

## COUNTRY REPORT

# AFGHANISTAN

11<sup>th</sup> EUROPEAN

## COUNTRY OF ORIGIN INFORMATION SEMINAR

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A hard copy of the full report (Afghanistan & Iraq) is available.

Disclaimer: The views and opinions stated in the report do not necessarily reflect the views of the organizers of the seminar. This paper is not, and does not, purport to be, fully exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum.

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November 2007

Editor: Boris Panhölzl (ACCORD)

# AFGHANISTAN

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## Afghanistan Country Profile

### Country name:

*Conventional long form:* Islamic Republic of Afghanistan

*Conventional short form:* Afghanistan

*Local long form:* Jomhuri-ye Eslami-ye Afghanistan

*Local short form:* Afghanistan

*Former:* Republic of Afghanistan



**Capital:** Kabul

**Area:** 647,500 sq km

**Population:** 31,889,923 (2007 est.)

**Ethnic Groups:** Pashtun 42%, Tajik 27%, Hazara 9%, Uzbek 9%, Aimak 4%, Turkmen 3%, Baloch 2%, other 4%

**Religions:** Sunni Muslim 80%, Shi'a Muslim 19%, other 1%

**Languages:** Afghan Persian or Dari (official) 50%, Pashtu (official) 35%, Turkic languages (primarily Uzbek and Turkmen) 11%, 30 minor languages (primarily Balochi and Pashai) 4%, much bilingualism

**Divisions:** 34 provinces (*velayat*); Badakhshan, Badghis, Baghlan, Balkh, Bamian, Daykondi, Farah, Faryab, Ghazni, Ghowr, Helmand, Herat, Jowzjan, Kabul, Kandahar, Kapisa, Khowst, Konar, Kondoz, Laghman, Lowgar, Nangarhar, Nimruz, Nurestan, Oruzgan, Paktia, Paktika, Panjshir, Parvan, Samangan, Sar-e Pol, Takhar, Vardak, Zabol

### Executive branch:

**Chief of state:** President of the Islamic Republic of Afghanistan Hamid KARZAI (since 7 December 2004); Vice Presidents Ahmad Zia MASOOD and Abdul Karim KHALILI (since 7 December 2004); *note* - the president is both the chief of state and head of government; former King ZAHIR Shah holds the honorific, "Father of the Country," and presides symbolically over certain occasions but lacks any governing authority; the honorific is not hereditary

**Head of government:** President of the Islamic Republic of Afghanistan Hamid KARZAI (since 7 December 2004); Vice Presidents Ahmad Zia MASOOD and Abdul Karim KHALILI (since 7 December 2004)

*Government's website:* <http://www.afghangovernment.com>

**Cabinet:** 25 ministers; *note* - under the new constitution, ministers are appointed by the president and approved by the National Assembly

**Elections:** 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 9 October 2004 (next to be held in 2009).

*Election results:* Hamid KARZAI elected president; percent of vote - Hamid KARZAI 55.4%, Yunus QANUNI 16.3%, Ustad Mohammad MOHAQQEQ 11.6%, Abdul Rashid DOSTAM 10.0%, Abdul Latif PEDRAM 1.4%, Masooda JALAL 1.2%

### Legislative branch:

**Parliament:** The bicameral National Assembly consists of the Wolesi Jirga or House of People (no more than 249 seats), directly elected for five-year terms, and the Meshrano Jirga or House of Elders (102 seats, one-third elected from provincial councils for four-year terms, one-third elected from local district councils for three-year terms, and one-third nominated by the president for five-year terms).

**Elections:** Last held 18 September 2005 (next to be held for the Wolesi Jirga by September 2009; next to be held for the provincial councils to the Meshrano Jirga by September 2008).

*Election results:* The single non-transferable vote (SNTV) system used in the election did not make use of political party slates; most candidates ran as independents.

**Judicial branch:**

The constitution establishes a nine-member Stera Mahkama or Supreme Court (its nine justices are appointed for 10-year terms by the president with approval of the Wolesi Jirga) and subordinate High Courts and Appeals Courts; there is also a minister of justice; a separate Afghan Independent Human Rights Commission established by the Bonn Agreement is charged with investigating human rights abuses and war crimes.

**Political Parties:**

The political parties law obliges parties to register with the MOJ and required political parties to pursue objectives that were consistent with the principles of Islam. Political parties based on ethnicity, language, Islamic school of thought, and religion were not allowed. Parties generally were able to conduct activities throughout the country without opposition or hindrance, except in regions where antigovernment violence affected overall security. There were 91 registered political parties at the end of 2006.

**Main political parties and pressure groups (including their leaders):**

- Afghanistan Independence Party / Hizb-e Istiqlal-e Afghanistan [Faruq Nejrabi]
- Afghan Nation (Afghan Social Democratic Party) / Afghan Mellat [Anwar al-Haq Ahadi]
- Islamic Movement of Afghanistan / Harakat-e Islami-ye Afghanistan [Mohammad Assef Mohseni]
- Islamic Unity Party of Afghanistan / Hizb-e Wahdat-e Islami-ye Mardum-e Afghanistan [Mohammad Mohaqeq]
- National Congress Party of Afghanistan / Hizb-e Kongra-ye Melli-ye Afghanistan [Abdul Latif Pedram]
- National Islamic Movement of Afghanistan / Hizb-e Junbish-e Melli-ye Afghanistan [Abdul Rashid Dostum]
- National Solidarity Movement of Afghanistan / Nahzat-e Hambastagi-ye Melli-ye Afghanistan [Sayyed Eshaq Gailani]
- National Unity Party / Tahrik-e Wahdat-e Melli [Sultan Mahmud Ghazi]
- Republican Party of Afghanistan / Hibz-e Jamhuri Khwahan-e [Sebghatullah Sanjar]

**Social and economic data:**

Age structure: *0-14 years*: 44.6% (male 7,282,600 / female 6,940,378), *15-64 years*: 53% (male 8,668,170 / female 8,227,387), *65 years and over*: 2.4% (male 374,426 / female 396,962) (2007 est.)

Population growth rate: 2.625% (2007 est.)

Life expectancy at birth: *total population*: 43.77 years, *male*: 43.6 years, *female*: 43.96 years (2007 est.)

GDP (purchasing power parity): \$21.5 billion (2004 est.) / per capita: \$800 (2004 est.)

GDP - real growth rate: 8% (2006 est.)

Currency (code): Afghani (AFA)

**Sources:**

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<http://www.crisisgroup.org/home/index.cfm?id=1266&l=1>

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<http://www.afghanconflictmonitor.org>

Internal Displacement Monitoring Centre – Afghanistan (IDMC)

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Afghanistan Research and Evaluation Unit (AREU)

<http://www.areu.org.af>

Afghanistan Independent Human Rights Commission (AIHRC)

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Map No. 3958 Rev. 5 UNITED NATIONS  
October 2006

Department of Peacekeeping Operations  
Cartographic Section

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## Abbreviations

AC – Afghanistan Compact  
ADF – Afghanistan Development Forum  
AGE – Anti-Government Elements  
AMF – Afghan Military Forces  
ANA – Afghan National Army  
ANAP – Afghan National Auxiliary Police  
ANDS – Afghan National Development Strategy  
ANP – Afghan National Police  
BAFIA – Bureau of Aliens and Foreign Immigrant Affairs (Iran)  
CAR – Commissionerate for Afghan Refugees (Pakistan)  
DDR – Disarmament, Demobilization and Reintegration  
DIAG - Disbandment of Illegal Armed Groups  
DoRR – Provincial Departments of the Afghan Ministry of Refugees & Repatriation  
ECOSOC – Economic and Social Council  
FATA – Federally Administered Tribal Areas (Pakistan)  
GIRI – Government of the Islamic Republic of Iran  
GOA – Government of Afghanistan  
GOP – Government of Pakistan  
HDI – Human Development Index  
IAG – Illegal Armed Group  
I-ANDS – Interim Afghan National Development Strategy  
IC – International Community  
ICCPR – International Covenant on Civil and Political Rights  
ICRC – International Committee of the Red Cross  
IDP – Internally Displaced Persons  
IED – Improvised Explosive Device  
IFA – Internal Flight Alternative / Internal Protection Alternative / Internal Relocation Alternative  
ISAF – International Security Assistance Force  
MDG – Millennium Development Goals  
MoRR – Ministry of Refugees & Repatriation  
MOU – Memorandum of Understanding  
NDS – National Directorate of Security (Afghan domestic intelligence service)  
NSA – Non-State Actor  
PDPA – People’s Democratic Party  
PoR – Proof of Registration  
PRT – Provincial Reconstruction Teams  
SSR – Security Sector Reform  
UNAMA – United Nations Assistance Mission in Afghanistan  
UXO – Unexploded Ordnance  
VBIED – Vehicle Borne Improvised Explosive Device

**Barbara J. Stapleton****Afghanistan at the Cross Roads**

Presentation at the 11<sup>th</sup> European Country of Origin Information Seminar

Vienna, 21-22 June 2007

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## 1. Introduction

*“Despite all that has gone before, Afghans are still, daily, confronted by death, destruction, dislocation, uncertainty, suffering and grief. Many are destitute. ... The recent escalation of the conflict has reinforced that the burden faced by Afghans today is at least as great as ever.”*

(Reto Stocker, Head of Delegation, at the opening ceremony in Kabul to the mark 20<sup>th</sup> Anniversary of ICRC’s permanent presence in Afghanistan, 12 June 2007)

On 12 June 2007 in a ceremony in Kabul ICRC commemorated 20 years of its permanent presence in Afghanistan. In fact ICRC has been working in the country for 28 years in total. The occasion was used by this most professional of humanitarian organisations to warn the world that the humanitarian situation in Afghanistan was worse than it had been a year ago and that insecurity was spreading amid escalating conflict. In the 2 weeks since I have left Kabul these words have taken on additional relevance with an appalling rash of suicide bomb attacks in Uruzgan and Kabul on 15, 16 and 17 June, one of which killed 25 police trainers. A gun attack on a girls school close to Kabul on 12 June killed 2 females with 2 other females and a child wounded, a major bomb attack in Kabul killing 25 police trainers, wire reports on 19 June indicated that at least ten civilians had been killed in the Chora district of Uruzgan following clashes with the Taliban. On the same day, the Agency Coordinating Body for Afghan Relief (ACBAR) issued a statement on the urgent need to protect Afghan civilians during the conduct of military operations by Afghan and international military forces - the killing of 7 children in an air strike in Paktika on 17 June being a further case in point.

The ICRC had remained publicly silent about the political and security situation in Afghanistan, now they have spoken out in the clearest of terms. ICRC used the 20 year anniversary of their presence in Afghanistan as the hook to do so, stating regret that ICRC’s presence is still required in Afghanistan, and highlighting the effects of the recent escalation in the conflict on the Afghan people in terms of reinforcing the burden that Afghans continue to face in terms of security and conflict.

This situation informs the perception of Afghan refugees in camps set for closure in Baluchistan and other parts of the Pakistan border area. Many fear being returned because they do not see any security or job opportunities in Afghanistan. And if Afghans are to return in significant numbers this needs to be done in a seemly fashion that can work given the crisis in services in Afghanistan’s urban centres. Most refugees tend to drift back to urban centres for the job opportunities they provide. Deteriorating security is also militating against rehabilitation and development even in the urban centres.

Afghanistan sits virtually at the bottom of the HDI league. Infant and maternal mortality rates remain amongst the highest in the world. The immense

- Afghanistan’s HDI value (0.346) places it just above Burundi, Mali and Sierra Leone
- Life expectancy hovers around 44.5 years for men and 44 for women (2002, World Bank)
- Infant and maternal mortality rates are among the highest in the world 1:5 children die before the age of 5 and 1 woman dies from pregnancy related causes every 30 minutes
- By 1999 69.5% of Afghans (including 85% of women) were non-literate
- Mental health concerns huge but under-investigated

trauma that Afghans have undergone during the intermittent savagery that has haunted recent decades is virtually unaddressed and certainly unacknowledged for all practical purposes. Afghans find it very hard to think beyond the short term, there has not been a long term in recent living memory.

## 2. Recent History

- 1978 SAUR revolution
- 1979 Soviet invasion
- 1979-1988 "Jihad in a cold war context" (more than 5 million Afghans take refuge in Pakistan and Iran)
- Militarisation of region
- 1989 Withdrawal of Soviet forces
- Collapse of Soviet Union – Afghanistan loses its geo-strategic importance
- 1989-1992 Soviet-backed government of Najibullah holds out against Mujahideen factions
- 1992-1996 Civil War – wide-scale destruction of Kabul (80% destroyed by 1994) - neighbouring countries sponsor different factions
- 1996-2001 Talibanisation
- 11 September AQ attack on World Trade Center triggers US-led "War on Terror"
- October-December US-led coalition plus land forces supplied by largely Tajik and Uzbek Northern Alliance oust the Pashtun-dominated Taliban from power
- Bonn Agreement reached 11 December 2001, Taliban not represented

With the Soviet withdrawal the major Western powers turned their collective back on Afghanistan, despite having used the Afghans for Cold War interests. It is important to understand that Western support for Islamist groups during the Mujahideen "jihad" against the Soviets hugely empowered the Islamist political strand in Afghanistan, of which the Taliban are but one manifestation. How, Afghan intellectuals ask today, do we put this genie back into a bottle?

Outsiders often don't realise that the capital city, Kabul, was destroyed not during the Soviet period of occupation but during the civil war between rival Mujahideen factions that followed the collapse of the Soviet backed government of Najibullah. Interestingly, posters of Najibullah are increasingly visible in many parts of Kabul today, like the high visibility of posters of the former king, Zahir Shah in the southern part of the country. They represent periods of comparative stability and development which are now interpreted as a golden age.

The use of largely Tajik and Uzbek land forces in the overthrow of the Taliban and the subsequent occupation of Kabul by the Northern Alliance who took control of key ministries including Defence, Intelligence and Foreign Affairs, alarmed the majority Pashtun population. At one level they had lost overt political power with the departure of the Taliban. It should be emphasised that the majority of Afghans saw the Taliban as a dead end particularly with relevance to badly needed improvements in jobs, health and education. Afghans were ready for radical changes in the country if those changes provided a bridge from a catastrophic past into a stable future. A future in which development that would guarantee a better life for their children could get underway. Hopes were unrealistically high and were bound to be disappointed - but Afghans did not expect to see political leaders from a discredited past re-

established in power. And this has proved to be one of the major burdens to President Karzai's government, militating against efforts to establish its credibility and legitimacy in Afghan eyes.

The Bonn Agreement (5 December 2001) was strongly supported by the international community. It did not include all the political players, most notably the Taliban were excluded. It established an interim followed by a transitional authority culminating in the elections of 2004 and 2005. The "Bonn Process" itself was punctuated by political benchmarks that included: The Emergency Loya Jirga (2002), The Constitutional Loya Jirga (2004), Presidential elections (2004), Parliamentary and Provincial Council elections (2005) and the formal completion of the Bonn process.

Interestingly, in Annex 1 of the 2001 Bonn Agreement it was recognized that the stability of Afghanistan would be very fragile in the interim period before the Afghan state could develop Afghan security forces at a sufficient level to deal with security threats, and that there would be a need for international assistance in the provision of security. How that need was addressed and handled was arguably one of the key strategic errors made at the outset of the intervention. The decision not to expand peace keeping forces regionally beyond Kabul set the trajectory of Afghanistan's recovery in which "big tent" politics dominated international strategy rather than levelling the playing field and making the fresh political start that many Afghans expected.

