2)**

26.28 A UNHCR paper dated May 2006 stated that it is currently not possible to treat AIDS in Afghanistan. Voluntary testing and counselling centres are available in the cities of Kabul, Herat, Mazar-i-Sharif and Jalalabad. **[11g] (p4)**

CANCER TREATMENT

26.29 Currently, no cancerous diseases can be treated in Afghanistan. (UNHCR, May 2006) **[11g] (p4)**

KIDNEY DIALYSIS

26.30 Doctors and the necessary medical instruments to treat renal failure are not currently available in Afghanistan. Dialysis is only available in three locations in Kabul. The treatment is private and a dialysis session costs 7,000 afghanis (US$140). (UNHCR, May 2006) **[11g] (p4)**

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MENTAL HEALTH

26.31 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…
> 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." **[8o] (p35-36)**

26.32 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." **[89] (p17)**

26.33 "Mental health is not a part of [the] primary health care system. Actual treatment of severe mental disorders is not available at the primary level. Community level workers from the local population (villages) have been involved in providing integrated health care for the last 8 years… There are community care facilities for patients with mental disorders. Mental Health is included in Basic Package for Health Services (BPHS) which covers health service delivery up to district level. New treatment guidelines for common mental health disorder[s] are being formulated (draft is ready). Four Community Mental Health Centers have been established in the capital [Kabul], but further expansion is required. There are 2 general psychiatric rehabilitation centres with 160 beds." (World Health Organisation Mental Health Atlas 2005) **[43]**

26.34 "Currently, there are no social workers, and there are only very few trained psychiatrists. Most doctors working as psychiatrists have either had in-service training or have attended short courses abroad. A three month diploma course was held in 1996 to train some doctors in psychiatry. Postgraduate training in psychiatry is not present. Psychologists get their training from Kabul University. Much of qualified manpower and technical expertise has left the country…

"NGOs [Non-Governmental Organisations] are involved with mental health in the country. They are mainly involved in treatment. The Afghan Government collaborates with non-governmental organizations to rapidly expand basic (mental) health services to underserved populations…

"The following therapeutic drugs are generally available at the primary health care level of the country: carbamazepine, Phenobarbital, amitriptyline, chlorpromazine, diazepam, haloperidol. The cost of medicines keeps fluctuating as the local currency is unstable due to the war. Over-the-counter sales of psychotropics occur." (World Health Organisation Mental Health Atlas 2005) **[43]**

26.35 A UNHCR paper dated May 2006 advised that:

"There is very limited to no form of psycho-social trauma support in Afghanistan [UNHCR footnote: 'In some regional hospitals, psychiatric facilities exist, but only one hospital in Kabul city provides psychological counseling, as does an international NGO, equally in Kabul']. The concept of 'counseling' as a profession in public health services 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 forms of sexual violence, including rape [UNHCR footnote: 'Any manifestation of what might be termed 'depression' is treated by medical professions with drugs. Doctors lack diagnostic as well as allopathic resources, thus depression is compounded by overdoses of valium or other medication. Physical conditions that require specialist care are unlikely to find this in Afghanistan. Rape is not a socially recognized category. It is only rarely a legally recognized category; as a report by the International Commission of Jurists found, women tend not to be treated equitably to men before the law. Rather they are judged according to customary law, whereby a victim of rape is more likely to be judged a prostitute and thus face prosecution as the perpetrator of the violation. Male victims of rape are not discussed. Sexual abuse of children is known but not acknowledged. There is no in-country support for rape victims.']

"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.

"As a general humanitarian principle, where such trauma constitutes 'compelling reasons arising out of previous persecution', it should be properly recognized even if a change of conditions in the country of origin has taken place at the time a decision on the application is taken. Otherwise, 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 hardly [any] specialized institutions and personnel. This is particularly true for severe mental illness such that the person cannot be self-sufficient." **[11g] (p2-3)**

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OTHER MEDICAL CONDITIONS

26.36 The Danish fact-finding mission of March/April 2004 reported on the availability of treatment for certain illnesses. Their report published in November 2004 stated that:

"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)**

26.37 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: "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)**

[See also Section 26.22 regarding a recent heart operation on a child]

26.38 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." **[39f] (p14)**

26.39 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." [60b] In a report dated 30 December 2005, the UN Secretary-General advised that "Recent figures on tuberculosis indicate that over 60 per cent of new tuberculosis patients are women." **[39b] (para.47)** In March 2006, the AIHRC stated that 70 per cent of tuberculosis victims were women. **[78b]**

26.40 On 14 August 2006, the *Frontier Post*, a Pakistani national newspaper, reported that, according to the overseer of the polio programme in the Afghan Ministry of Public Health, there had been 24 cases of polio in Afghanistan so far in 2006, compared to nine cases during the whole of 2005. All but one

were in the south of the country and a number of factors were blamed for the increase: "… the increasing violence, unregulated travel across the border with Pakistan where polio is also a problem, difficulty in establishing local health services and poor communication with community leaders." **[40a]**

26.41 "Afghan Ministry of Public Health (MoPH) officials estimate hepatitis B kills more than 11,000 people annually, with 7 per cent of the country's population already infected… 'The number of patients [with hepatitis B] referring here is increasing every day,' Dr Murrad Mamozai, deputy director of the 200-bed Antoni infectious disease hospital in Kabul, the Afghan capital, said. Mamozai said nine of the 460 patients admitted to the facility with hepatitis during 2004 and 21 of the 540 patients admitted during 2005 had died.

"Ministry officials said it had launched a vaccination drive targeting children aged under two, but conceded that due to a lack of funds it could not reach all those in need." (IRIN News, 17 August 2006) **[36l]**

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27. HUMANITARIAN ISSUES

OVERVIEW

27.01 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… 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 … 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)

27.02 A 2005/06 Strategy Report by the Department for International Development (DFID) recorded that "After more than twenty years of conflict and isolation, Afghanistan has made rapid progress over the last 3½ years." However,

"Afghanistan's challenges remain formidable…

"After decades of insecurity, destruction and under-investment, poverty is deeply entrenched. Afghanistan is off-track on al [sic] the Millennium Development Goals (MDGs), and has some of the worst human development indicators in the world, ranking 173 out of 178 countries on the 2004 UNDP Human Development Index. Average income is about $300 per person (including from opium, which disproportionately benefits a minority). 71% of Afghans over the age of 15 cannot read and write, rising to 92% for rural women, and three out of five girls don't go to school. Life expectancy at birth is 45 years, and at least one in five children dies before the age of five. The maternal mortality rate may be the highest in the world: one woman dies from pregnancy-related causes approximately every thirty minutes, and in rural

areas fewer than 10% of women give birth in a health facility. Large parts of Afghanistan's infrastructure are in tatters; in more remote areas it has never been developed. The vast majority of Afghans do not have access to electricity or safe water." **[51a] (Paragraph 1.1 - 1.2)**

27.03 A June 2005 report by the 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)**

27.04 IRIN News reported on 1 February 2006 that, in spite of previous donations of billions of dollars bringing improvements such as new hospitals, clinics, roads and educational opportunities, most Afghans remained entrenched in poverty. **[36g]**

