COUNTRY OF ORIGIN INFORMATION REPORT

AFGHANISTAN

18 FEBRUARY 2009

UK Border Agency
COUNTRY OF ORIGIN INFORMATION SERVICE

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Preface

i This Country of Origin Information Report (COI Report) has been produced by COI Service, United Kingdom Border Agency (UKBA), 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. The main body of the report includes information available up to 23 January 2009. The 'Latest News' section contains further brief information on events and reports accessed from 24 January to 13 February 2009. The report was issued on 18 February 2009.

ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA 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.

iii 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.

iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers 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.

v 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.

vi 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.

vii 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.

viii 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 COI Service upon request.

ix COI Reports are published regularly on the top 20 asylum intake countries. COI Key Documents are produced on lower asylum intake countries according to operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this COI Report, COI Service 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 UKBA as below.

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Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

xi The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UKBA's country of origin information material. The APCI reviewed a number of UKBA's reports and published its findings on its website at www.apci.org.uk Since October 2008, the work of the APCI has been taken forward by the Chief Inspector of UKBA.

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Latest News

EVENTS IN AFGHANISTAN FROM 26 JANUARY TO 13 FEBRUARY 2009

12 February

At least 20 people were killed when the Taliban attacked government offices in the capital, Kabul in response to the alleged mistreatment of Taliban prisoners.
AlJazeera, Taliban mounts deadly Afghan attack, 12 February 2009
http://english.aljazeera.net/news/asia/2009/02/20092116517109416.html
Date accessed 13 January 2009

Taliban attack on three government buildings in Kabul demonstrating the ease with which the insurgents penetrated the Afghan capital
New York Times, 20 Dead as Taliban storm offices, 11 February 2009
http://www.nytimes.com/2009/02/12/world/asia/12afghan.html
Date accessed 13 January 2009

Taliban launched a coordinated assault on two Afghan ministries and a prison headquarters in the capital of Kabul
The Long War Journal, Taliban assault ministries in Kabul, 11 February 2009
http://www.longwarjournal.org/archives/2009/02/taliban_assault_mini.php
Date accessed 13 January 2009

Attack on government buildings in Kabul sent civilians and government workers fleeing for safety
BBC Online, Attacks send Kabul into panic, 11 February 2009
http://news.bbc.co.uk/1/hi/world/south_asia/7883129.stm
Date accessed 13 January 2009

9 February

Authorities accused of subdueing the media in the run-up to presidential elections in August 2009
Institute for War & Peace Reporting, Pressure on Afghan Media Ahead of Elections, 9 February 2009
http://www.iwpr.net/?p=arr&s=f&o=349960&apc_state=henparr
Date accessed 13 January 2009

4 February

Cases of child slavery and debt bondage practices have risen in Afghanistan, particularly in poor rural communities
IRIN News, Afghanistan: Child servitude, marriage resemble modern-day slavery, 4 February 2009
http://www.irinnews.org/report.aspx?ReportID=82742
Date accessed 6 January 2009

The United Nation's secretary-general Ban Ki-moon has pledged the backing of UN support to Afghanistan, announcing that the UN is strongly committed to delivering peace in Afghanistan.
BBC Online, Afghanistan 'priority', says UN, 4 February 2009
http://news.bbc.co.uk/1/hi/world/south_asia/7869331.stm
Date accessed 6 January 2009

3 February

More than 2,100 civilians were killed in Afghanistan during 2008 because of escalating fighting that spread to new areas
RFL/RE, UN Says 2,100 Civilians Killed In Afghanistan In 2008, 3 February 2009
http://www.rferl.org/content/UN_Says_2100_Civilians_Killed_In_Afghanistan_In_2008/1378540.html
Date accessed 12 January 2009

2 February

Prompt distribution of food aid, improved coordination among aid agencies and a relatively mild winter have prevented mass displacements in the drought-stricken northern provinces of Afghanistan

IRIN News, Afghanistan: Winter crisis averted in north?, 2 February 2009
http://www.irinnews.org/Report.aspx?ReportId=82685
Date accessed 12 January 2009

1 February

Women in Paktika provence have access to little healthcare because there are no female doctors and very few nurses or midwives in the Province

IRIN News, Afghanistan: Little health care for women in Paktika Province, 1 February 2009
http://www.irinnews.org/Report.aspx?ReportId=82638
Date accessed 6 January 2009

29 January

Security and logistical problems have forced the Presidential elections which were due in May 2009 to be postponed until 20 August 2009, the Independent Election Commission announced

AlJazeera, Afghanistan elections postponed, 29 January 2009
http://english.aljazeera.net/news/asia/2009/01/200912973132832188.html
Date accessed 6 January 2009

Afghanistan will delay holding presidential elections until 20 August 2009, the election commission has announced.

BBC Online, Afghan presidential vote delayed, 29 January 2009
http://news.bbc.co.uk/1/hi/world/south_asia/7857451.stm
Date accessed 6 January 2009

27 January

The harsh winter and continous drought continues to bring hardship for tens of thousands of Afghans, many in need of food and fuel to keep them warm.

IWPR, Winter Deepens Drought Victims' Misery in North, 27 January 2009
http://www.iwpr.net/?p=arr&s=f&o=349521&apc_state=henh
Date accessed 6 January 2009

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Committee to Protect Journalists (CPJ) http://www.cpj.org/
Attacks on the press in 2008 – Afghanistan, published 10 February 2009
http://cpj.org/2009/02/attacks-on-the-press-in-2008-afghanistan.php
Date accessed 12 February 2009

Refugee International http://www.refugeesinternational.org
Afghanistan and Pakistan: Raise Voices for Civilian Protection, published 16 January 2009
http://www.refugeesinternational.org/sites/default/files/afghpak_012609.pdf
Date accessed 6 February 2009

United Nations Office on Drugs and Crime (UNODC) http://www.unodc.org/
Afghanistan: Opium winter assessment survey, published January 2009
http://www.unodc.org/documents/crop-monitoring/ORA_report_2009.pdf
Date accessed 12 February 2009

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Background information

1. GEOGRAPHY

1.01 The Islamic Republic of Afghanistan is located in south-western Asia. With an area covering 647,500 sq km it shares borders spanning 5,529 km with Turkmenistan (744 km), Uzbekistan (137 km) and Tajikistan (1,206 km) to the north, Iran (936 km) to the west, the People's Republic of China (76m) to the north-east and Pakistan (2,430 km) to the east and south. Afghanistan has a mostly rugged mountainous terrain with plains in the north and southwest. (CIA World Factbook, last updated 11 November 2008) **[3]** The climate can vary considerably with the summer temperature in the south-west reaching 49°C (120°F), while in the winter in the Hindu Kush mountains of the north-east, temperatures can fall to −26°C (−15°F). (Europa World Online, accessed 21 November 2007) **[1]**

1.02 In July 2008, the population of Afghanistan was estimated at 32,738,376. (CIA World Factbook, last updated 6 November 2008) **[3]** The towns with the largest population are Kabul (the capital), Kandahar [Qandahar], Herat, Mazar-i-Sharif, Jalalabad and Kunduz. (Europa World Online, accessed 21 November 2007 **[1a]**

1.03 Pushtuns make up the largest ethnic group at 42%, followed by Tajiks (27%), Hazaras (9%), Uzbec (9%) and Aimaq (4%). Other smaller groups include Turkmen and Baluch. (CIA World Factbook, last updated 6 November 2008) **[3]**

1.04 The US Department of State's Background Note on Afghanistan updated in November 2008 recorded that Dari (Afghan Farsi) and Pashto are the official languages, and that Dari is spoken by more than one-third of the population as a first language and serves as a lingua franca for most Afghans. Pashto is spoken throughout the Pashtun areas of eastern and southern Afghanistan and Tajik and Turkic languages are spoken widely in the north. Seventy other languages and numerous dialects are spoken throughout the country by smaller ethnic groups. **[2e]** 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)**

1.05 An estimated 80 per cent of the Afghan population are Sunni Muslims, following the Hanafi school of jurisprudence. The remainder of the population, primarily the Hazara ethnic group are predominantly Shi'a Muslims. (CIA World Factbook, last updated 6 November 2008) **[3]**

1.06 The national flag, which was first introduced in 1928 and then modified in 1964, was banned following the coup in 1978. It has three vertical stripes of black, red and green with a white and red state enscription in the centre in Arabic which reads, "There is no God but Allah, and Muhammad is his Prophet, and Allah is Great". The Islamic date 1298 appears under the inscription. The current flag was introduced in June 2002 following the collapse of the Taliban and bears the word 'Afghanistan' in the inscription. (Europa World Online, accessed 21 November 2007) **[1a]**

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1.07 The Afghan year runs from 21 March to 20 March and the year 1387 runs from 21 March 2008 to 20 March 2009. (Europa World Online, accessed 21 November 2007) **[1a]**

(See also Section 20:- Ethnic Groups)

MAPS

1.08 United Nations (UN) Map of Afghanistan Provinces published in October 2005:

On 1 December 2005 the United Nations High Commissioner for Refugees (UNHCR) published an operational map highlighting the available logistical facilities of Afghanistan, which can be accessed via: http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=43706ed62

A map of the ethnic groups of Afghanistan can be accessed via:

http://www.nationalgeographic.com/landincrisis/ethnic_enlarge.html. **[95a]**

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2. ECONOMY

2.01 The Foreign and Commonwealth Office (FCO) Afghanistan Country Profile, updated 6 January 2009 noted:

"Afghanistan's economy has been seriously damaged by decades of war. The main activity remains agriculture (which involves around 80% of the population), both subsistence and some commercial. The main traditional crops are grain, rice, fruit, nuts and vegetables. But all have been severely affected by drought in recent years. Industry is small scale and includes handicrafts, textiles, carpets, and some food processing. Exports consist of mainly fruit, nuts, vegetables and carpets." **[4a]**

2.02 Europa World Online, accessed on 20 January 2009 noted that "In 2006, according to estimates by the World Bank, Afghanistan's gross national income (GNI), measured at average 2004–06 prices, was US $8,092.3m. In 2005/06, according to official estimates, Afghanistan's gross domestic product (GDP), excluding the illegal cultivation of poppies and production of drugs, was $6,851m. This implied a per head GDP of $303. During 1995–2006, it was estimated, the population increased at an average annual rate of 2.2%. According to the Asian Development Bank (ADB), GDP increased by 4.6% in 2003/04, by 12.6% in 2004/05 and by 10.3% in 2005/06. The IMF projected that GDP would rise by an estimated 12.0% in 2006/07." **[1b]** The Department for International Development (DFID) noted in their Country Profile for Afghanistan, updated on 22 August 2008, that over half the Afghan population lived on less than US$1 per day. **[51a]**

2.03 The UN Secretary-General's report dated 21 September 2007 stated that:

"On 9 July 2007, the International Monetary Fund and the International Development Association of the World Bank agreed that Afghanistan had taken the steps necessary to reach its 'decision point' under the enhanced Heavily Indebted Poor Countries Initiative. As a result, it now qualifies for interim debt relief under the Initiative. In August 2007, the Russian Federation forgave 90 per cent of the $11.13 billion debt dating back to the Soviet era, also clearing the way for the Russian Federation to provide economic assistance to Afghanistan." **[39i]**

2.04 The World Bank's economic report on Afghanistan published in February 2008, noted that:

"The starting point – in late 2001 at the fall of the Taliban – for recent developments in Afghanistan was dire. The Afghan economy was reeling from protracted conflict and severe drought, with cereal grain production down by half, livestock herds decimated, orchards and vineyards destroyed by war and drought, more than five million people displaced as refugees in neighboring countries, and remaining economic activities steered in an informal or illicit direction by insecurity and lack of support services. The Afghan state had become virtually non-functional in terms of policymaking and service delivery, although the structures and many staff remained.

"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. The effective Taliban ban on opium poppy cultivation, imposed in 2000, did not much affect trade in opium (apparently based on accumulated inventories) but was devastating to the livelihoods of many poor farmers and rural wage laborers, including through opium-related indebtedness. The collapse of the state virtually excluded the poor from access to services, and moreover the poor tended to be disproportionately affected by insecurity, one of whose important impacts has been a very large number of female-headed households. Even though the fabric of families, kinship groups, and other traditional clusters has held together rather well (demonstrated concretely by the large volume of inward remittances), the penetration of the 'warlord' and 'commander' culture at the local level has had deleterious effects. 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] (para. 1.05)**

2.05 The Human Rights Watch Annual Report 2008, covering events in 2007, for Afghanistan stated that:

"Where there are signs of development and economic progress, much of it is driven by a narcotics industry that is burgeoning, despite more than a billion dollars from the United States and the United Kingdom for counter-narcotics efforts. Afghanistan produces some 95 percent of the world's total supply of heroin. The narcotics industry penetrates ever more deeply into all areas of the Afghan economy and political system, weakening the rule of law and perverting the political process." **[17a]**

2.06 The United Nations Office on Drugs and Crime (UNODC) Afghanistan Opium Survey 2007, published in August 2007, found that the opium cultivation had risen to 193,000 hectares in 2007, a 17 per cent increase on 2006. As a result an unprecedented 8,200 tons of opium was harvested in 2007 positioning Afghanistan as the exclusive supplier of the world's deadliest drug with 93 per cent of the global opiates market. **[87a]**

(See also Section 26: for further information on drug production and addiction)

2.07 The exchange rate was: 69.9861 Afghanis = £1GBP. (xe.com, 16 January 2009) http://www.xe.com/ucc/convert.cgi **[87a]**

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3. HISTORY

OVERVIEW TO DECEMBER 2001

3.01 The Freedom House report, Freedom in the World 2007, released April 2007 noted:

"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 [*Sic*] 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 its 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 from 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 [Operation Enduring Freedom] aimed at toppling the Taliban regime and eliminating Saudi militant Osama bin Laden's terrorist network, al-Qaeda. 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." **[41c] (p16-17)**

POST-TALIBAN (DECEMBER 2001 ONWARDS)

3.02 Bin Laden initially denied having any involvement in the 11 September 2001 attacks on New York and Washington DC. The Taliban also claimed that neither bin Laden nor Afghanistan had the means to carry out the attacks. However, some two days after the event the US Secretary of State publicly identified bin Laden and his al-Qa'eda organisation as being mainly responsible. The US demanded the Taliban hand over bin Laden to the US authorities, dismissing the edict delivered to bin Laden by Taliban officials ordering him to leave the country. Pakistan came under pressure to reverse its policies of supporting the Taliban and agreed to co-operate with the US-led coalition. A Pakistan delegation then issued Taliban leaders with an ultimatum to surrender bin Laden or face retaliation from the USA. (Europa World Online, accessed 3 December 2007) **[1b] (Recent history)**

3.03 "Following unconfirmed reports that bin Laden and Mullah Mohammad Omar were hiding in the Tora Bora caves with the rest of the Islamist forces, the US-led coalition and United Front intensified the air and ground assault on the cave complex. However, after much of the region had been destroyed, there was no sign of the two leaders and their close associates. Some unconfirmed

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reports suggested that bin Laden had fled to Pakistan. Meanwhile, the USA and its allies continued to search for remaining Taliban and al-Qa'ida forces in Afghanistan." (Europa World Online, accessed 3 December 2007) **[1b] (Recent history)**

3.04 "After the fall of the Taliban regime in November 2001, the United Nations brought together leaders of Afghan ethnic groups in Germany. The agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions (the Bonn Agreement), signed on 5 December 2001, set out a road map for the restoration of representative government in Afghanistan." (Foreign & Commonwealth Office Afghanistan Country Profile, updated 6 January 2009) **[4a] (History)**

3.05 "On 22 December 2001 the Interim Authority was inaugurated; [Hamid] Karzai was sworn in as Chairman. The country returned to the Constitution of 1964, which combined Shari'a with Western concepts of justice. One of Karzai's first decisions was to appoint Gen. Dostam, who initially boycotted the Government in protest at his exclusion, as Vice-Chairman and Deputy Minister of Defence. At the end of December the UN Security Council authorized, as envisaged in the Bonn Agreement, the deployment of an International Security Assistance Force (ISAF) to help maintain security in Kabul over the next six months. Some 19 countries were authorized to form a 5,000-strong security force, led by the United Kingdom." (Europa World Online, 5 January 2009) **[1c] (Recent history)**

3.06 "In June 2002 an Emergency Loya Jirga (Grand Assembly) established a Transitional Administration to govern until elections could be held in 2004. The arrangements for the Loya Jirga were designed to enable a broad-based representation. Seats were reserved for women, refugees, displaced persons, nomads, businessmen, intellectuals and religious scholars. The Loya Jirga concluded on 19 June 2002 with the inauguration of Hamid Karzai as President of the Transitional State of Afghanistan. The Emergency Loya Jirga marked the first opportunity for decades for the Afghan people to play a decisive role in choosing their future. (Foreign & Commonwealth Office Afghanistan Country Profile, updated 6 January 2009) **[4a] (Politics)**

(See also Section 5: Constitution)

3.07 "The lead-up to the [2004] presidential election was marked by insecurity as insurgent forces, principally the Taliban but also including Hizb-i Islami forces loyal to Gulbuddin Hikmatyar [Hekmatyar], 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." (International Crisis Group, 23 November 2004) **[26d] (section 11.C)**

PRESIDENTIAL ELECTION 9 OCTOBER 2004 AND THE NEW CABINET

3.08 "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 55.4% of the votes, sufficient to ensure that a second round of voting would not be necessary. Former Minister of Education Younis Qanooni came second, with 16.3% of the votes, followed by Mohammad Mohaqqeq, with 11.7%, and Gen. Abdul Rashid Dostam, with 10.0%. A reported 83.7% 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." (Europa World Online, accessed 5 January 2009) **[1c] (Recent history)**

3.09 "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 Fahim was replaced as Minister of Defence by Gen. Abdul Rahim Wardak. Hedayat Amin Arsala was allocated the commerce portfolio and Ismail Khan became Minister of Energy and Water. However, 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 continuing problems with the widespread cultivation of opium, a Ministry of Counter Narcotics was created, headed by Habibullah Qaderi." (Europa World Online, accessed 5 January 2009) **[1c] (Recent history)**

PARLIAMENTARY AND PROVINCIAL ELECTIONS 18 SEPTEMBER 2005

3.10 "On 18 September 2005 an estimated 5,800 candidates, including several former Taliban officials, contested elections to the 249-member Wolasi Jirga and 34 provincial legislatures. A total of 68 seats in the Wolasi Jirga were reserved for women. The polls constituted Afghanistan's first democratic legislative elections since 1969. The nation-wide turn-out was an estimated 53% of those eligible to vote, with the figure decreasing to only 36% in Kabul, a significant decline compared with the level of participation at the 2004 presidential election. The widespread disruption that al-Qa'ida and the Taliban had threatened to orchestrate on polling day did not materialize." (Europa World Online, accessed 5 January 2009) **[1c] (Recent history)**

3.11 "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." (European Union Election Observation Mission final report, 10 December 2005) **[98] (Executive summary)**

3.12 "The [election] results, announced in November [2005], showed that many of those who had been elected were powerful factional figures, not aligned with any particular party, leading to fears that the country's legislature would be less a unified mechanism through which the central Government could assert its authority, and more a conduit for the re-emergence of provincial 'warlordism'. The newly elected National Assembly convened for the first time in December. Younis Qanooni, widely perceived to be the most prominent opposition figure in the legislature, was subsequently elected Speaker of the Wolasi Jirga, and Sibghatullah Mojaddedi Speaker of the Meshrano Jirga." (Europa World Online, accessed 5 January 2009) **[1c] (Recent history)**

AFGHANISTAN COMPACT 31 JANUARY 2006

3.13 "With September's elections and the inaugural session of the Afghan National Assembly in December 2005 marking the formal completion of the Bonn Process, the UK hosted the London Conference on Afghanistan on 31 January-1 February 2006. Co-chaired by the Afghan Government, the UK and the UN, the conference saw the launch of the Afghanistan Compact (an agreement between the Afghan Government and the international community led by the UN), the interim Afghanistan National Development Strategy (I-ANDS), and the National Drug Control Strategy.

"The Afghanistan Compact provides the framework for international engagement in Afghanistan for the next five years, setting outcomes, benchmarks and mutual obligations that aim to ensure greater coherence of effort between the Afghan Government and the international community. The Compact supports the Afghan Government's interim National Development Strategy which lays out their vision and investment priorities. The IANDS reflects a process of national consultation, underpinning the benchmarks in the Compact and the targets set in Afghanistan's Millenium Development Goals. Under the Compact the To deliver improved co-ordination the Compact created a new mechanism called the Joint Coordination and Monitoring Board (JCMB) to ensure coordinated international engagement in Afghanistan.

"The conference was attended by over 60 delegates and demonstrated the commitment of the Afghan Government and the international community to deepen their partnership. Many delegations made new financial pledges at the Conference, making available over $10.5 billion." (Foreign & Commonwealth Office Afghanistan Country Profile, updated 6 January 2009) **[4a]**

Full details of the Afghanistan Compact can be located via the Foreign and Commonwealth (FCO) website at:
http://www.fco.gov.uk/resources/en/pdf/3036656/afghanistan-compact **[4c]**

(See also Annex A for a Timeline of Afghanistan)

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4. RECENT DEVELOPMENTS

4.01 The US State Department (USSD) Country Report on Human Rights Practices 2007, Afghanistan, released on 11 March 2008, (USSD report 2007), noted

"On February 20 [2007], the parliament passed a bill that would grant amnesty from prosecution to all persons engaged in conflict for the past 25 years, as well as those who are currently fighting. The bill also states that those individuals should not be subjected to criticism. The bill does allow for individuals to bring cases against perpetrators. NGOs, the AIHRC [Afghanistan Independent Human Rights Commission], and many citizens criticized the bill, noting that it would grant amnesty to gross violators of human rights, including many parliamentarians. An AIHRC commissioner noted that it would cause instability and undermine national reconciliation." **[2h] (Section 1d)**

4.02 The Human Rights Watch 2008 Report on Afghanistan stated that:

"In a highly controversial move, a group led by Abdul Rabb al Rasul Sayyaf, Burhanuddin Rabbani, and Taj Mohammad, all of whom have been implicated in war crimes and other serious human rights abuses, attempted to pass a blanket amnesty law. Facing unprecedented public opposition, the bill was amended to allow individuals to file criminal and civil cases against perpetrators, though these provisions are unlikely to be effective because of a lack of political will and severe threats and intimidation against witnesses and complainants. President Karzai did not sign the legislation and its legal status remains unclear." **[17a]**

4.03 In July 2007 Abdul Satter Murad, Governor of Kapisa province, was removed from his post because of comments he made in an interview, claiming there was a vacuum of authority in parts of Afghanistan. The Interior Ministry claimed that the decision to sack him was made before the interview. (BBC Online, 16 July 2007) **[25bf]**

4.04 "The AIHRC Monitoring and Investigation Unit, in close cooperation with Ministry of Justice, prepared a list of 2,392 people who were in prisons after the completion of their sentences or were illegally detained and their destinies were not determined. The AIHRC gave the list to the President who appointed a commission headed by Mawlawi Fazl Hadi Shenwary to investigate the issue. Recently, this commission released a report on the situation of those people, releasing 819 people who were illegally detained or imprisoned in Kabul and determining the sentences of an estimated 1,573 people after the investigation." (AIRC Annual Report, 2007) **[78c]**

4.05 A new government department called the Bureau of Complaints was officially opened to receive and consider complaints from the Afghan public and pass them on to the Office of the President. The new Bureau of Complaints has 23 staff and is currently based in the capital, Kabul. (BBC, 10 March 2008) **[25av]**

4.06 In February 2008, Radio Free Afghanistan reported that:

"Bitter cold, snowstorms and avalanches have killed 926 people in Afghanistan - half of them in the hard hit west - as the country suffers one of the most brutal winters in decades.

"Ahmad Shikeb Amraz, spokesman for the Afghanistan National Disaster Management Commission, said that more than 316,000 cattle have died and 833 houses have been destroyed. Amraz said that from all the deaths nationwide, 462 have been in Herat province. Meteorological records indicate this is the worst winter in a decade." **[29h]**

4.07 The UN Secretary-General Report, dated 6 March 2008 stated that:

"After the withdrawal of ISAF troops from Musa Qala in early September 2006 and the subsequent takeover of the district by the Taliban in January 2007, the area remained beyond the reach of the Government of Afghanistan. Musa Qala was also one of the few districts in which the Taliban established their own administration and judiciary. The town was retaken by the Government in mid-December 2007, following a military operation, requested by local leaders, which was planned and led by ANA and supported by international military forces. In spite of that operation, the situation in Musa Qala remains tense and the Taliban continue to exert influence in a number of surrounding districts." **[39b]**

4.08 In March 2008 the BBC reported that

"Afghan mobile phone companies have begun switching off their signals at night in parts of the restive south after several attacks by the Taleban. Ten mobile phone masts were attacked in recent weeks, the latest on Tuesday night, the Afghan government says. Last month the Taleban threatened the companies, alleging that the networks were being used by Afghan and Nato troops to target them. Mobile phones are the only form of communication for many Afghans… Since a threat by the Taleban last month to target the towers unless the phone companies switched off their signals at night, 10 such facilities have been attacked, six of them completely destroyed". **[25o]**

4. 09 On Sunday 27 April 2008, Hamid Karzai, Afghanistan's president escaped unhurt in an attack by the Taliban during a ceremony marking the defeat of the Soviet invasion of Afghanistan. At least six people, including a member of parliament and three attackers, were killed and nine others wounded in the assault near the presidential palace, Kabul…. Gunfire and explosions erupted after Karzai had taken the stage after an inspection of troops in what was meant to have been the largest annual parade of Afghanistan's military. **[15c]**

4.10 On 14 June 2008 "… as many as 1,100 detainees had escaped after the Taliban attacked Sarposa Prison in Kandahar using suicide bombers, a truck bomb and rockets, killing at least nine security guards…The attackers struck with a bomb concealed in a water tanker that blew apart the prison gates, allowing a suicide bomber to dash inside and destroy two mud walls crushing police officers and guards. At the same time, Taliban fighters on motorbike[s] fired rockets at the complex in what an Afghan minister [Qasim Hashimzai] described as the rebels' 'most sophisticated attack yet.' In a sign of the Taliban's confidence in the success of their attack, minibuses were waiting nearby to ferry the rescued prisoners to freedom. Others scurried away through the undergrowth." (*The Telegraph Online,* 14 June 2008) **[59b]**

4.11 On 7 July 2008 41 people were killed and 141 injured when a suicide bomber attacked the Indian Embassy in the capital, Kabul. This was the first major

attack in the capital since the fall of the Taliban [Taleban] in 2001. Among those who died were India's defence attache, a senior diplomat and two security guards. (BBC Online, 7 July 2007) **[25p]**

4.12 Burned out vehicles and skeletons scattered along Highway One, the main road into Kabul, indicated that the insurgency was moving closer towards the capital, according to a BBC report in August 2008. Highway One was "Built at record speed with international money, it was an example of what was to follow in the rebuilding and redevelopment of a country at war for almost three decades. Now it is almost impassable in places as buses loaded high with goods and people, or convoys of containers with supplies for international forces have to negotiate the damage and the debris." **[25f]**

4.13 In November 2008 the BBC reported that "The government in Afghanistan has banned begging on the country's streets and called on the authorities to send beggars to care homes and orphanages. Officials say beggars are vulnerable to crime and exploitation… Beggars are a common sight on the streets of the capital, Kabul, and other Afghan towns and cities. Most of the beggars are women, children, the disabled or elderly and their numbers increase in the winter as food becomes scarcer and employment opportunities dry up." **[25ae]**

4.14 In December 2008 "The Afghan government …disarmed and arrested about 50 Afghan policemen, suspected of corruption and helping the Taliban, while a dozen others defected to the Taliban… The police were in charge of security posts in the western province of Farah, where a resurgent Taliban insurgency has flared in recent years. 'We arrested some 48 policemen for their unlawful actions on [December 29], but 12 others handed themselves over to the Taliban,' provincial Deputy Governor Mohammad Younis Rasooli told Reuters. 'We are investigating the arrested policemen to find out what other crimes they have committed,' Rasooli said. The police, often the only arm of the Afghan state active in isolated outposts across the mountainous country, suffer more casualties than any other force… On December 29, a Taliban spokesman told Reuters that about 35 Afghan police had defected to the Islamist group." (Radio Free Europe/Radio Liberty (RFE/RL), 30 December 2008) **[29e]**

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5. CONSTITUTION

5.01 The FCO Country Profile updated 6 January 2009 reported:

"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. 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. The human rights and gender provisions are an improvement on the 1964 Constitution. A minimum number of seats for women are guaranteed in both Houses of the National Assembly. There are also provisions for minority languages and the rights of the Shia minority." **[4a] (Politics)**

5.02 The World Bank economic report on Afghanistan, Febuary 2008 noted that:

"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)**

5.03 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…." **[39j] (p3)**

5.04 A report by the Afghan Independent Human Rights Commission in August 2007 noted the main international human rights treaties that Afghanistan is party to (see Section 7: Human Rights) and also stated that:

"The 2004 Constitution of Afghanistan reaffirms the Government's commitment to human rights:

"Article Six
The state shall create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization of democracy, attainment of national unity as well as equality between all peoples and tribes and balance development of all areas of the country.

"Article Seven
The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.

Other provisions of the 2004 Constitution reflect International Human Rights Law, such as the principle of equality between all peoples (Article 6) and between men and women (Article 22). **[78d]**

The Constitution may be accessed via the Foreign and Commonwealth Office: Country Profile on Afghanistan:
http://www.fco.gov.uk/en/about-the-fco/country-profiles/asia-oceania/afghanistan **[4a]**

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6. POLITICAL SYSTEM

OVERVIEW

6.01 The CIA World Factbook, updated on 6 November 2008, noted that Afghanistan is an Islamic republic; the Government consists of both executive and legislative branches. **[3]**

6.02 "Afghanistan is an Islamic republic with a population of approximately 30 million. Citizens elected Hamid Karzai president in October 2004 in the country's first presidential election under its January 2004 constitution. The September 2005 parliamentary elections--the first in more than three decades--did not fully meet international standards for free and fair elections, but citizens perceived the outcomes as acceptable, and the elections established the basis for democratic development at the federal and local levels. ." (USSD report 2007) **[2h]** "Elections to the Lower House of Parliament (Wolesi Jirga) and to the Provincial Councils were held in Afghanistan on 18 September 2005. These were the first such elections for 36 years…. The inaugural session of the Afghan National Assembly took place on 19 December 2005." (FCO Country Profile, updated 6 January 2009) **[4a] (Politics)**

THE EXECUTIVE BRANCH

6.03 President Hamid Karzai has been the Chief of State of the Islamic Republic of Afghanistan since 7 December 2004, after winning 55.4 per cent of the vote. He holds the position of Chief of State and Head of Government. Ahmad Zia Masood and Abdul Karim Khalili have been Vice Presidents since 7 December 2004. Both President and Vice Presidents are elected for a term of five years and are eligible to be voted to serve for a second term. The next election is due to be held in 2009. There are 25 cabinet ministers who, under the new constitution are appointed by the president and approved by the National Assembly. (The CIA World Factbook, updated on 6 November 2008) **[3]**

THE LEGISLATIVE BRANCH

6.04 "The bicameral National Assembly consists of the Wolesi Jirga or House of People (no more than 249 seats), directly elected for five-year terms, and the Meshrano Jirga or House of Elders (102 seats, one-third elected from provincial councils for four-year terms, one-third elected from local district councils for three-year terms, and one-third nominated by the president for five-year terms)…. On rare occasions the government may convene a Loya Jirga (Grand Council) on issues of independence, national sovereignty, and territorial integrity; it can amend the provisions of the constitution and prosecute the president; it is made up of members of the National Assembly and chairpersons of the provincial and district councils…. [elections] last held 18 September 2005 (next to be held for the Wolesi Jirga by September 2009; next to be held for the provincial councils to the Meshrano Jirga by September 2008)…. The single non-transferable vote (SNTV) system used in the election did not make use of political party slates; most candidates ran as independents." (The CIA World Factbook, updated on 6 November 2008) **[3]**

6.05 The USSD Country Report on Human Rights Practices 2006, Afghanistan, published on 6 March 2007, noted "Of the 249 seats in the Wolesi Jirga, the law requires that 10 seats be allocated to Kuchis." Furthermore:

"…. the law requires that 68 seats be allocated to women. Approximately 25 percent of the total seats were also reserved for women on each provincial council. Five provincial seats reserved for women remained vacant due to the lack of women candidates in three provinces. In the Meshrano Jirga, 17 of the 34 seats appointed by the president were reserved for women. There was one woman in President Karzai's cabinet at the end of the year. There were no female members appointed to the Supreme Court, but during the year the attorney general appointed the first female chief prosecutor to Herat. There were 249 total members, including 68 women in the Wolesi Jirga and 102 members, including 22 women in the Meshrano Jirga. There was one female governor in Bamyan province." **[2b]**

AFGHANISTAN POLITICS IN GENERAL

Provincial councils

6.06 "The role of provincial councils has varied from province to province. Weaknesses are due mainly to a lack of capacity and clarity of their role relative to that of the central Government. In March 2007, the provincial council law was amended to endow the councils with a monitoring role as well as an advisory one, but this distinction remains unclear in practice. According to the Constitution, provincial council elections should also be held in 2009; for the elections to be meaningful, however, much more attention must be paid to the institutions of provincial governance." (UN Secretary-General , 21 September 2007) **[39i] (p6)**

6.07 The Institute for War and Peace Reporting, on 19 March 2006 recorded that:

"The 34 [provincial] councils are elected for a four-year term by a proportional representational system based on the estimated population of each province, and they then select their own chairperson. But the constitution is less clear about their job and their powers vis-à-vis other government bodies, particularly the regional administrations led by governors which are appointed by Kabul rather than elected…Council members grumble that the current law binds them hand and foot, giving them no authority at all. Among the areas in which they are demanding more power are provincial budgets and the appointments made by the regional administrations." **[73g]**

6.08 "Strong provincial government leadership, starting with the Governor, remain some of the most important factors in achieving progress in the fields of security, development and service delivery at the provincial level. Recent appointments of highly qualified officials in some provinces have led to notable improvements in those areas." (UN report, 11 September 2006) **[39l] (p4)** "Provincial governments are the main nodes through which the authority of the central Government is transmitted across the national territory. Centre-province relations are strained in many areas, however, as provincial officials often feel neglected or even undermined by the central Government." (UN Report, 11 September 2006) **[39l] (p5)**

6.09 The UN Secretary-General's Report of 6 March 2008 noted that: "Assembly has submitted a number of laws and agreements to the Upper House (Meshrano Jirga) for approval, including the labour law, the mines law, the cooperatives law and the Framework Convention on Tobacco Control…" Demonstrating that the "relationship between the legislature and the executive branch can produce positive results, important tensions still exist. After extensive debate, the media law was approved by both Houses, but was rejected by the President on the grounds that it was too restrictive." **[39b] (p2)**

POLITICAL PARTIES

6.10 "Afghan citizens have the right to form social organizations and political parties, provided their programme and charter are not contrary to the principles of Islam, the provisions and values of the Constitution, and that their organizational structure and financial sources are made public. Furthermore, they are prohibited from having military or paramilitary aims, and structures or affiliation to foreign political parties." (UNHCR, December 2007) **[11a] (p23)**

6.11 The US State Department (USSD) report 2007, published on 11 March 2008, stated that:

"The law on political parties obliges parties to register with the MOJ [Ministry of Justice] and requires them to pursue objectives consistent with Islam. Political parties based on ethnicity, language, Islamic school of thought, and religion were not allowed. At year's end there were 91 registered political parties. Parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security. However, the International Crisis Group reported some instances of registration obstruction."
[2h] [Section 2b]

6.12 The USSD 2007 report further stated that:

"In August 2006 Interior Minister Zarar called for two parties run by rival warlords, National Islamic Movement of Afghanistan, known locally as 'Junbish' and headed by General Abdul Rashid Dostum and the Freedom Party of Afghanistan, run by General Abdul Malik, to be disbanded after allegations surfaced connecting them to violence in the Northern provinces. Members of both parties protested and the parties were not dissolved."
[2h] [Section 1a&2b]

A copy of the Political Parties Law may be accessed via the Afghanistan Online website. **[66]**

6.13 In June 2005, an International Crisis Group (ICG) briefing stated that:

"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)**

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

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Human Rights

7. INTRODUCTION

7.01 The Foreign and Commonwealth Office's Annual Human Rights Report 2007 observed "The human rights situation in Afghanistan has improved since the collapse of the Taliban regime. There are continuing reports of human rights abuses concentrated in rural areas where the rule of law is weakest and armed militia groups are still active…" **[4b]**

7.02 "Throughout 2007, progress on human rights in Afghanistan was limited. The media and civil society have little scope to discuss human rights issues and to call Government officials and other power brokers to account. Some continue to argue that human rights contradict local traditions and are a 'luxury' Afghanistan cannot afford." (UN Secretary-General's report, 6 March 2008) **[39b] (p10)**

7.03 The USSD report 2007 recorded:

"The country's human rights record remained poor due to a deadly insurgency, weak governmental and traditional institutions, corruption, drug trafficking, and the country's legacy of two-and-a-half decades of conflict…. While civilian authorities generally maintained effective control of the security forces, there were instances in which members of the security forces acted independently of government authority…. The government continued to develop and professionalize its army and police force. Increased oversight of police by internal and external monitors helped to prevent abuses, and human rights training became a regular element for police and army personnel. The Ministry of Interior (MOI) continued rank and pay reform efforts and removed officers involved in human rights violations and high-level corruption. International human rights groups stated that extensive reporting of human rights abuses led to increased arrests and prosecutions of abusers." **[2h]**

7.04 Human rights problems included:

- extrajudicial killings
- torture
- prison conditions
- official impunity
- prolonged pretrial detention
- increased restrictions on freedom of press
- restrictions on freedoms of religion, movement and association
- violence and social discrimination against women
- attacks on religious converts and minorities
- trafficking in persons
- abuse of worker rights
- child labor

[2h]

7.04 The United Nations Secretary General's report of 21 September 2007 stated that "The worsening security conditions and the absence of a consistent rule of law…. have had a negative effect on the enjoyment of human rights in

Afghanistan, especially the right to life and security, free movement, access to education and health and access to livelihood by communities." **[39i] (p11)**

7.05 An August 2007 report by the Afghan Independent Human Rights Commission (AIHRC) stated that:

"Afghanistan is a party to the following main international human rights instruments:

International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified April 1983;
International Covenant on Civil and Political Rights (ICCPR) – ratified April 1983;
Convention Against Torture and other Cruel Inhuman or Degrading Treatment (CAT) – ratified June 1987;
International Convention on the Elimination of all forms of Racial Discrimination (CERD) – ratified August 1987;
Convention on the Rights of the Child (CRC) – ratified April 1994;
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography – ratified October 2002;
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – ratified March 2003;
Optional Protocol on the involvement of Children in Armed Conflict – ratified September 2003." **[78d] (p4)**

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

7.06 "More than 1.6 million under-five children and hundreds of thousands of vulnerable women are exposed to acute malnutrition and some could die this winter due to food insecurity and lack of medical care, the government has warned… The government said the food crisis had been exacerbated by drought, high food prices and loss of livestock across the country… Food insecurity is also making vulnerable people - mostly children and pregnant women - more prone to diseases, the MoPH said." (IRIN News, 27 November 2008) **[36c]**

7.07 The Human Rights Watch World Report 2009, covering events in 2008, released 15 January 2009, observed "Afghanistan is experiencing its worst violence since the fall of the Taliban government. Widespread human rights abuses, warlordism, and impunity persist, with a government that lacks the strength or will to institute necessary reforms. Corruption and an escalating cost of living are affecting millions." **[17i]**

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8. SECURITY SITUATION

OVERVIEW

8.01 The UN Secretary-General's report, dated 6 March 2008 stated that:
"In 2007 the level of insurgent and terrorist activity increased sharply from that of the previous year. An average of 566 incidents per month was recorded in 2007, compared to 425 per month in the previous year. Of the over 8,000 conflict-related fatalities in 2007, over 1,500 were civilians." **[39b] (p4-5)**

8.02 The report further noted that "The tactics of the anti-Government elements changed noticeably in 2007. The superiority of Afghan and international security forces in conventional battles has forced opposing groups to adopt small-scale, asymmetric tactics aimed largely at the Afghan National Security Forces and, in some cases, civilians: improvised explosive devices, suicide attacks, assassinations and abductions." **[39b] (p4-5)**

8.03 Furthermore "… [T]he local Government has been able to strengthen its relationship with local communities. ANA [Afghan National Army] and ANP [Afghan National Police] have begun to establish a presence in areas that were previously controlled by insurgents. Such intensified efforts by the Government to deliver security and basic services at the local level reflect increasing recognition that the public's confidence in the Government is essential to ensuring stability." **[39b] (p3)**

8.04 The UN Secretary-General report also noted that:

"Afghanistan remains roughly divided between the generally more stable west and north, where security problems are linked to factionalism and criminality, and the south and east characterized by an increasingly coordinated insurgency. In fact, even within the south, conflict has been concentrated in a fairly small area: 70 percent of security incidents occurred in 10 per cent (40) of Afghanistan's districts, home to 6 per cent of the country's population. A worrying trend, however, was the gradual emergence of insurgent activity in the far north-west of the country, an area that had been calm, as well as encroachment by the insurgency into Logar and Wardak provinces, which border Kabul." **[39b] (p5)**

8.05 However, the UN Secretary-General report published in September 2008 stated:

"Since the issuance of my special report (S/2008/434), the security situation has deteriorated markedly. The number of security incidents rose to 983 in August, which is the highest since the fall of the Taliban in 2001 and represents a 44 per cent increase compared with the same month in 2007. While armed clashes between Afghan and international security forces on the one hand, and insurgents on the other, have continued to increase in number and intensity, asymmetric attacks carried out by the insurgents have increased even more.

"Three trends can be identified in the context of this deterioration: a greater

focus by insurgent groups on hitherto stable areas; more sophisticated planning of operations by insurgents, in particular asymmetric attacks; and an increase in civilian casualties.

"While the main focus of the insurgency remains the southern and eastern parts of the country, where it has historically been strong, insurgent influence has intensified in areas that were previously relatively calm, including in the provinces closest to Kabul. The determination of the insurgency has also been demonstrated by two particularly brazen attacks against ISAF. The first was a direct attack against an ISAF outpost of the United States of America in Nuristan in July, and the second an ambush on French ISAF forces in Kabul province in August. Attacks were also carried out in the capital itself, including during a military parade on 27 April in the presence of President Karzai, his Cabinet and the National Assembly, and a suicide attack against the Embassy of India in July in which 54 civilians were killed. The fact that the insurgents have the ability to carry out operations in the capital shows that they are becoming increasingly sophisticated. However, while the insurgents were able to carry out a few major attacks, the overall number of security incidents in the capital decreased, reflecting the enhanced capability of the Afghan intelligence and security forces.

"The trend in insurgency tactics observed in 2007 — from armed clashes with security forces to attacks of an asymmetric nature — continued and became more pronounced in 2008, leading to a sharp increase in the number of civilian casualties. Of the more than 3,800 lives lost in insurgency-related violence by the end of July, over one third were civilians. To a large extent, that shift can be attributed to a limited number of lethal attacks in high-density civilian areas, such as the attack against the Embassy of India. The number of civilian casualties caused by operations carried out by international and Afghan security forces also increased.

"Another worrying trend is a significant increase in the number of attacks against aid workers, convoys and facilities. More than 120 attacks have been targeted at humanitarian and development programmes in 2008, as a result of which 30 humanitarian aid workers have died and 92 have been abducted…" **[39a] (p5-6)**

8.06 The Human Rights Watch Annual Report 2009, covering events in 2008, stated:

"The Taliban and other militants have extended their control into parts of the country previously considered relatively stable, such as Logar and Wardak which border Kabul province, and parts of Herat province in the west. Kabul was a target of several audacious militant attacks in 2008, with several major roads out of the capital becoming dangerous to travel. Civilians continue to bear the brunt of militants' bomb attacks. Civilian deaths resulting from international military actions also remain high, with hundreds of preventable deaths occurring in 2007 and 2008

"As the violence spirals, each year that passes is declared bloodier than the last. 2008 was no exception. Insurgent groups have been responsible for approximately two-thirds of civilian deaths. In the first seven months of 2008, the UN estimates that improvised explosive devices and suicide attacks killed almost 500 civilians. Antigovernment forces routinely violate the laws of war by

launching attacks from civilian areas or retreating to such areas, knowingly drawing return fire.

"The targeting of individuals associated with the government is also on the rise, from school teachers to human rights defenders, with the United Nations recording over a hundred assassinations in 2008…Despite operational improvements, significant numbers of civilians also continue to be killed by US and NATO-led International Security Assistance Force (ISAF) airstrikes, inflaming public opinion and undermining the government. In July 2008, a mistaken US bombing of a wedding party in Deh Bala, Nangahar province, killed 47 civilians. Denials and lack of transparency have made the situation worse. In August, US forces bombed the village of Azizabad; the UN, the government, and the Afghan Independent Human Rights Commission said more than 90 civilians were killed. The US initially denied that any more than seven civilians had been killed, but weeks later raised the figure to 33

"Outside the conflict areas, organized crime and warlords terrorize Afghans with impunity. Kidnapping of Afghans for ransom is common, but the police seem largely incapable or unwilling to tackle it." **[17i]**

8.07 The US State Department report 2007 (USSD 2007), published on 11 March 2008 recorded that:

"There were numerous reports that the government or its agents committed arbitrary or unlawful killings. The shortage of trained police, poor infrastructure and communications, and a weak justice system hampered investigations of unlawful actions and prevented reliable numerical estimates. Additionally, there were killings of civilians in conflict, high-profile killings by unknown actors, and politically motivated killings by insurgent groups during the year in connection with the ongoing insurgency….

"There were also reports of abuses by the Taliban and other insurgent groups. Media reports and firsthand accounts accused the Taliban of employing torture in interrogations of persons they accused of supporting coalition forces and the central government. According to media sources, the Taliban reportedly claimed responsibility in such cases by contacting newspapers and television stations directly." **[2h] (Section 1a)**

8.08 The Senlis Council's, Afghanistan: Decision Point, published in February 2008 noted that: "A significant proportion of Afghans are becoming more and more alienated in their own land, severely threatening the international community with the impending burden of a failed state for many years to come.

"A rise in support for the Taliban – be it active, tacit or coerced – shows little sign of slowing, particularly as the movement frequently appears to be the most efficient benefactor of the disenfranchised." **[20a] (p16)**

8.09 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 noted that:

"Government officials, including local and district officers, judges, and law enforcement personnel are increasingly targeted for intimidation and assassination, particularly in areas where the government's presence is limited. Targets at times receive 'night letters' (See also section on Night

Letters) warning them of attacks if they continue working for the Government or cooperating with international forces." **[11a] (p8)**

8.10 "Amnesty International is dismayed that the early months of 2008 in Afghanistan have been marked by a sharp rise in civilian deaths caused by attacks of the Taleban and other armed anti-government groups… Suicide attacks by anti-government armed groups have led to increasing civilian casualties either because civilians or non-military objects such as bazaars and mosques have been deliberately targeted, or because the attackers cannot or do not discriminate between civilians and combatants." **[7e]** "Taleban and other armed groups, including Gulbuddin Hekmatyar's Hezb-e-Islami, killed at least 120 civilians in 20 separate suicide attacks in the first three months of 2008, comparing to the first 20 suicide attacks of 2007, which claimed 20 civilian lives." The statement further noted that "In March 2008, a purported Taleban spokesperson, Zabihullah Mujahid, reportedly threatened further attacks against 'The foreign occupying forces and their Afghan slaves…this summer', warning that 'this year will be the bloodiest.'" **[7e]**

8.11 The UN Secretary-General report published in September 2008 stated:

"The deteriorating security situation has hampered the implementation by UNAMA of its mandate. The United Nations Department of Safety and Security has assessed approximately 90 of almost 400 districts as areas of extreme risk. According to figures from the Government of Afghanistan, 12 districts are completely beyond its control. Difficulty of access is compounded by the insurgency's aggressive tactics to cut off major provincial centres. Consequently, even areas that have a permissible security environment are increasingly inaccessible to the United Nations, the Government and non-military actors." **[39a] (p6)**

8.12 IRIN news reported on 22 July 2008 about the increasing attacks on aid agencies. The article noted:

"The increasing number of attacks on aid agencies is reducing their ability to deliver life-saving assistance to vulnerable communities; the consequences are 'serious' and could lead to a 'humanitarian crisis', aid workers have warned… 'If insecurity continues to hamper NGO [non-governmental organisation] access, and needs remain unmet, we worry that the humanitarian situation will deteriorate into a crisis,' Anja de Beer, the director of ACBAR [Agency Coordinating Body for Afghan Relief], a network of 100 local and international NGOs operating in Afghanistan, told IRIN on 21 July in Kabul.

"Beer's concerns were echoed by Matt Waldman, Oxfam's policy and advocacy adviser in Kabul: 'Increasing attacks and threats against aid agencies hinder their ability to provide much needed relief, and if this continues it could have serious humanitarian consequences'.

"Concerns about NGOs' security rose after two French aid workers working for Action contre la Faim (ACF), a French NGO, were abducted by unidentified gunmen in Nili, the capital of Daykundi Province in central Afghanistan, on 18 July [2008]. ACF has temporarily suspended its operations across the country for security reasons." **[36a]**

8.13 On 23 July 2008, IRIN News reported on the increasing amount of health centre closures throughout the country due to insurgency, leaving up to 100,000 people without basic health services over the last four months. Abdullah Fahim, a spokesman for the Ministry of Public Health (MoPH), told IRIN that "Currently some 400,000 people in the country do not have access to basic health services because of attacks on health personnel and health centres, and also due to lack of security for health workers… About 32 health centres were torched, destroyed and/or closed down due to insecurity in 2007. Over the past four months 19 health facilities have been shut down or attacked… At present more than 50 health centres are inactive; some were torched or destroyed, others remain shut because of direct threats to health workers," **[36b]**

(See also section 28: Medical Issues)

8.14 On 1 August 2008 The Agency Coordinating Body for Afghan Relief (ACBAR) released a statement highlighting its concern over the insecurity of Afghan civilians. The statement noted that:

"We, the 100 national and international NGO members of ACBAR, express our grave concern about the deteriorating security situation in Afghanistan and the serious impact on civilians. There has been a surge in the number of civilian casualties caused by all sides, a spread of insecurity to previously stable areas, and increasing attacks on aid agencies and their staff.

