Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

COUNTRY OF ORIGIN INFORMATION REPORT

AFGHANISTAN

APRIL 2006

RDS - IND
COUNTRY OF ORIGIN INFORMATION SERVICE

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1. Scope of Document

1.01 This Country of Origin Information Report (COI Report) has been produced by Country of Origin Information Service, Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to **10 March 2006**.

1.02 The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/ human rights determination process.

1.03 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

1.04 The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

1.05 The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.

1.06 As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

1.07 The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent

documents. All sources contain information considered relevant at the time this Report was issued.

1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

1.09 COI Reports are published every 6 months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.

1.10 In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk.

1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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Advisory Panel on Country Information
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2. Geography

2.01 The Central Intelligence Agency (CIA) World Factbook, updated on 10 January 2006, gives the conventional long form of the country name as the "Islamic Republic of Afghanistan" and the conventional short form as "Afghanistan". **[23] (p4)** The same source records that Afghanistan is a land-locked country, sharing borders of 5,529 kilometres with six neighbouring states: China (76 km), Iran (936 km), Pakistan (2,430 km), Tajikistan (1,206 km), Turkmenistan (744 km) and Uzbekistan (137 km). **[23] (p2)** The CIA World Factbook states that there are 34 provinces. **[23] (p4)**

2.02 Europa Regional Surveys of the World: South Asia 2005 records that the five largest towns are Kabul (the capital), Kandahar, Herat, Mazar-i-Sharif and Jalalabad and gives a 2003 estimated population figure of 23,897,000. **[1a] (p74-75)** The CIA World Factbook recorded an estimated July 2005 population figure of 29,928,987. **[23] (p2)**

2.03 A June 2005 UNHCR paper recorded that the official languages are Dari (a Persian dialect) spoken by 50 per cent of the population and Pashtu (spoken by an estimated 38 per cent). **[11b] (p7)** The Constitution states "In areas where the majority of people speak one of the Uzbeki, Turkmani, Baluchi, Pashai, Nuristani and Pamiri languages, that language shall be recognized as third official language in addition to Pashtu and Dari, the modality of its implementation shall be regulated by law". **[81] (Article 16)** The UNHCR paper states that languages and dialects other than Pashtu and Dari are spoken by about 12 per cent of the population. **[11b] (p7)**

2.04 Europa 2005 records that Dari and Pashto (Pashtu/Pakhto) have been the official languages of the country since 1936, using an augmented Arabic script. Pashto, one of the eastern group of Iranian languages, is also spoken across the border in Pakistan. **[1a] (p50)** The Ethnologue: Languages of the World 2005 records that the formal style of Dari is closer to Tehrani Persian (Farsi) and the informal style in some parts of Afghanistan is closer to Tajiki of Tajikistan. "Phonological and lexical differences between Iran and Afghanistan cause little difficulty in comprehension." **[16]**

2.05 The June 2005 UNHCR paper recorded:

"In terms of ethnic composition, which is considered to have become an increasingly defining feature during the Constitutional Loya Jirga and also the presidential elections, Afghanistan's population is rich and diverse:

- The Pashtuns are the largest group (about 38%) and are divided into two main subgroups of Durrani and Ghilzai (besides further sub-groups and tribes within these two). While most of the Pashtuns are settlers, some of them, the Kuchis, lead a semi-nomadic or nomadic life, based on animal husbandry.

- The Tajiks (about 25%) are Persian (Dari) – speaking Afghans.

- Hazaras (about 19%), Uzbeks (about 6%), Turkmen, Baluch, Pashai, Nuristani, Aymaks, Arab, Qirghiz, Qizilbash, Gujur, Brahwui and others (12%).

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

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

2.06 The United Nations High Commissioner for Refugees (UNHCR) published on 1 December 2005 an operational map highlighting the available logistical facilities of Afghanistan, which can be accessed via the link below.

http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=43706ed62

See also Annex B **for more maps of Afghanistan.**

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

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3. Economy

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

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

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

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

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

3.04 A World Bank report dated December 2004 stated that:

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

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3.05 The United Nations Office on Drugs and Crime (UNODC) Afghanistan Opium Survey 2005 found that opium poppy cultivation had decreased for the first time since 2001. **[87] (preface)** The survey stated that "The area under opium poppy cultivation in Afghanistan decreased by 21% from about 131,000 hectares (ha) in 2004 to a level of 104,000 ha in 2005…The main opium poppy cultivation provinces in 2005 were (in order of magnitude): Hilmand [Helmand], Kandahar, Balkh, Farah and Badakshan. Together, these 5 provinces represented 65% of the total area under opium poppy cultivation in 2005." **[87] (Executive summary)**

3.06 The Department for International Development (DFID) Afghanistan Country Profile, updated on 19 January 2006, stated that, as a rough estimate, 70 per cent of the Afghan population lived on less than US$2 per day. **[51b]** In August 2004, UNICEF reported that the average monthly wage for unskilled workers in Afghanistan was $100. **[44a]**

3.07 On 19 January 2006, the xe.com exchange rate indicated that one pound sterling was equal to 75.48 Afghan Afghanis. **[58]**

(See also Section 6C: Humanitarian Situation **paragraphs 6.383)**

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4. History

OVERVIEW TO DECEMBER 2001

4.01 A Freedom House report published in August 2005 recorded:

> "Located at the crossroads of the Middle East, Central Asia, and the Indian subcontinent, Afghanistan has for centuries been caught in the middle of great power and regional rivalries. After besting Russia in a contest for influence in Afghanistan, Britain recognized the country as an independent monarchy in 1921. King Zahir Shah ruled from 1933 until he was deposed in a 1973 coup. Afghanistan entered a period of continuous civil conflict in 1978, when a Communist coup set out to transform this highly traditional society. The Soviet Union invaded in 1979, but faced fierce resistance from U.S.-backed mujahideen (guerrilla fighters) until troops finally withdrew in 1989.
>
> "The mujahideen factions overthrew the Communist government in 1992 and then battled each other for control of Kabul, killing more than 25,000 civilians in the capital by 1995. The Taliban militia, consisting largely of students in conservative Islamic religious schools, entered the fray and seized control of Kabul in 1996. Defeating or buying off mujahideen commanders, the Taliban soon controlled most of the country except for parts of northern and central Afghanistan, which remained in the hands of the Tajik-dominated Northern Alliance coalition.
>
> "In response to the terrorist attacks of September 11, 2001, the United States launched a military campaign in October 2001 aimed at toppling the Taliban regime and eliminating Saudi militant Osama bin Laden's terrorist network, al-Qaeda. Simultaneously, Northern Alliance forces engaged the Taliban from the areas under their control. The Taliban crumbled quickly, losing Kabul to Northern Alliance forces in November [2001] and surrendering the southern city of Kandahar, the movement's spiritual headquarters, in December [2001]." **[41b] (p16-17)**

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POST-TALIBAN

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

> "Because the US-led coalition had been slow to exercise the 'southern option' – troops were not sent into southern Afghanistan until late November 2001 – a great number of Taliban members, possibly as many as 18,000 were able to flee to Pakistan, where they could find refuge among the frontier tribes. Many al-Qa'ida members also escaped. Two major operations against al-Qa'ida – in the Tora Bora mountains south of Jalalabad in December [2001] and in the Shah-i-Kot mountains east of Gardez in March 2002 – achieved meagre results." **[1a] (p61)**

4.03 Europa also records:

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

4.04 Europa noted that the Emergency Loya Jirga (ELJ) duly met in May-June 2002. Karzai was re-elected President and the Transitional Authority Cabinet retained most of the incumbent members of the Interim Authority. **[1a] (p61)**

4.05 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated on 6 March 2006, recorded that:

"In October 2002, President Karzai appointed a Constitutional Drafting Committee, chaired by Vice-President Shahrani, to produce a draft constitution. The draft was examined by the 35-member Constitutional Review Commission, seven of whom were women, and a final draft was published on 3 November [2003]. This was submitted for discussion and approval to an elected Constitutional Loya Jirga, under the chairmanship of former President Mojadeddi, which convened on 14 December 2003. The new constitution was agreed on 4 January 2004 and established a presidential system of government with all Afghans equal before the law." **[15c] (p2)**

The Central Intelligence Agency World Factbook dated 10 January 2006 recorded that the new constitution was signed on 16 January 2004. **[23] (p4)**

(See also Section 5: The Constitution **paragraphs 5.1-5.4)**

4.06 Europa Online, accessed on 8 February 2006, recorded:

"Throughout 2004 violence continued to affect significant areas of the country. In February five Afghan aid workers died following an ambush east of Kabul. In March the Minister of Civil Aviation and Tourism and son of Ismail Khan, Mirwais Sadiq, was killed in a reported grenade attack in Herat. Khan held the regional government commander, Gen. Zahir Nayebzada, responsible for his son's death, and violent clashes ensued between rival forces in the province. Nayebzada eventually fled, and Khan regained control of the city. President Karzai subsequently deployed forces of the ANA [Afghan National Army] to Herat in an attempt to restore order. The level of provincial instability in the country was illustrated further in April [2004], when fighters loyal to Gen. Dostam seized control of the city of Maymana, the capital of the northern province of Faryab, forcing the Governor of Faryab to flee, allegedly following a

dispute over power-sharing in the region. Karzai reportedly sent soldiers into the city to stabilize the situation. Meanwhile, US troops continued to engage in operations against the Taliban. In May [2004] Taliban forces took control of the Mizan district of Zabul province, but were swiftly repelled." **[1b] (Recent history)**

4.07 Europa Online, accessed on 8 February 2006, recorded:

"In September 2004, in an apparent attempt to assert his jurisdiction outside Kabul in advance of the [presidential] election, President Karzai dismissed Ismail Khan, the powerful Governor of Herat province, and offered him the cabinet post of Minister of Mines and Industries. Khan's dismissal provoked rioting in the province as his supporters confronted US troops, reportedly resulting in the deaths of seven people and injuries to a further 60, including 15 US soldiers. Khan subsequently rejected the ministerial portfolio, and Mohammed Khairkhwa was appointed to succeed him as Governor of Herat. Shortly afterwards President Karzai survived an assassination attempt when a rocket narrowly missed the US military helicopter in which he was travelling on an official visit to the south-east of the country. The Taliban claimed responsibility for the attack." **[1b] (Recent history)**

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

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

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

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

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

PRESIDENTIAL ELECTION 9 OCTOBER 2004 AND THE NEW CABINET

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4.11 Europa Online, accessed on 8 February 2006, recorded:

"On 9 October 2004 Afghanistan held its first direct presidential election. Despite some sporadic violence on the day of the election, no widespread disturbances were reported. Shortly after polling had begun, all 15 opposition candidates launched a boycott of the vote and demanded that it be abandoned, owing to alleged widespread electoral fraud. However, international observers announced in the following month that they had concluded, following an inquiry, that alleged irregularities during the poll were not considered significant enough to have altered the final result. Interim President Hamid Karzai was subsequently declared the winner, receiving 55.37% of the votes, sufficient to ensure that a second round of voting would not be necessary. Former Minister of Education Yunus Qanooni came second, with 16.28% of the votes, followed by Mohammad Mohaqqeq, with 11.66%, and Gen. Abdul Rashid Dostam, with 10.03%. A reported 83.66% of those registered to vote did so. Concerns were, however, raised by the regional nature of Karzai's victory, which seemed largely to have been secured by voters in the Pashtun-majority provinces, indicating that he had not succeeded in appealing to all ethnic groups." **[1b] (Recent history)**

4.12 The report of the Impartial Panel of Election Experts published on 1 November 2004 concluded:

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

4.13 Europa Online, accessed on 8 February 2006, recorded:

"In December 2004, following his inauguration, President Karzai announced the composition of his Cabinet. While Minister of Foreign Affairs Dr Abdullah Abdullah and Minister of Interior Affairs Ali Ahmad Jalali retained their portfolios, Marshal (formerly Gen.) Muhammad Qassim Fahim was replaced as Minister of Defence by Gen. Abdul Rahim Wardak. Hedayat Amin Arsala was allocated the commerce portfolio. Ismail Khan became Minister of Energy and Water, although several powerful regional commanders were not included in the new Cabinet, ostensibly owing to the fact that they did not satisfy a requirement that all cabinet ministers be educated to university level. Karzai was criticized for his failure to allocate more portfolios in the Pashtun-dominated Cabinet to other ethnic groups. In an attempt to address Afghanistan's continued problems with the widespread cultivation of opium, a Ministry of Anti-narcotics was created, headed by Habibullah Qaderi." **[1b] (Recent history)**

4.14 On 10 January 2005, the Special Representative of the UN Secretary-General reported that the composition of the 27-member Cabinet met the requirements of the Afghan constitution that all ministers have higher education and hold only Afghan citizenship. "It also reflects broadly the ethnic composition of the country, with ten Pashtuns, eight Tajiks, five Hazaras, two Uzbeks, one Turkmen and one Baloch. Three women are in the cabinet – among them is the only female presidential candidate, Masuda Jalal." **[40k]**

4.15 BBC News reported on 28 September 2005 that Interior Minister, Ali Ahmad Jalali, had resigned to pursue his academic career. Mr Jalali denied any rift with President Karzai although he said he was frustrated with the lack of Government progress in purging officials involved in the drugs trade. President Karzai said he had accepted Mr Jalali's offer to be a special advisor. **[25a]**

RUN - UP TO THE PARLIAMENTARY AND PROVINCIAL ELECTIONS

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

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

4.17 Radio Free Europe/Radio Free Liberty (RFE/RL) reported on 22 August 2005 that Afghanistan's Islamic militants, primarily the Taliban, had left a trail of bloodshed in recent months.

"They have been targeting pro-government Islamic clerics, officials, electoral workers, and foreign aid workers, as well as Afghan and coalition troops. In the latest attack on clerics, Taliban guerrillas on 21 August [2005] claimed responsibility for shooting moderate mullah Abdullah Malang, deputy head of the religious council of Panjway District in Kandahar Province. Malang is the fifth pro-government mullah to be killed. The Taliban says such clerics have defied the jihad, or holy war, declared against the Western-supported Karzai government." **[29h]**

(See also Section 6A: Security situation in different regions **and Section 6C:** Anti-coalition forces)

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PARLIAMENTARY AND PROVINCIAL ELECTIONS 18 SEPTEMBER 2005

4.18 A December 2005 report by the Afghanistan Research and Evaluation Unit (AREU) stated that:

"On 18 September 2005, Afghanistan held its first legislative elections since the 1969 parliamentary elections. Approximately 6.4 million Afghans went to the

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polls to elect representatives to the lower house of the National Assembly and to 34 Provincial Councils (PCs). Afghanistan's National Assembly (NA) consists of a 249-member directly elected lower house–the Wolesi Jirga (WJ)–and an indirectly elected and appointed upper house, the Meshrano Jirga. The 102-member Meshrano Jirga has one third of its members elected from within each of the 34 PCs, one third from the District Councils, and one third appointed by the President. As district elections have not been held, and are unlikely to be held anytime soon, a presidential decree was signed authorising each PC to elect a transitional Meshrano Jirga member in addition to their regular member until district elections can be held. The PCs elected their 68 representatives to the Meshrano Jirga in late November, and on 10 December President Karzai announced his 34 appointments. This paved the way for the convening of Afghanistan's new National Assembly [NA] on 19 December [2005]." **[22c] (introduction)**

4.19 BBC News reported on 19 December 2005 that "Afghanistan's first parliament for more than 30 years has held its inaugural session in the capital, Kabul …There was tight security for the ceremony, which is seen as another milestone in the country's transition." **[25al]**

AFGHANISTAN COMPACT 31 JANUARY 2006

4.20 BBC News reported on 1 February 2006 that:

"International donors have pledged more than $10.5bn (£5.9bn) in aid to Afghanistan over the next five years after a key conference in London. The plan, known as the "Afghan Compact", offers more funds to the Afghan state thanks to its 'improved government accountability'…Afghan President Hamid Karzai had told the conference much progress had already been made. But he warned drugs and terrorism remained grave threats." **[25t]**

4.21 Information on the Foreign and Commonwealth web site, accessed on 2 February 2006, stated that the Afghanistan Compact was launched on 31 January 2006:

"The Compact is the result of consultation between the Government of Afghanistan, the United Nations and the international community, and represents a framework for co-operation for the next five years. The agreement affirms the commitment of the Government of Afghanistan and the international community to work towards conditions where the Afghan people can live in peace and security under the rule of law, with good governance and human rights protection for all, and can enjoy sustainable economic and social development. The Compact follows the formal end of the Bonn Process in September 2005, with completion of the Parliamentary and Provincial elections, and will establish an effective mechanism for co-ordinating Afghan and international efforts over the next period." **[15a]**

4.22 The Afghan Compact identified three critical and interdependent areas for action during the five-year period from the adoption of the Compact: Security; Governance; rule of law and human rights; and Economic and social development. In addition, "A further vital and cross-cutting area of work is eliminating the narcotics industry, which remains a formidable threat to the people and state of Afghanistan, the region and beyond." **[15a] (p2)**

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

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

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5. State structures

THE CONSTITUTION

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

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

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

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

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

"The Constitution establishes a unitary state with a strong central government, providing for a democratically elected President and for separation of powers among the judiciary, executive, and legislative branches. The Government is allowed to delegate certain authorities to local administrative units (provinces) in the areas of economic, social, and cultural affairs, and to increase the participation of the people in development. To this end, it establishes a role for elected provincial, district, and village level councils to work with the sub-national administration. Municipalities are to administer city affairs under the oversight of elected mayors and municipal councils." **[69a] (para. 4.15)**

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

"It [the constitution] provides for a pure presidential system, but one that places a great emphasis on parliamentary control of the executive. The Constitution

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

(The Constitution may be accessed directly via the website link given in Annex G for source number **[81]**

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CITIZENSHIP AND NATIONALITY

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

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

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

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

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

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

DUAL CITIZENSHIP: NOT RECOGNIZED.

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

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

- Person who has continuing financial obligations to the government or other institutions.

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- Person who has been convicted of a crime and sentenced to jail.
- Persons involved in national security, whose loss to the country might endanger Afghan security.

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

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

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

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

5.08 A news article by the Institute of War and Peace Reporting dated 30 July 2005 stated that most Afghans do not have national identity cards. Moreover, "The ID problem in Afghanistan is not something that can be easily resolved. 'Different regimes have issued different ID cards in Afghanistan and some people outside or inside Afghanistan have been issued fake ones. The only way to prevent all these problems is to issue new IDs,' said Mir Abdul Rahman Maqul, head of the statistics department of the interior ministry." Mr Maqul was also reported as saying that the Government planned to issue new ID cards eventually. **[73u]**

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POLITICAL SYSTEM

OVERVIEW

5.09 The Central Intelligence Agency (CIA) World Factbook updated on 10 January 2006 recorded that:

"Following the 11 September 2001 terrorist attacks, a US, Allied, and Northern Alliance military action toppled the Taliban for sheltering Osama Bin Laden. In late 2001, a conference in Bonn, Germany, established a process for political reconstruction that included the adoption of a new constitution in 2003, a

presidential election in 2004, and National Assembly elections in 2005. On 9 October 2004, Hamid Karzai became the first democratically elected president of Afghanistan. The National Assembly was inaugurated on 19 December 2005." **[23] (p1)**

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

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

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

5.12 On 18 November 2005, Radio Free Afghanistan (RFA), the Afghan service of Radio Free Europe/Radio Liberty (RFE/RL), reported that:

"The 249 members of the Wolesi Jirga can be divided into four broad and often overlapping camps: first, former mujahedin, including the 40 or so members of Hizb-e Islami who have distanced themselves from their party leader and current antigovernment fugitive Gulbuddin Hekmatyar; second, independents, technocrats and those tribal leaders who are not affiliated with other parties; third, former communists and other leftists…and fourth, former members of the Taliban establishment. Since a large number of Taliban leadership had previous association to the mujahedin parties, this last group could overlap with the first group." **[100]**

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

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

(See also Section 6B: Former communists' participation in the 2005 elections **and** Women's participation in the 2004 and 2005 elections **and Section 6C:** Former Taliban's participation in 2005 elections **and** Former Hizb-e Islami's

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member's participation in the 2005 elections **for more information on election results)**

PARLIAMENTARY ELECTIONS

5.14 The final report of the European Union Election Observation Mission published on 10 December 2005 stated that:

"Following the presidential election of October 2004, the parliamentary and provincial council elections held on 18 September 2005 were an important step in a transition process designed to put in place a representative government and thereby to help bring peace to Afghanistan after a quarter-century of conflict. The elections were held in extremely difficult conditions, and to a timetable that was very tight… Overall, given their complexity and the operational challenges, the elections are an accomplishment, although there were notable shortcomings which will need to be addressed for the future. Pre-election preparations were generally good and voting on Election Day was largely peaceful. Although the turn-out was markedly lower than in 2004, millions of Afghan voters and thousands of candidates took part often in a challenging security environment. However, post-Election Day developments revealed significant deficiencies in the wider electoral process. Irregularities and fraud cast a shadow over the integrity of the elections in a number of provinces, a worrying development that should be honestly analysed and effectively addressed in the future." **[98] (executive summary)**

5.15 The Joint Electoral Management Body (JEMB) final report dated December 2005 stated that:

"The JEMB took strong measures against detected fraud, including the exclusion of ballots from the count. In total, ballots from 703 polling stations and 74 additional ballot boxes were excluded from the count because of indications of fraud. Electoral staff implicated in irregularities were dismissed immediately, were reported to the Afghan authorities and will not work for the Afghan election administration again. These measures sent a clear message that fraud is unacceptable and will be acted against in Afghan electoral processes.

"However, it should be noted that while there was certainly some level of fraud, investigations by the JEMB show clearly that electoral irregularities were less widespread than claimed by some stakeholders. It should also be noted that fraud is an unfortunate but common feature in many elections, particularly those held in post-conflict and developing countries, in which democratic traditions are still being established. The irregularities observed during the 2005 process are comparable to those of other developing democracies." **[74d] (p6)**

5.16 The JEMB report concluded that such irregularities did not detract from the fact that the elections were a significant step forward for the country. "The JEMB believes that the 2005 Afghan National Assembly and Provincial Council elections represent a credible and accepted electoral event." **[74d] (p7)**

5.17 A December 2005 report by the Afghanistan Research and Evaluation Unit stated that "These elections marked the end of the transitional political process outlined in the Bonn Agreement of December 2001, and the beginning for Afghanistan's first democratically elected legislature in over 30 years." **[22c] (executive summary)**

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

POLITICAL PARTIES

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

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

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

(See also Annex D: Prominent People **for more information on Abdul Sayyaf)**

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

5.19 The International Crisis Group (ICG) briefing of 2 June 2005 concurred, noting:

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

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5.20 The ICG report also observed that the process for registering political parties was highly politicised:

"For example, the Islamists, who have considerable influence within and outside government, have tried with some success to obstruct registration of their leftist rivals. Thus, Islamist leaders and officials such as Abdur Rab Rasul Sayyaf and Supreme Court Chief Justice Fazl Hadi Shinwari delayed the registration of the United National Party led by Noorul Haq Olomi, a former Parchami general, for almost a year and half. Olomi criticised the government, the UN and the international community for their indifference towards this political manipulation of the registration process." **[26e] (p5)**

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

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

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

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

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

"Given the unpopularity of political parties, candidates officially affiliated with a registered party did remarkably well in the elections. Of the 249 candidates elected to the WJ, 88 (35 percent) were officially members of political parties. These figures, however, do not include the nearly one third of candidates who had some affiliations with political parties or factions but who registered as

independents, in many cases due to the unpopularity of parties." **[22c] (section 2.2)**

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

"The Political Parties Law obliges parties to register with the Ministry of Justice and requires political parties to pursue objectives that are consistent with the principles of Islam. Political parties based on ethnicity, language, Islamic school of thought, and region were not allowed; however, political parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security. At year's end there were 91 registered political parties." **[2d] (Section 2)**

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

5.24 Commenting on political parties and the elections, the USSD 2005 Report stated that "Unlike in previous years, the government did not ban any political parties, other than the Taliban. After some delays in registering parties whose leaders were former communists, over 70 accredited political parties registered with the Ministry of Justice and participated in parliamentary elections." **[2d] (Section 3)**

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

PARLIAMENTARY CANDIDATES

5.25 The final report of the Joint Electoral Management Body (JEMB) published in December 2005 gave details of the May 2005 candidate nomination process during which 6103 Afghan men and women submitted nomination papers. **[74d] (p4)** The report stated that:

"The Electoral Complaints Commission (ECC) reviewed all nominations to determine the candidates' eligibility. Seventeen candidates were excluded from standing as a result of challenges: 11 for having links to illegal armed groups, five for having insufficient valid signatures to support their candidacies and one for holding a prohibited public office. Following all withdrawals and disqualifications, 5,800 candidates remained on the candidate lists, including 582 women." **[74d] (p4)**

(See also Section 6B: Women's participation in the 2004 and 2005 elections**)**

5.26 A Press Release issued by the Electoral Complaints Commission (ECC) on 10 November 2005 stated that there had also been further disqualifications:

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

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

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

5.28 On 18 November 2005, Radio Free Afghanistan (RFA), the Afghan service of Radio Free Europe/Radio Liberty (RFE/RL), reported that:

"Despite the more than 70 officially registered political parties in Afghanistan, the vast majority of the candidates for the Wolesi Jirga and provincial council seats ran as independents. Nonetheless, many of the new lawmakers are affiliated with political parties and there are political coalitions, although most are based on short-term political expediencies and have no clearly stated joint policy goals. No clear-cut political map of the new National Assembly can be drawn." **[100]**

(See also Section 6A: Parliamentary Elections 2005 **for more information on human rights issues during the elections)**

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JUDICIARY

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

"After 23 years of civil war, which ended in December 2001 with the defeat of the Taliban, there no longer existed a functioning national judicial system. In accordance with the Bonn Agreement, Afghanistan temporarily reverted to the Constitution of 1964, which combined Shari'a with Western concepts of justice. A new Constitution was introduced in early 2004, which made no specific reference to the role of Shari'a but stated that Afghan laws should not contravene the main tenets of Islam. Following the inauguration of a directly elected President in December 2004, in January 2005 an interim Supreme Court was created, as required by the Constitution if a presidential election preceded legislative elections. The Court comprised nine members, including the Chief Justice [Fazul Hadi Shinwari]." **[1b] (Judicial system)**

5.30 The Constitution adopted in January 2004 states:

"The judicial branch is an independent organ of the state of the Islamic Republic of Afghanistan. The judicial branch consists of the Supreme Court (Stera Mahkama), High Courts, (Appeal Courts), and Primary Courts, structure and authorities of which are determined by law." [Article 116]…"Judges are

appointed with the recommendation of the Supreme Court and approval of the President." [Article 132]
Article 3 of the Constitution states that "In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam." **[81]**

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

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

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

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

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

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

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

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"Most Afghans rely on customary procedures for dispute settlement. These procedures treat criminal offences as disputes, a practice that undermines the authority of the state, but they should be a valuable resource for the country if their functions are limited to genuine civil disputes… Foreign experts, including Afghans from the Diaspora, have suggested regulating rather than replacing these traditions." **[89] (p41)**

5.34 A UNHCR paper dated June 2005 stated:

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

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

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

"Following the establishment of the Judicial Reform Commission in 2002, an interim criminal procedure code has been adopted and a number of other relevant laws essential to justice reform have been enacted or drafted. With assistance from Italy (as lead nation), the United States, the European Union and the United Nations organizations, progress has also been made with respect to the training of personnel and the rehabilitation of physical infrastructure, including courts and correctional facilities." **[39c] (p10)**

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

"The justice system continues to suffer from a lack of sufficiently qualified judges, prosecutors and lawyers, and the necessary physical infrastructure to administer justice fairly and effectively. Institutionalized corruption, political interference, lengthy pretrial detentions, the lack of availability of legal representation and other due process violations remain the norm and contribute to the low level of public trust and confidence in the justice system. A strategic framework for justice sector reform was endorsed by the Cabinet in October 2005. Entitled 'Justice for All', the plan was developed through the Consultative Group on Justice chaired by the Ministry of Justice with support from the United Nations Development Programme (UNDP), UNAMA and other key stakeholders." **[39h] (p6-7)**

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LEGAL RIGHTS/DETENTION

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

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

5.38 The CDDRL report also stated that:

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

5.39 Article 31 of the Constitution adopted in January 2004 states:
"Every person upon arrest can seek an advocate to defend his/her rights or to defend his/her case for which he/she is accused under the law. The accused upon arrest has the right to be informed of the attributed accusation and to be summoned to the court within the limits determined by law. In criminal cases, the state shall appoint an advocate for a destitute…The duties and authorities of advocates shall be regulated by law."
The Constitution also states that "All final decisions of the courts are enforceable, except for capital punishment, which is conditional upon approval of the President." **[81]**

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

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

"Individuals held in Government-controlled prisons are frequently held for months without being charged. Persons who are charged are held for extended periods of time without being tried. In some cases, pre-trial detentions exceed the sentence for the alleged crimes. These individuals, who may well be innocent of any crime, are held in detention with hardened criminals. In addition,

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children and juveniles are commonly held in the same cells as violent adult criminals. Corruption throughout the system is rampant." **[39k] (para. 60)**

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

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

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

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

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

"Judicial and police procedures and practices for taking persons into custody and bringing them to justice followed no established code and varied depending on the area and local authorities. Some areas had a more formal judicial structure than others. The authorities did not respect limits on lengths of pretrial detention. The law provides for access to legal counsel, the use of warrants, and bail; however, all three were inconsistently applied. There were no confirmed reports of political detainees." **[2d] (Section 1d)**

[But see also US military bases **for information on people detained by the US]**

5.45 The same report also stated that:

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

5.46 The same report also recorded that:

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

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DEATH PENALTY

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

5.48 Amnesty International reported on 2 February 2006 that:

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

"Amnesty International is not aware that any executions took place in Afghanistan in 2005. However, according to press reports, at least 21 people were sentenced to death, including seven men sentenced in August 2005… At least nine men were sentenced to death in 2004. Military commander Abdullah Shah was secretly executed in April 2004 for multiple murders, after a trial by a special court in which he was denied basic rights of defence. He had no legal counsel and was not allowed to cross-examine witnesses. The court failed to investigate allegations that he had been tortured or visible evidence of his injuries, and reportedly imposed the death penalty under political pressure. The trial was not open to the public." **[7h]**

5.49 The 2005 Foreign and Commonwealth Office (FCO) Annual Report on Human Rights observed that "Although several courts have handed down the death sentence since Abdullah Shah's death, none has been followed through." **[15d] (chapter 2, p33)**

5.50 On 26 April 2005, Amnesty International (AI) reported that a woman had been executed for committing adultery in Badakshan province. Reportedly, the woman had been condemned to death by a local court and then stoned to death within approximately 48 hours. It is alleged to be the first execution of a woman for committing adultery since the removal of the Taliban regime in 2001. AI welcomed the promised investigation by the Afghan Government into the incident. **[7m]** A news article dated 23 May 2005 by Advocacy Project reported

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that following an international outcry over the murder, the Government arrested seven of those involved, including the victim's own father. **[40z]**

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INTERNAL SECURITY

DEVELOPMENTS FOLLOWING 11 SEPTEMBER 2001

5.51 In a report dated 27 September 2004, Save the Children recorded that "Twenty-five days after the terrorist attacks of 11 September 2001 against the USA, Coalition troops were deployed to Afghanistan under OEF [Operation Enduring Freedom] – the US-led war on terrorism." **[50] (section 3.4.1.)** On 29 July 2004, a House of Commons Foreign Affairs Committee reported that the primary objective of the ongoing US-led OEF in Afghanistan is to extinguish the remaining groups of al Qaeda and other foreign fighters, and the diehard remnants of the former Taliban regime. **[53] (p72)**

5.52 The Save the Children report of September 2004 recorded "Since the fall of the Taliban regime three distinct formulations of military engagement have been pursued by the international community in Afghanistan: Operation Enduring Freedom (OEF); the International Security Assistance Force (ISAF); and the PRTs [Provincial Reconstruction Teams]." **[50] (section 3.4)**

(See also: ISAF and PRTs **and** The Role of PRTs **for more detailed information)**

5.53 An April 2005 report by the Netherlands Institute of International Relations recorded "After the fall of the Taliban, the military consisted of recently uniformed armed factions of common ethnic or tribal origin under the personal control of commanders, originating as anti-Soviet mujahidin or tribal militia of the Soviet-installed regime." **[89] (p36)**

5.54 The same report recorded:

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

"The security forces consist of the army and air force under the Ministry of Defence, the police forces, including national, border, highway, and counter-narcotics under the Ministry of the Interior and the intelligence service, the National Directorate of Security (NDS). All consist of a combination of: low to mid-level personnel who have served all governments, commanders and others

from the militias that took power at the end of 2001 and new units trained by donor and troop-contributing countries." **[89] (p37)**

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

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

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

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

"The North Atlantic Treaty Organization (NATO)-led ISAF, continued to assist the Government of Afghanistan in maintaining security, and creating the conditions for stabilization and reconstruction, in Kabul, and the northern, north-eastern and western regions. On 8 December 2005, the NATO Foreign Ministers formally adopted a revised ISAF operational plan which provides for an expansion to the south. NATO contributing nations have begun the process of gradually building up their troops in the south which will serve under the command of the Coalition Forces until the necessary capabilities are in place." **[39h] (p11)**

(See also Section 6A: Human Rights: Security Situation **paragraph 6.13**)

SECURITY SECTOR REFORM (SSR)

5.57 A report by the United States Government Accountability Office (GAO) dated June 2005 stated that "In April 2002, the United States and several other nations agreed to reform the five pillars of Afghanistan's security sector– creating an Afghan army, reconstituting the police force, establishing a working judiciary, combating illicit narcotics, and demobilizing the Afghan militias." The GAO report noted that the lead countries for these pillar reforms are:

Army – United States;
Police – Germany;
Justice – Italy;
Combating drugs – United Kingdom;
Disarmament, demilitarisation, reintegration (DDR) – Japan.
[57] (Preface: What GAO found)

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

"Over the past two years, there has been remarkably little progress in security sector reform. Forward movement has been stalled by the lack of national ownership, poor donor coordination, the absence of an integrated political process, the lack of stable governance provided in coordination by the centre and peripheral bodies, the slow pace of administrative reforms in the security sector, and the high level of offbudget defence spending." **[47] (chapter 5)**

5.59 The GAO report of June 2005 stated that "… establishing viable Afghan army and police forces will almost certainly take years and substantial resources. Available information suggests that these programs could cost up to $7.2 billion to complete and about $600 million annually to sustain. Furthermore, the other lead nations have made limited progress in reforming Afghan's judiciary, combating illicit narcotics, and demobilizing the militias." **[57] (Preface: What GAO found)**

5.60 An International Crisis Group (ICG) Report dated 21 July 2005 stated that:

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

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

"The illicit narcotics industry poses a profound threat to achieving peace and stability in Afghanistan. Afghanistan remains the largest supplier of opium to the world, accounting for 87 per cent of the global supply with an estimated export value of US$ 2.7 billion in 2005. This thriving economy, equivalent to more than 50 per cent of the country's legal gross domestic revenues, has provided fertile ground for criminal networks, illegal armed groups and extremist elements. Government-led eradication and interdiction efforts have yielded modes [sic] results in some areas; however, this has been offset by high crop yields. Poppy cultivation has spread throughout the country… Poppy cultivation remains an attractive option for farmers, who earn 10 times more per hectare for poppy than for cereals." **[39h] (p6)**

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

"In recognition of the urgent need to stem the cycle of insecurity promoted by the narcotics industry, the Government adopted a new Counter-Narcotics Law on 17 December 2005. The law contains criminal and procedural provisions, for, among others, investigation, prosecution and trial and also established the jurisdiction of the Central Narcotics Tribunal. In January, at the London Conference on Afghanistan, the Ministry of Counter-Narcotics launched its revised national drug control strategy, which gives priority to: (a) the fight against drug trafficking; (b) assistance to farmers through alternative livelihoods; (c) drug demand reduction; and (d) institution-building at the central

and provincial levels. In this context, eradication efforts are prioritized according to areas where there is access to alternative livelihoods." **[39h] (p6)**

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

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WARLORDS AND COMMANDERS

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

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

5.64 A later report by the independent expert, dated 11 March 2005, stated that "While the Government is making progress in delegitimizing and disarming some of these actors, they continue to pose a threat to national security and human rights, especially in light of their involvement in the rapidly expanding drug trade." **[39i] (para. 16)**

5.65 A Human Rights Watch (HRW) report of September 2004 reported that "While many observers inside and outside Afghanistan continue to focus on the Taliban as the main threat to human rights and political development, in most parts of the country Afghans told Human Rights Watch that they are primarily afraid of the local factional leaders and military commanders – not the Taliban insurgency." **[17i] (p2)**

5.66 A report by the Netherlands Institute of International Relations dated April 2005 stated that "No international organization has a mandate to protect Afghans from the commanders and warlords whom they identify as the main threat to their security. The partial exception is UNAMA, whose mandate is restricted to monitoring and investigating human rights violations." **[89] (p56)**

5.67 On 29 April 2005, the Institute for War and Peace Reporting (IWPR) reported that "Some are disappointed the president has given several of the warlords he has long railed against key positions in his government." The IWPR report noted that although technically three of Karzai's more controversial

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appointments, Abdul Rashid Dostum (Chief of Staff of the Armed Forces), Abdul Karim Khalili (second Vice-President) and Ismail Khan (Minister of Water and Energy) are no longer warlords, "All three men have been cited by numerous human rights organisations as being responsible for thousands of deaths and numerous war crimes committed between the fall of the Najibullah government in 1992 and the Taleban takeover in 1996." **[73x]**

5.68 A UNHCR paper dated June 2005 recorded:

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

5.69 A report by the Afghan Research and Evaluation Unit dated December 2005 recorded that:

"According to one well-informed analysis [an international official in Kabul], the newly elected NA [National Assembly] will include 40 commanders still associated with armed groups, 24 members who belong to criminal gangs, 17 drug traffickers, and 19 members who face serious allegations of war crimes and human rights violations. An even more pessimistic assessment was given by the Deputy Head of the Afghan Independent Human Rights Commission, who stated that 'more than 80 percent of winning candidates in the provinces and more than 60 percent in the capital Kabul have links to armed groups.'" **[22c] (p14)**

5.70 A Human Rights Watch (HRW) Human Rights Overview of Afghanistan published in January 2006 stated that despite the growing strength of the Taliban and other anti-government forces in 2005, "... the majority of Afghans cited the numerous regional warlords as the greatest source of insecurity. In some remote areas, there are still no real governmental structures or activity, only abuse and criminal enterprises by warlords, many of whom were brought to power with the assistance of the United States after the Taliban's defeat." **[17o] (p2)**

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

"Media reports about Afghanistan continue to present the familiar narrative of a stable Kabul, governed by a beleaguered central government, encircled by a lawless periphery that is dominated by voracious warlords. This picture, perhaps accurate in 2001 and 2002, has given way to a more nuanced situation today. Through the implementation of the Bonn process and complex

bargaining that reaches down to the district and village level, the Karzai government has been able to extend its authority to most areas of the country and to curtail the overbearing influence of warlords in national level politics. The de facto veto that prominent warlords seemingly held over national policy from 2001-03 has largely been removed.

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

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

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

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

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

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

"In annex I to the Bonn Agreement the Security Council was requested to authorize the deployment of a United Nations-mandated force that would assist in the maintenance of security in Kabul and that could, as appropriate, be progressively expanded to other areas. This multinational force, the International Security Assistance Force (ISAF), was deployed to Kabul in January 2002, under the lead of the United Kingdom, in accordance with Security Council resolution 1386 (2001) of 20 December 2001. The positive effect of the ISAF presence in Kabul was immediate and welcome. ISAF continued to play a major role in maintaining the peace in Kabul. It played a crucial role in assisting the Bonn process by providing security during the emergency Loya Jirga in June 2002. Following the emergency Loya Jirga, the

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United Kingdom handed over the lead to Turkey for six months, whose command was followed by a joint command of Germany and the Netherlands. In August 2003, the North Atlantic Treaty Organization (NATO) assumed command of ISAF indefinitely.

"Since 2002, the Afghanistan authorities and the United Nations have been calling for the expansion of ISAF beyond Kabul to other urban areas. In early 2003, members of the international coalition in Afghanistan began to deploy provincial reconstruction teams [PRTs] outside of Kabul. These teams assisted in establishing security in the areas of their deployment to facilitate the establishment and work of provincial administrations and development organizations and to promote the rule of law." **[39c] (p16)**

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

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

5.76 The NATO website, updated on 19 January 2006, stated that:

"Through ISAF, NATO has been helping to create a safe and secure environment, identify reconstruction needs and assist with reconstruction projects, train and build up future Afghan security forces, and secure landmark political events. The NATO-led force conducts approximately 500 patrols each week throughout the 18 police districts in Kabul and its surrounding areas - an average of 100 of which are conducted jointly with the Kabul City Police and the Afghan National Army.

