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**Australian Government**  
**Department of Foreign Affairs and Trade**



# **DFAT COUNTRY INFORMATION REPORT AFGHANISTAN**

27 June 2019

# MAP



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# CONTENTS

<b>ACRONYMS</b>	<b>4</b>
<b>GLOSSARY</b>	<b>6</b>
<b>1. PURPOSE AND SCOPE</b>	<b>7</b>
<b>2. BACKGROUND INFORMATION</b>	<b>8</b>
Recent history	8
Demography	9
Economic overview	9
Political System	16
Human Rights Framework	17
Security situation	18
<b>3. REFUGEE CONVENTION CLAIMS</b>	<b>24</b>
Race/Nationality	24
Religion	25
Political Opinion (Actual or imputed)	29
Groups of Interest	31
<b>4. COMPLEMENTARY PROTECTION CLAIMS</b>	<b>39</b>
Arbitrary Deprivation of Life	39
Death Penalty	40
Torture	41
Cruel, Inhuman or Degrading Treatment or Punishment	42
<b>5. OTHER CONSIDERATIONS</b>	<b>44</b>
State Protection	44
Internal Relocation	49
Treatment of Returnees	50
Documentation	51
Prevalence of Fraud	53



## ACRONYMS

ACJC	Anti-Corruption and Justice Centre
AGEs	Anti-Government Elements
AIHRC	Afghan Independent Human Rights Commission
ALP	Afghan Local Police
ANA	Afghan National Army
ANDSF	Afghan National Defence and Security Forces
ANP	Afghan National Police
CAT	Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
CAT-OP	Optional Protocol to CAT
CCPR	International Covenant on Civil and Political Rights
CCPR-OP2-DP	Second Optional Protocol to CCPR Aiming to the Abolition of the Death Penalty
CED	Convention for the Protection of All Persons From Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEO	Chief Executive Officer
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CESCR	International Covenant on Economic, Social, and Cultural Rights
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
CPD	Central Prison Directorate
CRC	Convention on the Rights of the Child
CRC-OP-AC	Optional Protocol to CRC on the Involvement of Children in Armed Conflict
CAT-OP-SC	Optional Protocol to CRC on the Sale of Children, Child Prostitution, and Child Pornography
CRPD	Convention on the Rights of People with Disabilities
CSO	Civil Society Organisation
DCEO	Deputy Chief Executive Officer
EU	European Union
EVAW	Elimination of Violence Against Women (the EVAW law)
HQN	Haqqani Network
HRW	Human Rights Watch

IDP	Internally Displaced Person
IED	Improvised Explosive Device
IMF	International Monetary Fund
IOM	International Organization for Migration
ISKP	Islamic State in Khorasan Province
JACMEC	Joint Anti-Corruption Monitoring Evaluation Commission
KPF	Khost Protection Force
LGBTI	Lesbian, Gay, Bisexual, Transgender, and/or Intersex
MFA	Ministry of Foreign Affairs
MOD	Ministry of Defence
MoE	Ministry of Education
MOI	Ministry of Interior
NATO	North Atlantic Treaty Organization
NISA	National Information and Statistics Authority
NGO	Non-Government Organisation
NUG	National Unity Government
UNAMA	United Nations Assistance Mission in Afghanistan
UNCAC	United Nations Convention Against Corruption
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UPR	Universal Periodic Review
WHO	World Health Organisation

## GLOSSARY

<i>bacha bazi</i>	'dancing boys' who are forced to dance in female attire for adult male audiences and are often sexually abused
<i>hazaragi</i>	a dialect of Persian that is mutually intelligible with Dari (Afghan Persian)
<i>Hazarajat</i>	a mountainous region consisting of the provinces of Bamiyan and Daykundi and parts of the provinces of Ghazni, Ghor, Uruzgan and Wardok which is the traditional homeland of the Hazara
<i>hudud</i>	offences specifically referenced in the Koran
<i>loya jirga</i>	a Constitutional Grand Council, made up of members of the National Assembly and the provincial and district council chairs
<i>madrasa</i>	religious school
<i>meshrano jirga</i>	the Afghan National Assembly's 102-seat Upper House ('House of Elders')
<i>mujahedeen</i>	members of a number of guerrilla groups that opposed invading Soviet forces and the Soviet-backed Afghan government between 1979 and 1992.
<i>nikah khat</i>	an official marriage contract book
<i>nikah nama</i>	an informal document signed by a marrying couple and witnesses in the presence of a mullah, who acts as marriage celebrant
<i>sharia</i>	Islamic law
<i>taskira</i>	a certificate that is the most common form of identification in Afghanistan
<i>wasiqa</i>	a one-page document that verifies the couple's marriage status based on the testimony of five witnesses.
<i>wolesi jirga</i>	the Afghan National Assembly's 250-seat Lower House ('House of the People')

# 1. PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian government policy with respect to Afghanistan.

1.2 The report provides a general, rather than an exhaustive, country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:  
Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 For security reasons, DFAT's Canberra-based staff were precluded on this occasion from conducting an in-country visit as per usual practice. The report still drew closely, however, on the in-country knowledge and expertise of officers at the Australian Embassy in Kabul, who held discussions with a range of sources in Afghanistan. The report also takes into account relevant information from government and non-government reports, including those produced by the US State Department, UK Home Office, World Bank, Transparency International, Amnesty International, Human Rights Watch, Freedom House, Reporters Without Borders, the Committee to Protect Journalists; UN agencies (particularly the United Nations Assistance Mission in Afghanistan); and credible news sources. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT Country Information Report on Afghanistan and the DFAT Thematic Report on Hazaras in Afghanistan, both published on 18 September 2017.



## 2. BACKGROUND INFORMATION

### RECENT HISTORY

2.1 Afghanistan won independence from notional British control through the 1919 Treaty of Rawalpindi. The country existed as a monarchy until 1973, when a non-violent coup deposed Afghanistan's last king and established a republic. A 1978 counter-coup brought communist forces to power, supported by Soviet troops who entered Afghanistan in 1979 and remained until 1989. Opponents of the communist government, collectively known as the *mujahedeen*, fought a guerrilla campaign against it with US backing. The end of Soviet support contributed to the collapse of the communist government in 1992. However, infighting between the various *mujahedeen* factions led to a renewed civil war.

2.2 The Taliban, a hard-line politico-religious movement, emerged as the strongest faction, taking control of Kabul in 1996 and declaring an 'Islamic Emirate of Afghanistan'. The Taliban imposed an extreme interpretation of Islam in Afghanistan, including severe limitations on the freedoms of women and girls, and committed systematic human rights abuses against civilians. The Taliban also provided a safe haven for international terrorist organisations, most notably the al-Qaeda movement led by Osama bin-Laden, which conducted the 11 September 2001 terrorist attacks in the United States. In response, a US-led international coalition joined with anti-Taliban Afghan elements to remove the Taliban from power. Hamid Karzai became leader of the 'Afghan Interim Authority' in December 2001, supported by United Nations-mandated international security forces.

2.3 A new constitution, ratified in January 2004, created the Islamic Republic of Afghanistan. Karzai won the country's first presidential election later that year and won a second (and constitutionally mandated final) term in 2009, although the latter election was widely criticised for widespread irregularities. Another disputed election in 2014 resulted in rival candidates Ashraf Ghani and Abdullah Abdullah agreeing to share power in a 'National Unity' Government (NUG). Ghani succeeded Karzai as President of Afghanistan, with Abdullah assuming the newly established role of Chief Executive Officer. Parliamentary elections took place in October 2018. The next presidential election is scheduled for September 2019.

2.4 Under a transition strategy beginning in 2011, Afghan National Defence and Security Forces (ANDSF) have gradually taken over full responsibility for security in the country. Although most foreign troops had withdrawn from Afghanistan by the end of 2014, around 16,000 troops from 39 countries remain in Afghanistan in an advisory and training capacity under the North Atlantic Treaty Organization (NATO)-led Resolute Support Mission. The United States also deploys a smaller number of troops separately under a complementary mission, Operation Freedom's Sentinel.

2.5 The Taliban and other anti-government insurgent and terrorist groups continue to contest the Afghan government's control in many areas. No part of the country is entirely free from conflict-related violence, with resulting negative effects on economic development, health care and education services.

## DEMOGRAPHY

2.6 Afghanistan is an ethnically diverse and multilingual country with a population of approximately 36.6 million, growing at an estimated 2.37 per cent per annum. The country has one of the youngest populations worldwide: nearly two-thirds of Afghans are under 25 years of age. Afghanistan has not held a national census since 1979. Authorities have repeatedly postponed a census originally planned for 2008.

2.7 Afghanistan's 2004 constitution recognises 14 ethnic groups: Pashtun, Tajik, Hazara, Uzbek, Baloch, Turkmen, Nuristani, Pamiri, Arab, Gujar, Brahui, Qizilbash, Aimaq, and Pashai. Demographic data for Afghanistan is unreliable, and there are acute socio-political tensions around data related to ethnicity. Most sources agree that Pashtuns are the country's largest ethnic group at approximately 40 per cent, with Tajiks second at approximately 25 per cent). Hazara and Uzbeks are the other major national ethnicities, with each constituting approximately 10 per cent of the overall population. Dari (Afghan Persian) and Pashto are both recognised as official languages. Approximately half the population speaks Dari, which generally serves as the lingua franca. Approximately 35 per cent of Afghans speak Pashto; around ten per cent speak Turkic languages (primarily Uzbek and Turkmen); and the remainder of the population speak one or more of up to 30 other languages.

2.8 Afghanistan is still a predominantly rural society, with only an estimated quarter of its population living in cities. However, the country has experienced rapid urbanisation in recent years, triggered by conflict and natural disasters, large-scale returns from abroad and a lack of economic opportunity in rural areas. This has placed considerable pressure on the infrastructure of major cities (see also [Conditions for Returnees](#)). Kabul is Afghanistan's capital and largest city. The population of the city and its surrounding region has grown rapidly from a population of around 500,000 in 2001 to a UN-estimated population of around 5 million people in 2016 (most recent credible estimate). Other major urban centres include Kandahar in the south, Herat in the west, Mazar-e-Sharif in the north, Jalalabad in the east, and Kunduz in the northeast.

2.9 Afghanistan has a significant number of internally displaced persons (IDPs), the result of both continuing conflict and natural disasters. Populations can and have been displaced from virtually all parts of Afghanistan, and areas of displacement have changed over time because of military operations. A May 2018 survey by the International Organization for Migration (IOM) of 15 key provinces (Baghlan, Balkh, Farah, Herat, Kabul, Kandahar, Khost, Kunar, Kunduz, Laghman, Logar, Nangarhar, Nimroz, Paktya, and Takhar) identified more than 1.7 million IDPs living in host communities. Of this number, 86 per cent had been displaced by conflict, while the remaining 14 per cent had been displaced by natural disasters, including floods, avalanches, and earthquakes. A further 1.6 million people had been previously displaced and had subsequently returned to their homes. In addition, the survey found that 1.8 million people had returned to the 15 provinces from abroad (see also [Conditions for Returnees](#)).

## ECONOMIC OVERVIEW

2.10 Afghanistan has significant natural resources but these remain underdeveloped due to continuing conflict, poor infrastructure and governance, and an inability to access global markets due to the country's remote, landlocked and mountainous location. A poor regulatory environment and political uncertainty have also deterred international companies from investing to extract resources. The international community remains committed to Afghanistan's development: in October 2016, donors pledged an additional USD3.8 billion (AUD5.5 billion) in development aid annually from 2017 to 2020, on top of over USD83 billion (AUD119 billion) pledged between 2003 and 2016. Even with this assistance, however, the government continues to face a number of serious economic challenges, including low revenue collection and job creation, high levels of corruption (see [Corruption](#)), weak government capacity, and poor public infrastructure. Afghanistan ranked 168<sup>th</sup> out of 189 countries in the 2018 UN Human Development Index.

2.11 Afghanistan has experienced a slight recovery in growth since 2015, with growth reaching 2.7 per cent in both 2017 and 2018, the latter surpassing the International Monetary Fund's (IMF) estimate of 2.3 per cent. Based on this outcome, the IMF has forecast a 3 per cent growth rate for 2019. The services sector, which accounts for more than half of Afghanistan's GDP, drove most of this growth. Agriculture, which accounts for around a quarter of GDP, also increased, with strong growth in fruit and vegetables offsetting declining wheat production in the context of ongoing drought impacting the northern and eastern areas of the country. The government unveiled an ambitious 'Growth Strategy' to donors in November 2018. Some donors have expressed concern that the strategy is overly ambitious, and that many of its projects do not align with the government's own national priority programs.

2.12 Afghanistan's economy faces substantial risks in the short-term arising from uncertainty around international intentions and the possibility of political instability and violence in the context of upcoming elections. The contested 2014 presidential elections had significant negative impacts on confidence, investment, and governance, feeding into lower growth and revenues. A similarly disruptive period leading up to the September 2019 presidential election could have major negative impacts on revenues, investment and growth in coming years.

2.13 According to the World Bank, economic development progress over the medium term will depend on mobilising the sectors with the greatest capacity to support increased growth, job creation, exports, and government revenues. This is likely to require a balanced growth strategy, including increased investment in agricultural productivity, increased investment in human capital, and the realisation of Afghanistan's substantial extractives potential.

2.14 Kabul's size, centrality and status as the national capital means it offers a greater range of employment opportunities than other areas of Afghanistan, particularly in work related to government and the international community. However, the substantial drawdown of the international presence and associated reduced aid and other financial flows since 2011 has had a major impact on Kabul's economy. The recent large-scale influx of internally displaced persons and returnees from abroad has placed considerable pressure on Kabul's labour market. While reliable statistics are unavailable, unemployment and underemployment are widespread in Kabul, as they are elsewhere in Afghanistan. However, wages and the quality and availability of public services still tend to be higher in Kabul than in other parts of the country. In addition to trade and other service industries, a small number of larger private businesses have established themselves in Kabul, including in food processing, textile production, and light manufacturing.

2.15 The *Hazarajat*, a mountainous region consisting of the provinces of Bamiyan and Daykundi and parts of the provinces of Ghazni, Ghor, Uruzgan and Wardak, is the traditional homeland of the Hazara. The *Hazarajat*'s mountainous terrain, geographic isolation, and lack of arable land have combined to limit economic and employment opportunities. The *Hazarajat* is heavily dependent on agriculture for economic and employment opportunities, and is highly vulnerable to droughts and floods. Infrastructure in the region is severely underdeveloped – around 80 per cent of roads in Bamiyan province are unpaved, restricting the movement of goods and people. Access to electricity remains limited, despite construction of solar and hydroelectric facilities in the region. There has been considerable public dissatisfaction over lack of government infrastructure investment in the *Hazarajat*. While Bamiyan province and (to a lesser extent) Daykundi province are largely secure, ongoing armed insurgency has affected the provinces surrounding them and road transportation links between the *Hazarajat* and major cities are far from secure. This places considerable limits on the ability of *Hazarajat* producers to access large markets. It also has implications for Hazaras seeking to travel for seasonal work in other provinces, which is common for poor Afghans of all ethnicities.

2.16 Herat province is located in western Afghanistan, bordering Iran and Turkmenistan. Herat's geographic location has seen it play an important role as a regional trading centre for western Afghanistan.

Herat City in particular is a major trading hub that has attracted significant numbers of internal migrants, including from the *Hazarajat*. Herat's economy is largely dependent on agriculture (and horticultural production) and industry. Herat's economy has been impacted both by drought and by large-scale returns over the past year from Iran (see [Conditions for Returnees](#)). Tajiks and Pashtuns are the major ethnic groups, followed by minority groups of Hazara, Turkmens and Baluchs.

2.17 Mazar-e-Sharif ('Mazar') is the capital of Balkh province, in the far north of Afghanistan bordering Uzbekistan, Tajikistan, and Turkmenistan. Balkh has traditionally been an important trading location due to its location at the historical crossroads of central Asia, China, the Indian sub-continent, and Iran. Balkh and Mazar more specifically have continued to play an important economic role as both an import/export hub and a regional trading centre for northern Afghanistan. Mazar maintains extensive economic links with other northern provinces and with Kabul. Balkh's provincial economy is predicated upon trade and services (43.2 per cent), agriculture (38.5 per cent), and manufacturing (16.2 per cent). Mazar has a tradition of high educational standards, especially at higher levels and Balkh has a comparatively high literacy rate. Approximately a quarter of Balkh's population are migrants, defined as those who had resided elsewhere for a least six months in another district within Balkh, in another province, or abroad. Mazar is the most popular destination for migrants, attracting 46 per cent. Although statistics related to ethnic breakdown are not available, Balkh is a Tajik majority province.

## Employment

2.18 The poor security situation and limited development of resources mean that job creation has been unable to keep up with population growth, and few Afghans have access to productive or remunerative employment. A quarter of the labour force is unemployed, and 80 per cent of employment is vulnerable and insecure, comprising self-employment, day labour, or unpaid work. The Afghan economy struggles to absorb the high numbers of people entering the workforce each year – estimated at up to 400,000 annually – in addition to the high numbers of Afghans returning from neighbouring countries (see '[Conditions for Returnees](#)'). Labour force participation rates are particularly low for young Afghan women. People from all ethnicities regularly travel to find employment opportunities, including leaving Afghanistan. Poverty has increased significantly in recent years: according to the World Bank, 55 per cent of the population lived below the poverty line in 2016-17, compared to 38.3 per cent in 2012-13.

## Corruption

2.19 Afghanistan is a State Party to the UN Convention Against Corruption (UNCAC). Articles 370 to 460 of the 2017 penal code incorporate the provisions of UNCAC, including stipulating punishments of up to 16 years' imprisonment. The government has prioritised anti-corruption efforts, including through a national strategy launched in 2017 that takes a holistic approach towards combating corruption. Since June 2016, the Anti-Corruption and Justice Centre (ACJC) has conducted credible prosecutions of high-level corruption crimes. The ACJC includes a specialised policing unit, a prosecution unit, and anti-corruption primary and appeal courts. As of November 2018, the ACJC primary and appellate courts had heard 373 cases in public trials, and issued 177 decisions.