### 3. Regional Issues

In addition to internal factors and the nature of the international community's engagement in Afghanistan - which in direct contrast to Iraq had an internationally accepted legal basis - the regional situation remained of critical importance to Afghanistan's chances of moving towards a sustainable stability.

In December 2002, the Kabul declaration of good neighbourly relations was signed by six neighbouring countries including China to respect Afghanistan's independence and territorial integrity.

However, allegations of weapon supplies into Afghanistan from Iran are rife, and the Afghans themselves strongly believe that Pakistan continues to play a double game and has not given up on its former strategy regarding Afghanistan, in which Afghanistan provided defence in depth.

- Cross-border infiltrations are a major security concern.
- 70% and 50% increase in security incidents in Paktika and Khost respectively following the signing of a peace accord in North Waziristan.
- Relationship between Afghanistan and Pakistan deteriorated markedly
- Success of the military Tri-Partite Commission between Afghanistan, Pakistan and ISAF needs to be replicated on a political level.
- Initiatives to improve cross-border dialogue, such as the Regional Peace Jirga, scheduled for August 2007, should be followed up with lower-level working group forums.
- Examples of areas of cooperation include developing policies to allow for migratory labour movements.
- Relationship with Iran came under strain with the deportation of migrants starting in April 2007.

However, international focus which on the part of the US government had already diverted to Iraq in 2002, appeared to neglect ongoing developments in the border regions of Pakistan. These border areas provided anti-government elements with safe havens to melt back into. From 2003 onwards there were numerous reports of Taliban leaders visibly apparent in Quetta (Pakistan), of Taliban movements back and forth across the border seemingly at will with reports of collusion from the Pakistani authorities repeatedly cited in the international and regional press.

With terrorist attacks in the UK linked to Pakistan and the resurgence of the Taliban in Afghanistan from the summer of 2005, far more international focus is now apparent on Pakistan and increasingly Iran. In both countries Afghan economic migrants and illegal refugees risk being used for political ends by both governments. It is also salutary that the forced repatriation of Afghans from Iran was rapidly utilised by powerful and conservative Afghan parliamentarians to call for the dismissal of the reformist Minister of Foreign Affairs, Rangin Dadfar Spanta.

#### 4. Afghan Ownership?

The basis of the international community's engagement was premised on the provision of support to the Afghan government. Thus the concept of Afghan "ownership" of state building processes is central to this supporting role. Yet in reality the Afghan government lacked the capacity at central, provincial or district levels to be an effective partner to the international community.

No-one can provide exact figures when it comes to total amounts of development funding into Afghanistan, but European Community experts believe it to be running at approximately 1 billion Dollars a year. Key state activities will remain dependent on international assistance for the foreseeable future. The Afghan government links its lack of credibility to the fact that three quarters of development funding is not under its financial control. But reports of increasing official corruption do not steady donors' nerves in this regard, while the security situation militates against the ability to conduct meaningful oversight.

The state building challenges in Afghanistan are immense but the added complications and perceived priorities of the "war on terror" often resulted in short-term demands being met at the expense of long term state building processes. This situation was particularly marked in 2002 – 2003, levelled out in 2004 to 2005 and then returned markedly in the face of a growing insurgency threat in the south and south-east. Thus reacting to short term security needs again dominates despite the widely recognised need to address Afghanistan's complex problems in the longer term.

A recent example that epitomises this tendency is the formation of the Afghan National Auxiliary Police in response to security needs. This development flies directly in the face of the imperatives of the process to disband illegal armed groups known as DIAG. DIAG replaced DDR when it formally completed but still left the problem of hundreds of illegal armed groups behind to be dealt with.<sup>1</sup>

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<sup>1</sup> DIAG: Disbandment of Illegal Armed Groups  
DDR: Disarmament, Demobilization and Reintegration

Capacity building is of course the other critical issue when it comes to establishing ownership, but this takes time, and time has been in very short supply in Afghanistan so impetus has been provided too often in the past by buying in technical assistance rather than building it.

## 5. Socio-economic context

In Afghanistan the reverse of the situation in Iraq obtains, i.e., a historically very weak state and a very strong society. The decades of intermittent conflict have resulted in virtually the entire destruction of the country's economic infrastructure. When we talk about rebuilding Afghanistan we are talking very often about *building* Afghanistan. One of the factors that have made development more costly in Afghanistan is the actual state of the infrastructure. Some provinces do not even possess one paved road (for instance: Badakhshan, Badghis, Ghor provinces). The inability of the Afghan state to support the population, or provide livelihoods and opportunities, is one of the factors that decrease the state's legitimacy in the eyes of the population.

Much of the development funding that was allocated in January 2002 at Tokyo for Afghanistan went to the humanitarian requirements caused by the drought (of 2000). The donors had misjudged quite how bad things were in the country.

Afghans have always had to hedge their bets and continue to do so today. Afghan families that can, will attempt to send at least one or two of their offspring to different parts of the world. The remittance economy is an important factor. Studies conducted by the Afghan Research Evaluation Unit (AREU, <http://www.areu.org.af>) and other organizations, on how the majority poor survive in Afghanistan, show that their ability to cross the border to take advantage of seasonal work opportunities in Iran and Pakistan is crucial to the economic survival of many of the majority poor.

Despite assumptions to the contrary, the majority of Afghans do not have access to land: post-Taliban research (by the AREU) estimates only 30% of population have access to land. This results in the majority of the poor resorting to as many as 16 or 17 jobs a year to survive economically, including seasonal cross border work as well as harvesting poppy. Poppy cultivation, being a highly labour intensive process, provides jobs. Poppy was seen as "development" by poor, rural Afghans, providing them with a little bit of disposable income – indicated for instance by the appearance of the first shops in rural villages in parts of Badakhshan in 2003/2004.

Many of the IDPs and returnees are landless as well. A land allocation scheme was launched in 2005 to address their needs, but many sites are inappropriate: lack of water, electricity, arable land, access to services, and security – with some sites of allocated land still containing UXOs (unexploded ordnances).

### The Afghan government's economic strategy

The economic strategy, which has been developed by the government with the engagement and support of the International Community, particularly international finance institutions (IFI and World Bank), presented Afghanistan as a land bridge, that linked Central Asia to South Asia.

The other key factor in the government's strategy was that economic recovery would be led by the private sector.

Factors militating against private sector led economic recovery included the lack of infrastructure (especially power), rising levels of corruption, a lack of enabling legislation, and above all else, deteriorating security.

## 6. Security Sector Reform

The reform of the security sector (SSR) was not part of the Bonn agreement. It was an arrangement agreed by the main donors in Tokyo in January 2002, as security sector reform was vital to the foundations to the establishment of sustainable stability in Afghanistan. Each of the five SSR pillars was assigned to a G8 lead-nation to take the process forward:

Afghan National Army (ANA):	USA
Afghan National Police (ANP):	Germany
Demobilisation, Disarmament & Reintegration (DDR):	Japan
Counter-Narcotics:	United Kingdom
Judicial Reform:	Italy

This country lead did not facilitate a coherent integrated approach to the often inter-related pillars of SSR. For instance, if progress in the justice sector did not keep up with forward movement in police reform, the latter sector was undermined. One of the other areas which showed how limited progress was in SSR, was DDR/DIAG. The Afghan people themselves saw DDR as the leading priority. At a civil society conference prior to the 2004 Berlin donor conference 40 Afghan civil society representatives called DDR the "de facto peace process" but questioned how the DDR process would be effectively implemented. It was the right question and it was never really answered as the very slow progress with DIAG today illustrates.

DDR finished in June 2006 having technically achieved its central goal of demobilising the AMF (Afghan Military Forces). It is important to understand that DDR only targeted militias that nominally came under the control of the Ministry of Defence. DDR did not target hundreds of other militias outside the AMF. Figures of 63,300 individuals being demobilized were given, but many of these were "ghost soldiers". The main achievement of DDR was to remove these ghost soldiers from the payrolls of the Ministry of Defence. The salaries of these ghost soldiers' salaries had been pocketed, with the International Community paying for them via the recurrent budget.

It is still not believed by the Afghans that the weapons that really mattered (including heavy weapons) were actually handed over, either destroyed or cantoned. Afghans still question what the DDR programme actually achieved. And there is also concern that new weapons are entering the country. The northerners viewed the formation of the Auxiliary National Afghan Police in the south and south east with deep suspicion seeing it as a re-armament of the south.

With the formal ending of DDR, DIAG ("Disbandment of Illegal Armed Groups") rendered all militias illegal, and there is an ongoing process of weapon collection. From February 2006 to February 2007, some 26,908 weapons have been collected but many of them are useless and not a single significant illegal armed group (IAG) has been disbanded. Some of the weapons that have been handed in look as if they would be better off in an antique shop than actually

doing real damage out in the field in some way. So, like the DDR, DIAG doesn't look terribly convincing to the Afghans. Additionally, the DIAG benchmark (set in the Afghanistan Compact in January 2006) for all IAGs groups to be disbanded by the end-2007 is widely recognised as being unrealistic.

In terms of Security Sector Reform, the Afghan army (ANA) has been the biggest success. Its success is credited to its having been started from scratch - unlike the police that was largely composed of former militias.

ANA (Afghan National Army), 32,000, to reach 70,000 by 2010

ANP (Afghan National Police), about 50,000, to reach 82,000 by end-2010

ANAP (Afghan National Auxiliary Police), 3,212, to reach 9,063 by 1 May 2007. Focus in South and East – questions on fiscal sustainability and effects on DIAG

## 7. Post-Bonn framework

In January 2006, the *Afghanistan Compact* was agreed in London. This set the terms of the partnership between the International Community and the government of Afghanistan. It is formally premised on a number of specific benchmarks to be achieved within a fixed period of time. The Afghanistan Compact constitutes a multi-year strategic framework (2006-2010) aiming to further peace, stability and the promotion of equitable and broad-based economic growth. In line with the *Interim Afghan National Development Strategy* (I-ANDS), the Compact articulates the partnership in relation to three inter-related pillars:

- (1) security,
- (2) governance, rule of law and human rights and
- (3) economic and social developments

The Compact stresses the interconnectedness between all three pillars. In the area of governance, rule of law and human rights, the Compact places distinct emphasis on establishing functioning institutions at the provincial level. These include civil administration, police, prisons and the judiciary.

The Afghan National Development Strategy (ANDS, <http://www.ands.gov.af>) is an Afghan-led process but also has a lot of expatriate technical assistance. It is informed by the Millennium Development Goals to which the government of Afghanistan added an eighth: security. The full ANDS constitutes the overall strategy agreed between the government and the donors for stabilization and development.

The I-ANDS, incorporating the World Bank requirement of a poverty reduction strategy paper, is to be completed by March 2008, with the first draft of the full ANDS being due on 1 November 2007. Again it is interesting that despite nominal recognition of the importance of consulting the Afghan public and of involving local communities in the future development of the country, the timetables are so tight that little time is left for public consultations (June to

### 8 Pillars of the ANDS:

Security;  
 Governance, Rule of Law and Human Rights;  
 Infrastructure and Natural Resources;  
 Education;  
 Health, Agriculture and Rural Development;  
 Social Protection;  
 Economic Governance & Private Sector Development

### Cross cutting themes:

Gender Equity;  
 Counter Narcotics;  
 Regional Cooperation;  
 Anti-Corruption;  
 Environment

September 2007). The fact that in many areas the Provincial Reconstruction Teams (PRT)<sup>2</sup> will play the key facilitating role for these consultations with communities illustrates the limited progress being made in establishing effective governance at provincial and district levels.

## 8. Security Developments

In the period from 2002 to 2005, meeting the political benchmarks under the Bonn process was the international community's main priority. At the same time the security gap continued to widen as crime levels rose and the insurgency in the south grew. These and other factors limited progress in security sector reform, reconstruction and development.

ISAF peace keeping forces, which the Afghans had expected to expand regionally in 2002 as anticipated in Annex 1 of the Bonn Agreement remained confined to Kabul and its environments. When the UN Security Council adjusted ISAF's mandate in August 2003 expansion occurred very slowly and initially to the comparatively stable north. Without an effective neutral force there was nothing to check those who reasserted themselves in power at the regional, provincial and district levels, to give impetus to DDR or to stop the sharp increases in poppy cultivation from 2002-2003 onwards.

In November 2002 the Provincial Reconstruction Teams (PRT) were launched, at a time in which the donors feared the state building agenda was slipping out of their control. This plan closed off the option of deploying ISAF peacekeeping forces provincially. The PRT's objective was to expand central government authority provincially and to provide an enabling environment for reconstruction and development. Crucially, PRTs were not mandated or resourced to protect Afghan civilians or impact on Afghan human security directly, only indirectly through the virtue of a PRT presence.

As poppy cultivation and trafficking surged from 2002, expanding to new areas, the former Finance Minister Ashraf Ghani, publicly warned that Afghanistan was becoming a narco-state. By 2004 Afghanistan was producing an estimated 87% of the world market share of opium. Narco-criminality strengthened and united forces opposed to the development of an accountable central state and the rule of law, enabling them to coopt state mechanisms.

Remarkably, during this period Afghans commonly viewed the Taliban as "the least of our problems". The major problems they saw were rising levels of crime, absence of the rule of law, the growth of organised crime, corruption, and the inability of the government to have the capacity to provide effective government, particularly the at provincial and district levels as well as at the centre. Rising levels of crime and banditry, land grabs in rural and urban areas, abuse by the de-facto powerful, lack of legal redress, all demonstrated the continuing rule of impunity.<sup>3</sup>

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<sup>2</sup> PRT – Provincial Reconstruction Teams: civil-military teams, 26 located in different parts of the country, some are under command of the Coalition, the majority now under NATO-command. They all nominally come under NATO command

<sup>3</sup> For detailed information on the Afghan's perceptions on security, see: Feinstein International Famine Center, Tufts University: "Mapping the Security Environment: Understanding the Perceptions of Local Communities, Peace Support Operations and Assistance Agencies", (Authors: Antonio Donini et al.), June 2005 (esp. p.8-21)  
[http://fic.tufts.edu/downloads/mapping\\_security.pdf](http://fic.tufts.edu/downloads/mapping_security.pdf) (accessed 25 September 2007)

Afghans and the international community may have different perceptions of security. For example in Helmand or Uruzgan it would be difficult by 2004/2005 for internationals outside of militarised conditions to move freely – while for Afghans security was sometimes reported as more tolerable where the Taliban were in control with their brutal forms of social justice but Afghans were protected from a predatory police. On the other hand the north of the country, regarded by the internationals as being comparatively secure, could be viewed as problematic by Afghans who were exposed to abuse by the powerful and lacked any means of effective redress.

The effects of these developments during the crucial period from 2002 to 2005 led to an erosion of central government legitimacy, declining hopes that the international engagement would deliver Afghanistan from its past, and a “grab what you can while you can” mentality. This mentality is fuelling corruption and has now reached epic proportions in Afghanistan. Perceptions of skyrocketing official corruption acted to affirm the minimal integrity of the Taliban who can claim that they were less corrupt than the current government.

### **Sources of violence**

Sources of violence are complex and inter-related. They include inter-tribal, factional, criminal, narco-criminal and insurgent elements. Additionally, domestic violence is endemic in Afghanistan.