"NATO-led Provincial Reconstruction Teams also carry out presence and patrol activities within their respective areas of operations. Currently NATO is leading nine PRTs, in the North and West of the country, covering about 50% of the country's territory." **[63c]**

5.77 Further information on the NATO website, updated on 18 January 2006, stated that:

"On 8 December [2005], NATO Foreign Ministers endorsed a revised Operational Plan, prepared by NATO's Military Authorities, which will guide the NATO-led International Security Assistance Force (ISAF) to assist the Afghan Government to extend and exercise its authority and influence across the country. The Plan addresses the tasks and challenges ISAF will face as it continues to expand its area of operations to the south and subsequently to the east of the country." **[63b]**

5.78 The NATO website also advised that:

"The next stage of ISAF expansion is planned for 2006 and is known as Stage 3 Expansion… ISAF's area of operations will be expanded to include six additional provinces: Day Kundi, Helmand, Kandahar, Nimroz, Uruzgan and Zabul… ISAF will be increased by up to 6,000 personnel potentially bringing the total number to approximately 15,000; (Currently 26 Allies and 10 non-NATO countries contribute some 9,000 personnel to the operation)…

"ISAF and Operation Enduring Freedom (OEF), the ongoing US-led military operation in Afghanistan, will continue to have separate mandates and missions. ISAF will conduct [sic] to focus on its stabilisation and security mission whilst OEF will continue to carry out its Counter-terrorism mission." **[63b]**

THE ROLE OF PROVINCIAL RECONSTRUCTION TEAMS (PRTS)

5.79 A NATO Factsheet dated 21 February 2005 outlined the purpose of Provincial Reconstruction Teams (PRTs):

"PRTs are structured as a civil-military partnership and they demonstrate the commitment of the International Community to the reconstruction of Afghanistan. Only the military elements of PRTs are integrated in the ISAF chain of command. The primary purposes of PRTs are:

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

5.80 A Foreign and Commonwealth Office (FCO) paper dated 20 January 2005 stated that PRTs aimed to support the Security Sector Reform (SSR) programme including "the demobilisation and disarmament of militias; building an accountable national army and national police force under democratic control; stamping out the drugs trade; and building a legal system. But there is no fixed template for a PRT. Each is tailored to the prevailing security situation, socio-economic conditions, terrain, and reach of the central government." **[15b]**

5.81 The April 2005 report by the Netherlands Institute of International Relations stated that:

"The PRT terms of reference now put the first emphasis on provision of security and mention reconstruction only later (see PRT TORs in appendix 1 of source **[89]**)… The performance of PRTs in meeting these goals and abiding by these guidelines appears to vary widely, depending on the nature of the PRT leadership (both national and individual), the nature of the local Afghan authorities, and whether the Afghan national government has a viable political strategy for the province." **[89] (p58)**

5.82 On 20 October 2005, a NATO spokesman was reported by Radio Free Europe/Radio Liberty (RFE/RL) as saying that "A PRT in the north, where things are pretty relaxed, comparatively, is very different from a PRT in south [sic], where it has to have a much heavier military element." The RFE/RL article

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noted that PRTs had spread to 22 locations in Afghanistan from Faizabad in the northeast to Kandahar in the south. "But it's unclear how effective the teams are in stabilizing regions and extending Kabul's control – their main goals." **[29c]**

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

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

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DISARMAMENT, DEMOBILISATION AND REINTEGRATION PROGRAMME (DDR)

5.84 On 7 July 2005, the United Nations Assistance Mission in Afghanistan (UNAMA) reported that "The Disarmament, Demobilisation, and Reintegration [DDR] programme began in October 2003 with the aim of replacing the former armed forces of Afghanistan with a new, professional Afghan National Army." **[40aa]**

5.85 An IRIN News article dated 27 September 2005 recorded that the UN-backed DDR of ex-combatants programmes was completed in late June 2005. IRIN also stated that "More than 60,000 former combatants were disarmed by the DDR, taking the international community nearly 20 months and over US $150 million to complete. In addition to the decommissioning of ex-combatants, around 35,000 light and medium weapons and 11,004 heavy weapons were collected across the country." **[36i]**

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

DISBANDMENT OF ILLEGAL ARMED GROUPS (DIAG)

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

5.88 An IRIN news article of 27 September 2005 stated that the DIAG, the successor to the DDR programme, "…aims to dismantle an estimated 1,800 illegal armed bands of men, comprised of up to 100,000 individuals, who continue to pose a

major security concern in many parts of the country." **[36i]** A UNAMA press briefing dated 29 September 2005 clarified that the DIAG programme dealt with illegal armed groups and it was, therefore, different from the DDR programme, which dealt with members of the former armed forces. **[46c]**

5.89 The Special Representative of the Secretary-General for Afghanistan reported to the UN Security Council on 17 January 2006 that national and international partners had agreed a strategy for the disbandment of illegal armed groups:

"Those groups numbered in the hundreds and were linked to the drug trade, factions, organized crime and were major contributors, in the countryside, to the weakness of the Afghan State. Learning the lessons from the disarmament programme, the strategy clarified that success would not be defined by the collection of weapons alone, but the actual disbandment of illegal armed groups and advances in citizens' security, good governance and the rule of law." **[39g]**

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

5.91 UNAMA reported on 26 February 2006 that the Afghan cabinet had approved the method of operation of the DIAG process on 20 February 2006 and, 3 days later, commanders loyal to General Dostum surrendered almost 400 weapons in the northern town of Shiberghan. Since the launch of the DIAG process, nearly 18,000 weapons and more than 100,000 pieces of ammunition have been surrendered. **[46d]**

5.92 The UN Secretary-General reported on 7 March 2006 that:

"The [DIAG] programme will give priority to districts with a high incidence of disputes attributed to illegal activity, including taxation and land occupation, where insecurity caused by illegal armed groups is hampering development activities, and where their presence prevents the authorities from implementing rule of law programmes and counternarcotic operations." **[39h] (p4)**

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

5.93 An Amnesty International report dated March 2003 recorded that:

"The National Security Directorate (NSD), Afghanistan's intelligence service, was established during the period of Soviet rule, and in theory reports directly to the Head of State…Members of the NSD have committed human rights violations, including arbitrary detention and torture." **[7g] (p9-10)**

5.94 The Danish fact-finding mission of March/April 2004 reported the Co-operation Centre for Afghanistan (CCA) as saying that about half of the officers working in the present Afghanistan Intelligence Services are former officers of the Khidamat-i-Ittala'at-i-Dawlati (KHAD). The report stated that "It has been necessary to introduce them into intelligence work, as there is a lack of qualified personnel in this field. The organization gave as an example that the director in the 7th department of the present intelligence service earlier served the same position in the KHAD." **[8] (section 6.5.1)**

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5.95 In April 2004, a Progress Report on the implementation of the Bonn Agreement, attached to the Berlin Declaration, stated that "The National Directorate of Security (NDS) is undergoing a programme of substantial reform and restructuring both in Kabul and the provinces on the basis of a new charter that restricts its previously held wide powers." **[40t] (p11)** A report by the Netherlands Institute of International Relations dated April 2005 noted that "The NDS leadership was changed after the Constitutional Loya Jirga, and the new director is gradually introducing new personnel and structures." **[89] (p37)**

(See also Prisons and Prison conditions **paragraph 5.113 and** Torture, inhuman and degrading treatment **paragraph 6.57 for further information on the NSD)**

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ARMY

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

"On 1 December 2002, President Karzai signed a decree establishing the Afghan National Army (ANA). The decree brought all Afghan military forces, mujahideen and other armed groups under the control of the Ministry of Defence. The reform of the Ministry and general staff began in the spring of 2003 with the aim of creating a broad-based organization staffed by professionals from a balance of ethnic groups. The training of the Afghan National Army, led by the United States of America with support from France and the United Kingdom of Great Britain and Northern Ireland, continues to progress… An increasingly capable force, ANA participates in joint combat operations with coalition forces. The composition of the Afghan National Army today mirrors the ethnic and regional diversity of Afghanistan." **[39c] (p8)**

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

"It [the ANA] appears to have overcome to some extent the problems of ethnic imbalance and high turnover that plagued it at the start. Growth has been slow, due to a valid emphasis on quality of recruits and training…The ANA has performed well in the limited tasks it has been assigned, mainly involving stabilization operations where warlords have been weakened. It has not been consistently deployed on the front lines in the war against the Taliban." **[89] (p40)**

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

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

"By end-2010: A nationally respected, professional, ethnically balanced Afghan National Army will be fully established that is democratically accountable, organized, trained and equipped to meet the security needs of the country and

increasingly funded from Government revenue, commensurate with the nation's economic capacity; the international community will continue to support Afghanistan in expanding the ANA towards the ceiling of 70,000 personnel articulated in the Bonn talks; and the pace of expansion is to be adjusted on the basis of periodic joint quality assessments by the Afghan Government and the international community against agreed criteria which take into account prevailing conditions." **[15a] (Annex 1)**

5.100 A report by the UN Secretary-General dated 7 March 2006 stated that "The current strength of the Afghan National Army is 26,900 troops, with a deployable force of 38 operational kandaks (battalions) with 5 regional commands (Kabul, Gardez, Kandahar, Herat and Mazari Sharif)." The report also noted that achieving the goal of 70,000 troops by 2010 as stated in the Afghanistan Compact presented a number of challenges. **[39h] (p4)**

5.101 The same report also stated that "The Afghan National Army has been well received by local communities, and was especially commended by authorities for its performance during the 2005 elections. It has however, increasingly become a focus of attacks by anti-Government elements. The Afghan National Army will continue to participate in joint combat operations with Coalition Forces." **[39h] (p5)**

(See also Security Sector Reform**)**

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POLICE

5.102 A report by the UN Secretary-General dated 12 August 2005 noted that "The German-led programme for the training of police officers and noncommissioned officers began in August 2002, following the renovation of the Kabul police academy." **[39c] (p8-9)**

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

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

5.105 The GAO Report also stated that:

"… the Department of State has just begun to address structural problems that affect the Afghan police force. Trainees often return to police stations where militia leaders are the principal authority; most infrastructure needs repair, and the police do not have sufficient equipment—from weapons to vehicles. Furthermore, limited fieldbased mentoring has just begun although previous international police training programs have demonstrated that such mentoring is critical for success. Moreover, the Afghan Ministry of the Interior (which

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oversees the police force) requires reform and restructuring. Finally, neither State nor Germany has developed plans specifying how much the program will cost and when it will be completed." **[57] (What GAO found)**

5.106 A June 2005 report by the Vera Institute of Justice for the UK Department for International Development (DFID) and the Foreign and Commonwealth Office (FCO) stated that:

"Though figures are uncertain, there are estimated to be about 50,000 men working as police, but they are generally untrained, ill-equipped, illiterate (70-90 percent), and may owe their allegiance to local warlords and militia commanders and not to the central government. Many of those serving as police are former Mujahedeen who have experienced a lifetime of armed conflict and are accustomed to acting with impunity. A few professional police officers remain from the Afghan National Police of the Soviet period, but these officers have little understanding of the role of police in a democratic society." **[105] (p16)**

5.107 In comments prepared for the Advisory Panel on Country Information (APCI) meeting on 8 March 2005, UNHCR stated:

"Whether or not recourse can be had to law enforcement authorities, in particular the police in major cities, depends on the links of the police officers to whom Afghans refer and ask for protection. Those that are loyal to the Bonn process and to the reforms conducted by the government of the IRA [Islamic Republic of Afghanistan] provide protection as much as they can. In several cities it is therefore not a question of willingness but ability to provide protection." **[11d] (5.75)**

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

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

"Training of the Afghan National Police continued during the reporting period, and progress was made towards the reform of the Ministry of Interior. In December 2005, as part of the restructuring of police leadership, and following an extensive selection process, 31 generals (12 Pashtun, 16 Tajik, 2 Hazaras and 1 Uzbek) were identified and have taken up the most senior police positions in the Ministry of Interior. The selection process included vetting to exclude human rights violators, based on advice provided by the Afghan Independent Human Rights Commission and UNAMA." **[39h] (p5)**

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

"The Afghan National Police has limited ability to project itself outside Kabul. Once deployed to the regions, police officers lack sufficient leadership, equipment and facilities to perform their role. They lack premises, vehicles and communications equipment and salary structures. This situation is compounded by the absence of a functioning judicial and penal system. Furthermore, there is

no comprehensive strategy to provide officers with on-the-job training. In some cases, provincial reconstruction teams provide officers with mentoring, logistical assistance and equipment, but this approach is not uniform. Financing of the Afghan National Police will for the immediate to mid-term remain dependent on international donor support." **[39h] (p5)**

(See also Section 6A: Torture, inhuman and degrading treatment **for information regarding the police and human rights)**

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PRISONS AND PRISON CONDITIONS

5.111 In March 2004 Amnesty International reported:

"Conditions in prisons and detention facilities in Kabul have seen an improvement but there remains an urgent need for the rehabilitation and reconstruction of detention facilities elsewhere. Furthermore, prison conditions (sanitation, food, overcrowding) and legal rights of prisoners fall far short of international standards as laid out in the UN Body of Principles for All Persons under Any Forms of Detention or Imprisonment and the UN Standard Minimum Rules for the Treatment of Prisoners." **[7a] (p2-3)**

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

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

5.113 The UN independent expert's September 2004 report also noted that:

"The independent expert has received reports of serious violations, such as torture committed in secret detention centres run by NSD, and has notified the Attorney-General…The independent expert has received reports of numerous informal prisons located around the country, which are generally run by warlords and local commanders. They exist outside the control of the State and beyond the reach of the law." **[39k] (paras 63 and 64)**

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

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

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

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

"Whatever problems exist at Pol-e Charkhi, the prison is in much better condition than detention facilities in other parts of the country, which authorities describe as inadequate and in need of significant repair. Prison officials stated that in 20 of 34 provinces, prisons are rented homes converted, often with limited and inadequate structural additions. The independent expert witnessed these abhorrent conditions first-hand during a visit to a detention centre in Logar. These facilities consisted of a metal shipping container buried in the ground with limited lighting and heat that housed 10 inmates, and a cramped basement with a single skylight, in which over 20 inmates were detained. Several prisoners were kept constantly shackled, a practice that appears common throughout the country. These appalling, dangerous, and overcrowded conditions demand immediate attention." **[39i] (paras 28 & 29)**

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

(See also Section 5 Legal Rights/ detention **paragraph 5.46 for further information on private prisons)**

5.117 The Amnesty International 2005 Country Report covering events in 2004 stated that "Insufficient attention was paid to the prisons service by the Afghan government and donor community. Inhumane conditions and gross human rights violations were reported, especially outside Kabul where provincial prisons remained under the control of armed groups." **[7i] (p3)**

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

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

should be allowed special leave, for example to attend a funeral, and they should have access to television, radio and newspapers." **[73t]**

5.119 The IWPR report also noted:

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

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

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

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

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

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

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

"The human rights situation regarding imprisonment in Afghanistan remains critical. Most prisons are old, dilapidated and overcrowded while others have

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

US MILITARY BASES

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

5.125 The HRW report noted:

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

5.126 An Amnesty International (AI) report dated June 2005 stated that:

"The US government maintains that conditions for detainees held in the airbases in Bagram and Kandahar, the two main US detention facilities in Afghanistan, are being improved. This follows more than two years of persistent allegations of the torture or ill-treatment of detainees held there, including in relation to the deaths in custody of two Afghan men in Bagram in December 2002, evidently as a result of torture and ill-treatment. Neither man had been seen by the International Committee of the Red Cross (ICRC) before he died (the ICRC does not have a permanent presence either at Bagram or Kandahar, and so detainees are held entirely incommunicado in between visits as well as immediately after arrest). There is evidence that there was an initial attempt by medical personnel to cover up the abuses that led to the deaths, and by military spokespeople to suggest that the men had died of natural causes, despite the obvious physical indications that they had been subjected to brutal and prolonged physical assaults.

"Hundreds of detainees remain held in Bagram and Kandahar outside any legal framework. Some have been detained without charge or trial for more than a year. They have no access to lawyers or relatives. Although the ICRC does

have access now (although, as noted, not full), other independent human rights monitors, including from the United Nations and Amnesty International have been denied access. The indefinite, virtually incommunicado, and unlawful detention of these people may in itself amount to cruel, inhuman or degrading treatment and leaves them at risk of such treatment during any interrogations." **[7j] (p1)**

5.127 The AI report also stated that:

"Torture and ill-treatment of detainees in US custody in Afghanistan is alleged to have included the following methods: sleep deprivation; stripping and forced nudity; humiliating body searches; racial and religious insults and taunting; sexual humiliation of male detainees by female interrogators; prolonged solitary confinement; forced crawling; stress positions, including forced kneeling and standing; arms handcuffed above head to top of cell; death threats; threats of torture; threats of rape; light deprivation; use of dogs to inspire fear; being forced to lie on rocky ground for hours; kicking, punching and other physical assault; hooding, including for days at a time; cruel and excessive use of shackles and handcuffs; forced shaving, including of all facial and body hair; food deprivation; water deprivation; electric shocks; immersion in water, cigarette burns; and soldiers urinating on detainees." **[7j] (p4)**

5.128 On 17 November 2005, BBC News reported that:

"Two US soldiers charged with assaulting two Afghan detainees at a US base in southern Afghanistan will face court martial, the US military has said…At least eight prisoners have died in US custody since 2001. In September [2005], a US military interrogator was sentenced to five months in prison for assaulting a detainee in Afghanistan who later died. Five other US soldiers have been convicted following the deaths of two prisoners at the military base at Bagram, outside Kabul, in 2002." **[25j]**

5.129 A Human Rights Watch report dated 19 December 2005 alleged that accounts from eight detainees now held at Guantánamo Bay revealed that they had been subjected to torture and other mistreatment while detained at a facility near Kabul at various times between 2002 and 2004. "The detainees, who called the facility the 'dark prison' or 'prison of darkness,' said they were chained to walls, deprived of food and drinking water, and kept in total darkness with loud rap, heavy metal music, or other sounds blared for weeks at a time…Human Rights Watch said that the 'dark prison' may have been closed after several detainees were transferred to the Bagram facility in late 2004." **[17l]**

5.130 An AI publication dated 1 March 2006 stated that:

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

5.131 The same AI report stated that "There are signs that the goodwill widely felt towards US and Coalition (US/CF) forces following the removal of the Taleban

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from power is being replaced by resentment and opposition because of the human rights violations perpetrated by US/CF forces." **[7k] (p3)**

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MILITARY SERVICE

5.132 A UNHCR paper dated June 2005 recorded that in 2002 "In order to prevent forced recruitment by the local commanders, respond to the nature of military service in the new army of Afghanistan, and make this service for the first time in history of the country a voluntary military service, a Presidential Decree on 'Voluntary Military Service' was issued." **[11b] (p26)**

5.133 In January 2004, the UN Office for the Coordination of Humanitarian Affairs (UN OCHA) Integrated Regional Information Network (IRIN) reported that at the beginning of the process to build a national army, local commanders were instructed to send their troops to join and this element of compulsion appears to have contributed to some recruits leaving the Afghan National Army (ANA). According to a spokesman for the Afghan Ministry of Defence, more than 80 per cent of those who escaped had been forcibly sent to join the ANA by local commanders. However, according to the spokesman, this process had stopped and now it is a totally voluntary recruitment system. **[40v]**

5.134 On 9 February 2005, the UN Secretary-General reported that there had been no reported cases of recruitment of children into the Afghan National Army. **[39e] (p2-3)**

(See also Section 6B: Child Soldiers paragraphs 6.338-6.339)

5.135 The Central Intelligence Agency (CIA) World Factbook, updated on 10 January 2006, recorded that males between the ages of 22 and 49 are eligible for military service and inductees are contracted into service for a 4year term. **[23] (p11)**

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MEDICAL SERVICES

GENERAL

5.136 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated on 6 March 2006, recorded that:

"The health infrastructure in Afghanistan damaged or destroyed by years of conflict, is gradually being reestablished by the Afghan Government with the help of the international community. The health services inherited at the end of 2001 were limited in capacity and coverage, and while the Ministry of Health has shown leadership the health status of the Afghan people is still among the worst in the world. The majority of the population lacks access to safe drinking water and sanitary facilities. Disease, malnutrition and poverty are rife and an estimated 6.5 million people remain dependant on food aid." **[15c] (p6-7)**

5.137 The FCO profile also provided the following statistics supplied from the United Nations Development Programme, UNICEF and World Bank:

"average life expectancy is 44.5 years (UNDP, July 2005)

1 in 6 babies dies during or shortly after birth (UNDP, July 2005)

20% of children die before reaching the age of 5 (UNICEF, 2005)

17,000 women die each year from pregnancy related causes (UNICEF, 2005)

12% of the population have adequate sanitation (World Bank, July 2005)

13% of the population have clean drinking water" (World Bank, July 2005) **[15c] (p7)**

5.138 The FCO Profile also stated that:

"The World Bank, the United States Agency for International Development and the European Community are helping the Afghan Ministry of Health, through NGOs, to provide a basic healthcare service to the entire population. The package consists of services for maternal and newborn health; child health and immunisation; nutrition; communicable disease; mental health; disability; and the supply of essential drugs. The Ministry of Health has established a Child and Adolescent Health Department and a Department of Women and Reproductive Health to tackle high infant and maternal mortality rates. There are now over 900 clinics and approximately 40% of the population have access to healthcare.

"Immunisation is having a real impact. In 2004 more than 3 million women were vaccinated against tetanus and 6.7 million children against polio. No new cases of polio have been reported since May 2004, the longest period in Afghanistan's history (UNICEF, 2005). Since 2002 UN agencies have administered 16 million vaccinations against measles, saving an estimated 30,000 lives. Cholera and diarrhoeal diseases are being tackled through health education, water chlorination and the construction of wells throughout the country." **[15c] (p7)**

5.139 A January 2004 report by the British Agencies Afghanistan Group (BAAG) stated that "Afghanistan's Basic Health Care Package [BPHS] concentrates its resources on providing basic health care to serve the whole population rather than on specialist care for the few. NGOs play an important part in filling gaps in specialist areas such as working with the blind, psycho-social care, orthopaedics, family planning and, increasingly, HIV." **[71a] (p7)**

5.140 In January 2004, Action Contre La Faim Afghanistan (ACF) published a paper giving the results of their study into vulnerability in Kabul. According to the paper "The health care system in Afghanistan's capital continues to be strikingly inadequate." **[33] (p16)** The paper also noted that "While health services in the capital are markedly superior to that of rural areas, there are parts of the city, which are remote or difficult to access. Communities in the peri-urban areas face difficulty in accessing care." **[33] (p17)**

5.141 The ACF paper also reported:

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

5.142 The ACF paper further noted that doctors in both hospitals and clinics in Kabul are reportedly used to referring patients to their own private clinics and demand that a particular private drug vendor in the "bazaar" fill prescriptions. The report continued:

"Indeed the majority of doctors registered under the Ministry of Public Health run private clinics after their shifts in public hospitals and clinics. The impact this dysfunctional system has on the population should not be underestimated as the poorest are not financially able to access the treatment they need…The lack of regulatory bodies regarding certification of medical personnel is apparently a real cause for concern." **[33] (p16)**

5.143 The World Bank report of 9 September 2004 noted that "Inaccessibility to health centers, hospitals, or doctors that could provide preventive and curative services, as well as lack of medicines including essential drugs, are major contributing factors to the poor state of public health. Forty percent of health facilities do not have female staff, which implies that women are very unlikely to use those facilities." **[69a] (para. 2.06)**

5.144 A USAID report dated January 2005 noted that:

"The basic health and nutrition of Afghans, particularly women, children, and displaced persons, improved this year [2004]. REACH (Rural Expansion of Afghanistan's Rural-based Healthcare) brought basic services and health education to under-served communities, focusing on maternal and child health, hygiene, water and sanitation, immunization and the control of infectious diseases." **[60a]**

5.145 On 28 January 2005, the International Committee of the Red Cross (ICRC) reported that the 100-bed Wazir Akbar Khan Hospital in Kabul had been handed over to the Ministry of Public Health, following extensive renovations. The hospital is the main referral hospital for orthopaedic and emergency surgery in Afghanistan. **[40af]** The ICRC's 2004 annual report on Afghanistan, published in June 2005, advised that the organisation had kept up its substantial assistance to Afghan hospitals during 2004:

"It regularly provided medicines, medical and other basic supplies, carried out repair and maintenance on buildings, trained staff and supplemented salaries as needed to maintain quality services in nine hospitals in Kabul (Karteh Seh and Wazir Akbar Khan), Jalalabad (Public Health Hospital), Kandahar (Mirwais), Mazari-Sharif (Military), Shiberghan, Samangan,Taloqan and Ghazni." **[42c]**

5.146 A UNHCR report dated June 2005 noted that "In terms of access to healthcare, Afghanistan's poor health care system has a very strong urban bias in its existing infrastructure. Overall, there are only 210 health facilities with beds to hospitalize patients and with the exception of 4 provinces, the ratio of doctors per 10,000 persons is less than 1 doctor." **[11b] (p33)**

5.147 The same report advised that the following medicines are not available in Afghanistan:

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

5.148 On 24 February 2006, a news article by the Institute of War and Peace Reporting stated that:

"The right to free healthcare is enshrined in the country's constitution. Yet, if they can afford it, many Afghans would rather go to a private medical facility than to the government's underequipped, understaffed, and underfunded institutions. Most people, however, don't have that option as the fees charged by private hospitals, while modest by Western standards, put them beyond their reach." **[73i]**

WOMEN AND CHILDREN

5.149 On 19 May 2005, United Nations Assistance Mission in Afghanistan reported Dr Adbi Ahmed, a medical officer with the World Health Organization (WHO), as saying:

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

"In terms of health services, maternal health services are not equally distributed. The majority of women do not have access to essential health care. Some estimates indicate that only 12 percent have access to anti-natal care in health facilities where only male personnel offer care. The utilization of these facilities is very low, as women are reluctant to go and undertake anti-natal care where only males are providing services. In addition to this their children do not benefit from this health care, as their mothers are reluctant to utilize them. One of the major concerns relating to female health care is the lack of female health

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workers in Afghanistan. The figures we have suggest that in some areas, such as Kandahar and Helmand, the rate is as low as 0.2 per 10,000 population." **[40ae] (p4-5)**

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

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

5.152 The International Medical Corps (IMC) noted in June 2004 that the Rabia Balkhi Women's Hospital is the only women's hospital in Kabul. The IMC reported that "Its 13,000 births per year make up only a tiny fraction of the more than one million births nationwide annually, but, nonetheless, the hospital is an irreplaceable starting point for building the capacity of the Afghan health system to care for women." **[40d]**

5.153 On 21 May 2004, the ICRC reported:

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

5.154 In August 2004, Afghan Connection, an organisation which refurbishes and equips clinics and hospitals and provides medical training, advised that the Indira Gandhi Paediatric Hospital in Kabul is the only paediatric teaching hospital in Afghanistan. Afghan Connection advised that the hospital had only 250 beds and was originally funded by the Indian Government. According to the source, "The Ministry of Public Health now fund[s] most of the hospital, but some of the individual wards are supported by non-government organisations (NGOs) from overseas." **[9] (p1)**

5.155 A report by the UN Secretary-General dated 30 December 2005 stated that "Enhanced and coordinated efforts are urgently needed to improve women's access to health services, particularly reproductive health services, and to support the Government in meeting its goal of reducing maternal mortality by 25 per cent by 2008. Insecurity and lack of female doctors still prevent many women from seeking health care. Corrective action must address these problems as well." **[39b] (para. 51)**

5.156 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that "Children did not have adequate access to health care; only one children's hospital existed in the country, and it was not readily accessible to those outside Kabul." **[2d] (Section 5)**

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PEOPLE WITH DISABILITIES

5.157 The Institute of War and Peace Reporting reported on 10 February 2006 that:

"The ministry of the martyred and disabled, which is tasked with helping the country's war victims, estimates that there are two million people in Afghanistan with permanent injuries or deformities. But so far, the ministry has failed to develop programmes to assist the disabled… Ghulam Abbas Ayen, an official at the ministry said it has no budget to pay for programmes for the handicapped, and that it is totally dependent on funding from foreign governments and private donors. 'We cannot force countries and aid agencies to assist us when they have not shown any interest,' he said." **[73e]**

5.158 An article by the Institute for War and Peace Reporting dated 6 August 2005 reported that "Treatment by the ICRC is free, but transport and medicines are still a burden on families." **[73w]** An International Committee of the Red Cross (ICRC) Operational Update of 31 August 2005 stated that "Currently, the ICRC runs six orthopedic centres in Kabul, Mazar, Herat, Gulbahar, Faizabad and Jalalabad." **[42d] (p3)**

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

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

5.160 The Afghanistan Landmine Monitor Report 2005 stated that:

"In 2004, the Landmine Impact Survey found that only 10 percent of mine-impacted communities had healthcare facilities of any kind. The government acknowledges that healthcare services and rehabilitation are limited, and that even where services are available many mine survivors and other persons with disabilities cannot access them…

"The rehabilitation and reintegration needs of mine survivors and other persons with disabilities are also not being met. For every one person with a disability receiving assistance, 100 more reportedly do not receive assistance. Disability services exist in only 20 of the 34 provinces in Afghanistan: physiotherapy services (19 provinces); orthopedic workshops (10 provinces); economic reintegration activities (13 provinces); community-based rehabilitation (12 provinces)." **[14] (p20)**

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The Landmine Monitor Report 2005 also gives more detailed information on the hospitals and clinics providing services to people with disabilities and may be accessed directly via the link given in Annex G for source number **[14]**.

5.161 A UNHCR paper dated June 2005 advised:

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

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HIV/AIDS

5.162 An April 2005 survey of groups at high risk of contracting sexually transmitted infections and HIV/AIDS in Kabul by ora international, the first survey of its kind in Afghanistan, found that "Staff in clinics and hospitals … have limited knowledge regarding HIV/AIDS and at times discriminate against those who are HIV positive (thinking that HIV/AIDS is something the 'foreigners' have brought into the country)." (p5) The survey detailed a case in which a father and two children had died from HIV/AIDS. The two children had been referred to the Infectious Diseases Hospital (IDH). Subsequently, "ora international were informed that the staff at the IDH were uncooperative, had no facilities to deal with AIDS patients and had no correct information about HIV/AIDS. As a result they had no idea how to deal with the two patients. Both children were sent home after a few hours and both died within the next 24 hours. The principle reason for death was severe and sustained diarrhoea." **[106] (p20-21)**

5.163 In June 2005 the World Bank Group noted that there was no reliable data on the prevalence of HIV/AIDS in Afghanistan: "Three deaths due to AIDS are registered so far in Afghanistan. There are reports, however, of people dying of the disease in the border provinces who were diagnosed and treated in neighboring countries. The sharing of contaminated needles during drug use is increasing and a major source of HIV infection." **[69b] (p1)**

5.164 An article by the Institute of War and Peace Reporting dated 24 February 2006 stated that:

"Dr Zalmai Khan Ahmadzai, head of the HIV/AIDS department at the public health ministry, says 51 cases have been recorded in the country to date. Of that number, 17 are women. But according to Dr Abdullah Fahim, an advisor to the health ministry, the real number is much higher. He estimates that there are at least 1,500 people infected with HIV in Afghanistan at present, most of whom are either unaware they are carrying the virus or are hiding the fact out of shame." **[73l]**

5.165 The June 2005 World Bank Group brief also noted that "The Government of Afghanistan has established a National HIV/AIDS/STI-control department, developed a five-year (2003-2007) strategic plan, and drawn up an annual plan of action to combat HIV/AIDS. Focal persons for HIV/AIDS have been assigned at the Ministries of Religious Affairs, Education, and Women's Affairs." **[69b] (p2)**

5.166 A UNHCR paper dated June 2005 stated that it is currently not possible to treat HIV/AIDS in Afghanistan. **[11b] (p63)**

MENTAL HEALTH

5.167 In March 2004, an article on mental health in Afghanistan was published in *Lemar-Aftaab*, an independent magazine that focuses on Afghan culture. The report by Dr. Amin Azimi noted:
"Currently, there are only a handful of mental health professionals in Afghanistan, mainly psychiatrists. They are poorly equipped to treat patients, and their only method of treatment is medication. These professionals don't have training in psychotherapy…Afghanistan is in need of trained psychologists to design mental health programs, treat these patients, and train the art of counseling to qualified individuals." **[40a] (p1)**

5.168 In July 2004, the World Health Organization (WHO) reported some achievements in the area of mental health including the establishment of four community mental health centres in Kabul city to offer services through consultations in clinics and community/home visits in Khair Khana, Central Polyclinic, Rahman Mina and Arzan Qeemat; the development of a strategy paper to integrate mental health service into primary care services in a 3 phase initiative (the first phase has started); and the procurement of essential psychotherapeutic medicine for mental health centres in regions and Kabul. **[43] (p12)**

5.169 On 4 August 2004, Medical News Today reported that two studies in 2002 and 2003, published in the Journal of the American Medical Association in August 2004, had found that: "Exposure to trauma and mental health symptoms of depression, anxiety, and post-traumatic stress disorder (PTSD) are prevalent among people in Afghanistan but, often go untreated because of lack of resources and mental health care professionals..." **[86]**

5.170 A February 2005 Discussion Paper produced by the Health, Nutrition and Population (HNP) Family of the World Bank's Human Development Network recorded that "Afghanistan is severely under-equipped to address mental health and psychosocial problems. Supplies, staff and training are limited." **[8o] (p35)** The HNP paper notes that there is one 60-bed mental hospital in Kabul, a 50-bed psychiatric ward in another Kabul hospital, and one outpatient centre in Jawzjan Province (IRIN 2003). "There are no mental health services in the provinces. Although doctors in 10 provinces have been trained, they do not have drugs and no support supervision is provided after training, as MOH [Ministry of Health] does not have the vehicles or resources." **[8o] (p36)**

5.171 The HNP report further recorded:

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

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from stroke and psychotic disorders to drug abuse; a big problem in Afghanistan, especially among returnees from Iran and Pakistan…

"MOH [Ministry of Health] provides salary for staff and food for patients but has no money for drugs. Patients have to buy drugs in the bazaars and the quality is often not ensured. The hospital has no laboratory, no X-ray unit, no ambulance and no toxicology laboratory. Self-medication is common among patients with mental disorders." **[8o] (p36)**

5.172 The HNP paper also states:
"Psychiatrist Sayed Afundi estimates that 70 percent of Afghan mental disorders are war induced (Liu 2001). According to Khitab Kaker, director of the Kabul Mental Hospital, 20-30 percent of Afghans suffer from mental disorders, while 40-50 percent suffer from anxiety (Sharifzada 2004). Kaker's estimates are considerably lower than figures published in the Journal of the American Medical Association in 2002, which indicated that 68 percent of Afghans were depressed and 72 percent showed symptoms of anxiety." **[8o] (p35)**

5.173 A report by the Netherlands Institute of International Relations dated April 2005 stated that in Afghanistan,
"Mental health has been neglected. Some surveys indicate that Afghans are among the world's most traumatized populations, and that post-traumatic stress disorder, depression, sleep disturbance, substance abuse, domestic violence, and other syndromes are widespread. The current government includes a psychiatrist, Dr. Mohammad Azam Dadfar (Minister of Refugees), who has studied and tried to treat these disorders, but thus far Afghans have virtually no access to mental health services." **[89] (p17)**

5.174 A UNHCR paper dated June 2005 advised:

"There is no form of psycho-social trauma support in Afghanistan. The concept of 'counseling' as a profession does not yet exist. All trauma is, if at all, dealt with by discourse with family and friends. Many Afghans, however, are seriously traumatized given their experiences of war and human rights violations. Of particular concern, in this regard, is the situation of women, many of who have suffered sexual violence, including rape. In addition, for both women and men who have suffered sexual violence, strong cultural taboos surrounding disclosure as a victim inhibit discussion, even with close family members. In more conservative areas, identification as a victim of rape or other sexual abuse can lead to family rejection and social ostracism, therefore it is reasonable to conclude that some victims of this form of trauma may fear return to Afghanistan on the basis that they will be discovered as a victim and face further persecution." **[11b] (p62-63)**

5.175 The UNHCR paper also advised:
"Traumatized Afghans who are in need of treatment and counseling, which is not available in Afghanistan, should be allowed to remain on humanitarian grounds…Mentally ill persons who need long term treatment or special care will not be able to cope in Afghanistan unless they have family to take care of them. There are no specialized institutions and personnel. This is particularly true for severe mental illness such that the person cannot be self-sufficient." **[11b] (p63)**

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OTHER MEDICAL CONDITIONS

5.176 The Danish fact-finding mission of March/April 2004 reported on the availability of treatment for certain illnesses:

> "The WHO [World Health Organisation] was of the opinion that the initial treatment for diabetes can be carried out in Afghanistan but that there are problems with long term treatments. Insulin is very expensive and paid by the patient himself. Another problem in this context is the general lack of the required facilities to store medicines in a safe manner. An international NGO was of the opinion that no regular and continuous possibilities for treating diabetes exist in Afghanistan." **[8] (section 9.3.3)**

5.177 The WHO told the Danish fact-finding mission that simple heart and lung diseases could not be treated in district or provincial hospitals, but required referral to larger hospitals where such problems could be dealt with to a certain extent. The Danish report noted that "There is however no possibility for carrying out e.g. a bypass operation in the large hospitals. An international NGO found that treatment for serious heart and lung diseases is not available at all in Afghanistan. The source said in this connection that it is not possible to perform a bypass operation in Afghanistan. Patients in need of such an operation must travel either to Iran or Pakistan." **[8] (section 9.3.3)**

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

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

5.179 A USAID update of 16 February 2005 reported that "According to World Health Organization (WHO) estimates, approximately 70,000 new TB cases occur annually in Afghanistan, and 20,000 people in the country die from TB every year." **[60b]** In a report dated 30 December 2005, the UN Secretary-General advised that "Recent figures on tuberculosis indicate that over 60 per cent of new tuberculosis patients are women." **[39b] (para.47)**

5.180 A UNHCR paper dated June 2005 advised:

> "For some medical cases, return to Afghanistan is not recommended, unless family or community support and care is available during the treatment period. For others, there may be no treatment possibilities in Afghanistan for the time being. Examples are those with HIV or AIDS and injuries or conditions requiring sophisticated surgical procedures (i.e. transplants), which are not available in Afghanistan." **[11b] (p63)**

5.181 The UNHCR paper also advised: "The following diseases and other serious medical conditions cannot currently be treated in Afghanistan: congenital heart diseases; valvular heart diseases; liver cirrhosis; renal failure; thalassemia,

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hemophilia and leukemia (blood diseases); aids; post measles encephalopathy, cerebral palsy, hydrocephalus and CVA (Cerebral Vascular Accident); All cancerous diseases; post organ transplantation; viral diseases (medicines not available.") **[11b] (p64)**

5.182 UNHCR further noted that the following surgical operations cannot be performed and post-operative care is unavailable in Afghanistan: micro-neurosurgery; heart surgery; vascular surgery (only one expert in Kabul who can do peripheral vascular surgery); radiotherapy for treatment of cancer; all kinds of organ transplantation; dialysis; eye and ear surgery. **[11b] (p64-65)**

5.183 The June 2005 UNHCR report also recorded that "The following chronic diseases are treatable in Afghanistan but the patient requires family care and support, which varies based on the condition of the patient: leprosy; myocardial infarction; tb; bone fractures; complicated diabetes; complicated COPDs (Chronic Obstructive Pulmonary Diseases); osteomyelitis; mental diseases; juvenile rheumatic arthritis; severe burns." **[11b] (p66)**

5.184 The same report also noted that "In Afghanistan, patients are hospitalized for short periods, because of the limited space for patients in hospitals. When patients come out of a life-threatening condition, they are discharged. The family or relatives are required to take care of the patient at home." **[11b] (p66)**

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EDUCATIONAL SYSTEM

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

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

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

5.186 The Constitution adopted in January 2004 recognised that education is the right of all citizens of Afghanistan. **[81]** The US State Department Report 2005

recorded that "The law makes education up to the intermediate level mandatory, and provides for free education up to the college, or bachelor's degree level." **[2d] (Section 5)**

5.187 On 19 May 2005, the World Bank Group advised that it had approved a US$40 million grant assistance to fund higher education. Its report stated that "Over the past three years, the government of Afghanistan has made notable efforts to revive the higher education sector in parallel with ongoing progress in primary and secondary education. Eighteen higher education institutions have reopened their doors and enrollment has jumped from 4,000 students in 2001 to 37,000 in the fall of 2004." **[69d]**

5.188 A report by the UN Secretary-General dated 30 December 2005 stated that:

"While a significant campaign to increase primary school enrolment has raised the enrolment of girls to almost 40 per cent, compared to 67 per cent for boys, overall school enrolment among girls remains among the lowest in the world, with less than 10 per cent of girls enrolled in secondary school. Dramatic disparities in enrolment between regions and urban and rural areas remain, with girls representing less than 15 per cent of the total enrolment in nine provinces in the east and the south. Schools also continue struggling with high drop-out rates and serious shortages of teachers, especially female teachers. In Uruzgan province, for example, there are no female teachers at all. It is estimated that 86 per cent or approximately 4.85 million women in Afghanistan between the ages 15 and 49 are illiterate, compared to 57 per cent of men." **[39b] (para. 52)**

5.189 The UN Secretary-General's report further stated that:

"The Government also aims for 100 per cent enrolment as part of the MDG [Millennium Development Goal] targets for 2015, with girls' enrolment at 50 per cent. The Government faces challenges to the achievement of this goal, for example lack of school facilities, in particular girls' schools in rural areas. The challenge is more formidable with regard to girls' secondary schools, which are very few and scattered. Other [sic] challenges, such as insecurity, the distance children have to go to get to schools, poverty, lack of female teachers, negative attitudes to girls' education and early marriages remain. Armed factions opposed to the Government have also targeted girls' schools and carried out terrorist attacks such as bombings or burning down schools and campaigning against female education." **[39b] (para. 55)**

5.190 An article dated 23 December 2005 by The Institute for War and Peace Reporting stated that "In several districts 'night letters' - covertly distributed pamphlets - have been distributed warning parents not to send their daughters to school and threatening violence to those who do not heed the warning." **[73j]**

5.191 On 29 January 2006, an article on the Dawn News website stated that:

"A headmaster was shot dead in Zabul province, and at least 200 schools in Kandahar and 165 schools in Helmund provinces closed in January for security reasons. Taliban insurgents set fire to a middle school for girls in the capital of western Farah province, destroying all the furniture, library and some classrooms, Deputy Governor Haji Bismillah Khan said. The torching of schools is also rampant in the southern and south-eastern parts of the country where some 20 incidents have taken place in the recent past." **[65b]**

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5.192 On 8 March 2006, Agence France-Presse reported President Karzai as saying that the threat of attacks by militants was preventing 100,000 children from attending school. **[40q]** On 7 March 2006, the UN Secretary-General reported that:

"Incidents included the burning or bombing of schools; the assassination of principals, teachers and officials and threats to students. These attacks have led to the closure of all schools in 6 districts and the closure of a substantive number of schools in 10 other districts of the southern region. In 2005, there were 99 such attacks, primarily in the southern region, south-eastern region and eastern region." **[39h] (p11)**

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6. Human rights

6.A HUMAN RIGHTS ISSUES

OVERVIEW

6.01 On 3 March 2006, the Afghan Independent Human Rights Commission (AIHRC) website showed that Afghanistan is a party to the following principle international Human Rights Treaties:

1. The International Covenant on Civil and Political Rights (CCPR), ratified on 24 April 1983.

2. The International Covenant on Economics, Social and Cultural Rights (CESCR), ratified on 24 April 1983.

3. The International Convention on the Elimination of all Forms of Racial Discrimination (CERD), ratified on 5 August 1983.

4. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), ratified on 5 March 2003.

5. The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified on 26 June 1987.

6. The Convention on the Rights of the Child (CRC), ratified on 27 April 1994.

7. The Optional Protocol of the Convention of the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography, ratified on 19 October 2002.

8. The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict, ratified on 24 September 2003. **[78b]**

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

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

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

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

6.03 The independent expert's report also recorded:

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

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

6.04 The independent expert's report also observed:

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

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

"In contrast to other governments since 1978, the current government does not carry out mass killings, mass arrests, or systematic torture of political opponents. Most abuse results from the weakness of national government compared to armed commanders, who often took power in localities in 2001-1002 and have seen their positions legitimized by official appointments, including to the police. One detainee held for investigation during the recent UN hostage crisis died in custody, apparently as a result of torture, despite police reform. There are occasional charges of blasphemy levied against liberal or secular writers or newspapers, which have caused a few people to flee the country. Rights are also violated by the Coalition, including homicides of detainees, arbitrary detention, and torture and mistreatment of detainees. There is no legal recourse for these violations, at least within Afghanistan. Taliban and elements linked to al-Qaida conduct regular attacks on the government (especially police) and terrorist acts". **[89] (p20)**

6.06 A UNHCR paper dated June 2005 recorded:

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

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

6.08 The HRW report also stated that "In early May 2005, sixteen protesters were killed by police and army troops during violent demonstrations in several cities in response to reports of U.S. interrogators desecrating a copy of the Koran during interrogations at Guantanamo Bay." **[17o] (p1)** In May 2005, HRW reported that some of the cities in which riots occurred were Jalalabad, Ghazni, Kabul and Maimana. **[17k]**

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

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

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

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

6.10 On 12 December 2005, BBC News reported that "The Afghan government has approved a plan to investigate allegations of human rights abuses and war crimes committed in the past decades of war… Officially, the plan is known as the Action Plan for Peace, Reconciliation and Justice in Afghanistan. It was drawn up by the country's human rights commission, in consultation with international groups earlier this year." **[25ac]**

6.11 On 11 January 2006, IRIN News reported that:

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

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

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

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

SECURITY SITUATION

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

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

Taliban. The growing influence of non-Afghan elements in the security environment is of particular concern." **[39c] (p14)**

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

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

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

"Four years after U.S. forces ousted the Taliban from Kabul, Afghanistan faces an increasingly violent insurgency in southern and southeastern areas, while in the rest of the country regional military commanders—warlords—further entrench themselves by subverting the political process and controlling the country's drug trade. Insecurity hampers development in much of Afghanistan, one of the least developed countries in the world." **[17o] (p1)**

6.16 Human Rights Watch reported on 30 January 2006 that:

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

6.17 The most recent UN Secretary-General's report dated 7 March 2006 stated:

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

"Over the course of the reporting period, insurgents and other anti-Government elements increasingly employed more sophisticated and lethal tactics, such as the use of complex improvised explosive devices, well-planned ambushes and technically advanced multiple rocket attacks. Perhaps of greatest concern is the steep rise in the number of suicide bombings. Prior to 2005, there had been only five cases in the three preceding years. In 2005, there were 17. By 23 February 2006, the annual total for 2006 already stood at 11. This represents 65 per cent of the 2005 total in a two-month period. The lethality of these

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attacks has also grown. In 2006, the average number of victims per attack was 11, up from 5.4 in 2005." **[39h] (p10)**

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

"Up to November 2005, a significant proportion of security related incidents involved clashes between anti-Government elements and security forces, primarily international military forces. Since most of those incidents resulted in the defeat of anti-Government elements, attacks against foreign military forces have been decreasing in favour of attacks against Afghan security forces and against soft targets (Government and social institutions), by entities that are difficult to detect or identify. This changing tactic is evident in four principal threat areas; namely: improvised explosive devices, suicide bombings, kidnapping and attacks against the education system.