2.20 Corruption remains an endemic problem in Afghanistan, however. It is exacerbated by the prevalence of illicit drug activities, a weak public administration, and large amounts of international aid flowing into the country. In the Asia Foundation's 2018 Survey of the Afghan People, a record 70.6 per cent of Afghans reported that corruption was a major problem in their daily lives, while 81.5 per cent of respondents felt that corruption was a major problem in Afghanistan as a country. The survey results



supported a February 2016 Transparency International report, which found that most Afghans felt they had a dysfunctional justice system in which corruption largely went unpunished and those with power enjoyed impunity; public sector recruitment was based on connections rather than merit; the paying of bribes to public officials for the provision of basic services was routine and expected; and there was a chronic lack of integrity among many elected officials. Transparency International ranked Afghanistan 172<sup>nd</sup> out of 180 countries in its 2018 Corruption Perception Index.

## Health

2.21 Article 52 of the Constitution commits the state to providing free preventative healthcare and treatment of diseases as well as providing medical facilities to all citizens, and to encouraging and protecting the establishment and expansion of private medical services and health centres.

2.22 The Afghan health system has improved significantly since 2001, but from a very low base. Whereas only around 10 per cent of Afghans had access to basic health services in 2001, this proportion rose to around 85 per cent of the population in 2015 (most recent published statistics available). World Bank data from household surveys show significant declines in maternal and child mortality between 2003 and 2015. Afghanistan continues to have one of the world's highest maternal mortality rates, and recent surveys suggest that rates may be considerably higher than previously thought. The number of functioning health facilities quadrupled between 2002 and 2012, and the proportion of facilities with female staff increased considerably.

2.23 Despite improvements in some areas, decades of war and conflict have had a severe impact on the health sector. Afghanistan continues to have one of the highest rates of child malnutrition in the world, with around 55 per cent of children under five suffering from chronic malnutrition. The World Health Organization (WHO) estimated life expectancy at birth in 2016 (most recent statistic available) as 59 years for men and 62 years for women, below the South Asian regional average of 68 (for both sexes). While basic healthcare services are free, medicines can be expensive and/or out of date, excluding the poor from treatment for common illnesses. The Afghan healthcare sector remains heavily dependent on foreign funding.

2.24 Continuing armed conflict frequently inhibits access to health services in conflict-affected areas, with women and girls particularly affected. Medical supplies are often unable to reach remote communities due to the security situation. The United Nations Assistance Mission in Afghanistan (UNAMA) has reported that anti-government elements (AGEs) (see [Anti-government elements \(AGEs\)](#)) often threaten, beat, abduct or kill health care workers, specifically targeting polio vaccinators (see also [Civil Society Organisations \(CSOs\)/ Non-Government Organisations \(NGOs\)](#)), and that armed forces from both sides of the conflict occupy and utilise medical facilities for military purposes.

2.25 In 2018, UNAMA documented 62 incidents affecting health care, including direct attacks or threats of attacks against health care facilities and personnel, and incidental damage to health care facilities. UNAMA attributed almost half of the incidents to the Taliban. UNAMA did not report any deaths or injuries resulting from such attacks, unlike previous years. In 2017, UNAMA recorded 75 incidents targeting or impacting healthcare and healthcare workers that caused 31 deaths and 34 injuries. Most of the casualties (26 deaths and 22 injuries) occurred in the context of a complex attack by AGEs on a military hospital in Kabul in March 2017. In 2017 UNAMA also recorded: the targeted killing or attempted targeted killing of five healthcare professionals, resulting in three deaths and two injuries; the abduction of 22 healthcare workers in 11 incidents, resulting in one death; the targeting of ambulances in five separate incidents by AGEs; and the temporary closure of at least 147 health facilities following threats by AGEs. In 2016, UNAMA recorded 119 conflict-related incidents targeting or affecting healthcare providers and facilities, resulting in 10 civilian



deaths, 13 injuries and 42 abductions, similar to figures documented in 2015. The majority of incidents involved threats, intimidation, harassment and abduction.

2.26 Health clinics were also affected by violence occurring around the October 2018 parliamentary election (see [Civilian Casualties](#) and [Political Opinion \(actual or imputed\)](#)), although not to the same extent as schools (see [Education](#)). Some voter registration sites and polling centres were located in health clinics, exposing them to risk of attack.

2.27 While accurate data on mental health issues is unavailable, the WHO estimates that more than a million Afghans suffer from depressive disorders while over 1.2 million suffer from anxiety disorders (the WHO acknowledges that actual figures for both are likely to be much higher). The Ministry of Public Health reported in April 2017 that it had given specialised training in mental health issues to over 700 professional psychological counsellors and 100 specialised mental health doctors. Of this number, the government had employed 300 mental health professionals in government-run health centres and the remainder in different health non-governmental organisations (NGOs). For the vast majority of the population, however, there are significant barriers to accessing treatment for mental health issues, including a considerable cultural stigma surrounding mental illness and a lack of outpatient mental health services. Afghanistan has only one high-security psychiatric facility, the Red Crescent Secure Psychiatric Hospital in Herat. A February 2018 media report found that many of the patients were often chained and sedated, while others were unable to leave the facility at the conclusion of their treatment as their family members had either been killed in conflict or migrated to neighbouring countries.

2.28 Afghanistan is the world's largest producer of opium and heroin, and drug addiction is a serious and growing problem. An overall decline in security in many areas has led to considerable reduction in programs of poppy eradication: the UN Office on Drugs and Crime reported in November 2017 that opium production rose 87 per cent from the previous year, while areas under cultivation rose 60 per cent. Although the Taliban outlawed opium cultivation in 2001, the last year in which they were in power nationally, they now promote and tax it in areas under their control.

2.29 Although most opium and heroin is exported, the UN estimates the number of drug users in Afghanistan is between 1.3 million and 1.6 million. Other estimates put the number higher: in a June 2018 speech, the Minister of Counter-Narcotics said that between 2.9 million and 3.6 million Afghans were affected by drugs. Authorities have sought to counter drug use through a number of means. In November 2017, US and Afghan forces initiated air strikes against drug laboratories in Helmand province, while the Counter Narcotics Justice Centre's first quarter report for 2018 stated that authorities had arrested 230 suspects on charges related to the smuggling of drugs in the first three months of the year. The 2017 Penal Code allows for terms of imprisonment of up to 30 years for drug trafficking, depending on the type and amount of the substance. Article 317 of the Code exempts drug users from prosecution and commits them to undergoing treatment at a recovery centre, provided they are in possession of a small amount of the drug and a doctor confirms their addiction. While reliable statistics on drug rehabilitation centres are not available, anecdotal evidence suggests that they are limited in both number and scope, particularly for women.

## Education

2.30 The Constitution gives considerable emphasis to the role of the state in providing education. Article 17 commits the state to adopting necessary measures to fostering education at all levels; Article 43 emphasises that education is the right of all citizens of Afghanistan, that it shall be offered up to tertiary (undergraduate) level free of charge in state educational institutions, and that the state will design and implement effective programs for delivering educational services in local languages; Article 44 commits the

state to devising and implementing effective programs to create and foster balanced education for women, to improving the education of nomads, and to eliminating illiteracy; Article 45 commits the state to devising and implementing a unified educational curricula based on the tenets of Islam, national culture, and academic principles; while Article 46 commits the state to establishing and administering higher, general and specialised educational institutions.

2.31 Afghanistan's primary and secondary education system consists of four main types of schools. The Government staffs and operates public schools, often with assistance from donors, much of which flows through the Ministry of Education (MoE). Community-based education remains entirely outside the government education system and is wholly dependent on donor funding. *Madrastas* (religious schools) teach many children but often exclude core academic subjects in favour of teaching religion. Private schools exist in some areas, providing options for families able to afford their fees.

2.32 Educational outcomes have improved significantly since 2001, but from a very low base. Primary and secondary school enrolments have increased considerably since the fall of the Taliban, who prohibited female education. While accurate statistics are very difficult to obtain, the number of Afghan children attending school has risen considerably, particularly for girls. The government has established over 13,000 schools, bringing the total number of primary and secondary schools in Afghanistan to 14,600 as of October 2016. Basic public education is free and available to most Afghans, but the quality of education, availability of qualified teachers, and rates of attendance vary considerably across the country. Significant additional resources invested in basic education since 2001 have resulted in a large increase in the number of students graduating from secondary school. Opportunities to advance to tertiary education are limited, however, and the technical and vocational education and training sector is underdeveloped and hampered by bureaucratic inefficiencies.

2.33 Corruption and mismanagement continue to place significant limits on the effectiveness of education services. In October 2017, the independent Joint Anti-corruption Monitoring and Evaluation Committee (JACMEC) released a report into corruption within the MoE that found that 75 per cent of teacher training graduates were not being hired at schools due to extreme levels of corruption in the recruitment process. This resulted in the appointment of teachers based on influence, nepotism, or bribery rather than merit. The JACMEC report also found that inspection and oversight systems were either not independent, ineffective, or entirely absent; high absenteeism and 'ghost' students, teachers, and schools persisted; and MoE officials showed limited support for reform. According to the JACMEC report, these shortcomings were compounded by graft in textbook distribution and literacy programs, and cash payment of wages to almost 47 per cent of employees that provided opportunities for corrupt officials to skim or divert salaries. President Ghani dismissed the Minister of Education upon receiving the report.

2.34 The JACMEC report made a large number of recommendations, including improved recruitment, institutional and legal reforms, increased transparency, better oversight and enforcement of policy regulations, and improved service delivery. Specific recommendations included: reducing the size and scope of the MoE to make it more manageable and less vulnerable to corruption, including through reassigning responsibility for Technical and Vocational Education and Training to another Ministry; encouraging donors to support a renewed focus on anti-corruption and independent oversight as the basis for raising the quality of education; and giving communities greater responsibility for teacher selection. It is unclear how far the government had gone in terms of accepting or implementing the JACMEC's recommendations.

2.35 The JACMEC report into the MoE followed an October 2017 Human Rights Watch (HRW) report into the state of female education. The HRW report found that while there had been considerable progress towards increasing the number of girls attending school, this was not uniform across the country – in some provinces, the percentage of female students was as low as 15 per cent. Across the country, it was probable that up to 66 per cent of girls of lower secondary school age (12 to 15 years old) were out of school,

compared to 40 per cent of boys that age. Educational outcomes for Afghan girls remained poor overall: only 37 per cent of girls are literate compared to 66 per cent of boys, and only 19 per cent of adult women are literate compared to 49 per cent of men.

2.36 The HRW report identified a number of barriers that continued to prevent girls accessing schools and remaining through secondary education. Insecurity and violence stemming from both the ongoing conflict and general lawlessness, including the threat of abduction, kidnapping, acid attack, and sexual harassment, remained the largest single factor. Other dissuading elements included discriminatory attitudes towards female education by both government officials and community members; early marriage (see [Women](#)); poverty and child labour (see [Children](#)); a lack of female teachers; administrative barriers (including requirements for identification and transfer letters); and excessive distance between homes and schools.

2.37 Over half of the 5,000 polling centres (which had also served as voter-registration sites) used in the October 2018 parliamentary elections were located in schools. Throughout the voter registration period, AGEs (mainly Taliban) targeted schools and electoral staff registering voters through improvised explosive devices (IEDs) and suicide attacks (see also [Political Opinion \(actual or imputed\)](#)). In one instance, the Taliban set fire to a school building. The attacks, combined with threats against teachers, resulted in school closures in some areas. The attendance rates for the schools that remained open reportedly decreased, with girls' schools disproportionately affected. During the voting period, government schools cancelled classes for all students for security reasons. UNAMA documented at least 112 incidents during the voting period in which schools used as polling centres were either directly attacked or otherwise impacted by attacks in the area. At least 23 schools sustained property damage, which may have a longer-term impact on children's access to education.

2.38 UNAMA expressed concern about an emerging trend in 2018 of AGEs attacking or threatening to attack education facilities as a form of reaction to pro-government forces' military operations. In June 2018, the Islamic State in Khorasan Province (ISKP) group (see [Anti-government elements](#)) expressly declared its intention to target schools (particularly girls' schools) following aerial operations by international and Afghan national security forces in Nangarhar province. ISKP subsequently conducted 34 attacks on schools, causing 25 deaths and 39 injuries. Three complex attacks accounted for the majority of casualties in 2018: an attack on the Provincial Education Department in Jalalabad city on 11 June; an attack on the Jalalabad city Education Department on 11 July; and an attack on a Community Nursing and Midwifery Education Institute on 28 July. ISKP's campaign also included the placement of IEDs around the proximity of schools to either cause casualties among students and education personnel, or to terrify the community and prevent the education of children: UNAMA verified 25 such incidents from June to December 2018. ISKP's attacks on education facilities in the east of the country during the second half of the year significantly impeded children's access to education.

2.39 UNAMA also documented 10 incidents of Taliban threatening, closing, burning or targeting schools with rockets, mortars or IEDs in response to military operations or certain actions taken by the Government. In March 2018, following a decision by the Department of Education to pay the salaries of teachers by bank transfer instead of cash payments – a measure that would reduce the Taliban's ability to extract 'taxes' from teachers – the Taliban issued a directive ordering the closure of 342 schools throughout Kunduz province. Seven months later, Taliban abducted 125 education personnel, including school teachers, principals and district education officials in Ghazni province because they were receiving their salaries via bank accounts.

2.40 The Hazara have traditionally placed a high value on educational achievement, including for girls (see [Women](#)), which has represented a means to escape marginalisation in Afghan society. While reliable statistics are unavailable, credible sources report that a considerably higher percentage of Hazara children receive formal education relative to the children of other Afghan ethnicities. Hazara children are generally encouraged to consider further education options where family circumstances allow. There are currently

more than 350 schools operating in Bamiyan and Daykundi, attended by approximately 160,000 students of whom almost 50 per cent are girls. Bamiyan also hosts a small university with approximately 3,600 students, although the university has struggled to attract qualified lecturers. The Hazara also operate a number of private schools in Kabul for the benefit of their community. The quality of these schools tends to be higher than many other schools in Afghanistan, demonstrated by relatively high university acceptance rates. Some families from the *Hazarajat* reportedly send their children to Kabul for instruction during the winter months.

## POLITICAL SYSTEM

2.41 The 2004 Constitution established Afghanistan as an Islamic Republic, and set out the division of political powers. The Constitution grants the president wide powers over legislative and military affairs, but restricts time in office to a maximum of two five-year terms. Prior to the 2014 presidential elections, the executive consisted of a President and two Vice-Presidents, elected by direct vote for five-year terms, and eligible for a maximum of two terms in office. The post-election negotiations that resulted in the establishment of the NUG, added the positions of Chief Executive Officer (CEO) and two Deputy Chief Executive Officers (DCEO) to the executive. According to the terms of the NUG's power-sharing arrangement, the President leads the Cabinet while the CEO oversees a council designed to implement government policies. However, the specific responsibilities of each of these positions are ill defined, and are a source of political uncertainty and instability. It remains unclear whether the positions of CEO and DCEO will continue to exist beyond the next presidential elections, scheduled for 2019.

2.42 The Afghan National Assembly is bicameral, consisting of the *wolesi jirga* ('House of People') and the *meshrano jirga* ('House of Elders'). The National Assembly has a range of powers, including the ratification, modification or abrogation of laws, and the approval of state budgets. It also has the power to approve or reject some appointments made by the President, such as Ministers, the head of the Central Bank and the Justice of the Supreme Court. The *wolesi jirga* has 250 seats, with members directly elected for five-year terms through a system of semi-proportional representation in a largely free, general, secret and direct ballot. Sixty-eight of the members must be women, including at least two from each province. The *meshrano jirga* has 102 seats, with two-thirds of members elected from provincial councils for four-year terms, and one-third nominated by the President for five-year terms. Half of the members appointed by the President must be women. Parliamentary elections originally due for 2015 took place over three days in October 2018. President Ghani inaugurated the new Parliament on 26 April 2019, although 33 seats were vacant due to ongoing disputes over the election process.

2.43 Afghanistan has 34 provinces, sub-divided into districts. A presidentially appointed governor, who oversees an elected council, governs each province.

2.44 The Constitution can be amended by a constitutional *loya jirga* (Grand Council), made up of members of the National Assembly and the provincial and district council chairs. The government can only convene a constitutional *loya jirga* on issues of independence, national sovereignty and territorial integrity. The 2014 agreement that established the NUG called for a constitutional *loya jirga* within two years to amend the Constitution to establish formally the CEO position, which is similar to that of a Prime Minister, but which the Constitution does not explicitly recognise. However, due to the delay in holding parliamentary elections (required as a precursor to holding the constitutional *loya jirga*), the constitutional *loya jirga* has not occurred as of June 2019.

2.45 High levels of corruption, poor institutional capacity and the continuing security situation reduce the government's effectiveness in implementing policies and decisions. The government's capacity to function varies across the country.



## HUMAN RIGHTS FRAMEWORK

2.46 Articles 6 and 7, and Chapter 2 of the Constitution oblige the State to observe, promote, and protect human rights. A number of parliamentary committees in both the *wolesi jirga* and *meshrano jirga* also deal with human rights issues, and all government ministries include a unit for the promotion and protection of human rights.

2.47 Afghanistan is a State Party to the following international human rights instruments: the International Covenant on Civil and Political Rights (CCPR), the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Rights of the Child (CRC) and its two Optional Protocols on the involvement of children in armed conflict (CRC-OP-AC) and on the sale of children, child prostitution, and child pornography (CRC-OP-SC), and the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol (CAT-OP). Afghanistan is not a signatory to the Convention for the Protection of All Persons from Enforced Disappearance (CED), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), or the Second Optional Protocol to CCPR aiming towards the abolition of the death penalty (CCPR-OP2-DP).

2.48 Afghanistan is currently participating in a third cycle of the UN Human Rights Council's Universal Periodic Review (UPR). Afghanistan previously participated in a first cycle in May 2009, and a second cycle in January 2014. The second cycle resulted in participating states providing 34 recommendations, of which the government accepted ten immediately and took the remainder on notice for review. In its national report to the UPR third cycle, the government noted it had taken considerable steps towards implementing the second cycle recommendations, including through introducing a new penal code in February 2018, ratifying CAT-OP in 2018, and drafting, passing, and amending a number of laws of relevance to human rights.

2.49 Decades of conflict, a lack of the rule of law, a culture of impunity, and corruption have had a severe impact on the government's ability to implement human rights guarantees. Parallel legal systems, including Taliban courts, which implement traditional interpretations of *sharia* (Islamic law), along with traditional tribal dispute resolution mechanisms, have often conflicted with internationally recognised human rights principles.