27.05 "Afghanistan is facing an imminent food crisis due to inadequate rainfall in the months of April and May [2006]. The drought conditions will affect up to an estimated 2.5 million people living in mostly rain-fed agro-ecological zones affected by drought. This estimate is in addition to the 6.5 million people who are seasonally or chronically food insecure…

"To adequately address the existing humanitarian needs and to limit further negative effects of a continuing drought, the Islamic Republic of Afghanistan and the United Nations are requesting assistance to the value of US$ 76,391,754." (Joint appeal by the Islamic Republic of Afghanistan and the UN, July 2006) **[55]]**

27.06 The UN News Service reported on 15 August 2006 that, in response to the appeal for assistance, the UN Office for the Coordination or Humanitarian Affairs (OCHA) was giving 11 million dollars. **[40d]** IRIN News reported on 4 August that the US Agency for International Development (USAID) was supplying food aid worth more than 16 million dollars in addition to the 20 million dollars the US agency pledged in late July 2006. **[36f]**

27.07 The UN News Service also reported on 15 August 2006 that recent floods had affected more than 5,500 families in Ghazni and Paktya provinces in the east of the country. **[40d]** On 6 September 2006, IRIN News reported that at least 11 people were missing after floods struck Nangarhar province, also in the east. Furthermore, "On 10 August, local authorities confirmed that floods had killed 33 and left thousands of people homeless in the southeastern provinces of Paktika, Ghazni and Paktia." Floods had also caused the deaths of at least 23 people and the destruction of hundreds of homes in Baghlan and Faryab provinces in the north of the country in April and July. **[36o]**

27.08 The UN Secretary-General's report of 11 September 2006 stated that "Insecurity has taken a serious toll on the capacity of the United Nations and aid organizations to deliver their humanitarian programmes in insurgency-affected areas. The majority of districts in the south are chronically or temporarily inaccessible for United Nations movements." **[39n] (p12)**

27.09 On 29 September 2006, the UN World Food Programme reported that the current military action against insurgents in southern and eastern Afghanistan was uprooting civilians and making conditions worse for people already in chronic need of food. The WFP update noted that "… the overall security

situation throughout Afghanistan remains alarming and continues to impose limits on WFP operations…" **[40q]**

(See also Section 29: Refugees and Internally Displaced People (IDPs))

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INTERNATIONAL AID

27.10 On 10 February 2006 the UN Secretary-General stated that participating countries and organisations at an international conference in London had announced further financial assistance for Afghanistan of $10.5 billion, over a five-year period. **[39h] (p12)**

27.11 On 30 January 2006, Human Rights Watch had stated that:

"Two past international donors' conferences, held in Tokyo in 2002 and Berlin in 2004, failed to provide the $28 billion the World Bank and the Afghan government estimated was needed to rebuild the country. Slightly more than half of this figure has been pledged by the international community, but less than $5 billion delivered, over the past four years. By comparison, reconstruction budgets in Kosovo, Bosnia, and East Timor were up to 50 times greater on a per capita basis." **[17p]**

27.12 On 7 July 2006, the Institute of War and Peace Reporting reported on the Joint Coordination and Monitoring Board (JCMB), a committee set up to oversee aid money coming into Afghanistan:

"The Joint Coordination and Monitoring Board is a 28-member committee of internationals [sic] and Afghan officials whose job is to monitor the implementation of the Afghanistan Compact, a framework plan of action agreed at a donor conference in London on January 31–February 1 [2006].

"At the meeting, the various participating governments pledged 10.5 billion US dollars to Afghanistan over the next five years, to be spent in three key areas: security; governance, rule of law and human rights; and economic and social development. The JCMB is a response to past concerns about the lack of a system to check and manage where the foreign aid money was going. Coordination by different groups doing similar things was at times incoherent and it was unclear where some of the funds ended up." **[73l]**

(See also Section 3: Afghanistan Compact)

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HUMANITARIAN SITUATION IN KABUL AND OTHER URBAN AREAS

27.13 On 21 June 2006, the UN Human Settlements Programme (UN-HABITAT) reported on the speech of Afghanistan's Minister of Urban Development, Mr Mohammad Yusuf Pashtun, at the World Urban Forum:

"After 25 years of war, Afghanistan's cities had been destroyed, many of them literally flattened on a scale unimaginable to people outside the country. He [the minister] characterised the country's urban landscape as being in a severe state of post-conflict breakdown: more than 70 percent of all urban infrastructure had been totally destroyed, with the remaining 30 percent in poor condition.

"At the same time, between 1978 and 2002 the urban populations had grown from 1.5 million to over five million people. He also said a further 5 million refugees had returned, and that with internally displaced people now streaming back to towns and cities, the country was experiencing a 5 percent urban growth rate. They were mainly starting life in new slums and mushrooming informal settlements.

"'Afghanistan also faces rapid rural to urban migration, the absence of effective land management policies, and acute shortages of technical human capacities at the planning and municipal levels,' he said. 'The situation could not be better described than as a real urban crisis posing real urban problems.'" **[40k]**

27.14 An April 2005 report from the Netherlands Institute of International Relations stated that "The standard of living of many people in Kabul and other cities has actually deteriorated since the defeat of the Taliban." **[89] (p25**) The US Agency for International Development (USAID) concurred in an article dated 13 February 2006 which stated that "Given ambient levels of housing and urban service quality, it is highly likely that much, if not most, of the Kabul area population has experienced a decline in living conditions since 2001." **[60a]**

27.15 An IRIN News article dated 28 September 2005 reported that "Since the Taliban were ousted in December 2001, rent prices in the capital have skyrocketed, fuelled in part by the arrival in strength of foreign NGOs, with an average family house now going for up to US $800 per month - far beyond the reach of Kabul residents." **[36d]**

27.16 On 30 January 2006, an article by a Board member of the International Crisis Group stated that:

"Since the fall of the Taliban, despite huge amounts of international money spent on overhauling civic infrastructures, material improvements have lagged, bringing little relief to the daily life of a largely dispirited population who lack basic commodities and struggle with soaring prices.

"Yet, the city is bustling, with streets streaming with people... And the sound of music, a vital component in Afghan life, floats in the air. Indeed, a sharp contrast with the authoritarian and anguishing regime imposed by the Taliban. The situation in Kabul is paradigmatic of the contradictions still embedded in Afghan society." **[26g]**

27.17 On 22 June 2006 the World Bank published a report on land management in Kabul which stated that the population of Kabul was expected to grow by about 150,000 each year for the next few years:

"The majority of Kabul's new migrants are informally housed. While this has prevented an even larger crisis of homelessness, informal development has

led to legal and regulatory violations, including violations of property rights and rights of way, and has left insufficient space for infrastructure and social facilities…

"Kabul's main problem is not housing, but access to land and provision of infrastructure. Only 0.5% of Kabul's population is considered homeless, including 10,000 people living in tents and 5,000 living in the ruins of destroyed buildings…

"Informal settlements now shelter about 80% of Kabul's population, cover 70% of its land area, and represent a private investment in fixed capital of US$2.5 billion (not including land value). Hence, informal settlements are here to stay." **[69c] (Policy Note Series n.1)**

