Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**1177**
Land:	Afghanistan
Kilde:	UN Assistance Mission in Afghanistan (UNAMA) og UN Office of the High Commissioner for Human Rights (OHCHR)
Titel:	Preventing Torture and Upholding the Rights of Detainees in Afghanistan: A Factor for Peace
Udgivet:	februar 2021
Optaget på baggrundsmaterialet:	27. april 2021

UNITED NATIONS ASSISTANCE MISSION IN AFGHANISTAN
UNAMA

UNITED NATIONS HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

PREVENTING TORTURE AND UPHOLDING THE RIGHTS OF DETAINEES IN AFGHANISTAN: A FACTOR FOR PEACE

February 2021, Afghanistan

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Acronyms

ANA:	Afghan National Army
ALP:	Afghan Local Police
ANP:	Afghan National Police
DFiP:	Afghan National Detention Facility in Parwan
JRCs:	Juvenile Rehabilitation Centres
MCPC:	Military Code of the Criminal Procedures
MOI:	Ministry of Interior
NDS:	National Directorate of Security
OHCHR:	Office of the United Nations High Commissioner for Human Rights
UNAMA:	United Nations Assistance Mission in Afghanistan

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EXECTIVE SUMMARY

Torture and ill-treatment are prohibited under international and national law. Such acts committed by law enforcement officials also undermine the rule of law by sowing distrust in institutions. This report, issued by the United Nations Assistance Mission in Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), provides information on the prevalence of torture and other forms of cruel, inhuman and degrading treatment or punishment (hereinafter 'ill-treatment')[1] of persons deprived of liberty[2] for security- or terrorism-related offences in Afghanistan.[3] The monitoring conducted by UNAMA/OHCHR indicates that despite a decrease in the rates of allegations, the use and practice of torture and ill-treatment by law enforcement officials against persons in the custody of the Government of Afghanistan persists. In addition, legal and procedural safeguards – various rights provided for detainees, suspects and those accused, under international and domestic law - are not sufficiently implemented.[4]

This is the sixth periodic report issued by UNAMA/OHCHR on the treatment of persons deprived of liberty for security- and terrorism-related offences. Since 2011, with the cooperation of the Government of Afghanistan, UNAMA/OHCHR has been monitoring the treatment of such persons in places of detention run by the Government across the country. During this period, UNAMA/OHCHR documented a decline in torture allegations for persons in the custody of the National Directorate of Security. Such a decline has been less salient regarding those in the custody of the Afghan National Police. The Government of Afghanistan has also established torture preventive mechanisms, including the internal mechanisms of the National Directorate of Security and the Afghan National Police, the Anti-Torture Committee of the Attorney General's Office and the Anti-Torture Commission.

UNAMA/OHCHR interviewed 656 persons deprived of their liberty for security- or terrorism-related offences, including 565 men, 6 women, 82 boys and 3 girls. UNAMA/OHCHR human rights officers conducted interviews in 63 detention facilities in 24 provinces across Afghanistan. Many interviewees had been held in multiple places of detention before being interviewed by UNAMA/OHCHR.

[1] The definition of torture under the Convention against Torture is the most cited and authoritative definition in current practice: any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), art. 1. Cruel, inhuman or degrading treatment or punishment ("ill-treatment") are also legal terms which refer to treatment causing varying degrees of suffering that does not have to be inflicted for a specific purpose. Committee against Torture, General comment No. 2 (2008) on implementation of article 2 by States parties (2008) (CAT/G/GS/2), para. 10.

[2] In this report, the term "persons deprived of liberty" refers to persons suspected, accused or convicted of a certain offence and who are in the custody of authorities. For further details, see the section on the methodology.

[3] Generally, these crimes are covered by Annex 1 to the Criminal Procedure Code, which provides an exceptional procedural timeline for the suspects of the following offences: article 238 (national treason), article 239 (national treason , article 240 (espionage), article 241 (aggravated espionage), article 244 (crime against diplomatic relations), article 248 (destruction of vehicles or establishments), article 249 (receiving money or benefit), article 254 (provocation to internal war), article 255 (leading an armed group for looting or usurpation),article 258 (attempt to occupy state establishments), article 259 (destruction of buildings and properties), article 279 (financing of terrorism) and article 280 (financing of terrorism) of the Penal Code. *See* Annex 1 to the Criminal Procedure Code, art. 1.

[4] Procedural safeguards refer to various rights of detainees - suspects and those accused, as provided for under the international human rights law, the Constitution of Afghanistan and Criminal Procedure Code to ensure fair trial and due process (such as the right to access legal counsel and a timely medical examination) - critical for the prevention of torture.

Consequently, through 656 interviews, UNAMA/OHCHR recorded 1,458 instances of detention. [5]

This report summarizes the findings of monitoring by UNAMA/OHCHR of the treatment of persons deprived of liberty for security- or terrorism-related offences from 1 January 2019 to 31 March 2020. With the COVID-19 outbreak in Afghanistan in early March 2020,[6] UNAMA/OHCHR temporarily suspended its interviews with individuals held in places of detention. For this reason, the monitoring period for this report had to be reduced to 15 months, unlike previous UNAMA/OHCHR reports on the same topic, which made findings based on a period of 2 years. The report makes comparisons in percentages, rather than absolute numbers, of instances of detention recorded through interviews undertaken by UNAMA/OHCHR during the 2019-2020 monitoring period and those recorded during the 2017-2018 monitoring period. The use of percentages renders such comparisons appropriate.

The report acknowledges the progress made by the Government of Afghanistan in reducing the acts of torture and ill-treatment by the Afghan National Defence and Security Forces, compared to UNAMA/OHCHR's last public report covering the years 2017 and 2018,[7] particularly:

- A slight reduction from 31.9 to 30.3 per cent of interviewees deprived of liberty for security- or terrorism-related offences in the custody of the Government of Afghanistan who gave credible and reliable reports of torture and ill-treatment.

- A continued reduction from 31.2 to 27.5 per cent in the prevalence of torture and ill-treatment in instances of detention by the Afghan National Police (ANP).

- A continued reduction from 19.4 to 16 per cent in the prevalence of torture and ill-treatment in instances of detention by the National Directorate of Security (NDS).

UNAMA/OHCHR welcomes the active role played by the Government's internal monitoring mechanisms, particularly NDS human rights officers who regularly visit NDS lockups[8] across the country. UNAMA/OHCHR also welcomes the active pursuance of the prosecution of crimes of torture under article 450 of the Penal Code by the Anti-Torture Committee of the Office of the Attorney General.

At the same time, UNAMA/OHCHR notes with concern that the procedural safeguards provided for under Afghan law and international human rights law remain rarely implemented for individuals deprived of liberty for security- and terrorism-related offences. During the 15-month monitoring period, UNAMA/OHCHR found that among the detainees interviewed:

[5] Instances refers to the chain of custody that each interviewee has gone through and the treatment and the implementation of procedural safeguards at each place of detention.

[6] World Health Organization, "WHO Director General's opening remarks at the media briefing on COVID-19 – 11 March 2020" (11 March 2020), available at https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.

[7] Since 2013, UNAMA/OHCHR's public reports on this issue have covered a two-year timeframe. The outbreak of the COVID-19 pandemic in Afghanistan in early 2020 forced UNAMA/OHCHR to suspend physical detention visits and interviews in March 2020. Therefore, this report covers only 15 months. As comparisons with the previous report concern percentages based on the number of instances of detention documented through interviews in the monitoring period rather than absolute numbers, UNAMA/OHCHR considers the information gathered from the 15-month monitoring period comparable to that of the 24-month monitoring periods of the previous reports. Notably, in terms of the number of interviewees, UNAMA/OHCHR interviewed more people in the 15-month period of 2019-2020 (656) than those interviewed in the 24-month period of 2017-2018 (618).

[8] In the Afghan context, this term is used for facilities used to maintain a suspect in the initial questioning/discovery period by NDS and ANP officers before the transfer of the suspect to the prosecutor's office. *See* for example, the Criminal Procedure Code (2014), art. 81.

- In almost no instance of detention either by ANP or NDS,[9] were detainees informed of their rights prior to questioning. In 5.4 per cent of instances of detention in ANP custody, and in 12.7 per cent of instances of detention in NDS custody, detainees were informed of their rights at some point during their detention, including after questioning.

- In almost no instance of detention either by ANP or NDS, were detainees able to access a lawyer prior to questioning. In 6.3 per cent of instances of detention in ANP custody and 11.4 per cent in NDS custody, detainees obtained a lawyer at some point during their detention.

- Detainees' ability to contact their families in the early stages of their detention was low, with 27.2 per cent in ANP custody and 19.7 per cent in NDS custody. UNAMA/OHCHR is particularly concerned by the practice of solitary and incommunicado detention in NDS custody, with 39 instances of such detention documented (of which, 20 instances of detention were by NDS 241 in the Detention Facility in Parwan)

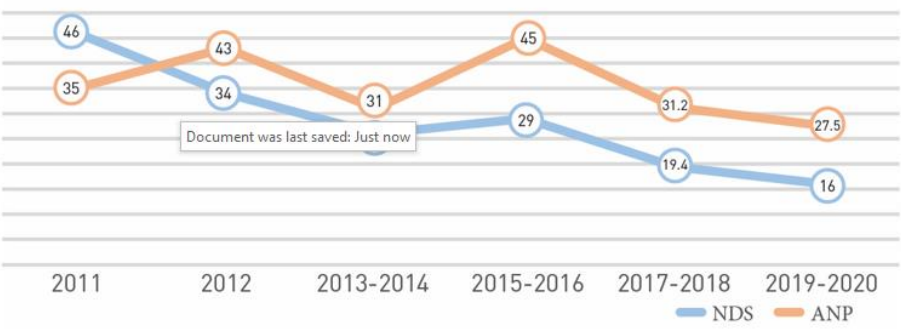
- In almost no instance of detention in ANP custody and only in 5 per cent of instances of detention in NDS custody, did detainees receive a medical body examination prior to questioning.

- In nearly half of all instances of detention by ANP (42.9 per cent) and NDS (49.1 per cent), detainees were asked to sign or thumbprint a document without knowing its content.

Effective implementation of the above and other relevant procedural safeguards can contribute to further reducing instances of torture and ill-treatment. They are also critical to improving the treatment of persons deprived of liberty; this in turn will increase public confidence and trust in law enforcement officials, and the rule of law more generally.

The report looks only at government facilities and not those of the Taliban or other anti-government elements, due to lack of access.

Rates of credible and reliable allegations of torture and ill-treatment by detainees in custody of ANP and NDS



[9] ANP is a police force under the Ministry of Interior, while NDS is an intelligence body. NDS is also designated as a discovery organ under the Criminal Procedure Code as is ANP. NDS plays a more active role in arresting and detaining individuals suspected security- and terrorism-related crimes; however, the role division is not clear as ANP also has a counter-terrorism unit under the Crime Investigative Directorate and arrests and detains individuals suspected security- and terrorism-related crimes.

1. BACKGROUND

UNAMA/OHCHR prepared this report pursuant to past and current Security Council resolutions mandating UNAMA/OHCHR to improve respect for human rights in the justice and prison sectors. The most recent Security Council resolution 2543 (2020) mandates UNAMA "to monitor places of detention, and the treatment of those deprived of their liberty, to promote accountability, (…) to assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State party".[10]

In October 2010, with the cooperation of the National Directorate of Security (NDS) and the Ministry of Interior (MOI), UNAMA/OHCHR began its programme of monitoring the treatment of persons deprived of liberty[11] for security- and terrorism-related offences in the custody of the Government of Afghanistan.[12] Since then, UNAMA/OHCHR has documented and reported on the prevalence of torture and other forms of cruel, inhuman and degrading treatment and punishment (hereinafter 'ill-treatment') of persons deprived of liberty for security- and terrorism-related offences throughout Afghanistan. The purpose of the programme is to support the Government's ongoing efforts in implementing its commitments to prohibit and prevent torture and ill-treatment, to undertake impartial, independent and credible investigations of alleged torture and ill-treatment, and to put in place appropriate means of redress for victims.[13]

This report is the sixth periodic report issued by UNAMA/OHCHR on the treatment of persons deprived of liberty for security- and terrorism-related offences.[14] While most previous reports covered a period of two years, this report covers a period of 15 months, from 1 January 2019 to 31 March 2020. The monitoring period covered by this report is shorter, because UNAMA/OHCHR had to suspend physical visits to places of detention due to the outbreak of COVID-19 pandemic in Afghanistan.

Since 2010, the Government of Afghanistan has constructively engaged with UNAMA/OHCHR, by facilitating its continued access to monitor places of detention. While disputing some of the findings of UNAMA/OHCHR reports on torture and ill-treatment of persons deprived of liberty for security- or terrorism-related offences, relevant government agencies continue engaging in a dialogue with UNAMA/OHCHR on relevant aspects of detention conditions and treatment of persons deprived of liberty.

In January 2020, the Government of Afghanistan established the Office of Prison Administration, a

[10] Security Council resolution 2453 (2020), operational paragraph 6(e).
[11] The term 'persons deprived of liberty' in this report refers to persons suspected, accused or convicted of a certain offence and who are in custody.
[12] Offences for which individuals are arrested, charged and convicted Offences related to the armed conflict are generally terrorist crimes, genocide, crimes against humanity, war crimes, crimes against the State, and certain crimes against internal and external security as provided in the Penal Code (*see* article 1 of Annex I to the Criminal Procedure Code).
[13] UNAMA/OHCHR uses the legal term "victims" without prejudice to other terms, such as "survivors", which may be preferable in specific contexts, see also Committee against Torture, General Comment No. 3: Implementation of article 14 by States parties (2012)(CAT/C/GC/3), para. 3.
[14] UNAMA/OHCHR issued the first public report addressing this topic in October 2011 and further reports have been published every second year since then. *Please see*: UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghan Custody* (October 2011); UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghan Custody: One Year On* (January 2013); UNAMA/OHCHR, *Update on the Treatment of Conflict-Related Detainees in Afghan Custody: Accountability and Implementation of Presidential Decree 129* (February 2015); UNAMA/OHCHR, *Treatment of Conflict-Related Detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture* (April 2017); UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghanistan: Preventing Torture and Ill-treatment under the Anti-Torture Law* (April 2019). All reports are available at: https://unama.unmissions.org/treatment-conflict-related-detainees-afghan-custody.

civilian body, as part of a broader prison reform.[15] The reform envisions to consolidate the management of all places of detention, currently run by several agencies, under this Office.[16] The full transfer of the management had not been completed at the time of reporting.

As of end of 2020, the Government of Afghanistan had not maintained, designated or established a national preventive mechanism as per its obligation under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which it acceded in April 2018. However, a number of bodies, such as the Afghanistan Independent Human Rights Commission, the Anti-Torture Committee of the Attorney General's Office and the Anti-Torture Commission (established under the 2018 Law on the Prohibition of Torture) are working for the elimination of torture and improvement of respect of the rights of detainees.

The discussion on the establishment of a national preventive mechanism meeting the criteria required under the Optional Protocol was on-going among institutions as of end of 2020.

[15] Decree of the President of Islamic Republic of Afghanistan concerning the fundamental changes to the deprivation of liberty centres, No. 106 (15 January 2020), para. 1.

[16] *Ibid.*, para. 2.

2. METHODOLOGY

UNAMA/OHCHR follows a preventive monitoring approach. Preventive visits to places of detention aim at identifying risk factors for torture and ill-treatment and systemic deficiencies which could lead to violations of human rights. UNAMA/OHCHR considers that consistent information collected through interviews is indicative of a pattern or trend. Further details on the methodology used are outlined below.

2.1 Detention monitoring visits

UNAMA/OHCHR visits places of detention run by the Government of Afghanistan and conducts confidential interviews with persons deprived of liberty. UNAMA/OHCHR visits ANP provincial and district lockups; NDS provincial lockups and NDS 241/041 (counter-terrorism department) and NDS 501/049 (investigation department) lockups; the Afghan National Detention Facility in Parwan (DFiP); provincial prisons and detention facilities; and juvenile rehabilitation centres (JRCs). While UNAMA/OHCHR strives to undertake detention visits in as many provinces as possible, security concerns and human resources constraints render visits to all provinces challenging. Security concerns in Kabul and other locations at the end of 2019 caused a reduced number of visits to places of detention. The outbreak of COVID-19 pandemic in March 2020 temporarily suspended visits in the country.