### National Human Rights Institution

2.50 In line with Article 58 of the Constitution, the government established the Afghan Independent Human Rights Commission (AIHRC) in 2002. The AIHRC's mandate is to protect and promote human rights across the country. Its main objectives are to monitor and verify human rights violations, and to respond appropriately in tackling the drivers of such violations. The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights has accredited the AIHRC, which has held a 'fully effective' status ranking since October 2007. The AIHRC regularly publishes reports on human rights issues in Afghanistan. While it continues to rely heavily on international donor funds, since 2018 the AIHRC has received 18 per cent of its budget from the national budgetary system.

2.51 The AIHRC has a key role in providing human rights training to government officials, ANDSF members, judges, prosecutors, prison personnel, religious authorities, civil society, and the public. In its November 2018 national report to the UPR, the government reported that the AIHRC had conducted an extensive range of seminars, workshops, and media awareness campaigns in the years following Afghanistan's previous UPR in 2014.



## SECURITY SITUATION

2.52 The security situation in Afghanistan is dangerous, complex and highly fluid. It varies considerably by location, including between rural and urban areas. A number of AGEs, most notably the Taliban and the Haqqani Network (HQN), remain engaged in a violent armed insurgency against the government and its international partners (see [Anti-government elements](#)). The emergence of an Islamic State-affiliate in pockets of eastern Afghanistan, Islamic State in Khorasan Province (ISKP), has been a growing concern for the international community. Allegiances between groups can change quickly. Arrangements of convenience exist, even between groups generally considered adversarial. Insurgent forces contest many areas of the country, and no part of Afghanistan can be considered completely free from conflict-related violence. Considerable ethnic and intra-ethnic tensions exist throughout the country, separate from (but intersecting with) the continuing armed conflict. Competition over land rights and access to scant resources can on occasion adopt ethnic overtones and escalate into community-level violence. International and domestic observers agree that the general security situation in Afghanistan has deteriorated considerably in recent years. In the Asia Foundation's 2018 Survey of the Afghan People, 71.1 per cent of Afghans reported feeling fearful for their personal safety.

2.53 UNAMA's annual report for 2018 found that the overall number of armed clashes between pro-government Forces and AGEs decreased slightly across Afghanistan in 2018. Fighting intensified, however, in some parts of the country, particularly in the east, southeast and areas within the south. The Taliban made territorial gains in sparsely populated areas, and advanced their positions in areas that had not seen fighting in years. They temporarily gained control of strategic check posts, including along major roadways leading to Kabul city, further restricting freedom of movement for residents and hampering movement of goods and people between major cities. The pressure on the population and non-governmental community to pay illegal taxes to the Taliban reportedly reached higher levels than in recent years as the movement attempted to assert its presence across larger areas of the country and the Taliban's leadership ordered local groups to become more reliant on local sources of revenue.

2.54 Following overlapping Government and Taliban ceasefires during the Eid-ul-Fitr holiday in June 2018, a large-scale Taliban attack against Ghazni city in August appeared calculated to rule out the possibility of a second ceasefire during Eid-al-Adha. The Taliban attack resulted in protracted fighting for more than a week and caused hundreds of civilian casualties, mainly from ground fighting and airstrikes. The Taliban reportedly used lists containing names and addresses of government and Afghan national security forces employees to target them and their family members: victims of targeted killings included the brother of a police commander, a district prosecutor, and a parliamentary candidate (see also [Extra-Judicial Killings](#)). Witnesses also reported intentional damage to civilian property. Security concerns in the southeast remained high throughout the end of the year, with the Taliban continuing to maintain pressure on Government forces surrounding Ghazni city. Large-scale Taliban attacks in the Hazara-dominated western areas of Ghazni Province led to protracted fighting and large-scale displacement into late 2018. As of June 2019, government security forces had reclaimed several districts in Ghazni that had been under Taliban control for several years, including Khwaja Omari and Deh Yek districts.

### Anti-government elements (AGEs)

2.55 Anti-government elements (AGEs) encompass all individuals and armed groups involved in armed conflict with or armed opposition against the Government of Afghanistan and/or international military forces. They include those who identify as 'Taliban', as well as individuals and non-state organised armed groups taking a direct part in hostilities and assuming a variety of labels, including the HQN, ISKP, Hezb-e-Islami, Islamic Movement of Uzbekistan, Islamic Jihad Union, Al Qaeda, Lashkar-e-Tayyiba,

Jaysh- e- Muhammed, and other militia and armed groups directly engaged in hostile acts on behalf of a party to the conflict.

2.56 The Taliban remains the most significant AGE. It is an umbrella organisation comprising loosely connected insurgent groups, including more or less autonomous groups with varying degrees of loyalty to the leadership and the concept of the Islamic Emirate. The Taliban's organisational structure is hierarchical: a 'Commander of the Faithful' gives moral, religious, and political statements, oversees judges, courts, and political commissions, assigns shadow governors, and is in command of the military organisation. The total manpower of the Taliban, including combatants and support elements, is likely to exceed 100,000. Of these, analysts suggest that between 60,000 to 70,000 are fighters, some of whom are in fulltime, mobile units based outside Afghanistan who deploy to Afghanistan during the fighting season, and the remainder are in local militias. The UN Security Council reported in May 2018 that the Taliban had undertaken a restructuring that constituted generational change: the provincial shadow and deputy shadow governors, along with provincial military commanders, were all replaced in the provinces of Bamiyan, Baghlan, Kabul, Kapisa, Kunar, Laghman, Parwan, Samangan, Takhar, and Uruzgan.

2.57 ISKP formally launched its Afghanistan operations in January 2015, pledging its allegiance to the 'caliphate' in Syria and Iraq. Initially based in Nangarhar province on the porous Pakistan border, ISKP has subsequently expanded its presence to approximately 30 districts across the country, primarily in the north and east. The UN has estimated the overall size of the group in Afghanistan at between 1,500 and 6,000. ISKP has identified its specific targets as the Shi'a community (see [Shi'a](#)), government and foreign military forces, and the Taliban, who had not previously been challenged by an insurgent group. Despite rigorous targeted operations against ISKP by the government and international military forces, and fierce fighting between the Taliban and ISKP in a number of provinces, ISKP has continued to carry out attacks and targeted killings.

2.58 The HQN, founded by a *mujahedeen* commander (and US ally during the Soviet occupation), is reportedly active along the Pakistan border area and across much of southeastern Afghanistan. The HQN has repeatedly targeted Kabul in its attacks. International observers believe it retains at least several hundred core members and a pool of upwards of 10,000 fighters. The HQN cooperates closely with the larger Taliban and other organisations, including al-Qaeda and Jaish-e-Mohammed. It receives much of its funds from donors in Pakistan and the Gulf, and through criminal activities such as kidnapping, extortion, and smuggling.

2.59 AGEs have regularly conducted attacks across Afghanistan. The most common targets for insurgent attacks are: government institutions; political figures; the ANDSF and other Afghan and international security forces; demonstrations; foreign diplomatic missions; and international organisations. Mosques, schools, hospitals and other civilian targets are also vulnerable. Attacks can include small arms fire, indirect (rocket) fire, suicide bombings, car bombs, IEDs, and complex attacks involving a combination of these methods. While insurgents generally direct attacks against specific targets, the methods of attack can be indiscriminate and often result in civilian casualties. More detail on significant recent attacks against specific and identifiable groups is contained in other sections of this report.

## Civilian Casualties

2.60 Since UNAMA began systematically recording conflict-related civilian casualties in 2009, it has documented 32,114 deaths and 59,561 injuries. Given UNAMA's stringent methodology for recording conflict-related casualties, these figures likely underplay the true number. Conflict-related civilian casualties rose considerably between 2013 and 2014, and have remained high in subsequent years.

2.61 UNAMA documented 3,804 deaths and 7,189 injuries in 2018, representing a five per cent increase in overall civilian casualties and an 11 per cent increase in civilian deaths from the previous year. In 2018,

there was a considerable increase in civilian casualties caused by suicide attacks by AGEs, particularly ISKP. Suicide IEDs caused almost 26 per cent of all civilian casualties. Of particular concern are the number of casualties from attacks by AGEs deliberately targeting civilians, mostly in the form of suicide and complex attacks. These increased by 48 per cent from 2017, causing 1,404 deaths and 2,721 injuries. The number of civilian casualties from deliberate targeting by the Taliban nearly doubled in 2018 from the previous year, with 1,751 casualties overall. The increase largely resulted from a suicide ambulance attack in Kabul on 17 January (See [People associated with the government or international community](#)); and from election-related attacks on polling day on 20 October, when UNAMA recorded the highest number of civilian casualties on any single day in 2018. Civilian casualties from attacks deliberately targeting civilians by ISKP also more than doubled from the previous year to 1,871 in 2018. The ISKP attacks were mainly suicide and complex attacks, including sectarian-motivated attacks against Shi'a (see [Shi'a](#)). There were also increases in harm to civilians resulting from aerial operations and search operations.

2.62 The number of civilian casualties resulting from ground fighting between Pro-Government Forces and AGEs dropped sharply in 2017 from the record levels experienced in 2016, and decreased slightly further in 2018. Ground engagements remained the second highest cause of overall civilian casualties in 2018, accounting for 814 deaths and 2,568 injuries (31 per cent of total casualties). In addition, ground engagements were the leading cause of civilian casualties in 23 of Afghanistan's 34 provinces.

2.63 The two provinces most impacted in terms of civilian casualties were Kabul (596 deaths and 1,270 injuries) and Nangarhar (681 deaths and 1,134 injuries). Whereas Kabul's casualty rate was almost exactly on par with the previous year, Nangarhar experienced a 111 per cent increase from 2017. In both provinces, suicide/complex attacks were the leading cause of civilian casualties. Ground engagements, however, were the leading cause of civilian casualties in the next three highest-ranking provinces; Helmand, Ghazni (which saw an 84 per cent increase from 2017), and Faryab. The province experiencing the highest rise in civilian casualties from the previous year was Wardak (ranked 16/34), where the total number of casualties (88 deaths and 136 injuries) represented a 170 per cent increase from 2017. Ground engagements were the leading cause of civilian casualties in this province.

2.64 Kabul remains a particularly significant target for suicide and complex attacks against both civilian and non-civilian targets carried out by AGEs. The ANDSF and international forces have put in place a range of counter-measures to prevent and respond to insurgent attacks in Kabul. These include numerous checkpoints along highways leading into Kabul, at major intersections, and outside government and international institutions. These checkpoints provide a deterrent to insurgent attacks by increasing the probability of detection before AGEs are able to carry out their attacks. Nevertheless, the checkpoints vary in their effectiveness, and violent attacks within the city are common (see [Shi'a](#) and [People associated with the government or international community](#)).

2.65 The security situation in the *Hazarajat*, particularly Bamiyan province, has been considerably better than in most other parts of Afghanistan in recent years. There are a number of factors behind this: the Hazara comprise the vast majority of the population in most districts in these provinces, which means there are fewer opportunities for ethnic tension; and because the Hazara are visually distinct, non-Hazara have found it difficult to infiltrate these areas without detection. The mountainous terrain of the *Hazarajat* also offers a form of natural protection, with few routes for outsiders to traverse these provinces.

2.66 In the reporting years 2017-2018, UNAMA recorded only one conflict-related civilian death in Bamiyan province (caused by unexploded ordinance or a landmine), and only ten injuries. Security conditions in other parts of the *Hazarajat*, however, deteriorated significantly in 2018. Large-scale Taliban attacks in the Hazara-dominated western areas of Ghazni province led to protracted fighting and large-scale displacement from August onwards. In late October, fighting between the Taliban and a Hazara former Afghan Local Police (ALP) commander led to displacement of many Hazara families in the Khas Uruzgan district of Uruzgan

province. The Taliban began offensive operations shortly afterwards in the Malestan and Jaghuri districts of Ghazni province, which ended in both locations by 19 November after large-scale operations by Pro-Government forces. UNAMA verified 20 civilian deaths and six injuries in Jaghuri and four deaths and seven injuries in Malestan, all caused by the Taliban during the period of the offensive. UNAMA determined that dozens of additional casualties had likely lost their civilian status due to direct participation in hostilities. Ground engagements also affected the southern areas of Daykundi province bordering Uruzgan province over the course of 2018. These areas tend to be less secure than the rest of Daykundi province as they form an unofficial border between majority Hazara and Pashtun communities, providing increased opportunities for localised ethnic violence.

2.67 Herat province experienced a 48 per cent drop in civilian casualties in 2018 from the previous year, with 95 deaths and 164 injuries. Non-suicide IEDs were the leading cause of casualties, ahead of ground engagements. Herat had previously seen a 37 per cent increase in civilian casualties in 2017 from 2016: in 2017, UNAMA recorded 238 deaths and 257 injured. The fluctuation in casualty numbers over the three years demonstrates the highly fluid nature of conflict in Afghanistan. UNAMA's reporting does not provide any indication that significant numbers of civilian casualties occurred in Herat City.

2.68 Balkh province experienced a 78 per cent increase in civilian casualties in 2018 from the previous year, with 85 deaths and 142 injuries. Ground engagements were the leading cause of casualties, ahead of non-suicide IEDs, with the number of civilian casualties caused by ground engagement almost tripling from 2017. UNAMA's reporting does not provide any indication that significant numbers of civilian casualties occurred in Mazar-e-Sharif.

2.69 UNAMA documented 581 deaths and 1,192 injuries across Afghanistan in the first quarter of 2019. This represented a 23 per cent decrease in overall civilian casualties as compared to the same period in 2018, and is the lowest for a first quarter since 2013. UNAMA attributed this to a decrease in casualties from suicide IED attacks, and particularly harsh winter conditions (that may have contributed to a reduction in fighting). Civilians living in Kabul, Helmand, Nangarhar, Faryab, and Kunduz provinces were most affected.

## Road safety

2.70 Afghanistan's road network is generally poor, particularly in the mountainous central highlands. Snowfall makes travel in winter more difficult, and can prevent travel on roads at higher altitudes for extended periods. Unsafe driving practices such as speeding exacerbate these problems, and traffic accidents account for the majority of fatalities on Afghan roads.

2.71 Insecurity compounds the poor condition of Afghanistan's limited road network, particularly on roads that pass through areas contested by insurgents. The Taliban, other anti-government groups and criminal elements target the national highway and secondary roads, and unofficial checkpoints manned by armed insurgents are common. Officers operating official checkpoints—drawn from the Afghan National Army (ANA) or Afghan National Police (ANP) with the aim of improving the security on the roads—are often inadequately trained and poorly paid. Corruption at these checkpoints is common. DFAT is unable to provide further detail on specific road routes.

2.72 Criminals and insurgents on roads tend to target people who appear wealthy, or are associated with the government or the international community, in attacks that can include kidnapping for ransom (see following section). People from all ethnic groups are vulnerable to these attacks. It can be difficult to ascertain the motivation for attacks, and to separate criminal attacks from insurgent activity.

2.73 In-country sources have advised that ethnic targeting can play a role in the selection of victims once an abduction is in progress, and that Hazara are particularly at risk in this regard. In one November 2015



case, militants stopped a number of buses travelling through Zabul province en route from Kandahar to Kabul. After demanding identification from passengers, the militants reportedly took away only the Hazara passengers. In-country sources also continue to report the issue of 'spotters' at bus stations calling ahead to tell insurgents or criminals which buses are carrying Hazaras. As a result, some bus companies have reportedly refused to sell tickets to Hazaras because of a perception that having them on board increases the probability that insurgents or criminals will stop their buses.

2.74 DFAT assesses that while abduction while travelling by road is a risk for Afghans of all ethnicities, Hazaras remain particularly vulnerable to being selected for abduction or violence if a vehicle carrying a mix of ethnic groups is stopped.

## Kidnapping/ Abductions

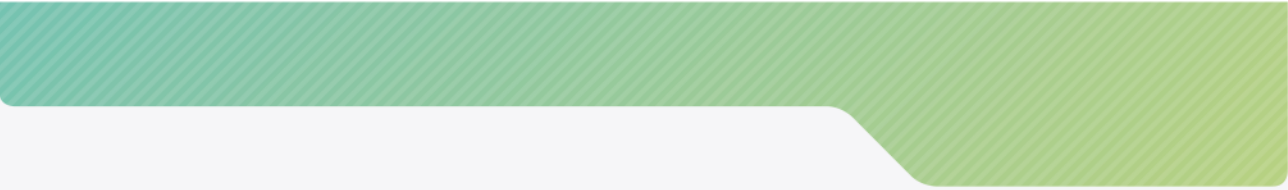
2.75 Conflict-related abductions involve the forcible taking and holding of a civilian or civilians by a party to the conflict in order to compel the victim or a third party to take or refrain from taking an action. Anti-government elements kidnap civilians based both on suspicions that they have connections to or work for the government, and for financial gain, with release predicated on payment of a substantial ransom. According to UNAMA, there are also cases in which anti-government elements abduct civilians and hold them hostage for the purpose of warning against 'unacceptable' behaviour. UNAMA also noted continued abductions by illegal armed groups and criminal gangs, particularly in large cities such as Kabul, which are under-reported.

2.76 In 2018, UNAMA documented 271 incidents of conflict-related abductions affecting 1,857 civilians and resulting in the death of 53 and the injury of 33. Virtually all incidents were carried out by anti-government elements, with the exception of one incident by a pro-government armed group affecting 12 individuals, and three abductions carried out by the ALP. AGEs released many individuals without harm after payment of ransom or intervention by elders, often after a few days. However, UNAMA recorded 62 incidents in which abducted civilians were either killed or injured, including in the context of rescue attempts or deliberate killings. UNAMA attributed to the Taliban 240 abduction incidents resulting in the abduction of 1,732 civilians and 80 civilian casualties (49 deaths and 31 injured). Of these, the Taliban claimed responsibility for 13 incidents involving the abduction of 298 civilians. UNAMA attributed to ISKP 18 incidents resulting in the abduction of 91 civilians and three civilian casualties (two deaths and one injured).

2.77 While the number of civilian casualties from conflict-related abductions in 2018 remained at similar levels to 2017, the number of civilians abducted increased by 85 per cent, returning to levels seen in 2016. This increase was largely driven by election-related incidents, with the Taliban abducting candidates, election-related personnel, voters, and would-be voters in the months leading up to the elections and around election days. For example, between 17 and 19 October in Burka district, Baghlan province, the Taliban abducted 47 teachers to prevent them from serving as election workers. All abductees were safely released after polling in that province had concluded.

