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NOTE

from: Netherlands delegation

to : CIREA

Subject: Situation in Afghanistan ⁽¹⁾

Delegations will find attached a report from the Netherlands delegation on the general situation in Afghanistan.

Holland oplyst, at materialet er offentligt tilgængeligt.

LSC/18/98

(1) This document exists in Dutch and English only.

(28)

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With reference to my previous report on the general situation in Afghanistan (my letter of 21 October 1994, ref. DAZBA/58829), I would now like to inform you of the developments which have occurred in the intervening period. This will include a closer look at the situation in regions which are in the hands of the Taliban and the situation of supporters of the former Communist regime in Afghanistan.

The following survey is based on the one hand on information from the Netherlands Representation in Islamabad and our own investigations in Afghanistan and on the other hand on information from public sources and reports from authoritative human-rights organisations (see Annex 1).

1. General situation

1.1. History

Afghanistan has had a long and turbulent history. Remains have been found of cities that are 5 000 years old. The geographical diversities and barriers formed by mountain chains and deserts are partly the reason for Afghanistan's striking cultural and ethnic variety. The country is now inhabited by ethnic groups of varying origin, most notably the Pashtun, Tajiks, Hazares, Uzbeks and Turkmen.

From 1747 onwards ⁽¹⁾ the Durrani-Pashtun tribe has ruled over most of what was then the Emirate of Afghanistan.

In the second half of the 19th century, the borders of present-day Afghanistan were determined and the country played an important role as a buffer state between Czarist Russia and the British Empire.

(1) In that year Ahmed Shah, bearing the title of Durri-i-Durran (pearl of pearls), brought together various Afghan tribes under his rule. His descendants remained on the Afghan throne until 1973.

Afghan society is organised largely along tribal lines. In the 1920s King Amanullah tried to implement a modernisation programme. But this failed to gain any support from the rural population ⁽²⁾. In the 1950s a small urban intellectual elite emerged in Kabul under the influence of western ideas about secularisation and progress. This elite established itself with the help of political parties modelled on western lines, some of which were secular others Islamic. In 1964, Afghanistan was endowed with a new liberal Constitution. There followed a period in which Marxist, nationalist, liberal and Islamic fundamentalist parties were active in Kabul.

In 1973 King Zahir Shah was driven out by his nephew Lieutenant-General Mohammed Daoud, who made Afghanistan a republic and appointed himself President ⁽³⁾.

When the left wing *Democratic People's Party of Afghanistan (DPPA)* came to power in 1978, Daoud was murdered. Control of the country passed into the hands of a revolutionary council led by Nur Mohammad Taraki, which had close ties with the Soviet Union and opposed a strict interpretation of Islam. This resulted, however, in a backlash from the Islamic population; Islamic fighters (Mujahedin) embarked on an armed struggle against the DPPA regime. When the Taraki regime was in danger of losing control of the country, the reins of power were taken over by Hafizollah Amin, who began to distance himself somewhat from the Soviet Union. Taraki was murdered in August 1979.

On 27 December 1979 Soviet troops invaded Afghanistan. President Amin was killed in the process. His successor was Babrak Karmal.

In 1981, there were about 100 000 Soviet troops in Afghanistan. Various Islamic Mujahedin groups fought against the Communist Government and Soviet occupiers with Western and Pakistani support.

In 1980 Mohammed Najibullah set up the regime's much-feared secret service. In 1986 Babrak Karmal was ousted by Najibullah, who then proclaimed himself President.

⁽²⁾ A Constitution was adopted (1923) under King Amanullah which was clearly influenced by secular tendencies. This Constitution did not survive: the underlying philosophy was too far removed from the standards and values of the rural Pashtun. See Olesen, *Islam and Politics in Afghanistan*, Richmond UK, 1995, pp. 111-171.

⁽³⁾ Many of the Afghan refugees in Pakistan had already arrived in Pakistan before the 1978 coup and the Soviet invasion. See also Feitsma, *Opnieuw Afghanistan, van koude tot burgeroorlog*, Internationale Spectator, November 1994: "It is very important in any analysis of the civil war to realise that those who are currently (1994) fighting for power had already gone into exile in 1973 rather than in 1978 or following the (Soviet) invasion of 1979".

In February 1989 the Soviet troops withdrew after long drawn-out negotiations and considerable internal and external pressure. The war had cost the lives of a total of about 1,5 million people and led to the flight of about 5 million Afghans, particularly to the neighbouring countries of Pakistan and Iran. The Communist regime left behind by the Soviets survived until April 1992 when Kabul was taken by the Mujahedin troops of General Ahmed Shah Massoud and General Dostam ⁽⁴⁾. After the departure of the Soviet troops there was bitter fighting between mutually hostile Afghan resistance groups, which had until then been fighting the common Soviet foe. There was particular dissension among Pashtun groups. The war degenerated into a fight for Kabul between the Hezb-i-Islami and the Jamiat-i-Islami (see Annex), which ultimately laid waste large parts of Kabul. Kabul is the symbol of power in Afghanistan. The ultimate goal of any armed movement in Afghanistan is to conquer Kabul and make it the basis for consolidating power.

After the fall of Najibullah ⁽⁵⁾ an interim government was formed under Premier Mojadeddi. A Consultative Assembly then elected Burhanuddin Rabbani as President. His appointment was not, however, universally recognised. Many Mujahedin groups, including the Hezb-i-Islami of Gulbuddin Hekmatyar (who was appointed Premier) and the troops of the Uzbek General Dostam, turned against the Rabbani Government. From April 1992 until the arrival of the Taliban, the situation was as follows: north-western Afghanistan was effectively controlled by Dostam, while the Rabbani Government had effective control over the rest of Afghan territory, with the exception of the south-east where local Pashtun warlords and drug barons were fighting each other. The arrival of the Taliban did not initially have any effect on the situation in the south.

In 1994 the Taliban began their offensive in Afghanistan ⁽⁶⁾. The south was conquered and in September 1996 Kabul was taken. In May 1997 the headquarters of Dostam's anti-Taliban coalition, Mazar-i-Sharif, also fell into Taliban hands for three days after Dostam's troops had split into factions. A splinter group from the Junbish-i-Milli led by General Malik seized power and let the Taliban troops into Mazar-i-Sharif. On 24 May 1997 Malik drove his Commander Dostam out of Mazar-i-Sharif with the help of Taliban fighters. The Taliban had demanded the introduction of their interpretation of Islam and the disarming of the local population. The latter demand was fiercely resisted. Three days later, therefore, Malik turned against his Taliban allies and drove them out of the region.

⁽⁴⁾ Najibullah then sought protection from the United Nations in Kabul. When Kabul was seized by the Taliban on 27 September 1996, he was taken from the UN building and hung together with one of his brothers.

⁽⁵⁾ See also J. Feitsma, op.cit.: "The interval from 1978 to 1992 (the coup, Soviet invasion and fall of Najibullah) was so destructive that an attempt should now first be made to again define basic positions in the period from 1963 to 1978. It is literally and figuratively a question of starting again from scratch. Indeed, the process of regression is even more radical because "Mullaism", the revolution in Iran, the increasing interest of Saudi Arabia in the region and the Islamisation of Pakistan under Zia-ul-Haq mean that the new basic positions are far more conservative than they were e.g. in 1963, despite the outcome of the civil war."

⁽⁶⁾ The word "talib" means "student" in Arabic. It refers in the present case to students of Coranic schools (Madrassas). Most Taliban fighters are illiterate.

After the fighting around Mazar-i-Sharif, it was initially announced that some 700 Taliban fighters had been killed and a similar number taken prisoner ⁽⁷⁾. Recently, however, mass graves have been discovered, which apparently contain from 1 000 to 2 000 bodies of Taliban fighters. Many Taliban commanders were also taken prisoner or killed such as the Taliban leader in the north, Mullah Amir Khan Mitaqi. The then Taliban Minister for Foreign Affairs, Ghaus, was also seized but managed to escape at the end of June 1997.

In September 1997, General Dostam returned from exile. It seemed at first that he had resolved his differences with Malik. Later, Dostam turned against Malik and accused him of the mass murder of Taliban prisoners of war. After skirmishes between the troops of Dostam and Malik, the latter left Afghanistan and is currently in Iran.

During the summer of 1997, the forces of Commander Ahmed Shah Massoud moved from the north towards Kabul until they were 25 km from the capital (where they are still holding their positions). There are occasional skirmishes, but none of the hostile parties seems able to definitively drive back their opponents. In September 1997, the Taliban launched a new offensive on Mazar-i-Sharif from the northern province of Kunduz. This attack was repulsed and resulted in the return from exile of General Dostam.

Since then, the north of the country, with the exception of the Taliban enclave of Kunduz, is in the hands of the anti-Taliban coalition.

In the meantime, Pakistan, Saudi Arabia and the United Arab Emirates had decided to recognise the Taliban Government. No other country has so far followed their example. Afghanistan's seat at the UN is still occupied by a representative of the Rabbani regime. At the Organisation of the Islamic Conference (OIC), on the other hand, Afghanistan's seat has been vacant since 1996.

Since the emergence of the Taliban, the situation in Afghanistan has changed insofar as the Taliban have taken the place of the warring Mujahedin groups and have now conquered three-quarters of Afghan territory (including Kabul). The other groups ⁽⁸⁾ and President Rabbani's Afghan Government, which has been driven out of Kabul, combined in May 1997 to form the United Islamic Front for the Salvation of Afghanistan (UIFSA, or the Northern Coalition) against the Taliban and have control of (regions in) the north of Afghanistan (with the exception of the Taliban enclave of Kunduz).

⁽⁷⁾ Recently (November 1997), mass graves have been discovered near Shibarghan. These are thought to contain about 3 000 fighters, mainly Taliban. These Taliban fighters were apparently killed in the most barbarous fashion (see also *Algemeen Dagblad* of 17 December 1997). At the beginning of December 1997, the UN inspected these graves. The UN report had not yet been published when this report was drawn up.

⁽⁸⁾ These groups are the Hezb-i-Wahdat of Khalili, the Jamiat-i-Islami of Rabbani and Massoud, the Junbish-i-Melli (National Islamic Movement of Afghanistan) of Dostam and part of the Hezb-i-Islami of Hekmatyar.

1.2. Population

The number of inhabitants of Afghanistan is estimated at about 17 million. Much demographic information is not available following years of civil war. The most important ethnic groups in Afghanistan are: the Pashtun (about 40-45%), the Tajiks (about 25%), the Hazaras (about 15-20%) and the Uzbeks (about 6%). The rest of the population consists of numerous smaller ethnic groups including Turkmens, Nuristanis and Baluchis ⁽⁹⁾.

1.3. Languages

In Afghanistan some 30 different languages are spoken, and these can be divided into three linguistic groups: Indo-European ⁽¹⁰⁾, Turkic-Altaic ⁽¹¹⁾ and Dravidian ⁽¹²⁾. Arabic is taught as a religious (Coranic) language and often also spoken. Since 1936, Pashtu ⁽¹³⁾ and Dari ⁽¹⁴⁾ are the official languages of Afghanistan. These languages are written using Arabic script. Most Afghan Pashtun can speak and understand Dari; Uzbeks, Hazaras and Tajiks, on the other hand, do not usually speak or understand Pashtu.

1.4. Religion

Islam is the official religion in Afghanistan. 99,9% of the population is Muslim, with 80% Sunnis and the other Shiites. The Shiites – mainly Hazaras – live chiefly in Central and Western Afghanistan. The role of Islam differs according to ethnic group in Afghanistan. Ismaëlis ⁽¹⁵⁾ are said to account for 2% of Muslims in Afghanistan.

The number of Hindus and Sikhs in Afghanistan was once about 50 000, but there are now hardly any left. Hindus and Sikhs had already (re)emigrated to India before 1993 and have become integrated into Indian society ⁽¹⁶⁾.

⁽⁹⁾ See also "Afghanistan, A Nation of Minorities, Minority Rights Group International", London 1992.

⁽¹⁰⁾ Including the Pashtun, Tajik, Nuristani, Aimaq and Baluchi languages.

⁽¹¹⁾ Including the Uzbek and Turkmen languages.

⁽¹²⁾ A South Indian language spoken by the Brahui of whom some hundred thousand live in the south-west.

⁽¹³⁾ An Indo-European language spoken by the Pashtun in Afghanistan and Pakistan.

⁽¹⁴⁾ A language related to Farsi and spoken by Tajiks, Farsis, Panshiri, Hazaras and Aimaq.

⁽¹⁵⁾ A splinter group of Shiites led by the Aga Khan.

⁽¹⁶⁾ Since virtually all Hindus and Sikhs have re-emigrated, it cannot automatically be assumed that member of these sectors of the population who are now arriving in the Netherlands do in fact come from Afghanistan.

2. Ethnic groups and political parties

The current struggle in Afghanistan has now developed into a struggle between the Pashtun (Taliban) on the one hand and a temporary coalition of Hazaras Tajiks and Uzbeks (¹⁷).

A four-fold development is taking place in Afghanistan:

- reconsolidation of the power of the Pashtun
- forcing out of secular ideas
- application of rural culture and traditions in urban areas
- Wahabisation of religious society (¹⁸).

2.1. Pashtun

The Pashtun regard themselves as the genuine Afghans. They are Sunnis and constitute the largest ethnic group in Afghanistan. Pashtun have their own code of conduct, *Pashtunwali* or *Pukthunwali* (¹⁹).

They see themselves first and foremost as Pashtun and then as Muslims. They live mainly in Central, Southern and Eastern Afghanistan. In the past a number of Pashtun were resettled in the north so that, for example, in the Province of Kunduz (now a Taliban enclave) they are in the majority (²⁰). About 10% of the Pakistani population is Pashtun (known in Pakistan as Pathans), i.e. about ten to fifteen million people. Both sides have always been in the closest contact. Pashtun herdsmen move from summer pastures in Afghanistan to winter pastures in Pakistan. They often have two houses (*nimkoura*). Many of today's Pakistanis left Afghanistan for Pakistan only two or three generations ago. Their common language is Pashtu. The Pashtun people are divided into a number of tribes of which the Durani and the Ghilzai are the most important. The Durrani-Pashtun from Southern Afghanistan lead the Taliban movement (²¹). Most Afghan refugees in Pakistan have been and continue to be Pashtun originating in Eastern Afghanistan. Pashtun were represented among both the Communists and the *Mujahedin*.

The Taliban consists predominantly of Pashtun, but not every Pashtun is a Taliban supporter. The former Governor of Herat, (the Pashtun) Ismael Khan, for example, is currently a prisoner of the Taliban. Former President Najibullah was also a Pashtun. Although the Taliban claim that they will also accept members of other ethnic groups, it is essentially a Pashtun movement.

