



## Country of Origin Report Afghanistan

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## Introduction

This country of origin report describes the situation in Afghanistan insofar as it is relevant to the assessment of asylum applications from persons originating from Afghanistan and to decisions on the repatriation of rejected Afghan asylum-seekers. It is an update of previous official reports on the situation in Afghanistan. The report refers to the thematic official report of May 2018 on the security situation, and deals with developments since June 2018, in relation to the political and security situation and the migration issue in particular. The human rights situation is described for the period from November 2016 (the date of the previous country of origin report), up to and including December 2018. Information published since the beginning of 2019 for the whole of 2018 could only be taken into account partially and in general outline in the present report.

The report is based on information from public and confidential sources. Use has been made of information from various agencies of the United Nations, non-governmental organisations and other experts, as well as from specialist literature and media reporting. An overview of the public sources consulted is included in the list of references.

The report is also based on local observations and confidential reports of the Dutch mission in Afghanistan. A fact-finding mission to Afghanistan took place in October 2018, visiting Kabul and Mazar-i Sharif. For logistical reasons, a visit to Herat proved impossible during the mission period. Frequent reference is made to the consulted public sources. Where public sources are mentioned, the text is in many cases also supported by information obtained on a confidential basis. Where reference is made in certain passages to previous official reports, it can be assumed that the situation described in these reports is still applicable.

Chapter One provides an overview of recent political developments, power factors and developments with regard to the Afghan army and police.

Chapter Two outlines the security situation in the country in the different regions.

Chapter Three gives an overview of the human rights situation in Afghanistan. After a description of legal guarantees and international treaties to which Afghanistan is a party, the possibilities for monitoring respect for human rights are considered. The extent to which human rights are protected or violated is then considered. Finally, the situation of specific groups, including children, is presented.

The main focus in Chapter Four is on migration flows, the reception of refugees in the region and the reception of internally displaced persons, as well as the return of Afghans from the region and from Europe.



## 1 Country information

### 1.1 Political developments

This chapter refers to the thematic official report of May 2018 on the security situation in Afghanistan, and deals with key political developments since June 2018.

#### 1.1.1 *Government of National Unity*

The effectiveness of President Ghani and his government in developing and implementing policy was again limited during this reporting period. The government remained heavily dependent on foreign military and economic assistance. The *National Unity Government* (NUG) was also unable to implement laws and decisions in parts of the country under the control of the Taliban and other insurgents.<sup>1</sup> The functioning of the government continued to be hampered by divisions and tensions arising from the pursuit and prioritisation of personal and/or group interests and due to internal division on important strategic issues. During the reporting period, domestic politics was dominated by preparations for the parliamentary elections and by a dispute over the validity of some of the votes cast (see 1.1.2).<sup>2</sup>

The Asia Foundation conducts an annual survey to find out what Afghans think about the situation in their country. It examines public opinion on the security situation, elections, governance, essential services, the economy, corruption, peace negotiations, the situation of young people, the role of women, access to the media, political participation and migration. The percentage of respondents who said that the country was developing positively remained the same as in 2017 (32.8%). The percentage of people who said that the situation was developing negatively also remained about the same (61.3% compared to 61.2% in 2017). The main reasons given for pessimism were insecurity (72.5% compared to 69.5% in 2017), concerns about the economy (37.6%, including a large number of respondents who explicitly referred to unemployment), poor governance (33%) and corruption (14.3%). Respondents who said they felt positive about developments emphasised improved security (51.8%) and reconstruction (47.9%), followed by better governance (28.8%), improvements in the position of women (11.7%) and economic progress (11.2%). 71.1% of respondents said they feared for their own safety (70.7% in 2017).<sup>3</sup>

On 3 May 2018, the government announced the rollout of the electronic national identity card (e-tazkera). This communication prompted fierce criticism from political leaders, especially non-Pashtun leaders, many of whom were against the use of the word 'Afghan' on the e-tazkera as a definition of citizenship. Their argument was

<sup>1</sup> For background information on the formation of the National Unity Government, see the country of origin report on Afghanistan of November 2016. Rijksoverheid.nl; Confidential source, consulted on 1 August 2018.

<sup>2</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, pp. 2-4, 7 December 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/374-S/2018/824, pp. 2-4, 10 September 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security*. S/2018/165, 27 February 2018. See also Ministry of Foreign Affairs. Thematic official report on the security situation in Afghanistan, May 2018, p. 5.

<sup>3</sup> The Asia Foundation. *A survey of the Afghan people. Afghanistan in 2018*. 4 December 2018. [https://asiafoundation.org/wp-content/uploads/2018/12/2018\\_Afghan-Survey\\_fullReport-12.4.18.pdf](https://asiafoundation.org/wp-content/uploads/2018/12/2018_Afghan-Survey_fullReport-12.4.18.pdf). pp. 2 -5; This is a nationwide survey. A total of 15,000 interviews were conducted with respondents aged 18 and over, with approximately the same number of men and women being polled. Eighty percent of respondents came from the countryside and almost 20% from the city. The interviews took place in July 2018, about a month after the three-day ceasefire between government forces and the Taliban. When asked about the biggest local problems, 45.3% of the respondents mentioned utilities and public services. This percentage includes the 22.4% of respondents who cited drinking water and the 20.1% of respondents who cited electricity as problems in their local area. Crime and insecurity and lack of work were each reported as local problems by a third of respondents. Illiteracy and lack of educational opportunities were cited by women as the biggest local problems (45.7%), followed by limits on women's rights (31.1%), lack of employment opportunities (25.6%) and violence against women (especially domestic violence, 19.3%).

that this adjective has historically referred to the Pashtuns. Chief Executive Officer (CEO) Abdullah, who had wanted to see this ethnic controversy resolved before the launch, responded with a speech criticising the government on a number of points, including lack of electoral reform.<sup>4</sup>

On 25 August 2018, President Ghani requested the resignation of his security cabinet, the *National Security Council*. This council consists of the Ministers of Defence and Interior Affairs, the director of the *National Directorate of Security* (NDS) and Ghani's security adviser. The immediate reason for this decision was said to be the Taliban offensive against the city of Ghazni, against the background of a generally deteriorating security situation. Security adviser Hanif Atmar immediately complied with the President's request and resigned. He was succeeded by Hamdullah Mohib, the Afghan ambassador in Washington appointed by the President. The others tendered their resignation, which was not, however, accepted by President Ghani.<sup>5</sup> On 2 October 2018, the dismissal of General Din Mohammad Jurat, deputy director of the National Security Council, followed by presidential decree. A number of senior security advisers then resigned on 18 October 2018.<sup>6</sup> On 23 December 2018, President Ghani appointed Assadullah Khalid as acting Minister of Defence and Amrullah Saleh as acting Minister of Interior Affairs. Both are former heads of the security service.<sup>7</sup>

### 1.1.2

#### *Elections*

After a new electoral law had been approved by parliament in September 2016, a new *Independent Election Commission* (IEC) was established in November 2016. The new law requires the IEC to establish polling stations in a balanced manner throughout Afghanistan, including in areas controlled or influenced by armed insurgents.<sup>8</sup>

The IEC announced on 1 April 2018 that 20 October 2018 had been set as the new date for the parliamentary and district council elections<sup>9</sup>, having previously named 7

<sup>4</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. S/2018/539, p. 3, 6 June 2018; Confidential source, consulted on 1 August 2018; AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*, 6 May 2018; Thematic official report on the security situation, p. 7, November 2016; The position of CEO should eventually be formalised as prime minister, a position that does not yet exist in the Afghan system and requires a constitutional change to introduce.

<sup>5</sup> Confidential source, 27 August 2018; Confidential source, 18 October 2018; Washington Post, *Turmoil in Afghan government raises worries about stability*, 28 August 2018; The Guardian, *Afghanistan: national security adviser quits, sparking cabinet resignations*, 25 August 2018, <https://www.theguardian.com/world/2018/aug/25/four-senior-members-afghan-government-resign>; <https://www.aljazeera.com/news/2018/08/afghan-president-ghani-rejects-ministers-resignations-180826095117753.html>. President Ghani reportedly refrained from accepting the resignation of the other members of the security council because a collective departure posed too great a risk for the country's stability; Office of the President. National Security Council. <https://president.gov.af/en/national-security-council-members/?q=council>. Consulted 20 February 2019. The President may, depending on the circumstances, increase or decrease the number of members of the NSC.

<sup>6</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*, A/73/624-S/2018/1092, p. 4, 7 December 2018.

<sup>7</sup> The New York Times, *To Curb Taliban, Afghan President Replaces Security Chiefs*, 23 December 2018, <https://www.nytimes.com/2018/12/23/world/asia/afghanistan-taliban-ghani.html>; confidential source, 24 December 2018; Amrullah Saleh resigned after 27 days due to his candidacy for the vice-presidency as part of President Ghani's team for the upcoming elections. See: Reuters. *Afghan interior minister resigns to join President Ghani's election team*. 19 January 2019. <https://www.reuters.com/article/us-afghanistan-politics-election/afghan-interior-minister-resigns-to-join-president-ghanis-election-team-idUSKCN1PD0CK>; Saleh was head of the NDS from 2004 to 2010; see: [http://www.afghan-bios.info/index.php?option=com\\_afghanbios&id=1571&task=view&start=2571&Itemid=2](http://www.afghan-bios.info/index.php?option=com_afghanbios&id=1571&task=view&start=2571&Itemid=2) Consulted 20 February 19; Khalid was appointed head of the NDS in 2012 shortly before he was seriously injured in a bomb attack. [http://www.afghan-bios.info/index.php?option=com\\_afghanbios&id=877&task=view&total=2584&start=1166&Itemid=2](http://www.afghan-bios.info/index.php?option=com_afghanbios&id=877&task=view&total=2584&start=1166&Itemid=2) Consulted 20 February 2019.

<sup>8</sup> UNHCR, *Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan*. HCR/EG/AFG/18/02, p. 16, 30 August 2018.

<sup>9</sup> Freedom House, *Freedom in the World 2018. Afghanistan Profile*, p. 4, 2018; The Afghan parliament consists of a lower house and an upper house. The lower house, the Wolesi Jirga (House of the People) has a maximum of 250



July 2018. The parliamentary elections had already been postponed several times since last being held in 2010. They were originally scheduled for 2015. The parliamentary term is five years. The presidential elections were originally announced for 20 April 2019,<sup>10</sup> but on 31 December 2018 were postponed by the IEC for three months to 20 July 2019.<sup>11</sup>

Preparations for both elections have been extremely difficult, partly because the Afghan government is taking full responsibility for organising them for the first time. Almost every deadline in the electoral calendar (identification of polling stations, registration of voters, registration of candidates, etc.) has been missed.<sup>12</sup> The district elections, which have never taken place in Afghanistan to date, were postponed to 20 July 2019.<sup>13</sup> There were too few candidates (including too few female candidates in some cases). Moreover, there was no legal framework for these elections as yet, and the constituencies had not been defined. However, it is clear that the district councils are essential to the implementation of constitutional changes with a *Constitutional Loya Jirga*. The fact that these district elections have not yet taken place also means that a third of the seats in the Meshrano Jirga (upper parliamentary chamber) are not occupied.<sup>14</sup>

#### *Voter registration*

Voter registration for the parliamentary elections started on 14 April 2018.<sup>15</sup> The IEC started a campaign for the entire country to register voters. Preparations for the elections were adversely affected by slow decision-making and attacks on voter registration centres and their employees as well as on candidates (see Chapters 2 and 3). The IEC encountered serious problems with recruiting employees, both for its head office and at provincial level. There also seemed to be divisions within the IEC and between the Commission and the Presidential Palace about the preparations for the elections.<sup>16</sup>

The voter registration period ended on 6 July 2018. Almost nine million registrations took place; these were then recorded in a database, after which 800,000 duplicate or incomplete registrations were removed by the IEC. About eight million registered voters remained, 35% of whom were women.<sup>17</sup>

members. Members are elected for a period of five years. The upper house, the Meshrano Jirga (House of the Elders), has 102 members. Two-thirds of the members are elected by the provincial councils for a three- to four-year period. A third of the members are appointed by the President for a period of five years; see also the Afghan Constitution for information about elections to the Afghan parliament and the composition of the lower and upper houses: <http://wolesi.website/pve/page.aspx?Cat=2>.