2.78 UNAMA also documented incidents in which AGEs abducted civilians due to actual or suspected ties to the Government, often for the purpose of attempting to exchange them for Taliban prisoners held by the Government, and, particularly in the northern, north-eastern and eastern regions, for failure to pay illegal taxes. For instance, in August 2018 in Mohmand Dara district, Nangarhar province, the Taliban abducted 10 truck drivers for failing to pay taxes to them. The abductees were taken to a neighbouring district and released four days later through mediation by elders. On 30 July, on the Gardez-Kabul road in Paktya province, the Taliban abducted 22 civilian men at an illegal checkpoint as they attempted to pass in three vehicles en route to Kabul. When Afghan national security forces arrived to rescue the abductees, a firefight broke out and six civilians managed to escape. The Taliban took the remaining 16 to an unknown location.





According to sources, the Taliban wanted to exchange the civilians for the release of some of their members from Government detention facilities. The Taliban released all of the abductees 10 days later, following mediation by elders.

2.79 UNAMA did not highlight an ethnic dimension to conflict-related abductions in its 2018 report, and did not provide a breakdown of abductions along ethnic lines. DFAT is not aware of any reporting from other sources to suggest that ethnicity is a primary motivating factor in kidnapping/ abduction incidents.

2.80 DFAT concurs with the assessment of UNAMA and other international sources that the primary motivations for kidnapping/abductions include taking hostages for ransom or prisoner exchange, or to target those with connections to the government or international community.

## 3. REFUGEE CONVENTION CLAIMS

### RACE/NATIONALITY

3.1 Article 22 of the Constitution forbids all forms of discrimination and distinction between the citizens of Afghanistan. In practice, however, ethnic, tribal and family affiliations are important factors in almost every aspect of life in Afghanistan. Ethnic kinship is central to identity and acceptance in the community, and plays a crucial role in enabling Afghans to obtain shelter, employment and security. Afghans therefore tend to live in areas where their ethnic group constitutes the local majority. While the geographic distribution of ethnic groups is not uniform, and has been affected by the dynamics of the conflict, Pashtuns mostly live in the southern and eastern provinces; Hazaras in the central provinces; and Tajiks, Uzbeks and Turkmen in the northern provinces. Members of all ethnicities reside in Kabul and other major cities, but tend to live within their own communities.

3.2 The Constitution does not exclude any ethnic group from elections or political representation, and there are no laws preventing ethnic minorities from participating in political life. Ethnic minorities have their own media outlets, political parties and politically active representatives. The ethnic composition of candidates' leadership tickets is important for gaining the support of ethnic powerbrokers from many different groups, without which a candidacy would be likely to fail. There is evidence that political parties representing different ethnic groups are able to work together to defend their common interests.

3.3 Despite the constitutional prohibition, societal discrimination is widespread at the community level in Afghanistan. This discrimination manifests most commonly in the form of nepotism in favour of family, tribal or ethnic group members. For example, those making hiring decisions for both private sector and government positions may place more importance on ethnic, tribal or family connections than on merit. This societal discrimination may have negative consequences for members of other ethnic groups, particularly disadvantaged minorities.

3.4 Ethnic-based violence was particularly widespread during the civil war of the 1990s and under Taliban rule. Tensions reduced significantly after 2001 and there has been no large-scale ethnic violence since then. However, ethnic tensions continue to exist throughout the country at a local level and can result in sporadic low-level violence over issues such as land rights and/or access to natural resources. Intra-ethnic group violence also occurs occasionally, particularly between different Pashtun tribal groups.

3.5 The Taliban issued a public statement in November 2018 to deny that the group was actively targeting civilians based on specific race, ethnicity, or sect. The statement came in response to allegations that the Taliban offences in Ghazni province in October/November had been ethnically motivated (see [Civilian Casualties](#)).

3.6 DFAT assesses that members of ethnic groups who are in the minority in the geographic area in which they reside face a medium risk of societal discrimination based on ethnicity. This discrimination may include the denial of access to employment or housing, but is unlikely in most cases to include targeted violence on the grounds of ethnicity alone.

## Hazara

3.7 The Hazara are one of Afghanistan's fourteen recognised ethnic groups. Their name is Persian for 'one thousand', and relates to a legend that the Hazara descended from 1,000 troops that accompanied Genghis Khan during the Mongol conquest of Eurasia. The Hazaras tend to have distinct Asiatic features, which makes them visually distinguishable from other ethnic groups in Afghanistan. Hazaras living in rural Afghanistan tend to speak *Hazaragi*, a dialect of Persian that is mutually intelligible with Dari (Afghan Persian), one of Afghanistan's two official languages and the most commonly used. Hazaras residing in urban areas are likely to speak Dari as a first language, and may speak other languages such as Pashto, English, and regional varieties of Persian. Most Hazara are Shi'a.

3.8 Afghanistan's Hazara population has long faced social, economic, and political discrimination, although the extent of this discrimination has varied over time. The takeover of Kabul and most of Afghanistan by the predominantly Sunni and Pashtun Taliban in 1996 marked a period of considerable repression and hardship for the Hazara nationwide: the worst single recorded massacre in the country's recent history took place in Mazar-e-Sharif in August 1998, when the Taliban massacred at least 2,000 Hazara. Many Hazara fled Afghanistan during this period to escape Taliban oppression.

3.9 The Hazara have made significant social, political and economic gains in Afghanistan since the fall of the Taliban in 2001, albeit from a low base. However, the continuing armed insurgency conducted by the Taliban and other groups has raised questions over the sustainability of Afghanistan's progress. These questions have been exacerbated for Hazara since the emergence in mid-2016 of a campaign of religiously-motivated attacks against Shi'a by militant groups, including ISKP (see Shi'a). While Afghans of all ethnicities feel uncertain about Afghanistan's future, DFAT assesses that the Hazaras' previous experience of life under the Taliban and earlier episodes of discrimination have caused many to feel particular concern about the long-term prospects for their community. This concern is an important factor contributing to the decision of many Hazaras to leave Afghanistan.

3.10 While population estimates vary considerably between sources, the GeoHive global population statistics website estimated the population of Bamiyan province at just under 450,000 and Daykundi at around 425,000 as of 2015-16. Both provinces have a Hazara majority of around 75 per cent, with Tajik and Pashtun minorities. The Hazara make up around 40 per cent of Ghazni province's estimated overall population of 1.2 million, which is 50 per cent Pashtun. The percentage of Hazara living in the other provinces of the *Hazarajat* is much smaller. Most major cities in Afghanistan, particularly Kabul, have sizeable Hazara populations. Most estimates put the Hazara at between 40-50 per cent of Kabul's population, making them the largest ethnic group in the capital. Ethnic groups tend to cluster together in Afghan cities, and most Hazaras in Kabul live in the west of the city. Many live in informal and illegal settlements.

3.11 As noted in Security situation, Bamiyan and (to a lesser extent) Daykundi provinces have been significantly less affected by the ongoing armed conflict than most other Afghan provinces. This is not the case, however, for many of the surrounding provinces and other provinces on transportation routes to major cities. This insecurity has placed considerable limits on the ability of *Hazarajat* producers to access large markets. It also has implications for Hazaras seeking to travel for seasonal work in other provinces (which applies also to poor Afghans of all ethnicities). Provinces which suffered either a significant rise in civilian casualties or a sustained level of already high casualties in 2018 included Wardak (on one of the two main transportation routes to Kabul), Ghor (on the main transportation route to Herat, Samangan (on the main transportation route to Mazar-e-Sharif), Baghlan (offering transportation routes to Kabul, Kunduz, and Mazar-e-Sharif); Balkh (host province for Mazar-e-Sharif), Kabul, Kandahar (host province for Kandahar city), and Ghazni (on the southern border of the Hazarajat. Reduced civilian casualty rates were recorded, however, in the provinces of Uruzgan (on the main transportation route to Kandahar), Parwan (on the other

main transportation route to Kabul), Herat (host province for Herat city), and Sari Pul (on the northwestern border of the *Hazarajat*).

3.12 Hazaras living in Kabul participate in a wide variety of economic roles. Because of their traditional focus on education, Hazaras tend to be relatively well qualified for roles in government and the international community. However, Hazaras tend to be under-represented in senior government positions. This is largely due to the importance of familial, ethnic and tribal connections in Afghanistan - those making hiring decisions for both government and private sector positions commonly place more importance on such connections than on merit. Because Hazaras have traditionally had a low social status in Afghanistan they are less likely than members of other ethnicities (Pashtuns in particular) to be in positions whereby they are able to positively discriminate in favour of other Hazaras (outside of the *Hazarajat*).

3.13 People from all ethnicities regularly travel to find employment opportunities, including leaving Afghanistan: many Hazara have travelled to Iran in search of work. DFAT does not have any specific information on the economic position of Hazara residing in other parts of Afghanistan, including Herat or Mazar-e-Sharif.

3.14 Most Afghans perceive Hazara to be active supporters of the government, which employs large numbers of Hazara (albeit at junior levels). This is particularly the case for Hazara women, who anecdotally make up a disproportionate percentage of female recruits in the police and army (notwithstanding the relatively small numbers of women actually serving in these roles). International organisations based in Afghanistan also employ many Hazara. Hazara are more likely to have an international connection than other ethnic groups due to the large Hazara communities residing outside of Afghanistan.

3.15 International observers have reported cases of societal discrimination against Hazara in the form of extortion of money through illegal taxation, forced recruitment and forced labour, physical abuse, and detention. As specific information is not provided in relation to these cases, including the geographic location, DFAT is not able to comment on their veracity. As noted in [Race/Nationality](#), cases of societal discrimination are most likely to occur in areas where the ethnic group concerned is in the minority.

3.16 DFAT assesses that Hazara residing within the *Hazarajat* (particularly within Bamiyan province) face a lower risk of experiencing conflict-related violence than are those residing in other parts of the country, particularly those residing in Kabul. Those residing in the *Hazarajat* are also at a lower risk of experiencing societal discrimination in relation to employment opportunities than those residing elsewhere due to their being in the ethnic majority. While Hazara are able to secure employment within government and with the international community, their ability to obtain senior positions within government is limited due to their ethnicity. This represents a moderate risk of societal discrimination. Because Hazara are widely perceived to be supporters of the government, the risk profile described in [People associated with the government or international community](#) is applicable to them. Because the overwhelming majority of Hazara are Shi'a (or are widely perceived to be), the risk profile described in [Shi'a](#) is applicable to them.

## RELIGION

3.17 Virtually all Afghans (approximately 99 per cent) identify as Muslim. Around 85 per cent of the Muslim community is Sunni, and around 14 per cent Shi'a. The remaining one per cent of the population consists of residual communities of other faiths, including Christians, Sikhs, Hindus and Baha'i. The populations of these non-Muslim communities have shrunk considerably in recent decades, with most leaving Afghanistan. Those who remain face considerable societal discrimination, which may include violence, in addition to the economic and security challenges experienced by other Afghans.

3.18 The Constitution identifies Islam as the country's official religion. It stipulates that 'no law can be contrary to the beliefs and provisions of the sacred religion of Islam', and that the 'provisions of adherence to the fundamentals of the sacred religion of Islam and the regime of the Islamic Republic cannot be amended'. It requires that presidential and vice-presidential candidates be Muslim, and that all government ministers and members of parliament swear an oath of allegiance and obedience to the principles of Islam. The Constitution also declares that believers of other religions should be free within the law to exercise and perform their religious rites. However, non-Muslims have reported that they are generally unable to practise such rites openly, particularly traditional cremations for Hindus and Sikhs.

3.19 The Ministry of Hajj and Religious Affairs has primary responsibility for managing religious affairs. The law does not require the licensing and registration of religious groups, although the government has registered some mullahs (Muslim religious leaders). The Ulema Council is a group of influential Islamic figures whose senior members advise the President on Islamic moral, ethical and legal issues.

3.20 There has been a significant increase in the number of attacks by AGEs against places of worship, religious leaders, and worshippers since the beginning of 2016. In a November 2017 special report, UNAMA documented 51 such incidents, resulting in 273 deaths and 577 injuries- nearly double the number of civilian casualties recorded in such attacks during the entire previous seven-year period from 2009 to 2015. This trend continued throughout 2018, when UNAMA reported a further 22 attacks causing 156 deaths and 297 injuries. Deliberate attacks targeting the Shi'a community and mainly claimed by ISKP have caused the majority of casualties (see [Shi'a](#)).

3.21 In addition to large-scale attacks on places of worship, AGEs have also targeted religious leaders and facilities (both Sunni and Shi'a) for violence and harassment. UNAMA reported 13 incidents of targeted killings against religious scholars and leaders in 2018 resulting in 15 deaths and 20 injuries, and 27 incidents causing 28 deaths and 23 injuries in 2016-17. UNAMA reported that the Taliban were responsible for the majority of the 2016-17 targeted killings, which focused on religious leaders due to their ability to change public attitude through their messages or their perceived support of the government rather than for any religious reason. UNAMA also reported in November 2017 a trend of AGEs (primarily the Taliban) using the abduction of religious leaders or scholars as a tactic of intimidation, warning, or method to coerce support, documenting eight such incidents in 2016-17 resulting in two deaths and two injuries. In one incident, the Taliban abducted and tortured a religious scholar in Nangarhar province whose sons were ANDSF members, releasing him after payment of a ransom. UNAMA did not report any such incidents in 2018.

## Family Laws

3.22 The Afghan Family Law (1976) governs matters relating to family (including marriage, divorce and inheritance). This law provides some important protections to women in child custody, inheritance and divorce rights. However, it also allows women to marry at the age of 16, in contravention of the Convention on the Rights of the Child (to which Afghanistan is a signatory), which specifies 18 as the minimum marriage age for both sexes. Women's rights organisations have criticised the law for containing inadequate provisions for the requirement of consent to marriage, and providing unequal rights to divorce and inheritance between men and women. In its November 2018 national report to the UPR third cycle, the government advised that the Ministry of Justice had prepared a draft law that would amend the marriage age for both boys and girls to 18 years of age.

3.23 A separate Shi'a Personal Status Law (2009) governs family law for the Shi'a community (see [Shi'a](#)). Women's rights organisations have criticised this law for derogating some constitutional rights for women, instead leaving religious authorities to determine questions around inheritance, marriage and other personal freedoms.



## Blasphemy and Apostasy

3.24 Articles 323-325 of the 2017 Penal Code prohibit the acts of insulting religion, disturbing rites or ceremonies, and attacking the followers of any religion through words or actions. Disturbing religious rites or ceremonies, or destroying or damaging permitted places of worship or religious symbols is punishable by between six months and one year's imprisonment, or a fine of between AFN30,000 (AUD554) and AFN60,000 (AUD1,108). Insulting or distorting the beliefs or provisions of Islam is punishable by between one and five years' imprisonment. Attacking a follower of any religion through words, act, writing, and other public means is punishable by between six months and one year's imprisonment.

3.25 Under the previous Penal Code, crimes of '*hudud*' (offences specifically referenced in the Koran) were punishable in accordance with the provisions of Islamic religious law. While the previous Penal Code did not specifically define or describe *hudud* crimes, apostasy and blasphemy were generally included in this category, along with conversion from Islam. Mandatory sentences for *hudud* crimes have tended to be extremely harsh — up to and including the death penalty. However, the standard of proof in such cases is demanding. For most crimes, witnesses must corroborate claims before guilt can be established. Factors determining the veracity of witnesses include gender (disadvantaging women), community standing, the content of the statement, and the number of witnesses present.

3.26 Prosecutions and convictions for apostasy or blasphemy have been relatively uncommon since 2001. The last arrests or prosecutions in relation to apostasy or blasphemy of which DFAT is aware occurred in 2014. Those accused of blasphemy or apostasy are, however, highly vulnerable to societal discrimination, which may take the form of extreme violence. In one notorious case in March 2015, a large group of people in central Kabul beat a woman to death, set her body on fire, and dumped it on a riverbank after a mullah had (falsely) accused her of burning a copy of the Koran. Several perpetrators, including serving police officers who failed to prevent the killing, were subsequently convicted and given sentences ranging from death by hanging (later commuted) to one year in prison.

3.27 Individuals converting from Islam have reported that they risked the annulment of their marriages, rejection by their families and communities, loss of employment, and possibly the death penalty. DFAT does not have any additional information in relation to these assertions, or in relation to the number of individuals attempting to convert.

3.28 In its November 2018 submission to the UPR, ADF International alleged that blasphemy allegations are often exploited and deliberately misused against Christians. According to the submission, individuals accused of blasphemy are often subject to vigilantism in the form of harassment and physical attacks; many go into hiding or leave the country for the sake of their privacy and personal safety (and that of their families). DFAT does not have any information as to the veracity of this allegation.

## Shi'a

3.29 The overwhelming majority of Afghan Shi'a are Hazara, although a small number of Hazara are Sunni. There are also some Shi'a from other ethnic groups, and authorities generally conflate Hazara and Shi'a in official statements. This can be misleading: for example, the government considered two recent Ministers to be Hazara, despite the fact that they were ethnically Bayat (Turkic Shi'a) and Tajik respectively.

3.30 The Constitution and legislation recognise some separate legal rights for Shi'a. Article 131 of the Constitution provides that Afghanistan's courts shall apply Shi'a jurisprudence in certain civil cases where all parties are Shi'a. A 2009 Shi'a Personal Status Law recognises different practices on issues such as marriage, divorce and inheritance among the Shi'a community.

3.31 In-country sources report that there has not traditionally been a significant sectarian divide between Sunni and Shi'a: conflict between communities has instead tended to be along either ethnic or political lines. Between 1 January 2009 and 31 December 2015, UNAMA documented five incidents against Shia, although the perpetrators and motives behind most incidents were not clearly determined and there were no clear public claims of responsibility. A Pakistan-based jihadist organisation claimed the only attack on Shi'a that caused mass casualties prior to 2016: a December 2011 suicide bombing attack on a Shi'a mosque in Kabul that killed 56 civilians and injured 195.

3.32 Since mid-2016, however, militants have conducted an ongoing series of major attacks against Shi'a targets, including political demonstrations and religious gatherings. ISKP has claimed responsibility for many of the attacks. In carrying out the attacks, militants have used suicide bombers and both body-borne and remote-controlled IEDs. The first such attack occurred in Kabul in July 2016, when two suicide bombers targeted a peaceful political demonstration, killing at least 85 demonstrators and injuring 413 others. In claiming responsibility for the attack, ISKP emphasised that it was religiously motivated. UNAMA documented a further four incidents targeting Shi'a mosques and community gatherings in 2016, killing a further 77 civilians and injuring 205. Two of the four attacks took place in Kabul city, one in Balkh district, Balkh province, and one in Herat city.

