COUNTRY OF ORIGIN INFORMATION REPORT

AFGHANISTAN

8 APRIL 2010

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 18 March 2010. The 'Latest News' section contains further brief information on events and reports accessed from 19 March 2010 to 8 April 2010. The report was issued on 8 April 2010.

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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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's country of origin information material. The IAGCI welcomes feedback on UKBA's COI Reports, COI Key Documents and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at http://www.ociukba.homeoffice.gov.uk

xii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at http://www.ociukba.homeoffice.gov.uk/

The main text of this COI Report contains the most up to date publicly available information as at 18 March 2010. Further brief information on recent events and reports has been provided in the Latest News section to 8 April 2010.

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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Latest News

EVENTS IN AFGHANISTAN FROM 19 MARCH 2010 TO 8 APRIL 2010

7 April — The head of Afghanistan's Independent Election Commission (IEC) and his deputy have resigned from their posts following international pressure after last year's fraud-tainted vote.
Al Jazeera, Afghan election officials step down, 7 April 2010
http://english.aljazeera.net/news/asia/2010/04/2010479332645129.html
Date accessed 8 April 2010

5 April — Up to 200 people have been sentenced to death in Afghanistan over the past 15 months but President Hamid Karzai has refused to sign any execution orders. No executions have been reported since 2008.
IRIN News: Afghanistan: Unofficial moratorium on capital punishment, 5 April 2010
http://www.irinnews.org/Report.aspx?ReportId=88687
Date accessed 8 April 2010

29 March — Nearly 112,000 different explosive devices were cleared during the first two months of 2010 by the UN-supported Mine Action Coordination Centre of Afghanistan (MACCA).
UN News Centre, More than 110,000 explosive devices destroyed in Afghanistan this year – UN, 29 March 2010
http://www.un.org/apps/news/story.asp?NewsID=34236&Cr=afghan&Cr1=
Date accessed 8 April 2010

25 March — Boys continued to partake in a ritual practiced by Zoroastrian fire-worshippers 2,300 years ago, in preperation to be circumsized. The ritual takes place in Charbagh, a village in the northern Jawzjan Province.
IWPR, Circumcision Festival's Last Home, 25 March 2010
http://www.iwpr.net/?p=arr&s=f&o=361463&apc_state=henhrcas=fo=361528apc_state=henh
Date accessed 31 March 2010

25 March — A new law providing imunity to powerful figures, including Warlords, threatens the Human Rights achievments of post-Taliban regime.
IRIN News: Afghanistan: Human rights under pressure, 25 March 2010
http://www.irinnews.org/Report.aspx?ReportId=88556
Date accessed 31 March 2010

23 March — Improvised explosive devices (IED) are killing and maiming thousands each month. The Afghan rights watchdog, Afghanistan Rights Monitor (ARM), recorded 67 civilian deaths resulting from IED attacks between 1 and 21 March 2010.
IRIN News: Afghanistan: Taliban IEDs take toll on civilians, 23 March 2010
http://www.irinnews.org/Report.aspx?ReportId=88527
Date accessed 31 March 2010

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REPORTS ON AFGHANISTAN PUBLISHED OR ACCESSED BETWEEN 19 MARCH 2010 AND 8 APRIL 2010

Amnesty International http://www.amnesty.org
Death sentences and executions in 2009, published 29 March 2010
http://www.amnesty.org/en/library/info/ACT50/001/2010/en
Date accessed 8 April 2010

United Nations High Commissioner for Refugees (UNHCR)
UN Security Council, Security Council resolution 1917 (2010) [on extension of the mandate of the UN Assistance Mission in Afghanistan (UNAMA)], 22 March 2010, S/RES/1917(2010), (via Refworld)
http://www.unhcr.org/refworld/country,,,,AFG,,4bb1c11b2,0.html
Date accessed 8 April 2010

United Nations High Commissioner for Refugees (UNHCR)
Human Rights Dimension of Poverty in Afghanistan, March 2010
http://unama.unmissions.org/Portals/UNAMA/human%20rights/Poverty%20Report%2030%20March%202010_English.pdf
Date accessed 8 April 2010

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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 (76 km) 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. (Central Intelligence Agency (CIA) World Factbook, last updated 22 February 2010) **[3a] (Government)** 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 28 January 2010) **[1a]**

1.02 Jane's Security Risk Assessment report on Afghanistan, Infrastructure, updated 14 July 2008, noted:

"Before the Soviet invasion, Afghanistan had approximately 18,000 km of roads. Over two decades of war and neglect have destroyed most of the inadequate network. Afghanistan requires at least 30,000 km of paved roads to create a reasonable commercial and social transport network, and since the US invasion foreign assistance has enabled the Karzai government to begin some projects. These include a 1,200 km highway linking Kabul with Herat and Kandahar, which is being funded by Saudi Arabia, Japan and the US. Germany agreed to finance a road from Jalalabad to Torkham on the Afghan-Pakistani border, but insurgent and US military operations have disrupted progress.

"According to a November 2007 parliamentary answer in the UK House of Commons, nearly 1,500 km of the 4,900 km national (secondary) road network, and several thousand kilometres of tertiary roads, all with gravel surfaces, have been improved in Afghanistan. By June 2007, about 2,500 km of the original 2,900 km of paved regional road network had been reconstructed or rehabilitated to national standards and paved with asphalt concrete." **[35c]**

1.03 In July 2009, the population of Afghanistan was estimated at 28,395,716. (CIA World Factbook, updated 22 February 2010) **[3a] (Government)** Pushtuns make up the largest ethnic group at 42%, followed by Tajiks (27%), Hazaras (9%), Uzbek (9%) and Aimak (4%). Other smaller groups include Turkmen and Baluch. (CIA World Factbook, updated 22 February 2010) **[3a] (Government)**

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." **[4b] (Article 16)**

1.05 An estimated 80 per cent of the Afghan population are Sunni Muslims, with Shia Muslim's making up 19 percent. Only one per cent are made up from other groups. (CIA World Factbook, last updated 22 February 2010) **[3a] (Government)**

(See also Section 22: Ethnic Groups)

1.06 The national flag, which was first introduced in 1928 and then modified in 1964, was banned following the coup in 1978. It had three vertical stripes of black, red and green with a white and red state enscription in the centre in Arabic which read, "There is no God but Allah, and Muhammad is his Prophet, and Allah is Great." The Islamic date 1298 appeared 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, 28 January 2010) **[1a]**

1.07 Europa World Online, accessed 12 February 2010 noted that "The Afghan year 1388 runs from 21 March 2009 to 20 March 2010, and the year 1389 runs from 21 March 2010 to 20 March 2011." **[1h]**

1.08 Public holidays include:

"2010 1 February* (Arafat Day); 15 February (Liberation Day, commemoration of mujahidin struggle against Soviet occupation and withdrawal of Soviet troops in 1989); 26 February* (Roze-Maulud, Birth of Prophet Muhammad); 21 March (Nauroz: New Year's Day, Iranian calendar); 28 April (Loss of the Muslim Nation); 1 May (Workers' Day); 11 August* (first day of Ramadan); 19 August (Independence Day); 10 September* (Id al-Fitr, end of Ramadan); 16 November* (Id al-Adha, Feast of the Sacrifice); 16 December* (Ashura, Martyrdom of Imam Husayn).

"* These holidays are dependent on the Islamic lunar calendar and may vary by one or two days from the dates given.

"† This festival occurs twice (in the Afghan years 1387 and 1388) within the same Gregorian year." (Europa World Online, accessed 12 February 2010) **[1h]**

KABUL (CAPITAL CITY)

1.09 The Kabul Provincial Profile on the Afghanistan Investment Support Agency (AISA) website, accessed 12 February 2010, described the capital as "Located in a valley, Kabul city is one of the highest capitals in the world situated at an elevation of… 1,800 m. surrounded by the Lowgar and Paghman mountains in the south-east, Qrough mountain in the south-west, Shirdarwaza in the north east, Charikar in the north and the Tangi Gharow mountains in the west." **[105] (p1)** The same source observed that "Given the temperate climate, Kabul Province is a largely single crop zone with only partial second cropping. The main harvest season for wheat is between August and September, and for vegetables between September and October." **[105] (p2)**

1.10 The International Organization for Migration (IOM) Country Sheet on Afghanistan, updated on 13 November 2009 stated that:

"Kabul is currently home to nearly 4 million people. A high number of people who fled the country are still returning home. More than 2 million houses were destroyed or damaged beyond repair, while all basic health and education facilities ceased functioning. According to surveys conducted on behalf of Afghanistan's Ministry for Housing and Urban Development, averages of 2.8 families, or 18-20 persons, are thought to live in houses generally built to accommodate six.

"Afghan authorities have been taking some limited steps to try and remedy the housing shortage, mostly relying on the expansion of the private construction sector. Cities such as Kabul, Jalalabad and Herat have seen large-scale real estate projects multiply over the past time. However, little control is exerted over construction volumes, heights, prices, etc. Priority is also given to office buildings." **[38b] (p5)**

1.11 The same source stated:

"Buying a house or an apartment remains a distant dream for most of Kabul's citizens; however it is much cheaper in other provinces in comparison. A simple three-room apartment now costs around USD 30,000 while houses start from USD 50,000 and go up to a staggering three million dollars in different parts of the city. In addition, landlords are keen to request up to 12 months' advance rent payment…

"The average monthly rent, in a safe area, for an apartment large enough to house one family (3 Rooms) is USD 200 –500 and the rent of a room is around USD 100 – 150. The average price of a similar property is USD 70,000." **[38b] (p5-6)**

1.12 The AISA website, accessed 12 February 2010, noted that:

"Apart from the main city roads, many smaller roads in the capital are in extremely poor conditions [sic] and need repair. While the country has no extensive highway system, three main asphalted roads/highways connect the capital with the rest of the country. The Salang road links Kabul with the northern provinces, while the Kabul-Kandahar highway is the main artery between the capital and the southern provinces, as well as the most important road in the country." **[105] (p6)**

1.13 The IOM Country Sheet on Afghanistan further added that "Buses, donated to Afghanistan by India, Japan, Iran (around 600), all operate in Kabul at the moment. A typical bus fare for transportation within the city is around AFA 5. Private transportation companies also exist. Fares are higher than on public buses. Taxis in Kabul (AFA 100 – 150 depending on the distance – much more for out-of-city destinations)." **[38b] (p16)**

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MAPS

1.14 United Nations (UN) Map of Afghanistan, July 2009

(UNHCR, July 2009) **[11d]**

The University of Texas in Austin website also has a number of maps of Afghanistan, including city maps, historical maps and links to further maps. **[85a]**

Afghanistan Information Management Services (AIMS) provides district profiles and maps on Afghanistan. **[82a]**

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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 The Central Intelligence Agency (CIA) World Factbook, Afghanistan, updated 22 February 2010, noted:

"Afghanistan's economy is recovering from decades of conflict. The economy has improved significantly since the fall of the Taliban regime in 2001 largely because of the infusion of international assistance, the recovery of the agricultural sector, and service sector growth. Despite the progress of the past few years, Afghanistan is extremely poor, landlocked, and highly dependent on foreign aid, agriculture, and trade with neighboring countries. Much of the population continues to suffer from shortages of housing, clean water, electricity, medical care, and jobs. Criminality, insecurity, weak governance, and the Afghan Government's inability to extend rule of law to all parts of the country pose challenges to future economic growth. Afghanistan's living standards are among the lowest in the world. While the international community remains committed to Afghanistan's development, pledging over $57 billion at three donors' conferences since 2002, the Government of Afghanistan will need to overcome a number of challenges, including low revenue collection, anemic job creation, high levels of corruption, weak government capacity, and poor public infrastructure." **[3a] (Government)**

2.03 The Economist Intelligence Unit (EIU) Country Profile on Afghanistan, October 2009, stated that:

"According to the IMF [International Monetary Fund], real GDP [Gross Domestic Product] growth is estimated at just 3.4% in 2008/09, down from 12.1% in 2007/08, largely owing to the fact that drought has depressed agricultural growth. In 2010-11 the economy's expansion will be supported by strong construction investment, much of which will be linked to donor-led development projects, and by private consumption. Weather indicators look positive for agricultural harvests, which should support overall GDP growth of 9% in 2009/10, according to the IMF." **[84a]**

2.04 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]** The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"Ethnic minorities continued to face oppression, including economic oppression. Dasht-i Barchi, one of Kabul's poorest neighborhoods, was home

to a large Hazara population. Average earnings per day were 13 Afghanis (25 cents) per person, although the minimum wage was 63 Afghanis ($1.25) per day; average household size was nine to 10 persons. In Dasht-i Barchi, 60 percent of all families rented their homes and were therefore subject to landlord exploitation; 50 percent of families' income went to cover rent, and families moved frequently." **[2a] (Section 6)**

2.05 The USSD Human Rights Report 2009, also noted:

"In July [2008] President Karzai signed a law doubling the minimum wage to 4,000 Afghanis ($80) for government workers. The minimum wage was 2,000 Afghanis per month ($40) in the private sector, but in practice wages were not protected. The minimum wage did not provide a decent standard of living for a worker and family. Wages were determined by market forces, informal negotiation, or, in the case of government workers, dictated by the government. Many workers were hired as day laborers." **[2a] (Section 7e)**

2.06 The International Organization for Migration (IOM) Country Sheet on Afghanistan, updated on 13 November 2009 stated that "Unemployment is not recorded on a regular basis. It is however expected to reach up to 45% in some regions, for a national average of 30-35%. Rates are high among all age groups, the youth (aged 16 to 25) being the most active group (around 25% unemployment). Seasonality can in rural areas exert a significant influence over both unemployment and under-employment (up to 40%) rates." **[38b] (p10)**

2.07 The exchange rate was: 77.6457 Afghan Afghani (AFN) = 1.00 United Kingdom Pounds (GBP) as at 27 January 2010 (xe.com) **[58a]**

2.08 Other basic economic data:

- GDP growth in 2009, estimated at 3.4%
- Inflation rate in 2008, estimated at 26.8%;
- Unemployment rate in 2008, estimated at 40%; and
- Labour composition by sector: distribution: agriculture: 31%, industry: 26%, services: 43% (CIA World Factbook, last updated 22 February 2010) **[3a] (Government)**

(See also Section 9 for information on drug production and addiction)

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3. HISTORY

OVERVIEW TO DECEMBER 2001

3.01 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, stated that:

"After decades of intermittent attempts to assert control and ward off Russian influence in the country, Britain recognized Afghanistan as a fully independent monarchy in 1921. Muhammad 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 Marxist faction staged a coup and set out to transform the country's highly traditional society. The Soviet Union invaded to support its allies in 1979, but was defeated by U.S.-backed guerrillas and forced to withdraw in 1989.

"The mujahideen guerrilla factions overthrew the Marxist government in 1992 and then battled one another for control of Kabul, killing more than 25,000 civilians in the capital by 1995. The Islamist Taliban movement entered the fray, seizing control of Kabul in 1996 and quickly establishing control over most of the country, the rest of which remained in the hands of other factions. In response to the terrorist attacks of September 11, 2001, the United States launched a military campaign to topple the Taliban regime and eliminate Saudi militant Osama bin Laden's terrorist network, Al-Qaeda." **[41a]**

POST-TALIBAN (DECEMBER 2001 ONWARDS)

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

"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." **[4a] (History)**

3.03 Europa World Online, accessed on 28 January 2010, stated that:

"On 22 December 2001 the Interim Authority was inaugurated; Karzai was sworn in as Chairman. The country reinstated 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 had 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." **[1c] (Recent history)**

3.04 The Foreign & Commonwealth Office Afghanistan Country Profile, updated 6 January 2009, recorded that:

"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." **[4a] (Politics)**

(See also Section 5: Constitution)

3.05 Europa World Online, accessed on 28 January 2010, commented on Afghanistan's first direct presidential election, held on 9 October 2004. It noted that:

"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. Dostam, with 10.0%. A reported 83.7% of the electorate participated in the poll. However, concerns were 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." **[1c] (Recent history)**

3.06 Europa World Online additionally noted that:

"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 the electorate, 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." **[1c] (Recent history)**

3.07 Europa World Online added:

"A delegation from the European Union (EU) initially described the elections as having been 'free, fair and transparent', but concerns were later expressed as to possible instances of fraud and intimidation of voters. The results, which were 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, who was 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." **[1c] (Recent history)**

AFGHANISTAN COMPACT, 31 JANUARY 2006

3.08 The Foreign & Commonwealth Office Afghanistan Country Profile, updated 6 January 2009, reported:

"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. 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." **[4a]**

Full details of the Afghanistan Compact can be located via the Foreign and Commonwealth (FCO) **[4c]**

(See also Annex A for a Timeline of Afghanistan)

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PRESIDENTIAL ELECTIONS – AUGUST 2009

3.09 Article 156 of the Constitution gives the Independent Election Commission (IEC) of Afghanistan "... the authority and responsibility to administrate and supervise all kind[s] of [Afghan] elections; as well as [to] refer to general public opinion of the people, in accordance [with] the provision of the law." **[34b]** The

Afghanistan Presidential and Provisional Elections held on 20 August 2009 were overseen by the Electoral Complaints Commission (ECC). **[98c]**

3.10 On 13 June 2009, Al Jazeera reported that Afghanistan's electoral authority, the IEC, had released the list of 41 candidates running in the presidential election, scheduled for 20 August 2009. A reporter for Al Jazeera believed the bar for the candidates' registration had been set too low saying that "All you need to do is come up with $1,000 to register, get 10,000 signatures, be above the age of 40, and have 10 years' work experience and higher education." **[15b]**

3.11 The International Crisis Group report *Conflict Risk Alert: After Afghanistan's Fraudulent Elections*, published 27 October 2009 stated:

"The Taliban announced towards the end of July that they would attempt to 'disrupt the elections'. They have now declared their intention to attack election officials and voters alike. Not only could the deteriorating security environment adversely affect the turnout on election day, but the fraudulent first round and the last two months of political uncertainty have been a boon for the insurgency." **[26f]**

3.12 In one incident, reported by the British Broadcasting Corporation (BBC) News on 26 July 2009, Mohammed Qasim Fahim a vice-presidential candidate survived an assassination attempt by Taliban fighters. The attack came while he was campaigning for the August elections. The convoy Mohammed Qasim Fahim was travelling in was ambushed and fired at on the road between Kunduz and Takhar. **[25n]**

3.13 Al Jazeera reported on 21 August 2009 that "Seventeen million Afghan's were eligible to vote in the presidential elections and to vote in 420 councillors..." **[15g]**

3.14 On 21 August, one day after the election, it was reported by ABC News that "The country's election authority says it believes the voter turnout was between 40 and 50 per cent. But there are reports that in some parts of the country there has been violence, irregularities, and low voter turnout." **[48a]** The BBC News reported "In Washington, White House spokesman Robert Gibbs said: 'Lots of people have defied threats of violence and terror to express their thoughts about the next government for the people of Afghanistan'." **[25p]**

3.15 Mr Karzai said that the interior ministry had reported 73 attacks in 15 provinces. The UN, however, said that the majority of polling stations were still able to function. "Kai Eide, the head of the UN mission in Kabul said that overall, the security situation had been 'better than we feared' and had 'allowed people to take part in the elections'." (BBC News, 20 August 2009) **[25p]**

(See also Section 8: Security for list of security incidents during the August 2009 election period)

3.16 On 23 August, Abdullah Abdullah, the main rival to Hamid Karzai, commented in a conference that he had evidence of "widespread vote rigging" which he said had possibly spread throughout the country. Just a day earlier, Abdullah

had accused Hamid Karzai of rigging the polls, saying that the president "'uses the state apparatus in order to rig an election'." The Independent Election Commission (IEC) had already received 225 complaints, 150 of these were classed as priority. **[15e]**

(See also Section 18: Freedom of Speech and Media for information about incidents of journalists being attacked during the August 2009 elections and Section 8: Security Situation for information about militant attacks in Kabul during the August 2009 Elections)

(See also Section: Latest News for the latest information on the Presidential election)

Election results

3.17 On 22 August, Al Jazeera reported that Euopean Union (EU) Election observers said that the polls had been generally fair. However, "Philippe Morillon, the chief EU election observer said that the elections had not been free 'in some parts of the territory'." **[15f]**

3.18 Although final results were not due until September 2009, both main candidates, Hamid Karzai and ex-foreign minister Abdullah Abdullah, claimed an early lead. (Sky News, 22 August 2009) **[97a]**

3.19 Early media reports claimed there had been accusations of fraud and corruption against the main candidates. The BBC News recorded that "Voting cards were sold openly and candidates were offered thousands of dollars in bribes for votes. An Afghan working for the BBC went undercover in Kabul to investigate reports that voting cards were being sold and was offered 1,000 cards, each costing around £6 ($10)." **[25ac]**

3.20 By the end of August, Hamid Karzai had extended his poll lead over his main challenger, Abdullah Abdullah, with Karzai reportedly having received 46% of votes to Abdullah's 31.4%. (BBC News, 29 August 2009) **[25v]** Meanwhile Mr Abdullah had repeatedly raised his concern of fraudulent vote rigging saying that "… ballot boxes across the country had been stuffed with hundreds of thousands of votes." (BBC News, 17 September 2009) **[25ac]**

3.21 A press release on 24 August about the complaints received by the Electoral Complaints Commission (ECC) of Afghanistan stated:

"790 Complaints filed during Polling and Counting have been received at the ECC Complaints Processing Center (CPC) as of 4pm on August 24, 2009. The vast majority of these Complaints were submitted directly to the Provincial ECC offices or the ECC Headquarters in Kabul. The remaining Complaints were filed at a number of polling stations in Kabul, Ghor and Dai Kundi provinces." **[98a]**

3.22 A further press release by the Electoral Complaints Commission (ECC) on 10 September 2009 stated that "In the course of its investigations, the ECC has found clear and convincing evidence of fraud in a number of polling stations in the province of Kandahar. The ECC therefore orders that ballots cast in a number of boxes at 51 Polling Stations be invalidated." **[98b]**

3.23 By the 16 September Cable News Network (CNN) had reported that the IEC's latest election results showed that the current President Hamid Karzai was ahead in the Polls, securing 3,093,256 votes (54%) compared with 1,571,581 (28%) by his nearest challenger, former foreign minister, Abdullah Abdullah. **[19a]**

3.24 The International Crisis Group report *Conflict Risk Alert: After Afghanistan's Fraudulent Elections*, published 27 October 2009 stated:

"Preliminary results issued by the IEC on 16 September, amid reports of widespread intimidation at the polls, ballot stuffing, ghost polling stations and interference by IEC staff and candidate agents, had indicated a majority win for Karzai. A review completed on 18 October dropped Karzai below the 50 per cent mark needed to win the presidency in the first round. A protracted investigation by the Electoral Complaints Commission (ECC) into more than 600 high-priority complaints and a simultaneous audit of results from nearly 3,400 polling stations led to the disqualification of fraudulent votes. The lack of transparency and resulting confusion surrounding the electoral review process conducted by the ECC, the partisan actions of the IEC and unresolved frictions between Afghanistan's electoral institutions could easily be repeated on 7 November, deepening tensions within the country." **[26f]**

3.25 Europa World Online, accessed on 2 March 2010 stated that:

"On 21 October 2009 the Independent Election Commission (IEC) released its final certified results for the presidential election held on 20 August, following a two-month audit carried out by the UN-supported, independent Electoral Complaints Commission, which invalidated votes from hundreds of polling stations having found 'clear and convincing evidence of fraud relating to improperly recorded vote totals for candidates'. The number of votes awarded to Hamid Karzai was reduced from 3,093,256 (54.6% of the ballot) in the uncertified results, published on 16 September, to 2,283,907 (49.7% of the vote). With Karzai securing less than 50% of the vote, a second round of polling between Karzai and the second highest-polling candidate, Dr Abdullah Abdullah, was scheduled to take place on 7 November." **[1i]**

Presidential Election, 20 August 2009 (revised figures)

Candidates	Votes	% of votes
Hamid Karzai	2,283,907	49.7
Dr Abdullah Abdullah	1,406,242	30.6
Ramazan Bashardost	481,072	10.5
Ashraf Ghani Ahmadzai	135,106	2.9
Mirwais Yasini	47,511	1.0
Others	243,889	5.3
Total	4,597,727	100.00

[1i]

3.26 In a BBC News article on 1 November 2009 it was reported that Dr Abdullah Abdullah, Hamid Karzai's election rival, announced he was pulling out of the next round of the elections because he was concerned that his demands to ensure a fraud-free vote had not been addressed. A second round run-off became necessary after the Independent Election Committee was ordered by the Electoral Complaints Commission to invalidate votes from 210 polling

stations after finding clear and convincing evidence of fraud. This reduced Hamid Karzai share of the vote "… to 49.67% - below the crucial 50% plus one vote threshold needed to avoid a second round." **[25ab]**

3.27 On 2 November 2009, just a day after Mr Karzai's sole challenger, Abdullah Abdullah, had pulled out of the candidate race, it was announced that the election officials scrapped the second round of voting. Hamid Karzai was subsequently declared president of Afghanistan to serve a second term in Office. **[25q]**

(See the Independent Election Commission website for updated news on the Afghanistan Presidential & Provincial Council, 2009 Elections results and Latest News for recent information on the presidential elections)

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4. RECENT DEVELOPMENTS

4.01 On 16 January 2010 the British Broadcasting Corporation (BBC) reported that President Hamid Karzai had 10 of the 17 new cabinet nominees from his suggested list rejected:

"The vote comes two weeks after MPs turned down most of Mr Karzai's first choices, dealing him a serious blow. Two key posts were approved - Mr Karzai's former security adviser Zalmay Rasul as foreign minister and Habibullah Ghalib as justice minister. However, MPs backed only one of the three women nominees, Amina Afzali, as work and social affairs minister. The two women put forward for the posts of public health and women's affairs were rejected… Some had complained that candidates were not suitably qualified or that others were too closely aligned to warlords. Mr Karzai faces strong international pressure to create a government that can oversee reforms." **[25m]**

4.02 President Hamid Karzai spoke to the BBC in January 2010 about his plans for a new scheme by paying Taliban fighters to lay down their arms. The article noted:

"Afghan President Hamid Karzai has told the BBC he plans to introduce a scheme to attract Taliban fighters back to normal life by offering money and jobs. He would offer to pay and resettle Taliban fighters to come over to his side, with the scheme funded by the international community. He said the UK and US would show at a conference next week in London that they had decided to back his new plan. Japan is one of the countries which, he said, is prepared to put up the money. The Taliban currently pay their volunteers, who are often just farmers, significantly more than the Afghan government can afford to give its forces. President Karzai said the Afghan people had to have peace at any price." **[25l]**

4.03 On 24 January 2010, the BBC Online website reported on the announcement to postpone the Afghan Parliamentary elections until September 2010. The article reported:

"Afghanistan is to postpone its parliamentary elections by four months until September [2010], the country's election commission has confirmed. Elections were to take place before 22 May under the constitution but a new date of 18 September has been set. The commission cited a lack of funds and security concerns for the delay. Last year's presidential election was marred by fraud, and Western nations have been pushing for reforms ahead of the parliamentary vote." **[25i]**

4.04 A controversial legislation, the 'National Stability and Reconciliation' Bill, which was passed by both the houses in the Afghan government in early 2007 and only publicly divulged three years later in early 2010 is believed to be, by some human rights organisations, an attempt to provide 'legal cover for ongoing impunity for perpetrators of human rights violations' according to an Amnesty International article dated 9 February 2010. The Bill would provide immunity to those Taliban (Taleban) members who cooperate with the government and who have been involved in international crimes, including, violations against laws of war, torture, rape, disappearances and public executions. **[7f]**

4.05 The United Nations General Assembly Security Council: *The situation in Afghanistan and its implications for international peace and security* Report of the Secretary-General, dated 10 March 2010, noted: "In February 2010, the Afghan army and the International Security Assistance Force (ISAF) launched an offensive involving 15,000 troops against a Taliban stronghold in Helmand. The operation, which focused on Marjah, in the centre of a significant opium-growing region, is to be followed by a major governance effort." **[39i] (p8)**

4.06 Human Rights Watch (HRW) published a document on 10 March 2010 expressing their concern about an amnesty law granting immunity to members of armed factions involved in war crimes and human rights abuse carried out before 2001. In the document, HRW stated:

"The Afghan government should urgently act to repeal a law that provides an amnesty to perpetrators of war crimes and crimes against humanity, Human Rights Watch said today.

"The law was published unannounced in the official gazette, bringing it into force, despite repeated promises by President Hamid Karzai that he would not allow the law to go into effect…

"The National Stability and Reconciliation Law was passed by parliament in 2007 by a coalition of powerful warlords and their supporters to prevent the prosecution of individuals responsible for large-scale human rights abuses in the preceding decades. The amnesty law states that all those who were engaged in armed conflict before the formation of the Interim Administration in Afghanistan in December 2001 shall 'enjoy all their legal rights and shall not be prosecuted.'

"Human Rights Watch endorsed the March 10 statement of the Transitional Justice Co-ordination Group, representing 24 Afghan civil society organizations, which called for the law to be repealed. The group stated that, 'Accountability, not amnesia, for past and present crimes is a prerequisite for genuine reconciliation and peace in Afghanistan. All Afghans will suffer as a result of implementation of this law, which undermines justice and the rule of law.'" **[17f]**

4.07 HRW continued:

"The chairperson of the AIHRC [Afghanistan Independent Human Rights Commission], Dr. Sima Samar, told Human Rights Watch that she had been offered assurances that he would not enact the law: 'The president himself promised me twice that he would not sign the law.' Despite this commitment, and similar promises to a range of civil society groups, the law was published in the official gazette. It is not clear when this happened, as the date on the gazetted law is December 2008, while some sources say it was not published until January 2010, when printed copies of the law were received by organizations that monitor the gazette…

"Human Rights Watch expressed concern that the law may be used to provide immunity from prosecution for members of the Taliban and other insurgent groups who have committed war crimes." **[17f]**

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5. CONSTITUTION

5.01 The Foreign and Commonwealth Office (FCO) Country Profile, updated 6 January 2009, reported:

"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, dated 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 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. **[4a]**

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6. POLITICAL SYSTEM

OVERVIEW

6.01 The Central Intelligence Agency (CIA) World Factbook, updated on 22 February 2010, noted that Afghanistan is an Islamic republic; the Government consists of both executive and legislative branches. **[3a] (Government)**

6.02 The Economist Intelligence Unit (EIU) 2008 Country Profile of Afghanistan noted that

"Following the collapse of the extremist Islamic regime of the Taliban in 2001, Afghanistan's constitution was amended to re-establish the country as an Islamic republic with democratic elections for the National Assembly (parliament) and the presidency… Afghanistan is a democratic state, with a directly elected president and a bicameral National Assembly (parliament), the lower chamber of which, the Wolesi Jirga, is directly elected… Hamid Karzai was inaugurated for a second term as president in November 2009 after a disputed election held in August 2009. Elections for the lower house and provincial councils were held in September 2005. Candidates stood as individuals rather than as representatives of parties. The next lower house election is due in 2010." **[84b] (p4-5)**

THE EXECUTIVE BRANCH

6.03 The Central Intelligence Agency (CIA) World Factbook, last updated 22 February 2010, noted that Hamid Karzai has held the position of President since December 2004 and as President, holds the position of head of government. Mohammad Fahim Khan is First Vice President, and has held the postion since 19 November 2009. The cabinet is made up of 25 ministers who, under the new constitution, are appointed by the President and approved by the National Assembly. **[3a] (Government)**

6.04 The CIA World Factbook further noted that "… the president and two vice presidents are elected by direct vote for a five-year term (eligible for a second term); if no candidate receives 50% or more of the vote in the first round of voting, the two candidates with the most votes will participate in a second round; a president can only be elected for two terms; election last held 20 August 2009 (next to be held in 2014)." **[3a] (Government)**

See also Section 3: Presidential Elections 20 August 2009 and Latest News for information about the final outcome of August 2009 elections

THE LEGISLATIVE BRANCH

6.05 Central Intelligence Agency (CIA) World Factbook, last updated 22 February 2010, stated that:

"The bicameral National Assembly consists of 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) and the Wolesi Jirga

or House of People (no more than 249 seats), directly elected for five-year terms

"note: 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." **[3a] (Government)**

PROVINCIAL COUNCILS

6.06 There are 34 Provincial Councils in Afghanistan. (Factbook, last updated 22 February 2010) **[3a] (Government)** A UN Report dated 11 September 2006 observed that "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." **[39c] (p5)**

6.07 When reporting on the 2009 Presidential elections the Independent Election Committee Factsheet on Provincial Councils recorded that:

"It is the responsibility of the Provincial Councils members to represent and listen to the concerns of the people of the province and will play an important role in the development of provincial policy and expenditure. Provincial Councils have an important consultative and participatory role in many aspects of provincial affairs. For example, Provincial Councils will participate in determining the provincial development objectives of government in fields such as economic, social, health, education, reconstruction, and will contribute to the improvement of the province.

"The members of the Provincial Council are responsible for working with people to resolve conflicts, such as ethnic conflict and local disputes, for following the laws of the Government of Afghanistan.

"Provincial Council members work closely with the Provincial Governor and other government departments by holding regular monthly meetings. They are required to hold general public meetings at least once every three months." **[34a]**

(See also Section 4: Recent Developments – Presidential Elections 20 August 2009 for further information on Provincial election results from August 2009)

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POLITICAL PARTIES

6.08 The United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,* July 2009 stated that:

"The emergence and formation of political parties in Afghanistan has a long and complex history. Since 2002, the political party system is in almost

continuous mutation. Older and more stable parties coexist with new tendencies, and alliances are volatile. Current leftist tendencies (other than those with former links with the PDPA [People's Democratic Party of Afghanistan]) include underground movements with roots in the sixties, movements already existing during the Taleban period that have recently adopted a moderate agenda, and youth movements supporting Western-style social-democracy." **[11a] (p30)**

6.09 The Library of Congress, Country Profile on Afghanistan, dated August 2008, recorded that:

"In 2008 the largest individual parties were the Islamic Party of Afghanistan, the National Congress Party of Afghanistan (represented in the presidential election by fifth-place finisher Abdul Latif Pedram), the National Islamic Movement of Afghanistan (an Uzbek party, represented in the election by fourth-place finisher Abdul Rashid Dostum), the National Movement of Afghanistan (a coalition of 11 parties also known as the Afghan Nationalist Party), the Islamic Society of Afghanistan, the Islamic Unity Party, and the United National Front (founded by members of the Northern Coalition and other leaders after the 2005 elections). United National Front member Yonous Qanooni, the speaker of the Wolesi Jirga, has been a key voice of opposition to the Karzai government and is considered a likely candidate in the 2009 presidential election. President Karzai has declined to form a party to advance his programs. The first parliament featured a broad division between leaders of previous military conflicts and younger 'modernists' who emphasized future development of the country. Another important division of political power is between the Pashtun-dominated south and the Tajik- and Uzbek-dominated north." **[96a] (p18)**

6.10 The USSD *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009) noted that:

"The law on political parties obliges parties to register with the [Ministry of Justice] MOJ 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 [2009] there were approximately 100 registered political parties. Parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where anti-government violence affected overall security." **[2a] (Section 2b)**

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

See Political affiliation for information on political rights in practice and 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 USSD *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated in its introductory section that the country's human rights record remained poor. Human rights problems included:

- extrajudicial killings
- torture
- poor prison conditions
- official impunity
- prolonged pretrial detention
- restrictions on freedom of the press
- restrictions on freedoms of religion
- violence and social discrimination against women
- restriction on religious conversions
- abuses against minorities
- sexual abuse of children
- trafficking in persons
- abuse of worker rights
- the use of child soldiers in armed conflict
- and child labor. **[2a]**

7.02 The Human Rights Watch (HRW) World Report 2009, Afghanistan, covering events of 2008, stated "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." **[17b]**

7.03 The summary of Amnesty International's Annual Report 2009, Afghanistan, covering events in 2008, stated:

"In January, the Afghan-international Joint Co-ordination Monitoring Board (JCMB) acknowledged that little headway had been made in the implementation of the Action Plan on Peace, Justice and Reconciliation. The 2005 Action Plan called on the Afghan state to remove human rights abusers from positions of power, encourage institutional reform, and establish an accountability mechanism.

"In its March annual review, the JCMB conceded that progress had been slow in the area of human rights. The JCMB also acknowledged that there was still insufficient civilian oversight of government security forces and law enforcement agencies, most notably the National Directorate of Security (NDS), Afghanistan's intelligence agency.

"In June, the government launched the Afghanistan National Development Strategy (ANDS), a road map for development until 2013. The ANDS is counterpart to the 2006 Afghanistan Compact, a political agreement between the Afghan government and donor countries." **[7b]**

7.04 The USSD Human 2009 also noted "NGOs [Non-Governmental Organisations] and human rights activists noted that societal violence, especially against women, was widespread; in many cases the ANP did not prevent or respond to the violence." **[2a] (Section 1d)**

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]**

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8. SECURITY SITUATION

OVERVIEW

8.01 Jane's Sentinel Security Assessment: Afghanistan, Security section, updated 20 October 2009, stated that:

"In order to combat deteriorating security in the southern part of the country and help to secure more areas for reconstruction, in February 2009, Obama authorised the deployment of 17,000 extra troops to Afghanistan, comprising about 8,000 marines, approximately 4,000 army soldiers and about 5,000 support troops. In March 2009, Obama announced that an additional 4,000 troops from the 82nd Airborne Division – what counter-insurgent analyst John Nagl called the US' 'shock force' – would be sent specifically for the task of training the ANA. By the end of the summer 2009, additional US troops pouring in Afghanistan totalled 21,000. More than 60,000 US troops are currently in Afghanistan, a record number, to fight rising insurgent violence.

"Even with the increased troop numbers, the size of coalition forces remains insufficient to ensure security across the entire country, and is considerably fewer than the 150,000 troops stationed in Iraq (which is a third smaller than Afghanistan) at the height of operations there. Even when taking the number of Afghan forces into account, the total number of troops engaged against the Taliban is about 10 per cent of the total recommended by the US counterinsurgency doctrine (one troop for every 50 members of the population). In his August report to [President Barack] Obama and [US Secretary of Defense, Robert] Gates, [General Stanley] McChrystal warned that the overall effort has deteriorated and that 'resources will not win this war, but under-resourcing could lose it'." **[35a]**

8.02 The Human Rights Watch (HRW) World Report 2010: Afghanistan, covering events of 2009, published 19 January 2010, stated:

"2009 was another year marked by growing violence and insecurity, with the armed conflict continuing to spread. Insurgent attacks increased, killing greater numbers of civilians. The second half of the year was dominated by presidential and provincial council elections in August 2009, which saw high levels of violence and intimidation, primarily by the Taliban and other insurgent groups. The elections were marred by widespread fraud and low turnout in conflict areas." **[17d] (p258)**

8.03 2009 saw an increase in civilian deaths during the fist ten months compared to the same period in 2008. The HRW report 2010 stated:

"The United Nations reported that approximately 2,021 civilians were killed by coalition, government, and insurgent forces in the first 10 months of 2009, an increase on 1,838 killed during the same period in 2008. Of these, 69 percent were attributed to 'anti government elements,' and 23 percent to international-led military forces. In 2008 the international-led military forces were responsible for more than one-third of civilian deaths. Reforms in United States and NATO [North Atlantic Treaty Organisation] operational guidelines appear to have resulted in a reduction in casualties of around 30 percent in the first 10 months of 2009, compared to the same period in 2008.