Given the fact that the presence of weapons remains widespread small conflicts can expand very quickly. Conflicts are often triggered by land disputes, disputes that are complicated by decades of flight and return.

### **Insurgency**

The insurgency is driven in the South by the following *internal* drivers:

- very poor levels of governance: appointment of illiterate, corrupt or inefficient governors and/or chiefs of police at provincial and district levels
- reported sale of official positions (for rent seeking activities – e.g., control of roads to Pakistan border to facilitate drug trafficking)
- appointments & sale of positions are also associated with particular tribes, so there are winners and losers within a complex tribal landscape
- access to resources (including government posts) dominated by actors with strong tribal base; key facilitators and beneficiaries of narcotics trade remain powerful even when officially replaced
- total absence of effective, equitable tribal policy
- this leads to marginalisation of other tribes, who then support the opposition to the government

The *external* drivers of insurgency are largely linked to the fact that significant areas of the border regions on the Pakistan side of the Durand line are increasingly beyond the Pakistani Government's control:

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Feinstein International Famine Center, Tufts University: Humanitarian Agenda 2015. Afghanistan Country Study (Author: Antonio Donini), June 2006  
<http://fic.tufts.edu/downloads/HA2015AfghanistanCountryStudy.pdf> (accessed 25 September 2007)

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Vienna, 21-22 June 2007

- the FATA and other tribal regions provide safe haven for insurgents. There are continuing questions as to the levels of cooperation by the Government of Pakistan in controlling cross border movement of insurgents.
- extremist madrassahs continue to proliferate in Pakistan.
- the goal of a comparatively effective Taliban propaganda campaign is to change the Afghan view of the international military from “partners” to “occupiers” - civilian casualties are helping the insurgents reach that objective

The increasing conflict has caused the displacement of 15,000 families (approximately 80,000 persons) from Uruzgan, Helmand and Kandahar provinces. The insecurity in Afghanistan is marked by:

- an increased threat from and destabilization caused by AGE, in the south, south-east and eastern regions and increasingly in the North (e.g. recent suicide bombing in Kunduz, IEDs in Badghis)
- intensified counter-insurgency activities by ISAF include aerial bombardment
- increased incidents in civilian casualties during 2006 and 2007
- continued presence of commanders/warlords<sup>4</sup> and the failure of DIAG, exposing the government’s inability to provide protection. In some provinces the government is unable to provide security beyond district centres.
- abuse of civilians by uniformed agents of the state including police, army and NDS

Since the second half of 2005 onwards there is a marked increase in insurgent-related attacks through the use of:

- a) IEDs (Improvised Explosive Devices), VBIEDs (Vehicle Borne Improvised Explosive Devices, i.e. car bombs), suicide bombers<sup>5</sup>,
- b) targeted assassinations (e.g. the provincial head of Ministry of Women’s Affairs in Kandahar in September 2006),
- c) attacks on "soft targets" such as schools, teachers, journalists and religious figures, MPs, Provincial Council members to end support for the GOA and demonstrate the weakness of the government<sup>6</sup>

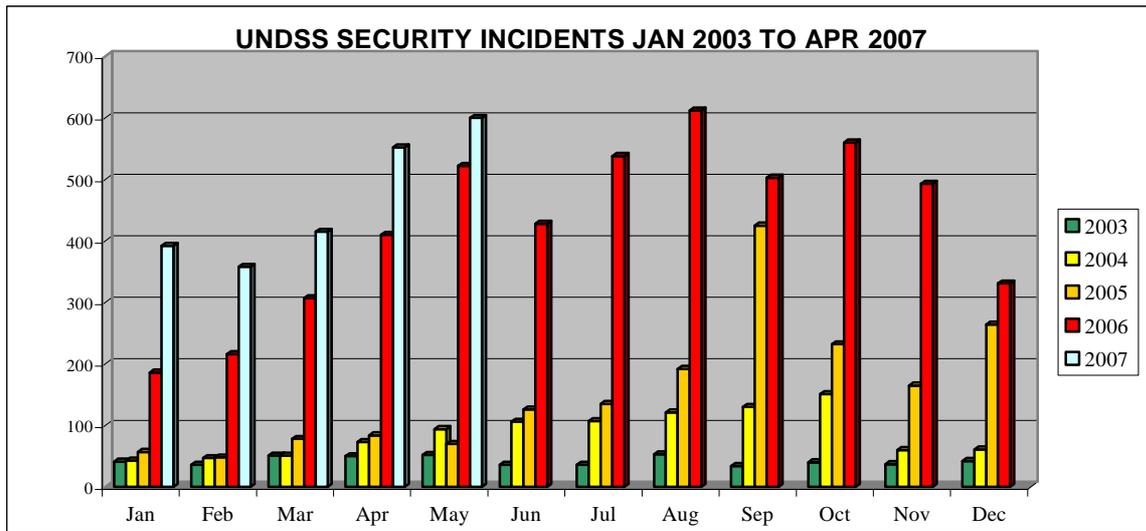
<sup>4</sup> For further information on “warlordism” and the local security architecture in Afghanistan, see: Conrad Schetter/Rainer Glassner/Masood Karokhail: “Beyond Warlordism. The Local Security Architecture in Afghanistan”, *International Politics and Society* No. 2/2007  
[http://www.fes.de/ipg/arc\\_07\\_d/02\\_07\\_d/pdf/10\\_Schetter\\_US.pdf](http://www.fes.de/ipg/arc_07_d/02_07_d/pdf/10_Schetter_US.pdf)

<sup>5</sup> For a detailed study on suicide attacks, a phenomenon comparatively new to Afghanistan, see: UNAMA: “Suicide Attacks in Afghanistan (2001-2007)”, 9 September 2007  
[http://www.unama-afg.org/docs/\\_UN-Docs/unama-suicide-attacks-study.pdf](http://www.unama-afg.org/docs/_UN-Docs/unama-suicide-attacks-study.pdf)

<sup>6</sup> For details on Taliban attacks on civilians, see: Amnesty International (AI): “Afghanistan: All who are not friends, are enemies: Taleban abuses against civilians”, 19 April 2007  
<http://web.amnesty.org/library/Index/ENGASA110012007>

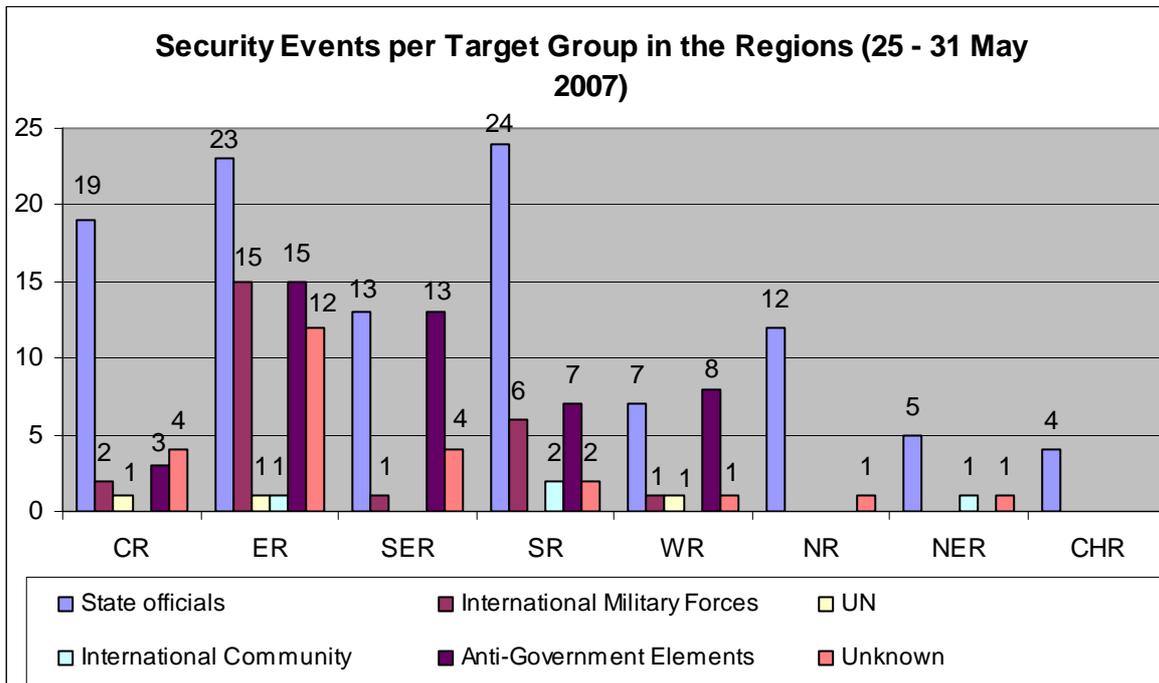
Human Rights Watch (HRW): “The Human Cost; The Consequences of Insurgent Attacks in Afghanistan”, 16 April 2007  
<http://www.hrw.org/reports/2007/afghanistan0407/afghanistan0407webwcover.pdf>

The increase of security incidents is shown in the following figure (Security incidents 2003-2007, per month):



Source: United Nations Department of Safety and Security (UNDSS)

The second figure shows security incidents per target group and region in one week of May 2007:



Source: United Nations Department of Safety and Security (UNDSS)

CR: Central Region, ER: Eastern Region, SER: South-Eastern Region, SR: Southern Region, WR: Western Region, NR: Northern Region, NER: North-Eastern Region, CHR: Central-Highlands Region<sup>7</sup>

<sup>7</sup> "The Central Highlands Region is comprised of Daykundi and Bamiyan provinces. Northern Region includes the provinces of Samangan, Balkh, Jowzjan, Sar-e-Pol, Saryab. Southern Region includes the provinces of Zabul, Uruzgan, Kandahar, Helmand, Nimruz. South-Eastern Region includes the provinces of Ghazni, Paktika, Paktiya, Khost. Central Region includes Loghar, Kabul, Vardak, Kapisa, Parwan, Panjshir provinces. Eastern Region includes the provinces of Nangarhar, Laghman, Kunar, Nuristan. Western Region is comprised of Badghis, Ghawr, Herat, Farah provinces."

Some of the negative effects of insecurity are:

- Delayed/obstructed road building, energy provision (Sangin), airport reconstruction, the census, telecommunications, health
- Diminished range of development projects by NGO and International Organisations professionals
- The right to education undermined in Helmand, Kandahar, Zabul, Uruzgan, Paktika, parts of Ghazni, Khost, Paktia and Kunar
- Over 200 schools burnt, attacked or partially destroyed and 200,000 students were affected by school closure throughout the country<sup>8</sup>
- Prevented effective oversight which would mitigate corruption
- Obstruction of the rule of law
- Limited information by denying access for journalists, NGOs and other civil society actors to many areas
- Prevented academic field research by social anthropologists – social anthropological data still largely based on findings from late 1970s

## 9. Human Rights Context

The legal framework for protection of human rights is fairly good. Afghanistan is signatory to all main international human rights treaties without major reservations. Human rights, including the equality of men and women, are enshrined in the Afghan Constitution.

However, in practice, mainly due to the security and socio-economical situation, the government is not able to provide for protection of even basic rights.

Impunity and corruption are widespread within the political system, carrying on a legacy of the past and preventing a culture of rule of law and human rights from developing.

The cultural and social context is difficult, especially for women and children, and those who challenge the prevailing social norms. The situation of human rights defenders and journalists has markedly deteriorated during the last year.

The formal justice system is weak, and despite reform efforts it will take decades to make it fully functional. In its current state, the mechanisms of justice can not provide for legal protection, and are instead a common source of violation of rights: due process is an exception, while gross miscarriages of justice are the rule.

Estimated 80-90% of Afghans seek justice in the traditional jirgas and shuras because formal justice institutions are either non-existent, non-functional or lack legitimacy in the eyes of the people.<sup>9</sup> Although the informal mechanisms of dispute resolution can function fairly well in

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*(footnote 7 cont.)* UNAMA, "Suicide Attacks in Afghanistan (2001-2007)", 9 September 2007, p.129 [http://www.unama-afg.org/docs/\\_UN-Docs/unama-suicide-attacks-study.pdf](http://www.unama-afg.org/docs/_UN-Docs/unama-suicide-attacks-study.pdf)

<sup>8</sup> For further details on attacks on schools, see for instance: Human Rights Watch (HRW): "Lessons in Terror – Attacks on Education in Afghanistan", July 2006 <http://www.hrw.org/reports/2006/afghanistan0706/afghanistan0706webfull.pdf>

<sup>9</sup> For more information on the traditional/informal justice system in Afghanistan, see: US Institute of Peace (USIP): "The Clash of Two Goods. State and Non-State Dispute Resolution in Afghanistan" (Authors: Thomas Barfield, Neamat Nojumi, J. Alexander Thier), November 2006 [http://www.usip.org/ruleoflaw/projects/clash\\_two\\_goods.pdf](http://www.usip.org/ruleoflaw/projects/clash_two_goods.pdf)

many civil cases, they lack all due process guarantees when it comes to criminal cases. Their judgements are most often based on restoring the harmony of the community at the expense of the rights of the individuals. Women and children are especially vulnerable in this regard: Rights of women and children are virtually unrecognised in the informal justice mechanisms and women are most often not represented in the jirgas or shuras.

### *Right to Life*

Death Penalty exists in the Afghan legislation and can be imposed, for example, for:

- Crimes against national security, including being in "opposition" and conversion from Islam
- Current justice system does not provide for due process guarantees as required by ICCPR and the ECOSOC resolution on safeguards on death penalty.

According to the European Convention on Human Rights, no person can be returned to a country where he or she might face death penalty. The fact that death penalty can be imposed for the charge of being in "opposition" is very relevant to many asylum seekers. Especially because these crimes are investigated, prosecuted and tried by the National Security Directorate (NDS) and National Security Courts, which lacks all due process guarantees and is not accountable to virtually anyone at the moment.

### *Right to Liberty, Security of Person, Human Treatment and Fair Trial*

Illegal and arbitrary arrest as well as prolonged detention are common. There is no writ of *habeas corpus*. There are frequent credible reports of torture by police and National Directorate of Security (NDS). There is no effective oversight of investigation procedures or detention facilities and conditions. People in "opposition" they are likely to be arbitrarily detained and tortured if returned.

Fair trials are the exception: According to the Supreme Court (June 2007), 44% of the judges have graduated from Sharia faculties and 12% have a law degree, the rest does not have any kind of formal education in Sharia or law. There are less than 200 licensed lawyers in whole Afghanistan, of which less than 100 actually practice.

### *Freedom of Speech*

Afghanistan has had one of the most progressive media laws in the region, which has allowed for a vibrant private media to develop in the post-2002 era. A new media law is currently being discussed.

The flowering of an independent media, funded into being by the donors, after the collapse of the Taliban, is probably one of the most important products of the Bonn process. There is a huge appetite for debate in Afghanistan among Afghans. But over the last two years, funding for the media, in terms of media development, has radically decreased. An independent media landscape at a particularly crucial time is under threat not only politically from highly conservative elements partly entrenched in the parliament and other parts of the government

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*(footnote 9 cont.)*

Senlis Council: "Feasibility Study on Opium Licensing in Afghanistan for the Production of Morphine and Other Essential Medicines". Chapter "Afghanistan's Domestic Legal Framework" (Authors: Ali Wardak, David Spivack), September 2005

[http://www.senliscouncil.net/modules/publications/008\\_publication/domestic\\_law\\_exec\\_summ/domestic\\_legal\\_framework](http://www.senliscouncil.net/modules/publications/008_publication/domestic_law_exec_summ/domestic_legal_framework)

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structures, but also from a short sighted funding policy which anticipated that Afghanistan would be at point B when it hadn't left point A.