- (¹⁷) It should be noted that there are also Pashtun fighting against the Taliban. These are supporters of the Hezb-i-Islami.
- (¹⁸) Afghani Sunnis follow Hafani doctrine. Under pressure from Saudi Arabia in particular, which provided the Taliban in Pakistan with financial support, another Sunni doctrine, the Wahabi doctrine, is being imposed.
- (¹⁹) The social organisation of the rural Pashtun is determined not so much by Islamic or government legislation, but primarily by the Pashtunwali. This is an unwritten code of honour and conduct, which covers not only specific obligations (Malmastia = hospitality and Badragga = protection of guests) but also the relationship between the various clans as well as decision-making mechanisms and the settlement of disputes in the event of conflict concerning land, crime, etc. Justice is dispensed at various levels (collective, tribal, clan, village, family). Purdah (= total social separation of the sexes) should also be mentioned. Purdah is strictly observed in rural Pakistan and Afghanistan. In the event of infringements of this law of custom, the guilty party can ask the victims directly for forgiveness (Nanawati). Only if the victims refuse does a blood feud (Badal) or a law-suit ensue. Compensatory payment is possible in all cases except rape, theft of land, and murder. Feuds can be settled either in the form of a vendetta or by the intervention of a Jirgah. This is a judicial council consisting of elders (Narkh), who are respected for their knowledge of the law of custom. Their judgment always takes the form of a price to be paid (Tawan). The Jirgah administers justice on the principle of *an eye for an eye and a tooth for a tooth*. There is no appeal against their ruling. There are two sorts of Jirgah: the Maraka for minor problems and the Loya-Jirgah which settles more serious disputes.
- For certain crimes (e.g. murder) the next of kin are obliged to demand satisfaction (Badal). If they do not, they lose the respect of their fellow villagers. It should be noted that this form of jurisdiction continues to exist in tribal areas of the North-West Frontier Province (NWFP) of Pakistan.
- (²⁰) In response to an uprising in Afghan Turkestan, thousands of Ghilzai-Pashtun were resettled in the north of the country under Emir Abdur Rahman between 1885 and 1890 in order to increase control over the Uzbek and Tajik-dominated region. This resettlement, which is referred to as the "Pashtunisation" of Afghanistan, continued into the early decades of this century. This weakened the Ghilzai-Pashtun's position vis-à-vis the ruling Durrani-Pashtun. Ghilzai-Pashtun live mostly in the region between Kandahar, Kabul and Jalalabad. The tribe is subdivided, inter alia, into the Soleimankhel, the Taraki, the Hotaki, the Tokhi and the Andar. Because of the serious losses recently suffered by the Taliban, the Durrani-Pashtun are now also obliged to call on the support of the Ghilzai-Pashtun. As a result they will also have to share power with Ghilzai leaders such as Lalaluddin Haqqani.
- (²¹) Durrani-Pashtun live mainly in the region between the cities of Kandahar and Herat. There are a number of tribal subdivisions, inter alia the Popalzai, the Alikozai, the Barakzai, the Achakzai, the Nurzai, the Alizai and the Ishakzai.

2.1.1. Taliban

The seeds of the movement were sown in 1994 in Quetta (Pakistan), where a group of Afghan Taliban (students) in exile felt the calling to put an end to the chaos in their country ⁽²²⁾. With the support of the local population, defecting fighters from a Hezb-i-Islami splinter group led by Mohammed Yunus Khalis (see Annex) and Afghans from the refugee camps in Pakistan, they were able in a very short time to gain control of the Provinces of Herat, Kandahar, Paktika, Nimroz, Helmand, Uruzgan, Ghazni, Wardak, Logar and Zabul. In October 1994, Kandahar was taken, in September 1995 Herat, in the summer of 1996 Jalalabad fell and on 27 September 1996 the Taliban took Kabul.

When the Taliban appeared on the scene in 1994, they were welcomed by the Pashtun. The commercially important road between Kandahar and Herat, but also the region between Jalalabad and Kabul, were at that time the scene of constant fighting between some forty disparate Mujahedin-movements. The Taliban brought peace and security to the region. They disarmed local groups and took a large number of Mujahedin fighters into their ranks. Many fighters spontaneously changed sides to join the Taliban.

Although the Taliban were able to conquer large areas of Afghanistan in a short period of time, their military force was relatively slight. Most of their "conquests" were achieved by bribery and the defection of local Mujahedin leaders. Counter-attacks were launched to the north of Kabul at the entrance to the Panshir Valley and the Shomali Valley and in the North-West where the Taliban twice lost the battle for Mazar-i-Sharif in 1997.

The Taliban advocate a rigidly fundamentalist approach ⁽²³⁾. This is not so much a process of re-Islamisation (Afghans have always been religious). The codes of conduct imposed by the Taliban derive from an extreme version of the traditions of the Pashtun tribes. The Taliban's aim is ultimately to force out the secular elements which had crept into society after the liberalisation of 1963/1964 ⁽²⁴⁾. Their ideology seems to go hand in hand with a Pashtun nationalism which will inevitably lead to the actual wielding of power by the rural Pashtun.

⁽²²⁾ Most of the present Taliban leaders formed part of this initial group.

⁽²³⁾ The fundamentalist Egyptian Muslim Brotherhood and countries such as Iran describe the Taliban as "dinosaurs" and "un-Islamic".

⁽²⁴⁾ The first liberal Afghan Constitution dates from 1923. The 1964 Constitution went somewhat further. Feitsma, op. cit.: "in the period 1963 to 1978 these problems [the divide between town and country] were a key issue and attempts were made to achieve a constructive balance. Even now (1994) the same problems predominate. The current civil war is the continuation of events in 1963, 1973 and 1978 and has no direct link with the Jihad (Holy War) as such".

To this end, the Taliban have adopted a large number of decrees obliging women to wear the *burqa* (a garment covering them from head to toe with the face concealed by a piece of embroidered cloth)⁽²⁵⁾.

In addition, the education of women and girls, although not formally forbidden, faces many obstacles. The movement gives this no priority whatsoever and therefore makes no resources available.

Men are obliged to wear the *shalwar kamees* (a loose shirt reaching to the calf and worn over loose-fitting trousers).

The Taliban is led by Mullah Mohammed Omar Akhonzada⁽²⁶⁾, who has had his headquarters in the town of Kandahar since the autumn of 1994.

The Taliban have a radio station called "Radio Sharia" (the former Radio Kabul). This station transmits religious songs and prayers, fundamentalist messages from Mullah Omar, as well as instructions regarding hygiene and, for example, Taliban propaganda from the front line.

2.1.2. *Hezb-i-Islami* (Islamic Party)⁽²⁷⁾

About 75% of this movement is accounted for by Pashtun coming mainly from the Provinces of Laghman and Baghlan. The movement is led by the radical Islamic former Premier, Gulbuddin Hekmatyar. In recent years he has played a major role in the struggle for power (with the support of Pakistan and the US). When the Pakistanis "dropped" him in 1995, Hekmatyar accepted the invitation of Rabbani and Massoud to parley. He is now said to live in Iran.

In the north-east, there are still regions under the control of the *Hezb-i-Islami*, e.g. the town of Baghlan. Many *Hezb-i-Islami* supporters have also defected to the Taliban or to Rabbani's *Jamiat-i-Islami*. The *Hezb-i-Islami* are officially part of the anti-Taliban coalition, but they apparently sometimes fight alongside the Taliban.

⁽²⁵⁾ In Pakistan too, particularly in the NWFP, many women wear the burqa to go out.

⁽²⁶⁾ He was appointed Emir ul-Momenis (Commander of the Faithful) in April 1996 by thousands of Mullahs gathered in Kandahar. Eighteen months later Afghanistan was renamed an Emirate by the Taliban, which constituted de jure confirmation of Mullah Omar's powers.

Most Taliban leaders come from the Madrassa (Coranic schools) of Darul-Uloom Haqqani in Akora Kathak, near the town of Nowshera in Pakistan's North-West Frontier Province. Some eight thousand Afghans are said still to be studying there. Those who have studied in Haqqani include Jalaluddin Haqqani, who is now Commandant of Jebel Seraj; Ahmed Jan, Minister for Mining and Industry; Maulvi Qualamuddin, Minister for the Promotion of Virtues and the Suppression of Vice and the Religious Police; Maulvi Arifullah Arif, Deputy Minister for Finance.

⁽²⁷⁾ Set up in 1979, i.e. before the Soviet invasion, with the aim of creating an Islamic Afghan State. This Party later split (see Annex).

2.2. *Tajiks*

These constitute the second largest sector of the population in Afghanistan (25%). They speak Dari (a language related to Farsi). Most Tajiks are Sunnis, but in the west of Afghanistan (around Herat) and in Kabul there are also Shiite Tajiks. Unlike the Pashtun, Tajiks do not have a tribal structure; they usually feel a close link with their region. They have for some time believed in education and are better educated than the Pashtun. Panshiri (about a hundred thousand) are Sunni Tajiks from the Panshir Valley. Their language is Panjeri (a Dari dialect). After the Hazaras they constitute the largest group of unskilled labourers in Kabul. The Panshiri are loyal to General Massoud, who acquired the nickname "Lion of the Panshir Valley" during the struggle against the Communists. After Kabul fell to the Taliban, more than a thousand people, mainly Tajiks, are said to have been imprisoned for some time on suspicion of sympathising with the ousted President Rabbani ⁽²⁸⁾. The Taliban seem to be afraid that the Tajiks living in regions controlled by the Taliban may choose to side with Massoud and Rabbani. One result of this was the evacuation of the town of Charikar, the population of which mainly consisted of Tajiks. The population was suspected by the Taliban of loyalty to General Massoud ⁽²⁹⁾.

⁽²⁸⁾ See also Amnesty International, *Grave Abuses in the name of Religion*, November 1996.

⁽²⁹⁾ See "Interim Report on the Situation of Human Rights in Afghanistan, submitted by the Special Rapporteur of the Commission on Human Rights in accordance with General Assembly Resolution 51/108 and Economic and Social Council Decision 1997/273 (A/52/493, 16 October 1997)" from Special Rapporteur Choong-Hyun Paik (hereinafter referred to as Paik).

On the situation of the Tajiks, see Paik, paragraphs 62 and 66.

"A Special Rapporteur was first appointed in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then the mandate has been renewed regularly by resolutions of the Commission, endorsed by the Economic and Social Council, in which the Special Rapporteur was requested to submit reports to the Commission and to the General Assembly. The former are contained in documents E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/77, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31, E/CN.4/1992/33, E/CN.4/1993/42, E/CN.4/1994/53, E/CN.4/1995/64, E/CN.4/1996/64 and E/CN.4/1997/59".

2.2.1. *The Jamiat-i-Islami* ⁽³⁰⁾ is led by Burhanuddin Rabbani (former Professor of Theology) and his ally Ahmad Shah Massoud ⁽³¹⁾ (military strategist). The regions under Massoud's control constitute 10% to 15% of Afghanistan. Rabbani is still regarded as the official President of Afghanistan by the anti-Taliban coalition (see 1.1) and the international community (with the exception of Saudi Arabia, the United Arab Emirates and Pakistan). Massoud is based in the town of Gulbahar, which provides access to the Panshir Valley, where he was also able to resist during the Soviet occupation. One of his officers is Commander Bismillah Khan, who is in charge of the anti-Taliban front to the north of Kabul. Rabbani's headquarters are in Taloqan. Part of the town of Mazar-i-Sharif is under Jamiat control. Massoud's Tajiks advocate a form of Islam that is less severe by Afghan standards.

2.3. Hazaras

They account for about 15% to 20% of the population and are Shiites of Mongol ⁽³²⁾ origin, who use a Farsi dialect (Hazaragi) to communicate. There have been Hazaras in Afghanistan since the 13th century.

Iran sees itself as the protector of this section of the population. They live chiefly in the mountain region of Central Afghanistan (Hazarajat), i.e. the Province of Bamiyan. At the beginning of the century, the Hazaras in Afghanistan were discriminated against because of their Shiite background. The introduction of the Afghan Constitution of 1964 and the secular Communist regime led to an improvement in the Hazaras' position in Afghan society. Their party, the *Hezb-i-Wahdat* (Unity Movement), is led by Abdolkarim Khalili and is based in the town of Bamiyan. As well as Hazaras, Qizlbash (Shiites from Kabul) also belong to this Party. The Wahdat was set up in 1988, reportedly also under Iranian influence, and united

⁽³⁰⁾ In 1973 an Islamic movement was launched at the University of Kabul under the leadership of Rabbani. The Vice-President of this movement was Abdul Rabb al-Rasul Sayyaf and the chief student leader Gulbuddin Hekmatyar. They were later to become leaders of the most important Sunni Parties in Afghanistan. About 60% of the Jamiat-i-Islami is accounted for by Farsi (Persian) speaking peoples of which the Tajiks are the largest group, but Pashtun (about 30%), Uzbeks and Nuristanis (from former Kafiristan) also belong to the movement.

⁽³¹⁾ Massoud is the founder of the *Shura-yi Nazar-i Shamalli* (Control Council of the North). This Council controls the commanders serving under Massoud who together make up the Urdu-yo Islami (the Islamic Army). The General Headquarters of this army is located in Taloqan, capital of the Province of Takhar. The Islamic Army controls precious-stone mines and opium fields. In the autumn of 1997, from their northern enclave of Kunduz, the Taliban launched an attack on the province of Takhar, which is controlled by Massoud. This attack was repulsed.

⁽³²⁾ There are also sources which assume an Eastern Turkestan origin for the Hazaras (e.g. Afghanistan, a Nation of Minorities, Minority Rights Group International, London 1992).

eight Shiite movements. In 1993 the Wahdat split into two: one faction (led by Mohammed Akbar Akbari) formed an alliance with the Jamiat and another (led by Khalili) with the Hezb-i-Islami. In January 1996 the two factions reunited. On 12 March 1995, the then leader of the Hezb-i-Wahdat, Abdul Ali Mazari, was murdered by the Taliban. For more than a year now the Hazaras have been surrounded by the Taliban in Bamiyan. The Hazaras were a major contributory force in the defeat inflicted on the Taliban in Mazar-i-Sharif in May 1997 ⁽³³⁾.

For some months now the Taliban have been refusing to allow food convoys access to Hazarajat ⁽³⁴⁾. The natural food shortage in this region used always to be resolved by trade with the fertile regions of Afghanistan. Now the UN is trying to fly in food. The airlift to Hazarajat was stopped at the beginning of 1998 owing to shelling of the airfield by the Taliban.