"Civilian casualties caused by the Taliban and other insurgent groups continued to rise. Improvised explosive devices caused most deaths, with targeted killings and summary executions, including beheadings, adding to the death toll and levels of fear in communities. The Taliban continued to be involved in the forcible and voluntary recruitment of children to take part in fighting." **[17d] (p258)**

8.04 Military forces in Afghanistan subsequently announced they would limit the number of airstrikes they would carry out to try and minimise the number of civilian casualties. The order came after an airstrike in Farah province during May 2009 in which, according to US forces, 26 people were killed. However the Afghan government and human rights groups estimated over 100 dead from that operation. (British Broadcasting Corporation, 22 June 2009) **[25c]**

8.05 Non-Government Organisations (NGO's) and Aid Agencies also reported difficulties carrying out operations due to insecurity, hampering relief efforts. On 20 July 2009, Refugees International reported:

"In 2009, access continued to deteriorate both for the UN and international aid organizations. From January to June 2009, security incidents increased by 43 percent compared to the first half of 2008, and hampered the humanitarian community's ability to assess vulnerable Afghans and respond to humanitarian needs. Conflict-affected areas like the south or the southeast of the country are virtually no-go zones, and information on the scope of needs is vague at best." **[57b]**

8.06 The International Institute for Strategic Studies (IISS), Armed Conflict Database report on military and security developments in Afghanistan in 2009, (accessed on 12 February 2010), stated that:

"As the Taliban insurgency gained momentum, the number of improvised explosive device (IED) attacks grew. In 2003, there were 81 IED incidents recorded in Afghanistan. In 2009, that figure had jumped to 7,228 – causing more than 60% of coalition deaths. However, the Taliban's increasing boldness was most clearly evidenced by high-profile attacks in Kabul. An attack on three government buildings in February killed 27; suicide bombers at the Indian embassy killed at least 17 in early October; and six foreign UN staff and three Afghans were killed when Taliban militants with suicide vests, grenades and machine guns launched themselves at two UN guesthouses in late October. That same day, rockets were fired at Kabul's luxury Serena Hotel." **[104a]**

8.07 A report by the Afghanistan NGO Safety Office (ANSO) *Quarterly Data Report Q.4 2009*, accessed via Reliefweb, noted that during 2009:

"Non-governmental Organisations (NGOs) were involved in 172 major incidents in which 19 NGO staff were killed and 18 seriously injured. All the victims were Afghan nationals this year. Murders due to personnal (non-work) related dispute and roadside attacks were the primary cause of death. While crime continues to have an important impact on NGOs, the expanding conflict as well as the perception of armed opposition groups (AOP) towards NGOs have become much more significant factors of NGO security, or insecurity." **[40b] (p1)**

(See also Section 19: Human Rights Institutions, Organisations and Activists - Non-Governmental Organisations (NGOs))

8.08 The United Nations [UN] General Assembly Security Council: *The situation in Afghanistan and its implications for international peace and security* Report of the Secretary-General, dated 28 December 2009, noted:

"Attacks against the aid community slightly increased in the reporting period, making them a nearly daily occurrence. The protection of aid workers provided by the local communities was undermined by frequent attacks against community leaders. On average, the insurgents assassinated nine people per week in the third quarter of 2009, one of whom on average was a community leader. The continuing high rate of direct intimidation of national staff working for the aid community, including the United Nations, continued to pose obstacles to programme delivery. In the south, south-east and east, isolated reports were received regarding Government officials being forced to bribe insurgent commanders in order to facilitate the continued operation of schools and allow for the implementation of certain development projects. This highlights the heightened ability of the insurgents to exert their authority and influence over the implementation of development activities. **[39a] (p6)**

8.09 An Integrated Regional Information Networks (IRIN) News report on 1 March 2010 reported on the number of civilian deaths to date in 2010:

"The number of civilian deaths caused by the conflict in Afghanistan in the first two months of 2010 was slightly lower than in the same period in 2009, according to two Afghan human rights groups. Some 163 civilians died and 187 were wounded in violent incidents in different parts of the country in January and February 2010, compared to 201 deaths in the same period of 2009, the Afghanistan Independent Human Rights Commission (AIHRC) said. 'Ninety-two civilian deaths have been attributed to the armed opposition and 71 to pro-government Afghan and foreign forces,' Fareed Hamidi, a commissioner of the AIHRC, told IRIN. The Afghanistan Rights Monitor (ARM), a non-government rights body, had slightly different figures: 201 civilian deaths in the first two months of 2010 as against 297 in 2009. ARM said it gathers data from a variety of sources including local and international media, government officials, provincial councils, NGOs and local people. AIHRC said it verifies violent incidents through its provincial offices and a 'civilian casualty verification team'." **[39a]**

8.10 The United Nations (UN), *The situation in Afghanistan and its implications for international peace and security*, Report of the Secretary-General, published 10 March 2010, stated that "The situation worsened in January 2010, with the number of security incidents 40 per cent higher than in January 2009. That increase was the result of a combination of factors, including an increased number of international military troops and mild weather conditions in several parts of the country." **[39i] (p7)**

8.11 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"The marked deterioration in security posed a major challenge for the central government, hindering its ability to govern effectively, extend its influence, and

deliver services, especially in rural areas. The security environment also had an extremely negative effect on the ability of humanitarian organizations to operate freely in many parts of the country, particularly in providing life-saving care. Insurgents deliberately targeted government employees and aid workers. Efforts to contain the insurgency by military and nonmilitary means continued. Reports of human rights violations were actively exploited and sometimes manufactured by the Taliban and other insurgent groups for propaganda purposes." **[2a] (p1)**

8.12 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.

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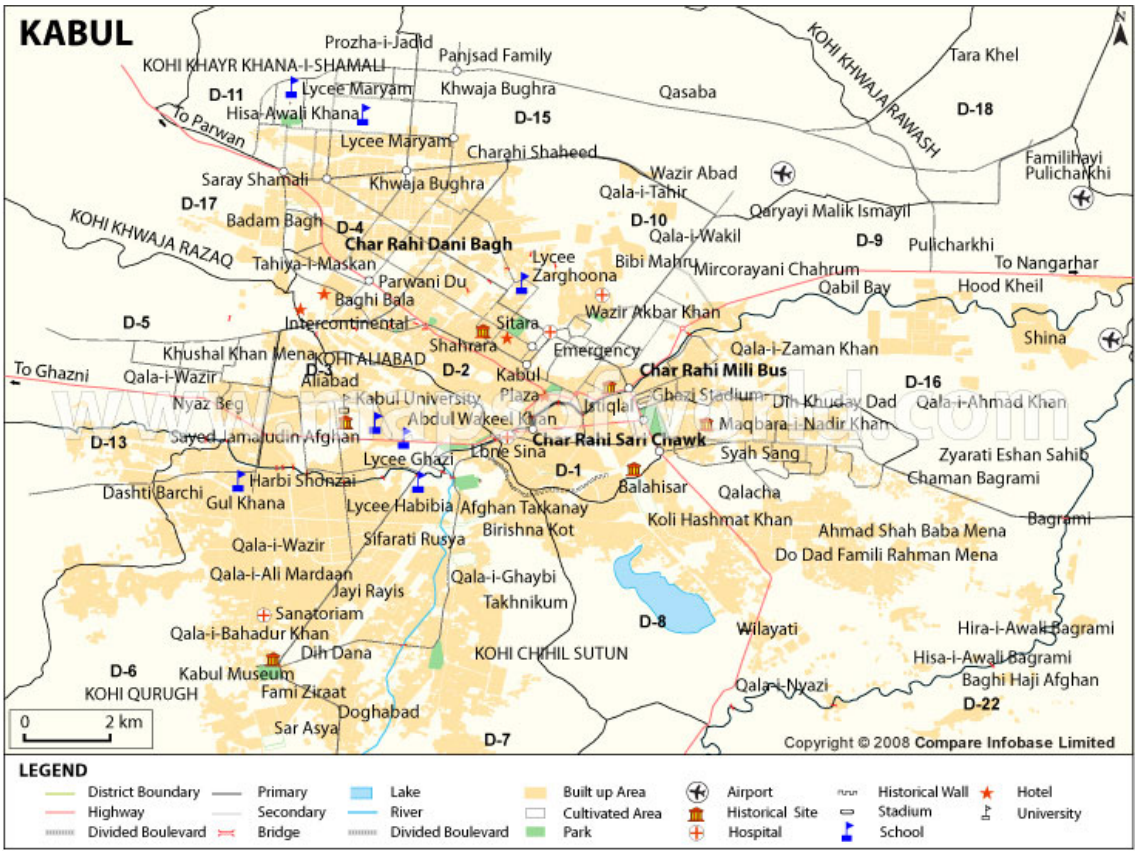
SECURITY SITUATION IN DIFFERENT REGIONS

Kabul City

8.13 The Kabul Provincial Profile on the Afghanistan Investment Support Agency (AISA) website, accessed 12 February 2010, described the security situation in the capital and noted that "The heavy international and military presence, particular through the US airbase in Bagram, have boosted private security businesses in and around Kabul city. Partly as a result of this, the security situation in Kabul is more or less stable although unpredictable. Occasionally, IED, road-side and suicide bomb attacks mostly against Government buildings and military targets cause military and civilian casualties." **[105] (p5)**

8.14 Map of Kabul:



(Maps of the World) **[54a]**

8.15 An article in the *Wall street Journal* on 19 August 2009, reported on the Taliban's attempts to disrupt the Presidential elections on the 20 August. Five attacks in the capital were recorded within the week leading up to the elections, killing 15 people and injuring 144. A Western civilian security official in Kabul said 'They [the Taliban] have been stockpiling weapons and bombs. They have people here,'…" The *Wall Street Journal* recorded that "Afghan officials have had some success in combating the Taliban's moves. In July [2009], authorities captured a suspected suicide bomber who was believed to be planning to target government buildings in Kabul. **[100a]**

8.16 Following the elections the Taliban released video footage showing Taliban fighters manning an impromptu checkpoint, stopping vehicles and demanding to see the fingers of those who passed to see if they showed any evidence of the indelible ink which was used on voters' fingers. The Taliban had reportedly issued threats prior to the elections warning that those who voted would have their fingers cut off. (Al Jazeera, 27 July 2009) **[15c]** Free and Fair Election Foundation of Afghanistan (FFEFA) reported that in Kandahar province shortly after voting, Taliban militants had cut off the fingers of two voters that were covered in the indelible ink. (Daily Mail, 24 August 2009) **[93a]**

8.17 *The situation in Afghanistan and its implications for international peace and security* Report of the Secretary-General, dated 28 December 2009, submitted to the United Nations General Assembly Security Council, noted:

"The reporting period [since the last report of 22 September 2009] was also marked by a dramatic deterioration in security, with the return of suicide attacks in Kabul, whereas there had been no such attacks between 15 March and 15 August 2009. The deployment of an additional 5,000 policemen in the nine square kilometres forming the centre of Kabul (the 'Ring of Steel') provided only limited relief. Five suicide attacks with vehicle-born explosives were conducted by insurgents inside that area in August and September. Incidents inside the 'Ring of Steel' increased to the levels experienced in 2008. However, several attacks in the capital were also prevented owing to the efficient work of Afghan security institutions with international assistance." **[39a] (p7)**

Afghanistan Information Management Services (AIMS) provides district profiles and maps on Afghanistan. **[82a]**
http://www.aims.org.af/sroots.aspx?seckeys=96

(See also Section: Latest News for more recent security incidents.)

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List of main security incidents in and around Kabul city:

8.18 On 19 August 2009, a day before the Presidential and Provincial elections, a suicide car bomb exploded killing seven people, including NATO soldiers and UN staff. The bomb was the second in four days and only hours after two mortar rounds fell close to the Afghan Presidential Palace. (*Times Online*, 19 August 2009) **[68a]**

8.19 On 7 September 2009, a senior police official was reported as saying that a rocket attack in western Kabul had killed three civilians, including a young girl. Two children from one family were reportedly injured in the same attack. (BBC News, 7 September 2009) **[25g]**

8.20 On 9 September 2009 IRIN News reported that according to the Ministry of Interior (MoI):

"In the past month at least 10 rockets have been fired on different parts of Kabul, often killing or wounding civilians… In less than a month, well over a dozen civilians have also died in a number of suicide attacks in Kabul: on 8 September a suicide attack near the airport killed two civilians and wounded six; on 18 August a suicide attack killed 10 (including two UN national staff) and injured 50; and a suicide attack in front of the NATO premises in Kabul on 15 August killed nine and wounded 90, most of them civilians… Taliban insurgents have often claimed responsibility for the attacks through their purported spokesmen." **[36b]**

8.21 On 17 September 2009 it was reported that a car carrying a suicide bomber hit two military vehicles in Kabul city centre killing six Italian soldiers and at least ten civilians. The blast injured dozens of others in what was believed to be an attack targeted at a military convoy on Kabul's airport road. The Taliban claimed responsibility for the attack which was one of the deadliest on foreign troops in recent months. (BBC News, 17 September 2009) **[25s]**

8.22 On 8 October 2009 17 civilians were killed and more than 80 wounded in a suicide attack outside the Indian embassy in Kabul city. "The suicide bomber detonated a car packed with explosives in a market across the street from the Indian Embassy and Afghanistan's Interior Ministry." (The Long War Journal, 8 October 2009) **[55c]**

8.23 At least least five United Nations (UN) workers were killed when the Taliban raided a UN guesthouse in Kabul city on 28 October 2009. The incident, which was condemed by the UN Secretary-General Ban Ki-moon as "shocking and shamless", was the first of a new wave of attacks during the build-up to the presidential election run-off scheduled for 7 November 2009. (BBC News, 28 October 2009) **[25f]**

8.24 The Foreign and Commonwealth Office (FCO) travel advice for Afghanistan, updated on 28 January 2010, recorded that the following incidents also occurred in or close to the city of Kabul:

- "On 13 November 2009, a car bomb detonated against a US Military and Civilian contractor convoy leaving Camp Phoenix on the Jalalabad Road outside Kabul City. A number of local nationals were killed and over 20 ISAF [International Security Assistance Force] soldiers and civilian contractors were wounded…

- "On 15 December 2009, a vehicle bomb exploded in 13th Street WAZIR AKBAR KHAN District. Local reporting indicated that the vehicle involved had been turned away after attempting to gain access to the HEETAL Hotel. The attacker then detonated close-by, outside the houses of several senior Afghan Government and Security figures. Later reports indicated eight dead and 37 wounded…

- "On 09 January 2010, along Highway One in, Paghman District, Kabul Province, an IED [Improvised Explosive Device] hidden in a culvert exploded when a convoy of vehicles belonging to member of the Provincial Council was passing. One vehicle was hit causing several fatalities and injuries amongst the politician's entourage…

- "On 18 January 2010, insurgents made simultaneous co-ordinated attacks on a number of Afghan Government targets around Pashtunistan Square in Kabul City, using suicide-belt attackers and men armed with automatic weapons and RPG [rocket-propelled grenade] launchers. Having failed to gain access to any of them, they then took refuge in the Ferowshgah Shopping Centre and continued firing at targets of opportunity, until they were eliminated by Afghan Security Forces. A vehicle bomb attack was also attempted against the Ministry of Education, but was prevented and detonated in the road-way. Fortunately, considering the scale of the attack, casualties were relatively low. Final figures vary, but two civilians were confirmed killed and 30 to 40 wounded. Four Afghan Security Forces were killed and over thirty wounded. On 09 January 2010, along Highway One in, Paghman District, Kabul Province, an IED [improvised explosive device] hidden in a culvert exploded when a convoy of vehicles belonging to member of the Provincial Council was passing. One

vehicle was hit causing several fatalities and injuries amongst the politician's entourage…

- "On 26 January 2010, a suicide vehicle bomber attacked an ISAF foot patrol on the Jalalabad Road in the vicinity of Camp Phoenix. This resulted in eight ISAF soldiers and eight civilians wounded, with damage to several civilian cars in the vicinity. No fatalities were reported apart from the occupant(s) of the vehicle bomb." **[4f]**

8.25 On 26 February 2010 the Taliban again attacked the capital city killing at least seventeen people and injuring more than thirty others. Radio Free Liberty/Radio Europe reported that:

"United Nations Secretary-General Ban Ki-moon has condemned the Taliban attacks in the Afghan capital… In a statement, Ban said the deliberate targeting of civilians shows the Taliban's 'senseless disregard for human life.' Authorities said up to nine of those killed in the coordinated assault by suicide attackers February 26 in central Kabul were Indian citizens, including some government officials. A French filmmaker and an Italian diplomat also were reported killed. It was the second deadly Taliban attack in the Afghan capital since the start of this year, follwing a January 18 assault by suicide attackers on government buildings and other targets." **[29d]**

Afghanistan Information Management Services (AIMS) provides district profiles and maps on Afghanistan. **[82a]**
http://www.aims.org.af/sroots.aspx?seckeys=96

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The West

Includes: Harat (Hirat, Herat), Farah, Nimroz, Badghis and Gor.

8.26 The Foreign and Commonwealth Office (FCO) travel advice for Afghanistan, updated on 28 January 2010, recorded that "The security situation in Western Afghanistan has become worse in recent months. There have been roadside and suicide attacks, rocket attacks and criminal kidnapping throughout these provinces and increased lawlessness in Western Ghor. There is little security infrastructure in Dai Kundi and Westerners have been kidnapped there." **[4f]**

8.27 On 3 August 2009 at least 12 people were killed and 20 injured in a bomb attack in Herat, western Afghanistan when militants set off a bomb by remote control while targeting a police convoy. Police spokesman Raouf Ahmedi was quoted as saying that "two police officials, a woman and child were among those killed, and that the district police chief had been seriously injured." (BBC News, 3 August 2009) **[25o]**

8.28 The FCO's Travel Advice for Afghanistan recorded the following incidents in the west:

- "On 16 October 2009, in the Bala Boluk District of Farah Province, an IED strike on an ANP [Afghan National Police] vehicle patrol wounded three policemen…

- "On 26 October 2009, a large crowd of citizens demonstrated against the alleged burning of a Qur'an by ISAF in Wardak Province on 16 October 2009…

- "On 01 January 2010, in Morghab District, of Badghis province an IED attack against a civilian vehicle resulted in five civilians killed. The incident appears to have been particularly upsetting to the civilian population in the area as the victims were two men, two women and a child, all members of the same family…

- "On 08 January 2010, insurgents fired several rockets at a building previously used as a hotel and now being prepared to function as the US Consulate in Herat City…

- "On 17 January 2010, in Chesht-e Sharif District, Herat Province, insurgents opened fire on a District Official's car, killing the District Chief, the local director of criminal investigations, another employee, a bodyguard and two policemen." **[4f]**

8.29 The Afghanistan NGO Safety Office (ANSO) Country Summary on Afghanistan, covering period 16-31 January 2010 noted that an Afghan National Security Forces (ANSF) operation in Dakwa District of Farah province on the 18 January resulted in 11 deaths from the Armed Opposition Group (AOG). In Herat, where AOG activities have been renewed, reports claimed that District Governor of Chisthi Sharif was killed, along with five other officials, after their convoy was allegedly ambushed on 17 January 2010. **[32a] (p9)**

Afghanistan Information Management Services (AIMS) provides district profiles and maps on Afghanistan. **[82a]**
http://www.aims.org.af/sroots.aspx?seckeys=96

Central

Includes: Ghazni, Maidan-Wardak, Logar, Kapisa, Kabul, Parwan and Daikundi

8.30 The Afghanistan NGO Safety Office (ANSO) Country Summary on Afghanistan, covering period 16-31 January 2010 noted that "Wardak remains the central region's most volatile province; with the eastern districts of Chaki Wardak, Jaghatu, Jalrez, Nirkh and Saydabad all hosting either AOG [Armed Opposition Groups] or ANSF/IMF [Afghan National Security Forces / International Military Forces] initiated incidents in the past two weeks." Parwarn remained relatively quiet while Daykundi (Daikundi) saw an increase in activity from Armed Opposition Groups during the reporting period. **[32a] (p3-4)**

8.31 The ANSO Country Summary also noted that there had been a number of arrests of Armed Opposition Groups (AOG) members during joint Afghan National Security Forces (ANSF) and International Military Forces (IMF) operations across Logar Province. The Muhammad Agha District was particularly targeted aimed at "IED [Improvised Explosive Device] or Logistic experts or facilitators." **[32a] (p4)**

Afghanistan Information Management Services (AIMS) provides district profiles and maps on Afghanistan. **[82a]**
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South, South-East and East

Includes: Helmand (Hilmand), Kandahar, Zabul, Paktika, Khost, Patika, Kunar, Laghman, Nangarhar and Nooristan (Nuristan).

8.32 The Foreign and Commonwealth Office (FCO) travel advice for Afghanistan, updated on 28 January 2010, recorded that:

"Southern Afghanistan is unpredictable and extremely volatile. There are regular military operations throughout the region and there has been a significant increase in the number of incidents ranging from shootings and roadside bombs to suicide bombings that have been targeted against both civilians and the military. Suicide and roadside bomb attacks in Helmand, Kandahar and Nimroz continue." **[4f]**

8.33 Reporting on Helmand Province, the Afghanistan NGO Safety Office (ANSO) Country Summary on Afghanistan, covering period 16-31 January 2010, stated that:

"AOG [Armed Opposition Groups] appeared to dominate incidents within the Province, confronting security forces throughout the province. In the most prominent-not the most effective-AOG attack, AOG struck within Lashkar Gar City during the morning of 29 January. During the attack that lasted approximately eight hours, AOG conducted a somewhat similar style attack to the 18 January Kabul City strike, employing BBIED [Body Borne improvised explosive device] attackers and armed operatives against ANSF and GoA [Government of Afghanistan] personnel within the Nangarhar Jada area of the city. According to reporting, five of the AOG were killed, one arrested, and the remaining member fled the scene, while only four ANSF were injured." **[32a] (p13)**

8.34 When reporting on Kandahar for the reporting period 16-31 January 2010, the ANSO Country Summary on Afghanistan observed that "58% of AOG attacks during the period were IEDs, occurring in Kandahar City, Maywand, Arghandab, Dand, Zahari, Panjwayi, and Daman districts. AOG also conducted targeted killings, sometimes unsuccessfully, in Kandahar City and Zhari. Out of the 24 AOG-initiated incidents in the province, approximately seven security force personnel were killed." **[32a] (p13)**

8.35 ANSO reported an increase in security incidents in both Kunar and Laghman provinces over the reporting period 16-31 January 2010. Fifty-five incidents initiated by AOG were recorded in Kunar. **(p10)** Zabul experienced its first incident this year; which happened when a subcontractor working on an NGO road project in Shamulzayi District was struck by an IED, killing five people and injuring six. Nuristan Province remained isolated and the reporting of incidents was limited. **[32a] (p12)**

8.36 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]**

8.37 The BBC 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." **[25w]**

8.38 The FCO's Travel Advice for Afghanistan recorded the following incidents in the South:

- "On 24 December 2009, in Kandahar City, a suicide bomber on a horse-drawn cart detonated an IED at a checkpoint in District 2. The bomber triggered the device as he was engaged by ANP after he refused to stop at the checkpoint. The suicide bomber was wearing a suicide vest, though the main charge was hidden on the cart. The attack resulted in seven civilians killed, one ANP killed, one suicide-bomber killed, two civilians wounded and one ANP wounded. The suicide bomber's attempts to by-pass the ANP indicate that the checkpoint was not the intended target. The primary target is likely to have been a hotel further along the street, which is regularly used by foreigners…

- "On 30 December 2009, in Tarin Kowt District, Uruzgan Province, a Taleban group murdered six religious students in a mosque. A seventh student sustained significant injuries to his neck after the attackers unsuccessfully attempted to behead him during the attack…

- "On 14 January 2010, a suicide bomber detonated himself at a currency exchange shop in Deh Rawood Bazaar, in Uruzgan Province. This occurred when the market was very busy. It is estimated to have killed 15 and injured many more." **[4f]**

8.39 A BBC News article on 26 January 2010 noted that officials had reported that at least four Afghan policemen were killed in an attack in southern Helmand province. Their bodies were found near the Ministry of Information and Culture in the regional capital, Lashkar Gah. An investigation was launched to identify their attackers. **[25a]**

8.40 On 13 February 2010 the *Independent* reported that a joint operation code-named Moshtarak had been launched involving 15,000 troops in a bid to clear Taliban held areas in Southern Afghanistan. In the first phase of the operation Afghan and coalition troops assisted by up to sixty helicopters "… made a 'successful insertion' into Marjah without incurring any casualties…;" according to Major General Nick Carter, NATO commander of forces in southern Afghanistan. **[10a]** An article on the NATO website noted that Major General Gordon Messenger had briefed the media "He said that the operation was fully supported by Afghan President Hamid Kazai and that local leaders including Helmand Governor Gulab Mangal had been party to the planning stages and are leading the governance effort that will follow" **[63b]**

8.41 At least twenty-seven civilians were reported to have been killed in Uruzgan province, southern Afghanistan, on 21 February 2010, when a NATO air strike targeted what they believed to be a convoy of three vehicles containing Taliban fighters manoeuvring to attack Afghan and foreign military forces. The Afghan cabinet said that four women and a child were amongst those killed. **[25e]**

8.42 On 1 March 2010 Al Jazeera News reported:

"A powerful blast has rocked Afghanistan's southern city of Kandahar near the main police station. It was not clear immediately what caused Monday's blast or if there were casualties, a witness for the Reuters news agency said. Just hours earlier, three civilians reportedly died after a suicide car bomber targeted Nato forces outside the same city… The attacker waited in a taxi near a bridge between the airport and city that Isaf troops regularly check for explosives, Inhamullah Khan, an Afghan army official at the bombing site, said. The assailant detonated the bomb as the convoy crossed the bridge in the morning, tossing a military vehicle into the ravine below, he said." **[15d]**

Afghanistan Information Management Services (AIMS) provides district profiles and maps on Afghanistan. **[82a]**
http://www.aims.org.af/sroots.aspx?seckeys=96

North, North-East and North-West

Including: Faryab, Kunduz and Baghlan

8.43 The Foreign and Commonwealth Office (FCO) travel advice for Afghanistan, updated on 28 January 2010, recorded recent significant incidents in the north:

- "On 10 October 2009, in Kunduz City, Kunduz Province an IED exploded near the ANP HQ, one ANP officer was killed…
- "On 03 November 2009, AGE [anti-government elements] blew up a portion of gas pipeline that runs from Shiberghan to Mazar-e Sharif in the Arab Village of Chemtal District. Six metres of the pipeline were destroyed and gas flow stopped. Reportedly the act was ordered by the Taliban shadow governor of Balkh (Mullah Raz Mohammad)." **[4f]**

(See also Section 4: Recent Developments – Elections 2009 and Latest News for more recent security incidents)

(See also Section 12: Abuses by Non-Government Armed Forces - Warlords and commanders)

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9. CRIME

9.01 The Foreign and Commonwealth Office (FCO) travel advice for Afghanistan, updated on 28 January 2010, observed that "Crime is a serious countrywide concern, particularly in rural areas. Foreigners have been the victims of violent attacks, including armed robbery and rape." **[4f]**

9.02 Crime in Afghanistan is dominated by the drugs trade and corruption. Jane's Sentinel Country Risk Assessment on security in Afghanistan, updated 20 October 2009, stated that:

"As NATO [North Atlantic Treaty Organisation] and US forces have attempted to crack down on Afghanistan's drug trade, major traffickers have used their wealth and influence to establish complex systems of protection. Corrupt government and law enforcement officials take bribes to allow drug interests to act with impunity, and the buying of positions within key government institutions is commonplace. These systems of political protection enable a small number of key trafficking cartels to control a higher proportion of the opium economy.

"Regional warlords maintain a large degree of financial autonomy. Being in control of border regions through which Afghanistan conducts its foreign trade and countries send their donated items, they levy taxes on all products leaving and entering their territories and also on their respective peoples and businesses. Their control over almost the entire country excluding Kabul deprives President Hamed Karzai's government of a large portion of its due revenue and, despite of reshuffles within the government, the situation is unlikely to improve in the medium term.

"The complicated array of actors with a vested interest in maintaining drug production, including most regional chieftains, is a major factor militating against the extension of central government control. Foreign countries involved in Afghanistan could become impatient with the warlord/drug situation and may be drawn to attempt robust action, including aerial eradication of the crop, as was advocated by elements in the former US administration of George W Bush." **[35a] (Organised Crime)**

OPIUM PRODUCTION

9.03 The World Bank report of August 2008 recorded that "Afghanistan is the world's largest producer of opium, which is used to make heroin." **[69b]**

9.04 The United Nations Office for Drugs and Crime (UNODC) report, *Afghanistan Opium Survey 2009*, published in September 2009, stated that "The bottom is starting to fall out of the Afghan opium market. For the second year in a row, cultivation, production, work-force, prices, revenues, exports and its GDP [Gross Domestic Product] share are all down, while the number of poppy-free provinces and drug seizures continue to rise." **[87a] (Executive Directors Commentary)**

9.05 The UNODC *Afghanistan Opium Survey 2010, Winter Rapid Assessment*, published on 10 February 2010, stated:

"The majority of the 20 Afghan provinces that were poppy-free in 2009 will remain so this year. Yet, three provinces (Baghlan, Faryab and Sari Pul, all in the north) risk showing the beginning of a trend reversal, with a minimal increase in cultivation in the districts with higher insecurity. Five other provinces (Kunar, Nangarhar, Kabul, Laghman and Badakhshan), not poppy-free so far, are also expected to have negligible amounts of poppies…

"Against the recent trend of ever higher productivity in the country-side, agricultural conditions in Afghanistan are expected to deteriorate in 2010, because of bad weather. Lower opium yields should also reduce the volume (tons) of opium produced, continuing the decline that has characterized the past three years." **[87c] (General Findings)**

9.06 The US Department of State (USSD) *International Narcotics Control Strategy Report* (INCSR), published on 27 February 2009 stated that:

"The Afghan government's Criminal Justice Task Force (CJTF) and Counter Narcotics Tribunal (CNT) is a vetted, self-contained unit, which consists of 30 Afghan prosecutors, 35 Afghan criminal investigators, 7 primary court[s] and 7 appellate court judges. The CJTF/CNT is mentored by DOJ [Department of Justice] Senior Legal Advisors. The CJTF/CNT has had a favorable impact on capacity building, and is working toward its first prosecutions. Regrettably, no major drug trafficker has been arrested or convicted in Afghanistan since 2006. It uses modern investigative techniques to investigate and ultimately prosecute narcotics traffickers under the December 2005 Counter Narcotics Law." **[2g]**

9.07 Street children are reportedly being used as drug carriers in Herat province, according to an article on the Institute for War & Peace Reporting website, dated 17 December 2009. The article also noted that "Gholam Jilani Daqiq, director of counter-narcotics in Herat, confirms that children are used as couriers by drug smugglers. He said that statistics provided by the United Nations Office on Drugs and Crime show there are 50,000 drug addicts in Herat – a city of 400,000." **[73f]**

9.08 The article further recorded a specific case which noted:

"Abdullah, aged 13 and the son of a drug addict, was working as a courier for a drug dealer. Now he has ended up in a children's reform and discipline centre in Herat. He says it started when he was sleeping in the city's Shahr-e Naw park and a man came up and offered him 500 afghani (ten US dollars) to carry a package of narcotics to a friend's house. The boy says the man introduced himself as Naser and made an excuse for not wanting to deliver it in person. They went together to the friend's neighbourhood, Abdullah knocked on the door and gave the package to an old man. 'I did this several times. One day Naser took me to his house and sexually abused me and gave me 1,000 afghani,' he said. 'I did not say anything about the sexual abuse to my parents, because there was nothing they could do about it.' Finally, when he was carrying narcotics to a client, the police caught him and brought him to the children's reform and discipline centre." **[73f]**

(See also Section 28: Medical Issues: Drug Addiction and Section 26: Children: Violence against children)

10. SECURITY FORCES

OVERVIEW

10.01 The Council on Foreign Relations background information on Afghanistan's National Security Forces, 16 April 2009, stated that:

"Afghanistan's National Security Forces consist of three principle components- the army, the army air corps, and the national police. Within these units, specialized personnel round out the country's security capabilities, including communications and logistical staff, border guards, and narcotics officers. Yet as sound as the country's security apparatus appears on paper, its effectiveness, professionalism, and state of readiness remains uneven. In March 2009, with violence in Afghanistan at an all-time high, President Obama vowed to 'accelerate our efforts to build an Afghan Army of 134,000 and a police force of 82,000 so that we can meet these goals by 2011.' The U.S. government has spent at least $16.5 billion… to train and equip Afghan army and police forces. But experts say realizing the new Obama endgame turning over 'security responsibility to the Afghans' will take time, money, and far more resources than have been committed." **[95a]**

10.02 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"The ANP [Afghan National Police], under the MOI [Ministry of Interior], has primary responsibility for internal order but increasingly was engaged in fighting the insurgency. The ANA [Afghan National Army], under the Ministry of Defense (MOD), is responsible for external security. The NDS [National Directorate of Security] had responsibility for investigating cases of national security and also functioned as an intelligence agency. In some areas certain individuals, some of whom reportedly were linked to the insurgency, maintained considerable power as a result of the government's failure to assert control. NATO [North Atlantic Treaty Organisation] remained in control of ISAF [International Security Assistance Force], which worked closely with the national security forces." **[2a] (Section 1d)**

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POLICE

Afghan National Police (ANP)

10.03 The Afghan National Police (ANP), under the Ministry of Interior (MOI), has primary responsibility for internal order. (USSD, 2008) **[2a] (Section 1d)**

10.04 Jane's Sentinel Country Risk Assessment: Afghanistan, Security and Foreign Forces section, updated 3 December 2008, stated that:

"The police in Afghanistan have never had an effective national enforcement capacity and have only been able to fully represent the authority of central government within the main cities. Their effectiveness in rural areas (over 90 per cent of the country) has depended entirely on co-operation from local leaders, including religious figures. During and immediately after the period of

the Taliban government, Afghanistan had no centralised police service, although the United Front (UF, also known as the Northern Alliance) fighters who took over Kabul in 2001 were swift to declare themselves the primary guarantor of security in the capital…

"The ANP does not function as a united, professional and disciplined law enforcement entity and is unable to preserve law and order across the majority of the country. Outside Kabul the police depend on considerable assistance from foreign organisations and nations, supported by military force. Former UF fighters without any police training who remain loyal to their former military commanders and/or tribal entities constitute the majority of personnel. Illiteracy and an ignorance of the law prevents some of them from performing even basic duties. Like several other tiers of civil service, many police personnel are not paid regularly and their stations lack even basic equipment such as radios/telephones, pens and paper." **[35b]**

(See also Section 20: for information regarding corruption in the Police force)

Structure and Reform

10.05 The Council on Foreign Relations background information on Afghanistan's National Security Forces, 16 April 2009, stated that:

"On paper the police force looks solid, with the Afghan Uniformed Police responsible for general enforcement and public safety; the Border Police patrolling the country's borders and conducting counter-smuggling operations; the Civil Order Police responsive for disturbances in urban areas; the Counter Narcotics Police countering drug trafficking; the Criminal Investigation Police investigating crimes; and the Counter Terrorism Police heading counterinsurgency operations. But the Pentagon says development of Afghanistan's police force 'has been hindered by lack of institutional reform, widespread corruption, insufficient U.S. military trainers and advisors, and a lack of unity of effort within the international community'." **[95a]**

10.06 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, recorded that the national police were suffering from "… inadequate training, illiteracy, corruption, involvement in drug trafficking, and high levels of desertion." **[41a] (p6)**

10.07 Jane's Sentinel Country Risk Assessment: Afghanistan, Security and Foreign Forces section, updated 3 December 2008, stated that "The Afghan National Police (ANP) force is yet to undergo the reforms required to perform its core mission successfully. Development has been hindered by a lack of federal institution building, corruption, absence of sufficient trainers and a lack of sustained effort by the international community." **[35b]**

10.08 The Human Rights Watch (HRW) report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, published December 2009, stated that "There are approximately 550 female police officers in the country, of whom 166 are employed in the FRUs (Family Response Units). The total number of police on the payroll is 78,500, though the UN [United Nations] estimates that the real number is closer to 57,000." **[17c] (p66)**

10.09 The same source added:

"Recruiting women into the police force has been a challenging process, particularly because of the stigma attached to women police officers and because of the risks involved – Afghan police are often targeted for attack by insurgents and have a much higher casualty rate then [sic] the army…

"The basic literacy rate of all police recruits is low, at approximately 29 percent. In order to increase the number of women in the police, the Ministry of Interior lowered entry standards and reduced the amount of training that women receive. Tonita Murray, an advisor to the Ministry of Justice, has claimed that women have been promoted to ranks for which they do not have the educational qualifications, training, or experience. One women's rights advocate commented, 'The majority of the FRU staff are not trained, some of them don't even have a twelfth grade [education]. How could they protect women? It's not easy'." **[17c] (p66-67)**

10.10 The same HRW report commented that "At the time of writing at least 13 of the 83 FRUs exist in name only, since they have no women police officers. In many places this is due to insecurity. Another reason is a lack of commitment from provincial officials. For instance in Nangahar two units are currently suspended because the governor recruited the women police officers who had staffed the units to work for him." **[17c] (p66)**

10.11 An article by the Institute for War and Peace Reporting (IWPR) on additional women to be recruited by the police, dated 4 March 2010 noted that:

"Afghanistan's interior ministry hopes to recruit up to 5,000 women police officers, no easy task in a traditional Muslim society - at present it has just 700 women in a force of 97,700. While they won't be fighting insurgents like some of their male colleagues, they will staff checkpoints to deal with the problem of male rebels who at present get through dressed in burqas, often hiding guns or narcotics under their folds…

"The deputy interior minister, General Munir Mangal, says the recruitment of more women will make the work of the police easier. 'We face problems while searching and operating in houses and some other suspicious places, because the people do not let male police enter their houses and search women. Local people always complain, asking us to use female police to search their houses,' he said. They are also needed for security work in jails, airports and checkpoints around Kabul, he said.