"Insurgents departed from the seasonal trend of past years by maintaining a high level of operational activity throughout the winter period. The first months of 2006 witnessed a rising level of insurgent attacks, in particular in the south and east of the country. Indeed, the number of anti-Government elements-related incidents has grown, unabated, since 2003. Of particular note is that the frequency of such attacks during the latter half of 2005 and the start of 2006 (200 per month) was higher than during any of the previous reporting periods, including the presidential elections of 2004. Over the past six months, the incidence of successful improvised explosive device attacks compared with the previous half year has increased by over 50 per cent. Anti-Government elements also appear to have expanded their theatre of operations into traditionally calmer areas of the west, north and north-east of the country. Activities include the use of improvised explosive devices (previously rare in these areas), as well as four suicide attacks or attempts in Mazari Sharif and Balkh between October [2005] and January [2006]. In December, Hirat [Herat] suffered its first recorded suicide attack." **[39h] (p10-11)**

6.19 On 17 January 2006, Radio Free Europe/Radio Liberty (RFE/RL) published a chronology of suicide attacks in Afghanistan since 2001. The RFE/RL chronology contains detailed information on suicide bombings throughout Afghanistan, including Kabul, from January 2004 to January 2006 and may be accessed via the link given in Annex G for source number **[29g]**.

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

"Kidnapping is not a new trend in Afghanistan and numerous incidents of abductions of nationals for revenge or criminal reasons continue. Foreigners have also been targets in the past. The cases of the three United Nations election workers in 2004, the CARE aid worker in May 2005, the Indian road engineer (later killed) in November 2005 and the recent kidnapping of two Nepalese on 11 February (one released and one killed) are stark examples. Numerous reports received in January and February 2006 indicate criminal and anti-Government elements intent to kidnap foreigners for political leverage and/or ransom, primarily in Kabul and the eastern region of the country." **[39h] (p11)**

6.21 The same report also stated that "Publications in Europe depicting caricatures of the Prophet Muhammad sparked country-wide demonstrations in February [2006], some of which turned violent, resulting in 6 persons dead and 14

injured. Clashes with provincial reconstruction teams in Meymana (Faryab) and Pul-i-Khumri (Baghlan) also broke out." **[39h] (p11)**

6.22 On 6 March 2006, Agence France-Presse reported that "Violence, much of it blamed on the insurgency, has claimed more and more lives in Afghanistan every year since the Taliban were toppled for refusing to hand over Al-Qaeda leader Osama bin Laden. Last year [2005] about 1,600 people were killed, many of them militants, and around 150 people have already died this year." **[40e]**

(See also Anti-Coalition Forces, Hizb-e Islami **and** Taliban**)**

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SECURITY SITUATION IN DIFFERENT REGIONS

KABUL

6.23 UNAMA advised the Danish fact-finding mission of March/April 2004 that the presence of ISAF forces is the main reason for the relatively good security situation in Kabul… The Swedish Committee for Afghanistan (SCA) said that Kabul is a relatively peaceful city and the degree of crime is on a level one would expect in a city the size of Kabul. **[8] (section 3.2.1)**

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

"In Kabul, the security and human rights situation has been, to a limited degree, alleviated by the presence of the International Security Assistance Force (ISAF) and by the significant international presence in the capital. However, the Afghan government continues to lack effective control over Kabul, and efforts to create a new national army and police force and to reform the judicial system throughout the country remain at an embryonic stage." **[37] (p2)**

6.25 On 30 August 2004, Reuters reported that a car bomb in Kabul had killed up to a dozen people, including three Americans. The blast had been aimed at the offices of DynCorp, an international security company, which provided bodyguards for President Karzai and also helped train the national police force. **[40u]** The *New York Times* reported on 17 March 2005 that, according to the government news agency Bakhtar, four men had been sentenced to death for organising the Kabul car bomb attack. **[28d]**

6.26 The UN Secretary-General's report, dated 18 March 2005, noted that the ISAF had provided an essential contribution to the security of Kabul **[39j] (p8)** and his later report, dated 7 March 2006, stated that the ISAF continued to assist the government in maintaining security in Kabul. **[39h] (p11)**

6.27 The UN Secretary-General's report dated 12 August 2005 stated, however, that: "In Kabul, a number of serious attacks against international workers have occurred in recent months. The most serious were the suicide bombing of an Internet café on 7 May [2005], in which two Afghans and one international worker were killed, and the abduction on 16 May of a Care International aid worker, who was subsequently released on 9 June." **[39c] (p15)** On 12 June

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2005, BBC News reported that, according to Afghan officials, five people had been charged in connection with the kidnapping of the aid worker freed on 9 June 2005. **[25ab]**

6.28 On 25 October 2005, BBC News reported that six civilians had been killed and three people injured in a rocket attack on a US-led military convoy near Kabul, on a road linking Kabul with neighbouring Logar province. No military casualties were reported. It was also reported that no group had claimed responsibility for the attack; however "Logar Province is a stronghold of Gulbuddin Hekmatyar's Hezb-e Islami group." **[25n]**

6.29 BBC News reported on 26 November 2006 that the Afghan National Army had prevented an attack in Kabul by arresting six people as they drove explosive-packed cars into the city. **[25d]**

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

"... heavily guarded and relatively peaceful Kabul has become increasingly vulnerable. In mid-November [2005], two cars packed with explosives drove into the middle of a convoy belonging to the International Security Assistance Force, ISAF, killing eight people including a German soldier and injuring 14 civilians. On December 16, another suicide bomber blew himself up trying to attack an ISAF convoy in Kabul, injuring three Afghan civilians." **[73a]**

6.31 On 12 February 2006, BBC News reported that two Nepalese men had been kidnapped while walking to work in central Kabul the previous day. **[25h]** The UN Secretary-General's Report of 7 March 2006 stated that one of the kidnapped men had been released and the other killed. **[39h] (p11)**

(See also Sections 5: ISAF and PRTs; Army and Police)

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THE WEST AND HERAT

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

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

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

6.34 On 24 May 2005 Human Rights Watch reported that during protests in Herat by several hundred supporters of Ismail Khan on 30 April and 1 May 2005, police shot several civilians, killing an old man, a 36-year old woman and her 11-year-old daughter. **[17k]** The report of the UN Secretary-General dated 12 August 2005 noted that minor factional clashes and criminal activity continued to be reported in most of the western region. **[39c] (p15)**

6.35 In a report dated 17 August 2005 on women's participation in the 2005 elections, Human Rights Watch noted that "Women in western Herat province describe a more open environment after the former governor Ismael Khan was removed, but intimidation by local commanders remains a concern especially in rural areas." **[17d] (p16)**

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

6.37 On 9 February 2006, RFE/RL reported that sectarian violence had erupted in Herat during a gathering for the Shi'a holiday of Ashura. **[29p]** A subsequent RFE/RL report the next day stated that, according to Afghan officials, security forces had restored order after the clashes between Sunnis and Shi'as which resulted in six deaths and more than 150 people injured." **[29q]**

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

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CENTRAL

6.39 On 9 June 2005, BBC News reported that:

> "Members of [central province] Bamiyan's foreign security and reconstruction force from New Zealand say the greatest threat to security in the province has been criminal activity – not anti-coalition militias such as the Taliban, although they are prepared for any such threat. In a country of continuing turbulence, Bamiyan sits in its own political and security microclimate. Afghanistan's explosion in opium production and associated crime, militant activity, even political instability have largely passed it by." **[25w]**

6.40 The UN Secretary-General reported on 12 August 2005 that minor factional clashes and criminal activity continued to be reported in the central highlands and central regions. **[39c] (p15)**

(See also Section 6B: Hazaras)

SOUTH, SOUTH-EAST AND EAST

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

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

(See also Section 6C: Taliban **paragraphs 6.434 to 6.467)**

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

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

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

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

"On 2 July, a vehicle convoy, including UNAMA personnel, was the target of an improvised explosive device attack in Paktika province which resulted in the deaths of five Afghan police officers and two Afghan Military Forces personnel. The Afghan National Army and the coalition forces have intensified their operations in the south and parts of the east of the country, engaging insurgents in often prolonged combat. In an incident lasting several days in late June, coalition and Afghan National Army forces engaged in an operation in Kandahar and Zabol provinces that resulted in the deaths of at least 80

suspected insurgents. On 28 June, a coalition forces helicopter was brought down by enemy fire near Asadabad in Konar province. All 16 troops on board were killed. On 9 July, an Afghan National Police patrol was ambushed in Helmand province, leaving at least 10 policemen dead, of whom six had been decapitated." **[39c] (p15)**

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

6.45 On 6 February 2006, *The Guardian* reported that:

"Taliban violence in the south has spiked dramatically over recent months as the deployment nears of more than 6,000 Nato troops from Britain, the Netherlands and Canada… The surging violence has cast doubt on claims that the Taliban is a waning force. It also underscores the challenges facing the British-led Nato expansion into the south this spring, which should allow the US to withdraw about 3,000 troops." **[18c]**

6.46 On 6 March 2006 Agence France-Presse reported a UN spokesman as saying that the UN was concerned about the deteriorating security situation in the south of the country: "'We are concerned,' spokesman Adrian Edwards said when asked about a string of attacks over the winter, a season which in previous years has seen a decrease in violence linked to Taliban rebels, other militants and criminals." **[40e]**

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NORTH AND NORTH-EAST

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

6.48 The UN-appointed independent expert's report dated 11 March 2005 recorded that the ISAF had extended operations to the northern provinces of Mazar-i-Sharif, Karyab, Badakhshan, Kunduz, and Baghlan. **[39i] (para 18)** The UN Secretary-General's report dated 18 March 2005 noted that the ISAF had provided an essential contribution to the security of the northern and north-eastern regions. **[39j] (p8)**

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6.49 The UN Secretary-General reported on 12 August 2005 that minor factional clashes and criminal activity continued to be reported in the north and north-east of the country:

"However, on 11 May [2005] a public demonstration of more than 1,000 people was begun in Jalalabad (Nangarhar province) to protest against the arrest by the coalition forces of three Afghans and the alleged desecration of the Holy Quran at the United States detention centre in Guantanamo. The demonstration quickly turned violent and protestors attacked several United Nations and NGO premises, causing widespread damage to offices and guest houses. The protest spread over three consecutive days, with violent demonstrations being held in the provinces of Badakhshan, Konar, Vardak, Lowgar, Gardez and Badghis. Several casualties were reported among the population and the police. Peaceful demonstrations were also held in the capital and in a few other provinces." **[39c] (p15-16)**

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

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

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PARLIAMENTARY ELECTIONS 2005

6.52 The 2006 HRW report on Afghanistan, published in January 2006, stated that:

"On election day [18 September 2005], Afghans again demonstrated their eagerness for embracing a political process instead of violence; there was little systematic violence and election authorities managed to distribute ballot boxes in most of the country. Women comprised almost half the votes in several provinces, but the overall turnout was significantly lower than expected. Afghan election authorities declared the participation of 53 percent of registered voters, as compared with over 75 percent of voters in the presidential elections last year. In the south and southeast, anti-government forces opposed to the elections managed to drive down participation to nearly a third of registered voters.

"Although there were no security problems in Kabul, only 36 percent of the registered voters showed up at the polls. Human Rights Watch found that voters were put off by the complexity of the ballots, disenchantment with the performance of the government and international community, and the presence of too many candidates with records of serious human rights abuses.

"Human Rights Watch documented attempts by warlords to subvert the parliamentary elections. Election regulations barring candidates associated with armed factions from running for office were poorly enforced, and armed factions supported their own candidates by threatening independent candidates and intimidating voters. Women candidates, who were guaranteed at least a quarter of the parliamentary seats, faced particular challenges in reaching out to voters and campaigning; nevertheless, sixty-eight women—a slightly higher number than the 25 percent quota set aside for them—were elected to parliament.

"Among the more infamous successful candidates were Abdul Rabb al-Rasul Sayyaf, Burhanuddin Rabbani, Mullah Taj Mohammad, Younis Qanooni, Haji Almas, and Mullah Ezatullah—candidates from in and around Kabul—who were all implicated in war crimes and crimes against humanity that occurred during hostilities in Kabul in the early 1990s. Even Mullah Abdul Salim 'Rocketi,' a notorious Taliban commander, ran and won in Zabul province." **[17o] (p3)**

6.53 The final report of the European Union (EU) Election Observation Mission published on 10 December 2005 reported that, during the election process, there were numerous reports of intimidation of candidates, voters and election staff. The report stated that:

"The EU EOM deplores the death of seven candidates, seven clerics, five election workers and others. However, apart from outright violence, intimidation has taken various forms, but also one should not ignore the simple fact that the perception and expectation of intimidation are equally damaging as intimidation itself. Fear and suspicion have negatively affected the electoral process in certain parts of the country. State officials, such as chiefs of police, have been observed by the EU EOM directly intervening in the electoral process." **[98] (p60)**

6.54 On 4 December 2005, BBC News reported that a former militia commander from Laghman province elected to the new parliament, Esmatullah Muhabat, had been killed in a gunfight along with at least two supporters. **[25aa]** Radio Free Europe/Radio Liberty (RFE/RL) reported on 15 December 2005 that the killing had forced the Afghan authorities to suspend the clause in the electoral law regarding the replacement of deceased members of the legislature. "The law stipulates that if a candidate is not able to take his or her seat in the lower house for any reason, the seat will be allocated to the candidate of the same gender who received the next largest number of votes." The RFE/RL article also stated that another elected member from Balkh province, Mohammad Ashraf Ramazan, had been gunned down with one of his bodyguards on 27 September 2005. **[29l]**

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TORTURE, INHUMAN AND DEGRADING TREATMENT

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

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

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

"Beyond Kabul, the absence of an effective system of law and order means that the various power holders can act with impunity. The population at large is thus subject to the arbitrary use of power and the government is not in a position to accord protection from abuses of such power. Allegations continue that communities are often deprived of their basic rights and are victims of serious human rights abuses, sometimes by the police themselves." **[37] (p2)**

6.57 The UN-appointed independent expert on human rights report of September 2004 noted: "The independent expert has received reports of serious violations, such as torture committed in secret detention centres run by NSD, and has notified the Attorney-General." **[39k] (para. 63)** A September 2005 Amnesty International report stated that "Amnesty International is alarmed at reports indicating that The Afghan National Security Directorate, Afghanistan's intelligence service, is carrying out arbitrary arrests and detention cross [sic] the country, some allegedly on the request of US forces." **[7e] (p3)**

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

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

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

(See also Section 5: Warlords and commanders**)**

6.59 On 22 December 2004, the head of the Afghanistan Independent Human Rights Commission (AIHRC), Dr Sima Samar, was reported by IRIN as saying that "Some past violations still continue: arbitrary detentions, private jails, the torture of prisoners and detainees. The police still think it is their right to torture a suspect or culprit." **[40ab]**

6.60 The Amnesty International 2005 Afghanistan Annual Report covering events in 2004 recorded:

"Evidence emerged that US forces had tortured and ill-treated detainees in the 'war on terror' in Afghanistan. Former detainees reported being made to kneel, stand or maintain painful postures for long periods, and being subjected to hooding, sleep deprivation, stripping and humiliation. Suspects were detained without legal authority and held incommunicado, without access to lawyers, families or the courts…Regional officials and commanders with a record of human rights violations flaunted their impunity, some of them maintaining links with armed groups responsible for abuses. Little progress was made in bringing to justice those responsible for war crimes, including mass killings and rape, committed during the armed conflicts since 1978." **[7i] (p3)**

6.61 The March 2005 report by the UN-appointed independent expert on human rights noted "While the independent expert recognizes the importance of national security, he draws attention to allegations that the Coalition forces and special units of the Afghan security agencies and police act above and beyond the reach of the law by engaging in arbitrary arrests and detentions and committing abusive practices, including torture." **[39i] (para. 4)**

6.62 The US State Department 2005 Report, published on 8 March 2006, stated that the law prohibits torture and other cruel, inhuman or degrading treatment or punishment but such abuses were reported:

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

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

6.63 The USSD 2005 Report also stated that:

"There were reports of politically motivated or extrajudicial killings by the government or its agents. For example, in the spring, Kabul's police chief allegedly tortured and killed a civilian, but it was unknown whether there was an investigation. In December [2005] police beat and killed a detainee at the Kabul police station. The lack of an effective police force, poor infrastructure and

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communications, instability, and insecurity hampered investigations of unlawful killings, bombings, or civilian deaths, and there were no reliable estimates of the numbers involved." **[2d] (Section 1a)**

WAR CRIMES AND HUMAN RIGHTS ABUSES PRIOR TO 2001

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

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

6.65 In July 2005, Human Rights Watch published a report focusing on human rights abuses in Kabul and its immediate environs in the early 1990s. HRW stated:

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

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

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

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

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

6.67 On 4 August 2005, Eurasianet reported that in London:

"On July 18 [2005], Faryadi Zardad, 42, a former Afghan warlord whose militia brutalized travelers at a checkpoint east of Kabul in the 1990s, was found guilty of conspiracy to torture people and take hostages… Zardad had moved to England in 1998 and was running a pizza parlor in south London when he was arrested in 2002. He has been sentenced to two concurrent 20 year jail terms. It is the first time that a Western court has tried a foreigner for torture carried out in a foreign country." **[45b]**

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

"On 12 December [2005], the Government adopted the National Action Plan on Peace, Reconciliation and Justice, which is based on recommendations made by the Afghanistan Independent Human Rights Commission. Following the adoption of the plan, which sets out a three-year comprehensive strategy on transitional justice, a three day conference on truth-seeking and reconciliation was hosted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) with support from UNAMA and the Afghanistan Independent Human Rights Commission. The conference was attended by representatives of local government and civil society from throughout Afghanistan. Participants said the highest priority should be given to the need to end impunity, and to the prosecution and the removal of human rights abusers from public service and other positions of authority." **[39h] (p8)**

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

(See also Section 6B: Treatment of former KHAD members **paragraphs 3.359-3.360 for more information on Asadullah Sarwari's trial and** UNHCR guidelines **paragraphs 6.73-6.74)**

UNHCR AND ECRE GUIDELINES

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

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

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

- Many former members of the former ruling communist party PDPA and the agents of the secret service KhADD [KHAD] who still fear violence, harassment and discrimination for their roles in the communist government, despite the co-operation of many with the new administration.

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- Former members of the Taliban, many of whom will have been forcibly recruited, who may be at risk from the Northern Alliance.

- Religious groups in areas where they constitute minorities at risk of persecution including Hindus, Sikhs, Shiites [Shias], Sunnis and Ismailis.

- Groups at risk of forced recruitment, which is still being carried out by militia groups in the North, with reports of executions of those refusing recruitment.

- People at risk of persecution on grounds of sexual orientation.

- Journalists who have been receiving anonymous threats, for example in Kabul and Herat.

- Others who fear that they would be victims of violence, in a situation in which there is no law or order, on the basis of a settling of old scores.

- Women and girls who suffer gender-based persecution such as forced marriages." **[37] (p3)**

6.71 The UNHCR report dated June 2005 advised:

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

6.72 The same UNHCR report further noted:

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

"The fact that a category is identified herein does not, in itself, suggest that all persons falling within the category should be recognized as refugees under the 1951 Convention. Information on some categories is provided as UNHCR and other actors have and continue to receive numerous requests for information on persons with such profiles. Similarly, an Afghan who is not within a category identified herein may nevertheless fall within the scope of Article 1A of the 1951 Convention or have a need for a complementary form of international protection." **[11b] (p44)**

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

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

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

Journalists;

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

Afghans in areas where they constitute an ethnic minority;

Afghans belonging to religious minorities (Ismailis);

Afghans belonging to religious minorities (Hindu/Sikh);

Converts;

Women of specific profiles;

Homosexuals;

Afghans working for international organisations and international security forces;

Landowners. **[11b] (p44-56)**

6.74 The UNHCR guidelines also stated:

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

6.75 The UNHCR guidelines further stated:

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

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

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

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

For more information on the categories in this section, see Treatment of former KhAD members **6.323 – 6.327**; Former members of the PDPA **6.353 – 6.360**; Women **6.231 – 6.320**; Freedom of speech and media **6.94 – 6.130**; Pashtuns **6.197 – 6.203**; Former Taliban members **6.452 – 6.467**; Ismailis **6.148-6.149**; Sikhs and Hindus **6.150 – 6.162**; Converts and Christians **6.163 – 6.169**; Persons in Conflict with present power brokers **6.497 – 6.499**; Lesbian, gay, bisexual and transgender persons **6.342 – 6.345**; War Crimes and human rights abuses prior to 2001 **6.64 – 6.69**; Land disputes **6.415 – 6.421**

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AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION (AIHRC)

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

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

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

"The Afghan Independent Human Rights Commission was established by presidential decree on 6 June 2002 and its mandate was later enshrined in the Constitution. With a presence in 11 locations across the country, its 400 staff is comprised of experts, both men and women, from all major ethnic groups. Since its inception, the Commission, with support from UNAMA, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and UNDP, has undertaken a number of important initiatives. These included the verification of the exercise of political rights prior to elections, activities in the area of transitional justice, the investigation of human rights cases, monitoring of at-risk communities

and monitoring of prisons. The work of the Commission has had a positive impact on the protection and promotion of human rights. The number of violations of human rights by State actors is decreasing. Nonetheless, addressing the sources of human rights abuses and the creation of an environment in which the population can enjoy the full respect of human rights will require sustained efforts over the long term." **[39c] (p11)**

6.79 A report of an interview with Dr Samar by the Institute of War and Peace Reporting (IWPR) dated 31 January 2005 noted her frustrations with the AIHRC's limitations:

"'We hand over all the reports of our investigations to the president's office', she said. His office is then responsible for following the cases up, but because central authority does not extend across the country, some cases are not taken further. She admits that some Afghans have unrealistic expectations of her staff. Some people even expect the commission to judge criminals –but it doesn't have that authority, she says. And she and her staff do feel under a lot of pressure. 'I am threatened every day – I've never counted how many times', she said. 'I'm threatened by people who have no faith in human rights and by people who committed crimes and know that the very existence of the commission is a threat to them'." **[73o]**

6.80 The Foreign and Commonwealth Office (FCO) 2005 Annual Report on Human Rights, published in July 2005, recorded:

"The AIHRC has matured into an effective and valuable organisation since its creation in 2002. It plays an active role as a defender of human rights and is central to the promotion of human rights in Afghanistan. However, it continues to operate without enabling legislation, which we urge the government to put in place soon…There is now a growing civil society network of over 30 domestic and international human rights organisations in Afghanistan." **[15d] (Chapter 2, p32)**

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

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

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

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

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

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

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DOMESTIC AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS (NGOS)

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

6.85 The 2004 BAAG paper stated that "NGOs have worked in Afghanistan and Pakistan for decades providing humanitarian assistance to Afghans through agriculture, health, education, water supply, sanitation and income generation programmes." The paper also stated that:

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

6.86 The BAAG report noted that "International organisations are being targeted by radical elements because of a perceived association with the West and Western values, and with what is seen as a US supported government. Particularly unsafe are the Pushtun areas, mainly in the south and southeast including Kandahar and Zabul." **[71a] (p50)**

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

"The involvement of PRTs in reconstruction provoked extensive and, at times, bitter critricism from private relief, humanitarian, and development organizations. In Afghanistan, the United States was a combatant and its forces were engaged in ongoing military operations. NGOs argued that the aura of neutrality that relief workers relied on for their personal safety would be compromised if local people were unable to differentiate between foreign civilian and military actors. If military personnel engaged in relief and reconstruction activities, the boundary between civilian and military efforts would be blurred, if not erased altogether. PRTs were accused of contributing to

this ambiguity when troops wearing the same uniforms were seen fighting insurgents and building clinics. Relations with NGOs became strained, and many refused to have direct contact with PRTs, fearing retaliation from insurgents. This fear grew as attacks on aid workers increased and the security environment eroded in the spring of 2005. One NGO, Doctors without Borders [Médecins Sans Frontières], withdrew from Afghanistan, claiming the presence of a PRT in its area of operations contributed to a deadly attack on its personnel." **[103]**

6.88 A May 2005 report by the Afghanistan NGO Safety Office (ANSO) and CARE recorded that in 2003, 12 NGO staff were killed and in 2004, 24 were killed. Christian Aid reported on 27 October 2005 that "Last year [2004] Afghanistan suffered the highest number of NGO casualties in the world." A Christian Aid spokesman said that "NGOs have become soft targets…If this trend continues…we will not be able to achieve our development goals which in turn will affect the lives of ordinary Afghans whom we seek to serve." **[90a]** A Christian Aid article dated 8 December 2005 stated that "Thirty-three NGO staff have also lost their lives in Afghanistan this year – the second year in which these figures have risen…Humanitarian organisations in Afghanistan are increasingly being targeted in such attacks. It is difficult to say exactly what is provoking these attacks, but the often blurred lines between the military and NGOs is undoubtedly a factor." **[90b]**

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

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

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

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

6.91 On 7 February 2006, RFE/RL reported that the Afghan Government had stripped more than 1,600 NGOs of their operating licences. Economics Minister

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Mohammad Amin Farhang was reported as saying that the NGOs concerned were accused of economic fraud or corruption. "The work of NGOs was a frequent theme during campaigning for the 18 September [2005] elections to the country's national legislature and provincial councils, with critics accusing such groups of siphoning off aid intended for development and other projects." **[29r]**

6.92 On 3 January 2006, BBC News reported that an Afghan aid worker had been shot dead by suspected Taliban militants inside a mosque in Lashkargah in the southern province of Helmand. **[25l]**

AFGHANS WORKING FOR INTERNATIONAL ORGANISATIONS AND INTERNATIONAL SECURITY FORCES

6.93 A UNHCR paper dated June 2005 stated:

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

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FREEDOM OF SPEECH AND MEDIA

OVERVIEW

6.94 A statement from the Media Commission Chairperson dated 14 September 2005 stated that:

"The Afghan media is being re-established after an extended period of severe media repression. In the years before 2001, television was abolished, pictures were banned from newspapers, and any kind of music and even sport was kept off the radio. Since that time approximately 300 publications have been established, five 24 hour television stations, and more than 30 new private radio stations established. International radio stations including BBC, Radio Azadi, Voice of America, RFI, and DW now broadcast in Afghanistan. While private broadcasting has flourished, the state broadcaster, RTA, has failed to keep up with this media growth. Provincial authorities retain direct control over much of the local media, and their journalists still feel answerable to national government as well as local figures." **[64b]**

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

6.96 A UNHCR paper of June 2005 stated that:

"Whereas conditions have been conducive for a wide variety of political activities in Kabul, in other areas political activities are discouraged or curtailed. The space for political rights is restricted by the factional elements in power and the extent to which they tolerate political activities and freedom of expression. There is also a large degree of self-censorship practiced by political parties and by political or civil society activists. Decades of conflict have created a culture of fear, leading many parties to operate clandestinely.

"The exercise of political rights is also a problem of physical safety of individual Afghans especially in the rural areas… Persons at risk include Afghans raising the issue of past crimes and gross human rights violations committed during the period between 1992 to 1996, those denouncing ongoing human rights violations in parts of the country, those critical of powerful factions and local commanders as well as those affiliated with 'Western' organizations or perceived as propagating 'Western' values." **[11b] (p45)**

6.97 The Freedom House 2005 report on Afghanistan, published in August 2005, recorded that "Media diversity and freedom are markedly higher in Kabul, and some warlords do not allow independent media in the areas under their control. However, pressures on journalists in Herat eased considerably following the ouster of local strongman Ismael Khan in September [2004]." **[41b] (p19)** The president of the Afghanistan Independent Journalists Association (AIJA) was reported by IRIN News on 26 December 2005, however, as saying that Herat had the worst record of violence against journalists in 2005. **[36a]**

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

"In regards to freedom of expression, Kabul province presents the most open environment, as exemplified by an active and diverse media that carries reports openly reflecting a variety of political views. However, threats against individual journalists, editors, those who involved [sic] in investigative programs, and human rights activist who speak out are still of high concern. At the same time, in large parts of country the media – particularly radio and television - continue to be seen as largely in the hands of local authorities. Reporting critical of local officials has led to reprisals against journalists. Judicial authorities and the conservative elements who hold official posts are continuing to impose restrictions on freedom of expression." **[78e]**

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

"The law provides for freedom of speech and of the press; however, there were instances of governmental intimidation of journalists to influence their reporting. The law prohibits information that 'could mean insult to the sacred religion of Islam

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and other religions.' The ambiguity over what was considered offensive material offered the potential for restricted press freedom.

"The independent media were active and publicly reflected differing political views, although the extent varied from region to region. The government owned at least 35 publications and most of the electronic news media. Many other newspapers were published only sporadically, and many were affiliated with different provincial authorities. Factional authorities tightly controlled media in some parts of the country, and the degree of freedom of expression varied significantly between regions. The foreign media were covered under the freedom of speech law; however, they were prohibited from commenting negatively on Islam and from publishing materials that were considered a threat to the president." **[2d] (Section 2a)**

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

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

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

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MEDIA LAW

6.101 A UNHCR paper dated June 2005 stated:

"The new Constitution of Afghanistan and the new Media Law of March 2004 guarantee the inviolability of freedom of expression and the right to print and publish without prior submission to State authorities. This is a positive development since the previous Press Law introduced in February 2002 was not comprehensive, had some provisions on penalising 'insult' that could be arbitrarily interpreted and contained 37 crimes which potentially affect journalists." **[11b] (p47)**

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

(But see also Journalists paragraphs 6.129-6.130 for details of the arrest of journalist Ali Nasab)

6.103 The Reporters without Borders' (RSF) 2005 Annual Report also commented on the media law, stating:

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

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

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NEWSPAPERS, RADIO AND TELEVISION

6.104 A Media Directory produced by Internews Kabul dated 31 March 2004 noted that "Newspapers have enjoyed a quick resurgence following the fall of the Taliban…However, there are almost no financially independent papers; most are either sponsored by governmental agencies, international organizations, or political parties…There are nearly a dozen women's magazines." **[77a] (chapter 1)**

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

6.106 The RSF's 2005 Annual Report also noted that the print media had been undermined by recurring financial problems. "Abdul Sami Ahmed, the editor of an independent monthly in the northern city of Mazar-i-Sharif, deplored the fact that most newspapers are financially dependent on one of the three main factions: the former mujahideen, the king's supporters or those backing Karzai." **[62c]**

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6.107 The 2005 CPJ Report stated that:

"Radio remained the most popular news medium because of the country's low literacy rates and mountainous terrain, which makes transporting newspapers and magazines difficult. International broadcasters such as the BBC and two U.S. government–funded stations, Radio Free Europe/Radio Liberty and Voice of America, continue to draw wide audiences and respect. However, they now compete with the 29 local community radio stations established since 2003 by the international media development organization Internews, along with roughly 20 other commercial stations. The new generation of radio reporters says it faces growing risks. A study by the Afghan media organization Nai found that 54 percent of radio reporters reported being intimidated, primarily by warlords and local government officials." **[91a] (p2)**

6.108 A report by the AIHRC-UNAMA, dated June 2005 stated that "… in large parts of country the media – particularly radio and television - continue to be seen as largely in the hands of local authorities. Reporting critical of local officials is considered to lead to reprisals against journalists." **[48a] (p4)**

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

"Unlike in previous years there were no reports that government forces prohibited music, movies, and television on religious grounds. Journalistic self-censorship was common in many areas because of fear of retaliation. Cable operators provided a wide variety of channels, including Western movie and music channels. The government did not restrict the ownership of satellite dishes by private citizens." **[2d] (section 2a)**

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

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PARLIAMENTARY ELECTION CAMPAIGN

6.111 On 17 September 2005, Reporters without Borders (RSF) stated that "Journalists have been targeted in violence in the run-up to parliamentary and provincial assembly elections on 18 September 2005." **[62a]** The RSF article included the following examples:

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

"Another AVA journalist, Ruhullah Jalali, was held in a secret services cell after trying to visit his detained colleague. They were both released eight hours later and after the intervention of a representative of the Afghanistan Independent Journalists' Association. Salim Wahdat said the secret service agents had accused him of taking photos for al-Qaeda." **[62a]**

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

"Kabul province continues to be the most open in terms of freedom of expression, as exemplified by an active and diverse media which carries reports openly reflecting a variety of political views. However, threats against individual presenters of the privately owned TOLO TV are of concern. Journalists involved in investigative and musical programmes have been threatened without law enforcement agencies taking any action. Herat has witnessed a significant improved in political expression since the presidential elections. Compared to a year ago, there are numerous media outlets in the province and the quality of Herat Radio and Television has improved." **[48a] (p3-4)**

6.113 The final report of the Joint Electoral Management Body (JEMB) published in December 2005 stated that:

"The Media Commission, established by the JEMB in accordance with Article 51 of the Electoral Law, monitored the media's coverage of the electoral campaign. It also addressed complaints alleging breaches of the Mass Media Code of Conduct and implemented the Sponsored Advertisement Program. This program, the largest of its kind ever implemented, provided each candidate with equitable access to the media throughout the official campaign period." **[74d] (p5)**

6.114 The Media Commission Final Report on the 2005 elections, published on 6 November 2006, stated that:

"The Commission received 15 complaints, eight from the public and seven from its monitors. Of the eight cases where a violation was found, not one was considered serious. Sanctions took the form of the broadcast of a short judgment and an apology where appropriate by the offending station. Monitoring reports indicated that the media covered the electoral campaign fairly but the quantity of the coverage was conspicuously low by international standards. Much of the coverage focused on the electoral system and its management rather than on campaign issues and their potential impact on the future policies of Afghanistan." **[64a] (executive summary)**

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

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

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"Self-censorship affected election coverage, Western observers alleged. The press was seen as overly cautious in its coverage of the candidates out of fear of reprisal; there were few probing questions about candidates who had been military commanders, warlords, or drug traffickers, or who had acted as their surrogates." **[91a] (p2-3)**

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JOURNALISTS

6.116 The first Internews newsletter on the freedom of journalism in Afghanistan, included in a September 2004 Media Monitor Report, stated that:

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

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

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

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

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

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

"During the year [2005], members of the intelligence service intimidated and threatened journalists. Threatening calls and messages against media

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

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

6.119 The RSF's May 2005 report stated that "Under threat from warlords and conservatives it is very hard for journalists to work in areas where the Taliban and the most aggressive warlords hold sway, especially in the south and southeast. 'Threats from gunmen are an everyday event', said the BBC World Service's stringer in the south." **[62c]**

6.120 On 24 May 2005 a Human Rights Watch publication recorded that on 18 May 2005 a female Afghan television presenter had been shot in the head at her Kabul home. She had been fired from her position at a Kabul independent television station, Tolo TV, in March 2005 after several clerics in Kabul said her show was 'anti-Islamic' and should be taken off the air **[17k]**. The CPJ 2005 Report stated that "A female music video presenter, Shaima Rezayee, was fired soon afterward and was found murdered in her home in May [2005]. Police blamed members of her family for her murder but were unable to substantiate those accusations, and no arrests were reported." **[91a] (p2)**

6.121 The CPJ 2005 Report also stated that:

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

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

6.123 On 26 December 2005 IRIN News reported the president of the Afghanistan Independent Journalists Association (AIJA) as saying that there had been 30 cases of violence against journalists in 2005 compared to 15 cases in 2004 and that "… journalists faced killings, kidnappings, threats and imprisonment." The

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president noted two killings during 2005; one of a worker at a private TV channel in Kabul and the other of a local journalist in Khost province. **[36a]**

6.124 The 2005 CPJ Report stated that:

"In June [2005], after two years of debate within the media community, journalists finally formed two organizations dedicated to protecting press freedom, publicizing attacks against local journalists, and pressuring authorities to defend their rights. The Afghan Independent Journalists Association and the Committee to Protect Afghan Journalists monitored and documented press freedom abuses, met with officials to lobby for their colleagues, and alerted the international community when egregious attacks on the press occurred, such as the jailing of editor Nasab [see paragraphs 6.93 & 6.94]." **[91a] (p2)**

6.125 The UNHCR paper dated June 2005 stated:

"Realities of the Afghan society and the problems with the law led to a number of journalists being threatened, detained, beaten or harassed during the last two years. Some of these journalists were followed and threatened by commanders. Journalists working for newspapers and radio and TV stations have also been harassed by Government officials. Due to serious threats to their life, some of them had to leave the country. The climate of fear among journalists is widely considered a major challenge. There is limited understanding of freedom of expression, which is exacerbated by a climate of intimidation resulting from the dominance of strong political and armed factions as well as the absence of rule of law. This leads journalists to self-censorship on sensitive issues and to present their work as moderate and mainstream. In particular, conservative forces have tried to exercise media control by threatening and physically attacking journalists.

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

6.126 On 11 July 2005, the Committee to Protect Journalists welcomed the release of two radio journalists in Kabul:

"Intelligence officers did not clarify the reasons behind the detention for more than a week of Rohullah Anwari and Shershah Hamdard, both reporters for the U.S.-government funded Radio Free Europe/Radio Liberty (RFE/RL). Intelligence officers arrested Anwari, a reporter based in eastern Afghanistan's Konar Province, and Hamdard, who is based in Jalalabad, while they were covering the aftermath of the crash of a U.S. military helicopter that was shot down on June 28 [2005]." **[91c]**

6.127 The 2005 CPJ Report stated that:

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

murder last year and sentenced to death. Khan claimed that the group had acted on the orders of a Taliban commander." **[91a] (p3)**

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

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

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

(See also Section 6A: ECRE guidelines**)**

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FREEDOM OF RELIGION

BACKGROUND AND DEMOGRAPHY

6.131 The US State Department (USSD) Report on Religious Freedom 2005 published on 8 November 2005, noted that:

"Reliable data on religious demography is not available because an official, nationwide census has not been taken in decades. Observers estimate that 84 percent of the population is Sunni Muslim; approximately 15 percent is Shi'a Muslim; and other religions, including Sikhs, Hindus, and Jews, make up less than 1 percent of the population. There also is a small, low-profile Christian community, in addition to small numbers of adherents of other religions." **[2c] (section I)**

6.132 The USSD 2005 Report further noted:

"In the past, small communities of Hindus, Sikhs, Jews, and Christians lived in the country; however, most members of these communities have left. Even at their peak, these non-Muslim minorities constituted less than 1 percent of the population. Most of the small Hindu and Sikh populations, which once numbered approximately 50,000 persons, emigrated or took refuge abroad during the many

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years of conflict. However, after the fall of the Taliban, some minorities have begun to return. Non-Muslims such as Hindus, Sikhs, and Jews were estimated to number only in the hundreds at the end of Taliban rule. In 2003, the most recent year for which estimates are available, approximately 3,000 Sikh and Hindu families were living in Afghanistan." **[2c] (section I)**

6.133 In June 2005 UNHCR reported: "Islam is the official religion in Afghanistan, as stipulated in Article 2 of the Constitution… Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of the new Constitution and laws." **[11b] (p8)**

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

6.135 The USSD 2005 Report on Religious Freedom noted that::

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

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

6.136 The USSD 2005 Report also stated that "In general, there were fewer reports of problems involving religious freedom than in previous years." **[2c] (introduction)**

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CONSTITUTIONAL RIGHTS, RELIGIOUS LAW AND INSTITUTIONS

6.137 Article 2 of the Constitution adopted on 4 January 2004 states: "The religion of the state of the Islamic Republic of Afghanistan is the sacred religion of Islam. Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law." Article 3 states that "In

Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam." **[81]**

6.138 On 26 January 2004, the Institute of War and Peace Reporting (IWPR) reported that:

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

6.139 The US State Department Report 2005 on Religious Freedom, published on 8 November 2005, recorded that:

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

6.140 The USSD 2005 Report on Religious Freedom also noted that:

"The Government continued to stress reconciliation and cooperation among all citizens. Although it primarily is concerned with ethnic reconciliation, it also has expressed concern about religious intolerance. The Government responded positively to international approaches on human rights, including religious freedom. The Government indirectly emphasized ethnic and intrafaith reconciliation through the creation and empowerment of the Judicial, Constitutional, and Human Rights Commissions, composed of members of different ethnic and Muslim religious (Sunni and Shi'a) groups. The Constitutional Commission also included a Hindu member to represent non-Muslim religious minorities." **[2c] (section II)**

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

"The law proclaims that Islam is the 'religion of the state', but provides non-Muslim citizens the freedom to perform their rituals within the limits determined by laws for public decency and peace, although there was harassment of foreign missionaries and others. The law also declares that no law can be contrary to the beliefs and provisions of Islam. The government required all citizens to profess a religious affiliation.