2.4. *Uzbeks*

Uzbeks account for about 6% of the Afghan population; they are Sunnis speaking a Turkish language. They settled in the north of Afghanistan in the 16th century. Since then the Uzbeks have been the largest Turkish-speaking section of the population in the country. One of the safest regions of the country, comparatively speaking, was the north-west, i.e. the region around Mazar-i-Sharif. The region was dominated by *Junbish-i-Melli* ⁽³⁵⁾ (National Islamic Movement of Afghanistan), an alliance of local potentates of very varied origin. These include not only Uzbeks but also Turkmens and Hazaras.

The town of Mazar-i-Sharif used to be relatively peaceful, but has now increased considerably in size owing to the civil war in other parts of the country. In three years the number of inhabitants has increased from 300 000 to 700 000. Intellectuals and persons who sided with the Communist regime have sought refuge here. As a result of this influx, there was hardly any shortage of for example doctors and teachers in the north, contrary to the situation in the rest of the country and in particular in the Taliban region. The advance of the Taliban caused many people to leave Mazar-i-Sharif again and go inter alia to Uzbekistan. Islamic fundamentalism has failed to take root in the north. Fundamentalism sits uneasily with the traditions of the local Uzbek tribes. Women can conduct public activities. A meeting in preparation for the UN Women's Conference in Peking in 1995, for example, was held in Mazar without any problem.

⁽³³⁾ According to various sources, in September 1997 in the area around Mazar-i-Sharif 70 Hazara citizens were killed by Taliban fighters or their allies. The Taliban deny any involvement. See Amnesty International "Afghanistan, Continuing Atrocities Against Civilians", September 1997.

⁽³⁴⁾ On the grounds that it was the Hazaras who plundered the large UN food depots in northern Afghanistan in the summer of 1997 and that Hazarajat can be supplied with food from Iran (by air).

⁽³⁵⁾ Set up in 1991 by the Uzbek warlord Abdul Rashid Dostam.

2.5. *Turkmens*

The Turkmens are also Sunnis who speak a Turkish language. There are said to be about half a million Turkmens living in Afghanistan, many of whom, like many Uzbeks, fled to Afghanistan between 1920 and 1935 from the Soviet Union in order to escape the Stalinist terror. They often settled as stock farmers.

Other tribes from the same principal ethnical group are the Kypchak, the Kazakhs, (about three thousand people in the area of Mazar-i-Sharif), the Wakhi and the Kyrgyz ⁽³⁶⁾.

2.6. *Other peoples*

The *Aimaq* live in the mountain region to the east of Herat. They are estimated to number from 500 000 to 600 000. Their language is related to Farsi.

Some hundred thousand *Nuristanis* live in four valleys in Nuristan (land of light; previously known as Kafiristan) in the mountains of the Hindu Kush. Every valley has its own dialect (Kati, Waigali, Ashkun and Parshun). By far the majority of these people, who had their own religion, were converted to Islam by force at the end of the last century.

Baluchis live in the south-west. In Seistan, in the border region of Afghanistan, Pakistan and Iran, live descendants who settled in the region in the 10th century and came from the region around the Caspian Sea. In Afghanistan they are estimated to number a hundred thousand. They are mostly nomads and breed camels and sheep. Another sector of this ethnic group lives in villages along the Helmand river. Some Baluchis have settled in Herat as traders. Baluchis are Sunnis.

In addition to the ethnic groups, there are nomads in Afghanistan known as *Koochis*. Their number is unknown and they come from various ethnic groups. Moreover, they often travel to (and within) Pakistan. The Koochis are disregarded by the Taliban and not subject to the Taliban's rules of conduct; their women therefore often do not wear the burqa.

3. Situation in Afghanistan

3.1. *Recent developments*

Although political relations have continually changed in recent years, involving a plethora of parties, factions within parties, ethnic and religious differences and foreign influences, the situation now seems to be becoming clearer.

⁽³⁶⁾ After 1978/1979, most of these left for Turkey and many went to the Central Asian Republics after 1991.

This is partly the result of the military changes which occurred last year.

The young Taliban administration has ensured a degree of stabilization. In Taliban regions, the arbitrary violence and the chaos of the civil war have decreased significantly. This is in any case partly the reason for the speedy success of this movement and the support which the Taliban continue to enjoy among the rural Pashtun. In towns such as Herat and Kabul, the Taliban can expect less support and their presence is regarded as that of an occupying force.

Whereas there were previously ten or eleven political factions which formed repeatedly changing alliances with each other, there are now in practice four sizeable military groups. In addition, three of these are now working together, so that they would almost be regarded as two opposing blocs.

In May 1997, the "United Islamic Front for the Salvation of Afghanistan" (UIFSA, or Northern Coalition) was set up.

This united front is a coalition between Dostam's Junbish-e-Melli, Rabbani and Massoud's Jamiat-i-Islami and Abdolkarim Khalili and Mohammed Akbar Akbari's Hezb-i-Wahdat (supplemented by remnants of the Hezb-i-Islami). All these groups have at one stage or another in the fighting in Afghanistan also fought against each other and formed various coalitions. The situation may alter unexpectedly with changes in alliances and the balance of power.

The position of Hekmatyar, who is at present supposed to be in Iran, has been considerably weakened, inter alia because many regard him as chiefly responsible for the destruction of Kabul.

Massoud and Rabbani control the Panshir Valley in the north-eastern provinces.

At the end of October 1997, General Dostam was proclaimed Vice-President and military leader by the UIFSA; Rabbani remains President.

The Northern Coalition controls regions in the north-east and the north-west of Afghanistan (including the towns of Mazar-i-Sharif, Charikar, Baghram and Faizabad).

At the present moment (January 1998), the Taliban and the UIFSA are opposing one another on various fronts: to the north of Kabul; in the Province of Badghis in the north-west; in Bamiyan and Wazak (Hezb-i-Wahdat versus Taliban); around the province of Kunduz in northern Afghanistan; in the provinces of Kunar and Laghman in Eastern Afghanistan.

Despite the rules drawn up by the Taliban, which limit the freedom primarily of women, but also of men, the Taliban do appear to be able to count on support, particularly in Pashtun regions. Nearly all Afghans over the past eighteen years have been sorely tried by the violence of war, extortion, corruption and human rights violations. Virtually everyone has lost family members or friends. The Taliban have, however, now improved security in a large part of the country. The violence of war has been confined to relatively small areas of the country. Extortion, raids and maltreatment by local commanders have decreased and have sometimes even been rendered negligible, although this has been achieved at the cost of individual freedoms.

For some months talks have been taking place between envoys from Dostam and the Taliban, and these have in the meanwhile resulted in the release of a few hundred prisoners of war.

3.2. Characteristics of the present regime

3.2.1. Government

Particularly since April 1992, Afghanistan has had no properly functioning central authority, nor does it have a functioning independent, impartial and centralised legal system, a Constitution, the rule of law or an authority which can assume responsibility for ensuring respect for human rights ⁽³⁷⁾. The absence of a clear central authority is probably one of the striking features of post-Communist Afghanistan, but it is not new in the Afghan context: Afghan kings have always had to manoeuvre in order to seize and retain effective power. This is often only possible by entering into strategic alliances with regional potentates. The country has therefore always been a patchwork of regions where local authorities with a high degree of autonomy take responsibility not only for government and security, but also for the administration of justice. Contrary to the past, more attention than ever is now being paid to the *Sharia* as the source of law. Traditional tribal law also continues to play an important role in a number of regions. Abuse of power by warlords or guerrilla leaders has become less widespread, since the former (judicial) arbitrariness has in many cases been replaced by the *Sharia*.

3.2.2. Taliban administration

Administration in Taliban Afghanistan is to a large extent in the hands of Mullahs and *Shuras* (Councils). The central Shura of Kandahar and Taliban leader Mullah Omar constitute the legislative power. At provincial level, power is exercised by provincial *Shuras* and a Governor (appointed by the Taliban). At village level, *Shuras* are elected democratically by the inhabitants of the village: the Taliban are often not represented in these village *Shuras*.

The structure of Taliban administration comprises four aspects which partly function independently of each other:

1. the national *Shura* consisting of six to ten members who are all Mullahs ⁽³⁸⁾. It has its headquarters in Kandahar and issues decrees for the whole region controlled by the Taliban. There is also a *Shura* operating in Kabul which, unlike that in Kandahar, has more of an executive function;
2. the Ministries in Kabul, which are headed by appointees from the ranks of the Taliban (usually a member of the *Shura*). Some Ministries have been set up by the Taliban, e.g. the Department for the Promotion of Virtues and the Suppression of Vice. Other Ministries have been completely taken over by the Taliban (Foreign Affairs). Some of

⁽³⁷⁾ Final Report on the Situation of Human Rights in Afghanistan, E/CN.4/1997/59, February 1997.

⁽³⁸⁾ Other sources (Le Monde Diplomatique, January 1997) state that this *Shura* consists of 25 to 30 members.

the Government services such as the registration of births, deaths and marriages, the issuing of (travel) documents and customs (duties on imports and exports) are continuing to operate under Taliban control using the same officials and the same procedures and forms as under previous regimes. The quality and working methods of Ministers varies considerably. The Minister for Justice, for example, is known to personally carry out street checks on compliance with the dress code. Other Ministers try as best they can to govern the country without having any experience and this often results in incomprehensible decrees or naive statements. At the end of November 1997, the Taliban had lists drawn up of government officials who had been educated outside Afghanistan (i.e. in Russia) or decorated by the Communist regime. The Taliban have threatened to dismiss such persons;

3. the religious police, which is answerable to the Department for the Promotion of Virtues and the Suppression of Vice (*Amri Bil Maruf Wa Nahi Amal Munkar*). The religious police ensure compliance with decrees. Offenders are punished by flogging (often immediately on the street ⁽³⁹⁾) and/or short periods of detention; houses and shops are forcibly entered in the search for banned materials;
4. the military structure ⁽⁴⁰⁾. The Taliban are said to have 20 000 to 30 000 fighters, for the most part young Pashtun men from the countryside. When fighting occurs, it is also possible to draw on reserves from Pakistan. In fighting in the north, particularly around Mazar-i-Sharif, the Taliban have suffered considerable losses. Since their offensive started they are said to have lost some 8 000 fighters. This has led to tensions between the Taliban and the tribal elders.

A Taliban Government ⁽⁴¹⁾ does exist, but its authority is limited, even though it covers three-quarters of Afghan territory. There are no regular police. In a number of towns (including Kabul), however, traffic police are still operating.

⁽³⁹⁾ Paik, paragraph 32.

⁽⁴⁰⁾ Many of the Taliban's military commanders were not originally Mullahs, although they now have that status. Mullah Mohammed Hassan Rahmani, one of the most important figures in the Taliban, is a former *Mujahedin* fighter. He was never a religious leader. Some Taliban commanders are former officers of the Communist army. Shah Sawar, for example, was commander of a reconnaissance unit of the Afghan army in the Soviet period and is now an artillery commander to the north of Kabul. Many former Communists, moreover, are fighting for the Taliban under different names.

⁽⁴¹⁾ The most important personalities within the Taliban are: Mullah Omar (the leader), Mullah Turawi (Minister for Justice), Mullah Hassan (Governor of Kandahar), Mullah Abbas (Minister for Public Health), Mullah Rabbani (appointed President of the Emirate of Afghanistan by the Taliban), Mullah Hassan (Minister for Foreign Affairs, not to be confused with the Governor of Kandahar who has the same name), Mullah Amir Khan Muttaqi (Minister for Culture), Mullah Waqil Ahmad (spokesman) and Mullah Nabir (Vice-President).

Order is maintained by the Taliban, often on the basis of directives issued by the Department for the Promotion of Virtues and the Suppression of Vice (the religious "police"). Such directives are not interpreted everywhere in the same way. Since any infrastructure in Afghanistan was almost entirely destroyed during the eighteen-year struggle, effective communication is difficult. This means that legislation promulgated in Kandahar and Kabul is received late or with insufficient explanation by Taliban representations outside these towns. Differences emerge in legislation in the various parts of the country, and this in turn results in differing implementation, particularly in rural villages.

The extent of Taliban measures depends on the self-assurance and the power basis they enjoy on the spot. If they suspect greater (intellectual) resistance, they will be stricter in implementing their rules.

Activities such as the playing of music, applause at sporting events, dancing, playing chess and flying kites, the keeping of carrier pigeons and the depiction of living beings are prohibited as "un-Islamic". Football, as well as other forms of sport, are not prohibited. Various sporting events were held recently in Kandahar, Kabul and other towns in favour of the victims of landmines. The flying of kites, which is still a pastime of many children throughout Afghanistan, is prohibited from the roofs of houses as being too dangerous. Keeping carrier pigeons is prohibited as there is an element of gambling in pigeon races.

Order is also maintained through social controls, often leading to judgments by local *Shuras*. The Taliban have a monopoly of the use of force in the regions under their control; their authority is not disputed in those regions.

An executive administrative apparatus does not really exist, particularly in areas such as education and medical care. Attention to these two areas is the responsibility of local and above all foreign NGOs throughout Afghanistan. One of the main obstacles here is the restrictions to which the education of girls and women is subject.

The levying of taxes in the form of import and export duties is entirely in the hands of the Taliban in the region under their control.

The Taliban are not for the moment making any efforts to strengthen their ability to govern; their priority is still the armed struggle. The absence of even the most rudimentary administrative experience and dependence on the edicts from the central *Shura* in Kandahar simply reinforce this position.

The Taliban claim that their principle concern at the moment is to restore peace and consolidate an Islamic regime throughout Afghanistan. All their financial resources are accordingly devoted to that end, including at the expense of the education of women and girls ⁽⁴²⁾.

⁽⁴²⁾ See also Paik, paragraph 98.

When one looks at the present situation, it is clear that the Taliban administration is fairly centralised. The Taliban's position in the south is not therefore contested. The important thing seems to be that the Taliban appear to have a monopoly on the use of force, and the sole right to levy taxes in the regions under their control.

On 26 June 1997, the Taliban announced a general amnesty, accompanied by an invitation to Afghans living abroad to return home (see Annex). It remains to be seen how this amnesty will be implemented in practice, but it is encouraging to note that the UNHCR has been assigned a role as monitor. The Northern Coalition announced a similar amnesty on 16 August 1997.

3.2.3. *Northern Afghanistan*

In Northern Afghanistan, with the exception of a few pro-Taliban regions (Kunduz) ⁽⁴³⁾, power is in practice exercised by the factions making up the UIFSA. Cooperation relates above all to military matters. Administration in the areas covered by the coalition is partly in the hands of the Rabbani Government and partly in those of local warlords who have come together to fight the Taliban. The provincial structure (administration by Governors) remains intact.

3.3. *Towns*

3.3.1. *Kabul*

The capital Kabul lies at a height of 2 000 metres on the Kabul River (the former Kophen). Kabul, like other towns in Afghanistan, is administered by *Shuras* at various levels. There is a Central Council for the whole town, which functions as the town authority. The districts and even the various blocks of houses have their own *Shuras*. Mullah Mohammed Rabbani (no relation of President Rabbani of the Northern Coalition) is the second highest Taliban representative and Mayor of Kabul.