In line with Security Council resolution 2543 (2020) mandating UNAMA "…, to monitor places of detention, and the treatment of those deprived of their liberty, to promote accountability …"(OP 6(e)) and the focus established since 2009 was for UNAMA/OHCHR to interview individuals deprived of their liberty for security- or terrorism-related offences.[17] During its monitoring visits to detention facilities, UNAMA/OHCHR selects interviewees from the log or registration book. For the period covered by this report, UNAMA/OHCHR selected individuals arrested in 2019 or 2020 to collect the most recent information concerning the practices of law enforcement officials in places of detention.

The report looks only at government facilities and not those of the Taliban or other anti-government elements, due to lack of access.

2.2 Other methods of collecting information

In addition to visiting places of detention, UNAMA/OHCHR worked with, and cross-checked information with, members of the Afghanistan Independent Human Rights Commission, the judiciary, prosecutors, defence counsels, detention facility authorities, internal inspection mechanisms and relevant aid agencies. UNAMA/OHCHR also gathered and analyzed information from laws, other official documents and reports regarding conditions of detention and treatment of persons deprived of liberty.

[17] Crimes listed under the 2018 Penal Code, Book II, Part I, Chapter One (Crimes against internal and external security) and Chapter Two (Terrorism). Many of these crimes falls under Annex I of the Criminal Procedural Code which provides exceptional proceedings, including a prolonged initial investigative detention of 10 days without the prosecutor's authorization. However, Annex I does not cover all security- and terrorism-related offences, most notably that provided for under article 277 of the Penal Code (Establishing a terrorism organization, obtaining its membership and cooperating with it).

2.3. Interview safeguards and modalities

UNAMA/OHCHR's over-riding priority while undertaking interviews with persons deprived of liberty is to 'do no harm'. For that reason, and in accordance with standard practice, UNAMA/OHCHR kept the identities of individual interviewees confidential. UNAMA/OHCHR did not intervene with the authorities in individual cases due to the potential risk that those interviewees may face retribution if suspected of making allegations of torture or ill-treatment against detaining authorities.

UNAMA/OHCHR undertakes interviews in a confidential setting with each individual without the presence of government officials or other persons deprived of liberty. UNAMA/OHCHR undertakes an interview with a person deprived of liberty after explaining to the individual the aim, confidential and voluntary nature of the interview as well as UNAMA/OHCHR's mandate and after obtaining the individual's voluntary and informed consent to proceed. UNAMA/OHCHR human rights officers undertake interviews in the interviewee's native language (generally Pashto or Dari). UNAMA/OHCHR undertakes semi-structured interviews, allowing the interviewees to provide their own account of their experiences since the time of their arrest, while ensuring to cover key points, such as treatment in places of detention and implementation of procedural safeguards.

2.4. Standard of proof and statistics

Standard of proof

While all allegations of torture and ill-treatment should be investigated, UNAMA/OHCHR uses the threshold of "sufficiently credible and reliable" to determine whether an account provided by a person deprived of liberty should be included in its report. UNAMA/OHCHR weighs all available information to determine whether the information obtained regarding each allegation of torture and ill-treatment or breach of procedural safeguards is sufficiently credible and reliable to be used. Criteria of assessment include the level of detail and consistency of the information in each statement (internal credibility) and existence of similar allegations made by other interviewees regarding a particular place of detention and other contextual or corroborating information (external credibility).

UNAMA/OHCHR undertakes a credibility assessment of two specific parts of each account obtained through interviews. One concerns the credibility of the allegations of torture and ill-treatment, if an interviewee makes any. The other concerns the credibility of information regarding the implementation of procedural safeguards. Consequently, for example, when an interviewee's account was found sufficiently credible and reliable regarding procedural safeguards, but not regarding allegations of torture and ill-treatment, UNAMA/OHCHR included the interviewee's account in the statistics concerning the former, but not in those concerning the latter.

Statistics

UNAMA/OHCHR compiles two sets of statistics. The first set concerns information regarding interviewees, such as the location of their arrests and arresting authorities. The second set concerns the chain of custody that each interviewee had gone through and the treatment and the implementation of procedural safeguards at each place of detention. For example, an individual may have been arrested and detained by ANP at the district level and then transferred to NDS at the provincial level. In case the individual claimed in a sufficiently credible and reliable manner to have been ill-treated at both places of detention (district-level ANP and provincial-level NDS), the accounts of ill-treatment by the individual is counted twice – once for ANP and another for NDS.

Between 1 January 2019 and 31 March 2020, UNAMA/OHCHR interviewed 656 individuals in 63 detention facilities in 24 provinces. UNAMA/OHCHR recorded 1,458 instances of detention. As discussed above, in cases in which accounts were not considered sufficiently credible and reliable, they were not included in the relevant statistics.

As comparisons with the previous report concern percentages based on the number of instances of detention documented through interviews in the monitoring period rather than absolute numbers, UNAMA/OHCHR considers the information gathered from the 15-month monitoring period comparable to that of the 24-month monitoring periods of the previous reports. Notably, in terms of the number of interviewees, UNAMA/OHCHR interviewed more people in the 15-month period of 2019-2020 (656) than those interviewed in the 24-month period of 2017-2018 (618).

3. LEGAL FRAMEWORK PROHIBITING TORTURE AND ILL-TREATMENT IN AFGHANISTAN

3.1. Prohibition of torture

Several international treaties to which Afghanistan is a party prohibit torture and other cruel, inhuman or degrading treatment or punishment. These include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), supplemented by its Optional Protocol, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Geneva Conventions of 1949, and the Rome Statute of the International Criminal Court. The state obligation to respect the prohibition of such practices is non-derogable; hence the Government can never justify resort to their use or to fail to observe their prohibition, even in times of emergency.[18] (*See* Annex I for the summary of the prohibition of torture and ill-treatment under international law.)

Afghan law explicitly prohibits torture. The Constitution provides that "[n]o one shall be allowed to or order torture, even for discovering the truth from another individual who is under investigation, arrest, detention or has been convicted to be punished" (art. 29). The Constitution also provides that "[a]ny individual suffering damage without due cause from the administration shall deserve compensation and shall appeal to a court for acquisition" (art. 51).

The 2018 Penal Code criminalizes acts of torture, with a definition broadly in line with the elements provided under the Convention against Torture (art. 450). The Penal Code further criminalizes 'violence' by a public official against any person, including offensive, abusive or degrading treatment (art. 448). Similarly, the 2018 Law on the Prohibition of Torture prohibits acts of torture (art. 6) and provides that there can be no exception to this prohibition (art. 7).[19] Presidential Decree No. 129,[20] issued in 2013, reaffirms the constitutional prohibition of torture and specifically orders the MOI, NDS and the Office of the Attorney General "not to torture or mistreat any suspect or detainee during interrogation and detention".

3.2. Procedural safeguards against torture and ill-treatment

The Convention against Torture obligates the Government of Afghanistan not only to prohibit torture and ill-treatment, but also to adopt effective measures to prevent torture and ill-treatment.[21] The Committee against Torture has recommended that the Government of Afghanistan ensure both in law and in practice that all persons deprived of liberty are afforded all fundamental legal safeguards from the onset of the deprivation of liberty,

[18] Convention against Torture, art. 2(2); International Covenant on Civil and Political Rights, art. 4(2); *see also* Human Rights Committee, Communication No. 2657/2015, Lupiañez Mintegi v. Spain (2019) (concluding that torture cannot be justified under any circumstances, including threats of terrorism).4(2).

[19] The Committee against Torture has expressed concern about the lenient penalties for the crime of torture which ranges from 3 to 5 years' imprisonment under the Penal Code (art. 451). Committee against Torture, Concluding observation on the second periodic report of Afghanistan (2017)(CAT/C/AFG/C2), para. 23.

[20] Decree of the President of the Islamic Republic of Afghanistan to implement the Afghan fact-finding delegation's suggestions on the presence of torture and ill-treatment in detention centres, No. 129 (16 February 2013).

[21] Convention against Torture, art. 2; Committee against Torture, General comment No. 2, *supra*., paras. 8-14.

including ensuring their rights to be informed of the rights, to promptly receive independent legal assistance and independent medical assistance, and to contact relatives.[22] The Constitution of Afghanistan provides the right to a defence attorney and of confidential communication with such a lawyer, the right to be notified of the accusation upon the arrest, and the right to timely appear before a court (art. 31). The Law on the Prohibition of Torture also requires the Attorney General's Office, MOI, NDS and Ministry of Defence to adopt measures to prevent torture (art. 8). The Criminal Procedure Code and other relevant laws also guarantee most of the rights deemed as critical safeguards against torture and ill-treatment.[23]

Notably, despite the constitutional provision on the right to timely appear before a court (art. 31), the Criminal Procedure Code does not provide for judicial review of detention in the initial days after the arrest. Judicial review is not required until the 7th day of detention for misdemeanour crimes and the 15th day for felony crimes (art. 100). Annex 1 of the Criminal Procedure Code further extends the length of possible detention without judicial review to 40 days for misdemeanour crimes and 70 days for felony crimes for selected security- and terrorism-related crimes (art. 6).

Since January 2019, UNAMA/OHCHR has been collecting information regarding the implementation of such safeguards more systematically. (*See* section 5 below, for a more detailed discussion of the legal framework applicable to each key safeguard, along with the findings regarding their implementation).

3.3. Responses to allegations of torture

The Convention against Torture, to which Afghanistan is a State party, provides that "[e]ach State Party shall ensure that its competent authorities proceed to a *prompt and impartial* investigation, wherever there is a reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction" (art. 12, emphasis added).

When personnel of the Afghan National Defense and Security Forces, including ANP and NDS, are suspected of having committed a crime, the Military Criminal Procedure Code (MCPC), rather than the regular Criminal Procedure Code, applies (MCPC, art. 3). Under the MCPC, the commander who is informed about an alleged criminal conduct committed by personnel under their command must conduct an initial investigation as to the facts and circumstances of the alleged crime (art. 18 (3)). If there are reasons to believe that the alleged act is a crime, the commander must refer the case to the relevant prosecution department (Ibid.). Once the suspect is transferred into the custody of the prosecutor's office and the latter receives relevant documents from the commander, the prosecutor undertakes further investigation, including the questioning of the suspect within 72 hours (MCPC, art. 21). The MCPC is silent on the prosecutor's authority to undertake investigation based on its own initiative.

[22] Committee against Torture, Concluding observation on the second periodic report of Afghanistan, *supra*., (2017)(CAT/C/AFG/C2), para. 26; Committee against Torture, General comment No. 2, *supra*., paras. 13 and 14.

[23] Criminal Procedure Code (2014), arts 7 and 8; Military Criminal Procedure Code (2010), arts 13, 14, and 21; Police Law (2009), art. 15(4); and Law on the Advocates (2007), art. 10. The rights guaranteed to the suspects and accused persons under article 7 of the 2014 Criminal Procedure Code are as follows: (1) to be informed of the charge and accusation, (2) to be free from arbitrary arrest or detention and compensation for such treatment, (3) to be free from torture and ill-treatment, (4) to have the family informed of the arrest, (5) to freely give statements, (6) to provide evidence and witness, (7) to remain silent, (8) to assign a defense lawyer or have a legal aid provider, (9) to comment on seized items and evidence, (10) to have an interpreter, (11) to access to materials contained in the case file and to prepare defense, (12) to object the criminal proceedings, (13) to a judicial review of detention (habeas corpus), (14) to have free and confidential communication with legal counsel, (15) to be prosecuted without delay, (16) to a public trial, (17) to be present at trial, (18) to make closing statements at the court, (19) to examine witnesses, and (20) to object to the judge, prosecutor, defense counsel and experts. Criminal Procedure Code (2014), arts 7 and 8; Military Criminal Procedure Code (2010), arts 13, 14, and 21; Police Law (2009), art. 15(4); and Law on the Advocates (2007), art. 10.

The regular Criminal Procedure Code provides that, if the prosecutor during an investigation discovers that the police and national security operatives have committed violations of the law in dealing with a case, the prosecutor shall report the matter to the concerned competent authority according to the circumstances (art. 91).

The current framework under the Criminal Procedure Code and the MCPC, requiring the commander in charge of the officials suspected of having committed torture to undertake the initial fact-finding, does not seem to allow for an impartial investigation. As seen, article 91 of the Criminal Procedure Code requires the prosecutor only to report to the concerned competent authority and does not require any prompt investigation based on his or her own initiative.

3.4. Redress for victims of torture and ill-treatment

Article 51 of the Constitution of Afghanistan provides that "[a]ny individual suffering damage without due cause from the administration shall deserve compensation and shall appeal to a court for acquisition." The Law on the Prohibition of Torture includes a chapter on redress, specifically for victims of torture, and provides that the victim's claim for compensation is not dependent on the conclusion of a criminal proceeding.[24]

Nevertheless, the Law on the Prohibition of Torture appears to require a high burden of proof ("beyond reasonable doubt") for compensation to be assigned. This requirement is linked with a provision on the reversal of the burden of proof in narrow circumstances, placing this burden on those alleging having being tortured unless signs of torture can be observed on the body.[25] According to international standards, evidential burdens and undue procedural requirements may represent obstacles to an effective implementation of the right to redress.[26]

[24] Law on the Prohibition of Anti-Torture Law (2018), art. 20; Committee against Torture, General Comment No. 3: Implementation of article 14 by States parties (2012)(CAT/C/GC/3), para. 26.

[25] Law on the Prohibition of Anti-Torture Law (2018), art. 22 and 23.

[26] Committee against Torture, General Comment No. 3, *supra.*, para. 38.

4. FINDINGS ON TORTURE AND ILL-TREATMENT

The findings presented in this report are based on interviews UNAMA/OHCHR conducted with 656 persons deprived of liberty for security- or terrorism-related offences, including 565 men, 6 women, 82 boys and 3 girls, held in 63 facilities in 24 provinces across Afghanistan between 1 January 2019 and 31 March 2020. Many of these persons had been held and questioned in multiple locations before being interviewed by UNAMA/OHCHR. As a result, UNAMA/OHCHR recorded 1,458 instances of detention over the 15 month-monitoring period. Out of 1,458 instances of detention, the interviewees could identify their detaining authorities as the Government of Afghanistan in 1,400 instances of detention (ANP for 335 instances; Afghan Local Police for 17 instances; NDS for 725 instances; NDS Special Forces for 45 instances; Afghan National Army (ANA) for 69 instances; provincial prisons for 155 instances and JRCs for 54 instances); "national uprising movement"[27] for 9 instances of detention; United States Forces in Afghanistan for 8 instances of detention. As to the remaining 41 instances, the interviewees could not identify the detaining authorities.

4.1. Overall findings

During the monitoring period covered by this report, UNAMA/OHCHR found that 30.3 per cent of the interviewees (199 out of 656 persons) gave credible and reliable accounts of having experienced torture and ill-treatment in the custody of the Government of Afghanistan. This overall figure is a slight reduction from 31.9 per cent (197 out of 618 persons) recorded in the previous UNAMA/OHCHR public report covering the period between 1 January 2017 and 31 December 2018.

Fifty (50) of the 199 persons reported that they had experienced torture and ill-treatment in more than one facility. Of the 1,400 instances of detention attributed to the Government of Afghanistan, in 256 instances of detention (18 per cent) detainees gave credible and reliable accounts of having experienced torture and ill-treatment.

The section below provides a detailed overview of UNAMA/OHCHR findings on the treatment of persons deprived of liberty for each detaining authority as identified by the interviewees.