"Historically, the majority Sunni population discriminated against the minority Shi'a community. There were no laws forbidding proselytizing, although authorities

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viewed proselytizing as contrary to the beliefs of Islam, and authorities could punish blasphemy and apostasy with death. Public school curricula included religious subjects, and religious leaders conducted detailed religious study. Non-Muslims were not required to study Islam, and there was no restriction on parental religious teaching." **[2d] (section 2c)**

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

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RELIGIOUS GROUPS

SHIA (SHIITE) MUSLIMS

6.142 The US State Department (USSD) Report 2005 on Religious Freedom, published on 8 November 2005, recorded that:

"Relations between the different branches of Islam in the country have been difficult. Historically, the minority Shi'a faced discrimination from the majority Sunni population. Some conservative elements advocated that a new constitution should favor the Hanafi school of Islamic jurisprudence associated with the Sunnis over the Jafari school used by the Shi'as… However, the Constitution does not grant preferential status to the Hanafi school, nor does it make specific reference to Shari'a law. The Constitution also grants that Shi'a law will be applied in cases dealing with personal matters involving Shi'as; there is no separate law applying to non-Muslims." **[2c] (introduction)**

6.143 The Institute for War and Peace Reporting (IWPR) reported that Shia Muslims made important gains in the new Constitution passed on 4 January 2004 at the end of the Loya Jirga. The IWPR reported that:

"Unlike the previous constitution of 1964, when the king who then ruled Afghanistan had to be a follower of the Hanafi Sunni school of Islam, a Shia Muslim can now become leader of the country. The qualifications for the president under the new constitution only require a candidate to be a Muslim. It recognises in Article 131 that Shia – who represent perhaps 15 per cent of the population – can use their own school of law in court cases involving personal matters…The Shia have their own school of law, Jafari." **[73c]**

6.144 The USSD 2005 Report on Religious Freedom also stated that:

"Historically, the minority Shi'a faced discrimination from the Sunni population. However, in view of an increase in Shi'a representation in government, there is less hostility from Sunnis. Most Shi'a are members of the Hazara ethnic group, which traditionally has been segregated from the rest of society for a combination of political, ethnic, and religious reasons. Throughout the country's history, there have been many examples of conflicts between the Hazaras and other citizens. These conflicts often have had economic and political roots but also have acquired religious dimensions. The treatment of Shi'a varied by locality; however, the active persecution of the Shi'a minority, including Ismailis, under the Taliban regime has

ended, and, although some discrimination continues at the local level, Shi'a generally are free to participate fully in public life." **[2c] (section III)**

6.145 The same report stated that "During the reporting period, the Government included Hazara and other Shi'a figures, such as the Minister of Martyrs and the Disabled Sidiqa Balkhi, Minister of Public Works Suhrab Ali Safari, Minister of Transportation Hinayatullah Qasimi, Minister of Justice Mohammad Sarwar Danish, Second Vice President Karim Khalili, and Minister of Higher Education Sayed Amirshah Hasanyar." **[2c] (section II)**

6.146 The USSD 2005 Report also stated that:

"The Shi'a community is able to celebrate openly the birthday of Imam Ali, one of the most revered figures in the Shi'a tradition, as well as commemorate the 10th of Muharram (Ashura), which marks the murder [of] Muhammad's grandson, Hussein. There were no reported incidents surrounding Shi'a religious celebrations during the reporting period… Shi'as are permitted to go on the Hajj, and there is no quota system for those making the pilgrimage. Participants are selected by lottery." **[2c] (section II)**

6.147 On 9 February 2006, Radio Free Europe/Radio Liberty (RFE/RL) reported that sectarian violence had erupted in the western city of Herat during a gathering for the Shi'a holiday of Ashura. **[29p]** A subsequent RFE/RL report the next day stated that, according to Afghan officials, security forces had restored order after the clashes between Sunnis and Shi'as which resulted in six deaths and more than 150 people injured:

"Mohammad Ismail Khan, the powerful former governor of Herat who took a cabinet post in Kabul last year, returned to Herat late on 9 February. He is heading a government delegation that is trying to calm tensions between Shi'a and Sunnis…Herat's current governor, Sayyed Hosayn Anwari, told RFE/RL that authorities are investigating evidence that suggests the violence in Herat was incited by an organized group of foreigners, possibly from Iran or Pakistan." **[29q]**

(See also ECRE guidelines **and Section 6.B** Hazaras**)**

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ISMAILIS

6.148 A UNHCR report dated June 2005 stated:

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

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previously controlled. After the fall of the Taliban, the Jamiat-e-Islami prevented the Ismailis from re-forming the military structures that they previously maintained.

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

6.149 The US State Department 2005 Report on Religious Freedom, published on 8 November 2005, noted that the active persecution of Afghanistan's Shi'a minority, including Ismailis, under the Taliban regime had ended. Although some discrimination continued at the local level, Shi'a generally were once again free to participate fully in public life. **[2c] (section III)**

(See also ECRE guidelines**)**

SIKHS AND HINDUS

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

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

6.151 In October 2003, a HRW open letter to President Karzai expressing concerns about the CLJ election process noted that a grenade had been thrown into a Sikh temple in Kabul the previous week. **[17a]** The USSD 2005 Religious Freedom Report, published on 8 November 2005, stated that "There were no casualties. Prior to the incident, local police had warned the gurdwara authorities of a possible attack. Although police and intelligence officials investigated, no suspects had been apprehended by the end of the reporting period." **[2c] (section II)** The HRW letter of October 2003 also noted that a prominent leader of the Sikh community in Kabul had received anonymous telephone threats, telling him not to favor a secular government when he represented the community at the CLJ. **[17a]**

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

6.153 The USSD 2005 Report on Religious Freedom, published on 8 November 2005, stated that "Sikh and Hindu leaders were consulted regularly during the preparation of the draft Constitution and elected three delegates, including a woman, to the CLJ." **[2c] (section II)**

The USSD 2005 Religious Freedom report also stated that:

"There are five or six gurdwaras, or Sikh places of worship, in Kabul, and worshippers generally are free to visit, as threats have ceased. President Karzai visited the Sikh school in the summer of 2002 (co-located with the only functioning gurdwara), after which the Ministry of Education assigned four part-time Dari-language teachers to the school… During the reporting period, the Government provided guards for the five or six unused Sikh gurdwaras in Kabul, as well as a shuttle for worshippers." **[2c] (section II)**

6.154 The USSD 2005 Religious Freedom Report stated that "Non-Muslim minorities such as Sikhs and Hindus continue to face social discrimination and harassment; however, this circumstance is not systematic, and the Government is trying to address their concerns." **[2c] (section III)**

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

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

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

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

6.156 On 25 October 2004, the *Navhind Times* reported:

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

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

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

"Sikhs and Hindus returning to the country faced difficulties in obtaining housing and land in Kabul and other provinces, and the communities reportedly continued to face acts of discrimination during the year. In the second half of the year, the government provided Sikhs and Hindus land on which to cremate their dead.

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

6.158 A UNHCR paper dated June 2005 stated:

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

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

"With regard to education, parents are hesitant to send their children to mainstream schools, as the children continue to face verbal and sometimes physical harassment. In Kabul, the community has started its own school located near the religious temple (Daramsal). The subjects taught in this school are Punjabi, Dari, religious studies and mathematics. While the Punjabi language teacher is paid by the community, the Dari and mathematics teachers are sent by the Department of Education. At present, the school has only 120 students in first

and second grade. A common complaint from the community is that although they have raised their concerns about accommodation and education with various ministries and with representatives of the international community, they believe that no action has been taken to alleviate their problems. A positive development for the Sikh community has been that it was represented at the Loya Jirga and a member of the community is in the Electoral Commission." **[11b] (p50-51)**

(See also UNHCR/ECRE guidelines**)**

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

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

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

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

6.161 The USSD 2005 Report on Religious Freedom published on 8 November 2005 stated that "In May 2005, news reports indicated that an Indian Hindu converted to Islam. The conversion ceremony was performed before Supreme Court representatives, the Chief Justice and Chief of the Supreme Court, and local and international media. The conversion does not appear to have been forced." **[2c] (section II)**

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

(See also Constitutional Rights, Religious Law and Institutions**)**

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CONVERTS AND CHRISTIANS

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

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

"The new constitution for Afghanistan, passed in early January [2004] by the Loya Jirga, provides little guarantee that religious persecution will be diminished under the new Islamic government. For, missing from the constitution is the essential assurance of the protection for freedom of thought, conscience, and religion. Islam remains the supreme religion in the country, with a constitutional declaration that 'no law can be contrary to the beliefs and provisions of the sacred religion of Islam.' This wording allows for much interpretation of difficult issues by the future Afghan Supreme Court, a body of judges who will be educated in Islamic law. If these judges believe that Christian practices are contrary to Islamic law, there is great potential for believers to continue to suffer persecution.

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

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

6.165 On 1 July 2004, Reuters reported:

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

6.166 The US State Department 2005 Report on Religious Freedom published on 8 November 2005 stated that:

"Conversion from Islam is considered apostasy and is punishable by death under Shari'a. However, the new Constitution makes no reference to Shari'a, and Article 7 commits the state to abide by the international treaties and conventions that require protection of this right. During the reporting period, there were unconfirmed reports that converts to Christianity faced societal discrimination and threats and in some cases were killed. The press reported the killings of five male converts to Christianity near the eastern border between June and August 2004, but these reports could not be confirmed. There was no information available concerning restrictions on the general training of clergy. Immigrants and noncitizens were free to practice their own religions. In Kabul, 200 to 300 expatriates meet regularly at Christian worship services, which are held in private locations because there are no Christian churches in the country… Christian-affiliated international relief organizations generally operated throughout the country without interference, and there were no reports of incidents of harassment during the period covered by this report [but see also paragraph 6.88 for information on attacks on NGOs in 2004/2005]. After an attack in late September 2003 that killed two employees of the Voluntary Association for Rehabilitation of Afghanistan, a Taliban spokesman accused the organization and other nongovernmental organizations (NGOs) of preaching Christianity; there were no further details on the attack during the reporting period. There are no known foreign missionaries in the country." **[2c] (section II)**

6.167 The same USSD 2005 Report also stated that "There are no Christian or Jewish schools, no Christian churches, and one synagogue…There were no reports, either confirmed or unconfirmed, of discrimination toward Christians in schools." **[2c] (section II)** The USSD 2005 Religious Freedom Report noted that there were no reports of forced religious conversion during the reporting period. **[2c] (section II)**

6.168 A UNHCR paper dated June 2005 advised:

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

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

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

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

(See also UNHCR and ECRE guidelines**)**

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MIXED MARRIAGES

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

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

"The source stated that, the question as to whether the couple will be subject to persecution from their families depends on the attitude of the families. The source knew about cases where mixed couples had returned from their exile to Afghanistan without encountering problems. However the source was of the opinion that partners in mixed marriages should return to larger cities to avoid problems. The source explained that the UNHCR had been involved in a case in which a mixed couple, an Afghan Hazara man and a Pakistani woman were subject to persecution and threats from their families due to their marriage. The couple had tried to settle in various towns in Afghanistan but in the end they had been forced to leave the country." **[8] (Section 6.9)**

6.171 The same Danish report also noted:

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

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

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FREEDOM OF ASSEMBLY AND ASSOCIATION

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

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

1. The program and charter of the party are not contrary to the principles of sacred religion of Islam, and the provisions and values of this Constitution.

2. The organizational structure, and financial sources of the party are made public.

3. The party does not have military or paramilitary aims and structures.

4. Should have no affiliation to a foreign political party or sources.

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

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

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

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

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6.174 The first report by the AIHRC-UNAMA during the run-up to the September 2005 elections, covering the period 19 April to 3 June 2005, recorded:

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

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

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

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EMPLOYMENT RIGHTS

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

6.177 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, recorded that: "The law provides broad provisions for protection of workers; however, little was known about their enforcement. Labor rights were not understood outside of the Ministry of Labor, and workers were not aware of their rights. There was no effective central authority to enforce them. The only significant employers in Kabul were the minimally functioning ministries and local and international NGOs." **[2d] (Section 6a)**

6.178 The USSD 2005 Report also noted:

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

"The law prohibits forced or compulsory labor, including by children; however, little information was available… **[2d] (Section 6c)** The law prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children… **[2d] (Section 6d)**

"No information exists regarding a statutory minimum wage or maximum workweek, or the enforcement of safe labor practices. Many employers allotted workers time off for prayers and observance of religious holidays." **[2d] (Section 6e)**

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PEOPLE TRAFFICKING

6.179 A report by the International Organization for Migration (IOM) dated October 2003 stated:

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

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

6.181 A 2004 review paper by the IOM reiterated that their assessment of trafficking in persons in Afghanistan led them to conclude that the following forms of trafficking are taking place:

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

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

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"Afghanistan is a country of origin for women and children trafficked for the purposes of sexual exploitation and labor. Children are trafficked to Iran, Pakistan, and Saudi Arabia for forced begging, labor, and sexual exploitation. Some parents pay smugglers to take their children into Iran and Saudi Arabia, hoping their children will find work and send remittances; once there, the children become subject to coercive arrangements that constitute involuntary servitude. Children are also 'loaned' by their parents to perform agricultural and domestic work within Afghanistan in return for wages paid to the parents; these arrangements often develop into involuntary servitude. Women and girls are kidnapped, lured by fraudulent marriage proposals, or sold into forced marriage and commercial sexual exploitation in Pakistan. Women and girls are also trafficked internally as a part of the settlement of disputes or debts as well as for forced marriage and labor and sexual exploitation. Afghanistan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so." **[2b] (p1)**

6.183 The US State Department Report 2005 stated:

"The law does not prohibit trafficking in persons; however, traffickers could be prosecuted under other laws. The country was a source and transit point for trafficked persons… The AIHRC tracked and investigated cases of child abduction and worked to assist in international investigations of trafficking.

"There were continued reports of poor families promising young girls in marriage to satisfy family debts. There were a number of reports that children, particularly from the south and southeast, were trafficked to Pakistan to work in factories, or internally to work in brothels. UNICEF cited unconfirmed reports of the abduction of women and children in the southern part of the country." **[2d] (Section 5)**

6.184 The USSD also stated that:

"Although prosecutions of traffickers increased, and the government devoted greater attention to trafficking in persons during the year, prosecution of perpetrators continued to be inconsistent. Between March and December [2005], the AIHRC and UNICEF received more than 150 reports of child trafficking, and reported approximately 50 arrests of child traffickers. Information on convictions was not available. President Karzai issued a decree mandating the death penalty for child traffickers convicted of murder, and lengthened prison terms. Trafficking victims, especially those trafficked for sexual exploitation, faced societal discrimination, particularly in their home villages, and the risk of contracting sexually transmitted diseases.

"At year's end according to the AIHRC, authorities repatriated 317 children from Saudi Arabia, Pakistan, Zambia, and Oman. The Ministry of Labor and Social Affairs, with the assistance of UNICEF, set up a transit center to assist with these returns, and other agencies such as the AIHRC helped with the children's reunification and reintegration." **[2d] (Section 5)**

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FREEDOM OF MOVEMENT

6.185 The USSD 2005 Report, published on 8 March 2006, reported that the law provides for freedom of movement but certain laws limited citizens' movement:

"The passport law requires a woman to obtain permission from a male family member before having a passport application processed. In some areas of the country, women were forbidden by local custom or tradition to leave the home except in the company of a male relative. The law also prohibits women from traveling alone outside the country without a male relative, and male relatives must accompany women participating in the hajj. Additionally, sporadic fighting, brigandage and landmines hampered travel within the country. Taxi, truck, and bus drivers complained that security forces and armed militants operated illegal checkpoints and extorted money and goods. While the number of such checkpoints decreased during daylight hours, their numbers increased at night, especially in the border provinces. In April [2005] local militants shot and injured two men at illegal checkpoints in Kunduz province." **[2d] (section 2d)**

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

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

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

6.188 In June 2005, the UNHCR noted that:

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

(See also Section 6B: Women's participation in public life and institutions **for further information on restrictions on movement for women)**

6.189 On 4 December 2005, the AIHRC issued an open letter to President Karzai, which stated that:

"…people are recently facing serious problems in enjoying their right to freedom of movement and in accessing public places as a result of unjustifiable and irresponsible actions taken by a number of security institutions especially private security companies under the pretext of security measures…The AIHRC, in its continual monitoring, has observed an increase in unjustifiable security measures

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for convening sessions, conferences and seminars that sometimes exceed the security requirements of those gatherings.

"These measures have violated and restricted the right of people to freedom of movement and free use of public facilities and in addition, have led to inaccessible points in Kabul that sometimes prevent the access of people to emergency health care." **[78d]**

INTERNAL FLIGHT OR RELOCATION

6.190 A UNHCR paper of June 2005 advised:

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

"The assessment of whether or not there is a relocation alternative in the individual case requires two main sets of analysis – its relevance and its reasonableness. For both, the personal circumstances of the individual applicant and the conditions in the area to which the internal flight or relocation alternative is proposed must be examined. With regard to the 'relevance' of an internal flight or relocation alternative, it is of particular importance to assess the willingness and the ability of the State to protect from risks emanating from non-State agents. Local commanders and armed groups act as agents of persecution in the Afghan context that have set themselves above the law, both at the local and central levels. In some cases, they are closely associated to the local administration while in others they may be linked to and protected by more powerful and influential actors, including at the central level. As a result, they largely operate with impunity, with the State authorities being unable to provide protection against risks emanating from these actors. In most instances, the State is still unable to provide effective protection against persecution by non-State actors. The links to other actors may, depending on the circumstances of the individual case, expose an individual to risk beyond the zone of influence of a local commander, including in Kabul. Even in a city like Kabul, which is divided into neighbourhoods (gozars) where people tend to know each other, the risk remains, as news about a person arriving from elsewhere in the country travel [sic] fast.

"Additional to the 'relevance' of internal relocation to the individual case, it must also be 'reasonable' for a claimant to relocate to that location in order to overcome his or her well-founded fear of persecution elsewhere in the country of origin. It is particularly with regard to this 'reasonableness analysis' that UNHCR continues to advise against resort to the notion of an internal flight or relocation alternative in the Afghan context, considering elements of safety and security, human rights standards as well as options for economic survival during the relocation journey and upon arrival at the destination of relocation. The traditional family, extended family and community structures of Afghan society continue to constitute the main protection and coping mechanism in the current situation. It is these structures and links on which Afghans rely for their safety as well as for economic survival, including access to accommodation and an adequate level of subsistence. The protection provided by families, extended families and tribes is limited to areas where family or community links exist and without them, a relatively normal life

without undue hardship at another location than one's place of origin or residence is unlikely. As documented in studies on urban vulnerability, the household and the extended family remains the basic social network in Afghanistan and there are indications that existing traditional systems of sharing and redistribution function less in the extended urban family. It would therefore, in UNHCR's view, be unreasonable to expect any Afghan to relocate to an area to which he or she has no effective links, including in urban areas of the country." **[11b] (p66-67)**

(See also Section 6A: Single Women and Widows **paragraphs 6.262 to 6.269)**

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6.B HUMAN RIGHTS – SPECIFIC GROUPS

ETHNIC GROUPS

INTRODUCTION

6.191 The Freedom House Afghanistan Country Report 2004 recorded:

"Afghanistan is made up of a mélange of ethnic groups, the largest of whom are the Pashtuns, Tajiks, Uzbeks and Hazaras. Historically there has been a certain level of inequality between ethnic groups, as well as discrimination based on ethnicity. The predominantly Shia Hazaras, who are believed to make up between 15 percent and 20 percent of Afghanistan's population, have traditionally been the most politically and economically disadvantaged group. Observers believe that protracted wars and instability have led to an increase in ethnic polarization, tension, and conflict." **[41a] (p6)**

6.192 Article 22 of the Constitution adopted in January 2004 states: "Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited. The citizens of Afghanistan – whether woman or man – have equal rights and duties before the law". **[81]** On 4 January 2004, the Institute for War and Peace Reporting (IWPR) noted that the final document named fourteen different ethnic groups as comprising the nation of Afghanistan. The IWPR reported that the national anthem will be in Pashtu, but will include the phrase "Allah-o-akbar" – the jihadi rallying cry – and mention all the names of Afghanistan's ethnic groups. **[40n]**

6.193 On 10 January 2005, the Special Representative of the UN Secretary-General reported that the new Afghan cabinet inaugurated in December 2004 broadly reflected the ethnic composition of the country, with ten Pashtuns, eight Tajiks, five Hazaras, two Uzbeks, one Turkmen and one Baloch. **[40k]**

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

Groups	WJ seats	Percent
Pashtun	118	47.4%
Tajik & Aimaq	53	21.3%
Hazara	30	12.0%

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Uzbek	20	8.0%
Non-Hazara Shi'a	11	4.4%
Turkmen	5	2.0%
Arab	5	2.0%
Ismaili	3	1.2%
Pashai	2	0.8%
Baloch	1	0.4%
Nuristani	1	0.4%
TOTAL	249	100%

[22c] (Section 2.1.3)

6.195 A UNHCR paper dated June 2005 stated:

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

6.196 The same UNHCR paper also advised:

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

(See also sections on Pashtuns and Hazaras below)

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PASHTUNS (PATHANS)

6.197 In June 2005 UNHCR stated that Pashtuns are the largest ethnic group in Afghanistan, constituting about 38 per cent of the population. **[11b] (p8)** The 2005 Encyclopedia of the World's Minorities records that there are also Pashtuns in Pakistan, mainly in the North West Frontier and Baluchistan provinces. Their language, Pashto, became an official language of Afghanistan in 1936. The Encyclopedia also stated that: "Sociopolitical strife, droughts, and resulting famine have led to mass immigration eastward across a shared border into Pakistan, producing large refugee communities." **[27] (p955)**

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

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

6.199 The Freedom House Afghanistan Country Report 2004 recorded:

"Pashtuns, who are the largest ethnic group in Afghanistan, are predominant in the southwest and southeast of the country. Pashtun leaders have controlled political power for most of Afghanistan's history as a state, and most recently some Pashtun leaders were broadly supportive of the Taliban regime. Following the collapse of Taliban rule, Pashtun civilians residing in the north were targeted in a wave of ethnically motivated violence that left a large number displaced and dispossessed of their land… While Pashtuns in Kabul have not been systematically targeted to the same extent, they do face some harassment and discrimination by local police and intelligence officials." **[41a] (p6)**

6.200 A review paper of 31 December 2004 by the International Organisation for Migration (IOM) stated that "This year [2004] has seen the first returns of ethnic Pashtuns to their places of origin in Faryab and Badghis provinces in northwestern Afghanistan." **[38b] (p1)**

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

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

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

(See also UNHCR and ECRE guidelines**)**

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TAJIKS

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

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

6.205 In June 2005, the UNHCR noted that Tajiks comprised about 25 per cent of the population making them the second largest ethnic group; they are Persian (Dari) speaking Afghans. **[11b] (p8)** The 2005 Encyclopedia of the World's Minorities records that the majority of Tajiks are Sunni Muslims. **[27] (p1175)**

6.206 The Danish fact-finding mission of March/April reported UNHCR as saying that "Previously there have been conflicts between Tadjiks [Tajiks] and Hazaras, not only in Bamian district but also in the districts of Shiber and Yakaowlang. These conflicts no longer exist. The Tadjiks, who earlier had to flee from the region due to conflicts with the Hazaras have now returned and live in peace with the Hazaras. Moreover, the Tadjiks have been able to reclaim their houses." **[8] (section 3.2.2)**

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

HAZARAS

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

"Most Hazaras live in Afghanistan's rugged central mountainous core of approximately 50,000 square kilometres known as the Hazarajat (or Hazarestan), Land of the Hazara. Others live in Badakhshan, and, following Kabul's campaigns against them in the late nineteenth century; [sic] some settled in western Turkestan, in JauzJan and Badghis provinces…Hazaragi (Ha-zar-ra-gee) is the language of the Hazaras and is a Farsi dialect. Hazaragi is a mixed dialect

composed of mainly Farsi (80%), Mongolian (10%), and Turkish (10%) words." **[96] (p5)**

6.209 A report dated May 2004 by the Afghanistan Research and Evaluation Unit (AREU) noted that "Hazarajat is known for its out-migration, both to Kabul and internationally. Iran is the preferred destination, since many Hazara are Shi'a and feel safer among people of their own religion. Some areas have had a pattern of seasonal migration, mostly to Kabul, during the winter months." **[22b] (p19)** In June 2005 UNHCR advised that Hazaras constituted about 19 per cent of the country's population. **[11b] (p8)**

6.210 A Minority Rights Group (MRG) briefing dated November 2003 stated that Hazaras have been traditionally marginalised in Afghan society. MRG reported:

"The Hazaras are thought to be descendants of the Mongol tribes who once devastated Afghanistan, and are said to have been left to garrison the country by Genghis Khan. The Hazaras have often faced considerable economic discrimination – being forced to take on more menial jobs – and have also found themselves squeezed from many of their traditional lands by nomadic Pashtuns. Starting at the end of the nineteenth century, successive Pashtun leaders pursued active policies of land colonization, particularly in the northern and central regions, rewarding their supporters, often at the expense of the Hazaras. This policy was partially reversed during the Soviet occupation, but started again under the Taliban." **[76] (p6)**

6.211 On 7 January 2004, Reuters reported that unidentified gunmen had killed 12 ethnic minority Hazaras in southern Afghanistan: "The Hazaras were travelling in a vehicle when they came under attack in Baghran district of Helmand province on Tuesday night [6 January], said Haji Mohammad Wali, spokesman for the province's governor." Reuters reported that the victims were residents of neighbouring Uruzgan province, where tension had reportedly erupted recently between some Hazaras and ethnic Pashtuns. **[40ag]**

6.212 On 28 June 2004, Agence France-Presse (AFP) reported that most of the 16 people killed in an attack by suspected Taliban in Uruzgan province the previous Friday were Hazaras who had recently returned from Iran. The report also noted that "Uruzgan has a small ethnic Hazara population but is mainly ethnic Pashtun." **[40m]**

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

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

6.214 In a report dated 21 September 2004, the UN-appointed independent expert of the Commission on Human Rights in Afghanistan commented on a case of human

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rights violations, which the UNHCR had verified and brought to his attention. The case involved approximately 200 Hazara families (about 1,000 individuals) displaced from Daikundi over the last decade by local commanders and now living in Kabul. The independent expert noted:

"Some members of the community arrived during the past year, having fled ethnically based persecution, including the expropriation of land and property, killings, arbitrary arrests and a variety of acts of severe intimidation perpetrated by warlords and local commanders who control the Daikundi districts and who are directly linked to a major political party whose leader occupies a senior governmental post." **[39k] (para. 72)**

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

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

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

6.217 The US State Department Report 2005 (USSD 2005), published on 8 March 2006, noted that "The Shi'a religious affiliation of the Hazaras historically was a significant factor leading to their repression, and there was continued social discrimination against Hazaras." **[2d] (section 2c)** The USSD 2005 Report also recorded that; "Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands, in part because of allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s. Hazaras also found difficulty in returning to the country. In December 2004 a local leader from Karukh district in Herat blocked the return of approximately 200 Hazara refugees from Iran." **[2d] (section 2d)**

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

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

"The governor said that tensions between the two tribes ceased after elders from the two villages launched an investigation and found that Monday's attack was carried out by Taliban fighters. However, Mullah Abdul Latif Hakimi, purported spokesman for the ousted militia said his men were not involved in the bloodshed." **[40ah]**

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

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UZBEKS AND TURKMEN

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

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

6.222 Article 16 of the Constitution approved in January 2004 recognised six additional languages, besides Dari and Pashtu, as official languages in the regions where they are spoken by the majority of the population. These include Uzbeki and Turkmani. **[81]**

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

PANJSHERIS

6.224 In comments prepared for the Advisory Panel on Country Information meeting on 8 March 2005, the UNHCR stated that "Panjsheris are not ethnically a separate group or sub-group." They are of Tajik ethnic origin and define themselves by the location in which they reside, that is, the Panjshir valley. "The Panjsheris are also Tajiks, practise Sunni Islam, and speak Dari with Panjsheri dialect." **[11d]**

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KUCHIS

6.225 In December 2003 Refugees International (RI) reported that Kuchis are Pashtuns from southern and eastern Afghanistan. RI noted that "Kuchi means 'nomad' in the

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Afghan Dari language. The livelihood and culture of the Kuchis have been all but destroyed by conflict, drought, and demographic shifts." **[40l] (p1)**

6.226 The RI report also noted that:

"In the northwest, Uzbeks and Tajiks resent the presence of Kuchis, and have forced them to flee their lands. Many ended up in dismal displaced person camps near Herat or Kandahar or in dangerous and isolated refugee camps in Pakistan." **[40l] (p2)**

6.227 A news article by the Institute of War and Peace Reporting (IWPR) dated 25 August 2005 stated that:

"Afghanistan's Kuchis have been hardest hit by the catastrophic events of recent years… Promises of mobile clinics, schools, and other facilities for Kuchis have gone unfulfilled, they say, leaving them poor, sick, and uneducated. Kuchi women bear the brunt of the burden. With little access to medical care, they have an extremely high rate of maternal and infant mortality, and illnesses related to reproductive health are common… Massouda Jalal, the minister for women's affairs, confirmed the dire conditions facing Kuchi women, but insisted that her ministry was doing its best to help." **[73q]**

6.228 The USSD 2005 Report, published on 8 March 2006, recorded that;

"Ethnic Hazaras prevented some Kuchi nomads from returning to traditional grazing lands in the central highlands, in part because of allegations that the Kuchis were pro-Taliban and thus complicit in the massacres perpetrated against Hazaras in the 1990s. Hazaras also found difficulty in returning to the country. In December 2004 a local leader from Karukh district in Herat blocked the return of approximately 200 Hazara refugees from Iran." **[2d] (section 5)**

6.229 The IWPR article dated 25 August 2005 stated that it was unknown how many of the recorded 3.7 million Kuchis in the latest official census conducted in the 1970s still existed in Afghanistan: "A preliminary count puts their number now at no more than 1.5 million, and the true figure may be as low as 600,000." **[73q]**

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

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WOMEN

OVERVIEW

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

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

6.232 The UN Secretary-General's report concluded that:

> "With the elections to the Wolesi Jirga (House of the People) which resulted in 27 per cent women's representation in national parliament and 29 per cent in the provincial councils, the participation of Afghan women in public life has significantly increased. Among other gains made by women during the transition period following the Bonn talks on Afghanistan in 2001 are the following: greater awareness of gender equality issues within the Government and among the public at large; further steps made to reduce child and maternal mortality; and further steps to improve access to education and literacy of women and girls. The Government has increasingly addressed matters previously considered private, such as violence against women. These changes show that, provided with space and support from outside, Afghan women have demonstrated their capacity to engage constructively in public life and to make their contribution to peace and development.
>
> "Despite these gains, women and girls in Afghanistan face formidable security, human rights, social and economic challenges. The security situation and basic human rights conditions remain poor in many parts of the country, especially outside of Kabul. Armed factions, including the remaining Taliban forces, routinely abuse women's human rights. Many advances by women in the economic, employment and educational spheres are offset by the continuing effects of widespread poverty. Continuing discrimination against women in access to education, health care, land, credits and productive means stifle reconstruction and development efforts." **[39b] (p16-17)**

6.233 A report dated 11 March 2005 by the UN-appointed independent expert on the situation of human rights in Afghanistan stated:

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

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

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

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

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

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

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

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

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

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

6.236 The USSD 2005 Report stated that "Exchanging women or girls remained a customary method of resolving disputes or satisfying debts. For example, a six-year-old girl's parents traded her to work as a housemaid to another family after

the girl's brother backed out of an engagement with the family's daughter." **[2d] (Section 5)**

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

6.238 Since the fall of the Taliban in 2001, a significant number of reports have been published on the situation for women in Afghanistan. Earlier reports may be accessed from the Amnesty International, Human Rights Watch and UN Secretary-General's websites. See the web site links given in Annex G for source numbers **[7]**, **[17]** and **[39]**.

(See also Section 5: Medical Services **5.149 – 5.156 for information on medical services for women, and** Educational System **5.185 – 5.192)**

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UNHCR/ECRE GUIDELINES

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

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

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

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There are reports of domestic violence, and women remain deprived of basic civil rights, including in cases of divorce, custody and with regard to inheritance rights." **[11b] (p52-53)**

6.241 The UNHCR paper concluded:

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

- Single women without effective male or community support.
- Women perceived as or actually transgressing prevailing social mores, including women rights activists.
- Afghan women who have married in a country of asylum without the consent of their family or have married non-Muslims and are perceived as having violated tenets of Islam.
- Afghan women who have adopted a Westernized way of life and unable or unwilling to re-adjust." **[11b] (p55)**

(See also Single women and widows **paragraph 6.262 – 6.269)**

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VIOLENCE AGAINST WOMEN AND GIRLS

6.242 An Amnesty International paper dated 30 May 2005 stated that:

"Violence against women and girls in Afghanistan is pervasive; few women are exempt from the reality or threat of violence. Afghan women and girls live with the risk of: abduction and rape by armed individuals; forced marriage; being traded for settling disputes and debts; and face daily discrimination from all segments of society as well as by state officials. Strict societal codes, invoked in the name of tradition and religion, are used as justification for denying women the ability to enjoy their fundamental rights, and have led to the imprisonment of some women, and even to killings. Should they protest by running away, the authorities may imprison them.

"Afghanistan is in the process of reconstruction after many years of conflict, but hundreds of thousands of women and girls continue to suffer abuse at the hands of their husbands, fathers, brothers, armed individuals, parallel legal systems, and institutions of the state itself such as the police and the justice system. There are reported increases in forced marriages; some women in difficult situations have even killed themselves to escape such a heinous situation whilst others burn themselves to death to draw attention to their plight." **[7d]**

6.243 The AI paper also stated that:

"Husbands, brothers and fathers are the main perpetrators of violence in the home but the social control and the power that they exercise is reinforced by

the authorities, whether of the state or from informal justice systems such as shuras and jirgas. Members of factional and militia forces are also responsible for perpetrating violence. In some instances, female members of the family have a role in upholding patriarchal structures, and may also commit violence. However, male members of society perpetrate the overwhelming majority of acts of violence against women.

"Violence against women is widely tolerated by the community and widely practiced. It is tolerated at the highest levels of government and judiciary. Abusers are rarely prosecuted; if cases are prosecuted, the accused are often exonerated or punished lightly. Impunity seems to exist for such violence. The authorities seldom carry out investigations into complaints of violent attacks, rape, murders or suicides of women. Women who report rape face being locked up and accused of having committed crimes of zina [Zina laws are laws which criminalize sexual relations outside marriage]. Laws frequently discriminate against women and are otherwise inadequate to protect the rights of women." **[7d]**

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

"Violence against women persisted, including beatings, rapes, forced marriages, kidnappings, and honor killings. Such incidents generally went unreported, and most information on the abuse was anecdotal… The Ministry of Women's Affairs estimated that more than 50 percent of marriages involved women under 16, the legal minimum age of marriage for women. It was difficult to document rapes, in view of the associated social stigma; however, rape and domestic violence against women remained serious problems. Authorities considered rape to be a serious crime in the country, punishable by death, although this punishment did not extend to spousal rape…

"Honor killings continued to be a problem. For example on December 30 [2005], in Watapour District of Konar Province, a married woman and her lover were killed along with the lover's mother. The provincial police chief alleged that the honor killing was committed by the family of the woman's husband, and he registered a case against the attackers." **[2d] (Section 5)**

6.245 The USSD 2005 Report also stated that:

"In northern areas, commanders targeted women, especially from Pashtun families, for sexual violence. During the year, there were at least four credible reports of soldiers and commanders loyal to local warlords raping girls, boys, and women in provinces in the eastern, southeastern, and central part of the country. In one of these cases, police arrested two perpetrators, but the case remained open at year's end. A total of 21 such cases were reported to the AIHRC during the year." **[2d] (Section 5)**

6.246 A Human Rights Watch report of January 2006 drew attention to the following women's murders in 2005: "In mid-April 2005, a twenty-nine-year-old woman was beaten to death by her own family for adultery in Badakhshan province. And on May 4 [2005], three women were found murdered in Baghlan province with notes attached to the bodies warning women not to work for non-governmental organizations or Western aid agencies." **[17o] (p2)**

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

6.248 The AI report published on 30 May 2005 recorded:

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

6.249 The United Nations High Commissioner for Refugees report dated June 2005 concurred, stating that:

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

6.250 The May 2005 AI report also stated that:

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

"Law enforcement agencies do not ensure that men, in rare instances where they are served with court orders, comply with them… When women have sought assistance from the police after suffering violence or escaping forced marriages, the police have in the majority of cases known to Amnesty International sent them home, accused [sic] them of tarnishing their family reputations. Alternatively, the police have imprisoned women for their own supposed protection… Women view the police as a threat rather than an impartial, professional law enforcement agency. Corruption is widespread amongst the police and male abusers employ bribery to allow them to escape justice. Afghan women in their current state do not have the economic means to extract themselves from such situations, consequently they struggle to progress from being victims." **[7d] (p19)**

6.251 The same AI report also stated:

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

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

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

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

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

6.254 The UN Secretary-General's report of 30 December 2005 stated that:

"The women in the shelters are often unaccompanied deportees and women escaping from forced marriages (often with much older men), domestic violence and so-called honour killings. While in many cases, solutions can be found through mediation, family-reunification, intervention of the authorities or legal and psychological counselling, many women have no option but to live in the shelters for prolonged periods. Women residing in the shelters have been offered income generating opportunities following educational and professional training. However, it is difficult for single Afghan women without male family support to live independent lives outside shelters." **[39b] (p9)**

6.255 The May 2005 AI report noted:

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

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

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

"Erturk says for the majority of Afghan girls and women, there is no alternative to enduring the violence they encounter. Afghanistan's law-enforcement and judicial systems offer no special protection from female victims of violence, and officials often subject such women to humiliation before returning them to the abusive environments from which they are trying to escape. Many of the women in the country's prisons are wives who have run away from home or been charged with adultery. Erturk says these women have little reason to expect their lives will improve.

"When a woman is away from home, even if it's not her fault, her reentry into normal life is very difficult, because she's already been tarnished with a stigma that she is no longer pure – especially the runaways, who have dared to run away from their husbands or their abusive fathers. They have no place to go', Erturk says." **[29j]**

(See also Marriage **and** Child Marriage **for further information on forced and underage marriage)**

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6.257 On 10 August 2005, Radio Free Europe/Radio Liberty reported that, according to Afghan officials, Taliban guerillas had executed an Afghan woman after accusing her of spying for US-led forces. "District chief Mohammad Younus said the unidentified women was shot dead in her house last night in the southern district of Zabul. He said Taliban fighters also kidnapped the brother and father of the victim. Abdul Latif Hakimi, who claims he speaks for the Taliban, confirmed the report and said the Taliban had killed the woman because 'she was a spy for the Americans.'" **[29i]**

6.258 In a report dated 17 August 2005, Human Rights Watch reported that: "Violence against women, forced marriage, and early marriage remain endemic problems in Afghanistan. Competing formal and informal justice mechanisms mean that victims of violence rarely have avenues for redress. There have been improvements in major cities, for example, Kabul and Herat, but the challenges of reconstruction and continuing insecurity mean that an environment where women and girls are able to realize their full range of rights remains far from reality." **[17d] (p6)**

6.259 On 29 November 2005, the Institute of War and Peace Reporting reported that a renowned female poet had died in Herat following a fight with her husband, who had been arrested and charged with murder. The exact circumstances of the death, however, remained unclear. The victim's husband denied murder and said that she had committed suicide; however, he admitted that he had hit his wife. **[73g]**

6.260 The report by the UN Secretary-General dated 30 December 2005 stated that:

> "Serious challenges in addressing issues related to violence against women in Afghanistan remain. The vast majority of cases of violence against women are unreported, and when they are reported there is inadequate or non-existing protection or remedy. Psychosocial support and mental health services to women survivors of violence and harmful traditional practices are very limited. Violence in the private sphere is perceived as a family issue and women and girls who experience violence are either unable or afraid to report the problem to the authorities. If they leave their family environment they risk criminal charges, incarceration and stigmatization from the community. Furthermore, the limited information available indicates that only in very rare cases do perpetrators face any sanctions. This is illustrated by the absence of criminal charges against those who marry under-age girls in all regions of the country." **[39b] (p9)**

6.261 On 24 January 2006, UNIFEM reported that:

> "A new centre that deals with family violence, children in trouble, and female victims of crime started its operations in Kabul on Sunday, 22 January. The Family Response Unit is the first of its kind in Afghanistan, where violence against women and children is so common that it has become a serious public health problem…The new unit will allow policewomen to react to violence against women, family violence, children in trouble, and kidnappings. They will also be able to interrogate, detain and investigate female suspects; provide support to female victims of crime and ensure the security of women in communities." **[40i]**

(See also UNHCR and ECRE guidelines **and** Educational system **for details of attacks on girls' schools)**

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SINGLE WOMEN AND WIDOWS

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6.262 An October 2005 research report by the Friedrich Ebert Stiftung (FES) political foundation stated that "Similar to other patriarchal societies, gender roles in Afghanistan are shaped by socio-cultural factors largely based on women's role as keepers of the family honor. 'Women don't exist in isolation', an Afghan man explained. Attempts to separate women from family and community are met with strong resistance." **[83] (p14)** The FES report also stated that "In Afghanistan, women are being increasingly castigated for being 'Western-influenced." **[83] (p18)**

6.263 A June 2005 UNHCR report stated that:

"Women without effective male or family-support and single women of marriageable age are rarities in Afghanistan, and are always viewed with some suspicion. Afghan women returning from Western countries may be subjected to social opprobrium or harassment from unwanted suitors. They face a high risk of being married off by their families against their will. Single women are likely to be ostracized by the Afghan community or fall prey to malicious gossip which could destroy their reputation or social status. This exposes them to an increased risk of abuse, threats, harassment and intimidation by Afghan men, including at risk of being kidnapped, sexually abused and raped. In majority [sic] of these cases, the Government is not in a position to protect women…

"In urban areas, there are increasing numbers of Afghan women who have returned from USA, Europe, and UK to live and to seek work. A number achieve it but there is much adjustment to be made. There is no public entertainment that accepts women together with men. Women cannot travel freely without male escorts. Dress and behavior are conservative. Women's rights activists face threats and intimidation, particularly if they speak out about women's rights, the role of Islam or the behavior of commanders." **[11b] (p54)**

6.264 The same UNHCR report further noted:

"Single females who do not have family or other close relatives in Afghanistan who are willing to support them should be allowed to remain in countries of asylum, where support mechanisms are in place and a less difficult social environment for their well-being exists. Long term solutions are not available for most single females in Afghanistan unless they have effective male family or community support. Their vulnerability is the result of social traditions and gender values in Afghanistan, where women cannot live independently from a family. Where there is no family to care and [sic] protect them, single women can only be accommodated temporarily in shelters run by some NGOs in Kabul and Herat, which have a negative reputation as hosting criminals or prostitutes and constitute but a short term 'safe haven'." **[11b] (p61)**

6.265 The UNHCR also noted in this report that "Single parents (especially women) with small children who do not have the support of relatives or the community) [sic] and no member of a household with the ability to act as the breadwinner, will be unable to sustain their lives in Afghanistan." **[11b] (p61)**

6.266 A UNIFEM publication dated November 2005 stated that:

"There are an estimated 30,000 to 50,000 widows in Kabul alone, most of whom lost their husbands during the last 23 years of civil war and conflict.

However, with between 1.5 and two million Afghans killed during conflict altogether, that number could be in the hundreds of thousands nationwide… What is known is that the widows of Kabul are among the most vulnerable members of Afghan society… Because so many men have died, the social system is overloaded. Families cannot absorb all the widows in the country… Remarriage is not an option. Even though there are many single men, marrying a widow is not considered socially acceptable." **[72a]**

6.267 The UNHCR report dated June 2005 advised:

"In some areas of the country, it is common practice for a widow to marry a family member of the late husband, including against their will. Where a widow does not remarry, her husband's family takes on the decision-making role in relation to her family. Although often deemed a burden, the family of the husband maintains a strong sense of 'ownership' of the sons of the widow and her deceased husband. Sons with rights to paternal inheritance can pose a threat to uncles, particularly where the land has been divided over generations and is too small for subsistence farming. As such, widows display a high level of vulnerability to exploitation and poverty. Generally, women returnees, widows and female-headed households face numerous obstacles, including forced eviction and illegal occupation of land, difficulties in claiming inheritance, increased speculation on housing and land, forced marriage of widows to ensure that land and property remain within the family and their inability to access courts. This is exacerbated where they have been disconnected from their own families or the families of their late husbands." **[11b] (p53)**

6.268 The UNIFEM publication of November 2005 stated that:

"Widows in Afghanistan, whether young or old, face many economic and social problems, particularly if they have no male relatives to support them. They eke out a meager living by begging, washing clothes or working on construction sites carrying bricks… While widows theoretically now have more opportunities in Afghan society, including working outside their homes and participating in the country's development process, the living conditions this vulnerable group faces have yet to change, largely as a result of a complex set of economic, cultural and social factors… Some NGOs (like CARE, HAWA, AWEC, ARYA) and some UN agencies such as WFP provide assistance and educational programs for widows, but many widows do not have the opportunity of accessing such programs." **[72a]**

6.269 The same report also stated that "Among the main constraints facing female-headed households today, in addition to shelter, is high illiteracy levels due to poverty and cultural reasons, family restrictions on girls traveling long distances, early marriages, a perceived low value put on education by the family, and the need for girls to take care of siblings or do domestic work." **[72a]**

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LEGAL PROVISIONS AND ACCESS TO THE LAW

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6.270 A Human Rights Watch Briefing Paper dated October 2004 stated:

"The Afghan Constitution of 2004 contains specific provisions guaranteeing certain women's rights. Article 22 guarantees women's equal rights and duties before the law. Article 44 states: 'The state shall devise and implement effective programs for balancing and promoting of education for women, improving of education of nomads and elimination of illiteracy in the country.' Analysts point to provisions in the Constitution barring any laws contradicting the beliefs and provisions of Islam, which could facilitate punitive adultery laws and could be used in efforts to block measures to protect women's equal rights in divorce or inheritance.