<sup>10</sup> IGC, *A dangerous escalation in Afghanistan*, 31 January 2018, <https://www.crisisgroup.org/asia/south-asia/afghanistan/dangerous-escalation-afghanistan>; Aljazeera, *Afghanistan to hold presidential elections in April next year*, 1 August 2018, <https://www.aljazeera.com/news/2018/08/afghanistan-hold-presidential-elections-april-20-2019-180801082206475.html>.

<sup>11</sup> Confidential source, 7 January 2019; Washington Post, *Afghan election delayed until July*, 31 December 2018; <https://unama.unmissions.org/un-statement-new-presidential-election-date-afghanistan>.

<sup>12</sup> Confidential source, 18 October 2018.

<sup>13</sup> <http://www.iec.org.af/pdf/timeline-1397.pdf>.

<sup>14</sup> Confidential source, 18 October 2018; AAN, *Afghanistan Election Conundrum (10): Failure to hold the first ever district council elections?*, 7 August 2018, <https://www.afghanistan-analysts.org/afghanistan-election-conundrum-10-failure-to-hold-the-first-ever-district-council-elections/>; AAN considers it likely that these district elections will be held at the same time as the provincial and presidential elections. According to the constitution, a third (34) of the 102 members of the upper house of parliament, the Meshrano Jirga, must be elected by the district councils, and more than half the members of a Constitutional Loya Jirga (the only body that can change the Afghan constitution) must consist of district council members.

<sup>15</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. S/2018/539, p. 3, 6 June 2018.

<sup>16</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. S/2018/539, pp. 1, 3 and 4, 6 June 2018.

<sup>17</sup> Confidential source, 9 July 2018; Confidential source, 18 October 2018.

In September 2018, the IEC offices were closed in the cities of Herat, Mazar-i Sharif and Kandahar, under pressure from opposition parties united in the *Grand National Coalition of Afghanistan* (GNCA). These parties called for the elections to be postponed, as they believed that the conditions for fair and free elections had not been met. They claimed that the number of voters registered by the IEC was unrealistically high and the result of fraud. The government kept to its plan of holding parliamentary elections on 20 October 2018..<sup>18</sup>

One tricky issue during the preparations for the elections was the use of biometric systems to combat fraud. In October 2017, the IEC decided not to use these, because it did not think there was a realistic prospect of implementing them in time. However, this remained an important demand from the opposition, which on several occasions threatened to boycott the elections if there was no biometric verification of voters..<sup>19</sup>

The registration of voters for the elections was based on a paper procedure. Voters could register if they were in possession of an identity document (*tazkera*). To this end, the government accelerated the issuing of tazkeras..<sup>20</sup> Persons entitled to vote received a sticker on their identity document when they registered. After insurgents threatened citizens who had such a sticker on their identity document, the IEC decided on 16 May 2018 to issue duplicate identity documents for the purpose of registering to vote..<sup>21</sup> On 14 September 2018, the director general of Afghanistan's Central Civil Registration Authority (ACCRA), Humayoun Mohtat, reported that more than five million identity documents had recently been distributed to people throughout the country. He stated that counterfeit identity cards had been found to be in circulation, but that they were limited in number and did not pose a threat to fair elections. A number of political parties and parliamentarians expressed their concern and were of the opinion that the counterfeiting was extensive..<sup>22</sup>

In the end, more than a month before the elections, the government finally agreed to use biometric verification on election day. Two fingerprints and a photo of each voter and his or her identity card were taken, after which a sticker with a unique QR code was applied to the ballot to prevent people from voting multiple times. The IEC indicated that women did not have to be photographed..<sup>23</sup>

There were around 2,500 candidates (including 406 women) for the 250-seat lower house of parliament. In addition to the IEC, an Independent Electoral Complaints Commission (IECC) was established. The two commissions were jointly responsible for providing some form of oversight. For example, 35 parliamentary candidates were removed from the list of candidates because they did not meet the required conditions or had violated the electoral law..<sup>24</sup> The official campaign period for

<sup>18</sup> Confidential source, 17 September 2018; The Independent, *Protestors shut down election offices in Afghanistan ahead of vote delayed by three years*, 16 September 2018, <https://www.independent.co.uk/news/world/protest-afghanistan-election-offices-taliban-balkh-kandahar-herat-a8540016.html>.

<sup>19</sup> Confidential source, 18 October 2018.

<sup>20</sup> Confidential source, consulted on 3 August 2018.

<sup>21</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. S/2018/539, p. 4, 6 June 2018; Confidential source, 16 January 2018. The duplicate tazkera was a copy that could only be used for voter registration and was not comparable in status to the tazkera itself.

<sup>22</sup> Tolonews, *ACCRA Almost Ready To Enter ID Details Into Database*, 23 August 2018, <https://www.tolonews.com/elections-2018/accra-almost-ready-enter-id-details-database>.

<sup>23</sup> Confidential source, 18 October 2018.

<sup>24</sup> Confidential source, 18 October 2018; see also the Afghan Constitution for information about elections to the Afghan parliament and the composition of the lower and upper chamber: <http://wolesi.website/pve/page.aspx?Cat=2>.

political parties and their candidates to gain support at provincial and district level started on 28 September 2018..<sup>25</sup>

Many people were killed in the run-up to the elections and on election day itself. The *Armed Conflict Location Event Data* (ACLED) recorded 13 attacks related to the elections, each with more than ten casualties, over a period of seven months from the start of voter registration in April 2018. Many of these attacks took place at voter registration centres in areas where armed insurgents were active. Both the Taliban and *Islamic State of Khorasan Province* Islamic State of Khorasan Province (ISKP) rejected the elections and indicated that they would attack voter registration centres and polling stations.<sup>26</sup> (see Chapter 3). For the first time, the Afghan National Defense and Security Forces (ANDSF) were responsible for security during the election days themselves. An estimated 54,000 police and soldiers were deployed, and 10,000 reservists. The NATO Resolute Support (RS) mission only played a supporting role. The number of incidents on the election days themselves is estimated by several sources at around 190, and more than 70 election-related deaths are thought to have occurred (there were more deaths, but these are not attributed to the elections). Compared to the 2010 and 2014 elections, in which many more troops (international and Afghan) were deployed, the number of incidents was relatively low, according to RS. RS estimated that compared to 2014, only one-fifth of the number of attacks took place. ANDSF action during the elections was organised and disciplined..<sup>27</sup>

<sup>25</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 2, 7 December 2018.

<sup>26</sup> Acled, *Fighting bullets with ballots. Afghanistan's chaotic election*, consulted on 14 November 2018, [https://www.acleddata.com/2018/10/26/fighting-bullets-with-ballots-afghanistans-chaotic-election/?utm\\_source=Armed+Conflict+Location+%26+Event+Data+Project&utm\\_campaign=1cc9624e3d-EMAIL\\_CAMPAIGN\\_2018\\_09\\_21\\_06\\_50\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_26a454684a-1cc9624e3d-75092283](https://www.acleddata.com/2018/10/26/fighting-bullets-with-ballots-afghanistans-chaotic-election/?utm_source=Armed+Conflict+Location+%26+Event+Data+Project&utm_campaign=1cc9624e3d-EMAIL_CAMPAIGN_2018_09_21_06_50_COPY_01&utm_medium=email&utm_term=0_26a454684a-1cc9624e3d-75092283); Other names for ISKP are Islamic State (IS), ISIS or Daesh. The abbreviation IS-K (for 'Islamic State's Khorasan') is also used. The abbreviation ISKP is used in most sources.

<sup>27</sup> Confidential source, 1 November 2018. In December 2014, the NATO-led International Security Assistance Force (ISAF) ended its combat mission in Afghanistan. The ANDSF was given full responsibility for security in Afghanistan from the beginning of 2015. The Afghan government and armed forces continued to receive support from the US with a combat mission and from NATO with the Resolute Support mission's training activities. See: US Department of Defense. *Report on enhancing security and stability in Afghanistan*. June 2015. [https://dod.defense.gov/Portals/1/Documents/pubs/June\\_1225\\_Report\\_Final.pdf](https://dod.defense.gov/Portals/1/Documents/pubs/June_1225_Report_Final.pdf)

### *Parliamentary elections*

The parliamentary elections took place on 20, 21 and 27 October 2018.

On 20 October 2018, parliamentary elections were held in 32 provinces, with chaos everywhere. The IEC therefore decided also to open at least 441 polling stations (about ten percent of the total number) on 21 October. The chaos was caused, among other things, by the late or non-opening of polling stations, absent or incomplete voter lists, missing or non-functioning biometric verification equipment, inadequately trained personnel, official observers not being admitted to polling stations and party observers (an estimated 200,000 of them) getting in the way and interfering with activities..<sup>28</sup>

The elections in the provinces of Ghazni and Kandahar were postponed. The elections in Kandahar province were suspended after an attack claimed by the Taliban on 18 October 2018 in which General Raziq, the head of the provincial police, was among those killed. Raziq was an archenemy of the Taliban, for whom the successful attack was a great triumph. Raziq, who had a dubious reputation in the area of human rights, was nevertheless popular because he was able to ensure security in the southern region.<sup>29</sup> (see also 2.1.). The elections eventually took place in the province of Kandahar on 27 October. Also in Kandahar, as was the case with the parliamentary elections on 20 October 2018, there were problems with biometric verification, incompetent personnel, long queues and incomplete voter registration lists at various polling stations..<sup>30</sup>

For the province of Ghazni there was, in addition to insecurity, a disagreement about the distribution of electoral districts within the province..<sup>31</sup> In any case, most districts in this province were in Taliban hands, making the elections impossible for security reasons.<sup>32</sup> – a situation that also occurred in a number of districts in other provinces. Moreover, it turned out that in districts where elections did take place, the polling stations were by no means always open. The IEC is considering organising the elections in Ghazni at the same time as the presidential elections..<sup>33</sup>

The *Afghanistan Analysts Network* (AAN) analysed the course of the parliamentary elections in one of the areas disputed between government forces and the Taliban, the Zumat district in Paktia province, with an estimated population of 95,000. This district, which is the one most affected by the struggle in the province, is almost entirely under Taliban control, apart from the district capital, Tamir. The AAN analysis gives an impression of how the elections went in a disputed district and in particular how the Taliban tried to disrupt the elections.

<sup>28</sup> Confidential source, 1 November 2018; Aclad, *Fighting bullets with ballots: Afghanistan's chaotic election*, [https://www.acleddata.com/2018/10/26/fighting-bullets-with-ballots-afghanistans-chaotic-election/?utm\\_source=Armed+Conflict+Location+%26+Event+Data+Project&utm\\_campaign=1cc9624e3d-EMAIL\\_CAMPAIGN\\_2018\\_09\\_21\\_06\\_50\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_26a454684a-1cc9624e3d-75092283](https://www.acleddata.com/2018/10/26/fighting-bullets-with-ballots-afghanistans-chaotic-election/?utm_source=Armed+Conflict+Location+%26+Event+Data+Project&utm_campaign=1cc9624e3d-EMAIL_CAMPAIGN_2018_09_21_06_50_COPY_01&utm_medium=email&utm_term=0_26a454684a-1cc9624e3d-75092283), consulted on 14 November 2018.