4.2. Afghan National Police

UNAMA/OHCHR documented 335 instances of detention of persons deprived of liberty for security- or terrorism-related offences in ANP custody in district and/or provincial facilities between 1 January 2019 and 31 March 2020. In 92 of these instances of detention (**27.5 per cent**), detainees gave sufficiently credible and reliable accounts of having experienced torture or other forms of ill-treatment. Compared to the 2017-2018 monitoring period, when UNAMA/OHCHR documented 31.2 per cent (54 out of 179) allegations of torture and ill-treatment among the detainees, there was a decrease in the percentage of allegations of torture and ill-

[27] "[An] armed non-State actor engaged in conflict and distinct from Government Forces, rebels and criminal groups... These armed groups have no legal basis under the laws of Afghanistan. Armed groups have the potential to employ arms in the use of force to achieve political, ideological or economic objectives; are not within the formal military structures of States, State-alliances or intergovernmental organizations; and are not under the control of the State(s) in which they operate. In some cases, armed groups receive direct/indirect support of the host Government or other States." UNAMA/OHCHR, *Afghanistan: Annual Report 2014 Protection of Civilian in Armed Conflicts* (February 2015), footnote 197, *available at* https://UNAMA/OHCHR.unmissions.org/sites/default/files/2014-annual-report-on-protection-of-civilians-final.pdf.

treatment in instances of detention in ANP custody recorded by UNAMA/OHCHR nationwide.

Among those provinces where UNAMA/OHCHR recorded more than 10 instances of detention in the monitoring period, **Kandahar ANP** continues to have, as in all previous monitoring periods,[28] an extremely high percentage of instances of detention where allegation of torture and ill-treatment were credible and reliable (41 out of 71, **57.7 per cent**). While the percentage decreased compared to what was reported in the 2017-2018 monitoring period (77 per cent), the alleged practices at Kandahar ANP remain of serious concern.

In addition, **Herat** (11 out of 30, 36.7 per cent), **Samangan** (4 out of 11, 36.4 per cent) and **Paktika** (11 out of 36, 30.6 per cent) also had higher percentages than the national average. UNAMA/OHCHR's limited access to certain provinces has had an impact on the numbers of interviews and allegations recorded in each province; however, particularly in three provinces of Herat, Kandahar, and Samangan, UNAMA/OHCHR recorded high percentages of allegations of torture and ill-treatment both in ANP and NDS custodies (*see* section 4.3, below, for NDS).

Table 4.1. ANP: Sufficiently credible and reliable allegations of torture and ill-treatment

ANP provincial and district facilities (combined)	# of documented instances of detention	# of instances where torture and ill-treatment were credibly and reliably alleged	% of instances where torture and ill-treatment were credibly and reliably alleged
Eastern region			
Nangarhar	23	2	8.7
Northern region			
Faryab	10	2	20
Samangan	11	4	36.4
North-eastern region			
Badakhshan	43	4	9.3
Baghlan	26	5	19.2
Kunduz	13	0	0
Southern region			
Kandahar	71	41	57.7
South-eastern region			
Paktika	36	11	30.6
Western region			
Herat	30	11	36.7
Nationwide total	335	92	27%

[28] UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghan Custody* (October 2011), at 36-37; UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghan Custody: One Year On* (January 2013), at 49-53; UNAMA/OHCHR, *Update on the Treatment of Conflict-Related Detainees in Afghan Custody: Accountability and Implementation of Presidential Decree 129* (February 2015), at 54-60; UNAMA/OHCHR, *Treatment of Conflict-Related Detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture* (April 2017), at 32-34; UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghanistan: Preventing Torture and Ill-treatment under the Anti-Torture Law* (April 2019), at 17.

* The table shows only provinces where UNAMA/OHCHR recorded more than 10 instances of detention between 1 January 2019 and 31 March 2020. Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

Box 1: Enforced Disappearances in Kandahar

UNAMA/OHCHR followed up on 34 allegations of enforced disappearances[29] received in 2017-2018[30], and three allegations collected in 2019-2020.

For eight cases among those received in 2017-2018 and the three collected in 2019-2020, the individuals remain unaccounted for at the time of reporting. Ten of them had been arrested in or near Kandahar city, Kandahar province: seven by ANP, one by NDS 03 and two by unidentified actors. One was arrested by Ghazni ANP in Ghazni city, Ghazni province, and the family was informed that he had been transported to Kandahar upon a request from Kandahar ANP.

Of the 11, 1 went missing in 2014, 2 in 2015, 3 in 2016, 4 in 2017 and 1 in 2019. Efforts by their families to seek information regarding the fate and whereabouts of their loved ones have so far proven unsuccessful.

UNAMA/OHCHR advocated with local and central authorities to conduct investigations to determine the fate and whereabouts of those who had disappeared; to inform their families on the results of the investigations; and to hold those responsible accountable.

UNAMA/OHCHR also transmitted the information on the 11 cases to the United Nations Working Group on Enforced or Involuntary Disappearances.

Afghan Local Police

The Afghan Local Police (ALP) are locally recruited and operate under the authority of the MOI. Between 1 January 2019 and 31 March 2020, UNAMA/OHCHR recorded 17 instances of detention of persons deprived of liberty for security- or terrorism-related offences by the ALP although the ALP are to hand them to ANP or NDS. With regard to 8 instances of detention recorded by UNAMA/OHCHR (47 per cent), detainees gave credible and reliable reports of having been subjected to torture and ill-treatment, reporting beating as the main technique. These incidents took places in six

[29] International human rights law defines "enforced disappearances" 'as "that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law" (Declaration on the Protection of all Persons from Enforced Disappearances (1992), preamble.) See also Rome Statute for the International Criminal Court, art. 7(2)(i). The United Nations Working Group on Enforced Disappearance has affirmed that an enforced disappearance constitutes torture or other prohibited ill-treatment in and of itself, stating that "the very fact of being detained as a disappeared person, isolated from one's family for a long period is certainly a violation of right to humane conditions of detention and has been represented to the Group as torture". UN Economic and Social Council, Report of Working Group on Enforced or Involuntary Disappearances (1983) (E/CN.4/1983/14), para. 131. Afghanistan has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance. The 2018 Penal Code criminalizes enforced disappearances as a constituting element of crime against humanity (art. 335), but not as an independent offence.

[30] UNAMA/OHCHR, *Treatment of Conflict-Related Detainees in Afghanistan: Preventing Torture and Ill-treatment under the Anti-Torture Law* (April 2019), at 17.

provinces: Badakhshan, Balkh, Kandahar, Nangarhar, Paktika and Paktya.

The sample of those interviewed who gave credible reports of torture and ill-treatment was geographically too widely dispersed to identify any patterns of treatment of persons detained by ALP in any particular location. However, the high percentage of persons detained by ALP who provided credible and reliable accounts of torture and ill-treatment nationwide indicates the need for close monitoring of the handling of detainees by ALP and training for them to better comply with the Afghan law and international human rights standards.[31]

4.3. National Directorate of Security

UNAMA/OHCHR documented 725 instances of detention of persons deprived of liberty for security- or terrorism-related offences in NDS custody in district and/or provincial facilities. In 116 of these instances of detention (**16 per cent**) recorded by UNAMA/OHCHR,), the interviewees gave sufficiently credible and reliable accounts of having experienced torture and other forms of ill-treatment. Compared to the 2017-2018 monitoring period when UNAMA/OHCHR documented 25.1 per cent (128 out of 510), there was a decrease in the percentage of allegations of torture in NDS custody nationwide. UNAMA/OHCHR welcomes the continuing decline of the percentage of allegations of torture and ill-treatment in NDS custody.

At the provincial level, the highest percentages of allegations of torture and ill-treatment of individuals while in NDS custody were made in relation to **Ghor** (9 out of 12, 75 per cent); **Helmand** (4 out of 12, 33 per cent); **Herat** (11 out of 37, 30 per cent); **Samangan** (7 out of 29, 24 per cent); **Kandahar** (11 out of 47, 23 per cent); and **Kabul NDS 241** (7 out of 34, 20.6 per cent). The high percentages of torture and ill-treatment attributable to NDS from these provinces raise serious concerns.

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Table 4.2. NDS: Sufficiently credible and reliable allegations of torture and ill-treatment

NDS provincial and district facilities (combined)	# of documented instances of detention	# of instances where torture and ill-treatment were credibly and reliably alleged	% of instances where torture and ill-treatment were credibly and reliably alleged
Central region			
Kabul	20	2	10
Parwan	13	2	15.4
Kabul 241	34	7	20.6

[31] As of September 2020, the Afghan Local Police was formally abolished, with most of its members either transferred to the Afghan National Army - Territorial Force, Afghan National Police, or disarmed.

Kabul 501	45	0	0
DFiP 241	33	1	3
DFiP 501	18	1	5.6
Eastern region			
Kunar	28	4	14.3
Laghman	25	5	20
Nangarhar	53	5	9.4
Northern region			
Balkh	42	7	16.7
Faryab	15	1	6.7
Samangan	29	7	24.1
North-eastern region			
Badakhshan	43	2	4.7
Baghlan	34	6	17.6
Kunduz	40	9	22.5
Takhar	14	1	7.1
Southern region			
Helmand	12	4	33.3
Kandahar	47	11	23.4
South-eastern region			
Khost	38	6	15.8
Paktika	25	3	12
Paktya	33	5	15.2
Western region			
Herat	37	11	29.7
Ghor	12	9	75
Nationwide total	725	116	16 %

* The table shows only provinces where UNAMA/OHCHR recorded more than 10 instances of detention between 1 January 2019 and 31 March 2020. Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan

NDS Special Forces and Khost Protection Force

According to information received from NDS, none of the NDS operational and special units have detention facilities of their own. Upon arrest, NDS special units are to refer persons suspected of having committed crimes to NDS lockups in Kabul or the provincial capitals for initial investigation.

Nevertheless, UNAMA/OHCHR recorded 33 instances of detention by different NDS Special Forces; NDS 01 (7 instances), NDS 755 (2 instances), NDS 04 in Kunar (3 instances), NDS 02 in Nangarhar (2 instances), unknown unit in Balkh (2 instances), NDS 09 in Kunduz (1 instance), NDS 03 in Kandahar (13 instances), NDS 906 in Kandahar (1 instance) and unknown unit in Helmand (2 instances). In addition, UNAMA/OHCHR recorded 12 instances by the Khost Protection Force. In 19 of these instances of detention, the detainees gave credible and reliable accounts of torture and ill-treatment by operatives of NDS Special Forces and Khost Protection Force.

UNAMA/OHCHR recorded 13 instances of detention by NDS 03 in Kandahar: in 9 of these instances of detention the detainees credibly and reliably alleged torture (69 per cent). While the number of

instances of detention is lower compared to that in the 2017-2018 period (45), the percentage of allegations is higher (37.7 per cent in the previous period).

UNAMA/OHCHR also recorded 12 instances of detention by the Khost Protection Force; for one of 12 instances, torture was credibly and reliably alleged by the detainee.

4.4. Afghan National Army

UNAMA/OHCHR recorded 59 instances of detention of persons deprived of liberty for security- or terrorism-related offences by the Afghan National Army (ANA) before persons deprived of their liberty were transferred to NDS or ANP. In 14 instances of detention (23.7 per cent) recorded by UNAMA/OHCHR, the detainees gave credible and reliable reports of having been subjected to torture and ill-treatment. These incidents took place in 10 provinces, committed by ANA personnel; Kapisa (1 instance), Logar (1 instance), Balkh (1 instance), Faryab (2 instances), Kunduz (2 instances), Nimroz (2 instances), Ghazni (1 instance), Khost (1 instance), Paktya (1 instance), and Herat (2 instances).

While UNAMA/OHCHR is concerned about the high percentage of persons held by ANA who provided credible and reliable accounts of torture and ill-treatment, the sample was also geographically too widely dispersed to identify any patterns of treatment of detainees by this group in any particular location.

Afghan National Detention Facility in Parwan

The Afghan National Detention Facility in Parwan (DFiP) is a detention compound located in Bagram, Parwan province. The facility is managed by the Ministry of Defence, under the command of an ANA Major General and staffed by ANA Military Police guards. It is co-located with a separately administered NDS detention facility, which houses the lockup of NDS 241/041 (counter-terrorism department) and the detention facility of NDS 501/049 (investigation department).

During the monitoring period, UNAMA/OHCHR recorded 10 instances of detention of persons deprived of liberty for security- or terrorism-related offences in the ANA-run prison at DFiP. With regard to one out of these instances of detention recorded by UNAMA/OHCHR, the detainee credibly and reliably alleged torture and ill-treatment by ANA personnel.

UNAMA/OHCHR welcomes the suspension by ANA of the use of solitary confinement as the sole disciplinary measure in DFiP since the release of the UNAMA/OHCHR 2019 report. At the same time, UNAMA/OHCHR observed and remains concerned that some prisoners with psycho-social disabilities in the ANA prison of DFiP remain in solitary confinement without adequate psychological or medical care, which may further constitute a violation of the obligations under the Convention on the Rights of Persons with Disabilities, to which Afghanistan is a State party since 2012.[32]

UNAMA/OHCHR also notes with concern that, unlike other provincial prisons, DFiP remains without any rehabilitative or educational programme for prisoners to prepare them for post-release re-entry to the society, including training vocational skills, which may increase the likelihood that released

[32] *See* Human Rights Council, Rights of Persons with Disabilities: Report of the Special Rapporteur on the rights of persons with disabilities (2019)(A/HRC/40/54) which focuses on disabilities and persons deprived of liberty.

prisoners do not re-join armed groups or engage in criminal activities.

In terms of access by lawyers, UNAMA/OHCHR noted that their access to the NDS facilities in DFiP is limited only to two days a week. Lawyers can access the ANA facility in DFiP every day; however, they have to have an official letter from the Afghan Independent Bar Association to the DFiP authorities requesting a meeting with their clients. Such limitations have made it difficult for lawyers to have adequate time with their clients, especially considering the time required to travel between Kabul and the facility, and back. UNAMA/OHCHR also observed that the facility still lacked rooms where lawyers could meet with their clients in private.

4.5. Office of Prison Administration

In light of the prison reform launched in January 2020, provincial prisons and JRCs have been placed under the management of the Office of Prison Administration. UNAMA/OHCHR undertook most of the interviews in prisons and JRCs before the transfer occurred, due to the outbreak of the COVID-19 pandemic, so the below findings refer to the conditions under the previous management (Provincial prisons were under the Ministry of Interior and the JRCs were under the Ministry of Justice.)

UNAMA/OHCHR recorded 155 instances of detention of persons deprived of liberty for security- or terrorism-related offences in provincial prisons, mostly in the detention facilities of provincial prisons. With regard to five of these instances of detention, the interviewees credibly and reliably alleged torture and ill-treatment. These five instances of detention concern four provinces: Kapisa (1 instance), Parwan (1 instance), Baghlan (2 instances), and Kandahar (1 instance).

UNAMA/OHCHR recorded 54 instances of detention in JRCs; Kabul (25 instances), Logar (1 instance), Laghman (2 instances), Nangarhar (9 instances), Samangan (2 instances), Badakhshan (3 instances), Baghlan (1 instance), Kunduz (3 instances), Kandahar (1 instance), Uruzgan (1 instance), Ghazni (2 instances), Khost (2 instances) and Herat (2 instances). With regard to 1 instance of detention in Laghman JRC, a child credibly and reliably alleged torture and ill-treatment in a JRC.

4.6. Children deprived of liberty

UNAMA/OHCHR interviewed 85 children deprived of liberty for security- or terrorism-related offences, including 82 boys and 3 girls.[33] Children interviewed identified themselves as between 10 and 18 years old. Children go through multiple places of detention, until they reach the provincial JRC or Kabul JRC. UNAMA/OHCHR recorded 241 instances of detention of children from the 85 interviewees.

As was the case in the 2017-2018 monitoring period, children remain at a higher risk to be subjected to torture and ill-treatment appears to continue in NDS custody.

Concerning 53 instances of detention of children in ANP custody, UNAMA/OHCHR recorded 13 instances of detention where children credibly and reliably alleged torture and ill-treatment (24.5 per cent). The percentage of credible and reliable allegations by children in ANP custody was lower than the percentage recorded for all instances of detention in ANP recorded by UNAMA/OHCHR (27.5 per cent, see above section 4.2).