"The Constitution also guarantees seats for women in Afghanistan's bicameral National Assembly. Approximately 25 percent of the seats in the Wolesi Jirga (House of the People) are reserved for women and the president must appoint additional women to the Meshrano Jirga (House of the Elders)… Afghanistan acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) without any reservations on March 5, 2003." **[17j] (p10)**

6.271 A US State Department report on Afghan women, children and refugees dated 22 June 2004 noted that "Implementing the new Constitution, which is one of the most progressive on women's human rights of any in the entire Muslim world, is one of the many challenges ahead for women in Afghanistan. It will take time and effort to translate this model document into living, lasting reality." **[2a] (p13)**

6.272 The World Bank Report dated March 2005 stated that:

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

6.273 A report by Amnesty International, published on 30 May 2005, recorded that almost two years after the publication of their 2003 report on the needs and treatment of women in the Afghan justice system [see Annex G, source **[7c]**] "Amnesty International found that justice, security and redress remain outstanding issues for women and that women and girls continue to face major obstacles in seeking and obtaining protection and remedy from key law enforcement institutions." The AI report stated:

"Amnesty International recognises the challenges facing Afghanistan as it emerges from many long years of conflict and attempts to rebuild its institutions and establish the rule of law. However, as the situation currently stands, state institutions, through their lack of effective and prompt action in response to complaints of violence and threats of violence against women and their failure to bring perpetrators to justice, are allowing widespread discrimination and violence against women to continue. The police frequently fail to investigate or press charges against perpetrators of violence against women. Women are not

encouraged to bring complaints against their attackers and fear bringing 'dishonour' on the family as well as facing reprisals from the attacker and relatives. Women receive almost no effective protection from the state and it is rare for a court to convict and punish a perpetrator. Traditional attitudes of judges, whereby women are held responsible for having been attacked, raped or killed, show a shocking failure to uphold the law by its custodians and have contributed to influencing the generally permissive attitude toward violence against women. The failure of state institutions to protect women's rights, to ensure that abusers are brought to justice and provide redress points to official apathy towards, and at times blatant sanctioning of violence against women." **[7d] (p4)**

6.274 The same AI report also stated that:

"Legal representation for detained and accused women is almost negligible. Women seeking legal aid, especially, are perceived to be acting outside certain codes of behaviour for women. The international NGO Medica Mondiale's (MM) has established a project providing legal aid to some female prisoners in Kabul and is one of the few INGOs to provide this service. In July 2004, MM had a number of cases of female prisoners to whom they were providing representation. Out of these, five women were in jail for the crime of zina, one for an illegal marriage, and three for elopement. Some of the women had been prison [sic] for periods ranging from 3 to 14 months. Some had been detained without charge and only a few convicted. None had been provided legal representation by the state. Moreover, female human right advocates are few and face prejudice from a predominantly male judiciary." **[7d] (p20)**

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WOMEN'S PARTICIPATION IN PUBLIC LIFE AND INSTITUTIONS

6.275 A Human Rights Watch (HRW) report dated October 2004 advised that:

"The dominance of armed political factions and continuing attacks by the Taliban and other insurgent forces have greatly impeded women's participation in the public sphere, and also present grave obstacles to implementing desperately needed women's development projects, including education, health, and income-generating programs. When insurgent forces or armed factions attack a women's rights NGO staff member or the office of a women-focused development project – they affect the provision of services and opportunities to dozens and sometimes hundreds of women. This intimidation is often symbolic, as with attacks on girls' schools, and it creates an atmosphere of fear sending a message to women, girls, and their families that they may be targeted if they participate in these programs. Local commanders, Taliban, and other insurgent forces have attacked dozens of girls' schools in the past two years.

"The presence of international security forces makes a critical difference. In places with greater assurances of safety and where NGOs feel safe to work, for example, Kabul, Afghan women and girls have participated enthusiastically in education, rights awareness programs, and other activities. In other locations, threats and harassment of staff working on women's development projects,

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intimidation of beneficiaries, and attacks on offices and vehicles has contributed to premature closure of projects or has prevented projects from even getting started." **[17j] (p16)**

6.276 A paper by the Asia researcher for the women's rights division of Human Rights Watch on the struggle for rights faced by women in Afghanistan was published on 1 March 2005. The paper noted:

"In theory, women's political rights are clearly outlined in the new constitution. It guarantees men and women equal rights and duties before the law, and reserves a quarter of the seats in the lower house of parliament, the Wolesi Jirga, for women. One-sixth of the upper house, the Meshrano Jirga, is also reserved for women, by presidential appointment. In practice, things look very different. Independent candidates face violent retaliation if they run campaigns advocating justice and women's rights. The worry is that the only women who will feel safe enough to stand [in the parliamentary elections] will be compliant daughters, sisters and wives of local commanders, or other proxies, who promise to toe the party line." **[17h] (p1)**

6.277 The paper continued:

"Women still struggle to participate in the country's evolving political institutions. This is not just a question of social expectations, or about the conservatism of Afghan society, it is to do with power. Those who put their heads above the parapet powerfully describe the dangers that they face. From Kabul to Kandahar to Herat, women talk of how the failure of disarmament and the continued dominance of regional warlords threatens their ability to work and speak freely.

"Women aid workers, government officials, and journalists face harassment, violent attacks, and death threats. Those who challenge the powerful, conservative elements of the country's political structures are targeted because they can be made into chilling examples for other women considering political activity." **[17h] (p1)**

6.278 The same paper also noted:

"Part of the underlying problem is that many of the men who replaced the Taliban share the same views on women that made the Taliban so notorious. But another key reason is that the United States and its allies have helped prop up regional warlords and their factions – many with atrocious human rights records – in the fight against the Taliban and Al Qaeda. These warlords have had a chokehold on regional and local governments." **[17h] (p2)**

6.279 On 9 June 2005, BBC News reported that President Karzai had appointed former Women's Minister, Habiba Sarabi, as governor of Bamiyan province. She is Afghanistan's first female governor. **[25w]**

6.280 The UNHCR paper dated June 2005 stated:

"Any woman who works in the public sphere of life, smokes or dresses in non-traditional clothing runs a high risk of being perceived as 'loose' or even as a prostitute. She has crossed gender boundaries, which customarily defines the woman's place as in the home. Return to Afghanistan, be it to urban or rural areas, therefore invariably means to conform to conservative and traditional

standards of behavior in order to be safe. Pressure to conform is very strong, both from within families and communities, as well as by the public. The conduct of women in the workplace is carefully watched. Interaction with the opposite sex is frowned upon and can put Afghan women and their reputation in trouble. A 'westernized' woman would only be able to continue to live the life that she was accustomed to abroad if she enjoys strong social protection. That would be more possible in Kabul than in the Provinces. Women returning from Iran have expressed frustration at the lack of available public and social opportunities and activities for women. In Iran, they were allowed to go out by themselves to shop, walk in the park, visit relatives and engage in other social activities. Such possibilities hardly exist in Afghanistan. Many women do not wish to wear a burka or chador but give in to these pressures out of fear of harassment or bringing shame to their families." **[11b] (p54)**

(See also Freedom of Movement**)**

6.281 The Human Rights Watch (HRW) Afghanistan Human Rights Overview, published in January 2006, stated that "Women who are active in public life as political candidates, journalists, teachers, or NGO workers, or who criticize local rulers, still face disproportionate threats and violence." **[17o] (p2)**

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

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

"Female wage labour is still viewed as a solution of last resort for households in desperate straits and their wage rates are normally only half the level of men's, or even less. Women's involvement in the formal sector has mainly been urban-based, mostly as civil servants in the health and education sectors. In agricultural production, women have continued to play an important role. While most of women's labour remains non-remunerative [sic], they make major labour contributions to a number of marketed products such as dried fruits, fuel wood, dairy products and handicrafts. However, even when women's domestic production, such as carpet weaving, forms the main income of the household, they rarely control the marketing of these products, which is most often managed by male relatives or middle men." **[39b] (p14)**

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

"Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the denial of education opportunities during the Taliban years, as well as limited employment possibilities, continued to impede the ability of many women to improve their situation.

"In February 2004, the Government established the first unit of female police, and small numbers of women began to join the police force during the year; however, there were reports that female police officers found it difficult to be accepted as equals among their colleagues. For example, six female police officers in Kunduz faced discrimination and hostility, and spent the first four months on the job cleaning the police station. They were paid $60 (3,000 AFNs), $10 dollars (495 AFNs) less than their official salary, and they were forced to wear burkas over

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their uniforms under threats of violence. The Ministry of Interior reported that female recruitment was difficult because of cultural differences." **[2d] (Section 5)**

(See also Women's participation in the 2004 and 2005 elections**)**

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WOMEN'S RIGHTS ACTIVISTS

6.285 The HRW report "Between Hope and Fear", published on 5 October 2004, reported on the situation for women's rights activists:

"Politically powerful military factions, the Taliban, and conservative religious leaders continue to threaten and intimidate women who promote women's rights. Human Rights Watch interviewed a wide range of women targeted for intimidation and harassment. These women had chosen to participate in public life as journalists, potential political candidates, aid workers, teachers, and donors. Women whose behavior challenged social expectations and traditional roles also faced harassment. In other cases, factional leaders or Taliban have launched rockets and grenades against the offices of women's development projects, such as those providing health, literacy, and rights awareness programs. Such symbolic attacks sent a clear message that women and girls seeking to claim the most basic rights could face retaliation.

"Continuing violent attacks and threats against women in the public sphere have also created an environment of fear and caution. Women's rights activists and journalists carefully word their statements or avoid publishing on some topics because they are afraid of violent consequences. Many women, ranging from community social workers to Afghan U.N. officials, told Human Rights Watch they wore burqas when traveling outside of Kabul. These decisions were made not out of choice, but compulsion due to the lack of safety guarantees. Many women blamed the failure of disarmament, the entrenchment of warlords in both regional and central governments, and the limited reach of international peacekeeping troops as the reasons why they felt unsafe." **[17j] (p11)**

6.286 The HRW report continued:

"Using threatening phone calls, 'night letters,' armed confrontations, and bomb or rocket attacks against offices, factional and insurgent forces are attempting to scare women into silence, casting a shadow on the Afghan women's movement and governmental attempts to promote women's and girls' development. [Note: 'Night letters' refer to threats or letters that arrive at night, often directly to the recipient's home or office, demonstrating that whoever is threatening her knows where to find her.] Women rights activists expressed frustration at the inadequate security provided to them by the central government and international peacekeeping forces." **[17j] (p12)**

6.287 The HRW report also noted:

"Armed groups have targeted prominent women government officials who have been active in promoting women's rights. In mid-July, 2004, an official with the Ministry and Rehabilitation and Rural Development and prominent women's rights activist, Safia Sidiqui, was traveling in Nangarhar province. As her convoy left a gathering where she had been the key speaker, her vehicle came across three men who were apparently trying to plant a landmine ahead of her convoy. After a gun battle, one man committed suicide and the other two escaped. She echoed the frustration of many other women about the government's inability to provide adequate security: 'Sometimes the government cannot intervene and that is a fact. The [central] government does not have full authority in Afghanistan. The gun is still leading the people. The people with guns are the ones who cause problems…especially for women.'" **[17j] (p12)**

6.288 The October 2004 HRW report also gives detailed examples of the types of threats and intimidation experienced by Afghan women, including women's rights advocates and women's development projects, in the previous twelve months. (See Annex G, source **[17j]** for more detailed information.)

6.289 The Amnesty International report dated 30 May 2005 stated:

"Afghan women human rights defenders arouse more hostility than their male colleagues because of their gender. Their activities are perceived as defying cultural, religious or social norms about the role of women in Afghan society. In this context, not only do they face human rights violations for their work as human rights defenders but even more so because of their gender and the fact that their work may run counter to societal stereotypes about women's submissive nature or challenge notions of the society about the status of women. In some instances, they face threats, acid attacks and fear of reprisals against their families…

"Despite this climate of intimidation and fear, numerous women's organisations, groups of female journalists and human rights activists have recently been established or re-surfaced. Afghan NGOs and activists have been extremely resourceful in ensuring women have a chance to find out about their organisations and support available." **[7d] (p17-18)**

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WOMEN'S PARTICIPATION IN THE 2004 AND 2005 ELECTIONS

6.290 The Human Rights Watch Report on women's participation in Afghanistan's 2005 elections dated 17 August 2005 stated that "The Afghan government, international donors, and non-governmental organizations (NGOs) took many positive steps to encourage female voter registration in advance of the 2004 presidential election… On election day, despite threats by the Taliban and various logistical difficulties, in fact 40 percent of the voters were women." **[17d] (p9)** HRW also recorded that in provinces such as Herat, Daikundi, Faryab and Paktika, more than 45 per cent of voters were women. However:

"The percentage of women voters out of total voters in southern provinces was extremely low: Uruzgan (2 percent), Helmand (7 percent), Zabul (11 percent), and Kandahar (22 percent). In some areas, election officials did not recruit enough

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women poll workers to staff separate voting sites for women, likely preventing some women from casting their votes…

"Obstacles to women's equal participation in the presidential election also extended to the sole female presidential candidate, Massouda Jalal. A cabinet member barred her from speaking at an Afghan New Year celebration in Mazar-e Sharif because she was a woman and the event was at the central religious shrine. Male government officials and other potential political candidates spoke, including [former] Defense Minister Mohammed Fahim and General Abdul Rashid Dostum. She also reported receiving death threats." **[17d] (p9-10)**

6.291 In a statement dated 17 August 2005:

"Human Rights Watch said that that a pervasive atmosphere of fear persists for women involved in politics and women's rights in Afghanistan, despite significant improvements in women's lives since the fall of the Taliban in late 2001. In the south and the east of the country, Taliban forces have reemerged and are trying to disrupt the elections, while in other areas local military commanders seek to influence election results and intimidate voters and women candidates, who often are not aligned with parties." **[17e]**

6.292 The first report on the Wolesi Jirga and Provincial Council Elections by AIHRC-UNAMA covering events from 19 April to 3 June 2005 stated:

"According to JEMB figures, over twelve percent of all candidates for the Wolesi Jirga and nearly nine of candidates for the Provincial Councils, are women. It is also noteworthy that over ten percent of the Kuchi candidates are women. The latter is in stark contrast to the Constitutional Loya Jirga where women were entirely absent from the Kuchi special elections. The fact that women from all provinces have registered as candidates for the Wolesi Jirga elections is significant and serves to illustrate that the participation of women in politics is gaining a degree of acceptance even in conservative areas. However, the registration of women for the Provincial Council elections fall short in a few provinces. In Uruzgan, there are no women candidates. In Zabul, Kunar, Nuristan and Nangahar, their numbers are insufficient to cover all seats allocated for women. The electoral law provides that where there are no female candidates, the seats allocated to them shall remain vacant until the next Wolesi Jirga elections…

"On the whole, the number of female candidates is less than what could have been expected given the level of participation of women in the Presidential election. Several factors may account for this situation. Foremost among these is the fact that, while women were mobilized and encouraged to register by their communities and families to support candidates in the presidential election, a degree of ambivalence continues to exist in Afghan society regarding women serving as public figures. Women to a large extent internalize these norms and fear bringing dishonor to their families if they expose themselves to public critique by standing as candidates.

"Moreover, the fact that women have limited access to money and resources restricted the ability of female candidates – particularly independents – to raise the 4,000 Afghanis required for registration. On the other hand, some female candidates linked to powerful elements – including political parties, government authorities and commanders – have received financial and political support from their affiliates. Women also cite limited access to information about the nomination

criteria and the election, as well as mobility restrictions, as factors contributing to low female participation in the candidacy process." **[48a] (p10)**

6.293 On 12 August 2005, Eurasianet reported:

"Several of the women who have submitted their candidacy for September's parliamentary elections in Afghanistan say they have been threatened with personal harm. Some of the threats reportedly come from Islamic militant groups as well as from ordinary people who oppose a public role for women in Afghan society. Some female candidates have also complained of a lack of funding and resources for their campaigns. Earlier this week, the Afghan women's affairs minister called for the state to provide protection for female candidates." **[45c]**

6.294 The final report of the Joint Electoral Management Body (JEMB) published in December 2005 stated that 582 female candidates contested the September 2005 parliamentary and provincial elections. **[74d] (p4)**

6.295 The UN Secretary-General's report dated 30 December 2005 stated that:

"Women made up 41.6 per cent of the total 12.5 million voters who registered in 2004 and 2005. Overall, 43 per cent of the women registered to vote actually cast a ballot… As required under the Constitution, women gained 68 (27 per cent) of the 249 seats in the Wolesi Jirga [the lower house of the National Assembly]. In Herat, a woman candidate received the most votes out of 17 candidates. Women also secured 121 (29 per cent) out of the 420 seats in the provincial councils. Five provincial seats reserved for women remain vacant owing to the lack of women candidates in three provinces, while women won two provincial council seats in Kabul, in addition to those seats reserved for women… The total number of women members of the Meshrano Jirga [the upper house of the National Assembly], including the presidential appointees, is 23, or 22 per cent of the total membership." **[39b] (p5-6)**

6.296 The December 2005 Afghanistan Research and Evaluation Unit (AREU) analysis of the 2005 parliamentary elections stated that:

"One of the unexpected results of the election was the strong performance of female candidates. The Afghan Constitution guarantees that 'from each province on average at least two female delegates shall have membership to the Wolesi Jirga [WJ]', therefore guaranteeing women 68 seats (27 percent) in the 249 member WJ. Similarly, the Afghan election law contains a provision that at least 25 percent of seats in the PCs [Provincial Councils] must be reserved for women. A surprising number of women, however, won their seats in their own right and ended up not needing the quota provisions of the Constitution and election law." **[22c] (section 2.3)**

6.297 The AREU report stated that 19 Wolesi Jirga and 29 Provincial Council female candidates won seats irrespective of the reserved seats quota. **[22c] (section 2.3)**

6.298 However, an Institute for War and Peace Reporting (IWPR) news article dated 15 November 2005 observed that, although 19 women won seats in the Wolesi Jirga without the benefit of seats set aside for them, the remaining 49 elected women won their seats due to the quota provision. The IWPR article also stated that:

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"Some women did do remarkably well... But these are exceptions rather than the rule. In 22 out of the country's 34 provinces, no women would be entering the lower house of parliament if it were not for the constitutional requirement. The nomadic Kuchis, who were balloted separately, also had no women in their top line-up, meaning that in 23 out of 35 election regions, no women finished high enough to win Wolesi Jirga seats on their own… In total, women won only 7.6 per cent of the seats in parliament in open contest rather than through the reserved quota." **[73y]**

6.299 The December 2005 AREU report stated:

"Even more impressive than the performance of female candidates in the WJ elections was their performance in the PC elections. In Balkh, Ghazni and Kunduz female candidates were the highest vote winners. The best result of female candidates was in the Kabul PC elections, where women won six of the top 11 seats and ended up winning 10 seats. This was two more seats than the women's quota of eight seats, and was the only case where the strong performance of female candidates resulted in an increase in the number of seats for women. Another surprising aspect of this strong performance was that it was not as geographically focused as expected. Women won seats in their own right in 18 provinces representing every region of Afghanistan. Even in the more conservative Pashtun provinces of the east, southeast and south, some female candidates were able to win non-quota seats, although these were fewer in number than in other regions. Zabul was the province with the poorest female election results, but this province also registered a female voter turnout rate of only 3.7 percent." **[22c] (section 2.3)**

6.300 The AREU analysis considered how some of the successful female candidates had managed to win their seats against male candidates in spite of cultural and financial constraints and security concerns that had limited their mobility during electoral campaigns. The AREU analysis suggested that the most convincing explanation was that voting for female candidates had been a protest vote against many of the unsavoury male candidates:

"Many interviewees expressed dismay at the number of well-known militia commanders, drug smugglers and criminals who had passed through the candidate vetting process and were allowed to contest the elections. Voting for female candidates may have been a subtle way of rejecting some of the male candidates who many Afghans hold responsible for the tragic conflict of the past 25 years." **[22c] (section 2.3)**

6.301 The EU Election Observation Mission published 10 December 2005 stated that:

"Women's participation in the [parliamentary] elections was marked by a higher share of female voters (44.4%) compared to 2004. Surprisingly, however, the highest increase in the rates of female registrants took place in provinces which happen to be among the most socially conservative areas of Afghanistan, which may be an indicator of considerable proxy registration in these provinces. Female candidates accounted for some 10% of the total and some of them had an impressive showing, but these were exceptions rather than the rule." **[98] (executive summary)**

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MARRIAGE

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

> "The Law on Marriage stipulates that marriage must be through choice and that 16 years is the legal age of marriage for women and 18 years for men. However, there is no clear provision in the Criminal Procedure Law to penalize those who arrange forced or underage marriages. Article 99 of the Law on Marriage states that marriage of a minor may be conducted by a guardian, known under Shari'a law as a Shari'a-wali, i.e. the legal minimum age for marriage can, and is safely ignored. There is currently a failure to treat forced marriage as a criminal offence due to the attitudes of judicial personnel and of the wider society. The Ministry of Women's Affairs is currently advocating for an increase of the legal age of marriage for women to 18 years, as well as a reenactment of the requirement to register marriages also at provincial level." **[69e] (p 84-85)**

6.303 The Amnesty International (AI) report dated 30 May 2005 recorded:

> "There remains an absence of statistical data for recording births, marriages and deaths throughout almost all of the country. Local clerics conduct marriage ceremonies in communities but it is not clear if they keep records… Through the focus groups and individual interviews, Amnesty International was informed that underage marriages do occur and that the typical age varies from 12 to 16. They believed that girls do marry younger and are generally perceived to be from economically deprived backgrounds with very little, if any education. According to a preliminary survey done by the German NGO Medica Mondiale (MM) the lack of data on child marriages is a huge barrier in understanding the scale of the problem. Their survey also revealed that child marriages are viewed as much more prevalent amongst poorer and illiterate families." **[7d] (p9-10)**

6.304 The AI report further noted:

> "Under Afghan national law, forced marriage is a crime. The failure of the judiciary, the police and the wider society to treat forced marriage as a criminal offence, due to deep-seated attitudes towards women, has ensured that there is a consistent failure by the state to initiate criminal proceedings against perpetrators… Arranged marriages are the dominant, almost exclusive form of marriage in Afghanistan. However, research has indicated that there is a degree of coercion in the vast majority of marriages, with the Ministry of Women's Affairs placing the figure as high as 80 per cent." **[7d] (p8)**

6.305 The AI report dated 30 May 2005 also stated that "Under the new Constitution, women do not have the right freely to choose a spouse; women and men do not have the same rights and responsibilities in marriage and at the time of termination of marriage; and mothers and fathers do not have clearly shared responsibilities and rights in the raising of their children." **[7d] (p25)**

6.306 A UNHCR report dated June 2005 stated:

> "Marriage is generally arranged in Afghanistan and females do not participate in the decision making process. The term 'forced marriages' is used to describe the situation in which a family 'gives' its daughter to an economically or socially more

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privileged individual, either as partial repayment of a financial debt or to realize a financial gain, particularly if the family is poor or destitute. Under-age marriages remain a common practice, as well as exchange marriages, whereby the girl from one family is married to a boy from another, and in exchange, his family is married into his wife's family. Cousin marriages are one form of this exchange marriage. The reason for this phenomenon is general poverty. Dowries for girls range between $400 and $1600, which most single men can not afford. Exchange marriages are also common in order to pay debts or resolve disputes." **[11b] (p53)**

(See also Child Marriage **for more information on marriages involving underage girls)**

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DIVORCE

6.307 The World Bank report dated March 2005 stated that:

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

6.308 The Amnesty International report dated 30 May 2005 noted:

"Divorce is traditionally viewed as un-Islamic in Afghan society and contradictory to Afghan culture and customs. As such, tradition and custom leave women no choice but to stay in abusive marriages; support from other family members, including women, is rare. Women and relatives who support victims have been killed for applying for a divorce. The deputy prosecutor in Kandahar informed Amnesty International of a case in early 2002 where a woman was forced into marriage by her parents and suffered years of abuse. She applied to the courts in Kandahar for a divorce and was accused by the judge of lying, as she could not prove the abuse. Her husband subsequently divorced her because she had complained. After the divorce, the ex husband killed the woman's father, mother and sister of his ex wife and became a fugitive. Amnesty International is not aware of any state instigated investigation into the deaths of the victim's family members or any effort by the state to arrest the perpetrator." **[7d] (p12)**

(The AI report details further examples of individual cases. Refer to Annex G**, source [7d] for more information.)**

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SELF-HARM

6.309 The report of the UN-appointed independent expert of the Commission on Human Rights dated 21 September 2004 noted that the absence of a legal and social support system had left many women trapped in abusive situations and had possibly led to an increased incidence of suicides, in particular through self-immolation. **[39k] (para. 56)**

6.310 The AI report dated 30 May 2005 stated:

"Over the last two years, there have been increasing reports of Afghan women and girls attempting suicide by dousing themselves with petrol and setting themselves alight. Some have died whilst others suffer horrific burns for life. Although this phenomenon has been most commonly reported from Herat, it is not limited to the one city but is taking place across the country. Such acts of desperation suggest that women have a sense of being overwhelmed by their situation, perhaps through increased pressures, discrimination and violence." **[7d] (p14)**

6.311 On 30 September 2005 an article by the Institute for War and Peace Reporting reported that:

"Sajia Behgam, an official with the German aid agency Medica Mondiale, said her organisation's figures showed around 500 cases of self-immolation and other forms of suicide each year in Afghanistan - but she said most cases were concealed by the families because of the shame involved. Around half the known cases involved women setting fire to themselves, and between 60 and 70 per cent of them died. The other half involved women killing themselves by other methods.

"In Kabul's Istiqlal hospital – the main burns treatment centre - director Sayed Hassan Kamel said 40 per cent of the hospital was dedicated to burn victims. In August [2005] they had received 558 such casualties, of which five per cent - 28 patients - were women who had attempted suicide by setting themselves on fire." **[73r]**

6.312 The UN Secretary-General's report dated 30 December 2005 stated that "The lack of adequate support and responses to women victims of violence has been linked to the high rate of incidents of self-immolation across the country. In Herat alone, there were 75 reported cases of self-immolation during 2005." **[39b] (p8)**

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IMPRISONMENT OF WOMEN

6.313 The report of the UN-appointed independent expert of the Commission on Human Rights dated 21 September 2004 noted that one of the particularly worrying aspects of the serious human rights situation faced by women in Afghanistan was their detention for offences against social mores. **[39k] (para 56)**

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6.314 The same report also stated that:

"Because of the absence of detention facilities for women in the districts (there are only three detention facilities for women in the country), women found to be guilty of acts that may not constitute legal offences are confined to the personal custody of tribal leaders and others. These women are sometimes forced into slave-like conditions outside the reach of the law and are reportedly subject to sexual and physical abuse. The charges brought against them are reported to arise in large part out of allegations of 'immoral conduct', which does not, however, constitute a legal violation. In addition, some cases allegedly involve crimes committed by spouses and fathers for which the women are forced to accept responsibility." **[39k] (para 62)**

6.315 A later report by the independent expert, dated 11 March 2005, noted:

"Women are sometimes detained in private homes as the result of decisions taken by customary law actors or forced to marry as compensation for killings, creating highly abusive situations. The independent expert has serious concerns that women are convicted on the basis of false evidence and without access to legal representation. In addition, women are often denied special detention facilities and are commonly detained with their children, often in cells that hold more children than adults. No additional food, blankets, beds or other material is provided for these children." **[39i] (para 30)**

6.316 The International Committee of the Red Cross's Afghanistan Annual Report 2004, published in June 2005, noted that "A countrywide shortage of female health professionals made it particularly hard for prisons to provide health care for women detainees." **[42c]**

6.317 An Amnesty International report dated 30 May 2005 stated:

"In August and September 2004, Amnesty International visited state prisons in Kabul, Kandahar and Mazar-e-Sharif. The bulk of women in the prisons had experienced forced marriages and violence in the home. Except for some women in Kabul Welayat jail, they had no legal representation.

"Prison conditions are abysmal and do not conform to minimal international standards. Endemic problems of overcrowding, poor sanitation and insufficient food were rife, particularly in the prisons visited in Kandahar and Mazar-e Sharif. Some inmates were accompanied by very young children; there were 30 children ranging from two months to 12 years in Kabul prison. Mazar-e Sharif prison contained six women and two babies: 10 and three days old, and a one year old. The two infants had been born in prison. Women were sleeping six to a room and the female prison officer also slept with the prisoners.

"There were 54 women prisoners in Kabul. Fifteen were imprisoned for the offence of 'running away'. Amnesty International interviews in Kandahar revealed that almost all the prisoners had been forced into marriage and been victims of violence from husbands, male relatives and in some cases, female relatives. Some had fled forced marriages and eloped with boyfriends. In many cases, families had requested the police to arrest women. A few were incarcerated to protect them from reprisals from families and husbands.

"Pre-trial detainees were mixed with convicted offenders and most had been on remand beyond their pre-trial period. Not a single prisoner had been provided legal representation. The Police Commissioner of Kandahar told Amnesty International delegate that there was not a single woman in prison who had not committed a 'sin' and that there were no cases of women being imprisoned following the need for protection from families or husbands.

"Amnesty International also received unconfirmed reports of women being sexually abused in Kabul prison. These included accounts of women being taken out of the prison by police officers, with the alleged collusion of certain prison guards, raped and returned to the prison. In another unconfirmed report, a female inmate was rumoured to have disappeared, her whereabouts unknown." **[7d] (p21)**

6.318 The Foreign and Commonwealth Office (FCO) 2005 Annual Human Rights Report stated that, following an allegation in 2004 that prison officials at the Walayat detention facility in Kabul had beaten and sexually abused female prisoners, the prisoners had now been moved to a female-only detention centre **[15d] (chapter 2 p33)**

6.319 The UN Secretary-General's report of 30 December 2005 stated that:

"There is continued concern about the situation of women in detention and the issue of illegal detention. The Prison and Detention Centre Law, which was passed on 31 May 2005, stipulated that men and women in detention should be in separate facilities with special attention to women with children. The United Nations Office on Drugs and Crime provided support in drafting the new law and has taken steps to ensure that new premises would be built with due attention to the needs of women, in particular women with children. Where there are no local detention facilities, women accused of crimes have reportedly been placed in 'private detention', usually in the house of the head of a village, where they are treated as prisoners and forced to work for the family. There are also reports of women arbitrarily detained when reporting crimes perpetrated against them, for violating social mores and as substitutes for their husbands or male relatives who have been convicted of crimes. Women and girls have also been detained for 'running away', an offence which has no basis in statutory law. These cases often have their roots in forced marriages or violence.

"The Human Rights Unit of UNAMA has continued to monitor the situation of women in detention and has advocated for the release of women in cases of arbitrary or illegal detention." **[39b] (p11)**

6.320 The USSD 2005 Report, published on 8 March 2006, stated that:

"There were over 219 detained women, many of whom were imprisoned at the request of a family member. Many of the incarcerated opposed the wishes of the family in the choice of a marriage partner, contended with adultery charges, or faced bigamy charges from husbands who originally granted a divorce but changed their minds when the divorced wife remarried. Women also faced bigamy charges from husbands who had deserted their wives and then reappeared after the wives had remarried. Some women resided in detention facilities because they had run away from home because of domestic violence or the prospect of forced marriage; there were no shelters for women in these situations [but see paragraphs 6.251 – 6.254]. In Pul-I-Charkhi Prison, there were several girls

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between the ages of 17 and 21 years of age who were detained because they were captured after fleeing abusive forced marriages.

"There were approximately seven detention centers for women. In locations where detention facilities were not available, women were held separately from men or given to members of the community to be watched over in their homes.

"Police in Ghazni Province discovered Agela, a 13-year-old girl who was sentenced to five years in prison after her much-older, former husband had the girl and her new husband arrested. At five years of age, Agela's family had married her to a 55-year-old man. When Agela was eight, the man changed his mind about the marriage and arranged for Agela to marry a younger man. She obtained a divorce and remarried. However, after returning from two years in Pakistan, the older man changed his mind and had her and her new husband arrested." **[2d] (Section 5)**

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CHILDREN

OVERVIEW

6.321 A UNHCR report of June 2005 stated that:

"Afghanistan acceded to the Convention on the Rights of the Child in 2002 and has strengthened legal provisions to protect children. However, in the current situation, characterized by weak rule of law and governance structures, the presence of local commanders, high levels of criminality with reports of incidences of child trafficking, as well as child labor and forced recruitment, children continue to be exploited." **[11b] (p62)**

6.322 A UNICEF News note dated 4 August 2005 stated that:

"While Afghanistan is progressing from a state of emergency to a focus on development, women and children continue to face an 'acute emergency' because of exceptionally high maternal and child mortality rates. 'Infant mortality and under five mortality are very high, girls' enrolment is one of the lowest in the world and malnutrition affects almost half of the country's child population,' said Cecilia Lotse, UNICEF's Regional Director for South Asia, after a week-long visit to the region.

"About 20 percent of Afghan children die before their fifth birthday while about 1,600 out of every 100,000 Afghan mothers die while giving birth or because of related complications.

"An Afghan child today had a one in seven chance of dying before their first year as a result of illness and malnutrition. Moreover, one child in five died before his or her fifth birthday as a result of common, but preventable childhood diseases such as diarrhoea, pneumonia, malaria, typhoid and others that could be prevented by simple immunisations and sanitary practices, she added.

"Lotse said all children - but particularly girls - were 'very vulnerable' in Afghanistan. Despite the return of several million children to school over the last three years, Lotse said girls' enrolment in secondary schools in Afghanistan was less than 10 percent." **[44b]**

(See also Section 5: Educational System **paragraphs 5.185 – 5.192 and** Medical Services **paragraphs 5.149 – 5.156)**

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

"Child abuse was endemic throughout the country, ranging from general neglect, physical abuse, abandonment, and confinement to work in order to pay off families' debts. There were no child labor laws or other legislation to protect child abuse victims… Child trafficking was widespread and continued to be a problem during the year." **[2d] (section 5)**

6.324 Information on the AIHRC website dated 5 April 2005 stated that there were still concerns about children held in detention centres. Children were normally kept in centres which lacked appropriate facilities and they were exposed to physical and sexual exploitation. The AIHRC noted that "There are about 134 juvenile offenders in correction facilities, but in 12 provinces of the country specialized correction centers are non-existent and the offending children are kept in detention with the elders." The AIHRC also stated that a number of children who had not committed any offences were detained in jail with their mothers because there was no one to care for them at home. **[78c] (p3)**

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

(See also Section 5: Legal Rights **for details of revised Juvenile Code from May 2005)**

6.326 Information provided by the AIHRC dated April 2005 stated that 60 per cent of children had lost a family member (statistics from UNICEF and Save the Children, Sweden). UNICEF statistics also showed that 35 per cent of children had lost relatives or friends. **[78c] (p1)**

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CHILD LABOUR

6.327 The USSD 2005 Report, published on 8 March 2006, stated that:

"The law prohibits children under the age of 15 from working more than 30 hours per week; however, there was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. UNICEF reported an estimated one million child laborers under the age of 14 in the country. UNICEF also estimated that over 24 percent of children between the ages of 7

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and 14 were working. Children from the age of six often worked to help support their families by herding animals, collecting paper, scrap metal and firewood, shining shoes, and begging. Some of these practices exposed children to the danger of landmines." **[2d] (section 6d)**

6.328 A report dated 5 April 2005 by the Afghan Independent Human Rights Commission stated that:

"Children born during the war have now become the breadwinner for their families. War, mines and explosives have resulted in 700,000 widows and 200,000 disabled who are mostly supported by the post war children. These children work in the factories, workshops and carpet waving industries under very difficult and unsafe situations. In Kabul there are about 60,000 child laborers, the majority of whom have migrated to the city from other provinces. Many of them are working under unscrupulous employers who subject the children to sexual exploitation and forced labor." **[78c] (p2)**

6.329 On 16 June 2005, UNICEF reported:

"Nearly 1,000 street working children in the Afghan capital of Kabul will benefit from a new agreement signed between the local non-governmental organization Aschiana and UNICEF. The agreement secures Aschiana's use of two sites in the city to provide training and education for the children, as part of an on-going partnership between the two organizations… An Aschiana survey in 2002 estimated that there were at least 37,000 children working on the streets of Kabul and that number has probably increased in recent years." **[40s]**

6.330 The UNHCR report of June 2005 stated that "Many children are working on the streets of Kabul, Jalalabad, and Mazar-i-Sharif with numbers increasing. The child labor force in Afghanistan is predominately boys aged 8-14 with a smaller numbers [sic] of girls 8-10 years old. The main reasons that children work are poverty-related." **[11b] (p62)**

6.331 On 7 December 2005, IRIN News reported that, according to a UNICEF information officer, approximately 25 per cent of all children aged between 7 and 14 years were involved in various forms of work across the country, the majority of child labourers being involved in domestic work. Furthermore:

"UNICEF has expressed its concern that a considerable number of children were involved in heavy and dangerous works, such as construction… Among the children who do paid work, many of them are involved in light agricultural work, mechanical workshops, restaurants, carpet weaving and labouring on building sites. According to officials at the Ministry of Labour and Social Affairs, the government is working to tackle the problem of child labour in Afghanistan. 'We have provided vocational training and literacy programmes to around 38,000 child labourers across the country,' Mohammad Ghaus Bashiri, the deputy minister, said." **[36c]**

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CHILD KIDNAPPINGS

6.332 In October 2003, a report by the International Organization for Migration noted:

"Women and children, including girls and boys, have been abducted in provinces across Afghanistan. People are taken by armed men, as well as by lone individuals. The individuals abducted, aged 4 years to adulthood, (and) are held captive between 1-2 days to many months. They have been held in locations in the city where the abduction occurs, as well as taken to other provinces. During captivity, they are subjected to perpetual rape, as well as forced to perform domestic labour (the latter pertains primarily to women and girls). Threats of abductions are also occurring. The captives' actions, movements, and freedom are completely controlled by the abductors. Sexual services demanded of the victims vary in terms of whether he or she is kept for the exclusive use of one individual, or shared with others. " **[38a] (p36-37)**

6.333 Radio Free Europe/Radio Liberty (RFE/RL) reported on 26 November 2004:

"In an effort to crackdown on child kidnapping, President Hamid Karzai issued a decree in June [2004] imposing the death sentence on those found guilty of killing a kidnap victim. He also increased the jail term for those guilty of injuring an abducted child. At the same time, the decree called upon the attorney-general in Kabul and related offices to investigate child-kidnapping cases speedily and forward them to the appropriate court. Afghanistan saw its first prosecution for child kidnapping in June, when three men were tried in a Kabul court. The court sentenced two of the defendants to five years in jail and the third man to four years." **[29e]**

6.334 The RFE/RL report of 26 November 2004 also noted that "Each year several hundred children – both boys and girls – are kidnapped in Afghanistan. The children are often sold as brides into forced marriages or as slaves to be worked hard and, sometimes, sexually exploited." **[29e]**

6.335 The AIHRC report dated 5 April 2005 stated that:

"Trafficking and kidnapping of children in Afghanistan has become a major problem for families and the government. Many children have been trafficked across borders for sexual exploitation, forced labor or removal of organs and limbs. In 2004, 300 cases of child trafficking were reported. Police and the relevant authorities have been ineffective in preventing incidents of child trafficking due to lack of professionalism and logistics. Fortunately, with the attempts of AIHRC and cooperation of the government and the international community a national plan of action against child trafficking was developed and approved by the government in July 2004… The AIHRC is one of the institutions committed to monitor the implementation of the national plan of action against trafficking and has had an active role in the process of family reintegration for children who were deported from Saudi Arabia. The deportation of these children is indicative of the existence and severity of this problem." **[78c] (p2)**

(See also People Trafficking **for more information)**

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CHILD MARRIAGE

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

6.337 The UNIFEM report also stated, however, that "Nearly 60 percent of marriages in Afghanistan involve girls below the legal age of 16, according to reports from the Ministry of Women's Affairs and NGOs." **[72b] (p1)** Furthermore "Dr. Sima Samar, Head of the Afghan Independent Human Rights Commission said that surveys conducted by the Commission found that 'many girls aged 6 and 7 get married with men aged 30 to 40 years old.'" **[72b] (p2)**

CHILD SOLDIERS

6.338 The USSD 2005 Report, published on 8 March 2006, stated that:

"There were no new reports of the recruitment of child soldiers since President Karzai's 2003 decree prohibiting the recruitment of children and young persons under the age of 22 into the army. In 2004 UNICEF initiated a program that demobilized and reintegrated approximately four thousand of an estimated eight thousand former child soldiers. The remaining four thousand soldiers were transitioned out of the military during the year. " **[2d] (section 5)**

6.339 In April 2005, the AIHRC stated that, as a result of two decades of war, most Afghan children became familiar with firearms and some as young as 15 were recruited into armed groups. Most of these children had now been disarmed by the DDR (Disarmament, Demobilisation, and Reintegration) process, rehabilitated and returned to their normal civil life. Nevertheless, the AIHRC also stated that even though Afghanistan was committed to the Convention on the Rights of the Child, human rights offices had been created in national army and police centres and the national army, had stopped recruiting children, "… some of the local commanders continue to retain children for physical and sexual exploitations." **[78c] (p3)**

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CHILDCARE ARRANGEMENTS

6.340 The AIHRC Report on the situation of Afghan children, dated 5 April 2005, stated that:

"Despite the efforts made by state and specifically by the ministry of labor and social affairs in providing active orphanages in 29 provinces of Afghanistan, the living conditions for the children are not satisfactory and they don't have access to health services, recreational facilities or stimulation.

"Whereas, 9,165 orphan children are living in the orphanages supported by the government, about 300 children live under the support of aid agencies. Until present, no regular disbursement of support or a vocational training program for

the families of such children is in existence (excepting a small number of limited services available to some of the children in orphanages). Some poor families who can not support their children also send them to orphanages." **[78c] (p3)**

6.341 The UNHCR report dated June 2005 stated:

"The few existing orphanages in Kabul and marastoons [see note below] in other main cities, mostly run by the government and the Afghan Red Crescent Society, are no durable solution for unaccompanied and separated children. They have very strict criteria for temporary admission. Boys 15 or over are not admitted.