Kabul now has somewhat more than one million inhabitants, of which a considerable proportion are homeless people from the region to the north of the town who settled in Kabul last year. Many of the original inhabitants of Kabul have fled to the south (Jalalabad or Pakistan). UNHCR figures show that the population of Kabul in 1997 (up to 1 November) has increased by 8% through the influx of people from the region to the north of the town who have moved to Kabul.

Kabul is a multi-ethnic town whose residents include Tajiks, Hazaras, Uzbeks and Pashtun. Inhabitants of the capital are mistrusted by the Taliban because of their "liberal" standards. Since the Taliban occupied the town, weapons have been banned and peace and order restored. As long as men comply with the rules (e.g. on the wearing of beards) they can move freely on the streets. Since the occupation of the town by the Taliban women have

⁽⁴³⁾ The Province of Kunduz with its majority of Pashtuns (who have emigrated there).

virtually without exception taken to wearing a burqa in the street ⁽⁴⁴⁾. In Kabul there is a curfew between 21.00 and 05.00.

Fighting in the town has stopped, and it is only sporadically bombed by aircrafts of the anti-Taliban coalition ⁽⁴⁵⁾. At various places in the town there are Taliban checkpoints where cars are stopped and the occupants searched for weapons. Investigation by the UN has shown that half of the accommodation in Kabul is actually uninhabitable ⁽⁴⁶⁾. After three years without electricity, the capital now has a regular electricity supply from the dam at Sarobi. Water in Kabul comes from springs and wells, which have often been dug with the help of the UN. The absence of administrative power and the use of virtually all funds for the fight against the anti-Taliban coalition means that the situation has not improved much in Kabul in this respect.

The Taliban have only undertaken repair work on mosques. The population is trying, with the support of UN organisations and NGOs, to repair accommodation and shops on a modest scale. The general impression in Kabul, however, is still that of a partly destroyed town which has suffered badly from the brutality of war.

The socio-economic situation has not improved since the arrival of the Taliban. Although it is easier than before for goods and food to reach the town, the purchasing power of the population is so low that they cannot afford the goods available. Unemployment is high among the population. The average salary is \$6 to \$7 a month ⁽⁴⁷⁾.

There are about 30 000 war widows in the town, whose prospects of a dignified existence are seriously undermined by the many Taliban restrictions. From time to time (e.g. if they are about to suffer losses at the front) the Taliban temporarily detain groups of Hazaras and Tajiks owing to fears of organised resistance ⁽⁴⁸⁾.

⁽⁴⁴⁾ Some women go out with stiletto heels which are partly visible under their burqa. In Kabul single women do also go out unaccompanied by a man. Women without burqas are also occasionally seen on the street, although this is not officially allowed. Measures against such behaviour are not systematic, but occasional.

⁽⁴⁵⁾ Amnesty International reports rocket bombardments on Kabul from 11 to 13 September 1997 resulting in the death of a number of citizens. See Amnesty International "Afghanistan, Continuing Atrocities against Civilians", September 1997.

⁽⁴⁶⁾ Kabul survived the Soviet occupation largely unscathed. It was reduced to rubble subsequently by rival Mujahedin groups. The town was particularly badly damaged by the offensive of Dostam and Hekmatyar (against Rabbani and Massoud) in January 1994.

⁽⁴⁷⁾ The Afghan currency is the Afghani. In Taliban-controlled regions there are about 31 000 Afghanis to one dollar while in the region controlled by the Northern Coalition, one dollar is worth about 70 000 (newly introduced) Afghanis.

⁽⁴⁸⁾ See Paik, paragraphs 62 and 66.

3.3.2. Herat

Herat is mainly populated by Tajiks who speak Dari and was badly damaged in the Soviet period. The town was taken by the Pashtu-speaking Taliban in September 1995 ⁽⁴⁹⁾. The population regards the Taliban as an occupying force. The number of Hazaras in Herat has fallen by 30%. Herat was for a long time in the hands of the enlightened ruler Ismaël Khan, who was supported by Iran and cooperated with the Rabbani Government. When the town fell into the hands of the Taliban, there was far from universal support for them from the population. There is clearly tension in the town, there is some opposition and there are still regular skirmishes outside the town between Taliban troops and the remaining supporters of Ismaël Khan.

Herat is still a lively city, which functions as a distribution centre for the transport of goods from Iran and Turkmenistan to Kandahar and Pakistan, but also to Northern Afghanistan ⁽⁵⁰⁾. Despite the strict Taliban rules, women go out on the streets unaccompanied by men. Bathhouses for women have been closed. In house searches, the Taliban hunt in particular for televisions, radios, cameras and other electronic equipment. On 21 December 1996, 150 women in the town demonstrated against the closure of the bathhouses. They were supported by shopkeepers who closed their shops for a time. The women were then beaten by the Taliban and some twenty of them arrested. Listening to broadcasts from Iran is forbidden, as is the possession of Iranian products ⁽⁵¹⁾. Around the town about 16 000 refugees from other provinces have been placed in refugee camps designed primarily to receive Afghans who have returned from Iran ⁽⁵²⁾.

3.3.3. Mazar-i-Sharif

In most of Mazar-i-Sharif, power is held by the Junbush-i-Melli (National Islamic Movement for Afghanistan). There is a more liberal regime than in the parts of Afghanistan controlled by the Taliban. Women are free to go about in the town and wear both relatively western and very conservative Islamic clothing, depending on their background. The town has little local (processing) industry and is very dependent on the neighbouring Central Asiatic countries, in particular Uzbekistan.

(Population) growth in Mazar is explained chiefly by the homeless who have settled there and refugees who have returned from Iran.

The Taliban again got very close to the town at the end of September and surrounded it on three sides. The siege was, however, broken and the Taliban withdrew from the town limits.

⁽⁴⁹⁾ Ismaël Kahn, the Governor of Herat, has been taken prisoner by the Taliban. He joined Dostam in 1996 after being driven out of Herat by the Taliban in 1995. In the spring of 1997 he was handed over to the Taliban by Malik.

⁽⁵⁰⁾ In Faizabad, in the far north-east, the shops contain much Iranian produce.

⁽⁵¹⁾ The Taliban have had the Iranian Embassy in Kabul closed down. The Iranian Consulates in Herat and Jalalabad have remained open.

⁽⁵²⁾ See Paik, paragraph 110.

In December 1997, various groups (particularly Hazaras and Uzbeks) took "administrative" control of parts of the town.

3.3.4. Kandahar

Kandahar is the headquarters of the spiritual leader of the Taliban, Mullah Omar, as well as the central Shura. Various Ministries based in Kabul also have a representation in Kandahar. Ministers fly regularly between these two towns for consultations.

The first thing that strikes anyone entering the town is the "Town Gate" which is draped with unwound cassette tapes, as these are regarded by the Taliban as un-Islamic. Kandahar is inhabited by about 600 000 people. The town has a hospital, which is the property of the authorities but run and equipped by the Red Cross. The hospital also provides training for Afghans, keeping men and women separate ⁽⁵³⁾.

Kandahar has also suffered badly from the ravages of war. Asphalt streets no longer exist and of the many caravanserais (places where caravans could spend the night) which characterised the town, only one is left. As the Taliban has a firm power-base in this town, their decrees seem to be implemented less strictly. The population of Kandahar (urban Pashtun) also regard the Taliban (rural Pashtun) as occupiers.

3.3.5. Faizabad

The ousted President Rabbani enjoys genuine power in only a small part of Afghanistan, namely the north-eastern Provinces of Takhar and Badakshan, of which Taloqan and Faizabad are the capitals. An official mission which visited Faizabad recently found a fairly effective administration and a peaceful, relatively liberal atmosphere. The hospital functions well with 23 doctors, of whom 12 are women. The schools are functioning and nearly all girls go to school. A number of projects have been set up, with Netherlands assistance, inter alia, to provide widows with a subsistence (looms, handicrafts). There is, however, a shortage of food in the northern provinces, inter alia because Pakistan prohibits the export of grain (which they are short of themselves) and local agriculture cannot fully meet the need for food ⁽⁵⁴⁾.

3.4. Socio-economic situation

The civil war has done serious damage to all sectors of the economy, which even before invasion by the Soviet Union in 1979 was already regarded as one of the least developed in the world.

Three-quarters of the population can neither read nor write. The average life expectancy is less than 45 years. The mortality rate for children under 5 is one of the highest in the world. According to United Nations Development Programme figures, per capita food production for the population in the period 1980-1991 dropped by 30%. Many agricultural areas have been laid waste or rendered inaccessible by landmines. About 30% of agrarian infrastructure has been destroyed. Small industries have been wiped out.

⁽⁵³⁾ There are 10 female doctors working in Kandahar hospital.

⁽⁵⁴⁾ Inter alia because agricultural land is used for poppy cultivation.

Many Afghan refugees in Pakistan and Iran make any decision to return home dependent on the possibilities for building a new existence, which will of course not be easy owing to the socio-economic situation.

However, positive développements are also to be observed. In the region under Taliban control, armed conflict has ceased; roads are open for commercial traffic, and this has given a boost to the economies of towns such as Jalalabad, Kandahar and Herat.

There is also economic activity in other areas, particularly of an unofficial nature. The international community, including the UN and the European Commission Humanitarian Office (ECHO), is investing in eastern and south-western Afghanistan by large-scale removal of landmines ⁽⁵⁵⁾ and by helping the returning and local population to rebuild. Trade is showing signs of recovery, the roads are relatively safe (inter alia because the Taliban have managed to limit the activities of the many warlords) and importing and exporting are taking place (e.g. horticultural produce from Eastern Afghanistan is being exported to Pakistan) ⁽⁵⁶⁾.

Afghanistan could in principle be self-sufficient as regards food production. 85% of Afghans traditionally derive their living from agriculture, but after more than 15 years of war the agricultural system has been largely destroyed and literally undermined ⁽⁵⁷⁾. Afghanistan is now partly dependent on grain imports from Pakistan.

Many farmers have left their holdings and this has led to a food problem which is further aggravated by a shortage of wheat in neighbouring Pakistan.

The most important economic activity in Afghanistan is now the cultivation of poppies. With a total production of more than 2 200 tonnes per annum, Afghanistan is at the top of the list of opium-producing countries. The Taliban controls about 95% of the poppy fields in the country, although they have said officially that they are opposed to the production and use of narcotics ⁽⁵⁸⁾.

Many towns in Afghanistan have suffered badly during the conflict. A town such as Jalalabad (where about 120 000 refugees from Kabul are living) has emerged relatively unscathed from the fighting, but there too there is a lack of many basic facilities.

⁽⁵⁵⁾ It is estimated that 10 million landmines have been laid throughout Afghanistan, both along roads and in fields and buildings. In addition there is a danger from UXOs (unexploded ordnances).

⁽⁵⁶⁾ According to the Food and Agriculture Organisation grain production in Afghanistan in 1997 increased by 18% compared with the previous year.

⁽⁵⁷⁾ See "Van raketten naar snoeischaren" (from rockets to pruning hooks) by Tim Kos in Internationale Samenwerking (International Cooperation) No 6, June 1997.

⁽⁵⁸⁾ Report on the Situation of Human Rights in Afghanistan, E/CN.4/1997/59, 20 February 1997.

3.4.1. Migratory movements

As has already been shown, there are many groups of inhabitants in Afghanistan who have migrated there in the more or less distant past (e.g. Turkmens and Uzbeks). In addition, many groups (in particular the Pashtun) traditionally had a nomadic lifestyle often based on seasonal migration: in the summer they live in the mountains, in the winter in the valleys. Many also operate on the related concept of "nimkoura", i.e. two houses, two economic bases.

Another form of migration is urbanisation: this development has, in view of the rural nature of the economy, taken a relatively long time to get going. At the start of the 1970s, Kabul had a population of no more than 300 000 people, but then expanded to a city of 1 million inhabitants in the 1980s. Urbanisation was considerably influenced by the war in the 1980s: many were forced to leave their regions and seek protection in the town. This means that virtually all city dwellers still have links with the village/region of origin (where they often still have family and possessions). In some cases they also return to their villages. Nearly one in three Afghans fled abroad during the Soviet occupation.

3.4.2. Education

Since 1979, education is no longer a certainty for many young Afghans owing to the lack of security, the destruction and neglect of school buildings and teaching materials, the disappearance through death or exile of many of the teaching staff and the need for children to find food and water.

Relief organisations try wherever possible to cooperate with the local authorities (*Mullahs* and *Shuras*) in offering new educational arrangements. The often inflexible attitude of the Taliban is a problem here. Immediately after taking Kabul in September 1996, they closed girls' schools, pending a decision on the education of girls by their religious scholars and the Shura in Kandahar. The Taliban have claimed that they wish to set up new Islamic teaching programmes when the war is over, which should make the education of girls possible again ⁽⁵⁹⁾.

In Kabul alone, more than 100 000 girls and almost 8 000 women teachers are said to have been affected by the measures.

There is however a tendency towards greater flexibility. In some towns (such as Kandahar) ⁽⁶⁰⁾ and even in the countryside an often unofficial form of education for girls is slowly re-appearing with the permission of the Taliban. The right to education is, however, still very restricted in Afghanistan with all the consequences that has for future generations.

⁽⁵⁹⁾ It is a well-known fact that the education of girls is not authorised in Afghanistan. The official line of the Taliban is that the education of girls has been temporarily suspended until peace returns to Afghanistan as a whole and suitable teaching material is available.

⁽⁶⁰⁾ There are currently 7 girls' schools in Kandahar which have about 1 100 pupils. These are the so-called "home-based education" schools giving lessons to girls in their homes. These schools operate with the permission of the Taliban. The salaries of the 18 women teachers are paid by the Taliban. There are plans to have 30 women teachers working before the end of 1997.

3.4.3 Health care

Over the last 18 years, virtually all existing health-care facilities have been lost. Most clinics and hospitals have suffered serious damage and medical equipment has hardly been replaced at all. Medical staff have left the country in droves or moved from the countryside to the towns. Within Afghanistan part of the population has access to medical care built up by NGOs over a period of time. With the help of relief funds, a number of clinics have been repaired or built. Thanks to the efforts of relief organisations, Afghans in the refugee camps now often receive better medical care than their compatriots elsewhere.

Of the government-controlled hospitals in Afghanistan, seven now have the support of the International Red Cross, including one in Kandahar and two in Kabul. In Kabul there are a total of 15 hospitals ⁽⁶¹⁾. The hospital in Faizabad is supplied with medicines by the Merlin organisation.