Among 94 instances of detention of children in NDS custody, interviewees provided sufficiently credible

[33] The 2005 Juvenile Code defines a child as "a person who has not completed the age of 18" (art. 4(1)) and provides the minimum age for criminal liability as 13 (art. 5).

and reliable allegations of torture and ill-treatment concerning 23 instances of detention (24.5 per cent). This percentage in NDS custody was higher than the percentage recorded for all instances of detention in NDS recorded (16 per cent, see section 4.4 above).

As indicated by the number of instances of detention in NDS (94, of which 21 in NDS 501 in Kabul) and ANP (53), children are held in places other than JRCs. The Law on Management of Deprivation of Liberty Centres (2020) provides that JRCs should be the facilities where children suspected, accused or sentenced to confinement are to be held (art. 3 (5)).[34]

Table 4.3. Children: Sufficiently credible and reliable allegations of torture and ill-treatment

Agencies	# of documented instances of detention	# of instances where torture and ill-treatment were credibly and reliably alleged	% of instances where torture and ill-treatment were alleged
ANP	53	13	24.5
ALP	8	4	50
NDS, NDS 241, 501, DFiP NDS 241, 501	94	23	245
NDS SF (01, KPF)	4	1	25
ANA	6	2	33.3
OPA	14	0	0
JRC	53	1	1.9
Unknown/others	9	4	44.4
Nationwide total	241	48	19.9 %

* The table shows only provinces where UNAMA/OHCHR recorded more than 10 instances of detention between 1 January 2019 and 31 March 2020.

4.7. Methods of torture and ill-treatment

Based on sufficiently credible and reliable allegations on methods of torture and ill-treatment employed by Afghan Government personnel, as gathered through its interviews, UNAMA/OHCHR divided such methods into three categories: (1) physical methods (such as beating or kicking) that are likely to leave visible marks on the body of the victim at the time of their employment; (2) physical methods (such as suffocation) less likely to leave visible marks on the body of the victim at the time of their employment; and (3) non-physical methods (such as psychological or verbal abuse). (For the complete list of methods recorded for each category, see table 4.4.)

[34] The 2005 Juvenile Code, art. 20 (4).

UNAMA/OHCHR recorded that methods likely to leave visible marks on a victim at the time of commission were common when in the custody of both ANP and NDS. The most common method in ANP custody was beating, and in NDS custody, it was slapping.

In terms of physical methods less likely to leave visible marks on the victim, UNAMA/OHCHR recorded 8 instances of detention where detainees were forced to drink liquids (such as forcing the victim's mouth open and pouring water into it and pushing the victim's head into a bucket full of water) and 13 instances of suffocation in ANP custody. UNAMA/OHCHR also recorded 10 or more instances of administration of electric shocks and where detainees were forced into stress positions in both NDS and ANP custody.

In both NDS and ANP custody, blindfolding or hooding during the questioning, or for the whole period of detention, was credibly and reliably alleged in more than 20 instances. (See Box 2 below on the legal analysis of the practice of blindfolding and hooding.) Notably, from UNAMA/OHCHR's 656 interviewees, 98 credibly and reliably alleged that they were blindfolded at the time of arrest. Of these 98 interviewees, 66 had been arrested by NDS, NDS Special Forces and Khost Protection Force; 17 by ANP; 7 by ALP; 3 by ANA; 1 by joint Afghan Security Forces; 1 by international forces; and 3 by actors unknown to the interviewees.

With regard to non-physical methods, UNAMA/OHCHR recorded a very high number of instances where persons deprived of liberty were subjected to threats (such as threats of violence to female family members of the detainee or of a long prison sentence), in both NDS (51) and ANP (29) custody.

Table 4.4. Methods of torture and ill-treatment

	NDS	ANP
Methods that are likely to leave visible marks		
Beating (combined instances of beating of different parts of body, including feet)	27	48
Beating with pipe/cable	17	27
Inserting needles	0	2
Physical methods less likely to leave visible marks	29	33
Shackling	3	4
Slapping	32	9
Suspension/hanging	1	4
Blindfolding (combined with hooding) during questioning or whole time	20	23
Forced to drink liquids (combined with water boarding/pouring water)	3	8
Electric shock	13	10
Handcuffing during questioning or whole time	16	16
Pulling hair	6	4
Sexual assault (combined with beating sexual organ; pulling of sexual organ)	4	4
Sleep deprivation	6	1
Stress position	18	11

Suffocation (combined with choking)	4	13
Non-physical methods		
Insult/humiliation	11	14
Threats	51	29
Threats of sexual abuse	4	4

Box 2: Hooding and blindfolding as methods of torture and ill-treatment

Hooding involves covering a person's head completely with a bag or a sack. Blindfolding is the practice of covering a person's eyes with a tied piece of material or painted goggles.

Hooding and blindfolding have physical and psychological impacts on the person subjected to the practice. Hooding deprives individuals of normal vision, as well as hearing, respiration and the sense of smell. Such impairments can lead to a loss of balance and coordination. Pre-existing medical conditions and psychological disorders may also exacerbate impaired respiration during hooding and blindfolding. Sensory deprivation during these practices can also cause psychological effects, including fear, anxiety, high levels of stress, disorientation, and a sense of powerlessness.[35]

Hooding and blindfolding can also have consequences for legal proceedings. In jurisdictions requiring positive visual identification of an alleged perpetrator, such practices render the victim unable to identify the person who inflicted torture and ill-treatment upon them, which makes the prosecution of torture virtually impossible.[36]

Hooding and blindfolding as a method of torture and ill-treatment

The Committee against Torture has found that questioning applying "hooding under special conditions" constitutes torture.[37] The Committee noted that "[t]he conclusion is particularly evident" where hooding is used in combination with other coercive methods of questioning.[38]

Indeed, sensory deprivation has been considered as a method of torture and ill-treatment. For example, the United Nations Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) lists "deprivation of normal

[35] International Forensic Expert Group, "Statement on Hooding", *Torture Journal*, vol. 21, issue no. 3 (2011), p. 188, *available at* https://irct.org/publications/torture-journal/115.
[36] Committee against Torture, Concluding observation: the Philippines (2016)(CAT/C/PHL/CO/3), paras 19-20;
Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, *General Recommendations of the Special Rapporteur on torture* (2003)(E/CN.4/2003/68), para. 26 (g).
[37] Committee against Torture, CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTssION – Special report of Israel (1997)(CAT/C/SR.297/Add.1), paras 5 and 8(1).
[38] Committee against Torture, Special report of Israel, *Ibid*., para. 5. In its detention monitoring, UNAMA/OHCHR documented that most cases of hooding and blindfolding during the questioning are accompanied by other methods of torture and ill-treatment.

sensory stimulation, such as sound, light or sense of time" as a torture method.[39] The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment also expressly provides that the term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to … include "the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time."[40] The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (UN Special Rapporteur on Torture) has stated that psychological torture can occur through an accumulation of sensory deprivation measures, which include blindfolding and hooding.[41]

Calls for explicit prohibition of hooding and blindfolding

Various international human rights mechanisms have recommended that States explicitly prohibit the practice of hooding and blindfolding. As part of its review of reports submitted by States Parties to the International Covenant on Civil and Political Rights, the Human Rights Committee in 2006 stated that sensory deprivation and hooding contravene the prohibition against torture and ill-treatment. The Committee then stated that questioning techniques should conform to this prohibition. The UN Special Rapporteur on Torture had already previously noted that hooding and blindfolding should be prohibited.

[39] UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (2004), para. 145 (n), *available at* https://www.un.org/ruleoflaw/files/training8Rev1en.pdf.
[40] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, general clause 1.
[41] Human Rights Council, *Torture and other cruel, inhuman and degrading treatment or punishment: Report of the Special Rapporteur on torture* (2020)(A/HRC/43/49), para. 54.

5. PROCEDURAL SAFEGUARDS TO PREVENT TORTURE AND ILL-TREATMENT

The Convention against Torture obligates the Government of Afghanistan not only to prohibit torture and ill-treatment, but also to adopt effective measures to prevent torture and ill-treatment.[42] The Committee against Torture has recommended that the Government of Afghanistan ensure both in law and in practice that all detainees are afforded all fundamental legal safeguards from the onset of the deprivation of liberty, including ensuring the rights of detainees to be informed of their rights, to promptly receive independent legal assistance and independent medical assistance, and to contact relatives.[43] As to Afghan law, the Law on the Prohibition of Anti-Torture Law also requires the Attorney General's Office, MOI, NDS and the Ministry of Defence to adopt measures to prevent torture (art. 8). More significantly, the Afghan Constitution, Criminal Procedure Code and other relevant laws guarantee most of the rights deemed as critical safeguards against torture and ill-treatment, as summarized in the sections below.

Since January 2019, UNAMA/OHCHR has been collecting information regarding the implementation of such safeguards more systematically. Below is an overview of findings concerning how several safeguards critical for torture prevention of torture and ill-treatment have been implemented in relation to persons deprived of liberty for security- and terrorism-related charges interviewed by UNAMA/OHCHR.

5.1. Information about rights

International standards provide that arresting officers should promptly inform a detainee about his or her rights in a language the individual understands.[44] The right to be informed of one's own rights is among the critical guarantees to prevent torture and ill-treatment.[45]

The Criminal Procedure Code requires that "[t]he police at the time of arrest, the prosecutor prior to commencing the investigation and the judge before starting the trial, are obligated to inform the suspect and accused person and their legal representatives of the rights set forth in article 7 of this law,[46] and to put them in the registry and to take his [sic] signature and fingerprints" (art. 8).

UNAMA/OHCHR recorded only rare instances of detention out of 1,458 instances of detention documented in the monitoring period in which the detainees were informed of their rights prior to their questioning.

Among 335 instances of detention in ANP custody, UNAMA/OHCHR recorded only 2 instances of detention where the detainees were informed of their rights prior to their questioning (**0.6 per cent**). The overall average of detainees informed of their rights at some point during their detention is also very low, at 5 per cent (18 out of 335). Exceptionally, in

[42] Convention against Torture, art. 2; Committee against Torture, General comment No. 2, *supra*., paras. 8-14.
[43] Committee against Torture, concluding observation on the second periodic report of Afghanistan, *supra*., para. 26; Committee against Torture, General comment No. 2, *supra.*, paras. 13 and 14.
[44] Human Rights Committee, General comment No. 35 (2014) on article 9 (liberty and security of person), para. 58; United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)(A/RES/43/279), principles 13–14; United Nations Standard Minimum Rules for the Treatment of Prisoners ('the Nelson Mandela Rules')(2015)(A/RES/70/175), rules 53-55; United Nations Rules for the Protection of Juveniles Deprived of their Liberty ('Beijing Rules')(1990)(A/RES/45/113), paras. 24–25.
[45] Committee against Torture, General comment No. 2, *supra*., para. 13.
[46] *See* footnote 23 above.

Badakhshan ANP, in 10 out of 18 instances of detention, the detainees received the information about their rights at one point of their period in detention.

In NDS custody, the number of instances of detention in which the detainees were informed of their rights prior to their questioning is similarly low (19 out of 725, **2.6 per cent**). Nationwide, in 12.9 per cent of instances of detention (92 out of 725), the detainees were informed of their rights at some point during their detention in NDS custody. At the provincial level, **Parwan** NDS had the highest percentage with approximately 46 per cent of instances of detention where the detainees were informed of their rights (6 out of 13), followed by **Takhar** (5 out of 14, 35.7 per cent) and **Samangan** (7 out of 29, 34.5 per cent).

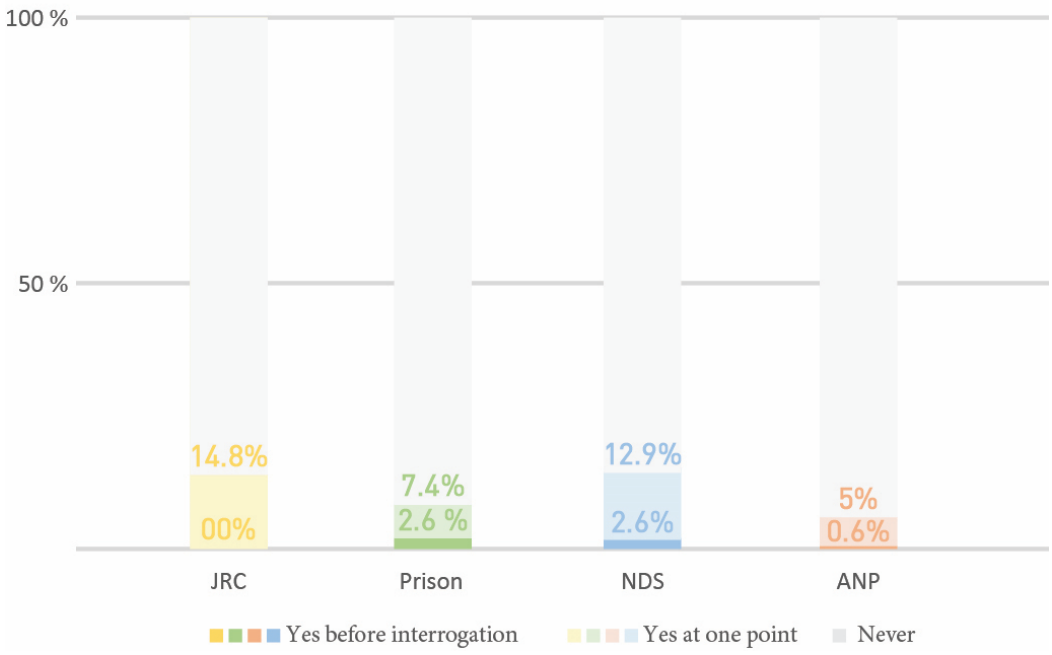
In provincial prisons, in 4 out of 155 instances of detention, the detainees were informed of their rights before the questioning (**2.6 per cent**) and informed of their rights at one point of their detention in 24 instances of detention (7.4 per cent).

In JRCs, in **none** of the 54 instances of detention, was the child detainees informed of their rights prior to the questioning. In 8 out of 54 instances of detention in JRCs, the child detainees were informed of their rights at one point during their detention (14.8 per cent).

UNAMA/OHCHR notes that by the time detainees, including children, are transferred to detention facilities in prisons or JRCs, their case files are with the Office of the Attorney General. At that point, it is the prosecutors' responsibility to inform the suspects and the accused persons of their rights under article 7 of the Criminal Procedure Code before starting the investigation.[47]

Moreover, based on accounts provided by UNAMA/OHCHR's interviewees, it emerged that, generally, information provided by officials to detainees about their rights is not comprehensive enough. Such information often does not cover all rights under article 8 of the Criminal Procedure Code on the rights of the suspects and the accused and without details as to how to effectively exercise such rights. Persons deprived of liberty were most often informed about their right to obtain a lawyer, but not necessarily, for example, the right to remain silent. Even when they are informed about their right to have a lawyer, they may not be informed about how to access, and obtain, one.

Table 5.1: Information about the rights



[47] Criminal Procedure Code (2014), art. 8.

5.2. Access to lawyers

The right to access legal counsel applies to anyone who is arrested or detained. It is a significant safeguard against torture and ill-treatment and other human rights violations while in custody of law enforcement agencies. Under the International Covenant on Civil and Political Rights, the right to be assisted by legal counsel is specifically established as an essential fair trial guarantee in criminal justice.[48] With regard to pre-trial detention, the right to a fair trial is considered to require that detained persons are given access to legal counsel during all stages of criminal proceedings, including the initial stages of police questioning.[49]

The Constitution of Afghanistan provides the right of every individual to appoint a defence attorney upon arrest (art. 31). In case the suspect or accused is indigent, a legal aid provider shall be appointed with his or her consent.[50] The Criminal Procedure Code requires the prosecutor to request the suspect or accused to have a lawyer with him or her prior to the investigation (art. 152).