<sup>29</sup> Confidential source, 1 November 2018; New York Times, *An Afghan Police Chief Took On the Taliban and Won. Then His Luck Ran Out*, 18 October 2018, <https://www.nytimes.com/2018/10/18/world/asia/kandahar-afghanistan-attack.html>.

<sup>30</sup> Confidential source, 30 October 2018.

<sup>31</sup> Confidential source, 18 October 2018.

<sup>32</sup> Confidential source, 18 October 2018.

<sup>33</sup> Tolonews, *Ghazni Elections Could Be Held With Presidential Elections*, 28 October 2018, <https://www.tolonews.com/elections-2018/ghazni-elections%C2%A0could%C2%A0be-held-presidential-elections>.

The elections could only be held in a very small part of the district, and according to the AAN there were irregularities. There are allegations that votes were bought and that tazkeras were paid for to enable people to vote for certain candidates. Of the 22 polling stations, only three opened on the first election day. The turnout was small, even after the government finally opened a number of polling stations on 21 October 2018. In the run-up to the elections, the Taliban warned the population not to participate in the elections. Pamphlets known as *shabnama* (night letters) were displayed in schools and mosques in Tamir and other villages. In areas outside Tamir, the Taliban spread their message through the loudspeakers on mosques. The government had recruited local teachers to staff the elections. The Taliban put pressure on them not to cooperate and not to vote, for example by confiscating their tazkeras. During election day, the Taliban fired rockets at Tamir, killing or injuring several people and damaging some shops and houses.<sup>34</sup>

Turnout figures vary widely. The *Independent Election Commission* (IEC) estimates that around four million voters voted out of a total of around seventeen million. Voters often queued in front of closed polling stations for hours, or on several occasions because it had been too busy earlier.<sup>35</sup>

The IEC came in for criticism from all sides over the parliamentary elections. The *Independent Electoral Complaints Commission* (IECC) is responsible for handling complaints, an estimated eleven thousand of which had been received by the end of October 2018. Most complaints were about the biometric verification system and the late opening of polling stations.<sup>36</sup>

#### *Results of the parliamentary elections*

The IEC and the IECC had a public disagreement about the validity of votes cast without biometric voter verification. On 3 November 2018, the two commissions issued a joint statement to the effect that votes not subject to biometric verification could be counted under certain conditions.<sup>37</sup>

On 3 November 2018, the IEC announced that the publication of the provisional election results had been postponed from 10 November to 23 November 2018 for 32 provinces and to 1 December for Kabul province. On 23 November 2018, the IEC announced the results of just five provinces.<sup>38</sup> By the end of December 2018, the provisional results for 30 of the 33 provinces had been announced.

<sup>34</sup> Afghanistan Analysts Network, *Election Days in Zurmat, Paktia: real voting only in the districts centre*, 29 October 2018, <https://www.afghanistan-analysts.org/election-days-in-zurmat-paktia-real-voting-only-in-the-district-centre/>. The author estimates that only 500 votes were cast at the three polling stations.

<sup>35</sup> Confidential source, 1 November 2018; Acled, *Fighting bullets with ballots: Afghanistan's chaotic election*, [https://www.acleddata.com/2018/10/26/fighting-bullets-with-ballots-afghanistans-chaotic-election/?utm\\_source=Armed+Conflict+Location+%26+Event+Data+Project&utm\\_campaign=1cc9624e3d-EMAIL\\_CAMPAIGN\\_2018\\_09\\_21\\_06\\_50\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_26a454684a-1cc9624e3d-75092283](https://www.acleddata.com/2018/10/26/fighting-bullets-with-ballots-afghanistans-chaotic-election/?utm_source=Armed+Conflict+Location+%26+Event+Data+Project&utm_campaign=1cc9624e3d-EMAIL_CAMPAIGN_2018_09_21_06_50_COPY_01&utm_medium=email&utm_term=0_26a454684a-1cc9624e3d-75092283), consulted on 14 November 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 3, 7 December 2018. UNAMA reports that there were 8.5 million registered voters, 35% of whom were women. According to the IEC, 4.2 million people voted; Confidential source, 16 January 2018. The IEC estimate of 4 million voters is based on non-verifiable information such as photos on social media.

<sup>36</sup> Confidential source, 30 October 2018; Confidential source, 1 November 2018.

<sup>37</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 3, 7 December 2018.

<sup>38</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 3, 7 December 2018.

The final results were still awaited at the end of December and depend on, among other things, recounts and the processing of the complaints by the IEC.<sup>39</sup>

#### *Presidential elections*

The presidential elections are scheduled for 20 July 2019. On 2 November 2018, President Ghani announced that he would stand for election for a second term.<sup>40</sup> The registration of candidates for the presidential elections opened on 22 December 2018.<sup>41</sup>

#### *Political parties and movements*

The constitution states that Afghanistan is a multi-party democracy. However, the electoral system itself is individual-based: political parties do not play an official role in elections. Candidates for the parliamentary elections are free to indicate that they are members of a particular political party (but many do not). Political parties do not provide lists of their candidates, no parliamentary seats are reserved for political parties and parties cannot form parliamentary groups. This state of affairs is not laid down in legislation or regulations. Parties mainly function as a means of mobilising voters at election time. Some of the party leaders are highly influential as individuals.<sup>42</sup> No progress was made in reforming the electoral system during the reporting period, so that political parties do not have any place in parliament for the time being.<sup>43</sup>

The most important political and in many cases military organisations or movements in Afghanistan, some of which date back to the war against the Soviet Union in the 1980s, are the Taliban (Sunni Pashtun) as a political movement and military organisation (see 1.2.1 and 1.4.2), *Jamiat-i-Islami* (Tajik); *Hezb-i-Wahdat* (mainly Shiite Hazara); *Jombesh-e-Milli Islami Afghanistan* (mainly Uzbek); the *National Islamic Front*; *Hezb-e-Haq wa Adalat* (Right and Justice Party); *Jabha-e Milli-e Afghanistan* (National Front of Afghanistan); *Hezb-i-Islami* (Pashtun) and the *Grand National Coalition of Afghanistan*. The ethnic group that forms most of the organisation's social basis is given in brackets.<sup>44</sup>

The largest political parties in Afghanistan are the Islamist Hezb-e Islami and Jamiat-e Islami. Both parties are characterised by internal division, resulting in factions.<sup>45</sup>

<sup>39</sup> Tolonews. *IEC Criticized For Delay In Announcing Election Results* 28 December 2018.

<https://www.tolonews.com/elections-2018/iec-criticized-delay-announcing-election-results>. For Kabul, the provisional results were announced on 14 January 2019.

<sup>40</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 4, 7 December 2018; <https://unama.unmissions.org/un-statement-new-presidential-election-date-afghanistan>.

<sup>41</sup> Tolonews. *IEC Begins Registration Of Presidential Candidates*. 3 January 2019.

<https://www.tolonews.com/elections-2018/iec-begins-registration-presidential-candidates>.

<sup>42</sup> AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*, 6 May 2018, <https://www.afghanistan-analysts.org/inside-and-outside-the-system-new-aan-report-on-afghanistans-political-parties/>.

<sup>43</sup> Ministry of Foreign Affairs. Thematic official report on the security situation in Afghanistan, May 2018, p. 5.; AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*, 6 May 2018, <https://www.afghanistan-analysts.org/inside-and-outside-the-system-new-aan-report-on-afghanistans-political-parties/>; AAN. *Afghanistan's Incomplete New Electoral Law: Changes and controversies*. 22 January 2017. <https://www.afghanistan-analysts.org/afghanistans-incomplete-new-electoral-law-changes-and-controversies/>.

<sup>44</sup> EIU, *Country Report 2nd Quarter 2018*, <http://www.eiu.com/>,

[http://www.eiu.com/FileHandler.ashx?issue\\_id=826810066&mode=pdf](http://www.eiu.com/FileHandler.ashx?issue_id=826810066&mode=pdf). The United National Front, consisting mainly of Jamiat-i-Islami, Hezb-i-Wahdat, Jombesh-e-Milli Islami and the National Islamic Front, no longer exists.

<sup>45</sup> USIP, *The political deal with Hezb-e Islami*. p. 20, July 2018. These are the two parties that have dominated the political landscape over the last forty years. Their rivalry is not so much over seats as over influence or power. The support base of both parties is linked to population groups (Pashtun and Tajik).

Following the 2016 peace accord, which was negotiated with the government through the offices of the *High Peace Council* (HPC)<sup>46</sup>, Gulbuddin Hekmatyar, leader of Hezb-e Islami Gulbuddin (HIG), returned to Afghanistan in May 2017. Most of the wings and factions of Hezb-e Islami reunited under Hekmatyar's leadership.<sup>47</sup> The leadership of the party remained divided for the time being. There are two camps. One camp consists of Hezb-e Islami supporters around Abdul Hadi Arghandiwal, who returned to Afghanistan from the United States after the fall of the Taliban, and Khalid Faruqi, a Hezb-e Islami commander from the province of Paktia. Together with Faruqi, Arghandiwal founded the Hezb-e Islami Afghanistan (HIA) party and registered it to contest the 2015 parliamentary elections. The other camp consists of Hezb-e Islami cadres and their supporters, who supported Hekmatyar and his son Habib ur Rahman.<sup>48</sup> The social basis of Hezb-e Islami is formed by Pashtun<sup>49</sup> communities in parts of the country. The leaders come from the urban, educated class working at universities and colleges as well as from the government in Kabul and in the provinces. There are also military leaders such as commanders from rural areas.<sup>50</sup>

Within Jamiat-i Islami there were internal disputes over who would succeed the murdered leader Ustad Borhanuddin Rabbani.<sup>51</sup> Jamiat-i Islami is a political party to which CEO Abdullah belongs.<sup>52</sup> Various political parties, at the urging of Jamiat-i Islami, have lobbied the government for changes to the electoral law, and in particular for the electoral system to be given an element of proportional representation.<sup>53</sup>

During the reporting period, political groups repositioned themselves in the run-up to the parliamentary elections, split off from existing parties, entered into new alliances or renewed alliances. In May 2018, the number of political parties that had registered with the Ministry of Justice had risen to 74 (compared to 57 in mid-2016).<sup>54</sup> The *Afghan Mellat*, one of the oldest political parties, fell apart.

<sup>46</sup> USIP, *The political deal with Hezb-e Islami*. pp. 16-17, July 2018.

<sup>47</sup> AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*, 6 May 2018.

<sup>48</sup> USIP, *The political deal with Hezb-e Islami*. pp. 3 and 13, July 2018.

<sup>49</sup> Cultural Atlas, *Afghan culture*, <https://culturalatlas.sbs.com.au/afghan-culture/core-concepts-2b0de7af-9011-4807-be1a-adb8910ab0cb#core-concepts-2b0de7af-9011-4807-be1a-adb8910ab0cb>, consulted on 31 August 2018; The Pashtun are the largest ethnic group in Afghanistan. They mainly belong to the Sunni branch of Islam and most of them speak Pashtun. See also: <https://www.globalsecurity.org/military/world/afghanistan/society-distribution.htm>.

<sup>50</sup> USIP, *The political deal with Hezb-e Islami*, p. 8, July 2018.

<sup>51</sup> AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*, 6 May 2018.

<sup>52</sup> EIU, *Country Report 2nd Quarter 2018*, <http://www.eiu.com/>, [http://www.eiu.com/FileHandler.ashx?issue\\_id=826810066&mode=pdf](http://www.eiu.com/FileHandler.ashx?issue_id=826810066&mode=pdf).

<sup>53</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security. S/2018/539*, p. 3, 6 June 2018.

<sup>54</sup> AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*, 6 May 2018. The law on political parties states that each party must have a clearly visible, independent office in at least 24 provinces. AAN doubts that even the most prosperous parties have the financial or organisational capacity to meet this requirement.