Attacks and threats on independent journalists are becoming more and more frequent. Women journalists and journalists who tackle politically sensitive issues like corruption and human rights violations are at risk.

Case 1: During the debate on the amnesty law, a journalist reporting on transitional justice was shot at

Case 2: Recent murders of two prominent women journalists and threats to others<sup>10</sup>

### *Right to Education*

Due to security situation, schools remain inaccessible in many parts of the country. There are continuous threats and attacks on female teachers, girl's schools and on families who send their girls to school. In a Tajik valley at a 30 minutes distance from Kabul, no girl is allowed to attend school.

Case 3: June 12th: teacher and a girl killed when gunmen opened fire on girl's school in Logar<sup>11</sup>

### **Vulnerable Groups**

- Opposition and "Opposition"
- "Allies of the internationals"
- Ethnic minorities
- Human rights defenders
- Journalists
- Women
- Children
- Disabled people

Opposition = the real opposition groups, including the reform-minded democrats.

"Opposition" = people who might, because of their background or because of a personal animosity with someone even at low levels of power be charged of being in opposition to the government. The lack of rule of law and of oversight of the current law enforcement agencies, especially the NDS allows for arbitrary arrests, mistreatment, fabricated charges and forced confessions etc.

Human rights defenders and journalists: the space is clearly shrinking, even moderate civil society leaders are receiving threats and increasing numbers of active civil society members are re-considering their activities, as it puts not only them but also their families at risk.

Women should practically not be returned to any part of Afghanistan without a male relative and / or certainty that they would have the necessary social networks to protect them. The same goes for children, and their right to education should also be considered.

Disabled people should not be returned.

<sup>10</sup> BBC: "Afghan woman radio head shot dead", 6 June 2007 [http://news.bbc.co.uk/2/hi/south\\_asia/6726117.stm](http://news.bbc.co.uk/2/hi/south_asia/6726117.stm)

<sup>11</sup> BBC: "Gunmen kill Afghan school girls", 12 June 2007 [http://news.bbc.co.uk/2/hi/south\\_asia/6744931.stm](http://news.bbc.co.uk/2/hi/south_asia/6744931.stm)

## 10. Conclusion

Interlinked challenges for 2007 – 2010 are:

- Insecurity
- Protection of human rights and fundamental freedoms
- The establishment of the rule of law, including judicial and police reform
- Addressing the burning issue of corruption
- Effective counter narcotics measures that include the rule of law and provide meaningful economic alternatives while targeting the traffickers rather than the poorer cultivators
- Landlessness and homelessness
- Urban crisis in service provision
- Natural disasters (droughts, floods, winters)

Without effective action in these areas Afghan trust and hope in the ability of the government and its international partners to bring about long term stability for development will continue to decline.

## Mohammad Aziz Rahjo

### Afghanistan

#### UNHCR Considerations for specific groups relevant to the determination of refugee status

Presentation at the 11<sup>th</sup> European Country of Origin Information Seminar  
Vienna, 21-22 June 2007  
Report published in October 2007

*Mohammad Aziz Rahjo is Associate Protection Officer at UNHCR Kabul. Mr. Rahjo is working for UNHCR in Afghanistan since 1996 and he is involved in the creation of the UNHCR COI Updates.*

The presentation follows the upcoming UNHCR Update on International Protection Considerations on Afghanistan.

The presentation covered the following topics:

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## 1. General overview of the security situation in Afghanistan:

During the three decades of war and conflict Afghans have lost what they had, also in terms of state structures and institutions. With the changes since 2002 and despite a number of positive political and socio-economic developments, Afghanistan continues to face significant challenges in strengthening good governance, progressing in social and economic development and ensuring security for its citizens.

The security situation, typified by heightened levels of anti-government violence, is deteriorating. The recent upsurge in violence in the south, southeast, east, west and central regions of the country poses serious risks to Afghanistan's political, economic and social gains. In fact, the severity and consistency of incidents attributed to anti-government elements as well as the number and intensity of military operations, once again have made personal security the paramount concern of most Afghans.

The negative impact on economic growth in affected regions is equally a real concern. If not effectively and urgently addressed, the insurgency could have a profoundly negative impact on the considerable achievements of the process, initiated with the Bonn Agreement and the subsequent Afghanistan Compact.

## 2. Return of Refugees:

With the fall of the Taliban regime and until the end of 2004, during which the security situation in most parts of the country was relatively calm, a large number of Afghans returned voluntarily to Afghanistan. UNHCR, during this period has organised and assisted the return of about four millions of Afghan refugees<sup>12</sup>. The office also assisted the Government of Afghanistan (GOA) with the establishment and capacity building of the Ministry of Refugees & Repatriation (MoRR), its provincial departments (DoRRs) which included the training of their staff and the relevant staff of the ministries of interior, justice and foreign affairs, provision of office equipment to MoRR, DoRRs and their offices in Iran and Pakistan. Apart from this UNHCR assisted the GOA with the establishment of a legal framework for voluntary repatriation which included the enactment of a decree on dignified return of Afghans, signing and negotiating of several tripartite agreements and MoUs governing the voluntary return of Afghans from abroad and the establishment of the Tripartite

### *Assisted Return*

3.7 million Afghans have returned to Afghanistan since 2002  
 2.9 million from Pakistan  
 848,000 from Iran  
 13,989 from Central Asia and Europe

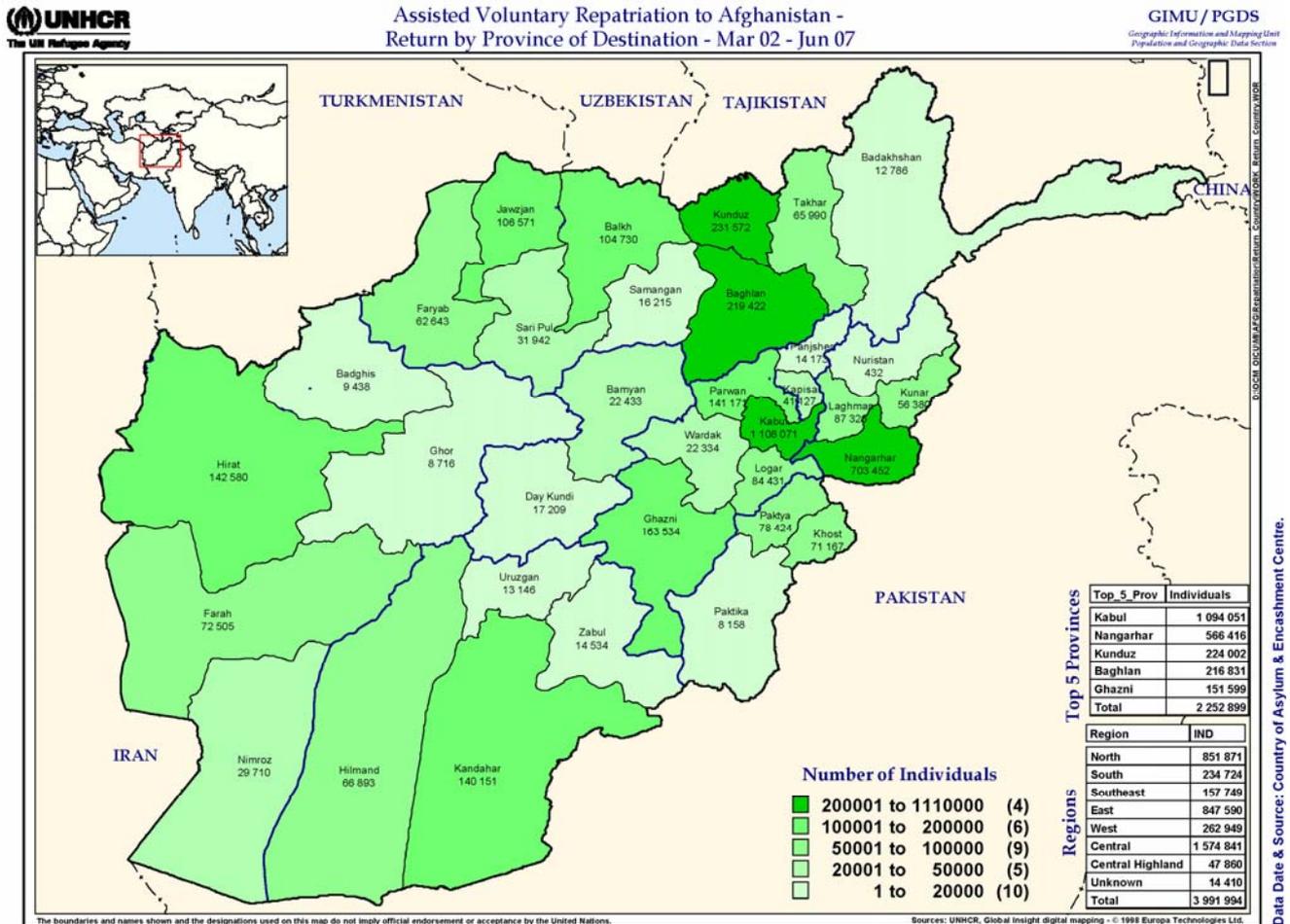
### *Spontaneous Return*

1.1 million returned spontaneously to Afghanistan since 2002  
 302,000 from Pakistan  
 841,000 from Iran

<sup>12</sup> For continuous updates on assisted voluntary return, IDPs, etc., see: UNHCR Assisted Voluntary Repatriation Summary Reports, published on <http://www.aims.org.af/rootll.aspx?seckeyf=485>

Commissions<sup>13</sup> and working groups with the countries that are hosting Afghan refugees and asylum seekers.

Map: Assisted Voluntary Repatriation to Afghanistan – Return by Province of Destination, March 2002 – June 2007



### 3. Afghans of concern to UNHCR in countries of asylum:

There is still about 4 Million Afghans in countries of asylum especially in Iran and Pakistan majority of whom are of concern to UNHCR:

3,389,088	Afghans of concern to UNHCR continue to reside in neighbouring countries
2,153,088	in Pakistan
950,000	in Iran
286,000	Afghans in other countries

See also Annexes 3 & 4 below for information on the legal status of Afghans in Iran and Pakistan (p. 46 & 48).

<sup>13</sup> Two Tripartite Commissions on return, since 2002: composed of the Government of Afghanistan, UNHCR and the Government of Pakistan or Iran and seven Tripartite Working Groups with the governments of Great Britain, Norway, Netherlands, Sweden, France, Denmark and Switzerland.

<sup>14</sup> [http://www.aims.org.af/services/sectoral/emergency\\_assistance/refugee/unhcr\\_summaries/june\\_07/summary1.pdf](http://www.aims.org.af/services/sectoral/emergency_assistance/refugee/unhcr_summaries/june_07/summary1.pdf)

#### 4. IDPs return, the protracted and new/battle affected IDPs:

In 2002 with the fall of the Taliban-regime, when the bombardments of the US and coalition forces ended, there were 1.2 Million internally displaced Afghans. The majority of them were able to return spontaneously while some others were assisted by UNHCR as follows:

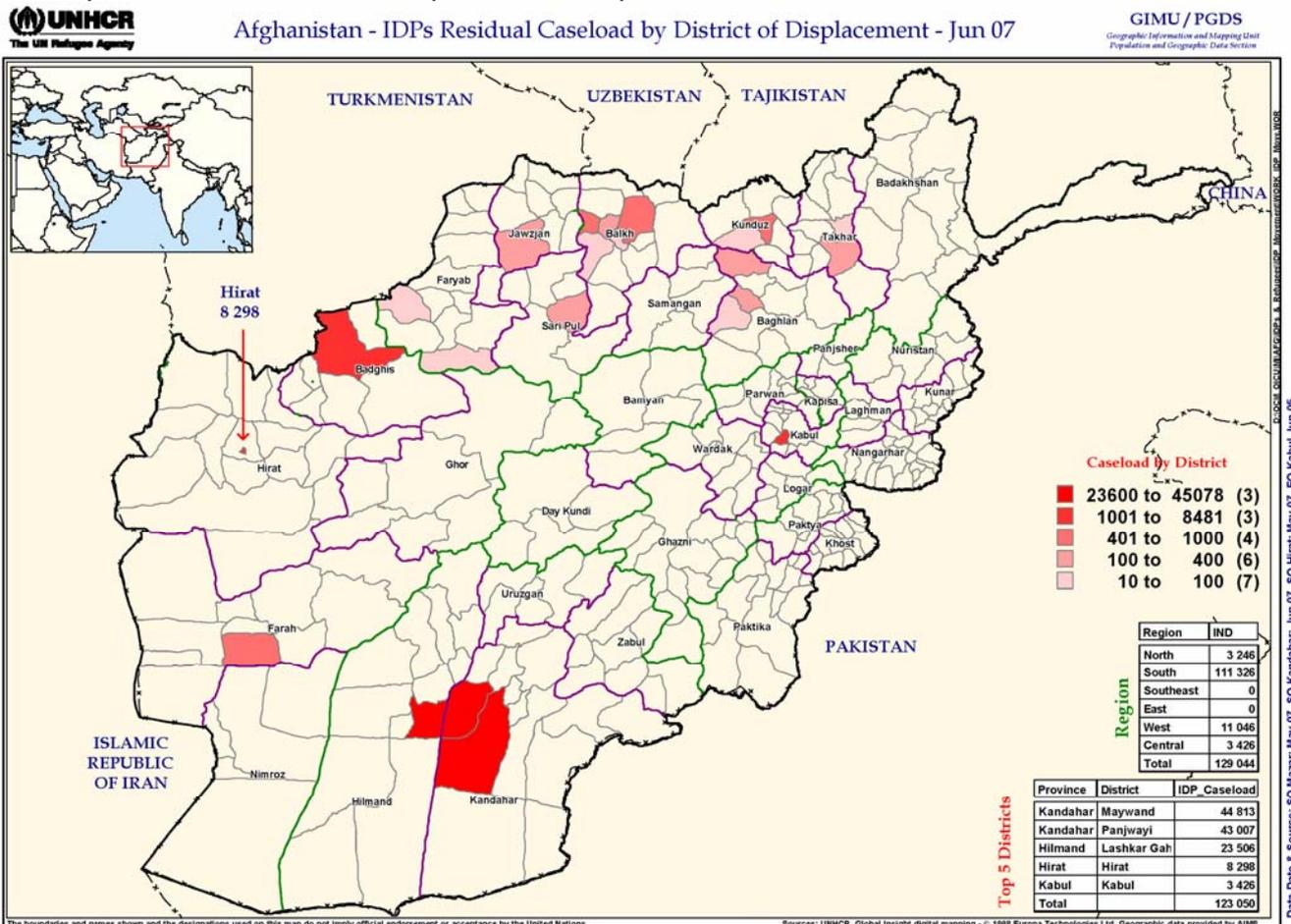
Region	IDP Returnees													
	2002		2003		2004		2005		2006		2007		Total '02-'07	
	FAM	IND	FAM	IND	FAM	IND	FAM	IND	FAM	IND	FAM	IND	FAM	IND
North	26,805	147,425	1,922	10,588	800	3,862	603	2,959	697	3,745	117	550	30,826	168,579
South	953	5,245	22	119	2,703	14,008	57	333	320	1,954	0	0	4,054	21,659
Southeast	9	50	17	91	34	227	44	350	41	275	0	0	145	993
East	1,312	7,217	1,261	6,946	6	30	0	0	0	0	0	0	2,579	14,193
West	25,868	97,844	9,603	46,135	782	3,621	689	3,253	597	3,020	64	313	37,539	153,873
Central	14,926	82,095	2,980	16,361	911	5,162	267	1,685	2	12	0	0	19,086	105,315
Central Highland	3,662	20,107	332	1,827	96	481	0	0	0	0	0	0	4,090	22,415
Unknown	95	520											95	520
<b>TOTAL</b>	<b>73,630</b>	<b>360,503</b>	<b>16,136</b>	<b>82,067</b>	<b>5,332</b>	<b>27,391</b>	<b>1,660</b>	<b>8,580</b>	<b>1,657</b>	<b>9,006</b>	<b>239</b>	<b>1,115</b>	<b>98,654</b>	<b>489,525</b>

Note: FAM: Families, IND: Individuals

At the moment there still is **protracted internal displacement**:

- about 112,000 the Southern Region, mainly in camps/settlements in Kandahar and Helmand
- about 11,000 in the Western Region, mainly in the Maslakh camp in Heart
- 3,600 in Kabul and other areas in the Central Region
- 3,285 in the Northern Region. They are Gujur Afghans, originally from different districts of Takhar province, who cannot return to their province of origin because of protection problems.