"So far this year [2008] the number of insurgent attacks, bombings and other violent incidents is up by approximately 50 per cent on the same period last year. The number of insurgent attacks for each of the months of May (463), June (569) and July is greater than the number of such attacks in any other month since the end of major hostilities following the international intervention in 2001. Prior to May 2008, the highest number of insurgent attacks in a single month was 405 in July 2007…

"Around two-thirds of the reported civilian casualties can be attributed to insurgent activities, especially the increasing use of suicide bombings and other indiscriminate attacks in civilian areas and the use of civilian property from which to launch attacks. The increased number of air strikes by international military forces, which are up by approximately 40 per cent on last year, has also contributed to the rising civilian death toll." **[94a]**

8.15 News articles on the security situation and security incidents in Afghanistan are regularly published by the international press and are too numerous to detail individually in this report. See the Latest News page at the beginning of this report for information on the most recent reported incidents. The BBC News South Asia, Al Jazeera and Radio Free Europe/Radio Liberty web sites also gives details of incidents as they occur. See:

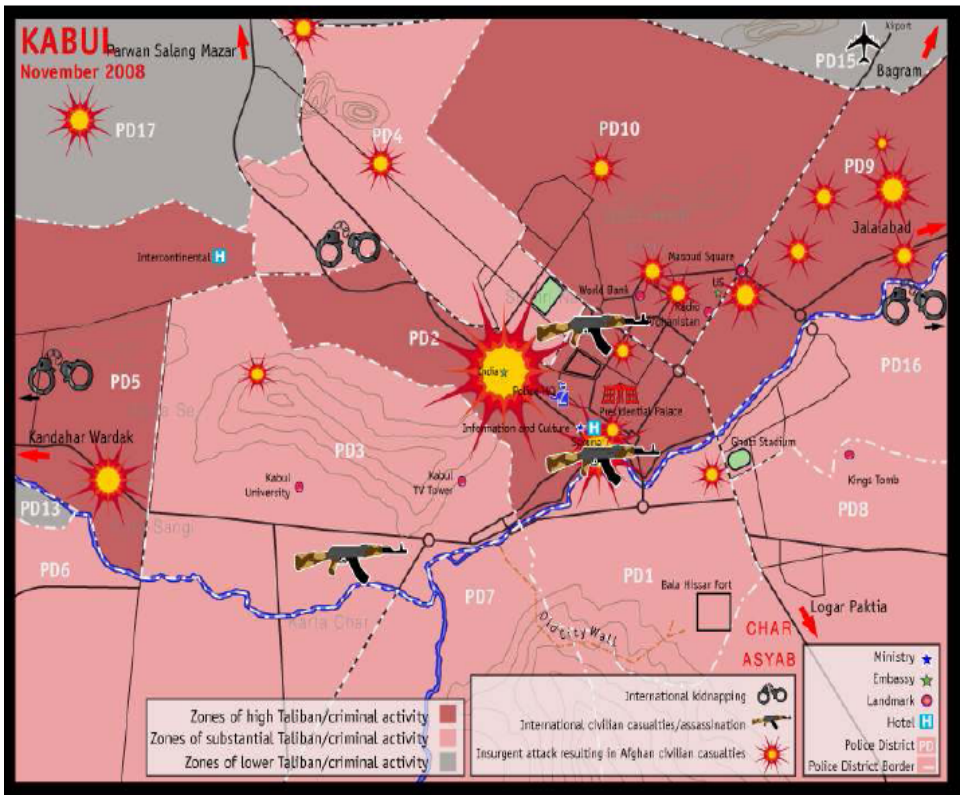
http://news.bbc.co.uk/1/hi/world/south_asia/default.stm
http://english.aljazeera.net/
http://www.rferl.org/default.aspx

SECURITY SITUATION IN DIFFERENT REGIONS

Kabul City

8.16 Senlis Council reported in December 2008 "With Taliban presence intensifying and spreading throughout the city [of Kabul], criminal activity has been given space to flourish, increasing significantly in recent months. The fluidity of non-state actors means that it can be impossible to distinguish between Taliban inspired insurgent and pure criminal activities." **[20c] (p5)**

8.17 The map below gives an indication of the Taliban/criminal presence in Kabul.



"NOTE: Map statistics are based upon publicly recorded attacks and local perceptions of Taliban presence" (Senlis Council, December 2008) **[20c] (p5)**

Additional maps on pages 9 to 12 depicting civilian casualties and kidnappings in Kabul can be located in the Senlis report, December 2008 at: http://www.icosgroup.net/documents/Struggle_for_Kabul_ICOS.pdf **[20c]**

8.18 The Senlis Council report of December 2008 stated:

"Of the four doors leading out of Kabul, three are now compromised by Taliban activity. The roads to the west, towards the Afghan National Ring Road through Wardak to Kandahar have become unsafe for Afghan or international travel by the time travellers reach the entrance to Wardak province, which is about thirty minutes from the city limits. The road south to Logar is no longer safe for Afghan or international travel. The road east to Jalalabad is not safe for Afghan or international travel once travellers reach the Sarobi Junction which is about an hour outside of the city. Of the two roads leaving the city to the north only one – the road towards the Panjshir

valley, Salang tunnel and Mazar – is considered safe for Afghan and international travel. The second road towards the north which leads to the Bagram Air Base is frequently used by foreign and military convoys and subject to insurgent attacks.

"By blocking the doors to the city in this way, the Taliban insurgents are closing a noose around the city and establishing bases close to the city from which to launch attacks inside it. Using these bases, the Taliban and insurgent attacks in Kabul have increased dramatically – including kidnapping of Afghans and foreigners, various bomb attacks and assassinations. This dynamic has created a fertile environment for criminal activity. The links between the Taliban and criminals are increasing and the lines between the various violent actors becoming blurred. All of these Taliban successes are forcing the Afghan government and the West to the negotiating table." **[20c]**

8.19 The UN Secretary-General's report, dated 23 September 2008 stated that:

"The influence of the insurgency has expanded beyond traditionally volatile areas and has increased in provinces neighbouring Kabul… The insurgency's dependence on asymmetric tactics has also led to a sharp rise in the number of civilian casualties. Civilians are also being killed as a result of military operations carried out by Afghan and international security forces, in particular in situations in which insurgents conceal themselves in populated areas. Another worrying development is the fact that attacks on aid-related targets and non-governmental organizations have become more frequent and more deadly." **[39a]**

8.20 In August 2008 The Nato-led International Security Force (ISAF) began handing over command of Kabul to the Afghan security forces. (BBC, 28 August 2008) **[25l]**

8.21 A UNHCR security update on 6 October 2008, noted that the Sarobi, Paghman (Arghad-e Bala and Arghand-e Payan), Khak-e-Jabar, Musahi and Charasyab districts of Kabul were assessed as being insecure after recent threats had been observed or reported in these areas. **[11d]**

List of main security incidents in and around Kabul city:

8.22 On 15 January 2008, at least eight people were killed when the Taliban attacked a luxury hotel in the Afghan capital, Kabul. At the heavily guarded Sarena hotel, a suicide bomber detonated his explosives which were packed in his jacket. Two of the three attackers were killed along with a number of hotel guests and guards. However one attacker fled the scene after he had failed to detonate his explosives. He was, however, later arrested. (BBC, 15 January 2008) **[25bh] [25bi]**

8.23 Following this incident, some NGOs reviewed their security measures and imposed temporary restrictions on the movements of members of their international staff within Kabul. (IRIN News, 15 January 2008) **[36w]**

8.24 On 31 January 2008 the BBC reported that a suicide bomb had been detonated in the Afghan capital Kabul, killing one person and injuring two others. The target was believed to be a bus carrying military personnel but the bomb went off early and only damaged the bus. **[25bg]**

8.25 "On 13 March [2008] in Kabul at least six Afghan civilians were reportedly killed and at least 35 civilians injured in a car bomb attack apparently aimed at US troops near Kabul airport." (Amnesty International, 5 June 2008) **[7e]**

8.26 On Sunday 27 April 2008, Hamid Karzai, Afghanistan's president escaped unhurt in an attack by the Taliban during a ceremony marking the defeat of the Soviet invasion of Afghanistan. At least six people, including a member of parliament and three attackers, were killed and nine others wounded in the assault near the presidential palace, Kabul…. Gunfire and explosions erupted after Karzai had taken the stage after an inspection of troops in what was meant to have been the largest annual parade of Afghanistan's military. **[15c]**

8.27 The BBC reported on 7 July 2008 that "A suicide bomber has rammed a car full of explosives into the gates of the Indian embassy in the Afghan capital, killing 41 people and injuring 141. Five embassy personnel were killed - India's defence attache, a senior diplomat and two security guards - as well as an Afghan man. Five Afghans died at Indonesia's embassy nearby. … No-one has admitted being behind the attack, the deadliest in Kabul since the overthrow of the Taleban in 2001. Afghanistan has seen a sharp increase in violence, particularly in the south and east - and Taleban militants recently vowed to step up their attacks in the capital." **[25p]** The *Telegraph* reported that at least 141 people were injured in the incident. **[59a]**

8.28 On 22 July 2008, a suicide attack near the Babur's Gardens containing the tombs of the Moghal Empire wounded three people who were riding in a minibus. One report said the bomber was on foot and he detonated his explosives when he saw a security checkpoint. The BBC reported that "Afghanistan has seen a sharp increase in violence recently. Taleban militants recently vowed to step up their attacks in the capital." **[25h]**

8.29 Three civilians died when a suicide bomber attacker targeted a convoy of NATO-led forces on the eastern outskirts of Kabul on Monday 11 August 2008. The *New York Times* reported that this was the first suicide bombing in the capital since 7 July 2008 when the Indian Embassy was attacked, killing nearly 60 people. (*NYT*, 12 August 2008) **[28b]** On Thursday 14 August 2008, two civilians were injured when rockets fired by two militants landed on Afghanistan's International Airport. The *China Daily* reported that the Taliban militants were not available to comment on the incident. **[96a]**

8.30 "While it was true that July and August [2008] had seen the highest number of security incidents since 2002, the insurgency had now extended to provinces around Kabul, the capital, and attacks had become more deadly and increasingly targeted humanitarian personnel." (United Nations, 14 October 2008) **[39e]** "Mohammad Hashim Mayar, the deputy director for the umbrella group overseeing Kabul's aid community, said attacks against relief workers have increased this year [2008], with 28 killed in the first nine months compared with 17 in all of 2007." (e-Ariana, 4 November 2008) **[34a]**

8.31 The BBC reported on 19 August 2008 that:

"Ten French soldiers have been killed in an ambush by Taleban fighters east of the Afghan capital, Kabul. A further 21 French troops were wounded in one of the heaviest tolls suffered by the Nato-led International Security Assistance

Force (Isaf)… The deaths come amid warnings that insurgents are closing in on the capital city… The French troops were caught up in fighting that started on Monday in the area of Sarobi some 50 km (30 miles) east of Kabul. French defence officials said about 100 soldiers - from France, the US and Afghanistan - were on a reconnaissance mission when bad road conditions forced them to stop their vehicles. A group of French soldiers was sent ahead on foot to check the terrain, but they were ambushed by Taleban fighters and nine were killed. A tenth French soldier was killed when his vehicle overturned on the road. An Afghan intelligence officer told the BBC the troops had been ambushed from several directions." **[25q]**

8.32 A further BBC report on 20 August 2008 recorded that "Kabul's early morning silence was broken on Monday night first by the crunch of rockets exploding in the city… The second rocket attack in Kabul in less than a week will further feed the paranoia of Afghans and also the international community." **[25r]**

8.33 "At 0800 on Monday 20 October in Kabul Afghanistan, Gayle Williams, 34 years old, one of the women workers of the SERVE Afghanistan team, a joint South African UK national, was walking to work. Gayle was shot and killed shortly before she was due to arrive at the office. Reports say that two men on a motorcycle shot her and then fled the scene." (SERVE, *nd*) **[37a]** "'Our people carried out this attack in District 3 of Kabul this morning,' Zabiullah Mujahed, the Taleban's spokesman, told *The Times*. 'The reason that we killed her was because she was spreading Christianity.'" (*The Times* Online, 21 October 2008) **[68b]**

8.34 On 25 October 2008 two men, one of them British, were shot dead in the centre of Kabul:

"David Giles, 42, from Hull, and Jason Bresler, a South African, worked for DHL, the international courier company and were arriving at the company's offices in the morning when the shootings took place. An Afghan security guard was also killed. The Taliban denied any involvement, but that would not rule out involvement by another antiwestern group led by Gulbuddin Hekmatyar, who claimed responsibility for the deaths of 10 French soldiers killed south of the capital in August." (*The Times* Online, 26 October 2008) **[68d]**

8.35 On 30 October 2008 "… three suicide bombers stormed a government ministry. Two of the bombers opened fire on guards outside the Ministry of Information and Culture, while the other bomber detonated inside the government building, Taliban spokesman Zabiullah Mujahid said. Kabul's deputy police chief, Alishah Ahmadzai, said five people were killed and 12 wounded -- six critically. But the Taliban claimed to have killed six guards in the attack, which it said targeted 'foreign advisers' at the ministry. The Afghan government, in a statement condemning the attack, identified the five killed as 'innocent civilians.' Two bombers escaped, according to a Taliban statement. Kabul police have arrested one man suspected of helping the bomber, according to Ahmadzai." (CNN, 30 October 2008) **[97a]** "Azizudin, a police official at the site, said Thursday's explosion caused massive damage to the building, which is located in the city centre, at a busy intersection. The Taliban has claimed responsibility for the blast according to the AP news agency." (AlJazeera, 30 October 2008) **[15e]**

8.36 On 3 November 2008 the BBC reported that "Gunmen in Afghanistan have kidnapped a French aid worker in the capital, Kabul, police say. An Afghan driver who tried to stop the abduction was killed, police said. Officials told Reuters news agency the aid worker was driving in the west of the city with another Frenchman when gunmen in a Toyota saloon seized him… He was in the vehicle of another French non-[g]overnmental organisation, Afrane, which had been blocked by the gunmen's car, officials told the AFP news agency in Paris. They said that Mr Egreteau unsuccessfully tried to flee on foot while his colleague escaped." There was no indication at the time of this report as to the motive. **[25v]** The Christian Broadcasting Network reported on the incident: "Afghan officials tightened security after a French aid worker was kidnapped by three gunman and an intellegence employee was killed while trying to intervene. Taliban militants have denied any involvement in the attack." **[52a]**

8.37 The BBC article of 3 November 2008 also reported that "The Taleban and criminal gangs have kidnapped or killed dozens of foreigners and hundreds of Afghans over the last five years, but up until recently kidnappings in Kabul have been rare. Most of those abducted were released unharmed after a ransom was paid, but an increasing number have been killed." **[25v]**

(See also Section 27:- Kidnappings and section 24:- Children – Child kidnappings for further information on kidnappings)

8.38 "A suicide bomb near the German embassy and a US base in the capital, Kabul on Saturday 17 January 2009 killed four civillians and an American soldier, injuring at least twenty others. The Taliban claimed the attack." (BBC, 17 January 2009) **[25a]**

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The West and Herat

8.39 "The intensity of fighting in western Afghanistan is now comparable to that in the east and south. Hostilities continue to claim the lives of Afghans, international aid workers and foreigners. Remote parts of the country remain difficult to reach. (International Committee of the Red Cross, 13 November 2008)" **[64a]**

8.40 In February 2008, The Long War Journal reported that:

"Although the US military has reported a 40 percent decrease in Taliban activity along Afghanistan's porous border with Pakistan, the rugged mountain provinces of Nuristan and Kunar tucked away in northeastern Afghanistan have remained turbulent. Despite the frigid weather and heavy snowfall, insurgent activity in Afghanistan's northeastern Kunar province has been particularly fierce. According to an Afghan security report obtained by the Long War Journal, Kunar suffered 963 attacks in 2007, making it the second most active province for insurgents, after Kandahar." **[55b]**

8. 41 The UN Secretary-General's report of 6 March 2008 stated that "With the looting of convoys on the Kandahar-Farah road, WFP has faced problems in transporting food and other vital assistance to Herat, the hub from which aid is

delivered to provinces in the western region, which have been most affected by harsh winter conditions." **[39b]**

8.42 An Amnesty International public statement dated 5 June 2008 reported that "On April 17 [2008], a suicide bomber blew himself up in a busy bazaar in the southwestern Afghan province of Nimroz, killing 23 people, including two senior policemen, and injuring 35 others, including children and women. It is not clear which group was responsible for the attack." **[7e]**

8.43 In August 2008 it was reported that around 60 children and 30 adults were killed in a US air strike in the Shindand district of Harat Province, western Afghanistan. The US air forces were called upon to assist Afghan soldiers who were fighting Taliban militants in the village of Azizabad. President Karzai sacked two senior Afghan Officers over the incident. (BBC, 26 August 2008) **[25n]** The incident sparked a reaction from the Afghan Cabinet calling for an end to air strikes in civilian populated areas. (Al Jazeera, 26 August 2008) **[15d]**

8.44 A UNHCR security update on 6 October 2008, noted that the following western areas were assessed as being insecure after recent threats had been observed or reported:

- "**Hirat:** The whole province except Hirat city, Kohsan, Kushke Rubat Sangi, Guzara and Engil districts are assessed as being insecure.

- **Farah:** The whole province, except Farah city is assessed as being insecure. The highways from Hirat to Farah, from Nimroz to Farah and from Farah to Kandahar are also assessed as being insecure.

- **Nimroz:** The whole province except Zaranj city and the highways from Hirat to Nimroz and Farah to Nimroz are assessed as being insecure.

- **Badghis:** The whole province, except Qala-e-Naw (the provincial capital) Aab Kamari and Qadis districts are assessed as being insecure. The highway from Qala-e-Now (provincial capital of Badghis) to Faryab is also assessed as being insecure.

- **Ghor:** The whole province, except Chakhcheran city (the provincial capital) is assessed as being insecure."
  [11d]

Central

8.45 The BBC reported on 13 July 2008 that:

"Two Afghan women have been shot dead by Taleban militants in the country's central Ghazni province. Taleban fighters told the Associated Press that the women had been operating a prostitution ring for American soldiers and foreign contractors. They also claimed that the women had been working for the local police. A spokesman for the Ghazni governor said the dead women were 'innocent local people' and the US has also dismissed the allegations." **[25j]**

8.46 A UNHCR security update on 6 October 2008, noted that the following Central areas were assessed as being insecure after recent threats had been observed or reported:

- "Ghazni: The entire province including the highways from Kandahar to Ghazni and from Kabul to Ghzani is assessed as being insecure.
- Maidan-Wardak: The entire province and the highways within the province is assessed as being insecure.
- Logar: The entire province apart from the highway from Kabul to Gardez is assessed as being insecure.
- Kapisa: Alasay, Nijrab, Kohband and Tagab districts and the highways from Mahmood Raqi (the provincial capital of Kapisa) to the mentioned districts are assessed as being insecure.
- Kabul: Sarobi, Paghman (Arghad-e Bala and Arghand-e Payan), Khak-e-Jabar, Musahi and Charasyab districts are assessed as being insecure.
- Parwan: Koh-e-Safi, Siya Gird and Shinwari districts are assessed as being insecure.
- Daikundi: Kiti and Kijran districts and the highway from Uruzgan to Daikundi are assessed as being insecure."
  [11d]

South, South-East and East

8.47 "Following counter-insurgency operations in the south and east, the Taliban have lost a significant number of senior and mid-level commanders. In Hilmand, Kunar, Paktya and Uruzgan Provinces, insurgent leaders have been forced to put foreigners in command positions, further undermining the limited local bases of support. This has heightened the importance to the Taliban of the support it receives from the border regions of Pakistan." (UN Secretary-General's report, September 2007) **[39i] (p2)**

8.48 A Senlis Council report published in February 2008 stated that:

"To the east of Afghanistan, it is becoming increasingly clear that several parts of Pakistan's North West Frontier Province are morphing into semi-autonomous statelets beyond the reach of Islamabad. Militants once trained by Pakistan as part of their strategic arsenal against India have now fallen outside of their mentor's control. These loose cannons are posing a security risk to the people of Afghanistan and the forces of NATO-ISAF alike, and more direct preventative measures aimed at blocking their passage to, and egress from, Afghanistan must now be implemented." **[20a] (p9)**

8.49 The UN Secretary-General's report of 6 March 2008 stated that: "Owing to insecure conditions, United Nations agencies are unable to operate in 78 districts in the south of the country. United Nations road missions to almost all districts in the south have been suspended for several months." **[39b] (p12)**

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

8.50 On 21 September 2006, the US General commanding American forces in Afghanistan was reported by Deutsche Presse Agentur as saying that he had not anticipated the strength of the Taliban in the south of the country:

"The Taliban has been able to take advantage of the weakness of the Afghan government in the south to establish a presence that NATO and US forces have been working to roll back for months, Lieutenant General Karl Eikenberry [said]... NATO has inflicted heavy casualties on the Taliban since Operation Medusa began and forced them to retreat and disperse, the alliance's chief commander, US General James Jones, told reporters Wednesday…

"Defeating the Taliban has been complicated by the militia's ability to scurry across the border into Pakistan and then later launch raids. The porous border has been a source of tension between Afghan President Hamid Karzai and his Pakistani counterpart, Pervez Musharraf." **[40e]**

8.51 The UN Secretary-General's report of 6 March 2008 stated that "On 17 February 2008, in the country's bloodiest attack since 2001, a suicide bomber killed 67 civilians and 13 ANP personnel, including the District Commander, and wounded 90 others in Arghandab district, near Kandahar. The next day, 35 civilians were killed and 28 other persons, including three ISAF soldiers, were injured when a vehicle-borne improvised explosive device hit an ISAF convoy in the border town of Spin Boldak." **[39b] (p5)**

8.52 An Amnesty International public statement dated 5 June 2008, stated that "On 31 January 2008 in Lashkargah, capital of Helmand province a suicide attacker blew himself up inside a mosque, killing the deputy governor of the province, Haji Pir Mohammad, and five other people. Eighteen people were wounded including a a four-year-old child." **[7e]**

8.53 The Amnesty International Public Statement also reported that:

"On 17 February [2008] a suicide bomber blew himself up close to a crowd of around 500 people watching a dog fight in Arghandab, on the western outskirts of Kandahar city. According to Kandahar's governor, Asadullah Khalid, nearly 70 civilians were killed and dozens were injured. The Taleban denied responsibility for the attack, but senior Afghan officials believe the group was targeting the head of Kandahar's Auxiliary Police, Abdulah Hakim Jan, and a militia leader opposed to the Taleban, who also died in the attack." **[7e]**

8.54 The statement also recorded that "On 18 February [2008] a suicide car bomber in Spin Boldak, a district of Kandahar province bordering Pakistan, apparently targeting Canadian troops, killed 35 civilians and injured 27. Three Canadian soldiers were injured in this attack. The Taleban claimed responsibility but denied that civilians were killed." **[7e]**

8.55 On 26 March 2008 the BBC reported that eight people had been killed and at least 17 wounded including five children, when a bomb exploded in an Afghan farmers market, in Gereshk district, Helmand Province. The Taliban [Taleban] were believed to be behind the attack. **[25ax]**

8.56 The BBC further reported on 29 April 2008 that at least 18 people were killed and 41 injured after a suicide attack in Nangarhar province, eastern Afghanistan. Eleven police officers were amoung those killed. The Taleban [Taliban] admitted they carried out the attack. **[25aw]**

8.57 A *Telegraph Online* article dated 14 June 2008 reported that:

"A NATO spokesman said this morning that as many as 1,100 detainees had escaped after the Taliban attacked Sarposa Prison in Kandahar using suicide bombers, a truck bomb and rockets, killing at least nine security guards…The attackers struck with a bomb concealed in a water tanker that blew apart the prison gates, allowing a suicide bomber to dash inside and destroy two mud walls crushing police officers and guards. At the same time, Taliban fighters on motorbike[s] fired rockets at the complex in what an Afghan minister [Qasim Hashimzai] described as the rebels' 'most sophisticated attack yet.' In a sign of the Taliban's confidence in the success of their attack, minibuses were waiting nearby to ferry the rescued prisoners to freedom. Others scurried away through the undergrowth. **[59b]**

8.58 The *Telegraph* article also reported that:

"Qari Yousef Ahmadi, a Taliban spokesman, said hundreds of prisoners had escaped in the assault, which he said had been planned for the past two months 'to release our Taliban friends'. 'Today we succeeded,' he said. The escaped prisoners 'are safe in town and they are going to their homes.' He said 30 insurgents on motorbikes and two suicide bombers staged the attack. He added that a handful of prisoners had not seized the chance to escape and had remained in the prison." **[59b]**

8.59 The BBC reported that many of those that stayed were mainly women, children and political prisoners. Among those who escaped were high-ranking Taleban commanders. Afghan police and army carried out house to house searches while NATO forces secured the city and outlying districts. (BBC, 14 June 2008) **[25am]** The Afghan authorities were investigating the incident. **[59b]**

8.60 On 24 June 2008 The Institute for War and Peace Reporting (IWPR) also reported on a two-day clash where the "Taleban were engaged in a standoff against the Afghan National Army, ANA, and NATO in Arghandab [Kandahar province]. The insurgents had mined roads and blown up bridges, and many civilians had left in anticipation of violence. …The insurgent presence in Arghandab increased dramatically following a daring prison break on June 13 [2008], in which at least 350 Taleban were freed, along with several hundred other inmates. …Within days, there were close to 600 fighters gathered in Arghandab, according to residents." **[73d]**

8.61 The IWPR further noted on the incident that "For three days, the tension mounted as the Taleban predicted that they would shortly take Kandahar city, and NATO and the government downplayed the threat. On June 18 [2008], NATO moved into Arghandab, and by the following day it was all but over as the Taleban withdrew and the fighting stopped. Some ANA forces remained in the area to clean up." **[73d]**

8.62 On 13 July 2008 at least 50 civilians, many of them women and children were reported killed in a US airstrike while attending a double wedding between two

families, according to Afghan authorities. The US said they had targeted insurgents but eyewitness reports said that the wedding group was passing though a narrow mountain pass which separated the two families. (BBC Online, 13 July 2008) **[25aj]**

8.63 The *Times Online* also reported on the incident, noting that:

"An Afghan government investigation has concluded that 45 women and children and two men were killed when a US aircraft bombed a wedding party in eastern Afghanistan last Sunday. The nine-man investigation team appointed by the Afghan President, Hamid Karzai, found that only civilians were hit during the airstrike. Burhanullah Shinwari, the leader of the investigation team and the deputy speaker of Afghanistan's Upper House, said: 'We found that 47 civilians, mostly women and children, were killed in the airstrikes and another nine were wounded.' The claims of civilian casualties were initially strongly rebutted by the US military. A US military statement … claimed: 'intelligence revealed a large group of militants operating in Deh Bala district. Coalition forces identified the militants in a mountainous region and used precision air strikes to kill them'." **[68e]**

8.64 The Institute for War and Peace Reporting (IWPR) recorded that tribal leaders called for President Karzai to deliver justice to those responsible for the attack on the wedding party. Rai Khan an elder from Haskamena district said: "Karzai should hand over the murderers so that we can hang them, or else he should resign, …If he does not do one or the other, then we will leave our homes and take matters into our own hands." The US were conducting their own investigation. **[73a]**

8.65 The BBC reported on 13 July 2008, that at least 21 people had been killed and 43 wounded in a suicide attack in a crowded market in Deh Rawaud district, Uruzgan province. Police reported that many of the dead were children. The suicide bomber was on a motorbike that struck a police vehicle, according to the provincial police chief, Jumma Gul. **[25ai]**

8.66 ReliefWeb reported on 27 July 2008 "NATO killed dozens of Taliban insurgents in an air strike on Sunday [27July 2008], following an attack by the militants on a government building in southeastern Khost province near the border with Pakistan, the provincial governor said. The Taliban denied they suffered any losses, saying the group killed eight police in the raid on the building." **[40g]**

8.67 The article further noted that "Hours after the attack, a suicide bomber in a separate part of Khost blew himself up at the gate of an Afghan road construction firm, killing a guard and wounding six other people, another official said." **[40g]**

8.68 The BBC reported on 12 May 2008 on the temporary closure of the UN repatriation centre in Jalalabad:

"The UN has closed its repatriation centre in eastern Afghanistan because of unrest in the city of Jalalabad… The UN says it decided to close the centre after protests closed the main road from Kabul to the Pakistan border. In one demonstration, locals claimed that US forces had killed three civilians in a military operation. The other protest, Jalalabad, was connected to the killing of

a local MP's father and the kidnapping of seven members of his family. The UN High Commission for Refugees is keen to stress that the closure is only a temporary measure." **[25ac]**

8.69 A UNHCR security update on 6 October 2008, noted that the following areas in the south, south-east and east were assessed as being insecure after recent threats had been observed or reported:

"**South**

All districts of **Hilmand, Kandahar, Uruzgan, Zabul** and the highways to these provinces and also from Kandahar to Nimroz through Delaram are assessed as being insecure.

South East

All districts of **Paktika, Khost, Paktia** and the highways to these provinces are assessed as being insecure…

East

- Kunar: The whole province except Asad Abad (the provincial capital), is assessed as being insecure.
- Laghman: The whole province except central and eastern parts of Mehtarlam (the provincial capital) is assessed as being insecure.
- Nangarhar: Khogyani, Pacheer Wa Agam, Deh Bala, Naziyan, Shirzad, Chaparhar, Door Baba, Goshta, Lal Poor, Achin, Hisarak and Kot districts are assessed as being insecure.
- Nooristan: The whole province except Paroon (the provincial capital) is assessed as being insecure. "

[11d]

8.70 Five schoolgirls were attacked with acid by suspected Taliban fighters on 12 November 2008. The girls were on their way to Mirwais Nika Girls High School when the incident happened. Two men on motorbikes stopped next to them and threw acid into the face of one of the girls' inflicting acid burns. Her sister was also injured while trying to help her. (Al jazeera, 12 November 2008) **[15f]**

8.71 On 13 November 2008 the BBC reported that "Seven civilians and a US soldier have been killed in a suicide car bomb attack against a US convoy in eastern Afghanistan, Afghan officials say. The blast tore through a crowded market near Jalalabad, capital of the eastern Nangarhar province. Many of the 65 injured were children, an interior ministry spokesman said… A US military spokesman had earlier told the BBC that 19 people had died in the blast." **[25ab]**

8.72 On 6 January 2009, 32 Taliban [Taleban] insurgents were killed during an operation conducted by coalition forces in Langham Province, east of Kabul. The operation's objective was to disrupt the Taliban's roadside bomb network. Cashes of weapons and explosives were later found during the search of the compound which had been occupied by the insurgents. (BBC Online, 7 January 2009) **[25ab]**

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North and North-East

8.73 On 15 June 2006 the Institute for War and Peace Reporting reported that Taliban activity had spread further north:

"… to the formerly secure provinces of Balkh, Jowzjan, Sar-e-Pul, and even remote Badakhshan in the northeast – historically the only part of Afghanistan the Taleban never conquered.

"In late May [2006], two people were killed and two injured in an attack on a non-government organisation, NGO, in Badakhshan. Four employees of Action Aid, an NGO helping with the national reconstruction programme in the north, were killed in Jowzjan, also in late May.

"Arson attacks on schools are also on the rise in the north: six have been burned down since the end of April, three in Sar-e-Pul, two in Balkh, and one in Faryab." **[73v]**

(See also section 24: Children – Education for further information on attacks on schools)

8.74 Radio Free Afghanistan reported in March 2008, that seven mine-clearers from the UN-funded mine clearance teams were shot dead in two separate incidents in what were described as some of the deadliest attacks on non-government workers in months. "In Jawzjan province…. gunmen attacked a convoy of de-miners from the Afghan Technical Consultants (ATC) team, killing five and wounding seven. Two more employees of a separate mine clearing team, the Mine Detection and Dog Centre (MDC) were shot dead in an attack in Kunduz province…. No one has claimed responsibility for the attacks." **[29i]**

8.75 The UN Secretary-General's report of 6 March 2008 stated that "While the effects of insecurity in the south of the country have been widely reported, the Afghanistan Non-Governmental Organization (NGO) Safety Office has reported that in 2007 over half of fatalities of NGO personnel occurred in the north, mainly in connection with economically motivated crimes." **[39b] (p12)**

8.76 A UNHCR security update on 6 October 2008 noted that the following areas in the north-west and north-east were assessed as being insecure after recent threats had been observed or reported:

"**North West**

- Faryab: Kohistan, Qaisar and north of Almar districts are assessed as being insecure.

North East

- Baghlan: Baghlan Jadid, Baghlan Kohna, Nahreen, Andarab (now divided to Banu, Deh Salah and Pul-i-Hesar districts), Khost, Fereng, Guzargah Noor, Jelga districts are assessed as being insecure,

- Kunduz: Chardara, Dasht-e-Archi, Akhtash area of Khan Abad districts and the highway to Dasht-e-Archi are assessed as being insecure."

[11d]

8.77 On 1 August 2008, the Agency Coordinating Body for Afghan Relief (ACBAR) released a statement also highlighting its concern over the insecurity to Afghan civilians. The statement noted that "Insecurity has spread to areas which were previously relatively stable in parts of north, northwest and central Afghanistan, such as Badghis, Ghor, Farah and Kunduz, including to provinces close to and bordering Kabul, such as Ghazni, Logar and Wardak." **[94a]**

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Border region – Afghanistan/Pakistan

8.78 "On 12 September 2001 the UN and other aid organizations began to remove their foreign staff from Afghanistan, owing to fears that the USA would launch retaliatory attacks against al-Qa'ida and the Taliban. Shortly afterwards the Taliban seized the UN Kabul office and shut down the Afghan communications network. The number of displaced people increased considerably; although accurate estimates of new refugees were not known, some reports estimated that 1.5m. Afghans had abandoned their homes in the latter half of September. Pakistan restricted entry to those at the border considered to be most in need of assistance. Nevertheless, thousands of refugees succeeded in entering Pakistan illegally." (Europa World Online, 5 January 2009) **[1c] (Recent history)**

8. 79 "In late June [2003] US-led forces launched a major assault on suspected Taliban and al-Qa'ida fighters along Afghanistan's border with Pakistan, in response to an increase in attacks on members of the Afghan Transitional Administration and ISAF. The Taliban, reportedly bolstered by new volunteers from Pakistan and by funds from drugs-trafficking, continued their campaign of violence. Humanitarian organizations were also affected by the increase in violent incidents." (Europa World Online, 5 January 2009) **[1c] (Recent history)**

8.80 "In 2005–06, however, despite a number of meetings between Afghan and Pakistani officials, relations were strained, with President Karzai and his Pakistani counterpart engaging in public recriminations over cross-border activities and the fight against the Taliban. In December 2006 Pakistan's proposal to lay landmines and construct fences along the Afghan–Pakistani border to prevent the cross-border movement of militants provoked a negative reaction from Karzai, who claimed that such a strategy would be divisive. Relations between the two countries appeared to improve with the holding of a joint `peace jirga' in Kabul in August 2007." (Europa World Online, 5 January 2009) **[1c] (Recent history)**

8. 81 The US State Department (USSD) report 2007, published on 11 March 2008, stated that:

"Taxi, truck, and bus drivers reported that both security forces and armed militants operated illegal checkpoints and extorted money and goods. The number of such checkpoints increased at night, especially in the border provinces. In Kunduz the customs department had no effective control of the

many illegal crossings and claimed the corruption of border police permitted smuggling of drugs, weapons, and other commodities. Residents reported having to pay bribes to ANP [Afghan National Police] and border police officials at checkpoints and border crossings between Jalalabad and Pakistan. The Taliban imposed nightly curfews on the local populace in regions it controlled." **[2h] (Section 2d)** Furthermore, the report noted that "Ethnic Hazaras reported being asked to pay additional bribes at border crossings where Pashtuns were allowed to pass freely." **[2h] (Section 2d)**

8.82 Radio Free Europe / Radio Liberty reported in November 2008 that:

"The border areas linking northwestern Pakistan with eastern Afghanistan have seen a significant increase in violence of late, threatening Kabul's control over its share of the vital region. November 13 [2008] saw one of the area's deadliest attacks in recent months when a suicide car bomber struck a U.S. military convoy passing through a busy cattle market in Bati Kot, a village on the outskirts of Jalalabad, capital of Afghanistan's eastern Nangarhar Province. A U.S. military spokesman said more than 20 civilians and one U.S. soldier were killed in the attack. Seventy-four civilians were injured, according to an Afghan health official. There was no immediate claim of responsibility for the attack, but Taliban militants regularly use suicide attackers in assaults against Afghan, U.S., and other foreign forces." **[29b]**

8.83 The BBC Online reported on 26 November 2008 that the US and Pakistan military "…are working together closely on a section of the border that divides the Afghan province of Kunar and the Pakistani tribal area of Bajaur. Pakistan launched a serious and sustained operation there after its forces were besieged by local Taleban militants supported by foreign fighters from Afghanistan. The Americans say this is having a significant impact in curbing cross-border militancy, and have moved to block the escape of fleeing insurgents." **[25ap]**

8.84 In December 2008 "…authorities briefly suspended the Khyber supply route to launch an offensive against militants. The operation was intended to halt a wave of hijackings and attacks on vehicles carrying supplies into Afghanistan." (BBC Online, 14 January 2009) **[25au]** In January 2009 ethnic Pashtun tribesmen blockaded the border crossing in the Chaman area of Balochistan province in protest at the killing of a tribesman by the security forces. However, the blockade ended after five days when it was agreed that the killing would be investigated. (BBC Online, 14 January 2009) **[25au]**

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9. SECURITY FORCES

DEVELOPMENTS FOLLOWING 11 SEPTEMBER 2001

9.01 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.)**

9.02 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 Section 9: ISAF and PRTs and The role of PRTs for more detailed information)

9.03 The Human Rights Watch 2008 report on Afghanistan recorded that:

"Taking into account Afghanistan's population and size, the 40,000 NATO and US-led coalition forces in the country are a small fraction of the security forces deployed in other recent post-conflict areas like the Balkans and Timor-Leste. Many are limited by national laws to comparatively safe areas in Afghanistan or cannot act to protect ordinary Afghans adequately. Despite significant overlap between NATO and the European Union, the international security effort in Afghanistan has been hobbled by insufficient resources and the failure to effectively address the security concerns of the Afghan population. For instance, the 160 police trainers fielded by the EU were too few to train the needed number of officers, resulting in a police force rife with corruption and lacking in public legitimacy." **[17a]**

POLICE

Structure and Reform

9.04 International Crisis Group (ICG) reported on 18 December 2008 that:

"Police reform in Afghanistan is receiving more attention and resources than ever before, but such increased efforts are still yet to be matched by significant improvements in police effectiveness and public confidence. Too much emphasis has continued to be placed on using the police to fight the insurgency rather than crime. Corruption and political appointments are derailing attempts to professionalise the force. The government and the international community need to reinforce the International Policing Coordination Board (IPCB) as the central forum for prioritising efforts and drive forward with much greater unity of effort. Tangible steps such as appointing a career police commissioner and establishing community liaison boards will build professionalism and wider outreach. A national police force able to uphold the rule of law is crucial to statebuilding and would help tackle the root causes of alienation that drive the insurgency." (**[26a] (p5)**

9.05 "Considerable work has gone into overhauling payroll and identification systems to provide more accountable oversight and end patronage networks that skim salaries meant for police officers who may or may not exist. The Electronic Payroll System now functions in most regions, with individual records for some 63,486 police. Of these 35,369 are paid by electronic transfers to individual bank accounts." (ICG, 18 December 2008) **[26a] (p3)**

9.06 "In 2008, insurgents have increasingly targeted female police, with one of the most prominent policewomen, Lt. Colonel Malalai Kakar, killed in Kandahar in September 2008… Her murder followed the killing of a female officer in Herat and two women working at a police station in Ghazni, accused by the insurgents of 'immorality', whose execution was filmed and later shown by many national broadcasters to little local outcry." (ICG, 18 December 2008) **[26a] (p5)**

9.07 "A number of steps are being taken to build up the number of women in the ranks. Because few women are able to stay away from their families in Kabul for prolonged periods to attend the police academy, efforts to increase the number of female officers include training and special courses for higher ranks in the regions as well as incentive payments. The 2008 tashkeel [authorised personnel ceiling] also provides for a new gender mainstreaming unit in the interior ministry to contribute to policy and planning. The unit has begun work with nine staff in Kabul, with 30 to be appointed in the regions." (ICG, 18 December 2008) **[26a] (p5)**

(See also Section 23: Women)

9.08 The Afghan Research and Evaluation Unit (AREU), stated that "High rates of illiteracy and semi-literacy among ANP [Afghan National Police] patrolmen and recruits, … makes it difficult to provide effective training and severely limits the policing tasks that can be performed.

"Weak or non-existent recruiting and vetting systems resulting in little attention given to who is trained, and little follow-up to determine what happens to those who have been trained. In some areas this has had the perverse effect of strengthening forces opposed to the central government.

"Despite some notable achievements, the overall result of police reform efforts during the past five years has been disappointing, and many Afghans still perceive the ANP to be part of the security problem rather than part of the solution." **[22l]**

Afghan National Police (ANP)

9.09 "The Afghan National Police (ANP) is a centralized, militarilistic state organization under the direction of the Minister of Interior Affairs. It is modelled on the European police system… During the period of conflict from the late 1970s to 2002, there was no effective civilian police. Generally, the military, intelligence agencies, Vice and Virtue Police, warlords, or other armed groups usurped the police function and emphasized their own political and security goals. After the fall of the Taliban in December 2001, the urgent need to re-establish security and civil society made police reform a priority. Germany agreed to lead international efforts to help the Afghan government reconstruct its national police force." (The World Police Encyclopedia, 2006 edition) **[23]**

(p4-5)

9.10 The Afghanistan Research and Evaluation Unit's report, 'Cops or Robbers? The Struggle to Reform the Afghan National Police', published July 2007 noted that:

"The Afghan National Police (ANP) is Afghanistan's over-arching police institution, which consists of the following forces: Afghan Uniformed Police (AUP) who are responsible for most day-to-day police activities; Afghan Border police (ABP); Afghan National Civil Order Police (ANCOP); and the Counter Narcotics Police of Afghanistan (CNPA). In 2006 a temporary force, the Afghanistan National Auxiliary Police (ANAP), was established separate from the ANP to support counter-insurgency operations. The ANP operate under the authority of the Ministry of Interior (MoI), which is also responsible for overseeing provincial and district administration and for implementing the government's counter-narcotics policies." **[22a]**

9.11 "There are four levels of police and gendarmes in the rank system and a number of ranks within each level. The first or highest level includes ranks equivalent to brigadier general or assistant deputy commissioner and above. The second level contains ranks equivalent to major or colonel or chief inspector to chief superintendent. The third level includes ranks equivalent to company sergeant major to captain, or police staff seargent to inspector. The fourth level includes ranks equivalent to constable to sergeant." (The World Police Encyclopedia, 2006 edition) **[23] (p4-5)**

9.12 "The basic requirements for entering the police school are Afghan citizenship, age between seventeen and twenty-two years, good physical and mental health, height of at least 1.70 meters, no criminal record, and a minimum nine years of schooling. After the successful completion of one year of police training, a recruit can be appointed as a constable.

"The higher the level in the police hierarchy, the longer the training. Non-commissioned officers train for a year at the police academy. Commissioned officers receive three years of academic training interspersed with a year of practical training between the second and third and another at the end of the third year, forming in total a training programme of five years. A U.S. screening and training programme was introduced in 2003 to ensure that former conscripts retrained in the ANP are suitable for police work and receive eight weeks of basic police training." (The World Police Encyclopedia, 2006 edition) **[23] (p6)**

9.13 The Afghan police do not generally carry firearms. However, they are issued weapons when required. "The Law of the Police and Gendarmes sets out the conditions in which firearms and explosives can be used by the police." (The World Police Encyclopedia, 2006 edition) **[23] (p6)**

9.14 A BBC report dated 13 July 2007 noted that a senior American army officer, Major-General Robert Durbin, said that only about 40 per cent of the Afghan police force were properly equipped. The BBC report stated that "He attributed this to the fact that until 18 months ago, the international community had provided almost $2bn for reforming Afghanistan's army, but less than a tenth of that had been invested in the police force. Maj-Gen Durbin said resources were now beginning to come in to properly equip the police." **[25bd]**

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

9.15 On 1 June 2006 the Institute for War and Peace Reporting (IWPR) reported that "Corruption is a growth industry for Afghanistan's police. They stand accused of extorting money from drug smugglers, gun runners, brothel owners and gamblers, in return for looking the other way. Those who refuse to pay can be arrested as part of an apparently virtuous clean-up campaign, and then released once they hand over the cash." The provincial Governor of the northern province of Balkh, Atta Mohammad Noor, was reported as saying that:

"… high-level corruption in the police force meant that the Balkh authorities were unable to provide security for residents. He acknowledged that much of the new Afghan National Police is made up of former mujahedin, the forces who fought and ultimately triumphed over the Soviet invaders. Atta, a former leading militia commander himself, said it was partly out of respect for their past record that he had been reluctant to remove them." **[73b]**

9.16 The same IWPR article also stated that:

"Law enforcement officials argue that much has been done to improve the situation since the fall of the Taleban regime in 2001. Over the past four and a half years, police academies have been established in all of Afghanistan's main provinces. International trainers from the United States, Britain, and Germany have been working with the Afghan police to improve their performance.

"Police from the five northern provinces get their training at the Mazar-e-Sharif police academy, where they receive basic lessons in policing, human rights, penal law and traffic regulations… As of March 2006, over 57,000 had been trained, with the rest due to graduate by September.

"But Afghans brush aside the notion that trained police are any improvement over the old force… Analysts tend to agree, saying that despite the best efforts of the international community, the police system is riddled with corruption and nepotism." **[73b]**

9.17 The Afghanistan Research and Evaluation Unit's Report, 'Cops or Robbers? The Struggle to Reform the Afghan National Police', published July 2007 noted that:

"One of the big challenges confronting efforts to develop an effective police force in Afghanistan is the lack of policewomen. Of the 63,000 police being paid salaries in the spring of 2006, only 180 were women. Of these, many carry out menial tasks such as cleaning, cooking, and making tea for the men, rather than meaningful policing duties. A few have been trained and posted to search female passengers and their luggage at Afghanistan's airports.

"Afghanistan's conservative culture, which generally requires the strict segregation of men and women, makes the need for more policewomen extremely important. It is culturally unacceptable for male police to interrogate women, let alone search them. The lack of policewomen to question and search female suspects has reportedly resulted in an increasing number of women being used by drug traffickers to smuggle drugs." **[22a]**

(See also Section 23: for further information on Afghan women)

9.18 On 11 September 2006 the UN Secretary-General reported that:

"The Afghan National Police force continues to make modest strides in its overall development as a dependable public security provider…The restructuring of the leadership of the Afghan National Police continued during the reporting period… On the whole, the second tier restructuring has been a positive step and has resulted in the appointment of a more professional core group of police officers to critical positions. There have been, however, some deficiencies. Fourteen officers who had failed in the selection process were added to the final list at the last minute and were appointed to key positions within the Afghan National Police force. They include a small number of well-known human rights offenders and officers with links to criminal and illegal armed groups. Following concern expressed from within the Government and démarches by several members of the international community, the Ministry of the Interior agreed that the 14 officers would be appointed for a probationary period of only four months, after which their performance would be reviewed…

"The challenges facing the Afghan National Police remain daunting: command and control arrangements are weak; administrative and logistical support capacity lags behind operational capability; lack of discipline is common; corruption remains rampant; and disregard for human rights and due process are also major concerns. As a result, the level of public trust in the police remains very low. The Government continues to struggle to provide adequate equipment and logistical support to the Afghan National Police." **[39l] (p7-8)**

9.19 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers dated December 2007, noted that:

"On 16 August 2006, President Karzai announced that locally recruited temporary auxiliary police forces would be established to strengthen Afghanistan's permanent police force. The overall strategy was to integrate the auxiliary police forces into a unified chain of command and control of the Ministry of Interior. The programme was initiated in six priority insurgency-affected provinces: Farah, Ghazni, Helmand, Kandahar, Uruzgan and Zabul. It was subsequently extended to the provinces of Herat, Kunar, Laghman, Logar, Nangarhar, Nuristan, Paktya and Paktyka. Although the aim was to train and deploy 9,063 auxilliary policemen by 1 May 2007, only 3,212 had been trained, equipped and deployed, by June 2007." **[11a] (p33)**

9.20 The US Department of State's Report on Human Rights Practices 2007 stated that:

"The ANP [Afghan National Police] played a major role in providing security in the country. Rank and pay reform procedures put in place in 2006 continued, resulting in the removal of more than 80 senior officers in the past two years. International support for recruiting and training of new ANP personnel was conditional upon new officers being vetted in a manner consistent with international human rights standards to generate a more professional police force. The international community worked with the government to develop training programs and internal investigation mechanisms to curb security force corruption and abuses. At the end of the year [2007], more than 73,000 ANP members had been trained in basic literacy, professional development, and

fundamental standards of human rights. Nevertheless, human rights problems persisted." **[2h] (Section 1d)**

9.21 The UN Secretary-General report, dated 23 September 2008 stated that:

"The reform and rebuilding of the Afghan National Police has… been slower and less successful [than that of the Afghan National Army]. Some 70 per cent of the 82,000-strong force is estimated to be present for duty. Focused district development and in-district reform programmes, led by the United States of America, are being implemented to improve the quality of training and leadership in 42 districts, particularly in the insurgency-affected south.

"Serious shortcomings remain, however, with regard to training and equipping the police. Since the Afghan National Police is the only security force that maintains a durable presence in communities across Afghanistan, its shortcomings have serious effects. A weak, ineffective or distrusted police force becomes an obstacle to implementing an effective counter-insurgency effort, combating crime and ensuring respect for rule of law, securing a stable Government presence in unstable provinces and keeping vital highways safe and accessible. Border police are almost non-existent along significant parts of the country's border and are unable to prevent large-scale smuggling and drug trafficking. Insufficient numbers of police officers and lack of training and equipment have contributed to a very high casualty rate among the members of the Afghan National Police. As many as 720 police officers have been killed since March. Finally, corruption remains a problem. There are credible reports of police positions, particularly in lucrative transit and drugtraffickingcorridors, being 'sold' for large amounts of money." **[39a] (p7)**

9.22 The Foreign and Commonwealth Office noted in a letter dated 17 March 2008 that: "The Head of the Police Professional Standards Dept (PPSD) at the Afghan Ministry of Information advises that they investigated 200 complaints against police officers from members of the public this Afghan calendar year (21 March 07-20 March 08). Complaints ranged from minor assaults to using status to demand sexual favours…. 4 out of the 200 have been 'proven' and these have been referred to prosecutors within the Ministry to instigate court proceeding." Complaints involving bribes or corruption, however, are handled by another department in the Ministry. **[4d]**

Afghan Uniformed Police (AUP)

9.23 "The AUP is the largest force within the ANP and is responsible for day-to-day police activities at the provincial and district levels. AUP responsibilities include maintaining public order and security, preventing and discovering crime, arresting suspects, protecting public and private property, and regulating road traffic. The strength of the AUP envisioned in the Afghanistan Compact was 31,000, but this number is being revised upward to 45,000." (AREU, July 2007) **[22a] (p11)**

Afghan Border Police (ABP)

9.24 "The function of the ABP is to secure Afghanistan's borders and its international airports. It is responsible for providing border security, surveillance and control, including the prevention of smuggling, drug trafficking and the crossborder movement of insurgents. The ABP are currently

organised into eight brigades, but will be reorganised into five border zones that correspond with the five ANP and ANA regional commands. The ABP are responsible for manning 13 border checkpoints, which may be increased to 14, and conducting patrols along the border. The ABP's current strength is 7,900, and the target is 12,000, but the latter number is being revised upward to 18,000." (AREU, July 2007) **[22a] (p12)**

Afghan National Civil Order Police (ANCOP)

9.25 "The ANCOP is a new police force that was conceived in mid-2006. The mission of the ANCOP is to maintain civil order in Afghanistan's seven largest cities, to provide a robust and mobile police presence in remote high-threat areas, and to serve as a rapid-reaction force to support other police in an emergency. The ANCOP will have strong leadership and be better trained (16 weeks of training) and better equipped than the AUP and ANAP, eventually with special weapons and tactics (SWAT) capabilities." (AREU, July 2007) **[22a] (p12)** "However, they are presently operating almost exclusively in areas where the local police have been sent for training under the Focused District Development (FDD) program. ANCOP's performance and lack of ties to local abusive powerbrokers have apparently led some populations to request these units remain, instead of their regular police returning." (ICG, 18 December 2008) **[26a] (p4)**

Standby Police

9.26 "The function of the Standby Police was to serve as a rapid-reaction force that could be deployed as required throughout the country. A decision was taken in 2006 to phase out the Standby Police, which had an authorised strength of 4,116, and for the ANCOP to take on their responsibility as a rapid-reaction force by the end of 2008." (AREU, July 2007) **[22a] (p12-13)**

Afghan Highway Police (AHP)

9.27 "…. the AHP were responsible for ensuring security on Afghanistan's major highways. In part due to their corruption and ineffectiveness, the AHP were phased out in mid-2006. The plan was to integrate the AHP's 3,400 personnel into the AUP and redeploy them to border police brigades or high-threat provinces in the south. Many refused to redeploy, however, and reportedly deserted along with their uniforms and weapons." (AREU, July 2007) **[22a] (p13)**

Counter Narcotics Police of Afghanistan (CNPA)

9.28 "The function of the CNPA, which has an approved force size of 2,264, is counter-narcotics investigation and enforcement. Unlike all the other police forces, which report to the MoI's Deputy Minister for Security, the CNPA reports to the Deputy Minister for Counter Narcotics. The CNPA includes a National Interdiction Unit (NIU), established in October 2004 that conducts interdiction raids across Afghanistan." (AREU, July 2007) **[22a] (p13)**

Afghanistan National Auxiliary Police (ANAP)

9.29 "The ANAP is a recently established temporary police force that is separate from the ANP. It was created in 2006 as a quick fix measure to help address

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the growing Taliban-led insurgency in southern Afghanistan, and as a way to bring militia groups loyal to local governors under the control of the central government. The approved ANAP force size is 11,271. Recruits are hired locally in 124 high-risk districts, initially with a focus on six provinces in southern Afghanistan. New recruits initially receive only ten days of training — five days of classroom instruction and five days of range firing — followed by one week of additional training each quarter during their one-year contract.