"Colonel Shafiqa Quraishi, head of the gender department in the interior ministry, acknowledged to IWPR that the recruitment drive would present problems in a society where most people do not allow their women to work in the security forces and because of the ongoing violence in parts of the country.She said the hiring of 5,000 new female officers would be undertaken in cooperation with members of the provincial councils, tribal elders, religious scholars and influential local individuals." **[73b]**

10.12 The USSD *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated:

"International support for recruiting and training new ANP personnel continued, with the goal of professionalizing the police force, including the

ongoing implementation of the CPD [Central Prison Directorate] staff prison reform and restructuring program. The international community worked with the government to develop awareness and training programs as well as internal investigation mechanisms to curb security force corruption and abuses. Training programs for police emphasize law enforcement, the constitution, police values and ethics, professional development, the prevention of domestic violence, and fundamental standards of human rights, in addition to core policing skills. The MOI [Ministry of Interior] reported that during the year [2009], every new police officer received training in human rights. In every province two officers were responsible for human rights reporting. In Kabul 50 officers were responsible for human rights reporting, including internal police matters." **[2a] (Section 1d)**

AFGHAN NATIONAL GUARD

10.13 Jane's Sentinel Country Risk Assessment: Afghanistan, Security and Foreign Forces section, updated 3 December 2008, stated that:

"The duties of the Afghan National Guard are to protect vulnerable personnel and installations. The first 600 soldiers graduated in April 2002, but the close protection of prominent figures in Afghanistan is still carried out in the main either by private Afghan militias or foreign private security contractors. The National Guard appears to be involved in protecting some facilities in Kabul." **[35b]**

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ARMED FORCES

Afghan National Army (ANA)

10.14 The Congressional Research Service (CRS) report, *Post-Taliban Governance, Security, and U.S. Policy*, published 6 October 2009, noted that:

"The Afghan National Army has been built 'from scratch' since 2002 – it is not a direct continuation of the national army that existed from the 1880s until the Taliban era. That national army all but disintegrated during the 1992-1996 mujahedin civil war and the 1996-2001 Taliban period. However, some Afghan military officers who served prior to the Taliban did rejoin the new military after the fall of the Taliban." **[99a]**

10.15 The Council on Foreign Relations background information on Afghanistan's National Security Forces, stated that:

"The Afghan National Army… is widely seen as the most capable branch of the country's security forces. It recruits soldiers nationally, and pays them roughly $100 per month. In March 2009 the Pentagon measured the size of the Afghan army at nearly 83,000, though only 52,000 were engaged in combat alongside international or U.S. forces (an additional 5,400 troops were believed to be AWOL). This represented full fielding for 95 of a planned 160 units. Structurally, the army is divided into five ground maneuver corps consisting of two to four brigades. Each brigade is comprised of infantry kandaks (Afghan battalions), combat support kandaks, and combat service

support kandaks. Once it is expanded to 134,000 soldiers, the army will consist of five corps headquarters *(Long War Journal)*, a division headquarters, 21 brigades, and 114 battalions. Since August 2008 the army has assumed lead responsibility for security in Kabul and is extending its reach into some provinces." **[95a]**

10.16 The UN Secretary-General's report, dated September 2009, stated that:

"The Afghan National Army continues to recruit and train faster than expected. Troop strength reached 93,000 in July 2009, 5,000 more than projected. The prospect of reaching the target strength of 134,000 by December 2011 therefore remains realistic. In accordance with the vision of International Security Assistance Force new leadership, the Afghan National Army is expected to play a larger role in planning and carrying out operations." **[95a] (p8)**

10.17 The UN General Assembly Security Council: *The situation in Afghanistan and its implications for international peace and security* Report of the Secretary-General, dated 10 March 2010, noted that

"The Afghan National Army is generally viewed positively, owing to its more effective training, its higher degree of internal discipline and its better equipment. As a result, some have proposed an enhanced role for the army in providing local security. There is, however, a risk posed by increased use of the army for functions normally performed by the police. The development of the National Security Strategy, to be completed before the Kabul conference, should clarify the roles and responsibilities of the Afghan National Army and the Afghan National Police." **[39i] (p8)**

(See also Section 11: Military Service)

OTHER GOVERNMENT FORCES

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

10.18 The UN Security Council report, 10 November 2008 stated that:

"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." **[39d] (p4)**

10.19 The United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, July 2009, recorded "The NDS National Directorate of Security] operates under an undisclosed Presidential decree, and is in charge of detention and prosecution of those accused of crimes against national security. No improvements in this situation have been noted, as access by humanitarian and human rights organizations to persons detained by NDS continues to be very limited." **[11a] (p26)**

10.20 The US State Department *Country Report on Human Rights Practices 2008*, Afghanistan, published on 25 February 2009, (USSD Report 2008) noted that:

"The [National Directorate for Security] NDS has responsibility for investigating cases of national security and also functions as an intelligence agency. 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. The North Atlantic Treaty Organization remained in control of the UN-sanctioned International Security Assistance Force (ISAF), which worked closely with the national security forces." **[2i] (Section 1d)**

10.21 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, recorded that "The intelligence service, the National Directorate of Security, lacks transparency and stands accused of serious human rights violations." **[41a] (p6)** The Amnesty International report of November 2007 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)**

(See also Section 10: Security Forces – Torture and Section 15: Prison conditions for further information on the NDS)

Former security forces – KHAD (*KhAD*)

10.22 A UNHCR report, dated May 2008, stated:

"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 [(Komite-ye Amniyat-e Melli or 'Committee for National Security']. 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)." **[11c] (p2)**

10.23 Reporting on 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)**

10.24 UNHCR continued:

"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." **[11c] (p5-6)**

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INTERNATIONAL FORCES

10.25 At the beginning of December 2009, The US President Barack Obama announced in a new strategy for Afghanistan that he will deploy an extra 30,000 troops to the region in early 2010. "The surge will bring US troop strength in Afghanistan to more than 100,000." (British Broadcasting Corporation, 2 December 2009) **[25af]**

10.26 Channel 4 News Online reported on 2 December 2009 that "The goal is to speed the battle against Taliban insurgents, secure key population centres and train Afghan security forces so they can take over and clear the way for a US exit, Obama said." **[101a]**

10.27 The same article added "Obama's decision comes after the head of the international forces in Afghanistan, General Stanley McChrystal, called for an extra 40,000 troops on the ground. Although the deployment falls short of the number he asked for, the General welcomed the decision… Currently there are 68,000 US troops and 42,000 allied forces already in the country. Since 2001 there has been a steady increase of US solders committed." **[101a]**

10.28 The BBC further reported on 4 December 2009 that "Nato's top official says countries will send at least 7,000 extra troops to support the US surge in Afghanistan. Speaking at a Nato summit in Brussels, Anders Fogh Rasmussen said there would be 'more [troops] to come'. 'At least 25 countries will send more forces to the mission in 2010,' the Nato secretary general told reporters." **[25j]**

10.29 The NATO website, updated 3 September 2009, noted that "NATO's main role in Afghanistan is to assist the Afghan Government in exercising and extending its authority and influence across the country, paving the way for reconstruction and effective governance. It does this predominately through its UN-mandated International Security Assistance Force." **[63a]**

International Security Assistance Force (ISAF)

10.30 The BBC News Question and Answers webpage on the role of the International Security Assistance Force (ISAF) in Afghanistan described that:

"The majority of foreign troops in Afghanistan are under the command of the Nato-led International Security Assistance Force (Isaf). Established by the UN Security Council in December 2001, its stated role is to promote security and development. It is also involved in training the Afghan National Army (ANA) and the Afghan National Police (ANP). As of October 2009, Isaf had 67,700 personnel from 42 different countries including the US, European countries, Australia, Jordan and New Zealand. There are about 36,000 US troops who are not part of Isaf serving in the east of Afghanistan – on the border with Pakistan – under Operation Enduring Freedom (OEF)." **[25aa]**

10.31 The NATO website, updated 3 September 2009 noted:

"In accordance with all the relevant Security Council Resolutions, ISAF's main role is to assist the Afghan government in the establishment of a secure and stable environment… ISAF is leading a number of Operational Mentoring and Liaison Teams (OMLTs) which are embedded in ANA [Afghan National Army] Battalions (Kandaks), Brigades, & Corps HQs, to support training and deploy on operations in an advisory role." **[63a]**

Provincial Reconstruction Teams (PRTs)

10.32 The United States Agency for International Development (USAID) website, updated 16 December 2009, described the the Provincial Reconstruction Teams' (PRT) Mandate:

"PRTs in Afghanistan are key instruments through which the international community delivers assistance at the provincial and district level. As a result of their provincial focus and civilian and military resources, PRTs have a unique mandate to improve security, support good governance, and enhance provincial development. The combination of international civilian and military resources also allows the PRT to have wide latitude to implement their mandate.

"A PRT generally covers one province in Afghanistan, but some cover more than one. There are currently 26 PRTs operating in Afghanistan. PRTs seek to establish an environment that is secure and stable enough for the operation of international and Afghan civilian agencies to provide development support. Due to their unique composition, PRTs are also able to deliver development and support to less secure areas. USAID's programs attempt to work with PRTs to deliver services in less secure or underserved areas of Afghanistan.

"PRTs have a broad mandate that covers the following areas:

- "They engage key government, military, tribal, village, and religious leaders in the provinces, while monitoring and reporting on important political, military and reconstruction developments.

- "They work with Afghan authorities to provide security, including support for key events such as the Constitutional Loya Jirga,

presidential and parliamentary elections, and the disarmament, demobilization and reintegration of militia forces.

- "They assist in the deployment and mentoring of Afghan national army and police units assigned to the provinces.

- "In partnership with the Afghan Government, the U.N., other donors and NGOs [Non-Governmental Organisations], PRTs provide needed development and humanitarian assistance." **[60b]**

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HUMAN RIGHTS VIOLATIONS BY SECURITY FORCES

Arbitrary arrest and detention

10.33 The USSD *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated that "The law prohibits arbitrary arrest or detention; however, both remained serious problems." **[2a] (Section 1d)**

10.34 The United Nations Assistance Mission in Afghanistan (UNAMA) report, *Arbitrary Detention in Afghanistan*, published in January 2009, stated that:

"Afghans are still being arbitrarily detained without legal basis or grounds… Monitoring found that, while less frequent than a few years ago, Afghans still may be detained for breaches of civil law or contractual obligations for which detention is not permitted under applicable law. Monitoring shows that these types of arbitrary detentions generally involve:

- housing, land and property disputes,

- arguments over debt, normally with thedetaining authority supporting the lender in securing payment of the debt; and

- family disputes, including over marriage (these also generally fall under breaches of Shari'a and customary or social practices)." **[46b] (p6)**

10.35 The January 2009 UNAMA report also stated that:

"Throughout Afghanistan, MoJ (Ministry of Justice) detention center authorities did not necessarily release prisoners who had completed their legally mandated sentence or those who were granted an early release by Presidential Decree. MoJ detention center officials and prisoners explained to monitors that many prisoners were not being released despite their sentences expiring because they could not produce a guarantor or financial guarantor. The Supreme Court High Council has rejected such conditionality for release as a violation of Article 27 of the Constitution." **[46b] (p13)**

10.36 The *Daily Star* reported on 27 March 2009 that:

"The United Nations yesterday criticised arbitrary detention in Afghanistan as widespread and unacceptable, calling for an immediate review in order to

protect rights. The findings were presented in a report by the chief human rights officer of the UN mission in Afghanistan, Norah Niland, after more than 18 months spent monitoring Afghan detention facilities. 'Arbitrary detention is widespread in Afghanistan, and unacceptable. Everyone that is detained, lawfully or unlawfully, has rights to be respected,' she told a news conference in Kabul…The report, which monitored 2,000 Afghan detentions between November 2006 and July 2008, highlighted that Afghans were often detained without legal basis, including for 'so-called moral crimes'… The UN human rights officer could not provide the overall number of detainees, arbitrary detention facilities or arbitrary detainees in Afghanistan." **[102a]**

10.37 The Human Rights Watch Report 2010, covering events of 2009, published 19 January 2010, stated that:

"The absence of due process of law remains a fundamental failing of the Afghan legal system, as Afghans continue to face arbitrary detention, are frequently denied access to a lawyer, and are often denied the right to challenge the grounds of their detention before an impartial judge. Court proceedings are often marred by corruption and the abuse of power. There are persistent reports of torture and abuse against detainees being held by the National Directorate of Security, with human rights officials receiving only erratic access to detention facilities where abuses are believed to be taking place." **[17d] (p258)**

(See also Section 14: Arrest and Detention – Legal Rights)

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Torture

10.38 The USSD Report 2009 noted:

"The constitution prohibits such practices; 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.

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

"There were reports of torture and other abuses by Taliban and other insurgent groups. Media reports and firsthand accounts accused Taliban of employing torture in interrogations of persons they accused of supporting coalition forces and the central government. The Taliban contacted

newspapers and television stations in such cases to claim responsibility." **[2a] (Section 1c)**

(See also Section 10: Security Forces - National Security Directorate (NSD) (Amniat-e Melli), Section 25: Women - Rape, and Section 26: Children – Violence against children)

Extrajudicial Killings

10.39 The USSD Report 2008 noted that extrajudicial killings continued in Afghanistan; and stated:

"In May [2008] the UN Special Rapporteur on extrajudicial, summary, and arbitrary executions visited the country and reported on many cases in which police killed civilians with impunity. He focused on the need to reform the Afghan National Police and judicial system, curbing Taliban and other anti-government elements' abuses, and addressing the often overlooked extrajudicial killing of women. His preliminary report dated May 29 [2008] stated that although there were no reliable figures on the numbers of such killings, the numbers of alleged killings were high enough to give Afghans, particularly in the south, some reason to support the Taliban." **[2i] (Section 1a)**

10.40 An Integrated Regional Information Networks (IRIN) News article dated 15 May 2008 stated that:

"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]**

10.41 On the issue of impunity of government officials who commit human rights abuses an IRIN News article dated 19 May 2008 reported 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.'" **[36p]**

AVENUES OF COMPLAINT

10.42 BBC News reported on 10 March 2008 that a new government office had been opened to collect "all manner" of complaints and to pass these on to the Office of the President. The office has 23 staff and is currently based in the capital, Kabul. The head of the new office said it "…will take the necessary measures to address people's problems - but with no executive powers, critics say it is unclear how effective the complaints procedure can really be." **[25r]**

10.43 The USSD Report 2008 stated "The MOI [Ministry of Interior] Human Rights Unit receives and responds to complaints of police abuse and has trained at least two ANP [Afghan National Police] officers in each province and one at each checkpoint in Kabul to recognize and report human rights violations. Communication and coordination of reports between the provinces and MOI headquarters in Kabul remained a concern." **[2i] (Section 1d)**

10.44 The Afghan Independent Human Rights Commission noted in a report, Economic and social rights in Afghanistan, published in August 2007 that "According to Article 58 of the 2004 Constitution of Afghanistan, the Afghan Independent Human Rights Commission was established with the purpose of 'monitoring the observation of human rights in Afghanistan, to promote their advancement and protection'." **[78d]**

(See also Section 19: Human Rights Institutions, Organisations and Activists - Afghanistan Independent Human Rights Commission)

(See also Section 4: Recent Developments – Elections 2009 for information on complaints to the Independent Election Commission (IEC) about the 2009 Elections.)

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11. MILITARY SERVICE

11.01 The Central Intelligence Agency (CIA) World Factbook, last updated 22 February 2010 noted that recruitment started at 22 years old and "inductees are contracted into service for a 4-year term." **[3a] (Government)** The Library of Congress country profile of Afghanistan, updated in August 2008, observed that "Males are eligible for conscription at age 22, and volunteers may enlist at age 18. The term of service for conscripts is four years." **[98] (p22)** The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated however "The legal recruitment age for members of the armed forces is 18… The government, with international assistance, vetted all recruits into the armed forces and police, rejecting applicants under the age of 18." **[2a] (Section 1g)**

(See also Section 10: Security Forces – Armed Forces for information on the Afghan National Army (ANA) or Section 26: Children for information on child soldiers)

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12. ABUSES BY NON-GOVERNMENT ARMED FORCES

OVERVIEW

12.01 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, recorded that "An estimated 2,000 illegal armed groups, with as many as 125,000 members, continue to operate. A voluntary disarmament, demobilization, and reintegration (DDR) program targeting irregular militia forces [operated] between 2003 and 2005…" **[41a] (p6)**

12.02 The Human Rights Watch World Report 2010: Afghanistan (HRW Report 2010), covering events of 2009, published on 19 January 2010, stated that:

"As part of their campaign of terrorizing the civilian population, the Taliban and other insurgent groups continued to target schools, in particular girls' schools. According to the Ministry of Education, in the first five months of the Afghan year 1387 (April-August 2009), 102 schools were attacked using explosives or arson, and 105 students and teachers were killed by insurgent attacks. Three girls' schools in the central region were attacked with chemicals (thought to be pesticide or insecticide) in April and May 2009, which the Ministry of Education says injured 196 girls." **[17d] (Afghanistan Section, p261)**

KIDNAPPINGS

12.03 The HRW Report 2010 stated that:

"Kidnapping of Afghans for ransom is common, including NGO [Non-Governmental Organisations] workers, and businessmen and their children. The most active areas are in the south, east, and central regions, where kidnappings significantly contribute to levels of insecurity, sharply curtailing movement for women and children in particular. Kidnappings are carried out by criminal gangs, and are also used by insurgent groups for money and leverage over prisoner releases. The police seem largely incapable or unwilling to tackle kidnappings or other abuses by powerful interests." **[17d] (Afghanistan Section, p259)**

12.04 The Afghanistan NGO Safety Office (ANSO), *ANSO Quarterly Data Report, Summary & Assessment*, covering period 1 October – 31 December 2009, stated:

"Criminal abductions of NGO staff remain infrequent and went down by 33% from last year [2008], with only 6 recorded all year (all during road travel). It should be said that a certain number of criminal kidnappings are probably being attributed to AOG [Armed Opposition Groups], as this often provides a good cover for criminal activity. Differentiating between the two is also becomimg less relevant as criminal groups tend to collude with AOG on this issue, especially in AOG dominated provinces where most NGO abductions took place." **[32b] (p7)**

12.05 On 13 October 2009 Radio Free Liberty/Radio Europe reported that 16 people were reported to have been kidnapped in two separate incidents in northern Afghanistan. Eight healthworkers were seized after a clinic in Sar-i-Pul

Province was stormed by Taliban fighters. In the second kidnapping eight police officers were taken by militants after their police station was attacked in the Faryab Province. **[29g]**

12.06 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"The MOI [Ministry of Interior] reported 368 abductions during the year [2009], at least one of which resulted in the death of a hostage. The Afghanistan NGO Safety Office (ANSO) reported insurgents and others kidnapped 20 aid workers during the year, a decline from 38 in 2008; all abductees were local staff. ANSO reported that most abductions were temporary and most abductees were released unharmed, usually due to the efforts of community elders. One person was reportedly killed while resisting an abduction attempt. Observers alleged that noninsurgency-related kidnapping was a form of dispute resolution." **[2a] (Section 1g)**

(See also Section 26: Children – Child kidnappings and Section 8: Security situation – Kabul and Section 9: Crime)

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WARLORDS AND COMMANDERS

12.07 The HRW Report 2010 stated that:

"In many areas of the country local strongmen and former warlords continue to exert significant power over communities, using intimidation and violence to maintain their control. The Afghan government has continued to lose public legitimacy because of these abuses, widespread corruption, failure to improve living standards, and lack of progress in establishing the rule of law even in areas under its control." **[17d] (Afghanistan Section, p259)**

12.08 An International Crisis Group (ICG) article, *"Dealing with brutal Afghan warlords is a mistake", Nick Grono and Candace Rondeaux in the Boston Globe*, dated 17 January 2010, reported that:

"Three decades of warfare in Afghanistan have produced a multitude of warlords and commanders. Institutions have been supplanted by abusive powerholders, who maintain their control through violence, patronage, corruption, and external backing. There was a real opportunity to fundamentally change this dynamic after the fall of the Taliban in 2001, but it was squandered…

"A list of power brokers in Afghanistan today reads a bit like a who's who of commanders responsible for atrocities during the civil war. While warlords like Afghanistan's current co-vice presidents Mohammad Qasim Fahim and Karim Khalili have reinvented themselves as powerful officials, Hekmatyar chose a different path. After a brief stint as prime minister before the Taliban charged into Kabul, Hekmatyar, founder of the powerful Hizb-e Islami political party, retreated to Iran in the mid-nineties, only to resurface in 2001 when he declared his opposition to the US military engagement in Afghanistan…

"In the past year or so Hekmatyar, a charismatic Pashtun Islamic fundamentalist, has begun to raise his profile, granting several interviews with major news outlets and stepping up the tempo of his political propaganda. He has put a lot of effort into restyling himself in a more acceptable guise – as a strong moderate fundamentalist with Afghanistan's best Islamic interest at heart. This despite his own claims that he plotted with the Taliban to foment a deadly attack that killed 10 French soldiers in August 2008, just one of several violent assaults on coalition troops and Afghan government that he has claimed responsibility for in recent years." **[26g]**

12.09 On December 2009 an article in the Institute for War and Peace Reporting noted that former warlords had shown a re-emergence in the north of Afghanistan, particularly in Balkh province where there had been parties taking an interest in the province's vacant governer's position. Lal Mohammad Ahmadzai, a spokesman for the police force in the north, said "'In many districts, those who made their living at the barrel of a gun are trying to do so again.' But he insisted that his men – part of the national police force – were fully capable of dealing with the threat." **[73e]**

12.10 The HRW Report 2010 also noted that "President Karzai attempted to secure his reelection in 2009 through a series of deals with former warlords from all the main ethnic factions. The choice of Mohammad Qasim Fahim as Karzai's vice presidential running mate was emblematic of this trend; Fahim has long been implicated in possible war crimes from the 1990s and is widely perceived by many Afghans to be connected to criminal gangs." **[17d] (Afghanistan Section, p260)**

12.11 The USSD Report 2009, noted that "The Law on National Reconciliation and Amnesty, which was published in December 2008, grants amnesty to persons engaged in conflict during the past 25 years." **[2a] (Section 1d)**

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DISBANDMENT OF ILLEGAL ARMED GROUPS (DIAG)

12.12 The US Department of State (USSD) Country Report on Terrorism, covering South and Central Asia Overview: Afghanistan, published on 30 April 2009, stated that:

"Under the Disbandment of Illegal Armed Groups (DIAG) program, the follow-on to the earlier Disarmament, Demobilization, and Reintegration (DDR) program, authorities have disbanded 362 illegal armed groups and collected over 42,000 weapons in 84 districts since its inception in March 2005. In April 2007, in an effort to achieve greater local government support, DIAG began offering development assistance to qualifying districts. Forty-eight of the 84 targeted districts currently qualify for this assistance and are considered to be in compliance with DIAG disarmament regulations. DIAG operations expanded, intensifying efforts to build political will at the provincial and local levels to target the more threatening illegal armed groups." **[2d] (Afghanistan Section)**

12.13 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published 16 July 2009, recorded that "However, the disarmament process never evolved to the enforcement stage as planned, and international programs supported by the United States, Britain, and Canada to rearm informal militias as a counterinsurgency force are actively undermining efforts to curtail and regulate the use of illegal arms." **[41a] (p6)**

ANTI- GOVERNMENT AND ANTI-COALITION FORCES (ACF)

12.14 Anti-Government elements remain responsible for the largest proportion of civilian casualties, demonstrating in their tactics a disregard for the lives of civilians. Civilian deaths caused by anti-Government elements rose from 700 in 2007 to 1,160 in 2008 — an increase of over 65 per cent. (United Nations Secretary-General's report, 10 March 2009) **[39h]** and they "…continued to threaten, rob, attack, and kill villagers, foreigners, and nongovernmental organization (NGO) workers." (The USSD Human Rights Report 2009) **[2a]**

12.15 The UN Secretary-General's report, dated 10 March 2009, noted that "Two trends identified in the previous report further worsened: attempts by insurgents to destabilize previously stable areas and increased use by insurgents of more sophisticated asymmetric attacks, with an increasing disregard for the lives of civilians." **[39h]**

12.16 The Human Rights Watch World Report 2009, Afghanistan, published in January 2009, 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." **[17b]**

(See also Latest News, Section 8: Security Situation and Annex C for list of armed groups)

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13. JUDICIARY

ORGANISATION

13.01 Europa World Online, accessed on 28 January 2010, stated:

"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)." **[1g] (Judicial system)**

13.02 The United Nations (UN) Secretary-General's Report, dated 10 March 2009, noted that:

"The design of justice sector reform is contained in the National Justice Sector Strategy, to be implemented through the National Justice Programme, which established mechanisms to facilitate the efforts of the Government and donors in these areas. One of these mechanisms is the Programme Oversight Committee, overseeing the implementation of the Justice Sector Reform Project, led by the Government and administered by the World Bank. Another mechanism, the Board of Donors, formed in January 2009, assists the Government in linking donor support with the National Justice Programme and provides the Programme Oversight Committee with strategic advice." **[39h] (p7)**

13.03 The UN Secretary-General's Report added "Progress on the justice sector is hampered by the lack of resources available to the Supreme Court, the Office of the Attorney-General and the Ministry of Justice. These institutions lack qualified and experienced judges and prosecutors as well as adequate infrastructure." **[39h] (p7)**

13.04 The US State Department (USSD) *Country Report on Human Rights Practices 2008*, Afghanistan, published on 25 February 2009 (USSD Report 2008), stated that:

"The judicial branch consists of the Supreme Court, high courts (appeals courts), and primary courts. Judges are appointed with the recommendation of the Supreme Court and approval of the president. 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 on its procedures were limited…

"In some remote areas not under government control, Taliban enforced a parallel judicial system. Punishments handed out by Taliban judicial structures included beheadings, hangings, and beatings, according to human rights activists.

"Courts primarily decided criminal cases in major cities, 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. Some estimates suggested 80 percent of all cases went through shuras, which did not adhere to the constitutional rights of citizens and often violated the rights of women and minorities. An NGO [Non-Governmental Organisation] in Herat, however, reported shuras often treated women fairly in resolving civil matters such as divorce and custody cases." **[2i] (Section 1e)**

INDEPENDENCE

13.05 The USSD Human Rights Report 2009 report noted "The law provides for an independent judiciary, but in practice the judiciary was often underfunded, understaffed, and subject to political influence and pervasive corruption. Bribery, corruption, and pressure from public officials, tribal leaders, families of accused persons, and individuals associated with the insurgency threatened judicial impartiality." **[2a] (Section 1e)**

13.06 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, recorded that:

"The judicial system operates haphazardly, and justice in many places is administered on the basis of a mixture of legal codes by inadequately trained judges. Corruption in the judiciary is extensive, and judges and lawyers are often subject to threats from local leaders or armed groups. Traditional justice remains the main recourse for the population, particularly in rural areas. The Supreme Court, composed of religious scholars who have little knowledge of civil jurisprudence, is particularly in need of reform." **[41a] (p7)**

(See also Section 20: Corruption)

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FAIR TRIAL

13.07 The USSD Human Rights Report 2009, observed that:

"Trial procedures rarely met internationally accepted standards. The administration and implementation of justice varied in different areas of the country. By law all citizens are entitled to a presumption of innocence. In practice the courts typically convicted defendants after sessions that lasted only a few minutes. Defendants have the right to be present at trial and to appeal; however, these rights were not always applied. Trials were usually public. All criminal trials are decided by judges, as there is no right to a jury trial under the constitution. A defendant also has the right to consult with an advocate or counsel at public expense when resources allow. This right was

inconsistently applied, in part due to a severe shortage of defense counsel. Defendants frequently were not allowed to confront or question witnesses. Citizens often were unaware of their constitutional rights. Defendants and attorneys were entitled to examine the physical evidence and the documents related to their case before trial; however, observers noted that in practice court documents often were not available for review before cases went to trial.

"When the accused is held in custody, the primary court must hear the trial within two months. The appellate court has two months to review the case of an incarcerated person. Either side may appeal; the accused defendant who is found innocent may remain detained in the legal system until the case moves through all three levels of the judiciary: first court, appeals, and the Supreme Court. The decision of the primary court becomes final if an appeal is not filed within 20 days. Any second appeal must be filed within 30 days, after which the case moves to the Supreme Court, which must decide the case of the defendant within five months. If the appellate deadlines are not met, the law requires that the accused be released from custody. In many cases courts did not meet these deadlines.

"Under Shari'a relatives of victims can pursue a case against a suspected offender. A judge can offer restitution or, in the case of murder, execution, which the relatives can carry out only if a member of the family consents. Under Shari'a, if the family of the victim forgives the perpetrator, the judge must issue a pardon.

"In cases lacking a clearly defined legal statute, or cases in which judges, prosecutors, or elders were unaware of the law, judges and informal shuras enforced customary law; this practice often resulted in outcomes that discriminated against women. This included the practice of ordering the defendant to provide compensation in the form of a young girl to be married to a man whose family the defendant had wronged." **[2a] (Section 1e)**

(See also Section 25: Women – Legal rights)

13.08 An International Development Law Organisation (IDLO) press release dated February 2009, noted that

"One of the most serious problems facing the legal system of Afghanistan is a lack of legal material and resources. Libraries and legal collections in the country were in fact largely destroyed during twenty four years of war. Most judges report that they do not have adequate access to professional resources. In a 2007 survey, 83% stated that they do not have access to written decisions of the Supreme Court; 55% stated that they do not have access to textbooks on the law, procedure and practice; and 36% stated that they do not have sufficient access to statutes or governmental regulations." **[81a]**

CODE OF CRIMINAL PROCEDURE

13.09 The USSD Human Rights Report 2009, noted that

"The criminal procedure code sets limits on pretrial detention, but authorities did not respect such limits, and lengthy pretrial detention remained a problem,

in part because the overburdened system could not process detainees in a timely fashion…

"The Criminal Law Reform Working Group, which included local legal experts and international rule of law advisors, completed its revision of the criminal procedure code and submitted it to the Taqnin, the legislative drafting department of the MOJ [Ministry of Justice], for further consideration. At year's end the Taqnin had not taken steps to respond to the Criminal Law Reform Working Group's recommendations. **[2a] (Section 1d)**

13.10 The United States Agency for International Development (USAID) published an English translation of the Shiite Personal Status Law in, April 2009. **[60c]** The International Committee of the Red Cross (ICRC) website provides a copy of the 'Interim Criminal Procedure Code for Courts 2004' **[64a]**

(See also Section 25: Women – Legal rights)

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14. ARREST AND DETENTION – LEGAL RIGHTS

14.01 Article 31 of the Constitution adopted in January 2004 states:

"Every person upon arrest can seek an advocate to defend his/her rights or to defend his/her case for which he/she is accused under the law. The accused upon arrest has the right to be informed of the attributed accusation and to be summoned to the court within the limits determined by law. In criminal cases, the state shall appoint an advocate for a destitute…The duties and authorities of advocates shall be regulated by law." **[4b]**

Article 129 Ch. 7. Art. 14 stated that "The court is obliged to state the reasons for the decision it issues. All specific decisions of the courts are enforceable, except for capital punishment, which is conditional upon approval of the President." **[4b]**

14.02 The USDepartment of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated that:

"The law provides for access to legal counsel and the use of warrants, and it limits how long detainees may be held without charge. Authorities often did not inform detainees of charges against them. Police have the right to detain a suspect as long as 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 interrogate the suspect within 48 hours. The investigating prosecutor can continue to detain a suspect without formal charges for 15 days from the time of arrest while continuing the investigation. With court approval, the investigating prosecutor may detain a suspect for an additional 15 days. The prosecutor must file an indictment or release the suspect within 30 days of arrest. Investigation may continue even if an indictment cannot be completed within the 30 days… There was little consistency in the length of time detainees were held before trial or arraignment. Postsentence detention also was reportedly common." **[2a] (Section 1d)**

14.03 With regards to the legal procedures for detaining children the USSD Report 2009, also noted "The juvenile code presumes children should not be held to the same standard as adults. Detained children were typically denied their basic rights and many aspects of due process, including presumption of innocence, the right to be informed of charges, access to defense lawyers, and the right not to be forced to confess. Some of the children in the criminal justice system were victims rather than perpetrators of crime…" **[2a] (Section 1d)**

14.04 A report by the Kings College London on the *Alternatives to Imprisonment in Afghanistan* dated February 2009 recorded that "An analysis of 104 juvenile cases where the sentence had been confirmed showed that over half would have been eligible under this code for a nonprison sentence. However, there is currently only one day rehabilitation centre recently constructed in Kabul by UNICEF [United Nations International Children's Emergency Fund] which is not yet operational." **[56a]**

14.05 The Human Rights Watch 2009 report on Afghanistan stated that "The US military operates in Afghanistan without an adequate legal framework, such as

a status-of-forces agreement, and continues to detain hundreds of Afghans without adequate legal process." **[17b]**

(See also Section 10: Security Forces - Arbitrary Arrest and Detention and Section 13: Judiciary - Fair trial)

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15. PRISON CONDITIONS

15.01 The United Nations (UN) Secretary-General's report, *The situation in Afghanistan and its implications for international peace and security* dated 10 March 2009 recorded that "Detention centres and prisons in Afghanistan are in a serious state of neglect. Reform of the civil service of these institutions, however, has begun." **[39h] (p8)**

15.02 The USDepartment of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"… the government took some steps to improve conditions within the Ministry of Justice (MOJ) prisons and detention centers. Most prisons and detention centers, particularly MOI [Ministry of Interior] detention centers, were decrepit, severely overcrowded, and unsanitary and fell well short of international standards. The AIHRC [Afghanistan Independent Human Rights Commission], ICRC [International Committee of the Red Cross], and other observers 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. Prisoners with contagious diseases and prisoners with mental illness rarely were separated from other prisoners. However, UNAMA [United Nations Assistance Mission in Afghanistan] observed significant operational improvements in conjunction with international support to train and mentor prison staff in the provinces. International observers noted that the MOJ and Central Prison Directorate (CPD) leadership were actively striving to improve staff working conditions and prisoner living conditions with the goal of meeting the UN minimum standards for prisoners and detainees." **[2a] (Section 1c)**

15.03 The UNHCR's *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, July 2009 stated that:

"There are reports of over-crowding, inadequate food and water, poor sanitation facilities, and where available, infirmaries are underequipped. Contagious and mentally ill prisoners are reportedly rarely separated from the general prison population, whilst children of women prisoners live with their mothers, particularly where they have no other family. There is no gender segregation." **[11a] (p60)**

15.04 The USSD Report 2009 also noted "The government reported 34 provincial prisons and 203 district detention centers. The government also reported 30 juvenile rehabilitation centers. No official information was available on the number of prisoners the NDS [National Directorate of Security] held or the number of facilities the NDS ran. The CPD reported 109 female detainees and 356 female prisoners in 23 detention centers and provincial prisons." **[2a] (Section 7e)**

15.05 The United Nations Office on Drugs and Crime (UNODC) report, *Female prisoners and their social reintergration*, March 2007 recorded the conditions for women in Pul-e Charki prison:

"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…

"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 [Non-Governmental Organisation] , Emergency, also provides medical care to male and female prisoners in Pul-e Charki, with 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]**

15.06 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 14: Arrest and Detention – Legal Rights, Section 25: Women - Imprisonment of women and Section 26: Children)

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16. DEATH PENALTY

16.01 The Constitution of January 2004 allows for capital punishment, conditional on the approval of the President. **[4a]** The Hands Off Cain report on Afghanistan, accessed on 17 May 2009, noted:

"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).

"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." **[83a]**

16.02 Amnesty International's article, *Afghanistan moves towards a wide use of executions* published on 13 November 2008 stated that:

"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]**

(See also Section 18: Freedom of Speech and Media – Journalists for information on journalists sentenced to death)

16.03 Amnesty International's report, *Death Sentences and Executions in 2008*, published in March 2009, noted:

"In Afghanistan at least 17 people were executed and at least 131 others sentenced to death. The Supreme Court of Afghanistan upheld around 31 death sentences issued by lower courts and which now await President Karzai's approval. The trial proceedings in most cases violated international standards of fairness, including providing inadequate time for the accused to prepare their defence, lack of legal representation, reliance on weak evidence and the denial of the defendants' right to call and examine witnesses." **[7e]**

16.04 Death sentences handed out in early 2009, included:

- on 27 February 2009 three police officers were sentenced to death and two others sentenced to 20 years in prison after hanging a person, in Ghargi area of Panjwai District while they were manning a police checkpoint;
- on 28 February 2009 a villager was sentenced to death for giving wrong information that resulted in nearly 100 civilians being killed in Nato airstrikes which took place in August 2008 in Herat Province; and.
- on March 12, 2009 three people were sentenced three to death in two murder cases at a primary court in western Herat province. (Hands Off Cain, accessed 18 June 2009) **[83a]**

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17. POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

17.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated "The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in the August [2009] presidential and provincial council elections." **[2a] (Section 3)**

(See also Section 3: History - Presidential Elections - August 2009, Section 6: Political system and Section 18: Freedom of Speech and Media)

FREEDOM OF ASSOCIATION AND ASSEMBLY

17.02 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." **[4b]**

Article 36 states "The citizens of Afghanistan have the right to un-armed demonstrations, for legitimate peaceful purposes in accordance with the law." **[4b]**

17.03 The USSD Human Rights Report 2009 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." **[2a] (Section 2b)** The report added "A lack of physical security as well as interference from local authorities and security forces inhibited freedom of assembly in areas of the country where security was poor." **[2a] (Section 2b)**

17.04 The USSD Report 2009 also noted when reporting on Freedom of Assembly, 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. Anti-government violence affected the ability of

provincial council candidates and political parties to conduct activities in many areas of the country." **[2a] (Section 2b)**

17.05 The USSD Human Rights Report 2009 further noted "The 1987 Labor Code allows workers to join and form unions. The government allowed several unions, including Central Council National Union Afghanistan Employees, the largest, and several smaller unions to operate without interference. Implementation of labor laws remained a problem due to lack of funding, personnel, political will, and central enforcement authority. Workers were not aware of their rights." **[2a] (Section 7a)**

(See also Section 6: Political System – Political parties)

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18. FREEDOM OF SPEECH AND MEDIA

OVERVIEW

18.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that: "The law provides for freedom of speech and of the press; however, journalists increasingly were vulnerable to physical harm and reported numerous instances of pressure from multiple sources to influence reporting, including national and provincial governments, warlords, the drug mafia, foreign governments and individuals, and Taliban insurgents. Some media observers contended that individuals could not criticize the government publicly without fear of reprisal." **[2a] (Section 2a)** Reporters Without Borders ranked Afghanistan 149 out of 175 countries in its Press Freedom Index 2009, covering events from 1 September 2008 to 31 August 2009. **[62b]**

18.02 The International Federation of Journalists report, *In the balance: Press Freedom in South Asia 2008-2009*, stated that:

"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." **[92a] (p5)**

18.03 In the run-up to presidential elections in August 2009, the Institute for War and Peace Reporting, stated in an article dated 9 February 2009 that the authorities had been accused of subduing the media, including the closure of *The Payman Daily* on 8 February 2009 after:

"… mounting pressure on staff, which appears to have been triggered by the January 11 publication of an article that the Ulema, or Council of Religious Clerics, deemed blasphemous.' According to Fazel Rahman Orya, a political commentator for Shamshad Television in Kabul, 'Officials in Kabul have no backing among the citizens of Afghanistan, and they have recently been isolated by the international community as well'." **[73d]**

18.04 The Committee to Protect Journalists (CPJ) reported on 20 August 2009 that:

"Security forces obstructed, assaulted, and detained Afghan and foreign journalists in Kabul and elsewhere in Afghanistan today, enforcing an official gag order on news of violent incidents during the presidential election. A spokesman for President Hamid Karzai told the press that information about attacks would discourage voter turnout.