Map: IDPs Residual Caseload by District of Displacement, June 2007



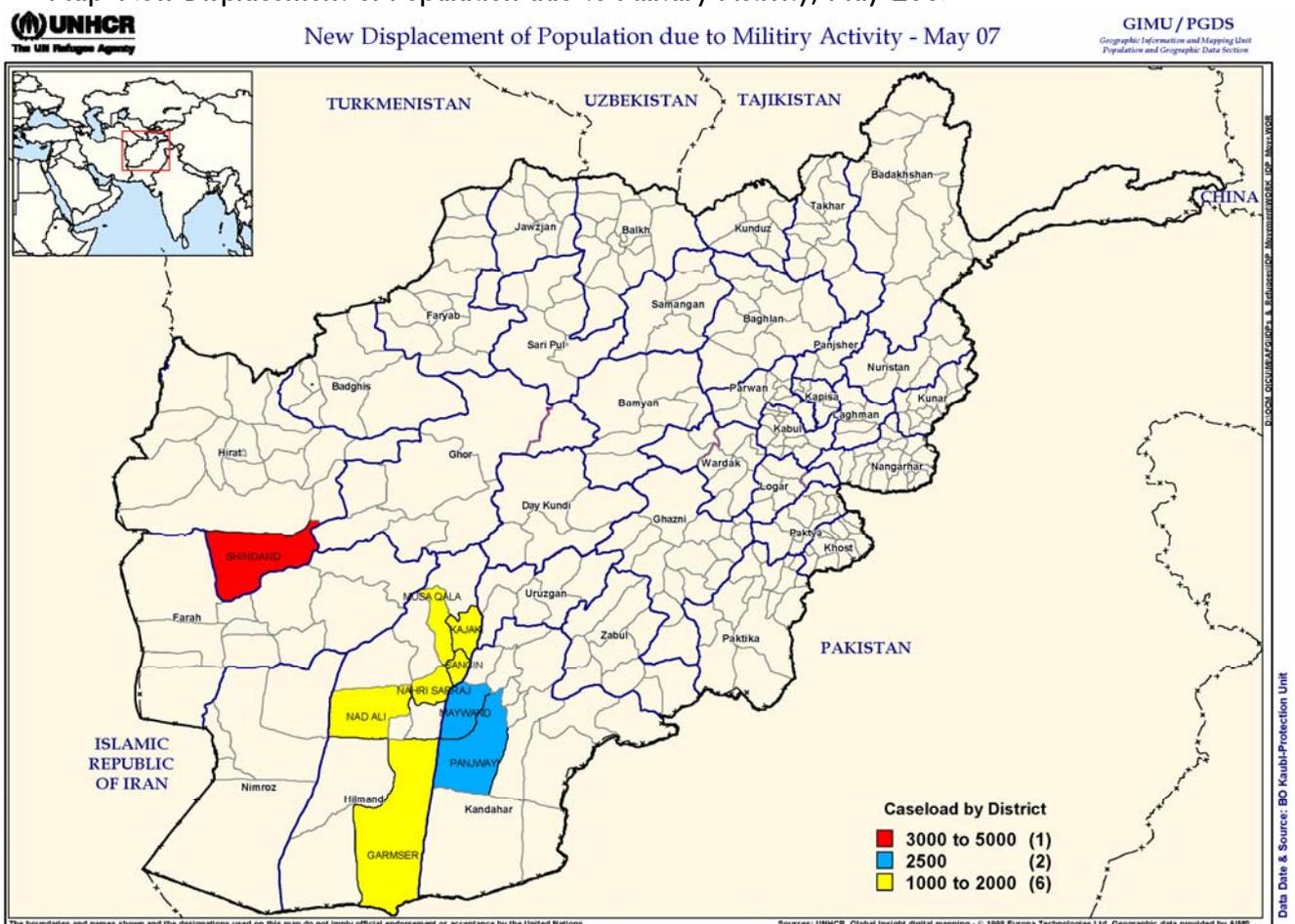
Source: UNHCR, Operational Information Unit, Branch Office Kabul<sup>15</sup>

<sup>15</sup> [http://www.aims.org.af/services/sectoral/emergency\\_assistance/refugee/unhcr\\_summaries/june\\_07/summary2.pdf](http://www.aims.org.af/services/sectoral/emergency_assistance/refugee/unhcr_summaries/june_07/summary2.pdf)

**New/battle affected displacement (because of military activity or Taliban presence):**

- Estimated (by local authorities) 15,000 individuals displaced in the summer of 2006 as a result of the military activities in Panjway and Zare Dasht Districts of Kandahar Province. They are now mainly in Kandahar City and in different districts of Helmand province
- A number of families displaced from Musa-Kala, Sangin and Kajaki Districts of Helmand Province
- Estimated (by communities' elders) 3,000 to 5,000 families displaced in April 2007 as a result of US and Coalition aerial bombardments in the Zirkoh area of Shindand in Herat Province
- Lack of access to affected areas hinders assessments of affected populations.

Map: New Displacement of Population due to Military Activity, May 2007:



Source: UNHCR, Operational Information Unit, Branch Office Kabul<sup>16</sup>

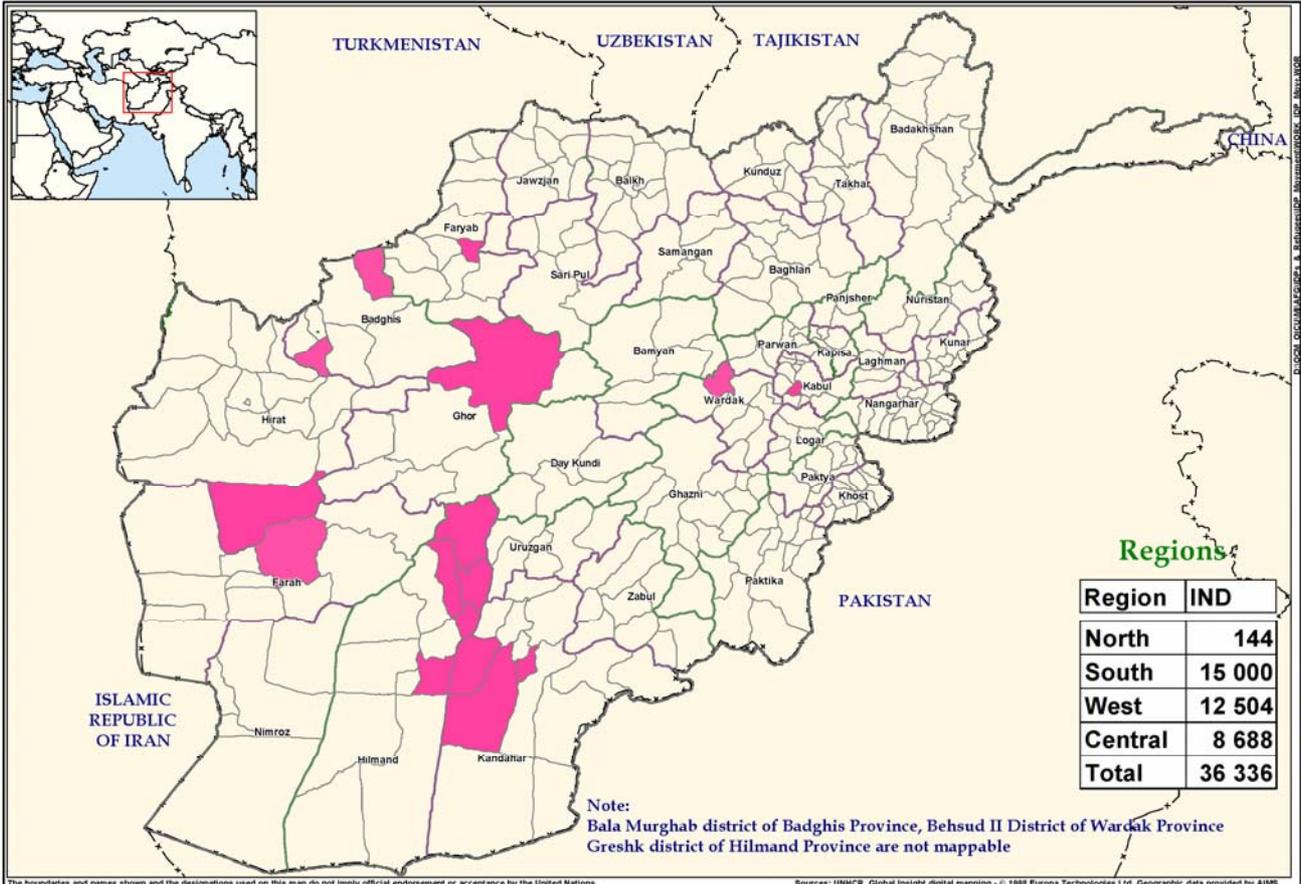
<sup>16</sup> Presentation by Mr. Mohammad Aziz Rahjo

Map: New Displacement of Population due to Military Activity, July 2007:



New Displacement of Population due to Military Activities - July 07

GIMU/PGDS  
Geographic Information and Mapping Unit  
Population and Geographic Data Section



Source: UNHCR, Operational Information Unit, Branch Office Kabul<sup>17</sup>

<sup>17</sup> [http://ocha-gwapps1.unog.ch/rw/fullMaps\\_Sa.nsf/luFullMap/76BC7A1B72AA0D738525735D006EBAA5/\\$File/unhcr\\_IDP\\_afg070931.pdf?OpenElement](http://ocha-gwapps1.unog.ch/rw/fullMaps_Sa.nsf/luFullMap/76BC7A1B72AA0D738525735D006EBAA5/$File/unhcr_IDP_afg070931.pdf?OpenElement)

## **5. Considerations for specific groups relevant to the determination of refugee status:**

In light of the latest security and political developments, Afghans with particular profiles, subject to an assessment of their individual circumstances, will continue to need international protection as refugees under the 1951 Convention. Others will require complementary protection from indiscriminate human rights abuses and generalized violence in parts of the country. Afghans already granted international protection will continue to need it as the country's fragile recovery and reconciliation process is currently being challenged by the deteriorating security situation.

The re-emergence of previous and new commanders in many parts of the country and the links of some of the government officials to armed groups and criminal networks makes it necessary to determine the protection needs of Afghans with particular regard to possible risks emanating from non-state actors. Risks of persecution by the latter will also require serious consideration at a time when the country is faced with renewed violence due to the insurgency.

The insurgency has significantly reduced the reach of the Central Government in a number of provinces in the eastern, south-eastern and southern, central and western parts of the country due to the growing number of armed attacks and reported de facto Taliban control. Furthermore, in the northern part of Afghanistan factional violence and criminality continue to pose significant challenges to the authority of the Government in a number of areas.

Apart from other factors affecting the security situation and causing displacement that were mentioned above and in Ms. Stapleton's presentation, occasional fighting between Afghan border police and Pakistani militia forces also contributes to the problem. It is happening occasionally in some provinces of Afghanistan (Paktika, Paktia, Khost, and sometimes in Nangarhar and Kunar).

The analysis of an application should include a full picture of the asylum seeker's background and personal circumstances and the prevailing situation in his or her area of origin or previous residence in Afghanistan. This assessment should include family and extended family links and community networks in order to identify possible traditional protection and coping mechanisms vis-à-vis the current de facto local authorities. It is also important to establish for each case the profile of nuclear and extended family members, including their location, their previous and current social status, and their political and tribal affiliations in Afghanistan or abroad.

Based on currently available information on Afghanistan, persons with the following profiles might be exposed to a particular risk of violence, harassment or discrimination and, depending on the circumstances of the individual case, fall under the scope of Article 1 A of the 1951 Convention Relating to the Status of Refugees.

The fact that a category is identified herein does not, in itself, suggest that all persons falling within the category should be recognized as refugees under the 1951 Convention. Information on some categories is provided as UNHCR and other actors have and continue to receive numerous requests for information on persons with such profiles. Similarly, an Afghan who is

not within a category identified herein may nevertheless fall within the scope of Article 1A of the 1951 Convention or have a need for a complementary form of international protection.

1. Afghans Perceived as Critical of Factions or Individuals Exercising Control over an Area
2. Afghans in areas where they constitute an ethnic minority
3. Converts,
4. Women of specific profiles
5. Individuals at Risk or Victims of harmful traditional practices
6. Homosexuals
7. Afghans associated with International Organisations and Security forces
8. Land owners
9. Afghans associated with the People's Democratic Party of Afghanistan (PDPA)

### **5.1. Afghans Perceived as Critical of Factions or Individuals Exercising Control over an Area:**

Afghans expressing their political opinions are exposed to risk if these opinions are perceived as critical of the interests of local and regional commanders and powerful factions or of armed opposition forces, primarily the Taliban and forces allied with the Taliban movement or Hizb-i-Islami Hekmatyar. Risks continue to exist for persons known to have political affiliations different from those of persons linked to armed factions exercising de facto power at the local level.

The exercise of political rights is also a problem of physical safety of individual Afghans especially in rural areas. Violent attacks carried out by the Taliban and anti-government forces have contributed to a deterioration of the security situation in the eastern, central, south-eastern, southern and western regions where a number of Afghan civilians have been targeted and killed. Commonplace in some of these areas are so-called "night-letters" warning civilians in general or specific individuals to not support the Government or work for international organizations. Persons at risk include Afghans raising the issue of past crimes and gross human rights violations committed during the period between 1992 to 1996, those denouncing ongoing human rights violations, those critical of powerful factions and local commanders as well as those affiliated with "Western" organizations or perceived as propagating "Western" values.

The debate surrounding the new Media Law highlighted the difficulties in achieving consensus on freedom of the press. There is limited understanding of freedom of expression, which is exacerbated by intimidation resulting from the dominance of strong political and armed factions as well as weak rule of law. This leads journalists to self-censorship on sensitive issues and to present their work as moderate and mainstream.

As a result, journalists may be exposed to a risk of persecution by non-State agents if they publish opinions critical of the Mujaheddin, the insurgency, disclose human rights abuses, corruption and bribery, or express views on religion, secularism, and freedoms which are at odds with conservative social norms.