"Upon completion of this brief training, ANAP recruits are issued an AK-47 assault rifle and a standard ANP police uniform, although with a distinctive patch. They are entitled to the same US$70 monthly salary as a regular ANP patrolman. ANAP is presently viewed as a temporary force and recruits are only given contracts for one year, but they are likely to be incorporated into the regular ANP at the end of that year. The first ANAP class graduated in October 2006 in Zabul province, where the programme was first piloted." (AREU, July 2007) **[22a] (p13)**

9.30 "… [T]he Afghan National Auxiliary Police (ANAP), terminated on 30 September 2008, was widely considered a failure. The program, started in 2006, sought to induct 11,000 village youths to defend their areas after a ten-day training program. In some southern provinces, nearly one third of the trainees were never seen again after they had been given a gun, uniform and this brief training. About 3,200 have since received three weeks' additional training and transitioned to the Afghan Uniformed Police. Others, considered unsuitable or unable to find positions in the new tashkeel, were simply let go, with no apparent efforts to disarm them." (ICG, 18 December 2008) **[26a] (p4)**

Torture

9.31 The USSD report 2007 recorded that the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment. However:

"… there were reports of abuses by government officials, local prison authorities, police chiefs, and tribal leaders. NGOs reported that security forces continued to use excessive force, including beating and torturing civilians. During the year human rights organizations reported that local authorities in Herat, Helmand, Badakhshan, and other locations continued to torture and abuse detainees. Torture and abuse included pulling out fingernails and toenails, burning with hot oil, beatings, sexual humiliation and sodomy." **[2h] (Section 1c)**

9.32 The USSD 2007 report further noted that "There were numerous reports of abuse by Afghan National Police (ANP) officers. In September in Ghazni Province, police beat two prisoners in custody. The cases were referred to the MOI's human rights unit and investigations continued at year's end." **[2h] (Section 1c)**

(See also Section 9: Security Forces - National Security Directorate (NSD) (Amniat-e Melli)

Extrajudicial Killings

9.33 The US Department of State's 2007 report on Afghanistan noted that extrajudicial killings continued in Afghanistan. **[2h]**

9.34 "A special rapporteur of the UN Commission on Human Rights has said hundreds of civilians have been unlawfully killed by the Afghan police, militias, international forces, foreign intelligence agents and Taliban insurgents in the past four months. Philip Alston - UN rapporteur on extrajudicial, summary and arbitrary execution, who visited different parts of Afghanistan and held extensive talks with commanders of the international forces based in Afghanistan, Afghan government officials, tribal elders and other actors - said at least 300 civilians had been killed by insurgents and about 200 others had been killed by international forces in 2008." **[36p]**

9.35 An IRIN News article dated 19 May 2008 recorded that " 'A key reason for these failures to act is the extent to which senior government and international officials focus on 'stability' and 'security' rather than 'human rights',' he said. 'No one in the government has any interest in investigating, much less prosecuting, those responsible [for unlawful killings]…and no one in the international community seems prepared to change that situation,' he said…'." **[36p]**

ARMED FORCES

9.36 The Afghanistan National Army website accessed on 30 July 2008, noted that:

"Upon becoming president of Afghanistan, Hamid Karzai set a goal of an army of 70,000 men by 2009. By January 2003 just over 1,700 soldiers in five kandaks (Pashtun for battalion) had completed the 10-week training course, and by June 2003 a total of 4,000 troops had been trained. Initial recruiting problems lay in the lack of cooperation from regional warlords and inconsistent international support. The problem of desertion dogged the force in its early days: in the summer of 2003, the desertion rate was estimated to be ten percent and in mid-March, 2004 estimate suggested that 3,000 soldiers had deserted." **[12]**

9.37 The ANA website further noted:

"As of September 2005, 28 of the 31 Afghan National Army Battalions were ready for combat operations and many had already participated in them. At least nine brigades are planned at this time, each consisting of six battalions. By March 1, 2007 half of the planned army of 70,000 ANA soldiers has been achieved with 46 Afghan battalions operating in the fore or in concert with NATO forces. A total of 14 brigades that will primarily be regionally oriented are planned for 2008.

"Five Corps exist, serving as regional commands for the ANA: the 201st Corps based in Kabul, the 203rd Corps based in Gardez, the 205th Corps based in Kandahar, the 207th Corps in Herat, and the 209th Corps in Mazar-e-Sharif. Each of the four outlying Corps will be assigned one brigade with the majority of the manpower of the army based in Kabul's 201st Corps." **[12]**

9.38 A Report by the UN Secretary-General dated 23 September 2008 stated that "The Afghan National Army has continued to improve and has now reached a strength of more than 62,000. Following a request by the Minister of Defence of Afghanistan, the Joint Coordination and Monitoring Board, at its ninth meeting, on 9 September, agreed to raise the recruitment ceiling from 88,000

to 122,000 by 2012, reflecting the readiness of the Government of Afghanistan to gradually take greater responsibility for the security of the country." **[39a] (p6)**

(See also Section 10: Military Service)

OTHER GOVERNMENT FORCES

National Directorate of Security (NDS) (Amniat-e Melli)

9.39 "The National Directorate of Security is the intelligence agency of the Government of Afghanistan. It is one of the largest security sector agencies operating under a still classified decree. The Directorate exercises extensive powers, including for detaining, interrogating and investigating, prosecuting and sentencing people alleged to have committed crimes against national security, and it also takes part in military-related operations." (UN Security Council, 10 November 2008) **[39d] (p4)**

9.40 A report by Amnesty International dated November 2007 stated that:

"The NDS is one of the largest security sector agencies in Afghanistan. With its headquarters in Kabul, the NDS has sub-offices across the country and 30 departments with approximately 15–30,000 staff. The NDS is presumed to report directly to President Karzai, although the mandate of the NDS is outlined in a Presidential decree that has not been published and remains secret. Amnesty International has also been informed that the NDS also operates under a law promulgated in 1987, 'Law of Crimes against Internal and External Security of the Democratic Republic of Afghanistan', but that its current functions are much broader than this 1987 law would suggest." **[7i] (p33)**

9.41 The Amnesty report futher noted:

"Public knowledge of the organization and oversight mechanisms of the NDS remains limited, but its powers to detain, prosecute, sentence and imprison people appear to reach far beyond the mandates of many intelligence agencies around the world. Amnesty International is particularly concerned that the NDS's powers of investigation and detention are not separated from its powers of prosecution and imprisonment, and that this improper overlapping of functions violates the right to a fair trial, facilitates impunity for perpetrators of human rights violations and undermines the rule of law." **[7i] (p34)**

9.42 Furthermore the report noted that:

"Amnesty International has received reports of torture, other ill-treatment, and arbitrary detention by Afghanistan's intelligence service, the National Directorate of Security (NDS). Detainees are transferred from international forces operating in Afghanistan as part of the International Security Assistance Force (ISAF) to Afghan authorities. By transferring individuals to a situation where there is a grave risk of torture and other-ill treatment, ISAF states may be complicit in this treatment, and are breaching their international legal obligations…

"Concerns about the NDS first emerged in 2002, shortly after it was reformed from the previous Afghan intelligence institution, with a UN call for robust reform. The UN reiterated its concerns about the NDS as recently as September 2007 when it called for investigations into allegations of torture and other ill-treatment by the NDS. The full mandate of the NDS is not made public but appears to include powers to arrest, charge, prosecute and judge individuals for a variety of security-related offences. It also operates its own detention facilities." **[7i] (Frontpage)**

(See also Section 14: Prison conditions for further information on the NDS)

INTERNATIONAL FORCES

9.43 "On 7 October 2001, the US-led OEF [Operation Enduring Freedom] was launched as a response to the attacks on the US on 11 September 2001. Security Council Resolution 1368 adopted on 12 September 2001 granted international legal authority for OEF, condemning the 11 September attacks and affirming the right of states to individual and collective self-defence. OEF aimed at ousting the Taleban government which had provided a safe haven for Osama bin Laden and al-Qa'ida. US forces were supplemented by ISAF forces in 2001. (Amnesty International, 11 November 2007) **[7i] (p4)**

International Security Assistance Force (ISAF) and Provincial Reconstruction Teams (PRTs)

9.44 "ISAF's establishment, and its powers of detention, flow from UN Security Council resolution 1386 of 20 December 2001. In accordance with the Bonn Agreement and UN Security Council Resolution 1386, ISAF was established to 'assist the Afghan Interim Authority in the maintenance of security in Kabul and in surrounding areas' under Chapter VII of the UN Charter. ISAF was also allowed to 'take all necessary measures to fulfil its mandate'. This authority was expanded to cover the whole of Afghanistan by UNSC resolution 1510 on 13 October 2003.

"Just prior to the expansion of ISAF's mandate NATO, in its first mission outside of Europe, assumed control over ISAF on 11 August 2003. The ISAF mission has, in four stages, taken over from the US-led OEF as its geographical scope has grown from Kabul in 2001 to the entire country by October 2007. ISAF forces initially moved to the north of Afghanistan (October 2004), then to the west (September 2005), then the south (July 2006) and finally took over from OEF forces in the east in October 2006. At present ISAF is made up of more than 35,000 personnel drawing resources from 37 states, including the 26 NATO Member States.

"ISAF and the remaining OEF forces are co-operating and conducting joint operations with Afghan security forces, including with the Afghan National Army (ANA), the Afghan National Police (ANP) and the NDS. Due to the lack of ANA forces, ANP and NDS are sometimes deployed to take part in military operations." (Amnesty International, 11 November 2007) **[7i] (p4)**

9.45 "The Afghan authorities have the primary responsibility for security. For its part, ISAF's role is to support the Government of the Islamic Republic of Afghanistan (GIRA) in providing and maintaining a secure environment in order to facilitate the re-building of Afghanistan and the establishment of

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democratic structures, and to assist in expanding the influence of the central government across the country.

"More specifically, ISAF's main security tasks include:

- The conduct of stability and security operations
- Support to the Afghan National Army (ANA)
- Support to the Afghan government programmes to Disarm Illegally Armed Groups (DIAG)
- Support to the Afghan National Police (ANP), within means and capabilities."

(NATO, updated March 2008) **[63a]**

9.46 ISAF, which now numbers 55,000 troops, has increased its presence in eastern and southern Afghanistan, as well as in Kapisa, Logar and Wardak provinces, around Kabul. **[39a] (p7)**

The Role of Provincial Reconstruction Teams (PRTs)

9.47 "Provincial Reconstruction Teams (PRTs) are the leading edge of NATO-ISAF's presence in Afghanistan. These are small teams of civilian and military personnel working in Afghanistan's provinces to provide security for aid workers and help reconstruction work. They are a key component of a three-part strategy for Afghanistan – security, governance and development – helping to spread stability across the country.

"In addition to regular patrols and security operations, NATO-ISAF PRTs also assist in rehabilitating schools and medical facilities, restoring water supplies, providing agricultural technical assistance and many other civil-military projects." **[63b]**

9.48 The US Department of State released a factsheet on 31 January 2006 noting that there were 23 PRTs currently in Afghanistan; 14 run by coalition forces and nine by NATO. **[2d]**

9.49 "Looking ahead, PRTs will remain the main vehicle through which ISAF expansion will take place. While relatively new and subject to some criticism in the early stages of international military deployment to Afghanistan, the PRT concept, in general, has evolved and is seen as a highly effective means of assisting the Afghan government extend its influence to the provinces. As joint military-civilian teams varying in size and led by different lead nations, they are deployed to selected provincial capitals of Afghanistan and provide a viable alternative to a full-fledged international peacekeeping presence, which is not an option for Afghanistan nor part of the ISAF mandate. ISAF's current PRTs are run by Germany, Italy, Lithuania, the Netherlands, Norway, Spain, Sweden and the United States. Several other NATO Allies and Partners make important contributions with either military or civilian personnel. ISAF-led PRTs have helped with countless reconstruction projects; they have mediated between conflicting parties; contributed to the disarmament process of Afghan militias; assisted with the deployment of national police forces and the Afghan National Army (ANA); and generally helped improve the security environment through contacts with local authorities and population." (NATO, 22 June 2006) **[40f]**

AVENUES OF COMPLAINT

9.50 A new government department called the Bureau of Complaints was officially opened to receive and consider complaints from the Afghan public and pass them on to the Office of the President. The new Bureau of Complaints has 23 staff and is currently based in the capital, Kabul. (BBC, 10 March 2008) **[25av]**

9.51 "According to Article 58 of the 2004 Constitution of Afghanistan, the Afghan Independent Human Rights Commission [AIHRC] was established with the purpose of 'monitoring the observation of human rights in Afghanistan, to promote their advancement and protection'." **[78d]** "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." (UN-appointed independent expert, 21 September 2004) **[39k] (para. 42)**

9.52 The AIHRC Monitoring and Investigation Unit, in close co-operation with Ministry of Justice, prepared a list of 2,392 people who were in prisons after the completion of their sentences or were illegally detained and their destinies were not determined. The AIHRC gave the list to the President who appointed a commission headed by Mawlawi Fazl Hadi Shenwary to investigate the issue. Recently, this commission released a report on the situation of those people, releasing 819 people, who were illegally detained or imprisoned in Kabul and determining the sentences of an estimated 1,573 people after the investigation. (AIRC Annual Report, 2007) **[78c]**

(See also Section 18: Afghanistan Independent Human Rights Commission)

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10. MILITARY SERVICE

10.01 The Child Soldiers Global Report 2008, Afghanistan, released April 2008, noted that there was no conscription in the country. It also noted that "Afghanistan's declaration on acceding to the Optional Protocol stated that 'according to the Decree No. 20 dated 25 May 2003 on the voluntary enrolment to the Afghan National Army … the minimum age for recruitment of Afghan Citizen to an active military service is limited by the age of 22 to 28. All recruitments of personnel in the Afghan National Army is voluntary and is not forced or coerced [sic]'." **[33a]** The CIA World Factbook, Afghanistan, updated 6 November 2008, noted that recruitment started at 22 years old and "inductees are contracted into service for a 4-year term." **[3]**

(See also Section 9: Security Forces – Armed Forces for information on the Afghan National Army (ANA) or Section 24: Children for information on child solders)

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11. ABUSES BY NON-GOVERNMENT ARMED FORCES

OVERVIEW

11.01 The Freedom House report, Freedom in the World 2008, released 2 July 2008 stated that:

> "An estimated 2,000 illegal armed groups, with as many as 125,000 members, continue to operate. A voluntary DDR program targeting irregular militia forces between 2003 and 2005, and the follow-up Disbandment of Illegal Armed Groups (DIAG) initiative, succeeded in demobilizing over 60,000 militiamen and collected a considerable amount of weaponry. However, more recently, progress on disarmament has stalled amid worsening security, and there are still an estimated 100,000 illegal weapons, mostly small arms, in the country. Many civilians, particularly in rural areas where the government is unable to provide security, are increasingly reluctant to hand over their weapons. In October 2007, the DIAG's mandate was extended until 2011." **[41a]**

11.02 The Freedom House report further stated:

> "Several thousand civilians were killed in 2007 as a result of attacks by the Taliban and other Islamist groups; during localized fighting between ethnic factions, particularly in the north; or during combat between Taliban fighters on one side and government and coalition forces on the other. Insurgents shifted tactics in 2006 by dramatically stepping up suicide attacks, and the trend continued in 2007. The security situation in much of the country has continued to decline despite the expansion of ISAF to the south and east in 2006. In addition to political and terrorist violence, criminal gangs kidnap foreigners and prominent Afghans for ransom, while drug traffickers and local warlords use force and extortion to defend their operations and influence." **[41a]**

WARLORDS AND COMMANDERS

11.03 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

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groups from committing gross violations of fundamental human rights." **[39k] (para. 29)**

11.04 "Afghans throughout the country have told Human Rights Watch that they view regional warlords, ostensibly allied with the government, as a major source of insecurity. In southern Afghanistan, tribal chiefs, like Sher Mohammad Akhundzada the former governor of Helmand province who was removed due to allegations of corruption and involvement in the drug trade, have been allowed to operate private militias with the blessing of President Karzai. Warlords with records of war crimes and serious abuses during Afghanistan's civil war in the 1990s, such as parliamentarians Abdul Rabb al Rasul Sayyaf and Burhanuddin Rabbani, General Abdul Rashid Dostum, and current Vice President Karim Khalili, have been allowed to hold and misuse positions of power, to the dismay of ordinary Afghans." (Human Rights Watch, 27 September 2006) **[17f]**

11.05 The USSD report 2007 published on 11 March 2008, stated that, although the Afghan National Police had primary responsibility for internal order, "…In some areas powerful individuals, some of whom reportedly were linked to the insurgency, maintained considerable power as a result of the government's failure to assert control. During the year [2007] the government expanded its reach to new areas, including the eastern border region with Pakistan, through the use of auxiliary police." **[2h] (Section 1d)**

11.06 The Institute for War and Peace Reporting recorded on 9 July 2008 that:

"The Afghan government scored a minor victory last month by reeling in a rebellious 'warlord' who led a band of warriors over nearly three decades. What really set this case apart is that the militia commander is a woman. The authorities' decision to co-opt rather than capture Bibi Aysha, who goes by the nickname Kaftar ('the pigeon'), has upset locals who say that given her record, she is unlikely to accept the strictures of civilian life, still less a job as a public servant. Kaftar probably never meant to strike a blow for gender equality, but over the years she has shown that an Afghan woman can make just as tough and ruthless a warlord as her male counterparts. Now 55, Kaftar has fought almost everyone from the Russians and the Taleban to the present government of President Hamed Karzai. Until recently, she had the dubious distinction of being the only paramilitary commander – outside the Taleban and its allies – still in open confrontation with the Afghan state. Last month, she surrendered to the government together with five armed men, most of them her relatives. It was the second time she had laid down her weapons since the fall of the Taleban regime in 2001." **[73c]**

11.07 The IWPR article continued:

"Kaftar is a well-known figure in her native Baghlan province, which lies due north of the capital Kabul. Legend has it that she became a fighter by accident, when she grabbed a gun to kill the Soviet soldiers who had shot her son during the mujaheddin war of the Eighties. Her success later led to her appointment as local commander for the Jamiat-e-Islami faction, whose military leader was Ahmad Shah Massoud. After Taleban forces captured Kabul in 1996 and pushed north, Kaftar claims to have commanded 2,000 armed men resisting their advance. After the United States-led invasion sent the Taleban running, Kafter surrendered her weapons under a government-

run demobilisation programme. She even entered political life briefly, representing Baghlan's Nahrin district during the Emergency Loya Jirga, the 2002 assembly that hammered out a structure for government and confirmed Karzai as head of state pending an election… The whereabouts of the rest of Kaftar's militia remains a mystery. According to local residents and officials, she had more than 200 armed men under her command." **[73c]**

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WAR CRIMES AND HUMAN RIGHTS ABUSES PRIOR TO 2001

11.08 The Freedom House report, Freedom in the World 2008, Afghanistan, released 2 July 2008 stated:

"Since taking power in 2002, the administration has faced the question of how to deal with perpetrators of past abuses. The cabinet in 2005 approved an Action Plan on Peace, Justice, and Reconciliation, including commemoration for victims, truth-seeking and justice mechanisms, and the vetting of potential state employees, but the plan was not formally launched until December 2006. Many perpetrators were elected to the National Assembly despite calls for them to be disqualified, and some, such as warlord Abdul Rasul Sayyaf, have established dominant positions in the new parliament, making any attempt at prosecution difficult. In March 2007, President Karzai signed a law initiated by parliament that provides a sweeping amnesty for war crimes committed prior to 2002, drawing criticism from human rights groups and some lawmakers." **[41a] (p8)**

11.09 The Freedom House 2008 Afghanistan Country report further stated that "Warlords in the parliament joined forces in early 2007 to push through controversial legislation granting immunity for past war crimes." **[41a] (p1)**

11.10 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007, stated that:

"Many of the activities of members of armed groups resisting the communist regimes and the Soviet occupation – from 27 April 1978 until the fall of Najibullah in April 1992 - amounted to war crimes and crimes against humanity, both against combatants of rival factions and against civilians. Similarly, between 1992 and 1996 armed conflict between various factions was also accompanied by serious violations of international human rights law and humanitarian law." **[11a] (p10)**

11.11 Amnesty International's Afghanistan Country Report 2008, covering events from January to December 2007 stated that:

"A culture of impunity continued, boosted in February [2007] by the introduction of the Amnesty Bill, which absolves the government of responsibility for bringing to justice suspected perpertrators of past human rights violations and crimes under international law, including war crimes and crimes against humanity. In December [2007], President Karzai stated that his administration did not yet have the capacity to arrest and prosecute many of those responsible for past and continuing human rights abuses. Those

accused of such abuses included members of parliament as well as provincial government officials." **[7l]**

11.12 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]**)

(See also Section 16: Treatment of former KHAD members)

DISARMAMENT, DEMOBILISATION AND REINTEGRATION PROGRAMME (DDR)

11.13 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, dated December 2007 recorded that:

"The disarmament, demobilization and reintegration (DDR) process of the Afghan Militia Forces (AMF) was completed in June 2006. This process included the safe removal and cantonment of over 10,880 heavy weapons. Cities such as Gardez, Mazar-e Sharif and Bamyan are now largely free of operational heavy weapons. The cantonment of these weapons, coupled with the demobilization of Afghan militia forces, has reduced opportunities for factions to engage in clashes of the scope and intensity that affected the Northern provinces in the period 2002-2004, and the Western provinces in 2006." **[11a] (p37)**

11.14 "DDR supported the disarmament of 63,380 former officers and soldiers of the Afghan Military Forces (AMF) as well as the decommissioning of 259 AMF units. Fifty-five thousand eight hundred and four (55,804) ex-combatants chose one of the reintegration options, which further benefited 53,415 of them, leaving aside 2,759 drop-outs.

"The approach to reintegration has been holistic and reintegration options have ranged from agriculture, vocational training and job placement, small business opportunities, demining, teaching, government jobs, wage labor and joining [the] Afghan National Army (ANA) or the Police." **[40d]**

DISBANDMENT OF ILLEGAL ARMED GROUPS (DIAG)

11.15 "The Afghan Government's disbandment of illegal armed groups programme targets the estimated 1,800 illegal armed groups active in the country, which still possess approximately 336,000 weapons. In addition to the risk represented by those weapons, the armed groups represent an obstacle to the

restoration of the rule of law. Some factions targeted by the countrywide demobilization, disarmament and reintegration programme have neither been fully disarmed nor mainstreamed into the regular political system. As a result, several armed groups remain heavily involved in illegal activities such as narcotics and weapons trafficking." (UN Security Council, 10 November 2008) **[39d] (p5)**

11.16 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, dated December 2007 recorded that:

"In July 2004, through Presidential Decree No. 50, the remnants of the AMF and armed groups, not part of the AMF, were declared illegal. It was estimated that there could be up to 120,000 persons operating in over 1,800 illegal armed groups. By targeting these groups, the disbandment of illegal armed groups (DIAG) aims to contribute to the re-establishment of the rule of law through the promotion of good governance" **[11a] (p37)**

11.17 The UNHCR's Eligibility Guidelines further noted that:

"However, the disarmament of illegal armed groups is very much incomplete. Piloted during the run-up to the parliamentary and provincial council elections in 2005, its main phase was launched between 1 May and 7 June 2006. From September 2006 to 25 February 2007, only 4,496 light and heavy weapons had been submitted. By the end of 2006, illegal armed groups in just three districts of the five-targeted provinces were deemed by the Disbandment Joint Secretariat (the body overseeing the DIAG programme) to have complied with the programme's objectives. The pace of weapons submission and overall disbandment compliance, particularly in the north, was thought to have suffered from the overall deterioration of the security situation. In response to stalled implementation, a joint review of the disarmament programme was undertaken by key stakeholders. The recommendations of the review were reflected into an action plan, which President Karzai endorsed on 7 February 2007. The plan attempts to put new impetus in the disarmament process in part by giving the national security adviser a ministerial coordination and reporting role and the Ministry of the Interior the lead role in the implementation of the disarmament programme." **[11a] (p37)**

11.18 The UN Secretary-General's report, dated 6 March 2008 noted that:

"Progress has been made on the disbandment of illegal armed groups. Out of 51 targeted districts, 21 have complied with the programme, and 161 illegal armed groups were disbanded. Over 1,050 individuals were arrested or disarmed and 5,700 weapons confiscated. The Afghanistan New Beginnings Programme supported by the United Nations Development Programme (UNDP), continues to promote capacity-building, in particular through the establishment of a dedicated cell for the disbandment of illegal armed groups, within the Ministry of the Interior, to support the transition to full Government control of the disarmament process." **[39b]**

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ANTI- GOVERNMENT AND ANTI-COALITION FORCES (ACF)

OVERVIEW

11.19 The tactics of the anti-Government elements changed noticeably in 2007. The superiority of Afghan and international security forces in conventional battles has forced opposing groups to adopt small-scale, asymmetric tactics aimed largely at the Afghan National Security Forces and, in some cases, civilians: improvised explosive devices, suicide attacks, assassinations and abductions. There were 160 actual suicide attacks in 2007, with a further 68 thwarted attempts, compared to 123 actual and 17 thwarted in 2006. (UN Secretary-General's report, 6 March 2008) **[39b]**

11.20 The Human Rights Watch Afghanistan Country Summary 2007, published on 31 January 2008 stated that:

"The Taliban and other militants have extended their control into parts of the country previously considered relatively stable, such as Logar and Wardak which border Kabul province, and parts of Herat province in the west. Kabul was a target of several audacious militant attacks in 2008, with several major roads out of the capital becoming dangerous to travel. Civilians continue to bear the brunt of militants' bomb attacks. Civilian deaths resulting from international military actions also remain high, with hundreds of preventable deaths occurring in 2007 and 2008… Antigovernment forces routinely violate the laws of war by launching attacks from civilian areas or retreating to such areas, knowingly drawing return fire." **[17l]**

11.21 The USSD report for 2007 recorded:

"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 increased significantly during the year and prompted some organizations to leave." **[2h] (Section 1a)**

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Taliban/neo-Taliban

11.22 "The Taliban emerged in 1994 from southern Afghanistan and launched an armed movement against the various factions that were then fighting each other. After the fall of Kabul to the Taliban in 1996, most of these factions joined together as the Northern Alliance and continued to resist the Taliban. By September 2001, the Taliban controlled approximately 90 per cent of the country. During its regime, in areas under its control, the Taliban interpreted religious and tribal law in their most ultra-conservative forms, thereby trampling women's rights and denying education to children. At the same time, the country became a haven for activity of international groups using terror tactics, including Al-Qaida." (UN Security Council, 10 November 2008) **[39f] (p2)**

11.23 "In November 1999, the Security Council, by its resolution 1267 (1999), introduced mandatory sanctions against key members of the Taliban and Al-Qaida. Following the events of 11 September 2001, international military forces entered Afghanistan in October 2001 and removed the Taliban from power…" (UN Security Council, 10 November 2008) **[39f] (p2)**

11.24 The Senlis Council report dated December 2008 recorded that "The Taliban are now dictating terms in Afghanistan, both politically and militarily. At the national level, talk of reconciliation and power sharing between undefined moderate elements of the Taliban movement and elected government officials is commonplace. At a local level, the Taliban is manoeuvring skilfully to fill the governance void, frequently offering a mellower version of localised leadership than characterised their last stint in power." **[20c] (p11)**

11.25 "The name 'Taliban' (students) refers to the religious scholars who led the strict Islamist movement that ruled Afghanistan from 1996 and 2001. The Taliban can be described as a semi-spontaneous movement lacking deep ideological roots, whose political purposes derived from a fundamentalist interpretation of the Koran. Although small in number at first, the Taliban succeeded in building alliances with local warlords and progressively acquired power. However, although the number of alleged Taliban increased, not all shared the original hyper-conservative beliefs." (The Senlis Council, 5 September 2006) **[20b] (p54)**

11.26 The Senlis Council report dated 5 September 2006 noted that:

"A significant number of the original Taliban militants were killed during Operation Enduring Freedom's initial phases, and the Taliban defeat was guaranteed by the defection of the many warlords to the US-sponsored Northern Alliance. Since late 2001, the remnants of the Taliban have been based mainly in Pakistan, and have been supported by a loose coalition comprising Afghans loyal to the former Taliban regime, disenchanted and nationalist Pashtuns, religious conservatives, criminal gangs, opium traffickers, and a new generation of Pakistani and Afghan scholars educated in the madrassas along the Pakistan-Afghan border. This coalition of supporters can be described as the neo-Taliban.

"Both the original Taliban and the neo-Taliban share a common faith in an extreme interpretation of Sunni-Islam. The cohesion of the two Taliban groups, and their local support, is based on a common dislike of political leaders such as the warlords of the 1990s, or the current US-backed Karzai government. However, the tactics employed by the neo-Taliban differ from those of the original Taliban. The neo-Taliban has adopted high-impact terrorist tactics, and has indiscriminately targeted civilians, rather than specific groups of people like the teachers, criminals and Hazara people targeted by the Taliban.

"As a disparate assemblage of several different groups, the neo-Taliban movement has no clear political purpose. However, the strength of their current offensives against NATO-ISAF troops indicates an increase in coordination and military preparation between these groups. Indeed, field research indicates that the composition of the neo-Taliban exposes a proxy war dynamic, especially given the well-funded, highly organised and technologically sophisticated nature of parts of the insurgency. On closer inspection, there appear to be two aspects to the insurgency. One aspect is

highly funded, and technologically sophisticated, while the other conforms to low-level, classic guerrilla-warfare techniques. Pakistan has been implicated in the coordination, financing and organisation of the insurgency.

"The Karzai government tried to create divisions inside the neo-Taliban by offering and making [a] distinction between 'good Taliban' and 'bad Taliban'. So far, the strategy for reconciliation has produced no substantial results in softening the insurgency." **[20b] (Chapter 1, p55-56)**

11.27 The Human Rights Watch Afghanistan Country Summary 2007, published on 31 January 2008 stated that:

"The Taliban increasingly relied on public executions to terrorize and rule populations living in areas under their influence. They carried out at least 28 beheadings, several of them filmed and broadcast on the internet. For instance, in April the Taliban distributed video footage of a clearly prepubescent boy beheading Ghulam Nabi, a Pakistani militant accused of betraying a top Taliban official killed in a December airstrike. The Taliban targeted humanitarian aid workers, journalists, doctors, religious leaders, and civilian government employees, condemning them as spies or collaborators. In June they publicly hanged four elders in Helmand province because they were perceived as cooperating with NATO forces. Insurgent groups killed at least 34 aid workers in Afghanistan in 2007." **[17a]**

11.28 A Senlis report published on 5 September 2006 stated that the Taliban was using a mixture of threats and compensation to gain new recruits, particularly in the south of the country where their offensive had intensified:

"These recruits have different motives. They may share the religious beliefs of the combatants. They may also be attracted by the nationalist rhetoric against the foreign troops. They can also join the Taliban because of family or tribal relations. Similarly, the Taliban have generated support by giving poppy farmers protection and financial compensation when their crops are eradicated…

"In addition, anti-government elements use money to enrol Afghan people in their combat units. The Taliban are also recruiting trained Afghan policemen and guards, who are offered a choice between fighting for the Taliban, and facing death…

"They [the Taliban] have achieved success because the Afghan Government, backed by US and NATO-ISAF forces, has shown itself incapable of keeping its promises and responding to people's needs." **[20b] (p69-70)**

11.29 IRIN News reported on 27 February 2008 that high levels of rural poverty or unemployment are probably helping to drive young people to join the Taliban, who are offering mobile phones, money and other financial incentives to young men to join their ranks. **[36r]**

11.30 In February 2008 the BBC reported that Mansoor Dadulla, a top Afghan Taliban militant had been captured after militants had crossed over to Pakistan to the village of Gowal Ismail Zai and opened fire on security forces. Mansoor Dadullah who was seriously injured in the incident, was reportedly sacked in December 2007 after disobeying orders. **[25an]** In April 2008 the BBC then

reported that the Pashtun rebel commander, Mullah Naqibullah had been arrested in the southern province of Helmand after insurgents attacked the police in Lashkar Gah. Three militants were killed and two officers injured in the clash. **[25af]**

Former Taliban Members

11.31 The Danish fact-finding mission to Kabul in March/April 2004 reported in November 2004 that, according to UNHCR, former members of the Taliban who were guilty of human rights abuses were likely to encounter problems 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)**

11.32 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." **[8] (Section 6.7)**

11.33 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)**

11.34 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]**

11.35 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 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]**

11.36 In March 2007, President Karzai signed a Bill providing sweeping amnesty for war crimes committed over more than two decades of conflict in Afghanistan allowing that "all parties involved in the pre-2002 conflicts are granted legal and judicial immunity." And furthermore, "the Taliban as well as warlords who have been accused of grave human rights violations are exempt from prosecution for crimes committed before the establishment of the December 2001 Interim Administration in Afghanistan." However, the Bill has been critisised by legislators who are concerned that "MP's [*Sic*] opposing the immunity law were explicitly threatened by powerful warlords in the national assembly." (IRIN News, 11 March 2007) **[36u]**

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Haqqani network

11.37 "The Haqqani network, led by Jalaluddin Haqqani, a former adviser to Mullah Omar of the Taliban, is closely linked to that group and is operative especially in the eastern provinces of Khost and Paktya. The Haqqani network is suspected of having masterminded the attack on Kabul's Serena Hotel in January 2008, the attack on a military parade during a ceremony at Kabul Stadium in April 2008 and the attack on the Indian Embassy in July 2008." (UN Security Council, 10 November 2008) **[39d] (p4)**

Hizb-e-Islami (Hisb-e-Islami/Hezb-e-Islami/Hizb-i-Islami)

11.38 "Gulbuddin Hekmatyar is the leader of Hezb-i-Islami Gulbuddin, a group that is mostly active in the east of Afghanistan and in the provinces surrounding Kabul. The group focuses its military operations on suicide attacks and attacks on the Afghan National Security Forces and international forces." (UN Security Council, 10 November 2008) **[39d] (p4)**

11.39 In February 2008 The Long War Journal reported that:

"…several Afghan insurgents with ties to a Taliban splinter group, Hizb-i-Islami (Khalis faction), and foreign al Qaeda fighters, were arrested in separate raids in western Pakistan last week. The raids were conducted in Chakdara, located

in the volatile Swat Valley, and Peshawar, with at least four Afghan nationals with links to al Qaeda being arrested in the Chakdara bust, according to the Pakistani Daily, *The Nation*.

"One of those arrested has been identified as Mian Mohammad Agha, a top Afghan jihadi commander under the Younus Khalis faction of Hizb-i-Islami. The faction folded into the Afghan Taliban movement following the death of Younus Khalis in 2006. A Pajhwok Afghan News report described Mian Mohammad Agha as having 'links to al-Qaeda and Taliban insurgents'." **[55b]**

11.40 A Report by the Afghanistan Justice Project (AJP) published on 17 July 2005 **[13a]** gives 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 report should be referred to directly if further information on the activities of Hizb-i-Islami during those years is required. (See Annex F source numbers) **[13a]**

Former Hizb-e-Islami Members

11.41 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 in their report published in November 2004. 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)**

11.42 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)**

Al Qa'ida (Al-Qaeda)

11.43 "[Al-Qaeda] was formed around 1988 from elements of the international Muslim brigades opposed to the 1979 Soviet invasion of Afghanistan. It seeks to rid Muslim countries of Western influence, get rid of what it views as 'corrupt' regimes and set up a pan-Islamic caliphate. The network is thought to

have links to radical Islamist groups in various parts of the world." (BBC Timeline, 7 August 2008) **[25d]**

11.44 The US launched attacks in Afghanistan, where Osama bin Laden had been operating, six weeks after the attacks of 11 September 2001 in the US. Hundreds of suspected al-Qaeda fighters were subsequently held in custody in the US base in Guantanamo Bay, Cuba. (BBC Timeline, updated 7 August 2008) **[25d]** The al-Qaeda organisation is proscribed in the UK under the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2001. **[21]**

11.45 A *Guardian* news article dated 29 September 2005 reported that, according to the Afghan Intelligence Agency of 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]**

(See also Section 8: Kabul)

Jamat Sunat al-Dawn Salafia

11.46 "Jamat Sunat al-Dawa Salafia is an Islamic fundamentalist group led by Hajir Ruhollah. The network's activities are very limited because of the tension between this group and Hezb-i-Islami Gulbuddin. As a result, the Salafists are only present in parts of Kunar and Nuristan provinces. In general, the group focuses its military operations on actions against international military forces." (UN Security Council, 10 November 2008) **[39d] (p4-5)**

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12. JUDICIARY

ORGANISATION

12.01 "In December 2001, following more than 20 years of civil conflict, there no longer existed a functioning national judicial system in Afghanistan. In accordance with the Bonn Agreement signed in that month, 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. The Constitution made provision for the creation of a Supreme Court (Stera Mahkama) as the highest judicial organ in Afghanistan. Until the inauguration of the Court, which took place shortly after the Meli Shura (National Assembly) was officially opened on 19 December 2005, an interim Supreme Court, established in January 2005, functioned in the country…

"The Supreme Court comprises nine members, including the Chief Justice, who are appointed by the President, subject to the approval of the Wolasi Jirga (House of Representatives)." (Europa World Online, accessed on 1 August 2008) **[1g] (Judicial system)**

12.02 The Constitution, adopted in January 2004, states that:

"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]." **[81]**

12.03 "The Supreme Court has overall responsibility for the national court system. The president appoints Supreme Court members with the approval of the House of Representatives (Wolesi Jirga). A national security court tried terrorists and other cases, although details were limited on its procedures. In 2005 President Karzai passed an antinarcotics law by decree, which serves as law pending parliamentary review. The law created a separate central court with national jurisdiction for narcotics prosecutions above a threshold level." (US Department of State Report, 2007) **[2h] (Section 1e)**

12.04 Additionally, the USSD Human Rights report 2007 noted:

"In some remote areas not under government control, the Taliban enforced a parallel judicial system by means of informal 'shuras' (community councils). These included districts in Helmand Province. Punishments handed out by such Taliban councils included beatings, hangings, and beheadings, according to human rights activists.

"In major cities, courts primarily decided criminal cases, although civil cases were often resolved in the informal system. Due to the undeveloped formal legal system, in rural areas local elders and shuras were the primary means of settling both criminal matters and civil disputes; they also allegedly levied unsanctioned punishments. The informal justice system played a vital role in

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society. Some estimates suggested that 80 percent of all cases went through the shuras, which did not adhere to the constitutional rights of citizens and often violated the rights of women and minorities." **[2h] (Section 1e)**

INDEPENDENCE

12.05 The Secretary-General report dated 6 March 2008 stated that:

"The Ministry of Justice, whose capacity remains limited, continues to be overburdened by the amount and complexity of legislation awaiting drafting, scrutiny and review. The Ministry, as well as the Supreme Court and the Attorney-General's Office, continue to experience a significant lack of resources, infrastructure and qualified and experienced judges and prosecutors. The establishment of the National Legal Training Centre has resulted in the provision of 'stage' training to those being inducted for judicial or prosecutorial service. However, threats and bribery make it difficult to recruit, deploy and retain qualified justice officials of integrity in areas where they are most needed. Low salaries also contribute to creating conditions conducive to corruption. Further, the lack of transparent and merit-based processes for appointments and career advancement and the absence of effective and fair mechanisms for investigating ethical-code violations result in insufficient accountability, undermining public trust in the judicial system." **[39b] (p6)**

12.06 The Freedom House 2008 Afghanistan Country report stated that:

"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. Outside influence over the judiciary remains strong, and judges and lawyers are often unable to act independently because of threats from local power brokers or armed groups. Salaries for judges are woefully inadequate, and corruption is widespread. In rural areas with no police or judicial institutions, unelected and often conservative tribal councils dispense justice. The Supreme Court, composed of religious scholars who have little knowledge of civil jurisprudence, is particularly in need of reform; the replacement of Fazl Hadi Shinwari as chief justice in 2006 was a positive step. The 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 on the construction of courts and correctional facilities. Many Afghans still do not have access to judicial or legal services, and local warlords act with impunity in parts of the country that remain outside the central government's reach. In the south, the Taliban have established Sharia courts that employ a harsh form of Islamic law." **[41a] (p7)**

FAIR TRIAL

12.07 The USSD report for 2007 observed:

"Trial procedures rarely met internationally accepted standards. The administration and implementation of justice varied in different areas of the country. Trials were usually public, and juries were not used. Defendants have the right to be present and to appeal; however, these rights were rarely applied. Defendants also have the right to consult with an advocate or counsel at public expense when resources allowed. This right was inconsistently

applied, mainly due to a lack of trained personnel and funding. Defendants were not allowed to confront or question witnesses. Citizens were often unaware of their constitutional rights, and there was no functioning public defender system. Defendants and attorneys were entitled to examine the documents related to their case and the physical evidence before trial; however, NGOs noted that court documents often were not available for review before cases went to trial. Defendants were presumed innocent until evidence proved otherwise. The courts reportedly heard cases in sessions that lasted only a few minutes.

"In criminal cases involving murder and rape, judges may sentence convicted prisoners to execution. Under the 2004 constitution, capital punishment is conditional upon approval of the president, who also had the right to reduce penalties and pardon offenders. However, under Shari'a, relatives of victims can also pursue a civil case against a suspected offender, where a judge can offer restitution or even order execution, which the family could choose to carry out themselves, regardless of the outcome of the criminal case.

"Where courts were not available, local elders, often without formal legal training, made decisions through the shura system, basing their rulings on local customs or Shari'a. Even in areas where courts were available, many persons opted for informal dispute resolution, citing cost and effectiveness as reasons. Local elders and shuras often imposed unsanctioned penalties that were not in compliance with codified law. In such proceedings, the accused typically had no right to legal representation, bail, or appeal. In cases lacking a clearly defined legal statute, or cases in which judges, prosecutors, or elders were simply unaware of the law, courts and informal shuras enforced Shari'a; this practice often resulted in outcomes that discriminated against women. In some rural areas, this included the practice of ordering the defendant to provide compensation in the form of young girls to be married to men whose wives had died. Unlike in past years, there were no confirmed reports of flogging or death by stoning." **[2h] (Section 1e)**

12.08 Radio Free Europe / Radio Liberty reported in December 2008, that "More Afghans are being detained without trial, with poor people or those without powerful connections the most common victims, unable to pay bribes to secure their release… While the number of prisoners in Afghanistan remains relatively low, the figure has has more than doubled in the last three years, says the UN, with 12,500 prisoners in the country compared with 6,000 in January 2006." **[29f]**

CODE OF CRIMINAL PROCEDURE

12.09 The International Development Law Organisation (IDLO) website, accessed on 24 July 2006, noted that "Libraries and legal collections have been largely depleted or destroyed in Afghanistan during the twenty-four years of conflict, erasing signs of a rich and elaborate legal tradition. No comprehensive collection or official record of laws has survived, while institutions and lawyers still have little or no access to most texts." The IDLO, however, has assembled a unique collection of Afghan laws, consisting of over 2,400 texts in Dari and Pashto and 100 in English: "The laws date from 1921 to present day and represent most of the legislation produced during the last century." **[81]**

This collection of Afghan laws is available on the IDLO website: http://www.idlo.org/AfghanLaws

12.10 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." **[39c] (p10)**

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13. ARREST AND DETENTION – LEGAL RIGHTS

13.01 The UN Secretary-General Report noted that:

"The Ministry of Justice, whose capacity remains limited, continues to be overburdened by the amount and complexity of legislation awaiting drafting, scrutiny and review… While public access to courts and legal aid is a constitutional right, it remains elusive to the majority of Afghans, especially women, children and vulnerable groups. This problem is compounded by the fact that public awareness of legal rights and processes is limited. Data from the Ministry of Justice, for example, show that 20 per cent of children in custodial institutions are accused of offences that are not crimes under Afghan law, such as running away from home. Further, a recent study of 22 provincial juvenile facilities by the United Nations Children's Fund (UNICEF) and the Afghanistan Independent Human Rights Commission pointed to a general lack of due process in the juvenile justice system. The study revealed that only 24 per cent of juveniles had contact with a lawyer during detention, 56 per cent reported that their statement was not given voluntarily and only 9 per cent were advised of their rights upon arrest.

"Nevertheless, there have been slow improvements in infrastructure development for the legal system, and a private corps of lawyers continues to grow. The November 2007 advocates law permitted the establishment of an independent bar association with over 400 registered attorneys. The law also reassigned responsibility for providing legal aid from the Supreme Court to the Ministry of Justice, whose new legal aid unit is receiving greater support from international and national stakeholders. Following the July 2007 Rome Conference on the Rule of Law in Afghanistan, the national justice sector strategy was developed, as well as the National Justice Programme, which will, over the next three years, focus on strengthening Afghan capacity to deliver legal services with integrity and accountability, ensure public access to courts and legal aid and improve public awareness of legal rights and processes, while promoting the coordination of donor activities. Eight short-term projects addressing immediate needs of the justice sector have already been funded and are currently being implemented." **[39b] (p6-7)**

13.02 "Data from the Ministry of Justice, for example, show that 20 per cent of children in custodial institutions are accused of offences that are not crimes under Afghan law, such as running away from home. Further, a recent study of 22 provincial juvenile facilities by the United Nations Children's Fund (UNICEF) and the Afghanistan Independent Human Rights Commission pointed to a general lack of due process in the juvenile justice system. The study revealed that only 24 per cent of juveniles had contact with a lawyer during detention, 56 per cent reported that their statement was not given voluntarily and only 9 per cent were advised of their rights upon arrest." (The UN Secretary-General's Report of 6 March 2008) **[39b] (p7)**

(See also Section 23: Women and Section 24: Children)

13.03 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

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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]**

13.04 Regarding double jeopardy, the Danish fact-finding mission of March/April 2004 reported in November 2004 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)**

13.05 The US State Department (USSD) report 2007, published on 11 March 2008, recorded that:

"Authorities did not respect limits on length of pretrial detention, and lengthy pretrial detention remained a problem in part because the legal system was unable to guarantee a speedy trial. The UN Human Rights Commission, ICRC, and AIHRC reported that arbitrary and prolonged detentions frequently occurred throughout the country. The Interim Criminal Procedure Code sets limits on pretrial detention. Police have the right to detain a suspect for a maximum of 72 hours to complete a preliminary investigation. If they decide to pursue a case, the file is transferred to the prosecutor's office, which must see the suspect within 48 hours. The investigating prosecutor could continue to detain a suspect without formal charges for 15 days from the time of arrest while continuing the investigation. Prosecutors must file an indictment or drop the case within 30 days of arrest. The court has two months to hear the case. An appeal must be filed within 20 days, and the appellate court has two months to review the case. A second appeal must be filed within 30 days, after which the case moves to the Supreme Court, which could take up to five months to conclude the trial. In many cases, courts did not meet these deadlines. NGOs continued to report that prison authorities detained individuals for several months without charging them. There were credible reports during the year that police in Ghazni and Kabul continued to detain prisoners after they were found innocent." **[2h] (Section 1d)**

13.06 The Human Rights Watch, 2008 report on Afghanistan stated that "The US military operates in Afghanistan without an adequate legal framework, such as a Status of Forces Agreement with the Afghan government, and continues to detain hundreds of Afghans without adequate legal process." **[17a]**

13.07 The USSD 2007 report also stated that the law prohibits torture and other cruel, inhuman or degrading treatment or punishment "During the year [2007] human rights organizations reported that local authorities in Herat, Helmand, Badakhshan, and other locations continued to torture and abuse detainees. Torture and abuse included pulling out fingernails and toenails, burning with hot oil, beatings, sexual humiliation, and sodomy." **[2h] (Section 1d)**

14. PRISON CONDITIONS

14.01 The USSD report for 2007 stated:

"Prison conditions remained poor. Most were decrepit, severely overcrowded, unsanitary, and fell well short of international standards. Some prisons held more than twice their planned capacity. Often prisoners were in collective cells, reflecting resource constraints and also cultural preferences for collective housing rather than individual or two-person cells. Where new collective cells were constructed, consideration was given to appropriate square footage per person. In district prisons, shipping containers were used as cells when other structures were unavailable. There were reports of prisoners beaten and tortured. Resource constraints contributed to some prisoners not always having access to an adequate diet, but it was not policy or practice to withhold food to ensure a compliant prison population. The AIHRC continued to report that inadequate food and water, poor sanitation facilities, insufficient blankets, and infectious diseases were common conditions in the country's prisons. Infirmaries, where they existed, were underequipped, and the supply of quality medicine was insufficient. Contagious and mentally ill prisoners were rarely separated from other prisoners. In September, 120 inmates at Pol-e-Charkhi prison undertook a hunger strike lasting two days. The prisoners stated they were protesting conditions at the prison and unfair judicial procedures." **[2h] (Section 1c)**

14.02 The Freedom House 2008 report stated "Prison conditions remain extremely poor. Many inmates are held illegally, and prisoners are forced to rely on relatives for food and other provisions, according to the AIHRC. Prison riots in Kabul in February 2006 left 5 people dead and over 50 wounded." **[41a] (p7)**

(See also Section 13: Arrest and Detention – Legal Rights)

14.03 The United Nations Office on Drugs and Crime report, Female prisoners and their social reintergration, March 2007 recorded that:

"Pul-e Charki prison for women comprises one of the blocks of the prison complex housing male and female prisoners in Kabul. Accommodation is provided in nine rooms, holding 4 to 15 prisoners each and their children. There were 69 women prisoners in the prison in December 2006, with 43 children. Twelve of the children were born in prison. There are 15 members of staff. All those working in the prison are female, though external security is provided by male staff.

"Food is delivered to the women's dormitories. Most women interviewed complained of the lack of adequate and good quality food. Some women also receive food from their families, depending on whether they have visits, which often is not the case.