27.18 The World Bank report also noted that the quality of houses in the informal settlements was good; however, "… most informal neighbourhoods in Kabul lack basic infrastructure, including access to water, sewerage, and drainage. **[69c] (Policy Note Series n.2)** A report by the Afghanistan Research and Evaluation Unit (AREU), dated April 2006, also stated that "Many informal areas in Kabul are still not supplied with basic infrastructure such as electricity, safe water supply and adequate sanitation systems, and the constant new influx of people puts additional pressure on the already overloaded service infrastructure." **[22b] (p3-4)**

27.19 "Job opportunities for the unskilled and less literate labour force in Kabul (and for that matter also in other cities) are unreliable, irregular and subject to high seasonal variance. Access to opportunities is usually limited to the heterogeneous sector of informal employment and is prone to high competition, and many poor residents of the Afghan capital have huge difficulties or never succeed in finding constant and secure sources of income, which keeps their available cash at an erratic and chronically low level…

"Ecologically, Kabul poses the threat of very harsh winters. This is the time of the year that is the most difficult to bear for poor and vulnerable populations. Prices of foodstuffs rise, high expenditures for fuels are needed, children scavenge the streets in search of burnable garbage, many people are exposed to cold temperatures due to having only insufficient shelter or limited capacities to afford fuel, health risks rise dramatically and job opportunities reach a bottom line. Winterisation programmes carried out by NGOs try to address the immediate needs of people under stress by providing income opportunities mainly through cash-for-work initiatives. Though these provide important sources of regular income through the winter months and thus enable participants to cope better with attendant difficulties, there seems to be no lasting effect beyond the project end." (Afghanistan Research and Evaluation Unit, April 2006) **[22b] (p4)**

27.20 "Unemployment data is hard to come by in a country where government institutions are still emerging and have limited reach. Government estimates say about 33 per cent of the working-age population are jobless. Most of the unemployed are returning refugees from Pakistan and Iran, left stranded by the failure of the Afghan economy to pick up. Others swelling the jobless ranks include school and university leavers.

"At a May 29 [2006] press briefing in Kabul, Shengjie Li, the International Labour Organisation's liaison officer, said that many of those without work are women or people with disabilities…

"While Kabul presents a veneer of rapid economic development, with smart new houses and shopping centres springing up in fashionable areas, the changes are largely skin-deep and have not generated large numbers of jobs. In urban centres outside the capital, employment opportunities are even thinner on the ground." (Institute for War and Peace Reporting, 13 July 2006) **[73y]**

27.21 "A person with language skills, especially English, and a good level of education would have good prospects of finding work in Kabul; otherwise only people like doctors and a few other professions which are in short supply might expect to find work. The unskilled will have serious difficulties, because the returnees to the country are mostly of working age, unemployment is high and there is a recession which is beginning to hit the building trade which is the main source of employment for cheap labour." **[37]**

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LAND AND PROPERTY DISPUTES

27.22 The report of the UN-appointed independent expert of the Commission on Human Rights in Afghanistan dated 21 September 2004 stated that:

"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 [Internally Displaced Persons]. 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)**

27.23 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)**

27.24 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)**

27.25 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)**

27.26 "Formal property disputes in Kabul are numerous, but not as numerous as expected. Most formal conflicts pertain to high-value properties on private lands, and it is value rather than volume that gives the conflicts issue a high profile. Nevertheless, the potential for significant conflict remains, and it arises from the insecurity of tenure and fear of bulldozing faced by 2.44 million people in the large and expanding sector of informal settlements… Potential for conflict also arises from poor governance in the allocation or cancellation of building plots and state apartments." (World Bank, 22 June 2006) **[69c] (Policy note n.4)**

27.27 "The Special Land Disputes Court was instituted to specifically deal with private persons who are returnees or internally displaced and who seek to retrieve private properties of which they have been unwillingly deprived during the period since 1978. Neither the government nor its agents can use the court to seek restitution of nonprivate property. The court's structure has been modified since 2002 and today it consists of 18 judges operating in two courts, one for Kabul and one for the rest of the country. A second-level court for appeal within the overall Special Court has been established as well.

"The Special Court is failing to deal swiftly or effectively with claims. Despite its statutory requirement of resolving cases within two months, only 5% of all

cases registered have been resolved and an acute dissatisfaction with the rulings prevail." (World Bank, 22 June 2006) **[69c] (Policy note n.5)**

27.28 The UNHCR report of June 2005 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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28. FREEDOM OF MOVEMENT

28.01 The USSD 2005 Report, published on 8 March 2006, reported that the law provides for freedom of movement but certain laws limited citizens' movement:

"The passport law requires a woman 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 the hajj. Additionally, sporadic fighting, brigandage and landmines hampered travel within the country. Taxi, truck, and bus drivers complained that security forces and armed militants operated illegal checkpoints and extorted money and goods. While the number of such checkpoints decreased during daylight hours, their numbers increased at night, especially in the border provinces. In April [2005] local militants shot and injured two men at illegal checkpoints in Kunduz province." **[2a] (section 2d)**

28.02 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." **[48a] (p5-6)**

28.03 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. **[48b] (p10)**

28.04 In June 2005, the UNHCR noted that:

"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 23: Women's participation in public life and institutions for further information on restrictions on movement for women)

28.05 On 4 December 2005, the AIHRC issued an open letter to President Karzai, which stated that:

"…people are recently facing serious problems in enjoying their right to freedom of movement and in accessing public places as a result of unjustifiable and irresponsible actions taken by a number of security institutions especially private security companies under the pretext of security measures…The AIHRC, in its continual monitoring, has observed an increase in unjustifiable security measures for convening sessions, conferences and seminars that sometimes exceed the security requirements of those gatherings.

"These measures have violated and restricted the right of people to freedom of movement and free use of public facilities and in addition, have led to inaccessible points in Kabul that sometimes prevent the access of people to emergency health care." **[78d]**

28.06 "Attacks on civilians, including the use of suicide bombings, have seriously hurt the security of ordinary Afghans and their ability to exercise basic rights on a daily basis, such as going to market, attending schools, and receiving health care. The Taliban and other armed groups freely travel across the Pakistan-Afghanistan border and use Pakistani territory as shelter from Afghan and international forces." (Human Rights Watch, 27 September 2006) **[17f]**

INTERNAL FLIGHT OR RELOCATION

28.07 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 [sic] 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 23.51: Single women and widows)

28.08 "It is not difficult to track people down in Afghanistan, although it might take time. Neighbours and landlords will check people's backgrounds, because everyone thinks in terms of security, and so they would want to check a newcomer's background in their home area. Further, messages are sent across the country via chains of communications based on personal contacts, and it would be natural to investigate where someone was from in order to see what role they could play in such a network. The postal service is unreliable and only delivers to the district centres, not to the villages, so that travellers are often used to deliver messages and goods to relatives and friends."
(Dr Antonio Giustozzi, Afghanistan Notes, 28 June 2006) **[37]**

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MINES AND UNEXPLODED ORDNANCE

28.09 In June 2005 the 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… The areas affected include important agricultural land, irrigation systems, residential areas, grazing land and roads." **[11b] (p33)**