"Police briefly detained at least three foreign journalists and several local journalists during the course of the day, according to news reports. Multiple accounts mentioned police beating journalists, threatening them with guns,

and snatching equipment, but no serious injuries have been reported. Almost all the reported incidents occurred at the scene of attacks by militant groups." **[91b]**

18.05 The Freedom House Freedom of The World *Map of Press Freedom,* Afghanistan, dated 2009, stated that "Media outlets are occasionally fined or warned for broadcasting 'un-Islamic material,' resulting in self-censorship. There have also been examples of journalists being arrested for such violations." **[41b]**

18.06 The Committee to Protect Journalists (CPJ), *Attacks on the press 2009* report, Afghanistan, noted that during 2009:

"Deepening violence, flawed elections, rampant corruption, and faltering development provided plenty of news to cover, but the deteriorating national conditions also raised dangers for local and foreign journalists working in Afghanistan. Roadside bombs claimed the life of a Canadian reporter and injured several other international journalists. A series of kidnappings mainly targeted international reporters, but one captive Afghan journalist was killed during a British military mission that succeeded in rescuing his British-Irish colleague." **[91d]**

18.07 The Human Rights Watch World Report 2010: Afghanistan, covering events in 2009, published on 19 January 2010, stated that:

"Freedom of expression for those who criticize government officials or powerful local figures remains limited. Threats, violence, and intimidation are regularly used to silence opposition politicians, critical journalists, and civil society activists. Women all over the country mourned the murder in April 2009 of Sitara Achakzai, an outspoken human rights defender and local councilor in Kandahar. No one was charged with her murder. The killing of a high-profile figure like Achakzai created widespread fear among women and human rights defenders in the southern region.

"In September [2009], 23-year-old student Sayed Parviz Kambakhsh was released early after spending 20 months in prison on blasphemy charges (he was accused of downloading, doctoring, and distributing an article among friends), after a trial and appeal process that did not respect Afghan law or meet international standards. He had originally been sentenced to death, commuted to 20 years' imprisonment." **[17d] (Afghanistan Section, p259)**

18.08 The USSD Report 2009, also noted that "Independent media were active and reflected differing political views. Although some independent journalists and writers published magazines and newsletters, circulation largely was confined to Kabul, and many publications exercised a degree of self-censorship. The freedom of speech law covered foreign media; however, they were restricted from commenting negatively on Islam and from publishing materials considered a threat to the president." **[2a] (Section 2a)**

18.09 The USSD Report 2009 further noted that "Media sources claimed that the independent media prospered despite the efforts of the MoIC [Ministry of Information and Culture] to actively undermine an open and free media environment. The MoIC and some provincial governors exercised control over news content to varying degrees during the year. According to media sources,

the MoIC maintained cumbersome licensing procedures. Before the election the MoIC complained that several new print outlets were operating without licenses." **[2a] (Section 2a)**

18.10 The USSD Report 2009 further observed:

"Factional authorities controlled media in some parts of the country. The Institute for War and Peace Reporting (IWPR) noted tight controls, especially in the provinces of Balkh, Jowzjan, Faryab, Sar-i Pul, Kandahar, Herat, and Nangarhar. According to journalists, many reporters exercised self-censorship by not asking substantive questions of government officials and by ignoring certain investigative stories. Powerful figures largely avoided media scrutiny. Members of the media reported they did not interview Taliban commanders or leaders due to government pressure; police in Helmand province jailed journalists for speaking to the Taliban. Some media observers considered it more difficult for journalists to operate in the areas of the country the government controlled than in Taliban-controlled areas." **[2a] (Section 2a)**

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MEDIA LAW

18.11 Freedom of The World, *Map of Press Freedom,* Afghanistan, 2009 stated that:

"Article 34 of the constitution provides for freedom of the press and of expression. A revised 2005 Press Law guarantees the right of citizens to obtain information and prohibits censorship. However there are broad restrictions on any content that is 'contrary to the principles of Islam or offensive to other religions and sects.' A new media law passed in September 2008 contained a number of registration and content restrictions." **[41b]**

18.12 The USSD Report 2009 further stated:

"The 2008 media law, published in July [2009], is intended to protect freedom of thought and expression and legally protect journalists as they carry out their work; however, it contains content restrictions. Article 45 restricts works and materials contrary to the principles of Islam or other religions and sects; works that publicize religions other than Islam; works and materials considered defamatory, insulting, offensive, or libelous or that may cause damage to a person's personality or credibility; works and materials that are contrary to the constitution and penal code; disclosure of the identity and pictures of victims of violence and rape in a manner that damages their social dignity; and works and material that harm the psychological security and moral wellbeing of individuals, especially children and adolescents. Nai Media and the Afghan National Journalists Union reported that the MoIC failed to implement the law by year's end [2009]." **[2a] (Section 2a)**

NEWSPAPERS, RADIO, INTERNET AND TELEVISION

18.13 The International Federation of Journalists report, *Under Fire, Press Freedom in South Asia 2008-2009,* published in May 2009, 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)**

18.14 The USSD Report 2009 stated that:

"Television broadcasts appeared to avoid some of the restrictions imposed on print journalism. Satirical programming was widespread; every private television station had at least one comedy-satire program that openly criticized government officials.

"Prior to the August 20 [2009] elections, radio and television stations ran unprecedented candidate debates, forums, and interviews, widening the content and quality of information available to the public. Several stations ran live coverage on election day. Reporters Without Borders, Internews, and other news groups noted that equal time protections were not in place and many candidates could not afford to pay for messages, so unequal access to airtime for the more than 40 presidential candidates hindered impartiality. The Media Commission of the IEC [Independent Election Commission] did not find significant problems with candidate access to the media, although it stated that state media aired biased reports in favor of the incumbent president." **[2a] (Section 2a)**

18.15 The USSD Human Rights Report 2009 stated added "The Taliban increased efforts to influence and control radio, which reaches more persons in remote areas than other media. In Kunduz two radio stations reported threats from the Taliban. One of the stations shut down as a result of Taliban pressure. Taliban spokesman Zabiullah Mojahed rejected Taliban responsibility." **[2a] (Section 2a)**

18.16 Radio Free Europe/Radio Liberty is recorded as being the number one radio station for news in Afghanistan, according to the US State Department (USSD) 2008 Country Report on Terrorism, published in April 2009:

"RFE/RL's Radio Free Afghanistan has a weekly reach of 45.7 percent in the country, according to the most recent national survey conducted in August 2008, making it the number one radio station for news in Afghanistan. Afghanistan is the only country in the RFE/RL broadcast region where a U.S. government-funded broadcaster is the dominant media outlet. Radio Free Afghanistan delivers breaking news, in-depth reporting, and analysis to the people of Afghanistan on the struggles their young democracy faces, including a resurgent Taliban." **[2d] (p243)**

18.17 Freedom of The World, *Map of Press Freedom,* Afghanistan, 2009 stated that "Access to the internet and satellite television is growing rapidly and remains mostly unrestricted, although it is largely confined to Kabul and other major cities. Only 1.5 percent of the population had access to the internet in 2008." **[41b]** The USSD Report 2009 noted that "Internet access was unavailable to most citizens; computer literacy and ownership rates were estimated at less than 10 percent of the population." **[2a] (Section 2a)**

18.18 The USSD Report 2009 added "There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including e-mail messages. Tolo TV reported that the MoIC ordered four election-related Web sites to close, claiming they were 'undermining the personality of presidential candidates' they favored or opposed." **[2a] (Section 2a)**

18.19 On 4 March 2010, Reuters reported however that the Afghan government planned to put restrictions on Internet sites. The article noted:

"The Afghan government said this week it would clarify new restrictions on news coverage of Taliban strikes after widespread criticism of the plan by media rights groups and some of its most important allies, including the United States. Afghanistan's National Directorate of Security (NDS) spy agency summoned journalists on Monday to outline the new restrictions, but a day later the government hinted it might row back from some of the more draconian measures. Information and Culture Minister Sayed Makhdoom Raheen said the new Internet bans were not linked to media freedom issues. 'We have specified that four sites which announce sexual issues, drug trafficking and cultivation, violence issues -- like making bombs and gambling -- must be banned,' he told Reuters. 'There were complaints from the families and the intention is to stop the seduction of the youth generation,' Raheen said." **[24c]**

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JOURNALISTS

18.20 The Reporters Without Borders World Report 2009, covering 2008, published in September 2009, stated that "Afghan journalists are relatively free to express themselves, as long as they do not comment critically on the country's only really taboo subject: Islam. Through the will of the Mujahideen, the Constitution prevails but Sharia law can be applied, under Articles 130 and 131 of fundamental law." **[62a]**

18.21 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published 16 July 2009, recorded that: "Though a new media law has sought to clarify press freedoms and limit the involvement of government in the workings of the free press, 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." **[41a] (p4)**

18.22 The USSD Report 2009, noted:

"On August 19 [2009], the Ministry of Foreign Affairs and the MOD Ministry of Defence] issued decrees barring journalists from reporting on election day violence and ordering them to stay away from the scenes of terrorist attacks. Most journalists ignored the ban, but NDS agents beat and briefly detained 15 journalists who ignored the directive. According to the Committee to Protect Journalists, security forces obstructed, assaulted, and detained Afghan and foreign journalists in Kabul and elsewhere on election day." **[2a] (Section 2a)**

18.23 On 20 August 2009, the day of the Afghan Presidential Elections, the Committee to Protect Journalists (CPJ) reported that:

"Security forces obstructed, assaulted, and detained Afghan and foreign journalists in Kabul and elsewhere in Afghanistan today, enforcing an official gag order on news of violent incidents during the presidential election. A spokesman for President Hamid Karzai told the press that information about attacks would discourage voter turnout.

"Police briefly detained at least three foreign journalists and several local journalists during the course of the day, according to news reports. Multiple accounts mentioned police beating journalists, threatening them with guns, and snatching equipment, but no serious injuries have been reported. Almost all the reported incidents occurred at the scene of attacks by militant groups.

"Afghanistan's Foreign and Interior ministries issued statements on Tuesday asking reporters to suppress news of violent incidents and stay away from sites of reported strikes during polling hours, which concluded this evening." **[91b]**

18.24 The same source listed further further incidents of journalists being harrassed on 20 August 2009, Presidential election day, including:

- "At least two Afghan journalists with Tolo TV were briefly detained, and three more beaten in the past two days, according to Saad Mohseni, Tolo's founder and director…

- "Authorities detained Japanese journalist Kojiro Nobuhiro, a Tokyo Broadcasting System (TBS) television correspondent for several hours on Thursday [20 August 2009] morning, according to international news reports. TBS issued a statement saying he had been questioned about his coverage, according to Reuters.

- "The Christian Science Monitor said Dutch photojournalist Ruben Terlo and Rohulla Samadi, a translator with independent Afghan media organization Killid Media, were detained for 30 minutes after covering a gun battle between Taliban and police." **[91b]**

(See also Section 4: Recent Developments – Presidential Elections 20 August 2009)

18.25 The USSD Report 2009, noted:

"Violence against journalists increased during the year [2009]. According to independent media and observers, a combination of government repression, armed groups, and manipulation by foreign groups and individuals prevented the media from operating freely. Journalists were subject to pressure from government officials, foreign governments, and the Taliban and other insurgents, who harassed, intimidated, and threatened to commit violence against them.

"Governmental officials intimidated journalists in an effort to influence their reporting. Media sources reported instances of provincial officials attempting

to regulate the media based on their personal interests. Local officials asked the director of Uruzgan Radio and Television to obtain content approval before broadcasting television and radio programs.

"Media sources reported that police detained journalists without cause. According to Media Watch, there were 85 reported cases of violence against journalists, including three killings, nine kidnappings, 35 cases of arrest, 12 cases of intimidation, 22 cases of beating, and four cases of injury. The Media Watch annual report noted government involvement in 57 of the 85 cases of violence against journalists." **[2a] (Section 2a)**

18.26 On 11 January 2010 the Committee to Protect Journalists (CPJ) reported that:

"The death of U.K.-based *Sunday Mirror* reporter Rupert Hamer, who was killed in an explosion outside a village in southern Afghanistan on Saturday [9 January 2010], is an indicator of the rising danger for journalists in Afghanistan. The explosion also wounded Hamer's colleague photographer Philip Coburn and took the life of a U.S. Marine.

"The men were traveling in an MRAP (Mine Resistant Ambush Protected vehicle) which was hit by a roadside bomb. Hamer and Coburn, both British, were embedded with a squad of U.S. Marines on patrol near Nawa in the southern province of Helmand, where U.S., British, and Canadian troops and Taliban fighters have squared off ahead of an U.S. military offensive expected in February.

"Rupert Hamer's death marks the 18th death of a journalist in the post-9/11 war in Afghanistan, according to CPJ research. Twelve of those killed have been foreign journalists—the highest death toll for war reporters since Iraq…

"Hamer is the second foreign reporter to die in Afghanistan in two weeks. Canadian journalist Michelle Lang, reporting for the Calgary Herald and the Canwest News Service, died on December 30 while embedded with Canadian troops in Afghanistan. Sultan Munadi, an Afghan reporter for *The New York Times*, was killed in September during a rescue operation after a Taliban faction kidnapped him and Times reporter Stephen Farrell near Kunduz." **[91a]**

18.27 The same CPJ article commented that "Two French reporters and two or three of their Afghan crew are still being held by a Taliban faction, all apparently kidnapped while on assignment in the eastern province of Kapisa for France 3 public television station. The Afghan government reported them kidnapped on December 30. The names of the crew have not been published by the Afghan or French governments, and France 3 has declined to publicly identify them." **[91a]**

Details on journalists that have been killed in Afghanistan since 1992 can be located on a Committee to Protect Journalists (CPJ) database. **[91c]**

(See also Section 12: Abuses by Non-Government Armed Forces - Kidnappings)

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NIGHT LETTERS

18.28 An International Crisis Group report published on 24 July 2008 noted that:

"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." **[26c] (p12)**

18.29 The USSD Report 2009, also noted:

"As in recent years, the Taliban distributed threatening messages in attempts to curtail government and development activities. Ten jurists from Laghman province reported that judges and prosecutors routinely faced death threats and other forms of intimidation in their jobs. In addition to threats against persons working for the government or NGOs, the Taliban distributed 'night letters' (death threats) and text messages warning citizens not to vote in the August 20 [2009] elections, including messages to an entire village in Uruzgan." **[2a] (Section 1g)**

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18.30 Additionally in the southeastern province of Ghazni the Taliban reportedly posted 'night letters' in the run-up to the August 2009 elections reminding Afghans of their religious obligations and reiterating warnings that they will continue to disrupt the election process. One letter warned Afghans that "In order that this illegitimate process faces failure, the fighters will intensively attack polling centers, and [we] warn voters to stay home one day before," Young Afghans were specifically warned in one letter to avoid using high-tech gadgets and reminded of the Taliban's interpretation of the Shari'a law in a letter obtained by Reuters on 3 August 2009 stating "People with camera cellphones must not have pictures of unrelated women and handsome boys in their phones, which is against Islamic Shari'a," (RFE/RL, 18 August 2009) **[29c]**

The International Federation of Journalists report, *Under Fire, Press Freedom in South Asia 2008-2009*, lists media workers that have been subject to physical harm, intimidation, abducted, detained or killed during between May 2008 and April 2009. **[92a] (p30-31)** The Committee to Protect Journalists and the Reporters Without Borders websites included further details of journalists attacked, threatened, abducted and imprisoned during 2009.

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19. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

19.01 The Human Rights Watch World Report 2010: Afghanistan, covering events of 2009, published on 19 January 2010, stated that "The government did little to implement the Action Plan for Peace, Reconciliation and Justice, a plan launched in 2005 for transitional justice in Afghanistan. Human rights groups continued to document war crimes, with growing numbers of civil society groups working with victims of war crimes." **[17d] (Afghanistan Section, p260)**

AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION (AIHRC)

19.02 The Chairpersons note from the Afghanistan Independent Human Rights Commission (AIHRC) Annual Report, covering the period 1 January to 31 December 2008, stated that the:

"Afghanistan Independent Human Rights Commission (AIHRC) was established in 2002 with a strong mandate to protect, promote, and monitor human rights of Afghan citizens in the country. The AIHRC has travelled a long way to fulfil its obligations and realize its goals, continuously expanding its operations to reach towns and remote villages in most parts of the country. The commission has received and investigated numerous human rights violation cases and has imparted human rights awareness and knowledge to thousands of Afghans from all segments of society ranging from government officials to the general population and school children. Despite the significant achievements, by the AIHRC and its partners, towards the realization of human rights and respect for human dignity, a vicious circle of challenges continued, and even worsened in 2008, to obstruct the Commission's goals and jeopardize its success." **[78b] (p5)**

19.03 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated "The constitutionally mandated AIHRC continued to address human rights problems and operated without government interference or funding. The AIHRC was effective in drawing attention to major human rights problems, publishing numerous reports on a range of topics." **[2a] (Section 5)**

19.04 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);

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"Monitoring the performance of State authorities and NGO's [sic] [Non-Governmental Organisations] 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)**

NON-GOVERNMENTAL ORGANISATIONS (NGOS)

19.05 The Agency Co-ordinating Body for Afghan Relief (ACBAR) was created in August 1988. The ACBAR Mission described the reason for its creation was:

"… in response to the demand from the many aid agencies and their international donors for a coordinated approach to humanitarian assistance in Afghanistan and for Afghan refugees in Pakistan. Originally, the organization was based in Peshawar, Pakistan, where it focused mainly on coordinating NGOs' humanitarian response…

"ACBAR exists to serve and facilitate the work of its NGO members in order to address efficiently and effectively the humanitarian and development needs of Afghans. ACBAR exists primarily to serve the needs of its members and to act in their interest. To this end, ACBAR pursues three aims:

- "To provide high quality information to ACBAR members and external stakeholders.
- "To advocate for and represent the interests of the NGO sector in Afghanistan on behalf of its members.
- "To promote high ethical and professional standards among the NGO community." **[23a]**

19.06 The USSD Report 2009, noted:

"A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Hundreds of local human rights NGOs operated independently and included groups focusing on women's rights, media freedom, and rights of persons with disabilities. Government officials were generally cooperative and responsive to organization[s] views. The government cooperated with international governmental organizations and permitted them to visit the country." **[2a] (Section 5)**

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20. CORRUPTION

20.01 In its 2009 Corruption Perceptions Index (CPI), accessed on 17 December 2009, Transparency International ranked Afghanistan at 179 out of 180 countries, giving it a CPI score of 1.3. (CPI Score relates to perceptions of the degree of corruption as seen to exist among public officials and politicians by business people and country analysts. It ranges between 10 (highly clean) and 0 (highly corrupt). **[89a]**

20.02 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that "The law provides for criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials frequently engaged in corrupt practices with impunity." **[2a] (Section4)**

20.03 The Freedom House report, *Freedom in the World 2009*, covering events in 2008, published on 16 July 2009, recorded that in Afghanistan "Corruption, nepotism, and cronyism are rampant, and woefully inadequate salaries exacerbate corrupt behavior by public-sector workers. Apart from security, donors and other observers maintain that corruption and waste in the government are the foremost challenges to the country's sustainable development." **[41a] (p4)**

20.04 The Report of the United Nations (UN) Special Rapporteur on extrajudicial, summary or arbitrary executions, published on 6 May 2009, stated that:

"Senior Government officials described corruption as being so 'widespread' as to be 'unbelievable', and admitted that they had corruption within their offices. According to many Afghans with whom I spoke, the problem is as blatant as it is rampant. One interlocutor told me that, as you approach a courthouse, you will be approached by persons with some link to the judge who will inquire as to your problem and solicit bribes. It was widely affirmed that when wealthy or powerful people do get convicted, they will not spend long in prison." **[39e] (p29)**

20.05 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, concurred and added "Corruption in the judiciary is extensive, and judges and lawyers are often subject to threats from local leaders or armed groups." **[41a] (p5)**

20.06 The Afghan National Police had been "penetrated at every level" with corruption, the *Telegraph* online reported Captain Doug Beattie, a former army officer, as saying in November 2009. The article observed that:

"Capt Doug Beattie, who served two tours in Afghanistan working with the ANP [Afghan National Police], said many police officers are in the paid [sic] of insurgents and were more loyal to their tribes than the Afghan government. British officers say that among low-ranking Afghan police, and particularly in more rural areas away from central control, there is widespread corruption and disloyalty. Parts of the ANP play an active role in helping the Taliban and drug warlords get opium and heroin onto the international market. The police are poorly paid and educated, earning about $200 a month, so are vulnerable to corruption. More worryingly, a number are regular opium users and their addiction makes their behaviour unpredictable." **[59a]**

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20.07 Captain Doug Beattie, who retired from the army, said that "Because they're militia they can be bought and paid off at will. If the government's paying them they're reasonably happy. But if they don't get enough money they're quite happy to be paid by the insurgency." (*Telegraph* online, 4 November 2009) **[59a]**

20.08 On 19 November 2009, the *Guardian* reported that, during his inauguration speech president, Karzai promised to "… tackle corruption by prosecuting government officials and ending a culture of impunity… in an inauguration speech closely monitored by the international community this morning." After being sworn in the President said he wanted "… 'expert' and competent ministers in his government, and pledged to crack down on corrupt officials. He described corruption as a 'dangerous enemy of the state'." **[103a]**

20.09 The United Nations Office on Drugs and Crime (UNODC) report, *Corruption in Afghanistan: Bribery as reported by the victims*, survey findings, published on 19 January 2010, observed that:

"Citizens of Afghanistan have to pay bribes on a very frequent basis. According to survey results, victims of bribery had, during the previous 12 months, been required to give money to an average of 2.4 public officials on an average of two occasions. This means that each adult Afghan who reported the payment of at least one bribe in practice had been forced to pay almost 5 bribes in a year, more than one bribe per quarter. Paying kickbacks is indeed part of daily life for most citizens of this country." **[87d] (p17)**

20.10 The UNODC report further added:

"In most cases bribes are paid in cash (around 76%), but 'baksheesh' are also given in other forms, with difference in patterns between rural and urban areas. In urban areas, the bribe often consists of more than one item, be it cash, food or other goods. When more than one item is offered, the main component of the bribe is typically cash. In urban areas, food is often added to bribes paid in cash, likely in an effort to make bribes appear to be part of ordinary social relationships. In many cases, rural dwellers use parts of their harvest or livestock to pay bribes to public officials." **[87d] (p23)**

20.11 The Economist Intelligence Unit Country report on Afghanistan, published in January 2010, stated that:

"On November 16th [2009] the Afghan government announced that it had formed a major crime unit to tackle corruption. In another response to the mounting international pressure about this issue, the deputy attorney-general, Fazel Ahmad Faqiryar, declared later in November that corruption investigations had been launched against five former and current cabinet members, and that a further 15 former ministers and two officials from the Ministry of Hajj and Religious Affairs were also being questioned. None of those under investigation were named. However, on November 24th Afghanistan's attorney-general, Ishaq Aloko, was quoted in a British daily newspaper, *The Times*, as saying that although sufficient evidence had been collected to charge five ministers with embezzlement and fraud, Mr Karzai had so far refused to sign their arrest warrants. The article suggested that two of the ministers in question were currently in the cabinet and that three were

former ministers. In order for the arrests to proceed, Mr Karzai needs to waive the ministerial immunity of the two current ministers. One of these ministers was named in the article as the minister of hajj and religious affairs, Sediq Chakari." **[84b]**

20.12 In December 2009, Al Jazeera news reported on the arrest of Wahibuddin Sadat, the deputy mayor of Kabul, for allegedly misusing his authority. The article noted:

"Wahibuddin Sadat was taken into custody at Kabul airport on Saturday as he was returning from Mecca, Saudi Arabia, according to Fazel Ahmad Faqiryar, the deputy attorney general, who gave no further details… Sadat's arrest comes five days after an Afghan court convicted his boss, Abdul Ahad Sahebi, Kabul's mayor, of awarding a contract without competition and sentenced him to four years in jail. He was also ordered to repay more than $16,000 involved in the contract. Sehebi, who has appealed the conviction, is refusing government orders to give up his post and claims he is being targeted as part of a political vendetta. The government departments involved in the case have so far failed to agree on who should enforce the court's ruling." **[15a]**

20.13 The article further noted that "Afghanistan's government has come under increasing pressure to crack down on corruption in the wake of the country's fraud-tainted elections." **[15a]**

20.14 The USSD Report 2009 noted that:

"The government made efforts to combat corruption in the security apparatus. On April 18, the Attorney General's Office established an Anti-Corruption Unit. Before the August 20 elections, the MOI [Ministry of Interior] trained and deployed more than 100 officers as provincial Inspectors General (IGs). Although their role was initially to investigate election-related claims against the police, they remained on duty after the election as general purpose IG officers. The MOI removed 12 senior officers for alleged corruption, along with 14 others. Merit-based promotion boards became functional during the year, with at least three candidates competing for each job; the process of instituting pay reform and electronic funds transfer for police salaries continued. The MOI continued to obtain training for its IG office." **[2a] (Section 4)**

(See also Section 10: Security Forces and Police, and Section 13: Judiciary)

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21. FREEDOM OF RELIGION

OVERVIEW

21.01 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, noted that "Religious freedom has improved since the fall of the ultraconservative Taliban government in late 2001, but it is still hampered by violence and harassment aimed at religious minorities and reformist Muslims." **[41a] (p4)**

21.02 The US Commission on International Religious Freedom, *Annual Report 2009,* covering the period from May 2008 to April 2009, published on 1 May 2009, noted that:

"Conditions for freedom of religion or belief in Afghanistan have become increasingly problematic in recent years. The failure of the new constitution to protect individuals from within the majority Muslim community to dissent from the prevailing Islamic orthodoxy continues to result in serious abuses, including criminal court cases that violate the country's international commitments. In addition, the failure or inability of the Afghan government to exercise authority over much of the country outside Kabul contributes to a progressively deteriorating situation for religious freedom and other related human rights in many of the provinces. Although the status of religious freedom has improved since the fall of the Taliban regime, religious extremism, including violence and intimidation by resurgent Taliban insurgents, poses an increasingly serious threat to human rights in the country. In light of these very real dangers to the progress made toward establishing democracy, rule of law, and human rights protections in Afghanistan, the Commission has determined that Afghanistan should remain on its Watch List…the Commission will continue to monitor the deteriorating situation in the country for religious freedom and related human rights." **[70a] (p144)**

21.03 The report further noted:

"In January 2004, Afghanistan adopted a new constitution that provides for the freedom of non-Muslim religious groups to exercise their faith, contains an explicit recognition of equality between men and women, and declares the state will abide by 'the UN [United Nations] charter, international treaties, international conventions…and the Universal Declaration of Human Rights.' However, the constitution does not extend explicit protections for the right to freedom of religion or belief to every individual, particularly to individual Muslims, the overwhelming majority of Afghanistan's population, or minority religious communities." **[70a] (p 144)**

21.04 The report also noted:

"The absence of a guarantee of the individual right to religious freedom and the empowerment of the judicial system to enforce Islamic principles and sharia law mean that the constitution does not fully protect individual Afghan citizens who dissent from state-imposed orthodoxy against unjust accusations of religious 'crimes,' such as apostasy and blasphemy. There are few protections for Afghans to debate the role and content of religion in law and society, to advocate the rights of women and religious minorities, and to

question interpretations of Islamic precepts without fear of retribution or being charged with 'insulting Islam.' These legal deficiencies have permitted the official imposition of harsh, unfair, and at times even abusive interpretations of religious orthodoxy, violating numerous human rights of individuals by stifling dissent within the Afghan population." **[70a] (p 144)**

21.05 The US Department of State *International Religious Freedom Report* 2009, Afghanistan, covering events between 1 July 2008 and 30 June 2009, Afghanistan, (USSD IRF Report 2009), published on 26 October 2009, noted that religious groups were not required to register or hold a licence. **[2c] (Section I)**

Religious demography

21.06 The USSD IRF Report 2009 stated:

"The country has an area of 402,356 square miles and a population of approximately 31 million. 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 less than one percent of the population. According to self-estimates by these communities, there are approximately 4,900 Sikh and 1,100 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. There is one known Afghan Jew." **[2c] (Section I)**

21.07 The report further stated that:

"Members of the same religious groups 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 highland provinces around Bamyan Province. 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.

"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 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 departed. Since the fall of the Taliban, some members of religious minorities have returned, with many settling in Kabul." **[2c] (Section I)**

21.08 Additionally the report stated, "There is one Christian church and one synagogue. Some citizens who converted to Christianity as refugees have returned. Others may have been born abroad into other religious groups. The Baha'i faith has had followers in the country for approximately 150 years. The

community is predominantly based in Kabul, where more than 300 Baha'i members live; another 100 are said to live in other parts of the country." **[2c] (Section I)**

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LEGISLATION

21.09 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." **[4a]**

21.10 The USSD IRF Report 2009 stated:

"The constitution states that Islam is the 'religion of the state' and that 'no law can be contrary to the beliefs and provisions of the sacred religion of Islam.' In 2004, the constitution accorded both Shi'a and Sunni Islam equal recognition. The constitution proclaims that 'followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law...'

"In April 2009 President Karzai signed a law codifying the implementation of Islamic family law for the Shi'a minority. This law implemented the provision of the constitution recognizing the right of the Shi'a minority to adjudicate personal and family matters according to their own school of jurisprudence. The law attracted widespread criticism because of restrictions on the rights of women. International partners of Afghanistan and Afghan civil society groups objected strongly to the law. The president agreed to suspend enactment of the law until the Ministry of Justice had reviewed and amended it. The review process was ongoing at the end of the reporting period." **[2c] (Introduction)**

21.11 The USSD IRF Report 2009 further stated that:

"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…

"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." **[2c] (Section II)**

21.12 The USSD IRF Report 2009 also stated that

"The government continued to update the existing criminal and civil legal codes to bring them in line with the country's international treaty obligations. Chapter 18 of the Penal Code of 1976 addresses 'Crimes Against Religions,' although it does not address blasphemous remarks. Article 347 of the Penal Code says persons who forcibly stop the conduct of religious rituals and persons who destroy or damage permitted places of worship where religious rituals are conducted or who destroy or damage any sign or symbol of any religion shall be subject to a medium-term prison sentence (defined in Article 101 of the Afghan Criminal Code as confinement in a jail for not less than one, nor more than five years) and/or a cash fine of between $240 and $1,200 (12,000 and 60,000 Afghanis). There is nothing in the penal code related to the spoken or written utterance of insults or profanity against God, religion, sacred symbols, or religious books.

"There are no laws that forbid proselytizing, although many authorities and most of society view the practice as contrary to the beliefs of Islam. There were unconfirmed reports of harassment of Christians thought to be involved in proselytizing. They reveal their faith to those they trust, but are careful not to be viewed as seeking to spread their faith to the larger community…

"Blasphemy is a capital crime under some interpretations of Shari'a, and according to such interpretations, an Islamic judge 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 three days to recant their actions or face death by hanging. In recent years, this sentence has not been carried out." **[2c] (Section II)**

(See also subsection on Religious conversion)

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MUSLIMS

Shi'as (Shiite)

21.13 The USSD IRF Report 2009 stated:

"Most Shi'a were members of the Hazara ethnic group, which was traditionally segregated from the rest of society for a combination of political, ethnic, and religious reasons, some of which resulted in conflicts. The Hazaras accused the government, led by Pashtuns, of providing preferential treatment to Pashtuns and of ignoring minorities, especially Hazaras. The government made significant efforts to address historical tensions affecting the Hazara community, including affirmative hiring practices. Although there were reported incidents of unofficial discrimination, and treatment varied by locality, Shi'a generally were free to participate fully in public life…

"Relations between the different branches of Islam continued to be difficult. Historically, the minority Shi'a faced discrimination from the Sunni population. Since Shi'a representation has increased in government, overt discrimination by Sunnis against the Shi'a community decreased. Sunni resentment over growing Shi'a influence was expressed widely often linked to claims of Iranian efforts to influence local culture and politics." **[2c] (Section III)**

(See also Section 22: Ethnic Groups - Hazaras)

ISMAILIS

21.14 The USSD IRF Report 2009 noted "According to a recent United Nations High Commission for Refugees (UNHCR) report, Ismailis were not generally targeted or seriously discriminated against, but they continued to be exposed to risks in some local areas." **[2c] (Section III)**

SIKHS AND HINDUS

21.15 A Eurasianet article on 12 January 2010 noted that "For many years, Sikhs were a prominent part of Kabul's commercial scene, occupying prominent positions as traders, entrepreneurs, and, later, currency exchange specialists. But in today's Afghanistan, many Sikhs find themselves marginalized and struggling to maintain their distinct cultural profile in Kabul." **[45a]**

21.16 The Annual Report of the United States Commission on International Religious Freedom, published in May 2009, observed an improvement in the situation of Hindus and Sikhs since the fall of the Taliban in 2001. The report stated "…there is no longer any official discrimination. Hindus and Sikhs are allowed to practice their faith and to have places of public worship. However, they are effectively barred from most government jobs, and face societal hostility and harassment. The few Afghan Christians, converts from Islam or their children, are forced to conceal their faith and are unable to worship openly." **[70a] (p146)**

21.17 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]** The FCO further noted that the Sikh community in Kabul also face forms of intimidation and are 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]**

21.18 The USSD IRF Report 2009 stated that:

> "… 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 some to leave the country. Although Hindus and Sikhs had recourse to dispute resolution mechanisms such as the Special Land and Property Court, in practice the communities felt unprotected.

"Some Sikh and Hindu children were unable to attend government schools due to harassment from other students. The government took limited steps to protect these children and reintegrate them into the classroom environment. The AIHRC [Afghanistan Independent Human Rights Commission] 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. The government did not do so during the reporting period." **[2c] (Section III)**

21.19 The USSD IRF Report 2009 also noted:

"Members of the Hindu and Sikh communities reported that they no longer apply for government jobs because of past discrimination. President Karzai appointed one Sikh member to the upper house of parliament. The Hindu and Sikh communities have lobbied to have one seat each designated for a Hindu and a Sikh representative in parliament. They point out that ten seats are reserved for the ethnic minority Kuchi community and that their communities should also have reserved representation." **[2c] (Section III)**

21.20 The Eurasianet article of 12 January 2010 also noted:

"Senator Avtar Singh, the only Sikh in Afghanistan's parliament, says that trying to raise awareness about the problems facing the country's Sikh community is difficullt.