3.33 The number and scale of attacks on Shi'a increased throughout 2017: UNAMA documented eight religiously motivated attacks against Shi'a places of worship and/or worshippers in 2017, resulting in 161 deaths and 252 injuries. ISKP claimed responsibility for six of these attacks (and almost all of the casualties), four of which took place in Kabul city and two in Herat city. The remaining two attacks took place in Herat city, resulted in one civilian death and five injuries, and were attributed to the Taliban. ISKP also claimed responsibility for two further attacks in December 2017 targeting Shi'a outside of places of worship or groups of worshippers. The attacks were carried out against a library in a predominantly ethnic Hazara neighbourhood in Herat city and a Shi'a cultural centre during a political gathering in Kabul city, and resulted in a combined total of 46 civilian deaths and 87 injuries.

3.34 UNAMA documented a further 19 incidents of attacks against Shi'a in 2018, resulting in 223 deaths and 524 injuries. ISKP claimed responsibility for seven of the attacks, resulting in 212 deaths and 449 injuries. While the majority of attacks against Shi'a in 2016 and 2017 occurred in places of worship, UNAMA documented only two such attacks in 2018, resulting in 35 deaths and 103 injuries. The majority of attacks on Shi'a in 2018 occurred instead in other civilian areas, including in Shi'a majority or ethnic Hazara neighbourhoods. In one such attack in Kabul city in April, a suicide attacker detonated a body-borne IED outside the entrance of a *taskira* (see [National Identity Cards \(Taskira/Tazkira\)](#)) distribution centre in a Hazara populated area where a large crowd of local residents were gathered to collect their *taskiras* as part of the voter registration process. The attack killed 60 civilians and injured 138. In claiming responsibility, ISKP explicitly cited a sectarian motive. Although UNAMA did not provide specific locations for many of the attacks, DFAT understands that most took place in Kabul city.

3.35 DFAT assesses that Shi'a face a high risk of being targeted by ISKP and other militant groups for attack based on their religious affiliation when assembling in large and identifiable groups, such as during demonstrations or when attending mosques during major religious festivals. This risk increases for those living in Shi'a majority or ethnic Hazara neighbourhoods in major cities such as Kabul and Herat.

## POLITICAL OPINION (ACTUAL OR IMPUTED)

3.36 The Constitution guarantees citizens the right to elect and to stand for election (Article 33), and to form associations, including political parties (Article 35). Political parties cannot have military aims and organisations, affiliation with foreign political parties, or an organisation based on tribalism, parochialism,

language or religious sectarianism (Article 35). The Political Parties Law (2009) and its associated regulations governs the operation of political parties. The law requires parties to have at least 10,000 members in order to be formally registered. Since April 2012, a regulation has required political parties to open offices in at least 20 provinces within one year of registration. DFAT is not aware of any cases in which authorities have deregistered parties because of this regulation.

3.37 Political parties have no historical precedent of a legal, formalised role within the political system in Afghanistan. Before 2001, opposition movements and parties – whether communist left or religious right – were forced underground or into exile. Since 2001, however, former Islamist military factions, communist organisations, ethno-nationalist groups, and civil society organisations have transformed themselves into political parties. These parties represent a diverse cross-section of the political landscape and have evolved as institutions in recent years. None of these parties, however, organises around political beliefs or mobilises voters in the way that parties in mature democracies do. While the exact number is unclear, there are at least 55 officially registered political parties in Afghanistan. Despite the prohibition on political parties having military aims and organisation, many parties reportedly continue to maintain links with militias. Likewise, a number of parties advocate for the interests of the various ethnic groups.

3.38 Elections in Afghanistan are associated with significant security and corruption issues. UNAMA reported that its monitoring of election-related incidents in the months leading up to the October 2018 parliamentary elections and on polling days revealed an organised campaign of violence by AGEs, mainly the Taliban, to undermine the elections and deny citizens their right to safely and freely participate in the electoral processes. This campaign consisted of numerous attacks directed at civilian objects and in civilian-populated areas, and a disturbing pattern of abductions, threats, intimidation, and harassment, including of candidates. Anti-government elements perpetrated election-related violence targeting *taskira* (see National Identity Cards (*Taskira/ Tazkira*)) and voter registration sites (see also [Education](#)), as well as election-related personnel, including elections workers and police officers dedicated to providing security to election-related sites, through the use of IEDs, suicide attacks, and targeted killings.

3.39 From the opening of the voter registration period on 14 April 2018 to the end of 2018, UNAMA verified 226 civilian deaths and 781 injuries in incidents related to the elections, along with the election-related abductions of 310 civilians. More than 250 of the casualties came from two IED attacks on 22 April and 6 May in Kabul and Khost respectively. On the first day of actual voting, 20 October, the Taliban claimed responsibility for 76 attacks nationwide from which UNAMA verified eight civilian deaths and 105 injuries. This represented the highest level of civilian harm on any election day since UNAMA began systematic documentation of civilian casualties in 2009.

3.40 Article 36 of the Constitution guarantees the right to gather and hold unarmed demonstrations for legitimate and peaceful purposes. Since 2001, most political demonstrations have been peaceful, and DFAT is not aware of systemic efforts by authorities to suppress political demonstrations. However, insurgent groups have occasionally targeted political demonstrations for attack. Following the July 2016 suicide attack against a peaceful demonstration in Kabul (see [Shi'a](#)), large-scale political demonstrations ceased for some months before resuming. In September 2018, a suicide attack targeting a demonstration in Nangarhar province killed approximately 68 and injured 165.

3.41 DFAT assesses that there are no formal barriers to prevent Afghans of all ethnicities from participating in political processes. The threat of violence from insurgent groups, however, which authorities have a limited capacity to prevent (see [State Protection](#)), has severely reduced the ability of Afghans to exercise their rights of assembly and expression through participating in elections as voters, party workers or candidates; or through holding peaceful political demonstrations.

## GROUPS OF INTEREST

### People associated with the government or international community

3.42 Insurgent and terrorist groups, particularly the Taliban, have openly targeted Afghans of all ethnicities working for, supporting or associated with the government and/or the international community. This includes, but is not limited to, government employees, judges and prosecutors, judicial workers, police, and Afghan and international security force personnel. Such people are often subject to intimidation, threats, abduction (see [Kidnapping/ Abductions](#)), and targeted killings (see [Extra-Judicial Killings](#)). Attacks occur throughout Afghanistan, but are particularly prevalent in Kabul.

3.43 Most civilian casualties resulting from such attacks result from suicide and complex attacks carried out in civilian-populated areas. Such attacks often cause high numbers of casualties among innocent bystanders. On 27 January 2018, for example, a suicide attacker detonated a vehicle-borne IED in a van painted to look like an ambulance outside of a Ministry of Interior administrative compound in Kabul city, killing 114 civilians and injuring 229. The compound was located on a street where a maternity hospital, the high peace council and several embassy and private residences were situated. The powerful blast caused extensive damage to buildings in the area and severely impacted the hospital building, causing patients inside to suffer further injuries. The Taliban claimed responsibility for the attack, which was the single deadliest incident recorded by UNAMA since it began systematic documentation in 2009.

3.44 In 2018, UNAMA documented a rise in civilian casualties resulting from the targeting of the civilian government administration, aid workers and staff working for NGOs; and a significant spike in civilian casualties from attacks against education-related personnel and locations during the electoral period. According to UNAMA, the Taliban claimed responsibility for 153 attacks that resulted in civilian casualties in 2018, causing 319 deaths and 624 injuries. 61 of the attacks were directed against security or military forces. The remaining 92 targeted civilians or civilian locations, defined by UNAMA as including government administrators, judges, prosecutors and judicial staff, humanitarian de-miners, and tribal elders, among others. Fifty of the attacks were election-related. A further 1,029 deaths and 2,100 injuries of civilians occurred in incidents that UNAMA attributed to the Taliban but which were not publicly claimed. The total number of civilian casualties (deaths and injuries combined) attributed to the Taliban represented a slight (seven per cent) decrease from 2017, mainly due to a 23 per cent decrease in civilian casualties from targeted killings. The 2017 figures themselves represented a 12 per cent decrease in civilian casualties compared with 2016, although UNAMA noted that this may represent under-reporting caused by lack of access to Taliban-controlled areas.

3.45 In-country sources report that most people working with the government or the international community take substantial measures to mitigate the risks they face. This includes concealing their employment from their families, not travelling with documentation that would identify them as employees of international organisations, and deleting contact information from phones. Some international organisations reportedly instruct their staff not to carry identification that may incriminate them in this manner.

3.46 DFAT assesses that people working for, supporting or associated with the government and/or the international community (or perceived to be doing so) face a high risk of violence perpetrated by AGEs, particularly the Taliban. Given the methods of attack used are often highly indiscriminate in nature, this risk applies whether or not the person is the specific target of the attack or is a lower level employee of the organisation in question.



## Civil Society Organisations (CSOs)/ Non-Government Organisations (NGOs)

3.47 Afghanistan has a vibrant civil society sector committed to advocating for the rights of citizens. There are two main types of civil society organisations (CSOs): associations, governed by the Law on Associations (2013), and non-government organisations (NGOs), governed by the Law on NGOs (2005). Whereas only Afghans can establish associations, foreigners can establish NGOs. Both must be non-profit and non-political. As of August 2015 (most recent statistics available), 5,789 associations (including social organisations, foundations, and unions) were registered with the Ministry of Justice, and 2,060 NGOs were registered with the Ministry of Economy. There were also numerous informal and unregistered CSOs. CSOs have generally depended on international sources for funding. The decrease in foreign funding into Afghanistan in recent years has led to a decrease in CSO activities in some sectors. CSOs and, particularly, NGOs, are subject to considerable administrative controls, including the requirement to provide semi-annual reports to the relevant Ministry. In 2015, authorities deregistered 250 NGOs, including 11 foreign NGOs, for failing to provide such reports.

3.48 The continuing armed conflict frequently hampers the ability of CSOs and NGOs to conduct their operations in many parts of the country. CSO and NGO activists across the country have been vulnerable to intimidation, threats, abductions and targeted killings by AGEs, particularly the Taliban. In July 2016, UNAMA noted that a climate of fear had affected the ability of CSOs and NGOs to advocate for human rights. In its November 2018 submission to the UPR, JS1 (a collective of CSOs) recognised the continuing actions of violent non-state actors as largely to blame for the ongoing difficulties faced by CSOs and NGOs, but called on the government to do more to ensure their protection.

3.49 CSOs and NGOs involved in health-related activities are at risk: UNAMA recorded 62 incidents affecting health care in 2018, including direct attacks or threats of attacks against health care facilities and personnel and incidental damage to health care facilities. Of particular concern is the opposition of AGEs (both the Taliban and ISKP) to vaccination campaigns, especially for polio. UNAMA documented nine incidents in 2018 in which AGEs threatened health care personnel to stop vaccination campaigns. Six of these incidents took place in the eastern region (Kunar and Nangarhar provinces), two in Jawzjan province (north) and one in Farah province (west). In April 2019, the Taliban announced that it had stopped the International Committee of the Red Cross/Crescent and the WHO from carrying out relief work in the areas it controls in Afghanistan, and had revoked security guarantees for their staff. DFAT understands that the two organisations have subsequently scaled back their operations. The Save the Children organisation likewise halted its operations across Afghanistan after ISKP militants stormed its offices in Jalalabad in January 2018, killing at least six and injuring 27.

3.50 Since the fall of the Taliban, Afghanistan has seen a slow emergence of women's rights advocates, including high-profile female civil society representatives. Women's services and protection shelters have gradually spread across the country. However, these are sometimes viewed with suspicion within the conservative culture of rural Afghanistan. The Taliban in particular have long been averse to this trend and have directly targeted women's rights advocates and female CSO/NGO workers. UNAMA has previously reported that female CSO/NGO workers and those involved in advocating women's rights face a particular risk. In its annual report for 2016, UNAMA documented 54 incidents of targeted and deliberate killings against women civilian casualties carried out by AGEs in that year, a 25 per cent increase compared to 2015. DFAT assesses it likely that this risk remains significant.

3.51 DFAT assesses that CSOs and NGOs face a low risk of official interference, despite some occasional administrative over-regulation. However, CSOs and NGOs face a high risk of violence from AGEs, including intimidation, threats, abductions and targeted killings. DFAT assesses that female CSO/NGO workers and those involved in advocating women's rights continue to face a particularly high risk.

## Media

3.52 Article 34 of the Constitution states that freedom of expression ‘shall be inviolable’, and guarantees citizens the right to print and publish on subjects without prior submission to state authorities. The Mass Media Law (2009) codifies press freedoms and limits government interference, but requires media outlets to register with the Ministry of Information and Culture. The law also prohibits the publication of materials considered to be in contradiction with Islam. Afghanistan has an Access to Information Law (2014), amended during 2018. Media advocacy groups report, however, that implementation of the law remains limited and inconsistent: the government frequently denies journalists access to necessary information or simply ignores requests. Authorities have also responded to attacks that have killed journalists with increased restrictions, less access, and less support.

3.53 Afghanistan’s media sector has expanded significantly since the overthrow of the Taliban regime, which banned all independent media, outlawed television, and permitted only one government-run radio station (which broadcast only religious programs and news). Freedom House reported in 2016 that Afghanistan was home to 83 local and national television channels, 161 radio stations, 325 print outlets, and 12 news agencies. The quality of journalism is highly variable, and there have been reports of poorly paid reporters publishing false reports in return for payment. The government owns some media outlets, but most are in private hands. While radio is still the main source of news for most Afghans, particularly in rural areas, television has made significant inroads. Newspaper readership is low, due to the comparatively low literacy rate, distribution difficulties, and the rise of new broadcast options. Internet penetration has gradually increased due to the wider use of smartphones and the expansion of mobile internet services, but remains largely the preserve of the young urban elite. According to the International Telecommunication Union, in 2017 only 11.4 percent of the population had internet access, mostly in urban areas.

3.54 Media outlets routinely cover stories that are critical of the government, including reporting on human rights abuses and serious crimes against women and children. This is more common in Kabul, however, than at the provincial level, where independent media and freedom of speech are more constrained. International observers report that political and ethnic groups finance many provincial media outlets and use their financial support to control the content.

3.55 Media advocacy organisations have reported that politicians, security officials, and others in positions of power have threatened journalists on occasion, and forced the closure of media outlets. Journalists attempting to report on sensitive topics such as official corruption, land embezzlement, and local officials’ involvement in narcotics trafficking have reportedly engaged in self-censorship due to fear of violent retribution by provincial police officials and powerful families. Journalists and NGOs report that although the amended 2018 Access to Information Law provides an excellent regulatory framework, enforcement remains inconsistent and noncompliant officials are rarely held accountable. A 2018 Kabul Press Club survey showed more than half of journalists were dissatisfied with the level of access to government information, while a separate NGO survey of government offices found that one-third did not have dedicated offices for providing information to the public.

3.56 According to news reports, ANDSF forces forcibly prevented journalists from investigating the bombing of a mosque in Herat in March 2018. Other media reporting alleged that ANDSF forces beat several journalists covering a suicide bombing in Kabul in July 2018, and intentionally destroyed their equipment in an effort to impede their reporting. Following the release of news reports detailing corruption involving a high-ranking government official, one media outlet reported threats against the journalist by the official’s security guards. Authorities have also reportedly used the threat of defamation as a pretext to suppress criticism of government officials. Female journalists in particular have reported encountering regular harassment and threats, causing some to leave the profession. Media advocacy groups reported that many

female journalists worked under pseudonyms in both print and social media to avoid recognition, harassment, and retaliation.

3.57 The government approved a new set of guidelines in August 2016 to address cases of violence against journalists. The initiative created a joint national committee in Kabul and separate committees in provincial capitals, a coordination centre to investigate and identify perpetrators of violence against journalists, and a support committee to identify threats against journalists. Press freedom organisations reported that, although the committee met and referred cases to the Attorney General's Office, it did not increase protection for journalists. In October 2018, President Ghani announced the expansion of the Journalists Support Fund to assist family members of journalists killed in the line of duty.

3.58 Journalists attempting to cover the continuing conflict face an acute risk of violence from both AGEs and state actors. According to Reporters Without Borders, 2018 was the deadliest year for journalists since the fall of the Taliban in 2001, and Afghanistan the world's most dangerous country for journalists. At least 15 journalists and media workers were killed in 2018, many in targeted attacks. The most serious attack affecting journalists in 2018 occurred in Kabul in April, when a double suicide bombing outside the National Directorate of Security killed at least nine journalists and injured six others (along with numerous other civilian casualties). While the casualties of the first explosion were mainly ordinary citizens, the second bomb was set off half an hour later, after reporters had arrived at the scene. Militants have committed further acts of violence against journalists in the first few months of 2019, including the death by shooting of two radio journalists in Taloqan, Takhar province, during an attack on their radio station on 5 February; and the summary execution by the Taliban of a citizen-journalist (and regional government employee) in Farah province on 5 January after he was removed from a bus at a Taliban roadblock (see [Road safety](#)). Reporters Without Borders allege that AGEs, particularly the Taliban, have made hundreds of threats against journalists and the media.

3.59 DFAT assesses that journalists who report on official corruption and other sensitive topics face a moderate risk of official discrimination in the form of threats, verbal harassment and other attempts to interfere with their work, which may include physical violence. Female journalists are particularly likely to receive harassment and threats. DFAT assesses that journalists attempting to cover the continuing conflict face a high risk of violence from both AGEs, particularly the Taliban, and state actors. This risk may include threats, intimidation, and targeted killings. Such journalists are unlikely to be able to operate freely.

## Women

3.60 The Constitution provides a number of guarantees in relation to women's rights, including equality before the law, the right to an education, and the right to work. There are also constitutional provisions for ensuring women's political representation, including through presidential appointment (see '[Political System](#)'). In June 2015, the government launched a National Action Plan to implement UN Security Council Resolution 1325 on Women, Peace and Security, although implementation was not complete as of August 2017. Despite various laws providing for the participation of women in public and social life, discrimination against women remains systemic and pervasive and flows through to the administration of the entire public sector. For example, only 2,500 out of 150,000 police are women. For cultural and customary reasons, male family relatives generally accompany female police officers when they undertake their training.

3.61 Women's rights have improved significantly since the end of the Taliban regime, which comprehensively and unequivocally excluded women from public life. However, women's place in society remains deeply contentious. Parliament rejected the first female nominee to the Supreme Court in July 2015 following objections from conservative groups, including female MPs. Societal, cultural and religious barriers continue to limit considerably the extent to which women are able to participate fully in Afghan society, as

does socio-economic status and geographic location. Women in conservative rural areas are highly unlikely to be able to access education or employment opportunities. AGEs have also targeted women active in public life and women employed in non-traditional sectors such as policing and security, limiting their ability to participate in these areas for fear of reprisal.