28.10 The 2006 Afghanistan Landmine Monitor Report recorded that Afghanistan acceded to the Mine Ban Treaty on 11 September 2002 and it entered into force on 1 March 2003: "Afghanistan has yet to adopt new national implementation legislation, including penal sanctions, for the Mine Ban Treaty." The report also stated that:

"The pace of demining accelerated in 2005; the amount of land demined increased by over one-third to almost 140 square kilometers, despite deteriorating security. Mine clearance operations ran into severe funding shortfalls in mid-2006; the laying-off of demining personnel was announced in July, with further cuts expected. Mine risk education reached over 1.8 million Afghans and 2,365 communities in 2005. There were 848 new casualties recorded in 2005, maintaining the relatively constant casualty rate of recent years; however, child casualties continued to increase." **[14] (p1)**

(See also Section 22: Disability)

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29. REFUGEES AND INTERNALLY DISPLACED PEOPLE (IDPS)

29.01 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… 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)**

29.02 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)…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)**

29.03 A UNHCR Operation Update of September 2005 stated that:

"Between March and August 2005, 2,252 returnees from Pakistan and 518 returnees from Iran where [sic] interviewed. While 56% of the returnees from Iran stated that the main reason for return was the improved political and security situation in Afghanistan, this applied only to one third of the returnees from Pakistan. For many of them, the closure of camps in the Federally Administered Tribal Areas (FATA) of Pakistan was the motivation to return. Increased economic difficulties in the countries of asylum were also frequently cited." **[11f] (p5)**

29.04 The UNHCR Update also stated that "Today, refugee flight from Afghanistan is the exception rather than the norm. Afghans now cross the border to look for work, to trade, to access social services, and to maintain family and social networks. Faced with pressure from the two host country governments [Pakistan and Iran], many Afghans remain reluctant to return for an array of security and economic reasons." **[11f] (p8)**

29.05 A UNHCR report of June 2005 recorded that "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." Nevertheless, "... a caseload with particular difficulties remains mainly in camps in the [sic] Southern Afghanistan, some in Maslakh (Herat). They are mainly nomadic Kuchis who have lost their live stocks [sic] during the drought and some 30,000 Pushtoons [Pashtuns] from the North West (Faryab, Badghis, Jowzjan, Sar-e-Pul)." **[11b] (p37)**

(See also Section 20.07: Pashtuns for more information on Pashtuns returning to the north)

29.06 A profile by the Internal Displacement Monitoring Centre (IDMC) dated 2 December 2005 stated that "Many of the estimated 460,000 IDPs who have returned since the end of 2001 find reintegration difficult or impossible, mostly due to unresolved property disputes and the difficulties of earning a stable income. Renewed displacement due to economic hardship is not taken into account in official IDP figures." **[70] (Overview)** The IDMC Profile (other than the "overview") is a compilation of excerpts from reports on IDPs from a variety of sources and should be consulted directly for more detailed information.)

29.07 An IRIN News article dated 11 January 2006 stated that:

"The plight of returned refugees remained a concern in 2005. A high proportion of the more than 3.5 million Afghans who have returned home from Pakistan and Iran since the collapse of the Taliban regime in late 2001 are suffering from lack of shelter, unemployment and poor medical facilities.

"'For the sustainability of return to be possible, our work with refugees still staying in Pakistan and Iran has shown us very clearly that the major concern, paradoxically, is not security, but livelihoods,' Antonio Guterres, the United Nations High Commissioner for Refugees told reporters in November [2005] at a press conference, in the capital, Kabul." **[36b]**

29.08 The UNHCR reported on 2 September 2005 that "Afghanistan has signed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, a significant sign of recovery for a country that used to be one of the world's largest producers of refugees and asylum seekers." **[11a]**

29.09 UNHCR reported on 21 August 2006 that "Since the UN refugee agency started its voluntary repatriation programme in 2002, more than half a million IDPs have been assisted to return to their places of origin. There are still some 118,000 displaced people in the southern provinces – particularly Kandahar and Helmand – and 13,300 in Herat province in the west." **[11h]**

29.10 A UNHCR press release of 4 September 2006 provided an update in respect of IDPs:

"So far in 2006, 620 families comprising 3,636 individuals from Zhari Dasht camp in Kandahar have been assisted to return to their places of origin. They are mainly ethnic Pashtun originated from the North who had been displaced to the South in 2001. UNHCR will continue helping another 1,000 families who have already been registered in Zhari Dasht camp to go home to the north and west of the country. The majority of IDP returns have been to the provinces of Faryab, Badghis, Sari Pul and Herat.

"There are still some 145,000 internally displaced Afghans, mostly living in camps in the southern provinces. Since 2002, more than half a million internally displaced Afghans have been assisted to return by the UN refugee agency." **[11e]**

29.11 The same UNHCR press release gave the following update on returns to Afghanistan:

"Despite ongoing security problems in parts of the country, particularly in the South and Southeast, as well as the slow pace of rehabilitation and development, a number of Afghan refugees continue returning home.

"The total number of Afghan refugees returning this year from Pakistan and Iran under the UNHCR's voluntary return operation has exceeded 125,000. This is some 58 percent lower compared to the same period last year (January–August) when 295,000 Afghans made the journey back home. An estimated 2.5 million Afghans remain in Pakistan and 900,000 in Iran, many of whom have lived in exile for more than 20 years and have well integrated into their host countries.

"Since the commencement of the UNHCR voluntary return operation in 2002, now in its fifth year, some 3.7 million Afghan refugees have been assisted to return home. In addition, some 1 million Afghans have returned spontaneously. Under the UNHCR repatriation assistance programme, refugees returning home receive USD 12 per person as [an] initial

reintegration grant to meet their immediate needs upon return as well as [a] transportation allowance of between USD 4–37 per person to help them organize their return journey (depending on traveling distance)." **[11e]**

29.12 An earlier UNHCR Briefing Note of 11 July 2006 observed that although returns had slowed down compared to previous years, there had been an increase in returnees with professional skills in areas such as engineering, medicine and education. "Among this year's returnees are 15,278 domestic workers, 1,248 carpet weavers, 357 in the education sector, 325 engineers and 115 from the medical profession. Others in the skilled category include legal practitioners, masons, plumbers and agricultural and office workers – all much-needed expertise to rebuild Afghanistan." **[11i]**

29.13 IRIN News reported on 4 September 2006 that:

"Nader Farhad, UNHCR's spokesman in Kabul, said returning refugees faced many problems including deteriorating security, unemployment, lack of shelter and schooling and a shortage of health services. Recent media reports claimed that Iran had given many Afghans living legally in the country three months to leave. However, Farhad doubted such a ruling would be enforced. 'We expect that the Iranian government will not implement such an announcement because Afghanistan doesn't have the absorption capacity of such a huge number of refugees in only a three month period,' Farhad said." **[36j]**

29.14 The UN Secretary-General's report of 11 September 2006 stated that:

"Despite the prevailing [humanitarian] situation, Afghan refugees continue to return. The total number of returnees this year is over 122,000, mostly from Pakistan. The Office of the United Nations High Commissioner for Refugees is preparing to assist a total of 220,000 returnees this year. Early in 2006, the Pakistani Government announced it would close four refugee camps in the North-west Frontier Province and in Balochistan. The 250,000 residents were offered the option of returning to Afghanistan or relocating to other camps in Pakistan. The 31 July deadline for closures passed with little or no movement and, it is not clear if the Government of Pakistan will take more direct action to close the camps." **[39n] (p12)**

