Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

Afghanistan – Researched and compiled by the Refugee Documentation Centre of Ireland on 12 January 2011

Information regarding the treatment of human rights by the authorities in Afghanistan.

The annual report on Afghanistan published by *Human Rights Watch*, in a section headed "Governance and Impunity", states:

> "The absence of due process of law remains a fundamental failing of the Afghan legal system, as Afghans continue to face arbitrary detention, are frequently denied access to a lawyer, and are often denied the right to challenge the grounds of their detention before an impartial judge. Court proceedings are often marred by corruption and the abuse of power. There are persistent reports of torture and abuse against detainees being held by the National Directorate of Security, with human rights officials receiving only erratic access to detention facilities where abuses are believed to be taking place." (Human Rights Watch (20 January 2010) *World Report 2010 – Afghanistan*)

The annual report on Afghanistan published by *Amnesty International*, in a section headed "Arbitrary arrests and detentions" states:

> "Hundreds of Afghans continued to be arbitrarily detained, without clear legal authority and due process. Some 700 Afghans remained in detention at the US base at Bagram airport without charge or trial in 'security internment' of indefinite length. On 15 November, the USA inaugurated a new 'improved' detention facility adjacent to the Bagram facility but continued to withhold detainees' rights to due process (see USA entry). NATO and US forces continued to hand over detainees to the National Directorate of Security (NDS), Afghanistan's intelligence service, where they were at risk of torture and other ill-treatment, arbitrary detention and unfair trials. Law enforcement officials illegally detained – and in some cases even tried – people on charges not provided for in the Penal Code, such as breaches of contractual obligations, family disputes, as well as so-called 'moral crimes'. The NDS arrested and detained people, including journalists, for acts considered a "risk to public or state security and safety", which have been vaguely defined in Afghan law." (Amnesty International (28 May 2010) *Report 2010 – Afghanistan*)

The introductory section of the *US Department of State* country report on Afghanistan states:

> "The country's human rights record remained poor. Human rights problems included extrajudicial killings, torture, poor prison conditions, official impunity, prolonged pretrial detention, restrictions on freedom of the press, restrictions on freedom of religion, violence and societal discrimination against women, restrictions on religious conversions, abuses against minorities, sexual abuse of children, trafficking in persons, abuse of worker rights, the use of child soldiers in armed conflict, and child labor." (US Department of State (11 March 2010) *2009 Human Rights Report: Afghanistan*)

In a section headed “Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment” this report states:

> “Human rights organizations reported local authorities tortured and abused detainees. Torture and abuse methods included, but were not limited to, beating by stick, scorching bar, or iron bar; flogging by cable; battering by rod; electric shock; deprivation of sleep, water, and food; abusive language; sexual humiliation; and rape. An April Afghanistan Independent Human Rights Commission (AIHRC) report stated that torture was commonplace among the majority of law enforcement institutions, especially the police, and that officials used torture when a victim refused to confess to elicit bribes or because of personal enmity. Observers report that some police failed to understand the laws regarding torture.” (ibid)

A section headed “Arbitrary Arrest or Detention” states:

> “The law prohibits arbitrary arrest or detention; however, both remained serious problems. According to a January UN report, many citizens were detained without enjoying essential procedural protections.” (ibid)

A report published by the *Afghanistan Independent Human Rights Commission*, in a section headed “Words from the Chair”, states:

> “The human rights situation in Afghanistan remains bleak. The deteriorating security situation has continued to severely hamper the enjoyment of human rights throughout the country, particularly by vulnerable people such as women, children, persons with disabilities and internally displaced persons. Despite existing commitments, strategies, and policies developed to improve the human rights situation, many men, women and children continue to suffer from extreme poverty, high unemployment, systemic discrimination and a lack of access to healthcare, schools and adequate housing. Implementation and enforcement of legislation to protect human rights also remains limited due to weak judicial institutions. The low level of public awareness about human rights has also prevented citizens from realising and accessing their rights and misperceptions about human rights have been used to justify human rights violations such as forced and child marriage and to deny women’s rights to education, work and political participation.” (Afghanistan Independent Human Rights Commission (2010) *Annual Report January 1-December 31, 2009*, p.5)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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