The situation has changed especially after the amnesty bill/reconciliation bill was passed by the parliament and approved by president Karzai.

A recent example is the conflict between the General Attorney, Abdul Jabar Sabet, and a general of the Ministry of Interior, Din Mohammad Jurat. According to the General Attorney, Din Mohammad Jurat was trying to kidnap him to prevent his struggle against corruption and

violations of the Afghan law. An intervention by the head of the Kabul Criminal Police Department prevented the kidnapping. Din Mohammad Jurat is involved in land occupations and other human rights violations - in one of the cases he killed the husband of a woman he wanted to marry, and then occupied her property in the Sharinaw area in Kabul City. He and other local commanders and warlords discussed with president Karzai and threatened to join the Anti-Government forces if the General Attorney does not revise his decision. Sabet then announced not to prosecute Jurat.

The so called "night-letters" are letters distributed by the Taliban or other AGEs requesting Afghans, for example, not to work with the government or with international organisations. Recently, a UNHCR driver was killed two days after a night-letter was distributed in the area. While in the period from 2002 to 2005, these night-letters were not considered particularly important, the situation has now changed. This is connected to the expanded Taliban presence. They now even have presence in parts of Logar province, 20 to 40km from Kabul City. This risk of not following orders from the Taliban is now much greater than previously, because they now have direct access to more villages – if not during daytime then at night.

## 5.2. Afghans in areas where they constitute an ethnic minority:

While attempts are made by the Government to address the problems faced by Afghans belonging to ethnic minorities and there have been improvements in some areas, the situation of members of ethnic minorities may still give rise to a well-founded fear of persecution in others. Discrimination, amounting to persecution, of Afghans belonging to ethnic minorities by local commanders and local power-holders continue in some areas, in the form of physical abuses and detention. Other forms of discrimination concern access to education, political representation and civil service.

- Pashtuns originally from Jowzjan, Sar-i-Pul and Faryab provinces and Kapisa in the Central Region
- Gujurs in Baghlan originally from Takhar

Generally, asylum-claims of Afghans originating from areas where they are an ethnic minority continue to require particular attention in particular if they are likely to expose themselves by trying to reclaim land and property.

## 5.3. Converts:

Converts continue to be at risk in Afghanistan for the following reasons:

Article 2 of the Constitution states "*Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.*"

Article 3 of the Constitution: "*In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution.*"

In Islamic Law, conversion is punishable by death. Additionally, converts become a source of shame, embarrassment for their family members and tribes, who will exert pressure to reverse their decision and to repent. There is an increase in the number of cases approaching human rights organisations following the Abdul Rahman case.

*See also Annex 2 below for further information on converts (p. 45).*

#### 5.4. Women of specific profiles:

Afghan women who continue to be victims of persecution or face a risk of persecution may include, depending on the circumstances of the individual case:

- Afghan women who have adopted a Westernized way of life and who are perceived as or actually transgressing prevailing social mores, including women rights activists;
- Female spouses of Afghans who have married abroad.

For women, return to Afghanistan, requires conformity with conservative and traditional norms of behaviour in order to be safe from physical and mental violence or abuse.

Pressure to conform is very strong, both from within families and communities, as well as by the public.

A “westernized” woman would only be able to continue to live the life that she was accustomed if she enjoys strong social protection. Afghan tradition imposes that women cannot travel freely without male escorts (Maharam). Furthermore, women are presented with the challenges of harassment and pressures from families to wear a burka or the chador.

Women’s rights activists face threats and intimidation, particularly if they speak out about women’s rights, the role of Islam or the behaviour of commanders.

#### 5.5. Individuals at Risk or Victims of harmful traditional practices:

In the context of Afghanistan, harmful traditional practices including forced and early marriage, honour killings, as criminalization of acts and practices not foreseen as crimes under national law and blood feuds affect both men and women. Women, however, continue to be disproportionately affected. The following groups are deemed to be exposed to a particular risk of violence, harassment or discrimination:

This category is introduced in the upcoming UNHCR update on the situation in Afghanistan and consists of:

- Women and men at risk or victims of harmful traditional practices, including early and forced marriages and exchange marriages
- Women who intend to marry without the consent of their family, refuse to agree to marry the person chosen by their families or have married, for example in a country of asylum, non-Muslims and are perceived as having violated tenets of Islam;
- Women and men at risk or victims of being criminalised for uncodified moral crimes
- Women and men who might be at risk of becoming victims of a blood feud. In Afghanistan’s tradition blood feuds are long-lasting conflicts between opposing families, tribes and armed factions emerging from disputes and killings over property and the violation of women’s honour.

The authorities are generally unable and unwilling to intervene to protect women in such situations from threats emanating from their families. Women also continue to be imprisoned for social or sexual offences, such as refusing to proceed with a forced marriage, escaping an abusive marriage, or involvement in extra-marital relationships.

Women without effective male or family-support and single women of marriageable age are continue to be at risk and viewed with some suspicion.

With respect to widows, special consideration should be given to whether or not family-members of the late husband of a widow would expect her to re-marry. Traditionally, in several parts of the country, a brother of the late husband gets married with the widow, with or without her consent.

#### 5.5.1. *Causes of Blood Feuds: a culture of revenge*

In Afghanistan, traditionally blood feuds are long-lasting conflicts between opposing parties and tribes. Blood feuds between armed factions didn't exist before the conflict in Afghanistan - that is something new: If someone is killed from Jamiat-e-Islami by Hezb-i-Islami then Jamiat-e-Islami will seek revenge and will kill one or two or three from the other faction.

Blood feuds emerge from disputes and killings over property and the violation of women's honour.

In Afghanistan there is the word *namus*. *Namus* translates as "honour", but it translates as "property" as well. Based on the Afghan traditional proverb "zan, zar, zamin" (women, gold, and land), "property" or *namus* covers wife (or the honour of female family members), property, the right to water and land. If one of these elements of *namus* is violated, then for sure the question of blood feud and revenge will arise.

Blood feud is a feature mainly among Pashtun ethnic origin, but also among Uzbeks and Tajiks (though not to the extent that exists among the Pashtun families and tribes).

There might also be cases of blood revenge among Hazaras, for example if they find members of non-Hazara forces (like Hizb-i Islami or Ittihad-i Islami) who committed crimes against them during the fighting in the early 1990ies, even if these acts already were acts of retaliation for Hazara commanders who committed crimes. So, blood feuds also can serve as a means of political revenge.

#### *Characteristics of Blood Feuds*

- Mainly among Pashtuns
- Based on notion of Revenge
- Family/tribe may provide protection
- Passed on from generation to generation
- Widespread

Blood feuds are based on the notion of revenge, in some areas families or tribes may provide protection, but their protection will not last long. Revenge is passed on from generation to generation.

Blood feuds are really widespread in Afghanistan. They can be found in southern, central and south-eastern provinces, where the traditional justice structure has been functioning since a long time and the official or formal justice system was not even before the conflict able to function properly. They are also widespread in the east and in the north-east of Afghanistan.

#### 5.5.2. *Settlement of feuds*

The only structure that deals with the settlement of blood feuds is the local *shuras* and *jirgas*. If the cause for the conflict is a violation of the right to property, including water, then the local *jirga* or *shura* will be involved. If it is an inter-tribal feud, then the *shuras* of the two tribes will meet and discuss possible solutions.

If on the other hand the feud's cause is the violation of women's honour, the conflicting parties will try to act confidentially and not to involve the local *shura* or *jirga*, because they consider it as a public shame for the family and tribe. If the issue gets to be known to many among the village or tribe, a *jirga* might be called in these cases as well.

A *jirga* will decide according to the cases they decided on in the past. A possible solution can be apologies together with blood money being paid. In addition to that, the *jirga* may order the perpetrator's family/tribe to give a female member to the family or tribe who lost a member. But the *jirga* might also decide that revenge is the only possible way. Even the killing of a woman might be the outcome – in fact, the *jirga* decision may be anything.

Some tribes among Pashtuns are satisfied with the calling of a *jirga* when someone of their tribe has been killed. The *jirga* may then decide to give a female family member of the perpetrator's tribe to the victim's tribe. They can then sell that woman, for example. Kuchi Afghans, on the other hand, will in any case go for revenge and will not seek any other solution of the conflict or feud, they will not respect any other *jirga* decisions.

As for the possibility of protection by the government for persons at risk of blood feud, the government's capacity is weak. In the areas where local *shuras* and *jirgas* are functioning, there is no rule of law. The government cannot do much in these cases.

*See also Annex 1 below for further information on blood feuds (p. 43).*

## **5.6. Homosexuals:**

There is only limited information on the issue of homosexuality, given that this subject is taboo in Afghanistan.

According to the Afghan law, homosexuality is a *Hudood* crime and punishable by death. *Hudood* are those crimes that are regulated by the Sharia. Open homosexual relations are not permissible, and homosexuals have to hide their sexual orientation.

The practice of using young boys as objects of pleasure seems to have been more than a rare occurrence. Such relations are often coercive and opportunistic in that more influential, older men are taking advantage of the poor economic situation of some families and young males, leaving them with little choice. As concerning the tradition of powerful men having relations with young boys, UNHCR is considering this as child abuse, not homosexuality.

Overt homosexual relations are, however, not possible to entertain. Homosexual persons would have to hide their sexual orientation.

## **5.7. Afghans associated with International Organisations and Security forces:**

Afghans working or associated with international organizations and security forces where there are anti-government insurgent activities or infiltrations of Taliban and Hezb-e-Islami forces continue to be at risk, and indeed are increasingly targeted.

The increase in targeted attacks and threats against Afghans working for international organizations and security forces are based on a perceived association with the central

government and its supporters. Leaflets warning Afghans not to work for the Government and its supporters including the aid community are distributed in those provinces of Afghanistan where anti-governmental elements are present and or able to operate.

UNHCR received reports of Afghans being executed in Kandahar, Zabul, Uruzgan, Helmand, Kunar, Nuristan, Ghazni, Wardak/Maidan, Khost, Paktia, Paktika and increasingly in other provinces. A number of these individuals have approached AIHRC, UN offices and UNHRC offices. These organisations advise the person on their right to seek asylum. Some of them have immediately left the country to seek asylum.

See also figure on victims of violent incidents per target group, in Ms. Stapleton's presentation above.

### **5.8. Land owners:**

Afghan landowners may be exposed to a risk of persecution by state and non-state agents. The risk is acute for cases without political, tribal or family protection whose houses/land is occupied and when restitution is being pursued, even with the existence of a court decision.

In a number of house occupations cases courts decided, and the owners of the land and houses were able to recover their property, but during the night the occupiers came back and took the property again. In such circumstances, the rightful owners may be at risk if they do not have political, tribal or family protection and the authorities are unable or unwilling to protect their rights – including the enforcement of a court-decision.

### **5.9. Afghans associated with the People's Democratic Party of Afghanistan (PDPA):**

The exposure to risk depends on the individual's personal circumstances, whether he or she was known as a communist by the people, family background, professional profile, links, and whether he was associated with the human rights violations of the Communist regime in Afghanistan between 1979 and 1992.

- High ranking members of PDPA, irrespective of whether they belonged to the Parcham or Khalq factions of the party. They will be at risk only if they are known & had a public profile. This includes:
  - high ranking members of the PDPA's Central Committee & Provincial Committees and their family members
  - secretaries of PDPA committees in public institutions
- Former security officials of the communist regime, including Khad, also continue to be at risk, in particular from the population- i.e. families of the victims, given their identification with human rights abuses during the communist regime.

The persecution of PDPA members also depends on the presence of the fundamentalist elements in the communities of origin. Thus a risk of persecution may persist for some high ranking members of the PDPA if they were to return to Kunar, some central and north eastern provinces.

## 6. Agents of Persecution

### *State agents:*

- Government, ANP, ANA, NDS
- Parliamentarians, Governors and other local officials
- compounded by lack of effective remedy as a result of weak rule of law

### *Non state agents:*

- Taliban
- Hezb-i-Islami Hikmatyar
- Local commanders/warlords
- Tribal and religious fundamentalists
- Family/community

## 7. Power distribution of the central government

The central government has presence in all the provincial capitals and in an absolute majority of the district centres. But in the following provinces, the government has no presence in many districts: Badghis, Zabul, Uruzgan, Ghazni, Paktika, Helmand, and Farah.

The majority of the governors (appointed by the government) belong to Hezb-i-Islami Hikmatyar or Jamiat-i-Islami. And the majority of provincial police commanders are either members of Ittihad-i-Islami Sayyaf or of Jamiat-i-Islami.

For further details, see the annexes of the upcoming UNHCR paper.

## 8. Justice System & Access to Justice

The justice system of Afghanistan is composed of three structures: The Supreme Court (Judiciary), the Ministry of Justice, and the General Attorney Office. A justice reform process is ongoing, including benchmarks laid out in the Afghanistan Compact and in the ANDS. The current members of the Supreme Court are more reform-minded than the previous.

Last year president Karzai also appointed a new General Attorney who is committed to fight against corruption and against other crimes within government institutions. But his efforts are confronted by different state officials (members of parliament, provincial governors).

Another problem is the access to justice. The vast majority of defendants in criminal cases are not represented in the court system. Detainees continue to suffer in prison without lawyers to represent them. There are around 240 lawyers all over the country registered and licensed with the Ministry of Justice. The Legal Aid Department of the Supreme Court has only 19 lawyers. There are some efforts to create an independent bar association. The discussion is ongoing, a law drafted, but not yet finalised or approved by parliament.

Lack of access to justice severely affects Afghan women. Women and girls are arrested and imprisoned for committing moral and uncodified crimes, including for perceived misbehaviour

such as running away from home. Women are also arbitrarily detained or convicted for adultery when reporting crimes of sexual nature. Women are often returned to male offenders when reporting a rape. Sentencing by judges of females convicted of sexual offences such as adultery is often disproportionately higher compared to male offenders, who are often released or receive much lighter sentences.

There are prisons in 34 provinces of Afghanistan, they are administered by the Ministry of Justice. Prison conditions of most facilities remain below international minimum standards. Reportedly, there also continues to be an urgent lack of accommodation for over 1000 detainees in 112 provincial prisons which has yet to be addressed. In January 2007, the Central Prison Department announced that they are facing a large deficit and that most of the staff in the provinces has not been paid salaries for 3-4 months. The absence of a strong independent bar association and of a state funded legal aid is a significant obstacle to the safeguarding of the rights of accused persons and providing the necessary legal representation.

Illegal detentions are a problem, for example absence of charges, or detention not subject to review by judges. This type of illegal detention of individuals, especially women and children, gives rise to serious human rights concerns.

Routinely, individuals are being detained for months without being brought before a judge or before a court or receiving legal representation. Procedures of the Interim Criminal Court, relating to investigation, arrest and detention, charging, trial and imprisonment of individuals, are reportedly rarely adhered to. This situation is particularly grave in relation to women who are frequently detained and sentenced for acts that are not defined as crimes under the law.

There are frequent reports of the use of torture and other forms of ill-treatment by the National Department of Security (NDS, Afghanistan's intelligence service). Arbitrary arrests are regularly reported and NDS prosecutors regularly fail to conduct investigation within the legal timeframe. Individuals are documented as having disappeared when arrested by the NDS. Access to facilities, where they are held has been problematic, not only by the UN but also by the AIHRC.