Its leader, former minister Anwar-ul-Haq Ahadi, entered into a collaboration under the name *New National Front* with the former mujahedin party 'Harakat-e Enqilab-e Eslami-e Afghanistan Islamic Revolution Movement of Afghanistan'. This alliance called for the National Unity Government (NUG) to be brought to an end and for a *Loya Jirga* for a relaunch of the political system in Afghanistan. On the left of the political spectrum, a party called 'Hezb-e Watan' (Fatherland Party) was re-established. In 1990 a party under the same name was the successor of the Hezb-e Dimokratik-e Khalq-e Afghanistan (People's Democratic Party of Afghanistan, PDPA). The PDPA controlled the country after a coup in 1978 and during the occupation by the Soviet Union.<sup>55</sup> (see also Chapter 3, 3.5.8.)

On 26 July 2018, the launch of a new political coalition took place, the *Grand National Coalition for Afghanistan* (GNCA). The coalition has prominent members such as Atta Noor (from the political party *Jam'iyat-i Islami*), vice-president General Abdul Rashid Dostum and his son (political party *Jombesh*), Hazara leader and vice-CEO Mohammad Mohaqeq (leader of the political party *Hezb-i-Wahdat*), parliamentary deputy speaker Homayoun, the influential MP Qadir and the former head of the National Directorate of Security (NDS) Major General Rahmatullah Nabil. It is a large coalition, with broad ethnic and geographical representation. Former President Karzai is not a member of the coalition, but has expressed his support for it.<sup>56</sup>

### 1.1.3 *Corruption in government*

According to World Bank indicators (2017), Afghanistan is one of the worst-governed countries in the world, and Transparency International stated that Afghanistan had the fourth most corrupt government in the world in 2017. In the *corruption perceptions index* for 2018, Afghanistan ranks 172 out of 180 countries, a slight improvement.<sup>57</sup> In a survey conducted by the *Asia Foundation* in 2017, 83.7% of Afghans said that corruption was a major problem in Afghanistan. Bribes often have to be paid, in particular to the judiciary and courts, when applying for a job and at the offices of the provincial governors.<sup>58</sup>

<sup>55</sup> AAN, *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties* published, 6 May 2018. AAN distinguishes three relatively stable movements within Afghan political parties: Islamists, left-wing parties and ethno-nationalists.

<sup>56</sup> Confidential source, 30 July 2018; Afghan Biographies, *Who is who in Afghanistan*, Maj-gen, Ramatullah Nabil, [http://www.afghan-bios.info/index.php?option=com\\_afghanbios&id=1165&task=view&total=3339&start=2012&Itemid=2](http://www.afghan-bios.info/index.php?option=com_afghanbios&id=1165&task=view&total=3339&start=2012&Itemid=2), consulted on 30 July 2018. See also thematic official report on the security situation in Afghanistan, May 2018. Reference was also made there to the formation of the Coalition for the Salvation of Afghanistan, led by the former governor of Balkh province, Atta Mohammad Noor, vice-president Dostum and others.

<sup>57</sup> Center for Strategic and International Studies (CSIS), *A Cordesman, Telling the Truth About the War in Afghanistan*, September 2018; World Bank indicators for governance: voice and accountability; political stability and absence of violence/terrorism; government effectiveness; regulatory quality; rule of law; control of corruption; Transparency International, <https://databank.worldbank.org/data/reports.aspx?source=worldwide-governance-indicators>, consulted on 5 November 2018; Corruption perceptions index 2017, 21 February 2018, [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017), consulted 5 November 2018. Of the 180 countries in the index, Afghanistan ranked 177; only Syria, South Sudan and Somalia scored even worse; Corruption perceptions index 2018. <https://www.transparency.org/cpi2018>. Consulted 12 February 2019.

<sup>58</sup> Confidential source, consulted on 2 August 2018. Asia Foundation, *Afghanistan in 2017. A survey of the Afghan people*, consulted 17 August 2018. [https://asiafoundation.org/wp-content/uploads/2017/11/2017\\_AfghanSurvey\\_report.pdf](https://asiafoundation.org/wp-content/uploads/2017/11/2017_AfghanSurvey_report.pdf).



The May 2018 thematic official report on the security situation in Afghanistan describes the corruption in the government and the measures taken by the government to combat it, such as the establishment of an *Anti-Corruption Justice Centre* in 2016. The official report indicates that corruption is a deep-rooted phenomenon in Afghan society<sup>59</sup>, and that ethnic and tribal diversity makes it difficult to combat in the short term. Since its establishment, the ACJC has handled 567 cases. Those convicted for corruption and abuse of power include governors, generals and deputy ministers. Fifteen generals, thirteen colonels and three deputy ministers are among those convicted.<sup>60</sup>

The Afghan authorities arrested a number of local leaders of militias and criminal gangs in the provinces of Faryab (see Chapter 2), Uruzgan, Badakhshan and Bamyan in early July 2018. Allegedly, these arrests followed an order from President Ghani to crack down on local warlords and criminals.<sup>61</sup>

The founder of the Kabul Bank, Sheer Khan Farnood, died under suspicious circumstances in Baghram prison in August 2018. Under his leadership, a large government debt arose in 2012. The sum of USD 1 billion is said to have been divided among political cronies. Sheer Khan Farnood was still very powerful and played an important role in the appointment of ministers, for example.<sup>62</sup>

On 25 November 2018, Abdul Ghani Alipur, a leader of a Hazara militia, was arrested on charges of corruption. This led to violent protests by Hazara. Shortly afterwards, Alipur was released on the advice of Vice-President Sarwar Danish, also a Hazara (see 3.5.4.).<sup>63</sup>

## 1.2 High Peace Council (HPC)

The High Peace Council (HPC) was founded in 2010 at national and provincial level to organise and steer talks with the Taliban and other insurgents.<sup>64</sup> Further information about the work of the HPC and its results is provided in the May 2018 thematic official report on the security situation in Afghanistan. President Ghani announced a restructuring of the HPC at the *Geneva Conference on Afghanistan* (see Chapter 4) on 28 November 2018. The HPC was given an advisory

<sup>59</sup> Thematic official report on the security situation in Afghanistan, pp. 6 and 7, May 2018; Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 9, 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security*, S/2018/539, p. 10, 6 June 2018.

<sup>60</sup> Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, p. 24, 2 July 2018, <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/07/05/antwoorden-op-vragen-over-nederlandse-inzet-in-afghanistan-2018-2021>.

<sup>61</sup> Confidential source, 9 July 2018.

<sup>62</sup> Confidential source, 27 August 2018; Who is who in Afghanistan, *Farnood, Sher Khan Shir Khan Farnud died*, [http://www.afghan-bios.info/index.php?option=com\\_afghanbios&id=2236&task=view&total=10&start=3&itemid=2%20afghan%20biographies:%20farnood,%20sherkhan%20shirkhan%20farnud](http://www.afghan-bios.info/index.php?option=com_afghanbios&id=2236&task=view&total=10&start=3&itemid=2%20afghan%20biographies:%20farnood,%20sherkhan%20shirkhan%20farnud), consulted on 18 December 2018.

<sup>63</sup> Washington Post, *In Afghanistan, an anti-Taliban militia hero or a rogue criminal?*, 26 November 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia\\_pacific%2fin-afghanistan-anti-taliban-militia-hero-or-a-rogue-criminal%2f2018%2f11%2f26%2fab34ba4c-f16f-11e8-aeaa-b85fd44449f5\\_story.html%3f&utm\\_term=.eb25707f2ca4](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia_pacific%2fin-afghanistan-anti-taliban-militia-hero-or-a-rogue-criminal%2f2018%2f11%2f26%2fab34ba4c-f16f-11e8-aeaa-b85fd44449f5_story.html%3f&utm_term=.eb25707f2ca4), Reuters, *Protest at arrest of Afghan Hazara commander turns violent*, 25 November 2018, <https://www.reuters.com/article/us-afghanistan-protests/protest-at-arrest-of-afghan-hazara-commander-turns-violent-idUSKCN1NU0LI?feedType=RSS&feedName=worldNews>.

<sup>64</sup> For background information about the HPC see the country of origin report on Afghanistan of November 2016, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2016/11/15/algemeen-ambtsbericht-afghanistan>; For recent developments, see the May 2018 thematic official report on the security situation in Afghanistan, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>.

function. The president also reported the formation of a team of twelve men and women for negotiations with the Taliban. The team's leadership was entrusted to the head of the presidential staff, Mr Rahimi.<sup>65</sup>

### 1.2.1

#### *Peace talks with the Taliban*

During the second gathering of the *Kabul Process for Peace and Security Cooperation*<sup>66</sup> on 28 February 2018, the Afghan government offered to start direct peace negotiations without conditions. The Taliban did not formally respond to this, but announced a spring offensive. A series of attacks by the Taliban on district administration centres followed (see Chapter 2).<sup>67</sup>

On 14 April 2018, at the start of voter registration for the parliamentary elections, President Ghani again called on the Taliban to participate in peace negotiations, end the armed struggle and register as a political party. The Taliban refused to take part in the elections on the same day, arguing that Afghanistan was occupied by thousands of foreign troops and that important political and military decisions 'were being taken by the occupiers'.<sup>68</sup>

After a major assault in Helmand in March 2018, there were spontaneous demonstrations for peace in the provincial capital, Lashkar Gah, which quickly spread to other cities. The population set up peace tents in 20 of the 34 provinces. At the start of Ramadan in mid-May 2018, one of the first groups to set up a peace tent started a march of more than five hundred kilometres from Helmand to Kabul. During this journey, the participants sought support for a ceasefire and peace negotiations. In early June 2018 a group of two thousand religious leaders (*ulema*) attended a gathering (*shura*) in Kabul. They stated that suicide attacks are against the teachings of Islam, and called for a ceasefire and the start of peace negotiations. Relations between the Afghan and Pakistani governments also improved. Numerous visits in both directions took place, and in May the two governments signed the *Afghanistan-Pakistan Action Plan for Peace and Solidarity* (APAPPS), which established a number of principles for a joint action plan.<sup>69</sup>

At the *Geneva Conference* (see Chapter 4), on 28 November 2018, President Ghani again indicated that he was seeking a peaceful solution to the conflict with the Taliban if it was willing to participate in a democratic and inclusive society within the framework of the constitution.<sup>70</sup>

The United States, led by *Special Representative for Afghanistan Reconciliation*, Zalmay Khalilzad, has held direct talks with the Taliban since June 2018. In late October 2018, the Pakistani authorities ended the detention of Mullah Baradar, a co-founder of the Taliban and military commander, and Abdul Samad, another military

<sup>65</sup> Office of the President, *President Ashraf Ghani's Remarks at Geneva Conference on Afghanistan*, 28 November 2018, <https://president.gov.af/en/SP/789012781234>; AAN, *Getting to the Steering Wheel: President Ghani's new set of peace proposals*, 4 December 2018, <https://www.afghanistan-analysts.org/getting-to-the-steering-wheel-president-ghanis-new-peace-proposals/>.

<sup>66</sup> For an explanation of this peace process, see: The Diplomat, *The Afghan Peace Process: an FAQ*, 14 May 2018, <https://thediplomat.com/2018/05/the-afghan-peace-process-an-faq/>.

<sup>67</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security. S/2018/539*, pp. 1 and 2, 6 June 2018.

<sup>68</sup> Tolo News, *Taliban Rejects Ghani's Call For Them To Take Part In Elections*, 16 April 2018, <https://www.tolonews.com/afghanistan/taliban-rejects-ghani%E2%80%99s-call-them-take-part-elections>.