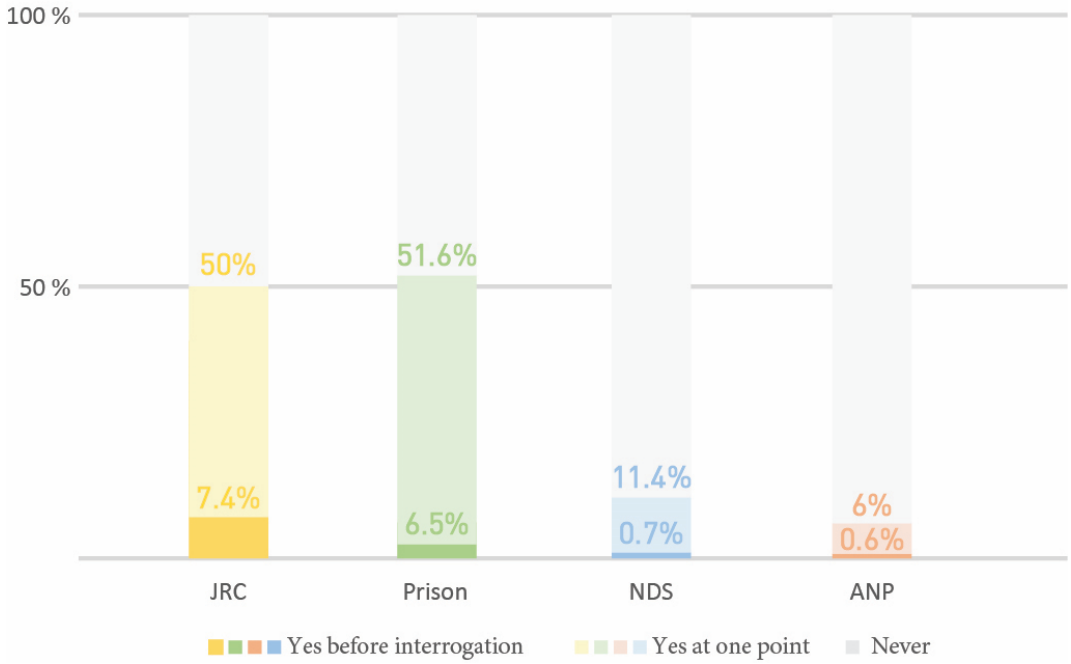
UNAMA/OHCHR documented an extremely low number of detainees in ANP custody obtaining a lawyer before questioning (2 out of 335, **0.6 per cent**). Even considering the entire time of detention, detainees in ANP custody obtained a lawyer at some point during detention in only 6 per cent of instances of detention (21 out of 335).

Similarly, UNAMA/OHCHR documented that almost none of detainees in NDS custody obtained a lawyer before the questioning (5 out of 725, **0.7 per cent**). When the whole period of detention, including the time after the questioning, is considered, the percentage of interviewees obtaining a lawyer in NDS custody is 11.4 per cent (83 out of 725).

The higher percentage of access to lawyers in NDS lockups compared to that in ANP lockups may be attributed to the fact that suspects tend to remain in NDS lockups longer, even after their case files are sent to the prosecutors.

The percentages of detainees who had access to lawyers increased once persons were transferred to

Table 5.2: Access to lawyers



[48] International Covenant on Civil and Political Rights, art. 14(3)(b); see also Rome Statute for the International Criminal Court, art. 67(1)(d); Universal Declaration of Human Rights, art. 11(1).

[49] See Human Rights Committee, Concluding observations: Georgia (2007)(CCPR/C/79Add.74), para. 28; Human Rights Committee, General comment No. 32 on article 14: right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32).

[50] The Constitution of the Islamic Republic of Afghanistan (2004), art. 31; Criminal Procedure Code (2014), art. 10.

either a detention facility in a provincial prison or JRC. In provincial prisons, UNAMA/OHCHR documented that in 10 out of 155 instances of detention, the detainees had obtained a lawyer before the questioning (**6.5 per cent**). This percentage increases to 51.6 per cent when the whole period of detention covering pre-, during and post-trial is considered (80 out of 155). Similarly in JRCs, while only in 4 out of 54 instances of detention the interviewed children had obtained lawyers before the questioning (**7.4 per cent**), in 27 out of 54 instances of detention, they had obtained a lawyer at one point during the detention (50 per cent).

Various factors likely contribute to very low percentages of accessibility to lawyers, especially in the early period after an arrest. For example, in some provinces, UNAMA/OHCHR learnt from the Department of Justice that because the number of legal aid lawyers is low, they do not have the time to visit the lockups for the initial interviews by a discovery organ.[51] UNAMA/OHCHR was also informed about the reluctance on the part of lawyers to accept cases of security- or terrorism-related crimes due to their own security concerns. At the same time, defence lawyers shared with UNAMA/OHCHR that access to some facilities, especially those run by NDS, is systematically limited. (See also the part regarding DFiP, under section 4.4 above.) UNAMA/OHCHR received information that this restriction was further tightened during the COVID-19 outbreak, especially between April and June 2020.

5.3. Contact with the family

The International Covenant on Civil and Political Rights provides that the family, as the natural and fundamental group unit of society, is entitled to protection by society and the State.[52] Persons deprived of their liberty have a right to communicate with and be visited by their family.[53] This right is not to be denied for "more than a matter of days".[54]

The Criminal Procedure Code also provides for the right to have the family or relative being informed about the arrest by the arresting authorities (art. 7(4)).The Law on Management of Deprivation of Liberty Centres provides that detainees and prisoners have the right to contact with their families (art. 20(1)).

In approximately one-third of instances of detention in ANP custody that UNAMA/OHCHR recorded, detainees could contact their families (91 out of 335, **27.2 per cent**).

The percentage of instances of detention in which the detainees contacted their family was lower in NDS custody (143 out of 725, **19.7 per cent**). UNAMA/OHCHR documented particularly low percentages in several detention facilities or provinces. For example, in the **NDS 241 facility in DFiP**, there was no instance of detention where the detainee was allowed to contact his family (0 out of 33). Figures were also extremely low for NDS lockups in **Herat**, **Kabul**, **Kandahar** and **Nangarhar** provinces. (For details of provincial statistics, *see* Annex II on regional breakdowns of findings).

Those detainees who contacted their families generally did so either through phones provided by detaining authorities or family visits. A significant challenge is that often their families appear not to know where their family members are being held. UNAMA/OHCHR recorded that only in **38.5 per cent** of instances of detention by ANP and **29.5 per cent** of instances of detention by NDS, the detainees could say that their families were aware of their whereabouts. The families' lack of knowledge of the

[51] This term is used in Afghanistan to describe ANP or NDS offices which are supposed to engage in discovery of crimes as opposed to investigation by the Attorney General's Office. See the Criminal Procedure Code (2014), art. 81.

[52] International Covenant on Civil and Political Rights, arts 23 and 17.

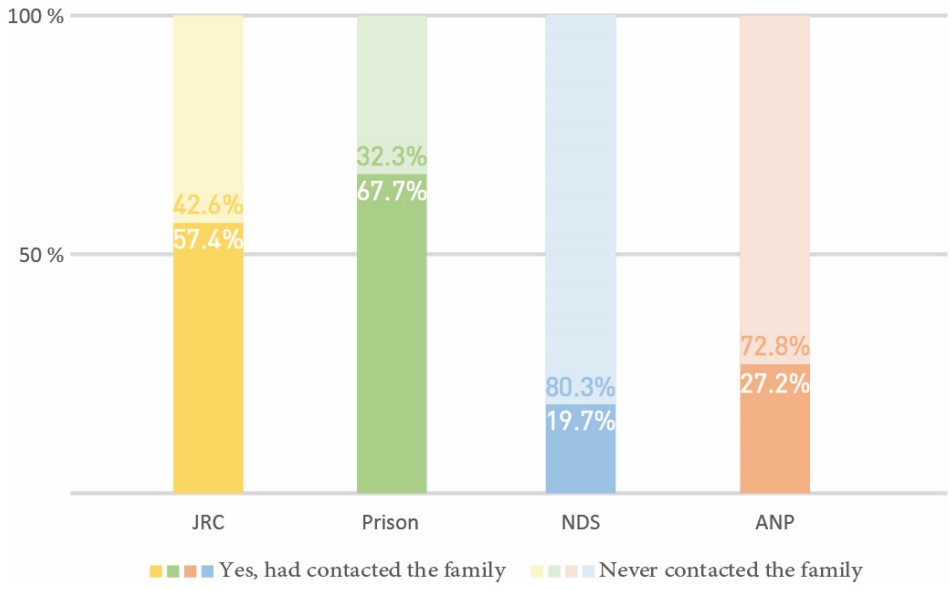
[53] Body of Principles for the Protection of All Persons under Any Form of Detention, principle 15; Nelson Mandela Rules, rules 41(5), 54, 58, 61 and 119.

[54] Body of Principles for the Protection of All Persons under Any Form of Detention, principle 15.

whereabouts of their detained family members might in certain cases render the detention an enforced disappearance. (See Box 3, below, on solitary and incommunicado confinement).

The percentage of contacts with the families increases once persons are transferred to prisons or JRCs. In provincial prisons, in 105 out of 155 instances of detention, the detainees were able to contact their family at one point during their detention (67.7 per cent). In JRCs, in 31 out of 54 instances of detention, children interviewed were able to contact their families (57.4 per cent).
Another factor that hinders persons and children deprived of liberty from contacting their families is the limited availability of phones. Generally, the use of mobile phones in places of detention is prohibited.[55] However, except for provincial prisons with a public call office system, most NDS and ANP lock-ups and JRCs lack phones that could be used by persons or children being held to contact their families. In such facilities, persons or children sometimes have to borrow personal phones of facility staff, lawyers or prosecutors to contact their families.

Table 5.3: Contact with the family



[55] Law on Management of Deprivation of Liberty Centres (2020), art. 20.

Box 3: Solitary and incommunicado detention

Solitary confinement is the physical and social isolation of a person deprived of liberty in a cell for 22 or more hours a day.[56] It usually involves the complete deprivation of contact with other detainees or prisoners, and limited contact with staff of the detention facility – even if the person is taken out of the cell for short periods, for example, to exercise. While solitary confinement is not a violation of international human rights law per se, it is permissible only in exceptional circumstances and for a strictly limited time. Otherwise, its use may amount to torture and ill-treatment.[57] Further, solitary confinement is not to be used for those held in pre-trial detention.[58]

Incommunicado detention occurs when a person deprived of liberty is denied all contact with the outside world.[59] It violates international law if it "exceeds a matter of days".[60] It may also be considered as enforced disappearance when the family is not notified about the detention location and remains unaware about the whereabouts of the person deprived of liberty.[61] Prolonged incommunicado detention has been also regarded as a form of torture and ill-treatment in certain cases.[62]

UNAMA/OHCHR recorded 88 instances of detention in which the detainees credibly and reliably alleged that they had been held in solitary confinement: 81 in NDS custody and 7 in ANP custody. In 40 out of these 88 instances of detention, solitary confinement took place in the interviewees' first place of detention, indicating that it is more likely to occur during the initial stage of detention after the arrest.

In NDS custody, UNAMA/OHCHR recorded 40 instances of detention in which the detainees were held in *solitary and incommunicado confinement without contacting their family, obtaining a lawyer or meeting with external mechanisms* (such as the International Committee of the Red Cross). Twenty (20) of these 40 instances concerned detention by DFiP NDS 241; 5 instances concerned detention by Kandahar NDS; 3 instances concerned detention by Khost NDS; 3 concerned detention by Helmand NDS; while the remaining 9 instances concerned detention by different provincial NDS.

[56] Nelson Mandela Rules, rule 44.
[57] Human Rights Committee, Communication No. 458/1991, Mukong v. Cameroon (1994), paras. 9.3 and 9.4; Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment (2011)(A/66/268), para. 74.
[58] Committee against Torture, Concluding observations: Norway (2012)(CAT/C/NOR/CO/6-7), para. 11.
[59] Report by the Special Rapporteur, Mr. P. Kooijmans, appointed pursuant to Commission on Human Rights resolution 1985/33 (1986) (E/CN.41/1986/15), para. 109.
[60] *Ibid*., para. 151; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonsment, principle 15.
[61] Report of the Working Group on Enforced or Involuntary Disappearances (2018)(A/HRC/39/46), para. 143 ("There is no time limit, no matter how short, for an enforced disappearance to occur and that accurate information on the detention of any person deprived of liberty and their place of detention should be made available promptly to family members.")
[62] Human Rights Committee, Communication No. 440/1990, El-Megreisi v. the Libyan Arab Jamahiriya (1994), para. 5.4; Communication No 147/1983, Arzuada Gilboa v. Uruguay (1985), para. 14; Communication No. 1469/2006, Sharma v. Nepal, (2008), para. 7.2; Communication No. 1196/2003, Boucherf v. Algeria (2006), para. 9.6; Communication No. 440/1990, El-Megreisi v. Libyan Arab Jamahiriya (1994), para. 5.4.

5.4. Timely medical examination

Medical examination upon arrival at a place of detention is one of the critical safeguards to prevent torture and ill-treatment. According to international standards, proper medical examination should be provided to persons deprived of liberty as soon as they are admitted to the place of detention.[63] Such examination is necessary to identify existing physical or mental illness, but also to identify any possible torture and ill-treatment, which may have occurred when the person was first taken into custody. Records are to be kept of such medical examination, including in the registry of the detention facility.[64] The Law on Management of Deprivation of Liberty Centres provides that upon entry into a detention facility, a file should be created for each person, including information about medical examination (art. 19).

UNAMA/OHCHR documented extremely low percentages of instances of detention where a detainee went through medical examination, including body examination, before questioning.

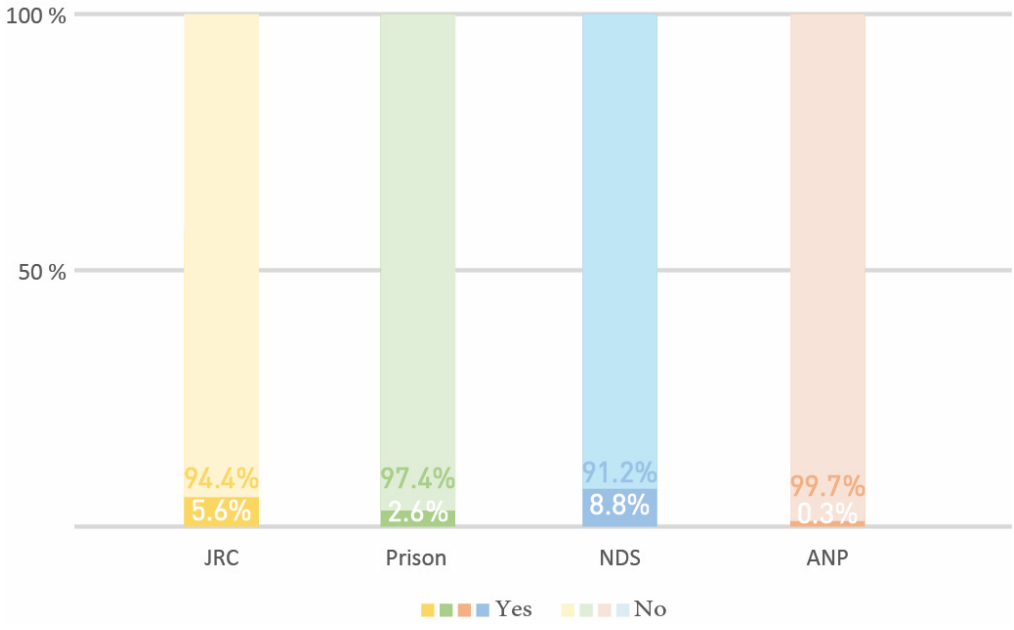
In ANP custody, UNAMA/OHCHR recorded only 1 instance of detention in which the detainee went through body examination before questioning (1 out of 335, **0.3 per cent**).

In NDS custody, the detainees went through body examinations before questioning only in **8.8 per cent** of instances of detention (64 out of 725). **NDS 241 facilities in Kabul and DFiP** appeared to have the most consistent practice in this regard, with the detainees reporting having gone through such medical examination in approximately 35 and 30 per cent of instances of detention, respectively.

The limited availability of permanent medical staff in lockups appears to render timely medical examination difficult. Generally, UNAMA/OHCHR has observed that approximately one-third of NDS lockups have their own permanent medical staff, whereas only one-tenth of ANP lockups have it. Those lockups without permanent medical staff often rely on support by medical staff from their headquarters, who may not be available when they are needed.