29.15 The same report also noted that "In the spring and summer of this year [2006], major military and combat operations between insurgent groups and the military in the south have internally displaced at least 450 families in Uruzgan and Kandahar provinces." **[39n] (p9)**

29.16 On 29 September 2006 the UN World Food Programme reported higher displacement figures, stating that "Nearly 15,000 families have been reportedly displaced as a result of the fighting in the Kandahar area…" This figure referred to just one area affected by the fighting. **[40q]** Additionally, the BBC recorded in October 2006 that the UNHCR had said: "Between 80,000 and 90,000 had been displaced by the conflict in the provinces of Helmand, Kandahar and Uruzgan. The figure brings the total displaced in the area to about 200,000." **[25au]**

29.17 On 29 September 2006 UNHCR announced that this year's Afghan repatriation assistance programme from Pakistan would close by 14 October 2006, mainly due to a slow pace of returns:

"The programme is in its last operational year under [the] existing tripartite agreement between Afghanistan, Pakistan and the UN refugee agency that will expire at the end of December… The pace of returns has been slow this year since the start of the repatriation season in March…

"In 2006, some 130,000 Afghans have [been] repatriated so far, according to UNHCR. However, the UN agency expected that 400,000 Afghans would return home in 2006. UNHCR has announced that the repatriation assistance programme will resume in March 2007, pending the approval of the new tripartite accord." **[46a]**

29.18 UNHCR reported on 16 October 2006 the registration of more than 1,000 Afgans in Pakistan. The exercise, which was started by the government, was to issue the Afghans with identification for the first time. The registration which was due to run to the end of the year [2006], was a follow-up to a "government census last year [2005] that counted 3.04 million Afghans who arrived in Pakistan after the 1979 Soviet invasion and are still living in the country." All those registered, over the age of five, will be granted a Proof of Registration card which will recognise them as Afghan citizens living in Pakistan and will be valid for three years. **[11j]**

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UNHCR GUIDELINES ON RETURN TO AFGHANISTAN

29.19 The 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)**

29.20 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)**

29.21 The 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 Section 26.16: Medical Services: Women and children for more detailed information on the situation for people who fall into these categories)

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30. UNHCR GUIDELINES ON THOSE AFGHANS WHO MAY BE AT RISK

30.01 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)**

30.02 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)**

30.03 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)**

30.04 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)**

30.05 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)**

30.06 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 [sic] 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 [sic] 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 Section 16: Treatment of former KhAD members and Former members of the PDPA; Section 23: Women; Section 17: Freedom of speech and media; Section 20: Pashtuns; Section 11: Former Taliban members, Persons in conflict with present power brokers and War crimes and human rights abuses prior to 2001; Section 19: Ismailis, Sikhs and Hindus and Converts and Christians; Section 21: Lesbian, gay, bisexual and transgender persons; Section 27: Land and property disputes.

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31. CITIZENSHIP AND NATIONALITY

31.01 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. [See also paragraph 31.03 below]

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. [But see paragraph 31.03 below]

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)**

31.02 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]**

31.03 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to UNHCR:

"… 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)**

31.04 "Afghanistan does recognize dual citizenship. However, the decision, made back [sic] three years ago, remains void of any bilateral or multilateral enforcement bearing as it has been adopted solely by the Government of Afghanistan. The decision principally aims to facilitate and ultimately pave the way for the return of expatriates including refugees abroad to Afghanistan and to get them engaged in the ongoing political and reconstruction processes. The Government has yet to establish regulatory and even statutory frameworks to define legal parameters of the issue both domestically and

within the context of bilateral relations involving other States, and for that matter Pakistan. At present, laws and rights of Afghan nationals for dual Afghanistan-Pakistan citizenship remains pending…

"Children born in countries other than the country of origin, including Pakistan, to father or mother or both, who are Afghanistan citizens are considered entitled to Afghanistan citizenship. In fact, the prevailing acts on citizenship in Afghanistan provide that citizenship is hereditary and a child born to either or both Afghan parents anywhere would automatically acquire Afghanistan citizenship.

"However, according to information provided by the High Commission of Pakistan, in Ottawa, Pakistan does not recognize dual nationality with Afghanistan, and although the child of parents who are Afghan citizens may have been born in Pakistan, he/she is not be [sic] entitled to Pakistani citizenship (25 Feb. 2005)." (Research Directorate, Immigration and Refugee Board, Canada, February 2005) **[4]**

31.05 "Official Stationery is not yet standardised, in particular as far as headed paper is concerned. Standard complaint forms exist, but not for other purposes. Officials are often seen scribbling orders on plain paper. However, official stamps appear not to be widely in use both in police stations and in local administrations. Corruption is so rife that it might be possible to pay for a copy of a document that showed that an individual was of interest." (Dr Antonio Giustozzi, Afghanistan Notes, 28 June 2006) **[37]**

IDENTITY CARDS

31.06 A Danish fact-finding mission to Kabul in March/April 2004 reported in November 2004 that:

"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 peace [sic] of paper size A4 (29,6 x 21 cm.)." **[8] (section 8.1.1)**

31.07 A news article by the Institute of War and Peace Reporting dated 30 July 2005 stated that most Afghans do not have national identity cards. Moreover, "The ID problem in Afghanistan is not something that can be easily resolved. 'Different regimes have issued different ID cards in Afghanistan and some people outside or inside Afghanistan have been issued fake ones. The only way to prevent all these problems is to issue new IDs,' said Mir Abdul Rahman Maqul, head of the statistics department of the interior ministry." Mr Maqul was also reported as saying that the Government planned to issue new ID cards eventually. **[73u]**

31.08 On 29 September 2006, UNAMA reported that:

"… a country wide registration of millions of Afghan refugees in Pakistan will run from 15 October to 29 December [2006], providing them with refugee ID cards valid for three years. According to UNHCR, any future return assistance will only be given to Afghans returning with the refugee ID cards issued after the registration drive. The cards will be issued to the Afghans, who were counted in the census conducted in February and March 2005." **[46a]**

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DOCUMENTS AND REGISTRATION OF BIRTHS AND MARRIAGES

31.09 The US State Department Report 2005 published on 8 March 2006 recorded that "The passport law requires a woman to obtain permission from a male family member before having a passport application processed." **[2a] (section 2d)**

31.10 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to the Ministry of Interior (MoI):

"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**)

31.11 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)**

31.12 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)**

31.13 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)**

31.14 The Afghan Ministry of Interior has produced a Project Document for Birth Registration of All Children under five. The undated document showed that the timescale for the registration of children under five was April 2004 to March 2005:

"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]**

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32. EMPLOYMENT RIGHTS

32.01 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]**

32.02 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that: "The law provides broad provisions for protection of workers; however, little was known about their enforcement. 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 significant employers in Kabul were the minimally functioning ministries and local and international NGOs." **[2a] (Section 6a)**

32.03 The USSD 2005 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… **[2a] (Section 6b)**

"The law prohibits forced or compulsory labor, including by children; however, little information was available… **[2a] (Section 6c)** The law 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… **[2a] (Section 6d)**

"No information exists regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many employers allotted workers time off for prayers and observance of religious holidays." **[2a] (Section 6e)**

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Annex A: Chronology of major events

Source **[25b]** unless otherwise stated.