<sup>69</sup> UNAMA, *SRSB briefing to the Security Council on Afghanistan*, 26 June 2018; Confidential source, 24 June 2018; Tolonews, *Ghani, Abbasi Agree To 7 Key Principles For Action Plan*, 7 April 2018, <https://www.tolonews.com/afghanistan/7-principles-agreed-afghanistan-pakistan-action-plan>.

<sup>70</sup> <https://president.gov.af/file/sites/4/2018/11/Achieving-Peace-Plan-Summary-English-.pdf>.

commander. Baradar had been in detention in Pakistan since 2010. The release is thought to be the result of intervention by the United States.<sup>71</sup>

The Russian Federation continued the so-called 'Moscow process' on 9 November 2018. Five Taliban representatives were invited, taking part with their own flag and as an official delegation. The Afghan government decided not to send an official delegation, although representatives from the HPC were present.<sup>72</sup>

### 1.2.2

#### *Truce during the Sugar Festival*

On 7 June 2018, President Ghani announced a unilateral ceasefire in Afghanistan for a period of eight days around the end of Ramadan, starting on 12 June 2018. The ceasefire only applied to the Taliban: operations against ISKP (see 1.4.2.) and other armed opponents continued. On 14 June, the Taliban unilaterally announced a truce from 15 to 17 June. This ceasefire only applied to Afghan forces and not to US and coalition forces.

During the three days of the Sugar Festival (Eid al-Fitr) on which the truces overlapped with each other, a ceasefire was observed by both sides for the first time in 17 years. Not only were no violations reported, but Taliban fighters and Afghan troops even came together in several provinces to celebrate the Sugar Festival.<sup>73</sup>

During Eid, however, two attacks were carried out in Nangarhar, claimed by ISKP, with casualties among both the Taliban and Afghan forces (see Chapter 2).

On the last day of the ceasefire, President Ghani announced an extension of the ceasefire by ten days. He also indicated that he was prepared to extend this indefinitely, and offered a prisoner exchange and humanitarian assistance for Taliban fighters if they accepted the ceasefire.

<sup>71</sup> Ministry of Foreign Affairs. The request from your Chamber regarding recent developments relating to Afghanistan. 4 March 2019. This letter from the Ministers of Foreign Affairs, Defence and Foreign Trade and Development Cooperation reports on the results of the talks held between the US and Taliban representatives in Qatar between January 21 and 27. These talks resulted in a framework agreement, which can serve as a basis for talks about a peace agreement between the Afghan government and the Taliban, in which other Afghan groups may also be involved. AAN, *The Release of Mullah Baradar: A contribution to the peace effort?*, 28 October 2018, <https://www.afghanistan-analysts.org/the-release-of-mullah-baradar-a-contribution-to-the-peace-effort/>; Tolonews, *Pakistan Embassy Confirms Release Of Taliban's Baradar*, 28 October 2018, <https://www.tolonews.com/afghanistan/pakistan-embassy-confirms-release-taliban%E2%80%99s-baradar>; Al-Jazeera, *Afghanistan: Taliban confirms talks with US peace envoy in Qatar*, 13 October 2018, <https://www.aljazeera.com/news/2018/10/envoy-afghan-peace-meets-taliban-officials-qatar-181013084549975.html>; Confidential source, 30 October 2018; FDD's Long war journal, Thomas Joscelyn, *Analysis: losing a war*, p. 16, 29 August 2018, <https://www.longwarjournal.org/archives/2018/08/analysis-losing-a-war.php>. This article includes an analysis of the opening of a Taliban political office in Doha (Qatar); Tolonews, *We are in a hurry to end the Afghan tragedy: Khalilzad*, 29 November 2018, <https://www.tolonews.com/index.php/afghanistan/we-are-hurry-end-afghan-tragedy-khalilzad>

<sup>72</sup> Confidential source, consulted on 22 November 2018; Al Jazeera, *Afghanistan peace conference kicks off in Moscow*, 9 November 2018, <https://www.aljazeera.com/news/2018/11/afghanistan-peace-conference-kicks-moscow-181109083021481.html>.

<sup>73</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018*, pp. 6 and 7, 15 July 2018.

However, the Taliban announced that it would not extend the ceasefire and resumed combat.<sup>74</sup> A new ceasefire offer by the Afghan president on 19 August 2018 was also rejected by the Taliban.<sup>75</sup>

### 1.3 Power factors

As stated in the thematic official report on the security situation in Afghanistan of June 2018, there were no substantial changes with regard to power factors. Afghanistan is not unified by ideology, a political party or a charismatic leader. Strong ethnic and tribal ties are an obstacle to national unity.<sup>76</sup> Society is characterised by a diffuse distribution of power, with preference for one's own group playing an important role. There are numerous parallel power structures; in part, these stem from the past, but in part they have arisen recently due to the power vacuum left by weak or non-existent authorities. Afghan politics is particularly centred on individuals. Political parties often represent a religious or ethnic group and generally have no detailed political programme. To create support, those in power make use of a patronage system, with which they try to strike a balance between supporters and opponents.<sup>77</sup> As a technocrat with a background at the World Bank, President Ghani is trying to break this habit. However, the central government is fragmented and fails to exercise its authority throughout the country. The government's authority is often weak due to corruption, local power factors and a weak legal process.<sup>78</sup>

It is not possible to provide a comprehensive and accurate overview of those who actually hold power in the government, provinces, districts and major cities in Afghanistan. The balance of power often shifts or varies according to different interests.

#### 1.3.1 *Power of old (mujahideen) factions/political parties*

Local rulers, such as Atta Noor and General Dostum in the north, remain influential and are often warlords with their own militias.<sup>79</sup>

The political impasse between the president and the *Jamiat-i Islami* party over the dismissal of Atta Mohammed Noor as governor of Balkh province in December 2017 ended when Noor finally left office on 22 March 2018.

<sup>74</sup> UNAMA, *SMSG briefing to the Security Council on Afghanistan*, 26 June 2018; Confidential source, 24 June 2018.

<sup>75</sup> SIGAR, *Quarterly report to the US Congress*, p. 65, 30 October 2018.

<sup>76</sup> Thematic official report on the security situation in Afghanistan, May 2018, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>; Brookings, *The Case Against Involvement*, 5 September 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/09/05/the-case-against-involvement-in-afghanistan/>.

<sup>77</sup> Thematic official report on the security situation in Afghanistan, May 2018, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>; Country of Origin Report Afghanistan, November 2016, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2016/11/15/algemeen-ambtsbericht-afghanistan>; Confidential source, 16 February 2018.

<sup>78</sup> Thematic official report on the security situation in Afghanistan, May 2018, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>; Country of Origin Report Afghanistan, November 2016, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2016/11/15/algemeen-ambtsbericht-afghanistan>; confidential source, 16 February 2018.

<sup>79</sup> Confidential source, 10 January 2019.

This decision was the result of months of negotiations about the conditions of his departure. Noor was succeeded by fellow party member Ishaq Rahguzar, whom he himself had appointed.<sup>80</sup>

On 22 July 2018, the first vice-president and warlord, General Abdul Rashid Dostum, returned to Afghanistan. He had spent more than a year abroad after being charged at the end of 2016 with kidnapping and ordering the rape of a political rival. Dostum left Afghanistan in May 2017, ostensibly for health reasons (see also Chapter 3).<sup>81</sup> Partly due to his absence, the security situation in Northern Afghanistan deteriorated, as his militias played a less active role in maintaining security. Members of Dostum's militias also transferred to the Taliban or the ISKP (see 1.4.2.).<sup>82</sup> Dostum's supporters lobbied for his return before the nominations of candidates for the parliamentary elections took place. On 8 May 2018, a delegation including the founder of *Hizb-i-Islami*, Gulbuddin Hekmatyar, and the Minister of Labour and Social Affairs, Faizullah Zaki, travelled to Ankara, reportedly to discuss preparations for Dostum's return to Afghanistan.<sup>83</sup> Dostum was met at Kabul International Airport by a government delegation and by supporters on his return. Shortly after he left the airport, a suicide attack took place (see Chapter 2). General Dostum was unharmed.<sup>84</sup>

## 1.4 Military developments

### 1.4.1 *The Afghan security forces*

The Afghan National Defense and Security Forces (ANDSF) consist of the armed forces, the police and the security forces: the Afghan National Army (ANA, including the air force), the Afghan National Police (ANP), the Afghan Local Police (ALP) and the National Directorate for Security (NDS). The legal minimum age for voluntary military service is 18 years. Afghanistan does not have compulsory military service.<sup>85</sup>

<sup>80</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 9, 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security. S/2018/539*, p. 2, 6 June 2018.

<sup>81</sup> Le Figaro, *Attentat contre Dostum à Kaboul: 23 morts*, 23 July 2018, <http://www.lefigaro.fr/flash-actu/2018/07/23/97001-20180723FILWWW00026-attentat-contre-dostum-a-kaboul-23-morts.php>; Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 9, 2018.

<sup>82</sup> Asian affairs Journal weblog, *Dostum's absence from Afghanistan – why is it important?* 13 July 2017, <http://rsaa.org.uk/blog/2017/07/13/dostums-absence-afghanistan-important/>; Navy Times, *Stepped up violence alternately claimed by ISIS and Taliban*, 30 January 2018, <https://www.navytimes.com/flashpoints/2018/01/30/stepped-up-violence-alternately-claimed-by-isis-and-taliban/>.

<sup>83</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security. S/2018/539*, pp. 2 and 3, 6 June 2018. Gulbuddin Hekmatyar is a former insurgent who returned to Kabul in April 2017 after signing a peace agreement with the Afghan government in 2016. Under the terms of the peace agreement, prisoners were released. In May 2018, the government allocated additional territory to the leadership of the Hizb-i Islami party in the provinces of Kabul, Nangarhar and Laghman and amended the draft land allocation decree to add returnees affiliated to the Hizb-i Islami party as a priority category for the humanitarian land allocation. In a reshuffle of governorships in late February 2018, the government assigned various positions to allies of Hekmatyar.

<sup>84</sup> Le Figaro, *Attentat contre Dostum à Kaboul : 23 morts*, 23 July 2018, <http://www.lefigaro.fr/flash-actu/2018/07/23/97001-20180723FILWWW00026-attentat-contre-dostum-a-kaboul-23-morts.php>; Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 9, 2018.

<sup>85</sup> CIA, *The World Fact Book: Afghanistan*, 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/af.html>, consulted on 9 November 2018.

For a description of the various components of the Afghan security forces and of the international military presence in Afghanistan, see the official report on the security situation of May 2018.

The Special Inspector General for Afghanistan Reconstruction of the United States (SIGAR) reported that in July 2018 the Afghan security forces (ANDSF) numbered 312,328 personnel: 194,017 members of the Afghan National Army (ANA) and 118,311 members of the Afghan National Police (ANP). Compared to the same period in 2017, the total number was said to have decreased by 8,827. A small number of women serve in the ANDSF. The total number of women in July 2018 was 4,500: 3,200 in the ANP and 1,300 in the ANA. In addition, around a hundred women work for the Afghan Air Force (AAF) and for the Afghan Special Security Forces (ASSF), largely as part of the ANP.<sup>86</sup>

The Afghan Local Police (ALP), also known as 'guards', are usually local citizens selected by village elders or local leaders to defend their communities against attackers, to guard facilities and to conduct local operations against insurgents. According to NATO, the ALP had about 28,000 guards in 2018, 24,000 of whom had undergone training. The rest were untrained or in training. According to NATO, of all units in Afghanistan, most combat fatalities are suffered by the ALP, as the 'guards' are often stationed at remote checkpoints with no appreciable support, making them an easier target for armed opponents. Compared to the Afghan army, the ANP experienced a relatively high number of casualties due to attacks by armed opponents.<sup>87</sup>

#### *Desertion*

According to the 2008 *uniform code of military justice*, permanent desertion is punishable with two to five years in prison. The sentence can be as much as 15 years if there are aggravating circumstances such as desertion during a military confrontation. According to information from the Swiss government about the law and its application in the event of desertion, practically no criminal prosecution takes place for desertion or absence without leave.<sup>88</sup> The Afghan security forces (ANDSF) have a high turnover rate, not just because of the large number of casualties but also because of the many soldiers and police officers who stay away from work before their contract ends.<sup>89</sup> Staff turnover in the armed forces is said to be 30%

<sup>86</sup> SIGAR, *Quarterly report to the US Congress*, pp. 67 and 103, 30 October 2018; <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/07/03/beantwoording-kamervragen-over-nederlandse-inzet-in-afghanistan-2018-2021>, p. 22.