"Healthcare is inadequate. A prison doctor is said to visit on a regular basis, but interviews suggested that visits take place only on request and that treatment provided typically consists of pain killers only. A female gynaecologist working for AWEC [Afghan Women's Educational Centre] has been visiting prisoners in Pul-e Charki once a month. The NGO, Emergency, also provides medical care to male and female prisoners in Pul-e Charki, with

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a 24-hour medical service available to prisoners. AWEC and Emergency supplement the diet of pregnant women and breast feeding mothers. Prisoners were not satisfied with the medical service and complained of various health conditions, including Hepatitis B and especially psychological problems. AIHRC expressed concern regarding the arrangements for childbirth. Hospitals apparently do not send doctors to prisons for delivery (and in any case there are no proper facilities for women to deliver in prisons), and they do not always accept women from prison for childbirth in hospitals." **[87b]**

14.04 The report also noted that "Toilet and washing facilities are located outside the prison and hygiene is poor…. and many women complained about the lack of a heating system. There are three rooms which are used for vocational training and education classes, provided by AWEC (Basic Health Education, Literacy Classes, First Aid, Handicrafts and Tailoring). Classes are held five days a week, between 8.30 and 12.00." **[87b]**

(See also Section 23: Women and Imprisonment of Women for further information)

14.05 Furthermore, the report noted "There is a day centre for children, though it did not appear to be in use at the time of visits conducted in December 2006, due to the lack of heating. At other times AWEC facilitates a child specialist to take care of the children in this day centre and teaches them the basics of the alphabet, numbers and Islam. The children are said to be given toys to play with and taught to draw. They are also provided with supplementary food by AWEC." **[87b]**

(See also Section 24: Children)

14.06 The USSD 2007 report, noted that "The government reported 34 official prisons, one in each province. The government also reported 31 active rehabilitation centers for juveniles. Approximately 14 detention centers housed female prisoners." **[2h] (Section 1c)**

(See also Section 8: Security Situation in the south for information on the prison break-out from Khandahar prison in June 2008)

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15. DEATH PENALTY

15.01 The Constitution of January 2004 allows for capital punishment, conditional on the approval of the President. **[81]** "The 160 articles make no explicit reference to Sharia law, but the constitution declares Afghanistan to be an 'Islamic republic' and states that 'no law shall be contrary to the beliefs and provisions of the sacred religion of Islam' – and the Islamic provisions do foresee capital punishment, namely for crimes against Islam (armed robbery, adultery, and apostasy or blasphemy), and for crimes against the person (murder)." **[83a]**

"The 1976 Penal Code, still in force nowadays, identifies the crimes subject to capital punishment in numerous articles, which refer to two main categories: crimes against the security of the State and crimes against individuals, namely certain types of aggravated murder.

"Other provisions of aggravated murder have been included in recent legislation, such as: the Anti Narcotic and Drug Law issued in November 2003, which provides for the death sentence in the case where a drug smuggler, while resisting arrest, kills a law enforcement officer; and the presidential decree of July 3, 2004 that foresees the death penalty for those convicted of child kidnapping and smuggling aimed at using the victim's body parts whenever a death is caused as consequence.

"Crimes punishable by death are also listed in the Law on Crimes against Internal and External Security of 1987, and in the Military Law of 1989, both of soviet inspiration and still in force. Such crimes are mostly related to the security of the State, especially in time of war. The crimes identified by these laws are processed respectively by the National Security Court and by the Military Court.

"However, the newly adopted Juvenile Code, that defined as juvenile 'a person who has completed the age of 12 and has not completed the age of 18', clearly states, under article 39, paragraph c, that children cannot be convicted to death penalty." (Hands Off Cain, accessed 24 February 2008 *nd*) **[83a]**

15.02 Amnesty International reported on 13 November 2008:

"The death penalty is handed down in Afghanistan for crimes such as kidnapping, murder and rape…. According to Afghan law, all death sentences have to be endorsed by three courts (primary, appeal and Supreme Court) before they go to the president who has to sign the execution order, or pardon those accused. The Taliban used the death penalty until the end of their rule in 2001. After they fell from power the new government observed a self-imposed moratorium that ended three years later with the execution of Abdullah Shah in April 2004." **[7c]**

15.03 In March 2006, the arrest and trial of Abdul Rahman drew international condemnation of the Afghan courts. Rahman, a Muslim-born Afghan who converted to Christianity some 16 years previously, was sentenced to death for apostasy following his arrest whilst in possession of a bible. (*The Guardian*, 20 March 2006 and 28 March 2006) **[18e] [18g]** (BBC, 20 March 2006 and 29 March 2006) **[25t] [25az]** (*The Independent*, 27 March 2006) **[35a]** "It is thought that he was denounced by relatives after returning to seek custody of his two

daughters. His family alleged he forced them to read the Bible, something he has denied." (BBC, 29 March 2006) **[25az]** "Mr Rahman was freed on Monday [27 March 2006] after being deemed mentally unfit to stand trial on a charge of apostasy." The BBC reported on the 29 March 2006 that Mr Rahman had travelled in Italy where he was granted asylum. (BBC, 29 March 2006) **[25az]**

(See also Section19: Freedom of Religion - Converts and Christians)

15.04 In October 2007, the use of the death penalty was resumed after a three-year moratorium when President Karzai ratified the death sentences of 15 prisoners, which were reportedly carried out in chaotic circumstances. (Aljazeera.net, 8 October 2007) **[15b]** (AI, 9 October 2007) **[7k]** (IRIN, 17 October 2007) **[36u]** (Times Online, 6 November 2007) **[68c]** (International Relations and Security Network, 13 November 2007) **[82a]** A November 2007 report by the International Relations and Security Network (ISN) remarked:

"Government officials are defending last month's execution of 15 prisoners, despite of claims that the operation was a roadside slaughter. The authorities have been severely criticized for the escape of Afghanisyan's [sic] most notorious criminal Timor Shah, who was sentenced to death for kidnapping, rape and murder. It is not clear how Timor Shah managed to avoid the 7 October execution, which reportedly took place at 9:30pm by the side of a road on the outskirts of Kabul." **[82a]**

15.05 Amnesty International's Afghanistan report 2008 recorded the incident, noting that one of those sentenced to death bribed his way out of his execution and the other 15 were shot as they attempted to flee the execution. The report further noted that "Between 70 and 110 people were believed to remain on death row." **[7l]** A report by Radio Australia on 18 April 2008 stated "In Afghanistan a hundred people have been sentenced to death on a single day. Human rights groups have called on President Hamid Karzai not to sign the execution orders." **[10a]** Human rights groups questioned whether the Afghan justice system was capable of providing free and fair trials. They say there is a risk innocent people could be executed. (BBC Online, 13 November 2008) **[25w]**

15.06 In January 2008 "A young journalism student was sentenced to death for blasphemy and defaming Islam. Sayed Perwiz Kambaksh, 23, was arrested last October in Balkh province, northern Afghanistan, for distributing a paper allegedly against the tenets of Islam. Sources said that the material was about the conditions of women in the country." (Asianews, 23 January 2008) **[79a]** "Some 200 men and women belonging to the small Solidarity Party of Afghanistan protested in front of the main UN office in Kabul, calling for the release of Kambakhsh." (Reuters, 31 January 2008) **[24d]**

(See also Section 17: Freedom of Speech and Media – Journalists for information on journalists sentenced to death)

15.08 Radio Free Europe / Radio Liberty reported on 12 Novemebr 2008 that:

"Afghanistan has executed four men, including three linked to deadly attacks by Taliban and Al-Qaeda insurgents, a state newspaper has said. The four men were hanged inside a prison in Kabul on November 11, bringing to nine the number of people executed in Afghanistan in the past week since

President Hamid Karzai signed orders to carry out their death sentences. About 120 more Afghans are on death row waiting for Karzai to sign their death warrants, a senior judge said. Three of those executed on November 11 were behind attacks which included the killing of female election workers and other raids in which scores of people were killed or wounded in eastern Afghanistan four years ago, the 'Anis' daily said. The fourth was a criminal, it said. A Supreme Court judge confirmed the latest executions, but did not give any more details. Five other men were executed this week for murder, rape and abduction." **[29a]**

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16. POLITICAL AFFILIATION

PERSONS WITH LINKS TO THE FORMER COMMUNIST REGIME

KHAD (KhAD) (Former Security Services)

16.01 "The origins of KhAD ['Khadimat-e Atal'at-e Dowlati', i.e. State Information Service] can be traced back to a 1,200-strong group inside the PDPA [Peoples Democratic Party of Afghanistan] which, after the arrival of Russian troops in December 1979, took over intelligence responsibilities from KAM. That group, comprised of parchamis, was active from December 1979 until March 1980, and was known as 'the activists'. It was led by a smaller group, headed by Dr. Najibullah and Dr. Baha, who worked on designing and establishing the structure which would be known as KhAD. The Government of Babrak Karmal officially announced the creation of KhAD, with its internal structure of multiple Directorates, on 10 January 1980. In 1986, KhAD was upgraded to Ministry level and from then on was known as WAD (Wezarat-e Amniyat-e Dowlati or Ministry of State Security)." (UNHCR, May 2008) **[11c] (p2)**

16.02 Reporting of the number of KhAD members the UNHCR 2008 report noted that "… the strength of the KhAD/WAD, at the peak of its capacity, comprised a total of about 1,000 persons per province, with some provinces having more than others. Of these, about one quarter are believed to have formed the personnel of Support Directorates. In addition, the organization may have had up to 20,000 personnel at its Headquarters in Kabul, an undetermined number of agents and informers depending on location, and a further undetermined number in its military wings. In total, KhAD/WAD may have had between 15,000 and 30,000 staff at the height of its development, the figure being between 60,000 and 90,000 if agents and informers are also taken into account." **[11c] (p4)**

16.03 "The KhAD/WAD structures included several military components:

- The Directorate for Counter-Rebellion had three military battalions with soldiers based mainly in Kabul City, tasked with operations including arrest and preliminary investigations;

- Fighting forces of KhAD/WAD tasked with carrying out military operations were composed on an ad hoc basis of operative officers of different Directorates, and sent to the front lines;

- As of 1988, the National Guard was established, headed by the fourth Deputy Minister inside the WAD structure, who had himself three deputies: for propaganda and counter-propaganda, operational and logistics affairs respectively. It had more than ten units, each composed of 500 to 700 officers and soldiers, covering ground operations and air defense. The National Guard was tasked with offensive military operations, but was not part of security and intelligence operations." (UNHCR, May 2008) **[11c] (p5)**

16.04 The UNHCR further noted that:

"KhAD/WAD had also some level of control on the Kabul Garrison that was the main military unit in charge of the city's security and army recruitment. The Garrison was under the overall authority of the Deputy Minister of Defense, and was managed in close consultation with senior officials from the Ministry of Interior, the Attorney General's Office, and the KhAD/WAD…

"The KhAD/WAD maintained 32 interrogation units, one in each of the provinces of Afghanistan. Reports of torture exist for the provincial centers in Bamian, Ghazni, Jalalabad, Kandahar, Lashkargah, and Pol-e Khomri. In addition, KhAD/WAD is reported to have practiced torture in the following locations: near Dar-ul Aman palace in Kabul; in Shashdarak area north of Kabul; in two locations, one in Bibi Mahroo in the north-east of Kabul, and the other in Wazir Akbar Khan, near the city centre; and a large building complex in central Kabul known as Sedarat, which also housed the WAD headquarters and the Special Court of National Security." **[11c] (p5-7)**

16.05 "KhAD/WAD officers often infiltrated Mujaheddin groups and fighting forces as commanders, tasked with supporting Afghan Government military operations by weakening the Mujaheddin capacity, exposing Mujaheddin military plans, destabilizing Mujaheddin groups and paving the way for government military action against the Mujaheddin. They were authorized to use any necessary strategies to maintain their cover and not disclose their identity as KhAD/WAD officers." (UNHCR, May 2008) **[11c] (p5-6)**

16.06 Furthermore the report added:

"At both the national and the provincial/district level, certain Directorates were engaged in active security operations, during which many human rights violations occurred. These were above all the Directorates for Operative Activities for Internal Control of KhAD/WAD Personnel, for Counter-Rebellion, for Surveillance of Foreign and National Suspects, for the Protection of the Government and its Representatives, for Activities linked to Infiltration of Mujaheddin, the Directorate of Interrogation, as well as the Police KhAD/WAD, and the corresponding functional units at provincial and district level. The military KhAD/WAD was present throughout the armed forces' structures down to at least battalion level, according to their functional and geographical structures, but still reported to KhAD/WAD.

"However, the KhAD/WAD also included non-operational (support) Directorates/Units at the central, provincial and district levels, as follows:

- Administration and Finance
- Cadre / Personnel
- Post and Parcels
- Propaganda and counter propaganda
- Logistics
- Telecommunications and Decoding
- Press and Educational Institutions
- Agents and Informers
- Analysis and Reporting."

[11c] (p6-7)

16.07 "For all officers of KhAD/WAD, a mandatory training course was conducted at the KhAD/WAD training centre in Kabul. The training included logistics, recruitment, defamation techniques, organization and identification of covert meetings and networks and training in the use of small networks. Training for middle rank officers (i.e. first lieutenant to lieutenant colonel) was equally mandatory, and was organized in Tashkent (Uzbekistan). Unlike the mandatory training for all KhAD/WAD officers, it included training on interrogation and criminal investigation techniques. Training for high-ranking KhAD/WAD officers (from the rank of colonel upwards) was conducted in Moscow. This training included management and policy issues as well as financial affairs. There is no information available on the number of participants in these courses." (UNHCR, May 2008) **[11c] (p8)**

(See also Section 9: National Security Directorate)

For further information on the history and structure of KHAD, refer to the May 2008 UNHCR report source **[11c]**

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Treatment of Former KhAD Members

16.08 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 People's Democratic Party of Afghanistan. According to their report published in November 2004, 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)**

16.09 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)

16.10 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)**

16.11 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)**

16.12 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)**

(See also paragraphs below for UNHCR information on Afghans associated with the PDPA and consideration of exclusion clauses under Article 1F of the Geneva Convention)

Former Members of the PDPA (People's Democratic Party of Afghanistan)

16.13 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 stated that:

"While many former PDPA members and officials of the former communist regime are able to enjoy protection through family, tribal or political ties, others, unable to rely on community links to provide protection, remain at risk due to their prior political affiliation. Such risk extends to high ranking or publicly known PDPA figures, their family members, as well as security officials. While at particular threat of retaliatory violence are those associated with human rights violations perpetrated by the Communist regime, asylum applications of those who served in the military, police and security service, as well as some high ranking party and officials in particular ministries, will require scrutiny under the exclusion clauses under the 1951 Convention." **[11a] (p10)**

16.14 The UNHCR report further stated:

"Those former PDPA high-ranking members without factional protection from Islamic political parties or tribes, or influential personalities, who may be exposed to a risk of persecution, include the following:

- high-ranking members of PDPA, irrespective of whether they belonged to the Parcham or Khalq faction of the party; they will be at risk if they are known and had a public profile; these encompass (1) high-ranking members of Central and Provincial Committees of the PDPA and their family members; and (2) secretaries of PDPA's committees in public institutions; and

- former security officials of the communist regime, including Khad, also continue to be at risk, in particular from the population – i.e. families of victims– given their association with human rights abuses during the communist regime." **[11a] (p75)**

16.15 The Danish fact-finding mission of March/April 2004 reported in its November 2004 report that "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

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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)**

16.16 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)**

16.17 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)**

16.18 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)**

16.19 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)**

16.20 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 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)**

16.21 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 1F 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)**

FREEDOM OF ASSOCIATION AND ASSEMBLY

16.22 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]**

16.23 The US Department of State's Human Rights Report 2007, published on 11 March 2008 stated that "The constitution provides for freedom of assembly and association; however, security conditions and, in some cases, local officials restricted this right in practice. Increased Taliban, al-Qa'ida, and other antigovernment activity, particularly in the south and east, forced UN agencies and NGOs to temporarily cancel or curtail activities at times during the year [2006]." **[2h] (Section 2b)**

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17. FREEDOM OF SPEECH AND MEDIA

OVERVIEW

17.01 The USSD report for 2007 noted:

> "The law provides for freedom of speech and of the press; however, there were instances of insurgents, government officials, and the Taliban intimidating journalists to influence reporting….
>
> "The media faced increased restrictions during the year, including heightened detention of journalists and government interference in media coverage. The press frequently was critical of the government, but according to independent media and observers, government repression and armed groups prevented the media from operating freely. The Afghan Independent Journalists Association and Center for International Journalism reported 43 registered cases of intimidation and undue influence by tribal leaders, purported warlords, and government officials. The law prohibits information that could insult 'the sacred religion of Islam and other religions.' The ambiguity over what was considered offensive offered the potential for abuse of press freedom. Under the media law new newspapers, printers, and electronic media had to be licensed by and registered with the Ministry of Information and Culture. The government strictly regulated and limited foreign investment in the media." **[2h] (Section 2a)**

17.02 "The independent media were active and reflected differing political views, although the extent varied from region to region. There were approximately 400 publications, 50 private radio stations, five news agencies, and eight television networks, although not all were independently owned and operated. The government owned at least 35 publications and most of the electronic news media, although competing independent media existed in virtually all markets. There were numerous other newspapers that published sporadically, and many were affiliated with different provincial authorities. While some independent journalists and writers published magazines and newsletters, circulation largely was confined to Kabul, and many publications were self-censored. The foreign media were covered under the freedom of speech law; however, they were restricted from commenting negatively on Islam and from publishing materials considered a threat to the president. Approximately a dozen international stations broadcast in Dari or Pashto. More than 30 community-based independent radio stations existed." (US Department of State Report on Human Rights Practices, 2007) **[2h] (Section 2a)**

17.03 "Since the fall of the Taliban regime, Afghanistan has witnessed a significant increase in media size and diversity. However, with the economy failing to pick up momentum and levels of poverty remaining high, the growth in advertising spending within Afghanistan has been modest, placing a significant impediment on the growth of an independent media. Donors who supported media development in the early years of post-Taliban Afghanistan imposed strict deadlines for media organisations to become self-sustaining, conditions that for the most part could not be met. Many donors have since pulled out, although the Afghan media continues to maintain a tenuous existence through bridging donations and other short-term financial commitments." (International Federation of Journalists, 2008) **[92a] (p5)**

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

17.04 "During the year [2007] various insurgents, government officials, and the Taliban subjected members of the press to harassment, intimidation, and violence. Threatening calls and messages against media organizations also remained common and some resulted in violence. According to media sources, NDS banned all issues of *The Mashal Weekly,* a new publication that is critical of the government." (US Department of State Report on Human Rights, 2007) **[2h] (Section 2a)**

17.05 A Freedom House report on Afghanistan, 2008, recorded that "Afghan media continue to grow and diversify but faced rising threats in 2007, mostly in the form of physical attacks and intimidation." **[41a] (p5)**

17.06 Tolo TV reported on 23 April 2008 that:

"The Ministry of Information and Culture has bypassed appropriate legal channels and issued an edict to broadcasters to cease broadcasting Indian produced drama. This action fails to engage the appropriate legal process of addressing the media complaints commission, who are empowered to consider and refer relevant cases to the courts. The banned serials, already broadcast for two and a half years, have been universally popular across the traditionally conservative Afghan society. Whilst other stations have bowed to this pressure, there is a consensus among the independent stations that this order is illegal. In the interests of supporting a free media, TOLO TV will continue to broadcast its programs." **[70a]**

17.07 The BBC World Service report that "They [the government] believe… [Indian channels] to be offensive to Islam for what they see as racy content and raunchy plot lines. The private TV channel, Aryana, has already decided to comply with the government order and a few days ago pulled the plug on the hugely popular Indian soap opera Kumkum." **[25ag]**

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MEDIA LAW

17.08 "In September [2007] parliament passed a media law that is less restrictive, in some regards, than the previous law-by-decree. However, the Ministry of Information and Culture controls media licensing; content of certain types is prohibited, including works that are contrary to Islam, that publicize other religions, and that affect the community's ethical integrity. Radio Television Afghanistan (RTA), while not under direct ministerial control, remains within the structures of the state. There was concern within the media community that the new law would place greater restrictions on media content and create an overall climate of government intimidation and self-censorship. The amended law confirmed that the High Media Council, created in 2006 by presidential decree, is responsible for planning and approving media policy. The Minister of Information and Culture chaired this council, which also included members of the Supreme Court, Ministry of Communications, and parliament. There was also a Private and Personal Media Commission responsible for monitoring the performance of such media and dealing with complaints. On December 26 [2007], citing potential constitutional conflicts within the draft, President Karzai sent the law back to parliament for review." (USSD, 2007) **[2h] (Section 2a)**

17.09 Furthermore, Reporters Without Borders Annual Report 2008 stated that:

"The head of state in December [2007] refused to sign the media law - which nevertheless protects freedom of the press - which had been adopted by the parliament in May, after a lively debate within parliament and the government. Deputies, most of them former warlords, banded together to tighten media control in the name of 'respect for Islamic values'. One of the leaders of the Islamist party Hezb-i-islami said that 'these programmes and photos of half dressed women are like a poison which is spreading in our society and provides a pretext for people to join the enemies of the government'.

"A media campaign succeeded in preventing the adoption of articles which would have been a backward step. One of the heads of the privately-run station, Ariana, Abdul Jabar Baryal, said on the fringes of the debate that the 'spirit of modernity and freedom escapes this government of ex-communists and Mujahideen who want the media to become a propaganda machine'.

"Foreign military present in Afghanistan, increasingly concerned about the effect on public opinion of mistakes resulting in the deaths of civilians, have on several occasions tried to prevent the press from doing its job. US soldiers in March wiped photos taken by Afghan reporters, working for the Associated Press, after they covered the death of civilians killed by Marines, in eastern Afghanistan. French journalist, Claire Billet, working for the independent Hamsa Press, was blacklisted by NATO forces in May for filming military convoys without permission. She had previously been arrested and questioned in April by private security agents working for the US army in Kabul. Afghan and foreign journalists are regularly ordered by international coalition forces in Afghanistan not to film their activities." **[62a]**

NEWSPAPERS, RADIO, INTERNET AND TELEVISION

17.10 The International Federation of Journalists Annual report 2008 stated that "Readership of the print media is limited and will remain so until the literacy deficit begins to be bridged at an accelerated pace. Television audiences are potentially very large, but will remain an unrealised potential until innovative methods of bringing electricity to each human settlement in Afghanistan can be found. This leaves radio as the sector with immediate potential for the most rapid growth in content and audience." **[92a] (p5)**

17.11 An article by the Institute for War and Peace Reporting (IWPR) 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]**

17.12 The USSD report for 2007 noted a number of incidents during the year, including:

"On April 17, 50 police officers raided Tolo TV's main headquarters in Kabul, abducted three staff members, and brought them to the Attorney General's

office. There were reports that police physically abused Tolo TV employees who barred police from entering the studio without a warrant. There were also reports that authorities abused the three while they were in detention. In August authorities arrested two Tolo TV staff members on the grounds that the TV station had misrepresented the Attorney General's remarks to the parliament as critical of the central government. Human rights observers stated that this was an abuse of the Attorney General's authority and an example of government official's misuse of power to manipulate the media." **[2h] (Section 2a)**

17.13 On June 5 [2007], unidentified gunmen shot Zakia Zaki in Parwan province, north of the capital, Kabul, in the bedroom she was sharing with her small children. Zaki, 35, had run a private news radio station, Sada-i-Sulh (Peace Radio), since the fall of the Taliban in 2001. The station, which covered women's issues, human rights, education, and local politics, had been threatened repeatedly. Just before the slaying, local warlords warned Zaki to shut down the station (CPJ, 2007) **[91a]** "Police arrested six suspects and released four of them for lack of evidence. The authorities accused the Taliban of carrying out the murder, but friends and family of Zakia Zaki pointed the finger at local figures, including former warlords, whom the journalist had exposed in her programmes on human rights." (Reporters Without Borders, 2008) **[62a]**

17.14 On May 31 [2007], television news presenter Shokiba Sanga Amaaj [Amaj], 22, was murdered in her Kabul home. Authorities arrested male relatives, but the motive remained unclear... **[91a]** The murder had not still been solved as at the end of May 2008 **[62a]**

17.15 Reuters reported on 13 May 2008 that:

"Taliban insurgents have ordered residents of a province near the capital Kabul to stop watching television, saying the networks were showing un-Islamic programs, officials and local media said… The order is the last in a wave of curbs that the resurgent militants have announced in areas they are active. A senior Afghan information ministry official, Najib Manelai, said that dozens of masked men with weapons entered mosques in Logar province at the weekend and threatened residents against watching television. 'They threatened the people that 'if you do not give up watching televisions, you will face violence,' Manelai told Reuters. Media reports quoted residents as saying that the Taliban imposed the ban because TV networks were showing programs that were 'un-Islamic and anti-Afghan culture'… The information ministry along with security forces was taking action against the Taliban move, minister Manelai said, without giving details." **[24c]**

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JOURNALISTS

17.16 "Journalism careers in Afghanistan continued to combine high risk with low pay, but members of the press played prominent roles at the village and community levels." (CPJ Attacks on the Press 2006 report) **[91]**

17.17 The USSD report for 2007 recorded a number of incidents involving journalists during the year, including:

"At least 10 journalists were killed during the year [2007]. In April the Taliban beheaded journalist Ajmal Naqshbandi in Helmand Province. He had been abducted on March 4, with Italian journalist Daniele Mastrogiacomo and their driver, Sayed Agha. After a personal appeal by the Italian Prime Minister to President Karzai, Mastrogiacomo was released on March 19 in exchange for Taliban prisoners. In June Shakiba Sanga Amaj, a female reporter for Shamshad Television, was killed. Authorities arrested two men, and an investigation into the case is ongoing…" **[2h] (Section 2a)**

17. 18 A Freedom House report on Afghanistan, 2008, recorded:

"A growing number of journalists have been arrested, threatened, or harassed by politicians, security services, and others in positions of power as a result of their coverage. Kamran Mir Hazar, editor of a popular news website, was detained several times by national security forces in 2007 following several critical stories. Many reporters practice self-censorship, avoiding sensitive issues such as Islam, national unity, corruption, and crimes committed by specific warlords. Journalists are also increasingly being targeted by insurgents." **[41a] (p5)**

17.19 The Committee to Protect Journalists, Attacks on the press 2007 report, noted incidents during the year including: "Taliban fighters beheaded Ajmal Naqshbandi on April 8 in the Garmsir district of Helmand province, after the Afghan government refused demands to release jailed senior Taliban leaders. Naqshbandi had been abducted on March 4 with La Repubblica reporter Daniele Mastrogiacomo and driver Sayed Agha. Naqshbandi, a freelance journalist with several clients, had acted as Mastrogiacomo's fixer on a trip to interview Taliban leaders. Agha, the driver, was beheaded shortly after the abduction; the Italian Mastrogiacomo was released March 19 in an exchange for five Taliban prisoners." **[91]**

17.20 Reporters Without Borders Annual Report 2008 'Afghanistan', noted that:

"The men of one of the Taliban's most feared commanders, Mullah Dadullah, in March 2007, cut the throats of Sayed Agha and Adjmal Nasqhbandi, driver and guide to Italian reporter Daniele Mastrogiacomo, after 'trying' them for 'espionage'. The life of the reporter for *La Repubblica* was saved thanks to his country's intervention in negotiating the release of several Taliban chiefs in exchange for his freedom. He had been snatched while working in the southern Helmand region where the Taliban are active.

"The fate suffered by the foreign journalist's Afghan fixers demonstrate the serious risks run by journalists working in the south and east of the country where fighting claimed several thousand lives in 2007…

"Mullah Omar's men, who control several districts, seized a score of journalists in 2007. The Taliban stopped and held a team from Al-Jazeera and two Pakistani reporters at the beginning of the year before quickly releasing them safe and well. The Taliban also stepped up attacks against media installations, launching a rocket attack on radio Mili Paygham (Pashto for National Message) in Logar province, eastern Afghanistan." **[62a]**

17.21 Furthermore the Reporters Without Borders Annual Report 2008 noted that:

"Journalism student, Sayed Perwiz Kambakhsh, 23, who was arrested in October in Mazar-i-Sharif, was sentenced to death on 22 January 2008 after a closed-doors trial at which he had no lawyer to defend him. He was convicted of 'disseminating defamatory remarks about Islam', for printing and distributing to friends an article he downloaded from the Internet that analyses what the Koran says about the role of women. But the sentence, which was demanded by the Council of Mullahs, was also designed to intimidate the victim's brother, journalist Sayed Yaqub Ibrahimi, who has been investigating the authorities in the Balkh region of northern Afghanistan." **[62a]**

17.22 Amnesty International concurs with this and recorded on 11 February 2008 that:

"The case against Perwiz Kambakhsh appears to be politically motivated, aimed at stopping his brother Yaqub Ibrahimi - also a journalist who works for the Institute for War and Peace Reporting (IWPR) a charity providing training and capacity building for local media - from publishing articles critical of local power holders. Perwiz was arrested in November 2007 after Yaqub published a series of articles voicing concerns about local leaders." **[7j]**

17.23 Aljazeera.net reported on 8 November 2008 that:

"Mellissa Fung, a journalist working for the Canadian Broadcasting Corporation in Afghanistan, has been freed after being seized at a UN refugee camp outside Kabul last month [October 2008]… Fung had been on assignment in the southern city of Kandahar, where Canada has at least 2,700 troops on a military mission due to end in 2011. Afghan officials said that three men had been arrested over the abduction." **[15g]**

17.24 In a Radio Free Europe/Radio Liberty article dated 14 January 2009 it was reported that:

"An Afghan government commision that oversees the media is taking journalists from the daily 'Payman' to the Supreme Court to be prosecuted, RFE/RL's Radio Free Afghanistan reports. The commission accuses 'Payman' of printing articles that are anti-Islamic and anti-religion. It also accuses the chief editor and other staffers at the daily of insulting the beliefs of Afghans and committing unlawful acts. The Religious Council of Afghanistan called in a decree for the government to put the editorial staff of the daily on trial. The daily wrote in the January 14 issue of the newspaper that officials from the Supreme Court have arrested seven members of the 'Payman' staff." **[29l]**

The International Federation of Journalists, 2008 Annual Report lists media workers that have been subject to physical harm, intimidation, abducted, detained or killed during the last reporting period. See source **[92a] (p30-31)**

The CPJ website included further details of journalists attacked, threatened, abducted and imprisoned and may be accessed via the link: http://www.cpj.org/

NIGHT LETTERS

17.25 "Night letters (shabnamah) are a traditional means of communication in Afghanistan. Printed or handwritten pages are delivered to individuals, distributed through towns and villages or even blanketed over provinces. It is difficult to establish the true source of night letters, since messages are sent by a large variety of sources. Criminal groups, including those involved in the drugs trade, could, for example, conceivably use night letters in the name of the Taliban to generate fear in an area.

"The Taliban uses them often to deliver threats, generally directed at Afghans who work with the international forces or the government. For instance, a printed one-page missive distributed in south eastern Afghanistan in May 2008 in the name of the 'Afghanistan Islamic Emirate Khost Jihadi Military Front' warned 'all residents in Khost' that:

1. Tribal elders should not consider the U.S. stronger than Allah and not give verdicts against mujahidin; otherwise you will soon regret it.

2. Those who spy and work for the infidel government and military forces should quit their jobs by 20 June; otherwise they will see something which they have never seen in their lives.

3. Do not get close to the infidel forces at any time or in any place.

4. During attacks on government and infidel forces, you should keep yourselves safe and not provide support for them; if this rule is violated, your death will be the same as the death of the U.S. and their puppets.

5. Our mines are live; we do not allow the killing of civilians, but you should not show them to the infidels and their slaves. We will show our power to those who show our land mines to them or inform them about us.

6. When you see infidel forces on the street and roads, stop where you are and do not go forward.

7. Those mullahs who perform funerals for those who are killed in the campaign – national army, national and border police and intelligence – will be killed with torture; and remember: such a mullah will never be forgiven." (International Crisis Group, 24 July 2008) **[26c] (p12)**

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18. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION (AIHRC)

18.01 The Afghanistan Independent Human Rights Commission's (AIHRC) mandate was set out in their report of August 2007:

"According to Article 58 of the 2004 Constitution of Afghanistan, the Independent Human Rights Commission of Afghanistan was established with the purpose of 'monitoring the observation of human rights in Afghanistan, to promote their advancement and protection.'

"Article 5 of the new Law on the Structure, Duties and Authorities of the Afghanistan Independent Human Rights Commission (Official Gazette, Issue No. 855, 21 June 2005), sets out the Commission's objectives and responsibilities, which include:

"The promotion and protection of human rights (Article 5);

"Monitoring the implementation of the Constitution and other laws as well as Afghanistan's commitment to human rights (Article 21, 2);

"Monitoring the performance of State authorities and NGO's [sic] regarding the equal distribution of services and welfare (Article 21, 4).

"Where violations and abuses of human rights are identified, the Commission has a mandate to take steps to protect and to promote human rights, including through advocacy and submission of reports to the Government." **[78d] (p3-4)**

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

"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)**

18.03 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)**

18.04 The US State Department's 2007 report, published on 11 March 2008, stated that:

"The constitutionally mandated AIHRC continued its role in addressing human rights problems. The president appointed the nine-member commission, which generally acted independently of the government, often voicing strong criticism of government institutions and actions, and accepting and investigating general complaints of human rights abuses. The AIHRC operated ten offices outside Kabul. The AIHRC was reasonably influential in its ability to raise public awareness and shape national policy on human rights. The AIHRC did not have adequate resources to focus on advocacy of human rights or to intervene in individual cases. During the year some MPs called for a vote of confidence on AIHRC chairman Sima Samar and the other AIHRC commissioners, but by year's end the vote had not taken place. Samar remained the head of the AIHRC. Some MPs also sought to review the law that defines the mandate of the AIHRC and proposed that the AIHRC include religious scholars educated in the Shari'a." **[2h] (Section 4)**

DOMESTIC AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS (NGOS)

18.05 "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 generally 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. The ICRC regularly visited more than 80 detention places, including NDS detention centers. Security constraints sometimes prevented ICRC delegates from visiting some places of detention, and the ICRC was not notified of all places of detention and detainees." (US State Department report, 2007) **[2h] (Section 4)**

18.06 The USSD 2007 report further noted that:

"Local employees ran several international NGOs, including the HRW. In 2005 the government passed a law 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. In February 2006 the government stripped the licenses of more than 1,600 NGOs accused of economic fraud and corruption. The government cooperated with international governmental organizations and permitted them to visit the country." **[2h] (Section 4)**

AFGHANS WORKING FOR INTERNATIONAL ORGANISATIONS AND INTERNATIONAL SECURITY FORCES

18.07 "Aid organizations and their staff have been subject to increasing attacks, threats and intimidation, by both insurgent and criminal groups. This year

[2008] there have been over 84 such incidents, including 21 in June, more than in any other month in the last six years. So far this year 19 NGO staff have been killed, which already exceeds the total number of NGO workers killed last year." (Agency Coordinating Body for Afghan Relief, 1 August 2008) **[94a]**

18.08 The *Washington Post*, reported in an article on 17 February 2008 that "In addition to foreigners, Afghans in the capital are also coming under threat, especially those associated with international groups. Employees of foreign aid organizations or news agencies have received warnings to quit. Last week, several such Afghans who previously had been willing to be identified asked not to be named now. Others said they had sent their families to Pakistan as a safety precaution." **[32a]**

18.09 "Several Afghans have also been pulled off the road by Taliban, who have accused them of 'spying' for Western interests, and shot or beheaded them." (Yahoo! News, 14 August 2008) **[90a]**

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WOMEN'S RIGHTS ACTIVISTS

(See also Section 24: Women)

18.10 Human Rights Watch, reported on 21 May 2008 that:

"On May 21, 2007, the lower house of the Afghan parliament, the Wolesi Jirga, voted to suspend Malalai Joya, a female MP elected from Farah province. Malalai was accused of insulting the parliament and suspended until the end of her term in 2009. Malalai's suspension occurred after she appeared in a television interview comparing the parliament to an animal stable. Malalai told Human Rights Watch that her remarks were edited out of context. She said that her statement divided parliamentarians into two groups – one of which was working to uphold democratic principles while the other was undermining them, thereby serving the Afghan population even less than animals in a stable." HRW said that "one year after her illegal suspension, the Afghan parliament should reinstate Malalai Joya to office…." **[17c]**

(See also Section 11: Non-Government Armed Forces - Warlords and Commanders and Section 23: Women)

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19. FREEDOM OF RELIGION

BACKGROUND AND DEMOGRAPHY

19.01 The USSD International Religious Freedom Report 2008, Afghanistan, released on 19 September 2008 stated:

> "Reliable data on religious demography is not available because an official nationwide census has not been conducted in decades. Observers estimate that 80 percent of the population is Sunni Muslim, 19 percent Shi'a Muslim, and other religious groups make up less than 1 percent of the population. There are approximately 2,200 Sikh and Hindu believers and more than 400 Baha'is. There is a small, hidden Christian community; estimates on its size range from 500 to 8,000. In addition, there are small numbers of adherents of other religious groups, mostly Buddhist foreigners." **[2c] (Section I)**

19.02 The report further stated that "In the past, small communities of Hindus, Sikhs, Baha'is, Jews, and Christians lived in the country, although most members of these communities emigrated during the anti-Soviet jihad years of civil war and Taliban rule. Non-Muslim minorities were estimated to number in the hundreds at the end of Taliban rule. A small population of native Hindus and Sikhs never left. Since the fall of the Taliban, some members of religious minorities have returned, with many settling in Kabul." **[2c] (Section I)**

19.03 Additionally the report stated:

> "Traditionally, the dominant religion is the sect of Sunni Islam that follows the Hanafi school of jurisprudence. For the last 200 years, much of the population adhered to Deobandi-influenced Hanafi Sunnism from Deoband, India, near Delhi. A sizable minority adhered to a more mystical version of Islam, generally known as Sufism. Sufism centers on orders or brotherhoods that follow charismatic religious leaders. During the 20th century, the influence of the Wahhabi form of Islam grew in certain regions.
>
> "Members of the same religious group have traditionally concentrated in certain regions. Some groups were displaced forcibly by kings for internal security reasons or to make agricultural and grazing land available to favored ethnic groups. Sunni Muslim Pashtuns dominate the south and east. The homeland of the Shi'a Hazaras is in the Hazarajat, the mountainous central highlands around Bamyan. Northeastern provinces traditionally have Ismaili populations. Other areas, including Kabul, the capital, are more heterogeneous and include Sunni, Shi'a, Hindu, Sikh, and Baha'i populations. The northern city of Mazar-e-Sharif includes a mix of Sunnis (including ethnic Pashtuns, Turkmen, Uzbeks, and Tajiks) and Shi'a (Hazaras and Qizilbash) including Shi'a Ismailis." **[2c] (Section I)**

LEGISLATION

19.04 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]**

19.05 Commentators have pointed out contradictions between Articles 2 and 3 of the Constitution. For example, a *Christian Science Monitor (CSM)* article of 27 March 2006 stated that "The issue of religious freedoms is one in which, as in Afghanistan, modern laws are clashing with ancient traditions." *CSM* observed that the recent case of Abdul Rahman, who converted to Christianity [see paragraphs 19.34–19.41], "… illustrates a glaring contradiction [in] Afghanistan's constitution, which upholds the right to freedom of religion on one hand but enshrines the supremacy of sharia law on the other." **[19a]**

19.06 The USSD International Religious Freedom Report 2008, Afghanistan, released on 19 September 2008 stated:

"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, moderates in the Government opposed attempts by conservative elements to enforce rules regarding social and religious practices based on their interpretation of Islamic law Shari'a, including the proposed legislation in April 2008 to ban men and women associating in public, loud music, and playing with pigeons, among other things. There were no reports of anti-Semitic acts." **[2c] (Section III)**

19.07 Furthermore the report added "Proselytism was practiced discreetly, since it is viewed as contrary to the teachings of Islam. During the period covered by this report, there were a few reported incidents involving individuals attempting to proselytize." **[2c] (Section II)**

19.08 The report additionally added:

"Blasphemy is a capital crime under some interpretations of Shari'a, and authorities could punish blasphemy with death, if committed by a male over age 18 or a female over age 16, who is of sound mind. Those accused of blasphemy are given 3 days to recant their actions and could otherwise face death by hanging. In recent years, this sentence was not carried out in practice, although during the reporting period a court sentenced a student journalist to death for activity it ruled blasphemous. The case was under appeal at the end of the reporting period." **[2c] (Section II)**

(See also Section 19: Converts and Christians for more information on religious freedom under the Constitution)

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RELIGIOUS GROUPS

Shia (Shiite) Muslims

19.09 The USSD International Religious Freedom Report 2008, Afghanistan, released on 19 September 2008 stated:

"Prior to the drafting of the Constitution, some conservative jurists argued that the Constitution should favor the Hanafi school of Islamic jurisprudence associated with the Sunnis over the Jafari school adhered to by Shi'as. These jurists also called for the primacy of Shari'a in the legal system. While the Constitution does not make specific reference to Shari'a, it does state that when there is no provision in the Constitution or other laws guiding ruling on an issue, the courts' decisions shall accord with Hanafi jurisprudence in such a way as to serve justice in the best possible manner. The Constitution also grants that Shi'a law will be applied in cases dealing with personal matters where both sides are Shi'as; there is no separate law applying to non-Muslims.

"The Constitution requires that the President and Vice President be Muslim and does not distinguish in this respect between Sunnis and Shi'as. This requirement is not explicitly applied to government ministers or Members of Parliament, but each of their oaths includes swearing to support the provisions of Islam." **[2c] (Section II)**

19.10 "Historically, the minority Shi'a community faced discrimination from the majority Sunni population. This discrimination continued. Some Sunnis complained about the growing influence of the Shi'a community in political circle." (USSD IRF Report 2008) **[2c] (Section III)**

19.11 Furthermore "The rigid policies adopted both by the Taliban and by certain opposition groups adversely affected adherents of other branches of Islam and other religious groups. The active persecution of the Shi'a minority, including Ismailis, which occurred under the Taliban regime ended. Although there were reported incidents of discrimination and treatment varied by locality, Shi'a generally were free to participate fully in public life." (USSD IRF Report 2008) **[2c] (Section II)**

19.12 "The Shi'a community openly celebrated the birthday of Imam Ali, one of the most revered figures in the Shi'a tradition. In past years, the Shi'a holiday of Ashura, during which Shi'a Muslims hold religious parades, triggered violence in the cities of Kabul and Herat. However, observations of Ashura in January 2008 were peaceful." (USSD IRF Report 2008) **[2c] (Section II)**

(See also Section 20: Hazaras)

Ismailis

19.13 The USSD International Religious Freedom Report 2008, Afghanistan, released on 19 September 2008 stated:

"According to a recent United Nations High Commissioner for Refugees (UNHCR) report, while Ismailis were not generally targeted or seriously discriminated against, they continued to be exposed to risks in some local areas. In years past, local commanders in Baghlan province occupied or confiscated and then sold Ismaili land, and Ismailis were unable to reclaim their property. The Baghlan Provincial court and other provincial authorities refused to dispense justice for Ismailis in land-related cases. Ismailis faced illegal taxation and extortion by local commanders. In Tala-wa-Barfak District, cases of rape of Ismaili women were reported, with perpetrators acting with impunity." **[2c] (Section III)**

Sikhs and Hindus

19.14 The USSD International Religious Freedom Report 2008, Afghanistan, released on 19 September 2008 stated:

> "Non-Muslim minorities such as Sikhs, Hindus, and Christians continued to face social discrimination and harassment and, in some cases, violence. This treatment was not systematic, but the Government was not able to improve conditions during the reporting period. The Hindu population, which is less distinguishable than the Sikh population, whose men wear a particular headdress, faced less harassment, although Hindus reported being harassed by neighbors in their communities. The Sikh and Hindu communities, although allowed to practice their faith publicly, reportedly continued to face discrimination, including intimidation, causing them to leave the country. While Hindus and Sikhs had recourse to dispute resolution mechanisms such as the Special Land and Property Court, in practice the communities felt unprotected." **[2c] (Section III)**

19.15 An Aljazeera article dated 9 July 2006, noted that "After living in Afghanistan for more than two centuries, economic hardship is pushing many in the country's dwindling Sikh community to emigrate to India, their spiritual homeland… Sikhs who left Afghanistan since the Taliban was deposed by a US invasion in 2001 cite economic instability and lawlessness –not the threat of communal violence – as reasons for their departure." **[15a]**

19.16 The Foreign and Commonwealth Office (FCO) noted in a letter dated 17 March 2008 that less than one per cent of the population of Kabul are Sikh, Hindu or Christian. The Hindu community there, although tolerated, are unable to practise their religion freely and face forms of intimidation from both the public and the authorities. Some are reluctant to send their children to school for fear of mistreatment. **[4d]**

19.17 The FCO further noted that the Sikh community in Kabul also face forms of intimidation and are also reluctantant to send their children to school. However, generally they are tolerated and some own and run successful businesses. The Guru Dwara in Karte Parwan, Kabul is a fully functioning temple. **[4d]**

19. 18 The USSD International Religious Freedom Report 2008 further stated that:

> "Some Sikh and Hindu children were unable to attend government schools due to harassment from teachers and students. The Government took limited steps to protect these children and reintegrate them into the classroom environment. The AIHRC reported that members of the Hindu community in Kandahar City faced discrimination in schools and asked the local government to build a separate school for Sikh and Hindu children. This request was not met." **[2c] (Section II)** However, "In July 2007 the Ministry of Education opened a school for Sikh and Hindu children in Ghazni Province. A Sikh school in Kabul has been privately run with no assistance from the Government for several years and reported having only one full-time teacher for 120 students." **[2c] (Section II)**

19. 19 Furthermore the report stated that:

"Unlike in previous years, when Hindus complained of not being able to cremate the remains of their dead in accordance with their customs, the Government intervened to protect their right to carry out cremations. Although community representatives expressed concerns over land disputes, they often chose not to pursue restitution through the courts for fear of retaliation, particularly when powerful, local leaders occupied their property. There were no known reports of discrimination against Hindus by the Government." **[2c] (Section II)**

(See also Section 32: UNHCR Guidelines)

19. 20 The BBC noted that the Baisakhi, also spelled Vaisakhi, is held on 13 April each year to celebrate the Sikh New Year and the founding of the Sikh community, known as the Khalsa festival. **[25ay]**

19.21 The *Pakistan Daily* reported on 25 July 2008 that:

"Ghazni governor inaugurated a temple for adherent of Sikh religion after completion of the construction work on this holy place of Sikh followers in Ghazni province. Accomplished on over 27 acres of land the Sikh temple had been completed by $151000 assistance from Provincial Reconstruction Team (PRT). Ismail Jahangir spokesman of the Ghazni governor told the new temple had rooms for guests and chicken. Dilip Singh MP of the Sikhs in Ghazni province while praising the step said problems in offering their religious ceremonies and parties was solved with this new temple. They had been faced with several troubles before the inauguration of this new temple, he added. The new temple could house 3000 people at once, he informed, urging the government to focus on the religious minorities in the province to protect their entitled rights. 'I am an Afghan and I am entitled to all rights to be looked after.' He added. Thousands of Sikhs and Hindus would rush to Ghazni to attend religious festivals when the peace and stability returns to the province, he hoped… There are two Sikh temples in Ghanzi province." **[93a]**

(See also Section 19: Constitutional Rights, Religious Law and Institutions)

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Converts and Christians

19.22 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, published December 2007 stated that: "Afghans suspected or accused of having converted from Islam to Christianity or other faiths risk persecution. The risk emanates from family and/or tribe members as well as the broader community. Severe punishment within the legal system is also possible for those who do not recant their conversion." **[11a] (p8)**

19.23 The same document noted that "… the Constitution of Afghanistan is silent on issues of conversion and while calling for the respect of human rights and fundamental freedoms, defers to Sharia law for matters not explicitly dealt with by the Constitution. Under Sharia Law, conversion is punishable by death. As such, the risk of persecution continues to exist for Afghans suspected or accused of having converted to Christianity or other faiths." **[11a] (p67)**

19.24 The Foreign and Commonwealth Office (FCO) noted in a letter dated 17 March 2008 noted that practising Christiananity in Afghanistan is considered extremely dangerous and is not discussed openly. However, in Kabul there may be small pockets of Afghan Christians who risk worshiping together in secret places. **[4d]**

19.25 The FCO further noted that Christianity is still not accepted. Christians are regularly discriminated against and face verbal and physical abuse from the authorities, former friends and also family members. Authorities do not generally investigate allegations of harassment or ill-treatment or bring those responsible to justice. **[4d]**

19.26 The USSD International Religious Freedom Report 2008 stated that "Conversion from Islam is considered apostasy and is punishable by death under some interpretations of Shari'a. A citizen who converted from Islam (if a male over age 18 or a female over age 16, who is of sound mind) has 3 days to recant his or her conversion or could otherwise be subject to death by hanging. Individuals can also be stripped of all their property and possessions and have their marriage declared invalid. In recent years, the death sentence has not been carried out." **[2c] (Section II)**

19.27 In March 2006 numerous news agencies, including BBC News, reported on the case of Abdul Rahman, an Afghan who faced execution in Afghanistan under Sharia law for converting from Islam to Christianity unless he reconverted to Islam. On 30 March 2006, Times Online reported that "Mr Rahman became a Christian while working for an aid group helping Afghan refugees in Pakistan 15 years ago. He lived in Germany before returning to Afghanistan, where he was detained when his relatives told authorities that he had converted to Christianity after a dispute involving two daughters." Following his release from prison due to pressure from Western countries and doubts about his mental state, Mr Rahman was granted asylum in Italy. **[68a] [25t]**

19.28 The decision to release Mr Rahman provoked anger in Afghanistan and was criticised by the leader of the lower house of parliament, Yunus Qanuni, who told the assembly that he should not be allowed to leave the country. **[68a]** *The Guardian* reported on 28 March 2006 that "Around 1,000 protestors marched through the northern city of Mazar-i-Sharif, chanting 'Death to Christians' and 'Death to America' after court officials announced they were dismissing the case." **[18e]**

19.29 "While President Karzai defended the release of Abdul Rahman, [former] Chief Justice Fazl Hadi Shinwari complained that Islamic laws were being ignored in Afghanistan and some government officials were not upholding Islamic values. The Taliban issued a statement that claimed the release of Rahman was a conspiracy masterminded by foreign forces." (World Evangelical Alliance, 7 April 2006) **[82b]**

19.30 On 11 September 2006, the UN Secretary-General reported that following the case of Abdul Rahman in March 2006:

"There have since been three similar cases in which Afghan citizens were accused of apostasy by local religious leaders and were forced to leave the

country. Those cases highlight the obstacles to the enjoyment of freedom of conscience and religion that exist in Afghanistan and the necessity of the Government to take proactive measures to protect those rights. In that regard, the proposal to reinstate the Department for the Promotion of Virtue and Prevention of Vice within the Ministry of Hajj and Religious Affairs is a development that will need to be closely monitored." **[39l] (p10)**

19.31 UNHCR's 'Eligibility Guidelines' paper of December 2007 recorded that "In two of the cases, Afghan families in which some of the members had converted to Christianity reported being harassed by their community and eventually decided to leave the country. In a third case, a Christian convert was jailed on unrelated allegations of homicide. While in jail, another inmate who came to know of his religious belief reportedly killed him." **[11a] (p42)**

(See also Section 32: UNHCR guidelines)

Baha'is

19.32 UNHCR's December 2007 Eligibility Guidelines also note that "In light of the May 2007 Supreme Court ruling declaring the Baha'i faith distinct from Islam and a form a blasphemy, Afghans converting to the Baha'i faith face a risk of persecution similar to that of Christian converts." **[11a] (p67)** In addition, the US State Department report on International Religious Freedom 2008 stated that:

"The ruling creates uncertainties for the country's small Baha'i population, particularly on the question of marriages between Baha'i women and Muslim men. Citizens who convert from Islam to the Baha'i faith face risk of persecution, similar to that of Christian converts. Also unclear is how the Government will treat second generation Baha'is who technically have not converted, as they were born into families of Baha'i followers, but may still be viewed as having committed blasphemy. The ruling was not expected to affect foreign national Baha'is." **[2c] (Section II)**

(See also Section on Religion – Legislation above for further information on blasphemy)

Mixed Marriages

19.33 The Danish fact-finding mission of March/April 2004 reported in November 2004 that:

"The CCA [Co-operation Centre for Afghanistan] 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)**

(See also Section 23: Women)

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20. ETHNIC GROUPS

OVERVIEW

20.01 The USSD report for 2007 observed "The constitution states discrimination between citizens is prohibited and provides for the equal rights of men and women…Equal rights based on race… language, or social status is not explicitly mentioned in the law. There were reports of discrimination based on race, ethnicity… Ethnic Hazaras reported discrimination at border checkpoints and in obtaining civil service jobs." **[2h] (Section 4)** Article 4 of the Constitution adopted in January 2004 states "The nation of Afghanistan is comprised of Pashtun, Tajik, Hazara, Uzbak, Turkman, Baluch, Pashai, Nuristani, Aymaq, Arab, Qirghiz, Qizilbash, Gujur, Brahwui and other ethnic groups." **[81]**

20.02 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 stated that:

"Continuing efforts to address the problems faced by persons residing in areas where they constitute an ethnic minority are reflected in a more tolerant climate in some localities. However, such minorities may still face persecutory acts, such as physical abuse and detention, or discrimination amounting to persecution by local power-holders in some areas. Where it occurs, discrimination often manifests itself in terms of access to education and other services, political representation and with regard to land and property." **[11a] (p8)**

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PASHTUNS (PATHANS)

20.03 In June 2005 UNHCR stated that Pashtuns were the largest ethnic group in Afghanistan, constituting about 38 per cent of the population. **[11b] (p8)** The 2005 Encyclopedia of the World's Minorities recorded 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)**

20.04 The 2005 Encyclopedia of the World's Minorities also recorded 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)**

20.05 The USSD 2006 report, published on 6 March 2007, stated that "In northern areas, commanders targeted women, especially from Pashtun families for sexual violence." **[2b] (Section 5)**

20.06 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, dated December 2007 stated that:

"While attempts are being made by the Government to address the problems faced by Afghans residing in areas where they are an ethnic minority and improvements have taken place in some areas, such minorities may still in some regions face detention, physical abuse and intimidation by local commanders and power-holders. Discrimination amounting to persecution of ethnic minorities also occurs, most commonly in the form of denial of access to education and other services and political representation.