"Maintaining cultural traditions has grown increasingly problematic. For example, how to ensure the dead are cremated, as mandated by Sikhism, remains an unresolved issue. Muslims now live on the land where Kabul's Sikhs previously performed their cremations. 'That land belonged to use [sic] for 120 years, and now we are forbidden to use it,' Singh said…

"The plight of Afghanistan's Sikhs was evident last November 2 [2009], when the community celebrated the birthday of Guru Nanak, the founder of Sikhism. The holiday is considered one of the most sacred in the Sikh calendar, but in recent years the celebration in Kabul has been scaled back so as not to attract too much attention. 'What this celebration was like before and what it is now – this is a big change I'm seeing. I wondered to myself, what will happen to our community?' Singh said." **[45b]**

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CHRISTIANS

21.21 The US Department of State *Country Report on Human Rights Practices 2008*, Afghanistan, published on 25 February 2009 (USSD Report 2009), noted that:

"Due to societal pressure, Christians were forced to remain underground, not openly practicing their religion or revealing their identity. During the year [2008] there were sporadic reports of harassment and threats against Christians. There was only one known Christian church in the country, located in the diplomatic quarter. Local nationals wishing to practice Christianity did so

in private locations, as the church was not open to them. Members of the government called for the execution of Christian converts." **[2i] (Section 2c)**

21.22 The Foreign and Commonwealth Office (FCO) noted in a letter dated 8 January 2010, that their general assessment of treatment of Christians in Afghanistan has not changed since their previous assessment recorded in a letter dated 17 March 2008. **[4d]** The assessment recorded 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. **[4g]**

21.23 The FCO assessment further noted that there may be small pockets of Afghan Christians who worship together in secret places. They do not worship with ex-pat Christians, as they would still fear for their safety. **[4g]**

21.24 Most local Christians did not publicly state their beliefs or gather openly to worship, but between 200 to 300 expatriates met regularly at Christian worship services in private locations in the capital, Kabul. There is only one Christian church in the country, which is not open to local nationals. It is situated within the diplomatic enclave. (USSD IRF Report 2009) **[2c] (Section II)**

BAHA'IS

21.25 The Annual Report of the United States Commission on International Religious Freedom, published in May 2009 stated "Members of Afghanistan's small Baha'i community also lead an essentially covert existence, particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled that their faith is a form of blasphemy and that all Muslims who convert to the Baha'i faith are apostates." **[70a] (p146)**

21.26 The USSD IRF Report 2009 stated:

"The General Directorate of Fatwas and Accounts under the Supreme Court has ruled that the Baha'i faith is distinct from Islam and a form of blasphemy. It holds that all Muslims who convert to the Baha'i faith are apostates and all followers of the Baha'i faith are infidels. The ruling created 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, up to and including the death penalty. 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 subsection – Legislation for further information on blasphemy)

RELIGIOUS CONVERSION

21.27 The USSD IRF Report 2009 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) would have

three days to recant his or her conversion or be subject to death by hanging. Individuals could also be stripped of all their property and possessions and have their marriage declared invalid. The Afghan Criminal Code does not define apostasy as a crime, and the constitution forbids punishment for any crime not defined in the criminal code. In recent years, neither the national nor local authorities have imposed criminal penalties on converts from Islam." **[2c] (Section II)**

21.28 The UNHCR's Eligibility Guidelines, 2009 concurred, noting that "In recent years, the death penalty for conversion has reportedly not been carried out. Converts from Islam face, thus, a risk of persecution on account of their religion." **[11a] (p14)**

21.29 The Foreign and Commonwealth Office (FCO) noted in a letter dated 8 January 2010 that they were not aware of any human rights monitors having raised any recent concerns about persecution of Christian converts in Afghanistan. The FCO noted also that there were no specific cases of concern raised during Afghanistan's Universal Periodic Review of Human Rights at the UN Human Rights Council in May 2009, by either Council members or independent human rights monitors. **[4g]**

MIXED MARRIAGES

21.30 The USSD *Country Report on Human Rights Practices 2008*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"The government's willingness to recognize the right to marry varied according to nationality, gender, and religion. The family court could register a marriage between a Jewish or Christian woman and a Muslim man, but the court required the couple to accept a Muslim ceremony. A non-Muslim woman had to convert to Islam before marrying a Muslim man. The court could not register a marriage between a Muslim woman and a non-Muslim man. These situations rarely occurred, however, as more than 99 percent of the population was Muslim. The courts registered marriages between non-Muslims, however." **[2a] (Section 1f)**

(See also Section 25: Women – Marriage and Divorce)

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22. ETHNIC GROUPS

OVERVIEW

22.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"The constitution prohibits discrimination between citizens 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. The constitution does not explicitly address equal rights based on race, disability, language, or social status. There were reports of discrimination based on race, ethnicity, religion, and gender." **[2a] (Section 6)** Pushtuns make up the largest ethnic group at 42%, followed by Tajiks (27%), Hazaras (9%), Uzbek (9%) and Aimak (4%). Other smaller groups include Turkmen and Baluch. (CIA World Factbook, last updated 22 February 2010) **[3a] (People)**

22.02 The United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,* July 2009 stated that:

"Despite constitutional guarantees of 'equality among all ethnic groups and tribes' and Government's attempts to address the problems faced by ethnic minorities, discrimination and ethnic clashes, particularly in relation to land ownership disputes, still occur. Severe discrimination against ethnic minorities in some areas is also reported, most commonly in the form of denial of access to education and other services and political representation. As such, members of ethnic groups may be at risk of persecution on the ground of their ethnicity/race, in areas where they constitute a minority." **[11a] (p20)**

22.03 The USSD Report 2009 also noted that "… different ethnic groups complained they did not have equal access to local government jobs in provinces where they were in the minority. The law requires that 10 seats of the Wolesi Jirga be allocated to Kuchi nomads. Some members of parliament disagreed with this allotment, arguing that under the constitution all groups were to be treated equally." **[2a] (Section 6)** The report further stated that "There were no laws preventing minorities from participating in political life…" **[2a] (Section 6)**

Blood Feuds

22.04 The Oxfam Research Report, February 2008 recorded that:

"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." **[75a] (p10)**

22.05 The report further recorded that:

"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." **[75a] (p10)**

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PASHTUNS (PATHANS)

22.06 The Central Intelligence Agency (CIA) World Factbook, last updated 22 February 2010, noted that Pashtuns make up the largest ethnic group at 42%. **[3a] (People)** 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)**

22.07 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)**

22.08 The UNHCR's *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,* July 2009 stated that:

"Pashtuns throughout northern Afghanistan, where they constitute an ethnic minority, have since been targeted after being associated with the Taleban regime, whose leadership consisted mostly of Pashtuns from southern Afghanistan. As such, Pashtuns have faced abuses including killings, sexual violence, beatings, extortion, and looting. In addition, formerly displaced

Pashtuns may be unable to recover their land and property upon return to their area of origin." **[11a] (p18-19)**

22.09 The USSD Human Rights Report 2009, noted:

"Ethnic tensions between Pashtun and non-Pashtun groups, particularly in the Moqur and Qadis districts, resulted in conflict and occasional killings. In February [2009] members of a Pashtun group killed Hafizollah, a prominent non-Pashtun, and several of his family members. In retaliation, members of the non-Pashtun group killed several Pashtuns. In September, non-Pashtuns assassinated a Pashtun leader, Mowin Gholan, in retaliation for the killing of Hafizollah." **[2a] (Section 6)**

TAJIKS

22.10 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)**

22.11 The Central Intelligence Agency (CIA) World Factbook, last updated 22 February 2010, noted that Tajiks comprised about 27 per cent of the population making them the second largest ethnic group. **[3a] (People)** The 2005 Encyclopedia of the World's Minorities recorded that the majority of Tajiks are Sunni Muslims. **[27] (p1175)**

22.12 The South Asia Tourism Society (SATS) described, in its section on ethnic groups in Afghanistan, accessed 29 April 2009, that

"Tajiks or Tadzhiks constitute the second largest ethnic group in Afghanistan. Populating around 4.5 million, they live in the Panjsher Valley north of Kabul and in the northern and northeastern provinces of Parwan, Takhar, Badakhshan, and also Baghlan and Samangan. Few Tajik people extend into the central mountains. Most Tajiks speak Dari Persian language. Tajik community is not divided into tribes. They prefer to identify themselves with the valley or region they live in like Panjsheri, Badakhshi, Samangani and Andarabi. For earning livelihood, Tajiks do sedentary mountain farming and sheep/goat herding. Tajiks grow variety of fine fruits and nuts." [sic] **[71a]**

HAZARAS

22.13 The Minority Rights Group International website, accessed on 23 July 2008, describes the Hazaras as:

"…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 [sic] 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." **[76a]**

22.14 The South Asia Tourism Society (SATS) description of Hazaras, accessed 29 April 2009, noted that:

"Central regions of Afghanistan, known as Hazarat, are inhabited by the Hazaras. Good number[s] of Hazaras also dwell in Badakhshan. Most of them are farmers and shepherds. Most Hazaras are the followers of the Shia sect of Islam. The Hazaras have their ancestors in Xinjiang region of north-western China. For a long time, the Hazaras were a neglected lot. However, they are now trying to get rid of their inferior status." **[71a]**

22.15 The Minority Rights Group International website further noted that:

"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." **[76a]**

(See also Section 25: Women)

22.16 Minority Rights Group International also noted:

"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." **[76a]**

22.17 The US Department of State *International Religious Freedom Report* 2009 (USSD IRFR Report 2009), Afghanistan, published on 26 October 2009 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)**

22.18 A demonstration by the Hazaras in the capital, Kabul, on 22 July 2008, ended peacefully after five hours, the British Broadcasting Corporation (BBC) reported. The demonstrators were calling on the government to do more to protect their land after disputes with the nomadic Kuchis, some called for the President to resign:

"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." **[25k]**

UZBEKS AND TURKMEN

22.19 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)**

22.20 The South Asia Tourism Society (SATS) website, accessed on 29 April 2009, noted "Most Turkmens are nomadic poeple who herd yaks. Turkmens speak both archaic form of Turkish and Persian. Many nomadic Turkmens still live in dome-shaped tents based on wooden frames. Men wear coats with long

sleeves, while women also wear long dresses to cover their hands in cold weather." **[71a]**

22.21 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. **[4a]**

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KUCHIS

22.22 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"Afghan Kuchis are generally categorised into three groups. Settled Kuchis are those who have abandoned their Kuchi way of life and become accustomed to living like other Afghan people in cities or villages away from traditional Kuchi lifestyle and with full reintegration with other members of the community. The second group comprises Kuchis who choose short-term migration throughout the year and migrate within a province or a district for a short period of time in a year. The third category includes Kuchis who choose long-term migration and move from province to province throughout the year. The fact of being a Kuchi is a factor that deprives some Kuchis from accessing their economic and social rights, noting that settled Kuchis generally have a better standard of living than short or long term migratory Kuchis.

"Continued and multi-year droughts in Afghanistan have disrupted the traditional way of life of Kuchis. Their pastures have dried and their animals have died of starvation. The largest Kuchi concentration, which amounts to about 60,000 people, includes Kuchis who are unable to return to Rigestan plain. Drought in the north and local residents' opposition to Kuchi return are factors that have led to the displacement of another 10,000 Kuchis. These factors combined have disrupted customary Kuchi living and compelled them to live in camps with food assistance, without infrastructure, and through dailywage work. It is impossible for Kuchis to return to their traditional lifestyle as animals have died and it takes several years to recover from drought. It is unlikely for Kuchis to cope with the challenges, because they are unfamiliar with stable livelihood means and do not own immovable property historically." **[78f] (p26)**

22.23 The AIHRC report also noted that:

"Kuchis' enjoyment of the right to health and education are problematic. Since the collapse of the Taliban regime, the President has, on several occasions, promised to build mobile schools and clinics for Kuchis, but few such promises have been kept…

"Like their right to health, Kuchis' right to education is enjoyed considerably less by Kuchis than other segments of Afghanistan's population. Only 33.6% of Kuchi children regularly go to school and 66.4% of Kuchi children never or rarely go to school, while around 42.3% of school-going Kuchi children drop out before they reach the sixth grade. This places Kuchis far behind non-

Kuchis who are twice as likely to attend education (60.2% of non-Kuchi children go to school)." **[78f] (p26-27)**

NURISTANIS

22.24 The US Department of State *International Religious Freedom Report* 2009, Afghanistan, covering events between 1 July 2008 and 30 June 2009, Afghanistan, (USSD IRF Report 2009), published on 26 October 2009, noted "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." **[2c] (Section I)**

22.25 The Minority Rights Group International website, accessed on 23 July 2008 described the Nuristanis:

"Nuristanis arrived in Afghanistan fleeing the eastward spread off [sic] Islam. They speak an [sic] 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 [men] working in livestock herding while the women work on grain production or irrigated terraces." **[76c]**

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23. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

23.01 The International Lesbian and Gay Association (ILGA) World Survey: State-sponsored Homophobia, dated May 2009, stated that same-sex male and same-sex female relationships are illegal in Afghanistan. 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] (p12)**

23.02 ILGA added:

"In Afghan legal terminology 'pederasty' appears to refer to intercourse between males regardless of age. The fact that paedophilia or sexual relations with persons under the age of consent falls under subsection 2(a) of article 427 indicates that this is the case… Islamic Sharia law, criminalising 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] (p12)**

23.03 United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,* July 2009 stated that "Like apostasy, homosexuality is punishable by death, as a Hudood crime, according to most interpretations of Sharia law, although there were no sexual orientation-related executions reported during 2008." **[11a] (p16)**

23.04 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]**

23.05 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated "The law criminalizes homosexual activity; however, authorities only sporadically enforced the prohibition. Organizations devoted to the protection or exercise of freedom of sexual orientation remained underground." **[2a] (Section 6)**

SOCIETAL ILL-TREATMENT OR DISCRIMINATION

23.06 UNHCR's *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,* July 2009 stated that "Persons accused of committing crimes against Sharia law, such as… homosexuality and adultery, are at risk not only of social rejection and violence at the hands of family or community members, but also of formal prosecution." **[11a] (p16)**

23.07 GlobalGayz.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 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]**

23.08 The USSD Report 2009, also noted "There were no reported instances of discrimination or violence based on sexual orientation, but social taboos remained strong." **[2a] (Section 6)**

(This section should be read in conjunction with Section 25 on Women.)

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24. DISABILITY

24.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated that "The constitution prohibits any kind of discrimination against citizens and requires the state to assist persons who have disabilities and to protect their rights, including health care and financial protection. The constitution also requires the state to adopt measures to reintegrate and ensure the active participation in society of persons with disabilities." **[2a] (Section 6)**

24.02 The 2008 Afghanistan Landmine Monitor report, accessed 12 May 2009, stated that "Afghanistan does not have specific legislation protecting the rights of persons with disabilities, but the constitution provides guarantees for the rights of persons with disabilities." The Landmine Monitor report 2008 provides further information on the landmine situation in Afghanistan. **[14a]**

24.03 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"The Afghan concept of disability is mostly limited to physical disabilities, while mental and sensory disability too socially isolates the affected persons and hinders their full participation in society. There are no standard terms in Afghanistan related to the types of disability, levels of need, and other disability-related notions.

"Persons with disabilities are among the most vulnerable segments of population and the government has taken no measures to enable their full participation in society and to ensure their access to social and educational services. Due to the lack of public awareness about the concept of disability, persons with disabilities are often perceived as a family and societal burden and are humiliated and discriminated against. Article 22 of the Afghan Constitution has emphasised the equality of all people and has outlawed all forms of discrimination among citizens. Article 53 of the Constitution requires the government of Afghanistan to take the necessary measures to ensure rehabilitation, training, and active social participation of persons with disabilities and provide them with medical and financial assistance." **[78f] (p18)**

24.04 The USSD Human Rights Report 2009, further stated that: "The ICRC [International Committee of the Red Cross] reported that accurate figures on the disabled population were not available…" **[2a] (Section 6)** The AIHRC, November/December 2009 report concurred and observed that "There is no precise assessment of the number and situation of persons with disabilities in Afghanistan and different authorities have presented different statistical data on the number of persons with disabilities." **[78f] (p19)**

24.05 The USSD Report 2009, also stated that there were an "… estimated 800,000 mobility-impaired persons, of whom approximately 40,000 were limb amputees. MOLSA [Ministry of Labor, Social Affairs, Martyrs, and Disabled] provided financial support to 88,000 persons with war-related disabilities. Fewer than 90 percent of persons with physical and mental disabilities had jobs. The AIHRC reported that of the nearly 200,000 school-age children with disabilities, only 22.4 percent attended school." **[2a] (Section 6)**

(See also Section 26: Children – Child care and Health issues, Section 30: Freedom of Movement – Mines and unexploded ordnance and Section 28: Medical Issues)

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25. WOMEN

OVERVIEW

25.01 The Organisation for Economic Co-operation and Development's Social Institutions and Gender Index, Country Profile on Afghanistan (SIGI Afghanistan profile), accessed on 6 September 2009, noted:

"Afghan women are among the most vulnerable in the world. Under the Taliban regime, women and girls were systematically discriminated against and marginalised, and their human rights were violated. Women's removal from the public domain meant that they could not play any role in the political process and were excluded from all forms of formal or informal governance. Women and girls were also severely restricted in their access to education, health care facilities and employment.

"The overthrow of the Taliban in November 2001 raised hopes that women in Afghanistan would rapidly regain their human rights. Ongoing threats to women's security make their participation in public life almost impossible" **[37a]**

25.02 The United Nations Assistance Mission in Afghanistan (UNAMA) report, *Silence is Violence, End the Abuse of Women in Afghanistan* (UNAMA report), published on 8 July 2009, stated that:

"Three decades of armed conflict, coupled with associated lawlessness, insecurity, and weak governance, have had a significant impact on the status and situation of women in Afghanistan as well as on efforts geared to their emancipation and empowerment.

"Distinct phases of the war, since the outbreak of armed conflict in 1978, have been characterized by events that were particularly dangerous and harmful for women. During the Soviet period, aerial bombardments were instrumental in triggering large-scale population movements that, in turn, had ramifications for the rural poor and agrarian livelihoods and infrastructure including vital irrigation systems. The Mujahedeen period (1992-1996) was marked by ferocious, internecine warfare that scarred all aspects of Afghan life. Women's rights and freedoms were severely restricted. Grave human rights abuses included extra-judicial executions, torture, sexual violence, disappearances, displacement, forced marriage, trafficking and abduction. This period represents one of the darkest chapters in the history of Afghan women.

"The brutality and predatory nature of the civil war, or Mujahedeen period, contributed to the emergence of the Taliban and their consolidation of power throughout much of the country after their capture of Kabul, September 1996. The Taliban, with their strict and idiosyncratic interpretation of Sharia law put an end to much of the brutality and mayhem that characterised the Mujahedeen period.

"Taliban understanding or interpretation of Islam, however, further institutionalized the marginalization of women. Throughout its harsh, five-year rule, the Taliban's extreme interpretation of Sharia, based on a distorted and oppressive version of Islam, attempted to change the essence of Afghan society to that of a fundamentalist and repressive system of governance

where Taliban edicts reigned supreme. Taliban rule was particularly harsh in urban centers where women, in particular, were victimized and were reduced to a shadowy existence. Women and girls were subjected to systematic discrimination that, effectively, confined most females to their homes. Females were not permitted out in public unless accompanied by a mahram." **[46a] (p5-6)**

25.03 The same source noted that "Following the demise of the Taliban regime at the end of 2001, there was a great deal of hope and optimism amongst Afghans, human rights activists and others, that the situation of women would improve significantly. The Bonn Agreement (December 2001), was concerned with the transformation, reconstruction and development of Afghanistan." **[46a] (p6)**

25.04 The Women for Women International survey, *2009 Afghanistan Report: Amplifying the Voices of Women in Afghanistan*, noted that:

"The 2001 Bonn Agreement pledged to address the structural impediments to women's rights in Afghanistan and to include women in political life. Quotas were set to ensure places for women in the Loya Jirga and the interim administration, and a Ministry of Women's Affairs was established. The Gender and Law Working group, a women's lobby, was able to push through some amendments to the draft constitution released in 2003. These amendments, retained in the final document and approved in 2004, included an explicit reference to the equality of men and women before the law (Article 22) and increased the number of women in the legislature's lower house to two female delegates from each province (Article 83). Article 7 of the Constitution also requires that Afghanistan abide by various conventions that it has signed, including the UN Convention Against all Forms of Discrimination Against Women." **[94a] (p16)**

25.05 Women were now able to participate in public life in some areas (Freedom House, 16 July 2009) **[41a] (p6)** However, the The US Department of State *Report on Country Human Rights Practices 2008,* Afghanistan, (USSD report 2008) published on 25 February 2009, noted that:

"Women continued to face pervasive human rights violations and remained largely uninformed about their rights under the law. Discrimination was more acute in rural areas and small villages. Women in urban areas continued to make strides toward 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.

"Societal discrimination against women persisted, including domestic abuse, rape, forced marriages, exchange of girls to settle disputes, kidnappings, and honor killings. In some rural areas, particularly in the south, women were forbidden to leave the home except in the company of a male relative." **[2i] (Section 5)**

25.06 The UNAMA report of 8 July 2009 stated that:

"Undoubtedly, some progress has been made in advancing the rights of all Afghans including those of women. Noticeable improvements include the

adoption of a new constitution with a specific provision on gender equality. Afghanistan is a party to a number of international human rights treaties, including accession, without reservation, in 2003, to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); this implies the responsibility of the State to protect and promote the human rights of all Afghan women and girls." **[46a] (p7)**

(See also subsection: Violence against women)

25.07 A survey of 1,500 women across different regions by Women for Women International, in their *2009 Afghanistan Report: Amplifying the Voices of Women in Afghanistan*, revealed that:

- "41.2% of women said that the biggest problem they face in daily life is the lack of important commodities, followed by insufficient employment opportunities (26.2%) and lack of social services (13.5%).
- "66.2% of women said that the first problem the national government should fix is the security situation, followed by economic and political problems. Responses were the same at the local level, giving security the highest priority." **[94a]**

25.08 WomanKind Worldwide, February 2008, reported that "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." **[88a] (p7)**

(See also Section 25: Women - Social and economic rights and Women - Violence against women.)

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LEGAL RIGHTS

25.09 The Afghanistan Independent Human Rights Commission (AIHRC) report, *Economic and Social Rights Report in Afghanistan-III*, dated December 2008, noted that Afghanistan is a signatory to the UN Convention for the Elimination of All Forms of Discriminiation Against Women **(p27).**

25.10 The USSD *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

"The constitution prohibits discrimination between citizens 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. The constitution does not explicitly address equal rights based on race, disability, language, or social status. There were reports of discrimination based on race, ethnicity, religion, and gender." **[2a] (Section 6)**

25.11 The SIGI Afghanistan Profile accessed on 6 September 2009, noted:

"Legislation in Afghanistan provides only weak support for the financial independence of women. Many women work in the agriculture sector, but their access to land is very limited and very few own land of their own. While Islamic law protects a woman's access to property other than land, customary law traditionally deprives women of economic assets, leaving them dependant on their husbands, fathers or brothers (if unmarried) throughout their lives.

"Afghani women have only limited access to bank loans… most Afghans, men and women, are too poor to provide collateral for loans. Since 2001, foreign aid has helped to establish several micro-finance institutions in the country, which are available to both women and men." **[37a]**

(See also Women – Social and economic rights)

25.12 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)**

25.13 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)**

25.14 On 2 April 2009 the United Nations News Centre reported on a new law that restricted women's rights:

"A new law in Afghanistan seriously curtailing women's rights, even explicitly permitting marital rape, is a 'huge step in the wrong direction,' the United Nations human rights chief said today, calling for its repeal. Not yet published, the law, which was passed by the two houses of Afghanistan's parliament before being reportedly signed by President Hamid Karzai earlier this month, regulates the personal status of the country's minority Shi'a community members, including relations between men and women, divorce and property rights." **[39g]** The USSD Report 2009 stated that "On April 15, in Kabul, more than 300 women, most of them students, held a protest against the Shia Personal Status Law (SPSL). Five times as a many counterprotesters retaliated, some throwing stones at the protesters." **[2a] (Section 1d)**

25.15 The USSD Report 2009 observed that:

"The SPSL, which was amended in the summer to remove the most controversial phrases, went into effect for Shias in July [2009]…The law

applies only to the 20 percent of the population who are Shia. Some Shia groups hailed the law for officially recognizing the Shiite minority; however, the law was controversial both domestically and internationally for to its failure to promote gender equality. Articles in the law of particular concern include minimum age of marriage, polygamy, inheritance rights, right of self-determination, freedom of movement, sexual obligations, and guardianship." **[2a] (Section 6)**

25.16 A Human Rights Watch article on 13 August 2009 recorded that:

"The [amended SPSL] law gives a husband the right to withdraw basic maintenance from his wife, including food, if she refuses to obey his sexual demands. It grants guardianship of children exclusively to their fathers and grandfathers. It requires women to get permission from their husbands to work. It also effectively allows a rapist to avoid prosecution by paying 'blood money' to a girl who was injured when he raped her… The law was designed in secret by a powerful and hard-line Shia leader, Ayatollah Asif Mohseni, and supported by conservative Shia leaders in parliament." **[17a]**

(See also Women – Violence against women)

25.17 A report Womankind, *Tacking stock update: Afghan women and girls seven years on*, dated February 2008 (Womenkind's 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)**

25.18 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated:

"Although Islamic sharia and the Constitution have conferred appropriate rights on men and women, de jure and de facto equality between men and women has not been accurately provided. The current rules do not offer protection for women. A man can divorce his wife without any due process of law. Lack of registration of marriage and divorce has caused the ill-treatment of women. A woman can remarry three months after divorce and in case of objection she should produce three witnesses in court to substantiate her divorce. A woman can start divorce proceedings if she has enough evidence and this includes that her husband is sick or exposes her to danger, her husband cannot support her, her husband has been absent for four years, or he has been sentenced to 10 years or over in prison. In any of these cases, a court of law can order the giving to her of her marriage portion and custody of

girls until they reach the age of nine and boys until they reach the age of 11." **[78f] (p54)**

25.19 The USSD Report 2009, observed that:

"On July 19, President Karzai signed the Elimination of Violence Against Women (EVAW) law, criminalizing violence against women, including rape, battery or beating; forced or underage marriage; 'baahd' (the giving of a female relative to another family to settle a debt or dispute); humiliation; intimidation; and the refusal of food. Penalties include prison terms of less than six months to the death penalty. Victims have the right to prosecute abusers, seek shelter in a safe house, and receive medical and legal aid, but the law was seen as only a small positive step for women, as implementation was a concern." **[2a] (Section 4)**

25.20 The USSD Report 2009, added:

"Article 17 of the EVAW law specifically punishes rape with life imprisonment, and if the act results in death of the victim, the perpetrator shall be sentenced to death. The law punishes the 'violation of chastity of a woman… that does not result in adultery (such as touching)' with imprisonment of up to seven years. Rape does not include spousal rape. Shari'a law, as interpreted in the local context and influenced by tribal customs, although uncodified, impeded successful prosecution of rape cases. The Koran does not specifically mention a punishment for rape, but under one interpretation of Shari'a, local tribal elders or religious leaders may treat rape as a form of adultery, punishable by stoning to death or 100 lashes of the whip, although there were no reports of such cases during the year. Under some interpretations of Shari'a, a woman who brings a charge of rape sometimes must produce four witnesses to prove that the rape occurred as a result of force. Accused men often claimed the victim agreed to consensual sex, which resulted in an adultery charge against the victim." **[2a] (Section 4)**

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POLITICAL RIGHTS

25.21 The Women for Women international paper, *2009 Afghanistan Report*, stated that:

"The overwhelming majority of women in Afghanistan have only limited direct contact with political institutions. The Afghan Government recently committed to fast tracking the increase of women's participation in the civil service at all levels to 30% by 2013. Currently, only 22% of all regular government employees are women, and only 9% percent of these are at the decision-making level. In the 9,394 Community Development Councils established throughout Afghanistan by May 2007, the number of female members was 21,239 (24%), compared to 67,212 (76%) male members. While women represent 27% of the National Assembly, the Minister of Women's Affairs is the only female cabinet member, and in 17 of 36 ministries there are fewer than 10% female employees.

"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, but of the 1,547 sitting judges in Afghanistan only 62, or 4.2%, are female. Of the 546 prosecutors, 35 (6.4%) are female, and of the 1,241 attorneys 76 (6.1%) are female. There are no women members in the Supreme Court Council." **[94a] (p17)**

25.22 The USSD Report 2009 stated that "As required by law, there were 68 women in the 249-seat Wolesi Jirga; 30 percent of seats are reserved for women. UNIFEM expressed concern that the quota was interpreted as a ceiling rather than a floor, limiting the number of women to 30 percent. There were 23 women in the Meshrano Jirga. One woman served in the cabinet. No women served on the Supreme Court Council. There were 203 female judges." **[2a] (Section 3)**

Women's participation in the 2009 Elections

25.23 The Human Rights Watch (HRW) report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, published December 2009, stated that:

"While there were some signs of progress for women in the 2009 elections, women's participation was disappointing in many respects, leaving many women feeling that they had been let down by their government and international supporters…

"According to the Independent Election Commission, 38.75 percent of actual voters in the 2009 elections were female, based on the numbers of votes returned from male polling stations and female polling stations. However, this number is unreliable because it fails to take account of the high levels of fraud using women's voting cards and polling stations.

"A number of provinces where the actual female turnout was reported to be very low nonetheless officially recorded high female turnout, raising allegations of fraud. This was particularly true in parts of the southeast such as Paktia province, where more women are recorded as having voted than men (50.3 percent versus 47.7 percent, with the remaining votes coming from ethnic Kuchis). This is highly unlikely, as very few women were observed voting in the district centers, and almost none in rural areas. As one international election official told Human Rights Watch, the reported number of female voters is 'essentially meaningless' because it clearly includes so many fraudulently cast female votes." **[17c] (p28-31)**

25.24 The USSD Report 2009, stated that "Two women ran for president and seven for vice president; 328 women ran for the 124 provincial council seats reserved for women, more than ever before. In some provinces open seats remained for women because not enough female candidates contested the election." **[2a] (Section 3)**

(See also Section 3: History - Presidential Elections - August 2009)

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SOCIAL AND ECONOMIC RIGHTS

25.25 The United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, July 2009 stated that:

"Women are at particular risk of ill-treatment if perceived as not conforming to the gender roles ascribed to them by society, tradition and even the legal system. Ill-treatment occurs in a variety of forms and may be inflicted by several actors, including family members. Such treatment includes domestic violence, excessive custodial sentences and degrading and inhuman treatment. While there is a limited number of women holding public office, women's rights continue to be curtailed, restricted and systematically violated." **[11a] (p31)**

25.26 The Social Institutions and Gender Index (SIGI), accessed on 6 September 2009, recorded that "Unlike the Taliban, the current government imposes no legal restrictions on women's freedom of dress." **[37a]** The USSD report 2008 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 did occur… and most women, even in Kabul, wore head covering. In rural areas and villages made more accessible by new roads, formerly unveiled women donned burqas when they worked in the fields to avoid being seen by strangers." **[2i] (Section 5)**

25.27 The United Nations Assistance Mission in Afghanistan (UNAMA) report, *Silence is Violence, End the Abuse of Women in Afghanistan*, published on 8 July 2009 reported that:

"The burqa received an inordinate amount of attention in the West during the Taliban period. The removal of the burqa is often viewed as a symbol of the 'liberation' of Afghan women. However, for many women, this is often the only protection they have to move in public locations without being harassed. The burqa allows women to maintain a low-profile. Female police officers have reported that they wear a burqa for their own personal safety when outside of the police station." **[46a] (p10)**

25.28 The USSD Report 2009 stated that "Despite the constitutionally protected right to travel freely, many women were forbidden to leave the home except in the company of a male relative. Such cultural prohibitions meant that many women could not work outside the home, and often could not receive access to education, health care, police protection, and other social services." **[2a] (Section 6)**

(See also Section 30: Freedom of Movement)

Access to education and employment

25.29 Human Rights Watch noted in its *World Report 2009*, covering events in 2008, published in January 2009, that:

"Afghan women and girls rank among the world's worst-off by most indicators, including maternal mortality, life expectancy, and literacy.

"Insecurity prevents the vast majority of girls from attending school in the south and southeast…Even in conflict-free areas, Afghan girls continue to face immense obstacles to education such as lack of girls' schools, sexual harassment en route to school, and early marriage which tends to prematurely end schooling. According to Ministry of Education data, 46 percent of primary school-aged girls were enrolled in primary school, compared with 74 percent of boys. At the secondary level only 8 percent of girls and 18 percent of boys were enrolled.

"Women still confront widespread discrimination, significant barriers to working outside the home, and restrictions on their mobility; many still cannot travel without an accompanying male relative and a burqa." **[17b]**

25.30 The UNAMA report of 8 July 2009 stated that "The adult literacy rate of Afghans over 15 years of age is 28 per cent including 12.6 per cent for females. In rural areas, where 74 per cent of Afghans reside, it is estimated that 90 per cent of women cannot read or write." **[46a] (p8)**

25.31 The Women for Women International report 2009 recorded that:

"In the economy of rural Afghanistan, male and female roles differ. For the most part, women and girls engage in a number of farm-based activities 'ranging from seed bed preparation, weeding, horticulture, and fruit cultivation to a series of post-harvest crop processing activities such as cleaning and drying vegetables, fruits and nuts for domestic use and for marketing.'

"In rural areas, the definition of 'economic activity' frequently 'excludes the exchange of labor and products between households' and 'post-harvest processing of crops (drying/cleaning/preserving), which is a predominately female domain.' It also seems to exclude 'the vital role women in the South play regarding a household's contracting of poppy harvesters, for whom three solid daily meals are part of their wage packet.'

"In urban areas, women's access to the labor market 'is constrained by historical circumstances, low skills, limited opportunities, stringent cultural norms, occupational sex segregation and a number of demographic factors.' Outside the domestic sphere, women's employment has always been subject to severe restrictions, and the limited access to childcare continues to pose a significant obstacle to women's employment outside the home." **[94a] (p18)**

25.32 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

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- "In 2004, the per capita Gross Domestic Product was US$402 for women, compared to US$1,182 for men." **[72b] (Labour force participation)**

25.33 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)**

25.34 The USSD Report 2009 stated that "Denial of educational opportunities, limited employment options, and ongoing security threats continued to impede the ability of many women to improve their situation, despite the progress women in urban areas made toward access to public life, education, health care, and employment." **[2a] (Section64)**

(See also Section 26: Children – Access to education for girls)

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Marriage and Divorce

This section should also be read in conjunction with Section 26: Children – Child Marriage

25.35 The USSD Report 2009, stated that "The legal age for marriage was 16 for girls and 18 for boys. International and local observers estimated that approximately 60 percent of girls were married younger than 16." **[2a] (Section 6)** The Social Institutions and Gender Index (SIGI) Country Profile on Afghanistan and the situation of equality for Afghan women, accessed on 6 September 2009, noted "The Afghan Constitution and Islamic Sharia law both support polygamy, allowing men to take up to four wives. Certain conditions apply to polygamous marriages, such as the equal treatment of all wives, but these are not always observed…" **[37a]**

25.36 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that "A marriage certificate comprises registration of marriage, entrance into marriage, and the responsibilities of the intending spouses. Article 61 of the Afghan Civil Code requires all marriages to be registered. But to date there has been no mechanism to register marriages and divorces." **[78f] (p54)**

25.37 The Human Rights Watch (HRW) report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, published December 2009, stated:

"In March 2008, the AIHRC and the Ministry of Women's Affairs succeeded in persuading the Supreme Court to accept a new marriage registration certificate that includes a signature or sign of consent from both bride and groom and some form of proof that they are old enough to marry. Since hardly any birth certificates are issued in Afghanistan, proof of age is still difficult to provide. This is a useful step to begin to reduce the prevalence of child and forced marriage, though it is at present not compulsory, charges are made for

the certificate which may act as a deterrent, birth certificates (to prove age) are rare, and awareness and take up still very low." **[48f] (p59)**

25.38 The Womankind report of February 2008 stated "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)** The Freedom House report, *Freedom in the World 2009,* Afghanistan, covering events in 2008, noted "Women's choices regarding marriage and divorce remain circumscribed by custom and discriminatory laws…" **[41a] (p6)**

25.39 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)** Women's economic dependence on male family members prevents them from seeking divorce or leaving abusive marriages." **[88a] (p44)**

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

"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." **[78a] (p33)**

25.41 An Integrated Regional Information Networks (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]**

25.42 The USSD IRF Report 2009 stated:

"There were no new reported cases of forced chastity examinations. However, local marriage traditions in which a newlywed couple consummates their marriage on a white handkerchief that is later displayed as proof of the bride's

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virginity until marriage remain popular throughout the country. Women run the risk of immediate divorce and social ostracism, severe punishment from her in-laws, or death, if her virginity is not confirmed through this ritual. There were no reports of examinations imposed on non-Muslims." **[2c] (Section 3)**

25.43 The SIGI Afghanistan Profile accessed on 6 September 2009, noted:

"Under Islamic law, provisions on parental authority hold that fathers are the natural guardians of their children. In the case of divorce, mothers are usually granted physical – but not legal – custody of children until they reach the age of custodial transfer. At that time, children are returned to the physical custody of the father or the father's family.

"Women's right to inheritance in Afghanistan may vary, depending on whether they are determined by Islamic and customary law. Under Islamic law, women may inherit from their parents, husbands or children, and, under certain conditions, from other family members. However, their share is always smaller than that to which men are entitled. This is commonly justified by the argument that women have no financial responsibility towards their husbands and children. Under customary law, women do not inherit from their fathers or husbands, but are taken into the care of the husband's family. If a widow is young, she is often encouraged to marry one of her brothers-in-law as a means of being able to take care of her children." **[37a]**

(See also Section 21: Freedom of Religion – Mixed marriages and Section 26: Children – Underage/forced marriage)

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Single women and widows

25.44 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)**

25.45 In May 2009 a France 24 news article reported that "In Afghanistan, it is virtually impossible for women to live alone, without the protection of the family and especially of male relatives. Given the importance of the family, Afghan women's advocates say the emphasis in domestic violence cases is on trying to solve the situation within the family through counseling and outreach services." **[47a]** The article also noted that the organisation 'Women for Afghan Women' (WAW) are assisting their clients to find new husbands. "Prospective grooms are carefully selected and approved by the shelter's staff, and tend to be men who cannot afford the customary bride price, making them more accommodating when seeking a wife." **[47a]**

25.46 UNHCR's *Eligibility Guidelines for Assessing the International Protection Needs of Asylum seekers from Afghanistan,* July 2009 noted that:

"Unaccompanied women or women lacking a male 'tutor' (mahram) continued to face limitations on conducting a normal social life. They include divorced women, unmarried women who are not virgins, and women whose engagements to be married have been broken. Unless they marry, which is very difficult given the social stigma associated with these women, social rejection and discrimination continue to be the norm." **[11a] (p32)**

25.47 The report further noted:

"Women without male support and protection generally lack the means of survival, given the social restrictions on women living alone, including the limitations on their freedom of movement. This is reflected in the absence of solutions available to the few women able to access domestic violence shelters. Unable to live independently, they face years of quasi-detention, prompting many to return to abusive family situations. The results of such 'reconciliation' are generally not monitored and abuse or honor crimes committed upon return are often done with impunity." **[11a] (p32)**

25.48 The USSD Report 2009 stated that "Given the early marriage age, some women become widows in their 20s and 30s. Since widows were perceived as their in-laws' property, they could be forced to marry a brother-in-law, who may already have a wife; the late husband's family seized any property he left." **[2a] (Section 6)**

Imprisonment of Women

25.49 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]**

25.50 The USSD Report 2009 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 had remarried. Local officials imprisoned women in place of a family member who had committed a crime but could not be located. Some women resided in detention facilities because they had run away from home to escape domestic violence or the prospect of forced marriage. Several girls between the ages of 17 and 21 remained detained in Pol-e-Charkhi prison after fleeing abusive forced marriages." **[2a] (Section 6)**

25.51 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)**

25.52 MSNBC cable television news channel noted on 30 April 2008 that "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." **[30a]**

25.53 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 15: Prison Conditions for further details of prison conditions for women)

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VIOLENCE AGAINST WOMEN

25.54 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)**

25.55 The UNIFEM Annual Report 2008-2009 stated that "For many women in Afghanistan, violence is an everyday reality. Frequently forced into marriage, often before the legal age of sixteen, women and girls face abuse on a horrific scale: statistics indicate that over 87 percent of all women suffer from domestic abuse, making the country one of the most dangerous places in the world to be a woman." **[72d]**

25.56 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. **[36m]**

25.57 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)**

25.58 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" **[72b]**

25.59 UNIFEM's Violence against women (VAW) – 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 or 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)**

25.60 The United Nations Assistance Mission in Afghanistan report, dated 8 July 2009, (UNAMA report) stated that:

"Female parliamentarians, provincial council members, civil servants, journalists, women working for international organizations (including the United Nations), as well as those considered to be engaged in immoral professions, have been targeted by antigovernment elements (AGEs), by local traditional and religious power-holders, by their own families and communities, and in some instances by government authorities." **[46a] (p11)**

25.61 The USSD Report 2009 concurred and stated that:

"Women active in public life faced disproportionate levels of threats and violence. Many female MPs and provincial council members reported death threats. Women were also the targets of attacks by the Taliban and other insurgent groups. Women who received threats often moved throughout the country to evade those harassing them. According to UNIFEM, a female candidate's Kabul office was ransacked and tarred. A female candidate in Takhar province received night letters and multiple death threats targeting her and her children; her office was also vandalized. Armed men attacked the house of a provincial election candidate in Jalalabad." **[2a] (Section 3)**

(See also Section 18: Freedom of Speech and Media – Night letters)

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Honour killings/crimes

25.62 In 2008/9, honour killings contributed to 6.4 percent of deaths amoungst women in Afghanistan. (AIRHC, November/December 2009) **[78f] (p59)** The Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, published on 6 May 2009 stated that "'Honor killings' occur with impunity in parts of Afghanistan." **[39e] (p30)** The USSD Report 2009, noted that "The AIHRC [Afghanistan Independent Human Rights Commission] documented 51 honor killings throughout the year; however, the unreported number was believed to be much higher." **[2a] (Section 6)**

25.63 The UNAMA report, dated 8 July 2009, noted:

"Private feuds, such as those between families or within communities are also a motive for sexual violence. In such contexts, rape is used to 'dishonour' another family, tribe or clan, to obtain revenge for a previous crime. Men thus enter into a cycle of revenge, based on the sexual abuse of women. Sexual violence and rape are seen as 'compensating' for an earlier crime. However, it was noted by some interlocutors that revenge is usually meted out on families that are considered less powerful." **[46a] (p23)**

25.64 The Report of the UN Special Rapporteur, 6 May 2009 also recorded the 'honour killing' of two cousins (boy and girl) who:

"… allegedly had sexual relations outside of marriage. They were invited to a 'dinner' by their uncles and, when sleeping, were shot and killed. The boy's body was sent to his father. The girl's was buried without any funeral prayers. No family members complained to the police. The police knew about the deaths, but did not investigate, claiming that they could not do so without a complaint from the family." **[39e] (p30)**

25.65 The same source recorded:

"Other women were killed for attempting to flee their homes, often because of domestic violence. Women in the family of the deceased victim of an 'honor killing' are typically too afraid of their own families to make a complaint to police. And they know that the police are unlikely to carry out an investigation, or that if they do, bribery will ensure impunity for the perpetrators. I received reports of a number of cases in which police did attempt to carry out

investigations, but senior Government officials interfered with or prevented the investigations. Like any other murders, international law requires that these killings be investigated, prosecuted, and punished." **[39e] (p30-31)**

25.66 The USSD Report 2009, noted that "In September [2009], in Uruzgan province, a man maimed his 16-year-old wife, cutting off her nose and ears, allegedly because she had brought shame to the family by running away after years of domestic violence; she was rescued by U.S. military forces, who found her abandoned in the mountains." **[2a] (Section 6)**

25.67 A blog on CNN News, dated 18 March 2010 reported on a case where a young woman just 19 years old was disfigured for what was seen as 'shaming' her family:

"Her father had promised her hand in marriage, along with that of her baby sister's, to another family in a practice called 'baad.'… At 16, she was handed over to her husband's father and 10 brothers, who she claims were all members of the Taliban in Oruzgan province. Aisha didn't even meet her husband because he was off fighting in Pakistan. 'I spent two years with them and became a prisoner,' she says. Tortured and abused, she couldn't take it any longer and decided to run away. Two female neighbors promising to help took her to Kandahar province. But this was just another act of deception. When they arrived to Kandahar her female companions tried to sell Aisha to another man.