<sup>87</sup> SIGAR, *Quarterly report to the US Congress*, pp. 103 and 104, 30 October 2018. Data from 21 July 2018 reported by the NATO Special Operations Component Command-Afghanistan; The Defense Post, *The 'weak link': Afghan Police bear the brunt of insecurity in Afghanistan*, 1 February 2018, <https://thedefensepost.com/2018/02/01/afghan-national-police-weak-link/>.

<sup>88</sup> Confederation Suisse. Secrétariat d'Etat aux migration SEM, *Note Afghanistan. Désertion: provisions légales et application*, 31 March 2017, <https://www.sem.admin.ch/dam/data/sem/internationales/herkunftslander/asien-nahost/afg/AFG-desertion-f.pdf>; [http://moj.gov.af/content/files/officialgazette/0901/OG\\_0944.pdf](http://moj.gov.af/content/files/officialgazette/0901/OG_0944.pdf). The researchers refer to just one case from 2016 in which a court of first instance had imposed a 15-year sentence for deserting to the enemy. The case is said to have been adjourned to enable the person concerned to lodge an objection. The researchers were unable to determine whether an objection had been filed. The fact that there are no documented criminal prosecutions for desertion does not necessarily rule out the possibility that there are a few more such cases, according to the Swiss researchers; Confederation Suisse. Secrétariat d'Etat aux migration SEM, *Note Afghanistan. Désertion: provisions légales et application*, 31 March 2017, <https://www.sem.admin.ch/dam/data/sem/internationales/herkunftslander/asien-nahost/afg/AFG-desertion-f.pdf>; [http://moj.gov.af/content/files/officialgazette/0901/OG\\_0944.pdf](http://moj.gov.af/content/files/officialgazette/0901/OG_0944.pdf).

<sup>89</sup> Starts and stripes, *Tide of desertions — among highest in recent history — strains Afghan forces*, 3 September 2015, <https://www.stripes.com/news/middle-east/tide-of-desertions-among-highest-in-recent-history-strains-afghan-forces-1.366071>. The Afghan police are counted as part of the security forces. Due to the armed conflict in Afghanistan, regular police duties are often subordinated to security duties such as guarding official buildings, staffing checkpoints and searching for armed opponents. Possible reasons for the high turnover are poor

per year, according to the latest figures published in 2016. Since then, the army has kept data about staff turnover and desertion confidential.<sup>90</sup> The ANDSF is unable to compensate for high loss rates (150-200 casualties per month) through recruitment, partly because, despite the high salary, employment in the security forces is unappealing: bribes have to be paid in Kabul to obtain promotion, soldiers are often stationed at dangerous outposts outside their own provinces, and relatives of victims or seriously injured are not looked after.<sup>91</sup>

#### 1.4.2

##### *Insurgent groups*

The Taliban and the Haqqani network are the largest and most important insurgent groups fighting against the Afghan authorities.<sup>92</sup> In addition, other groups such as ISKP and Al Qaeda are active in Afghanistan. The insurgent groups that operate against the Afghan government in Afghanistan and are not under government control are usually referred to in reports as *Anti-Government Elements* (AGEs); this abbreviation will therefore be used in the present report.

It is estimated that tens of thousands of insurgents are currently active throughout Afghanistan. It is difficult to determine exactly how many fighters the Taliban and other insurgent groups in Afghanistan have. This is because the fighters are often not recognisable as such and because Afghan citizens are sometimes forced (temporarily) to reinforce the ranks of insurgent groups. Military sources from the United States gave different estimates of Taliban numbers during the reporting period, ranging from 20,000 to 60,000 men.<sup>93</sup>

##### *The Taliban*

The Taliban<sup>94</sup> consists of a loose alliance of various factions with sometimes coinciding but often conflicting interests. These groups sometimes operate independently of each other. However, there is also coordination and control from the leadership, demonstrated by coordinated attacks such as the brief capture of the city of Ghazni (see 2.3.5.), and the institution in Taliban-controlled areas of commissions for finance, health, education, justice and taxation that function as a shadow government.<sup>95</sup> The Taliban as a group may have a common national agenda, but their core interests and power base usually depend on local situations and developments. There are also splits, shifting alliances and defections of fighters from one group to another – including the government – in the struggle for control

leadership, the rapid pace of military operations, insufficient care for personnel, poor living conditions and alternative possibilities for work outside the Afghan security forces.

<sup>90</sup> The New York Times, *The Afghan Army's Last Stand at Chinese Camp*, 14 August 2018, <https://www.nytimes.com/2018/08/14/world/asia/the-afghan-armys-last-stand-at-chinese-camp.html>.

<sup>91</sup> Confidential source, 10 January 2019.

<sup>92</sup> Thematic official report on the security situation in Afghanistan, May 2018, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>; Country of Origin Report Afghanistan, December 2014, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2014/09/17/afghanistan>.

<sup>93</sup> Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018, Answer to questions 34 to 37 and 46; The New York Times, *Need a Refresher on the War in Afghanistan? Here Are the Basics*, 21 December 2018. The New York Times reports that US military sources estimate the strength of the Taliban at between 20,000 and 40,000 men <https://www.nytimes.com/2018/12/21/world/asia/afghanistan-war-explainer.html>; SIGAR, *Quarterly report to the US Congress*, 30 January 2019, p. 66, where an estimate of 60,000 Taliban fighters is given.

<sup>94</sup> Le Figaro, *Afghanistan: les talibans sont bien plus forts qu'avant l'intervention américaine*, 11 March 2018, <http://www.lefigaro.fr/international/2018/03/10/01003-20180310ARTFIG00008-afghanistan-les-talibans-sont-bien-plus-forts-qu-avant-l-intervention-americaine.php>; See also the official reports of November 2016 and May 2018.

<sup>95</sup> Aljazeera, *From road tax to courts: the Taliban's attempts at state-building*, 26 August 2018, <https://www.aljazeera.com/news/2018/08/road-tax-courts-taliban-attempts-state-building-180817101909543.html>; ODI, Jackson, Asley, *Life under the Taliban shadow government*, June 2018, <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12269.pdf>.

of territory, trade routes and illegal markets.<sup>96</sup> Opportunism on the part of militia commanders, including those with a criminal background, has also been a factor, with loyalty lasting as long as a steady supply of financial resources.<sup>97</sup> For example, in a number of districts in Faryab province, commanders previously loyal to Dostum joined the Taliban while the vice-president was out of Afghanistan. Some commanders and their fighters were said to have defected after not being paid for months in an area where the Taliban was advancing. In Jawzjan, Dostum's home province, Taliban commanders split off and called themselves Islamic State Khorasan Province (ISKP). This split apparently resulted not from an ideological dispute, but from a row between local Taliban factions over control of the taxation of villagers.<sup>98</sup>

According to the Afghan authorities, dozens of fighters died in fighting between two Taliban factions in Herat province at the end of November 2018. Ideological disputes but also accusations of support from Iran were said to be reasons for the violence.<sup>99</sup>

The Pashtun have traditionally been the main source of Taliban fighters. On a much more limited scale, the Taliban also recruits fighters from other population groups, such as Tajiks and Uzbeks, who are among the leadership of administrative and military committees at local level.<sup>100</sup>

<sup>96</sup> Clingendael Spectator, Jorit Kamminga, *The hand-and-water tale: options for the West in Afghanistan*, 14 March 2018, <https://spectator.clingendael.org/en/publication/hand-and-water-tale-options-west-afghanistan#>; New York Times, *Taliban Surge Routs ISIS in Northern Afghanistan*, 1 August 2018, <https://www.nytimes.com/2018/08/01/world/asia/afghanistan-taliban-isis.html>; Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018, Answer to questions 34 to 37 and 46.

<sup>97</sup> AAN, *Non-Pashtun Taleban of the north (4): a case study from Jawzjan*, p. 4, 18 September 2017.

<sup>98</sup> Derksen, Deedee, *In Afghanistan, today's pro-government militia's could be tomorrow's insurgents*, 11 December 2017, <https://warontherocks.com/2017/12/afghanistan-todays-pro-government-militias-tomorrows-insurgents/>; AAN states in a November 2017 report that Qari Hekmat, the leader of a group of Taliban fighters in Jawzjan province, had indicated that he, a former Taliban commander, and his fighters were part of the ISKP. The group is said to have raised taxes under the IS banner and also issued decrees in June and August 2017 with the IS logo. In the second half of October 2017, Taliban units unsuccessfully attempted to seize territories in the Jawzjan province held by the Hekmat group. AAN, *Qari Hekmat's Island: A Daesh enclave in Jawzjan? 11 November 2017*, <https://www.afghanistan-analysts.org/qari-hekmats-island-a-daesh-enclave-in-jawzjan/>

<sup>99</sup> Tolonews, *Taliban Infighting In Herat Leaves 28 Dead*, 30 November 2018, <https://www.tolonews.com/index.php/afghanistan/taliban-infighting-herat-leaves-28-dead>; Stars and Stripes, *Taliban vs. Taliban clash in Afghanistan's west leaves 40 dead*, 2 November 2018, <https://www.stripes.com/news/taliban-vs-taliban-clash-in-afghanistan-s-west-leaves-40-dead-1.554808>.

<sup>100</sup> Clingendael Spectator, Jorit Kamminga, *The hand-and-water tale: options for the West in Afghanistan*, 14 March 2018, <https://spectator.clingendael.org/en/publication/hand-and-water-tale-options-west-afghanistan#>; Le Figaro, *Afghanistan: les talibans sont bien plus forts qu'avant l'intervention américaine*, 11 March 2018; AAN, *Non-Pashtun Taleban of the north (4): a case study from Jawzjan*, p. 3, 18 September 2017.



Some of the Taliban fighters in Afghanistan were formerly active in Pakistan but were driven out by security operations in the tribal areas of Pakistan or moved to Afghanistan.<sup>101</sup>

The Taliban succeeded in significantly boosting its income in 2017. This income came mainly from the production and trade of opium. The Taliban also received income from mining and taxes imposed on the population in areas under its control.<sup>102</sup>

#### *The Haqqani network*

At the beginning of September 2018, the Taliban announced via its website that Jalaluddin Haqqani had died after a period of illness. He was succeeded by his son Sirajuddin.<sup>103</sup> As stated in the May 2018 thematic official report on the security situation in Afghanistan, the Haqqani network is regarded by many observers as part of the Taliban.<sup>104</sup> Some of the deadliest attacks in the war in Afghanistan have been attributed to this network, including the bombing of the German embassy in the diplomatic district of Kabul in May 2017, in which more than 150 people died. The Haqqani network is said to have links with the Pakistani security service, the Inter-Services Intelligence (ISI).<sup>105</sup>

#### *Hezb-e Islami Gulbuddin (HIG)*

As indicated, this group concluded a peace agreement with the Afghan government. One of the terms agreed was the release of HIG supporters and fighters from detention. This has now partly happened. At the beginning of January 2018, a group of 75 HIG supporters held in Pul-e Charkhi prison was set free, following the release of a first group of 55 supporters in May 2017. According to a spokesperson for HIG, more than 2,200 supporters are still being detained.<sup>106</sup> Human Rights Watch (HRW) reported in 2017 that, following the conclusion of the peace agreement, HIG fighters were entering Kabul heavily armed (see also 3.3.2).<sup>107</sup>

#### *Al Qaeda*

<sup>101</sup> UN, *S/2018/466*, 30 May 2018. Letter dated 16 May 2018 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security. Annex. Letter dated 30 April 2018 from the Analytical Support and Sanctions Monitoring Team addressed to the Chair of the Security Council Committee established pursuant to resolution 1988 (2011). Annex. *Ninth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2255 (2015) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan*, p. 3.