"Afghans of Pashtun ethnic origin from northern and central Afghanistan, in particular some districts of Jowzjan, Sar-i-Pul and Faryab and Kapisa, are possibly at risk of persecution and are unable to recover their land and property subsequent to displacement. Similarly, while most Afghan Gujurs from Baghlan were able to return, Afghan Gujurs from Takhar continue to face serious difficulties as mentioned above. Generally, asylum-seekers originating from areas where they are an ethnic minority are at heightened risk if they attempt to reclaim land and property." **[11a] (p66-67)**

(See also Section 32: UNHCR guidelines)

Blood Feuds

20.07 "Afghanistan's people are a patchwork of different ethnicities and in some areas these differences hinder social cohesion. For example, Oxfam researchers in the Ghourian district of Herat reported that 'the biggest reason for conflict is land disputes, which mainly happen between Pashtuns and Tajiks'. Despite a strong sense of national identity, ethnic and tribal affiliations have long been of significance. Inequalities and rivalries between ethnicities existed prior to the Saur Revolution of 1978, but were intensified by conflict as tensions increased and commanders sought to exploit differences for their own ends." (Oxfam Research Report, February 2008) **[75]**

20.08 "Another major source of conflict… is disagreements within or between families. Such disputes can easily spread to tribes or communities, and in a significant number of cases relate to women, marriage, or sexual relations. Violence can result from the transgression of traditional conjugal norms, such as the provision of dowries, arranged marriage, the custom of a family providing a girl for marriage as compensation for a crime (baad), or to resolve a dispute (badal), or the practice whereby a widow is expected to marry her deceased husband's brother. Domestic violence against women or severely discriminatory treatment is also often a cause and consequence of family, tribal, or community disputes." (Oxfam Research Report, February 2008) **[75] (p10)**

TAJIKS

20.09 The 2005 Encyclopedia of the World's Minorities recorded 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)**

20.10 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 recorded that the majority of Tajiks are Sunni Muslims. **[27] (p1175)**

20.11 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to UNHCR "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)**

PANJSHERIS

20.12 The Minority Rights Group (MRG) International noted that:

"The Panjshiri are not always classified as a separate group because they are considered as falling within the Tajik ethnic grouping. However, they display certain distinct characteristics from the ethnic cousins that often identifies them as a specific minority in their own right. It can be speculated that their name comes from the Panjshiri valley, where they were living. They practice Sunni Islam and speak a language known as Panjshiri, which is a dialect of Dari (Persian). They inhabit the mainly mountainous areas north of Kabul.

"Again, like the Nuristanis, they live at relatively high altitudes in high mountains with limited access to land. They have traditionally derived their livelihood from animal husbandry. With increasing migration to Kabul for work the Panjshiris have gradually begun to provide a source of unskilled labour that is only second to the Hazaras. A significant number have also traditionally worked in semi-skilled professions, as drivers and mechanics.

"Socially and politically, Panjshiris fall into the same category as other suppressed ethnic groups such as the Hazaras and Nuristanis, with very few people in high-ranking positions in the army and the government in Kabul." **[76b]**

20.13 "After the fall of the Taliban regime the Panjshiris, along with other Tajiks, formed the core of the Northern Alliance, and gained power on some of the important ministries, as well as some control of the military. Some Panjshiris have however been articulating the view that the community should give up some of the control, if it is to achieve a more diverse and ethnically equally representative government." (MRG, *nd*) **[76b]**

HAZARAS

20.14 "There are approximately 2.8 million Hazaras in Afghanistan." (CIA World Factbook 2007). "They were once the largest Afghan ethnic group constituting nearly 67% of the total population of the state before the 19th century. More than half were massacred in 1893 when their autonomy was lost as a result of political action. Today they constitute approximately 9% of the Afghan population. The origin of Hazara are much debated, the word Hazara means 'thousand' in Persian but given the Hazaras features, current theory supports their decent from Mongol soldiers left behind by Genghis Khan in the 13th century.

"The majority of Hazaras live in Hazarajat (or Hazarestan), land of the Hazara, which is situated in the rugged central mountainous core of Afghanistan with an area of approximately 50,000 sq. km, with others living in the Badakhshan mountains. In the aftermath of Kabul's campaign against them in the late 19th century, many Hazaras settled in western Turkestan, in JauzJan and Badghis provinces. Ismaili Hazaras, a smaller religiously differentiated group of Hazaras live in the Hindu Kush mountains. The most recent two decades of war have driven many Hazaras away from their traditional heartland to live on the fringes of the state in close proximity to Iran and Pakistan. There is also a large cross-border community of Hazaras who make up an influential ethnic group in the Pakistani border city of Quetta." (Minority Rights Group International, *nd*) **[76a]**

20.15 "The Hazaras speak a dialect of Dari (Persian Dialect) called Hazaragi and the vast majority of them follow the Shi'a sect (twelve Imami). A significant number are also followers of the Ismaili sect while a small number are Sunni Muslim. Within Afghani culture the Hazaras are famous for their music and poetry and the proverbs from which their poetry stems … The Hazaras are reported to have nuclear families with the husband considered the head of the family except in the case of husband's death, when the woman becomes the head. In the latter case the older wife in polygamous marriages succeeds the deceased husband until the eldest sun [*sic*] reaches maturity. At national level Hazaras tend to be more progressive concerning women's rights to education and public activities. Educated Hazara women, in particular ones who returned from exile in Iran are as active as men in civic and political arenas. Hazara families are eager to educate their daughters. U.N. officials in Bamian, 20 miles to the east, said that since the collapse of Taliban rule in late 2001, aid agencies have scrambled to build schools and have succeeded in attracting qualified female teachers to meet the demand." (MRG, *nd*) **[76a]**

(See also Section 23: Women)

20.16 "Hazaras are one of the national ethnic minorities recognized in the new Afghan constitution and have been given full right to Afghan citizenship. Their main political party, Hizb-e Wahdat gained only one seat in the cabinet.

Hazaras are concerned about the rising power of the warlords, who they feel pose a direct threat to their community. Also, given the suppression suffered by Hazaras under the Mujaheedin, the power of Northern Alliance (Mujaheedin leadership of 10 years ago) in the new leadership is a cause for worry." (MRG, *nd*) **[76a]**

20.17 The USSD International Religious Freedom Report 2008 stated that:

"Throughout the country's history, there have been many examples of conflicts between the Hazaras and other citizens. The Hazaras accused the Government, led by Pashtuns, of providing preferential treatment to Pashtuns and of ignoring minorities, especially Hazaras. Hazaras have reported being asked to pay bribes at border crossings where Pashtuns were allowed to pass freely. These conflicts often have had economic and political roots but also have religious dimensions. The Government made significant efforts to address historical tensions affecting the Hazara community, including affirmative hiring practices." **[2c] (Section III)**

20.18 Clashes between Pashton Kochis (nomads) and Hazaras of Behsood District, Wardak Province over access to grazing land from early June 2006 caused several deaths and injuries as well as displacement to hundreds of others. A provisional ceasefire was put in place with conditions that the Kochis temporarily withdrew from the area. (IRIN News, 24 July 2007) **[36v]**

20.19 The USSD 2007 report noted "Ethnic Hazaras continued to prevent 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 of Hazaras in the 1990s. During the year [2007] there were clashes between Hazaras and Kuchis in Wardak Province." **[2h] (Section 5)**

20.20 A demonstration by the Hazaras in the capital, Kabul, on 22 July 2008 ended peacefully after five hours, the BBC reported. The demonstrators were calling on the government to do more to protect their land after disputes with the nomadic Kuchis. "The Hazaras accuse the nomadic Kuchis of killing a number of Hazaras recently in the Behsud district of Wardak province, while the Kuchis say Hazaras attacked their camps, killing several nomads. The Kuchis say they have historic grazing rights over the land in Wardak province, south-west of Kabul. President Karzai set up a commission to deal with the dispute last year after several people died in clashes between the Kuchis and the Hazaras." Some demonstrators were calling for president Karzai to resign, the report noted. (BBC, 22 July 2008) **[25k]**

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UZBEKS AND TURKMEN

20.21 The 2005 Encyclopedia of the World's Minorities recorded 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] (p1223)** The same source also stated 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] (p1288)**

20.22 Article 16 of the Constitution recognises 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]**

KUCHIS

20.23 Kuchis means "nomads" in the Pashtu language:

"Officials estimate there are about three million Kuchis among the 25 million or so Afghans, with about 60 per cent of them still following the nomadic life. They are among the poorest of the battered country's poor, owning little more than a tent and a few sheep and cows… Armed villagers and warlords often chase them off the land guaranteed to them under the new constitution. Hospitals refuse their sick, and graveyards reject their dead. They earn money by selling milk from their animals, but many also make their children work or beg. Even if they wanted to settle down, most couldn't afford to buy or rent a house.

"Yet not all Kuchis share the same lot. Some have bought property and use it as a base to return to after several months of travel. And there is a smaller, more affluent group that settled down long ago, leaving the roaming lifestyle behind." (Associated Press, 14 May 2006) **[54b]**

20.24 The Afghanistan Independent Human Rights Commission report, December 2008, stated that:

"One consequence of the drought that has plagued Afghanistan for nearly 15 years is that the Kuchis' traditional way of life is no longer viable. Their pasturelands have dried up and their animals have weakened or died from a lack of food and water. The largest concentrations of displaced Kuchis, numbering roughly 60,000 people, are those who cannot return to the Registan desert. Drought conditions in the north, as well as the reluctance of local communities to allow the Kuchis to return with their flocks, has displaced a further 10,000 individuals. With their traditional way of life destroyed, the Kuchi have been forcing to live in camps and to subsist on food assistance, with daily wage labor as their only livelihood option as few of the Kuchi are educated or have specialized skills. The return of this population to their traditional way of life in the Registan desert is impossible because such return is unsustainable, given the loss of their livestock and the fact that the amelioration of drought conditions, if it happens, will take several years. Replacing flocks is an expensive proposition and will not be supported by donors or government when the likelihood is that the flocks will die for lack of pasture and water. The ability of the Kuchi to adapt to their changed circumstances is limited as most are unfamiliar with settled livelihoods and do not own property. Their landlessness makes their situation particularly difficult." **[78a] (p50)**

20.25 A news article by the Institute for War and Peace Reporting (IWPR) 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." IWPR also noted:

"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." **[73j]**

20. 26 The USSD 2006 report, published on 6 March 2007, recorded that "Ethnic Hazaras continued to prevent 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." **[2b] (section 2d)**

20.27 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. **[74b] (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. **[73j]**

NURISTANIS

20.28 "Nuristanis, a small but distinct ethnolinguistic group living in a mountainous eastern region, practiced an ancient polytheistic religion until forcibly converted to Islam in the late 19th century. Some non-Muslim religious practices survive today as folk customs." (USSD International Religious Freedom Report 2008) **[2c] (Section I)** "Nuristanis arrived in Afghanistan fleeing the eastward spread off Islam. They speak an unique Indo-European-language. Nuristanis were conquered by Amir Abdur Rahman Khan in 1895-96 and were obliged to abandon their ancient religious belief in favour of Islam. They reside mainly in the East of the country - between the Pashtun tribes of Kunar, the Kalash in Pakistan's Chitral, and the Tajiks of Badakhshan in the North. Nuristan (land of light) is located on the southern slope of the Hindu Kush mountain range and is spread over four valleys, with each valley having its own distinct language/dialect: Kati, Waigali, Ashkun and Parsun…

"Nuristani men and women follow a strict division of labour with the working in livestock herding while the women work on grain production or irrigated terraces." (Minority Rights Group, *nd*) **[76c]**

20.34 On 7 April 2008 The Long War Journey reported that:

"A series of airstrikes in northeastern Afghanistan on Sunday killed at least 16 people in what Coalition and Afghan Defense officials said was a deliberate operation against the network of top fugitive warlord Gulbuddin Hekmatyar. The strike occurred in the volatile mountain province of Nuristan, a rugged area north of Kunar long known to be a hotbed of insurgent activity. US and Afghan forces launched Sunday's attack after intelligence sources revealed Gulbuddin Hekmatyar was in the Dohabi (Doab) district trying to meet with Kashmir Khan, his top military commander, Nuristan's governor Tamim Nuristani told The Associated Press. The Defense Ministry has since

announced Hekmatyar was not the target rather a group of his loyalists who planned on meeting with Nuristani based Taliban fighters…

"Nuristan's deputy governor, Mohammad Aleem, claimed numerous civilians were killed in the clash, including women and children. Several other Nuristani officials cited the casualty figure around 19 or 20, including women and children, adding local villagers had relayed the figures via radio communications… Both the Afghan Defense Ministry and Coalition officials have denied the reports of civilian casualties." **[55c]**

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21. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

21.01 The International Lesbian and Gay Association (ILGA) survey, State Homophobia, updated May 2008 stated that same-sex male and same-sex female relationships are illegal. The report also noted that under Article 427 of the Penal (Criminal) Code:

"(1) A person who commits adultery or pederasty shall be sentenced to long imprisonment.
(2) In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:
a. In the case where the person against whom the crime has been committed is not yet eighteen years old." **[80a]**

21.02 The source added "In Afghan legal terminology 'pederasty' appears to refer to homosexual acts and not paedophilia, which instead falls under subsection a) of article 427. Islamic Sharia law, criminalizing homosexual acts with a maximum of death penalty, is applied together with the codified Penal law. However, no known cases of death sentences have been handed out for homosexual acts after the end of Taliban rule." **[80a]**

21.03 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, 31 December 2007 stated that "Open homosexual relations are not possible in Afghanistan given conservative social mores. In addition to gays and lesbians risking violence from family or community members, most interpretations of the applicable criminal law indicate that homosexual acts would lead to severe punishment were they to come to the attention of authorities." **[11a] (p9)**

21.04 The USSD report for 2007 recorded "The law criminalizes homosexual activity; however, the authorities only sporadically enforced the prohibition." **[2h] (Section 5)**

21.05 The Amnesty International document, Sexual Minorities and the Law: A World Survey, updated July 2006, stated same-sex relationships were illegal (and punishable by up to 15 years in prison) but, with regard to transgender persons, it reported that there was "No data or the legal situation was unclear." **[7d]**

SOCIETAL ILL-TREATMENT OR DISCRIMINATION

21.06 The USSD report for 2007 recorded "A recent UNHCR report noted that most homosexual persons hid their sexual orientation. Many observers believed that societal disapproval of homosexuality was partly the cause for the prevalence of rape of young boys. During 2006 the Taliban published a new set of rules that explicitly forbade the recruitment of young boys for sexual pleasure." **[2h] (Section 5)**

21.07 GlaobalGayz.com, updated April 2008 noted that:

"Male-to-male conjunctions generally follow along old Arabic traditions. In most modern Islamic 'cultural' (premarital) homosexual behaviour there is a

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

mute understanding that sex is mutural [sic] consensual, temporary and that it's a form of companionship, if not affection, among peers… Whether the activity is mutual or forceful, there is an almost universal attitude in these eastern cultures that such sexual indulgence is not 'gay', that is, it's not sex or love between two men who identify as homosexuals. (In Afghanistan it's common for the older participants to be married with kids.) Rather, in a collective mental shell game the meaning of sex is re-framed: heterosexual men engage in homosexual behavior in which the younger guy is not a 'fem' but obedient and passive and the older one is not a 'butch queer' but assertive and active." **[42]**

This section should be read in conjunction with Section 23 on Women.

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22. DISABILITY

22.01 "The law requires the state to assist persons with disabilities and protect their rights, including healthcare and financial protection. The government took no measures to mandate accessibility to buildings for persons with disabilities." (USSD report, 2007) **[2h] (Section 5)**

22.02 "According to the MOWSAMD [Ministry of Work, Social Affairs, Martyred, and Disabled], sample surveys estimated a total disabled population of two million persons, 25 percent of whom had disabilities caused by the country's two-and-a-half decades of conflict. IRIN reported that more than 50 percent of persons with disabilities are less than 19 years old. Domestic NGOs offered privately funded trade classes to persons with disabilities. However, according to the National Disability Survey, more than 72 percent of all persons with disabilities over age six have not received any education, and fewer than 30 percent of persons with disabilities have jobs. Although community-based health and rehabilitation committees continued to provide services to approximately 100,000 persons, their activities were restricted to 60 out of 330 districts. As a result, they were able to assist only a small number of those in need. The MOWSAMD worked within the framework of the UN Development Program's National Program for Action and Disability (NPAD) to coordinate and develop policy strategies that create employment opportunities, access to education, health care, and greater mobility for disabled citizens; however, during the year, the MOWSAMD reported that the scope of NPAD was greatly reduced due to a lack of funds. Ministry services currently extend to only 16 of the 34 provinces. Disabled groups repeatedly protested the inaction of the MOWSAMD." **[2h] (Section 5)**

22.03 "War in Afghanistan has created a population dramatically affected by trauma and disability. Estimates suggested two million people may have a physical disability of some sort. This figure excludes those who have some sort of mental trauma, perhaps from something they witnessed or the high level of domestic violence." It is estimated that 75 per cent of children with disabilities do not attend school and 80 per cent of people with disabilities are unemployed. (United Nations Development Programme (UNDP) Afghanistan, accessed 10 August 2006) **[47]**

(See also Section 24: Children – Child care and Health issues)

22.04 The 2007 Afghanistan Landmine Monitor report stated that:

"Afghanistan has no law protecting the rights and needs of people with disabilities, but the 2004 constitution provides some basic protection…

"A 2006-2008 national disability policy was drafted in 2006, without input from organizations for people with disabilities, but then shelved. However, the Ministry of Labor, Social Affairs, Martyrs and Disabled is said to remain 'committed to establishing a national policy for disability and the required legislation.' Additional employment policy has been drafted within the national labor strategy. Two people with disabilities have a seat in the Afghan parliament. The government has the aim of mainstreaming disability through the 'implementation of integrated programs and the inclusion of people with disabilities into all sectors of Afghan society.'

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

"Social security benefits of 300 Afghanis per month (about $6) are paid to some 300,000 registered recipients, including mine survivors and other people disabled by the war, and the families of those killed in the war. People with less than 50 percent disability receive 150 Afghanis ($3) per month. The benefit is reported to be insufficient to maintain a basic standard of living, and the bureaucratic procedure prevents many disabled people from receiving it." **[14a] (p17)**

22.05 The 2007 Afghanistan Landmine Monitor report also recorded that "The National Disability Survey in Afghanistan estimated in 2006 that there were between 747,500 and 867,100 people with disabilities; more than half were in the western and central parts of the country. Approximately 17 percent were war disabled; mine/ERW [Explosive Remnants of War] survivors made up seven percent of people with disabilities (between 52,000 and 60,000 people)." **[14a] (p16)**

22.06 The report further noted that:

"Mine/ERW survivors constitute a significant proportion of all people with disabilities in Afghanistan; moreover, they are usually among the poorest in society and suffer from limited service provision. In 2006 more than 50 percent of services for people with disabilities were provided by NGOs and international organizations…

"According to the ICRC [International Committee of the Red Cross], 'Access to physical rehabilitation services was hindered by many obstacles,' including lack of awareness and professionalism, prejudice against disability, poverty, distances, lack of security and political divisions. The rehabilitation needs of mine survivors and other people with disabilities are seldom met. Whereas physical rehabilitation facilities are needed in every city in at least 30 of the 34 provinces, there are only 14 operational centers (only one of which is run by the government). Coordination is good among disability stakeholders, but interministerial coordination and ministries' technical capacity is said to be weak.

"There is a lack of psychosocial and economic support activities, relevant information, and coordination; unemployment among people with disabilities is very high. According to the HI disability study, 70 percent of people with disabilities do not have access to schools. ICRC and NGOs carry out projects directed at specific needs, but not long-term programs." **[14a] (p17)**

The Landmine Monitor report 2007 provides further information on the landmine situation in Afghanistan and accessed directly via the link given in Annex F for source number **[14a]**.

(See also Section 30: Freedom of Movement - Mines and unexploded ordnance)

22.07 A UNHCR paper dated 31 December 2007 advised that:

"Ill or disabled persons who cannot work or live on their own in Afghanistan should not return unless they have effective family and/or community support. Examples are persons permanently disabled by diseases such as polio or meningitis, landmine victims, persons injured during the war, accident victims,

and persons with severe handicaps or birth defects, including blind, deaf and mute persons. Similarly, mentally ill persons who need long term treatment or special care will not be able to cope in Afghanistan without family assistance. There are very few specialized institutions and personnel. This is particularly problematic for persons suffering severe mental illnesses, who, as a result, are not self-sufficient. It should be noted that occasional drug users are often believed to be mentally ill by their families. Drug use reduction programmes, albeit part of the counter-narcotics strategy of the Government of Afghanistan, are nascent and offer extremely limited facilities, all with long waiting lists." **[11a] (p78-79)**

22.08 The Afghanistan Independent Human Rights Commission (AIHRC) Annual Report 2007 noted that:

"The People with Disabilities Unit (PWDU) focused its activities mainly on promoting the rights of people with disabilities through organizing 54 workshops and 202 awareness-raising meetings in which 9,410 people (2,895 women) in 30 provinces, including community elders and governmental officials learned about the rights of people with disabilities in society. The unit held meetings with government officials and NGOs working with the PWD in order to establish partnership to facilitate the implementation of the PWD Action Plan for 2007." **[78c]**

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23. WOMEN

OVERVIEW

.23.01 The Freedom House report, Freedom in the World 2008, Afghanistan, released in July 2008, observed:

"The end of Taliban rule freed women from extremely harsh restrictions and punishments that kept them veiled, isolated, and, in many cases, impoverished. Women's formal rights to education and employment have been restored, and in some areas, women are once again participating in public life. The new constitution contains provisions guaranteeing equal rights for women and reserving a quarter of the seats in the Wolesi Jirga and provincial councils for women. Record numbers of women registered to vote—an average 41 percent of all registered voters were women—and took part in the 2004 and 2005 elections. In addition, more than 500 women, about 10 percent of all candidates, registered to contest the 2005 parliamentary elections. However, a 2005 Human Rights Watch report noted that women in the political sphere, particularly those standing as candidates, faced significant threats and harassment from armed factions and conservative religious leaders. Social norms restricting women's ability to travel independently and appear in public, particularly in the south, also negatively affected their efforts to run for office and participate fully as members of parliament.

"Despite women's political gains, societal discrimination and violence remain pervasive, with domestic violence occurring in an estimated 95 percent of households, according to one survey. Women's choices regarding marriage and divorce remain circumscribed by custom and discriminatory laws, and the forced marriage of young girls to older men or widows to their husbands' male relations is a problem. Nearly 60 percent of Afghan girls are married before the legal age of 16, according to UNICEF. However, in March 2007 the Supreme Court approved a new formal marriage contract stipulating that the bride must be at least 16, a move welcomed by activists who hope that it will lead to fewer underage marriages. To the extent that it functions, the justice system discriminates against women. In most cases, according to a 2005 Amnesty International report, complaints of violence against women—including abduction, rape, forced marriage, and murder—are not adequately investigated by authorities. Cases of self-immolation by women seeking to escape forced or abusive marriages, particularly in the provinces of Herat and Kandahar, continued to be an issue in 2007, the AIHRC reported. Honor killings of women believed to have brought shame on their families are also reportedly on the rise. As a result of increasing lawlessness, women and children are subject to abduction, trafficking, and sexual violence. In certain areas, warlords impose Taliban-style dress and behavioral restrictions on women, further circumscribing their freedoms." **[41a]**

23.02 "Despite gains in girls' primary school enrollment *[sic]* rates and women's political participation, Afghan women and girls confront discrimination in almost every aspect of their lives. They continue to struggle to exercise fundamental rights to health, education, work, freedom from violence, and freedom of movement." (HRW, 10 June 2008) **[17b] (1. Women's Rights)** "Afghan women and girls rank among the world's worst off by most indicators, such as life expectancy (46 years) [reported as 43 years by HRW in June 2008 **[17b]**],

maternal mortality (1,600 deaths per 100,000 births), and literacy (12.6 percent of females 15 and older). Women and girls still confront significant barriers to working outside the home and restrictions on their mobility; for example, many still cannot travel without an accompanying male relative and a burqa." (HRW, 2008) **[17a]**

23.03 In a report dated 6 March 2008, the UN Secretary-General stated that:

"Tangible improvement in the status of women remains a major challenge, despite numerous Government policies and programmes addressing gender issues. Implementation of the National Action Plan for the Women of Afghanistan has begun through pilot projects. Further progress will depend on political will, the availability of resources and implementation capacity.

"There has been some progress on women's economic advancement, with women constituting 66 per cent of microfinance borrowers and 38 per cent of the participants in the National Skills Development Programme. In partnership with the United Nations Development Fund for Women (UNIFEM) and the Ministry of Women's Affairs, the Independent Administrative Reform and Civil Service Commission adopted a gender equity policy to strengthen the participation of women in the civil service.

"Nonetheless, violence and harmful practices against women and girls remain a cause for serious concern. In 2007, UNAMA [United Nations Assistance Mission in Afghanistan] received over 2,000 complaints of gender-based violence. Better coordination to tackle violence against women is being pursued at the policy level through the Inter-Ministerial Commission on Violence against Women and numerous community-level initiatives. The collection and analysis of data on violence against women is being systematically institutionalized into the work of relevant ministries. A special fund for the protection of women at risk has been set up by UNIFEM with the support of the Office of the United Nations High Commissioner for Refugees. However, the systematic failure to ensure women's access to justice and protection from violence and a tendency to criminalize female victims still need to be addressed. An improvement in women's enjoyment of their rights requires greater accountability on the part of national authorities, as well as monitoring of the implementation of Government commitments, particularly the 13 gender-equity benchmarks of the Compact." **[39b] (p11)**

(See also Section 23: Violence against women)

23.04 A United Nations Development Fund for Women (UNIFEM) fact sheet of January 2008 provided statistical information on the participation of women in various aspects of Afghan life – such as politics, employment and the security services – and gender specific statistics concerning areas such as health, education and violence. **[72b] (p1-4)** The fact sheet also related brief details of Government commitments to women, as contained in national and international documents such as the Bonn Agreement, Afghanistan Constitution and the Convention on the Elimination of Discrimination Against Women (CEDAW). **[72b] (p4-5)** The final section recounted UNIFEM's own involvement in improving the situation of women in Afghanistan. **[72b] (p5-7)**

23.05 The UN Secretary-General's report of 6 March 2008 stated that "Tangible improvement in the status of women remains a major challenge, despite

numerous Government policies and programmes addressing gender issues. Implementation of the National Action Plan for the Women of Afghanistan has begun through pilot projects. Further progress will depend on political will, the availability of resources and implementation capacity." **[39b] (p11)** The subsequent report by the Secretary-General, dated 3 July 2008, asserted "UNAMA will concentrate its efforts [regarding the protection of human rights], inter alia, on the protection of civilians in armed conflict, child protection, advancing the rights of women, securing access to justice and respect for freedom of expression." **[39d] (p5)**

23.06 IRIN News reported on 8 March 2008 that "Registered cases of physical violence against women and girls in Afghanistan have increased by about 40 percent since March 2007. UN agencies involved in women's development efforts in Afghanistan say a dramatic increase in the number of reported cases of violence against women does not necessarily imply that gender-based violence has increased." **[36s]** A later report by IRIN News, published in July 2008, recorded that there was little support for the victims of child sexual abuse in Afghanistan. **[36y]**

(See also Section 28: Medical Issues: Women and Children)

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UNHCR GUIDELINES

23.07 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 noted that "Afghan women, both in urban and rural areas, must conform to conservative and traditional norms of behaviour in order to be safe from physical and psychological violence or abuse. Those at heightened risk include women who are perceived as or actually transgressing prevailing social mores, foreign wives of Afghans, and women without male protection." **[11a] (p9)**

23.08 The UNHCR's paper further noted that:

"Over the past five years, the Government of Afghanistan and the international community have placed initiatives promoting gender equality high on their agenda. The Ministry of Women's Affairs was created immediately after the demise of the Taliban and Afghanistan ratified the UN Convention on the Elimination of All Forms of Discrimination against Women in 2003…

"Various mechanisms, such as women's focal points, gender units, women's shuras and women's departments have been created in ministries to facilitate the incorporation of gender priorities into their work, and serve as vehicles for raising and discussing women's concerns at the policy level. Inter-ministerial and inter-agency bodies that initiate, coordinate, and monitor gender equality measures are also operational, such as the Inter-Ministerial Commission for the Elimination of Violence against Women (CEVAW), Inter-Ministerial Working Group on Gender and Statistics (IWGGS) and NGO Coordination Council. To implement the Afghanistan Compact and the ANDS benchmarks on gender, the ANDS created the Consulting Working Group on Gender (CG2), Cross-Cutting Consulting Group (CCCG) on Gender, Technical Advisory Group for Women and Children (TAG) as sub-working groups within

the legal reform working group and Sub-Working Group on Vulnerable Women, all of which have been instrumental in keeping gender high on the agenda of macro development processes.

"Through these initiatives, there have been measurable improvements on women's participation in public life over the past five years. Women now represent 27 percent of the National Assembly and hold one sixth of the seats in the Upper House, ranking Afghanistan twentieth among countries with the highest representation of women in the legislature. A great number of women and girls have returned to schools and Government ministries have started to address many of their obstacles, including violence against women." **[11a] (p43-44)**

23.09 The UNHCR's paper additionally noted that:

"Women, both in urban and rural areas, must conform to conservative and traditional norms of behaviour in order to be safe from physical and psychological violence or abuse. Pressure to conform is very strong, both from within families and communities, and by the public. The conduct of women in the workplace is carefully watched. Afghan women who, having resided abroad, adopt 'Western' values, which are considered to be inconsistent with social mores in Afghan society, would only be able to continue to enjoy relative social, cultural and economic freedom if they can rely on strong family protection. Such protection is more readily available in Kabul than in the provinces. UNHCR is aware of self-immolation cases of women returning from Iran. Those cases were reportedly rooted in the social restrictions imposed upon return. Women returning from Iran interviewed by UNHCR have also expressed frustration at the lack of available public and social opportunities and activities for women, and the serious restrictions to the freedom of movement often imposed by family members and society as a whole. In this respect, Afghan tradition imposes that women cannot travel freely without male escorts (Maharam). Furthermore, women are presented with the challenges of harassment and pressures from families to wear a burka or a chador.

"Single females who do not have male relatives in Afghanistan, who are willing and able to provide support, face difficulties given social restrictions including on freedom of movement. In addition, lack of family protection and support expose single females to an increased risk of violence and forced marriage. Individual assessment of the effectiveness of family-links of unaccompanied female Afghans is crucial given that decades of war and poverty have damaged traditional family protection mechanisms and relationships. There is also the risk, should family-members decide to host a female relative, that she may suffer exploitation and the possibility of forced marriage.

"The vulnerability of unaccompanied females in Afghanistan is the result of social traditions and gender values, according to which women should not live independently from their family. Where there is no family able to provide care and maintenance, single women can be accommodated temporarily in safe houses run by Afghan NGOs in Kabul and Herat. These constitute only a short-term 'safe haven', yet longer term solutions do not exist. Even in the case of domestic violence, the women or girl is often compelled by the lack of alternatives to return home." **[11a] (p68-69)**

(See also Section 23: Single women and widows)

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LEGAL RIGHTS

23.10 The USSD report for 2007 noted:

"The constitution states discrimination between citizens is prohibited and provides for the equal rights of men and women; however, local customs and practices that discriminated against women prevailed in much of the country. Equal rights based on…social status is not explicitly mentioned in the law. There were reports of discrimination based on… gender... Although the severity varied by region, women faced the harshest forms of discrimination in both public and private life." **[2h] (Section 5)**

23.11 The UN Secretary-General's report of 6 March 2008, stated that "While public access to courts and legal aid is a constitutional right, it remains elusive to the majority of Afghans, especially women, children and vulnerable groups. This problem is compounded by the fact that public awareness of legal rights and processes is limited." **[39b] (p6-7)**

23.12 UNHCR's December 2007 paper explained:

"Customary law prevails in Afghanistan where traditional dispute resolution mechanisms such as Shuras and Jirgas are often used in place of formal court systems in criminal and civil cases, including in disputes over marriage and land. Shuras and Jirgas are longstanding features of Afghan social structures. Traditional dispute resolution mechanisms, especially in rural areas, remain dominant and often to the detriment of women and children's rights. Almost without exception, members of a Jirga are all men. Decisions of a Jirga are binding and sanctions for non-compliance are harsh, including arson of the trespasser's house, isolation or expulsion from the community and forced removal from the settlement." **[11a] (p31)**

23.13 "Amnesty International's 2008 report on Afghanistan noted that "Women's rights continued to be eroded in many areas. Women working for the government faced threats and several survived attempted assassinations." **[7l]**

23.14 In a briefing paper, dated 11 June 2008, Amnesty International stated:

"Amnesty International welcomes advances in respect for women's rights since the fall of the Taleban, notably through the establishment of the Ministry for Women's Affairs, the National Action Plan for Women, improved access to education and representation of women in parliament. But Afghan women and girls still encounter discriminatory laws, policies and practices, which include physical attacks on them as women. Women and girls face endemic domestic violence, trafficking, forced marriages, including child marriages, and being traded in settlement of disputes. The police, the courts and other justice sector officials seldom address women's complaints of abuses, including beatings, rape and other sexual violence. Women victims and defendants have little recourse to justice and are discriminated against in both the formal and informal justice systems." **[7a] (3. Protecting and upholding women's rights)**

23.15 Womankind's February 2008 report concluded that:

"Critical groundwork has been laid in the initiation of legal reform and the creation of institutions mandated to protect women's human rights. However, a framework alone is not enough. Realising women's human rights will require enforcement of the laws, which at present exist on paper only. Translating good intentions and *de jure* rights (rights based on law) into real, meaningful changes for women demands a commitment of political will and the necessary resources to back that will. It also demands co-ordination among stakeholders, long-term visions and strategies, and consistent public assertions from national leaders which demonstrate that women's human rights were not merely a convenient promise to sell a large-scale, resource-consuming intervention to Afghan citizens and Western publics, but a legitimate, genuine and realisable call to action." **[88a] (p14)**

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Marriage

23.16 The Freedom House, 2008 Afghanistan Country report noted that "… Nearly 60 percent of Afghan girls are married before the legal age of 16, according to UNICEF. However, in March 2007 the Supreme Court approved a new formal marriage contract stipulating that the bride must be at least 16, a move welcomed by activists who hope that it will lead to fewer underage marriages." **[41a] (p10)** The US State Department's Human Rights report, 2007 published on 11 March 2008, recorded that "The legal age for marriage was 16 for girls and 18 for boys. International and local observers estimated that 60 percent of girls were married before 16." **[2h] (Section 5)**

23.17 Radio Free Radio Liberty, however, reported on 10 January 2008 that the legal age for marriage for girls had changed from 16 to 17 years old and that: "Men who want to marry girls under 17 are not entitled to obtain a marriage certificate, although rights activists say many men simply do not bother with officially registering their marriages." **[29g]**

23.18 The February 2008 Womankind report stated that "The new *nikanamah* (marriage contract) contains progressive provisions to protect women's rights in marriage." **[88a] (p24)**

"There is a lack of clarity in the current civil law code (1976) around forced marriage for girls under 18 years. A new law should be introduced which unequivocally outlaws all forms of forced marriage for women of all ages, including child marriage and marriages by exchange. At least 60% of marriages in Afghanistan are forced (as distinct from arranged) according to AIHRC estimates. Plans to establish a registration process for marriages and divorces in 2005 have yet to be implemented. Such registration, and that of births and deaths, is needed to enforce women's human rights. For example, birth registration would confirm whether a bride is of legal marriage age. Currently, women are not provided with a marriage contract or certificate and are unaware of their rights within marriage under Afghan law." (Womankind, February 2008) **[88a] (p24)**

23.19 UNIFEM's Violence Against Women Primary Database of March 2008 recorded that "One of the most common VAW [violence against women] cases reported are related to forced and early engagement and marriage. Some cases are clear-cut complaints about forced and early marriage or engagement. Whereas in other cases, the initial forced engagement or marriage escalates into other forms of violence against the girl/woman." **[72a] (3.2.1. Forced and early engagement/marriage)**

23.20 The US State Department's Human Rights report, 2007 further noted that:

"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…. In June 2006 the government set up a working group on early and forced marriages under the MOWSAMD; however, this group appears to have informally dispersed. The AIHRC estimates that up to 70 percent of reported cases of domestic violence have roots in child marriage." **[2h] (Section 5)**

(See also Section 23: Violence against women and girls and Section 24: Child Marriage)

23.21 Womankind's February 2008 report related that:

"Currently, there is one family court in Afghanistan, located in Kabul; this inaccessible to women living elsewhere. Insecurity and cultural restrictions against unaccompanied travel prevent women from the provinces accessing the family court. No other family courts have been established since the fall of the Taliban, indicating little commitment to protecting women's human rights in family law. Informal justice, or customary law, largely regulates marriage practice and disputes; such decisions are rarely favourable to women or girls." **[88a] (p24)**

23.22 UNHCR's December 2007 paper stated:

"The practice of child marriages and threat of forced marriages is at the root of most violence that takes place in the household. The Afghanistan Independent Human Rights Commission (AIHRC) estimates that between 60 and 80 percent of all marriages in Afghanistan are forced marriages and approximately 57 percent of girls are married before the age of 16. Afghan culture is characterized by a strong patriarchal system in which the family is central. The social system is extremely gender stratified. The marriages of both men and women are almost always arranged by their families. Such unions commonly take place between relatives, and within communities and clans. Neither men nor women are expected to resist the will of their family regarding their marriage partners. Even highly educated women who work for international NGOs report that they are unable to affect their family's choice of husband or timing of marriage. Exchange marriages are commonly used for payments of debts or resolution of dispute. This practice may involve giving a daughter in marriage in exchange for another young girl from the bridegroom's family to marry the bride's brother or sometimes her father. As such, girls and women become commodities, being sold for money, obligation or honor. Additionally, it is common practice in Afghanistan for a widow to marry a family member of the late husband, even against her expressed 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 the *[sic]* late husband's family maintains a strong sense of 'ownership' of the widow's sons. Women remain deprived of basic civil rights, including in cases of divorce, custody and with regard to inheritance rights." **[11a] (p45-44)**

23.23 With regard to the concept of Afghan women and girls being treated as commodities, Womankind's February 2008 report concurred: "Walwar (bride price) is still widely exchanged in marriages, making them primarily an economic transaction. There has been no enforced legal sanction against the practice to date. On the other hand, under Afghan law, brides are entitled to mahr (a payment from the husband's family to the bride directly, consisting of money, property or valuable items). However, mahr is rarely paid to women and most women are not aware of their right to mahr." **[88a] (p24)**

23.24 The UN Special Rapporteur also stated, in his report of February 2006, that:

"…the Penal Code provisions criminalizing forced marriages (of adult women) and the Civil Code provisions regarding the validity of marriages and divorce, which would constitute a legal protection for women against male arbitrariness, exist only on paper.

"The normative framework governing the lives of most Afghan women, particularly in rural areas, is in fact dictated by tribal customs. These customs include practices such as child and forced marriages, bad [see next paragraph], the total subordination of women to men, the denial of women's inheritance rights, their exclusion from public life, and harsh punishment for women who violate social mores. Of course, tribal customs vary geographically and according to prevailing power dynamics, and not all these forms of violence are sanctioned by all customary law regimes in Afghanistan." **[39m] (p12)**

23.25 "Practice of baad (exchange of girls or women in marriage as restitution for a crime, debt or dispute between households, communities or tribes) remains widely practised, particularly in southern and eastern Afghanistan. Statistics are lacking on this practice and there is general impunity for those arranging such exchanges. District officials generally uphold badal (the practice of exchange as a legitimate way to resolve disputes)." **[88a] (p25)** The December 2007 UNHCR paper reported:

"A particular issue of concern is the practice of *bad* pursuant to which girls as young as seven years of age are exchanged to settle feuds and murder cases. The inability of the State to intervene in such cases is illustrated in the reply of the Supreme Court to a letter by the Women and Children Legal Research Foundation, an Afghan NGO, enquiring about the Court's policy with regard to bad. In explaining its reluctance to intervene in bad cases, the Supreme Court writes:

'It would be premature to take action against local traditional practices in provinces where women do not enjoy civil and political rights. The reason is that tradition has replaced the official law of the country in those areas. It will take a long time'." **[11a] (p31)**

23.26 The Afghanistan Human Rights Commission report, December 2008 included the issue of elopement in Afghanistan. The report stated:

"Elopement is not predicted as a crime or infringement in any laws of the country. However, the issue has been addressed differently by the courts. Many courts have dealt with it as a crime. This understanding comes from the belief that a woman should not be leaving her house without a mahram (chaperone who is a male relative) who is believed to not be having zina (pre- or extra-marital sex) with the woman. Couples who run away from home to get married are often imprisoned; the man is charged with kidnapping and the woman with zina. This is in contradiction to Article 425 of the 1976 Penal Code of Afghanistan… Lately, there has been an increased effort to open up family centers to attempt to resolve runaway cases without incarceration and resolve disputes within the family peacefully. Forced marriage is a reason why women and girls run away from home." **[78a] (p36)**

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Divorce

23.27 "Islamic Sharia and Constitution of the country have provided suitable rights for women and men, but practically and in some rules and practices of equality between men and women these rights are not ensured. Current legislation leaves women largely unprotected. A man can divorce his wife without due process. In the absence of officially enforced marriage and divorce registration women remain particularly open to abusive practices. A woman can remarry three months after divorce period (Edat). However, if challenged, she will have to provide witnesses to prove her divorce in court. The woman can initiate the divorce process if she has enough reasons to do so; accepted reasons among others include: her husband must be sick and it endangers her; her husband must fail to provide for the family; her husband must be absent for more than four years in the house or be sentenced for imprisonment of 10 years or more. In this case, the court will assign her mahr – divorce maintenance – and custody of girls until they reach their ninth birthday and boys until their seventh birthday." (The Afghanistan Human Rights Commission report, December 2008) **[78a] (p33)**

23.28 The Womankind report of February 2008 noted "Afghan civil law contains numerous provisions that protect women's human rights in the family, such as their right to divorce if they are being maltreated. While seldom enforced, existing law provides a basis from which to advocate for enforcement and education about women's human rights." **[88a] (p24)** Further, "Women's choices regarding marriage and divorce remain circumscribed by custom and discriminatory laws…" (Freedom House, 2008) **[41a] (p9)** UNHCR's December 2007 paper concurred "Women remain deprived of basic civil rights, including in cases of divorce, custody and with regard to inheritance rights." **[11a] (p44)**

23.29 Womankind also recorded that "Stigma and shame surround divorced women…rendering them unmarriageable and subsequently, financially destitute. Polygamy is one of the few options available to divorced women, who have low social status but require a husband for financial dependence." **[88a] (p25)** Also, "Women's economic dependence on male family members prevents them from seeking divorce or leaving abusive marriages." **[88a] (p44)**

23.30 An IRIN News article dated 16 July 2008 reported that "In Afghanistan sexual relations between a man and a woman outside marriage are considered a serious crime and offenders can face death penalty and/or a lengthy prison sentence, depending on their marital status and other circumstances…Every year hundreds of female sex workers are sent to prison for allegedly having 'unlawful sexual relationships', according to women's rights activists…" **[36g]** However, high food prices, drought, unemployment and lack of socio-economic opportunities are pushing some women and young girls in northern Afghanistan into commercial sex work, women's rights activists and several affected women told IRIN. **[36g]** Men are reportedly turning to prostitutes because they cannot afford to marry. One shopkeeper in Mazar-I-Sharif said "'…If I want to marry a girl, I must have at least $20,000 to marry her. Having sex with a prostitute is the only way that can I [*Sic*] meet my expectations,' he said." (Reuters, 18 May 2008) **[24e]**

POLITICAL RIGHTS

23.31 "Strengthening women's participation and contributions to national peace and reconstruction remain a challenge, although some gains were noted during the reporting period. The ministries and government bodies concerned continue to pursue the implementation of the gender-specific benchmarks of the Afghanistan Compact and the Afghanistan National Development Strategy. Certain achievements have been reported, especially in the areas of access to health care, microfinance and education." (UN Secretary-General's Report, 21 September 2007) **[39i] (p11-12)**

23.32 Hosna Banu Ghazanfar as Minister of Women's Affairs remained the only woman in the current Cabinet, as at 14 August 2008. (Islamic Republic of Afghanistan Office of the President, accessed 14 August 2008) **[89a]**

(See Annex D for a list of Cabinet members)
(See Section 18: for further information on Women's rights activists)

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Women's Participation in Public Life and Institutions

23.33 "The end of Taliban rule freed women from extremely harsh restrictions and punishments that kept them veiled, isolated, and, in many cases, impoverished. Women's formal rights to education and employment have been restored, and in some areas, women are once again participating in public life. The new constitution contains provisions guaranteeing equal rights for women and reserving a quarter of the seats in the Wolesi Jirga and provincial councils for women." (Freedom House, 2008) **[41a] (p9)**

23.34 "Women active in public life faced disproportionate levels of threats and violence. Supported by official government policy, women's political participation gained some acceptance, even as conservative elements and insurgents resisted the trend." (USSD, 2007) **[2h] (Section 5)**

23.35 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 Section 30: Freedom of Movement)

23.36 The UNHCR's paper of December 2007 reiterated:

"Afghan woman, in most part, are required to follow particular codes of behavior. Where a woman refuses or otherwise does not conform her behavior in accordance with this code, and faces punishment as a result, she may have a well-founded fear of persecution. Persecution can take the form of honor killings or other violence as well as discriminatory restrictions related to education, moving outside the home without a male relative or participating in the work-force. Risks due to failure to conform to the conventional roles and restrictions on women's conduct can be viewed as either linked to the ground of religion and/or political opinion, as non-conformity can be seen as opposing traditional power structures." **[11a] (p64)**

23.37 The USSD 2007 further noted that "The government did not require women to wear burqas. Although some women continued to wear the burqa out of personal choice, many other women felt compelled to wear one due to societal or familial pressure. Cases of local authorities policing aspects of women's appearance to conform to a conservative interpretation of Islam and local custom continued to diminish." **[2h] (Section 2c)**

23.38 The US State Department 2006 report published on 8 March 2007, recorded that:

"In 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 in 2005, 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 burqas over their uniforms under threats of violence. The MOI reported that female recruitment was difficult because of cultural differences. Female officers often complained of disparate treatment by superiors and a

lack of respect from their colleagues. There was one female Brigadier General among the ranks of the ANP [Afghan National Police]." **[2b] (Section 5)**

23.39 The UNIFEM fact sheet of 2008 noted the following statistics on women's participation in the spheres of politics, justice and security respectively:

"• Women represent 27% of the National Assembly: (68 out of 249 seats in the Wolesi Jirga and 23 out of 102 seats in the Mesherano Jirga
• Women held 121 out of 420 Provincial Council seats in 2005
• Women account for 25.9% of all civil servants
• The number of women who registered for elections increased from 41.5% in 2004 to 44% in 2005...

However...
• Only one cabinet member is female (the Minister of Women's Affairs)
• There were not enough women to meet the 124 seat quota at the Provincial Council elections, and 3 seats had to be given to men
• In 17 of the 36 Ministries there are less than 10% female employees
• Out of the total 17 Ambassadors of Afghanistan to other countries in 2007, only two were women." **[72b] (Political participation)**

• There is currently an Afghan Women Judges Association, created in 2003, and an Afghan Women Lawyers and Professionals Association
• The Family and Juvenile Courts are headed by women
• Of the 1,547 sitting judges in Afghanistan only 62 or 4.2% are female
• Of the 546 prosecutors, 35 or 6.4% are female
• Of the 1,241 attorneys 76 or 6.1% are female
• There are no women members in the Supreme Court Council. **[72b] (Participation in the Justice sector)**

• Women represent less than 1% of employees in police and military services
• There were only 233 policewomen out of the total 62,407 personnel in Afghanistan in February 2007
• There are 259 women in the Afghan National Army, which is 0.6% of approximately 43,000 military personnel
• There are no women in the auxiliary police force." **[72b] (Participation in Security services)**

(See also Section 18: Women's Rights Activists)

SOCIAL AND ECONOMIC RIGHTS

23.40 UNHCR's December 2007 paper recorded "Over the past five years, the Government of Afghanistan and the international community have placed initiatives promoting gender equality high on their agenda. The Ministry of Women's Affairs was created immediately after the demise of the Taliban and Afghanistan ratified the UN Convention on the Elimination of All Forms of Discrimination against Women in 2003." **[11a] (p43)**

"A National Action Plan for Women in Afghanistan was launched in 2005 setting out goals to be implemented by 2010. It focuses on identified priority areas for the promotion of gender equity, i.e. health, education, legal protection and economic empowerment. The latter was reaffirmed in the Afghanistan Compact, which foresees its full implementation by the end of

2010 and which is expected to be passed by Parliament in 2007. In addition, gender equality and women's rights are recognized as critical issues in the ANDS. As a result of the attention to gender equality, including affirmative action in some areas, female participation in Parliament and the public sector has increased and women's organizations are growing in membership and presence in urban areas." (UNHCR, December 2007) **[11a] (p43)**

23.41 However, "Progress in the realization of gender equality remains, however, an uphill struggle as legal and social discrimination are deep-rooted, insecurity grows, and customary practices prevail. Afghan women and girls continue to suffer extremely low social, economic and political status." (UNHCR, December 2007) **[11a] (p44)**

Access to education and employment

23.42 "Despite tremendous progress, the gender gap remains high. Only 12.6 percent of female adults are literate and a very small percentage of them is employed. Afghan women rank among the world's worst off group by significant human development indicators: life expectancy is 42 years; maternal mortality as high as 1,600 deaths per 100,000 births; and literacy is as low as 14 percent for women 15 and older. While the number of girls in school increased quickly after the fall of the Taliban in 2001, only 37 percent of school-age girls were in school in 2006, as the violence directed at schools in 2005 and 2006 affected school attendance by girls particularly hard." (UNHCR, December 2007) **[11a] (p44)**

23.43 The UN Secretary-General's March 2008 report stated that "…the gross enrolment in schools is estimated to have increased in 2007 to 5.7 million, with girls constituting 35 per cent of that figure." **[39b] (p13)** Whilst UNIFEM's fact sheet, published in January 2008, noted:

- "In 2005, 58.8% of students enrolling in Teacher Training Institutions in Afghanistan were female

However...