In provincial prisons and JRCs, timely medical examinations before questioning is also rare. In provincial prisons, HRS recorded 4 instances of detention (out of 155) where the detainees received medical examination before questioning (**2.6 per cent**). In JRCs, the number was 3 out of 54 instances of detention (**5.6 per cent**).

Table 5.4: Medical examination before the interrogation



[63] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 24; Committee against Torture, Concluding observations: Switzerland (1997)(A/53/44), para. 96.

[64] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 26; Nelson Mandela Rules, rule 26.

5.5. Documents signed without knowledge of the content

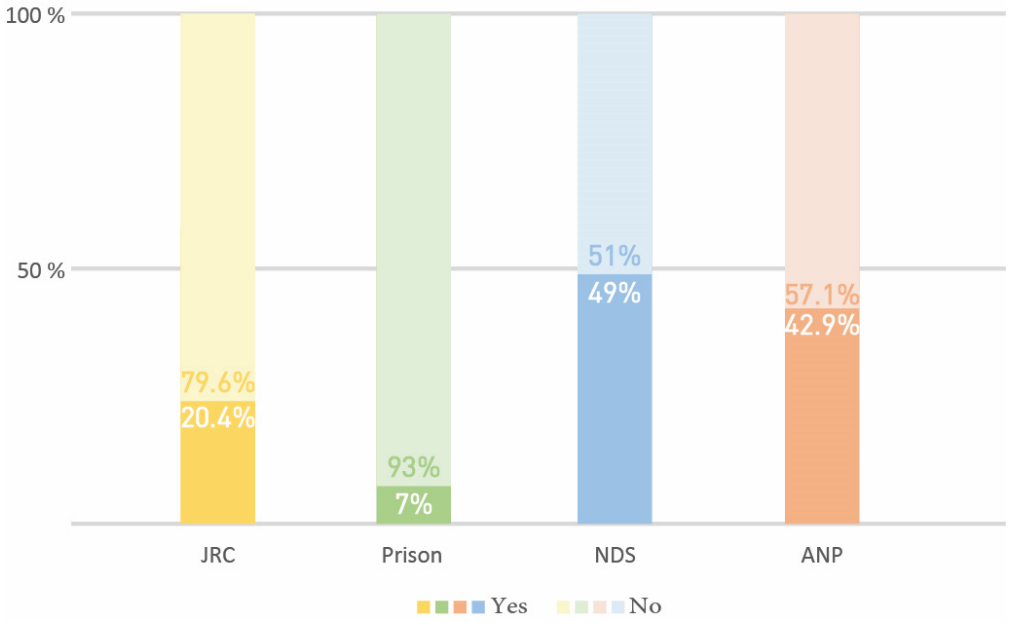
According to international standards, every person has the right not to be compelled to testify against oneself or to confess guilt.[65] This right also implies an accused person's right to remain silent.[66] No negative inference is to be made from the accused person's silence.[67]

The Criminal Procedure Code provides for the suspect or accused's right to remain silent and refuse to make any comments (art. 7 (7) and 150(1)). The Criminal Procedure Code provides that silence of the accused person is not supposed to be considered as the individual's statement (art. 150(2)). The Criminal Procedure Code also requires that any statement taken from the suspect is to be recorded in writing with the suspect's signature, but it also provides that the suspect may refuse to sign or thumbprint such a statement (art. 85 (3)). Notably, the Criminal Procedure Code also renders statement made due to torture, duress, threats and intimidation as inadmissible evidence (art 22).

UNAMA/OHCHR documented instances of detention where the detainees were asked to sign or thumbprint documents, mostly at the end of questioning, without being provided an opportunity to read the documents or having their content explained. Such a practice raises serious concerns. Without reading or receiving an explanation about the content, detainees could not ensure whether their statements were accurately reflected in the documents. Lack of such an opportunity may also have an impact on the right not to self-incriminate, where the document is the record of their own statement. Further, in case a person exercises the right to remain silent during the questioning, there is no means for the person to know how that fact was reflected in the record without reading the document or receiving an explanation about the content.

UNAMA/OHCHR documented high percentages of instances of detention where detainees were asked to sign or thumbprint a document without understanding the content. The percentage of such instances of detention was **42.9 per cent** for ANP (144 out of 335) and **49 per cent** for NDS (356 out of 725). This seems to indicate a common practice among law enforcement officers. At the same time, the high illiteracy rate among the general public also means that the officials must make additional

Table 5.5: Signed the documents without knowing the content



[65] International Covenant on Civil and Political Rights, art. 14(3)(g); Rome Statute of the International Criminal Court, art. 55(1)(a).
[66] Rome Statute of the International Criminal Court, art. 55(2)(b).
[67] Human Rights Committee, Concluding observations: United Kingdoms (2001)(CCPR/CO/73/UK), para. 17; *see also* Rome Statute of the International Criminal Court, art. 67.

effort to ensure that a person signing or thumb-printing a document actually understands the implication of doing so. This also highlights the importance of having a lawyer present during questioning.

Notably, the percentage of instances of detention where detainees were asked to sign documents without knowing the content drops in prisons and JRCs. In prisons, in **7 per cent** of instances of detention (11 out of 155), the detainees were asked to sign a document without knowing the content. In JRCs, the percentage, **20.4 per cent** (11 out of 54 instances of detention) was higher than in the prisons, but still lower than in the lockups. The lower percentages in prisons and JRCs may be attributed to the fact that by the time persons or children were transferred to these institutions, their statements requiring their signatures had already been taken and there was less need to do so. It may also be assumed that the prosecutors, due to their training and background, may be more suited to explain to the concerned persons the contents of documents to be signed. As outlined (section 5.2, above), UNAMA/OHCHR recorded higher percentage of detainees obtaining lawyers in prisons and JRCs than in lockups, and considered that the presence of a lawyer might have reduced the number of occasions where a person was asked to sign a document without knowing the content.

6. MONITORING, INVESTIGATIONS AND ACCOUNTABILITY

Impartial and independent mechanisms for inspecting and visiting places of detention play a critical role in preventing torture and ill-treatment. Similarly, the availability to persons deprived of liberty of measures that allow them to have their complaints promptly and impartially examined is also considered crucial for the prevention of torture and ill-treatment.[68] In both aspects, the Afghanistan Independent Human Rights Commission, as well as the Anti-Torture Commission, play an important role. As a State Party to the Optional Protocol to the Convention against Torture, Afghanistan is obliged to establish a national preventive mechanism charged with, among others, visiting and monitoring places of detention in an impartial and independent manner. As of end of 2020, the discussion about establishing such a body was still on-going among institutions.

6.1. Roles of internal mechanisms

UNAMA/OHCHR welcomes the efforts made by the respective human rights directorates in ANP and NDS to improve the treatment of persons deprived of liberty through detention monitoring visits.

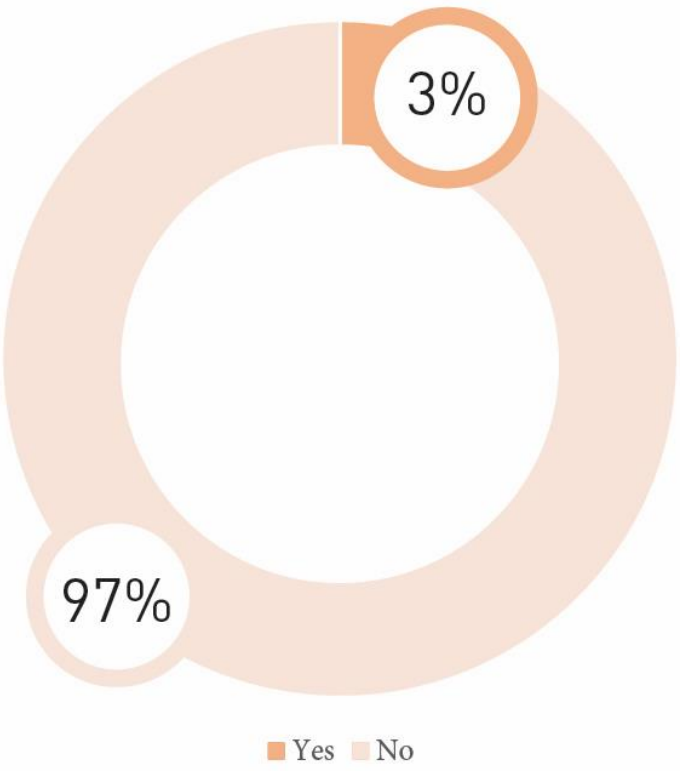
MOI Human Rights Officers

The Gender, Children's Rights and Human Rights Directorate of the MOI is authorized to conduct monitoring in places of detention, to investigate allegations of human rights violations (including, but not limited to, allegations of torture and ill-treatment of persons deprived of liberty), and to refer appropriate cases to the relevant authorities for prosecution.

At the provincial level, this monitoring and investigation function is undertaken by MOI human rights officers. Unlike the NDS human rights officers (see below), MOI human rights officers are recruited by and report to the provincial Chief of Police. This reportedly makes it more challenging for MOI human rights officers to report any wrongdoing at the provincial level, including in places of detention.

Between 1 January 2019 and 31 March 2020, UNAMA/OHCHR recorded that in only **3 per cent** of instances of detention (10 out of 335), a MOI human rights officer visited interviewees in ANP custody.

Table 6.1: Met with MOI human rights officer



[68] Committee against Torture, General comment No. 2, *supra.*, paras. 8-14.

Among the 92 instances of detention by ANP about which the interviewees credibly and reliably alleged torture and ill-treatment, only in 3 instances detainees reported on it to detention staff and investigators and in none of these instances to MOI human rights officers.

Despite the authority to undertake detention monitoring, MOI human rights officers do not appear active in fulfilling this responsibility.

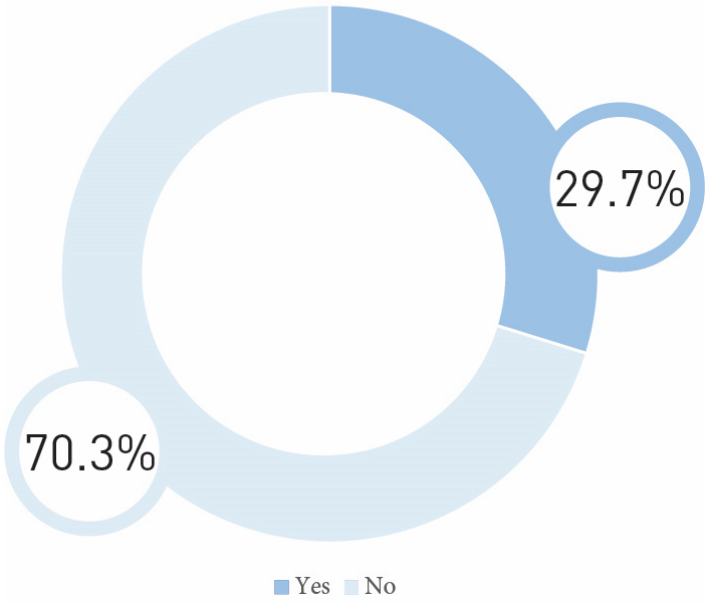
NDS Human Rights Officers

The NDS Directorate of Gender and Human Rights (NDS Department 13) maintains the internal responsibility to identify human rights violations and address complaints of detainees at NDS lockups. NDS human rights officers are permanently present in almost all of the NDS provincial offices throughout the country. They are responsible for the systematic monitoring of NDS lockups, including the conduct of interviews with persons held in custody and the investigation of allegations of torture and ill-treatment. They report directly to the General Directorate of NDS, rather than provincial NDS chiefs. In theory, this allows them some level of independence, despite the fact that they remain within the chain of command of the NDS General Directorate, which could potentially lead to conflicts of interest.

Between 1 January 2019 and 31 March 2020, UNAMA/OHCHR recorded that in **29.7 per cent** instances of detention (216 out of 725), a NDS human rights officer visited interviewees in NDS custody. UNAMA/OHCHR documented 16 instances of detention where detainees made a complaint alleging that they had suffered torture and ill-treatment in NDS custody. In 13 instances of detention, such a complaint was made to NDS human rights officers (in 2 instances, such a complaint was made to medical personnel and in 1 instance the detainee did not clarify to whom the detainee made the complaint). This indicates the significant role of NDS human rights officers, who are a channel for persons deprived of liberty to raise such complaints. Regrettably, none of 13 interviewees who reported having made a complaint regarding their allegation of torture of ill-treatment received any response from the authorities.

UNAMA/OHCHR welcomes the active detention monitoring by NDS human rights officers. At the same time, it urges NDS human rights officers to investigate any complaints of torture and ill-treatment and provide response to those who submit the complaints.

Table 6.2: Met with NDS Human Rights Officer



6.2. Role of the Anti-Torture Committee under the AGO and investigation and prosecution of torture cases

The Anti-Torture Committee under the Office of the Attorney General is mandated to implement the Law on the Prohibition of Torture and investigate cases of torture referred to it by the provincial prosecutor. The Committee compiles data of new cases of alleged torture and reviews past cases for potential torture allegations. Through subcommittees set up at the provincial level, it oversees the investigation and prosecution of torture cases by prosecutors in provinces. The Committee has such subcommittees in 32 provinces. Each sub-committee is headed by the Chief of the Provincial Appeal Prosecution and includes the heads of internal and external security crime prosecutors, military prosecutors and inspection/evaluation prosecutors.

According to the Anti-Torture Committee, between 1 January 2019 and 21 October 2020, 18 cases were investigated and prosecuted under article 450 of the Penal Code (crime of torture). In five cases, alleged perpetrators were convicted. In three cases, alleged perpetuators were acquitted. Five cases were under judicial proceedings as of 21 October 2020; two cases were at the indictment stage; and three cases were pending at the prosecutor's office.

UNAMA/OHCHR welcomes the efforts by the Anti-Torture Committee under the Attorney General's Office to pursue investigation and prosecution of torture and ill-treatment allegations.

6.3. Emblematic cases

UNAMA/OHCHR followed investigations and prosecutions in particular cases of torture and ill-treatment due to the seriousness of the allegations. Two are presented below.

Ghazni province, May 2019

On 20 May 2019, Mr. Haji Sediquallah son of Besmellah, a 43-year-old shopkeeper, visited the Ghazni ANP headquarters as requested by the then Ghazni provincial ANP Deputy Chief who was also the ANP Counter-Terrorism Unit Head. Mr. Haji Sediquallah spoke with his brother via phone while he was on his way to the ANP headquarters around 15:30pm. When they spoke again in the evening via phone, Mr. Haji Sediquallah told his brother that he was still in the ANP headquarters. When later in the evening Mr. Haji Sediquallah's brother called him again, his phone was switched off. On 21 May 2019, Mr. Haji Sediquallah's family found his dead body in the local hospital, after having gone there on a call that he was sick and in the hospital. At the end of May 2019, the Ghazni provincial ANP Deputy Chief was arrested in relation to the death of Mr. Haji Sediquallah and transferred to Kabul reportedly upon the request of the ANP Counter-Terrorism Sub-directorate. In August 2019, the Ghazni provincial ANP Deputy Chief returned to Ghazni and resumed his ANP duties.

In October 2019, the Deputy-Director of the Ghazni ANP Counter Terrorism Unit was convicted for the crime of torture (Penal Code, art. 450) by the military court in Ghazni and sentenced to 16 years without the possibility of suspension of sentence for the death of Mr. Haji Sediquallah. The Ghazni provincial ANP Deputy Chief was identified by the military prosecutor as having assisted with the commission of the crime of torture. His case, however, is still in progress and he continues to exercise his official functions.

Paktika province, March 2020

On 8 March 2020, Mr. Mohammad Ghaws, son of Umar, a 17-year-old student, was arrested by an

ANP Platoon Commander in Mata Khan district, Paktika province. After the arrest, Mr. Ghaws was detained in the ANP lockup in Mata Khan district. Four ANP officers questioned Mr. Ghaws in the facility where the ANP Platoon Commander reportedly beat Mr. Ghaws. Subsequently, the ANP Platoon Commander remained alone with Mr. Ghaws. The next morning, a duty officer found Mr. Ghaws dead in the lockup.