<sup>102</sup> UN, *S/2018/466*, 30 May 2018. Letter dated 16 May 2018 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security. Annex. Letter dated 30 April 2018 from the Analytical Support and Sanctions Monitoring Team addressed to the Chair of the Security Council Committee established pursuant to resolution 1988 (2011). Annex. *Ninth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2255 (2015) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan*, p. 3.

<sup>103</sup> Le Figaro, *Les talibans afghans annoncent la mort du chef du réseau Haqqani*, 4 September 2018, <http://www.lefigaro.fr/flash-actu/2018/09/04/97001-20180904FILWWW00011-les-talibans-afghans-annoncent-la-mort-du-chef-du-reseau-haqqani.php>.

<sup>104</sup> Thematic official report on the security situation in Afghanistan, May 2018, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>; For example, see: The New York Times, *What an Afghanistan Victory Looks Like Under the Trump Plan*, 22 August 2017, <https://www.nytimes.com/2017/08/22/world/asia/afghan-victory-trump-plan.html>.

<sup>105</sup> Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sgp/crs/row/IF10604.pdf>; FDD's Long war journal, Thomas Joscelyn, *Analysis: losing a war*, p. 16, 29 August 2018, <https://www.longwarjournal.org/archives/2018/08/analysis-losing-a-war.php>; *The New York Times*, *Taliban say Haqqani Founder is dead. His group is more vital than ever*, 4 September 2018, <https://www.nytimes.com/2018/09/04/world/asia/jalaluddin-haqqani-dead-taliban.html>.

<sup>106</sup> Gandara, *Seventy-Five Prisoners Loyal To Hekmatyar Pardoned In Afghanistan*, consulted 13 December 2018, <https://gandhara.rferl.org/a/afghanistan-hekmatyar-loyalists-freed/28969684.html>.

<sup>107</sup> HRW, *Hekmatyar Should Be Held Accountable For Past Actions*: HRW, 5 May 2017, <https://www.hrw.org/news/2017/05/05/hekmatyar-should-be-held-accountable-past-actions-hrw>.

Al Qaeda is closely linked to the Taliban and the Haqqani network in Afghanistan.<sup>108</sup> In June 2018, the US Department of Defense reported that Al Qaeda had shrunk and that the remaining cadres were focused on their own survival. Al Qaeda's leaders were said to be living in and travelling between the tribal-dominated mountain areas of Afghanistan and Pakistan.<sup>109</sup> See also the country of origin report on Afghanistan of November 2016 and the thematic official report on the security situation of May 2018.<sup>110</sup>

### ISKP

Islamic State in Khorasan Province (ISKP)<sup>111</sup> was militarily active primarily in the eastern provinces of Kunar and Nangarhar during the reporting period. Until about August 2018 it was also active in Jawzjan and other provinces in northern Afghanistan. The ISKP presence in northern Afghanistan seems to be greatly reduced following the surrender of about 250 ISKP fighters to the Afghan government.<sup>112</sup>

ISKP also proved capable of taking action elsewhere in the country. It carried out a number of attacks with numerous civilian casualties, including attacks on the Shiite minority in Afghanistan. During the Eid al-Fitr ceasefire between the government and the Taliban, ISKP attacked both government and Taliban targets.<sup>113</sup>

<sup>108</sup> UN, S/2018/466, 30 May 2018. *Letter dated 16 May 2018 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security Council*. Annex. Letter dated 30 April 2018 from the Analytical Support and Sanctions Monitoring Team addressed to the Chair of the Security Council Committee established pursuant to resolution 1988 (2011). Annex. Ninth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2255 (2015) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan, p. 3; Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018; FDD's Long war journal, Thomas Joscelyn, *Analysis: losing a war*, p. 13, 29 August 2018, <https://www.longwarjournal.org/archives/2018/08/analysis-losing-a-war.php>.

<sup>109</sup> Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sqp/crs/row/IF10604.pdf>. In September 2014, Al Qaeda leader Ayman al-Zawahiri announced the formal establishment of a separate division: *Al Qaeda in the Indian Subcontinent*. This organisation, led by the Indian Asim Umar, has claimed attacks in Pakistan and Bangladesh. In 2015, a large training camp was discovered in Kandahar province that was attributed to this organisation. Umar's deputy was killed in a joint US-Afghan operation in Ghazni province in December 2017; Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018.

<sup>110</sup> Country of origin report on Afghanistan, November 2016, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2016/11/15/algemeen-ambtsbericht-afghanistan>; Thematic official report on the security situation, May 2018, <https://www.rijksoverheid.nl/documenten/ambtsberichten/2018/06/15/thematisch-ambtsbericht-veiligheidssituatie-in-afghanistan-mei-2018>.

<sup>111</sup> Giustozzi, Antonio. *The Islamic State in Khorasan. Afghanistan, Pakistan and the new Central Asian Jihad*. August 2018. In January 2015, IS formally announced that a division had been established in Khorasan. Khorasan was said to include Afghanistan, Pakistan, the whole of Central Asia, Iran and parts of India and Russia. P.2. Giustozzi uses the abbreviation IS-K. This official report uses the abbreviation ISKP, like most reports. As well as a military organisation, the ISKP had also established other bodies for the administration of the areas under its control. Only a little is known about whether and to what extent these bodies actually functioned. Giustozzi reports that taxes were collected as one of the ways to raise funds, and that strict rules of conduct were imposed, pp. 161-164; pp. 198-202. As far as is known, ISKP did not have a functioning system for resolving disputes or administering justice, although plans were made along these lines. In practice, such disputes are thought to have been handled by ISKP military commanders, p. 118.

<sup>112</sup> Confidential source, 6 August 2018.

<sup>113</sup> UNSG, *Seventh report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat*. S/2018/770, p. 7, 16 August 2018; Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sqp/crs/row/IF10604.pdf>. In March 2018, ISKP released a video recording showing its control over a number of districts in the largely Turkmen-inhabited Jawzjan province. It thus demonstrated its potential ability to generate support in areas where the majority of the population consists of other ethnic groups not generally seen as receptive to Pashtun-based militant organisations. The Taliban, too, proved capable of gaining support in Jawzjan province among population groups other than the Pashtun; AAN, *Non-Pashtun Taliban of the North (4): A case study from Jawzjan*. 18 September 2017, <https://www.afghanistan-analysts.org/non-pashtun-taliban-of-the-north-4-a-case-study-from-jawzjan/>.

ISKP has, according to information from the United Nations, about 4,000 fighters in Afghanistan, including 1,000 in the northern part of the country. Many members and leaders were previously active within *Tehrik-e-Taliban Pakistan*, the Pakistani Taliban. There were also signs of foreign Islamic State (IS) fighters within ISKP, including Central Asian fighters who came to Afghanistan from Syria and Iraq.<sup>114</sup> The group does not seem to have a very direct link with IS for the time being,<sup>115</sup> although there are indications of ties, including attempts by IS to control ISKP, as Giustozzi's study shows.<sup>116</sup> There are no signs that IS fighters are systematically making their way from Syria and Iraq to Afghanistan at present.<sup>117</sup> Some of the Afghan ISKP leaders were among the volunteers who had travelled to Syria in around 2012. A number of foreign IS activists are also thought to be or have been active as advisers and trainers for ISKP.<sup>118</sup> Following a US air strike in April 2018 in which an ISKP leader died in northern Afghanistan, NATO named Jawzjan as the main channel through which foreign aid and fighters from Central Asian states enter Afghanistan.<sup>119</sup>

On 26 August 2018, the Afghan government reported that ISKP's leader, Abu Saad Erhabi, had died in an attack in Nangarhar province. According to Le Figaro, he was the fourth ISKP leader to be killed within a year.<sup>120</sup>

<sup>114</sup> UN, *Seventh report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat*, S/2018/770, p. 7, 16 August 2018; Clingendael Spectator, Jorit Kamminga, *The hand-and-water tale: options for the West in Afghanistan*, 14 March 2018, <https://spectator.clingendael.org/en/publication/hand-and-water-tale-options-west-afghanistan#>; Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sgp/crs/row/IF10604.pdf>; This source estimates ISKP's strength at 3,000 to 4,000 men; Giustozzi, Antonio, *The Islamic State in Khorasan: Afghanistan, Pakistan and the new Central Asian Jihad*, p. 142, August 2018. According to internal ISKP sources, the movement had 20,000 members in January 2017.

<sup>115</sup> Confidential source, 4 November 2018.

<sup>116</sup> Giustozzi, Antonio. *The Islamic State in Khorasan: Afghanistan, Pakistan and the new Central Asian Jihad*, pp. 67-68, August 2018.

<sup>117</sup> Confidential source, 4 November 2018; Giustozzi, Antonio, *The Islamic State in Khorasan: Afghanistan, Pakistan and the new Central Asian Jihad*, pp. 67-75, August 2018.

<sup>118</sup> Giustozzi, Antonio. *The Islamic State in Khorasan. Afghanistan, Pakistan and the new Central Asian Jihad*, pp. 67-75, pp. 89-90, August 2018.

<sup>119</sup> Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sgp/crs/row/IF10604.pdf>.

<sup>120</sup> Le Figaro, *Afghanistan: mort du chef de l'EI local*, 26 August 2018, <http://www.lefigaro.fr/flash-actu/2018/08/26/97001-20180826FILWWW00177-afghanistan-mort-du-chef-de-l-ei-local.php>; Congressional Research Service, *In Focus : Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sgp/crs/row/IF10604.pdf>. In July 2016, Hafiz Saeed Khan, a former Tahrir-e Taliban Pakistan (TTP) member, was killed in a US air strike. His successors Abdul Hasib and Abu Sayed died in April and July 2017 respectively; Giustozzi, Antonio, *The Islamic State in Khorasan: Afghanistan, Pakistan and the new Central Asian Jihad*, August 2018. Succession to the leadership was also a source of strife within ISKP, pp. 193-196.

The Taliban and ISKP are still fighting each other, especially in Nangarhar province, located between Kabul and the border with Pakistan. Although the ideologies of the Taliban and ISKP differ greatly,<sup>121</sup> their struggle is for territorial control and associated income, including from opium. Defectors from Taliban to ISKP are mainly economically motivated.<sup>122</sup> although some fighters in ISKP may also have seen a better possibility of achieving their jihadist goals than through the Taliban.<sup>123</sup> Around 250 ISKP fighters active in Northern Afghanistan surrendered to the Afghan government army in the northern province of Jawzjan on 31 July 2018 after heavy fighting with the Taliban. By doing so they avoided falling into the hands of the Taliban, which had been conducting an offensive against the ISKP in that area for weeks. According to the Afghan authorities, there were 89 detainees who claimed to be under the age of 18. The Afghan security service (NDS) found that 55 of them were children, with at least four under the age of 12.<sup>124</sup> (see Chapter 3, Recruitment of minors). The northern ISKP group mainly consisted of criminals or former Taliban fighters, who in 2015 decided to rename themselves ISKP. The group is not thought to have links with IS in Iraq or Syria, or with the ISKP groups in eastern Afghanistan (see also Chapter 2).<sup>125</sup>

#### *Smaller groups*

In Afghanistan's border regions with Pakistan, several smaller groups are active alongside Al Qaeda: Tehrik-e Taliban Pakistan, Lashkar-e Taiba, Jaish-e Mohammad and Lashkar-e Jhangvi.<sup>126</sup> The Islamic Movement of Uzbekistan (IMU) reportedly 500-strong, or a breakaway group from it, is said to have ties with ISKP.