3.5. Entry and exit procedures

In theory Afghans have the right to travel freely both within Afghanistan and abroad. Particularly in the north, this right is considerably restricted by the front lines on the one hand and the closing of borders by neighbouring countries, on the other. Nevertheless, many people travel by (mini)bus through Afghanistan. There is also a limited amount of air traffic. Such flights are, however, chiefly intended for the UN organisations present in Afghanistan, the Red Cross and the Governments.

In the region controlled by the Taliban, there are checks on roads leading into the towns. These mainly involve checks on outward appearance and searches for weapons. If the dress code is not complied with, people are sometimes beaten and/or arrested ⁽⁶²⁾. There is the risk that those concerned will then be held in detention for some time.

The Taliban issue passports from the previous regime's stocks.

Passenger transport through the Salang tunnel is problematic for anyone, but still possible. The tunnel, which is sometimes closed because of fighting, is now controlled by troops of the anti-Taliban coalition. It is impossible to cross the pass other than through the tunnel. Direct transport between Kabul and Mazar-i-Sharif is not possible through the front to the north of Kabul. It is, however, possible (if roads are not blocked by snow) to travel from Kabul via Sarobi to Mazar-i-Sharif. Many do this, and this also makes traffic between Mazar and Jalalabad/Peshawar possible.

⁽⁶¹⁾ At the end of September 1997, the Taliban are said to have closed ten private clinics in Kabul since they took the view that doctors should only be allowed to work in public hospitals. The Taliban had designated an as yet unequipped hospital in Kabul specifically for women and at the same time banned female patients from access to all other hospitals. This formed part of their efforts to achieve total segregation of men and women in health care as well. Under pressure from the international community, all hospitals in Afghanistan have again been made accessible to women.

⁽⁶²⁾ At some checkpoints, the length of beards is apparently checked using an empty Coca Cola can or a Russian tea glass (see Paik, paragraph 44).

People travelling through the northern region are rarely checked when moving from one political group to another. In the very few cases where this occurs, only a check for weapons is involved.

When entering the Uzbek border town of Termez, the "Bridge of Friendship" over the border river Amu Daryja (Oxus), which is also often closed, has to be crossed.

It is possible to enter Afghanistan from Turkmenistan via the Ageneh and Torgundi border crossings.

The border with Tajikistan is guarded on the Tajik side by Russian GOS troops.

In the region controlled by the Taliban, people travelling from Iran to Herat are only admitted if they are accompanied by the UNHCR. This concerns returning refugees, who are received in Herat in a transit camp and registered by the Taliban. Such people can then return without further problems to their (former) homes in the Taliban-controlled region. Returning refugees, who have a UNHCR return document, are not subjected to any more checks by the Taliban.

It is possible to enter Afghanistan from Pakistan inter alia via the Spin-Buldak, Chaman (in Baluchistan), Miram Shar, Torkham and Chitral (in the North-West Frontier Province) border crossings. At these border checkpoints, the Taliban check not only travel documents but also dress and weapons. The border crossings with Pakistan are regularly closed, but mostly only for short periods of time. Visas for Pakistan can be obtained from the Pakistani Consulates in Kandahar and Jalalabad. Many Afghans, including those who have already been repatriated, have Pakistani ID-documents which make it relatively easy to cross the border and they can travel through Pakistan without problems. Many Afghans travel from Peshawar to Dubai or Tashkent.

There is an air link between Dubai and Kandahar/Jalalabad/Kabul, with regular services by Ariana Afghan Airlines. Balkh Air also has air links with abroad (from Mazar-i-Sharif to Mashhad (Iran)), but these are not always operational. An air link between Kabul and Srinagar (India) is said to have started recently.

4. Human-rights situation

4.1. General

It is estimated that 25 000 to 40 000 people have died in Kabul alone since 1992. The armed conflict has since 1979 affected some 2 million Afghans psychologically and/or physically. More than 20 000 people have been killed by landmines and about 400 000 wounded ⁽⁶³⁾.

⁽⁶³⁾ See World Refugee Survey 1997, US Committee for Refugees, Washington, November 1997.

All armed groups in Afghanistan still engage in human-rights violations. Not a single section of the Afghan population has been spared from terror ⁽⁶⁴⁾. The conquest of various areas involved reprisals against the whole local population. Particularly in places where fighting continues and where traditional structures have collapsed, there is a danger of looting, extortion, robbery and other crimes of violence. In the course of the civil war, thousands of civilians died in artillery bombardments, and tens of thousands were wounded. Not one of the factions seems to have made any serious effort to avoid civilian targets. On the contrary, there are indications that some factions consciously chose civilian targets in order to punish the local population for loyalty to a rival militia.

The fact that in the meantime hundreds of thousands of refugees have returned (all over Afghanistan) seems to show that the risk of falling victim to human-rights violations and acts of war is not regarded as unacceptably high by those concerned.

Violation of human rights by arbitrary use of force has become less frequent: the power of most of the warlords in the Taliban-controlled region has been curbed ⁽⁶⁵⁾.

Fighting is at present continuing in the region directly to the north of Kabul, including the Ghorband valley towards Bamiyan, in Kunduz (Taloqan) and at the front in Badghis.

The officers and men serving under various northern commanders apparently continue to be guilty of the use of arbitrary violence, robbery and rape.

This is the type of violence which has decreased considerably in the Taliban-controlled region.

The Taliban are guilty of violating human rights, particularly as regards fair trials, the right to education, the right to employment (of women) and equality between men and women.

4.1.1. Human rights in the Afghan Constitution

The Afghan Constitution of 1964 was suspended in 1992. Neither the Taliban nor the Northern Coalition have a Constitution.

⁽⁶⁴⁾ Amnesty International "Afghanistan: International Responsibility for Human Rights" (London, November 1995).

⁽⁶⁵⁾ This does not apply to the regions controlled by the anti-Taliban coalition, where local warlords are still fighting each other.

4.1.2. *International Conventions*

Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Political Rights of Women, the Convention on the Elimination of all forms of Racial Discrimination, the International Covenant on Economic, Cultural and Social Rights, the International Covenant on Civil and Political Rights and the UN Convention against Torture and Inhuman or Degrading Treatment. Afghanistan is not a party to the Convention on the Status of Refugees. All this, however, has no practical significance given the situation in the country.

The Special Rapporteur for the UN Commission for Human Rights accordingly concluded in October 1996 that, although Afghanistan is party to a number of human rights Conventions, the Taliban only regard as valid Islamic law, and in particular the Pashtun interpretation of such law. On 4 March 1997, the UN General Assembly appealed to the Taliban to respect the rights of women.

4.2. *Human rights violations*

4.2.1. *Arrest and detention*

Owing to the absence of centrally organised judicial bodies anywhere in Afghanistan, practice regarding arrests and detention varies from region to region.

After Kabul fell, the Taliban are said to have released about 2 000 prisoners, in particular from the infamous Pul-i-Charkhi prison ⁽⁶⁶⁾.

According to Amnesty International, the Taliban thereupon again detained hundreds of people, not only prisoners of war, but also women and children on the basis of their ethnic origin (Tajiks) ⁽⁶⁷⁾ on the grounds that they had infringed religious rules or were, (allegedly) cooperating with the anti-Taliban coalition.

In 1996, the Taliban are said to have held several hundred people in detention for the whole year in the Provinces of Herat and Farah because they had not complied with religious decrees or sympathised/were suspected of sympathising with the Taliban's opponents. The anti-Taliban coalition in Mazar-i-Sharif is reported to have imprisoned several thousand Taliban fighters.

In negotiations between the Taliban and the anti-Taliban coalition, the exchange of prisoners plays an important role. The anti-Taliban coalition holds twice as many prisoners of war (including Taliban leaders) than the Taliban ⁽⁶⁸⁾.

⁽⁶⁶⁾ See also: US Department of State, Afghanistan Report on Human Rights Practices for 1996.

⁽⁶⁷⁾ On 11 July 1997, Amnesty International announced the arrest of some 2 000 Tajiks and Hazaras in Kabul, see also Paik, paragraphs 62 and 66.

⁽⁶⁸⁾ The coalition is said to be keeping some 3 600 Taliban fighters in prison. Dostam has 100 fighters in prison in Maimama, 1 000 in Shibarghan and 800 in Mazar-i-Sharif. General Massoud has about 600 fighters in prison in the Panshir valley. The troops of General Naderi Ismaëli are said to be holding about 100 Taliban soldiers prisoner to the north of the Salang tunnel. Hezb-i-Wahdat is said to have no more than 100 Taliban fighters in prison.

It is reported that in July 1997 the Taliban arrested hundreds of Hazaras and Panshiris in Kabul when searching for weapons. Most of these were apparently released again a few days later ⁽⁶⁹⁾.

These arrests showed that the Taliban distrust the non-Pashtun inhabitants of Kabul. There are reports that prisoners have been forced by the Taliban to dig trenches at the front and defuse landmines ⁽⁷⁰⁾.

According to Amnesty International, the present holders of power (both the Taliban and the coalition) are using former prisons of the KHAD (former KHAD staff are also being hired again). Local commanders and governors imprison their (alleged) opponents without any kind of trial. Hekmatyar has apparently even had a number of prisoners taken to prisons in Pakistan.

There are also reports that transport containers are being used as prisons ⁽⁷¹⁾. Prisoners can moreover often buy their freedom if they pay ransoms.

Conditions in all prisons are very bad. Prisoners are hardly given anything to eat and there is limited sanitation ⁽⁷²⁾. Food supplies in prisons for men are mostly provided by members of the prisoner's family. Women who are in prison are almost always repudiated by their families. They and their children have to make do with the extremely meagre prison rations. The prisons in Afghanistan are regularly visited by representatives of the International Committee of the Red Cross (ICRC) ⁽⁷³⁾.

The Taliban on the other hand are said to have 1 200 prisoners of war in Kandahar. These include Ismaël Kahn, former Governor of Herat, who was handed over to the Taliban by General Malik. Of the prisoners in the hands of the Taliban, about 500 were imprisoned at the time of the attack on Kabul; the other 700 belong to Ismaël Khan's troops.

In Kabul, too, about 700 people are being held prisoner by the Taliban. These, however, are largely civilians.

In December 1997, the International Committee of the Red Cross organised an exchange of prisoners of war between the Taliban and Dostam. This concerned several hundred people.

⁽⁶⁹⁾ The Nation, Islamabad, 14 July 1997, announced that 200 people were involved here, while Amnesty International said there were 2 000 people and the UN Rapporteur mentioned the number of 600.

⁽⁷⁰⁾ Amnesty International letter of 27 March 1996. Amnesty International also reports that Massoud uses prisoners as forced labour in bauxite mines.

⁽⁷¹⁾ This is apparently being done by both the Taliban and the other parties. For more information on prisons, see Amnesty International Afghanistan, International Responsibility for Human Rights Disaster, London 1995.

⁽⁷²⁾ See Paik on prisons and places of detention, paragraphs 34, 67, 68 and 69.

⁽⁷³⁾ On 4 December 1997, the ICRC made it known that in the first nine months of 1997 they had visited 7 826 prisoners in 74 prisons in Afghanistan. The ICRC has access to both Taliban and Northern Coalition prisons.

4.2.2. *Torture and inhuman treatment*

Although torture no longer seems to occur systematically in Afghanistan, there are sources suggesting the use of torture to obtain military information. General Massoud's troops are said to have tortured Taliban fighters to that end ⁽⁷⁴⁾.

In the course of house searches, inhabitants may be beaten. This is said to have occurred in Herat and Farah, for example.

4.2.3. *Judicial processes*

The Taliban have a legal system organised along rather rudimentary lines. Justice is administered in the first instance by Mullahs at local level. It is in principle possible to appeal against a ruling by Mullah, first at regional level and then at the Supreme Court in Kabul ⁽⁷⁵⁾. Most of the people in rural regions, however, are not aware of this possibility and for them the first and last instance is (de facto) the village Mullah.

The function of Chief Justice still exists; this is now exercised by a Talib. The Taliban administer justice on the basis of the *Sharia*, the Islamic law based on the Coran, pronouncements by the prophet and case law from the early period of Islam. These sources also form the basis for judgments in modern matters. To that end, use is made of the principle of *qiyas* (analogy). *Sharia* is not a code of law in the western sense of the word and different judges may come up with a different answer to the same legal question. The procedures of both judiciary and police vary from region to region. Most Mullahs in the countryside administer justice purely on the basis of their own particular interpretation of the *Sharia* (which is the only legal source for the whole of Afghan territory).

Matters which are not covered by the *Sharia* are dealt with on the basis of legislation adopted under Rabbani or even on the basis of legislation from the Najibullah period.

In a number of fields, judicial processes under the Taliban regime conflict with respect for human rights. There is for example no (legal) equality between men and women. The death penalty is, at least as far as we know, applied in cases of murder, rape and adultery (see 4.2.4). Mutilation, e.g. the cutting off of a hand or a foot, is also current practice. The right of the accused to be defended before the court is not respected. The judge takes his own decision and turns for inspiration to the word of Allah. In general, the principle of *an eye for*

⁽⁷⁴⁾ US State Department, Report on Human Rights Practices 1996, January 1997.

⁽⁷⁵⁾ The Taliban have restored the credibility of the Supreme Court in Kabul, which is presided over by a Chief Justice, Mullah Satar Sanaie. Some of the judges have been replaced by Mullahs, while the others are judges who were appointed by earlier regimes.

an eye and a tooth for a tooth is applied; in certain cases, a punishment can be avoided by the payment of blood money. Court sessions are short. In no more than a quarter of an hour, a woman can be condemned to be stoned to death for adultery ⁽⁷⁶⁾. Three cases where this is said to have occurred have been reported.

In cases of violation of the dress code, e.g. failure on the part of women to wear a *burqa* or the failure of men to keep their beards, people may be beaten and/or abused. The Taliban are stricter in Kabul and Herat about compliance with the dress code than in other towns. This is above all because they regard Kabul as the pernicious centre from which countless decadent regimes have for years spelt disaster to the country. In the region under the control of the Northern Coalition, the *Sharia* is also the basis for the administration of justice. Here too the administration of justice varies from one area to another. Throughout the sizeable region of Junbish-i-Melli, practice differs markedly from that of the Taliban: the execution of sentences such as stoning for adultery or the cutting off of a hand for theft has not been reported.

There are four sorts of law in the region controlled by Dostam: criminal law, civil law, commercial law and administrative law. Appeal bodies do exist. The judiciary, particularly in administrative law, cannot be said to be independent. In all forms of trial, it is usual to have not only a judge but also a public prosecutor and a lawyer for the defence. Legal aid counsel is not available. Judges are appointed by local potentates, and are not jurists but clergy. The fact that alcoholic beverages are available in Mazar-i-Sharif (beer and vodka from Uzbekistan) is evidence that interpretation of the requirements of the Coran is more liberal there than in the case of the Taliban.