- "The estimated literacy rate for women stands at 15.8% (compared to 31% for men)
- "Only 19% of schools are designated as girls schools
- "In 29% of educational districts there are no designated girls schools at all
- "Only about 28.4% of teachers in Afghanistan were women in 2005
- "At the primary level there is one girl student for every two boys
- "At the secondary level there is one girl for every three to four boys
- "The number of girls in secondary school decreased by 4.7% per annum during 2004-5." **[72b] (Education)**

23.44 The US State Department Report 2007 (USSD 2007), published on 11 March 2008, recorded that "Women in urban areas continued to make strides towards greater access to public life, education, health care, and employment; however, the denial of educational opportunities during the continuing insurgency, as well as limited employment possibilities, and the threat of violence continued to impede the ability of many women to improve their situation." **[2h] (Section 5)**

23.45 The UNHCR paper of December 2007 noted that:

"A majority of women is banned from working outside of their homes by their male family members, tribal and religious leaders. 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 transit to water points. In some rural areas, tribal culture provides women with marginally greater freedom to circulate, 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 abduction for marriage." **[11a] (p44)**

23.46 UNIFEM's January 2008 fact sheet reported:

"
- 30% of agricultural workers are women
- Women receive 3 times less wages than men
- There are some 50,000 war widows in Kabul, supporting an average of 6 dependents
- Only 38.2% of women in Afghanistan are economically active
- In 2004, the per capita Gross Domestic Product was US$402 for women, compared to US$1,182 for men."**[72b] (Labour force participation)**

23.47 A Womankind report of February 2008 recorded that "In recent research, a relationship was found between higher rates of domestic abuse and women working outside the home, highlighting a possible backlash against new found freedoms. There is very little research on, or understanding of Afghan women in the private sector: small businesses, agriculture or industry." **[88a] (p45)**

Single Women and Widows

23.48 "Afghan women, both in urban and rural areas, must conform to conservative and traditional norms of behaviour in order to be safe from physical and psychological violence or abuse. Those at heightened risk include women who are perceived as or actually transgressing prevailing social mores, foreign wives of Afghans, and women without male protection. Single women without male protection, (husband, father, brother or extended family member) will have difficulty both in sustaining themselves, given social restrictions on travelling in public without a male escort in many areas, as well as physical protection problems. Women who suffer domestic violence and are fortunate enough to find accommodation in one of the few shelters available are unable to be integrated elsewhere in the country. Without an alternative durable solution, most eventually return to their family after assurances of safety have been negotiated. This situation reflects the inability for single women to reside safely in Afghanistan without a male family member to provide the traditional protection function." (UNHCR, December 2007) **[11a] (p9)**

23.49 "… Women without effective male or family-support and single women of marriageable age are uncommon in Afghanistan, and continue to be viewed with some suspicion. 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 and social status. This exposes them to an increased risk of abuse, threats, harassment and intimidation by Afghan men, including risk of being kidnapped, sexually abused and raped. In the majority of these cases, the

Government is not in a position to effectively protect women." (UNHCR, December 2007) **[11a] (p9)**

23.50 The Womankind report of February 2008 recorded that:

"Afghanistan has one of the largest numbers of widows in the world, estimated to exceed 1 million as a result of the last 30 years of war. Little has been done to support widows in the provinces, who have no or little source of income. Without any literacy, training or skills, and no social safety net, widows are often forced to beg. They are systematically denied their right to traditional protections under Islamic law, such as nafaqa (payment by male family members to widowed or destitute female family members)." **[88a] (p44)**

23.51 The UNHCR paper of December 2007 reported "… it is common practice in Afghanistan for a widow to marry a family member of the late husband, even against her expressed 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 the *[sic]* late husband's family maintains a strong sense of 'ownership' of the widow's sons." **[11a] (p44)**

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Imprisonment of Women

23.52 The Foreign and Commonwealth Office noted in a letter dated 17 March 2008 that "A number of NGOs report that hundreds of women and girls are being detained in prisons across the country: the majority for violating social, behavioural and religious codes. There is uncertainty surrounding the legality of their detention." **[4d]** The UNHCR paper of December 2007 recorded that:

"A recent report of the Office of the High Commissioner for Human Rights indicates that throughout Afghanistan the judicial system is failing to protect and provide justice to women. Women and girls are arrested and imprisoned for committing moral and uncodified crimes, including for perceived misbehaviour such as running away from home. Women are also arbitrarily detained and/or convicted of adultery when reporting crimes of a sexual nature, denied a fair trial and judicial guarantees. Women are often returned to male offenders when reporting violence. Sentencing by judges of females convicted of sexual offences such as adultery is often disproportionately harsh as opposed to male offenders who often are released or enjoy much lighter sentences." **[11a] (p47-48)**

23.53 The USSD 2007 report, published on 11 March 2008, stated that:

"Local officials occasionally imprisoned women at the request of family members for opposing the family's choice of a marriage partner or being charged with adultery or bigamy. Women also faced bigamy charges from husbands who had deserted them and then reappeared after the woman remarried. Local officials imprisoned women in place of a family member who had committed a crime but could not be located. According to MOI [Ministry of Interior] statistics, at year's end there were 234 women detained in the country, of which 172 had been convicted and sentenced to prison. The remainder was held in pretrial detention. Some women resided in detention

facilities because they had run away from home due to domestic violence or the prospect of forced marriage. Several girls between the ages of 17 and 21 years of age remained detained in Pol-e-Charkhi prison because they were captured after fleeing abusive forced marriages." **[2h] (Section 5)**

23.54 Womankind's February 2008 report concurred "The vast majority of women in prison are there for zina (sexual relations outside of marriage) or for running away from home to escape abuse or forced marriage, rather than for legitimate crimes recognised under international law." **[88a] (p23)**

23.55 "In parts of Afghanistan and neighboring Pakistan, where stern social codes prevail, a woman who runs away from home is typically suspected of having taken a lover and can be prosecuted for adultery. Simply leaving her house without her family's permission may be deemed an offense… although it is not classified as such under Afghanistan's penal code." **[30a]** "… a U.N. human rights officer in eastern Afghanistan, said that in 70 to 80 percent of the cases she has seen, a woman complaining of domestic violence is charged as a criminal for running away from home." (MSNBC, 30 April 2008) **[30a]**

23.56 The March 2007 report of the High Commissioner for Human Rights on the situation of human rights in Afghanistan stated:

"Despite being required by law, adequate separate housing for female detainees and prisoners with children remains an issue, with the number of children accompanying their mothers almost equal to the total number of females in detention. Where there are no detention facilities for women, normally at the district level, women are often detained in private homes, under ill-defined custodial arrangements where they are vulnerable to abuse." **[39h] (p15)**

23.57 In January 2008 "...the new Female Prison/Detention Center (FDC) in Kabul was handed over by the United Nations Office on Drugs and Crime (UNODC) to the Ministry of Justice of the Islamic Republic of Afghanistan.

"The new Female Prison/Detention Center that is located in the Tahia-e-Maskan area of the capital will host 96 female prisoners. This center has been constructed by UNODC as a part of Project AFG/R41: 'The Reform of Penitentiary System in Afghanistan'. The project has been carried out with the generous financial assistance of the government of Italy.

"The construction of a new Female Prison/Detention Center in Kabul was launched in December 2005. This center is also equipped and furnished with furniture, sewing machines, kitchen/catering equipment." (UNODC, 24 January 2008) **[87e]**

(See Section 14: Prison Conditions for further details of prison conditions for women)

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VIOLENCE AGAINST WOMEN AND GIRLS

23.58 "The current trends in violence against women in Afghanistan cannot be solely reduced to culture and tradition without consideration of the conflict and post-conflict situation. Four factors underlie women's vulnerability and the perpetuation of violence today: (1) the traditional patriarchal gender order; (2) the erosion of protective social mechanisms; (3) the lack of the rule of law; and (4) the poverty and insecurity in the country.

"Women's ability to protect themselves is also affected by their limited participation in the social, economic and political spheres, by an overall lack of awareness regarding women's rights, by traditional values, and de jure and de facto discrimination. The latter is further aggravated by ongoing conflict in parts of the country. Women active in civil or political spheres brave violence and intimidation, including death threats." (UNHCR, December 2007) **[11a] (p46)**

23.59 Womankind Worldwide reported in February 2008:

"In Afghanistan, seven years after the fall of the misogynist Taliban regime, Afghanistan is still one of the most dangerous places in the world to be a woman. It has the highest maternal mortality rate in the world, one of the highest rates of domestic violence and is perhaps the only country where suicide rates are higher among women than men.

"It is a place where women set themselves on fire to escape brutality, where girls as young as eight years old are married to elderly men and where 60 per cent of marriages are forced. Women and girls still have minimal protection from violence, their basic needs are still not being met and international aid frequently fails to address women's most urgent priorities in judicial reform, health, employment and education." **[88a] (p7)**

23.60 "In addition to forced and early marriage, domestic violence, sexual harassment and rape, trafficking of women and children, and honour killings are some of the most egregious types of violence perpetrated against women in Afghanistan. The majority of women both in rural and urban areas are faced with domestic violence. Research conducted by AIHRC on domestic violence shows that more than 50 percent of women, in addition to suffering from other types of violence, have been beaten. Domestic violence not only has serious physical and psychological effects on women, but also causes other serious problems such as self-immolation, suicide, escape from the family, forced prostitution and addiction to narcotics." (UNHCR, December 2007) **[11a] (p45)**

23.61 "Although there have certainly been advances in women's human rights… the progress towards protecting women and girls and including them in the country's social, civil and political life has been unacceptably slow and characterised by a pattern of trial and error, rather than considerate, needs-based planning and responsive action." (WomanKind Worldwide, February 2008) **[88a] (p7)** The UN Secretary-General's report of 6 March 2008, stated that:

"Violence and harmful practices against women and girls remain a cause for serious concern. In 2007, UNAMA received over 2,000 complaints of gender-based violence. Better coordination to tackle violence against women is being

pursued at the policy level through the Inter-Ministerial Commission on Violence against Women and numerous community-level initiatives." **[39b] (p11)**

23.62 "Since 2001, women continue to be murdered without justice sought in their name. The stoning to death of a woman in Badakhshan in 2005, the killing of several female journalists in 2006 and 2007, the rape and murder of female aid workers, attacks on women election workers and the murder of the head of the Department of Women's Affairs in Kandahar in 2006 have all been documented. Women are equally at risk in their own homes, where they experience physical abuse by their husbands and in-laws, rape, psychological abuse and forced prostitution. **[88a] (p9)** And yet despite this bleak present, Afghan women are faring better than in a recent, more dismal past. … Some surveys have also shown changing perceptions about women's roles and increased acceptance of women in politics or women in education, for instance." (WomanKind Worldwide, February 2008) **[88a] (p9)**

23.63 The US State Department 2007 report, published on 11 March 2008, recorded that "Societal discrimination against women persisted, including domestic abuse, rape, forced marriages, exchange of girls to settle disputes, kidnappings, and honor killings…." **[2h] (Section 5)** The USSD report 2006, noted that "Such incidents generally went unreported, and most information on the abuse was anecdotal." **[2b] (Section 5)** Furthermore, in some rural areas, particularly in the south, women were forbidden to leave the home except in the company of a male relative. (USSD report 2007) **[2h] (Section 5)**

23.64 An Amnesty International briefing paper of June 2008 recorded:

"… Afghan women and girls still encounter discriminatory laws, policies and practices, which include physical attacks on them as women. Women and girls face endemic domestic violence, trafficking, forced marriages, including child marriages, and being traded in settlement of disputes. The police, the courts and other justice sector officials seldom address women's complaints of abuses, including beatings, rape and other sexual violence. Women victims and defendants have little recourse to justice and are discriminated against in both the formal and informal justice systems." **[7a] (3. Protecting and upholding women's rights)**

23.65 The US State Department 2007 report noted that:

"The AIHRC documented a total of 45 honor killings throughout the year; however, the unreported number was believed to be much higher. In February in Herat Province, a man beheaded his 15-year-old daughter after she was accused by locals of adultery. Although police detained the man following the crime, there was no evidence at year's end that he had been prosecuted. In December 2006 media outlets reported that villagers in Kunar Province killed a boy and girl for having illicit sexual relations." **[2h] (Section 5)**

23.66 UNIFEM's January 2008 fact sheet recorded the following statistics on violence against women in Afghanistan:

- Out of 1,327 incidents of Violence Against Women (VAW) in Afghanistan, 30.7% were related to physical violence; 30.1% to psychological violence; 25.2% to sexual violence; and 14% a combination of the three

- 82% of incidents of VAW are committed by family members, 9% by the community and 1.7% by state authorities

The Afghanistan Independent Human Rights Commission registered 1,651 cases of SGBV in 2006:

- 558 cases of severe beatings
- 213 cases of forced marriage
- 106 cases of self-burning
- 50 cases of murder
- 41 cases of girls exchange
- 34 cases of rape
- 74 cases of women's property taken away by husband's relatives
- 198 cases of a lack of support from the husband
- 19 cases of prevention of women in social activities
- 12 cases of girls trafficking

The Ministry of Women's Affairs registered 2,133 cases of SGBV in 2006:

- 769 cases of forced marriage
- 1,011 cases of beatings
- 110 cases of deaths by eating opium
- 87 cases of murder
- 106 cases of self-burning
- 33 cases of rape
- 20 cases of women's property taken away by husband's relatives
- 100 cases of lack of support from husband
- 69 cases of improper behavior
- 24 cases of abduction
- 10 cases of girls' exchange
- 5 cases of girls trafficking
- 3 cases of theft accusation on women
- 2 cases of property withheld from natal home.

23.67 UNIFEM's Violence against women – primary database of March 2008 concluded that women are "…mostly being victimized by close family members… " **[72a] (5.1 Analysis)** Further, "UNAMA's analysis and the statistics generated by the primary VAW database highlight the young age of the victims… 30% of the recorded cases concern victims who are younger than 20 years of age. 9% of the cases relate to girls aged 15 years of younger." **[72a] (5.1 Analysis)** The report continued "It is disturbing to note in the information provided by UNAMA that victims seeking support from government agencies are further subjected to violence by government officials." **[72a] (5.1 Analysis)**

23.68 The US State Department 2007 report, also noted that:

"…. Authorities rarely prosecuted or investigated cases of abuse, and if a case made it to court, perpetrators were often exonerated or punished lightly. The AIHRC estimated that approximately 40 percent of marriages were forced, and distinguished this category from another 20 percent of marriages that were 'arranged,' the latter allowing the woman the choice to decline marriage but not to choose her spouse. For example, according to UNIFEM, Rosina, 18, was sold into marriage by her father to a man in his fifties. When she refused she was beaten." **[2h] (Section 5)**

23.69 The USSD 2007 report also noted that "The law criminalizes rape, which is punishable by death, but under the Shari'a, which the country's laws draw from greatly, the criminalization did not extend to spousal rape. Under the Shari'a, rape cases require that a woman produce multiple witnesses to the incident while the man need simply claim that it was consensual sex, often leading to an adultery conviction of the victim." **[2h] (Section 5)**

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SHELTERS

23.70 "The concept of women's shelters was still not widely accepted in society, as many persons treated them with distrust and did not understand their utility. As a result, many of the shelters were not in publicly disclosed locations. Policewomen trained to help victims of domestic violence complained that they were instructed not to do outreach to victims but simply to wait for victims to show up at police stations. This significantly hindered their work, as reporting domestic violence was not socially accepted. On January 24, the UN Development Fund for Women (UNIFEM) reported that a new Family Response Unit dealing with family violence, children in trouble, and female victims of crime started operating in Kabul. It allowed policewomen to address violence and crimes towards women and children; interrogate, detain, and investigate female suspects; and provide support to female victims of crime and ensure the security of women." (US Department of State, 2007 report) **[2h] (Section 5)**

23.71 According to IRIN, four shelters in Kabul were home to more than 100 women and girls. The Ministry of Women's Affairs (MOWA) and other agencies supported the centres, which were designed to give protection, accommodation, food, training, and healthcare to women who were escaping violence in the home or were seeking legal support due to family feuds. According to the MOWA, up to 20 women and girls were referred to the MOWA's legal department every day; however, space at the specialized shelters was limited. Many of the women who could not find a place in the four secure hostels in Kabul ended up in prison. One shelter in Kabul reported that while it only had capacity for 20 women, it held 26 women and eight children during the year. Approximately 120 women and girls passed through the shelter seeking refuge since its opening in 2003. **[36ab]**

23.72 The Womankind report of February 2008 recorded "A new shelter has opened in Mazar-i-sharif, the first in the northern region. At present, an estimated 8-10 shelters operate in the country (four in Kabul, one in Herat, one in Balkh and two in central Afghanistan)." **[88a] (p21)** Also, "The Government of Afghanistan (GoA) provided land to the International Organisation of Migration (IOM) for the construction of a shelter for trafficking victims." **[88a] (p26)** Nevertheless, "Afghan women leaders and activists overwhelmingly feel that aid is donor-led rather than being needs-based. For example, while there is an acute need for women's shelters, this has not been a popular project among donors." **[88a] (p52)**

(See also Section 32: UNHCR Guidelines and Section 24: Children - Education)

Self-Harm

23.73 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 noted that: "Self-immolation continues to represent the most desperate measure used by Afghan women to put an end to situations of extreme violence." **[11a] (p46)** IRIN News reported on 8 March 2008 that:

"The number of women attempting suicide in the past year was 626, of whom 130 died. Suicide methods included self-immolation, the slashing of veins and taking lethal doses of drugs, according to the AIHRC [Afghanistan Independent Human Rights Commission]. Cases of rape and self-immolation appeared to be going up: 'In 2006 we recorded 1,545 cases of violence against [or severe psychological oppression of] women, which included 98 cases of self-immolation and 34 cases of rape, while in 2007 we listed 2,374 cases of violence, which constitute 165 self-immolations and 51 cases of rape,' Subhrang [Suraya Subhrang, a commissioner on the rights of women at AIHRC] told IRIN…" **[36s]**

23.74 The USSD 2007 report noted that "Other organizations reported an overall increase over the past two years. In Herat Province, a new burn unit reported at least 70 cases of women setting themselves on fire and eight cases of men self-immolating." **[2h] (Section 5)** The Womankind report of February 2008 recorded that "While no decrease in cases of self-immolation can be reported, the issue became a public concern for the first time when several organisations began work on it." **[88a] (p24)**

23.75 On 27 May 2008 the Revolutionary Association of the Women of Afgahanistan reported on a typical case of attempted suicide where the woman victim ended up in Kabul hospital after setting fire to herself. RAWA reported that "For those who live through this form of suicide attempt, the scarring can be a death sentence in itself. The survivors who leave this ward cannot return home because of the shame they brought on their family. Some will live the rest of their lives on the streets or if they're lucky, they may find a safe house." **[49b]**

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24. CHILDREN

GENERAL INFORMATION

24.01 "There are a number of substantive reports of children, especially boys, being sexually abused and exploited by members of the armed forces and armed groups. For example, two police officers in a south-eastern province who were arrested after the intervention of child protection actors for sexually abusing a 15-year-old boy were released after allegedly bribing the authorities. In a similar incident, in the north, a 16-year-old boy reportedly recruited into the Afghan National Army after providing a falsified identity document was subsequently sexually abused by two soldiers. There is insufficient protection for victims of or witnesses to violence, and very few cases reach the prosecution stage. Fear of violent retaliation against victims and families was cited as a factor by reliable sources. In addition, given the lack of specific legislation on the subject of sexual violence, victims are often arrested and charged with adultery." (United Nations Security Council's report, 10 November 2008) **[39d] (p13)**

24.02 The US State Department (USSD) 2007, report published on 11 March 2008, 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 family debts. Although against the law, corporal punishment at schools was common." **[2h] (Section 5)**

24.03 The USSD 2007 report also stated that:

"The government demonstrated an increasing commitment to address the concerns of vulnerable children and their families…. In May 2006 the government launched its National Strategy for Children at Risk (NSFCAR), which was designed by the Ministry of Work, Social Affairs, Martyred, and Disabled (MOWSAMD) to improve care for vulnerable children and families. The Ministry of Public Health trained more than 1,600 health workers on prevention of child abuse and violence against children." **[2h] (Section 5)**

24.04 The United Nations Security Council's report, 10 November 2008 stated that:

"While most of the victims do not wish their experience to be reported, it is possible to discuss certain incidents involving personnel of the Afghan National Security Forces where the cases were appropriately dealt with by the authorities. For instance, a member of the Afghan National Army active in northern Afghanistan raped an 11-year-old girl and was sentenced to 15 years imprisonment by a military court in early 2008. A 12-year-old boy and an adult male relative employed in a police post who were sexually abused by three police officers over an unknown period of time filed a complaint with the support of the Child Protection Action Network. The perpetrators were sentenced to 10 years imprisonment. In a southern province, a 16-year-old boy, stopped on the pretext of an identity check by a police officer, was subsequently raped. He reported the abuse to service providers who helped him to file a complaint. The case is being prosecuted." **[39f] (p13)**

24.05 The report further stated that:

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

"Violence against children, specifically of a sexual nature, occurs particularly during times of instability. The practice of 'bacha baazi' (boy-play) consists of boys kept cloistered and used for sexual and harmful social entertainment by warlords and other armed group leaders. This practice, like any violence against children, is strongly condemned by Islam and by all religious and by governmental as well as cultural leaders. Prosecution of a small number of cases has been confirmed by the country Task Force on Monitoring and Reporting, and more initiatives, including studies on the issue of child sexual abuse, are being developed. However, law enforcement officials and human rights activists highlighted difficulties in preventing the practice, addressing the violence and prosecuting the perpetrators more consistently." **[39f] (p14)**

CHILD LABOUR

24.06 "The Convention on the Rights of the Child (CRC), which Afghanistan has ratified, sets out the right of the child to be protected from economic exploitation; and from any work that is likely:

- To be hazardous, or
- To interfere with the child's education, or
- To be harmful to the child's health or physical, mental, spiritual, moral or social development.

The 2004 Constitution of Afghanistan prohibits forced labour for children (Article 49).

The minimum responsibility of the Government according to Article 32 of the CRC is to take measures, including issuing the appropriate legislation to provide the following:

- A minimum age for employment – not less than 15 years;
- Regulation of the hours and conditions of employment;
- Penalties or other sanctions to enforce the above standards."

(Afghan Independent Human Rights Commission, August 2007) **[78d] (p20)**

24.07 The US State Department's Human Rights Report, 2007, stated that:

"…. The law recognizes the standard legal age for work as 15, but there are provisions for 13- and 14-year-olds to work as apprentices, provided they only work 35 hours per week. There was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. Child labor remained a pervasive problem. According to UNICEF estimates, at least 20 percent of primary school age children undertook some form of work and there were more than one million child laborers under age 14. An AIHRC report released in 2006 estimated that most child laborers worked as street vendors (13 percent) or shop keepers (21 percent). Other common forms of labor were workshop labor, blacksmiths, farming, auto repair, and tailoring. In cities, a larger proportion of child laborers were involved in collecting paper, scrap metal, and firewood; shining shoes; and begging. Some of these

practices exposed children to the danger of landmines. Boys comprised 86 percent of child laborers." **[2h] (Section 6d)**

24.08 A UNHCR paper dated May 2006 stated that "Many children are working in the streets of Kabul, Jalalabad, and Mazar-i-Sharif with numbers increasing. The child work 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." **[11f] (p2)**

24.09 The US State Department's Human Rights Report, 2007 further recorded that:

"AIHRC [Afghanistan Independent Human Rights Commission] reported approximately 60,000 child laborers in Kabul alone, the majority of whom migrated to the city from other provinces. Many employers subjected them to sexual exploitation and forced labor. UNHCR noted that Jalalabad and Mazar-e-Sharif also had large numbers of child laborers. According to Save the Children, there were up to 5,000 child laborers working in brick factories in Nangarhar. Children faced numerous health and safety risks at work and some of them sustained serious injuries such as broken bones." **[2h] (Section 6d)**

24.10 The report additionally noted that:

"MOWSAMD [Ministry of Work, Social Affairs, Martyred, and Disabled] reported that the government was working on the problem of child labor. The NSFCAR addressed child labor and demanded the creation of diversified services for vulnerable families to prevent family separation and exploitation of children. MOE efforts in promoting universal basic education, such as workshops in schools and outreach to employers also contributed to the prevention of exploitative child labor." **[2h] (Section 6d)**

24.11 An August 2007 report by the AIHRC, reflecting research from January to December 2006, found that:

"Poverty has a significant impact on child labour and an adequate standard of living. The more economically vulnerable a household is the higher the proportion of working children (under age 15), and the less likely it is that the household will be able to afford to educate their children. Of those who stated that their children worked, 37.0% of interviewees reported that at least one child in their family works and, among them, 57.1% of interviewees said that most or all of the children in their family work." **[78d] (p16)**

24.12 IRIN News reported on 18 March 2008 that students have turned to working in the poppy fields in Helmand Province to help fund their education. Due to insurgency-related violence, "hundreds of students from rural areas have flocked to schools in Lashkargah where schools have remained open despite widespread security threats. Many of these students live in rented rooms in Lashkargah, and cannot regularly travel to their homes for both security and financial reasons." **[36o]**

CHILD KIDNAPPINGS

24.13 "Very few cases of children having been abducted as a result of the conflict

have been documented. However, due to the security vacuum prevailing in some areas, criminal kidnapping of children is reported frequently. In one case, antigovernment elements in the Western Region abducted the child of a Provincial Prosecutor who had launched a criminal investigation against the group. The child was killed soon after his abduction." (UN Security Council, 10 November 2008) **[39f] (p11)**

(See also Section 27: Kidnappings for further information and Section 25: Trafficking for more information on Trafficking)

CHILD MARRIAGE

This section should also be read in conjunction with Section 23: Women – Marriage

24.14 "Forced marriages are common throughout the country and among the Afghan diaspora. Women rarely make decisions about their own life and girls as young as two years old are sometimes committed for marriage as a way to settle family feuds or debts. According to the German non-governmental organization, Medica Mondiale, the majority of females (57 per cent) are married before the legal age of 16 with up to 80 per cent of marriages being forced in Afghanistan. Women and girls are often considered to be a mere commodity and those girls who try to escape such control over their lives are ostracized by their families for alleged dishonour and non-respect of Afghan tradition." (IOM, 4 December 2008) **[38a]**

24.15 The US State Department's Human Rights Report, 2007 published on 11 March 2008, recorded that "The legal age for marriage was 16 for girls and 18 for boys. International and local observers estimated that 60 percent of girls were married before 16." **[2h] (Section 5)** Radio Free Radio Liberty however, reported on 10 January 2008 that the legal age for marriage for girls had changed from 16 to 17 years old and that "Men who want to marry girls under 17 are not entitled to obtain a marriage certificate, although rights activists say many men simply do not bother with officially registering their marriages." **[29g]**

24.16 The Freedom House 2008 Afghanistan Country Report noted however that "… Nearly 60 percent of Afghan girls are married before the legal age of 16, according to UNICEF. However, in March 2007 the Supreme Court approved a new formal marriage contract stipulating that the bride must be at least 16, a move welcomed by activists who hope that it will lead to fewer underage marriages." **[41a] (p10)**

24.17 The US State Department's Human Rights Report, 2007 further noted that:

"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…. In June 2006 the government set up a working group on early and forced marriages under the MOWSAMD; however, this group appears to have informally dispersed. The AIHRC estimates that up to 70 percent of reported cases of domestic violence have roots in child marriage." **[2h] (Section 5)**

24.18 The February 2006 report of the UN Special Rapporteur stated that:

"Economic reasons are said to play a significant role in such marriages. Due to the common practice of bride money, the girl child becomes an asset exchangeable for money or goods. Families see committing a young daughter (or sister) to a family that is able to pay a high price for the bride as a viable solution to their poverty and indebtedness. In another typical scenario, a brother and a sister are married to another pair of siblings to avoid, by mutual compensation, any payment having to be made.

"The custom of bride money may motivate families that face indebtedness and economic crisis to 'cash in' the 'asset' as young as 6 or 7, with the understanding that the actual marriage is delayed until the child reaches puberty. However, reports indicate that this is rarely observed, and that little girls may be sexually violated not only by the groom but also by older men in the family, particularly if the groom is a child too." **[39m] (p8)**

24.19 Statistics published by UNICEF show that the total child marriage rate 1987-2006 was 43 per cent. **[44a]**

CHILD SOLDIERS

24.20 The US State Department's Human Rights Report 2007, published on 11 March 2008, stated that: "Beginning in 2004 an estimated 8,000 former child soldiers were demobilized under a UNICEF-initiated program. Since 2004 more than 15,000 war-affected children in 28 provinces have been supported through UNICEF's reintegration project. UNICEF supported educational and skills training for more than 2,691 demobilized child soldiers and other war-affected children (approximately 800 of whom were girls) in six provinces." **[2h] (Section 5)** However, the Child Soldiers Global report, 2008 stated that "There were anecdotal reports of under-18s serving in the armed forces. There were reports of the use of children as suicide bombers by anti-government elements including the Taleban, and of both forcible and voluntary recruitment by the Taleban of children in southern provinces and parts of Pakistan." **[33a]**

(See also Section 10:- Military Service)

EDUCATION

24.21 The Constitution adopted in January 2004 recognised that education is the right of all citizens of Afghanistan. **[81]** The US State Department 2007 report recorded that "The law makes education mandatory up to the secondary level and provides for free education up to the college level." **[2h] (Section 5)** Statistics published by UNICEF show that the literary rate for young women (aged 15-24), 2000-2006 is only 18 per cent, compared to 51 per cent for boys. **[44a]** Statistics also show that secondary school attendance for girls, 2000–2006, was 6 per cent compared to 18 per cent for boys. **[44a]**

24.22 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers published December 2007, recorded that:

"Afghanistan's literacy rate is one of the lowest among developing countries. The average adult literacy rate is estimated at 28 percent of the overall population; female literacy rate is 12.6 percent. The Taliban exclusion of girls from school during 1995-2001 worsened the gender disparity in literacy. The UNICEF 'Back to School' campaign – started in 2002 – has seen more than

three million students return to school and enrolment in schools has continuously increased. Currently, 5.1 million children are attending schools. Of this number, about 4.5 million children are in primary school (1.53 million of them are girls). Thirty-seven percent of girls between the ages of 7 and 12 are attending school for the first time. Despite the relative success of the 'Back to School' campaign, an estimated 2 million children are currently not attending school; 1.2 million of these are girls.

"The main causes of low attendance rates for girls are the inadequate number of formal schools or qualified teachers, the lack of physical accessibility of schools due to security concerns (e.g. attacks or abductions) and negative parental attitudes regarding girls' education. In addition, early marriage is a significant factor in the high drop-out rates for girls. An AIHRC study has found that the proportion of girls who fail to complete primary education is almost half the rate of boys' completion. To address one of the obstacles to girls' school attendance, the Ministry of Education is training a pool of female teachers and is offering land and housing incentives for deployment of female teachers to areas in which there is a lack of qualified female teachers.

"As mentioned above, the education system has also faced setbacks as a result of the deteriorating security due to the insurgency, especially in the south, southeast and east of the country. Over 200 schools have been burned and around 400 schools have been closed during 2006. Furthermore, at least 15 teachers were killed due to the insurgency-linked violence throughout the country." **[11a] (p52-53)** "According to the MOE [Ministry of Education] there were 9,033 basic and secondary schools. Local authorities made some progress in school attendance." (USSD 2007 report) **[2h] (Section 5)**

24.23 "During 2007, Afghanistan enrolled 5.67 million children in primary and secondary school. Among the 4.67 million pupils in primary school, more than 330,000 were new female students. To address the paucity of schooling opportunities in remote villages, 3,867 community-based schools were built, reaching over 146,000 youths previously not in school." (UNICEF, June 2008) **[44b] (p9)**

24.24 A Human Rights Watch report published in July 2006 stated that:

"Since 2001, the participation of children and adults in education has improved dramatically and, as explained below, there is great demand. Afghanistan has one of the youngest populations on the planet – although exact numbers do not exist, an estimated 57 percent of the population is under the age of eighteen. Unexpectedly large numbers showed up when schools reopened in 2002, and enrollments have increased every year since, with the Ministry of Education reporting that 5.2 million students were enrolled in grades one through twelve in 2005. This includes, they told us, an estimated 1.82–1.95 million girls and women. An additional 55,500–57,000 people, including 4,000–5,000 girls and women, were enrolled in vocational, Islamic, and teacher education programs, and 1.24 million people were enrolled in non-formal education. These numbers represent a remarkable improvement from the Taliban era. Indeed, more Afghan children are in school today than at any other period in Afghanistan's history.

"Despite these improvements, the situation is far from what it could or should have been, particularly for girls. The Ministry of Education estimates that 40

percent of children aged six to eighteen, including the majority of primary school-age girls, were still out of school in 2005. Older girls have particularly low rates of enrollment: at the secondary level, just 24 percent of students were girls in 2005; and the gross enrollment rate for girls in secondary education was only 5 percent in 2004, compared with 20 percent for boys. In six of Afghanistan's then thirty-four provinces, girls made up 20 percent or less of the students officially enrolled in school in 2004–2005. Even at the primary level, girls are not catching up: the gap in primary enrollment between boys and girls has remained more or less constant despite overall increases in enrollment.

"Enrollment also has varied tremendously by province and between urban and rural areas. Many children in rural areas have no access to schools at all. Seventy-one percent of the population over age fifteen – including 86 percent of women – cannot read and write, one of the highest rates of illiteracy in the world." **[17e] (p25-26)**

24.25 On 11 September 2006, the UN Secretary-General reported that:

"The right to education has been compromised owing to a marked increase in the number of attacks on schools since late 2005. The majority of attacks have taken place in the southern and south-eastern regions, where they are mainly attributed to insurgents or in some cases to criminal elements. From January to July [2006] a total of 202 violent incidents against schools, teachers or pupils have been recorded as compared with 99 during the previous year, partly or completely denying education to at least 105,000 Afghan children in the south. The Ministry of Education, the United Nations Children's Fund (UNICEF) and other partners have set up a special national task force to strengthen the protection of students, teachers, school officials and schools themselves and facilitate a rapid response when incidents arise." **[39l] (p9)**

24.26 The Human Rights Watch 2008 report on Afghanistan recorded that:

"As part of their campaign of terrorizing the civilian population, the Taliban target schools, and in particular girls' schools - the government reported that insecurity shut down 450 schools throughout the country, including 40 percent of schools in the south. On June 12 [2007], Taliban killed two schoolgirls in front of a girls' school in Logar, near Kabul, and injured three others and a teacher. The United Nations Children's Fund (UNICEF) said these incidents stalled or reversed the progress achieved in female education since the fall of the Taliban regime, and had already caused a significant drop in attendance in secondary schools. While the number of girls in school increased quickly after the Taliban's ouster in 2001, only one-third of school-age girls attended school in 2007." **[17a]**

24.27 On 10 April 2008 IRIN news reported that:

"At least 10 schools have been attacked by unidentified gunmen in different parts of Afghanistan in the past three weeks, Ministry of Education (MoE) officials told IRIN. Armed assailants, believed to be associated with Taliban insurgents, have torched three schools in Kunduz, two in Kandahar, and one school each in Helmand, Paktia, Khost, Wardak and Farah provinces since the new school year began on 23 March, according to the MoE. Armed men broke into Ortablaq school in Imam Saheb District of northern Kunduz

Province and cut-off the ears of a watchman before setting the school ablaze on 4 April, the Ministry of Interior said… Apart from the torchings, there have been other attacks: Kandahar Province Department of Education officials said five schools had been attacked in the same period; in another incident one teacher was reportedly killed when a school was attacked in Khost Province, southeastern Afghanistan, in late March, MoE said." **[36i]**

24.28 "Ministry of Education statistics shown to IRIN indicate there were 2,450 'terrorist' attacks on schools from March 2006 to February 2008. In the same period 235 schoolchildren, students, teachers and other education workers were killed, and 222 wounded. About 500 schools have remained closed due to insecurity, particularly in the volatile south where Taliban insurgency has also hindered humanitarian and development access. 'Up to 300,000 students cannot go to school because of insecurity and threats,' said the MoE's Elmi [Hamid Elmi, a spokesperson for the Ministry of Education (MoE)]. Taliban insurgents oppose female education and say the school curriculum is 'un-Islamic', a charge rejected by the Afghan government and moderate Islamic scholars." **[36i]**

24.29 A UNICEF article on 28 April 2008 recorded that:

"Afghanistan continues to experience poverty as a result of three decades of conflict, as well as restrictive traditions limiting opportunities for millions of girls, particularly in rural areas. In response, the Government of Afghanistan is paying special attention to education – especially girls' education – by integrating it into all priority programmes.

"The Ministry of Education's goal is to increase the net enrolment rate for girls and boys in primary grades to at least 60 per cent and 75 per cent, respectively, by 2010….

"To help reach the goal for girls' education, AGEI was launched in March 2007 with support from UNICEF and key partners under the umbrella of the global UN Girl's Education Initiative.

"The Afghan initiative offers a forum for extensive information-sharing, networking and funding to improve coordination and collaboration on girls' education. The forum links local and national initiatives, and draws necessary expertise from within the country and outside sources." **[44c]**

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CHILD CARE

24.30 The Afghanistan Independent Human Rights Commission (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." **[78b] (p3)**

24.31 A UNHCR paper dated May 2006 stated:

"The few existing orphanages in Kabul and marastoons 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, return for unaccompanied children to Afghanistan therefore exposes them to exploitation and risk." **[11f] (p2)**

24.32 The Afghanistan Independent Human Rights Commission (AIHRC) Annual Report 2007 stated that:

"The CRU [The Childs Rights Unit] monitored 48 orphanages and 28 Children Correctional Centres (CCCs) in 28 provinces for cases of abuse and unsuitable living conditions in 2007. As a result of the AIHRC interventions, standards of CCCs in Baghlan, Balkh, Gardez, Jawzjan, Kandahar, Kunduz, Samangan and Sar-e-Pul were found to have improved. A total of 101 illegally detained children (83 boys and 18 girls) were released following the AIHRC interventions. The CRU's advocacy efforts for the better treatment of the juvenile offenders resulted in the establishment of a child correction centre Daikundi Province." **[78c]**

24.33 The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 stated "Unaccompanied children in Afghanistan are at particular risk of violence and exploitation, including child trafficking and child labour. The government does not have the capacity to provide protection or shelter for all those at risk. Those children without at least extended family support in Afghanistan are likely to experience homelessness and abuse." **[11a] (p9)**

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HEALTH ISSUES

(See also Section 28: Medical Issues)

24.34 The Foreign & Commonwealth Office Afghanistan Country Profile, reviewed in January 2009, noted that:

"Immunisation is having a real impact. In March 2006, a Ministry of Public Health, UNICEF and World Bank nationwide campaign was launched to immunise 7 million children, in all of Afghanistan's 34 provinces, against polio. Since 2002 UN agencies have administered 16 million vaccinations against measles, saving an estimated 35,000 lives. Cholera and diarrhoeal diseases are being tackled through health education, water chlorination and the construction of wells throughout the country." **[4a] (p9)**

24.35 IRIN News reported on 24 July 2008 however, that:

"Despite high hopes for the eradication of polio in Afghanistan, nine new cases have been reported in three southern provinces over the past month. Six polio cases have been reported in Maiwand, Shahwali Kot and Gorak districts of Kandahar Province, two in Nadali District in neighbouring Helmand Province, and one in Urozgan Province since late June, the Ministry of Public Health (MoPH) said. This brings the total number of confirmed polio cases in the country in 2008 to 14. Five cases had been confirmed earlier in the year. Oliver Rosenbauer, a communications officer for polio in the World Health Organization, however, said 11 - not 14 - new cases had been confirmed in 2008 and that these had trickled in since the beginning of the year. 'We believe there are several reasons for this new surge in polio cases - most importantly insecurity, population displacement and the repatriation of refugees,' Abdullah Fahim, a spokesman for MoPH, told IRIN." **[36q]**

24.36 The US State Department 2007 report, published on 11 March 2008, 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. However, infant mortality statistics improved during the year. According to a John Hopkins University and the Ministry of Public Health (MOPH) survey, infant and under five-year-old child mortality decreased from a 2006 figure of 165 out of 1,000 live births to 129 this year. A MOPH survey revealed that 54 percent of children under age five were chronically malnourished." **[2h] (Section 5)**

24.37 IRIN News reported on 5 March 2008 that contaminated water from local rivers and poor sanitation is a cause of ill health, deaths and misery amongst children. Water from local rivers is used for all purposes, including drinking, cooking and washing. The concensus amongst some residents in many rural communities across Afghanistan is that 'flowing water' is always clean, unless the colour, smell and taste is changed. "According to the State of the World's Toilets 2007 report, about 92 percent of Afghanistan's estimated 26.6 million population do not have access to proper sanitation. This has placed the country at the top of the list of 'the worst places in the world for sanitation.' The traditional dry vault toilet system – a specially-shaped dry vault that separately collects solid and liquid waste and which is commonly used in Afghanistan is also considered a major health and sanitation problem." **[36n]**

(See also Section 28: Medical issues - Women and children)

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25. TRAFFICKING

25.01 The US State Department (USSD) Report on Trafficking in Persons Report, published in June 2008, stated:

"Afghanistan is a source, transit, and destination country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labor. Afghan children are trafficked within the country for commercial sexual exploitation, forced marriage to settle debts or disputes, forced begging, debt bondage, service as child soldiers, and other forms of forced labor. Afghan women and girls are also trafficked internally and to Pakistan, Iran, Saudi Arabia, Oman, and elsewhere in the Gulf for commercial sexual exploitation. Afghan men are trafficked to Iran for forced labor. Afghanistan is also a destination for women and girls from China, Iran, and Tajikistan trafficked for commercial sexual exploitation. Tajik women and children are also believed to be trafficked through Afghanistan to Pakistan and Iran for commercial sexual exploitation.

"The Government of Afghanistan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Anti-trafficking offices are now established within the Attorney General's office in all provinces. In addition, Afghan law enforcement officials received training in anti-trafficking investigations. The government also worked with IOM to implement a public awareness program to address trafficking of women and girls in the most vulnerable provinces. The Government of Afghanistan works with non-governmental organizations by providing in-kind contributions such as land for shelters.

"Nonetheless, despite a significant problem, the government did not provide sufficient evidence that it adequately punishes acts of trafficking. In addition, Afghanistan punishes some victims of sex trafficking with imprisonment for adultery or prostitution, acts committed as a result of being trafficked.Although the government lacks resources to provide comprehensive victim protection services, it fails to ensure that victims receive access to care available from NGOs." **[2g] (p53)**

25.02 Furthermore the USSD report noted that:

"The Government of Afghanistan did not provide sufficient evidence of efforts to punish trafficking over the reporting period. Afghanistan does not prohibit all forms of trafficking, but relies on kidnapping and other statutes to charge some trafficking offenses. These statutes do not specify prescribed penalties, so it is unclear whether penalties are sufficiently stringent and commensurate with those for other grave crimes, such as rape. Despite the availability of some statutes, Afghanistan did not provide adequate evidence of arresting, prosecuting, or convicting traffickers… There was no evidence that the government [of Afghanistan] made any efforts to investigate, arrest, or prosecute government officials facilitating trafficking offenses despite reports of widespread complicity among border and highway police." **[2g] (p53)**

25.03 The USSD report also recorded that:

"The Government of Afghanistan made inadequate efforts to protect victims of trafficking. Afghanistan lacks resources to provide victims with comprehensive

rehabilitation care; NGOs provided the bulk of assistance to victims. Law enforcement authorities do not employ formal procedures toidentify victims of trafficking and refer them to protection services provided by NGOs…. Four women's shelters nationwide provide protection to female victims of abuse, including victims of trafficking, but they have limited capacity and lack adequate funding; the government did not report referring or assisting any victims of trafficking in these centers during the reporting period. Child trafficking victims are sometimes placed in orphanages until reunited with their parents." **[2g] (p53)**

25.04 The International Organisation for Migration (IOM) stated on 4 December 2008 that:

"Successful cooperation with the government has recently led to the enactment of Afghanistan's first counter-trafficking legislation, the Law on Combating Kidnapping and Human Trafficking, on 14 July [2008]. IOM worked closely with members of the Legislation Department at the Ministry of Justice in drafting the law and provided necessary technical advice through weekly meetings and a series of training activities.

"Under the victim assistance component of IOM's counter-trafficking programme, both foreign nationals trafficked to Afghanistan as well as Afghan victims of internal and cross-border trafficking are identified through IOM's referral network. They are assisted through the provision of daily necessities such as clothing and food, medical and psychological support as well as reintegration assistance where appropriate. IOM has assisted over 130 victims of trafficking since 2006." **[38a]**

(See also Section: 23 Women and Section 24 Children)

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26. DRUG PRODUCTION AND ADDICTION

26.01 "Afghanistan is the world's largest producer of opium, which is used to make heroin. A 2005 survey estimated that Afghanistan had almost one million drug users including 200,000 opium users and 19,000 drug injectors, of whom 12,000 inject prescription drugs and 7,000 inject heroin. A 2006 survey in Kabul estimated that several categories of drug use had increased by more than 200 percent in 12 months." (The World Bank, August 2008) **[69b]**

26.02 The BBC reported in June and August 2007 on the soaring levels of opium production in Afghanistan. **[25ba]** The BBC also noted that Afghanistan was now accountable for over 90 per cent of opiates in the world, recording that "…Helmand province is now the biggest single drug-producing area in the world, surpassing whole countries such as Columbia [*sic*]." **[25bb]**

26.03 The UNHCR Eligibility Guidelines paper noted that "The security situation is further aggravated by heavy fighting between anti-Governmental elements and the ANA/ISAF/NATO forces and the growth of criminal and drug gangs, which enjoy a symbolic relationship with anti-Government armed groups." **[11a] (p35)**

26.04 The United Nations Office on Drugs and Crime (UNODC) 2008 World Drugs Report recorded that:

"In 2007, opium production in Afghanistan reached 8,200 mt [metric tonnes]: 24% higher than global opium production in 2006 (6,610 mt). Record levels of cultivation and a high yield led to the 34% increase in potential opium production in 2007. Taking domestic consumption of opium, seizures and opium exports into account, Afghanistan's morphine and heroin production is estimated to have reached 666 mt in 2007, up from 555 mt in 2006. Reaching its highest point since 1990, global opium production rose to more than 8,800 mt in 2007. The proportion of Afghanistan in global opium production remained 92%." **[87c] (p228)**

26.05 The UNODC Opium Winter Rapid Assessment Survey, published February 2008 noted that "… the south and southwest [of Afghanistan] continues to grow opium at an alarming rate, perhaps greater than last year when it accounted for 78 percent of total opium cultivation in Afghanistan. This is a windfall for anti-Government forces who take a tax (usher) of approximately 10 per cent of opium cultivation in regions under their control – further evidence of the dangerous link between opium and insurgency." **[87d] (Preface)**

Opium poppy cultivation levels from 2004 to 2007 and expected trends in 2008

PROVINCE	Cultivation 2004 (ha)	Cultivation 2005 (ha)	Cultivation 2006 (ha)	Cultivation 2007 (ha)	Change 2006-2007 (ha)	Change 2006-2007 (%)	2008 cultivation trend
Kabul	282	0	80	500	420	525%	Decrease
Khost	838	0	133	0	-133	-100%	Poppy-free
Logar	24	0	0	0	0	0%	Poppy-free
Paktya	1,200	0	0	0	0	0%	Poppy-free
Panjshir	0	0	0	0	0	0%	Poppy-free
Parwan	1,310	0	124	0	-124	-100%	Poppy-free
Wardak	1,017	106	0	0	0	0%	Poppy-free
Ghazni	62	0	0	0	0	0%	Poppy-free
Paktika	0	0	0	0	0	0%	Poppy-free
Central region	**4,733**	**106**	**337**	**500**	**163**	**48%**	
Kapisa	522	115	282	835	553	196%	Decrease
Kunar	4,366	1,059	932	446	-486	-52%	Decrease
Laghman	2,756	274	710	561	-149	-21%	Decrease
Nangarhar	28,213	1,093	4,872	18,739	13,867	285%	Strong decrease
Nuristan	764	1,554	1,516	0	-1,516	-100%	Poppy-free
Eastern region	**36,621**	**4,095**	**8,312**	**20,581**	**12,269**	**148%**	
Badakhshan	15,607	7,370	13,056	3,642	-9,414	-72%	Decrease
Kunduz	224	275	102	0	-102	-100%	Poppy-free
Takhar	762	1,364	2,178	1,211	-967	-44%	Stable
North-eastern region	**16,593**	**9,009**	**15,336**	**4,853**	**-10,483**	**-68%**	
Baghlan	2,444	2,563	2,742	671	-2,071	-76%	Decrease
Balkh	2,495	10,837	7,232	0	-7,232	-100%	Poppy-free
Bamyan	803	126	17	0	-17	-100%	Poppy-free
Faryab	3,249	2,665	3,040	2,866	-174	-6%	Strong decrease
Jawzjan	1,673	1,748	2,024	1,085	-939	-46%	Strong decrease
Samangan	1,151	3,874	1,960	0	-1,960	-100%	Increase
Sari Pul	1,974	3,227	2,252	260	-1,992	-88%	Stable
Northern region	**13,789**	**25,040**	**19,267**	**4,882**	**-14,385**	**-75%**	
Hilmand	29,353	26,500	69,324	102,770	33,446	48%	Stable
Kandahar	4,959	12,989	12,619	16,615	3,996	32%	Increase
Uruzgan	11,080	2,024	9,703	9,204	-499	-5%	Increase
Zabul	2,977	2,053	3,210	1,611	-1,599	-50%	Stable
Day kundi	N/A	2,581	7,044	3,346	-3,698	-52%	Stable
Southern region	**48,369**	**46,147**	**101,900**	**133,546**	**31,646**	**31%**	
Badghis	614	2,967	3,205	4,219	1,014	32%	Increase
Farah	2,288	10,240	7,694	14,865	7,171	93%	Increase
Ghor	4,983	2,689	4,679	1,503	-3,176	-68%	Increase
Hirat	2,531	1,924	2,287	1,525	-762	-33%	Decrease
Nimroz	115	1,690	1,955	6,507	4,552	233%	Strong increase
Western region	**10,531**	**19,510**	**19,820**	**28,619**	**8,799**	**44%**	
Total (rounded)	**131,000**	**104,000**	**165,000**	**193,000**	**28,000**	**17%**	**Overall slight decrease**

UNODC, February 2008 **[87d] (p3)**

26.06 The surge in opium production has been accompanied by a rise in addiction amoungst Afghans. (BBC, 28 August 2007) **[25bc]** (IRIN, 26 June 2007) **[36t]** (Associated Press, 3 January 2008) **[54c]** The Associated Press reported in January 2008 that:

"The first nationwide survey on drug use, conducted last year by the Ministry of Counter Narcotics and U.N. Office on Drugs and Crime, found nearly 1 million addicts in this nation of about 30 million people, including 60,000 children under age 15….