3.62 Gender-based information is not yet available in relation to the October 2018 parliamentary elections. However, women accounted for approximately 40 per cent of registered voters and 16 per cent of candidates in the 2010 parliamentary elections, and 69 female candidates were elected, representing more than a quarter of the parliament. There are currently four female ministers (and one acting minister), and seven female deputy ministers. There is one female provincial governor (Daykundi Province) and four female Afghan Ambassadors serving overseas. A number of women occupy positions in both the Presidential and CEO's offices. The government has made conscious efforts to increase female representation in the police and armed services, although cultural customs and discrimination have hampered recruitment and retention efforts.

3.63 Hazara girls are far more likely to be able to access education than girls of other ethnicities see [Education](#)), and Hazara women and girls are far more likely to be able to participate in sport, the community, and the workforce than women and girls of other ethnicities. Because of their educational qualifications and the support of their community, Hazara women are more likely than women of other ethnicities to be able to pursue employment opportunities with the international community, or with the government, police and army. The current governor of Daykundi province is a Hazara woman, and Bamiyan has previously had a female Hazara governor. The Independent Election Commission also includes a female Hazara commissioner. Despite their relatively strong position within their own community, however, Hazara women – like all women in Afghanistan – experience high levels of societal discrimination and gender-based violence, including sexual assault and domestic violence. Hazara women and girls living outside the *Hazarajat* are subject to the same societal restrictions as other Afghan women. All Afghan girls attending school face a risk of violent attack, although this risk is likely to be lower for Hazara girls attending schools in the *Hazarajat*.

3.64 Violence against women, particularly domestic violence, is endemic in Afghanistan. A 2010 survey by UN Women found that nearly 90 per cent of Afghan women had experienced physical, sexual or psychological violence in their lifetime, with 62 per cent experiencing multiple forms. DFAT assesses that the findings of this report remain valid. Violence may take the form of kicking, slapping, and beating with weapons such as wire, sticks, and gun butts. Acid attacks occur frequently, with many attributed to armed groups opposed to girls' education and others committed by rejected suitors. Most violent attacks go unreported. Women who seek help to escape sexual or physical violence often face indifference or criminal sanctions for committing 'moral crimes' such as adultery or running away from home (see also [Detention and Prison](#)). Women who walk outside unaccompanied by a man often experience abuse or harassment, including physical groping, and are likely to be blamed for the assault.

3.65 The *Law on Ending Violence Against Women* (2009) ('the EVAW law') criminalised forced, underage, and 'bad' marriages (the practice of settling disputes in which the culprit's family trades a girl to the victim's family to settle a dispute); made rape punishable by prison sentences of 16-20 years, or by death should the rape result in the death of the victim; and banned the humiliation and intimidation of women. International observers report, however, that implementation, awareness, and enforcement of the EVAW law remains uneven. In its national report to the UPR third cycle, the government advised that it had taken a number of measures to better implement the EVAW law. These included: establishing special units in Provincial Offices of Attorneys in all provinces and special EVAW units at the Supreme Court in Kabul and 15 provinces; establishing legal assistance centres and family dispute resolution units nationwide; establishing a telephone hotline for women and children encountering violence; and implementing training for judges, prosecutors, police and other relevant employees, as well as legal awareness campaigns for citizens.



3.66 So-called ‘honour killings’ occur frequently in Afghanistan. The AIHRC conducted a National Inquiry on Rape and Honour Killing from 2011-13, and reported in June 2013 that it had recorded 243 cases of honour killing and 163 cases of sexual assault within the two-year study period. A much larger number of cases went unreported and included cases reported as suicide and self-immolation. Under the Penal Code, a man convicted of honour killing after finding his wife committing adultery cannot receive a sentence of more than two years’ imprisonment.

3.67 The continuing conflict has a particular impact on women and girls, who are not only killed and injured in high numbers but suffer restricted access to education and healthcare and freedom of movement. Women face additional difficulties when displaced by conflict, or when widowhood makes them the primary breadwinners in their families. In 2018, UNAMA reported that women comprised ten per cent of all conflict-related civilian casualties, with 350 deaths and 802 injuries. Ground engagements between anti- government elements and pro-government forces accounted for half of all casualties, followed by suicide and complex attacks (16 per cent), aerial operations (13 per cent), and non-suicide IEDs (12 per cent). The number of women casualties in 2018 remained commensurate with previous years.

3.68 Women in areas where AGEs have a greater level of control tend to face greater difficulties in terms of access to justice, due to parallel justice systems that routinely discriminate against women. For example, DFAT is aware of cases whereby a tribal court may respond to an incident of domestic violence by ordering a mediation session, which excludes the female victim. UNAMA documented several incidents in 2018 of AGEs carrying out punishments against women based on a parallel justice system, resulting in one death and four injuries. In one case, in October in Darzab district, Jawzjan province, the Taliban lashed two women on the accusation that they had committed ‘immoral activities’, such as speaking to men to whom they were not related over the telephone and being outside of their homes without a male relative to act as a guardian. Before lashing the women, the Taliban reportedly announced to bystanders that the punishment was based on *sharia* and a Taliban court decision to set an example for others.

3.69 DFAT assesses that the majority of Afghan women, regardless of ethnicity or socio-economic status, face a high risk of official discrimination and a high risk of societal discrimination. Long-standing traditional values and gender roles continue to restrict significantly the participation of women in the community and workforce, in both the public and private sectors. DFAT assesses that Afghan women face a high risk of gender-based violence, including sexual assault and domestic violence, while Afghan girls face a high risk of being forced into early or involuntary marriage. Afghan women working outside the home, in non-traditional areas such as policing or security, or in areas advocating women’s rights, face a high risk of violence, including targeted killings. Afghan women are particularly vulnerable to the effects of the continuing armed conflict, and face an elevated risk of conflict-related death or injury.

## Sexual Orientation and Gender Identity

3.70 Homosexual sex is illegal in Afghanistan. Article 427 of the Penal Code defines homosexual sex as ‘pederasty’ (sexual activity between a man and a boy), and provides for the use of the death penalty in accordance with *sharia*. DFAT understands that there have been no instances of the death penalty been carried out on this issue since the overthrow of the Taliban regime. However, there have been frequent credible reports that individuals perceived to be homosexual (almost exclusively males) have continuing difficulties with the police, including harassment and/or arrest (usually on spurious charges).

3.71 In addition to legal constraints, strict social and cultural taboos severely constrain an individual’s freedom to identify publicly as homosexual or transgender. Same-sex orientation and unconventional gender identities are linked in the public imagination with prostitution and paedophilia, due in part to the longstanding cultural tradition of *bacha bazi* (see [Children](#)). There is no societal understanding or acceptance

towards consenting adults who consciously embrace same-sex attraction (or alternative gender identity) as a key part of their personal identity.

3.72 There are credible reports of individuals being dismissed from their jobs, disowned by their families, restricted from accessing health services, being robbed, pressed for sexual favours, or raped because of suspicions that they are homosexual. No organisations publicly advocate improved rights for LGBTI (lesbian, gay, bisexual, transgender, or intersex) people. Although lesbian women are not subject to prosecution under Article 427, the low levels of autonomy for women, including financial, mean it is difficult for women to have primary relationships without men. There is little specific information available about the situation faced by either transgender or intersex Afghans.

3.73 DFAT assesses that LGBTI individuals face a high risk of official discrimination, including by entrapment, arrest, harassment and mistreatment by police. DFAT assesses that such individuals face a high risk of societal discrimination, which may include violence. Continuing traditional views about sexuality and gender considerably restrict their ability to live openly, and to participate in the community and workforce.

## Children

3.74 Child abuse is an endemic problem throughout Afghanistan, and may include general neglect, physical abuse, sexual abuse, abandonment, and confined forced labour to pay off family debts. Sexual abuse of children is pervasive – NGOs have reported that extended family members often abuse girls, while men outside their families more frequently abuse boys. There have been credible reports of religious figures sexually abusing children of both sexes, and of security officials and those connected to the ANP raping children with impunity. A 2017 AIHRC survey found that 13 per cent of children had been sexually assaulted, 44 per cent had experienced physical violence, and 44 per cent had experienced psychological or emotional violence.

3.75 Children continue to suffer severe human rights abuses because of the ongoing armed conflict. UNAMA reported that children accounted for 28 per cent of all civilian casualties in 2018, with 927 deaths and 2,135 injuries. This represented a slight decrease from 2017, mainly due to a decrease in casualties from ground engagements and explosive remnants of war. The leading causes of child casualties in 2018 remained ground engagements between AGEs and pro-government forces (39 per cent), non-suicide IEDs (17 per cent), aerial operations (16 per cent), and explosive remnants of war (14 per cent). UNAMA expressed particular concern about a continued rise in child casualties from aerial operations since 2014, which reached an all-time high in 2018.

3.76 There have been consistent reports of both the Afghan security forces and AGEs recruiting children as active parties to the continuing armed conflict. According to the AIHRC, family pressure, economic problems, religious reasons, and compulsion from the recruiting forces are all contributing factors behind this phenomenon. UNAMA documented the recruitment and use of 38 children in 2018, most in the eastern provinces: 17 were recruited by Tehrik-i Taliban Pakistan, five by the Taliban, five to Afghan national security forces (four to the ALP and one to the ANP), and eight to pro-government armed groups. Given the high likelihood of under-reporting, the actual scale of child recruitment by parties to the conflict is likely to be much higher.

3.77 Articles 605-608 of the 2017 Penal Code specifically prohibit the recruitment of children in military units. In 2017, the government adopted a Child Protection Policy prohibiting the recruitment of children under the age of 18 in security forces, and established commissions in all provincial headquarters to implement the policy. In its November 2018 national report to the UPR, the government reported that authorities had prevented 508 children from joining the security forces in the first six months of 2017. The Taliban has also denied allowing children to join its units.

3.78 The government has taken a number of legislative and policy measures aimed at improving the situation for children in Afghanistan. In its November 2018 report to the UPR, the government reported that it had implemented a national strategy for the protection of children and was in the process of developing a National Child Protection Program. A draft Child Act currently with parliament for ratification will harmonise internal legislation with the provisions of the CRC and its Optional Protocols once passed.

3.79 A number of articles of the 2017 Penal Code deal with different crimes committed against children. Article 637 provides for sentences of between 16 to 20 years for cases of rape where the perpetrator is an adult and the victim is under 18 years of age. Article 638 states that any case in which an adult male has sexual intercourse with an underage person should be considered rape, and provides for the use of the death penalty should the rape result in the death of the child. Article 613 provides for fines from AFN10,000 (AUD182) to AFN30,000 (AUD547) for any person who recruits a child in hard, physical, unhealthy, or underground labours, night work, or forces him or her to travel for working.

3.80 The practice of *bacha bazi* (dancing boys) involves young boys being forced to dance in female attire for audiences of adult males, after which sexual abuse (including gang rape) often occurs. Many of the boys are reportedly either kidnapped, or sold by their impoverished families. Although it occurs nationwide, the practice is reportedly most prevalent in conservative rural areas, particularly among Pashtun groups in the south and southeast and Tajik groups in the north. *Bacha bazi* is not widely seen as homosexual behaviour, but rather as a cultural practice (see [Sexual Orientation and Gender Identity](#)).

3.81 Human rights observers have reported that *bacha bazi* saw a resurgence in the years following the removal of the Taliban (who outlawed the practice), including in political circles and among senior members of the police and Afghan security forces. Article 677 of the 2017 Penal Code specifically criminalises *bacha bazi*, while the *Law to Combat Crimes of Trafficking in Persons and Smuggling of Migrants* (2017) includes legal provisions criminalising the various acts associated with it, including sexual exploitation of a minor, and forced dancing. The law prescribes punishments ranging from eight to 12 years' imprisonment. It is too soon to say whether this new legal framework will result in a significant reduction in the prevalence of *bacha bazi*.

3.82 Notwithstanding the recently introduced legislative and policy measures, DFAT assesses that children in Afghanistan continue to face a high risk of violence and sexual abuse. Afghan children are particularly vulnerable to the effects of the continuing armed conflict, and face a high risk of injury or death.

## 4. COMPLEMENTARY PROTECTION CLAIMS

### ARBITRARY DEPRIVATION OF LIFE

#### Extra-Judicial Killings

4.1 Extra-judicial killings take place frequently across Afghanistan in the form of targeted killings carried out by AGEs, state actors, and pro-government groups. UNAMA reported a reduction in the number of casualties resulting from the intentional targeting of individual civilians in 2018 from the previous year, but expressed concern that such attacks continued to occur.

4.2 AGEs continue to carry out the overwhelming majority of targeted killings, most often by shooting or IEDs. Groups particularly vulnerable to targeted killings by AGEs were individuals perceived as supporting or otherwise connected to the government or pro-government armed groups, whether through current or former employment or family ties (see [People associated with the government or international community](#)). AGEs have also targeted tribal elders and religious scholars/ leaders: in November 2018, for example, gunmen on a motorcycle assassinated the deputy head of the Kabul Council of Religious Scholars, an outspoken critic of the ongoing armed conflict. Such killings can often result in additional casualties. In April 2018, for example, gunmen in Aybak district, Samangan province, opened fire during a wedding celebration against a mullah known for preaching against the Taliban, killing him and a woman and injuring two others.

4.3 Intentional killings of civilians by government forces reportedly occurred in incidents during or outside of combat operations, and during search operations. UNAMA reported that in a number of cases, Afghan national security forces deliberately shot at civilians who they claimed to have mistaken for AGEs. UNAMA has expressed concern that in many cases government forces have killed civilians during search operations who could have been safely captured and detained.

4.4 UNAMA documented five incidents of intentional killing carried out by the pro-government Khost Protection Force (KPF) (see [Khost Protection Force \(KPF\)](#)), resulting in the deaths of 13 civilians. In one particularly significant case, the KPF targeted a member of the Provincial Peace Council (and tribal elder) during a night search operation in Zurmat district, Paktya province, in December 2018. The KPF shot and killed the Provincial Peace Council member and five men in his family over the course of the operation. UNAMA reported that the KPF has not acknowledged responsibility or paid compensation to date.

4.5 International observers reported that, although authorities investigated and reported some cases of extrajudicial killings, there was an overall lack of accountability for security forces and pro-government groups. While in some instances authorities conduct their own investigations following the killings, in others authorities have concluded that the victims were AGEs without further investigation, or have requested families to submit formal, written complaints to initiate investigations – a difficult burden given the low literacy rates among large segments of the population. Authorities rarely fully investigated or prosecuted extrajudicial killings carried out by anti-government elements.



## Enforced or Involuntary Disappearances

4.6 As noted in [Human Rights Framework](#), Afghanistan is not a signatory to the International Convention for the Protection of all Persons from Enforced Disappearance (CED). There are countless people missing because of the continuing armed conflict and decades of civil war. In its December 2018 submission to the UPR, HRW reported that special police units have carried out forced disappearances with impunity, highlighting in particular reports that ANP forces in Kandahar have been responsible for forced disappearances. DFAT is not aware of any investigations into these reports. As noted in '[Kidnapping/Abductions](#)', AGEs have also reportedly been responsible for disappearances and abductions.

## DEATH PENALTY

4.7 The 2017 penal code significantly reduces the number of crimes to which the death penalty applies, and many crimes previously punishable by death are now punishable by life imprisonment. Nevertheless, Article 170 states that the use of the death penalty is still applicable in the cases of genocide, crimes against humanity, war crimes, anti-government crimes, terror and explosion, kidnapping and/or hostage taking that results in death, attempted murder, treason, the gang rape of a woman, or the gang rape of a man that results in death. Although hanging is the usual method of execution, DFAT understands that authorities have also used firing squads on occasion. The Supreme Court must consider death sentences upheld by lower courts, and Article 129 of the Constitution states that presidential approval is required in order to carry out executions.

4.8 The wide number of crimes for which the death penalty is applicable has led to courts issuing a large number of death sentences: DFAT understands that there were 720 prisoners on death row as of mid- 2018. Despite these high numbers, actual executions have been comparatively rare since 2001. When executions have occurred, they have mainly been in relation to cases of kidnapping, murder, or rape. An official moratorium on the use of the death penalty issued in February 2015 ended in April 2016, when authorities hanged four members of the Taliban and one each from Al Qaeda and the HQN convicted of terrorist offences. Five men were executed in November 2017 for abduction and murder, and at least three prisoners were executed in 2018.

4.9 In its November 2018 national report to the UPR third cycle, the government advised that it had established a Special Committee to review all cases in which courts had imposed death sentences to ensure that all the required standards of a fair trial had been met: this had resulted in a 50 per cent reduction of death sentences. The government further advised that a presidential commission had recommended the commutation of all death sentences to life imprisonment. It is unclear whether this recommendation will result in the full abolition of the death penalty. DFAT understands that the overwhelming majority of Afghans support the use of the death penalty, with support for executions increasing in response to rising crime rates and more frequent terrorist attacks.

4.10 Summary executions by beheading, shooting and hanging reportedly occur frequently in areas controlled by AGEs, particularly the Taliban and ISKP. UNAMA attributed 14 deaths to the Taliban and eight deaths to ISKP in 2018, although this number is likely to be a conservative estimate given the limited access to areas controlled by AGEs. In one July 2018 case reported by UNAMA, ISKP killed four men in Dara-i-Pech district, Kunar province, after abducting them and holding them in captivity for two months. ISKP claimed responsibility for the executions, claiming the men had been spying for pro-government forces, and published photographs on a news website. In another case in February 2018, the Taliban shot and killed a man and a woman accused of adultery in Yamgan district, Badakhshan province.

## TORTURE

4.11 Article 29 of the Constitution prohibits torture, inhuman treatment and cruel punishment, and dismisses any confession obtained because of torture. Afghanistan has taken a number of steps in recent years aimed at eliminating torture and other cruel, inhuman or degrading treatment and punishment. In February 2015, the government adopted a National Plan on the Elimination of Torture that included commitments to enact relevant legislation and policies, and to establish and develop mechanisms for human rights oversight within its law enforcement and security institutions. The government introduced a comprehensive *Law on Prohibition of Torture* in 2017, which defines the act, sets a minimum sentence of three years' imprisonment for perpetrators, provides for protection of witnesses and compensation for victims, provides for the establishment of a Commission for the Prohibition of Torture, and outlines this body's responsibilities and authorities. Afghanistan acceded to CAT-OP in April 2018 and withdrew its reservations to CAT (see [Human Rights Framework](#)), and the 2017 Penal Code incorporates CAT provisions. The government is yet to implement an accountability mechanism for torture, however.