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 The US and USSR agree to end military aid to both sides.

1992 Resistance closes in on Kabul and Najibullah falls from power. Rival militias vie for influence.

1993 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 per cent of the vote. He is sworn in, amid tight security, in December.

2005 **Februar**y: Several hundred people are killed in the harshest winter weather in a decade.
May: Details emerge of alleged prisoner abuse by US forces at detention centres in Afghanistan.
September: First parliamentary and provincial elections in more than 30 years.
December: New parliament holds its inaugural session.

2006 **January:** More than 30 people are killed in a series of suicide attacks in southern Kandahar province.

February: International donors meeting in London pledge more than $10bn (£5.7bn) in reconstruction aid over five years.
May: Violent anti-US protests in Kabul, the worst since the fall of the Taleban in 2001, erupt after a US military vehicle crashes and kills several people.
May–June: Scores of people are killed in battles between Taleban fighters and Afghan and coalition forces in the south during an offensive known as Operation Mountain Thrust.
October: Nato assumes responsibility for security across the whole of Afghanistan.

2007 **March:** Mullah Obaidullah Akhund, the third most senior member of the Taleban's leadership council is arrested, according to Pakistan authorites. Afghan President Hamid Karzai signs a controversial bill which provides sweeping amnesty for war crimes committed over more than two decades of conflict in Afghanistan.

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. **[1b] (Political organisations)**

REGISTERED POLITICAL PARTIES

The Joint Electoral Management Body (JEMB) website, accessed on 5 October 2006, showed the following 76 Political Parties as being registered and approved by the Ministry of Justice as at 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 Mohaqqeq [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 Muhaqeq [Mohaqqeq] (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 Subhanee

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. Proscribed until 2004 **[1b]**. 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 Wolesi 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 11.80: Hisb-e-Islami)

Hizb-e Islami Khalis [Khales] (Islamic Party Khalis): Pashtun
Leader: Unknown since the reported death of Maulvi Muhammed Younis Khalis on 19 July 2006. **[25r]** However, in December 2005 it was reported that a recent statement on behalf of the group was signed by Mawlawi Anwar al-Haq Mojahed who identified himself as "the acting head of Hizb-e Islami-ye Afghanistan." **[29s]** c. 40,000 supporters. **[1a]** In December 2005, Radio Free Europe/Radio Liberty reported that:

"In a statement sent to some media outlets on 11 December, Hizb-e Islami (Khales faction) denounced the planned expansion of the NATO-led International Security Assistance Force (ISAF) in Afghanistan as a 'satanic plot,' Peshawar-based Afghan Islamic Press (AIP) reported… Hizb-e Islami (Khales faction) was one of the seven mujahedin parties operating against the Soviets and their client regime in Afghanistan in the 1980s. Party leader Mawlawi Mohammad Yunos Khales, after staying away from the Afghan civil war of the 1990s when mujahedin parties were fighting for power, resurfaced in 2003 and declared a jihad against U.S. forces in Afghanistan." **[29s]**

(See also Section 11.80: Hisb-e-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 was 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 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-Jamihat-e-Islami-e-Afghanistan], led by Ustad Rabanee. **[74a]**

A report by the Afghan Research and Evaluation Unit (AREU) dated December 2005 stated that "In the WJ [Wolesi Jirga] elections candidates affiliated informally and formally with the original Jamiat party won 47 seats, more than double the amount of any other party. These seats, however, were divided between approximately ten different factions of the party and new parties that have split off from Jamiat, which were relatively evenly distributed between those that either opposed or supported the government." **[22c] (section 2.2)**

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/Ismaili 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 September 2005 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." **[45]** 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), Younus 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 Mohaqqeq, a Shia Hazara, many of its parties share common perceptions that Afghanistan, under Karzai, will again become a Pashtun-dominated state." **[26e] (p10-11)** Radio Free Europe/Radio Liberty reported on 29 December 2005 that Qanuni had resigned as leader of the NUF after being elected as speaker of the Afghan National Assembly's People's Council (Wolesi Jirga). **[29o]**

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, General 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 into 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 on 5 October 2006, 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)** "Its core leaders were Panjshiris associated with the Jamiat-I Islami party of former President Burhanuddin Rabbani. The group dominated the security agencies in the period after the Taliban's fall." (International Crisis Group, 15 May 2006) **[26h] (p5)**

Taliban [Taleban]
Emerged in 1994; Islamist fundamentalist; mainly Sunni Pashtuns; in power 1996–2001; Leader: Mullah Mohammad Omar. **[1b]** UNHCR noted in June 2005 that "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)** Following their downfall in 2001, a regrouped 'neo-Taliban' is now back in Afghanistan and is reported to be extending its influence in the country. **[20b]**

(See also Section 11.41: 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]**

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Annex C: Prominent people

ALI Hazrat

Hazrat Ali (a close ally of Jamiat-i-Islami) was appointed Security Commander for Nangahar Province by President Karzai on 20 July 2004. (BAAG, July 2004) **[71b] (p7)** He stepped down from his position as Police Chief of Nangahar and turned in weapons in order to stand for the September 2005 parliamentary election. (*Christian Science Monitor*, 8 September 2005) **[19c]** The final JEMB results recorded that Hazrat Ali was elected in Nangahar Province, polling the highest number of votes. **[74b]**

A September 2004 Human Rights Watch report noted that, as one of the military commanders having de facto control of the eastern provinces of Nangahar and Laghman, including Nangahar's capital, Jalalabad, his commanders operated criminal enterprises and engaged in numerous human rights abuses, including the seizure of land and other property, kidnapping civilians for ransom and extorting money. Their forces had also been involved in political abuses, including past threats against Loya Jirga candidates and purchasing of votes. **[17i] (p16)**

Hazrat Ali commanded a Northern Alliance force against the Taliban and Al Qaeda and has worked closely with the US military since 2001:

"Several officials with the Afghan Independent Human Rights Commission maintain that Ali disbanded his private army only on paper and that his men still participate in drug trafficking and land grabs, terrorizing the citizenry… Many of Ali's ex-soldiers are now Nangahar provincial police. One ranking Nangahar police official [said] that Ali's men, 'imposed with pressure and power,' have a disproportionate presence on his force. 'They're involved in illegal activities. The battalion commanders, the border police, they're all involved in illegal activities,' the police official said, adding that the crimes include extortion, drug trafficking and other smuggling operations." (*Christian Science Monitor*, 8 September 2005) **[19c]**

BALKHI Sediqa

Appointed Minister of Martyrs and Disabled in the December 2004 cabinet. On 11 December 2005 President Karzai decreed her appointment to the Meshrano Jirga, the upper house of parliament, which necessitated her resigning from her post as Minister of Martyrs and Disabled. (*Daily Times*, 11 December 2005) **[75]**