"Drugs of choice range from hashish, opium and heroin to pharmaceutical medicines. An estimated 5,000 children are addicted to opiates, and the remainder take cough syrup and other drugs, the survey found. The actual numbers are probably much higher, especially for children and women, the report said." **[54c]**

26.07 IRIN News reported on 2 March 2008 that "Villagers in remote areas of Badakhshan Province, north-eastern Afghanistan, have been using opium as a substitute for medicine for years. They are oblivious to the harm it can do to their health." **[36m]**

26.08 A research study carried out by the Afghanistan Independent Human Rights Commission, Effective Factors Associated with Drug Addiction and the Consequences of Addiction among Afghan Women, published February 2008, involving 828 individuals interviewed in 21 provinces found that:

"It is rather difficult to establish a direct relationship between income and drug addiction. Although, the majority of the respondents report very low monthly income, it can not be said that poverty leads to drug addiction, as there are many women who live in poverty, but they are not addicted to drugs. The relationship between poverty and drug addiction, can be explored through access to health care. People with low income are more likely to be concentrated in remote parts of the country, whose access to health centers is very limited. Thus, these women use drugs for medical purposes…" **[48a] (p4)** However:

"In general, as it can be observed from the findings, addicted women are not lonely reclusive women who lack any family members or friends. The fact that the majorities of respondents are married and have children shows that these respondents are surrounded by their immediate family members and lead a social life. However, many [of] these women live in poor economic conditions; they are jobless or involved in the kind of occupations that does not generate sufficient income to sustain a family." **[48a] (p9)**

26.09 The AIHRC research study also recorded that:

"A quarter of respondents… report that their children use drugs. The age of children was not reported in the survey, however, the qualitative interviews reveal that younger children are fed opium by their mothers to keep them quiet, and the older children in addition to consuming drugs themselves provide drugs for their mothers. Additionally, other immediate family members who were reported to have been using drugs were fathers (9.78 %), mothers (7.49 %), brothers (6.28 %), and sisters (7.0 %)." **[48a] (p10)** Furthermore, the study recorded that women's reasons given for using drugs included recreation, pain, insomnia, fatigue, sexual dysfunction, hemorrhage, cough, diarrhoea, sadness and grief. **[48a] (p17)**

(See also Section 23: Women and Section 24: Children)

26.10 A Reliefweb article dated 20 April 2008 recorded that:

> "Afghan deputy health minister for technical affairs Faizullah Kakar said mental illness and drug abuse were the most urgent health problems that the country now needs to tackle … 66 percent of Afghans suffer from depression or some form of mental disorder, and an increasing number are turning to illegal drugs… The picture is grim in parts of the country's south and west where Kakar said government healthcare workers have not been able to provide service because of the ongoing Taliban insurgency. 'Forty of our doctors and workers died in the south, so many people are scared to go to the south to work. When we try to build a clinic in the south, it's hard to find a company that will build it. Maintaining it is a challenge'." **[40h]**

26.11 BBC Online reported on 25 July 2008 that President Karzai had been accused of protecting drug barons and obstructing efforts to eradicate opium crops. According to Thomas Schweich, a former US counter-narcotics official, the former Attorney General had claimed that Mr Karzai had reportedly prevented the prosecution of some 20 officials. Mr Karzai denied the allegations. Although president Karzai denies that his supporters were involved in drug smuggling, Mr Schweich said that "[Mr Karzai] perceives that there are certain people he cannot crack down on and that it is better to tolerate a certain level of corruption than to take an aggressive stand and lose power," Mr Karzai said that "I don't blame Afghans for drugs smuggling. They may do it due to helplessness and there may be only a few of them." **[25g]**

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27. KIDNAPPINGS

27.01 "… anti-government groups have kidnapped at least 41 Afghan civilians in 2007 and killed at least 23 of them, including journalist Ajmal Naqshbandi and driver Sayed Agha in Helmand. Anti-government groups also targeted foreign aid workers. The Taliban claimed responsibility for killing a German national whom they had taken hostage. In July the Taliban abducted a group of 23 South Koreans affiliated with a Christian organization. The Taliban killed two of the hostages before eventually releasing the rest." (HRW, January 2008) **[17a]** "According to the Afghanistan International Chamber of Commerce (AICC), 173 businessmen have been kidnapped across the country in the last three years: a number of them have been killed." (BBC, 16 December 2008) **[25aa]**

27.02 Amnesty International's Afghanistan Country Report 2008 recorded these incidents in 2007:

- "Four Afghan provincial court employees were abducted by the Talebanwhile travelling in Andar district, Ghazni, on 24 July [2007]. Their bodies were found later by Afghan authorities.

- Taleban forces abducted 23 Korean nationals on 19 July [2007] while they were travelling through Ghazni. Two of the hostages were killed; the rest were released after six weeks' captivity.

- Taleban forces abducted five Afghan and two German nationals on 18 July [2007] in Wardak province. One of the Afghans escaped and one of the Germans died in captivity. The remaining hostages were released in October." **[7l]**

27.03 Reuters reported on 22 July 2008 that:

"Two French aid workers kidnapped in central Afghanistan last week are being held by a commander of a former armed faction, a Western radio broadcaster said on Tuesday. The pair were working for the humanitarian agency of Action Against Hunger in the central province of Dai Kundi and were kidnapped while sleeping in their house on Friday, the organisation said. Commander Sedaqat phoned Radio Liberty to claim responsibility for seizing and holding the two, said the U.S.-sponsored station which broadcasts in Afghanistan's main languages, Pashtu and Dari. Sedaqat said he had kidnapped them due to differences with provincial authorities he said had sidelined him from power, the network said. Sedaqat said he wanted to settle the issue peacefully, but made no demand for freeing the pair. Sedaqat belonged to an ethnic Hazara armed faction and briefly joined the Taliban when the group was in power from 1996 till 2001…" **[24a]**

(See also Section 24: Children – Child Kidnappings and Section 8: Security situation – Kabul)

28. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

28.01 "The government of Afghanistan has committed to provide free health care services to all citizens under article 52 of the 2004 Constitution. This is reinforced by the Government's ratification of the Convention on the Rights of the Child under which the Government has committed itself to take appropriate measures to diminish infant and child mortality and to ensure appropriate pre-natal and post-natal health care for mothers (Article 24 (2)). This commitment was further asserted by the Afghanistan Compact following the London conference in 2006 and has been extended into the ANDS [Afghanistan National Development Strategy], signed by the President in April 2008." (AIHRC, December 2008) **[78a] (p52)**

28.02 "Healthcare in Afghanistan has been severely affected by decades of conflict and ranks among the worst in the world. Health infrastructure is damaged and poorly maintained, lacks trained staff, resources and supplies, and is unable to meet the basic health needs of most of the population. Services are provided through the Afghan hospital network and international NGOs and agencies, but there is limited coordination. First-aid is available at the district level but emergency transport is lacking; trauma care and continuing care are limited to a few hospitals in major cities and can be of poor quality and expensive. Cultural barriers mean that women may be denied care or refused treatment by male practitioners, in a country with few female practitioners." (International Campaign to Ban Landmines, 2007) **[14a]**

28.03 The Foreign & Commonwealth Office (FCO) Afghanistan Country Profile, reviewed in January 2009, stated 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." **[4a] (p8-9)**

28.04 Statistics in the FCO Country Profile on Afghanistan showed that:

- "average life expectancy is 43.1 years (UNDP, 2005)
- 13.5% of babies dies during or shortly after birth (UNDP, 2007)
- 26% of children die before reaching the age of 5 (UNDP, 2007)
- Maternal mortality rate: 1600 per 100000 live births (UNDP, 2007)
- More than three million Afghans benefited from rural water supply and sanitation activities in the country. 10119 water points, 66 networks and 1713 water reservoirs have been constructed

- 32.5% of the rural population has access to safe drinking water (UNAMA 2008)" **[4a] (Health)**

28.05 The same FCO Country 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.

- 83% of the population now has access to medical facilities, compared to 9% in 2004 (NATO, June 2007)

- 76% of children under the age of five have been immunised against childhood diseases (NATO, June 2007)

- More than 4000 medical facilities have been opened since 2004 (NATO, June 2007)." **[4a] (Health)**

28.06 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007, noted that:

"In terms of access to healthcare, Afghanistan's poor healthcare system has a very strong urban bias in its existing infrastructure. Overall, there are only 210 health facilities with beds to hospitalize patients. With the exception of four provinces, the current ratio of doctors per patient stands at one doctor per 10,000 patients.

"Nevertheless, important progress in healthcare has been made through the Government's expansion of the basic package of health services. Under the National Health Policy 2005-2009, the Ministry of Public Health is focusing on accelerating the implementation of primary healthcare and Basic Package of Health Services (BPHS) and Essential Package of Hospital Services (EPHS). The BPHS includes maternal and newborn health, child health and immunization, public nutrition, communicable diseases, mental health, disability and supply of essential drugs…

"The EPHS has three main objectives:

- to identify a standardized package of defined clinical, diagnostic and administrative services for district, provincial and national hospitals;

- to provide a guide for the Ministry, NGOs and donors on how the hospital sector should be staffed, equipped and provided with drugs for the defined set of services at each level; and

- to promote a health referral system that integrates the BPHS within hospitals." **[11a] (p51)**

28.07 An August 2007 report by the AIHRC, based on research between January and December 2006, "…conducted over 11, 000 interviews in 32 out of 34 provinces of Afghanistan paying particular attention to vulnerable groups and people living in remote areas…" found that "85.9% of those interviewees who answered the question (9,579) stated that governmental health care facilities were available to them; 13.9% of interviewees (1,547) stated that governmental health care facilities were not available." Additionally, "60.6% of those interviewees who answered the question (5,699) stated that private health facilities were available to them; 38.1% of interviewees (3,588) said that [private] health care facilities were not available.

"The main reasons given for not accessing Government/NGOs health facilities were:

- Difficult to get to – 57.4 per cent (1966);
- Poor quality – 29.8 per cent (1,022);
- Inability to pay for services and medicines – 3.3 per cent (112);
- No female staff – 5.3 per cent (181);
- Discrimination – 2.0 per cent (70).

"The main reasons given for not accessing private health care facilities were:

- Difficult to get to – 54.0 per cent (293);
- Poor quality – 31.9 per cent (173);
- Inability to pay for services and medicines – 3.5 per cent (19);
- No female staff – 5.9 per cent (32);
- Discrimination – 0.6 per cent (3)."
  [78d] (p29)

28.08 A UNHCR paper dated May 2006 advised that:

"For some medical cases, return to Afghanistan is impossible, unless effective family or community support and care is available during the treatment period. For others, there may be no treatment possibilities and no medication in Afghanistan for the time being. Particularly secondary, depending on the location, and tertiary health care services are very limited, with the major priorities of Afghanistan's National Health Policy for the period 2005 to 2009 being the following:

"Implementing health services:
- Implement the basic package of health services
- Implement the essential package of hospital services
- Establish prevention and promotion programmes

Reducing morbidity and mortality:
- Improve the quality of maternal and reproductive health care
- Improve the quality of child health initiatives
- Strengthen the delivery of cost effective integrated communicable diseases control programs

Institutional development:
- Promote institutional and management development
- Strengthen human resources development, especially of female staff

- Strengthen health planning, monitoring and evaluation."
  [11f] (p3)

28.09 UNHCR further noted that the following surgical operations cannot be performed and post-operative care is unavailable in Afghanistan: micro-neurosurgery; heart surgery "One hospital in Kabul, supported by the international community has started to undertake the surgical operation of children with congenital heart diseases (payment)" 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. **[11f] (p4-5)**

28.10 The May 2006 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; minor mental diseases; juvenile rheumatic arthritis." The report also noted that patients with these conditions require family care in the hospital and at home. **[11f] (p5)**

28.11 UNHCR also noted that:

"The hospitals may provide only about 30% of the medicine required. The caretaker [family member or relative] is required to purchase about 70% of the medicine in [the] bazaar… 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.

The services and medicines available in governmental hospitals are free of charge. However, the prices for medical services in the private sector vary from Afs.100–150 (US $.2–3) for a doctor's visit fee up to Afs.100, 000 (US $.2, 000) for some basic surgeries. Ambulance services, which are only available in few private clinics in major cities, cost Afs.200–Afs.500 (US $.4–10) within city limits. An ultrasound examination costs Afs.150–300 (US $.3–6) whereas a dialysis, which is only available in Kabul, costs Afs.7,000 (US $140)." **[11f] (p5)**

28.12 UNHCR also advised in May 2006 that the following medicines were 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)." **[11f] (p5-6)**

28.13 On 23 July 2008 IRIN News reported that "Up to 100,000 people have been deprived of access to basic health services in different parts of Afghanistan over the past four months, due largely to worsening insecurity, with attacks on health workers and health centres, the Ministry of Public Health (MoPH) said. The new figure is in addition to the over 300,000 people who last year lost access to primary health facilities, mostly in the volatile south and southeast." **[36b]**

28.14 Mirwais Hospital, in Kandahar, Sheberghan Hospital, in Jawzjan, and Jalalabad Public Health Hospital all benefit from ICRC support and training, which has enabled them to continue treating victims of the conflict and responding to other emergencies. A joint ICRC-health ministry project is also under way to further strengthen Mirwais hospital's capacity to deliver essential health services. The three hospitals:

- treated around 42,700 inpatients and 200,100 outpatients;
- performed some 17,200 operations.

In Kabul and elsewhere, the ICRC provided medical supplies to the 400-bed Afghan National Army hospital and seven other medical facilities, including the health ministry's Central Blood Bank and Radiology Department. An emergency kit for the treatment of up to 50 war-wounded is pre-positioned at the ministry. The organization also provided supplies and financial support to nine Afghan Red Crescent clinics which offer general consultations and vaccinations for women and children.

"All combatants wounded in war have the right to medical assistance. The ICRC sent over 900 consignments of first-aid and pre-hospital care supplies to remote areas lacking medical facilities." (International Committee of the Red Cross, 13 November 2008) **[64a]**

28.15 The Afghanistan Independent Human Rights Commission report of December 2008 stated that:

"Based on the recommendations by the World Health Organization to Afghanistan, the government has adopted the budget policy to spend 60 percent of the budget on primary health care and 40 percent of the budget on hospital services. However, according to the budget published by the Ministry of Public Health in 2007, out of US$105 million required to fund planned services, only US$10 million were allocated. This severely undermines the ability of the health services to reach the public." **[78a] (p54-55)**

28.16 The Foreign and Commonwealth Profile of Afghanistan, updated in November 2008 stated that:

"In response to a strategy outlined by the Ministry of Health, the international community is supporting the government in rebuilding the primary health-care system. Since the fall of the Taliban in 2001, the health sector has seen significant progress in development, with reductions in morbidity (disease) and mortality (death). In 2001, 8% of the Afghan population had access to basic health care; today, 79% have access to basic health services. In 2001, Afghanistan was ranked the world's worst in infant mortality; in 2007 Afghanistan's infant mortality rates were falling due to the efforts of the Ministry of Public Health (MoPH) and its international partners." **[2e] (p12)**

28.17 Furthermore, the FCO Profile stated that:

"There has been a marked increase in health infrastructure; the number of health facilities providing the BPHS has increased to 897 (from 746), the number of health facilities providing comprehensive emergency obstetric care has also increased to 89 (from 79), and the number of health facilities within the government's program of Integrated Management of Childhood Illnesses stands at 309 facilities located in eight provinces and 39 districts. Thirteen therapeutic feeding units have been established, and two additional midwifery schools were opened. Twelve mobile health facilities were established to provide basic health services to the nomadic Kuchi population. The number of health facilities providing direct observed treatment short courses (in the treatment of tuberculosis) increased to 55% (from 45%).

"Approximately 40,000 insecticide bed nets were distributed to control the spread of malaria. Provincial teams in eight provinces were established to track the prevalence of avian flu. In total, 670 health facilities have been renovated or constructed." **[2e] (p12)**

WOMEN AND CHILDREN

28.18 "Maternal care is still largely unavailable. Average female life expectancy for females is 45 years… The extent of the lack of coverage for maternal care is reflected in the HRFM [Human Rights Field Monitoring] survey of vulnerable groups. Relatives and friends remain one of the main sources of assistance during labor in 40% of urban and 50% of rural households. Overall, trained staff assisted only 30% of births and about 8% of births took place unassisted. Households in urban locations were more likely to use trained help: 22% with a doctor or nurse and 25% a midwife or trained birth attendant. Only 10% of rural households had the assistance of a doctor or nurse and another 17% were assisted by a midwife or trained birth attendant. In light of the lack of medical care available in rural areas, these numbers leave mothers particularly vulnerable; in case of complications at birth, 30% of the rural population would not be able to reach medical facilities in time." (The Afghanistan Independent Human Rights Commission, December 2008) **[78a] (p54)**

28.19 The Rabia Balkhi Women's Hospital is the only women's hospital in Kabul. "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." In 2005, doctors at the hospital carried out the first ever blood transfusion that saved a newborn baby's life. (International Medical Corps, 2006) **[86a]**

28.20 The US State Department 2007 report, published on 11 March 2008, 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." **[2h] (Section 5)** However, information on the US Embassy in Kabul's website, accessed on 13 September 2006, showed that there were two children's hospitals in Kabul: the Indira Ghandi and the Ataturk. **[9]**

28.21 In June 2006, the Institute for War and Peace Reporting reported on the French Medical Institute for Children (also known as the Mother and Child Hospital) in the Kart-e-Sakhi area of west Kabul, which is funded by French donors. It was reported that the hospital had just carried out the first ever open-heart surgery in Afghanistan, on a 13-year-old girl:

"Hospital manager Abdul Rauf Baha said the hospital has about 100 beds and four operating theatres. The 230 staff include 20 doctors, two of them French. Baha said 26 cardiac operations have been carried out at the hospital since it started working, 12 of them involving open-heart surgery. The cardiac operations are performed by French doctor Alain Deloche, with Afghan physicians assisting…

"Younus Delyab, who heads the hospital's charitable arm which assesses patients' ability to pay, explained how discounts are awarded, 'Many patients aren't able to pay a lot of money. Fees vary from 25,000 to 30,000 afghanis (500–600 dollars) per operation. But most patients pay 16 per cent of the fees.' The hospital has carried out around 500 operations of various kinds, but Delyab said only two patients had been charged the full rate." **[73e]**

28.22 The Foreign and Commonwealth Profile of Afghanistan, updated in November 2008 stated that "Immunization coverage has reached 83% of children under one year of age and additional progress has been made in updating routine immunizations for older children, adolescents, and adults. Finally, recent data showed that 70% of health facilities have at least one female provider on staff, compared to 45% during the Taliban era.

"Since 2006, Afghanistan has reduced child mortality (five years and under) by 25%, saving 89,000 children in 2007. In 2006, 23,000 Afghans died from tuberculosis. In 2007, due to improved access to basic health care, only 12,000 Afghans died from this disease." **[2e] (p12)**

(See also Section 23: Women and Section 24: Children)

HIV/AIDS

28.23 "Reliable data on HIV prevalence in Afghanistan is sparse. To date, 478 HIV cases have been reported. However, UNAIDS and WHO estimate that there could be between 1,000 and 2,000 Afghans living with HIV. The HIV epidemic is at an early stage in Afghanistan and is concentrated among high-risk groups, mainly injecting drug users (IDUs) and their partners. Afghanistan's emerging epidemic likely hinges on a combination of injecting drug use and unsafe paid sex. According to a 2006 study, 3 percent of IDUs in Kabul were HIV positive. Almost one third of the IDUs participating in the study said they used contaminated injecting equipment. In addition, large proportions of these (male) drug users also engaged in other highrisk behavior. For example, 32 percent had sex with men or boys, and 69 percent bought sex. Only about half of the IDUs knew that using unclean syringes carries a high risk of HIV transmission or that condoms can prevent infection." (The World Bank, August 2008) **[69b]**

28.24 The World Bank further noted that "UNICEF (through PMTCT, training, and MSM study), UNFPA (through VCCTs), and WHO (through ART and TB/HIV projects) are supporting Afghanistan's efforts to combat HIV/AIDS." **[69b]**

28.25 IRIN stated in an article dated 7 January 2009 that:

> "Forty of the 504 people diagnosed with HIV/AIDS in Afghanistan will be provided with standard antiretroviral therapy for the first time, as efforts are made to boost control of the killer disease, the Ministry of Public Health (MoPH) has said. 'We expect WHO [the World Health Organization] to have imported ARVs [antiretrovirals] by the end of January. We will give them to 40 already identified patients,' Saif ur-Rehman, head of the national HIV/AIDS programme at the MoPH, told IRIN." **[36z]**

CANCER TREATMENT

28.26 Currently, no forms of cancer can be treated in Afghanistan. (UNHCR, May 2006) **[11f] (p4)**

KIDNEY DIALYSIS

28.27 Doctors and the necessary medical instruments to treat renal failure are not available in Afghanistan. Dialysis is only available in three locations in Kabul. The treatment is private and a dialysis session costs 7,000 afghanis (US$140). (UNHCR, May 2006) **[11f] (p4)**

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MENTAL HEALTH

28.28 "According to studies cited by the Afghan health ministry an astonishing 66% of Afghans suffer mental health problems." (BBC Online, 20 January 2009) **[25u]**

28.29 "There is very limited psychosocial trauma support in Afghanistan. Further, in more conservative areas, social mores leave victims of rape or other sexual abuse subject to family rejection and social ostracism and, thus, to the loss of traditional protection mechanisms. Victims of such trauma may thus risk further maltreatment if their being a victim of sexual violence becomes known." (UNHCR, December 2007) **[11a] (p9)**

28.30 "Mental health is not a part of [the] primary health care system. Actual treatment of severe mental disorders is not available at the primary level. Community level workers from the local population (villages) have been involved in providing integrated health care for the last 8 years… There are community care facilities for patients with mental disorders. Mental Health is included in Basic Package for Health Services (BPHS) which covers health service delivery up to district level. New treatment guidelines for common mental health disorder[s] are being formulated (draft is ready). Four Community Mental Health Centers have been established in the capital [Kabul], but further expansion is required. There are 2 general psychiatric rehabilitation centres with 160 beds." (World Health Organisation Mental Health Atlas 2005) **[43]**

28.31 "Currently, there are no social workers, and there are only very few trained psychiatrists. Most doctors working as psychiatrists have either had in-service training or have attended short courses abroad. A three month diploma course was held in 1996 to train some doctors in psychiatry. Postgraduate training in psychiatry is not present. Psychologists get their training from Kabul University. Much of qualified manpower and technical expertise has left the country…

"NGOs [Non-Governmental Organisations] are involved with mental health in the country. They are mainly involved in treatment. The Afghan Government collaborates with non-governmental organizations to rapidly expand basic (mental) health services to underserved populations…

"The following therapeutic drugs are generally available at the primary health care level of the country: carbamazepine, Phenobarbital, amitriptyline, chlorpromazine, diazepam, haloperidol. The cost of medicines keeps fluctuating as the local currency is unstable due to the war. Over-the-counter sales of psychotropics occur." (World Health Organisation Mental Health Atlas 2005) **[43]**

28.32 A UNHCR paper dated May 2006 advised that:

"There is very limited to no form of psycho-social trauma support in Afghanistan [UNHCR footnote: 'In some regional hospitals, psychiatric facilities exist, but only one hospital in Kabul city provides psychological counseling, as does an international NGO, equally in Kabul']. The concept of 'counseling' as a profession in public health services 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 forms of sexual violence, including rape [UNHCR footnote: 'Any manifestation of what might be termed 'depression' is treated by medical professions with drugs. Doctors lack diagnostic as well as allopathic resources, thus depression is compounded by overdoses of valium or other medication. Physical conditions that require specialist care are unlikely to find this in Afghanistan. Rape is not a socially recognized category. It is only rarely a legally recognized category; as a report by the International Commission of Jurists found, women tend not to be treated equitably to men before the law. Rather they are judged according to customary law, whereby a victim of rape is more likely to be judged a prostitute and thus face prosecution as the perpetrator of the violation. Male victims of rape are not discussed. Sexual abuse of children is known but not acknowledged. There is no in-country support for rape victims.']

"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.

"As a general humanitarian principle, where such trauma constitutes 'compelling reasons arising out of previous persecution', it should be properly

recognized even if a change of conditions in the country of origin has taken place at the time a decision on the application is taken. Otherwise, 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 hardly [any] specialized institutions and personnel. This is particularly true for severe mental illness such that the person cannot be self-sufficient." **[11f] (p2-3)**

28.33 The BBC Online recorded on 20 January 2009 that:

"The Afghan health ministry readily admits that there simply are not enough facilities or doctors to even begin dealing with the most serious cases. Other health issues - such as infant and maternal mortality - have taken priority… Because of a lack of understanding, many Afghans suffering mental health problems are believed to be possessed. Some are chained in rooms or even caves until it is believed that the 'jinns' - evil spirits - have been exorcised. But others are simply abandoned by their families because they can no longer cope or afford the medication that is required to treat their medical conditions. A small number of mentally ill people are cared for by local charities." **[25u]**

OTHER MEDICAL CONDITIONS

28.34 The Danish fact-finding mission of March/April 2004 reported on the availability of treatment for certain illnesses. Their report published in November 2004 stated that:

"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)**

28.35 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: "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)**

28.36 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]**

28.37 On 14 August 2006, the *Frontier Post*, a Pakistani national newspaper, reported that, according to the overseer of the polio programme in the Afghan

Ministry of Public Health, there had been 24 cases of polio in Afghanistan so far in 2006, compared to nine cases during the whole of 2005. All but one were in the south of the country and a number of factors were blamed for the increase: "… the increasing violence, unregulated travel across the border with Pakistan where polio is also a problem, difficulty in establishing local health services and poor communication with community leaders." **[40a]**

28.38 IRIN News reported in December 2008 that:

"An outbreak of pneumonia in eastern Afghanistan has killed at least six children in the past two weeks and pneumonia cases in some central provinces have risen sharply, according to health officials. Up to 3,000 children with pneumonia, acute bronchitis and other respiratory diseases have sought treatment at hospitals in Jalalabad, capital of Nangarhar Province, over the past two months, Baz Mohammad Sherzad, deputy director of the provincial health department, told IRIN on 22 December [2008]. Most are children under five…" **[36x]**

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29. HUMANITARIAN ISSUES

OVERVIEW

29.01 "Following decades of turmoil and conflict, Afghanistan is one of the poorest countries in the world. Because of conflict and insecurity, the people of Afghanistan have for years been denied the basic services that we take for granted, like healthcare and schooling. Although some real progress is being made, Afghanistan is currently off track to meet all Millennium Development Goals." (DFID, 22 August 2008) **[51a]**

29.02 The World Bank's economic report on Afghanistan published February 2008, 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 2: Economy)

29.03 In July 2008 IRIN News reported that:

"At least 1.5 million people in 19 of Afghanistan's 34 provinces - mostly farming communities in the north - have been severely affected by drought and are in need of urgent humanitarian relief, an Afghan minister told IRIN. 'About 1.5 million people have lost 70-80 percent of their livelihoods - mostly rain-fed agriculture and livestock - owing to the drought,' said Ehsan Zia, minister of rural rehabilitation and development. The country has about 1.5 million hectares of rain-fed agricultural land which provided one third of domestic cereal production (including wheat, beans, rice and maize) in 2007. The drought, which officials blame on global warming, has also affected irrigated agricultural land, with yields down 40 percent in many places compared to 2007." **[36e]** Additionally in Harat and Ghor provinces food shortages and signs of malnutrition were reported. Food prices rose by up to 300 percent forcing some farmers to take to working in the streets begging or cleaning vehicles windscreens to subsidise their income. Reliefweb, 23 July 2008) **[40c]**

29.04 The United Nations Secretary-General noted in his September 2008 report, that since his report of March 2008 "The humanitarian situation has also deteriorated, in part owing to the ongoing conflict and in part as a result of a coincidence of crises. The most pressing humanitarian problem is that drought and high global food prices have created food shortages affecting one sixth of the country's population. The situation calls for urgent action with both a short-term and a longer-term perspective." **[39a]**

29.05 The Department for International Development (DFID) Country Profile, updated 22 November 2008 noted the progress being made since 2001:

The main text of this COI Report contains the most up to date publicly available information as at 25 January 2009. Further brief information on recent events and reports has been provided in the Latest News section to 13 February 2009.

- "Over 5 million children are now in school, over a third of them girls – a stark contrast to when it was illegal for girls to go to school.
- 4.8 million refugees have returned home.
- 40,000 fewer babies die each year compared to under the Taliban rule.
- The number of functioning health clinics has increased by 60%.
- The proportion of women receiving antenatal care increased from 5% in 2003 to 30% in 2006.
- The legal economy grew by 8% in 2006/07.
- 70% of registered voters participated in the 2004 Presidential elections.
- 51% of registered voters participated in the 2005 Parliamentary and Provincial Council elections." **[51a]**

(See also Section 31: Refugees and Internally Displaced People (IDPs))

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INTERNATIONAL AID

29.06 In June 2008 "World donors… pledged about $20bn (£10bn) to rebuild Afghanistan… The US led the way, committing $10.2bn, and there were big pledges from the World Bank, UK, Japan and others." (BBC Online, 12 June 2008) **[25al]** However, "[c]ritics say Afghanistan does not have the capacity to spend the money it already has, let alone bid for more." (BBC Online, 12 June 2008) **[25al]** "Donors made clear that the Afghan government had to do more to fight corruption and aid had to be better coordinated." (*The Guardian*, 13 June 2008) **[18a]**

29.07 IRIN News reported in November 2008 that:

"Early snow has blocked roads to several districts where people are in need of urgent humanitarian assistance. Officials in the northeastern province of Badakhshan said snowfall had blocked access to Sheghnan, Kofab, Pamir, Raghistan and Kohistan districts where thousands of people require food aid and medical care. Roads are the only means of accessing people as the country lacks a railway. Snow… has also been reported in Daykundi, Baghlan and other northern and central provinces, according to the Afghanistan National Disasters Management Authority (ANDMA)…'Of the 26,054 tonnes of food aid which has been promised by the government and aid organisations, so far only 5,476 tonnes have been delivered to Badakhshan,' Mohammad Usman Abozar, an official at the provincial emergency response commission, told IRIN… The UN World Food Programme (WFP), which feeds about eight million food-insecure people in the country, has said it has been delivering food aid to areas where access could get tricky when winter sets in. It has distributed 23,000 tonnes of wheat, oil, pulses and iodized salt to about 950,000 people in 23 provinces, and a further 36,000 tonnes would be distributed to 950,000 people in the coming months. 'So far 64 percent of the planned food has been dispatched,' it said in a statement on 17 November [2008]." **[36d]** "Various aid agencies and government bodies reckon 5-10 million of the estimated 26.6 million population do not have access to adequate food and nutrition." (IRIN News, 27 November 2008) **[36c]**

29.08 "The expansion of food distribution activities has been accompanied by an unprecedented increase in armed attacks on humanitarian aid convoys… At

least 26 attacks on WFP [World Food Programme] food aid trucks have been recorded so far this year [2008], mainly in the insecure south and southwest. Food to feed tens of thousands of hungry people had been looted and/or wasted in the attacks, WFP said. Dozens of local and foreign aid workers have also been killed and abducted in various security incidents over the past 11 months." (IRIN News, 27 November 2008) **[36c]**

29.09 In December 2008 the The UN Refugee Agency (UNHCR) announced that it started delivering supplies, including 8000 plastic sheets, 32,000 jerry cans, 46,000 items of clothing consisting of 18,000 pairs of shoes and 30,000 pairs of socks to returnees and IDP's [Internal Displaced Persons] across Afghanistan as the winter started setting in. **[46a]** The UN also announced it was doubling its Assistance Mission in Afghanistan (UNAMA) budget which will allow the number of international staff to increase from 1,500 to 2000. **[36f]**

(See also Section 3: Afghanistan Compact)

HUMANITARIAN SITUATION IN KABUL AND OTHER URBAN AREAS

29.10 On 21 June 2006, the UN Human Settlements Programme (UN-HABITAT) reported on the speech of Afghanistan's Minister of Urban Development, Mr Mohammad Yusuf Pashtun, at the World Urban Forum:

"After 25 years of war, Afghanistan's cities had been destroyed, many of them literally flattened on a scale unimaginable to people outside the country. He [the minister] characterised the country's urban landscape as being in a severe state of post-conflict breakdown: more than 70 percent of all urban infrastructure had been totally destroyed, with the remaining 30 percent in poor condition.

"At the same time, between 1978 and 2002 the urban populations had grown from 1.5 million to over five million people. He also said a further 5 million refugees had returned, and that with internally displaced people now streaming back to towns and cities, the country was experiencing a 5 percent urban growth rate. They were mainly starting life in new slums and mushrooming informal settlements.

"'Afghanistan also faces rapid rural to urban migration, the absence of effective land management policies, and acute shortages of technical human capacities at the planning and municipal levels,' he said. 'The situation could not be better described than as a real urban crisis posing real urban problems'." **[40i]**

29.11 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." **[60a]**

29.12 On 22 June 2006, the World Bank published a report on land management in Kabul which stated that the population of Kabul was expected to grow by about 150,000 each year for the next few years:

"The majority of Kabul's new migrants are informally housed. While this has prevented an even larger crisis of homelessness, informal development has led to legal and regulatory violations, including violations of property rights and rights of way, and has left insufficient space for infrastructure and social facilities…

"Kabul's main problem is not housing, but access to land and provision of infrastructure. Only 0.5% of Kabul's population is considered homeless, including 10,000 people living in tents and 5,000 living in the ruins of destroyed buildings…

"Informal settlements now shelter about 80% of Kabul's population, cover 70% of its land area, and represent a private investment in fixed capital of US$2.5 billion (not including land value). Hence, informal settlements are here to stay." **[69c] (Policy Note Series n.1)**

29.13 The World Bank report also noted that the quality of houses in the informal settlements was good; however, "… most informal neighbourhoods in Kabul lack basic infrastructure, including access to water, sewerage, and drainage." **[69c] (Policy Note Series n.2)** A report by the Afghanistan Research and Evaluation Unit (AREU), dated April 2006, also stated that "Many informal areas in Kabul are still not supplied with basic infrastructure such as electricity, safe water supply and adequate sanitation systems, and the constant new influx of people puts additional pressure on the already overloaded service infrastructure." **[22b] (p3-4)**

29.14 In a BBC Online article dated 13 June 2008 it was reported that, although Kabul City was build to accommodate 400,000 people it is currently home to almost four million people. **[25x]**

29.15 "Job opportunities for the unskilled and less literate labour force in Kabul (and for that matter also in other cities) are unreliable, irregular and subject to high seasonal variance. Access to opportunities is usually limited to the heterogeneous sector of informal employment and is prone to high competition, and many poor residents of the Afghan capital have huge difficulties or never succeed in finding constant and secure sources of income, which keeps their available cash at an erratic and chronically low level…

"Ecologically, Kabul poses the threat of very harsh winters. This is the time of the year that is the most difficult to bear for poor and vulnerable populations. Prices of foodstuffs rise, high expenditures for fuels are needed, children scavenge the streets in search of burnable garbage, many people are exposed to cold temperatures due to having only insufficient shelter or limited capacities to afford fuel, health risks rise dramatically and job opportunities reach a bottom line. Winterisation programmes carried out by NGOs try to address the immediate needs of people under stress by providing income opportunities mainly through cash-for-work initiatives. Though these provide important sources of regular income through the winter months and thus enable participants to cope better with attendant difficulties, there seems to be no lasting effect beyond the project end." (Afghanistan Research and Evaluation Unit, April 2006) **[22b] (p4)**

29.16 "Unemployment data is hard to come by in a country where government institutions are still emerging and have limited reach. Government estimates

say about 33 per cent of the working-age population are jobless. Most of the unemployed are returning refugees from Pakistan and Iran, left stranded by the failure of the Afghan economy to pick up. Others swelling the jobless ranks include school and university leavers.

"At a May 29 [2006] press briefing in Kabul, Shengjie Li, the International Labour Organisation's liaison officer, said that many of those without work are women or people with disabilities…

"While Kabul presents a veneer of rapid economic development, with smart new houses and shopping centres springing up in fashionable areas, the changes are largely skin-deep and have not generated large numbers of jobs. In urban centres outside the capital, employment opportunities are even thinner on the ground." (Institute for War and Peace Reporting, 13 July 2006) **[73i]**

29.17 The BBC Online reported on the spoken English language becoming a very important asset in Afghanistan:

"Hundreds of private English-language schools, with tens of thousands of students, are mushrooming all over Afghanistan… Interest in English increased dramatically after the fall of Taleban in 2001 and with the arrival of the United Nations and other international non-governmental organisations (NGOs) involved in developmental work. There are few jobs available in the public sector and the handful of employment opportunities at foreign aid agencies make knowledge of English invaluable. English is not only a requirement to work for a foreign NGO but it is also required for many government jobs." **[25ao]**

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LAND AND PROPERTY DISPUTES

29.18 "Existing mechanisms to ensure security of tenure are either ineffective or do not have mandate to act effectively. From 2002, the Special Land Property Court was established to resolve a large number of property dispute cases; as of January 2007, this court was dissolved and land disputes are now heard in civil courts. Customary forms of adjudication like jirgas and shuras, however, settle most land disputes in Afghanistan. In such cases, customary practice sometimes prevails over state law. This is a problem because customary law often contradicts the principles of equality enshrined in civil law, particularly when it comes to inheritance. On the other hand, shuras often have more accurate records of land ownership than the government, the registries of which are both incomplete and contradictory. Several NGOs interviewed have successfully used shuras to determine ownership of land and settle disputes." (The Afghanistan Independent Human Rights Commission report, December 2008) **[78a] (p40-41)**

29.19 The AIHRC further recorded that:

"HRFM [The Human Rights Field Monitoring survey] respondents reported a number of cases of illegal occupation. Twenty households had their house occupied by government officials; 208 households were forced out of their

homes by unknown individuals; 51 by a 'commander'; 146 by a member of their own community; and, 66 faced problems because they did not have documents to prove the ownership. These problems reflect only a fraction of disputes that require special attention. They are an indication of larger problems: the lack of a land management system, no effective system to resolve disputes, and no facilities for law enforcement." **[78a] (p41)**

29.20 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)**

29.21 IRIN News reported in September 2008 on the return of hundreds of Pashtuns refugees from Pakistan. The refugees who returned to Takar Province accused local people and militias, mostly Uzbek, of seizing their land.

"Returnee families insist they possess formal and traditional documents proving their ownership over disputed properties. 'We are not making false claims,' said an elderly man, Haji Wali Khan. However, their claims were rejected by people who occupy or control the lands. 'We don't accept their deeds ... they've forged documents,' charged a local man, Sayed Hakim. Some Uzbek and Tajik locals also criticised previous governments for alleged arbitrary distribution of public land to Pashtuns. 'Documents issued during the reign of Zahir Shah [1933-1973] are no longer valid here,' said an Uzbek leader, Jamshid." **[36aa]**

29.22 The IRIN article further noted that "President Hamid Karzai appointed a government commission to resolve the land disputes in Takhar Province and to help the reintegration of returnees. However, after several days of heated talks the commission returned to Kabul virtually empty-handed… the

government was intending to clarify property ownership documents via the judiciary after Ramadan." **[36aa]**

(See also Section 32: UNHCR guidelines)

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30. FREEDOM OF MOVEMENT

30.01 The USSD 2007 report, published on 11 March 2008, reported that the law provides for freedom of movement but certain laws limited citizens' movement:

"The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, certain laws limited citizens' movement, and the government limited citizens' movement due to security interests. The greatest restriction to movement in some parts of the country was the lack of security. In many areas insurgent violence, banditry, and landmines made travel extremely dangerous, especially at night. The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

"During the year the parliament amended the passport law to give women the right to apply for a passport without permission from a male relative. In some areas of the country, however, local custom or tradition forbids women from leaving the home except in the company of a male relative.

"Taxi, truck, and bus drivers reported that both security forces and armed militants operated illegal checkpoints and extorted money and goods. The number of such checkpoints increased at night, especially in the border provinces. In Kunduz the customs department had no effective control of the many illegal crossings and claimed the corruption of border police permitted smuggling of drugs, weapons, and other commodities. Residents reported having to pay bribes to ANP and border police officials at checkpoints and border crossings between Jalalabad and Pakistan. The Taliban imposed nightly curfews on the local populace in regions it controlled." **[2h] (section 2d)**

(See also Section 23: Women's participation in public life and institutions for further information on restrictions on movement for women)

30.02 "Attacks on civilians, including the use of suicide bombings, have seriously hurt the security of ordinary Afghans and their ability to exercise basic rights on a daily basis, such as going to market, attending schools, and receiving health care. The Taliban and other armed groups freely travel across the Pakistan-Afghanistan border and use Pakistani territory as shelter from Afghan and international forces." (Human Rights Watch, 27 September 2006) **[17f]**

INTERNAL FLIGHT OR RELOCATION

30.03 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, December 2007 stated that:

"In the context of Afghanistan, UNHCR considers that internal flight or realocation alternative for those fleeing persecution or generalized violence is generally not available. Local commanders and armed groups are often able to extend their influence beyond local areas due to links to more powerful actors, including at the central level. Due to limited capacity and on-going conflict, State authorities are largely unable to provide effective protection from non-state actors.

"Extended family and community structures within Afghanistan society are the predominant means for obtaining protection and economic survival, including access to accommodation. Thus, it is very unlikely that Afghans will be able to lead a relatively normal life without undue hardship upon relocation to an area to which they have no effective links, including in urban areas of the country." **[11a] (P11)**

(See also Section 23: Single women and widows)

MINES AND UNEXPLODED ORDNANCE

30.04 "An estimated 728 square kilometres of land, containing 5,027 hazardous areas with anti-personnel and anti-tank mines and a large number of explosive remnants of war from both the previous and current periods of conflict still require clearance, particularly in the east, north and south-east regions." (UN Security Council, 10 November 2008) **[39d] (p10)**

30.05 The 2007 Afghanistan Landmine Monitor Report stated that:

"Although Afghanistan has the oldest, largest and most richly resourced mine action program in the world, mines and explosive remnants of war (ERW) continue to pose a formidable challenge to social and economic reconstruction, which is critical to the country's political stabilization and to the return of refugees. Contamination affects towns and commercial areas as well as villages, farmland, grazing land and roads; the heaviest contamination and greatest impact is in eastern Afghanistan around Kabul, the northeast and southeast.

"Many years after the 1989 withdrawal of Soviet troops, ensuing civil war and the 2001 fall of the Taliban government, security forces continue to discover huge quantities of abandoned explosive ordnance (AXO) and unexploded ordnance (UXO). The US-led coalition's intervention in late 2001 added considerable UXO to the problem, including large quantities of cluster submunitions, and this was followed by further mine use by non-coalition forces.

"The Afghanistan Landmine Impact Survey (ALIS), completed in 2005, found 2,368 communities and more than four million people affected by mines. It identified some 715 square kilometers of hazardous areas, concentrated in 12 of Afghanistan's 32 provinces. Despite the release of more than 100 square kilometers of land since then, the estimate of contamination has increased, as a result of new survey and information generated by the return of refugees to previously unoccupied land. In its statement to the Standing Committee meetings in April 2007, Afghanistan reported 723 square kilometers of suspected hazardous areas, affecting 2,387 communities and 17 percent of the population. Updated estimates at the end of May 2007 put total contamination even higher - 778 square kilometers." **[14a] (p5-6)**

30.06 "The Afghanistan Compact sets benchmarks for the clearance of areas contaminated by land mines. It indicates that by the end of 2010, in line with Afghanistan's Ottawa Convention obligations, the land area contaminated by mines and unexploded ordnances will be reduced by 70 percent; all stockpiled anti-personnel mines will be located and destroyed by end-2007; and by end-2010, all unsafe, unserviceable and surplus ammunition will be destroyed.

(UNHCR, December 2007) **[11a]** However, the Afghanistan Landmine Monitor Report, 2007 recorded that "Afghanistan was unable to meet its 1 March 2007 deadline for stockpile destruction. In April 2007 it told States Parties that while it had destroyed 486,226 stockpiled antipersonnel mines, two depots of antipersonnel mines still remained in Panjsheer province, about 150 kilometers north of Kabul. The provincial authorities apparently did not make the mines available for destruction in a timely fashion." **[14a] (p4)**

30.07 An IRIN News article dated 13 November 2008 reported on the dangers of unexploded ordnance in returnees' settlements, in Baghlan and Nangarhar Provinces. The article recorded that:

"UXOs and explosive remnants of war have also been reported in other returnees' settlements in the eastern provinces of Nangarhar and Kunar. Hundreds of thousands have returned there in the past few years. 'About 200 metres from our settlement the area is full of landmines and explosive devices which often kill animals,' said Mohammad Afzal, a resident of a settlement in Nangahar Province. Provincial officials said mine-clearing agencies had been asked to re-examine areas in Baghlan and Nangarhar provinces for any hazardous explosives. The Refugees and Returnees' Ministry, however, said it allocated settlement sites for landless returnees after mine-clearing agencies declared those areas risk-free." **[36h]**

(See also Section 22: Disability)

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31. RETURNING AFGHAN REFUGEES AND INTERNALLY DISPLACED PEOPLE (IDPS)

31.01 "More than 5 million Afghan refugees – 20 percent of Afghanistan's population – have returned home since 2002. The large majority have gone back to their areas of origin, but recent returnees are facing more difficulties as the country's absorption capacity reaches its current limits.

"Some – including 30,000 returnees now living under tents in the eastern region – are unable to return to their villages due to insecurity, a lack of land, shelter, basic services or job opportunities. These challenges have been compounded by a food crisis and severe drought, forcing thousands of desperate families to leave their homes for other districts, even for neighbouring Iran and Pakistan." (UNHCR, 19 November 2008) **[11e]**

31.02 The Afghanistan Independent Human Rights Commission report, December 2008, stated that "The fate of Afghan refugees is dependent on negotiations between the governments of Afghanistan, Pakistan and Iran and UNHCR. According to the Ministry of Returnees and Reintegration (MoRR), Afghanistan cannot accept any further returnees from Iran or Pakistan due to the lack of economic opportunities and the government's inability to provide them with basic services and infrastructure…." **[78a] (p46)** However, "[t]he government of Pakistan wishes to repatriate as many Afghan refugees as possible, and wishes to close all its refugee camps for Afghans. In 2006, Pakistan announced its intention to repatriate 900,000 refugees to Afghanistan per year, a decision opposed by UNHCR and the government of Afghanistan. The same year, it planned to close two camps in the North-West Frontier Province (NWFP) and two camps in Balochistan. As of March 2008, only the NWFP camps (Jalazai and Kachagari) had been shut down." (AIHRC, December 2008) **[78a] (p46)**

31.03 The AIHRC report further stated that:

"The status of Afghan refugees in Iran is no less precarious. Previously, refugees were repatriated at a slower rate. From 2001 to 2006, it is estimated that 833,000 Afghans living in Iran were able to return, leaving a population of 920,000 registered refugees in the country. However, several areas within Iran were declared off-limits to foreigners, including Afghans registered as refugees. Since there has been a near-continuous migration to Iran for the past 30 years, many Afghans have settled in these no-go areas. The real problem arises because the Iranian government is currently in process of reregistering its refugees and no registration centers are set up in areas considered offlimits to foreigners. If Afghans in these areas are not re-registered, their refugee status will be revoked and they will be subject to deportation. Iran's policy both on labor migrants and refugees has become considerably more restrictive in the past several years. In 2001, Iran began its program to deport all those without a work permit. Though the vast majority of Iranian deportees are not refugees, genuine refugees often get caught up in the process." **[78a] (p46)**

31.04 The Foreign and Commonwealth Profile of Afghanistan, updated in November 2008 stated that:

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"The Ministry of Refugees and Repatriation (MORR) leads the Government of the Islamic Republic of Afghanistan in assisting its citizens in returning from exile. The United Nations High Commissioner for Refugees (UNHCR) leads the international community's response, in coordination with the International Organization of Migration (IOM), United Nations Children's Fund (UNICEF), the World Food Program (WFP), the World Health Organization (WHO), and a number of other national and international NGOs and donors. As of November 2008, approximately 3 million Afghans remained in neighboring countries. The U.S. provided more than $500 million in support to Afghan refugees, returnees, and other conflict victims between September 2001 and November 2008." **[2e] (p11-12)**

(See also Section 20: Pashtuns for more information on Pashtuns returning to the north)

31.05 The UN Secretary-General's report of 6 March 2008 stated that:

"In 2007, 365,410 Afghans voluntarily returned to Afghanistan, bringing the overall assisted repatriation figure since 2002 to 4,090,602. There are indications, however, that the rate of voluntary repatriation will be difficult to sustain in the future owing to a combination of deteriorating security, limited economic and social opportunities and the fact that over 80 per cent of the estimated remaining 2.8 million Afghan refugees have been in exile for over two decades. In recognition of this complex challenge, at its sixth meeting the Joint Coordination and Monitoring Board endorsed the proposal of the Government of Afghanistan to hold an international conference on return and reintegration in 2008." **[39b] (p12-13)**

31.06 "Nearly two million Afghan refugees have returned to their country, mostly from Pakistan. But the United Nations continues to report the presence of three to four million Afghan refugees in Pakistan and Iran. Between April and June the Iranian government forcibly deported nearly 100,000 registered and unregistered Afghans living and working in Iran." (HRW, 2008) **[17a]**

31.07 Iran is to start deporting over one million unregistered Afghans, Seyyed Taghi Ghaemi, director of the Iranian bureau for aliens and foreign immigrants, informed IRIN News: "We will deport them from Iran as we encounter them." But he did not specify whether all unregistered Afghans would be removed from Iran in 2008. **[36l]** "Many Afghans - most of them single males - illegally cross the border into Iran in search of work, according to the Afghanistan Research and Evaluation Unit (AREU), an independent Kabul-based research organisation. Remittances from Afghans working in Iran provide a lifeline to many vulnerable families in Afghanistan, AREU says. Cheap Afghan labour is also considered to be beneficial to Iran and Pakistan, where Afghans are widely employed in the construction industry." (IRIN News, 4 March 2008) **[36l]**

31.08 However, Radio Free Afghanistan report on 10 January 2008 that:

"Amid a violent insurgency in its south, Afghanistan is finding it hard to cope with thousands of internally displaced people as well as millions of former refugees repatriated from Pakistan and Iran.

"Most of them have congregated in the already overburdened capital, Kabul, and other cities, adding to unemployment and housing problems. Thousands live in tents and makeshift homes on city outskirts, or rent places in the poorest areas.