"Children and adolescents under 18 years of age who do not have families, close relatives or extended family support in Afghanistan are therefore at risk of becoming homeless and risk further exploitation. Where family tracing and reunification efforts have not been successful and special and coordinated arrangements cannot be put in place to facilitate safe and orderly return, UNHCR recommends that such children be allowed to remain in the country of asylum." **[11b] (p62)**

[Note: "Marastoon is a Pashtun term meaning, 'help the poor people'. The Afghan Red Crescent Society's Marastoon homes seek to assist the very poor, homeless and vulnerable to live a relatively normal life, and to benefit from skills training toward improving their chances of economic self reliance, and for reintegration into their original communities." Source: IFRC **[42b] (p7)**]

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

6.342 The Danish fact-finding mission of March/April 2004 reported that, according to the UNHCR and the CCA (Co-operation Centre for Afghanistan) homosexuality is forbidden in Afghanistan. The UNHCR noted that it is difficult to say anything definite about conditions for homosexuals because there is no one who is prepared to declare that he is a homosexual or whose homosexuality is publicly known. The CCA knew of the existence of homosexuals but had never heard about homosexuals being punished. The UNHCR was unaware of any cases under the new Government in which homosexuals had been punished. The UNHCR also noted, however, that behaviour between men which would arouse curiosity in many western countries such as holding hands, kissing or embracing is not considered explicitly sexual behaviour in Afghanistan. The UNHCR were of the view that homosexuality was common in Afghanistan due to the strong degree of separation between the sexes. Moreover, according to the source, homosexuals do not have problems provided they keep their sexual orientation secret and do not overstep other social norms within their family. For example, men of homosexual orientation can be forced into marriage and a possible conflict would only arise if the man refused to marry. **[8] (section 6.3)**

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

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6.344 On 1 September 2005, the *Pakistan Tribune* reported that "Afghan officials say homosexuality remains a crime, even though it no longer brings the brutal punishment handed out under the Taliban before its ouster in 2001. Under its harsh interpretation of Shariah, or Islamic law, homosexuals were crushed to death by having walls toppled on them, although Afghans say closet gay relationships remained widespread." The article also reported a prosecutor involved with the case of an American arrested in August 2004 for having homosexual relations as saying "Islam doesn't allow homosexuality," and "prostitution is also punishable in Afghanistan under Islamic law". **[30b]**

6.345 A UNHCR report dated June 2005 stated:

"There is only limited information on the issue of homosexuality, given that this subject is taboo in Afghanistan. It is, however, reported that – in the past and particularly during the conflict – commanders, tribal leaders and others kept boys for sexual and other purposes. As one study has termed it, 'the prevalence of sex between Afghan men is an open secret'. The practice of using young boys as objects of pleasure seems to have been more than a rare occurrence. Such relations were often coercive and opportunistic in that more influential, older men are taking advantage of the poor economic situation of some families and young males, leaving them with little choice. There are also a few documented cases of abduction of young boys for sexual exploitation by men.

"Open homosexual relations, however, are not possible to entertain. Homosexual persons would have to hide their sexual orientation. Homosexuality is generally outlawed under Islam and punishable by death as a Hudood crime." **[11b] (p55)**

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PERSONS WITH LINKS TO THE FORMER COMMUNIST REGIME

KHAD (KHAD) (FORMER SECURITY SERVICES)

6.346 A UNHCR report of June 2005 noted names other than KHAD by which the State Information Service has been known, in chronological order: "Department for Safeguarding the Interests of Afghanistan (AGSA); Workers' Intelligence Institute (KAM); General Directorate of State Information Service or Active members of PDPA; Ministry of State Security (WAD); Directorate of State Security; Directorate of Intelligence Service; and General Directorate of National Security." **[11b] (p92)**

6.347 An April 2001 report by a Netherlands delegation to the European Union on the security services in Afghanistan between 1978 and 1992 noted that the Khadimat-e Atal'at-e Dowlati (meaning "State Intelligence Service" in Dari) was set up in 1980 and transformed into a ministry in 1986. **[34] (p4)** The UNHCR June 2005 report noted that Dr Najibullah became the General Secretary of the Central Committee of PDPA in late 1985 and the President of Afghanistan in 1986: "In this capacity he was able to exercise party and state authority over all security organs, including those attached to the Khalq-dominated defense and interior ministries." **[11b] (p93)**

6.348 The UNHCR report further noted:

"KHAD became an important political institution during the 1980s, and was considered as key to the PDPA. As the successor to AGSA and KAM, KHAD was nominally part of the Afghan state, and firmly under the control of the Soviet KGB… A system of conducting intelligence activities in all spheres of life inside and outside the country was established, particularly in the areas where opposition groups were functioning. Links were made with different actors in order to encourage support for the administration system, educational and cultural programs run by the State. As an example of one of their activities, the staff members of KHAD infiltrated groups of Mujaheddin, created differences in their positions and worked towards their dissolution or encouraged allegiance to the government.

"Aside from its secret police work, KHAD had a presence in all government, intellectual and educational institutions, including Kabul Polytechnic Institute, universities, schools, and civil and military institutions where its members conducted their activities, including ideological education… In order to consolidate the regime, KHAD's operations, conducted by skilled intelligence agents, penetrated all aspects of life inside Afghanistan and abroad, and succeeded in achieving the Ministry's objectives, particularly through the infiltration of opposition groups. KHAD's activities reached beyond the borders to Pakistan and Iran." **[11b] (p93-94)**

6.349 The April 2001 Netherlands delegation reported:

"It was the task of the KhAD and of the WAD to ensure the continued short and long-term existence of the Communist regime, which had already been exposed to strong pressure shortly after the Great Saur Revolution. In practice, this meant that the KhAD and the WAD had a licence to track down and fight the regime's external and internal enemies as they saw fit… In practice, the slightest sign of disloyalty or opposition provided a pretext for being branded an enemy… Persons branded enemies of the PDPA could be eliminated in many ways. Thus, KhAD leaders could instruct their subordinates to carry out arrest, detention, judicial sentencing, exile, torture, attempted murder and extra-judicial execution of real or alleged opponents of the Communist regime. If required, KhAD and WAD agents also attempted to murder persons outside Afghanistan, especially in Pakistan. Through their ruthless and mostly arbitrary behaviour the KhAD and WAD deliberately created a climate of terror aimed at nipping any opposition among the civil population to the Communist regime in the bud." **[34] (p12-13)** The report noted "There was precious little support for the Communist Party among the population." **[34] (p31)**

6.350 The Netherlands' report stated that all KhAD and WAD NCOs and officers were guilty of human rights violations. **[34] (p33)** However, NCOs and officers could not operate within KhAD and WAD unless they had proved their unconditional loyalty to the Communist regime. During their trial period (Azmajchi) officers had to pass a severe loyalty test. On their first assignment NCOs and officers were transferred to KhAD and WAD sections actively engaged in tracking down "subversive elements." Only those who proved their worth were promoted or transferred to sections with more administrative or technical activities. In practice this meant that all KhAD and WAD NCOs and officers took part in the arrest, interrogation, torture and even execution of real and alleged opponents of the Communist regime. **[34] (p28-29)** The report considered that it was inconceivable that anyone working for the Afghan security services, regardless of the level at which they were

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working, was unaware of the serious human rights violations that were taking place, which were well known both within and outside Afghanistan. **[34] (p31)**

6.351 The UNHCR report dated June 2005 recorded:

"KHAD operated several detention centers in the capital, which were located at KHAD headquarters, in the Ministry of Interior, in the Ministry of Defense, in some of the Departments described above [see pages 95 to 99 of UNHCR report] and also in some of the provinces. It was reported that although the use of torture was widespread under the Taraki and Amin regimes, KHAD was the first to employ it in a systematic manner at its network of detention centers in Kabul and in other parts of the country. Torture was both physical and psychological. Treatment included deprivation of food and sleep, beatings, burning victims' bodies with cigarettes, immersion in water, confinement in shackles for long periods, and electric shock treatment. Detainees were sometimes threatened with execution or forced to watch the torture of their relatives. Victims included people of both sexes ranging from adolescents to adults in their early sixties. Quite often, detainees were confined incommunicado for months and even years. Following the investigations, the detainees were taken to military bases and kept in about 29 KHAD detention centers including two blocks in Pul-i-Charkhi jail and Sedarat KHAD headquarters in Kabul city." **[11b] (p100)**

6.352 The UNHCR report also observed:

"After the fall of Najibullah regime, all aspects of security, political economic and administrative life came under the control of the Mujaheddin. Uneducated Mujaheddin commanders were appointed to direct important security institutions. Many KHAD or WAD agents now worked for the new Directors of the intelligence services but under a different authority. Instead of the structure and functioning of one Ministry, as had been the case with KHAD, each commander and faction in the areas of their control had their own intelligence service structures, investigation and detention centers, and jails. Some of their private jails continue to function to this day, amongst reports that internment and torture is still practiced. Many other KHAD or WAD staff members were killed, arrested or left the country during the Mujaheddin regimes…

"After the establishment of the Interim Administration in December 2001, the Intelligence Service Department (formerly WAD, and KHAD) was renamed the National Security Directorate (NSD). Since the fall of Kabul in November 2001 this has been controlled and staffed by the Panshiri Shura-i-Nazar." **[11b] (p101)**

(See also Section 5: National Security Directorate**)**

For further information on the history and structure of KHAD, refer to the June 2005 UNHCR report source [11b]

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TREATMENT OF FORMER KHAD MEMBERS

6.353 A Danish fact-finding mission to Kabul in March/April 2004 reported the views of several sources on the position of former members of KHAD and the PDPA.

According to the report the UNHCR said "Regarding the question as to whether a person from the former PDPA or KHAD runs the risk of any form of persecution depends on whether he, in the course of his activities for the PDPA or KHAD, has had concrete conflicts with or has come in opposition to people who are in power at the present time… The UNHCR did not know of any former members of the KHAD who have returned." **[8] (section 6.5.1)**

6.354 The same Danish report also noted the views of UNAMA:

"The source [UNAMA] had the impression that the political environment in Afghanistan currently is not open to all political viewpoints. The source stated that in this connection personal conflicts are more important than political conflicts. The source mentioned a case in which a former employee of the KHAD had returned to Afghanistan and was now working for the security forces. The person has complained that powerful individuals have threatened him, persons he in his previous position had been investigating. He had allegedly been stopped in the street and threatened into silence." **[8] (section 6.5.1)**

6.355 The Danish report noted that the CCA (Co-operation Centre for Afghanistan) said that about half of the officers working in the present Afghanistan Intelligence Services are former officers of the KHAD. The report stated that "It has been necessary to introduce them into intelligence work, as there is a lack of qualified personnel in this field. The organization gave as an example that the director in the 7th department of the present intelligence service earlier served the same position in the KHAD." **[8] (section 6.5.1)**

6.356 In a June 2005 report, the UNHCR stated that "A large number of former People's Democratic Party of Afghanistan (PDPA) members as well as former officials of the Khad (the intelligence service) are working in the Government, including the security apparatus." **[11b] (p45)**

6.357 The UNHCR paper also recorded: "Former military officials, members of the police force and Khad (security service) of the Communist regime also continue to be at risk, not only from current powerholders but more so from the population (families of victims), given their identification with human rights abuses during the Communist regime." **[11b] (p46)**

6.358 The Human Rights Watch (HRW) 2005 Afghanistan Report, published in January 2006, stated that "… on October 14, a Dutch court convicted Hesamuddin Hesam and Habibullah Jalalzoy, both high level members of KHAD, Afghanistan's infamous communist-era intelligence service, of engaging in torture and sentenced them to twelve years and nine years in prison, respectively." **[17o] (p4)**

6.359 On 25 February 2006, BBC News reported that Asadullah Sarwari, a former head of the Afghan intelligence department set up under the communist Government in 1978, had been sentenced to death for ordering hundreds of killings in the late 1970s. "His sentence is the first to be passed for war crimes in Afghanistan…Sarwari ran the intelligence service for a year. He then held posts as deputy prime minister and Afghanistan's ambassador to Yemen. Following the collapse of the communist government in 1992, he was held in prison until his trial began last December." The news report stated that Sarwari denied the charges and would appeal against the verdict. **[25o]**

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

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

(See also paragraphs 6.368 – 6.369 below for UNHCR information on Afghans associated with the PDPA and consideration of exclusion clauses under Article 1F of the Geneva Convention)

(See also UNHCR and ECRE guidelines**)**

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FORMER MEMBERS OF THE PDPA (PEOPLE'S DEMOCRATIC PARTY OF AFGHANISTAN)

6.361 The Danish fact-finding mission of March/April 2004 reported: "The UNAMA was of the opinion that former members of the PDPA who did not have a high profile could settle in Afghanistan. However, the source found that ex- members of the PDPA would find it difficult to reorganize politically in an organization with a communist ideology without experiencing some form of harassment. The degree of harassment according to the source depends on the history of the person." **[8] (section 6.5.1)**

6.362 The Danish report further noted:

"The ICG [International Crisis Group] was of the opinion that whether an ex-member of the PDPA was able to return to Afghanistan depends on whether the person tries to exercise any political influence as a communist. If this is not the case, such an individual will be able to live in the country.

"The source mentioned the leader of the United National Party as an example of a former highly positioned PDPA member who lives in Afghanistan. The person is a former member of the central committee of the PDPA, and President Karzai is considering employing him in a high ranking position. The United National Party is a new party with a non-communist ideology… The source explained, however, that the above-mentioned former member of the central committee of the PDPA is forced to live under a considerable degree of protection.

"The source was of the opinion that there exist former PDPA members who cannot return to Afghanistan. The source mentioned that a number of the former members have been selected by President Karzai to work for the government, and that many ministries could not exist if they had not been employed. The source pointed out that many of the former members of the PDPA are not war

criminals, but have relevant training, which can be used to contribute to the reconstruction of the country. Many of these people are only trying to find a meaningful way of using their resources for the rest of their lives, and have no strong political interests." **[8] (section 6.5.1)**

6.363 The same Danish report stated: "The CCA was of the opinion that former communists do not experience serious problems in Afghanistan today. A number of former members of the PDPA have organized themselves again, and there are many examples of former highly placed supporters of the PDPA working in the current government. The CCA was of the opinion that former high-ranking members of the PDPA can remain in Afghanistan if they do not get involved in conflicts with powerful individuals." **[8] (section 6.5.1)**

6.364 The Danish report further noted:

"The AAWU [All Afghan Women's Union] explained that there are still prejudices in Afghan society against former members of the PDPA. The source explained that former members have problems when registering their political parties and they have difficulties in finding jobs in the administration within the government.

"According to the Lawyers Union of Afghanistan there is no greater risk in Afghanistan today for former members of the PDPA than for Afghans in general. In this context it has no importance what position one occupies in the PDPA. The source stated however that very highly profiled former members of the PDPA have not returned to Afghanistan yet." **[8] (section 6.5.1)**

6.365 Regarding individuals with connections to the former Soviet Union, the Danish fact-finding mission in 2004 noted: "The UNHCR and the UNAMA both said that they did not have information supporting the fact, that people returning from longer-term stays in the former Soviet Union have problems in Afghanistan today, solely for the reason that they have been staying in the Soviet Union for a longer period. The CCA explained that people who return after a long stay in the former Soviet Union do not experience major problems in Afghanistan, except if they have had any specific conflicts with people who want to make revenge." **[8] (section 6.5.2)**

6.366 A Radio Free Europe/Radio Liberty report on the presidential election of 9 October 2004, accessed on 22 February 2005, noted the candidacy of Abdul Latif Pedram: "He is a former journalist, poet, and professor of Oriental studies who served as editor in chief of 'Haqiqat-e Inqelab-e Sawr' – the official mouthpiece of the communist People's Democratic Party of Afghanistan (PDPA) – during the Soviet occupation of Afghanistan (1979-89). After the downfall of the communists in 1992, Pedram spent years in Parisian exile. He is an ethnic Tajik." **[29a]**

6.367 The Joint Electoral Management Body (JEMB) presidential election results of 3 November 2004 showed that Mr Pedram came fifth in the election with 110,160 votes (1.4 per cent of the vote). **[74c]**

6.368 A UNHCR report dated June 2005 stated:

"A large number of former People's Democratic Party of Afghanistan (PDPA) members as well as former officials of the Khad (the intelligence service) are working in the Government, including the security apparatus. A congress of the People's Democratic Party of Afghanistan (PDPA) in late 2003 which led to the

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creation of Hezb-e-Mutahid-e-Mili (National United Party) with 600 members and other former PDPA officials have founded several other new parties.

"While many former PDPA members and officials of the Communist Government, particularly those who enjoy the protection of and have strong links to currently influential factions and individuals, are safe from exposure due to their political and professional past, a risk of persecution may persist for some members of the PDPA, later re-named Watan (Homeland). The exposure to risk depends on the individual's personal circumstances, family background, professional profile, links, and whether he was associated with the human rights violations of the Communist regime in Afghanistan between 1979 and 1992.

"Some former high-ranking members of PDPA without factional protection from Islamic political parties or tribes or influential personalities are at greater risk of persecution. They include:

- High ranking members of PDPA, irrespective of whether they belonged to the Parcham or Khalq faction of the party. They will be at risk only if they are known and had a public profile. This includes (i) high ranking members of Central and Provincial Committees of the PDPA and their family members; and (ii) high ranking members of social organizations such as the Democratic Youth Organization and the Democratic Women's Organization.

- Former military officials, members of the police force and Khad (security service) of the Communist regime also continue to be at risk, not only from current powerholders but more so from the population (families of victims), given their identification with human rights abuses during the Communist regime.

- Members of the following parties if they openly promote these parties led by former leaders of PDPA, particularly in rural areas of the country:

    1. Hezb-e-Mutahid-e-Mili, (National United Party) led by Noor Ul Haq Uloomi,

    2. De Afghanistan De Solay Ghorzang Gond, (Peace Movement Party of Afghanistan) led by Shahnawaz Tanai,

    3. Hezb-e-Mili Afghanistan, (National Party of Afghanistan) led by Abdul Rasheed Aaryan,

    4. Hezb-e-Wahdat-e-Mili Afghanistan (National Solidarity Party of Afghanistan) led by Abdul Rasheed Jalili." **[11b] (p45-46)**

6.369 The same UNHCR paper also advised; "When reviewing the cases of military, police and security service officials as well as high-ranking Government officials of particular ministries it is imperative to undertake an analysis of the potential applicability of exclusion clauses of Article 1 F of the 1951 Geneva Convention. To some extent, many of these previous Afghan officials were involved, directly or indirectly, in widespread human rights violations." **[11b] (p46)**

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FORMER COMMUNIST'S PARTICIPATION IN THE 2005 ELECTIONS

6.370 Pajhwok Afghan News reported on 15 November 2005 that at least ten former communist leaders had been elected to the new parliament, including former Interior Minister Said Mohammad Gulabzoi from Khost, former Soviet-era commander Noorul Haq Uloomi from Kandahar, former head of the National Youths Association, Babrak Shinwari [elected from Nangahar Province **[74b]**] and the former governor of Nimroz, Khudai Nazar Saramchar. **[95b]** An article in the *New York Times* dated 5 September 2005 stated that the political return of dozens of former communists was one of the most contentious issues of the 2005 election campaign. **[28b]**

6.371 An analysis of the elections by the Afghanistan Research Evaluation Unit (AREU) dated December 2005 stated that:

"Given the bitter conflict between the mujaheddin and the Soviet-backed People's Democratic Party of Afghanistan (PDPA) regime in the eighties and early nineties, the election of approximately 23 candidates with leftist or communist backgrounds, including 15 who were formerly affiliated with the PDPA, surprised many observers. Most notable were the victories of two former senior PDPA officials – Sayed Mohammad Gulabzoi, who won the top position in Khost, and Noorulhaq Ulomi, who won the second highest number of votes in Kandahar." **[22c] (section 2.1.2)**

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

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

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

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

6.375 The same article noted that General Tanai was not running in the parliamentary and provincial elections, but candidates from his Afghanistan Peace Movement

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Party and two other parties of former Communists who had joined him in a coalition had fielded 200 candidates around the country, "most of them former Communists and some Soviet-era ministers and participants in the half a dozen coups of the last three decades." **[28b]**

6.376 On 7 March 2006 the UN Secretary-General reported that the new Lower House of parliament included many who were prominent in the former Communist Government. **[39h] (p3)**

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

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6.C HUMAN RIGHTS – OTHER ISSUES

MINES AND UNEXPLODED ORDNANCE

6.378 In June 2005 the UNHCR reported:

"Despite continued progress made by the Mine Action Programme for Afghanistan (MAPA) and its implementing partners over the past decade, Afghanistan is still believed to be one of the most severely contaminated countries in the world… The areas affected include important agricultural land, irrigation systems, residential areas, grazing land and roads." **[11b] (p33)**

6.379 The Afghanistan Landmine Monitor Report 2005 recorded that Afghanistan acceded to the Mine Ban Treaty on 11 September 2002 and it entered into force on 1 March 2003. The report also stated that "Significant decreases in new casualties from landmines, UXO and cluster munitions were recorded in 2004 compared with 2003." **[14] (p1)**

6.380 The Landmine Monitor Report 2005 stated that:

"In 2004, UNMACA [United Nations Mine Action Center for Afghanistan] recorded 878 new casualties from landmines, UXO and cluster munitions, of which 106 people were killed and 772 injured; at least 22 were female. In comparison, ICRC [International Committee of the Red Cross] recorded 895 mine/UXO casualties (128 killed and 767 injured) for the same period, including 449 children and 39 women; 837 were civilians. This represents a 12 percent decrease from the 1,018 mine/UXO casualties (216 killed and 802 injured) recorded by UNMACA in 2003.

"The collection of comprehensive landmine casualty data in Afghanistan remains problematic, due in part to communication constraints and the time needed to centralize information. Key actors in mine action estimate that there

are 100 new mine/UXO casualties each month, which is a significant reduction from earlier years. However, many mine casualties are believed to die before reaching medical assistance and are therefore not recorded." **[14] (p17)**

6.381 The same report also noted that "Despite a large mine action program, the mine and ERW problem continues to pose a considerable challenge to the country's socioeconomic well-being, impacting on issues such as food security, refugee return and national reconstruction." **[14] (p5)**

6.382 The Institute for War and Peace Reporting reported on 6 August 2005 that UNMACA figures showed an average of 80 people a month having been killed or disabled by landmines so far in 2005, compared with a 2004 monthly average of 70." **[73w]**

(See also Section 5: Medical Services: People with disabilities)

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HUMANITARIAN SITUATION

OVERVIEW

6.383 The World Bank's first economic report on Afghanistan for 25 years, published on 9 September 2004 recorded:

"The starting point – in late 2001 at the fall of the Taliban – for recent developments in Afghanistan was dire… Numerous people were suffering (and still are) from low food consumption, loss of assets, lack of social services, disabilities (e.g. from land-mine accidents), and disempowerment and insecurity … In sum, Afghanistan was essentially left out of the last 25 years of global development, with virtually no increase in per-capita income during this period and average life expectancy of only 43 years." **[69a] (Executive summary paras. 5 & 6)**

(See also Section 3: Economy**)**

6.384 The UNDP National Human Development Report 2004 on Afghanistan stated that the majority of the Afghan population could be classified as poor. Moreover, "Some groups and/or households, such as women, the disabled and Kuchi nomads, are more vulnerable to poverty." **[47] (chapter 2)**

6.385 A 2005/06 Strategy Report by the Department for International Development (DFID) recorded that:

"After more than twenty years of conflict and isolation, Afghanistan has made rapid progress over the last 3½ years. Since the fall of the Taliban in late 2001, it has recovered from being a failed state to establish a new constitution, a government committed to political, economic and social development, and a democratically elected President. Over 60,000 former combatants have been disarmed, and 3.5 million refugees have returned home. The number of functioning health clinics has increased by 60%. Nearly two thousand schools have been build or rehabilitated, and over 5 million children are in school – more than a third of them girls. These are remarkable achievements." **[51a] (Paragraph 1.1)**

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6.386 The same DFID Report also stated, however, that:

"Afghanistan's challenges remain formidable. The political consensus is unstable, with continued insurgency in parts of the country and terrorism an ever-present treat. Economic progress is patchy, with overly high expectations of how long reconstruction will take. Governance problems – notably corruption, limited capacity and dysfunctional institutions – affect everything. The drugs trade is a major threat to the rule of law. Afghanistan's security, reconstruction and political challenges are inextricably interlinked. The risks of failure are real and worrying. **[51a] (Paragraph 1.2)**

6.387 The DFID Report continued:

After decades of insecurity, destruction and under-investment, poverty is deeply entrenched. Afghanistan is off-track on al [sic] the Millennium Development Goals (MDGs), and has some of the worst human development indicators in the world, ranking 173 out of 178 countries on the 2004 UNDP Human Development Index. Average income is about $300 per person (including from opium, which disproportionately benefits a minority). 71% of Afghans over the age of 15 cannot read and write, rising to 92% for rural women, and three out of five girls don't go to school. Life expenctancy at birth is 45 years, and at least one in five children dies before the age of five. The maternal mortality rate may be the highest in the world: one woman dies from pregnancy-related causes approximately every thirty minutes, and in rural areas fewer than 10% of women give birth in a health facility. Large parts of Afghanistan's infrastructure are in tatters; in more remote areas it has never been developed. The vast majority of Afghans do not have access to electricity or safe water." **[51a] (Paragraph 1.2)**

6.388 A June 2005 report by the UNHCR stated that "Overall, only 23% of the Afghan population has access to safe water, 18% in rural and 43% in urban areas. Access to adequate sanitation is even lower, with an estimated 12%." **[11b] (p33)**

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

"Faced with the aftermath of years of conflict, the Government of Afghanistan has received extensive assistance from the international community in the delivery of basic social services to poor and vulnerable populations. The United Nations has played a key role in responding to humanitarian crises, including through the provision of shelter, food aid and other life-saving measures. A smooth transition from relief to recovery has, however, been hampered by natural disasters (six years of continuous drought were followed in 2005 by extensive flooding), internal displacement, land rights issues and urban pressures due to the large influx of returnees. A lack of public-sector capacity and access to vulnerable populations has hindered attempts at a comprehensive response to these issues." **[39c] (p13)**

(See also Section 6C: Returnees/Internally Displaced Persons (IDPs)**)**

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INTERNATIONAL AID

6.390 On 10 February 2006 the UN Secretary-General stated that participating countries and organisations at an international conference in London had announced further financial assistance for Afghanistan of $10.5 million, over a five-year period. **[39h] (p12)**

6.391 On 30 January 2006, Human Rights Watch stated that:

"Two past international donors' conferences, held in Tokyo in 2002 and Berlin in 2004, failed to provide the $28 billion the World Bank and the Afghan government estimated was needed to rebuild the country. Slightly more than half of this figure has been pledged by the international community, but less than $5 billion delivered, over the past four years. By comparison, reconstruction budgets in Kosovo, Bosnia, and East Timor were up to 50 times greater on a per capita basis." **[17p]**

6.392 IRIN News reported on 1 February 2006 that, in spite of previous donations of billions of dollars bringing improvements such as new hospitals, clinics, roads and educational opportunities, most Afghans remained entrenched in poverty. **[36g]**

(See also Section 4: Afghanistan Compact**)**

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HUMANITARIAN SITUATION IN KABUL AND OTHER URBAN AREAS

6.393 In January 2004, a report by Action Contre La Faim (ACF) noted that "The recent influx of population in Kabul city has put a significant additional stress on an already fragile water and sanitation situation… Indeed the soaring population in Kabul has turned the sanitation situation into a pressing issue, especially as it bears potential health risks in terms of water contamination and vector-borne diseases." **[33] (p3)**

6.394 In February 2004, Terre des hommes (Tdh), an organisation working for the rights of the child, commented on the conditions in Kabul in which the women and children they targeted lived: "Many mothers and children of the target group are living in extreme states of impoverishment. Still, in many areas the homes of clients are, in fact, remnants of bombed buildings, without any access to potable water." **[40h]** On 28 September 2005, IRIN News reported that "…to tackle the problem of lack of shelter, the Ministry of Women's Affairs is planning to build accommodation for at least 1 million vulnerable Afghan women across the country, with an agreement signed with a German construction company to launch the countrywide project." **[36d]**

6.395 A report by the International Peace Research Institute in Oslo in early 2004 noted:

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"Kabul has the looks of a boom town with attendant large-scale poverty and squalor. There is rebuilding on a large scale and streets with shops selling building equipment are congested with traffic. The foreign presence has visibly increased in step with the inflow of aid money. The bustling activity has attracted numerous internal migrants and returning refugees, who have decided go [sic] to the capital rather than their home areas. Over one-third of Kabul's population is estimated to be returning refugees and IDPs… Real estate prices in the best areas of the city approach those of downtown New York, but a few blocks away there is squalor. Trading and movement of people has visibly increased over the past year. Five airlines now serve Kabul International airport, while the national airline, Ariana, flies regularly to the provinces and is heavily booked." **[19] (p24)**

6.396 On 9 July 2004, Refugees International reported that a large percentage of returnees from Iran and Pakistan, especially the urbanised returnees from Iran, were remaining in Kabul:

"The population of Kabul is already three to four million people, including a million or more returned refugees and displaced persons who swelled the city's population in the last two years. Water, sanitation, and housing are severely strained; families are paying $15 to $20 per month to rent a single bare room – a huge expense in a city in which workers may make as little as $2 per day in wages. Despite a large number of shelter projects by foreign aid donors, the need for low-cost housing exceeds supply by a large margin. A survey by the NGO Action Against Hunger showed that 'having a place of our own' was the top priority of many poor people in Kabul. As a continued inflow into Kabul by returning refugees seems probable for the next year or two urban services and shelter will be even more strained in the future." **[3] (p2)**

6.397 An article in the *New York Times* dated 4 February 2005 reported:

"An estimated 10,000 homeless people are in Kabul, about 4,000 of them in two squatter camps. In addition, groups of displaced people are living in public buildings and abandoned ruins in as many as 25 locations throughout the city. Most are refugees who have returned from camps in Pakistan in the three years since the fall of the Taliban. Some families have been living all that time in tents, with the men scraping up a little work as porters in nearby fruit markets. Meanwhile, scores of expensive private villas are going up around Kabul, some of them built by commanders and government officials on former government land, a sign of growing inequities." **[4]**

6.398 An April 2005 report from the Netherlands Institute of International Relations stated that "The standard of living of many people in Kabul and other cities has actually deteriorated since the defeat of the Taliban." **[89] (p25)** The US Agency for International Development (USAID) concurred in an article dated 13 February 2006 which stated that "Given ambient levels of housing and urban service quality, it is highly likely that much, if not most, of the Kabul area population has experienced a decline in living conditions since 2001." **[60c]**

6.399 The April 2005 Netherlands Institute of International Relations Report elaborated:

"The opportunities for those with access to the aid economy, together with the spread of Western liberal social practices among both expatriates and the Afghans who work for them, has given rise to a nativist reaction. Imams preach

on Fridays against foreigners, alcohol consumption, and cable television, which have provoked several fatwas from the Chief Justice. These are symbols of resentment and desperation over skyrocketing costs of housing and fuel, disruption of transport mainly by the huge US presence, and neglect of urban services despite a visible influx of money." **[89] (p25)**

6.400 The same report also stated that "Several cities, most of all Kabul, are overrun with returning migrants, who have undergone forced urbanization as a result of displacement. Kabul, which was estimated to have a population of 800,000 before the war, now contains over 3 million people, on the same land and with less water." **[89] (p26)**

6.401 An IRIN News article dated 28 September 2005 reported the public information officer for the Ministry of Refugees and Repatriation as saying that in order to reduce crowding in Kabul, a Government plan of only providing land for returning refugees in their province of origin would soon be implemented. The article also stated that:

"Lack of shelter remains a key issue in Afghanistan as millions of returned refugees and internally displaced persons (IDPs) slowly seek to pick up their lives, only to find their villages and homes destroyed. Since the Taliban were ousted in December 2001, rent prices in the capital have skyrocketed, fuelled in part by the arrival in strength of foreign NGOs, with an average family house now going for up to US $800 per month - far beyond the reach of Kabul residents." **[36d]**

6.402 On 30 January 2006, an article by a Board member of the International Crisis Group stated that:

"Since the fall of the Taliban, despite huge amounts of international money spent on overhauling civic infrastructures, material improvements have lagged, bringing little relief to the daily life of a largely dispirited population who lack basic commodities and struggle with soaring prices.

"Yet, the city is bustling, with streets streaming with people... And the sound of music, a vital component in Afghan life, floats in the air. Indeed, a sharp contrast with the authoritarian and anguishing regime imposed by the Taliban. The situation in Kabul is paradigmatic of the contradictions still embedded in Afghan society." **[26g]**

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RETURNEES AND INTERNALLY DISPLACED PERSONS (IDPS)

6.403 The report of the UN-appointed independent expert of the Commission on Human Rights in Afghanistan dated 21 September 2004 stated:

"As a result of three decades of conflict, large portions of the Afghan population were forced to become refugees or IDPs. With the fall of the Taliban, large numbers of refugees have returned to Afghanistan… As these individuals return to the country, whether to their original homes or to new settlement areas, they face an array of problems and, as highly vulnerable populations, they are often the

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victims of serious human rights violations. Returning refugees and resettled IDPs are commonly subjected to acts of violence, including killing; arbitrary arrest and detention; illegal occupation and confiscation of their land by warlords, commanders and others; forced labour, extortion, illegal taxation and other abusive economic practices; discrimination and persecution based on ethnic identity; and sexual violence and gender-related discrimination. There are thousands of reported cases of returnees being subjected to these violations in many communities." **[39k] (para 70-72)**

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

"A high percentage of returnees are landless (70 per cent), or claim not to have a house or shelter to return to (27 per cent)…Lack of employment and slow progress in reconstruction in rural areas pose a continuing challenge to the sustainable reintegration of returnees. The increased number of returns to urban areas is placing an additional burden on the already stretched infrastructure capacity of major cities and highlights the need for the development of a social housing scheme. Reports indicate that returnees did not face marked discrimination in terms of access to basic social services, though they experienced occupation or confiscation of their land and related abuses such as extortion, illegal taxation or forced recruitment." **[39f] (p16)**

6.405 On 31 January 2006, the UNHCR recorded that:

"Since the UN Refugee Agency began its voluntary repatriation programme for Afghanistan in 2002, it has assisted more than 3.5 million Afghans to make the journey home – more than 2.7 million from Pakistan and 800,000 from Iran… Under its voluntary repatriation operation, now in its fifth year, UNHCR expects to assist some 600,000 refugees to return from Pakistan and Iran in 2006. As in previous years, assistance will be in the form of a cash transportation grant of between US$4 and US$37, as well as a grant of US$12 per person… UNHCR's shelter programme in Afghanistan has so far resulted in more than 140,000 homes being built across the country, benefiting more than 840,000 people. During 2006, the programme will assist with an additional 19,000 homes, helping more than 115,000 returnees. That is part of UNHCR efforts to ensure people return to sustainable situations in their communities. Community support includes providing wells, schools, health centres, agricultural services and programmes for vulnerable groups." **[11e]**

6.406 A UNHCR Operation Update of September 2005 stated that:

"Between March and August 2005, 2,252 returnees from Pakistan and 518 returnees from Iran where [sic] interviewed. While 56% of the returnees from Iran stated that the main reason for return was the improved political and security situation in Afghanistan, this applied only to one third of the returnees from Pakistan. For many of them, the closure of camps in the Federally Administered Tribal Areas (FATA) of Pakistan was the motivation to return. Increased economic difficulties in the countries of asylum were also frequently cited." **[11f] (p5)**

6.407 On 23 February 2006, the Xinhua News Agency reported an announcement by the Pakistan Government that three refugee camps in North West Frontier Province and Balochistan will close at the end of April 2006. The Afghans currently in the camps, numbering more than 129,000 in total, would have the option of repatriation to Afghanistan or relocation within Pakistan. **[40o]**

6.408 A UNHCR report of June 2005 recorded that:

"Most of Afghanistan's IDPs have been able to return home during the last three years, mainly due to improved security and reduced impact of drought. Of an estimated 1 million IDPs at the beginning of 2002, only some 140,000 remain in camps and settlements mainly in the South and some 20,000 live mostly in urban areas. Despite the successful return of more than 800,000 IDPs since 2001, a caseload with particular difficulties remains mainly in camps in the [sic] Southern Afghanistan, some in Maslakh (Herat). They are mainly nomadic Kuchis who have lost their live stock during the drought and some 30,000 Pushtoons from the North West (Faryab, Badghis, Jowzjan, Sar-e-Pul)." **[11b] (p37)**

6.409 A profile by the Internal Displacement Monitoring Centre (IDMC) dated 2 December 2005 stated that "Many of the estimated 460,000 IDPs who have returned since the end of 2001 find reintegration difficult or impossible, mostly due to unresolved property disputes and the difficulties of earning a stable income. Renewed displacement due to economic hardship is not taken into account in official IDP figures." **[70] (Overview)** The IDMC Profile (other than the "overview") is a compilation of excerpts from reports on IDPs from a variety of sources and should be consulted directly for more detailed information.)

6.410 An IRIN News article dated 11 January 2006 stated that:

"The plight of returned refugees remained a concern in 2005. A high proportion of the more than 3.5 million Afghans who have returned home from Pakistan and Iran since the collapse of the Taliban regime in late 2001 are suffering from lack of shelter, unemployment and poor medical facilities.

"'For the sustainability of return to be possible, our work with refugees still staying in Pakistan and Iran has shown us very clearly that the major concern, paradoxically, is not security, but livelihoods,' Antonio Guterres, the United Nations High Commissioner for Refugees told reporters in November [2005] at a press conference, in the capital, Kabul." **[36b]**

6.411 A September 2005 UNHCR Operation Update stated that:

"UNHCR and the Ministry for Refugees and Repatriation (MoRR) continue to monitor both voluntary and forcible returns from non-neighbouring countries at Kabul airport. By the end of August, some 1,237 persons had returned voluntarily or involuntarily this year from non-neighbouring countries. The majority (595 persons) returned from the United Kingdom, within the framework of the Tripartite Memorandum of Understanding. The second largest group returned from the Netherlands (192 persons)."

6.412 The UNHCR Update also stated that:

"Despite huge repatriation movements (almost 4 million) since 2002, as many as 3.3 million Afghans still remain outside their country, primarily in Iran and Pakistan. These populations are composed of persons who have arrived at different times and for different reasons over the last quarter of a century. During this period they have experienced significant demographic, economic, and social changes. Today, refugee flight from Afghanistan is the exception rather than the norm.

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Afghans now cross the border to look for work, to trade, to access social services, and to maintain family and social networks. Faced with pressure from the two host country governments [Pakistan and Iran], many Afghans remain reluctant to return for an array of security and economic reasons." **[11f] (p8)**

6.413 The UNHCR reported on 2 September 2005 that "Afghanistan has signed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, a significant sign of recovery for a country that used to be one of the world's largest producers of refugees and asylum seekers." **[11a]**

6.414 On 31 January 2006, the UNHCR stated that "In 2006, UNHCR will continue to facilitate the return of IDPs to their places of origin and to support their initial reintegration. This will allow UNHCR to cease its assistance activities in IDP settlements by the end of the year." **[11e]**

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LAND DISPUTES

6.415 The report of the UN-appointed independent expert of the Commission on Human Rights in Afghanistan dated 21 September 2004 stated that:

"Another significant human rights issue involves illegal forcible seizure of land, access to land and housing, and the violations associated with land disputes. The problems regarding land are linked to many years of conflict, lack of clarity regarding land ownership, irregularities in the exercise of local and regional power, and the large number of returning refugees and IDPs [Internally Displaced Persons]. The value of land has increased substantially, and the country's highly irregular titling system and general lawlessness have allowed those with political power and armed backing to grab large tracts of land throughout the country. The general corruption of the legal system makes it easy for those with power to obtain false title to land, and the inability of the State to provide basic legal protection for landowners makes it difficult for those without connections or power to defend their rights.

"The land situation in Afghanistan involves an array of interconnected problems. For example, different people often hold legal title to the same land. At various times, more than one titling agency existed or subsequent administrations provided different titles, so it is possible for legitimate competing claims to the same piece of property to exist. Also, those with title to land (or someone who has lived somewhere for a long time and may not have legal title) are often forcibly removed or denied access to their property by powerful individuals and groups. Sometimes this occurs at the order of an individual such as a warlord or local commander. Other times, a person may be forced off the land by a less dominant figure who possesses arms or has political connections." **[39k] (para 73 & 74)**

6.416 The same report also noted:

"In November 2003, the Special Property Disputes Resolution Court was established by presidential decree… The Court can order compensation for illegally occupied land, and also determine who the proper owner is. The Court is underfunded, fails to take into account the special needs of IDPs in this domain,

does not cover disputes where one side is the Government, and provides limited coverage for cases from the provinces." **[39k] (para. 76)**.

6.417 In December 2004, the Afghanistan Research and Evaluation Unit reported:

"Rural land policy is non-existent, although steps have been taken to generate this in the hands of a special commission…Land disputes are rife, with two-thirds of all cases brought to the normal court system relating to landed property and a recently established dedicated land court additionally swamped. This is so even though many poor (and those wary of ethnic bias) do not go to courts at all. Communal (ethnic) and communal property-related disputes dominate in practice and reflect a simmering 'war' over pastures, in which a common trigger is expansion of cultivation into pastureland. Neither the terms of law nor the centralist and court-driven regime of rural land administration in place are competent to resolve these often ethnically heated, and sometimes warlord-abetted disputes." **[40r] (p2)**

6.418 A UNHCR report dated June 2005 stated that in rural areas:

"Up to 36 percent of owners have their land under a form of mortgage that is to the full advantage of creditors, resulting in high and increasing indebtedness and increasing vulnerability. Formal land records are unreliable, where they exist. Traditional or statutory controls relating to boundaries between arable and pastoral lands have broken down, resulting in rampant encroachment, contestation and environmental degradation. This situation is aggravated by the fact that there are inconsistencies among and within bodies of law, often resulting in a generally unclear legal status both in formal and informal justice systems. The weak rule of law renders application or enforcement of the law unlikely at this point. The power and influence of armed political groups, commanders and militias extends into the formal and informal justice systems, leaving rural Afghans at the mercy of these groups and with little ability to access justice." **[11b] (p34)**

6.419 The UNHCR report further noted:

"The situation with regard to land tenure in urban areas indicates similar problems and challenges. Property law is outdated and disregarded, there is no consistency in the recognition of ownership by the authorities, multiple ownership is a problem due to the sales of State owned apartments and plots as well as the sale without regard for inheritance rights of others. The municipal property administration is inconsistent and the existing master-plan outdated and not corresponding to realities. It is against this background, that land and property issues pose a serious challenge for many Afghans, including many returnees, both in terms of livelihoods as well as in terms of respect for their rights and legal safety." **[11b] (p34-35)**

6.420 The same report noted that "Land occupation and confiscation of land by powerful local commanders or members of the majority ethnic group in areas of return has been reported by returnees or stated as an obstacle to return by refugees. Returnees therefore face difficulties in recovery of property upon return from exile." **[11b] (p35)**

6.421 The UNHCR report also advised:

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"There may be circumstances in which Afghan landowners may be exposed to a risk of persecution by non-state agents. The risk is acute in circumstances where houses have been occupied by powerful commanders and restitution is being pursued by a landowner, including where there is a court decision for the return of the property. In such circumstances, the rightful owners are at greater risk if they do not have political, tribal or family protection and the authorities are unable to protect their rights (including the enforcement of a court-decision)." **[11b] (p56)**

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UNHCR GUIDELINES ON RETURN TO AFGHANISTAN

6.422 The UNHCR report dated June 2005 advised:

"In the context of Afghanistan, the traditional family and community structures of the Afghan tribal system constitute the main protection and survival (coping) mechanism. The support provided by families, extended families and tribes is limited to areas where family or community links exist, in particular in the place of origin or habitual residence. Return to places other than places of origin or previous residence, may therefore expose Afghans to insurmountable difficulties, not only in sustaining and re-establishing livelihoods but also to security risks. While there has been significant progress on the reintegration front of returnees to Afghanistan, the needs continue to be immense and urban centers continue to be faced with numbers of returnees which are difficult to absorb." **[11b] (p42)**

6.423 The UNHCR report also advised:

"In addition to the categories of Afghans that are in need of international protection, there are certain individuals currently outside Afghanistan, for whom return would not constitute a durable solution and would endanger the physical safety and well-being of the persons concerned, given their extreme vulnerability. In the context of return to Afghanistan, extremely vulnerable cases can be divided into two broad categories:

(i) Individuals whose vulnerability is the result of a lack of effectively functioning family- and/or community support mechanisms and who cannot cope, in the absence of such structures.