The Internal Intelligence Department of Paktika ANP initially investigated the case and referred it to the military prosecutor for further investigation. The military prosecutor indicted the ANP Platoon Commander for the crime of torture (Penal Code, arts. 450 and 451) and 5 other on-duty ANP officers for dereliction of duty (Annex 1 to Penal Code, art. 17 (2)). On 3 May 2020, the primary court convicted and sentenced the ANP Platoon Commander to 21 years. As the act of torture against Mr. Ghaws had resulted in his death, the ANP Platoon Commander was sentenced to "murder committed with torture", under article 547 (1)(3) of the Penal Code. Five other ANP officers were each sentenced to six months imprisonment for dereliction of duty.

7. RECOMMENDATIONS

UNAMA/OHCHR welcomes the continued efforts by the Government of Afghanistan to prevent torture and ill-treatment for all persons deprived of liberty. UNAMA/OHCHR's interviews with persons deprived of liberty for security- or terrorism- related offences found that the Government is making efforts to address the use and practice of torture and ill-treatment of against such detainees in 2019 and 2020 by the Government personnel. Despite some efforts, the use of torture and ill-treatment by Government officials remains significant and runs against the Government's obligation to enforce an absolute prohibition of such treatment. Eradicating torture and ill-treatment and improving the treatment of persons deprived of liberty will also increase trust in the criminal justice system and more generally in the rule of law in Afghanistan.

UNAMA/OHCHR therefore strongly encourages the Government of Afghanistan to continue its efforts to eradicate torture and to implement the following recommendations.

To the Office of the President
To the High Council of the Rule of Law
To the Ministry of Justice
To the Parliament

1. Amend the Criminal Procedure Code to require any individual detained to be brought in front of a judge within 48 hours to examine: (a) legality of detention, (b) need for further detention, and (c) any ill-treatment during arrest or subsequent detention. Such a time period to be brought in front of a judge should be 24 hours for children.

2. Amend the Criminal Procedure Code to provide clear guidance to the discovery organs in obtaining a statement from a suspect. Such guidance should include adherence to the presumption of innocence and a requirement to explain to suspects their rights, before taking any statement, including the rights to be presumed innocent, to remain silent, against self-incrimination and to legal assistance.

3. Amend the Military Criminal Procedure Code, so that the Criminal Procedure Code, rather than the Military Criminal Procedure Code, applies whenever Afghan National Security Forces personnel are accused of the crime of torture under article 450 of the Penal Code.

4. Amend Annex 1 of the Criminal Procedure Code to bring it fully in line with international human rights law, by: (a) explicitly exempting children from the application of Annex I regardless of the crime they are suspected of having committed and ensuring that only rules applicable to juveniles apply; and (b) allowing for the adjudication of crimes under Annex I of the Criminal Procedure Code in locations where the crime occurred or where the suspect is detained to facilitate the access to evidence and expedite the trial.

5. Remove from the Law on the Prohibition of Torture any obstacles such as an excessive evidential or procedural burden for victims of torture to obtain redress.

6. Amend the Police Law by: (a) requiring those involved in questioning to ensure suspects' rights and welfare and to challenge any mistreatment or abuse; and (b) making it a disciplinary offence to neither report or challenge inappropriate behavior and actions.

7. Adopt guidelines on non-coercive questioning, including the PEACE questioning model,[69] for all law enforcement agencies.

8. Consider accession to the International Convention for the Protection of All Persons from Enforced Disappearance.

9. Consider establishing an immediate moratorium on executions, aiming to fully abolish the death penalty for all crimes; and consider providing for commutation of sentences in all death penalty cases.

10. Consider establishing an independent and impartial national preventive mechanism charged with, among others, visiting and monitoring places of detention, with adequate resources and in effective coordination with existing bodies, in accordance with Afghanistan's obligations under the Optional Protocol to the Convention against Torture.

To the Supreme Court

1. Issue clear instructions to judges to ensure that any statement of a defendant used in court, has been made with his/her full and informed consent, and to ensure that coerced or other unlawfully obtained statements are not admitted, under any circumstances, as evidence in court proceedings.

2. Ensure that any allegations of torture and ill-treatment to force a statement, even where a medical record is not immediately available, are fully investigated and those responsible for such acts of torture and ill-treatment are held to account.

3. Issue clear instructions to judges to reduce reliance on confessions in convicting the accused and to require corroborating evidence from investigative authorities.

To the Attorney General's Office

1. Increase training for non-coercive questioning techniques for prosecutors and reduce the reliance on the discovery organs for taking of the statement of the suspects.

2. Ensure that article 8 on the rights of the suspects and the accused of the Criminal Procedure Code is effectively implemented and make the registry required under the article publicly accessible.

To the Ministry of Interior

1. Ensure that all suspects are informed of and enabled to avail themselves to measures to receive legal counsel before the first questioning as provided by article 31 of the Constitution.

2. Prepare a guidance manual for all officers with investigative responsibilities to undertake questioning in a non-coercive manner, including the application of the PEACE questioning model.

3. Introduce disciplinary measures for officers who violate laws containing standards to be abided by in questionings, ensuring that any violation of torture and ill-treatment prohibition is referred to the prosecutor.

4. Consider introducing training on non-coercive questioning techniques, including the PEACE questioning model, with the aim to

[69] The PEACE model, originally developed in the United Kingdom, is now a model globally recognized as human right compliant and also effective in obtaining a good information yield. PEACE stands for: Planning/Preparation, Engagement/Explanation, Account, Closure, and Evaluation.

make it mandatory in the regular curriculum for ANP officers.

5. Establish a system of on-going evaluation of operational competences in the field of questioning after the relevant training, including an annual workplace assessment of all officers with investigative responsibilities in line with the operational standards.

6. Ensure that any individual asked to sign a statement during questioning understands the content before signing it as provided by 157 of the Criminal Procedure Code.

7. Deploy at least one permanent medical staff to every provincial ANP lockup to ensure that every person admitted to the facility goes through medical examination, including body examination, before the first questioning.

8. Ensure the availability at every ANP detention facilities of phones to be used for free by persons deprived of liberty to contact their family and lawyers in private.

9. Reform the recruitment procedure and reporting obligation of the MOI human rights officers so that they are recruited by MOI headquarters and report to the Gender, Children's Rights and Human Rights Directorate of the MOI in Kabul, rather than the provincial Chief of Police.

To the National Security of Directorate

1. Immediately stop the practice of solitary and incommunicado detention.

2. Review and stop the practice of detaining children. When there is uncertainty as to the age of a person, the person should, if held, be held in a JRC until an age assessment is undertaken in a manner compliant with international standards.

3. Ensure that the family or relatives of persons taken into NDS custody is informed about their whereabouts at the time of arrest as provided by article 7(4) of the Criminal Procedure Code.

4. Ensure that all suspects are informed of and enabled to avail themselves to measures to receive legal counsel before the first questioning as provided by article 31 of the Constitution.

5. Ensure that any individual asked to sign a statement during questioning understands the content before signing it as provided by 157 of the Criminal Procedure Code.

6. Prepare a guidance manual for all officers with investigative responsibilities to undertake questioning in a non-coercive manner, including the application of the PEACE questioning model.

7. Introduce disciplinary measures for officers who violate laws containing standards to be abided by in questionings, ensuring that any violation of torture and ill-treatment prohibition is referred to the prosecutor.

8. Establish a system of on-going evaluation of operational competences in the field of questioning after the relevant training, including an annual workplace assessment of all officers with investigative responsibilities in line with the operational standards.

9. Deploy at least one permanent medical staff to every provincial NDS lockup to ensure that every person admitted to the facility goes through medical examination, including

body examination, before the first questioning.

10. Ensure the availability at every provincial NDS lockup of phones to be used for free by persons deprived of liberty to contact their family and lawyers in private.

To the Ministry of Defence

1. Ensure that lawyers can meet with their clients in DFiP during official hours on any day of the week.

2. Ensure that DFiP has rooms where persons deprived of liberty and their lawyers can meet confidentially and in private, in a safe manner.

3. Review the confinement of persons with mental illness and/or disability and explore options for their release or, for persons with mental illness, transfer to a mental health institute as per articles 187 and 188 of the Penal Code.

To the Office of Prison Administration

1. Ensure that lawyers can meet with their clients in prisons and JRCs during official hours on any day of the week.

2. Ensure that every prison and JRC has rooms which allows private meetings between persons and children deprived of liberty and their lawyers in a safe manner.

3. Ensure that every prison and JRC has phones that persons and children deprived of liberty can use to call for free their lawyers and their families.

To the Ministry of Justice

1. Increase the number of legal aid lawyers so that every person in lockups has timely access to lawyers before their initial interviews by the discovery organs.

ANNEX I: THE PROHIBITION OF TORTURE AND OTHER FORMS OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT UNDER INTERNATIONAL LAW

Several international treaties to which Afghanistan is a party prohibit torture and other cruel inhuman or degrading treatment or punishment. These include the Convention against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment, supplemented by its Optional Protocol, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Geneva Conventions of 1949, and the Rome Statute of the International Criminal Court.[70] The state obligation to respect the prohibition of such practices is non-derogable, meaning that it is never justified to suspend or to fail to observe the prohibition of torture.[71]

A. The definition of torture and other forms of ill-treatment

The definition of torture under the Convention against Torture is the most cited and authoritative definition in current practice:

> For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.[72]

This definition includes four elements:
(1) infliction of severe pain or suffering;
(2) intention;

[70] The Government of Afghanistan ratified the Convention against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment in June 1987, its Optional Protocol in April 2018, the International Covenant on Civil and Political Rights in April 1993, the Geneva Conventions in September 1956 (with the exception of the two additional protocols), and the Convention on the Rights of the Child in 1994. The Rome Statute of the International Criminal Court, ratified by Afghanistan in February 2003, states that torture constitutes a war crime in a non-international armed conflict as follows: "[i]n the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause: […] torture […]" (Article 8 (2) (c) (i)). The elements of the war crime of torture in a non-international armed conflict are that the perpetrator inflicted severe physical or mental pain or suffering upon a person; that the perpetrator inflicted it for such purposes as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind; that the person subjected to torture was either hors de combat, a civilian, medical personnel or religious personnel taking no active part in the hostilities; that the perpetrator was aware of the factual circumstances that established this status; that the conduct took place in the context of and was associated with an armed conflict not of an international character; and that the perpetrator was aware of factual circumstances that established the existence of an armed conflict."

[71] International Covenant on Civil and Political Rights, art. 4(2); Convention against Torture, art. 2(2).

[72] Convention against Torture, art. 1.

(3) purpose (such as obtaining information or a confession, punishment, intimidation; coercion or discrimination);[73] and
(4) involvement of a public official or other person acting in an official capacity.

Cruel, inhuman or degrading treatment or punishment ("ill-treatment") are also legal terms which refer to treatment causing varying degrees of suffering that does not have to be inflicted for a specific purpose.[74] The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. The conditions that give rise to ill-treatment frequently facilitate torture and therefore relevant measures must be applied to prevent any such treatment.[75]

B. State obligations to prevent torture and ill-treatment under international law

The absolute prohibition of torture and ill-treatment requires States to take positive measures – legislative, administrative, judicial and other actions – to ensure that such conduct and any recurrences thereof are effectively prevented.[76] The Convention against Torture expressly requires several measures, including:

- Criminalization. To ensure that all acts of torture are offences under its criminal law which should be punishable by appropriate penalties which take into account their grave nature.
- Investigations and victims' complaints. To conduct a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed; to ensure that any individual has the right to complain to competent authorities; and to protect the complainant and witnesses against reprisals or intimidation.
- Training. To educate and inform regarding the prohibition of torture in the training of all persons who may be involved in the custody, questioning or treatment of any individual detainee.
- Rules, directives, procedures. To include the prohibition of torture in the rules or instructions issued to persons involved in the custody, questioning or treatment of detainees and to keep relevant rules under systematic review.
- Redress. To ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.
- Exclusionary rule. To ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

In addition, international human rights law sets out legal and other procedural safeguards for persons deprived of their liberty which are considered an integral part of any protective framework to prevent torture and ill-treatment. These safeguards include the rights to:

[73] The Committee against Torture elaborated that the "elements of intent and purpose […] do not involve a subjective inquiry into the motivations of the perpetrators, but rather must be objective determinations under the circumstances"; Committee against Torture, General Comment No. 2, *supra.*, para 9.
[74] Committee against Torture, General comment No. 2, *supra.*, para. 10; Polona Tepina, *The Torture Reporting Handbook, second edition* (Human Rights Centre, University of Essex 2015), *available* at www1.essex.ac.uk/hrc/documents/practice/torture-reporting-handbook-second-edition.pdf, p. 23.
[75] Committee against Torture, General comment No. 2, *supra.*, para 9.
[76] Convention against Torture, arts. 2 and 16.

- have family members or a third party informed of their whereabouts following their arrest;[77]
- promptly receive independent legal assistance and adequate time and facilities for the preparation of their defence;[78]
- have prompt and regular access to a medical doctor, possibly of own choosing;[79]
- be informed of the reasons for arrest and any criminal charges;[80]
- be presumed innocent until proved guilty according to law and not to be compelled to testify against himself or to confess guilt;[81]
- be brought before a magistrate or judge within a reasonable period of time;[82]
- challenge the legality of their detention and treatment (habeas corpus);[83]
- not to be subjected to arbitrary or unlawful arrest or detention;[84] and
- be informed of these rights in language that is understandable to them.[85]

Other key measures that contribute to the prevention of torture and ill-treatment, inter alia, are impartial mechanisms for inspecting and visiting places of detention; reporting mechanisms without fear of reprisals; and the maintenance of registers.[86]

[77] Nelson Mandela Rules, rule 68.
[78] International Covenant on Civil and Political Rights, art. 14(3); see also Human Rights Committee, General comment No. 32, *supra*.
[79] Nelson Mandela Rules, rules 30; 34; 118; see in general rules 24 et seq on health care service.
[80] International Covenant on Civil and Political Rights, arts. 9(2) and 14(3).
[81] *Ibid.*, art. 14(2) and (3).
[82] *Ibid.*, art. 9 (3).
[83] *Ibid.*, art. 9 (4).
[84] *Ibid.*, art. 9 (1).
[85] Nelson Mandela Rules, rules 53-55.
[86] *Ibid.*, see relevant rules on prisoner files management; information to and complaints by prisoners; and internal and external inspections.