None of the trials before Islamic courts in any part of Afghanistan comply with international standards for a fair trial ⁽⁷⁷⁾.

4.2.4. *Death penalty*

According to Amnesty International, dozens of prisoners have been killed since the Taliban seized power. Verdicts are said to be arbitrary. In regions controlled by the Taliban, there have been public executions ⁽⁷⁸⁾.

The death penalty is, as far as we know, applied by the Taliban in cases of adultery, rape and murder. There are also reports that the Taliban have killed fighters alleged to have sought contact with the Northern Coalition.

⁽⁷⁶⁾ Such cases do require four male witnesses.

⁽⁷⁷⁾ See Paik on appeal, paragraph 31.

⁽⁷⁸⁾ In the Herat Stadium, for example, a condemned man was apparently hanged in public. It took him 30 minutes to die. Two people are said to have been publicly stoned for adultery in July 1996 in Kandahar.

Since the beginning of 1997, 4 people have been executed for murder in Kandahar ⁽⁷⁹⁾.

4.2.5. *Disappearances*

Thousands of people are said to have disappeared since April 1992 in various parts of Afghanistan. They seem to have been kidnapped by various *Mujahedin* groups ⁽⁸⁰⁾. Since 1996, the situation has improved owing to the fact that the Taliban ensure greater security in the region they control and this has led to a fall in kidnapping and hostage-taking.

4.3. *Other civil rights*

4.3.1. *Refusal to perform military service and desertion*

At the start of the Taliban's advance, they were joined by many young men from the refugee camps in Pakistan and the rural regions in the south of Afghanistan ⁽⁸¹⁾. Recruitment is now more organised. The Taliban reach agreement with the head of a village or a clan on supplying soldiers. A specific payment is made in exchange. This is based not on specific individuals, but on numbers of recruits. Every village supplies a certain number of fighters. After a period of time, these are relieved by another group from the same village. The Taliban's losses in the north have led to some friction between heads of villages and the Taliban. It is often the case that for months villages have had no further news about some of their soldiers and the Taliban is often unable to say where they are and whether they are still alive. Resistance is growing all the time, and this goes hand in hand with increasing pressure from the Taliban. In cases of desertion, the Taliban will recruit other people. Desertion at the front or defection to the enemy are in principle capital offences.

It is stated in the amnesty rules proclaimed by the Taliban and the Northern Coalition (see Annex) that they also apply to deserters who return. Those who return are exempt from military service for one year.

4.4. *Political rights*

4.4.1. *Freedom to chose the political regime*

Political parties no longer play a role in present-day Afghanistan. The conflict has changed from a struggle along political lines (Communists versus *Mujahedin*) to a struggle which

⁽⁷⁹⁾ World Refugee Survey, US Committee for Refugees, November 1997. On 12 December 1997, the *Süddeutsche Zeitung* reported an execution for murder in Kandahar. According to that report there has been a fall in the number of executions in recent years.

⁽⁸⁰⁾ See Amnesty International, *The Human Rights Crisis and the Refugees*, 11 February 1995.

⁽⁸¹⁾ Pakistanis also join the Taliban voluntarily in the fight against opponents whom they regard as Communists.

is conducted largely along ethnic lines (Pashtun against the rest) ⁽⁸²⁾.

4.5. Specific groups

It is not possible to produce a full list of groups which are at risk in Afghanistan because of their background since alliances and parties are continually changing.

Vulnerable groups in the region controlled by the Taliban include former senior officials of the Communist Party, military personnel who have not joined the Taliban, people who become prominent as opponents of the Taliban, people who have studied in the former Soviet Union, anyone brought up in the former Soviet Union, Afghans who have married Russian women and women with secondary and higher education and journalists ⁽⁸³⁾.

Other vulnerable groups in Afghanistan are members of specific ethnic, religious or political groups, who live in regions where a movement hostile to them has the final word. In Taliban-controlled regions, this affects Tajiks and Hazaras.

4.5.1. Former DVPA members

Since the fall of the Communist government in 1992, Amnesty International estimates that about one million former government civil servants have fled from Afghanistan, mainly to the former Soviet Union ⁽⁸⁴⁾. After April 1992, several dozen people associated with the former regime were murdered by *Mujahedin* groups.

Numerous members of the Communist Party joined the *Mujahedin* after the fall of Najibullah in 1992. Many officers of the Afghan (Communist) Army, for example, joined the ranks of the *Mujahedin*. The Taliban commanders also include former Communist fighters.

Particularly in the case of mechanics and pilots, it is not background, but skills which count. Many bureaucrats were able to remain in employment under Rabbani and initially also under the Taliban. Only in December 1997 did the Taliban state that they intended to purge the Ministries of those who had been educated abroad (see also under Taliban Ministries). Such people were told that they would lose their jobs. There is no evidence that any other

⁽⁸²⁾ See Feitsma, op. cit. "The Afghan is "politics" in person. Everything he does or does not do is carefully considered and has a political aspect: how can I justify this statement or action to my family, my tribe, my reputation, my future, my power? If Deutsch's definition of power is correct (the ability to influence the behavioural choices of others), the Afghan constitutes the ideal *homo politicus*".

⁽⁸³⁾ See also Amnesty International, The Human Rights Crisis and the Refugees, 11 February 1995.

⁽⁸⁴⁾ See Amnesty International's letter of 27 March 1996. The figure of one million is only regarded as accurate by a few observers.

measures will be taken against them ⁽⁸⁵⁾.

All *Mujahedin* groups have formally declared that they are observing the amnesty which President Mojadeddi (Rabbani's predecessor) announced in 1992 for all those who had cooperated with the Communist regime (including party members of the former DVPA and people who worked for the State Security Service) ⁽⁸⁶⁾. The Rabbani Government has also repeatedly stated this (the status of former President Najibullah was an exception to this) ⁽⁸⁷⁾. Various *Mujahedin* factions and the Rabbani Government have therefore re-employed (or kept on) government officials from the period before 1992 because of their administrative experience.

Owing to tribal loyalty (protection by a person's own tribe), former supporters of the Communist regime have little to fear. Protection in Afghan society is provided in the first instance by family, clan or tribe and is determined by religion and/or tribal tradition. Ideological differences have given way to ethnic differences, so that ethnic loyalty has again become fundamental. This phenomenon applies to the military and also, albeit to a lesser extent, to members of the former State Security Service, the KHAD: many of these have even embarked on new careers with the present security service.

All this does not, however, mean that certain former senior party officials are not continually at risk of being arrested by the Taliban for their alleged anti-Islamic activities: this applies equally to the highest level of those involved in governing the country such as Ministers, Governors, etc.

Particularly important in this connection is the position occupied by the person concerned and the question of whether, when occupying that position, he knew of, or was involved in, anti-Islamic activities and human-rights violations under the former regime.

Former Communists and former members of the KHAD in the north have little to fear on account of their past.

4.5.2. *Former members of the secret service (KHAD)* ⁽⁸⁸⁾

One of the most important government bodies under the Communist regime was the *KHAD* (*KHADamate Ettelaate Dowlati*) or Secret Service. The KHAD formed an integral part of the

⁽⁸⁵⁾ Observers feel that, despite this, many will return to government service as their skills are indispensable.

⁽⁸⁶⁾ Many KHAD employees were re-employed under Rabbani and are now working for the Taliban.

⁽⁸⁷⁾ Amnesty International's report of November 1995, however, expressed doubts as to whether the *Mujahedin* always kept to this line.

⁽⁸⁸⁾ The KHAD was set up in 1980 along the lines of the KGB. The Department of State Security consisted of more than 20 Directorates. The main office was in Kabul, with regional offices in the provinces. The military KHAD, which was initially answerable to the Ministry of Internal Affairs, was combined in 1984 with the KHAD Directorate within the Ministry of Defence. In January 1986, the KHAD became a separate

Afghan State and had been set up along the lines of, and by advisers from, the KGB. Using an extensive network of informers, the KHAD was present throughout Afghan society. Western observers estimate the number of people working for the KHAD to have been from 25 000 to 60 000. As well as being a secret service in the strict sense, the KHAD was also responsible for the ideological training of new party members and soldiers. The KHAD also ran schools for children of party leaders and war orphans, who were often sent to the then Soviet Union. The KHAD also supervised the teaching of ideology at the University of Kabul.

The influence of the KHAD was most in evidence in Kabul. In every district of the town, there were apparently at least 100 KHAD informers⁽⁸⁹⁾. Torture was routinely used in KHAD interrogation centres. The KHAD is said to have had eight interrogation centres in Kabul. The Pul-i-Charkhi prison in Kabul was particularly notorious. KHAD detention centres also existed in Kandahar, Jalalabad, Faizabad and many other places.

Former figureheads of the KHAD are in danger of being arrested by the Taliban. Nevertheless, there are also KHAD officials who experience no problems under the Taliban⁽⁹⁰⁾. Less senior cadres have no reason to fear oppression from the Taliban owing to their past KHAD activities. People who are at an intermediate level may experience problems.

The KHAD was guilty of serious human rights violations (disappearances, torture and murder).

It should be noted that many KHAD officials indulged in activities which may be regarded as coming under the exclusion clause (1F) of the Convention on the Status of Refugees. Those in charge of the KHAD were clearly aware of the serious human rights violations. Those who did not then leave the organisation are also hierarchically responsible for the continuing violations.

4.5.3. *Women*

In the Afghan tradition, women have always occupied an inferior position, above all in the south. From the 1970s onwards, an increasing number of women have been working outside the home. This trend was reversed when the Islamic Government came to power in 1992.

Ministry. The KHAD Divisions were then given the official name of Riasat. There were about 23 Directorates (3 military and 20 civilian). After the seizure of power in April 1992, the KHAD ceased to exist. The whole set-up was absorbed by the new Department of State Security, which was directly answerable to the President. From that time onwards, it was known not as the KHAD but as the WAD (Wezarat-i-amniat-i-Dowlati).

⁽⁸⁹⁾ See BAFL Report Afghanistan, October 1995.

⁽⁹⁰⁾ Mohammed Akbar, former KHAD leader, is now apparently carrying out the same kind of work for the Taliban (source: Le Monde Diplomatique, January 1997).

In the agricultural regions, women work in the fields out of economic necessity. Families in better (economic) circumstances keep their women at home (in accordance with Pashtun tradition: *Purdah*). In more educated circles and in the towns, it is regarded as normal for women to be involved in work.

In the regions controlled by the Taliban, there is greater repression owing to the strict observance of Pashtun tradition. In the countryside, on the other hand, in regions under Taliban control little has changed in comparison with the period before their arrival.

In general, it has become particularly difficult for women to participate in public life. Women are not in principle allowed to leave the home unless accompanied and may not – except in the health-care sector – work outside the home. This makes it difficult for (international) relief associations to help women or in particular cases make use of female employees.

Even before the arrival of the Taliban, rural Pashtun family circles had often decided that girls should not go to school and women should stay at home. The Taliban, however, have now imposed that restriction on the rights of girls and women. Women are prohibited from receiving education ⁽⁹¹⁾ or working outside the home. There is a general ban on employing women. Exceptions to this are the health-care sector and sometimes teaching or the prison service. The ban is not followed everywhere with the same strictness, so that the practice regarding women working in these sectors varies from region to region. After Kabul was taken by the Taliban in September 1996, a ban was immediately proclaimed on women working. It is estimated that some 40 000 women lost their jobs as a result. Promises that these women would, nevertheless, continue to be paid, have not been kept.

Infringement of the obligation to wear a *burqa* is punished by caning. The *burqa* is part of the Pashtun tradition. In the adjacent part of Pakistan where the Pashtun live (NWFP), the *burqa* is the norm. This was, however, far less the case in more worldly towns such as Kabul and Herat.

It has become difficult for women to appear in public, even when dressed in the *burqa*.

However, women in large towns in the Taliban-controlled region do still go out to the markets without being accompanied by male relatives. But they are often not allowed to enter shops. In such cases transactions take place in the street.

In Kabul before the arrival of the Taliban, it is estimated that 100 000 girls went to school and about 7 500 women taught in them. The University of Kabul is reported to have had some 8 000 female students. As a result of the dismissal of women teachers, it also became impossible for young boys to obtain education in a number of cases. In some regions (Ghazni, Khost and Kunar) girls are allowed to go to school and women may teach. In a town such as Kabul, on the other hand, the doctrine is still very strictly applied.

Because there is more peace and order under the Taliban, sexual aggression against women is less frequent than previously.

⁽⁹¹⁾ Before the arrival of the Taliban, the percentage of women attending school in Afghanistan was about 5%. The importance of educating girls has been emphasised since the 1970s, particularly by relief bodies in the refugee camps. In some regions, education for girls had long been a fact of life (particularly among the Tajiks).

Highly educated women, particularly those who occupied senior positions as officials, are regarded as a potential threat to Islamic principles and are in danger of falling victim to human-rights violations ⁽⁹²⁾. This also applies to women who have been active in women's movements.

The Taliban are more or less flexible according to the time and place. The movement appears to include both moderate and conservative tendencies ⁽⁹³⁾. Communications between the leaders in Kandahar and Kabul and local leaders is unreliable. Moreover, Taliban officials change their functions and locations very frequently. This means that the Taliban have not so far achieved a uniform position regarding girls and women. In certain villages and towns controlled by the Taliban, women are able to go out on the street and to work without the prescribed accompanying male members of the family, and girls can go to school. In other towns and villages this is not allowed and the Taliban react very strictly. Once the Taliban's power-base is secure, this usually results in a degree of flexibility. In towns such as Kabul and Herat (where there are many non-Pashtun minorities) the Taliban's power-base is smaller, and this seems to result in greater severity.

Although the Taliban tacitly tolerate the involvement of women in relief projects and the employment of widows outside the home, there is no evidence that the general Taliban position in this respect is becoming more flexible.

In the regions controlled by the Northern Coalition, women are wearing the *chador* more and more. Women in these regions have slightly more freedom of movement but are far more frequently exposed to sexual aggression.

4.5.4. *Individual opponents (intellectuals)*

People who criticise the movement in power at the time in the region where they live run the risk of falling victim to human-rights violations. This chiefly concerns intellectuals who resist the Taliban's dress codes and speak out in favour of a secular democracy or people who are suspected of having studied in the Soviet Union. More than one source indicates that soon after taking a town, the Taliban enter particular districts and put pressure on people to name former Communists ⁽⁹⁴⁾, people who do not comply with the dress code or people who have anti-Taliban sympathies. People have apparently been rounded up.

⁽⁹²⁾ See Amnesty International letter of 27 March 1996.