(ii) Individuals whose vulnerability is the result of a lack of effectively functioning Government and other support mechanisms and treatment opportunities." **[11b] (p61)**

6.424 The UNHCR therefore advised that this may be the case for Afghans who fall into the following categories:

unaccompanied females;

single parents with small children and without a breadwinner;

unaccompanied elderly people;

unaccompanied children;

victims of serious trauma (including rape);

physically disabled persons;

mentally disabled persons;

persons with medical illness (contagious, long-term or short-term). **[11b] (p61-63)**

(See Section 5 Medical Services **and Section 6B** Women **and** Children **for more detailed information on the situation for people who fall into these categories)**

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ANTI-COALITION FORCES (ACF)

OVERVIEW

6.425 In June 2004 a report by the Afghanistan Research and Evaluation Unit (AREU) observed that small-scale attacks by Anti-Coalition Forces, generally considered to comprise the Taliban, Al Qaeda [Al Qa'ida] and Hezb-i-Islami Gulbuddin Hekmatyar (HIG), have replaced large-scale combat in Afghanistan and these attacks are designed to subvert the Karzai Government. **[22a] (p7)**

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

"There currently exists a significant security threat on the part of a variety of forces referred to as 'anti-Coalition forces' (when operating in areas of Coalition influence and control) or 'anti-Government forces' (when staging operations against the Government and international assistance programmes that support national reconstruction). These groups are composed of former Taliban, Al-Qaida, members of Hezb-i-Islami, and perhaps others. They have engaged in steady acts of relatively small-scale violence, targeted assassinations, bombings, rocket attacks and occasional armed assaults." **[39k] (para 36)**

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

6.428 In a report of 13 January 2005, Human Rights Watch noted that "In the south and southeast of the country, Taliban remnants and other anti-government forces outside Afghanistan's political framework have continued to attack humanitarian workers and coalition and Afghan government forces." **[17f] (p2)** The United States State Department (USSD 2005) Report, published on 8 March 2006, recorded that during 2005 "Terrorists and insurgents, including Taliban, al-Qa'ida, and Hizb-e-Islami Gulbuddin, killed numerous civilians during their attacks. There were reports that the Taliban and its allies summarily executed NGO workers and other persons. Attacks on international organizations, international aid workers and their local counterparts, and foreign interests and nationals

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increased significantly during the year and prompted some organizations to leave." **[2d] (Section 1a)**

6.429 On 13 June 2005, the Xinhua News Agency reported:

"Dozens of anti-government militants, including low and medium ranking Taliban leaders as well as supporters of the former prime minister [Gulbudin Hekmatyar], have joined the peace process under a general amnesty announced by [sic] Afghan government in last November [2004]. However, Taliban's elusive chief Mullah Mohammad Omar and Hekmatyar, who termed the US-backed Afghan leader Hamid Karzai as 'US puppet,' have rejected the amnesty and called for Jihad or holy war till [sic] the withdrawal of foreign troops from Afghanistan." **[40p]**

6.430 In a report dated 12 August 2005, the UN Secretary-General said that extremist violence had not diminished and had, in fact, increased. **[39c] (p19)** The report noted: "The southern and parts of the eastern regions of the country have borne the brunt of the recent upsurge in violence. Attacks by extremist elements (including elements claiming allegiance to the Taliban and Al-Qaida) take place on an almost daily basis. In a significant departure from their previous tactics, which focused on provincial authorities, international and national forces and election workers, insurgents are now also targeting local communities and their leaders." **[39c] (p15)**

6.431 In the same report the UN Secretary-General also said that "The Taliban and Hezb-Islami- Gulbuddin Hekmatyar are not autonomous operations; their external sources of support must be tackled if Afghanistan is to be spared the prospect of a lasting insurgency with unpredictable consequences, for the country and for the region as a whole." **[39c] (p19)** The Secretary-General also noted that "There is an increase in the sophistication of weapons used and in the type of attacks being carried out by insurgents and anti-government elements, especially in the south and parts of the east of the country." **[39c] (p2)**

6.432 The January 2006 Human Rights Watch report stated that:

"In 2005, Taliban and other anti-government forces, some allied with Gulbuddin Hekmaytar, significantly expanded their insurgency in the predominantly Pashtun areas in southern Afghanistan. It was also the deadliest year for U.S. forces and their coalition allies in Afghanistan: more than eighty-five U.S. troops were killed, more than fifty of them as a result of hostile fire. Over 1,500 Afghan civilians died because of this political violence…The sharp increase in violence indicates that the Taliban has succeeded in regrouping, with significant assistance from across the Pakistani border. It also reflects growing resentment by local Afghans against a central government that fails to deliver on promises of development and the heavy-handed tactics employed by U.S. and coalition forces." **[17o] (p1-2)**

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

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TALIBAN

6.434 A June 2005 UNHCR report recorded:

> "A combination of US and coalition-bombing, ground military actions, which started on 7 October 2001, military support to Afghan factions and other commanders belonging to Northern Alliance and the retreat or hand-over of power by the Taliban to local groups resulted in the effective collapse of the Taliban regime. Some Taliban and Al-Qaeda elements escaped, largely into border-areas with Pakistan, where they set-up [sic] bases and re-grouped. There, military activities in response to infiltration of anti-government elements are continuing by US and Coalition-forces, at times jointly with Afghan national forces." **[11b] (p8)**

6.435 An April 2005 report by the Netherlands Institute of International Relations stated that "The Taliban are still mounting an insurgency in the east and south of the country, with bases and recruitment areas in Pakistan." The reports also stated that counter-productive efforts to defeat the insurgency had, in part, contributed to its growth: "Anyone associated with the Taliban felt threatened with indefinite detention and possibly torture by the US without judicial review. Aggressive counter-insurgency tactics, especially house searches and bombings of villages, also generated vendettas against the US." **[89] (p47)**

6.436 During 2004 there were reported arrests of prominent Taliban members including Maulvi Abdul Mannan Khawajazai, ex-governor of the western Badghis region **[25e]**; Mullah Amanullah, a brother-in-law of the fugitive Taliban leader Mullah Mohammad Omar **[24c]**; Mullah Mujahid, a top Taliban commander, and Ghulum Mohammed Hotak, a former Taliban commander. **[55] (p1)**

6.437 Following the presidential election in October 2004, a number of observers reported that the Taliban failed to cause disruptions on polling day. The International Crisis Group (ICG) stated on 23 November 2004 "Clearly, they [the Taliban] were unable or unwilling to carry through their avowed intention to disrupt the presidential election." **[26d] (p25)**

6.438 On 19 November 2004 the *Washington Post* reported:

> "The Taliban movement suffered a serious psychological and military setback after failing to disrupt Afghanistan's presidential election last month, but the radical Islamic militia still poses a formidable military threat, and one faction has begun carrying out daring, al Qaeda-style urban terrorist attacks, according to Afghan and foreign analysts. Experts said the movement was beset by leadership rivalries and internal divisions after a year of revived strength and cohesion…
>
> "Most officials and experts concede that much of what is known about the Taliban's current military and political state is guesswork. Estimates of its size range from less than 2,000 armed fighters to more than 10,000. The militia mostly bases itself on the Pakistani side of the border, where Afghan forces have little on-the-ground intelligence." **[32]**

6.439 The *Washington Post* article also noted that there were growing signs of a serious three-way split within the Taliban:

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"The first indications of a split came soon after the Taliban was ousted from power in late 2001. Wahid Mojdah, an Afghan court official who worked in the Taliban foreign ministry, said some fighters became active in the armed resistance to the new government headed by President Hamid Karzai. Others began cooperating with authorities and some fled to Pakistan, hoping to eventually return under an amnesty. The last group is the largest, he said, and includes some ex-ministers… Recently, Mojdah and others said, there had been a further split among the fighters. Last year, a Taliban commander named Akbar Agha announced he was forming Jaish-e-Muslimeen in a challenge to the rule of Mohammad Omar, the longtime Taliban commander who is being hunted by U.S. troops… The mainline Taliban accused Agha of indiscipline and corruption. Agha's group has asserted responsibility for kidnapping the three U.N. workers [on] Oct. 28 [2004], a daring, first-ever assault against Westerners in the heavily guarded capital. But Yusufzai, the journalist, said Jaish-e-Muslimeen had used the tactic before, kidnapping several Turkish and Indian highway workers during the last two years. Most were released after a ransom was paid." **[32]**

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

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

6.441 BBC News reported on 5 June 2005 that a high-ranking Taliban commander, Haji Sultan, was captured in Farah province and Mullah Mohammed Rahim, a senior Taliban official was also arrested. **[25ai]** On 15 August 2005 Radio Free Europe/Radio Liberty (RFE/RL) reported that Afghan security forces and US troops had captured a key neo-Taliban commander, Qari Baba, in Ghazni province. Baba was governor of Ghazni during the Taliban's rule and he is believed to be responsible for attacks on US and Afghan forces in the province **[29k]**. On 18 August 2005, Dawn.com reported that the head of the Taliban's Culture and Information Council, Maulvi Muhammad Yasir, had been arrested in Pakistan. **[65a]**

6.442 On 17 June 2005 the *Asia Times* reported: "In line with the expectations of Afghan authorities and US-led coalition forces, disruptive activities and terrorist acts either committed by or in the name of the Taliban and their allies have increased since the weather improved in southern and eastern Afghanistan." Commenting on anti-US demonstrations in May 2005 and the 1 June suicide bombing of a Kandahar mosque that killed mourners of an anti-Taliban cleric, the report stated:

"The possible role of the Taliban is unclear. No one has pointed a finger at the Taliban for fueling the demonstrations and the militia's spokesman, Mufti Latifullah Hakimi, has denied any involvement. The Taliban did claim responsibility for the May 29 [2005] murder of Mawlawi Abdullah Fayyaz, head of the Council of Ulema of Kandahar and an ardent opponent of the Taliban. However, Hakimi,

commenting on the suicide attack in the Kandahar mosque during services held for Fayyaz, said: 'This shouldn't have occurred. We strongly condemn this act.'"

"It is difficult to differentiate between wanton acts of violence in Afghanistan. Some attacks, carried out in the name of the Taliban, are actually committed by drug dealers or other criminals. And the Taliban often claims responsibility for acts of violence that it has not committed." **[93]**

6.443 On 25 July 2005, BBC News reported that "Fugitive Taleban leader Mullah Mohammed Omar has purportedly called on the movement's supporters to unite and fight Afghan and foreign troops. In an audio tape, a man said to be Mullah Omar is heard telling his forces not to harass civilians while waging war against foreign invaders." **[25ae]** On 11 December 2005, Reuters reported that "Afghanistan's Taliban guerrillas have issued an Islamic decree [fatwa] calling for President Hamid Karzai to be killed for serving American and British 'infidels'." **[24d]**

6.444 A report by the UN Secretary-General dated 30 December 2005 stated that during the parliamentary election campaign Taliban forces had re-emerged and tried to disrupt the September 2005 elections for the Wolesi Jirga and the provincial councils but with little success. **[39b] (p5)**

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

6.446 A *Guardian* news article dated 29 September 2005 reported that suicide bombings used to be almost unknown in Afghanistan. However, "Afghan officials believe al-Qaida has renewed its ties with the Taliban." The article stated that suspicions had been aroused following the June 2005 bombing of a mosque in Kandahar. Furthermore, "In an interview published this week, a Taliban commander boasted he had trained in Iraq for several months and was now bringing his expertise home." **[18d]** On 27 December 2005 RFE/RL reported that Taliban commander, Mullah Dadullah had said that more than 200 Taliban fighters had volunteered to carry out suicide attacks against US forces and their allies. **[29n]**

6.447 An article dated 17 January 2006 by RFE/RL stated that "A purported spokesman for the Taliban has claimed responsibility for all of the recent suicide attacks in Kandahar Province. However, that claim could not be independently confirmed. Analysts and some military officials said the rise in suicide attacks reflects an increase in the influence of Al-Qaeda since the presidential election in October 2004." **[29m]** On 2 June 2005 the *Guardian* had reported a senior analyst with the International Crisis Group as saying that suicide bombings were not traditionally Afghan and the June bombing of a mosque in Kandahar showed "… the influence of a global jihadi network." **[18a]**

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

"The Taliban has evolved considerably since its removal from power in the fall of 2001. Deterred from operating in large numbers due to superior Coalition technology and airpower, the insurgents function in small cadres under a loose command structure. Taliban operations primarily focus on soft targets such as aid workers, government employees, and Afghan citizens deemed to be collaborating

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with the government. For example, in June 2005 the Taliban began targeting mullahs that endorsed the Karzai government, killing six by the time of the parliamentary elections. The Taliban has become younger, recruiting men typically in the 18-25 age range from madrassas straddling the border with Pakistan. Profits from its involvement in the drug trade coupled with increased support from benefactors overseas (including al-Qaida) have enabled the Taliban to purchase more sophisticated weaponry, including Russian and Chinese surface-to-air missiles. The downing of an MH-47 helicopter carrying 16 U.S. personnel in June 2005 demonstrated the operational advantage that such weapons have conferred on the Taliban." **[59] (p11)**

6.449 The FPIF report also stated that:

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

6.450 On 4 October 2005, BBC News reported that security forces in Pakistan had arrested the leading Taliban spokesman, Latifullah Hakimi, in Balochistan province. **[25q]** A further BBC report of 27 October 2005 stated that 14 Taliban suspects, including Hakimi and another senior figure, Mohammad Yasar, had been returned to Kabul from Pakistan, in Pakistan's first extradition of Taliban suspects. **[25am]**

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

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FORMER TALIBAN MEMBERS

6.452 The Danish fact-finding mission to Kabul in March/April 2004 reported that, according to UNHCR, former members of the Taliban who were guilty of human rights abuses were likely to get into trouble with the local community. However:

"The source mentioned that low profiled, or ordinary Taliban members generally do not face problems when integrating in the local community…The Norwegian Chargé d'Affaires pointed out that not all Taliban supporters committed crimes. The source was of the opinion that many ordinary people choose [sic] to join the Taliban just in order to get a job and are therefore not necessarily guilty of human rights abuses. The source found that at the present time there is very little persecution going on of the Taliban supporters. They have adapted to the society and have no problems solely because they are former members of the Taliban." **[8] (section 6.7)**

6.453 The Danish report further noted:

"The UNHCR explained that it is most likely that some of the people who earlier supported the Taliban are now living in Kabul and other areas without having difficulties with the existing people in power. However the UNHCR pointed out that people who are known for having supported the Taliban run the risk of receiving serious threats if they return to the areas of Faryab, Badghis, Bamian and Ghazni in northern, north western and central Afghanistan. The source explained that a number of the acts of revenge related to the conflicts that aroused [sic] during the Taliban period is [sic] being carried out. The source [k]new of episodes where the local population had imposed certain conditions towards a refugee wishing to return, whom they believed had committed human rights violations. The source said in this context that the battle of the coalition forces in southern and southeastern Afghanistan is directed against high profile Taliban members and Al-Qaeda members." **[8] (section 6.7)**

6.454 The Danish report also stated:

"The UNAMA found that the situation for former members of the Taliban is complex. The questions as to whether a former member will have problems in Afghanistan today depends on whether the person concerned has a solid network, and is in a position to persuade that he has changed side [sic] to the people in power. An international NGO mentioned that people who formerly worked for the Taliban can have problems in Afghanistan today, but that the extent of the problems depends on how highly placed the person was." **[8] (section 6.7)**

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

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

6.456 On 10 July 2005, CagePrisoners.com reported:

"The U.S. military freed 76 Taliban suspects on Saturday as part of an effort to encourage rank and file guerrillas to lay down their arms, the latest batch freed this year despite a surge in militant violence… They were the latest freed since President Hamid Karzai called for release from custody of all Afghan prisoners in U.S. detention following an outcry over reports of abuse, including the deaths of two inmates at Bagram. Another group of 57 were freed early this month, 53 in June [2005], 86 in May [2005] and 81 in January [2005].

"The government reconciliation programme announced last year has seen only limited success and Afghanistan has seen a surge in Taliban-linked violence in the run up to Sept. 18 elections. U.S. forces have captured hundreds of suspected militants since toppling the Taliban for harbouring al Qaeda chief Osama bin Laden, architect of the Sept. 11 attacks. U.S. military spokeswoman Lieutenant Cindy Moore said about 450 remained in custody." **[12]**

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6.457 In a June 2005 report, UNHCR stated:

"It can be presumed that most of the 'rank and file' Taliban has already returned to their communities of origin, either in Afghanistan or in Pakistan. Many former Taliban fighters have been released from detention on grounds that they were conscripts and 'innocent,' starting in 2002 and in smaller groups since. There are also attempts to include a number of moderate Taliban in the political process to further national unity. To this end, a Commission, headed by Sigbatullah Mojadeddi, has been established, which follows issues of reconciliation, including questions related to amnesties for specific Afghans wishing to return to and participate in the political process in Afghanistan. However, the country has seen surges in the level of violent incidents in some parts directed against the transition process, against the Government and its institutions, which is largely attributed to remnants of the Taliban as well as segments of the Hezb-e-Islami (Hekmatyar). The factions openly oppose and try to disrupt the process toward democracy, and object in particular to the presence of US military forces in Afghanistan. Active association with Taliban or other anti-Government elements may therefore entail serious consequences for the individual concerned, including arbitrary and prolonged detention, ill-treatment and torture, intimidation and extortion by military forces. There are reports from the Eastern and Southeastern regions that Afghans are falsely accused of supporting active Taliban networks. The accusers may be local commanders or members of security forces intent on extorting money from influential and rich Afghans. The co-operation, in many instances, of these local commanders, with Coalition forces to counter remnants of the Taliban and Al-Qaida, has increased the real and perceived authority of these. In other instances, accusations may be a means to take revenge against an Afghan individual for private reasons.

"When reviewing the cases of persons associated with the Taliban and similar groups, it is imperative to undertake an analysis of the potential applicability of exclusion clauses of Article 1 F of the 1951 Refugee Convention. To some extent, many of these individuals were involved, directly or indirectly, in widespread human rights violations." **[11b] (p48-49)**

(See also: UNHCR and ECRE guidelines**)**

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

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

"The reconciliation policy, articulated more clearly by Karzai after April 2003, initially maintained that some 100-150 former members of the Taliban regime are known to have committed crimes against the Afghan people; all others, whether dormant or active within the ranks of the neo-Taliban, could begin living like

normal citizens by denouncing violence and renouncing their opposition to the central Afghan government…

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

6.459 Reuters reported on 14 November 2005 that Taliban fighters had rejected President Karzai's call for them to join the reconciliation process. It was also reported that, according to officials, at least four more people had been killed by Taliban fighters in attacks in the south and east of the country. **[40f]** BBC News reported on 9 January 2006 that a further offer of talks from President Karzai had been rejected by claimed Taliban spokesman, Mohammed Hanif. It was also reported that Mullah Omar had recently promised to step up attacks in 2006. **[25u]**

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

6.461 The RFE/RL report also stated that "The former Taliban officials distance themselves from militants who are continuing attacks in the southern and eastern regions of the country. They say they are talking to the government in the name of their party – not as Taliban members. 'We talked to the government representing the Khuddam ul Furqan [Servants of the Koran] – not the Taliban,' Fawzi says." **[29b]**

6.462 On 21 April 2005 Agence France-Presse reported the surrender of two more senior members of the former Taliban regime under the amnesty offer. They were named as Mullah Mohammed Naseem, the former governor of Zabul province and former police chief of Farah province Akhtar Mohammed. It was also reported that Another Taliban commander, Mullah Abdul Wahid, had surrendered last month in Helmand. The Afghan interior ministry spokesman was quoted as saying that many Taliban had come forward under the amnesty offer. **[40ac]**

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

"Although many senior officials in the frontline provinces were initially skeptical last year when Mr. Karzai spoke of an amnesty for all except the Taliban senior leadership, many of them now voice support for the policy. In the absence of the federal program, some provincial and even national law enforcement officials around the country have been welcoming the former Taliban officials and fighters home if they promise to eschew violence and support the government." **[28a]**

6.464 The *New York Times* article also reported a former Taliban recruiter as saying that a lot of people have not joined the process because their friends and relatives are

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still in Bagram [Afghanistan] and Guantanamo [Cuba] prisons and they fear they will also be arrested and jailed. The article further noted:

"The American military, recognizing that there is some risk involved, has released a few former Taliban with the assurances of tribal elders that they will vouch for the men's good intentions. Two of those freed have been appointed district police chiefs in the border provinces most prone to Taliban-led incursions. A third man had been accused of involvement in an explosion in Paktika Province last October that killed five people, including a local doctor who was a senior election official." **[28a]**

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

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

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

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

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FORMER TALIBAN PARTICIPATION IN 2005 ELECTIONS

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

6.469 Pajhwok Afghan News reported on 13 November 2005 that successful former Taliban figures and supporters in the September 2005 parliamentary elections included Mullah Abdul Salam Rocketi (Zabul), who acquired the nickname

"Rocketi" because of his skill in handling rockets. Other successful candidates included former Bamyan governor Maulavi Mohammad Islam Mohammadi (Samangan), Deputy Planning Minister Haji Moosa Hotak (Maidan Wardak), army division commander Maulavi Hanif Shah (Khost), military commander Mullah Tarakhail Kuchi, provincial revenues department chief Khiyal Mohammad Husseini (Ghazni), Ustad Akbari (Bamyan) and Sangar Dost (Maidan Wardak). **[95d]**

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

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HIZB-E-ISLAMI (HISB-E-ISLAMI/HEZB-E-ISLAMI/HIZB-I-ISLAMI)

6.471 On 9 August 2005, the Terrorism Knowledge Base, sponsored by the National Memorial Institute for the Prevention of Terrorism (MIPT), recorded:

"The Hizb-i-Islami (Islamic Party) of Afghanistan was formed by Gulbuddin Hikmatyar [Hekmatyar] in the mid-1970s. Originally the party acted as an Islamist insurgency against the Daud regime in Kabul. After the Soviet invasion the group was heavily involved in anti-Soviet attacks funded through the Pakistani Inter-Services Intelligence (ISI) and the United States. In the factional fighting that emerged after the Soviet withdrawal from Afghanistan, the Islamic Party forged a number of non-durable political alliances, first with officials in the Najibullah regime and later with Uzbek warlord Dostam. After repeated attacks on Kabul and the regime of Rabbani Hikmatyar, the Islamic Party finally entered into the Afghan government in 1996, only to be driven from power shortly thereafter with the rise of the Taliban.

"The Hizb-i-Islami split in the late 1970s, with Maluvi Mohammad Yunus Khalis's faction breaking away from the dominant group led by Hikmaytar. Recent reports suggest that the fragmentation of the Islamic Party has continued, with a group led by Khalid Farooqi proclaiming to support the transitional regime of Hamid Karzai and end their struggle against the Afghan government and coalition troops. Farooqi has claimed that his faction of the group has cut off all contact with Hikmatyar, who remains at large. The precise balance of power within the Hizb-i-Islami remains unknown." **[52]**

6.472 On 14 September 2004, the Institute for War and Peace Reporting reported that Hekmatyar was designated a terrorist by the US State Department in February 2003 for participation in and support for terrorist acts committed by al-Qaeda and the Taleban. **[73n]**

6.473 In September 2004 the UN-appointed independent expert of the Commission on Human Rights noted that Hizb-I Islami is one of the groups in addition to the Taliban and Al-Qaida known as "anti-Coalition forces" or "anti-Government forces" which represent a significant security threat in Afghanistan. "They have engaged in steady acts of relatively small-scale violence, targeted assassinations, bombings, rocket attacks and occasional armed assaults." **[39k] (para 36)**

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6.474 An International Crisis Group (ICG) briefing dated 2 June 2005 stated:

> "In May 2004, a delegation from the party's executive committee, based in Peshawar, Pakistan, travelled to Kabul to pledge support for the Karzai government. Led by Khaled Farooqi, a Pashtun from Paktiya province, the group claimed to have broken with Hikmatyar [Hekmatyar] and declared its intentions to participate in the political process. The registration of Farooqi's group as a political party has been delayed by its insistence on retaining the party's original name [Hizb-e Islami Hikmatyar (Party of Islam Hikmatyar)]. Ministry of justice officials argue that Farooqi and his group must then assume responsibility for the weaponry of a party that was a major contender during the civil war. Given Hikmatyar's long-time absolute control over the party machinery, many observers believe he may still have influence, especially since Farooqi has yet to demonstrate his ability to lead the party. However, many former Hizb-e Islami commanders in the north and south did support Karzai during the presidential elections, and many of them now hold key positions in Kabul and provincial administrations." **[26e] (p8)**

6.475 An earlier ICG Asia Briefing published on 30 March 2004 noted: "In the weeks since the Constitutional Loya Jirga, the president has appointed a number of former Hizb-i Islami (Hikmatyar) [Hekmatyar] commanders and political figures to high-level posts, including Bashir Baghlani as governor of Farah, Khyal Mohammad as governor of Zabul, and Sabawoon as minister-adviser in the Ministry of Border and Tribal Affairs." **[26a] (p8)** The ICG also noted that the incorporation of former Hizb-i Islami personalities into the Government indicated that the support extended to President Karzai by former Hizb-i Islami members may be more than a short-term alliance. **[26a] (p8)**

6.476 A Danish fact-finding mission to Kabul in March/April 2004 reported that, according to UNHCR, there are small groups of Hezb-e-Islami (Hekmatyar) in Kunar province. According to the source, "Nobody knows where Hekmatyar himself is living. Some of his men work with the Taliban. In the opinion of the source, Hekmatyar's position is weak. Khalis has joined Shura-e-Nazar and various Khalis supporters work for the government." **[8] (section 6.8)**

6.477 The Danish fact-finding report also noted: "The ICG [International Crisis Group] was of the opinion that Hezb-e-Islami does not exist today as a political party, but could be characterized better as a loose structure of individual warlords. The source found that the Hekmatyar's faction of the Hezb-e-Islami is not regarded as an important factor in the resistance against the government, but rather as a factor of annoyance." **[8] (section 6.8)**

6.478 Reports by the Afghanistan Justice Project (AJP) published on 29 January 2005 **[13a]** and 17 July 2005 **[13b]** give detailed information on war crimes committed by various individuals and parties, including Hizb-i-Islami, during the years of conflict (1978-2001) in Afghanistan. The January report focuses particularly on the post-1992 period. The reports should be referred to directly if further information on the activities of Hizb-i-Islami during those years is required. (See Annex G source numbers **[13a] [13b]**)

6.479 On 22 November 2004, an article on Eurasianet noted:

"In a newly released recording, renegade warlord and former Afghan Prime Minister Gulbuddin Hekmatyar stepped up calls for Afghans to engage in jihad, or holy war, against the United States, AFP [Agence France-Presse] reported on 21 November [2004]… Hekmatyar, the leader of the militant group Hizb-e Islami, urged Afghans to employ suicide attacks, which so far have been rare in Afghanistan. 'If [Afghans] cannot fight in an organized front, they can risk their lives and carry out suicide guerrilla attacks, which have given great defeats to the enemy,' Hekmatyar said. 'We have lots of young fighters who are ready to sacrifice their lives and wealth to save the religion.'" **[45a]**

6.480 A report by the AIHRC and UNAMA dated June 2005, published prior to the parliamentary elections in September 2005, stated "In Barr village of Mazina town, Rodat District, Nangarhar tribal elders under the command of Haji Rohullah, a former Hezbi-Islami commander, threatened to extract 25,000 rupees from those who did not vote for him, in addition to burning down their homes." **[48a] (p7)**

6.481 On 13 June 2005, the Xinhua News Agency reported that, according to a state-run newspaper, *Anis*, eighteen opposition commanders affiliated with Hekmatyar had laid down their arms and joined the Government. The report said that the commanders surrendered to the Government in Paktia's provincial capital Gerdiz the previous day: "All of them have expressed their readiness to defend the government against enemies, said the report." **[40p]**

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FORMER HIZB-E-ISLAMI MEMBERS

6.482 The Danish fact-finding mission of March/April 2004 reported the views of various sources on the position for people with connections to Hezb-e-Islami. According to UNHCR, ex-Hezb-e-Islami, including former commanders, do not have any problems with the Government in Afghanistan today if they make it clear that they are no longer working with Hekmatyar. UNHCR was reported as saying that: "A number of ex-Hezb-e-Islami members occupy high positions within the government. As an example the source mentioned that Hekmatyar's former right-hand [man] currently holds a high position in the government. The present situation taken into consideration, the source found that it depends on the history of a former member of the Hezb-e-Islami whether or not he/she risks being persecuted in Afghanistan." **[8] (section 6.8)**

6.483 The Danish report also noted that, according to UNHCR, Hezb-e-Islami (Hekmatyar) previously had a lot of civil servants attached to the group and it was likely that President Karzai would include such former officials in the Government:

"President Karzai has among other things appointed various former supporters of the Hekmatyar as governors. The question as to whether a former member of Hezb-e-Islami risks being persecuted today, depends on the person's connection with Hekmatyar, and to what extent the person still is in conflict with powerful people in Afghanistan." An international NGO agreed that the scope of the problems that may be experienced by people who formerly worked for Hezb-e-Islami would depend on their connections to Hekmatyar and whether or not they were currently in conflict with people in power. **[8] (section 6.8)**

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6.484 The Danish fact-finding mission also reported:

"The UNAMA mentioned a case in which a person had been arrested by the ANA [Afghan National Army] and was accused of being connected with Hezb-e-Islami. The person was released because his brother was able to prove to the ANA that the person in question no longer supported the Hezb-e-Islami. The source stated that if the security forces believe that one is connected to the Hezb-e-Islami's Hekmatyar faction, one risks being arrested. There is also a risk that people will accuse others of having connections to Hekmatyar for personal motives." **[8] (section 6.8)**

6.485 The Danish report also noted:

"The CCA [Co-operation Centre for Afghanistan] confirmed that there are people connected with the government who earlier belonged to Hezb-e-Islami. The source mentioned that one of President Karzai's advisors was formerly the deputy head of Hezb-e-Islami's security forces in Peshawar. The source was of the opinion that a former member of the Hezb-e-Islami who has changed side, and who is clearly expressing his support for the government can remain in Afghanistan without being involved in problems. However, it is a pre-condition that one is no longer connected with the party. People who are currently active for the Hezb-e-Islami are considered to be at war with the current government like the Taliban supporters. They will not be able to remain in the country without encountering problems." **[8] (section 6.8)**

6.486 The April 2005 report by the Netherlands Institute of International Relations recorded that "Hikmatyar [Hekmatyar] is active in the northeast corner of the Pashtun belt, but he is not a strategic threat. Most of his former party members around the country have accepted the government, and some serve as governors, police chiefs, and other officials." **[89] (p47)**

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FORMER HIZB-E-ISLAMI MEMBERS' PARTICIPATION IN THE 2005 ELECTIONS

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

6.488 An article dated 11 November 2005 from Pajhwok Afghan News reported that other Hezb-i-Islami followers contested the elections from Kabul but were also unsuccessful. Analysts were reported as attributing their failure in the capital to the fighting in Kabul during 1992 which claimed more than 60,000 lives; tough

opponents, a dispute with the Government and officials of the Electoral Commission and quarantined ballot boxes. **[95c]**

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

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

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

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

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

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

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

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AL QA'IDA (AL-QAEDA)

6.494 A BBC News timeline dated 22 April 2005 recorded that the US launched attacks on Afghanistan, where Osama bin Laden had been operating, six weeks after the attacks of 11 September 2001 in the US. Hundreds of suspected Al Qa'ida fighters were subsequently held in custody in the US base in Guantanamo Bay, Cuba. **[25i]** The Al Qa'ida organisation is proscribed in the UK under the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2001. **[21]**

6.495 On 29 July 2004, a House of Commons Foreign Affairs Committee reported that the primary objective of the ongoing US-led Operation Enduring Freedom (OEF) in Afghanistan was to extinguish the remaining groups of Al-Qaeda and other foreign fighters, and the diehard remnants of the former Taliban regime. The report noted that "Coalition forces, principally the Americans, continue their search for Osama bin Laden in the border area between Afghanistan and Pakistan." **[53] (p72)**

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

PERSONS IN CONFLICT WITH PRESENT POWER BROKERS

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

> "The government is not in a position to offer any form of protection against warlords or local commanders. The source stated that a conflict in which a person was guilty of attacking the honour or reputation of a warlord should be regarded as serious. The UNHCR explained that the situation for people involved in past conflicts with persons from the Northern Alliance will depend upon the specific area the person concerned will return to, and what kind of conflict." **[8] (section 6.6)**

6.498 The Danish report also noted that, according to the Co-operation Centre for Afghanistan [CCA], people who have been involved in conflicts with Jamiat-e-Islami would have problems in Afghanistan today:

> "The problems depend on the profile of the person and the character of the conflict. The organization further explained that the question as to whether a person who has previously been in involved [sic] in conflicts with people from Shura-e-Nazar will continue to have problems if he returns to Afghanistan, will depend on the type of the conflict, the importance of the person concerned and the other person involved in the conflict. At the same time it depends upon where too [sic] one returns. As an example the source mentioned that if one is involved in a ten-year-old conflict with a single man from the countryside, and returns to Kabul, it is not likely that one will get any problems. If one has any problems with powerful individuals within Shura-e-Nazar one runs, according to the organization, the risk of being persecuted in Afghanistan as the situation is today."
> **[8] (section 6.6.1)**

6.499 The June 2005 UNHCR position paper stated that "Afghans expressing their political opinions are at greater risk of persecution, if these opinions are perceived

as critical of the interests of local and regional commanders and powerful factions. Risks continue to exist … for persons known to have political affiliations different from those of persons linked to armed factions exercising de-facto power at the local level." **[11b] (p44)**

(See also: UNHCR and ECRE guidelines**)**

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DOCUMENTS AND REGISTRATION OF BIRTHS AND MARRIAGES

6.500 The US State Department Report 2005 published on 8 March 2006 recorded that "The passport law requires a woman to obtain permission from a male family member before having a passport application processed." **[2d] (section 2d)**

6.501 The Danish fact-finding mission of March/April 2004 noted that, according to the Ministry of Interior (MoI):

"The applicant has to submit his request for a passport in person. The applicant should at the same time prove his identity, for example by showing an identity card. If the applicant is not in possession of such documentation, his identity can be established by other means among other things by conducting a personal interview. In order to have an Afghan national passport extended it is necessary to appear in person. According to the source a male Afghan citizen can have his wife and children up to age of 14 registered in his passport without his wife having to appear at the passport office to sign the passport. However, pictures of wife and children have to be submitted." **[8] (section 8.1)**

6.502 The Danish report also noted:

"According to the Ministry of the Interior, the provincial authorities have the authority to issue national passports. Police headquarters have passport departments. The validity for such passports is one or two years depending on the period requested… When issuing a passport the applicant has to pay a fee of 1,160 Afghanis (approximately US $ 20-22) per year the passport is valid.

"According to the Ministry of the Interior all Afghan embassies and consulates have the authority to issue passports for Afghan citizens. One has to appear in person to be identified at the representative office abroad in order to have a passport issued. However the source informed that the Afghan authorities consider the identity determined if a government, e.g. the Danish government, forwards passports to the Afghan representative office abroad.

"The Afghan authorities have begun to register all passports that are being issued. The serial number, photograph and fingerprint are noted in a book. In this way, it is possible to verify whether a passport has actually been issued to the person holding it. The Ministry of Interior was of the opinion that many citizens from Afghanistan's neighbouring countries have illegally been issued an Afghan national passport. This applies to people from Pakistan, Iran, Uzbekistan and Tadjikistan [Tajikistan]. This has happened because it has not been possible to check the identity of the applicants." **[8] (section 8.1)**

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6.503 The Danish report also noted that:

"The Ministry for the Interior informed that there are very few Afghans who have a marriage certificate and that in general such certificates are not issued at all outside large towns. The source pointed to the fact that there does not exist systematic registration of marriages making it impossible to check whether or not two Afghan citizens are in fact married to one another. The Vice Minister for Women's Affairs mentioned in this connection that in Afghanistan there is a lack of offices where marriages can be registered."

An international NGO agreed that very few couples possess a marriage certificate. According to the source only about 25-30 per cent of all couples in Kabul possess a marriage certificate and outside Kabul only ten per cent of married couples have one. **[8] (section 8.2)**

6.504 The Danish report continued:

"Both the Ministry of the Interior and the international NGO said that a marriage certificate can be issued after the marriage. In such cases one should approach the court where a form has to be filled in. It is necessary to go to the court accompanied by persons who can testify being witnesses to the marriage, e.g. the witnesses who took part in the marriage ceremony, or the families of the partners.

"The Ministry of the Interior explained furthermore that the Afghan representations abroad are not in principle authorized to issue proofs of marriage, because they cannot check whether or not the couple is married. If embassies issue such proofs, this is more an expression of goodwill than a proper confirmation in the legal sense." **[8] (section 8.2)**

6.505 The Afghan Ministry of Interior has produced a Project Document for Birth Registration of All Children under five. The undated document shows that the timescale for the registration of children under five is April 2004 to March 2005 and states:

"Afghanistan has a legal provision for birth registration, but 23 years of war and fractured social and public administration system has led the system to fall into disuse. No formal birth registration mechanism existed except for certification of birth by the person/institution who assisted in the delivery of the child. Previous data on the Multiple Indicator Cluster survey in 2000 showed that only 2 percent of children under five years of age in the south-eastern region and 18 percent of children in the Eastern region had birth certificates before the recent campaign conducted for under 1s during 2003." **[10]**

(See also Section 5: Citizenship and Nationality **for information on ID cards)**

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Annex A: Chronology of events

Source **[25b]** unless otherwise stated.

1919 Afghanistan regains independence after third war against British forces trying to bring country under their sphere of influence.

1926 Amanullah proclaims himself king and attempts to introduce social reforms leading to opposition from conservative forces. [NB. Europa records that Amanullah succeeded his father, Habibullah, after Habibullah's assassination in 1919.] **[1a] (p53)**

1929 Amanullah flees after civil unrest over his reforms.

1933 Zahir Shah becomes king and Afghanistan remains a monarchy for next four decades.

1953 General Mohammed Daud becomes prime minister. Turns to Soviet Union for economic and military assistance. Introduces a number of social reforms, such as abolition of purdah (practice of secluding women from public view).

1963 Mohammed Daud forced to resign as prime minister.

1964 Constitutional monarchy introduced – but leads to political polarisation and power struggles.

1973 Mohammed Daud seizes power in a coup and declares a republic. Tries to play off USSR against Western powers. His style alienates left-wing factions who join forces against him.

1978 General Daud is overthrown and killed in a coup by leftist People's Democratic Party. But party's Khalq and Parcham factions fall out, leading to purging or exile of most Parcham leaders. At the same time, conservative Islamic and ethnic leaders who objected to social changes begin armed revolt in countryside.

1979 Power struggle between leftist leaders Hafizullah Amin and Nur Mohammed Taraki in Kabul won by Amin. Revolts in countryside continue and Afghan army faces collapse. Soviet Union finally sends in troops to help remove Amin, who is executed.

1980 Babrak Karmal, leader of the People's Democratic Party Parcham faction, is installed as ruler, backed by Soviet troops. But anti-regime resistance intensifies with various mujahedin groups fighting Soviet forces. US, Pakistan, China, Iran and Saudi Arabia supply money and arms.

1985 Mujahedin come together in Pakistan to form alliance against Soviet forces. Half of Afghan population now estimated to be displaced by war, with many fleeing to neighbouring Iran or Pakistan. New Soviet leader Mikhail Gorbachev says he will withdraw troops from Afghanistan.

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1986 US begins supplying mujahedin with Stinger missiles, enabling them to shoot down Soviet helicopter gunships. Babrak Karmal replaced by Najibullah as head of Soviet-backed regime.

1988 Afghanistan, USSR, the US and Pakistan sign peace accords and Soviet Union begins pulling out troops.

1989 Last Soviet troops leave, but civil war continues as mujahedin push to overthrow Najibullah.

1991 The US and USSR agree to end military aid to both sides.

1992 Resistance closes in on Kabul and Najibullah falls from power. Rival militias vie for influence.

1993 Mujahideen factions agree on formation of a government with ethnic Tajik, Burhanuddin Rabbani, proclaimed president.

1994 Factional contests continue and the Pashtun-dominated Taleban emerge as major challenge to the Rabbani government.

1996 Taleban seize control of Kabul and introduce hardline version of Islam, banning women from work, and introducing Islamic punishments, which include stoning to death and amputations. Rabbani flees to join anti-Taleban northern alliance.

1997 Taleban recognised as legitimate rulers by Pakistan and Saudi Arabia. Most other countries continue to regard Rabbani as head of state. Taleban now control about two-thirds of country.

1998 Earthquakes kill thousands of people. US launches missile strikes at suspected bases of militant Osama bin Laden, accused of bombing US embassies in Africa.

1999 UN imposes an air embargo and financial sanctions to force Afghanistan to hand over Osama bin Laden for trial.

2001 **January:** UN imposes further sanctions on Taleban to force them to hand over Osama bin Laden.
March: Taleban blow up giant Buddha statues in defiance of international efforts to save them.
April: Mullah Mohammad Rabbani, the second most powerful Taleban leader after the supreme commander, Mullah Mohammad Omar, dies of liver cancer.
May: Taleban order religious minorities to wear tags identifying themselves as non-Muslims, and Hindu women to veil themselves like other Afghan women.
September: Eight foreign aid workers on trial in the Supreme Court for promoting Christianity. This follows months of tension between Taleban and aid agencies.
Ahmad Shah Masood, legendary guerrilla and leader of the main opposition to the Taleban, is killed, apparently by assassins posing as journalists.
October: USA, Britain launch air strikes against Afghanistan after Taleban refuse to hand over Osama bin Laden, held responsible for the September 11 attacks on America.

November: Opposition forces seize Mazar-e Sharif and within days march into Kabul and other key cities.
5 December: Afghan groups agree deal in Bonn for interim government.
7 December: Taleban finally give up last stronghold of Kandahar, but Mullah Omar remains at large.
22 December: Pashtun royalist Hamid Karzai is sworn in as head of a 30-member interim power-sharing government.

2002 **January:** First contingent of foreign peacekeepers in place.
April: Former king Zahir Shah returns, but says he makes no claim to the throne.
May: UN Security Council extends mandate of International Security Assistance Force (ISAF) until December 2002.
Allied forces continue their military campaign to find remnants of Al-Qaeda and Taleban forces in the south-east.
June: Loya Jirga, or grand council, elects Hamid Karzai as interim head of state. Karzai picks members of his administration which is to serve until 2004.
July: Vice-President Haji Abdul Qadir is assassinated by gunmen in Kabul.
US air raid in Uruzgan province kills 48 civilians, many of them members of a wedding party.
September: Karzai narrowly escapes an assassination attempt in Kandahar, his home town.
December: President Karzai and Pakistani, [and] Turkmen leaders sign agreement paving way for construction of gas pipeline through Afghanistan, carrying Turkmen gas to Pakistan.
Asian Development Bank resumes lending to Afghanistan after 23-year gap.

2003 **June:** Clashes between Taleban fighters and government forces in Kandahar province leave 49 people dead.
August: Nato takes control of security in Kabul. It is the organisation's first operational commitment outside Europe in its history.