"Since 2002, some 4 million refugees have returned to Afghanistan under a coordinated voluntary repatriation of refugees from Iran and Pakistan. They receive limited assistance from the UNHCR to resettle in their homeland." **[29c]**

31. 09 An Oxfam research report, dated February 2008 stated that:

"Waves of displacement, both internally and beyond, have placed additional pressure on communities that have been forced to accommodate large numbers of newcomers or returnees. Disputes arise when returnees seek to reclaim their land or other property, and social and cultural difficulties can be caused by the fact that many returnees acquire different attitudes or mindsets as a result of their experiences overseas. Some four million Afghans have returned to Afghanistan since 2002…" **[75]**

31.10 IRIN News reported in January 2009 that:

"The Ministry of Refugees and Returnees (MoRR) said about 770 IDP families (about 4,620 people) were living in the Charahi Qambar area of Kabul. More than 200 families have sought refuge in the informal camp from the southern provinces of Helmand, Zabul and Uruzgan, according to camp residents. The camp is home to dozens of impoverished Kuchis (nomads), vulnerable returnees from Pakistan and conflict-affected households from different parts of the country. Kabul is over 700km from Helmand Province and a difficult choice for IDPs who usually go to nearby areas or travel to Pakistan. Most IDPs in the camp said they had hardly anything to eat and lacked access to safe drinking water and medical care. Lack of shelter and the inability to keep warm in the winter were also cited as major problems. Some survive on donations and support from sympathising local residents." **[36i]**

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32. UNHCR GUIDELINES ON THOSE AFGHANS WHO MAY BE AT RISK

32.01 UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, dated December 2007 provided a summary of those main groups considered to be at risk:

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

Afghans expressing their political opinions are exposed to risk if these opinions are perceived as opposing the interests of local and regional commanders, powerful factions or armed opposition forces, primarily the Taliban and forces allied with the Taliban movement or with veteran Pashtun warlord Gulbuddin Hekhmatyar's groups. These risks extend but are not limited to journalists and those persons known to have political affiliations different from those of persons linked to armed factions exercising de facto power at the local level.

(See also Section 11: Non-Government Armed Forces)

"*Government officials*

Government officials, including local and district officers, judges, and law enforcement personnel are increasingly targeted for intimidation and assassination, particularly in areas where the government's presence is limited. Targets at times receive 'night letters' warning them of attacks if they continue working for the Government or cooperating with international forces.

"*Ethnic minorities in certain areas*

Continuing efforts to address the problems faced by persons residing in areas where they constitute an ethnic minority are reflected in a more tolerant climate in some localities. However, such minorities may still face persecutory acts, such as physical abuse and detention, or discrimination amounting to persecution by local power-holders in some areas. Where it occurs, discrimination often manifests itself in terms of access to education and other services, political representation and with regard to land and property.

(See also Section 20: Ethnic Groups)

"*Converts from Islam to other faiths*

Afghans suspected or accused of having converted from Islam to Christianity or other faiths risk persecution. The risk emanates from family and/or tribe members as well as the broader community. Severe punishment within the legal system is also possible for those who do not recant their conversion.

(See also Section 19: Freedom of Religion – Converts and Christians)

"*Women with specific profiles*

Afghan women, both in urban and rural areas, must conform to conservative and traditional norms of behaviour in order to be safe from physical and

psychological violence or abuse. Those at heightened risk include women who are perceived as or actually transgressing prevailing social mores, foreign wives of Afghans, and women without male protection. Single women without male protection, (husband, father, brother or extended family member) will have difficulty both in sustaining themselves, given social restrictions on travelling in public without a male escort in many areas, as well as physical protection problems. Women who suffer domestic violence and are fortunate enough to find accommodation in one of the few shelters available are unable to be integrated elsewhere in the country. Without an alternative durable solution, most eventually return to their family after assurances of safety have been negotiated. This situation reflects the inability for single women to reside safely in Afghanistan without a male family member to provide the traditional protection function.

(See also Section 23: Women)

"*Unaccompanied children*

Unaccompanied children in Afghanistan are at particular risk of violence and exploitation, including child trafficking and child labour. The government does not have the capacity to provide protection or shelter for all those at risk. Those children without at least extended family support in Afghanistan are likely to experience homelessness and abuse.

(See also Section 24: Children)

"*Victims of serious trauma (including sexual violence)*

There is very limited psychosocial trauma support in Afghanistan. Further, in more conservative areas, social mores leave victims of rape or other sexual abuse subject to family rejection and social ostracism and, thus, to the loss of traditional protection mechanisms. Victims of such trauma may thus risk further maltreatment if their being a victim of sexual violence becomes known.

(See also Section 23: Women - Violence against women and girls)

"*Individuals at risk or victims of harmful traditional practices*

Harmful traditional practices in Afghanistan, including forced and early marriage, honour killings, detention for behaviour not formally criminalised under national law, and blood feuds, impact both men and women though the latter are disproportionately affected. Women without effective male or family-support and single women of marriageable age are uncommon in Afghanistan, and continue to be viewed with some suspicion. 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 and social status. This exposes them to an increased risk of abuse, threats, harassment and intimidation by Afghan men, including risk of being kidnapped, sexually abused and raped. In the majority of these cases, the Government is not in a position to effectively protect women.

(See also Section 23: Women)

"*Homosexuals*

Open homosexual relations are not possible in Afghanistan given conservative social mores. In addition to gays and lesbians risking violence from family or community members, most interpretations of the applicable criminal law indicate that homosexual acts would lead to severe punishment were they to come to the attention of authorities.

(See also Section 21: Lesbian, Gay, Bisexual and transgender Persons)

"*Afghans associated with international organizations and security forces*

Afghans working or associated with international organizations and security forces, in areas where there are anti-Government insurgent activities or infiltrations of Taliban and Hezb-e-Islami forces, are at increasing risk of being targeted.

Those attacked include civilian workers, such as truck drivers or construction workers, as well as interpreters, humanitarian workers and journalists.

(See also Section 18: Human Rights Institutions, Organisations and Activists - Afghans working for international organisations and international security forces)

"*Landowners*

Landowners seeking restitution or compensation for land or property taken by powerful commanders or local authorities risk violence and/or detention unless they have political, tribal or family protection. Court decisions supporting the legal rights of such property owners do not translate into effective national protection, which depends on the local authorities' ability and willingness to assist in such disputes.

(See also Section 29: Humanitarian Issues – Land and Property Disputes)

"*Afghans associated with the People's Democratic Party of Afghanistan*

While many former PDPA members and officials of the former communist regime are able to enjoy protection through family, tribal or political ties, others, unable to rely on community links to provide protection, remain at risk due to their prior political affiliation. Such risk extends to high ranking or publicly known PDPA figures, their family members, as well as security officials. While at particular threat of retaliatory violence are those associated with human rights violations perpetrated by the Communist regime, asylum applications of those who served in the military, police and security service, as well as some high ranking party and officials in particular ministries, will require scrutiny under the exclusion clauses under the 1951 Convention."
[11a] (p8-10)

(See also Section 16: Political Affiliation - Former members of the PDPA (Peoples Democratic Party of Afghanistan)

For more information on the categories in this section, see Section 16: Treatment of former KhAD members and Former members of the PDPA;

Section 23: Women; Section 17: Freedom of speech and media; Section 20: Pashtuns; Section 11: Former Taliban members, Persons in conflict with present power brokers and War crimes and human rights abuses prior to 2001; Section 19: Ismailis, Sikhs and Hindus and Converts and Christians; Section 21: Lesbian, gay, bisexual and transgender persons; Section 28: Land and property disputes.

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UNHCR GUIDELINES ON RETURN TO AFGHANISTAN

32.02 "Given the open conflict in Afghanistan, increasing frequency of indiscriminate attacks on civilians and the lack of national protection available, there will be cases in which the granting of international protection is warranted even in the absence of a specific link to the criteria enumerated in the 1951 Convention. Section III discusses this situation, listing the security risks entailed. In this context, it should be noted that access to conflict-affected regions is severely curtailed for United Nations' staff, affecting monitoring, project implementation and protection activities." (UNHCR, December 2007) **[11a] (p8-10)**

32.03 The UNHCR report of 2007 also stated that:

"Given the long history of serious and widespread human rights abuse and violations of international humanitarian law in Afghanistan, exclusion considerations may well arise in individual claims for refugee status. Such scrutiny should take place on an individual basis and only after it is determined that the applicant meets the criteria for refugee protection as outlined herein. As noted above, this is particularly the case for Afghans associated with the military, police, security services and high-ranking Government officials of particular ministries during the Taraki, Hafizullah Amin, Babrak Karmal, and Najibullah regimes.

"Many of the activities of members of armed groups resisting the communist regimes and the Soviet occupation – from 27 April 1978 until the fall of Najibullah in April 1992 – amounted to war crimes and crimes against humanity, both against combatants of rival factions and against civilians. Similarly, between 1992 and 1996 armed conflict between various factions was also accompanied by serious violations of international human rights law and humanitarian law.

"The applicability of the exclusion clauses will need to be evaluated also in relation to members and military commanders of the Taliban, Hezb-e-Islami Hikmatyar and other armed groups currently involved in Afghanistan's insurgency." **[11a] (p10)**

32.04 The report further stated that "… UNHCR urges States to exercise caution, for humanitarian reasons, when considering return for those with very specific vulnerabilities. Return and reintegration will not be viable, unless family and/or community support is available, for single parents with small children, the elderly and ill or disabled persons who cannot work." **[11a] (p10)**

(See Section 27: Medical Issues – Women and children for more detailed information on the situation for people who fall into these categories)

The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Afghan Asylum-Seekers, published December 2007, can be located at: http://www.unhcr.org/refworld/pdfid/477ce70a2.pdf

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33. CITIZENSHIP AND NATIONALITY

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

"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.
- 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)**

33.02 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]**

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33.03 The Danish fact-finding mission of March/April 2004 reported in November 2004 that, according to UNHCR:

"… 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]. 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)**

33.04 "Afghanistan does recognize dual citizenship. However, the decision, made back [sic] three years ago, remains void of any bilateral or multilateral enforcement bearing as it has been adopted solely by the Government of Afghanistan. The decision principally aims to facilitate and ultimately pave the way for the return of expatriates including refugees abroad to Afghanistan and to get them engaged in the ongoing political and reconstruction processes. The Government has yet to establish regulatory and even statutory frameworks to define legal parameters of the issue both domestically and within the context of bilateral relations involving other States, and for that matter Pakistan. At present, laws and rights of Afghan nationals for dual Afghanistan-Pakistan citizenship remains pending…

"Children born in countries other than the country of origin, including Pakistan, to father or mother or both, who are Afghanistan citizens are considered entitled to Afghanistan citizenship. In fact, the prevailing acts on citizenship in Afghanistan provide that citizenship is hereditary and a child born to either or both Afghan parents anywhere would automatically acquire Afghanistan citizenship.

"However, according to information provided by the High Commission of Pakistan, in Ottawa, Pakistan does not recognize dual nationality with Afghanistan, and although the child of parents who are Afghan citizens may have been born in Pakistan, he/she is not be [sic] entitled to Pakistani citizenship (25 Feb. 2005)." (Research Directorate, Immigration and Refugee Board, Canada, February 2005) **[77a]**

IDENTITY CARDS

33.05 "Article 47 of Afghan Civil Code stated that, a person's civil status shall be marked down in identity card and shall be given to him/ her upon his demand. The identity card shall contain the name, family name, the birth date and birth place, occupation, nationality, place of domicile, name of the spouse and

name of the children together with their dates and places of birth." (Economic and Social Rights Report in Afghanistan-III, December 2008) **[78a] (p31-32)**

33.06 The Research Directorate, Immigration and Refugee Board of Canada, recorded on 18 December 2007 that:

"In 16 April 2006 correspondence, a representative of the Afghanistan Research and Evaluation Unit (AREU) - a donor-funded, Kabul-based research organization (AREU n.d.) - indicated that tazkiras [identity documents] are much more common than passports. The Representative stated that about 70 percent of Afghans have such documents (AREU 16 Apr. 2006). Similarly, the report of a Finnish fact-finding mission to Afghanistan states that the taskira (referred to in the report as Tashkera) is the most commonly used identity document in Afghanistan (Finland Sept. 2006, 36). The United States (US)-issued Reciprocity Schedule states that the taskera is 'the most universal and accurate document in Afghanistan' (US n.d.). According to the AREU Representative, the identity cards 'are required for transacting any business with the government, including the purchase or sale of immovable property, the preparation of official documents (including the passports), admission into school and so on' (AREU 16 Apr. 2006)." **[77b]**

33.07 Furthermore the Refugee Board of Canada recorded that:

"In 7 April 2006 correspondence, the Counsellor of the Embassy of Afghanistan in Ottawa informed the Research Directorate that there are two kinds of identity cards still in circulation in Afghanistan: tazkiras (identity cards) and tazkira certificates. According to the Counsellor, in 1990 or 1992 the Afghan government stopped issuing the tazkira, which is a 20-page identity document, and replaced it with a tazkira certificate, which is only one page that includes the minimum essential information: name of the person, father's name, grandfather's name, date of birth (according to the Hijri calendar) and birthplace (Afghanistan 7 Apr. 2006)." **[77b]**

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DOCUMENTS AND REGISTRATION OF BIRTHS AND MARRIAGES

33.08 "Birth certificates are under the remit of the Ministry of Interior.… Currently, most maternity hospitals in Kabul offer birth certificates, but it is hard to reach mothers who deliver at home. Registration facilities are available only in provincial centers. Using vaccination drives as a means to promote birth registration is a good idea; however, medical workers struggle to access insecure and remote areas. A more comprehensive strategy is needed to achieve the target of having all newborns register by the end of 2009… Official statistics state that less than 1% of the population has birth certificates." (Economic and Social Rights Report in Afghanistan-III, December 2008) **[78a] (p31-32)**

33.09 "The marriage certificate includes registration procedures, marriage contract, and the responsibilities of the parties. The 1976 Civil Law of Afghanistan in article 61 says that all marriages must be registered. To date, however, there has been no enforcement mechanism to make marriage and divorce registration a routine process. There are arguments that the more traditional areas resist the registration procedure to avoid exposing women's identities.

However, there is no substantial evidence available to support this. Drawing on the experience of the Presidential elections where a significant number of women were registered to vote the main barrier to compliance is in inaccessibility of the registrars rather than in active resistance." (Economic and Social Rights Report in Afghanistan-III, December 2008) **[78a] (p34)**

33.10 The US State Department 2007 report published on 11 March 2008 recorded that "During the year the parliament amended the passport law to give women the right to apply for a passport without permission from a male relative. In some areas of the country, however, local custom or tradition forbids women from leaving the home except in the company of a male relative." **[2h] (Section 2d)**

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34. EMPLOYMENT RIGHTS

34.01 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]**

34.02 "The law provides broad provisions for protection of workers; however, little was known about their enforcement. In January [2007] the parliament passed a new labor law. Implementation remained a problem due to lack of funding, personnel, and political will. 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 largest employers in Kabul were the ministries and local and international NGOs. The labor law does allow unionization and the formation of associations." (USSD report 2007) **[2h] (Section 6a)**

34.03 "…. The new [Labor] law does not provide for the right to strike, and the country lacked a tradition of genuine labor-management bargaining. The law did not protect collective 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." (USSD report 2007) **[2h] (Section 6b)**

34.04 "No reliable information existed regarding a statutory minimum wage or maximum workweek or the enforcement of safe labor practices. The national minimum wage of approximately $1,000 (5,000 AFD) per month did not provide a decent standard of living for a worker and family and was not observed in practice. Many employers allotted workers time off for prayers and observance of religious holidays…. Article 30 of the Labor Rights Law defines the standard workweek as 40 hours per week, eight hours per day with one hour for lunch and noon prayers. Reduced standard workweeks were stipulated for youth, pregnant women, nursing mothers, and miners and other occupations that present health risks to laborers. These standards were not effectively enforced, and citizens were not generally aware of the full extent of their labor rights under the law…. There were no occupational health and safety standards and no enforcement mechanism. Employment was at-will, and while there was a Ministry of Work and Social Affairs, there were few if any protections for workers under either the 1987 or the new laws." (USSD report 2007) **[2h] (Section 6b)**

34.05 "The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. There were reports of women being given away as laborers to another family in order to settle disputes and debts." (USSD report 2007) **[2h] (Section 6c)**

34.06 "Children under 13 may not work under any circumstances. The law recognizes the standard legal age for work as 15, but there are provisions for 13- and 14-year-olds to work as apprentices, provided they only work 35 hours per week. There was no evidence that authorities in any part of the country enforced labor laws relating to the employment of children. Child labor remained a pervasive problem. According to UNICEF estimates, at least 20 percent of primary school age children undertook some form of work and there

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were more than one million child laborers under age 14. An AIHRC report released in 2006 estimated that most child laborers worked as street vendors (13 percent) or shop keepers (21 percent). Other common forms of labor were workshop labor, blacksmiths, farming, auto repair, and tailoring. In cities, a larger proportion of child laborers were involved in collecting paper, scrap metal, and firewood; shining shoes; and begging. Some of these practices exposed children to the danger of landmines. Boys comprised 86 percent of child laborers.

"AIHRC reported approximately 60,000 child laborers in Kabul alone, the majority of whom migrated to the city from other provinces. Many employers subjected them to sexual exploitation and forced labor. UNHCR noted that Jalalabad and Mazar-e-Sharif also had large numbers of child laborers. According to Save the Children, there were up to 5,000 child laborers working in brick factories in Nangarhar. Children faced numerous health and safety risks at work and some of them sustained serious injuries such as broken bones." (USSD report 2007) **[2h] (Section 6d)**

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Annex A: Chronology of major events

Source **(BBC Timeline) [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.] **[1f] (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 Mujahedin 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 **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 **Februar**y: 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.

2006 **January:** More than 30 people are killed in a series of suicide attacks in southern Kandahar province.
February: International donors meeting in London pledge more than $10bn (£5.7bn) in reconstruction aid over five years.
May: Violent anti-US protests in Kabul, the worst since the fall of the Taleban in 2001, erupt after a US military vehicle crashes and kills several people.
May–June: Scores of people are killed in battles between Taleban fighters and Afghan and coalition forces in the south during an offensive known as Operation Mountain Thrust.
October: NATO assumes responsibility for security across the whole of Afghanistan.

2007 **March:** Mullah Obaidullah Akhund, the third most senior member of the Taleban's leadership council is arrested, according to Pakistan authorites.
Afghan President Hamid Karzai signs a controversial bill which providsweeping amnesty for war crimes committed over more than two decades of conflict in Afghanistan.
May: Taleban's most senior military commander, Mullah Dadullah, is killed during fighting with US, Afghan forces.
Afghan and Pakistani troops clash on the border in the worst violence in decades in a simmering border dispute.
July: Former king Zahir Shah dies.
November: Forty-one people killed after suicide attack on a parliamentary delegation in Baghlan.

2008 **February:** Prince Harry's tour of duty in Afghanistan comes to an end after spending ten weeks on the front-line in Helmand Province.
June: 350 Taleban militants break out of Kandahar prison.
July: More than 40 are killed in suicide attack on Indian Embassy in Kabul.
British Defence Secretary Des Browne announces British troop numbers in Afghanistan to increase by 230 to new high of more than 8,000 by spring 2009.
August: Ten French soldiers killed in an ambush by Taleban fighters.
President Karzai accuses Afghan and US-led coalition forces of killing at least 89 civilians in an air strike in the western province of Herat. He later sacks two senior military commanders over the strike.
September: President Bush sends an extra 4,500 US troops to Afghanistan, in a move he described as a 'quiet surge'.
2008 October - Germany extends Afghanistan mission to 2009 and boosts troop numbers in Afghanistan by 1,000, to 4,500.
November: Taleban militants reject an offer of peace talks from President Karzai, saying there can be no negotiations until foreign troops leave Afghanistan.
December: President Karzai and new Pakistani President Asif Ali Zardari agree to form joint strategy to fight militants operating in their border regions.

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Annex B: Political organisations and other groups

In September 2003 a new law allowing the formation of political parties was passed. By July 2007 more than 80 parties were registered with the Ministry of Justice. (Europa Online, accessed 8 August 2008) **[1e] (Political Organisations)**

REGISTERED POLITICAL PARTIES

The Ministry of Justice website provided an undated list of licensed political parties in Afghanistan, which recounted 84 parties when accessed on 6 August 2008. **[65a]**

1 **Republican Party (Hizb-e Jamhuri Khwahan)**
Leader: Sibghatullah Sanjar

2 **National Unity Movement (Tahrik-e Wahdat-e Melli)**
Leader: Sultan Mahmood Ghazi

3 **Freedom Party of Afghanistan (Hizb-e-Istiqlal-e-Afghanistan)**
Leader: Ghulam Farooq Najrabi

4 **Youth Solidarity Party of Afghanistan (Hizb-e Hambastagi-ye Melli-ye Jawanan-e Afghanistan)**
Leader: Mohammad Jamil Karzai

5 **National Unity Party of Afghanistan (Hizb-e Wahdat-e Melli-ye Afghanistan)**
Leader: Abdul Rasheed 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)**)

6 **National Tribal Unity Islamic Party of Afghanistan (Hizb-e Melli-ye Wahdat-e Aqwam-e Islami-ye Afghanistan)**
Leader: Mohammad Shah Khugianay

7 **Labor and Progress of Afghanistan Party (Hizb-e Kar wa Tawse'a-e Afghanistan)**
Leader: Zulfiqar Omid

8 **National Solidarity Movement of Afghanistan (Nahzat-e Hambastagi-ye Melli-ye Afghanistan)**
Leader: Pir Sayyad Ishaq Gailani

9 **National Islamic Front of Afghanistan (Mahaz-e Melli-ye Islami-ye Afghanistan)**
Leader: Sayyad Ahmad Gailani

10 **Freedom and Democracy Movement of Afghanistan (Nahzat-e Azadi wa Demokrasi-ye Afghanistan)**
Leader: Abdul Raqib Jawed Kohestani

11 **Afghan Social Democratic Party (Afghan Mellat)**

Leader: Anwar al-Haq Ahadi

12 **Islamic Movement of Afghanistan (Harakat-e Islami-ye Afghanistan)**
Leader: Mohammad Ali Jawed

13 **United Afghanistan Party (Hizb-e Afghanistan-e Wahid)**
Leader: Mohammad Wasel Rahimi

14 **People's Welfare Party of Afghanistan (Hizb-e Sahadat-e Mardum-e Afghanistan)**
Leader: Mohammad Zubair Payroz

15 **National Unity Movement of Afghanistan (Hizb-e Harakat-e Melli-ye Wahdat-e Afghanistan)**
Leader: Mohammad Nader Atash

16 **Human Rights Protection and Development Party of Afghanistan (Hizb-e Hifazat az Hoquq-e Bashar wa Inkeshaf-e Afghanistan)**
Leader: Baryalai Nasrati

17 **National Party of Afghanistan (Hizb-e Melli-ye 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)**)

18 **National Congress Party of Afghanistan (Hizb-e Kongra-ye Melli-ye Afghanistan)**
Leader: Abdul Latif Pedram

19 **Peace Movement (Da Afghanistan Da Solay Ghorzang Gond)**
Leader: Shahnawaz Tanai

20 **Islamic People's Movement of Afghanistan (Hizb-e Harak-e Islami-ye Mardum-e Afghanistan)**
Leader: Al-Hajj Sayyed Hosain Anwari

21 **Islamic Justice Party of Afghanistan (Hizb-e Adalat-e Islami-ye Afghanistan)**
Leader: Mohammad Kabir Marzban

22 **People's Message Party of Afghanistan (Hizb-e Risalat-e Mardum-e Afghanistan)**
Leader: Noor Aqa Wainee

23 **People's Welfare Party of Afghanistan (Hizb-e Refah-e Mardum-e Afghanistan)**
Leader: Miagul Waseq

24 **National Peace & Unity Party of Afghanistan (Hizb-e Sulh wa Wahdat-e Melli-ye Afghanistan)**
Leader: Abdul Qader Imami

25 **Understanding and Democracy Party of Afghanistan (Hizb-e Tafahum-e wa Demokrasi-ye Afghanistan)**
Leader: Ahmad Shaheen

26 Young Afghanistan's Islamic Organization (Sazman-e Islami-ye Afghanistan-e Jawan)
Leader: Sayyed Jawad Husaini

27 National Peace & Islamic Party of the Tribes of Afghanistan (Hizb-e Sulh-e Melli-ye Islami-ye Aqwam-e Afghanistan)
Leader: Abdul Qaher Shari'ati

28 Islamic Unity Party of Afghanistan (Hizb-e Wahdat-e Islami-ye 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 29 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)**

29 Islamic Unity Party of the People of Afghanistan (Hizb-e Wahdat-e Islami-ye Mardum-e Afghanistan)
Leader: Haji Mohammad Mohaqeq (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)**

30 People's Liberal Freedom Seekers Party of Afghanistan (Hizb-e Libral-e Azadi-ye Khwa-e Mardum-e Afghanistan)
Leader: Ajmal Sohail

31 People's Prosperity Party of Afghanistan (Hizb-e Falah-e Mardum-e Afghanistan)
Leader: Ustad Mohammad Zareef

32 Solidarity Party of Afghanistan (Hizb-e Hambastagi Afghanistan)
Leader: Abdul Khaleq Ne'mat

33 Afghan Society for the Call to the Koran and Sunna (Jama'at al-Da'wat il'l Qur'an wa Sunnat al-Afghanistan)
Leader: Mawlawi Sami'ullah Najibi

34 National Movement of Afghanistan (Hizb-e Nahzat-e Melli-ye Afghanistan)
Leader: Ahmad Wali Masood

35 National Peace Islamic Party of Afghanistan (Da Afghanistan Da Solay Melli Islami Gond)
Leader: Shah Mahmud Popalzai

36 People's Aspirations Party of Afghanistan (Hizb-e Arman-e Mardum-e Afghanistan)

Leader: Al-Hajj Sirajuddeen Zafari

37 National Solidarity Party of Afghanistan (Hizb-e Paiwand-e Melli-ye Afghanistan)
Leader: Sayyed Mansur Naderi

38 National Prosperity and Islamic Party of Afghanistan (Hizb-e Sahadat-e Melli wa Islami-ye Afghanistan)
Leader: Mohammad Osman Salekzada

39 Freedom Party of Afghanistan (Hizb-e Azadi-ye Afghanistan)
Leader: Abdul Malik

40 People's Uprising Party of Afghanistan (Hizb-e Rastakhaiz-e Mardum-e Afghanistan)
Leader: Sayyed Zaher Qaydam Al-beladi

41 Peace and National Welfare Activists Society (Majmah-e Melli-ye Fahalin-e Sulh-e Afghanistan)
Leader: Shams al-Haq Nur Shams

42 Islamic Party of the Afghan Land (Da Afghan Watan Islami Gond)
Leader: Mohammad Hassan Ferozkhel

43 People's Freedom Seekers Party of Afghanistan (Hizb-e Azadi-ye Khwa-e Mardum-e Afghanistan)
Leader: Fida Mohammad Ehsass

44 Muslim Unity Movement Party of Afghanistan (Hizb-e Wahdat-ul-Muslimeen Afghanistan)
Leader: Wazir Mohammad Wahdat

45 Tribes Solidarity Party of Afghanistan Hizb-e Hambastagi-ye Melli-ye Aqwam-e Afghanistan)
Leader: Mohammad Zareef Naseri

46 National Islamic Moderation Party of Afghanistan (Hizb-e Etedaal Melli Islami ye Afghanistan)
Leader: Qara Baik Izadyar

47 National Development Party of Afghanistan (Hizb-e Taraqi Melli ye Afghanistan)
Leader: Dr. Assef Baktash

48 National Independence Party of Afghanistan (Hezb-e-Isteqlal Milli Afghanistan)
Leader: Taj Mohammad Wardak

50 National Islamic Unity Party of Afghanistan (Hizb-e Wahdat-e Melli-ye Islami-ye Afghanistan)
Leader: Mohammad Akbari

51 People's Sovereignty Movement of Afghanistan (Nahzat-e Hakimyat-e Mardum-e Afghanistan)

Leader: Hayatullah Subhani

52 National Islamic Movement of Afghanistan (Hizb-e Junbish-e-Melli-ye Afghanistan)
Leader: Sayed Noorullah **[65a]** (formerly General Abdul Rashid Dostam [Dostum] until 17 April 2005) **[40b]**
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. **[1f]** 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]**

53 Islamic Unity of the Nation of Afghanistan Party (Hizb-e Wahdat-e-Islami Millat-e-Afghanistan)
Leader: Qurban Ali Irfani

54 Elites People of Afghanistan Party (Hib-e Nukhbagan-e Mardum-e-Afghanistan)
Leader: Abdul Hamid Jawaad

55 National Country Party
Leader: Ghulam Mohammad

56 National Freedom Seekers Party (Hizb-e-Azaadi Khwahan-e-Maihan)
Leader: Abdul Hadi Dabeer

57 National Patch of Afghanistan Party (Hib-e-Paiwand-e-Mehanee Afghanistan)
Leader: Sayyed Kamal Sadaat

58 Islamic Society of Afghanistan (Jami'at-e Islami-ye Afghanistan)
Leader: Ustad Rabbani

59 Afghanistan's Islamic Mission Organization (Tanzim-e Dahwat-e Islami-ye Afghanistan)
Leader: Abdul Rabb Rasool Sayyaf

61 People's Party of Afghanistan (Hizb-e Mardum-e Afghanistan)
Leader: Ahmad Shah Asar

62 National Stability Party (Hizb-e Subat-e Melli)
Leader: Mohammad Sami Kharotai

63 National Islamic Fighters Party of Afghanistan (Da Afghanistan Da Melli Mubarizinu Islami Gond)
Leader: Amanat Nangarhari

64 Democratic Party of Afghanistan (Hizb-e-Democrat-e-Afghanistan)
Leader: Abdul Kabir Ranjbar

65 People's Movement of the National Unity of Afghanistan (Da Afghanistan da Melli Wahdat Wolesi Tahreek)
Leader: Abdul Hakim Noorzai

66 National Sovereignty Party (Hizb-e-Iqtedar Melli)
Leader: Sayyed Mustafa Kazimi

67 New Afghanistan Party (Hezb-e-Afghanistan Naween)
Leader: Mohammad Yunis Qanuni

68 National Prosperity Party (Hizb-e Refah-e Melli)
Leader: Mohammad Hasan Jahfari

69 National Stance Party (Hizb-e-Melli Dareez)
Leader: Habibullah Janebdar

70 Afghanistan's Welfare Party (Hizb-e Refah-e Afghanistan)
Leader: Mir Mohammad Asef Za'ifi

71 Afghanistan's Islamic Nation Party (Hizb-e-Umat-e-Islami Afghanistan)
Leader: Tooran (Captain) Noor Aqa Ahmadzai

72 Afghanistan's National Islamic Party (Hizb-e-Melli Islami Afghanistan)
Leader: Ruhullah Ludin

73 The People of Afghanistan's Democratic Movement (Hizb-e-Junbish-Democracy Mardum-e-Afghanistan)
Leader: Mohammad Sharif Nazari

74 Progressive Democratic Party of Afghanistan (Hizb-e-Mutaraqi Democaraat Afghanistan)
Leader: Mohammad Wali Aria

75 Democratic Party of Afghanistan (Hizb-e-Democracy Afghanistan)
Leader: Al-hajj Mohammad Tawoos Arab

76 Muslim People of Afghanistan Party (Hizb-e-Mardum-e-Muslman-e-Afghanistan)
Leader: Bismillah Joyan

77 Hizullah-e-Afghanistan
Leader: Qari Ahmad Ali

78 Islamic Party of Afghanistan (Hizb-e-Islami Afghanistan)
Leader: Mohammad Khalid Farooqi

79 Comprehensive Movement of Democracy and Development of Afghanistan Party (Hizb-e-Nahzat Faragir Democracy wa Taraqi-e-Afghanistan)
Leader: Sher Mohammad Bazgar

80 Afghanistan Peoples' Treaty Party (Hizb-e-Wolesi Tarhun Afghanistan)
Leader: Sayyed Amir Tahseen

81 United Islamic Party of Afghanistan (Hizb-e-Mutahed Islami Afghanistan)
Leader: Wahidullah Sabawoon

82 Islamic Movement of Afghanistan Party (Hizb-e-Nahzat-e-Melli Islami Afghanistan)
Leader: Mohammad Mukhtar Mufleh

83 National and Islamic Sovereignty Movement Party of Afghanistan (Hizb-e-Eqtedar-e-Melli wa Islami Afghanistan)
Leader: Engineer Ahmad Shah Ahmadzai

84 The Afghanistan's Mujahid Nation's Islamic Unity Movement (Da Afghanistan Mujahid Woles Yaowaali Islami Tahreek)
Leader: Saeedullah Saeed

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. **[1f]** 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, including Hizb-i-Islami. Hekmatyar served as Prime Minister in 1995. **[73k]** Hekmatyar was designated a terrorist by the US State Department on 18 February 2003 **[5a]** for participation in and support for terrorist acts committed by Al-Qaeda and the Taleban, and is currently in hiding. **[73k]**

"Gulbuddin Hekmatyar runs his own faction of Hezb-i-Islami, a radical Islamist group that is loosely aligned with al Qaeda and the Taliban. Hekmatyar was a key player in the Soviet-Afghan war and led one of the biggest insurgent factions against Soviet and Afghan communists' [*Sic*] forces. His brutal battlefield tactics and wanton destruction of Kabul following the collapse of the Afghan Communist regime in the early 1990's led to the demise of Hekmatyar's popularity. The Taliban overran his last stronghold south of Kabul in 1995 and forced him into exile in Iran from 1996-2002.

"His low-profile return to Afghanistan led to a small and temporary alliance with the Taliban before Mullah Omar ultimately ceased cooperation with Hekmatyar's meager forces. Two groups, however, were created as a merger between local Taliban and Hezb-i-Islami fighters in 2002, Nohzat al-Fath and Lashkar Fedayan-e Islam. Both facilitated training with suicide bombers and improvised explosive devices.

"Hekmatyar leads a band of a few hundred loyalists and several senior subcommanders including, Kahsmir Kahan, Haji Eshanullah, Abdul Salam Hashemi, Engineer Obaidullah, and Munshi Abdul Majid. Kashmir Khan, the most notorious of the bunch, is believed to have helped top al Qaeda members escape the Coalition's air blitz on their Tora Bora Mountain hideout in December 2001. Khan kept a low-profile up until 2006 when he re-emerged as a key insurgent leader in Afghanistan's northeastern regions.

"'The Hezb-i-Islami's fighting potential has eroded over the years,' Hekmatyar expert Dr. Ishtiaq Ahmad said in an interview with Afgha.com. 'The current insurgency is essentially led by the Taliban. However, this does not mean the contribution to this insurgency by Hezb-i-Islami is meaningless. Its renegade commanders still at large

such as Kashmir Khan and Obaidullah still pose a threat to Afghanistan, as they are the ones who carry out Hekmatyar's politically motivated militarism on the ground in alliance with the Taliban.'" **[55a]**

(See also Section 11:61 Hisb-e-Islami)

Hizb-e Islami Khalis [Khales] (Islamic Party Khalis): Pashtun

Leader: Maulvi Muhammed Younis Khalis (deceased) **[55b]** "Pashtun; promotes establishment of an Islamic state in accordance with Qu'ran, Sunnah and Shariah doctrines." c. 40,000 supporters. **[1e]**

A February 2008 report in The Long War Journal stated "The faction folded into the Afghan Taliban movement following the death of Younus Khalis in 2006." **[55b]**

(See Section 11 Hisb-e-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. **[1f]** Sayef's party was renamed and registered as Tanzim Dawat-e-Islami-e-Afghanistan to run in the September 2005 parliamentary elections [see party 59 above]. **[74a]**

Jamiat-i Islami (Islamic Society): Turkmen/Uzbek/Tajik [1f]
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]**

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." **[45]**

Jabhe-ye-Motahed-e-Milli (United National Front - UNF) /
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)** 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). **[29k]**

However, Europa World Online recorded the following information: Chair. Prof. Burhanuddin Rabbani. Founded in 2007. An informal political grouping including former members of the United Front. The UNF/NUF advocates a parliamentary system of government rather than presidential system; members include Younis Qanooni, Ahmad Zia Masoud, Gen. Abdul Rashid Dostam and Marshal Muhammed Qassim Fahim. **[1e]**

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. **[1f] (p60-61**
(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 on 26 August 2008, 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]**

A May 2007 Revolutionary Association of the Women of Afghanistan (RAWA) article recorded:

"In Pakistan, where many RAWA members are based and where the organization runs schools to counter fundamentalist ideology, the group comes under attack from the Taliban, from other jihadi fanatics and from Pakistani fundamentalist political parties. Saba tells of extremists shooting at the staff at a RAWA-run hospital, attacks with stones and teargas on RAWA demonstrations, and threats published in newspapers.

"Even the magazine the organization sporadically publishes is too hot to handle. 'If it were found in someone's house or they were seen reading it, their life would be in danger. In the Taliban time, a few of our male supporters who were transporting the magazines were arrested and sent to prison. Only with the mediation of some tribal leaders were they released after a few years.' …

"Under the brutal Taliban regime, RAWA kept schools going for girls in private houses. They exposed via their website the testimony of widows forced into prostitution by the Taliban's ban on women working and the hypocrisy of Taliban supporters who were the women's frequent clients. They risked life and limb to photograph secretly the Taliban's gruesome punishments and public executions. Today they run orphanages and teach literacy classes for women who often graduate as grassroots activists for women's rights. And they continue to inform the world of news about Afghanistan the mainstream media won't touch. They have achieved all this without breaking cover." **[49c]**

Shura-yi Nazar

An August 2007 International Crisis Group report recorded that "After the fall of the Taliban, the security organs at the centre were monopolised by the Panjshiri Tajik-dominated Shura-yi Nazar-i Shamali one of whose leaders, Younus Qanooni, was appointed interior minister." **[26b] (p5)** "The Shura-yi Nazar Shamali (Supervisory Council of the North) was a regional military and political structure founded by Ahmad Shah Massoud. Its core leaders were Panjshiris associated with the Jamiat-i Islami party of former President Burhanuddin Rabbani." **[26b] (Footnote 32)**

Taliban [Taleban]

Emerged in 1994; Islamist fundamentalist; mainly Sunni Pashtuns; in power 1996–2001; also active in the Federally Administered Tribal Areas of Pakistan.
Leader Mullah Mohammad Omar. c. 12,000 supporters. **[1e]** 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)**

An Associated Press article of August 2008 noted "Taliban insurgents once derided as a ragtag rabble unable to match U.S. troops have transformed into a fighting force - one advanced enough to mount massive conventional attacks and claim American lives at a record pace." **[53a]**

-(See also Section 11.33: Taliban)

United National Islamic Front for the Salvation of Afghanistan (UIFSA) – commonly known as the Northern Alliance or United Front

An anti-Taliban coalition that superseded the Supreme Council for the Defence of Afghanistan in June 1997. **[1f] (p60)** Europa World Online, accessed on 5 January 2009, recorded that "The [Northern] alliance was reported to have been expanded and

strengthened in early June [1997] by the inclusion of the forces of Hekmatyar and of the Mahaz-i-Melli-i-Islami (National Islamic Front), led by Pir Sayed Ahmad Gailani. This new coalition, which superseded the Supreme Council for the Defence of Afghanistan, was known as the United National Islamic Front for the Salvation of Afghanistan, commonly known as the United Front and the Northern Alliance. The United Front was the military wing of the exiled Government, the 'Islamic State of Afghanistan'." **[1c]**

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Annex C: Prominent people

ALI Hazrat

Hazrat Ali (a close ally of Jamiat-i-Islami) was appointed Security Commander for Nangahar Province by President Karzai on 20 July 2004. (BAAG, July 2004) **[71a] (p7)** He stepped down from his position as Police Chief of Nangahar and turned in weapons in order to stand for the September 2005 parliamentary election. (*Christian Science Monitor*, 8 September 2005) **[19b]**

A September 2004 Human Rights Watch report noted that, as one of the military commanders having de facto control of the eastern provinces of Nangahar and Laghman, including Nangahar's capital, Jalalabad, his commanders operated criminal enterprises and engaged in numerous human rights abuses, including the seizure of land and other property, kidnapping civilians for ransom and extorting money. Their forces had also been involved in political abuses, including past threats against Loya Jirga candidates and purchasing of votes. **[17h] (p16)**

Hazrat Ali commanded a Northern Alliance force against the Taliban and Al Qaeda and has worked closely with the US military since 2001:

"Several officials with the Afghan Independent Human Rights Commission maintain that Ali disbanded his private army only on paper and that his men still participate in drug trafficking and land grabs, terrorizing the citizenry… Many of Ali's ex-soldiers are now Nangahar provincial police. One ranking Nangahar police official [said] that Ali's men, 'imposed with pressure and power,' have a disproportionate presence on his force. 'They're involved in illegal activities. The battalion commanders, the border police, they're all involved in illegal activities,' the police official said, adding that the crimes include extortion, drug trafficking and other smuggling operations." (*Christian Science Monitor*, 8 September 2005) **[19b]**

DOSTUM (General) Abdul Rashid

"The Uzbek general who was one of the most powerful warlords with an independent military base in the north remains a powerful figure in the country… He was one of the most high profile candidates to challenge Mr Karzai in the presidential elections in October 2004. 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." (BBC News, 4 July 2006) **[25y]**

BBC News reported that General Dostum survived an assassination attempt by the Taliban in January 2005. **[25ah]** 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)**

HAZAMI Abdul Salam
Approved by parliament as the new Chief Justice of the Supreme Court in July 2006 to replace Fazel Hadi Shinwari. "Hazami graduated from Kabul University and obtained a master's degree in 1967 from Egypt's Al-Azhar University, the Sunni Muslim world's highest seat of learning. He also did postgraduate studies in the United States. He left Afghanistan during the Soviet occupation, returning after the Taliban regime was toppled by U.S.-led forces for harboring Osama bin Laden." **[54a]**

HEKMATYAR (Engineer) Gulbuddin [also spelt 'Hikmatyar']
"Leader of the Hezb-e Islami, Mr 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 presence of US-led foreign 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 murdered Afghan commander, Ahmad Shah Masood, is said to have resulted in the deaths of more than 25,000 civilians." **[25y]**

In May 2006, Hekmatyar was reported as saying that he was ready to fight under the banner of al-Qaeda: "Correspondents say that statements from Gulbuddin Hekmatyar are rare, but when they appear, their theme and tone is the same: hatred of the United States and its allies in Afghanistan and calls for rebellion there in the name of Islam." **[25e]**

(See also Section: 11.61 Hizb-e-Islami)

JALAL Masooda
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, but was dropped in the reshuffle of April 2006." (BBC News, 4 July 2006) **[25y]**

KHAN Mohammed Fahim (Marshal Mohammad Qasem Fahim)
As former Defence Minister, Mohammed Fahim Khan used to be one of the most powerful men in the country but has now been sidelined:

"He lost his place in the cabinet and is now a member of the upper house [Meshrano Jirga]. Gen Fahim 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 2004 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 attacks on the US." (BBC News, 4 July 2006) **[25y]**

KARZAI Hamid
"Hamid Karzai, who was sworn in as Afghanistan's first elected president in December 2004, is a moderate 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." (BBC News, 4 July 2006) **[25y]**

KHALILI (General) Abdol Karim
Hazara; Economic Minister of Afghanistan 1993 – 995; 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
Ismail Khan is currently Minister for Energy in the Afghan Cabinet and was formerly the Governor of Herat:

"Known as the Lion of Herat, 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… Controlling the trade route from Iran, he turned the city of Herat into one of the most developed cities in the country soon after taking control of the area after the fall of the Taleban. It was his independent power base and apparent refusal to join hands with the Karzai government that led to his eventual removal and reappointment as energy minister in September 2004. President Karzai's move to replace him was met with violent protests from his supporters. Ismail Khan remains a powerful figure, although with considerably reduced influence." (BBC News, 4 July 2006) **[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]**

MOHAMMAD (General) Atta
"An arch rival of Gen Dostum, Atta Mohammad is the governor of the northern province of Balkh. 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. His appointment as

governor of Balkh was viewed as a move to curb Gen Dostum." (BBC News, 4 July 2006) **[25y]**

MOHAQEQ [MOHAQIQ] Haji Mohammad
"A member of the minority ethnic Hazara community, Mohammed Mohaqiq was elected as an MP in the 2005 elections. He comes from Mazar-e-Sharif and teamed up with Gen Dostum and Atta Mohammad to free the city from the Taleban in 2001. The head and founder of the Wahdat-e-Mardum political party, he had considerable support among the Shia Hazaras, many of whom fought under his command. 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 after the 2005 parliamentary elections." (BBC News, 4 July 2006) **[25y]**

Mohaqeq's party was registered as Hezb-e-Wahdat-e-Islami Mardom-e-Afghanistan by the Ministry of Justice and participated in the September 2005 parliamentary election. **[74a]**

MOJADDEDI [MUJADIDI] Sebghatullah
A Radio Free Europe/Radio Liberty (RFE/RL) article reported on 29 December 2005 that Mojaddedi had been elected speaker of the Meshrano Jirga (Council of Elders). **[29k]** 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
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. (BBC News,2 September 2006) **[25s]** Mullah Omar has reportedly called on Taliban supporters to unite and fight Afghan and foreign troops. (BBC News, 25 July 2005) **[25ae]**

QANUNI [QANOONI] Yunus

"A former minister, Mr Qanuni is now the Speaker of the Wolesi Jirga, the lower house of parliament. Seen by some as the most serious contender to Mr Karzai, he stood against him in the presidential elections of 2004. A key figure in the Northern Alliance in the immediate aftermath of the fall of the Taleban, Mr Qanuni first held the powerful post of interior minister but later moved to the education ministry. Differences with President Karzai led to his resignation from the cabinet, following which he formed his own political party, [Hezb-e-] Afghanistan-e-Naween. Though unable to hold together a political alliance which could provide a formidable challenge to the Karzai government, Mr Qanuni has been too powerful to be completely marginalised." (BBC News, 4 July 2006) **[25y]**

The list of political parties approved by the Ministry of Justice to run in the September 2005 parliamentary elections included Qanuni's new party, Hezb-e-Afghanistan-e-Naween. **[74a]** Qanuni resigned as leader of the NUF after being elected Speaker of the Wolesi Jirga. (Radio Free Europe/Radio Liberty, 29 December 2005) **[29k]**

RABBANI Burhanuddin
"A former Afghan president, Mr Rabbani was elected as an MP from Badakshan in [the] 2005 parliamentary elections. He 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." (BBC News, 4 July 2006) **[25y]**

(See also Annex B: 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
"A former mujahideen leader, Mr Sayyaf is now an elected member of parliament. Leader of the Islamic Union for the Liberation of Afghanistan, 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 chairman of the first rebel alliance in 1980. He was a member of the constitutional loya jirga of 2003. Abdul Rassoul Sayyaf was a major player in the civil war in 1992, which left vast areas of the capital, Kabul, in ruins." (BBC News 4 July 2006) **[25y]**

In June 2005, the International Crisis Group noted that Sayyaf's influence was eroding because the tenth division of the Afghan military forces was being dismantled under the Disarmament, Demobilisation and Reintegration Programme (DDR) 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, formerly known as Ittihad-i-Islami **[17h]** and now 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
"Nangarhar province Governor Gul Agha Sherzai commands considerable loyalty among the Pashtuns in Kandahar, the city he controlled before the Taleban took power in 1994. Within hours of the Northern Alliance taking control of Kabul in 2001, Sherzai entered and took control of the southern city. In December 2004, he was appointed as governor of Kandahar with an added, though symbolic, portfolio of minister adviser to Mr Karzai. His reappointment became controversial and human rights groups have accused Mr Sherzai of involvement in the drugs trade. Mr Sherzai was made governor of Nangarhar as part of a series of reshuffles viewed as an attempt to curb the power of the warlords." (BBC News, 4 July 2006) **[25y]**

Annex D: List of Cabinet Ministers

Europa World Online entries for Cabinet, dated April 2008, when accessed on 5 August 2008:

President:
H.E. Hamid Karzai **[1h]**

Vice Presidents:
Ahmad Zia Massoud (First) **[89a]**
Ahmad Zia Masoud **[1h]**
Mohammad Karim Khalili (Second) **[89a] [1h]**

Senior Minister in the Cabinet
Hedayat Amin Arsala **[89a] [1i]**

Foreign Affairs Minister:
Dr Rangin Dadfar Spanta (formerly Dr Abdullah Abdullah until he was replaced in March 2006 **[1f]**) **[89a] [1i]**

National Defence Minister:
General Abdul Rahim Wardak **[89a] [1i]**

Interior Affairs Minister:
Zarar Ahmad Moqbel [Moqbil] (formerly Ali Ahmad Jalali until his resignation in September 2005 **[1c]**) **[89a] [1i]**

Finance Minister:
Prof Dr Anwar-ul-Haq Ahadi **[89a] [1i]**

Education Minister:
Dr Mohamad Hanif Atmar (formerly Noor Mohmamad Qarqin) **[89a]**
Dr Mohammed Hanif Atmar **[1i]**

Borders & Tribal Affairs Minister:
Abdul Karim Barahowie **[89a]**
Abdul Karim Barahawi **[1i]**

Economy Minister:
Dr Mohammad Jalil Shams **[89a] [1i]**

Mines and Industries Minister:
Engineer Ibrahim Adel [formerly Engineer Mir Mohmmad Sediq] **[89a]**
Ibrahim Adil **[1i]**

Women's Affairs Minister:
Hosna Banu Ghazanfar (Hosn Bano Ghazanfar) **[1i] [89a]**

Public Health Minister:
Dr Mohammad Amin Fatimi [Fatemi/Fatimie] **[89a] [1i]**

Agriculture, Irrigation and Livestock Minister:
Obaidullah Ramin **[89a]**
Obaidollah Ramin **[1i]**

Justice Minister:
Sarwar Danish **[89a]**
Mohammad Sarwar Danesh **[1i]**

Commerce Minister:
Mir Muhammad Amin Farhang
Dr Mohammad Amin Farhang **[1i] [89a]**

Communications and Information Technology Minister:
Engineer Amirzai Sangin [Sangeen] **[89a] [1i]**

Culture and Youth Affairs Minister
Abdull Karim Khorram
Abdul Karim Khoram **[89a] [1i]**

Refugees and Repatriation Minister:
Sher Mohammad Etebari **[1i] [89a]**

Haj and Islamic Affairs Minister:
Professor Nematullah Shahrani **[89a] [1i]**

Urban Development Minister
Engineer Yousef Pashtun **[89a]**
Mohammad Yousef Pashtun **[1i]**

Work, Social Affairs, the Martyred and the Disabled Minister:
Noor Mohammad Qarqeen **[89a]**
Noor Mohammad Karkin **[1i]**

Public Welfare Minister:
Dr Sohrab Ali Saffary **[89a]**
Suhrab Ali Safari **[1i]**

Water and Energy Minister:
Mohammad Ismail Khan **[89a] [1i]**

Higher Education Minister:
Dr Ahzam Dadfar [formerly Sayed Amir Shah Hassanyar] **[89a]**
Dr Mohammad Azam Dadfar **[1i]**

Transport and Aviation Minister:
Hamidullah Qaderi **[1i] [89a]**

Rural Development and Rehabilitation Minister:
Eshan Zia **[89a] [1i]**
[Ihsan Zia (formerly Hanif Atmar)]

[Anti-] Counter-Narcotics Minister:
Gen. Khodaidad (acting) **[1i] [89a]**

Parliamentary Affairs Minister:
Dr Farooq Wardak **[1i]**

National Security Advisor:
Dr Zalmai Rassoul **[1i]**

Supreme Court Chief Justice:
Abdul Salam Hazami **[54a]** (formerly Sheikh Hadi Shinwari)
Abdul Salam Azimi **[1z]**

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Annex E: List of Abbreviations

AI	Amnesty International
ANBP	Afghanistan New Beginnings Programme
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
DDR	Disarmament, Demobilisation and Reintegration Programme
DIAG	Disbandment of Illegal Armed Groups (DIAG)
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign and Commonwealth Office (UK)
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 for 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
JCMB	Joint Coordination and Monitoring Board
MSF	Médecins sans Frontières
NA	Northern Alliance
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
RSF	Reporters sans Frontières
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
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
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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