"All three women were stopped by the police and imprisoned. Aisha was locked up because she was a runaway. And although running away is not a crime, in places throughout Afghanistan it is treated as one if you are a woman. A three-year sentence was reduced to five months when President Hamid Karzai pardoned Aisha. But eventually her father-in-law found her and took her back home. That was the first time she met her husband. He came home from Pakistan to take her to Taliban court for dishonoring his family and bringing them shame. The court ruled that her nose and ears must be cut off. An act carried out by her husband in the mountains of Oruzgan where they left her to die. But she survived." **[19b]**

Rape

25.68 The US Commission on International Religious Freedom, Annual Report 2009, published on 1 May 2009, noted that:

"In April 2009, Parliament passed and President Hamid Karzai signed a law to enact a Shi'a Muslim family code. However, as written, the code would have sanctioned marital rape and the inability of a woman to leave home without her husband's permission, except in emergencies. Proponents of the measure stated it would have recognized the distinct practices of Afghanistan's Shi'a minority, constituting about 15 percent of the population. However, a swift international outcry prompted suspension of the legislation. According to Afghan government officials, the law will be reviewed for its permissibility under the Afghan Constitution and international human rights instruments." **[70a] (p 146)**

25.69 The United Nations Assistance Mission in Afghanistan (UNAMA) report, dated 8 July 2009, stated that

"There is no explicit provision in the 1976 Afghan Penal Code that criminalises rape. In instances of forced sexual intercourse, law enforcement and judicial authorities overwhelmingly resort to the concept of zina, which does not adequately address the issue of consent, one of the core elements of the crime of rape. Zina (under chapter eight of the Penal Code which focuses on crimes of adultery, pederasty, and violation of 'honour'), only refers to individuals engaged in sex outside of marriage… **(p23)** The issue of the criminalization of rape is further complicated by the fact that judges rely extensively on their own interpretation of Islamic law and its jurisprudence when adjudicating zina cases. In this respect, a party alleging zina has to provide four adult male witnesses of sound standing – this is impossible in nearly all cases." **[46a] (p24)**

25.70 However, the USSD Report 2009 stated that "On July 19, President Karzai signed the Elimination of Violence Against Women (EVAW) law, criminalizing violence against women, including rape… Article 17 of the EVAW law specifically punishes rape with life imprisonment, and if the act results in death of the victim, the perpetrator shall be sentenced to death." **[2a] (Section 6)**

25.71 The UNAMA report, dated 8 July 2009, stated that:

"In general, Afghan women and men consider discussing issues related to sex and sexual violence as taboo, as women's sexuality is effectively controlled by men. In the course of this research, UNAMA found it extremely difficult to use terms like 'rape', 'sexual consent' and zina. The issue of marital rape is never considered or reported, since women have no choice in terms of consenting to sexual intercourse with their spouse… Any woman who dares to report a rape subjects herself to potential further victimization, including criminal prosecution and imprisonment for zina." **[46a] (p21)**

25.72 UNAMA further added:

"Most information on sexual violence and rape in particular, is anecdotal, incomplete and at times unreliable. There is a lack of official primary and comprehensive data on rape. Statistics on rape cases (including cases reported to the police, Prosecutors and the courts) as well as on the profile of both victims and perpetrators, are currently unavailable. To address this gap, the Ministry of Women's Affairs has established a database, though cases remain under-reported." **[46a] (p22)**

25.73 The USSD Report 2009 noted that:

"The Ministry of Women's Affairs (MOWA) and NGOs reported that police frequently raped female detainees and prisoners. For example, on September 15 [2009], Radio Arman reported that authorities had arrested three police officers in Dai Kundi province for the rape of a 13-year-old girl. An Afghan National Army (ANA) soldier was sentenced to 15 years' imprisonment for the September 2008 rape of an 11-year-old girl in Jowzjan province; UNAMA confirmed that the soldier remained in custody at year's end." **[2a] (Section 1c)**

Self-Harm

25.74 IRIN News reported on 8 March 2008 that:

"The number of women attempting suicide in the past year [2007] 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]**

25.75 The USSD Human Rights Report 2009 noted that:

"… the penal code does not differentiate between domestic violence and battery and laceration cases. Most provinces reported only one or two domestic violence prosecutions per year. Women occasionally resorted to self-immolation when they believed there was no escape from their situations. During the first nine months of the year, the AIHRC documented 86 cases of self-immolation, in contrast to 72 cases in 2008. Other organizations reported an overall increase during the past two years. The burn unit of the Herat Regional Hospital, which draws patients from Farah and Ghor as well, reported receiving eight to 10 cases of self-immolation per quarter; 95 percent of the cases were female." **[2a] (Section 6)**

25.76 On 27 May 2008, the Revolutionary Association of the Women of Afghanistan (RAWA) 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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GOVERNMENT AND NGO ASSISTANCE

Shelters

25.77 The USSD Report 2009 stated that:

"There were 11 women's shelters across the country, some run by MOWA [Ministry of Women's Affairs] and some by NGOs. MOWA and other agencies referred women to the centers, which provided protection, accommodation, food, training, and health care to women escaping violence in the home or seeking legal support due to family feuds. MOWA reported receiving two to three new domestic violence victims a month; however, space at the specialized shelters was limited. Women in need of shelter who could not find a place in the Kabul shelters often ended up in prison.

"According to a UN High Commission on Human Rights (UNHCHR) report, 'unaccompanied' women were not accepted in society, so women who could

not be reunified with their family had nowhere to go. The difficulty of finding durable solutions for women who ended up in a shelter was compounded by the societal attitude toward shelters, linked to the perception of 'running away from home' as a serious violation of social mores. The misapprehension that safe houses were a 'safe haven' for immoral women forced them to operate nearly clandestinely and in a precarious security situation. In lieu of relying on shelters, girls who sought to escape violence at home were reportedly sometimes 'married' or 'engaged' to older men as a means of providing them with safety; observers noted that officials across the justice sector promoted and accepted this practice." **[2a] (Section 6)**

25.78 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)**

25.79 Located in Kabul is the Humanitarian Assistance for the Women and Children of Afghanistan (HAWCA) which offers "… temporary housing/ protection for those women or girls who have been abuse [sic] physically, psychological or mentally by family members, powerful communities members, warlords, officials or any, and has not committed crime and need protection and those women who have no house to live (a temporary protection solution)." (Humanitarian Assistance for the Women and Children of Afghanistan, Annual Report, 2008) **[18a]**

See Section 26: Children - Education

25.80 The UNIFEM Annual Report 2008-2009 stated that

"Since 2008, two referral centres in Parwan and Nangahar provide a safe haven and 24-hour legal advice for cases concerning elopement, divorce, domestic violence and land rights. Staffed and utilized solely by women, the centres were established by the Ministries of the Interior and Women's Affairs, with support from UNIFEM. Nangahar records indicate a 90 percent decline in arbitrary detention of women by the police since the opening in mid 2008. The Government has committed to extend the centers to all 34 provinces in the country." **[72d]**

WOMEN'S HEALTH

25.81 The USSD Report 2009 stated that:

"Women and children were overwhelmingly the victims of preventable deaths due to illness. Of the 25,000 citizens who died from tuberculosis annually, 16,000 were women. Many households could afford neither the cost of health care nor transport to health-care facilities, and many women were not permitted to travel to health facilities on their own. Observers reported that 68

percent of the population had access to primary health-care centers within two hours' walking distance from their homes, an increase from 9 percent in 2002.

"According to Save the Children and UNIFEM, the country had the second highest maternal mortality rate in the world. Only 14 percent of births had skilled attendants present, and only 12 percent of women received professional prenatal care. Early marriage and early pregnancy put girls at greater risk for premature labor, complications during delivery, and death in childbirth. Lack of skilled attendance during childbirth and lack of obstetric and postpartum care were key causes of maternal mortality. The number of trained midwives increased from 467 in 2002 to 2,500 during the year." **[2a] (Section 6)**

25.82 The AIHRC report, *Economic and Social Rights Report in Afghanistan-III*, dated December 2008, noted that

"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." **[78a] (p54)**

(See also Section 26: Children – Health and Welfare and Section 28: Medical Issues)

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26. CHILDREN

OVERVIEW

26.01 The Save the Children Country Brief: Afghanistan 2009/10, accessed on 12 January 2010, noted

"Afghanistan is one of the poorest countries in the world, and is ranked second for its child mortality rate – one in four children die before they reach their fifth birthday. The fall of the Taliban in November 2001 ended more than two decades of conflict, during which the country's infrastructure and systems have been almost totally destroyed. It's estimated that 70% of the population live in poverty. More than half of all children under five (54%) are stunted due to poor nutrition. Life expectancy is just 44. "**[50a]**

26.02 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated that:

"More than half of Afghanistan's 27.1 million population are under 18 years of age. Two-thirds of the population live on less than US$2 a day, so many children have to work to support their families. Many do not have enough to eat, have no school to go to and cannot get treatment when they are ill. Children are often caught up in the fighting which continues in the south and east. The Afghan government has very limited capacity to meet the basic needs of its citizens." **[50a]**

26.03 The USSD Report 2009 noted:

"The Ministry of Labor, Social Affairs, Martyrs, and Disabled (MoLSA) stated that police frequently beat children. MOLSA reported that more than five million children lived in need of humanitarian assistance, and it recognized 23 categories of 'Children Facing Threats,' including forced marriage, trafficking, drug addiction, and neglect. During the year [2009] drought and food shortages forced many families to send their children onto the streets to beg for food and money. Police regularly beat and incarcerated children they took off the streets. NGOs reported a predominantly punitive and retributive approach to juvenile justice throughout the country. Although it was against the law, corporal punishment in schools, rehabilitation centers, and other public institutions remained common." **[2a] (Section 6)**

26.04 On 6 January 2010 Integrated Regional Information Networks (IRIN) News sated that:

"Armed conflict killed hundreds of children and adversely affected many others in 2009 - the deadliest year for Afghan children since 2001 - an Afghan human rights group has said.

"About 1,050 children died in suicide attacks, roadside blasts, air strikes and in the cross-fire between Taliban insurgents and pro-government Afghan and foreign forces from January to December 2009, the Afghanistan Rights Monitor (ARM) a Kabul-based rights group, said in a statement on 6 January.

"'At least three children were killed in war-related incidents every day in 2009, and many others suffered in diverse but mostly unreported ways,' Ajmal Samadi, ARM's director, was quoted in the statement as saying." **[36c]**

26.05 The United Nations International Children's Emergency Fund UNICEF *2009-Child Protection* Factsheet on Afghanistan included the following facts on the position of Afghan children:

- Child Labour (working children aged 7-14): 24%
- Child Marriage (girls married under 18): 43%
- Birth Registration (children below 5 registered): 6%
- Street children in Kabul: 37,000
- Children living in institutions: 8,000
- Children associated with armed groups & armed forces: demobilized from 2003 to 2005: 7,444. **[44e]**

26.06 The Save the Children website, accessed on 9 February 2010, noted that:

"In the past five years progress has been made [to improve the lives of children], but Afghanistan still faces many challenges. It has high infant, child and maternal mortality; low immunization; chronic nutritional deficiencies among children; low literacy levels; low school enrollment and high drop-out rates, especially among girls; and difficulty protecting children and promoting their rights…Afghanistan remains a generally unsafe place for children - especially street and working children, children who have been institutionalized because of family constraints and children injured by landmines or other accidents. There are also many girls and boys who are subjected to corporal and psychological punishment in schools and homes." **[50b]**

26.07 Save the Children comments that is has been helping children through "… community and school-based education for teachers, parents and grandparents and other community members." **[50b]** However, the UNICEF *Humanitarian Action Report 2010*, published on 4 February 2010, refering to Afghanistan, stated that:

"Children continue to face multiple risks to their personal safety, especially as community support mechanisms remain weak and there are few government services to protect them and their families from gender-based violence, domestic abuse and exploitation. Armed groups also continue to recruit children to be used as spies and informants or transport explosives and conduct suicide attacks. These children are subject to arrest, capture and detention without due process by Afghan and international military forces for their alleged association with armed groups." **[44c] (p94)**

Basic legal information

26.08 The Afghanistan Juvenile Code, accessed through the Italian Ministry of Foreign Affairs website noted that children who are under 18 years of age are recognised as juveniles. **[12a] (p3-4)** The legal age for voting is 18 years. (Child Soldiers Global Report 2008: Afghanistan) **[33a]**

26.09 With regards to the legal age for children to work the USSD 2009 stated

"In July [2009] the 2008 labor code went into effect, setting the minimum age for employment at 18 years but permitting children 15 years and older to do 'light work.' Children between ages 16 and 18 may work only 35 hours per week. Children 14 years and older may work as apprentices. Children younger than 13 were prohibited from work under any circumstances, although this law was not observed in practice. There was no evidence that authorities in any part of the country enforced child labor laws." **[2a] (Section 7d)**

26.10 When referring to criminal proceedings the Afghan Juvenile Code recognises those children below the age of 12 years old are not considered being criminally responsible. (AIHRC, Justice For Children, The situation of children in conflict with the law in Afghanistan (*nd*), accessed 12 January 2010) **[48g]** Article 12.1 of the Afghan Juvenile Code, accessed through the Italian Ministry of Foreign Affairs website stated that "In applying penal and procedural provisions to children, reference shall be made to the age they had at the moment in which the crime was committed." **[12a] (p3-4)**

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LEGAL RIGHTS

26.11 Afghanistan is a party to The Convention on the Rights of the Child (CRC), ratified in April 1994. (Afghan Independent Human Rights Commission, August 2007) **[78d] (p20)**

Domestic legislation

26.12 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that "Current legislation undermines the right to marry and found a family in Afghanistan and Afghan Family Law which stipulates an age difference of two years for the marriage of boys and girls (18 and 16 respectively), is per se indicative of gender-based discrimination in the Afghan legal system." **[48f] (p4)**

26.13 On marriage laws the Human Rights Watch (HRW) report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, published December 2009, stated that "Forced marriage is a crime under Afghan law, though the law only covers widows and women under 18." **[17c] (p58)**

26.14 The Human Rights Watch (HRW) report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, published December 2009 stated that:

"Article 517 of the Penal Code states that someone who forces a girl or widow into marriage 'contrary to her will or consent' shall be given a short-term prison sentence, the duration of which is not specified but is unlikely to be more than one year." **[17c] (p58)** However, the USSD Report 2008, also noting the situation regarding forced marriages, stated: "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 marriage of a minor may be conducted by a guardian. In March 2007, the Supreme Court approved a new marriage contract stipulating the man needs to verify his bride is 16 years of age, and marriage certificates would not be issued for underage brides.

According to local NGOs, legal proceedings based on this contract proceeded in Kabul. The proceedings often took longer than a week, and a local shelter housed numerous women during the course of these proceedings. The AIHRC estimated as many as 70 percent of reported cases of domestic violence have roots in child marriage." **[2i] (Section 5)**

26.15 With regards to the legal age on employment the AIHRC report stated:

"Child labour has been prohibited in Article 10 of the ICESCR [International Covenant on Economic, Social, and Cultural Rights], Article 32 of the CRC, and Article 49 of the Afghan Constitution. Also according to Article 13 of Afghan Labour Law, which was approved in 1385 (2007), it is legal to employ persons aged over 18. At the same time, the provisions of this Law have allowed the employment of persons from the age of 15 onwards for light work and the employment of persons aged over 13 for apprenticeship programmes. The Afghan Labour Law stipulates that, 'Employment of persons under 18 is prohibited to a type of work that is harmful to their health and causes physical damage or disability'. Harmful work depends on a child's age, working hours, and work typology. No child under 18 should be employed to a type of work that is 'harmful' to their health, safety, and morals and that exceeds 35 hours per week." **[48f] (p46)**

26.16 The Office of the United Nations High Commissioner for Human Rights (OHCHR) Briefing for The Human Rights Council Universal Periodic Review – 5th session, 2008 noted:

"Corporal punishment of children is lawful in the home. Children have limited protection from violence under the Penal Code, the Constitution and the Juvenile Code, but there is no explicit prohibition of corporal punishment. In an official statement in 2005, the Ministry of Justice announced that 'the use of any form of violent behaviours and beating and humiliating of children that breaches their human rights 'to be respected and treated with dignity', is prohibited', and at a meeting of the South Asia Forum in July 2006, following the regional consultation in 2005 of the UN Secretary General's Study on Violence against Children, the government made a commitment to prohibition in all settings, including the home. But legal reform to enact explicit prohibition has yet to begin." **[79a]**

Judicial and penal rights

26.17 The Institute for War and Peace Reporting reported on 2 September 2009 that a main complaint from the children at the juvenile correction and education centre in Mazar-e-Sharif, in Balkh Province, was the waiting time before their cases were heard in court. One boy, aged about 17 years old, had reportedly been detained for eighteen months without his case being heard. The director of the centre, Mohammad Wais Sufizada, acknowledged that the court hadn't decided on children's cases on time and said that "It is a problem all over the country". However, Mohammad Sadeq Fayaz, the director of the Balkh juvenile appeal court said "The maximum delay for a case in our court has been two months. It is an outright lie that we have kept cases for six to 18 months." **[73a]** The USSD Report 2008 noted "Children whose mothers had been convicted of a crime often lived in prison with their mothers, particularly if they had no other family. Prisons did not separate prisoners and lacked adequate separate housing for women, accompanying children, and juveniles.

The main text of this COI Report contains the most up to date publicly available information as at 18 March 2010. Further brief information on recent events and reports has been provided in the Latest News section to 8 April 2010.

Women were never imprisoned with men. Authorities generally did not separate prisoners awaiting trial from the rest of the inmate population." **[2i] (Section 1c)**

(See also Section – 14: Arrest and Detention – Legal Rights)

26.18 The Afghanistan Independent Human Rights Commission (AIHRC) report, Justice for Children, *The situation of children in conflict with the law in Afghanistan*, published 26 June 2008

"To date only three Juvenile Primary Courts have been established (in Kabul, Mazar and Jalalalbad) with two more provinces in the process of establishing these courts. 28 provinces remain with no formal plans, in spite of the fact that the Juvenile Code clearly stipulates that cases involving juveniles should be processed in specialised juvenile courts. As such justice for children in conflict with the law remains very much rooted in the criminal justice system." **[78g] (p6)**

26.19 UNICEF reported in January 2009 that: "Daily monitoring of detention centres in 10 provinces was conducted from February to September 2008. This included juvenile rehabilitation centres, police detention facilities, and prisons. During this time a total of 812 children were encountered. Of these cases 30% of children were able to be released into family care after being contacted and assisted by detention monitors and lawyers." **[44b]**

(See also Section 15: Prison Conditions and Section 13: Judiciary)

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VIOLENCE AGAINST CHILDREN

26.20 The USSD Report 2009 noted Child abuse was endemic throughout the country, ranging from general neglect, physical abuse, abandonment, and confinement to working to pay off family debts. The Ministry of Work and Social Affairs stated that child labor and police beatings frequently occurred and more than five million children lived in desperate need of humanitarian assistance. **[2a] (Section 6)**

26.21 In February 2008 the Afghanistan Research and Evaluation Unit (AREU) published a report on their 2006 research project investigating the changing nature of family dynamics in Afghanistan. The report noted that corporal punishment was widely used in Afghanistan and stated:

"…there are two dominant and interrelated motivations for this: parents' fears for their children's futures and second, the idea that keeping children frightened of adults makes them behave well. Parents are extremely frightened of their children not growing into good, useful moral adults. For example, for virtually all the parents the research teams spoke to, ensuring that their children studied hard and got a good education was uppermost in their concerns. Since violence has been used as the primary way to discipline children many adult family members are frightened of not using corporal punishment in case this will lead to their children not behaving correctly or not turning into the adults they want them to be. The common, if not universal, assumption that in order to discipline children they should be frightened was

expressed to the research teams. Alongside this is the idea that if a beating is severe enough children will never forget how it felt and, therefore, not repeat their 'bad behaviour'." **[36k] (p43)**

26.22 Additionally, the Human Rights Watch *World Report 2009,* Afghanistan, published in January 2009, noted:

"As part of their campaign of terrorizing the civilian population, the Taliban and other insurgent groups continue to target schools, and in particular girls' schools. According to the Ministry of Education, over one hundred schools were attacked between March and October 2008, with the Afghanistan NGO Security Office recording more than 30 teachers and students killed in the first 10 months of 2008…. child labor is prevalent throughout the country and is another reason children do not attend school." **[17b]**

(See Section 25: Women – Honour Killings)

26.23 Additionally, the Human Rights Watch *World Report 2009,* Afghanistan, published in January 2009, noted "The UN special representative for children and armed conflict drew attention in 2008 to the largely taboo practice of bacha bazi (the keeping of boys as sex slaves by wealthy or powerful patrons). The government of Afghanistan has done little to tackle this abusive cultural tradition." **[17b]** The USSD Report 2009 noted that "Numerous reports alleged that harems of young boys were cloistered for 'bacha baazi' (boy-play) for sexual and social entertainment; although credible statistics were difficult to acquire, as the subject was a source of shame and 'dancing boys' was a widespread culturally sanctioned form of male rape." **[2a] (Section 6)**

26.24 The USSD Human Rights Report 2009 noted:

"Sexual abuse of children remained pervasive. NGOs noted that most child victims were abused by extended family members. A UNHCR report noted tribal leaders also abused boys. During the year [2009] the MOI [Ministry of Interior] recorded 17 cases of child rape; the unreported number was believed to be much higher. In January and February, the ANP [Afghan National Police] arrested men in three separate cases of the rape of boys in Jowzjan province. According to the AIHRC, most child sexual abusers were not arrested. Numerous reports alleged that harems of young boys were cloistered for 'bacha baazi' (boy-play) for sexual and social entertainment; although credible statistics were difficult to acquire, as the subject was a source of shame and 'dancing boys' was a widespread culturally sanctioned form of male rape." **[2a] (Section 6)**

Child kidnappings

This section should also be read in conjunction with Section 12: Abuses by non-government armed forces - Kidnappings

26.25 The UN Security Council noted on 10 November 2008 that:

"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." **[39f] (p11)**

(See also subsections – Child Soldiers and Child trafficking)

(See also Section 12: Abuses by Non-Governmental Armed Forces - Kidnappings and Section 27: Trafficking)

Underage/forced marriage

This section should also be read in conjunction with Section 25: Women – Marriage and Divorce

26.26 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"Article 10 of the ICESCR [International Covenant on Economic, Social and Cultural Rights] has recognised family as 'the natural and fundamental group unit of society' and has decreed that 'marriage must be entered into with the free consent of the intending spouses'. This provision is often ignored in Afghanistan. In this connection, the Afghan Civil Code has made the marriage of an adolescent aged 15-16 dependent on the consent of the father or competent court and has forbidden the marriage of any child below the age of 15. Any force or compulsion in marriage is a violation of the marriage protocol." **[78f] (p55)**

26.27 The HRW report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, December 2009, noted:

"Fifty-seven percent of all marriages that take place in Afghanistan are classified as child marriages by UNIFEM (under the legal age of 16), and 70 to 80 percent as forced marriages. These practices underlie many of the problems faced by women and girls, with a correlation between domestic violence and child/forced marriage. Early marriages often contribute to girls dropping out of school and to early childbearing, with the attendant risks of health complications or maternal death.

"Prevailing attitudes in rural areas tend to condone the marriage of girls soon after reaching puberty. Bride prices and poor economic conditions increase the prevalence of child marriage. Girls and boys often have little choice within families about their marriage age and partner, with less autonomy for girls, and often less importance placed on their continued education. The response of families and communities to attempts to escape forced marriages can often be harsh, including honor killings." **[17c] (p7-8)**

26.28 The Freedom House report, *Freedom in the World 2009*, Afghanistan, covering events in 2008, published on 16 July 2009, recorded 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)**

26.29 The USSD Report 2009, stated however, that

"According to Human Rights Watch and UNIFEM, more than 70 percent of marriages were forced and despite laws banning the practice, a majority of brides were younger than the legal marriage age of 16; the practice cuts across social, ethnic, religious, tribal, and economic lines. According to the UNHCHR [Office of the High Commissioner on Human Rights], only 5 percent of marriages were registered, leaving forced marriages outside legal control. The AIHRC [Afghanistan Independent Human Rights Commission] recorded 28 cases from January to September [2009] of women given to another family for 'baahd,' to settle disputes or as a debt settlement, although a presidential decree outlaws baahd. The unreported number was likely to be much higher. IRIN [Integrated Regional Information Networks] reported that drug smugglers often demanded young brides when farmers failed to produce opium and lacked other means to repay their loans. In a practice known as 'badal,' a brother and a sister are married to another pair of siblings to avoid any payment having to be made." **[2a] (Section 6)**

26.30 The International Organisation for Migration (IOM) reported in December 2008 on forced marriages in Afghanistan and noted that:

"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." **[38a]**

26.31 The Afghanistan Research and Evaluation Unit report, *Decisions, Desires and Diversity: Marriage Practices in Afghanistan* published in February 2009, found during research that "… it is not only girls but also boys who are forced into marriage, and this can have detrimental consequences for both spouses and the wider family… boys and men who are forced into marriage may take out their frustration at the situation by acting violently toward their wives or by taking second wives." **[22b] (p1-2)**

26.32 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, noted that "190 cases of forced marriage were registered by the AIHRC and 186 such cases were recorded by MoWA [Ministry of Women Affairs] in 1387 (2008/09)…" **[78f] (p55)**

Child labour

26.33 The Afghanistan Research and Evaluation Unit (AREU) Briefing Paper, *Confronting Child Labour in Afghanistan*, May 2009, (AREU Report 2009) stated that "Child labour is an issue of growing concern in Afghanistan. According to recent estimates, one in four Afghan children aged seven to 14 is engaged in some form of work." **[22a]**

The main text of this COI Report contains the most up to date publicly available information as at 18 March 2010. Further brief information on recent events and reports has been provided in the Latest News section to 8 April 2010.

26.34 Cases of child slavery and debt bondage practices have also risen in Afghanistan, particularly in poor rural communities and are often disguised as marriage. IRIN News reported in February 2009 on the "Extreme poverty, lack of awareness about child rights, weak law enforcement and strong conservative traditions are among the problems which have pushed many minors - boys and girls - into situations of peonage, child rights activists say." **[36k]**

26.35 The AREU Report 2009 reported that

"The decision to send children to work is influenced by a complex interaction of economic, social and cultural factors… Faced with the apparent lack of concrete benefits to education in the short- or long-term, poor households may decide that their children's time is more effectively used for income generation. The opportunity cost of spending time in school is often too high to bear given poor educational quality and outcomes and the pressing need for household survival. Child labour, then, is not only a means of ensuring short-term benefit to the household in terms of increased income in the present; it is also a way for children to learn marketable skills that can support them in an uncertain future… In the absence of an overarching social protection framework, child labour is one of the strategies that some poor households use to diversify and increase income." **[22a]**

26.36 On 12 June 2009, Radio Free Europe/Radio Liberty (RFE/RL) reported that UNICEF had voiced its concern about the growing number of children working in Afghanistan and noted that girls were more likely to be pressured into work than boys. The number of children working had increased since a survey undertaken in 2003 by UNICEF. UNICEF was reported as saying that "… many Afghan families have no money to send their children to school and need them to earn money to support the family." However, Radio Free Europe/Radio Liberty also reported that "Afghanistan recently signed an international convention for preventing child labor, which UN officials expect will help reduce the extent of the problem there." **[29e]**

26.37 The USSD Report 2009 noted that

"According to UNICEF estimates, at least 30 percent of primary school-age children undertook some form of work and there were more than one million child laborers younger than 14. The AIHRC [Afghanistan Independent Human Rights Commission] reported that 43 percent of child laborers were younger than 12 and 35 percent were between 12 and 15. Many child laborers worked as domestic servants, street vendors, peddlers, or shopkeepers. Children worked in the worst forms of child labor in several sectors, including carpet weaving, brick making, and poppy harvesting. Children were also heavily employed in agriculture, mining (especially family-owned gem mines), and organized begging rings. Some sectors of child labor exposed children to land mines. According to the AIHRC, 85 percent of child laborers were boys, but this figure did not include the uncounted number of girls who perform domestic work in their homes. Many families stated that they needed the income their children provided, but many reportedly also believed that work was useful for children. MOLSA [Ministry of Labor, Social Affairs, Martyrs, and Disabled] and the Aschiana Foundation reported approximately 60,000 child laborers in Kabul alone, the majority of whom migrated to the city from other provinces.

Children faced numerous health and safety risks at work, and some of them sustained serious injuries such as broken bones.

"Carpet weaving was especially dangerous for children, particularly in urban settings, as the enclosed spaces where they lived and worked exposed them to upper respiratory diseases, eyestrain, and spinal and muscular damage. Parents sometimes administered narcotics to their children to ease their physical pain. Children were considered suitable to learn carpet weaving at age five, and many children began working in this sector at an early age; families typically worked together weaving carpets, earning 1,500 Afghanis ($30) per month for their efforts, well below the minimum wage." **[2a] (Section 7d)**

(See subsection: Basic Legal Information and Section 35: Employment Rights)

Child trafficking

26.38 The US State Department (USSD) *Trafficking in Persons Report*, covering 2008, (USSD TiP Report), published in June 2009, stated:

"Afghan boys and girls are trafficked within the country for commercial sexual exploitation, forced marriage to settle debts or disputes, forced begging, as well as forced labor or debt bondage in brick kilns, carpet-making factories, and domestic service. Afghan children are also trafficked to Iran and Pakistan for forced labor, particularly in Pakistan's carpet factories, and forced marriage. Boys are promised enrollment in Islamic schools in Pakistan, but instead are trafficked to camps for paramilitary training by extremist groups. Afghan women and girls are trafficked within the country and to Pakistan and Iran for commercial sexual exploitation and temporary marriages." **[2f] (Country Narratives, Afghanistan, p59)**

(See also Section 12: Abuses by Non-Government Armed Forces – Kidnappings)

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CHILDCARE AND PROTECTION

Child Soldiers

This section should be read in conjunction with Section 11: Military Service for context purposes

26.39 The Child Soldiers Global report 2008, published in April 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]**

26.40 The USSD Report 2009 noted that

"The legal recruitment age for members of the armed forces is 18. There continued to be unconfirmed reports that children younger than 18 falsified identification records to join the national security forces and the ANP. There were no reports of forced child conscription by the government into the national security forces.

"The government, with international assistance, vetted all recruits into the armed forces and police, rejecting applicants under the age of 18.

"Anecdotal evidence suggests that insurgent recruitment of underage soldiers was on the rise. There were numerous credible reports that the Taliban and other insurgent forces recruited children younger than 18, in some cases as suicide bombers and in other cases to assist with their work. For example, in Uruzgan the Taliban reportedly used children to dig hiding places for IEDs [Improvised Explosive Device]. There were many reports of insurgents using minor teenage boys as combatants in Paktya province. In July in Helmand province, authorities apprehended a child before he allegedly would have been equipped to become a suicide bomber. NDS [National Directorate of Security] officials held several children in the juvenile detention facility in Helmand on insurgency-related charges. Although most of the children were 15 or 16 years old, reports from Ghazni province indicated that insurgents recruited children as young as 12, particularly if they already owned motorbikes and weapons. NGOs and UN agencies reported that the Taliban tricked, promised money to children, or forced them to become suicide bombers." **[2a] (Section 5)**

(See also subsection on Child kidnapping and Section 27: Trafficking)

Street children

26.41 The USSD Report 2009 stated that

"NGOs estimated there were 60,000 street children in urban areas. Street children had little or no access to government services, although several NGOs provided access to basic needs such as shelter and food… During the year drought and food shortages forced many families to send their children onto the streets to beg for food and money. Police regularly beat and incarcerated children they took off the streets." **[2a] (Section 6)**

Children's homes

26.42 The USSD Report 2009 stated that

"Living conditions for children in orphanages were unsatisfactory. The MoLSA operated 34 residential orphanages and 22 day-care centers, designed to provide vocational training to children from destitute families. There were 18 private orphanages in the country. NGOs reported that 60 to 80 percent of 4- to 18-year-old children in the orphanages were not orphans, but children whose families could not provide food, shelter, or schooling. Children in orphanages reported mental, physical, and sexual abuse; were sometimes trafficked; and did not always have access to running water, winter heating, indoor plumbing, health services, recreational facilities, or education." **[2a] (Section 6)**

26.43 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"Based on existing statistics, there are presently 9,347 orphaned children in institutions around the country, of which 39% are institutionalised nocturnally and 61% diurnally. AIHRC findings indicate that the accommodation, nutrition, health, and education of these children are not compatible with the accepted norms. Even cases of violence against these children by institution authorities have been reported. Besides, there are doubts whether or not genuinely eligible children are admitted to these institutions, because there is evidence that some of the diurnally institutionalised children are relatives or sometimes family members of institution authorities." **[78f] (p52-53)**

26.44 The Kabul Centre of Mirmun, according to the The Aghan Women's Organization (AWO) document on the *Introduction to the Kabul Centre of Mirmun* (accessed 1 February 2010), are able to accommodate up to 25 young girls between the age of 3 and 12 years. AWO noted that "Orphan girls are especially vulnerable. Many are threatened with abandonment from their extended families due to their inability to provide for the family. Many are threatened with marriage at an alarmingly young and premature age." The document further observed that

"To identify girls, we approached women's NGOs, MOWA [Ministry of Women's Affairs], the Ministry of Labor and Social Welfare, and other personal contacts. We gathered all available information on each case that was referred to us, and made several visits to their relatives and to their residences. Whenever we discovered that the information received was not accurate, the children were returned to their relatives." **[67a]**

26.45 The same source stated:

"When the children are selected, their relatives are compelled to sign a contract which gives their permission for the girls to pursue their University level education which is arranged by our centre. They agree that in the case of a breach of this contract, they will be obliged to return all our expenses. Each new resident to our centre is oriented to the centre and is introduced to her sisters. They are given a proper hygiene assessment, which includes bathing and hair cuts, as needed. Upon their arrival they are provided with 3 new outfits of clothes. A medical check-up is completed and the girls are enrolled in school." **[67a]**

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EDUCATION

26.46 The Constitution adopted in January 2004 recognised that education is the right of all citizens of Afghanistan. **[4a]** The USSD Report 2009 recorded that "Education is mandatory up to the secondary level (four years for primary school and three years for secondary), and the law provides for free education up to the college level." **[2a] (Section 6)** An April 2009 IRIN News article noted that "Afghanistan is one of the least literate countries in the world. Only 18 percent of women and 50 percent of men are able to read and write, according

to UNESCO [United Nations Educational, Scientific and Cultural Organization]." **[36j]**

26.47 The International Organization for Migration (IOM) Country Sheet on Afghanistan, updated on 13 November 2009, stated that:

"The once robust and well-respected education system in Afghanistan has fallen over the past two decades into a state of neglect. War has destroyed more than 70 % percent [sic] of the schools and there are not enough teachers or necessities such as textbooks and notebooks to provide adequate educational services. Under the repressive regime of the Taliban, girls did not have access to education, while boys' education focused mostly on religion. Despite success in sending children to school now, gender disparity trends in education remains worrisome. The literacy rate for young women between the ages of 15 and 24 is only 18 per cent, compared to 51 per cent for boys. There are about 6.4 million students in schools and 35 per cent of them are girls. One of the greatest difficulties in teaching the students is that Afghanistan has so few adequately trained teachers left in the country. Currently in the system there are more than 135,000 teachers, and out of that only 22 per cent of them are graduated from teachers colleges. Only about 30,000 have a Grade 12 level of education, the rest all have below Grade 12 education. To address this, the ministry has added 24 teacher-training colleges to a previous 14, and last year they were able to graduate about 14,800 students from the colleges, a big jump from the last five years which saw a total of 4,500 students graduate. At present, teachers' income also remains problematic. Nonetheless, an anticipated reform of Afghanistan's civil service regime as well as encouragements for the return of qualified teachers, currently residing abroad, offer promising perspectives." **[38b] (p6-7)**

26.48 The same IOM source noted:

"Access to educational services varies considerably according to provinces. There are currently approximately 4,700 formal schools and 2,000 non-formal learning establishments. These include primary and secondary schools. Universities are active in major urban centers, including Kabul, Jalalabad, Kandahar, Herat and Mazar-e-Sharif. With respect to Universities, IOM's Return of Qualified Afghans Program has contributed to the placement of several qualified professors with Afghanistan's Ministry of Higher Education. In addition, several Western countries (UK, US, Germany) have established university exchange, as well as scholarship, programs allowing Afghan students to spend part or their entire curriculum abroad. The dates for the academic year tend to vary according to the regions and weather conditions. Major cities are indicated below: Kabul, Mazar, Herat: 22 March – 5 December Bamyan, Ghazni, Ghor: 21 April – 6 November Jalalabad, Kandahar, Hilmand: 6 September – 5 June." **[38b] (p7)**