## 9. Humanitarian considerations

In addition to Afghans who are or continue to be in need of international protection, there are certain Afghans currently outside Afghanistan for whom return would not constitute a durable solution and would endanger their physical safety and well-being, given their extreme vulnerability and nature of their special needs. In the context of return to Afghanistan, extremely vulnerable cases can be divided into two broad categories:

- Individuals whose vulnerability is the result of a lack of effectively functioning family- and/or community support mechanisms and who can not cope, in the absence of such structures,
- Individuals who can not cope, either because such support structures are not available or because Afghanistan lacks the necessary public support mechanisms and treatment opportunities.

Against this background, there are Afghans for which UNHCR Afghanistan strongly advises that, at least temporarily, solutions be identified in countries of asylum and that exemptions to obligations to return are made on humanitarian grounds. This may be the case for Afghans who fall into the following categories. Groups of concern are (see upcoming UNHCR paper for details):

- Unaccompanied females,
- Single Parents with Small Children without income and family and /or community support,
- Unaccompanied elderly,
- Unaccompanied Children,
- Victims of serious trauma (Including Sexual Violence),
- Physically disabled persons,
- Mentally Disabled Persons
- Person with medical illness (contagious, long term or short term)

## 10. Complementary Protection

Persons who may not necessarily be 1951 Convention refugees but who nevertheless need international protection are commonly referred to as refugees falling under UNHCR's wider competence and mandate. This competence is generally understood to cover – in recognition of their protection needs – persons:

- Who are outside of their country of origin due to a serious threat to their life, liberty, or security in the country of origin,
- But for whom there may be no nexus to a specific Convention ground, as in the case of those for whom the threat arises solely as a result of armed conflict, generalized violence or serious public disorder.

Protection granted to such persons is referred to as complementary/subsidiary protection. Forms of protection vary. In the context of Afghanistan, UNHCR advocates for complementary forms of protection being considered for persons originating from areas where any or several of the following features have been reported or observed within the past months:

- Intensified counter insurgency activities, including aerial bombings, by ISAF/NATO following its expansion which have escalated into open warfare in the south, south east and eastern provinces;
- Indiscriminate attacks by anti-government elements, inter alia through the consistent use of indiscriminate types of warfare (IED on the roads, missile attacks, bombs, as well as suicide bomb attacks) including attacks on “soft targets” such as schools, teachers, and religious figures;
- Systematic acts of intimidation, involving arbitrary killings, abductions and other threats to life, security and liberty, by anti-government elements and by regional warlords and militia commanders<sup>18</sup> as well as criminal groups;
- Illegal land occupation and confiscation with limited possibilities for redress;
- Religious, tribal conflicts and conflict over the use of pasture land between armed Afghan factions and inadequate responses by the central government to address violence and protect civilians.

Any or several of such threats have been observed or reported within the past several months in Afghanistan. With regard to the situation, as of October 2007, this would apply to a number of areas in the south, south east, north, north-east, east, west and the central region of Afghanistan<sup>19</sup>. Insecurity has also greatly affected freedom of movement in areas currently affected by the insurgency and other criminal actors seriously disrupting civilian, commercial and government activities. Hence, Afghans travelling through unsafe areas are exposed to high risks of indiscriminate violence. Specific security risks faced by Afghans travelling through unsafe areas include being caught in ambushes, aerial bombings, cross fire as a result of military operations and harassment at insurgent checkpoints. Afghans perceived to be associated, in any way, with the international community are deemed to be particularly at risk when travelling through insurgency affected areas.

UNHCR considers that Afghans should not be reasonably expected to travel through unsafe areas to reach their final destination.

In some of the north-eastern provinces that are insecure the insecurity is mainly caused by the presence of local commanders and warlords. In the east, southeast and southern regions insecurity is mainly caused by the Taliban and Anti-Government-Elements. Problems of commanderism and military activities by Taliban & Anti-Government Elements still remain.

*Note:* According to UNHCR the situation as was displayed during the seminar presentation in the maps on complementary forms of protection may have changed in the meantime. Participants of the seminar were requested to contact UNHCR Kabul in case of questions on security situation in a particular area.

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<sup>18</sup> For further information on “warlordism” and the local security architecture in Afghanistan, see: Conrad Schetter/Rainer Glassner/Masood Karokhail: "Beyond Warlordism. The Local Security Architecture in Afghanistan", *International Politics and Society* No. 2/2007  
[http://www.fes.de/ipg/arc\\_07\\_d/02\\_07\\_d/pdf/10\\_Schetter\\_US.pdf](http://www.fes.de/ipg/arc_07_d/02_07_d/pdf/10_Schetter_US.pdf)

<sup>19</sup> Owing to the rapidly changing security environment, UNHCR maintains a watching brief on the developments of the security situation in various areas of Afghanistan.

## 11. Return through unsafe areas

In the recent months UNHCR has received a number of questions from some countries whether they should return Afghans to an area which is safe but surrounded by unsafe areas.

Insecurity has greatly affected freedom of movement in areas currently affected by the insurgency and other criminal actors, seriously disrupting civilian, commercial, government activities and freedom of action.

In light of the fact that an area cannot be considered safe if there are obstacles to reaching it which are not easily surmountable, UNHCR considers that Afghans should not be reasonably expected to travel through unsafe areas to reach their final destination.

*Specific Risks faced by Afghans travelling through Unsafe Areas:*

- Ambushes
- Bombings
- Being caught in crossfire as a result of military operations
- Harassment at insurgent's checkpoints
- Afghans perceived to be associated, in any way, with the international community are deemed to be particularly at risk when travelling through insurgency affected areas

## 12. Internal flight alternative/Internal relocation alternative

In the context of the holistic assessment of a claim to refugee status, in which a well founded fear of persecution has been established in some localized part of the country of origin, the assessment of whether or not there is a relocation alternative in the individual case requires two main sets of analysis – its relevance and its reasonableness.

- Relevance - willingness and the ability of the state to protect
- Reasonableness - elements of safety and security, human rights standards as well as options for economic survival

*Willingness & ability of the state to protect:*

UNHCR requests countries of asylum not to consider internal flight or relocation alternative if a person has a well-founded fear of persecution (NSA) in localized manner in an area of Afghanistan. The freedom that non-state agents of persecution are enjoying, many of them having official positions, enables them to easily find their target through organized criminal groups – “news travels fast” in Afghanistan. Non-State Agents are above the law at the local and central levels and, in some cases, associated to the local administration. Local NSA can be linked to and protected by more powerful and influential actors. The state authorities are unable to provide protection against risks emanating from these actors, who largely operate with impunity.

*Reasonableness of relocation:*

It must also be reasonable for a claimant to relocate. UNHCR continues to advise against resorting to Internal Flight Alternative (IFA) in the Afghan context, considering elements of safety and security, human rights standards as well as options for economic survival (lack of employment and other opportunities). Traditional social safety network is the main protection

and coping mechanism for most Afghans. Afghans rely on these structures and links for their safety as well as for economic survival, including access to accommodation and an adequate level of subsistence. Furthermore, the protection provided by families and tribes is limited to areas where family or community links exist. It is therefore very unlikely that Afghans will be able to lead a relatively normal life in a location other than one's place of origin or residence without facing undue hardship. UNHCR advises against the relocation to areas where an individual has no effective links, including in urban areas of the country.

### 13. Annex 1: Blood feuds

In the context of Afghanistan a blood feud is a long-running argument or fight, with a cycle of retaliatory violence between parties - often, through guilt by association of individuals, groups of people, especially families or tribes with the relatives of some one who has been killed or otherwise wronged or dishonoured. In such a situation the victim's family or tribe members are seeking revenge by killing, physically injuring and/or publicly shaming the perpetrator(s) or his/her family or tribe members of the act of the perpetrator(s)

Feuds tend to begin in particular in reaction to alleged violations to the honour of women property rights, land and water issues.

In accordance with the norms of the Pashtunwali code the causes of blood feuds/culture of revenge are the violation of "Zar, zan, zamin" - gold, women and land. Killing or injuring as a result of dispute over water and land, and unlawful relation with a woman create blood feuds and ends usually with the death of the perpetrator, his/her family or tribe member or exchange of girls in compensation of crimes committed by their family members.

With decades of war and conflict the tradition of blood feud has been expanded to and is common among armed factions. This culture has also influenced Tajik, Uzbek, Hazara and other Afghans of non Pashtun ethnic origin.

#### People affected by blood feud:

- The perpetrator(s) (male or female) or those perceived as to be responsible for committing the crime/act remain the main target for the revenge in a blood feud.
- Female family members killed or forced to marry the victim's family member in compensation for the crime. This practice is different from place to place and in some areas targeting a woman in response to a blood feud does not exist.
- Close relatives: brothers, cousins, including children but targeting them when they come of age.
- Relatives or any other member(s) of the tribe that have showed support to the perpetrator(s),
- Members of the perpetrator(s) faction and armed groups, or their supporters.
- Some of the Pashtun tribes also look for blood feud and revenge despite the perpetrator having undergone prosecution and sentencing through a formal justice system

#### Geographical application:

The practice of blood feud is different from area to area and from tribe to tribe. This practice is mainly found in Pashtun tribes mostly in Paktia, Paktika, Khost, but also in Kunar, Ghazni, Maidan Wardak, Kandahar, Laghman, Zabul, Uruzgan, Helmand, Badghis, Hirat, Kapisa, Kunduz, Baghlan provinces. However, the practice of blood feud has also been adopted by Afghans of other ethnic origin and therefore other provinces of the country can also be affected. This practice can occur in the village, district and province of origin or habitual residence, other places in the country of origin as well as outside the country, depending on the opportunities that the victim's family or tribe enjoys.

**Peaceful solution of the blood feud:**

In some areas, families try to solve the issue confidentially, particularly if it concerns the violation of a woman's honour. If the issue is not solved, then the parties call for a local or tribal jirga to decide on the case. As showed by practice, members of the jirgas normally follow the norms of the Pashtunwali code and order for retaliatory violence outlined above.. This is also the case with the Kuchi (nomad) Afghans. The Kuchis are known never to accept any compromise (e.g. female marriage into their tribe, financial compensation) and look only for the death of the perpetrator(s) or family/tribe members.

There are some tribes such as the Shinwar tribe in the eastern provinces of Afghanistan who accept a compromise and accept the exchange of girls from the families of the perpetrator(s) in compensation for the committed crime. The practice has shown that such tribes are resorting to this solution in order to be able to sell the girls in the future.

**State Protection**

In such situations generally, the authorities are unable and unwilling to intervene and protect individuals from threats emanating from the family of the victims or armed groups. This is due to the lack or absence of state structures in the area, weak rule of law and also due to the fact that state or de facto officials share and accept the same cultural values of the blood feud practice

Women and men continue to be imprisoned for social or sexual offences, such as refusing to proceed with a forced marriage, escaping an abusive marriage, or involvement in extra-marital relationships. Women and men continue to face prison for these "crimes." Authorities point out that sometimes such detention is necessary to protect individuals in particular women from violent acts of revenge by their family or tribe members. Forced and early marriage, honour killings as well as criminalization of acts and practices not foreseen as crimes under national law affect both men and women in Afghanistan. Women, however, continue to be disproportionately affected.

Apart from the obvious violation of the woman's honour, single women are likely to be ostracized by the Afghan community or fall prey to malicious gossip which could destroy their reputation or social status and therefore, create condition for the blood feud. This exposes them to an increased risk of abuse, threats, harassment and intimidation by Afghan men, including risk of being kidnapped, sexually abused or killed. In majority of these cases the government is not in a position to protect women.

*Annex 1:**Protection Section, UNHCR BO Kabul**29 August 2007*

## 14. Annex 2: Converts

The risk of persecution continues to exist for Afghans suspected or accused of having converted to Christianity or Judaism. The Constitution does not provide sufficient protection for converts. In fact, whilst Art. 2 of the Constitution states that "*Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law*", the boundaries of the law, however, are open to interpretation.

The situation for converts is further compounded by the fact that Art. 3 of the Constitution states that "*in Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution.*" In Islamic Law, conversion is punishable by death. The judicial system in Afghanistan is largely comprised of conservative Islamic judges who follow *Hanafi* doctrines<sup>20</sup> recommending death sentence for converted Muslims.

It is against this unclear legal background that Afghanistan's obligations under international human rights law to respect freedom of religion were severely tested when Abdul Rahman was imprisoned in March 2006 for converting from Islam to Christianity and threatened with a death sentence. While this case generated significant media attention, it is not an isolated case. Human rights organizations have information on a number of cases of Afghans who are threatened due to their conversion from Islam.

Similarly important, conversion to Christianity is seen by family members and tribes as a source of shame and embarrassment for them in the community. Converts are likely to face serious problems by the members of their families and their communities. Converts would face strong pressure to reverse their decision and to repent. In case of refusal, family members could resort to threats, intimidation, and in some cases physical abuse that could be life-threatening. However, there is no report of any Afghan being executed by court order for conversion. Against this background, Afghans who have converted from Islam wishing to publicly profess their faith will face significant challenges and even expose themselves to life threatening situations.

It is recommended to contact UNHCR Afghanistan for additional information that should be taken into account in decisions on international protection.

*Annex 2:  
Protection Section, UNHCR BO Kabul  
8 July 2007*

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<sup>20</sup> Art. 130 of the Constitution of Afghanistan states that: "*In cases under consideration, the court shall apply provisions of this Constitution. If there is no provision in the Constitution or other laws about a case, the courts shall, in pursuance of Hanafi jurisprudence, and within the limits set by this Constitution, rule in a way that attains justice in the best manner.*"

"The Afghan Penal Code of 1976, in force today, does not deal with apostasy and therefore fails to set out an applicable penalty. Article 1 of the Afghan Penal Code, however, specifies that the Penal Code only deals with ta'zir crimes and sanctions, while crimes and sanctions of the qisas and hudud category shall be punished in accordance with the provisions of Islamic religious law, namely, Hanafi religious jurisprudence. Islamic offences are divided into three categories and classified pursuant to punishment. Ta'zir crimes and sanctions are those crimes that are not qualified as hudud or qisas offences, or prescribed by Islamic law, but may be decided by a judge or codified by the state if deemed necessary, so long as Islamic principles and rules of procedure are respected. Ta'zir crimes and sanctions form part of the secular statutory laws of Afghanistan and are left to the discretion of the respective authorities. Qisas and hudud crimes and sanctions are determined by Islamic law, also referred to as the shari'a." (Mandana Knust Rassekh Afshar).

### 15. Annex 3: Legal status of Afghans in Iran

Iran ratified the 1951 Refugee Convention and 1967 Protocol (with reservations) in 1976, but these international documents have not been incorporated directly into domestic law.

The authority of the Government to grant 'political asylum' was nonetheless confirmed in the 1979 Constitution.

The instrument governing the status of refugees remains a set of regulations issued in 1963. These regulations incorporate, among others, a refugee definition based on Article 1A(2) of the Convention.

The regulations establish a 'Permanent Committee for Refugees' within the Ministry of Interior, responsible for refugee affairs and competent to receive and determine applications for refugee status. They set out a series of rights to be accorded to recognized refugees.

The regulations provide that a 'refugee booklet' will be issued to those recognized as refugees under these provisions. Regulations setting out procedures for issuing Convention travel documents to refugee booklet-holders were issued in 1987.

The number of refugees recognized under the 1963 regulations is relatively low. Only 1,013 Afghans entering Iran from 1978 onwards were recognized as refugees under these provisions and were issued refugee booklets. The Iranian Bureau of Aliens and Foreign Immigrant Affairs (BAFIA) confirmed that these Afghans continue to retain their refugee status until cessation applies.