DOSTUM (General) Abdul Rashid

"The Uzbek general who was one of the most powerful warlords with an independent military base in the north remains a powerful figure in the country… He was one of the most high profile candidates to challenge Mr Karzai in the presidential elections in October 2004. The veteran of many wars, he has displayed an uncanny ability to switch sides and stay on the right side of those in power. In the 1980s Gen Dostum backed the invading forces of the Soviet Union against the mujahideen rebels. He then played a prominent role in the civil war that destroyed much of the capital Kabul and left thousands dead. In 2001, while helping the United States, his militias were accused of suffocating hundreds of Taleban prisoners to death by locking them inside shipping containers." (BBC News, 4 July 2006) **[25y]**

BBC News reported that General Dostum survived an assassination attempt 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]** 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]** 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)**

HAZAMI Abdul Salam
Approved by parliament as the new Chief Justice of the Supreme Court in July 2006 to replace Fazel Hadi Shinwari. "Hazami graduated from Kabul University and obtained a master's degree in 1967 from Egypt's Al-Azhar University, the Sunni Muslim world's highest seat of learning. He also did postgraduate studies in the United States. He left Afghanistan during the Soviet occupation, returning after the Taliban regime was toppled by U.S.-led forces for harboring Osama bin Laden." **[54a]**

HEKMATYAR (Engineer) Gulbuddin [also spelt 'Hikmatyar']
"Leader of the Hezb-e Islami, Mr Hekmatyar is a warlord who is in hiding – evading American forces – and is believed to be somewhere along the Afghan-Pakistan border. He is opposed to President Karzai and the presence of US-led foreign forces in Afghanistan and is blamed for carrying out several major attacks in the country. The US labelled him a terrorist in 2003. Hekmatyar's 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. The fighting between him and Kabul's administration at the time, controlled by the murdered Afghan commander, Ahmad Shah Masood, is said to have resulted in the deaths of more than 25,000 civilians." **[25y]**

In May 2006, Hekmatyar was reported as saying that he was ready to fight under the banner of al-Qaeda: "Correspondents say that statements from Gulbuddin Hekmatyar are rare, but when they appear, their theme and tone is the same: hatred of the United States and its allies in Afghanistan and calls for rebellion there in the name of Islam." **[25e]**

(See also Section 11.80: Hizb-e-Islami)

JALAL Masooda
Masooda Jalal was the only female candidate in the October 2004 presidential elections. "A qualified paediatrician from Kabul, she was treating children when the Taleban came to power in 1996 and stopped women from working. Ms Jalal made her presence felt when she challenged President Karzai in the first loya jirga (grand council) after the Taleban were ousted. She was appointed minister for women's affairs in December 2004, but was dropped in the reshuffle of April 2006." (BBC News, 4 July 2006) **[25y]**

KHAN Mohammed Fahim (Marshal Mohammad Qasem Fahim)
As former Defence Minister, Mohammed Fahim Khan used to be one of the most powerful men in the country but has now been sidelined:

"He lost his place in the cabinet and is now a member of the upper house [Meshrano Jirga]. Gen Fahim commanded thousands of men loyal to the Tajik-dominated Northern Alliance that helped topple the Taleban in late 2001. He was widely expected to be named as one of President Karzai's running mates in the 2004 presidential poll, but ended up backing the main challenger, fellow Tajik Yunus Qanuni.

He was head of intelligence of the Northern Alliance and succeeded General Ahmad Shah Masood, who was assassinated shortly before the 11 September attacks on the US." (BBC News, 4 July 2006) **[25y]**

The Kabul newspaper, Erada, reported on 29 January 2005 that following his removal from the cabinet Fahim was 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." 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. **[79]**

KARZAI Hamid

"Hamid Karzai, who was sworn in as Afghanistan's first elected president in December 2004, is a moderate Pashtun leader from Kandahar. A charismatic and stylish member of the influential Popolzai tribe, he has built up a considerable international profile, especially in the West and is backed by the United States. But some at home view his closeness to America with suspicion and distrust. He initially supported the Taleban but hardened against them after the assassination of his father, a former politician, for which the Taleban was widely blamed." (BBC News, 4 July 2006) **[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 was registered by the Ministry of Justice and participated in the September 2005 parliamentary elections. **[74a]**

KHAN Ismail

Ismail Khan is currently Minister for Energy in the Afghan Cabinet and was formerly the Governor of Herat:

"Known as the Lion of Herat, Ismail Khan is a veteran and legendary Tajik commander who freed Herat from Soviet control, and became a thorn in the side of the Afghan communist government… Controlling the trade route from Iran, he turned the city of Herat into one of the most developed cities in the country soon after taking control of the area after the fall of the Taleban. It was his independent power base and apparent refusal to join hands with the Karzai government that led to his eventual removal and reappointment as energy minister in September 2004. President Karzai's move to replace him was met with violent protests from his supporters. Ismail Khan remains a powerful figure, although with considerably reduced influence." (BBC News, 4 July 2006) **[25y]**

"Ismail Khan was a major figure in Jamiat-e-Islami. He was imprisoned by the Taliban for three years, escaped and eventually regained control of Herat. 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." (Institute for War and Peace Reporting (IWPR), 9 December 2004) **[73d]**

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 Massood [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]**

MOHAMMAD (General) Atta
"An arch rival of Gen Dostum, Atta Mohammad is the governor of the northern province of Balkh. Their bitter history goes back to the days of the Soviet occupation, when they fought on opposite sides. A former teacher, 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. His appointment as governor of Balkh was viewed as a move to curb Gen Dostum." (BBC News, 4 July 2006) **[25y]**

MOHAQEQ [MOHAQIQ] Haji Mohammad
"A member of the minority ethnic Hazara community, Mohammed Mohaqiq was elected as an MP in the 2005 elections. He comes from Mazar-e-Sharif and teamed up with Gen Dostum and Atta Mohammad to free the city from the Taleban in 2001. The head and founder of the Wahdat-e-Mardum political party, he had considerable support among the Shia Hazaras, many of whom fought under his command. Planning minister in the interim Afghan government, Mr Mohaqiq performed well to finish third behind Mr Karzai and Mr Qanuni in the presidential election in 2004. He did not keep his post in the new Karzai cabinet after the 2005 parliamentary elections." (BBC News, 4 July 2006) **[25y]**

Mohaqeq's party was registered as Hezb-e-Wahdat-e-Islami Mardom-e-Afghanistan by the Ministry of Justice and participated in the September 2005 parliamentary election. **[74a]**

MOJADDEDI [MUJADIDI] Sebghatullah
A Radio Free Europe/Radio Liberty (RFE/RL) article dated 23 November 2005 stated that Mojaddedi was head of the "Peace Commission", which aims to persuade armed opposition fighters to join the peace process. **[29t]** RFE/RL also reported on 29 December 2005 that Mojaddedi had been elected speaker of the Meshrano Jirga (Council of Elders). **[29o]** A BBC News article of 21 December 2005 stated that he was a former Afghan President and a pro-Karzai mujahideen leader. **[25ak]**

OMAR (Mullah) Mohammad
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. (BBC News,16 December

2003) **[25s]** Mullah Omar has reportedly called on Taliban supporters to unite and fight Afghan and foreign troops. (BBC News, 25 July 2005) **[25ae]**