26.49 The IOM Country Sheet on Afghanistan also noted "In Afghanistan, education including textbooks in governmental school[s] is free. The private schools charge monthly fees of Afs.1500 to Afs.5000, based on grade and quality of schools. Some private schools charge additional annual fees of Afs.2500 to Afs.4000 on textbooks and uniform." **[38b] (p7)**

26.50 In April 2009 IRIN News reported that "Insurgents have torched hundreds of schools and killed dozens of teachers and students over the past four years in

a country which desperately needs more schools and teachers. About 700 schools were reportedly closed because of insecurity and attacks in 2008, though some have been re-opened over the past few months, the MoE [Ministry of Education] has said." **[36j]**

26.51 The UNHCR *Eligibility Guidelines for Assessing the Protection Needs of Asylum Seekers from Afghanistan*, July 2009, noted that "There has been an escalation of incidents affecting the education sector, including attacks on schools, students and teachers. According to the Ministry of Education and aid agencies over five million children (three million of them girls) have been deprived of education as a consequence of conservative customs, poverty, lack of education facilities and a culture of gender discrimination." **[11a] (p36)**

26.52 Aproximately one third of Afghanistan's 14.5 million under 18 year olds miss out on education, according to the UN Children's Fund. Most of these were girls suffering from threats of violence, gender discrimination and culture. Lack of educational facilities was also a problem. (IRIN, 13 May 2009) **[36e]** However, on 1 May 2009 Radio Free Europe/Radio Liberty reported that:

"Due to the efforts of tribal and community leaders, more than 200 schools have reopened in Afghanistan recently, many of them in the country's volatile southern region. Afghan Education Ministry spokesman Mohammad Asif Nang told RFE/RL's Radio Free Afghanistan on April 29 [2009] that in the past year some 11,000 schools have reopened despite more than 200 school-related terrorist attacks…the ministry is also addressing textbook shortages by buying 30 million new books for the next academic year." **[29a]** The IRIN News article of April 2009 noted that "Over six million students, about 34 percent of them female, were enrolled in public schools in 2009 and the government has vowed to double that number by 2020." **[36j]**

26.53 The UNICEF *Humanitarian Action Report 2010*, published on 4 February 2010, noted when referring to Afghanistan, that:

"Together with the Ministry of Education, Save the Children and other partners, UNICEF supported the re-opening of 214 schools, or nearly one third of the 651 schools (as of November 2008) due to threats and violence. In addition, UNICEF and partners established community-based schools equipped with safe water sources and sanitation facilities in 29 out of the country's 34 provinces where there are few, if any, formal education opportunities. Further, in all five regions of the country one teacher each from over 75 per cent of schools in 11 conflict-affected provinces received training in psychosocial support. UNICEF also enabled more than 1.5 million vulnerable children to return to a more normal way of life through the provision of recreational kits. Rapid response for education in emergencies included supply of tents, seating mats and blackboards." **[44c] (p94-95)**

26.54 On 4 February 2010 IRIN News reported that "dozens" of schools had reopened in the southern province of Helmand during 2009. The article stated this was:

"... in part due to an accommodation with Taliban insurgents, Education Ministry officials say. Of the 283 state-funded schools in the province, over 220 were closed in 2008 due to general insecurity and direct attacks, Helmand's department of education said. 'Two years ago we had only 56

functioning schools in Helmand Province but in the past year we have reopened over 60 schools and now we have about 116 functioning schools,' Mohammad Wali, deputy director of the provincial education department, told IRIN." **[36h]**

26.55 The same IRIN article further added:

"Asif Nang, a Ministry of Education (MoE) spokesman in Kabul, told IRIN even more schools (105) had reopened in the past year, meaning that the province had about 170 functioning schools. He attributed the reopenings to local support and a tacit rapprochement with the insurgents. 'Tribal and religious elders have helped us a lot and have convinced the government's opposition [the Taliban] to allow the reopening of schools,' Nang said. The MoE said it had also brought together various local actors (religious leaders, tribal elders, parents and government offices) in local 'school support councils' which have been campaigning for the protection of schools in insecure areas." **[36h]**

Access to education for girls

26.56 The Asia Foundation publication, *Increasing Education Opportunities for Afghan Girls*, 21 July 2009, stated that:

"… during the five years of Taliban rule, from 1996-2001, girls were forbidden to attend school. As a result, today, only 12-15 percent of Afghan women are literate. Fortunately, schools have re-opened throughout the country, and except in a few very conservative areas, most Afghan parents prize education for their girls as well as boys and many make sacrifices to ensure that all of their children go to school, recognizing that education is the key to a better future." **[86a]**

26.57 The USSD Report 2009 noted that

"According to Save the Children, only 5 percent of girls attended secondary school. In many families girls stopped attending school at age 11 or 12 because parents would not permit their teenage girls to be taught by adult men. Nearly 29 percent of all educational districts lacked girls' schools. Nearly 80 percent of educational districts and several provinces lacked secondary schools for girls due to lack of female teachers; the AIHRC reported there were only 216 girls' high schools in the country, most of them situated in the provincial centers. Girls' enrollment was as low as 9 percent in some areas. Since 2001 most girls enrolled in schools were the first generation in their family to receive formal education." **[2a] (Section 6)**

26.58 The Human Rights Watch (HRW) *World Report 2010:* Afghanistan, covering events of 2009, dated 19 January 2010, stated:

"As part of their campaign of terrorizing the civilian population, the Taliban and other insurgent groups continued to target schools, in particular girls' schools. According to the Ministry of Education, in the first five months of the Afghan year 1387 (April-August 2009), 102 schools were attacked using explosives or arson, and 105 students and teachers were killed by insurgent attacks. Three girls' schools in the central region were attacked with chemicals (thought to be pesticide or insecticide) in April and May 2009, which the Ministry of Education says injured 196 girls." **[17d] (p261)**

26.59 The UNICEF *Humanitarian Action Report 2010*, published on 4 February 2010, noted when referring to Afghanistan, that:

"More than half of all school-aged children, of whom 65 per cent are estimated to be girls, are not in school because of a combination of inadequate school infrastructure, poverty, armed conflict and climate-related disasters. In 2009 alone, floods prevented 100,000 children, mostly girls, from attending school. Violence related to national elections in 2009 also caused disruption in learning as the majority of polling centres were located in the schools themselves. Acute shortages of teaching and learning materials, especially for poor and conflict-affected children, are also contributing to the country's low primary school attendance rate and consequently low levels of literacy." **[44c] (p94)**

26.60 The UNHCR's Eligibility Guidelines report, July 2009, noted that:

"Girls' schools are increasingly a target of attacks. Some 50 percent of security incidents at schools across the country were specifically directed against girls' schools despite the fact that they represent only 14.8 percent of the total number of primary, secondary and high schools in the country. Furthermore, female teachers are specifically targeted and higher bounties are offered for killing them." **[11a] (p33)**

26.61 An IRIN News article on 4 February 2010 reported that:

"The Taliban had banned girls from attending schools, and women from working, during their rule (1994-2001), and a notorious acid attack maimed a number of girls in Kandahar in 2008, but a statement issued by the 'Taliban Leadership Council' on 27 January [2010] said: 'The Islamic Emirate of Afghanistan is determined to take constructive steps with regard to education for all compatriots based on Islam and the requirements of the current age.' The MoE [Ministry of Education] said it had agreed to Taliban conditions for the reopening of schools. The insurgents have demanded that the curriculum be in full compliance with Islamic values, and girls must wear the `hijab'. 'Female students must wear an appropriate `hijab' in accordance with local traditions,' MoE's Nang confirmed." **[36h]**

26.62 The Human Rights Watch (HRW) report, *"We Have the Promises of the World" Women's Rights in Afghanistan*, published December 2009 stated that:

"After the decimation of girl's schools by the Taliban, it is not surprising that girl's education has become the most symbolic element of the international donor effort in Afghanistan. Despite significant gains – this year more than six million students enrolled in primary and secondary school – stark gender disparities remain. The majority of girls still do not attend primary school, and a dismal 11 percent of secondary-school-age girls are enrolled in grades 7-9. Only 4 percent enroll in grades 10-12. While the number of both boys and girls attending school drops dramatically at the secondary school level, the decline is much more pronounced for girls." **[17c] (p8-9)**

26.63 The same HRW report noted:

The main text of this COI Report contains the most up to date publicly available information as at 18 March 2010. Further brief information on recent events and reports has been provided in the Latest News section to 8 April 2010.

"In southern and eastern Afghanistan, general insecurity and attacks on schools, teachers, and students remain the primary barriers, with a disproportionate effect on girls. According to data from the Ministry of Education, in the first five months of the Afghan year 1388 (April to August 2009), 102 schools were attacked using explosives or arson and 105 school students and teachers were killed by insurgent attacks (though it is not clear that these were necessarily targeted killings). Although these attacks were against both male and female teachers and students, several poison attacks in 2009 were clearly directed at girls, with 200 students poisoned this year, of whom 196 were female.

"In other parts of the country, distance to the closest school is a major barrier. The distribution of secondary schools is concentrated in provincial capitals, and there are large areas without a school. This shortage of schools affects girls disproportionately – there are more boys' schools than girls' schools, and the long distances to reach the nearest school often pose heightened safety and security challenges for girls. Human Rights Watch interviewed girls who make journeys to school that require up to six hours of walking a day. While families are concerned about every child's security, they are especially reluctant to send teenage girls who may be targeted for sexual violence or harassment. Only 19 percent of schools are designated as girls' schools, with no girls' schools in 29 percent of all educational districts." **[17c] (p9-10)**

26.64 IRIN News noted, when reporting on education in Helmand Province on 4 February 2010 that "There were three girls' high schools and a few primary schools for girls, said Wali [deputy director of the provincial education department], adding that about 16,000 girls and over 66,000 boys were enrolled at schools in the province. Most of the female students attend schools in the provincial capital, Lashkargah, where the insurgents' influence is limited." **[36h]**

(See also subsection on Child labour)

(See also Section 25: Women – Access to education and employment)

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HEALTH AND WELFARE

26.65 The Afghanistan Independent Human Rights Commission (AIHRC) report, *The General Situation of Children in Afghanistan*, 9 April 2008, stated that:

"Research indicates that since children with disability are in need of especial care, they encounter serious problems if they lack especial care facilities. The children with disability stated that their needs were not duly heeded, and that they were stigmatised. They were deprived of recreation and leisure. To worsen, they had no access to health and educational facilities, and there is yet to be any especial educational and vocational training centre for children with disability. Outlying provinces and cities lack orthopaedic clinics, which offer artificial organs like artificial hands and feet." **[78c] (p10)**

26.66 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)**

(See also Section 28: Medical Issues)

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DOCUMENTATION

26.67 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"Fewer birth certificates than national ID cards are issued. Paragraph 1, Article 7, of the Convention on the Rights of Child (CRC) reads, 'The child shall be registered immediately after birth and shall have the right … to acquire a nationality...' But few children have acquired birth certificates in Afghanistan. While birth certificates are issued in some highly populated cities, there is no such programme in all Afghanistan's provinces. Some hospitals, even maternity ones, and clinics do not issue birth certificates, even in Kabul." **[78f] (p27-28)**

26.68 On 2 July 2008, The National Public Radio (NPR) website reported that:

"At the moment, Kabul is the only place in Afghanistan where every newborn baby is being registered, including those who are born at home. The Afghan government, with United Nations help, hopes to do the same for newborns all over the country by the end of 2009. If they succeed, it will be the first time this has happened in Afghan history. Currently, the government says less than 1 percent of Afghans have a birth certificate." **[52a]**

(See also Section 33: – Citizenship and Nationality)

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27. TRAFFICKING

OVERVIEW

27.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated that:

"The 2008 antitrafficking law was published on July 15 [2009]. There were reports that persons were trafficked to, from, through, and within the country. The country was a source for women and children trafficked predominantly to Iran and Pakistan for forced labor and commercial sexual exploitation. Children were trafficked internally for forced labor as beggars or for debt bondage in the brick kiln and carpet industries. Women and girls were kidnapped, lured by fraudulent marriage or job proposals, or sold into marriage or commercial sexual exploitation within the country and elsewhere. Boys as well as girls were victims of trafficking." **[2a] (Section 6)**

27.02 The US Department of State *Trafficking in Persons Report*, covering 2008, (USSD TiP Report), published in June 2009, stated:

"Boys are promised enrollment in Islamic schools in Pakistan, but instead are trafficked to camps for paramilitary training by extremist groups. Afghan women and girls are trafficked within the country and to Pakistan and Iran for commercial sexual exploitation and temporary marriages. Some Afghan men force their wives or daughters into prostitution. Afghan men are trafficked to Iran and Pakistan for forced labor and debt bondage, as well as to Greece for forced labor in the agriculture or construction sectors. Afghanistan is also a destination for women and girls from Iran, Tajikistan, and possibly China trafficked for commercial sexual exploitation. Tajik women are also believed to be trafficked through Afghanistan to Pakistan and Iran for commercial sexual exploitation. Trafficked Iranian women transit Afghanistan en route to Pakistan." **[2f] (Country Narratives, Afghanistan, p59)**

Prevention

27.03 USSD TiP Report, published in June 2009, stated:

"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. Government actors continue to conflate the crimes of kidnapping and trafficking; this poor understanding of trafficking poses an impediment to targeted intervention. An undeveloped judicial and prosecutorial system, judicial delays, corruption, and weak coordination remain obstacles to effectively punishing trafficking offenses. In addition, Afghanistan punishes some victims of sex trafficking with imprisonment for adultery or prostitution, acts committed as a direct result of being trafficked. Although the government lacks resources to provide comprehensive victim protection services and did not adequately punish all identified acts of trafficking, its newly instituted victim referral process, launching of victim referral centers, and passage of anti-trafficking legislation demonstrate progress in providing increased protective services for trafficking victims and punishment of their exploiters." **[2f] (Country Narratives, Afghanistan, p59)**

27.04 The USSD TiP Report further noted that:

"During the reporting period, the Afghan government made negligible efforts to prevent human trafficking. The government did not carry out any public awareness campaigns to warn at-risk populations of the dangers of trafficking or potential traffickers of the consequences of trafficking. Ministry of Justice officials participated in a televised roundtable discussing the July 2008 anti-trafficking law. The government did not take steps to reduce the demand for commercial sex acts or forced labor during the reporting period. Afghanistan has not ratified the 2000 UN TIP Protocol." **[2f] (Country Narratives, Afghanistan, p60)**

27.05 The International Organization 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]**

27.06 The USSD Human Rights Report 2009 stated that "In April [2009] the IOM [International Organisation for Migration] and MOI [Ministry of Interior] signed an agreement establishing a cooperative framework to combat trafficking and assist victims of trafficking and other vulnerable migrants, expanding activities to six provinces: Nangahar, Helmand, Nimroz, Herat, Balkh, and Kunduz." **[2a] (Section 6)**

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Prosecution

27.07 The USSD TiP Report, published in June 2009, stated:

"Despite the enactment of anti-trafficking legislation, it is not clear whether the Government of Afghanistan adequately prosecuted or punished trafficking offenders over the reporting period. In July 2008, the government enacted an anti-trafficking law, the Law Countering Abduction and Human Trafficking, through presidential decree; the law prescribes penalties of life imprisonment for sex trafficking and 'maximum term' imprisonment for labor trafficking, which, in practice, is between eight and 15 years. These penalties are sufficiently stringent and exceed those prescribed for other grave crimes, such as rape. According to government records, there were no prosecutions under the new anti-trafficking legislation. The government, however, reported the

convictions of 62 trafficking offenders under statutes criminalizing kidnapping and rape; sentences reportedly ranged from five to 18 years' imprisonment. It is unknown how many cases may have been prosecuted that resulted in acquittals. As the government was unable to provide disaggregated data or specific case information, it is unclear if these offenses meet the definition of trafficking or whether they address labor trafficking offenses. The Ministry of Interior's (MOI) six-person counter-trafficking unit made some initial arrests and investigated an unknown number of these cases. The government reported difficulty engaging Pakistani authorities for joint investigation of transnational trafficking cases. In 2008, the MOI stationed personnel at airports and border crossings to detect trafficking cases. There was no evidence that the government made any efforts to investigate, arrest, or prosecute government officials facilitating trafficking offenses despite reports of widespread complicity among national and border police." **[2f] (Country Narratives, Afghanistan, p59)**

Protection to victims of trafficking

27.08 The USSD TiP Report, published in June 2009, stated:

"The government's protection of trafficking victims remained poor, but showed improvements during the reporting period. The government lacked resources to provide victims with protective services directly; NGOs operated the country's 18 shelters and provided the vast majority of victim assistance, but some faced hardships due to threats from the local community, particularly when assisting in cases that involved so-called 'honor' crimes. Serious concerns remain regarding the government's punishment of victims of trafficking for acts committed as a direct result of being trafficked. Female trafficking victims continued to be arrested and imprisoned or otherwise punished for prostitution and fleeing forced marriages. However, NGOs noted a decrease in arbitrary detentions after the late 2007 signing of a formalized referral agreement among the MOI [Ministry of Interior], the Ministry of Woman's Affairs (MOWA), and various shelters, and the opening of two government-run referral centers. Under this new procedure, police refer women victimized by violence to MOWA which, in turn, refers the women, including trafficking victims, to appropriate NGO facilities." **[2f] (Country Narratives, Afghanistan, p59-60)**

27.09 The USSD TiP 2009 report further stated that:

"The MOI's referral center in Jalalabad assisted female victims of trafficking and other crimes with support from MOWA and UNIFEM [The United Nations Development Fund for Women]. Its four MOI officers investigated cases and four MOWA paralegals provided support and legal advice to the women. A second referral center opened in April 2008 in Parwan. The government referred and transported victims to IOM and NGOs during the reporting period, but did not provide information on the number of victims assisted in this manner. An NGO reported that the police referred 23 victims and the MOWA referred four to its shelter in Kabul. The MOI referred the majority of the 40 victims assisted by IOM in 2008." **[2f] (Country Narratives, Afghanistan, p59-60)**

27.10 The USSD TiP 2009 report additionally stated that:

"There are no facilities in Afghanistan to provide shelter or specific protective services to male trafficking victims; during the reporting period, some trafficked boys were placed in government-run orphanages and a facility for juvenile criminals while their cases were being investigated. MOWA staff reportedly visited prisons during the reporting period to ensure women and girls in custody are not victims of sex crimes or sex trafficking; concrete results from these prison visits are unknown. There is no evidence that the government encouraged victims to assist in investigations of their traffickers during the reporting period. The new anti-trafficking law permits foreign victims to remain in Afghanistan for at least six months." **[2f] (Country Narratives, Afghanistan, p59-60)**

(See also Section 25: Women and Section 26: Children – Child trafficking)

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28. MEDICAL ISSUES

28.01 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)**

28.02 The International Organization for Migration (IOM) Country Sheet on Afghanistan, updated on 13 November 2009, stated that:

"Life expectancy at birth is 43 years in Afghanistan, slightly more than half that of the wealthiest countries of the world. The country has some of the highest morality rates in the world: infant mortality rate is 129 per 1,000 live births. Under-five mortality is 191 per 1000 live births and the maternal mortality rate is 1600 per 100,000 live births. 52% of the population are under the age of 18 years. The main cases of maternal death are: haemorrhage, eclampsia, post portum infection and unsafe abortions – all of which are preventable through provision of emergency obstetric care. Child mortality is caused principally by three preventable diseases: acute respiratory infections (ARI) diarrhoea, and measles. Chronic malnutrition, developed at a young age, translated into extraordinarily high prevalence rates of underweight children (40%) and of stunting (54%), while wasting is 7%. In addition, as a direct consequence of the years of conflict, Afghanistan has a large numbe[r] of people living with disabilities and with mental health problems." **[38b] (Health Care)**

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

28.03 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"Although health services are almost free of charge for all Afghan people, vulnerable segments of population encounter many problems since health services have poor quality or inadequate geographical coverage. That is why men's life expectancy is only 47 years and it is 45 for women – almost half of life expectancy in world's developed and wealthier countries. The Afghan Government and its international partners always allude to the development of the health sector as one of their significant achievements in the past several years. The Government claims approximately 85% of all Afghan people presently have access to health services. Although HRFM [Human Rights Field Monitoring team of the Afghanistan Independent Human Rights Commission] findings reveal that such a claim is close to reality, health services nevertheless face several major challenges in Afghanistan. Poor-quality health services and facilities, long distances of health centres from remote districts, and growing insecurity are among these challenges. On

the other hand, experienced and specialised doctors are unwilling to work in outlying areas for economic and geographical reasons." **[78f] (p5)**

28.04 The The United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,* July 2009 stated 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. Many Afghan women are reluctant to be, or may be prevented from being, treated by male health workers. At the same time, due to the reduction of available health facilities, women in rural areas are obliged to walk much longer distances to access health care, and frequently will not do so because they do not have a male relative ready to accompany them, or because of fear of insurgents. Women from rural areas are at an even greater risk of dying during childbirth. Such areas average fewer than six doctors, seven nurses and four midwives for every 100,000 women. In Panjshir province, for example, there are seventeen health centres. Each employs only one female doctor and one midwife to serve 30,000 to 60,000 people.

"While important progress in healthcare has been made through the Government's expansion of the basic package of health services, health infrastructure in Afghanistan is reported to be damaged and poorly maintained, lacking trained and skilled workers and medical supplies. Some observers claim that the health services are not able to meet the basic health needs of a majority of the population. The United Nations reports that the basic package of health services now covers 82 per cent of the population. There are 900 clinics and approximately 40 percent of the population has access to healthcare. According to the Ministry of Public Health, over 600,000 persons lack basic healthcare services due to attacks on healthcare facilities and health workers – a figure that has doubled since 2007. The overall quality of health services in Afghanistan has however been improved. According to Fahim, 'the infant mortality rate has reduced by 26 percent and now 80,000 fewer infants are dying each year compared to during Taleban rule.'

"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." **[11a] (p57-58)**

28.05 The International Organization for Migration (IOM) Country Sheet on Afghanistan, updated on 13 November 2009 stated that:

"Afghanistan's modern health facilities are mostly concentrated in Kabul and other large cities. The country has always had a shortage of medical facilities, particularly in rural areas. Afghanistan has a severe shortage of doctors, nurses, medical supplies, drugs and hospital beds. The current government is working to reopen hospitals and boost the level of available care. Considerable amounts have been earmarked for the construction of clinics throughout the country. The country is in dire need of skilled Afghan professionals who would be able to provide sustainable medical services to the Afghan population.The hospitals in Afghanistan are rudimentary. They are understaffed, there are not enough drugs, and they lack specialist facilities.

High tech equipment is not available and cleanliness is a luxury that few medical centers offer. Afghans are still crossing into neighbouring Pakistan to seek basic medical services. Such phenomenon is the result of higher medical standards as well as the relative ease with which Afghans may cross the Afghan-Pakistani border. The vast majority of the health sector is financed by international donors either bilaterally or multilaterally to support the recovery and development of the health sector." **[38b] (Health Care)**

28.06 The IOM Country Sheet on Afghanistan further observed that:

"Although there are only three Pharmaceutical companies in Afghanistan: Aria, Afghan American and Kemiagar which have very limited production, all kinds of medicines are becoming more widely available in the country, with a prevalence of imports from Pakistan, India and Iran. It is good to mention that the individual fees of doctors in Afghanistan is 150 to 200 AFA [Afganis] excluding laboratory and other tests and the average daily charge of a bed in private hospitals is 500 – 1500 AFA." **[38b] (Health Care)**

The IOM Country Sheet on Afghanistan lists the names of both private and state owned hospitals throughout Afghanistan. **[38b]**

28.07 The USSD *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated that:

"Oral contraceptives, intrauterine devices, injectables, and condoms were available commercially and through provincial hospitals. Men and women were equally diagnosed and treated for sexually transmitted infections, including HIV, when health care was available. NGOs reported that sexually transmitted diseases were widespread and typically went undiagnosed since most persons suffered from numerous untreated medical conditions." **[2a] (Section 6)**

28.08 The Afghan government's national licensed drugs list (LDL), dated December 2007, stated that:

"… all medicines that can be imported and sold in Afghanistan, under their International Non-proprietary Name (INN). The LDL contains all the drugs listed in the EDL, and hence contains all the drugs recommended for use in the BPH, EPHS and the MoPH's national programs. It also contains dispensary products and products used in dentistry. It is used as guideline by the authorities granting import licenses for drugs used in the public and private sector." **[13a]**

The National Licensed Drugs List (LDL) Ministry of Public Health in Afghanistan can be located on the Afghanistan Ministry of Public Health (MoPH) website at: http://www.moph.gov.af/en/

(See also Section 25: Women and Section 26: Children)

Polio

28.09 On 25 January 2010 Integrated Regional Information Networks (IRIN) News reported that 38 cases of polio had been identified throughout 2009, mainly in the south and the article commented that "About 84 percent of Afghanistan is

polio-free but the disease remains virulent in the 13 districts, where health workers have little or no access." **[36f]** The United Nations General Assembly Security Council: *The situation in Afghanistan and its implications for international peace and security* Report of the Secretary-General, dated 28 December 2009, noted:

"Polio remains a major health concern in Afghanistan. From January to October 2009, a total of 24 confirmed polio cases were reported, mainly in the south. During the United Nations Peace campaign, 1.2 million children were vaccinated against polio. The Taliban committed to not attacking vaccination teams, allowing the programme to get to areas that had been inaccessible in previous years. Nonetheless, 3 per cent of the target group was not reached, mainly as a result of ongoing fighting." **[39a] (p6)**

28.10 The IRIN News article further noted that Tahir Pervaiz Mir, the World Health Organization (WHO) polio eradication officer in Afghanistan, had commented that "Owing to its 'professional and dedicated anti-polio activities' Afghanistan in December was the first country globally to use a new polio vaccine which is believed to be 30 percent more effective." **[36f]** The article further noted "The new bivalent vaccine is specifically made for poliovirus types one and three which are circulating in the country. Type two has not been reported globally since 1999, according to health officials." **[36f]**

HIV/AIDS

28.11 There are estimated to be around 2000 to 2500 Afghans living with HIV and 556 reported positive HIV cases in Afghanistan have been recorded, according to the World Health Organization (WHO) and UNAIDS (The Joint United Nations Programme on HIV/AIDS). **[43c] (p10)**

28.12 The WHO Newsletter stated that:

"People living with HIV/AIDS in Afghanistan can now receive antiretroviral therapy, after the launching of the first antiretroviral therapy (ART) center at the Infectious Disease Hospital in Kabul, Afghanistan on 21 April 2009. Afghanistan Health Minister Dr Sayed Mohammad Amin Fatimi led the launching of the center through a ceremonial handing over of medicines to an HIV patient… The HIV treatment center is technically and financially supported by the WHO. WHO has procured medicines for one-year treatment of 30 HIV-positive persons. Additional 3 months supply of medicines are also ensured." **[43c] (p10)**

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DRUG ADDICTION

28.13 IRIN News, on 28 April 2009, reported that "Over 900,000 people in Afghanistan were considered drug addicts and many of them had little awareness of addiction-related diseases, according to a 2005 survey of the UN Office on Drugs and Crime (UNODC), which also provided the figure of 19,000 intravenous drug users." **[36t]** It was estimated that there were "At least 50,000-60,000 drug users in Kabul alone." (IRIN News, 30 August 2009) **[36a]**

28.14 A research study carried out by the Afghanistan Independent Human Rights Commission (AIHRC), *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:

"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 %)." **[48e] (p10)**

28.15 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. **[48e] (p17)**

(See also Section 25: Women and Section 26: Children)

28.16 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'." **[40a]**

28.17 A Save the Children/Columbia University survey recorded that "Poverty, unemployment, mental illness and depression, lack of awareness and various other socio-economic factors are driving many Afghan youths to drug abuse and addiction…" (IRIN News, 28 April 2009) **[36t]**

28.18 In April 2009, an IRIN News article reported that:

"…treatment and rehabilitation services meet only 0.25 percent of the needs nationwide, according to UNODC [United Nations Office on Drugs and Crime]. There are only about 100 beds in a handful of specialist centres dedicated to tackling addiction. Several drug users in Kabul told IRIN they would have to wait months to be admitted to a rehabilitation centre… Lack of funds was the main problem: 'We only have about US$700,000 for all treatment and rehabilitation activities in the country, which is very little,' Abdullah Wardak, a Health Ministry official, told IRIN." **[36t]**

28.19 An Article on the National Public Radio (NPR) website dated 17 April 2009 commented that there are approximately three dozen clinics across Afghanistan that can cater for male drug addiction. However health care workers were overwhelmed due to the increase in drug abuse amongst men, women and children and feel they are fighting a losing battle. **[52b]** In the Nejat Centre, a NGO-run drug addicts' rehabilitation centre in Kabul which opened

in May 2009 had around 200 addicts on their list, some of whom were having to wait up to three months for a bed in the clinic. (IRIN News, 30 August 2009) **[36a]**

MENTAL HEALTH

28.20 The British Broadcasting Corporation (BBC) recorded on 20 January 2009 that "According to studies cited by the Afghan health ministry an astonishing 66% of Afghans suffer mental health problems." **[25u]**

28.21 The World Health Organisation (WHO) Mental Health Atlas 2005 noted that:

"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." **[43]**

28.22 The WHO Mental Health Atlas 2005 stated:

"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." **[43]**

28.23 The BBC News 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]**

28.24 UNHCR's Eligibility Guidelines, July 2009, noted that "The social stigma attached to the reporting of gender-based violence in Afghanistan often prevents victims from seeking physical or psychological treatment." **[11a] (p32)**

LANDMINE AND ORDNANCE – VICTIM ASSISTANCE

28.25 The 2008 Afghanistan Landmine Monitor Report stated that "Ongoing conflict, extreme poverty, a lack of infrastructure, and low economic development continue to hamper access to services for the entire population, but particularly for the most vulnerable groups. Afghanistan lacks or has low quality services in all areas of victim assistance (VA)." **[14a]**

28.26 The report further stated that:

"The MPH [Ministry of Public Health] coordinates healthcare through two strategies: the Basic Package of Health Services (BPHS) and the Essential Package of Hospital Services (EPHS), implementation of which is mostly contracted to NGOs and international organizations. Coordination among service providers remained limited and the MPH lacked the capacity to efficiently contract services to NGOs. BPHS coverage was said to have increased from 9% in 2002 to 85% by 2008; EPHS was implemented in 15 hospitals. Nevertheless, healthcare in Afghanistan remains among the worst in the world. It lacks infrastructure, emergency transport, trained staff (especially women), and supplies and funding, often preventing persons with disabilities, including mine/ERW survivors, from receiving needed assistance. It will take an estimated five to 10 years to train sufficient medical staff, some of whom may refuse to work in rural areas.

"Although basic healthcare is in principle free, most public hospitals are poorly equipped, forcing people to go to unaffordable private clinics. The MPH estimated that some 360,000 people in the conflict-affected Helmand, Kandahar, Paktika, and Zabul provinces do not have access to health services. Non-state armed groups targeted and killed some 40 health workers in 2007–2008, resulting in the closure of at least 36 health centers and the withdrawal of international health providers. NGOs provide first-aid training, but there is no formal training to deal with traumatic injury; ISAF [International Security Assistance Force] occasionally provides emergency transport.

"Physiotherapy services are available in 19 provinces and 14 orthopedic workshops – completely dependent on international organizations – operate in 10 provinces. The MPH is in charge of coordinating physical rehabilitation, but only manages one center." **[14a]**

(See also Section 24: Disability and Section 30: Freedom of Movement - Mines and unexploded ordnance)

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29. HUMANITARIAN ISSUES

OVERVIEW

29.01 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." (Department for International Development - DFID, 22 August 2008) **[51a]**

(See also Section 2: Economy)

29.02 The Refugee International report, dated 29 January 2009, stated that "The conflict between NATO/ISAF [North Atlantic Treaty Organisation/International Security Assistance Force] forces and armed opposition groups has severe consequences on the humanitarian situation. The violence destroys crops and homes, generates displacement, and hampers the ability of humanitarian actors to intervene. Moreover, civilians are often caught in the middle of military operations." **[57a]**

29.03 Two earthquakes struck Nangarhar province, about 50 miles east of Kabul on 17 April 2009, killing at least 22 people and injuring over 30. The tremors registered 5.5 and 5.1 magnitudes respectively, an aftershock followed two hours later. Hundreds of houses, many made from dried mud, were destroyed. (British Broadcasting Corporation, 17 April 2009) **[25t]**

29.04 Integrated Regional Information Networks (IRIN) News further reported on 29 April 2009 that:

"Flash floods, landslides and earthquakes in different parts of Afghanistan in the last 10 days or so have damaged thousands of houses, killed hundreds of livestock and made thousands homeless, the UN Office for the Coordination of Humanitarian Affairs (OCHA) has said. At least 15 people lost their lives and over a dozen of others were injured by floods in Herat, Badakhshan, Parwan, Faryab and Takhar provinces over the past two weeks, according to the Afghanistan National Disasters Management Authority (ANDMA)." **[36q]**

29.05 At least eleven people were killed and dozens of properties severely damaged during flash floods on 2 September 2009 in Alingar District, Laghman Province, eastern Afghanistan. The neighbouring Province of Nangarhar had also experienced flash floods just a few days earlier. An Afghan Red Crescent Society-led assessment team estimated that a total of 4,000 people had been affected, mostly in Jalalabad city, the provincial capital of Nangarhar. Other districts affected in Nangarhar included Sorkhorood, Kuzkunar, Rodat, Chaparhar, and Behsood. An assessment report by the UN Office for the Coordination of Humanitarian Affairs (OCHA) recorded "…11 casualties (four dead, seven injured), 289 houses destroyed and 234 damaged and 30 livestock killed in Nangarhar Province." (IRIN News, 3 September 2009) **[39l]**

29.06 IRIN News reported on 22 February 2010 on the displacement of those caught up in the joint Nato/Afghan offensive against the Taliban in Nad Ali District, Helmand Province:

"The number of those displaced... has more than doubled over the past four days, according to the provincial authorities. Over 3,700 families (some 22,000 people) displaced from the Marjah and Nad Ali areas have been registered in Helmand's capital, Lashkargah, Dawood Ahmadi, a spokesman of the Helmand governor, told IRIN on 22 February. He said most internally displaced persons (IDPs) have been hosted by relatives and friends; a few had sought refuge in abandoned buildings. The Afghan Red Crescent Society (ARCS) said over 450 families (about 2,700 individuals) had fled to Nawa District and other nearby locations in Helmand since shortly before the 13 February offensive." **[36o]**

29.07 The United Nations General Assembly Security Council: *The situation in Afghanistan and its implications for international peace and security* Report of the Secretary-General, dated 10 March 2010, commented on the humanitarian situation in Afghanistan and noted that:

"Humanitarian response continued to be impaired by lack of access and increasing movement and operational restrictions owing to the deteriorating security environment. In some areas, ongoing military operations have completely cut off access to populations. This has prevented both the verification of reported displacements and the delivery of assistance to those in need. The United Nations Office for the Coordination of Humanitarian Affairs has continued to advocate for full compliance with the established international and Afghan-specific humanitarian civilian-military guidelines, in particular calling for the military to limit its role by providing humanitarian assistance only as a last resort, when civilian actors are unable to provide it." **[39i] (p11)**

(See also Section 8: Security Situation – South, South-East, and East, Section 31: Internally Displaced People and Section 34: Returning Afghan refugees)

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INTERNATIONAL AID

29.08 In July 2009 Refugees International reported that:

"The humanitarian appeal of $604 million, launched on February 3, 2009, is well funded, but over 52 percent of the appeal addresses food security, and most pledges have gone to the World Food Program's (WFP) operations. Major humanitarian donors still have very limited budgets compared to the main development players. Indeed, the Europe Commission Humanitarian Office (ECHO) has a 2009 budget of €35 million, while the U.S. Office for Foreign Disaster Assistance (OFDA) has a budget of only $29 million, half of which is dedicated to urban projects. By comparison, USAID has a budget of more than $1 billion for 2009. More focus, and funding, is needed to respond to humanitarian needs." **[57b]**

29.09 The same source added:

"Most NGOs get the majority of their funding for development projects, as donors have emphasized this sector over the past few years. As many donors are looking to fund projects in the areas where their troops are located, development has been used since 2001 as a tool for counter-insurgency activities instead of being focused on responding to needs alone. This, combined with the UN's partiality derived from its political mandate, has made it extremely difficult to get a real picture of humanitarian needs in Afghanistan. In the words of one UN official, Afghanistan is a 'faceless emergency' – nearly eight years after the collapse of the Taliban regime, the needs are significant, but the international community is still unable to define their magnitude" **[57b]**

29.10 Refugees International also added:

"The picture is not completely grim however. In contrast to last year, [2008] humanitarian issues are now on the table, and openly discussed by donors and the Afghan government. Donors have also accepted that for aid agencies to get a clear picture and secure access to populations in need they must be able to talk to all parties to the conflict. This is a major step in the right direction, and could help restore at least some of the humanitarian space lost over the past eight years." **[57b]**

29.11 The United Nations Secretary-General Report, dated 10 March 2010 stated that:

"Although the winter has been mild, humanitarian agencies had developed winter-preparedness plans as part of each regional humanitarian contingency plan. The World Food Programme (WFP) pre-positioned to remote areas some 28,760 metric tons of food to support 803,715 beneficiaries. This was complemented by non-food items distributed by UNHCR [United Nations High Commissioner for Refugees] to more than 200,000 vulnerable displaced persons. In 2009, WFP fed a total of approximately 9 million vulnerable Afghans. This included the provision of 51,370 metric tons of food assistance to nearly 1.4 million Afghans, including 325,400 people affected by localized emergencies such as the spring floods. In close cooperation with UNHCR, it also assisted 118,800 internally displaced persons and 43,600 returnees." **[39i] (11)**

29.12 The report continued "The new, more focused Humanitarian Action Plan for 2010 was launched in January [2010]. Although the Plan has yet to receive funding this year, it was well noted at the London Conference, and efforts are ongoing to engage a wide spectrum of donors active in Afghanistan." **[39i] (12)**

(See also Section 3: History - Afghanistan Compact)

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30. FREEDOM OF MOVEMENT

30.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), stated that:

"The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, social custom limited many women's freedom of movement without male consent or chaperone, 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, land mines, and IEDs [Improvised Explosive Device] made travel extremely dangerous, especially at night. The government cooperated with the UNHCR [United Nations High Commissioner for Refugees], the IOM [International Organisation of Migration], and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, and other persons of concern.