4.12 In its national report to the UPR third cycle, the government advised that it had registered 783 cases of torture from 2016- to 2018, of which 643 cases were under legal persecution. The report did not specify which agency the alleged perpetrators were from, or provide any detail on individual cases.

4.13 Human rights observers reported a slight decrease in the incidence of torture in the period immediately following the adoption of the National Plan, with police and security forces under increased scrutiny. By mid-2015, however, activists reported that torture had resumed to its previous levels or had increased in many places. In its December 2018 submission to the UPR, HRW stated that new legislation and policies had had a minimal effect in curbing abusive practices by state security forces, the judiciary, and other institutions. According to HRW, the torture of detainees is routine, and authorities rarely hold perpetrators responsible. A June 2018 report by the AIHRC found that although the government had made significant progress on legislation and policy under the National Plan, it had not significantly reduced the use of torture since it assumed office in 2014.

4.14 In June 2017, the UN Committee Against Torture reported that it was concerned by numerous reports that torture was widely and increasingly practised on detainees in custody in detention facilities run by the National Directorate of Security (NDS), the ANP, and the ALP to extract confessions or information to be used in criminal proceedings. The Committee cited reports from UNAMA, the Office of the Prosecutor of the International Criminal Court, the AIHRC, and other civil society groups that torture took the form of beatings, electric shocks, suspensions, threats, sexual abuse, and other forms of mental and physical abuse. The Committee also expressed concern over numerous and credible allegations that complaints of torture and ill-treatment were dismissed due to the absence of documentation of physical signs of torture, possibly because no medical examination was conducted or was conducted too late to document them.

4.15 UNAMA's April 2017 report on the treatment of conflict-related detainees in Afghan custody noted the government's commitment to fully eliminating torture. It found, however, that 45 per cent of detainees in police custody and 26 per cent of those in NDS custody had reported being tortured or otherwise ill-treated – the highest level documented since UNAMA began its current monitoring program in 2010. Most detainees said that they had been tortured to force them to confess and that the torture had stopped once they had done so. Many stated that they did not understand or could not read what was written on the confessions they signed or thumb-printed. UNAMA noted, however, that it did not find any indications that detainees experienced torture or other forms of ill-treatment once they had transferred from police or NDS custody into facilities administrated by the Central Prisons Directorate of the Ministry of Interior (see [Detention and Prison](#)).

4.16 UNAMA highlighted particular concern over the situation in Kandahar province, where 91 per cent of interviewed detainees who had been in police custody had been subjected to torture and ill-treatment, including having water forcibly pumped into the stomach, having their testicles crushed with clamps, being suffocated to the point of losing consciousness, and having electric current applied to their genitals. UNAMA also expressed particular concern over the situation in Nangarhar, Farah, and Herat provinces, while noting it had documented reports of violations in 20 other provinces.

4.17 Human rights groups have expressed concern about the general climate and culture of impunity for those accused of perpetrating human rights abuses, including torture, including through a lack of willingness on the part of authorities to enforce existing law. HRW noted in December 2018 that although the government had established human rights units in relevant security agencies and reformed the law, it had not prosecuted any ANP, ALP, or NDS officials for torture. UNAMA reported in April 2017 that even when internal oversight procedures verified allegations of torture, the perpetrators faced only administrative disciplinary sanctions rather than being charged with the crime of torture. The Committee Against Torture expressed particular concern about the large number of cases of alleged human rights violations, including torture, involving senior state officials: the Committee noted that a number of those accused of torture and other gross human rights violations were either still holding, or had been nominated for, official executive positions, some in government.

4.18 In addition to highlighting cases of torture carried out by state authorities, human rights groups have also expressed concerns over torture and other abuses carried out by AGEs. These groups, which include the Taliban, inflict punishments within a parallel justice structure to punish civilians for alleged infractions of *sharia*, perceived offences, and allegations of spying or connections with the government or security forces. Non-fatal punishments carried out by AGEs include the use of lashings, beatings, amputations and mutilations, which may amount to torture. DFAT is not able to provide additional information on the number or frequency of such incidents.

4.19 DFAT assesses that the use of torture and significant mistreatment of conflict-related detainees by security authorities to obtain confessions or other information is common and widespread, particularly while in the custody of security agencies. DFAT further assesses that civilians living in areas controlled by AGEs, particularly the Taliban, are at a high risk of torture or other abuses through parallel justice structure punishments.

## CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

4.20 Article 29 of the Constitution prohibits punishment contrary to human dignity. However, reports of cruel, inhuman or degrading punishment by both government officials and AGEs persist. Aside from the incidents of torture outlined in the previous section, these incidents are largely undocumented and rarely publicised. According to UNAMA, many parallel justice structure punishments carried out by AGEs amount to cruel, inhuman or degrading treatment.

### Arbitrary Arrest and Detention

4.21 Chapter Seven of the 2017 Penal Code (Articles 585-588) prohibits illegal arrest or detention. Article 586 specifies terms of 'medium imprisonment' for perpetrators, although Article 587 provides for up to seven years' imprisonment in aggravated circumstances. These include if the crime is committed by a public official; if the crime is committed by force, coercion, threat to life, or threat to physical torture; if the

crime is committed by using official uniform without having the authority to use it, or using fake identity; if the crime is committed using a fraudulent warrant of an authorised governmental authority; or if the period of illegal detention is more than one month.

4.22 Police have the right to detain a suspect for 72 hours to complete a preliminary investigation. If police decide to pursue a case, they transfer the file to the Attorney General's Office. After taking custody of a suspect, the Attorney General's Office can issue a detention warrant for up to seven days for a misdemeanour and 15 days for a felony. With court approval, the investigating prosecutor may continue to detain a suspect while continuing the investigation, with the length of continued detention depending on the severity of the offence. The investigating prosecutor may detain a suspect for a maximum of 10 days for a petty crime, 27 days for a misdemeanour, and 75 days for a felony. The prosecutor must file an indictment or release the suspect within those deadlines, and there can be no further extension of the investigatory period if the defendant is already in detention. Human rights observers have reported, however, that prosecutors often ignore these limits. In addition, there have been multiple reports suggesting that judges often detain prisoners after the completion of their sentences because the prisoners had not paid bribes for their release.

4.23 Arbitrary arrests, a lack of access to legal representation, detention without clear legal authority or due process, and prisoners held 'incommunicado' have been reported across most provinces in Afghanistan in recent times. Local law enforcement officials have reportedly detained persons illegally on charges not provided for in the penal code, in part because the judicial system was inadequate to process detainees in a timely fashion. While defendants have the right to object to their pre-trial detention and to receive a court hearing on the matter, human rights observers report that authorities did not generally observe this requirement. In some cases, authorities have detained women because they deemed it unsafe for the women to return home or because women's shelters were not available to provide protection in the provinces or districts at issue. Human rights observers report that those detained for 'moral crimes' are almost exclusively women (see also [Women](#)).

## Corporal Punishment

4.24 NGOs have reported a predominantly punitive and retributive approach to juvenile justice throughout the country. Although illegal, corporal punishment in schools, rehabilitation centres and other public institutions remains common. In its national report to the UPR third cycle, the government committed to prosecuting teachers who punished their students physically.

4.25 As outlined in '[Torture](#)', parallel justice structure punishments involving the use of lashings and beatings occur frequently in areas controlled by AGEs. There have been consistent credible reports that government security forces use excessive force, including beating civilians.

## 5. OTHER CONSIDERATIONS

### STATE PROTECTION

5.1 Security in Afghanistan is the responsibility of the ANDSF, which comprise intelligence, military and police elements. From inception, the ANDSF have experienced shifting political and security conditions that have affected their size, structure, mission and capacity, and the various arms of the ANDSF vary in terms of their effectiveness. The ANDSF have long depended on international financial and operational assistance, and the reduction in international force deployment in Afghanistan has affected the ANDSF's ability to maintain government control nationwide. The ANDSF continue to face major challenges in key areas of capacity, such as logistics, air power, and intelligence. In addition, international observers have expressed concerns about shortfalls in the ANDSF's coordination and command and control structure.

5.2 The continuing armed conflict has significantly challenged the government's ability to exercise effective control over large parts of the country, particularly outside major urban centres. In addition, the increase in the number and impact of large-scale attacks that have taken place in Kabul since the beginning of 2016 demonstrates the limits of the government's ability to protect its citizens even where its security infrastructure is strongest.

5.3 UNAMA reported that the government and ANDSF undertook a number of measures to reduce civilian casualties throughout 2018. These included the ongoing implementation of the National Policy on Civilian Casualty Prevention and Mitigation (formally adopted in October 2017) and working towards meeting the Government's obligations under the 1980 Convention on Certain Conventional Weapons Protocol V (which came into effect in February 2018) to track and mark locations of possible contamination from unexploded ordnance. The Government also revised targeting protocols for aerial attacks and began to implement the inclusion of legal advisers in targeting processes.

5.4 UNAMA also reported that the government and ANDSF regularly engage with it in relation to individual civilian casualty incidents caused by state forces, and related investigations. In 2018, the Ministry of Interior advised that it had investigated all of the 56 incidents reported to it by UNAMA and had confirmed the responsibility of relevant agencies in the majority of cases. In some (but not all) cases, alleged perpetrators of abuse had been arrested or removed from duty, and compensation paid. UNAMA noted, however, that the Ministry of Defence did not provide any response concerning the individual cases that UNAMA had brought to its attention.

### Military

5.5 The military elements of the ANDSF consist of the ANA, and the Air Force, both of which answer to the Ministry of Defence (MoD). Article 55 of the Constitution states that defending the country is the responsibility of all citizens, and allows for compulsory military service. However, both the ANA and Air Force remain all-volunteer organisations. The ANDSF's combined active frontline personnel is around 200,000. While the ANA is notionally responsible for external security, in practice it has had primary responsibility for



conflict operations and territorial security against AGEs. There are credible reports that the ANA loses large numbers of personnel each month to injury, death or desertion.

5.6 While the ANA has demonstrated improved capability in some areas, it remains largely dependent on international military support (particularly air support) to hold its ground against AGEs. According to international observers, the ANA's key weaknesses are poor morale resulting from a high attrition rate, considerable internal corruption, and weak leadership.

5.7 Throughout 2018, UNAMA documented a steady increase in civilian casualties caused by aerial operations: in 2018, approximately the same number of civilians were killed from airstrikes as in 2014, 2015 and 2016 combined. Aerial operations were generally conducted in support of ground engagements, and caused approximately the same number of civilian casualties. Women and children continued to comprise almost two-thirds of all civilian casualties from aerial operations.

5.8 In one high profile incident in July 2018, international military forces carried out airstrikes on a residential compound in Chahar Dara district, Kunduz province, resulting in the death of 14 women and children, all from the same extended family. The incident took place during a ground operation by Afghan national security forces, including Afghan National Army commandos, who were supported by international military forces on the ground. During the operation, ANDSF forces reportedly came under attack and responded with heavy gunfire, followed by mortars, on the compound from which they believed the shooting originated. A major airstrike then destroyed the compound. Afghan officials initially denied allegations of civilian casualties, but on 20 July, the Ministry of Defence acknowledged civilian casualties occurred. The United States also initially denied any allegations of civilian casualties in the media, publicly claiming all those killed in the attack were legitimate military targets, but then indicated on 25 July that an investigation was underway. The Government of Afghanistan paid compensation to the relatives of the victims.

5.9 UNAMA also reported a significant rise in civilian casualties caused by the ANDSF in 2018 in the context of search operations. In 2018, UNAMA documented 222 deaths and 51 injuries resulting from 64 search operations by the ANDSF, representing a sharp increase from 2017 when 63 deaths and 29 injuries resulted from 26 ANDSF search operations. Search operations by NDS Special Forces, either alone or in joint operations with international military forces, caused the majority of these casualties, with 203 deaths and 37 injuries reported in 51 incidents. All search operations by the National Directorate of Security Special Forces that caused civilian casualties took place in central, eastern and southern regions. In addition to the loss of civilian lives, these operations also often resulted in extensive property damage, with little recourse available to victims, fuelling anti-Government sentiment and sparking protests from the civilian population.

## Police

5.10 The ANP is the primary police force of Afghanistan, and serves as a single law enforcement agency across the country. It answers to the Ministry of Interior (MOI). The ANP has approximately 150,000 active members. It includes a number of sub-agencies, most notably the Afghan Border Police, which monitors Afghanistan's borders and international airports, and the Afghan Local Police (ALP), established in 2010 as a local defence force against AGEs. Police presence is stronger in the cities than in rural areas.

5.11 International donors have made significant efforts to turn the ANP into a credible, professional and effective police force, including through providing extensive training on human rights. International observers report, however, that the ability of the ANP to provide and maintain security and law and order remains limited, particularly outside major cities. The ANP has a weak investigative capacity, lacking forensic training and technical knowledge. Its overall capacity is constrained by a number of factors, including lack of resources, poor training and leadership, low morale, and high levels of corruption. The majority of ANP

members are either illiterate or have very low levels of literacy. Human rights observers have expressed concern over ongoing reports of serious human rights abuses committed by ANP members, including allegations of intimidation, extortion, torture, and sexual abuse.

## Khost Protection Force (KPF) and other pro-government armed groups

5.12 The Khost Protection Force (KPF) is a pro-government paramilitary group that has carried out specialised operations in the southeast of Afghanistan since at least 2007. It functions outside of the regular military command and control structures, is not listed in the government's official list of required ANA and ALP personnel by rank, and its operations are often not coordinated with local authorities or the National Directorate of Security. However, UNAMA reports that a KPF commander participates in the weekly security meetings in Khost province, chaired by the Provincial Governor, alongside Afghan national security forces, which suggests some degree of information-sharing and tacit consent by the Government of its operations. In previous years, UNAMA documented incidents involving the KPF exclusively in Khost Province. In 2018, however, UNAMA noted a geographic expansion in the KPF's operations, with 14 incidents in Khost province, four incidents in Paktika province, and four incidents in Paktya province that caused civilian casualties.

5.13 In 2018, UNAMA documented 22 incidents involving 70 civilian deaths and 37 injuries caused because of KPF operations. Some victims were reportedly intentionally targeted or incidentally harmed during search operations, or during ground engagements (see [Extra-Judicial Killings](#)). This represents a drastically significant increase from 2017, when UNAMA attributed three deaths and two injuries to the KPF, and marks the highest level of civilian harm perpetrated by this group since UNAMA began systematic documentation of conflict-related civilian casualties in 2009. The vast majority of civilian deaths attributed to the KPF in 2018 were caused by intentional shooting, mostly in the context of search operations. For instance, on 4 March in Nader Shah Kot district, Khost Province, a group of approximately 20 KPF personnel shot and killed two civilian men (brothers) and one of their wives while conducting a search operation in a family house. The KPF reportedly then set fire to a vehicle in front of the house and to the family home, resulting in the burning alive of a three-year old girl. The KPF subsequently took three male relatives to its base, releasing them later that day following protests by hundreds of local residents.

5.14 UNAMA has repeatedly raised concerns about the actions of the KPF, including regarding allegations of civilian casualties and abuses of the rights to life and physical security and other human rights abuses, to the National Directorate of Security and the National Security Council. No entity within the Afghan national security forces or civilian Government administration, however, has been willing or able to discuss with UNAMA incidents involving the KPF in detail or address issues of accountability.

5.15 UNAMA has also expressed concerns over the actions of several other pro-government armed groups, particularly in Faryab and Takhar provinces. UNAMA reports that these groups operate with impunity, conducting search operations, deliberately killing civilians, including over personal disputes, and engaging in armed clashes with AGEs and with other illegal armed groups. UNAMA documented 11 incidents where pro-Government armed groups perpetrated deliberate killings against civilians, resulting in 27 civilian casualties (20 deaths and seven injured). For example, in April 2018 in Faryab province, the commander of a pro-Government armed group abducted and beat a 75 year-old man to death after his son (a Taliban member) was accused of killing a tribal elder and relative of the commander.

## Judiciary

5.16 Article 116 of the Constitution provides for the independence of the judiciary, which comprises a Supreme Court, Courts of Appeal, and Primary Courts. Other constitutional articles guarantee open trials,

and require courts to state the reason for their verdicts. Courts decide cases raising issues not covered by the Constitution according to Islamic jurisprudence.

5.17 International observers report that the judiciary is underfunded, understaffed, inadequately trained, ineffective, and vulnerable to threats, bias, political influence, and pervasive corruption. Most courts reportedly administer justice unevenly, employing a mixture of codified law, *sharia*, and local custom. Traditional justice mechanisms remain the primary recourse for many Afghans, especially in rural areas. A lack of qualified judicial personnel hinders the judiciary's ability to deal with a very high caseload, while the judicial system continues to lack the capacity to absorb and enforce a large volume of new and amended legislation, including the 2017 Penal Code. Corruption is reportedly common within the judiciary: criminals often pay bribes to obtain their release or gain a sentence reduction.

5.18 A widespread shortage of judges, primarily in insecure areas and areas under the control of anti-government elements, has led to the adjudication of many cases through informal, traditional mediation. These informal mediation sessions have often imposed punishments without regard for the formal legal system. In areas under the control of AGEs, informal courts have tried and sentenced civilians for perceived offences including allegations of spying, supporting the government, being a member of the ANDSF, and engaging in 'moral transgressions'. Punishments have included executions (see [Death Penalty](#)), amputations and beatings.

5.19 A shortage of female judges, particularly outside Kabul, has considerably limited access to justice for women: many women cannot and do not use the formal justice system because cultural norms preclude their engagement with male officials. UNAMA and human rights NGOs reported several cases where perpetrators of violent crimes against women (including domestic abuse) reoffended after their cases were resolved by mediation: in one case, a Taliban court's mediation sent a victim of spousal abuse back to her husband, who subsequently cut off her nose.

5.20 The judiciary and those associated with it, has frequently been a particular target for anti-government elements, particularly the Taliban. In the past two years, however, UNAMA has reported only five attacks in total claimed by the Taliban and directed at judges, prosecutors, and judicial staff that have resulted in civilian casualties. In contrast, in 2016, UNAMA documented 33 attacks against judges, prosecutors and judicial staff, resulting in 41 deaths and 71 injuries, and 37 incidents in 2015, causing 46 deaths and 142 injuries. This may indicate that the judiciary and its associated elements have become a lower priority target for the Taliban.