⁽⁹³⁾ Some Taliban leaders in Kandahar are said to be sending their children (sons and daughters) to school in Pakistan, see Paik, paragraph 78.

⁽⁹⁴⁾ There is no reference to this in Professor Paik's report.

4.5.5. Ethnic groups

Although the conflict seems at present to be continuing along ethnic lines, the country is now so divided along ethnic lines that persons belonging to a particular ethnic group can in principle seek safe refuge in that part of Afghanistan that is under the control of their group.

5. Refugees

5.1. Refugees

In the course of the civil war one in three Afghans have been forced to leave their homes. At the height of the crises (1990) around 6,1 million Afghans were living abroad (notably in Pakistan and Iran). Following the capture of Kabul by the Taliban some 50 000 Kabul residents sought refuge in Pakistan. In total 3,9 million people have returned home since 1988, some spontaneously and some with the help of UNHCR.

Directly after the fall of Najibullah in 1992, many refugees decided to return home. But enthusiasm quickly flagged when it emerged that Najibullah's departure did not mean the end of the civil war. Thus in 1992 1,2 million people returned from Pakistan. In 1995 there were 153 000 returnees and in 1996, 121 000. From Iran, where around 1,4 million Afghans still reside, slightly more than 8 000 Afghans were repatriated in 1996 (1995: 195 000). The small scale of repatriation from Iran has to do with Iran's view of the developments in Afghanistan. They see the Taliban regime as a deterioration of the situation and do not promote repatriation.

Return is a process that often lasts several years. In the Pashtun tradition it is very common to engage in two economic activities (*nimkoura*). Thus Afghans living in Pakistan first slowly build up a new livelihood in Afghanistan before the whole family repatriates. And even then an attempt will be made to maintain a house and job in Pakistan to fall back on if necessary.

The sweeping changes in the balance of power between the warring parties have had a clear impact from the humanitarian point of view.

The fighting to the north of Kabul has led to new influxes of displaced persons and refugees into Jalalabad, Kabul and Mazar-i-Sharif, and the battle around Mazar-i-Sharif has in its turn engendered a further stream of displaced persons.

The fighting in northwest Afghanistan has resulted in an exodus of around 50 000 refugees to the provinces of Herat and Badghis. Some 16 000 people are living in four displaced persons' camps in Herat.

Since the capture of Kabul by the Taliban, Pakistan has admitted tens of thousands of new refugees.

In Afghanistan in the last five years an estimated one million people have abandoned hearth and home to seek safety in other parts of the country (so-called Internally Displaced Persons). It is estimated that between October 1996 and November 1997 alone, 300 000 people have (because of the threat of war) left their homes and moved to other areas within Afghanistan. These are for the most part people who have moved from the Shomali area to the north of

Kabul, to Kabul. The UN and the Red Cross are coordinating assistance to these people ⁽⁹⁵⁾.

Despite continuing military confrontations between the Taliban and the Northern Coalition, the situation in areas away from the front is quiet. This has made it possible for UNHCR, together with a number of other UN organisations (UNOCHA, WHO, WFP), and NGOs to supervise the return of Afghan refugees from Iran and Pakistan both in the towns and in the countryside. UNHCR is taking care of the building of accommodation, the restoration of the agriculture infrastructure, and also the repair of schools and small clinics ⁽⁹⁶⁾. In December 1996 UNHCR estimated the number of displaced persons in Afghanistan at around 1,2 million.

5.1.1. Afghans in Pakistan

The Pakistani government accepted millions of refugees from Afghanistan during the Soviet occupation. Although Pakistan is not a party to the Convention on Refugees, the Convention is observed in practice ⁽⁹⁷⁾. Many Afghans live in refugee villages around Peshawar in the same manner as the rural Pakistani population. A well-functioning education system has been set up in the refugee camps. In the town itself there are districts with a high concentration of Afghans.

The Pakistani authorities draw an official distinction between those who settled in Pakistan before the fall of the Communist regime (1992) and those who arrived later. The first group are accepted without further ado, the second must hold passports or identity papers.

The economic activities of Afghans in Pakistan are still extensive: Karachi has a large Afghan colony and Peshawar (only 50 km from the border) has had close contacts with Afghanistan from way back. In the North West Frontier Province, the northwest state of Pakistan, road transport and haulage are largely in the hands of the Afghans, who moreover also play a vital role in the construction industry and even in agriculture. After a year's stay, many refugees seem to be fully integrated into the Pakistani economy and society.

5.1.2. Afghans in Iran

There are still approximately 1,4 million Afghans living in Iran. The Iranian borders have for a long time been open for refugees from Afghanistan. Today, however, they are all but closed. The Iranian authorities in Tehran had hoped that following the repatriation agreement concluded with UNHCR in 1992 most Afghans would return. However, this is not the case.

⁽⁹⁵⁾ See also Wolfson: "The dilemma of the internally displaced", in Refugees, No 108, II-1997, and Jamal: "Dark side of the moon", in the same issue.

⁽⁹⁶⁾ In the areas to the north of Kabul programmes are run by UNHCR, the International Red Cross and the WFP. UNHCR provides food, a contribution to running-in expenses, plastic foil (where necessary) and sometimes small loans. Other organisations, including IRC, prepare repatriates for their return through vocational training, education etc.

⁽⁹⁷⁾ Reference is also made to the Convention in Pakistani secondary legislation.

5.1.3. UNHCR policy

UNHCR advises against forced repatriation. Voluntary repatriation is facilitated by the organisation. UNHCR's policy has three levels: (a) "to facilitate"; (b) "to encourage"; and (c) "to promote". In view of the unstable situation in the country UNHCR restricted itself to "encouragement" by fostering reconstruction and reintegration. UNHCR now actively promotes repatriation. The international community contributes to reintegration ⁽⁹⁸⁾.

5.2. Internal and external flight alternatives

5.2.1. Internal

While it is once again possible for many Afghans (in particular rural Pashtun) to re-settle in the Taliban-controlled part of Afghanistan (often after having lived for many years in Iran and/or Pakistan), for others, especially the urban, well-educated middle and upper classes, it is difficult if not impossible to adapt to the lifestyle imposed by the Taliban. The question therefore arises whether they would be welcome elsewhere in Afghanistan and could build a bearable life for themselves there.

In actual fact, Mazar-i-Sharif was for many a bulwark of relative liberalism. The city could for many be regarded as an alternative place of settlement. And, indeed, many Kabulis – including those who did not formerly have any connections with the town – moved to Mazar, where they have lived for a long time in relative freedom. The developments in Mazar in the course of 1997, however, make it now no longer possible to rank Mazar as a possible flight alternative: the violence, the switch of power, and now the continuing insecurity make it irresponsible to draw such a conclusion. However, it cannot be ruled out that when the current situation in the Taliban area appears to have been consolidated and the current insecure situation in Mazar has calmed down, this city and the surrounding area may within a few months once again become a place of refuge for many Afghans, in particular Kabulis who have reason to fear repression by the Taliban.

Others in practice take refuge in their region of origin ⁽⁹⁹⁾.

5.2.2. External

A number of Afghans come to Europe after having stayed in Pakistan for a long time, citing difficulties they claim to have in establishing a livelihood in Pakistan.

In this context mention must be made of the economic opportunities enjoyed by Afghans in Pakistan: a work permit is not required and many industries employ large numbers of Afghans (agriculture, construction). Landowners, for example, in an area to the northwest of

⁽⁹⁸⁾ In 1997, the Netherlands made upwards of a million guilders available via the Refugee Foundation for the reception of Afghan refugees returning from Pakistan to Afghanistan.

⁽⁹⁹⁾ In practice Afghans with a base in the north (in particular Tajiks and Uzbeks) can go (return) there without too much difficulty.

Islamabad freely admit that if all the Afghans were to return home *en masse* right now, this would disrupt the local Pakistani economy in no uncertain terms. It has already been noted that the transport sector in the NWFP, for example, is largely in the hands of the Afghans. In this connection it should also be pointed out that more than 1 million Afghans live in and around Karachi - a large proportion of them with mostly legal Pakistani ID cards ⁽¹⁰⁰⁾ - who are fully integrated into the local economy.

Where political problems are concerned, it cannot be ruled out that a number of Afghans do perhaps have to avoid cities like Peshawar and Quetta for various reasons. UNHCR, in close cooperation with the Norwegian government, has means of offering these Afghans a settlement alternative within Pakistan (Lahore, Rawalpindi, etc). UNHCR is implementing this alternative settlement programme with care: all those concerned are interviewed at length, and only in cases where the reasons are rated as being adequate is assistance provided. In a small number of cases UNHCR concludes that settlement outside Pakistan would be the best solution. Contact is then made with Western embassies with a view to resettling those concerned outside the region. The numbers involved are small: less than one hundred per year (out of the 1,2 million Afghan refugees in Pakistan). From this it can be concluded that any Afghan who claims to have grounds to fear repression in Pakistan can without difficulty approach the UNHCR there, where a study is made of his or her individual case. Given this, unilateral departure from Pakistan must be placed in the right context ⁽¹⁰¹⁾.

Practically all Afghans who have been in Pakistan for some time remain there legally. These are refugees who have arrived directly from Afghanistan.

5.3. *Expulsion policy of other western countries*

Of the United States and Canada it is known that they have deported Afghans, specifically criminals, to Afghanistan.

A number of other countries (Denmark, Germany) take the view that, as a logical consequence of the UN return policy, which is supported by Europe, a number of the Afghans seeking asylum in Europe can be deemed to be able to return without danger to life, limb and liberty. Germany, for example, on occasion deports Afghans via Dubai (from where Ariana runs an air service to Kandahar, Jalalabad and Kabul) and in one case via Lahore (Pakistan).

⁽¹⁰⁰⁾ The News (Pakistan), 9 December 1997.

⁽¹⁰¹⁾ In this connection, mention should be made of the ExCom Conclusion on Irregular Movements (1989/58), in which it is clearly stated that refugees which have found protection in a first country of asylum do not automatically have the right also to seek asylum elsewhere. In accordance with this principle, Germany, for example, sends Afghans who fly from Karachi to Frankfurt back to Karachi after a short procedure. The United Kingdom too sends Afghans back to Pakistan if they arrive in the UK without a visa.

6. Conclusion

Although political relationships have constantly changed over the past years, with a multitude of parties, factions within parties, ethnic and religious differences and foreign influences all playing a role, greater clarity seems to be emerging in political relationships. Whereas formerly ten or eleven political factions opposed each other in ever-changing alliances, there are reportedly now in fact four large military groupings. Moreover, three of the four now cooperate, so that they can almost be regarded as two opposing blocs. The extent to which peace is an attainable ideal is as yet unclear.

The civil rule of the Taliban is not effective everywhere. Lack of experience in government and preoccupation with the armed conflict are the most important reasons for this. The major part of the Afghan civilian infrastructure is propped up by the international donor community in cooperation with NGOs.

Afghanistan is a patchwork of areas in which local authorities with a large measure of autonomy are responsible not only for administration and security, but often also for administering justice. Unlike in the past, attention is now paid more than ever to the *Sharia* as the source of law.

The human rights situation is still bad. In particular, the position of women and the quality of justice are causes for concern in this connection.

With regard to vulnerable groups, consideration must be given primarily to persons who do not submit to the prevailing authority in their place of residence. Among others, these may be members of the former Communist Party or former highly-placed members of KHAD, in which context it should be noted that this service was guilty of gross human rights violations during the time of the Communist regime in Afghanistan.

Both the Taliban and the parties united in the northern coalition are guilty of violating human rights. Various troops under the command of northern officers are reported to be still committing acts of indiscriminate violence, robbery and rape. It is this type of violence which has considerably decreased in the Taliban area.

The Taliban do not appear to be capable of taking the whole of the territory of Afghanistan under their control and will probably be forced to negotiate with the other parties. The slowly dawning realisation that an armed solution, in all probability, will not be possible is perhaps a first step toward a peaceful resolution of the conflict.

THE MINISTER OF FOREIGN AFFAIRS
for the Minister
The Director, Movement of Persons,
Migration and Consular Affairs

(signed) H.H. Siblesz

Annex 1. Sources consulted

- * Amnesty International, London
 - Continuing atrocities against civilians (September 1997);
 - Grave abuses in the name of religion (November 1996);
 - Caught in the Cross-fire (October 1996);
 - International responsibility for human rights disaster (November 1995);
 - Women in Afghanistan, a human rights catastrophe (May 1995);
 - Executions, amputations, and possible deliberate and arbitrary killings (April 1995);
 - The human rights crisis and the refugees (February 1995).
- * Amnesty International the Netherlands
 - Recent developments in Afghanistan (letter of 27 March 1996 to the Minister of Justice)
 - Information on Afghanistan (letter of 22 February 1994 to "Vluchtelingenwerk").
- * Economist Intelligence Unit
 - Country report, 3rd quarter 1997
 - Country profile 1996-1997 (1997).
- * Minister for Development Cooperation
 - Visit to Afghanistan and Pakistan, 15 to 19 June 1996 (letter to the Lower House 1995 - 1996, 24 400 V, No. 84).
 - Visit to Turkmenistan and Afghanistan, 20 to 24 January 1997 (letter to the Speaker of the Lower House of the Staaten-Generaal of 1996-1997, 25 00 V, No. 65).
- * Minority Rights Group
 - Afghanistan, a nation of minorities (February 1992).
- * Refugee Survey Quarterly
 - Afghanistan, the forgotten crisis (Vol. 15, No 2, April 1996)
 - Refugees, UNHCR, Focus Afghanistan, November 1997
- * UN Commission on Human Rights
 - Interim Report on the situation of Human Rights in Afghanistan
 - Final report on the situation of human rights in Afghanistan (20 February 1996, E/CN.4/1997/59);
 - Final report on the situation of human rights in Afghanistan (27 February 1996, E/CN.4/1996/64);
 - Information concerning involuntary disappearances, Afghanistan §61-64 (15-1-96);
 - Report on the situation of human rights (Special Rapporteur Ermacora, 20.1.1995).
- * US Country Reports on Human Rights Practices
 - For 1996 (January 1997)..
- * Vluchtelingenwerk Nederland
 - Afghanistan country information (April 1995).

Annex 2. The various former resistance groups

The former resistance to a large extent divides up into various ethnic groups. The most important groups are:

The **Jamiat-i-Islami** (Islamic Association). This is under the leadership of Burhanuddin Rabbani and Ahmed Shah Massood, both Tajik. It is opposed to the restoration of the monarchy and strives for a state founded on Islam.

The party finds its support chiefly among the Tajiks and ethnic minorities such as the Turkmens.