2004 **January:** Grand assembly – or Loya Jirga – adopts new constitution which provides for strong presidency.
March: Afghanistan secures $8.2bn (£4.5bn) in aid over three years.
April: Fighting in northwest between regional commander and provincial governor allied to government.
Twenty people, including two aid workers and a police chief, are killed in incidents in the south. Taleban militants are suspected.
First execution since the fall of the Taleban is carried out.
June: Eleven Chinese construction workers killed by gunmen in Kunduz.
September: Rocket fired at helicopter carrying President Karzai misses its target; it is the most serious attempt on his life since September 2002.
October/November: Presidential elections: Hamid Karzai is declared the winner, with 55 per cent of the vote. He is sworn in, amid tight security, in December.

2005 **February:** Several hundred people are killed in the harshest winter weather in a decade.
May: Details emerge of alleged prisoner abuse by US forces at detention centres in Afghanistan.
September: First parliamentary and provincial elections in more than 30 years.
December: New parliament holds its inaugural session.

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2006 **January:** More than 30 people are killed in a series of suicide attacks in southern Kandahar province.

Annex B: Maps

A more detailed map of Afghanistan can be accessed via the link below:

http://www.factmonster.com/atlas/country/afghanistan.html

A map of the Ethnic groups of Afghanistan can be accessed via the link below:

http://tfphoenixiii.org/afmaps.htm

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Annex C: Political organisations and other groups

"In September 2003 a new law allowing the formation of political parties was passed." Source: Europa: South Asia 2005. **[1b] (Political organisations)**

REGISTERED POLITICAL PARTIES

The Joint Electoral Management Body (JEMB) website, accessed on 2 March 2006, showed the following 76 Political Parties as being registered and approved by the Ministry of Justice as at 20 August 2005 **[74a]**:

1. **Hezb-e-Jamhoree Khwahan-e-Afghanistan**
   Leader: Sebghatullah Sanjar
2. **Hezb-e-Isteqlal-e-Afghanistan**
   Leader: Dr Ghulam Farooq Nejrabee
3. **Hezb-e-Hambastagee Mili Jawanan-e-Afghanistan**
   Leader: Mohammad jamil Karzai
4. **Hezb-e-Wahdat-e-Mili Afghanistan**
   Leader: Abdul Rashid Jalili (The International Crisis Group (ICG) noted in June 2005 that Jalili is a former Education Minister and dean of the agriculture faculty at Kabul University under the PDPA's Amin. The party depends on support from intellectual Pashtuns and former Khalqi Pashtuns. **[26e] (p9)**)
5. **Hezb-e-Mili Wahdat-e-Aqwam-e-Islami-e-Afghanistan**
   Leader: Mohammad Shah Khogyani
6. **Hezb-e-Kar Wa Tawsiha-e-Afghanistan**
   Leader: Zulfiqar Omid
7. **Hezb-e-Nahzat-e-Hambastagee Mili-e-Afghanistan**
   Leader: Peer Sayed Eshaq Gailanee
8. **Hezb-e-Mahaz-e-Mili Islami-e-Afghanistan**
   Leader: Peer Sayed Ahmad Gailanee
9. **Hezb-e-Nahzat-e-Aazadee Wa Democracy-e-Afghanistan**
   Leader: Abdul Raqib Jawid Kohistanee
10. **Hezb-e-Afghan Melat**
    Leader: Anwarul Haq Ahadi
11. **Hezb-e-Harakat-e-Islami-e-Afghanistan**
    Leader: Mohammad Ali Jawid
12. **Hezb-e-Sahadat-e-Mardom-e-Afghanistan**
    Leader: Mohammad Zubair Pairoz
13. **Hezb-e-Harakat-e-Mili Wahdat-e-Afghanistan**
    Leader: Mohammad Nadir Aatash
14. **Hezb-e-Ifazat Az Uqooq-e-Bashar Wa Inkishaf-e-Afghanistan**
    Leader: Baryalai Nasrati
15. **Hezb-e-Mili Afghanistan**
    Leader: Abdul Rashid Aryan (ICG noted in June 2005 that the party has its roots in the Khalq faction of the PDPA. **[26e] (p8)**)
16. **Hezb-e-Kangra-e-Mili-e-Afghanistan**
    Leader: Abdul Latif Pedram
17. **De Afghanistan De Solay Ghorzang Gond**
    Leader: Shahnawaz Tanai

18. **Hezb-e-Harakat-e-Islami Mardom-e-Afghanistan**
Leader: Ilhaj Sayed Hussin Anwary

19. **Hezb-e-Adalat-e-Islami Afghanistan**
Leader: Mohammad Kabir Marzban

20. **Hezb-e-Resalat-e-Mardom-e-Afghanistan**
Leader: Noor Aqa Roeene

21. **Hezb-e-Refah-e-Mardom-e-Afghanistan**
Leader: Mia Gul Wasiq

22. **Hezb-e-Sulh Wa Wahdat-e-Mili-e-Afghanistan**
Leader: Abdul Qader Emami?

23. **Hezb-e-Tafahum Wa Democracy-e-Afghanistan**
Leader: Ahmad Shaheen

24. **Hezb-e-Islami-e-Afghanistan**
Leader: Jawan Sayed Jawad Hussinee

25. **Hezb-e-Sulh-e-Mili Islami Aqwam-e-Afghanistan**
Leader: Abdul Qaher Shariatee

26. **Hezb-e-Wahdat-e-Islami-e-Afghanistan**
Leader: Mohammad Karim Khalili (ICG noted in June 2005: "The rump faction of the party led by Vice President Karim Khalili maintains a larger and more powerful network of former commanders than its competitor led by Mohaqqeq [see party 27 below] but appears to have comparatively little infrastructure or public support. It did badly in the elections to the Constitutional Loya Jirga, when Khalili was criticised by Hazara delegates for soft-peddling the issues of language and parliamentary powers. He has yet to regain lost ground with his Hazara base." **[26e] (p8)**)

27. **Hezb-e-Wahdat-e-Islami Mardom-e-Afghanistan**
Leader: Haji Mohammad Muhaqeq [Mohaqqeq] (ICG noted in June 2005 that this faction of the Wahdat had gained support, as shown in its leader's credible performance [third **[25y]**] in the presidential elections. "It [the party] appears to have shifted its identity from primarily Shia to Hazara nationalism. Avowedly anti-Karzai and fearful of 're-Pashtunisation' of the government -- which plays on historical Hazara concerns about political and economic marginalisation -- the party has gained support from many Hazara intellectuals." **[26e] (p8)**.

28. **Hezb-e-Lebiral Aazadee Khwa-e-Afghanistan**
Leader: Ajmal Suhail

29. **Hezb-e-Falah-e-Mardom-e-Afghanistan**
Leader: Ustad Mohammad Zareef

30. **Hezb-e-Hambastagee-e-Afghanistan**
Leader: Abdul Khaleq Nemat

31. **Hazb-e-Jamahat-ul-Dawat ilal Quran-wa-Sunat-e-Afghanistan**
Leader: Mawlawee Samiullah Najeebee

32. **De Afghanistan De Solay Mili Islami Gond**
Leader: Shah Mohammood Popal Zai

33. **Hezb-e-Arman-e-Mardom-e-Afghanistan**
Leader: Ilhaj Saraj-u-din Zafaree

34. **Hezb-e-Paiwand Mili Afghanistan**
Leader: Sayed Mansoor Nadree

35. **Hezb-e-Sahadat-e-Mili Islami-e-Afghanistan**
Leader: Mohammad Osman Salekzada

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36. **Hezb-e-Azadee-e-Afghanistan**
Leader: Ilhaj Abdul Malek
37. **Hezb-e-Rastakhaiz-e-Mardom-e-Afghanistan**
Leader: Sayed Zahir Qayed Omul Beladi
38. **Hezb-e-Majmeh Mili Faleen Sulh-e-Afghanistan**
Leader: Shamsul Haq Noor Shams
39. **De Afghan Watan Islami Gond**
Leader: Mohammad Hassan Firooz Khail
40. **Hezb-e-Aazadee Khwahan Mardom-e-Afghanistan**
Leader: Feda Mohammad Ehsas
41. **Hezb-e-Hambastagee Mili Aqwam-e-Afghanistan**
Leader: Mohammad Zarif Naseri
42. **Hezb-e-Eatedal-e-Mili Islami-e-Afghanistan**
Leader: Qara Bik Eized yaar
43. **Hezb-e-Taraqee Mili Afghanistan**
Leader: Dr Asef Baktash
44. **Hezb-e-Esteqlal-e-Mili Afghanistan**
Leader: Taj Mohammad Wardak
45. **Hezb-e-Tanzim Jabha Mili Nejat-e-Afghanistan**
Leader: Sebghatullah Mujadadi
46. **Hezb-e-Wahdat-e-Mili Islami-e-Afghanistan**
Leader: Mohammad Akbaree
47. **Hezb-e-Afghanistan-e-Wahid**
Leader: Mohammad Wasil Rahimee
48. **Hezb-e-Tahreek Wahdat-e-Mili-e-Afghanistan**
Leader: Sultan Mahmood Ghazi
49. **Nahzat-e-Mili Afghanistan**
Leader: Ahmad Wali Massoud
50. **Hezb-e-Tahreek Wahdat-ul-Muslmeen Afghanistan**
Leader: Wazir Mohammad Wahdat
51. **Nahzat-e-Hakemyat-e-Mardom-e-Afghanistan**
Leader: Hayatullah Subhanee
52. **Hezb-e-Aazaadi Khwahan Maihan**
Leader: Abdul Hadi Dabeer
53. **Hezb-e-Nakhbagan-e-Mardom-e-Afghanistan**
Leader: Abdul Hamid Jawad
54. **Hezb-e-Junbish Mili Islami-e-Afghanistan**
Leader: Sayed Noorullah
55. **Hezb-e-Paiwand Miahani Afghanistan**
Leader: Sayed Kamal Sadat
56. **Hezb-e-Jamihat-e-Islami-e-Afghanistan**
Leader: Ustad Rabanee
57. **Tanzim Dawat-e-Islami-e-Afghanistan [Daw'at-e Islami]**
Leader: Abdul Rab Rasoul Sayaf [Sayyaf]
58. **Hezb-e-Mutahed Mili**
Leader: Noorul Haq Uloomi. Proscribed until 2004 **[1b]**. ICG noted in June 2005 that this party is the principal heir to the Parcham faction of the PDPA. "Its support base cuts across ethnic, regional and gender lines. Many former

Parchamis have retained important positions in the bureaucracy and security institutions, and analysts believe it is capable of mobilising existing Parchami networks countrywide." **[26e] (p8)**.

59. **Hezb-e-Mardom-e-Afghanistan**
Leader: Ahmad Shah Asar
60. **Hezb-e-Subat-e-Mili Islami-e-Afghanistan**
Leader: Mohammad Same Kharoti
61. **Hezb-e-Mili Hewad**
Leader: Ghulam Mohammad
62. **Hezb-e-Wahdat-e-Islami-e-Melat-e-Afghanistan**
Leader: Qurban Ali Urfani
63. **Hezb-e-Domcrat-e-Afghanistan**
Leader: Abdul Kabir Ranjbar
64. **De Afghanistan De Mili Mubarizeeno Islami Gond**
Leader: Amanat Ningarharee
65. **De Afghanistan De Mili Wahdat Wolesi Tahreek**
Leader: Abdul Hakim Noorzai
66. **Hezb-e-Afghanistan-e-Naween**
Leader: Mohammad Younus Qanoni
67. **Hezb-e-Eqtedar-e-Mili**
Leader: Sayed Mustafa Kazemi
68. **Mili Dreez Gong**
Leader: Habibullah Janbdad
69. **Hezb-e-Refah-e-Mili Afghanistan**
Leader: Mohammad Hassan Jahfaree
70. **Hezb-e-Refah-e-Afghanistan**
Leader: Meer Moh. Asef Zaeefi
71. **Hezb-e-Umat-e-Islam-e-Afghanistan**
Leader: Toran Noor Aqa Ahmad zai
72. **Hezb-e-Mili Islami-e-Afghanistan**
Leader: Rohullah Loudin
73. **Hezb-e-Junbish Democracy Mardom-e-Afghanistan**
Leader: Sharif Nazari
74. **Hezb-e-Taraqee Democrat Afghanistan**
Leader: Wali Arya
75. **Hezb-e-Democracy Afghanistan**
Leader: Tawos Arab
76. **Hezb-e-Mardom-e-Mosalman-e-Afghanistan**
Leader: Besmellah Joyan

OTHER POLITICAL PARTIES AND GROUPS

Hizb-e Islami Gulbuddin [or Hizb-e Islami Hekmatyar]
(NB. Spellings differ e.g. Hezb-e Islami/Hisb-i Islami/Hisb-e Islami)

Pashtun/Turkmen/Tajik
Leader: Gulbuddin Hekmatyar. c. 50,000 supporters (estimate); based in Iran 1998-99. **[1a]** Founded in the 1970s and reached the height of its power in 1992 when the Soviet-backed Government of President Najibullah fell to a coalition of mujahedin factions,

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including Hizb-i-Islami. Hekmatyar served as Prime Minister in 1995. **[73n]** Hekmatyar was designated a terrorist by the US State Department in February 2003 for participation in and support for terrorist acts committed by Al-Qaeda and the Taleban, and is currently in hiding. **[73n]**

(See also Section 6C: Hisb-i Islami**)**

Hizb-e Islami Khalis [Khales] (Islamic Party Khalis): Pashtun
Leader: Maulvi Muhammed Younis Khalis. c. 40,000 supporters. **[1a]** In December 2005, Radio Free Europe/Radio Liberty reported that:

"In a statement sent to some media outlets on 11 December, Hizb-e Islami (Khales faction) denounced the planned expansion of the NATO-led International Security Assistance Force (ISAF) in Afghanistan as a 'satanic plot,' Peshawar-based Afghan Islamic Press (AIP) reported… Hizb-e Islami (Khales faction) was one of the seven mujahedin parties operating against the Soviets and their client regime in Afghanistan in the 1980s. Party leader Mawlawi Mohammad Yunos Khales, after staying away from the Afghan civil war of the 1990s when mujahedin parties were fighting for power, resurfaced in 2003 and declared a jihad against U.S. forces in Afghanistan… Rumors have circulated since early 2005 that Khales is either dead or is very ill. The most recent statement is signed by Mawlawi Anwar al-Haq Mojahed, identifying himself as 'the acting head of Hizb-e Islami-ye Afghanistan,' while there is no mention of Khales." **[29s]**

(See also Section 6C: Hisb-i Islami**)**

Ittihad-i Islami Bara i Azadi Afghanistan (Islamic Union for the Liberation of Afghanistan): Pashtun
Leader: Prof. Abdul Rasul Sayef [Sayyaf]; Deputy leader: Ahmad Shah Ahmadzay; c. 18,000 supporters **[1a].** Sayef's party was renamed and registered as Tanzim Dawat-e-Islami-e-Afghanistan to run in the September 2005 parliamentary elections. **[74a]**

Jamiat-i Islami (Islamic Society): Turkmen/Uzbek/Tajik; **[1a]**
The ICG noted in June 2005: "Led by former President Burhanuddin Rabbani, the Jamiat is one of the country's oldest Islamist political organisations but its support has been undermined by internal fissures, stemming from discontent with Rabbani's leadership as well as sub-regional rivalries in the north." **[26e] (p9)** In June 2005, the ICG **[26e] (p5)** and UNHCR **[11b] (p19)** noted that Rabbani's Jamiat-i Islami were among the major parties registered for the September 2005 elections. The JEMB list of political parties approved by the Ministry of Justice dated 20 August 2005 included Jamiat-i Islami [Hezb-e-Jamihat-e-Islami-e-Afghanistan], led by Ustad Rabanee. **[74a]**

A report by the Afghan Research and Evaluation Unit (AREU) dated December 2005 stated that "In the WJ [Wolesi Jirga] elections candidates affiliated informally and formally with the original Jamiat party won 47 seats, more than double the amount of any other party. These seats, however, were divided between approximately ten different factions of the party and new parties that have split off from Jamiat, which were relatively evenly distributed between those that either opposed or supported the government." **[22c] (section 2.2)**

Junbesh-i Melli-i Islami [Jombesh-e Melli Islami] (National Islamic Movement)
Formed in 1992 mainly from troops of former Northern Command of the Afghan army; predominantly Uzbek/Tajik/Turkmen/Ismaili and Hazara Shi'a; 65,000-150,000 supporters. **[1a]** Leader: General Abdul Rashid Dostam [Dostum] until 17 April 2005. **[40b]**

Agence France-Presse reported on 18 April 2005 that the faction had been registered as a formal political party, allowing it to run in the September 2005 parliamentary elections. **[40b]** The JEMB list of political parties approved by the Ministry of Justice dated 20 August 2005 included Junbish-i Melli [Hezb-e-Junbish Mili Islami-e-Afghanistan], led by Sayed Noorullah. **[74a]**

Khudamul Furqan Jamiat (KFJ) – Society of Servants of the Holy Koran
Eurasianet reported on 27 December 2001: "The KFJ is a Pashtun-dominated organization, and, according to sources, is led by so-called moderate Taliban. KFJ leaders include former Taliban Minister of Foreign Affairs Wakil Ahmed Muttawakil, Education Minister Maulvi Arsala Rahmani, and the Taliban's envoy to the United Nations, Abdul Hakim Mujahid." **[45d]** Radio Free Europe/Radio Liberty reported on 4 March 2005 that the KFJ were involved in talks with the Afghan Government following the amnesty offer made to many Taliban members. **[29b]**

National Understanding Front (NUF)
The ICG recorded in June 2005:

"On 1 April 2005, the leader of the Hizb-e Afghanistan-e Nawin (New Afghanistan Party), Younus Qanooni, and a group of mainly Islamist parties announced formation of a new coalition, the National Understanding Front (NUF), comprised of eleven re-branded mujahidin groups and personalities, including three former presidential candidates…Although the NUF's leadership is multi-ethnic and includes Ahmad Shah Ahmadzai, a Pashtun, Qanooni, a Tajik and Mohammad Mohaqqeq, a Shia Hazara, many of its parties share common perceptions that Afghanistan, under Karzai, will again become a Pashtun-dominated state." **[26e] (p10-11)**

Northern Alliance
Europa records that the Northern Alliance (NA) was an anti-Taliban coalition formed in 1996 by Ahmed Shah Masoud [Masood], General Dostam [Dostum] of Uzbek origin [Jonbesh-e-Melli-e-Islami], and the Hazara leader, General Karim Khalili [Hizb-i-Wahdat] under the presidency of Burhanuddin Rabbani. The NA was expanded and strengthened in June 1997 and restyled as the United Islamic Front for the Salvation of Afghanistan (commonly known as the Northern Alliance or United Front). Following the terrorist attacks on the US on 11 September 2001, US-led coalition forces strengthened and assisted the NA, resulting in the defeat of the Taliban. **[1a] (p60-61)** A report by the Netherlands Institute of International Relations dated April 2005 noted that the Northern Alliance has essentially disappeared as "Little had held it together other than opposition to the Taliban." **[89] (p48)**

(See also UIFSA **below.)**

People's Democratic Party of Afghanistan (PDPA)
UNHCR recorded in June 2005:

"The PDPA was founded in 1965 and split into two factions in 1967: Khalq (The People), led by Nur Mohammed Taraki and Hafizullah Amin and Parcham (The Banner), led by Babrak Kamal. Khalq was more rural-based, mostly comprising of members of the Pashtun tribes. Parcham was more urban oriented and was dominated by Dari speakers. In 1977, the two factions reunited under Soviet pressure. In 1988 the name of the party was changed to Watan (Homeland) Party. The PDPA based government collapsed in 1992 when, following the Peshawar Accords, Mujaheddin troops entered Kabul and the last President of a 'communist' government in Afghanistan, Mohammed Najibullah (previously head of the secret service Khad) had to seek refuge in a UN-building in Kabul where he stayed until he was killed by Taliban troops entering Kabul in September 1996." **[11b] (p46)**

Revolutionary Association of the Women of Afghanistan (RAWA)
The RAWA website, accessed in February and March 2005, advised:

"RAWA, the Revolutionary Association of the Women of Afghanistan, was established in Kabul, Afghanistan, in 1977 as an independent political/social organization of Afghan women fighting for human rights and for social justice in Afghanistan. The founders were a number of Afghan woman intellectuals under the sagacious leadership of Meena who in 1987 was assassinated in Quetta, Pakistan, by Afghan agents of the then KGB in connivance with fundamentalist band of Gulbuddin Hekmatyar. RAWA's objective was to involve an increasing number of Afghan women in social and political activities aimed at acquiring women's human rights and contributing to the struggle for the establishment of a government based on democratic and secular values in Afghanistan." **[49]**

On 25 August 2004, Women's Web reported that membership of RAWA was 2,000 with at least as many male supporters including husbands, relatives and friends:

"RAWA is strongly political but also active in assisting the most needy, especially women and children and runs many lifesaving programmes: health care, orphanages, small business programmes for widows and prostitutes and the like… They have conscientiously documented and photographed instances of abuse and put them into the public arena. They are well known, even though they are under cover. They put out many political publications. They have their 'Payam-e-Zan' or 'Women's Message' magazine which is a very strong political analysis of what is happening and a clear statement of the direction they want for the future of Afghanistan. They are very strongly outspoken against the Taliban and fundamentalist warlords who have been responsible for the enormous amount of violence against women and men. They regularly organise political demonstrations in Pakistan, despite the risk. In Afghanistan it would be much too dangerous: a women's only organisation, a publicly outspoken one at that, is completely outrageous in a conservative environment like Afghanistan. They don't use their own names – they don't even know the names of other members, for security reasons. If anyone is caught they can't give information about anyone else. They have no headquarters and no landline phone." **[56]**

Shura-yi Nazar
Originally a military co-ordination council established by Jamiat-e Islami commander Ahmad Shah Massoud, Shura-yi Nazar now refers to a more amorphous network of mainly Tajik military and political figures. **[26b] (section IIA)**

Taliban [Taleban]
Emerged in 1994; Islamist fundamentalist; mainly Sunni Pashtuns; in power 1996–2001; largely disbanded; Leader: Mullah Mohammad Omar. **[1a]** UNHCR noted in June 2005 that "The core of the Taliban was educated in madrassas (religious schools) in Pakistan which adhere to the Deobandi orthodox legal and state doctrine and promote taqlid, the obedience to the Koran in its original letter. The political aims of the Taliban were to re-establish security in Afghanistan, to create a truly Islamic State, to disarm the population and to implement a strict interpretation of Shari'a law throughout the country." **[11b] (p48)**

(See also Section 6C: Taliban**)**

United National Islamic Front for the Salvation of Afghanistan (UIFSA) – commonly known as the Northern Alliance or United Front

An anti-Taliban coalition which superseded the Supreme Council for the Defence of Afghanistan in June 1997. **[1a] (p60)** Reported to include the groups of the Northern Alliance (see above) plus the forces of Gulbuddin Hekmatyar (Hizb-e Islami – Gulbuddin) Harakat-e Islami (Islamic Movement of Mohammed Asif Mohseni), Ittihad-i-Islami Barai Azadi Afghanistan (Islamic Union for the Liberation of Afghanistan, of Abdul Rasul Sayaf). **[85]**

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Annex D: Prominent people

ALI Hazrat
The British Agencies Afghanistan Group (BAAG) reported in July 2004 that Hazrat Ali (a close ally of Jamiat-i-Islami) had been appointed Security Commander for Nangarhar Province by President Karzai on 20 July 2004 and his position as a powerful regional power-holder had been strengthened and legitimised through the appointment. **[71b] (p7)** On 5 June 2005 Agence France-Presse reported that Hazrat Ali had stepped down from his position as provincial police commander in May 2005 in order to stand for the September 2005 parliamentary election. **[40y]** The final JEMB results recorded that Hazrat Ali was elected in Nangahar Province, polling the highest number of votes. **[74b]**

In September 2004, Human Rights Watch (HRW) reported that Hazrat Ali was one of the military commanders having *de facto* control of the eastern provinces of Nangahar and Laghman, including Nangahar's capital, Jalalabad (another commander in the same area is Haji Zahir). HRW noted that Hazrat Ali and Haji Zahir's commanders operated criminal enterprises and continued to engage in numerous human rights abuses, including the seizure of land and other property, kidnapping civilians for ransom and extorting money. Their forces have also been involved in political abuses, including past threats against Loya Jirga candidates and purchasing of votes. **[17i] (p16)**

BALKHI Sediqa
Appointed Minister of Martyrs and Disabled in the December 2004 cabinet. **[67]** The *Daily Times* reported on 11 December 2005 that President Karzai had decreed her appointment to the Meshrano Jirga, the Upper House of parliament, which will necessitate her resigning from her post as Minister of Martyrs and Disabled. **[75]**

DOSTUM (General) Abdul Rashid
BBC News recorded on 16 September 2005:

"The Uzbek general was one of the most high profile candidates to challenge President Karzai in the presidential elections in October 2004. The warlord is based in northern Afghanistan, from where he still heads the Junbesh-e Melli Islami (National Islamic Movement), a predominantly Uzbek militia faction. The veteran of many wars, he has displayed an uncanny ability to switch sides and stay on the right side of those in power. In the 1980s Gen Dostum backed the invading forces of the Soviet Union against the Mujahideen rebels. He then played a prominent role in the civil war that destroyed much of the capital Kabul and left thousands dead. In 2001, while helping the United States, his militias were accused of suffocating hundreds of Taleban prisoners to death by locking them inside shipping containers." **[25y]**

BBC News reported that General Dostum survived an assassination attempt by the Taliban in January 2005. **[25ah]** Reuters reported on 1 March 2005 that Dostum had come fourth in the presidential elections. He was appointed President Karzai's personal military chief of staff on 1 March 2005. **[24b]** On 3 March 2005, BBC News reported the view of Human Rights Watch (HRW) that Dostum should not have been given the high-profile military post. HRW expressed concern that it could mean he will not be held accountable for alleged past human rights abuses. Amnesty International also expressed concern over the appointment. **[25c]** Agence France-Presse reported that Dostum officially joined President Karzai's administration on 18 April 2005 after resigning as leader of Junbesh-i Melli-i Islami. **[40b]** However, the ICG in June 2005 stated that "Dostum will undoubtedly remain the de facto head [of Junbesh-I Melli-I Islami]." **[26e] (p9)**

HEKMATYAR (Engineer) Gulbuddin [also spelt 'Hikmatyar']
On 16 September 2005, BBC News recorded:

"Leader of the Hezb-e Islami, Hekmatyar is a warlord who is in hiding – evading American forces – and is believed to be somewhere along the Afghan-Pakistan border. He is opposed to President Karzai and the US forces in Afghanistan and is blamed for carrying out several major attacks in the country. The US labelled him a terrorist in 2003. Hekmatyar's Hizb-e-Islami was the strongest force during the years of Soviet occupation. This was largely because his party was the main benefactor of the seven official Mujahideen groups recognised by Pakistan and US intelligence agencies for the channelling of money and arms. He later joined forces with General Dostum because he felt his power had been slighted by the Mujahideen administration which ran the country from 1992 to 1996. The fighting between him and Kabul's administration at the time, controlled by the slain Afghan commander, Ahmad Shah Masood, is said to have resulted in the deaths of more than 25,000 civilians." **[25y]**

Hekmatyar renewed his call for jihad against the US in November 2004. **[45a]**

(See also Hizb-e-Islami**)**

JALAL Masooda
BBC News recorded on 16 September 2005 that Masooda Jalal was the only female candidate in the October 2004 presidential elections. "A qualified paediatrician from Kabul, she was treating children when the Taleban came to power in 1996 and stopped women from working. Ms Jalal made her presence felt when she challenged President Karzai in the first loya jirga (grand council) after the Taleban were ousted. She was appointed minister for women's affairs in December 2004." **[25y]**

KHAN Mohammed Fahim (Marshal Mohammad Qasem Fahim)
BBC News recorded on 16 September 2005 that Marshal Fahim formerly held the post of Defence Minister in the Afghan Interim Administration. He was "One of the most powerful men in the country [who] commanded thousands of men loyal to the Tajik-dominated Northern Alliance that helped topple the Taleban in late 2001. He was widely expected to be named as one of President Karzai's running mates in the presidential poll, but ended up backing the main challenger, fellow Tajik Yunus Qanuni. He was head of intelligence of the Northern Alliance and succeeded General Ahmad Shah Masood, who was assassinated shortly before the 11 September [2001] attacks on the US." **[25y]**

The Kabul newspaper, *Erada*, reported on 29 January 2005 that following his removal from the cabinet Fahim had been given the rank of marshal and a few token privileges: "Marshal is a senior government rank. A marshal, just like a president or a king, has the right to participate in all official ceremonies." Some believe that his present status is symbolic and he has completely lost his military power: "Division No 2 of Jabalosaraj [district of Parwan Province north of Kabul] and Division No 6 which were under his command have been disarmed." Others believe that, as a prominent member of Jamiat-i Islami and a fighter who struggled for his country and people, his moral influence and social status cannot be reduced or damaged. **[79]** On 11 December 2005, the *Daily Times* reported that Fahim was one of the 34 people appointed by President Karzai to the Meshrano Jirga, the Upper House of the new Afghan parliament. **[75]**

KARZAI Hamid
On 16 September 2005, BBC News recorded:

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"Hamid Karzai, who was sworn in as Afghanistan's first elected president in December 2004, is a powerful Pashtun leader from Kandahar. A charismatic and stylish member of the influential Popolzai tribe, he has built up a considerable international profile, especially in the West and is backed by the United States. But some at home view his closeness to America with suspicion and distrust. He initially supported the Taleban but hardened against them after the assassination of his father, a former politician, for which the Taleban was widely blamed… [The] President has declined to form his own political party." **[25y]**

KHALILI (General) Abdol Karim
Hazara; Economic Minister of Afghanistan 1993-1995; Vice-President in the Interim Government of 2001. **[31]** Mr Khalili is currently the second Vice-President in the present Government inaugurated in December 2004 **[67]**. Khalili is also the leader of Hezb-e-Wahdat-e-Islami-e-Afghanistan. The party was registered by the Ministry of Justice and participated in the September 2005 parliamentary elections. **[74a]**

KHAN Ismail
BBC News recorded on 16 September 2005 that "Ismail Khan is a veteran and legendary Tajik commander who freed Herat from Soviet control, and became a thorn in the side of the Afghan communist government… When the Taleban finally took over Herat he was handed over to the Taleban by Gen Pahlawan after a deal in 1997. He escaped from [the] Taleban three years later." **[25y]** On 9 December 2004, IWPR noted that Ismail Khan was a major figure in Jamiat-e-Islami and was ruler of the western city of Herat, which he ran as a private fiefdom for many years. He was dismissed from his position as formal governor in September 2004:

"Once known by the less exalted title of Captain Ismail – he was a junior Afghan army officer when the jihad against Soviet occupation began – Ismail Khan took power in the western provinces of Herat, Ghor, Farah and Nimroz after the collapse of the Russian-backed government of Najibullah and awarded himself the title of Amir. Imprisoned by the Taleban for three years, he escaped and eventually regained control of his traditional stronghold. He maintained a distance from Karzai's interim administration, and particularly irked Kabul by holding on to the substantial customs revenues earned on the border with Iran." **[73d]**

Appointed Minister of Energy in the new Cabinet of December 2004. **[67]** The BBC News report of 16 September 2005 stated that "Despite his absence from Herat, he is still said to have significant support in the province." **[25y]**

MASOUD [MASSOOD] (General) Ahmed Shah
Tajik. Commander allied to Jamiat-i-Islami. **[85]** BBC News recorded on 8 September 2004 that "Commander Masood [Masoud] – known as the Lion of the Panjshir – was killed three years ago in a suicide bomb attack by two men posing as journalists. That attack – just before the 11 September [2001] bombings in the United States – was subsequently blamed on al-Qaeda and its Taleban allies. Masood remains a powerful symbol. He was famed as a military strategist during the war against the Soviet Union and gained his nom de guerre from his dogged resistance in the Panjshir valley." **[25z]**

MASOUD [Massood] Ahmad Zia
Tajik; formerly Afghanistan's ambassador to Russia and a brother of Ahmad Shah Massood [Masoud], who led the resistance to the Taliban regime until he was killed by Al-Qaida terrorists on 9 September 2001 (see above). **[18b]** He is the first Vice-President in the Government inaugurated in December 2004. **[67]**

MOHAQEQ [MOHAQIQ] Haji Mohammad

BBC News recorded on 16 September 2005: "Planning minister in the interim Afghan government, Mr Mohaqiq performed well to finish third behind Mr Karzai and Mr Qanuni in the presidential election in 2004. He did not keep his post in the new Karzai cabinet. A member of the minority ethnic Hazara community, he hails from Mazar-e-Sharif and teamed up with General Dostum and Atta Mohammad to free the city from the Taleban in 2001. He had considerable support among the Shia Hazaras, many of whom fought under his command." **[25y]** ICG recorded on 2 June 2005 that Mohammad Mohaqqeq is the leader of the Hizb-e Wahdat-e Islami Mardum Afghanistan (Party of Islamic Unity of the People of Afghanistan). **[26e] (p8)** The party was registered by the Ministry of Justice and participated in the September 2005 parliamentary election. **[74a]**

MOHAMMAD (General) Atta

The British Agencies Afghanistan Group (BAAG) noted in July 2004 that "Atta Mohammed, the northern Jamiat-i-Islami commander who has been locked in intermittent conflict with the Uzbek leader, Rashid Dostam [Dostum] and with the Hazara party, Hisb-e-Wahdat over many years, has been made governor of Balkh Province, of which Mazar-i-Sharif is the capital." **[71b] (p7)** BBC News recorded on 16 September 2005 that Atta Mohammad is an arch rival of General Dostum. "Their bitter history goes back to the days of the Soviet occupation, when they fought on opposite sides. A former teacher, Atta briefly joined forces with Dostum to recapture Mazar-e-Sharif from the Taleban in 2001. For now, he remains a key regional player in Afghanistan with considerable influence." **[25y]**

MOJADDEDI [MUJADIDI] Sebghatullah

A Radio Free Europe/Radio Liberty (RFE/RL) article dated 23 November 2005 stated that Mojaddedi was head of the "Peace Commission", which aims to persuade armed opposition fighters to join the peace process. **[29t]** RFE/RL also reported on 29 December 2005 that Mojaddedi had been elected speaker of the Meshrano Jirga (Council of Elders). **[29o]** A BBC News article of 21 December 2005 stated that he was a former Afghan President and a pro-Karzai mujahideen leader. **[25ak]**

OMAR (Mullah) Mohammad

BBC News noted on 16 December 2003 that Omar is the leader of the Taliban who lost his right eye fighting the occupying forces of the Soviet Union in the 1980s. He survived the US-led military action, which led to the fall of the Taliban in late 2001 and has evaded capture. **[25s]**

QANOONI [QANUNI] Yunus

Formerly a prominent figure in the Tajik-dominated Jamiat-e-Islami party and the Shura-e-Nezar, its Panjsher-based faction. **[73d]** BBC News recorded on 16 September 2005:

"A former minister, Mr Qanuni is a leading figure in the Northern Alliance which helped the US overthrow the Taleban in 2001. Mr Qanuni mysteriously resigned from his post as interior minister in the 2002 emergency loya jirga. He was then made minister of education and president's special advisor on national security. In the presidential election in 2004, he secured the backing of the then powerful defence minister, Marshal Mohammad Fahim, who was dropped by Mr Karzai as his running mate. He consequently secured second place, but he was far behind Mr Karzai.
Mr Karzai dropped him from the cabinet in his December reshuffle." **[25y]**

The list of political parties approved by the Ministry of Justice to run in the September 2005 parliamentary elections included Qanooni's new party, Hezb-e-Afghanistan-e-Naween. **[74a]** The ICG recorded in June 2005 that Qanooni's party is part of a new coalition of mainly Islamist parties known as the National Understanding Front (NUF) [See

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Annex C]. **[26e]** Radio Free Europe/Radio Liberty reported on 29 December 2005 that Qanuni had resigned as leader of the NUF after being elected as speaker of the Afghan National Assembly's People's Council (Wolesi Jirga). **[29o]**

RABBANI Burhanuddin
BBC News recorded on 16 September 2005: "A former Afghan president, Mr Rabbani remains an influential Tajik figure although he is not a frontline political player. He heads the conservative Jamiat-e-Islami, which was the largest political party in the Northern Alliance that helped sweep the Taleban from power in 2001." **[25y]**

(See also Annex C: Jamiat-i-Islami**)**

SAMAR Sima
A 2004 report by the Global Health Council noted that "Dr. Sima Samar founded and directs the Shuhada Organization, the oldest Afghan non-governmental organization (NGO) operating in the region and the largest woman-led NGO." **[6]** An RFE/RL article dated 29 December 2005 stated "Sima Samar was the first minister of the newly established Ministry of Women's Affairs in the transitional government of Hamid Karzai after the fall of Taliban. She is now the head of the Afghan Independent Human Rights Commission and a UN special rapporteur for human rights in Sudan." **[29d]**

SAYYAF Abdul Rassoul
BBC News recorded on 16 September 2005:

"A former mujahideen leader, Mr Sayyaf was a member of the constitutional loya jirga held in 2002. Leader of Islamic Union for the Liberation of Afghanistan [Ittihad-i-Islami], he was the only anti-Taleban Pashtun leader to be part of the Northern Alliance. A hardliner, he is believed to have formed his party with Saudi backing. A former professor of Islamic law, Mr Sayyaf was the neutral chairman of the first rebel alliance in 1980. Abdul Rassoul Sayyaf was a major player in the civil war in 1992, which left vast areas of the capital, Kabul, in ruins." **[25y]**

In June 2005, the ICG noted that Sayyaf's influence was eroding because the tenth division of the Afghan military forces was being dismantled under the DDR programme and this militia had helped him assert control over much of western Kabul province, including his home district of Paghman. **[26e] (p10)** The list of political parties approved by the Ministry of Justice to run in the September 2005 parliamentary elections included Sayyaf's party, renamed as Tanzim Dawat-e-Islami-e-Afghanistan. **[74a]**

SEDDIQI Suhaila
A BBC News Profile, accessed on 14 March 2005, recorded that Suhaila Seddiqi is a Tajik, a respected doctor and well-known former army general who lives in Kabul. She served as a surgeon in Kabul's military hospital for two decades. She never left Afghanistan and played a key role in keeping the hospital functioning through the 1990s when rocket attacks caused thousands of casualties. Even the Taleban were forced to give Seddiqi back her job after briefly removing her from the post. She was Health Minister in the Interim Government. **[25m]**

SHERZAI Gul Agha
BBC News recorded on 16 September 2005:

"Within hours of the Northern Alliance taking Kabul in 2001, Sherzai led a force of men across the border from the Pakistani city of Quetta towards the city he ruled before the Taleban took power in 1994. In December 2004, Sherzai was reappointed as governor

of Kandahar with an added, though symbolic, portfolio of minister adviser to Karzai. His reappointment became controversial and human rights have accused Mr Sherzai of involvement in the drugs trade. Earlier this year [2005], he was made governor of Nangarhar province, replacing Haji Din Mohammad. He is still believed to command considerable loyalty among the Pashtuns back in Kandahar where the Taleban still have some support." **[25y]**

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Annex E: List of Cabinet Ministers

Source **[67]** unless otherwise stated.

President:
H.E. Hamid Karzai

Vice Presidents:
Ahmad Zia Massoud (First)
Karim Khalili (Second)

Commerce Minister and Senior Advisor to the President:
Hedayat Amin Arsala

Foreign Minister:
Dr A. Abdullah

Defence Minister:
General Abdurrahim Wardak

Interior Minister:
T.B.A. [formerly Ali Ahmad Jalali until his resignation in September 2005 [25a]]

Finance Minister:
Anwar-ul Haq Ahadi

Education Minister:
Noor Mohmamad Qarqin

Borders & Tribal Affairs Minister:
Abdul Karim Brahui

Economics Minister:
Dr. M Amin Farhang

Mines and Industries Minister:
Engineer Mir Mohmmad Sediq

Women's Affairs Minister:
Dr Masouda Jalal

Public Health Minister:
Dr Sayed Mohammad Amin Fatemi

Agriculture Minister:
Obaidullah Ramin

Justice Minister:
Sarwar Danish

Communications Minister:
Engineer Amirzai Sangeen

Information & Culture Minister:
Dr Said Makhdoom Rahin

Refugees Affairs Minister:
Dr Azam Dadfar

Haj and Religious Affairs Minister:
Professor Nematullah Shahrani

Urban Affairs Minister:
Eng Yusuf Pashtun

Public Work Minister:
Dr Suhrab Ali Safari

Labour and Social Affairs Minister:
Sayed Ekramuddin Masoomi

Energy Minister:
General Mohammad Ismael [Khan]

Martyrs and Disabled Minister:
Sediqa Balkhi [NB. It was reported on 11 December 2005 that President Karzai had decreed her appointment to the Meshrano Jirga (Upper House) **[75]**]

Higher Education Minister:
Sayed Amir Shah Hassanyar

Transportation Minister:
Dr Enayatullah Qasemi

Rural Development and Rehabilitation Minister:
Hanif Atmar

Counter-Narcotics Minister:
Habibullah Qadery

National Security Advisor:
Dr Zalmai Rassoul

Supreme Court Chief Justice:
Sheikh Hadi Shinwari

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Annex F: List of abbreviations

ACF	Anti-coalition Forces
ACF	Action Contre La Faim
AI	Amnesty International
AIHRC	Afghan Independent Human Rights Commission
AMF	Afghan Militia Forces
ANA	Afghan National Army
ANBP	Afghanistan New Beginnings Programme
ANP	Afghan National Police
ANSO	Afghan NGO Security Office
ARCS	Afghan Red Crescent Society
AREU	Afghanistan Research and Evaluation Unit
ARTF	Afghanistan Reconstruction Trust Fund
ASP	Afghanistan Stabilisation Programme
ATA	Afghan Transitional Administration
BAAG	British Agencies Afghanistan Group
BPHS	Basic Health Care Package
CCA	Co-operation Centre for Afghanistan
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CLJ	Constitutional Loya Jirga
CPJ	Committee to Protect Journalists
DACAAR	Danish Committee for Aid to Afghan Refugees
DDR	Disarmament, Demobilisation and Reintegration
DIAG	Disbanding of Illegal Armed Groups
ELJ	Emergency Loya Jirga
EU	European Union
FCO	Foreign and Commonwealth Office (UK)
FGM	Female Genital Mutilation
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
ISAF	International Security Assistance Force
JEMB	Joint Electoral Management Body
JRC	Judicial Reform Commission
KHAD	Khidamat-i-Ittala'at-i-Dawlati (Ministry for State Security under the Communist government of Afghanistan)
LOTFA	Law and Order Trust Fund for Afghanistan
MDG	Millennium Development Goals
MOWA	Ministry of Women's Affairs
MSF	Médecins sans Frontières
NA	Northern Alliance
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organization

NSD	National Security Directorate
NSP	National Solidarity Programme
OCHA	Office for the Coordination of Humanitarian Affairs
OEF	Operation Enduring Freedom
OHCHR	Office of the High Commissioner for Human Rights
PDPA	People's Democratic Party of Afghanistan
PRT	Provincial Reconstruction Team
RSF	Reporters without Borders
SCA	Swedish Committee for Afghanistan
SNTV	Single Non-Transferable Vote
SSR	Security Sector Reform
STC	Save The Children
STD	Sexually Transmitted Disease
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFSA	United National Islamic Front for the Salvation of Afghanistan
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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