Those fleeing Afghanistan from 1978 onwards were not formally granted refugee status under the 1951 Convention or the Refugee Regulations.

However, until 1992 Afghans who registered with the authorities were designated as 'Afghan displaced persons' (mohajirs) and issued with blue residence cards with unlimited validity, but were not recognized as refugees under the Refugee Regulations.

The Iranian government registered Afghans and Iraqis in 2001.

Afghan refugees were re-registered in 2003 and end-2005/mid 2006.

Amayesh I data: was incomplete – only 1.27 million records were included (out of a total figure of 1.45 million reported by BAFIA).

Data gathered during the last registration exercise (called Amayesh II) was not shared with UNHCR but now BAFIA agreed to share an update of the Amayesh database with UNHCR for the purpose of the RSD exercise.

The "Amayesh II" registered 920,428 Afghans (excluding the unlawful Afghan residents, who were not previously registered in any registration exercise).

Some 80,000 holders of "golden cards" will have to be added to the said figure. Amayesh cards are usually valid for a short period, several months, and need to be regularly extended

which raises the issue of the predictability of stay and regular threats to send all Afghans back to Afghanistan.

*Annex 3:  
Protection Section, UNHCR BO Kabul  
26 August 2007*

*For more information on the Afghan population in Iran, see:*

ILO & UNHCR: "Afghan Households In Iran: Profile And Impact - Final Report", October 2006  
<http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=SUBSITES&page=SUBSITES&id=455835d92>

## 16. Annex 4: Legal status of Afghans in Pakistan

Pakistan is not a signatory to either the 1951 Convention or the 1967 Protocol, and has no national legal mechanism for asylum or refugee status determination.

The Foreigners' Act, Foreigners' Order, and additional administrative regulations govern the movement of all "foreigners," or non-citizens, into and within Pakistan. Under the Act, the undocumented (i.e., individuals who enter Pakistan without either a passport or visa valid for Pakistan) are subject not only to penalties but to deportation.

Despite this legislative framework, according to the Government of Pakistan's Handbook on the Management of Afghan Refugees in Pakistan (originally issued in 1981 but revised as of 1984), the GOP had "granted temporary asylum to Afghan nationals fleeing their country in the wake of political repression and occupation by foreign troops."

In 1979 as part of the scheme for "management" of the Afghans, the Commissionerate for Afghan Refugees (CAR) was established. CAR was tasked with registration of "authentic" refugees for food assistance, maintenance of records, issuance of ration passes (normally referred to as Passbooks) in Afghan Refugee Camps.

Registration was meant for delivery of food assistance in the officially designated refugee camps/villages.

In the post 1992 era, refugees arriving from Afghanistan were issued different types of ration passes.

From 1995 onwards, food assistance in camps was stopped and ration passes or passbooks largely served refugees as their identity document.

To UNHCR, a ration pass was an acceptable document authenticating that the holder was a genuine refugee in Pakistan and was entitled to repatriation grant in case of opting to return.

There were no rules as to the holding of the two documents, ration pass and Shanakhti (identity) pass. Numerous refugees held both documents, while a large number of them never felt a need to obtain neither of them.

The documents were foreseen to be valid until otherwise established by a future administrative order.

This administrative order has yet to be issued, implying that arguably, passbooks issued at the beginning of the 1980s retain their validity. No new passbooks were, however, issued by 2000.

By February 2001, the Ministry of SAFRON (States and Frontier Regions) reversed its earlier policy to state expressly that all Afghan nationals who were not in possession of a "refugee card" or "refugee permit" issued either by the Government or UNHCR, or a valid visa, would be considered to be "illegal immigrants" and would be subject to the Foreigners' Act.

A major problem involved the newly emerging distinction between “old” and “new” refugees. The “old” refugees or Afghans had been the beneficiaries of the prima facie refugee policy. The “new” refugees entering Pakistan after 1992 in the wake of renewed violence and insecurity were to be treated as illegal migrants.

On 2 August 2001, “The Agreed Understanding for the Screening Process for Afghans in Jalozai makeshift camp, Nasirbagh camp and Shamshatoo camp” was signed between UNHCR and the GOP. The purpose of the agreement was to determine the need of the inhabitants of the camps for international protection. The screening criteria agreed upon with the Pakistani Government were very broad. They included the extended definition based on the African Union Convention and thus the element of generalized violence.

In addition, UNHCR negotiated that there would be no immediate return for those Afghans not considered as refugees but for who return would not be viable. This would include vulnerable individuals or persons coming from areas where due to drought or non-economic sustainability, return would not be viable for the time being.

For those who met the UNHCR refugee definition, a temporary protection document, not conferring formal refugee status, was to be provided, and durable solutions would be pursued; for those who did not meet the definition, UNHCR would not object to their deportation.

The screening was suspended after the attacks of September 11, 2001 and the subsequent military campaign against Afghanistan.

UNHCR Pakistan had developed a conception of the Afghan population in Pakistan as being divided into four groups:

- a) Afghans wishing to return to Afghanistan when conditions improve;
- b) those in need of or enjoying international protection;
- c) those having come to Pakistan from Afghanistan in search of temporary employment; and
- d) those who had originally entered Pakistan to seek asylum, but had since become self-reliant based on developing strong family and community links.

In 2005, as part of an effort to put in place a “comprehensive solutions approach” to manage the Afghan population on the Pakistan territory, the UNHCR and the GOP reached an to conduct a census (March 2005) and registration of Afghan citizens in Pakistan that would put to rest the issue of the number of Afghan in Pakistan.

As part of the MoU governing the census, the Government of Pakistan acknowledged that “not all Afghans enumerated would be of concern to UNHCR.” The Census showed that an estimated 525,000 Afghans could potentially be in need of international protection.

The registration of Afghan citizens living in Pakistan was conducted from October 2006 to 15 February 2007.

More than 2.15 million Afghan citizens were registered and issued with a Proof of Registration (PoR) cards that would serve as an identity document, evidencing that the holder was an Afghan citizen temporarily living in Pakistan.

PoR cards are valid for three years, but would not confer any additional rights or status on the holder.

*Annex 4:  
Protection Section, UNHCR BO Kabul  
26 August 2007*

*For more information on the registration of Afghans in Pakistan, see:*

UNHCR: "Registration of Afghans in Pakistan 2007", 1 May 2007

<http://www.unhcr.org.pk/emergency/Registration%20Report.pdf>

(Note: document file size is 80 MB)

## Specific Issues

In addition to the information contained in the two presentations above, the following issues were raised through questions from the seminar's audience. The country experts' answers are marked by their names.

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### Access to information (for instance on insurgent controlled areas)

*Barbara J. Stapleton:*

There are large areas such as Nimroz province in which limited or no information at all is available. Even NATO has limited information on what is going on in many parts of the country. The Provincial Reconstruction Teams (PRT) are increasingly experiencing difficulties in accessing all parts of their areas of operation. For example, in Badghis province in the north-west, the PRT seldom patrols the northern-most districts, compared with the relatively stable districts in the south of that province. Moreover, many organisations never even leave Kabul.

*Mohammad Aziz Rahjo:*

UNHCR and AIHRC conduct human rights field monitoring in different districts and provinces, mainly on overall human rights situation and specific human rights issues in districts and villages.

### Kabul

*Mohammad Aziz Rahjo:*

Kabul is a big province, apart from the rural districts of Kabul province there is Kabul City. About 4 Million Afghans live in Kabul, including its rural districts. The majority of returnees from Iran and Pakistan are staying in Kabul. They have not returned to their places of origin, either because of security problems, the lack of employment opportunities or the draught that affected the area.

From 2002 to the beginning of 2006, the private sector and different agencies & organisations started to provide some employment opportunities (constructing roads, buildings,...) in the rural areas of Afghanistan. But the latest deterioration of the security situation caused them to stop. Additionally, there is a large number (about 150.000) of skilled foreign workers, mainly Pakistani, the majority of them being in Kabul. While a large number of unskilled workers have an income of below 80,- US-\$ per month.

There are still two rural districts of Kabul which are insecure:  
Chahar Asyab district: previously the military base of Hizb-l Islami Hekmatyar  
Surobi: also Hizb-l Islami presence

The distribution of land to homeless and landless returnees in Kabul by the Ministry of Refugees and Repatriation is going really slow. Many of these Afghans are living either with relatives or previously were living in public buildings and in tents – but now some of them moved to their provinces because of the weather. There are still a lot of families without shelter, waiting for land distribution. Some of them are in the Shamali Plain in the north of Kabul, others in the southern and south eastern parts of the country.

#### Kabul & Forced Returns

As far as returnees from non-neighbouring countries and Europe are concerned: Individuals who have been involuntarily repatriated to Afghanistan and cannot find their families and receive tribal protection are in a precarious situation in Kabul City. The Ministry of Refugees and Repatriation has a guest house, but their facilities are limited: They have two or three rooms and in total they can keep about twenty individuals who can stay for a maximum of two weeks.

#### *Barbara J. Stapleton:*

In Kabul contrasts are extraordinary. Parts of the city constitute a thriving and bustling urban economy, with 30.000 taxis plying a trade. But in the residential parts of the city where the international community and Afghan middle class is not based, living conditions can be almost stone-age. The entire city lacks any sewage system, there are open drains in all parts of the city. There is a very intermittent power supply. Those who can afford it are dependent on power generators, while for many Afghans the fuel to heat their stoves is unaffordable over the long and bitterly cold winters. The cost of living is continually rising. All the urban centres, but particularly Kabul, are in crisis in terms of overloaded and inadequate service provision.

#### Return from Pakistan and Iran

#### *Mohammad Aziz Rahjo:*

UNHCR does not expect massive returns of Afghans originally from south, south east and some of the central provinces of Afghanistan this year. Some 200.000 unregistered refugees returned from Pakistan, mainly to the eastern provinces.

In 2005 UNHCR, the Ministry of Urban Development, the Ministry of Rural Rehabilitation and the Ministry of Refugees and Repatriation discussed the planning figures for the return of Afghans. All parties had the position that any further massive return and planning for big figures of return will humane catastrophe because of Afghanistan's weak absorbing capacity.

Afghans affected by the deportations from Iran however face difficulties, because about 1 Million of Afghans are undocumented, and the Iranian government is forcing them to return. About 100.000 of them have already been deported, mainly to Farah province, and their situation is not good. IOM, UNHCR and the Ministry of Refugees and Repatriation try to address their initial reintegration needs in Farah, but the situation in the province has changed completely, including the security situation. The majority of the districts are under control of the Taliban, starting already at 4km distance from Farah city.

For information on return from Pakistan and Iran and on the integration of returnees, see the following reports:

- UNHCR: "Registration of Afghans in Pakistan 2007", 1 May 2007 (*note: file size is 80MB*)  
<http://www.unhcr.org.pk/emergency/Registration%20Report.pdf>
- ILO/UNHCR: Afghan Households And Workers In Iran: Profile And Impact, October 2006  
[http://www.ilo.org/public/english/protection/migrant/download/iran\\_report.pdf](http://www.ilo.org/public/english/protection/migrant/download/iran_report.pdf)
- Altai Consulting (for ILO & UNHCR): "Integration of Returnees in the Afghan Labor Market", October 2006  
Summary report (29 pages):  
[http://www.ilo.org/public/english/protection/migrant/download/afghan\\_summary.pdf](http://www.ilo.org/public/english/protection/migrant/download/afghan_summary.pdf)  
Full report (106 pages):  
[http://www.ilo.org/public/english/protection/migrant/download/afghan\\_report.pdf](http://www.ilo.org/public/english/protection/migrant/download/afghan_report.pdf)
- AREU: "Afghan Transnational Networks: Looking Beyond Repatriation", August 2006  
[http://www.areu.org.af/index.php?option=com\\_docman&Itemid=&task=doc\\_download&gid=432](http://www.areu.org.af/index.php?option=com_docman&Itemid=&task=doc_download&gid=432)
- AREU: "To Return or to Remain: The Dilemma of Second-generation Afghans in Pakistan, Case Study", June 2007  
[http://www.areu.org.af/index.php?option=com\\_docman&Itemid=&task=doc\\_download&gid=479](http://www.areu.org.af/index.php?option=com_docman&Itemid=&task=doc_download&gid=479)

### Religious minorities: Hindus & Sikhs

#### *Mohammad Aziz Rahjo:*

Hindus and Sikhs have been living in Afghanistan for a long time. They are living in a number of provinces: in Kabul, Nangarhar, Khost, Ghazni and Kandahar. When the Mujahideen took control of Kabul, after the fall of the Najibullah regime, a number of them had their property occupied by powerful commanders. During the Taliban regime, they were discriminated and they were asked to wear specific clothes.

While the general situation is not affecting the majority of Hindus and Sikhs specifically, some of them are discriminated by the local authorities in terms of land allocation, their children do not have access to specific schools, they are harassed, if enrolled to public schools, the government is not able to recover their immovable property including their cremate site from powerful individuals.

Afghan Shia Ismailies are a minority in Bamyán, Kabul city, Baghlan, Mazar-e-Sharif and other places in Afghanistan. UNHCR is aware of discrimination of this group by non-state agents due to their religion during the internal conflict in 1992 to the end of 2001. While the office can not ignore the existence of persecution of Ismailies by local commanders in their places of origin, UNHCR has not received any such specific report. However, this is plausible and thus each case has to be assessed on its merits.

The presence of family members/relatives/religious networks in the places of origin of Ismailies indeed play a crucial role on every aspect of their live including on economic assistance to their poor families.

## Military Service

*Mohammad Aziz Rahjo:*

President Karzai declared military service to be voluntary, not mandatory.

## National ID cards / Identity Documents

*Mohammad Aziz Rahjo:*

Different ID-cards were used through the various regimes. There is a large number of forged cards. There is no recent census data available – a new census is planned and in pilot stage in a number of districts at the moment. After that census, new ID documents will be issued.

## Citizenship Law

*Mohammad Aziz Rahjo:*

Currently, the 2000 Citizenship Law of the Taliban is valid. A new citizenship law is currently being drafted, which will contain the possibility of dual citizenship (dual citizenship is not possible in the 2000 law).

## Afghan women married to foreigners

*Mohammad Aziz Rahjo:*

Women married to foreigners do not generally experience problems, if the husband/wife converts to Islam. There might be possible security problems, if the man is recognizable as European, American, or African, for example.

As for Russians or from former USSR, sustainable settlement in Afghanistan is not possible. They experience discrimination and limited freedom of movement in some areas. UNHCR tries to advise against their return to Afghanistan and in some cases the office helped them to return back to Russia/former USSR.

## Health care

*Mohammad Aziz Rahjo:*

See the upcoming UNHCR paper for information on health care situation in Afghanistan. The Ministry of Health developed comparatively well. But not all areas are covered and there is the issue of long distances that have to be coped with – the only means of transportation sometimes being horses or donkeys.

Additionally, there are cases of threats and attacks against health workers<sup>21</sup> because they are being perceived as cooperating with the government. Recently, health workers were beheaded by the Taliban in Helmand province.

*Barbara J. Stapleton:*

Another problem to highlight: In the southern parts of the country, where the government only controls the district centres, there are reported cases of people being denied access by those anti-government groups who are in control of the rest of the district.

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<sup>21</sup> See for example:

IRIN: "Health services under increasing strain in Helmand Province", 9 August 2007  
<http://www.irinnews.org/report.aspx?ReportId=73658>