5.21 Afghanistan uses an inquisitorial legal system. The Criminal Procedure Code establishes time limits for the completion of each stage of a criminal case, from investigation through final appeal, when the accused is in custody. The Code permits temporary release of the accused on bail, although international observers report that this rarely occurs. An addendum to the Code provides for extended custodial limits in cases involving crimes committed against the internal and external security of the country, and international observers report that courts regularly elect to utilise the extended time periods. The law requires that authorities release detainees from custody if the judiciary does not meet the deadlines. International observers report, however, that although courts frequently miss deadlines, detainees nevertheless remain in custody.

5.22 Article 25 of the Constitution guarantees the presumption of innocence, and Article 128 provides the right to a fair and public trial. The administration and implementation of justice in general, however, varies depending to location. International observers report that while some provinces held public trials, this was not the norm. Three-judge panels decide criminal trials. International observers have reported a number of shortcomings in the trial system, including that:

- prosecutors rarely informed defendants promptly or in detail of the charges brought against them;

- prosecutors often failed to provide physical evidence and case-related documents to defendants and attorneys before cases went to trial;
- indigent defendants were often denied the right to consult with an advocate or counsel at public expense, in large part due to a severe shortage of defence lawyers;
- criminal defendants' attorneys continue to experience abuse and threats from prosecutors and other law enforcement officials (although defence attorneys reported increased respect and tolerance from the judiciary for the role of defence lawyers in criminal trials); and
- in cases where no clearly defined legal statute applied, or where judges, prosecutors, or elders were unaware of the statutory law, judges and informal councils enforced customary law, a practice that often resulted in outcomes that discriminate against women.

5.23 Article 13 of the 2017 Penal Code explicitly prohibits double jeopardy in both domestic and international courts. DFAT does not have any specific information as to how courts have applied this article in practice.

## Detention and Prison

5.24 The Central Prison Directorate (CPD) within the MOI has overall responsibility for the administration of Afghanistan's adult prison system. The CPD operates facilities at the district, provincial, and central levels. Each district has a place of detention for short-term lock-ups during processing or transfer. Long-term incarceration usually takes place at a provincial prison located in the capital city of each of Afghanistan's 34 provinces. The central prison of Kabul serves as a provincial prison, as a district detention centre for Kabul, and for referral from other districts for certain categories of detainees.

5.25 A separate detention system administered by the MoD applies to persons detained or arrested in relation to terrorism crimes, or crimes against national or external security. The principal MoD detention facility is Bagram. The MOI likewise administers a specialised prison in Kabul for persons detained or convicted in relation to counter-narcotics and other drug crimes. International human rights organisations have alleged that there are also a number of private prisons and detention facilities established by the ANDSF to avoid international monitors. The latest figures available in relation to prisoner numbers are from April 2017, provided by the UN Human Rights Committee. At that time, Afghanistan had a total prison population of approximately 30,000, held in 251 institutions across the country.

5.26 Prison conditions are harsh. Overcrowding is a serious and widespread problem: international observers reported that 28 of the 34 provincial prisons for men were severely overcrowded based on standards recommended by the International Committee of the Red Cross. There are credible reports of inadequacies in food and water, heating, ventilation, lighting, and access to medical care, and poor sanitation. Authorities generally lack the capacity to separate pre-trial and convicted inmates, or to separate juveniles according to the seriousness of the charges against them. Incommunicado imprisonment remains a problem, and prompt access to a lawyer is rare. Prisoners are generally able to receive family visits, although family access is frequently delayed. In addition, although prisoners have the right to leave prison for up to 20 days for family visits, most prisons reportedly do not allow such leave.

5.27 A large percentage of female prisoners are imprisoned for 'moral crimes', including running away from abusive relationships (see [Women](#)). There is a female-only prison in Kabul, but local prisons and detention centres do not always have separate facilities for women.

5.28 A number of official bodies have a role in upholding the human rights of detainees. In its November 2018 national report to the UPR, the government noted that it had established the High Council of Prisons



within the MOI Secretariat, the Department of Monitoring of Prisons and Detention Centres within the Attorney-General's Office, and an office of human rights within all prisons. The MOI's Department of Human Rights, Women's Affairs and Children is responsible for monitoring the human rights situation at prisons and detention centres, and reporting cases of mistreatment. The government highlighted that, based on this monitoring procedure, nine police officers were disciplined in Nimroz and Herat in 2017. The government also advised that it was engaged in a four-year strategy (2018-21) to standardise all confinement facilities (prisons and detention centres).

5.29 The AIHRC also has a role in monitoring prisons and detention facilities. According to the government, from 2014 to 2018 the AIHRC conducted more than 4,000 visits to various centres nationwide, meeting with an average 2,000 detainees annually. In its June 2017 report, the UN Committee Against Torture acknowledged the AIHRC's efforts but expressed concern that the AIHRC's access to custody and detention centres was limited, especially for facilities run by the NDS.

## INTERNAL RELOCATION

5.30 Article 39 of the Constitution guarantees citizens the right to travel and settle in any part of the country, except in areas forbidden by law. There is no legal impediment to internal movement within Afghanistan, and Afghans of all ethnicities can and do relocate internally for a variety of reasons. Presidential Decree 104/2005 stipulated that all IDPs and returnees should return to their home provinces. However, the Ministry of Returns and Rehabilitation has confirmed to DFAT that there is currently no legal requirement for them to do so.

5.31 Major cities, particularly Kabul, offer greater opportunities for employment, and are home to communities from virtually all of Afghanistan's ethnic groups. Traditional extended family and tribal community structures are the main protection and coping mechanism in Afghan society. Afghans rely on these networks for safety, shelter and economic survival. Afghans relocating internally tend to move in large groups comprising a number of families. This approach increases the group's resilience, but can result in rapid population growth in particular areas with a resultant strain on infrastructure and services. Large numbers of internal migrants live in informal settlements in poor conditions, with high rates of unemployment and under-employment, limited access to water, and a lack of basic infrastructure.

5.32 The continuing armed insurgency and deteriorating security situation has limited the ability of Afghans to travel safely from one part of the country to another by road (see also '[UNAMA](#) documented 581 deaths and 1,192 injuries across Afghanistan in the first quarter of 2019. This represented a 23 per cent decrease in overall civilian casualties as compared to the same period in 2018, and is the lowest for a first quarter since 2013. UNAMA attributed this to a decrease in casualties from suicide IED attacks, and particularly harsh winter conditions (that may have contributed to a reduction in fighting). Civilians living in Kabul, Helmand, Nangarhar, Faryab, and Kunduz provinces were most affected.

5.33 Road safety' and '[Kidnapping/ Abductions](#)'). Domestic commercial flights offer highly limited routes (almost all of which use Kabul as a hub), are oversubscribed, and are expensive. An indicative internet search found that round trip flights between Kabul and Herat, Kabul and Mazar-e-Sharif, and Kabul and Kandahar all cost around USD200, well beyond the means of the average Afghan. Flights between Kabul and Bamiyan were extremely limited, and almost impossible to book.

5.34 Economic and employment opportunities vary across the country, but are likely to be limited in rural areas and areas directly affected by the continuing armed conflict. DFAT assesses that while there are generally options available for internal relocation in Afghanistan, there are considerable security and economic factors that limit the ability of Afghans of all ethnicities to relocate internally safely and successfully.

## TREATMENT OF RETURNEES

### Exit and Entry Procedures

5.35 A valid travel document (usually an Afghan passport) and appropriate entry visa for any intended destination are required for legal exit from Afghanistan for Afghan citizens. Afghanistan shares land borders with six countries (Tajikistan, China, Pakistan, Uzbekistan, Iran, and Turkmenistan). Border crossings with all of these countries open and close periodically, depending on security and other factors. Due to the length of the border and the rugged terrain, however, undocumented movement across the Pakistan border in particular is reportedly common.

5.36 Kabul International Airport (also known as Khwaja Rawash Airport) handles the vast majority of international flights into and out of the country. Limited international services also operate from airports in Herat, Kandahar, and Mazar-e-Sharif. The government announced plans in 2012 to operate international services from Ghazni Airport but DFAT understands that these plans are currently on hold.

### Conditions for Returnees

5.37 Article 39 of the Constitution guarantees citizens the right to travel outside Afghanistan and return, according to the provisions of the law. In recent decades, Afghanistan has seen large-scale population movements caused by conflict-related instability. Millions of Afghans departed the country after the 1979 Soviet invasion and again after the Taliban took control of the country, with up to one million others internally displaced. The overwhelming majority of emigrants crossed the border to Pakistan, with smaller numbers travelling to Iran and other countries. In the five years after 2002, around 5.7 million Afghans returned, many of childbearing age. This mass movement, and associated spike in the birth rate, created a large demographic shock – 70 per cent of Afghanistan’s population is under the age of 24, the third largest ‘youth bulge’ in the world.

5.38 International observers report that the government has cooperated with international agencies and other humanitarian organisations to provide protection and assistance to IDPs, refugees, returnees, and other persons of concern. The government’s capacity to assist vulnerable persons, including returnees from Pakistan and Iran, remains limited, however, and it continues to rely on the international community for assistance. In March 2019, the government announced that it had formed one committee to specify land for distribution to eligible returnees, and another committee to identify such returnees. The number of returnees who have been allocated land on return has been very small to date. According to a government official, the government distributed land to 8,000 returnees from 2015 to 2017, and none at all in 2018.

5.39 The number of displaced people moving in and out of Afghanistan has ebbed and flowed considerably in recent years, dependent largely on perceived security and economic conditions in Afghanistan and policy changes in neighbouring countries. The numbers returning from Pakistan rose dramatically in the second half of 2016: the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) reported that more than 600,000 people (370,000 documented and 230,000 undocumented) returned to Afghanistan by the end of 2016– an average of 4,300 returns per day since mid-July. UNOCHA attributed the rise in returns to a significant deterioration in the protection/political space in Pakistan, including increasing incidents of detention, forced evictions, police raids and harassment. Many of those returning from Pakistan had lived outside Afghanistan for decades. Most headed in the first instance to major cities such as Kabul, Jalalabad and Herat, placing a considerable strain on local resources and services. The numbers returning from Pakistan reduced in 2017 to 160,000 (60,000 documented and 100,000 undocumented), and reached a historic low in 2018 of 13,660.

5.40 The numbers returning from Iran have likewise fluctuated in recent years. The IOM reported in January 2018 that nearly 800,000 Afghans returned or were deported from Iran in 2018: an increase of two-thirds from 2017, and the highest number since the IOM began recording the number of returnees in 2012. The IOM attributed the increase in returns to reduced economic opportunities in Iran following the renewal of US sanctions in 2017, which had a significant impact on the Iranian economy. The IOM reported on 15 January 2019 that there had been a further 13,511 total returns from Iran since the beginning of 2019; and that the large-scale nature of returns had had a particular impact on the drought affected western provinces of Herat, Badghis, and Ghor.

5.41 Afghanistan generally accepts both voluntary and involuntary returns from western countries, but there have been some occasions in recent years in which the government has refused to grant landing permission for incoming flights carrying returnees. Returnees from western countries almost exclusively return to Kabul. Most returnees have been single men rather than family groups. In-country sources report that many returnees choose to remain in Kabul for economic reasons rather than return to their home provinces. There are no tracking mechanisms for those returned to Afghanistan, and it is difficult to assess the conditions they face on return. Amnesty International has reported that there have been cases in which returnees from Europe have been killed after returning to Afghanistan. DFAT has no information to suggest that returnees from western countries attract negative attention from state authorities for having sought and failed to gain asylum, and assesses that these cases are more likely to have related to the highly dangerous general security situation, which affects all Afghans.

5.42 The EU and Afghanistan signed an agreement in October 2016 to organise the 'dignified, safe and orderly return to Afghanistan of Afghan nationals who do not fulfil the conditions to stay in the EU'. Following the 31 May 2017 attack in Kabul, and in relation to the overall deteriorating security situation, Germany announced that it would temporarily stop returning Afghan nationals. Germany has subsequently resumed returns to Afghanistan, but the numbers of those returning are extremely low. Reporting indicates that Afghanistan has also signed bilateral agreements allowing for the return of failed asylum seekers with a small number of European Union member states. DFAT understands that these countries coordinate their returns, which the Afghanistan government limits to one charter flight a month carrying a maximum of 50 returnees.

5.43 DFAT understands that most returnees take measures to conceal their association with the country from which they have returned, and keep a low profile on return. DFAT assesses that people in this situation do not face a significantly higher risk of violence or discrimination than other Afghans with a similar profile.

## DOCUMENTATION

5.44 The National Statistics and Information Authority (NSIA) is the authority responsible for issuing *taskiras* (see National Identity Cards (*Taskira/ Tazkira*)). The NSIA was previously known as the Afghanistan Central Civil Registration Authority, and prior to that the Population Registration Directorate (PRD), which operated within the Afghan Ministry of Interior (MOI). Since its renaming in 2019, the NSIA has operated as a separate entity. NSIA Headquarters are located in Kabul, with other representative offices located in police headquarters and district-level police offices in provincial police departments throughout Afghanistan. NSIA headquarters is the central repository for all *taskira* records and currently holds almost 23 million individual entries, although records held prior to 1973 are not centralised.

5.45 NSIA field offices manually record the details of birth and deaths. Each location holds two registers, which are completed simultaneously when data is entered. When the registers become full (approximately 1,000 records), both registers are sent to the NSIA headquarters in Kabul and checked against each other for

accuracy before being logged. One register is returned to the originating NSIA field office, while the other remains with the NSIA headquarters in Kabul.

## National Identity Cards (*Taskira/ Tazkira*)

5.46 The *taskira*, a one-page official identity certificate issued by NSIA, is the primary form of identification for Afghan citizens. In addition to being required for employment, and admission to schools and universities, to obtain approval to run a business, and to buy, rent and sell property, *taskiras* act as the primary document necessary to obtain other forms of identification. NSIA is responsible for issuing *taskiras*.

5.47 In May 2018, President Ghani announced the official launch of the electronic *taskira* (the *e-taskira*), becoming the first person to be issued with one. The new *e-taskira* cards contain a watermark security feature and microchip and comply with international standards for electronic identity documents. The *e-taskira* is a rectangular plastic card that includes the bearer's photograph and signature. The card contains printed data in English, Dari, and Pashto, including the bearer's full name, person identification number, place and date of birth, issuing authority, and dates of issue and expiry. The card is valid for either five or ten years and there is no lower age limit to issuance. It is unclear how many Afghans are in possession of *e-taskiras*, or what the timeline is for distribution.

5.48 Earlier *taskiras* were printed on plain paper, and include the names of the bearer, his/her father and grandfather; date and place of birth; place of residency; type of occupation; and military service status. They also include physical identification descriptions of the bearer, including: a photograph; height; colour of eyes, eyebrows, skin, and hair; and notes about any disabilities. Other than stamped seals, they do not include any security features. Issuing officers at district population registration officers complete *taskiras* manually. The biographical information in them varies according to the individual issuing officer and is often incomplete.

## Birth Certificates

5.49 Authorities did not historically issue birth certificates, which remain far from common. The high number of home births makes the process of registering births challenging. Reporting of birth dates is unreliable, and reported dates are likely to be approximate. DFAT understands that the Ministry of Public Health now issues birth certificates through a small number of maternity hospitals. However, parents can obtain a *taskira* for their newborn child by registering the birth with the Ministry of the Interior's population registration office.

## Marriage Certificates

5.50 Most Afghan marriages are based on an informal document (*nikah nama*) that is signed by the couple and witnesses in the presence of a mullah, who acts as marriage celebrant. While symbolic, the *nikah nama* has no legal significance in and of itself. Article 61(a) of the Civil Code mandates that married couples must register their marriage with a family/civil court (or Afghan diplomatic mission) for it to be considered legally valid. In practice, however, the vast majority of marriage contracts are not validly registered. Most Afghan couples reportedly consider the social recognition of their marriage to be sufficient, and only take steps to register their marriage when a certificate is required for litigation or for presentation to a foreign government for the purpose of international travel.

5.51 The official marriage contract book (*nikah khat*) is a 16-page stapled paper booklet with a dark green cover. The booklets are issued in Pashto and Dari. A completed booklet carries the photographs of the



couple and witnesses/attorneys with a wet stamp of the Supreme Court (or diplomatic mission) across the photographs. The relevant court issues the certificate soon after the marriage but before any child is born from the relationship. Two witnesses are required to testify a couple's marriage in the court.

5.52 Many married couples seek to have their marriage officially recognised after a substantial time has elapsed since the marriage ceremony and the marriage has produced children. In such cases, a local court will issue a *wasiqa* rather than a *nikah khat*. A *wasiqa* is a one-page document that verifies the couple's marriage status based on the testimony of five witnesses. The *wasiqa* is valid for use in relation to legal and administrative matters within Afghanistan only.

## Passports

5.53 The MOI's Passport Directorate in Kabul is responsible for the issuance of passports, which are machine-readable. Requirements for adult passport applicants are a valid *taskira* and a number of passport photographs. The applicant's fingerprints are digitally recorded and entered into a database. Provincial passport offices located throughout the country print and issue passports. Passports contain information on the bearer's first name, surname (or father's name), occupation, photograph, date and place of birth, date of issue, and expiry date. They do not contain information about the bearer's religion or ethnicity. Passports have a five-year validity period. Diplomatic missions can issue passports to Afghans based abroad.

## PREVALENCE OF FRAUD

5.54 Document fraud is a major issue in Afghanistan. Because the process for obtaining some documents is decentralised to the provincial level, and because the documentation itself generally does not contain robust security features, the system is vulnerable to fraud. Genuine documents can be issued based on false information, with supporting forms of documentation such as school, academic, or banking records easily forged. This is particularly problematic in the case of *taskiras*, given they are the primary document used to obtain other forms of identification. The issuance of the new *e-taskira* should help in mitigating this risk (see [National Identity Cards \(Taskira/ Tazkira\)](#)), but there is likely to be a significant time lag between the introduction of the new *taskira* and its widespread implementation.

5.55 The Ministry of Foreign Affairs (MFA) has a section responsible for verifying civil documents with issuing authorities to prevent any manipulation of official records. This attestation assists Afghan missions and foreign governments in accepting the authenticity of the document. Whilst MFA attestation provides an extra level of integrity to the documentation, international agencies report that there have been cases of documents with MFA attestation subsequently being independently verified as non-genuine.