ANNEX II: REGIONAL BREAKDOWNS OF FINDINGS

CENTRAL REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of torture and ill-treatment	%	# of instances where detainees were visited by NDS Human Rights Officer	%
Kabul	20	2	10 %	7	35 %
Kapisa	7	1	14.3 %	2	28.6 %
Logar	3*	-	-	-	-
Panjshir	0	-	-	-	-
Parwan	13	2	15.4 %	7	53.8 %
Wardak	2*	-	-	-	-
Region total	**45**	**5**	**11.1 %**	**16**	**35.6 %**
Nationwide	**725**	**116**	**16 %**	**216**	**29.7 %**

NDS provincial and district facilities (combined)	# of instances of detention	# of instances where the detainees obtained a lawyer before questioning		# of instances where the detainees obtained a lawyer during detention		# of instances where the detainees contacted with their families		# of instances where the detainees signed documents without knowing the content		# of instances where the detainees were informed of their rights		# of instances where the detainees underwent body examination before questioning	
		#	%	#	%	#	%	#	%	#	%	#	%
Kabul	20	0	0 %	0	0 %	1	5 %	5	25 %	2	10 %	4	20 %
Kapisa	7	1	14.3 %	1	14.3 %	2	28.6 %	3	42.9 %	2	28.6 %	0	0
Logar	3*	-	-	-	-	-	-	-	-	-	-	-	-
Panjshir	0	-	-	-	-	-	-	-	-	-	-	-	-
Parwan	13	0	0 %	4	30.8 %	1	7.7 %	4	30.8 %	6	46.2 %	3	23.1 %
Wardak	2*	-	-	-	-	-	-	-	-	-	-	-	-
Region total	**45**	**1**	**2.2 %**	**5**	**11.1 %**	**5**	**11.1 %**	**13**	**28.9 %**	**10**	**22.2 %**	**7**	**15.6 %**
Nation wide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

CENTRAL REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible **allegation of torture** and ill-treatment	%	# of instances where the detainee was visited by **ANP Human Rights Officer**	%
Kabul	2	-	-	-	-
Kapisa	3	-	-	-	-
Logar	1	-	-	-	-
Panjshir	0	-	-	-	-
Parwan	6	2	33.3 %	0	0 %
Wardak	0	-	-	-	-
Region total	12	2	16.7 %	**0**	**0 %**
Nationwide	**335**	**92**	**27.5 %**	**10**	**3.0 %**

ANP provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Kabul	2	-	-	-	-	-	-	-	-	-	-	-	-
Kapisa	3	-	-	-	-	-	-	-	-	-	-	-	-
Logar	1	-	-	-	-	-	-	-	-	-	-	-	-
Panjshir	0	-	-	-	-	-	-	-	-	-	-	-	-
Parwan	6	0	0 %	0	0 %	0	0 %	0	0 %	0	0 %	0	0 %
Wardak	0	-	-	-	-	-	-	-	-	-	-	-	-
Region total	**12**	0	0 %	0	0 %	1	8.3 %	3	25 %	0	0 %	0	0 %
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43.0 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

EASTERN REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainees were visited by **NDS Human Rights Officer**	%
Kunar	53	5	9.4 %	16	30.2 %
Laghman	25	5	20 %	16	64 %
Nangarhar	28	4	14.3 %	15	53.4 %
Nuristan	0	-	-	-	-
Region total	106	14	13.2 %	47	44.3 %
Nationwide	**725**	**116**	**16 %**	**216**	**29.7 %**

NDS provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Kunar	53	0	0 %	2	3.8 %	4	7.5 %	34	64.2 %	1	1.9 %	2	3.8 %
Laghman	25	0	0 %	0	0 %	0	0 %	13	52 %	0	0 %	2	8 %
Nangarhar	28	0	0 %	0	0 %	6	21.4 %	14	50 %	4	14.3 %	1	3.6 %
Nuristan	0	-	-	-	-	-	-	-	-	-	-	-	-
Region total	106	0	0 %	2	1.9 %	10	9.4 %	61	57.5 %	5	4.7 %	5	4.7 %
Nationwide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

EASTERN REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%
Kunar	23	2	8.7 %
Laghman	3	-	-
Nangarhar	5	1	20 %
Nuristan	0	-	-
Region total	**31**	**3**	**9.7 %**
Nationwide	**335**	**92**	**27.5 %**

# of instances where the detainees were visited by **ANP Human Rights Officer**	%
0	0 %
-	-
2	40 %
-	-
2	**6.5 %**
10	**3.0 %**

ANP provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Kunar	23	0	0 %	0	0 %	4	17.4 %	6	26.1 %	2	8.7 %	0	0 %
Laghman	3	-	-	-	-	-	-	-	-	-	-	-	-
Nangarhar	5	1	20 %	2	40 %	1	20 %	0	0 %		0 %	0	0 %
Nuristan	0	-	-	-	-	-	-	-	-	-	-	-	-
Region total	**31**	**1**	**3.2 %**	**2**	**6.4 %**	**6**	**19.4 %**	**8**	**25.8 %**	**2**	**6.5 %**	**0**	**0 %**
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

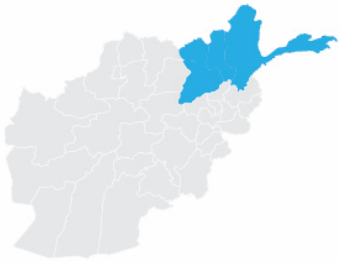
NORTH EASTERN REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*



NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%
Badakhshan	43	2	4.7 %
Baghlan	34	6	17.6 %
Kunduz	40	9	22.5 %
Takhar	14	1	7.1 %
Region total	**131**	**18**	**13.7 %**
Nationwide	**725**	**116**	**16 %**

# of instances where detainees were visited by **NDS Human Rights Officer**	%
19	44.2 %
16	47.1 %
16	40 %
4	28.6 %
55	**41 %**
216	**29.7 %**

NDS provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Badakhshan	43	0	0 %	11	25.6 %	11	25.6 %	26	60.5 %	12	27.9 %	2	4.7 %
Baghlan	34	0	0 %	9	26.5 %	14	41.2 %	10	29.4 %	5	14.7 %	3	8.8 %
Kunduz	40	0	0 %	1	2.5 %	7	17.5 %	21	52.5 %	10	25 %	1	2.5 %
Takhar	14	0	0 %	7	50 %	9	64.3 %	4	28.6 %	5	35.7 %	0	0 %
Region total	**131**	**0**	**0 %**	**28**	**21.4 %**	**41**	**31.3 %**	**61**	**46.6 %**	**32**	**24.4 %**	**6**	**4.6 %**
Nationwide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

NORTH EASTERN REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainees were visited by **ANP Human Rights Officer**	%
Badakhshan	43	4	9.3 %	1	2.3 %
Baghlan	26	5	19.2 %	0	0 %
Kunduz	13	0	0 %	0	0 %
Takhar	6	0	0 %	0	0 %
Region total	88	9	10.2 %	1	**1.1 %**
Nationwide	**335**	**92**	**27.5 %**	**10**	**3.0 %**

ANP provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Badakhshan	43	0	0 %	2	4.7 %	12	27.9 %	19	44.2 %	10	23.3 %	0	0 %
Baghlan	26	1	3.8 %	9	34.6 %	10	38.5 %	6	23.1 %	1	3.9 %	0	0 %
Kunduz	13	0	0 %	2	15.4 %	5	38.5 %	6	46.2 %	1	7.7 %	0	0 %
Takhar	6	0	0 %	0	0 %	1	16.7 %	1	16.7 %	0	0 %	0	0 %
Region total	88	1	1.1 %	13	14.8 %	28	31.8 %	32	36.4 %	12	13.4 %	0	0 %
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

NORTHERN REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where detainees were visited by **NDS Human Rights Officer**	%
Balkh	42	7	16.7 %	13	31 %
Faryab	15	1	6.7 %	5	33.3 %
Jawzjan	1	-	-	-	-
Samangan	29	7	24.1 %	6	20.7 %
Sar-e-Pul	0	-	-	-	-
Region total	**87**	**15**	**17.2 %**	**24**	**27.6 %**
Nationwide	**725**	**116**	**16 %**	**216**	**29.7 %**

NDS provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Balkh	42	1	2.4 %	10	23.8 %	19	45.2 %	20	47.6 %	5	11.9 %	1	2.4 %
Faryab	15	1	6.7 %	2	13.3 %	3	20 %	10	66.7 %	1	6.7 %	1	6.7 %
Jawzjan	1	-	-	-	-	-	-	-	-	-	-	-	-
Samangan	29	2	6.9 %	10	34.5 %	8	27.6 %	13	44.8 %	10	34.5 %	5	17.2 %
Sar-e-Pul	0	-	-	-	-	-	-	-	-	-	-	-	-
Region total	**87**	**4**	**4.6 %**	**22**	**25.3 %**	**30**	**34.5 %**	**44**	**50.6 %**	**16**	**18.4 %**	**7**	**8 %**
Nationwide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

NORTHERN REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainees were visited by **ANP Human Rights Officer**	%
Balkh	6	2	33.3 %	0	0 %
Faryab	10	2	20 %	1	10 %
Jawzjan	0	-	-	-	-
Samangan	11	4	36.4 %	0	0 %
Sar-e-Pul	0	-	-	-	-
Region total	27	8	29.6 %	1	**3.7 %**
Nationwide	**335**	**92**	**27.5 %**	**10**	**3.0 %**

ANP provincial and district facilities (combined}	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Balkh	6	0	0 %	0	0 %	3	50 %	5	83.3 %		0 %	0	0 %
Faryab	10	0	0 %	2	20 %	2	20 %	2	20 %		0 %	0	0 %
Jawzjan	0	-	-	-	-	-	-	-	-	-	-	-	-
Samangan	11	0	0 %	0	0 %	2	18.2 %	2	18.2 %		0 %	1	9.1 %
Sar-e-Pul	0	-	-	-	-	-	-	-	-	-	-	-	-
Region total	27	0	0 %	2	7.4 %	7	25.3 %	9	33.3 %	0	0 %	1	3.7 %
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43.0 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

SOUTH EASTERN REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainees were visited by **NDS Human Rights Officer**	%
Ghazni	9	2	22.2 %	0	0 %
Khost	38	6	15.8 %	13	34.2 %
Paktika	25	3	12 %	0	0 %
Paktya	33	5	15.2 %	14	42.4 %
Region total	105	16	15.2 %	27	**25.7 %**
Nationwide	**725**	**116**	**16 %**	**216**	**29.7 %**

NDS provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Ghazni	9	0	0 %	1	11.1 %	0	0 %	4	44.4 %		0 %	0	0 %
Khost	38	0	0 %	5	13.2 %	5	13.2 %	20	52.6 %	8	21.1 %	2	5.3 %
Paktika	25	0	0 %	1	4 %	12	48 %	9	36 %	1	4 %	1	4 %
Paktya	33	0	0 %	0	0 %	7	21.2 %	18	54.5 %	5	15.2 %	4	12.1 %
Region total	105	0	0 %	7	6.7 %	24	22.9 %	51	48.6 %	14	13.3 %	7	6.7 %
Nationwide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

SOUTH EASTERN REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainees were visited by **ANP Human Rights Officer**	%
Ghazni	4	1	25 %	0	0 %
Khost	9	3	33.3 %	0	0 %
Paktika	36	11	30.6 %	6	16.7 %
Paktya	2	-	-	-	-
Region total	51	16	**31.3 %**	6	**11.8 %**
Nationwide	**335**	**92**	**27.5 %**	**10**	**3.0 %**

ANP provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Ghazni	4	0	0 %	0	0 %	0	0 %	2	50 %	0	0 %	0	0 %
Khost	9	0	0 %	0	0 %	1	11.1 %	7	77.8 %	0	0 %	0	0 %
Paktika	36	0	0 %	0	0 %	10	27. 8 %	21	58.3 %	0	0 %	0	0 %
Paktya	2	-	-	-	-	-	-	-	-	-	-	-	-
Region total	51	0	0 %	0	0 %	11	21.6 %	32	62.7 %	0	0 %	0	0 %
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43.0 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

SOUTHERN REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%
Hilmand	12	4	33.3 %
Kandahar	47	11	23.4 %
Nimroz	0	-	-
Uruzgan	4	1	25 %
Zabul	1	-	-
Region total	64	17	26.6 %
Nationwide	**725**	**116**	**16 %**

# of instances where the detainees were visited by **NDS Human Rights Officer**	%
1	8.3 %
11	23.4 %
-	-
0	0 %
-	-
12	**18.8 %**
216	**29.7 %**

NDS provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Hilmand	12	0	0 %	1	8.3 %	0	0 %	5	41.7 %	0	0 %	0	0 %
Kandahar	47	0	0 %	0	0 %	2	4.3 %	35	74.5 %	3	6.4 %	2	4.3 %
Nimroz	0	-	-	-	-	-	-	-	-	-	-	-	-
Uruzgan	4	0	0 %	0	0 %	0	0 %	4	100 %	0	0 %	0	0 %
Zabul	1	-	-	-	-	-	-	-	-	-	-	-	-
Region total	64	0	0 %	1	1.6 %	2	3.1 %	45	70.3 %	3	4.7 %	2	3.1 %
Nationwide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

SOUTHERN REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainee was visited by **ANP Human Rights Officer**	%
Helmand	2	-	-	-	-
Kandahar	71	41	57.7 %	0	0 %
Nimroz	0	-	-	-	-
Uruzgan	3	-	-	-	-
Zabul	0	-	-	-	-
Region total	76	42	55.3%	0	0 %
Nationwide	**335**	**92**	**27.5 %**	**10**	**3.0 %**

ANP provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Helmand	2	-	-	-	-	-	-	-	-	-	-	-	-
Kandahar	71	0	0 %	0	0 %	20	28.2 %	40	56.3 %	0	0 %	0	0 %
Nimroz	0	-	-	-	-	-	-	-	-	-	-	-	-
Uruzgan	3	-	-	-	-	-	-	-	-	-	-	-	-
Zabul	0	-	-	-	-	-	-	-	-	-	-	-	-
Region total	76	0	0 %	0	0 %	22	28.9 %	41	53.9 %	1	1.3 %	0	0 %
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43.0 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

WESTERN REGION

National Directorate of Security (NDS) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

NDS provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where detainees were visited by **NDS Human Rights Officer**	%
Badghis	4	1	25 %	0	0 %
Farah	0	-	-	-	-
Ghor	12	9	75 %	2	16.7 %
Herat	37	11	29.7 %	13	35.1 %
Region total	53	21	39.6 %	15	28.3 %
Nationwide	**725**	**116**	**16 %**	**216**	**29.7 %**

NDS provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Badghis	4	0	0 %	2	50 %	1	25 %	2	50 %	0	0 %	0	0 %
Farah	0	-	-	-	-	-	-	-	-	-	-	-	-
Ghor	12	0	0 %	0	0 %	0	0 %	10	83.3 %	0	0 %	0	0 %
Herat	37	0	0 %	0	0 %	1	2.7 %	21	56.8 %	0	0 %	2	5.4 %
Region total	53	0	0 %	2	3.7 %	2	3.8 %	33	62.3 %	0	0 %	2	3.8 %
Nationwide	**725**	**5**	**0.7 %**	**83**	**11.4 %**	**143**	**19.7 %**	**356**	**49.1 %**	**92**	**12.7 %**	**64**	**8.8 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.

WESTERN REGION

Afghanistan National Police (ANP) provincial and district facilities combined

These tables summarize findings of UNAMA's detention monitoring between 1 January 2019 and 30 March 2020. UNAMA documented instances of detention and treatment in detention facilities through confidential and voluntary interviews of detainees.

Region refers to the area/provinces covered by UNAMA field offices. It is not an official administrative unit of the Islamic Republic of Afghanistan.

**Not applicable (N/A) is used in lieu of percentage for those facilities in which UNAMA could not document any instances of detention.*

ANP provincial and district facilities (combined)	# of instances of detention*	# of credible allegation of **torture and ill-treatment**	%	# of instances where the detainee was visited by **ANP Human Rights Officer**	%
Badghis	1	-	-	-	-
Farah	0	-	-	-	-
Ghor	4	0	0 %	0	0 %
Herat	30	11	36.7 %	0	0 %
Region total	35	11	31.4 %	0	0 %
Nationwide	**335**	**92**	**27.5 %**	**10**	**3.0 %**

ANP provincial and district facilities (combined)	**# of instances of detention**	# of instances where the detainees **obtained a lawyer before questioning**		# of instances where the detainees **obtained a lawyer during detention**		# of instances where the detainees **contacted with their families**		# of instances where the detainees **signed documents without knowing the content**		# of instances where the detainees **were informed of their rights**		# of instances where the detainees **underwent body examination before questioning**	
		#	%	#	%	#	%	#	%	#	%	#	%
Badghis	1	-	-	-	-	-	-	-	-	-	-	-	-
Farah	0	-	-	-	-	-	-	-	-	-	-	-	-
Ghor	4	0	0 %	3	75 %	2	50 %	1	25 %	1	25 %	0	0 %
Herat	30	0	0 %	1	3.3 %	9	30 %	13	43.3 %	0	0 %	0	0 %
Region total	35	0	0 %	4	11.4 %	12	34.3 %	15	42.9 %	1	2.9 %	0	0 %
Nationwide	**335**	**2**	**0.6 %**	**21**	**6.3 %**	**91**	**27.2 %**	**144**	**43.0 %**	**18**	**5.4 %**	**1**	**0.3 %**

* When recorded instances of detention were fewer than 3, findings are not indicated to protect the confidentiality of the interviews.