The military wing of the **Jamiat-i-Islami** operates under the name **Shoora-e-Nazar**. Military Commander Massood is also leader of the "Islamic Council for the Jihad", a federation of resistance fighters from the north of Afghanistan. He became Minister of Defence in the interim government appointed on 5 May 1992. In an agreement concluded on 7 March 1993 between the most important factions it was decided that the Ministry of Defence would be abolished and replaced by a defence council on which more parties would be represented. The role of Massood in the new Afghan leadership has not yet been precisely defined. Burhanuddin Rabbani has been interim President since 28 June 1992.

The **Hezb-i-Islami** (Islamic Party) is under the leadership of the present Premier Gulbuddin Hekmatyar. It is also opposed to the restoration of the Afghan monarchy and strives for an Islamic state. The party consists primarily of Pashtuns and maintains close ties with the Pakistani fundamentalists led by Senator Qazi Hussayn Ahmed.

The **Hezb-i-Islami** (Islamic Party) of Yunis Khalis. This moderate fundamentalist party broke away from Hekmatyar's Hezb-i-Islami in 1979. It is mainly active in the east of Afghanistan, where military leader Abdul Haq is in command. For a long time Khalis would not accept any Shiite groups in the so-called "Leadership Council" (a body with decision-making powers comprised of the leaders of the ten most important political groupings in Afghanistan) and is dead set against a greater influence of Iran in Afghanistan.

The **Ittihad-i-Islami** (Islamic Union) under the leadership of Abdul ar-Rasul Sayef gets most of its support from the Wahhabis in Saudi Arabia.

The **Mahaz-i-Milli-Islami** (Islamic National Front) is also known under the name National Islamic Front of Afghanistan (NIFA) and is led by Pir Sayed-Ahmed Gailani. It finds its supporters chiefly in the south of Afghanistan. It is an advocate of the return of King Zaher Shah. The group is opposed to fundamentalism and can be regarded as moderate.

The **Harakat-i-Ingilab Islami** (Movement of the Islamic Revolution) under the leadership of Mawlawi Mohammad Nabi Mohammadi has mainly Pashtun supporters. This group is orthodox Muslim.

The **Jebha-i-Nejat-i-Melli Afghanistan** (National Front for the Liberation of Afghanistan) is led by Sibghatullah Mojaddedi. Among its members are primarily Pashtuns from the south and east of Afghanistan.

Mojaddedi was interim President in the period from 24 April 1992 to 28 June 1992.

The above Sunni resistance groups had their base in Peshawar, Pakistan.

The Harakat-i-Islam (Movement of the Islamic Revolution of Afghanistan) is a coalition of two small Shiite groups in Pakistan under the leadership of Ayatollah Asef Mosheni. The grouping came from Mashed (Iran) to Peshawar in 1989 because it would not accept Ayatollah Khomeini as supreme spiritual leader.

The Hezb-i-Wadat/Wahadat (Unity Party) is a coalition of eight smaller Shiite resistance groups under the leadership of Abdul Ari Mazari. It operates out of Iran and also receives financial support from Iran. The party claims to represent 35 percent of the population, in particular ethnic Hazaras from the central highlands. In fact the figure is probably only 8-12%.

The Uzbek Militia under the leadership of General Abdul Rashid Dostam is mainly active in the north of Afghanistan. For a long time it supported the Najibullah regime and therefore cannot be regarded as a resistance movement in the sense intended above. Since March 1992, however, this militia has been on the side of the resistance.

Dostam is at the same time leader of the Jumbush-i-Milli wa Islami (National Islamic Movement) set up in April 1992, a coalition of resistance leaders from the north and ex-officials of the former Communist regime. It makes a case for greater representation of the minorities in the future government.

Apart from the former resistance groups mentioned above, some other, smaller groups are also active. However, they have little or no organisation and are of no great practical significance.

ISLAMIC STATE OF AFGHANISTAN
SUPREME COURT

Office of Chief Justice

Ref No: 36

Date: June 26, 1997

IN THE NAME OF ALMIGHTY ALLAH:-

Declaration of Amnesties and Invitation
To Afghan Refugees to Repatriate

The Taliban Administration ;

Confident that the areas under their administration are enjoying peace, stability and social and economic progress;

Underlining the right and freedom of all Afghans living outside their country as refugees to return to their places of habitual residence or to establish residence in any part under their control, and to participate in the process of national reconciliation and consolidation of peace, shura and social development; according to Sharia law;

Desirous to take further confidence-building measures to promote the expeditious voluntary return and reintegration of Afghan refugees in safety and with dignity;

Hereby,

a) Call upon, invite and encourage all Afghan refugees to return to their country and settle in a place of their choice in any part under their control and participate fully in the process of national reconciliation, reconstruction, consolidation of peace; shura and social and economic development;

b) Declare the following:

Return in Safety and Dignity

(1) The voluntary repatriation and reintegration shall take place in conditions of safety and dignity according to recognized Islamic Sharia.

(2) No returnee shall suffer any form of harassment, discrimination, persecution or any other form of punitive action on account of having fled Afghanistan and having sought and found refuge in Pakistan, Iran or any other country.

(3) No returnee shall be subject to harassment, intimidation, discrimination or persecution for reasons of race, religion, ethnicity, membership of a particular social group, political opinion or gender.

Amnesty

(4) All returnees, irrespective of their political affiliations, are exempted from prosecution for all criminal offences committed for whatever reason prior to, or in, exile with the exception of individual criminal accusations. The above exemption includes inter alia persons having left Afghanistan and having found refuge in Pakistan, Iran or any other country, joining different commanders, draft evasion and desertion as well as the act of performing military service in internationally non-recognized armed forces.

Respect for Human Rights

(5) In common with all other citizens, the human rights and fundamental freedoms of returnees will be accorded full respect.

Returnee Monitoring

(6) UNHCR and other international agencies as appropriate will be allowed and will receive full cooperation and access to monitor the treatment of returnees in accordance with humanitarian and human rights standards, including the implementation of commitments contained in this Declaration.

Access to Land

(7) Returnees will have access to land for settlement and agricultural use in accordance with Afghanistan laws.

Property

(8) All measures will be taken to facilitate, to the extent possible, the recovery and restitution to the returnees of their land or other immovable property which they may have lost or left behind. Failing this, returnees will be assisted to obtain reparation for loss of such property.

Military and other Obligatory Service

(9) In order to support their reintegration, returnees will be exempted from any outstanding military services or other obligatory service for the period of one year. Positive consideration will be given to requests for a complete exemption from military or other service obligations.

Date 26/06/1997 Signed by Alhaj Abdul Satar Sanaie, Chief Justice.

The Supreme Court of the Islamic State of Afghanistan.

IN THE NAME OF GOD, WHO IS KIND AND MERCIFUL

STATEMENT OF THE ISLAMIC GOVERNMENT OF AFGHANISTAN
CONCERNING INVITATION OF AFGHAN REFUGEES TO
RETURN TO THEIR HOMELAND

The Islamic Government of Afghanistan has confidence that in the areas under its control, people are enjoying peace, security, social and economic progress. Emphasizing the observance of rights and freedom of all Afghans who are living outside the country as refugees, the Islamic Government of Afghanistan will assist them to return to their home country and participate in the reconciliation process and restoration of peace, consultation and social progress according Islamic laws.

Islamic Government of Afghanistan, with provision of facilities will be taking secure measures in order to facilitate a better/favorable condition for voluntary/prompt repatriation of Afghan refugees in safety and dignity.

Herewith,

a) All Afghan refugees are invited/encouraged to return to their home country and settle, wherever, they wish to select and participate in national reconciliation process, rehabilitation, restoration of peace through consultation and shura and social economic progress.

b) Announces the following:

1- Voluntary return and resettlement will be taking place in safety, dignity and honor according to well-known international laws.

2- None of the returnees, will be followed, persecuted, interrogated or will be subjected to punishment for taking refuge in Pakistan, Iran, or other countries.

3- None of the returnees will be subjected to discrimination, threat and persecution because of his ethnic group, membership in a special social group, political believes and sex.

Amnesty

4- All returnees, without consideration of their political/ethnic relationship, including those who occasional have committed crimes before or during emigration, except the rights due to a man, will not be followed or persecuted.

Those who, have left the country and have taken refuge in Pakistan, Iran and other countries and those who have joined different commanders to avoid military services or joined the lines of unknown groups, will not be subjected to judicial persecution.

Respect for human rights:

5- In case of returnees, like other national, human rights and basic freedom will be respected completely.

Monitoring the returnees:

6- Taking into consideration the well-known standards of human rights and checking the undertakings included in this statement, UNHCR and other relevant international Organizations have permission to watch/observe the ways that we are dealing/handling with returnees.

Access to land

7- Returnees will have access to land for the purpose of settlement and agricultural as per laws valid in Afghanistan.

Ownership

8- Any relevant action will be taken to facilitate the restoration of the land and other non transferable properties which have been left behind or lost by the refugees.

Military and other compulsory services

9- In order to help the resettlement of repatriates, all returnees are exempted from military services for one year, including residual military cases and other compulsory services request of the returnees for the permanent exemption from military and other compulsory services will be evaluated positively.

A.R. GHAFORZAI 16 AUGUST, 1997.



UNHCR

Afghan Refugee Statistics

15 November 1997



Main Populations of Afghan Refugees & Internally Displaced Persons (IDPs)*

Location of Refugees	Number	Location of IDPs	From	Number
Iran	1,400,000	‡ Badghis Province	Badghis	6,000
Pakistan	* 1,200,000	* Herat	Badghis	39,000
Russia	20,000	* Kabul	Areas north of Kabul	210,000
India	19,000	Northern provinces	Kabul, Shomali, Mazar	Unknown
Other CIS Countries	36,000	Panjshir Valley	Kabul, Shomali	Unknown
		Kandahar	Northern provinces	11,000
TOTAL	2,675,000	* TOTAL		300,000+

* Only includes IDPs displaced since October 1996. "TOTAL" takes account of areas in central and northern Afghanistan known to have had substantial numbers of IDPs which have, however, varied considerably as a result of fluid frontlines and for which no reliable current estimate exists.

† Includes all refugees residing in refugee villages (registered & unregistered) & c. 50,000 new arrivals since Oct. 1996.

‡ ICRC estimate.

Registered by UNHCR and ICRC. Excludes 3,100 IDPs displaced in 1993-4 who are still living in camps in Herat.

‡ Counted by UNHCR monitors between 2 Jan. and 31 Oct. 1997. Excludes IDPs who entered Kabul before 2 Jan.

Afghan Repatriation Statistics

From:	Pakistan (assisted)	Pakistan (spontaneous)	Pakistan Subtotal	Iran (assisted)	Iran (spontaneous)	Iran Subtotal	Grand Total
1988/89	---	200,000	200,000	---	---	---	200,000
1990	63,000	87,000	150,000	---	---	---	150,000
1991	174,000	26,000	200,000	---	---	---	200,000
1992	1,274,000	---	1,274,000	7,000	287,000	294,000	1,568,000
1993	133,000	225,000	358,000	337,000	269,000	606,000	964,000
1994	32,000	71,000	103,000	121,000	106,000	227,000	330,000
1995	77,000	76,000	153,000	92,000	103,000	195,000	348,000
1996	101,000	20,000	121,000	8,000	6,000	14,000	135,000
1997	* 64,000	* 11,000	* 75,000	* 2,000	---	* 2,000	* 77,000
Total	1,918,000	717,000	2.64 million	567,000	771,000	1.34 million	3.97 million

* From 1 January to 31 October 1997

Assisted Repatriation of Tajik Refugees from Afghanistan *

From:	Sakhi Camp	Kunduz	Herat	Total
1993	8,993	9,538	---	18,531
1994	6,098	4,717	---	10,815
1995	330	998	97	1,425
1996	505	849	---	1,354
1997	3,211	6,632	54	9,897
Total	19,137	22,734	151	*42,022
Remaining Refs.	0	0	22	** Repatriation completed on 15.11.1997

* Another 12,000 refugees are thought to have returned spontaneously

** A few small, scattered pockets of Tajik refugees may remain in unknown locations

... / More ⇨ ⇨

Afghan Refugee Populations, 1980-1997 (as of 1 January)

Year	Pakistan	Iran	India	Russian F.	Kazakhstan	Kyrgyzstan	Tajikistan	Turkmenistan	Uzbekistan	Total
1980	400,000	200,000	-	-	-	-	-	-	-	600,000
1981	1,400,000	500,000	-	-	-	-	-	-	-	1,900,000
1982	2,375,000	800,000	3,000	-	-	-	-	-	-	3,178,000
1983	2,700,000	1,200,000	4,000	-	-	-	-	-	-	3,904,000
1984	2,800,000	1,500,000	5,000	-	-	-	-	-	-	4,305,000
1985	2,900,000	1,800,000	6,000	-	-	-	-	-	-	4,706,000
1986	2,700,000	2,000,000	6,000	-	-	-	-	-	-	4,706,000
1987	2,878,000	2,221,000	6,000	-	-	-	-	-	-	5,105,000
1988	3,156,000	2,700,000	5,000	-	-	-	-	-	-	5,861,000
1989	3,255,000	2,900,000	5,000	-	-	-	-	-	-	6,160,000
1990	3,272,000	2,940,000	8,000	-	-	-	-	-	-	6,220,000
1991	3,185,000	3,000,000	12,000	-	-	-	-	-	-	6,197,000
1992	3,077,000	2,900,000	10,000	-	-	-	-	-	-	5,987,000
1993	1,627,000	2,700,000	11,000	12,000	-	-	-	-	-	4,350,000
1994	1,477,000	1,850,000	24,000	16,000	-	-	-	-	-	3,367,000
1995	1,053,000	1,623,000	22,000	17,000	-	-	-	-	-	2,715,000
1996	*1,200,000	1,420,000	20,000	19,000	2,000	1,000	1,000	2,000	30,000	2,695,000
1997	*1,200,000	1,400,000	19,000	20,000	2,000	1,000	1,000	2,000	30,000	2,675,000

* From 1996 onwards, estimates of the Afghan refugee population in Pakistan include all those residing in refugee villages -- whether registered or unregistered. Prior to 1996, Pakistan statistics only include registered refugees. Unregistered Afghans living outside refugee villages are excluded from all Pakistan statistics. The 1997 figure also includes new arrivals. The number of registered refugees in Pakistan as of 1 Jan. 1997 was 815,000.

All figures for the Islamic Republic of Iran are based on government estimates. A very small proportion of Afghan refugees in Iran live in camps.

Tens, or even hundreds, of thousands of Afghan refugees live in countries other than those listed. However, no accurate estimate of their total number exists.

UNHCR's revised 1997 budget for the repatriation and reintegration of Afghan refugees stands at US\$ 19,942,084

UNHCR's 1997-8 budget for the repatriation and reintegration of Tajik refugees stands at US\$ 9,676,000
(of which US\$ 4,691,200 are needed for 1997)



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