"Taxi, truck, and bus drivers reported that security forces and armed insurgents operated illegal checkpoints and extorted money and goods. The number of such checkpoints increased at night, especially in the border provinces. Residents reported having to pay bribes to ANP [Afghan National Police] and border police officials at checkpoints and the Khyber Pass border crossing between Jalalabad and Pakistan. The Taliban imposed nightly curfews on the local populace in regions where it exercised authority, mostly in the southeast." **[2a] (Section 2d)**

(See also Section 25: Women – Social and economic rights for information on restrictions on movement for women, and the subsection Single women and widows)

MINES AND UNEXPLODED ORDNANCE

30.02 The 2008 Afghanistan Landmine Monitor Report stated that "The Islamic Republic of Afghanistan acceded to the Mine Ban Treaty on 11 September 2002, becoming a State Party on 1 March 2003. Afghanistan has not adopted new national implementation legislation, including penal sanctions, for the Mine Ban Treaty." **[14a]**

30.03 The UN Security Council report, 10 November 2008 noted that "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." **[39d] (p10)**

30.04 The USSD Report 2009 noted:

"Land mines and unexploded ordnance continued to cause deaths and injuries, restricted areas available for farming, and impeded the return of refugees. The United Nations Mine Action Center for Afghanistan (UNMACA) reported that land mines and unexploded ordnance killed or injured an

average of 40 persons each month, a significant decline from 57 per month in 2008.

"Numerous groups including UNMACA and Halo Trust organized and trained mine detection and clearance teams that operated throughout the country. UN agencies and NGOs conducted educational programs and mine awareness campaigns for more than 1.5 million persons, primarily women and children, in various parts of the country. At year's end [2009] land mines and unexploded ordnance imperiled approximately 2,000 communities." **[2a] (Section 1g)**

(See also Section 24: Disability and Section 28: Medical Issues - Landmine and ordanance – victim assistance)

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31. INTERNALLY DISPLACED PERSONS (IDPS)

31.01 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated that

"Authorities estimated there were more than 275,000 IDPs in the country at year's end [2009], two-thirds of whom depended on assistance, including food. More than half of the IDPs were in the south. Many were among the more than one million IDPs who left their places of origin because of drought in 1995, insecurity and drought in 2002, and human rights violations and ethnic-based conflict linked to land and property matters between 2003 and 2004. These individuals resided in camp-like circumstances, primarily in the south, but officially organized and spontaneous settlements have sprung up on the outskirts of major cities, including Kabul, Herat, and Jalalabad.

"Authorities estimated approximately 62,000 individuals were newly displaced within the country during the year, including some 45,000 individuals due to insecurity and violence linked to armed conflict in their region of origin; approximately 6,600 persons newly affected by drought; and approximately 9,900 affected by tribal, ethnic, or land disputes. Local governments provided housing assistance and, in some cases, food aid to conflict-affected IDPs through provincial emergency commissions consisting of the Ministry of Rural Rehabilitation and Development, Afghan Red Crescent Society, UNHCR [United Nations High Commissioner for Refugees] , IOM [International Organisation of Migration], UNAMA [United Nations Assistance Mission in Afghanistan], and UNICEF [United Nations Children's Fund]. UNAMA reported restricted access due to insecurity limited efforts to assess the numbers of displaced persons and made it difficult to provide assistance." **[2a] (Section 2d)**

31.02 On 20 July 2009, Refugee International reported on the humanitarian situation for Internal Displaced People (IDPs):

"The humanitarian situation for IDPs in Afghanistan is often overlooked because of the complexity of finding durable solutions. More than half of the IDP population was displaced as a result of conflict prior to and around the fall of the Taliban in 2001. Some of the internally displaced were previously refugees in Pakistan or Iran, yet have been unable to settle back home upon their return. Others have been displaced by natural disasters that created unsustainable economic conditions. Finally, as the security situation deteriorates, a growing number have been displaced because of conflict between international and Afghan forces against Taliban groups." **[104c]**

31.03 On 4 October 2009 Integrated Regional Information Networks (IRIN) News reported that officials in Balkh Province had told them that dozens of families from Kalder and Shortepa districts in northern Afghanistan had been displaced after the Amu river bursts its banks. More than 900 people were forced to set up tents or seek refuge in nearby communities. **[36u]**

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32. CITIZENSHIP AND NATIONALITY

32.01 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)**

32.02 The Research Directorate of the Immigration and Refugee Board of Canada stated in a Response to an Information Request on Afghanistan citizenship, dated February 2005 that:

"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)." **[77a]**

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IDENTITY CARDS

32.03 The Afghanistan Independent Human Rights Commission (AIHRC) report, *Economic and Social Rights Report in Afghanistan-III, December 2008*, noted "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." **[78a] (p31-32)**

32.04 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"National ID cards and birth certificates are very important to establish the identity of people and their enjoyment of citizenship privileges. Lack of national ID cards provide an enabling environment for human rights violations of individuals, particularly in cases of marriage, punishment, and due process of law. AIHRC statistics indicates that in many cases of forced and early marriages, the age of children is determined to be higher due to lack of birth certificates or national ID cards and as a result, child marriages occur. Issuing birth certificates and national ID cards is an imperative in other countries worldwide, however, the Government has been negligent in this respect. Though this problem is a legacy of previous regimes, the Government still could have implemented a comprehensive census and issued national ID cards for people. In 2007, the Independent Election Commission (IEC) and the Ministry of Interior (MoI) signed a protocol for distributing ID cards. According to this protocol, all Afghan nationals aged over 18 should have received ID

cards pending the holding of the second presidential election, but the protocol has fallen short of implementation." **[78f] (p27)**

32.05 The Research Directorate of the Immigration and Refugee Board of Canada, recorded on 18 December 2007 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]**

(See also Section 26: Children – Documentation)

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33. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

33.01 No information was available to COI Service at the time of writing.

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34. EXIT AND RETURN

34.01 The US State Department Report on Country Human Rights Practices 2008, Afghanistan, (USSD report 2008) published on 25 February 2009, noted that the law allowed for freedom of foreign travel:

"...however, certain laws limited citizens' movement, and the government limited citizens' movement due to security interests… In 2007, 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." **[2a] (Section 2d)**

RETURNING AFGHAN REFUGEES

34.02 The Afghanistan Independent Human Rights Commission (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, stated that:

"Presidential Decree 297 on Dignified Refugee Return states, 'The Interim Afghan Administration… safeguards the right and freedom of all returnees… guarantees their safe and dignified return… expects that in conformity with the principle of voluntary repatriation, Afghans will be given the opportunity to decide freely to return to their country…'" **[78f] (p20)**

34.03 The (AIHRC) *Report on the Situation of Economic and Social Rights in Afghanistan – IV, Qaws 1388 (November/December 2009)*, further stated that:

"Refugees, returnees, and IDPs [Internally Dispaced Persons] face many problems inside and outside Afghanistan, directly restricting their access to economic and social rights. According to UNHCR [United Nations High Commissioner for Refugees], around 7 million registered Afghans lived in Pakistan and Iran in the climax of the Afghan conflict in 2001. After Afghanistan's stabilisation in 2002, many Afghans began repatriating. Since March 2002, UNHCR has assisted the return of about 4.3 million refugees, mostly from Pakistan and Iran. In 2008, UNHCR facilitated the repatriation of about 278,484 people…. Presently, there are around 2 million Afghan refugees in Pakistan and 1 million in Iran (registered refugees)." **[78f] (p20-21)**

34.04 The AIHRC report further noted:

"Growing insecurity, homelessness, disputes over property, and lack of livelihood options are the factors obstructing the return of refugees and the reintegration of returnees and IDPs. Insecurity in many parts of the country have made return to places of origin almost impossible. Several regime changes in the course of the Afghan conflict have given rise to several ownership claims on one single land plot. Many commanders have illegally expropriated lands and distributed them among their soldiers and relatives. Family size increased almost three times during forced migration and their return to their places of origin is obstructed, for their existing lands or houses are too small to accommodate them all. Additionally, many people who fled Afghanistan lacked property and are reluctant to return to their places of origin

because there are no livelihood options. Inadequate economic opportunities have made return to one's place of origin either impossible or undesirable. Most people who are unable to return to their places of origin migrate to other cities due to lack of livelihood options and homelessness and therefore join the category of the urban poor." **[78f] (p21)**

34.05 A Refugee International report, dated 26 January 2009, recorded that:

"The five million Afghans who have returned home since 2001 face challenges of their own, most notably access to land and jobs. Programs targeted at these returnees are still inadequate. Donor governments must increase their allocation of funding towards programs in high returns areas that focus on livelihoods, housing, health and education. However, the U.S., the lead donor in Afghanistan, still spends a disproportionate amount of its aid money on large infrastructure projects. Of USAID's budget of $1.1 billion in FY08, $398 million were allocated to road construction alone. This does little to meet the primary needs of the millions of people who are returning home and attempting to rebuild their lives.

"A similar gap is found in the UN's response. While the UN Refugee Agency (UNHCR) provides a basic package to returnees upon arriving in Afghanistan, the agency is unable to provide livelihood support to more than extremely vulnerable families. The UN Development Program (UNDP), whose mandate extends to early recovery activities, should be more involved in the design and implementation of projects that bridge the gap between assistance and self-sufficiency. The early recovery cluster should be established in Kabul, and UNDP must lead it." **[57a]**

34.06 The International Crisis Group (ICG) report, *What Now for Refugees?,* published on 31 August 2009, which focused on the situation of returning Afghan refugees, noted:

"A number of Afghans who returned to the countryside after 2002 had fled their homes in the late nineties or in end-2001. During their relatively short absence, most had maintained strong ties with their communities and often managed to retain their property or access to land. Regular visits and contacts between families and friends facilitated returns and reintegration. These returnees have similar needs to those who had stayed behind, including assistance to rebuild their destroyed houses, seeds and saplings for their fields and orchards, and livestock to replenish their herds." **[26e] (p6)**

34.07 The same ICG report noted, "With the rural areas increasingly insecure, many returning Afghans have migrated to towns and cities, causing rapid urbanisation that is contributing to rising poverty, unemployment and criminality. Kabul's population has tripled in just seven years." **[26e] (pi)**

34.08 The UNHCR Country Operations Profile accessed on 21 August 2009 stated that:

"Rising insecurity, political instability and economic and social conditions in Afghanistan have constrained voluntary repatriation. Any deterioration in current conditions could further reduce the expected number of returnees and hamper delivery of assistance to individuals with specific needs and protection risks. UNHCR will update its contingency plan for sudden displacement

emergencies on both the Pakistan and Iranian borders. Access to the south and south-east are likely to remain difficult." **[11f]**

34.09 The International Crisis Group (IGC) report, *What Now for Refugees?* published on 31 August 2009, which focused on the situation of returning Afghan refugees, noted that

"The [Afghanistan] ministry of rural rehabilitation and development and the ministry of urban development and housing have included returnee assistance, aimed at both refugees and IDPs [Internal Displaced Persons], in their national programs. Others, including NGOs [Non Governmental Organisations], UN agencies and donors, are also aiming to integrate returnee assistance into their development programs. Since reintegration permeates all aspects of reconstruction and development, the needs and vulnerabilities of returning households fall under the mandate of almost all government ministries." **[26e] (p11)**

34.10 The International Crisis Group (ICG) further noted that "Humanitarian agencies have provided significant emergency relief assistance including food, shelter reconstruction, water tanks and pumps to rural communities in several provinces but, as security deteriorates, these organisations are struggling to reach everyone, particularly in the south and south east." **[26e] (p6)**

34.11 The US State Deapartment Country Profile: Afghanistan, updated in November 2008 stated:

"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)**

Treatment of returnees

34.12 The UNHCR Voluntary Repatriation Leaflet, Afghanistan, 1 February 2009 stated that "UNHCR is mandated to provide international protection to refugees and to seek long-term or durable solutions to their displacement. Among the solutions available, voluntary repatriation in safety and dignity remains the agency's preferred option and presented the one sought by the majority of Afghan refugees." **[11g]**

34.13 The UNHCR also added:

"Upon arrival in Afghanistan, returnees must visit a UNHCR Encashment Centre (EC) to receive the transportation and reintegration cash assistance. At the ECs, returnees also have access to a variety of services including mine-awareness training, polio and measles vaccinations for children, basic medical assistance, legal aid, mosquito nets in malaria prone areas and transit

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centres for overnight staying. There are five ECs (Kabul, Herat, Jalalabad, Gardez and Kandahar); all of them are managed by UNHCR in cooperation with the Ministry of Refugees and Repatriation (MoRR)." **[11g]**

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35. EMPLOYMENT RIGHTS

35.01 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." **[4b]**

35.02 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010, (USSD Report 2009), stated that

"In July [2009] President Karzai signed a law doubling the minimum wage to 4,000 Afghanis ($80) for government workers. The minimum wage was 2,000 Afghanis per month ($40) in the private sector, but in practice wages were not protected. The minimum wage did not provide a decent standard of living for a worker and family. Wages were determined by market forces, informal negotiation, or, in the case of government workers, dictated by the government. Many workers were hired as day laborers.

"The law defines the standard workweek as 40 hours: 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. The law provides workers the right to receive wages, annual vacation time in addition to national holidays, compensation for injuries suffered in the line of work, overtime pay, health insurance for the employee and immediate family members, per diem for official trips, daily transportation, food allowances, night shift differentials, retirement rights, and compensation for funeral expenses in case of death while performing official duties. These standards were not effectively enforced, and citizens generally were not aware of the full extent of their labor rights under the law." **[2a] (Section 7e)**

(See also Section 26: Children – Child labour)

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Annex A: Chronology of major events

Source (British Broadcasting Corporation (BBC) Timeline, updated on 24 February 2010) **[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.

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.

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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'.
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.

2009 **March:** Afghanistan's Election Commission rejects President Karzai's call for an April presidential vote, saying it will take place on 20 August.
President Hamid Karzai signed a new law that legalises rape within marriage and bans wives from stepping outside their homes without their husbands' permission.

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August: Elections are held, but are marred by widespread Taliban attacks, patchy turnout and claims of serious fraud. Accusations of vote rigging and concerns over the low voter turnout cast doubt on the legitimacy of the polls.

2010 **February:** Nato-led forces launch major offensive, Operation Moshtarak, in bid to secure government control of southern Helmand province.

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Annex B: Political organisations and other groups

Europa Online, accessed 28 January 2010 noted that "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." **[1e] (Political Organisations)**

REGISTERED POLITICAL PARTIES

The Ministry of Justice website provided an list of licensed political parties in Afghanistan, which recounted 84 parties when accessed on 28 January 2010. **[65a]**

Republican Party (Hizb-e Jamhuri Khwahan)
Leader: Sibghatullah Sanjar

National Unity Movement (Tahrik-e Wahdat-e Melli)
Leader: Sultan Mahmood Ghazi

Freedom Party of Afghanistan (Hizb-e-Istiqlal-e-Afghanistan)
Leader: Ghulam Farooq Najrabi

Youth Solidarity Party of Afghanistan (Hizb-e Hambastagi-ye Melli-ye Jawanan-e Afghanistan)
Leader: Mohammad Jamil Karzai

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. **[26d] (p9)**)

National Tribal Unity Islamic Party of Afghanistan (Hizb-e Melli-ye Wahdat-e Aqwam-e Islami-ye Afghanistan)
Leader: Mohammad Shah Khugianay

Labor and Progress of Afghanistan Party (Hizb-e Kar wa Tawse'a-e Afghanistan)
Leader: Zulfiqar Omid

National Solidarity Movement of Afghanistan (Nahzat-e Hambastagi-ye Melli-ye Afghanistan)
Leader: Pir Sayyad Ishaq Gailani

National Islamic Front of Afghanistan (Mahaz-e Melli-ye Islami-ye Afghanistan)
Leader: Sayyad Ahmad Gailani

Freedom and Democracy Movement of Afghanistan (Nahzat-e Azadi wa Demokrasi-ye Afghanistan)
Leader: Abdul Raqib Jawed Kohestani

Afghan Social Democratic Party (Afghan Mellat)
Leader: Anwar al-Haq Ahadi

Islamic Movement of Afghanistan (Harakat-e Islami-ye Afghanistan)
Leader: Mohammad Ali Jawed

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United Afghanistan Party (Hizb-e Afghanistan-e Wahid)
Leader: Mohammad Wasel Rahimi

People's Welfare Party of Afghanistan (Hizb-e Sahadat-e Mardum-e Afghanistan)
Leader: Mohammad Zubair Payroz

National Unity Movement of Afghanistan (Hizb-e Harakat-e Melli-ye Wahdat-e Afghanistan)
Leader: Mohammad Nader Atash

Human Rights Protection and Development Party of Afghanistan (Hizb-e Hifazat az Hoquq-e Bashar wa Inkeshaf-e Afghanistan)
Leader: Baryalai Nasrati

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. **[26d] (p8)**)

National Congress Party of Afghanistan (Hizb-e Kongra-ye Melli-ye Afghanistan)
Leader: Abdul Latif Pedram

Peace Movement (Da Afghanistan Da Solay Ghorzang Gond)
Leader: Shahnawaz Tanai

Islamic People's Movement of Afghanistan (Hizb-e Harak-e Islami-ye Mardum-e Afghanistan)
Leader: Al-Hajj Sayyed Hosain Anwari

Islamic Justice Party of Afghanistan (Hizb-e Adalat-e Islami-ye Afghanistan)
Leader: Mohammad Kabir Marzban

People's Message Party of Afghanistan (Hizb-e Risalat-e Mardum-e Afghanistan)
Leader: Noor Aqa Wainee

People's Welfare Party of Afghanistan (Hizb-e Refah-e Mardum-e Afghanistan)
Leader: Miagul Waseq

National Peace & Unity Party of Afghanistan (Hizb-e Sulh wa Wahdat-e Melli-ye Afghanistan)
Leader: Abdul Qader Imami

Understanding and Democracy Party of Afghanistan (Hizb-e Tafahum-e wa Demokrasi-ye Afghanistan)
Leader: Ahmad Shaheen

Young Afghanistan's Islamic Organization (Sazman-e Islami-ye Afghanistan-e Jawan)
Leader: Sayyed Jawad Husaini

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

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Islamic Unity Party of Afghanistan (Hizb-e Wahdat-e Islami-ye Afghanistan)
Leader: Mohammad Karim Khalili. The International Crisis Group (ICG) noted in June 2005 that:

"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 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." **[26d] (p8)**

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." **[26d] (p8)**)

People's Liberal Freedom Seekers Party of Afghanistan (Hizb-e Libral-e Azadi-ye Khwa-e Mardum-e Afghanistan)
Leader: Ajmal Sohail

People's Prosperity Party of Afghanistan (Hizb-e Falah-e Mardum-e Afghanistan)
Leader: Ustad Mohammad Zareef

Solidarity Party of Afghanistan (Hizb-e Hambastagi Afghanistan)
Leader: Abdul Khaleq Ne'mat

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

National Movement of Afghanistan (Hizb-e Nahzat-e Melli-ye Afghanistan)
Leader: Ahmad Wali Masood

National Peace Islamic Party of Afghanistan (Da Afghanistan Da Solay Melli Islami Gond)
Leader: Shah Mahmud Popalzai

People's Aspirations Party of Afghanistan (Hizb-e Arman-e Mardum-e Afghanistan)
Leader: Al-Hajj Sirajuddeen Zafari

National Solidarity Party of Afghanistan (Hizb-e Paiwand-e Melli-ye Afghanistan)
Leader: Sayyed Mansur Naderi

National Prosperity and Islamic Party of Afghanistan (Hizb-e Sahadat-e Melli wa Islami-ye Afghanistan)
Leader: Mohammad Osman Salekzada

Freedom Party of Afghanistan (Hizb-e Azadi-ye Afghanistan)
Leader: Abdul Malik

People's Uprising Party of Afghanistan (Hizb-e Rastakhaiz-e Mardum-e Afghanistan)
Leader: Sayyed Zaher Qaydam Al-beladi

Peace and National Welfare Activists Society (Majmah-e Melli-ye Fahalin-e Sulh-e Afghanistan)
Leader: Shams al-Haq Nur Shams

Islamic Party of the Afghan Land (Da Afghan Watan Islami Gond)
Leader: Mohammad Hassan Ferozkhel

People's Freedom Seekers Party of Afghanistan (Hizb-e Azadi-ye Khwa-e Mardum-e Afghanistan)
Leader: Fida Mohammad Ehsass

Muslim Unity Movement Party of Afghanistan (Hizb-e Wahdat-ul-Muslimeen Afghanistan)
Leader: Wazir Mohammad Wahdat

Tribes Solidarity Party of Afghanistan Hizb-e Hambastagi-ye Melli-ye Aqwam-e Afghanistan)
Leader: Mohammad Zareef Naseri

National Islamic Moderation Party of Afghanistan (Hizb-e Etedaal Melli Islami ye Afghanistan)
Leader: Qara Baik Izadyar

National Development Party of Afghanistan (Hizb-e Taraqi Melli ye Afghanistan)
Leader: Dr. Assef Baktash

National Independence Party of Afghanistan (Hezb-e-Isteqlal Milli Afghanistan)
Leader: Taj Mohammad Wardak

National Islamic Unity Party of Afghanistan (Hizb-e Wahdat-e Melli-ye Islami-ye Afghanistan)
Leader: Mohammad Akbari

People's Sovereignty Movement of Afghanistan (Nahzat-e Hakimyat-e Mardum-e Afghanistan)
Leader: Hayatullah Subhani

National Islamic Movement of Afghanistan (Hizb-e Junbish-e-Melli-ye Afghanistan)
Leader: Sayed Noorullah **[65a]** 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]** 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]**

Islamic Unity of the Nation of Afghanistan Party (Hizb-e Wahdat-e-Islami Millat-e-Afghanistan)

Leader: Qurban Ali Irfani

Elites People of Afghanistan Party (Hib-e Nukhbagan-e Mardum-e-Afghanistan)
Leader: Abdul Hamid Jawaad

National Country Party
Leader: Ghulam Mohammad

National Freedom Seekers Party (Hizb-e-Azaadi Khwahan-e-Maihan)
Leader: Abdul Hadi Dabeer

National Patch of Afghanistan Party (Hib-e-Paiwand-e-Mehanee Afghanistan)
Leader: Sayyed Kamal Sadaat

Islamic Society of Afghanistan (Jami'at-e Islami-ye Afghanistan)
Leader: Ustad Rabbani

Afghanistan's Islamic Mission Organization (Tanzim-e Dahwat-e Islami-ye Afghanistan)
Leader: Abdul Rabb Rasool Sayyaf

People's Party of Afghanistan (Hizb-e Mardum-e Afghanistan)
Leader: Ahmad Shah Asar

National Stability Party (Hizb-e Subat-e Melli)
Leader: Mohammad Sami Kharotai

National Islamic Fighters Party of Afghanistan (Da Afghanistan Da Melli Mubarizinu Islami Gond)
Leader: Amanat Nangarhari

Democratic Party of Afghanistan (Hizb-e-Democrat-e-Afghanistan)
Leader: Abdul Kabir Ranjbar

People's Movement of the National Unity of Afghanistan (Da Afghanistan da Melli Wahdat Wolesi Tahreek)
Leader: Abdul Hakim Noorzai

National Sovereignty Party (Hizb-e-Iqtedar Melli)
Leader: Sayyed Mustafa Kazimi

New Afghanistan Party (Hezb-e-Afghanistan Naween)
Leader: Mohammad Yunis Qanuni

National Prosperity Party (Hizb-e Refah-e Melli)
Leader: Mohammad Hasan Jahfari

National Stance Party (Hizb-e-Melli Dareez)
Leader: Habibullah Janebdar

Afghanistan's Welfare Party (Hizb-e Refah-e Afghanistan)
Leader: Mir Mohammad Asef Za'ifi

Afghanistan's Islamic Nation Party (Hizb-e-Umat-e-Islami Afghanistan)
Leader: Tooran (Captain) Noor Aqa Ahmadzai

Afghanistan's National Islamic Party (Hizb-e-Melli Islami Afghanistan)
Leader: Ruhullah Ludin

The People of Afghanistan's Democratic Movement (Hizb-e-Junbish- Democracy Mardum-e-Afghanistan)
Leader: Mohammad Sharif Nazari

Progressive Democratic Party of Afghanistan (Hizb-e-Mutaraqi Democaraat Afghanistan)
Leader: Mohammad Wali Aria

Democratic Party of Afghanistan (Hizb-e-Democracy Afghanistan)
Leader: Al-hajj Mohammad Tawoos Arab

Muslim People of Afghanistan Party (Hizb-e-Mardum-e-Muslman-e-Afghanistan)
Leader: Bismillah Joyan

Hizullah-e-Afghanistan
Leader: Qari Ahmad Ali

Islamic Party of Afghanistan (Hizb-e-Islami Afghanistan)
Leader: Mohammad Khalid Farooqi

Comprehensive Movement of Democracy and Development of Afghanistan Party (Hizb-e-Nahzat Faragir Democracy wa Taraqi-e-Afghanistan)
Leader: Sher Mohammad Bazgar

Afghanistan Peoples' Treaty Party (Hizb-e-Wolesi Tarhun Afghanistan)
Leader: Sayyed Amir Tahseen

United Islamic Party of Afghanistan (Hizb-e-Mutahed Islami Afghanistan)
Leader: Wahidullah Sabawoon

Islamic Movement of Afghanistan Party (Hizb-e-Nahzat-e-Melli Islami Afghanistan)
Leader: Mohammad Mukhtar Mufleh

National and Islamic Sovereignty Movement Party of Afghanistan (Hizb-e-Eqtedar-e-Melli wa Islami Afghanistan)
Leader: Engineer Ahmad Shah Ahmadzai

The Afghanistan's Mujahid Nation's Islamic Unity Movement (Da Afghanistan Mujahid Woles Yaowaali Islami Tahreek)
Leader: Saeedullah Saeed

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OTHER POLITICAL 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. **[73b]** Hekmatyar was designated a terrorist by the US State Department on 18 February 2003 (US Department of the Treasury, Office of Foreign Assets Control, 17 July 2008) **[5a]**

The Long War Journal reported on 7 April 2008:

> "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 Annex C: Armed Groups)

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 also Annex C: Armed Groups)

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. **[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." **[26d] (p9)** In June 2005, the ICG **[26d] (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." **[45a]**

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." **[26d] (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). **[29f]**

However, Europa World Online recorded the following information: "Founded 2007; informal political grouping incl. fmr mems of United Front; advocates parliamentary system of govt rather than presidential system; mems incl. Younis Qanooni, Ahmad Zia Masoud, Gen. Abdul Rashid Dostam and Marshal Muhammed Qassim Fahim." The Chairman is Professor Burhanuddin Rabbani. **[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)

The United Nations High Commissioner for Refugees (UNHCR) *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, July 2009 recorded:

> "The People's Democratic Party of Afghanistan (PDPA) was formed in 1965 by Nur Mohammad Taraki on Marxist/Leninist ideology due to domestic discontent and the absence of political freedoms. It believed in a one-party, heavily secularized state, and was particularly intolerant of political opposition from its Islamist rivals. The PDPA eventually split into the Khalq (People) and Parcham (Flag) branches. After the Khalq faction of the PDPA deposed the ruling party through a coup carried out by its supporters in the military in 1978 (the Saur Revolution), it formed a government that was violently intolerant of political opposition. The Soviet-supported PDPA government's attempts at forcible reform of polity and society resulted in a surge of support for its Islamist rivals, who attempted to oust it with Pakistani support. In 1977, the two factions reunited under Soviet pressure and its name was changed to Watan (Homeland) Party. It 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 Taleban troops entering Kabul in September 1996. In late 2003, a congress of the People's Democratic Party of Afghanistan (PDPA) took place in Afghanistan, which led to the creation of Hezb-e-Mutahid-e-Mili (National United Party), a party registered in 2005 then comprising 600 members. Former PDPA members have also reportedly founded several other parties. Most recently, a new parliamentary group, the United National Front, was inaugurated on 12 March 2007 as a broad coalition of former and current militia leaders, commanders from the anti-Soviet resistance, ex-Communist leaders, and various representatives of social and ethnic groups." **[11a] (p29)**

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." **[49a]**

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)**

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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 Annex C: Armed Groups)

United National Islamic Front for the Salvation of Afghanistan (UIFSA) – commonly known as the Northern Alliance or United Front
The United National Islamic Front for the Salvation of Afghanistan is an anti-Taliban coalition that superseded the Supreme Council for the Defence of Afghanistan in June 1997. **[1f] (p60)** Europa World Online, accessed on 28 January 2010, recorded that:

"The alliance was reported to have been expanded and strengthened in early June 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: Armed groups

Taliban (Taleban)

The British Broadcasting Corporation (BBC recorded on 18 June 2009 that "The Taliban emerged in the early 1990s in northern Pakistan following the withdrawal of Soviet troops from Afghanistan. A predominantly Pashtun movement, the Taliban came to prominence in Afghanistan in the autumn of 1994." **[25h]**

The UN Security Council reported in November 2008 that:

> "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." **[39f] (p2)**
>
> "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)**

The New York Times (NYT) stated that: "The Taliban grew out of a student movement dedicated to purifying the country, based in the Pashtun region in the country's southeast. Their rise was initially greeted with relief by many Afghans weary of the corruption and brutality of the warlords who had fought for control in the years after the end of Soviet occupation.

> "Once in power, the group imposed strict enforcement of fundamentalist Islamic law, banning movies, music and forcing women out of schools and into all-enveloping burqa clothing. The Taliban also provided a haven for Osama bin Laden and his Al Qaeda organization. International condemnation of its harsh measures had little effect on the regime, which seemed almost to welcome pariah status." **[28c]**

After the attack on the World Trade Center in New York on Sept. 11, 2001, the US launched an air and ground campaign that same year in Afghanistan, putting an end to the Taliban regime. However, "…the Taliban continued to exist, living as a guerrilla warfare operation based in the mountainous and largely lawless tribal area on the Pakistan-Afghanistan border. As the American military focus was diverted to the invasion and occupation of Iraq, the Taliban regrouped and began to extend its influence in the southern part of Afghanistan." (NYT, 23 April 2009) **[28c]**

In February 2009 three Pakistani powerful Taliban commanders - Baitullah Mehsud, Hafiz Gul Bahadur and Maulavi Nazir in North and South Waziristan:

The main text of this COI Report contains the most up to date publicly available information as at 18 March 2010. Further brief information on recent events and reports has been provided in the Latest News section to 8 April 2010.

> "…formed a united council, or shura, called the Council of United Mujahedeen. In a printed statement the leaders vowed to put aside their disputes and focus on fighting American-led forces in Afghanistan.The new Taliban alliance has raised concern in Afghanistan, where NATO generals warn that the conflict will worsen this year. It has also generated anxiety in Pakistan, where officials fear that a united Taliban will be more dangerous, even if focused on Afghanistan, and draw more attacks inside Pakistan from United States drone aircraft." (NYT, 23 April 2009) **[28c]**

The International Council on Security and Development (ICOS) (formerly 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)**

> However, the USSD report on Terrorism, 2008 reported that "The Government of Afghanistan continued to strengthen its national institutions, and some polls indicated the majority of Afghans believed they were better off than they were under the Taliban." **[2d] (p10)**

The International Council on Security and Development (ICOS) (formerly Senlis Council) also reported that:

> "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." **[20b] (p54)**

The International Council on Security and Development (ICOS) (formerly 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)**

The International Council on Security and Development (ICOS) (formerly Senlis Council) 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)**

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]**

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Former Taliban Members

A New York Times article in March 2009 noted that over 6000 former Taliban members had moved over to the government side since the fall of the Taliban, however, very few senior Taliban commanders had been persuaded to convert. (NYT, 11 March 2009)

[28a] The article noted that "…Mullah Salam, a former Taliban commander who was persuaded by the British, with the aid of the Afghan president, Hamid Karzai, to cross sides in 2007. He remains ostensibly loyal to NATO forces, and some British officials mention him as an example of how a campaign to woo Taliban district commanders might work." **[28b]**

Haqqani network

A Reuters article in February 2009 reported that the Haqqani network was "Headed by Jalaluddin Haqqani… is allied with the Taliban and is believed to be linked to al Qaeda. It has been behind several high-profile attacks in Afghanistan. Effective leadership of the group has now passed from Jalaluddin, who is in his 70s, to his more radical eldest son Sirajuddin, security analysts say." **[24b]**

The article further noted that "The senior Haqqani rose to prominence during the 1980s, receiving weapons and funds from the CIA and Saudi Arabia to fight the Soviet occupation and has also had long-standing links with Pakistan's military Inter-Services Intelligence (ISI). After the Taliban captured Kabul in 1996, Haqqani sided with the austere Islamist movement and became a government minister." **[24b]**

The Haqqani network is operative in the eastern provinces of Khost and Paktya and 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)**

In March 2009 Sirajuddin told Reuters that his group was "…under the overall command of Taliban leader Mullah Omar and admitted ties with al Qaeda but said he did not need its support." **[24b]**

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

The UN Security Council reported on 10 November 2008 that "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." **[39d] (p4)**

A Reuters article in February 2009 reported that:

> "Founded by Gulbuddin Hekmatyar, Hizb-i-Islami was one of the main mujahideen groups fighting the Soviet invasion in the 1980s, receiving the lion's share of U.S. and Saudi arms and money channelled through the Pakistani intelligence service.
>
> "After the Soviet withdrawal Hekmatyar fought and made fleeting alliances with most other mujahideen factions during the resulting civil war and is credited with killing thousands in Kabul with indiscriminate rocket attacks on the capital." **[24b]**

The article further noted that:

> "Pakistan dropped the party in 1994 in favour of the Taliban and, after losing to Mullah Omar's forces, Hekmatyar fled to Iran in 1997. Many of his fighters

> joined Taliban ranks. After the Sept. 11 attacks Hekmatyar declared himself against the U.S. invasion, was expelled by Iran and returned to his homeland to take up the fight in alliance with the Taliban… With many of his former lieutenants now either in parliament or government, Hekmatyar has declared himself against suicide bombings and there have been a number of false Afghan media reports that he has made peace with the Afghan government." **[24b]**

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]**

Former Hizb-e-Islami Members

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)**

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)**

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Al Qa'ida (Al-Qaeda)

The BBC Timeline on Afghanistan updated 7 August 2008 noted that 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." **[25d]**

A Reuters article in February 2009 reported that "Following the 2001 U.S.-led invasion of Afghanistan, al Qaeda leaders, including bin Laden, are believed to have fled to neighbouring Pakistan, seeking refuge in the tribal areas. Al Qaeda is not now believed to play a leading role in Afghanistan but other militant groups operating inside Afghanistan, particularly the Haqqani network, claim to have close links to the group." **[24b]**

(See also Section 8: Kabul)

Jamat Sunat al-Dawn Salafia

In a special report by the Secretary General to the UN Security Council dated 3 July 2008 noted that "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." **[39d] (p4-5)**

(See also Section 12: Abuses by Non-Government Armed Forces)

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Annex D: Prominent people

Hamid Karzai

"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, 20 November 2008, accessed 16 July 2009) **[25y]**

Yunnus Qanuni

"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, 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, 20 November 2008, accessed 16 July 2009) **[25y]**

Sibghatullah Mojaddedi

"A former mujahideen leader, Mr Mojadidi is the Speaker of the upper house of parliament, the Meshrano Jirga. He has played an important and influential part since the fall of the Taleban.

"He was made chairman of the constitutional Loya Jirga in 2003, a delicate process which involved reconciling the interests of Afghanistan's different ethnic groups. Since March 2005, he has headed Afghanistan's National Peace Commission, the body for implementing the process of national reconciliation through the surrender and absorption of former Taleban members." (BBC News, 20 November 2008, accessed 16 July 2009) **[25y]**

General Rashid Dostum

"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. Mr Dostum still heads the Junbesh-e Melli Islami (National Islamic Movement), a predominantly Uzbek militia faction. He was one of the most high-profile candidates to challenge Mr Karzai in the presidential elections in October 2004.

"A 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, 20 November 2008, accessed 16 July 2009) **[25y]**

Burhanuddin Rabbani

"A former Afghan president, Mr Rabbani was elected as an MP from Badakshan in 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, 20 November 2008, accessed 16 July 2009) **[25y]**

Marshall Mohammed Qasim Fahim

"The former defence minister used to be one of the most powerful men in the country but has been sidelined. He lost his place in the cabinet and is now a member of the upper house. 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, 20 November 2008, accessed 16 July 2009) **[25y]**

General Atta Mohammad

"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, Gen Atta briefly joined forces with Gen Dostum to recapture Mazar-e-Sharif from the Taleban in 2001. For now, he remains a key regional player in Afghanistan with considerable influence." (BBC News, 20 November 2008, accessed 16 July 2009) **[25y]**

Gul Agha Sherzai

"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, 20 November 2008, accessed 16 July 2009) **[25y]**

Masooda Jalal

"The only female candidate in the October 2003 [*Sic*] [2004] presidential elections, Dr Jalal was the subject of much media attention. 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, 20 November 2008, accessed 16 July 2009) **[25y]**

Abdul Rassoul Sayyaf

"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." (BBC News, 20 November 2008, accessed 16 July 2009) **[25y]**

Gulbuddin Hekmatyar

The BBC News description of Gulbuddin Hekmatyar on 20 November 2008 stated:

"Leader of the Hezb-e Islami faction, 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 Hezb-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. The faction of his party which broke away to participate in the electoral process garnered the largest number of seats." **[25y]**

Hazrat Ali

An International Council on Security and Development (Formerly known as the 'Senlis Council') report published in April 2009 described Hazrat Ali as:

"Born in 1964, he is a member of the Pashai minority. His emergence as an important leader came during the Soviet occupation - he was an Afghan army commander under the Soviet puppet regime. During the war against the Taliban he is said to have aligned with Ahmad Shah Massoud. Following the fall of the Taliban he set up the Eastern Shura (local provisional government) in the Jalalabad/Tora Bora area, where he was the 'Minister of Law and Order'. In 2001, the Pentagon is said to have asked the Shura for military help in finding Bin Laden and Al-Qaeda.

"He was appointed as police chief for Jalalabad by Karzai. In the late 2005 Wolesi Jirga election he won a seat for Nangarhar. He has a following in Nangarhar province but remains a controversial figure in many areas. He has become less prominent on the Afghan political scene in the last period." **[20a] (p32)**

Abdol Karim Khalili (General)

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]**

Ahmed Shah Masoud [Massood] (General)

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]**

Mullah Mohammad Omar

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, 18 June 2009) **[25h]**

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Annex E: List of Abbreviations

AI	Amnesty International
AIHRC	Afghanistan Independent Human Rights Commission
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
IEC	Independent Election Commission
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
MOI	Ministry of Interior
MOJ	Ministry of Justice
MoIC	Ministry of Information and Culture
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

The main text of this COI Report contains the most up to date publicly available information as at 18 March 2010. Further brief information on recent events and reports has been provided in the Latest News section to 8 April 2010.

WFP	World Food Programme
WfWI	Women for Women International
WHO	World Health Organization

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