QANUNI [QANOONI] Yunus
Formerly a prominent figure in the Tajik-dominated Jamiat-e-Islami party and the Shura-e-Nezar, its Panjsher-based faction. (IWPR, 9 December 2004) **[73d]**

"A former minister, Mr Qanuni is now the Speaker of the Wolesi Jirga, the lower house of parliament. Seen by some as the most serious contender to Mr Karzai, he stood against him in the presidential elections of 2004. A key figure in the Northern Alliance in the immediate aftermath of the fall of the Taleban, Mr Qanuni first held the powerful post of interior minister but later moved to the education ministry. Differences with President Karzai led to his resignation from the cabinet, following which he formed his own political party, [Hezb-e-] Afghanistan-e-Naween. Though unable to hold together a political alliance which could provide a formidable challenge to the Karzai government, Mr Qanuni has been too powerful to be completely marginalised." (BBC News, 4 July 2006) **[25y]**

The list of political parties approved by the Ministry of Justice to run in the September 2005 parliamentary elections included Qanuni's new party, Hezb-e-Afghanistan-e-Naween. **[74a]** Qanuni resigned as leader of the NUF after being elected Speaker of the Wolesi Jirga. (Radio Free Europe/Radio Liberty, 29 December 2005) **[29o]**

RABBANI Burhanuddin
"A former Afghan president, Mr Rabbani was elected as an MP from Badakshan in [the] 2005 parliamentary elections. He 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." (BBC News, 4 July 2006) **[25y]**

(See also Annex C: Jamiat-i-Islami)

SAMAR Sima
A 2004 report by the Global Health Council noted that "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." **[6]** An RFE/RL article dated 29 December 2005 stated "Sima Samar was the first minister of the newly established Ministry of Women's Affairs in the transitional government of Hamid Karzai after the fall of Taliban. She is now the head of the Afghan Independent Human Rights Commission and a UN special rapporteur for human rights in Sudan." **[29d]**

SAYYAF Abdul Rassoul
"A former mujahideen leader, Mr Sayyaf is now an elected member of parliament. Leader of the Islamic Union for the Liberation of Afghanistan, he was the only anti-Taleban Pashtun leader to be part of the Northern Alliance. A hardliner, he is believed to have formed his party with Saudi backing. A former professor of Islamic law, Mr Sayyaf was the chairman of the first rebel alliance in 1980. He was a member of the constitutional loya jirga of 2003. Abdul Rassoul Sayyaf was a major player in the civil war in 1992, which left vast areas of the capital, Kabul, in ruins." (BBC News 4 July 2006) **[25y]**

In June 2005, the International Crisis Group noted that Sayyaf's influence was eroding because the tenth division of the Afghan military forces was being dismantled under the Disarmament, Demobilisation and Reintegration Programme (DDR) 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 September 2005 parliamentary elections included Sayyaf's party, formerly known as Ittihad-i-Islami **[17i]** and now 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

"Nangarhar province Governor Gul Agha Sherzai commands considerable loyalty among the Pashtuns in Kandahar, the city he controlled before the Taleban took power in 1994. Within hours of the Northern Alliance taking control of Kabul in 2001, Sherzai entered and took control of the southern city. In December 2004, he was appointed as governor of Kandahar with an added, though symbolic, portfolio of minister adviser to Mr Karzai. His reappointment became controversial and human rights groups have accused Mr Sherzai of involvement in the drugs trade. Mr Sherzai was made governor of Nangarhar as part of a series of reshuffles viewed as an attempt to curb the power of the warlords." (BBC News, 4 July 2006) **[25y]**

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Annex D: List of Cabinet Ministers

Source **[67]** unless otherwise stated.

President:
H.E. Hamid Karzai

Vice Presidents:
Ahmad Zia Massoud (First)
Mohammad Karim Khalili (Second) **[106a]**

Senior Minister in the Cabinet
Hedayat Amin Arsala **[106a]**

Foreign Minister:
Dr. Rangin Dadfar Spanta (formerly Dr Abdullah Abdullah until he was replaced in March 2006 **[1a]**) **[106a]**

Defence Minister:
General Abdul Rahim Wardak **[106a]**

Interior Minister:
Zarar Ahmad Moqbel [Moqbil] (formerly Ali Ahmad Jalali until his resignation in September 2005 **[1b]**) **[106a]**

Finance Minister:
Dr. Anwar-ul-Haq Ahadi **[106a]**

Education Minister:
Dr. Mohamad Hanif Atmar (formerly Noor Mohmamad Qarqin) **[106a]**

Borders & Tribal Affairs Minister:
Abdul Karim Barawi **[5b]**
Abdul Karim Barahowie **[106a]**

Economy Minister:
Dr. Mohammad Jalil Shams **[29j]** **[106a]**

Mines and Industries Minister:
Engineer Ibrahim Adel [formerly Engineer Mir Mohmmad Sediq] **[106a]**

Women's Affairs Minister:
Hosna Banu Ghazanfar **[29j]**
Hosn Bano Ghazanfar **[106]**

Public Health Minister:
Dr. Mohammad Amin Fatimi [Fatemi] **[106]**

Agriculture Minister:
Obaidullah Ramin **[106]**

Justice Minister:
Sarwar Danish **[106]**

Commerce Minister:
Mir Muhammad Amin Farhang **[29j] [106]**

Communications Minister:
Engineer Amirzai Sangin [Sangeen] **[106]**

Information & Culture Minister:
Abdull Karim Khorram **[29j]**
Abdul Karim Khoram **[106a]**

Refugees Affairs Minister:
Mohammad Akbar **[106a]**

Haj and Islamic Affairs Minister:
Professor Nematullah Shahrani **[106a]**

Urban Affairs Minister:
Engineer Yousef Pashtun **[106a]**

Work, Social Affairs, Martyred and Disabled Minister:
Noor Mohammad Qarqeen **[106a]**

Public Welfare Minister:
Dr Sohrab Ali Saffary **[106a]**

Energy Minister:
Mohammad Ismail Khan **[106a]**

Higher Education Minister:
Dr Ahzam Dadfar [formerly Sayed Amir Shah Hassanyar] **[106a]**

Transportation Minister:
Engineer Nehmatullah Ehsan Jawid **[106a]**
Namatollah Ehsan Jawed **[29j]**

Rural Development and Rehabilitation Minister:
Eshan Zia **[106a]**
[Ihsan Zia (formerly Hanif Atmar)]

Counter-Narcotics Minister:
Habibullah Qadery **[106a]**

National Security Advisor:
Dr Zalmai Rassoul

Supreme Court Chief Justice:
Abdul Salam Hazami **[54a]** (formerly Sheikh Hadi Shinwari)

Annex E: List of Abbreviations

AI	Amnesty International
ANBP	Afghanistan New Beginnings Programme
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
DDR	Disarmament, Demobilisation and Reintegration Programme
DIAG	Disbandment of Illegal Armed Groups (DIAG)
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
JCMB	Joint Coordination and Monitoring Board
MSF	Médecins sans Frontières
NA	Northern Alliance
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
RSF	Reporters sans Frontières
STC	Save The Children
STD	Sexually Transmitted Disease
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNAMA	United Nations Assistance Mission in Afghanistan
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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