<sup>121</sup> For more information about ideological differences see, for example: Sarah Ashraf. *ISIS KHORASAN: presence and potential in the Afghanistan–Pakistan region*. 2017. <http://henryjacksonsociety.org/wp-content/uploads/2017/10/HJS-ISIS-Khorasan-Report.pdf>. p. 12. Asraf's main point is that while ISKP claims leadership of the global jihadist movement fighting for the establishment of a universal Islamic caliphate for the entire Muslim community, the Taliban is seen as a movement confined to Afghanistan and its diaspora; Giustozzi, Antonio. *The Islamic State in Khorasan. Afghanistan, Pakistan and the new Central Asian Jihad*. August 2018. pp. 200 and 201. Giustozzi points to the resistance that the interpretation of Sharia and its application by ISKP invoked in villagers in areas where this group was active.

<sup>122</sup> Confidential source, 4 November 2018; Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*, 23 August 2018, <https://fas.org/sqp/crs/row/IF10604.pdf>; UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, pp. 5 and 6, 7 December 2018.

<sup>123</sup> Giustozzi, Antonio, *The Islamic State in Khorasan. Afghanistan, Pakistan and the new Central Asian Jihad*, p. 208, August 2018.

<sup>124</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 9, 10 October 2018; New York Times, *Are ISIS fighters prisoners or honored guests of the Afghan government?*, 4 August 2018, <https://www.nytimes.com/2018/08/04/world/asia/islamic-state-prisoners-afghanistan.html>; The Independent, *ISIS fighters who surrender may be granted amnesty despite alleged atrocities, Afghan officials say*, 4 August 2018, <https://www.independent.co.uk/news/world/isis-fighters-surrender-war-crimes-murder-afghan-taliban-jawzjan-a8477391.html>; Confidential source, 6 August 2018.

<sup>125</sup> Confidential source, 6 August 2018.

<sup>126</sup> Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018, Answer to questions 34 to 37 and 46.

In February 2018, the US launched air strikes against military camps in northern Afghanistan used by the East Turkestan Islamic Movement (ETIM). ETIM is thought to have around 400 fighters in its ranks..<sup>127</sup>

<sup>127</sup> Congressional Research Service, *In Focus: Al Qaeda and Islamic State Affiliates in Afghanistan*: 23 August 2018, <https://fas.org/spp/crs/row/IF10604.pdf>; Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018, Answer to questions 34 to 37 and 46.

## 2 The security situation

### 2.1 Developments in the security situation

This chapter describes the security situation from June 2018 onwards. The thematic official report on the security situation in Afghanistan of May 2018 described the security situation in the period from November 2016 to May 2018.

The period in question has been marked by fierce combat between the government and, in particular, the Taliban. One interesting development was a ceasefire between the government and the Taliban after the end of the Ramadan period. The Taliban rejected a new offer of a ceasefire (see Chapter 1) and stepped up its offensive operations.<sup>128</sup> It also carried out several attacks. Unlike ISKP, the Taliban indicated in various statements that it did not seek to claim civilian casualties. It primarily targeted the Afghan army and police, and foreign/NATO forces. Despite this, many civilian casualties were again attributed to the Taliban during the reporting period as a result of the fighting and attacks in which civilians were also deliberately targeted (see 2.2.).<sup>129</sup> During an attack in Kandahar on 18 October 2018, police chief General Abdul Raziq and the local head of the security service were killed and several other attendees, including a US general, were injured. This attack took place at a highly secure location (the chief NATO commander, General Miller, was among those present), and was an *insider attack* from within the Afghan security apparatus.<sup>130</sup> The attack was claimed by the Taliban. Abdul Raziq was the charismatic de facto ruler in the southern province of Kandahar. He had managed to expel the Taliban with firm action.<sup>131</sup> On 22 October 2018, after lobbying by local elders, President Ghani appointed Raziq's younger brother Tadin as chief of police in Kandahar province.<sup>132</sup>

ISKP remained capable of carrying out major attacks with many casualties. Many of these were aimed at civilian targets such as schools or mosques (see also 2.2.).<sup>133</sup>

One success in the fight against ISKP was the surrender to the Afghan forces of about 250 ISKP fighters and their relatives in Jawzjan province in early August

<sup>128</sup> SIGAR, *Quarterly report to the US Congress*, p. 65, 30 October 2018.

<sup>129</sup> UNAMA, *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*. 24 February 2019. p. 3. [https://unama.unmissions.org/sites/default/files/afghanistan\\_protection\\_of\\_civilians\\_annual\\_report\\_2018\\_final\\_24\\_feb\\_2019\\_v3.pdf](https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_final_24_feb_2019_v3.pdf)

<sup>130</sup> Economist, *Afghans vote as the war drags on: Security in Afghanistan*, 27 October 2018, <https://www.economist.com/asia/2018/10/27/afghans-vote-as-the-war-drags-on>; SIGAR, *Quarterly report to the US Congress*, p. 65, 30 October 2018; Confidential source, 4 November 2018.

<sup>131</sup> Foreign Policy, Ashley Jackson, *The Taliban Just Won a Key Battle for Afghanistan's Future. The killing of a strongman police chief creates a dangerous power vacuum*, 20 October 2018, <https://foreignpolicy.com/2018/10/20/taliban-won-key-battle-afghanistan-future-election-abdul-raziq/>

<sup>132</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 6, 7 December 2018.

<sup>133</sup> Confidential source, 4 November 2018; UNAMA, *Afghanistan protection of civilians in armed conflict. Special Report. Increasing Harm to Afghan Civilians from the Deliberate and Indiscriminate Use of Improvised Explosive Devices*. October 2018. [https://reliefweb.int/sites/reliefweb.int/files/resources/protection\\_of\\_civilians\\_in\\_armed\\_conflict\\_special\\_report\\_suicide\\_and\\_other\\_ied\\_devices\\_october\\_2018.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/protection_of_civilians_in_armed_conflict_special_report_suicide_and_other_ied_devices_october_2018.pdf). p. 3. During the period from January to September 2018, UNAMA attributed 52% of all civilian casualties from suicide attacks and other improvised bombings to ISKP, 40% to the Taliban and the rest to unidentified AGEs. During this period ISKP claimed 32 of these attacks in which there were 1,513 civilian casualties (443 killed and 1,070 injured).

2018; according to the commander of the US forces in Afghanistan, one of the three ISKP centres of activity in Afghanistan was eliminated in the process. On 25 August 2018, the US succeeded in killing Abu Saad Orakzai, the leader of ISKP in Nangarhar province, in an air strike.<sup>134</sup>

In the months prior to the parliamentary elections of 20 October 2018, several attacks took place on candidates, voters and government officials involved in the elections (see Chapter 3). On the first polling day, about 190 violent incidents took place across the country, in which some 70 people died. The Taliban carried out attacks and planted IEDs to disrupt the election process. The highest number of violent incidents was recorded in the city of Kunduz (25), followed by Kabul, where 14 bombings took place as well as a suicide attack claimed by ISKP.<sup>135</sup> The level of violence on election day was lower than during the previous parliamentary elections in 2010 or the presidential elections in 2014.<sup>136</sup>

On 10 August 2018, the second major Taliban assault on a provincial capital in 2018 took place, targeting Ghazni in the province of the same name. After five days of combat, with the help of the US air force, the Afghan forces succeeded in driving the Taliban out of the city of Ghazni (see also 2.3.5.). In mid-May 2018, the Taliban managed to briefly occupy the provincial capital Farah.<sup>137</sup> It also succeeded in capturing several smaller Afghan military bases in the third quarter of 2018 by surprise attacks in the provinces of Faryab, Baghlan and elsewhere.<sup>138</sup>

In addition to the continued high level of civilian casualties (see 2.2.), there was also a rising number of casualties among soldiers and the police. On average in the months prior to September 2018, according to Afghan sources in a New York Times article of 22 September 2018, between 30 and 40 Afghan soldiers and police officers were killed every day, compared to an average of 22 a day in 2016. The government said that it had killed an average of 42 Taliban fighters a day in August 2018.<sup>139</sup>

<sup>134</sup> SIGAR, *Quarterly report to the US Congress*, p. 67, 30 October 2018. Other provinces where ISKP was present were Kunar and Nangarhar.

<sup>135</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 6, 7 December 2018.

<sup>136</sup> Confidential source, 1 November 2018; Confidential source, 4 November 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 6, 7 December 2018.

<sup>137</sup> The New York Times, *Taliban Overrun Afghan City, Kill 30 People and Leave*, 16 May 2018, <https://www.nytimes.com/2018/05/16/world/asia/taliban-farah-afghanistan.html>.

<sup>138</sup> SIGAR, *Quarterly report to the US Congress*, p. 66, 30 October 2018.

<sup>139</sup> The New York Times, *Why death toll in Afghanistan is kept a secret*, 22 September 2018; Economist, *Afghans vote as the war drags on: Security in Afghanistan*, 27 October 2018; SIGAR, *Quarterly report to the US Congress*, p. 66, 30 October 2018. US military sources regarded this high daily casualty total to be plausible, and indicated that there had been an increase in the number of ANDSF casualties compared to 2017.

### Control over population and territory

The *Special Inspector General for Afghanistan Reconstruction* (SIGAR) of the United States stated in its report of 30 October 2018, based on data from the NATO Resolute Support mission, that the Afghan government had control or influence over 65% of the population, but only 55% of Afghanistan's 407 districts.<sup>140</sup>

GOVERNMENT AND INSURGENT CONTROL WITHIN AFGHANISTAN AS OF JULY 31, 2018						
Control Status	Districts		Population		Territory	
	Number	%	In Millions	%	Sq Km	%
GOVERNMENT						
Control	75	18%	11.4	34%	106,000	16%
Influence	151	37%	10.3	31%	258,000	40%
CONTESTED	132	32%	8.1	24%	165,000	26%
INSURGENT						
Control	10	2%	0.5	2%	37,000	6%
Influence	39	10%	3.0	9%	78,000	12%
<b>Total</b>	<b>407</b>	<b>100%</b>	<b>33.3</b>	<b>100%</b>	<b>644,000</b>	<b>100%</b>

Note: Sq Km = square kilometers. Component numbers may not add to 100 because of rounding. Territory figures have been rounded by RS.

Source: RS, response to SIGAR data call, 9/19/2018; RS, response to SIGAR vetting, 10/11/2018; SIGAR, analysis of RS-provided data, 9/2018.<sup>141</sup> SIGAR, Table 3.7.<sup>142</sup>

According to data from Resolute Support, at the end of July 2018 the Afghan government had control or influence over 56% of Afghan *territory*, or 644,000 square kilometres. This was a decrease of 2.5% compared to the situation in the second quarter of 2018. The area under the control or influence of the AGEs also decreased slightly to 18%; in the second quarter the figure was 19.4%. The remaining area of 165,000 square kilometres (26%) was disputed by the two parties. The extent of the disputed territory thus increased by about 4% compared to the second quarter of 2018.<sup>143</sup> Some sources said that the Taliban controlled more than 40% of Afghan territory.<sup>144</sup>

At the end of July 2018, the Afghan government had control or influence in 226 of the 407 *districts*, i.e. in 55.5% of the districts. This was a slight decrease compared

<sup>140</sup> SIGAR, *Quarterly report to the US Congress*, 30 October 2018.

<sup>141</sup> SIGAR, *Quarterly report to the US Congress*, p. 72, 30 October 2018.

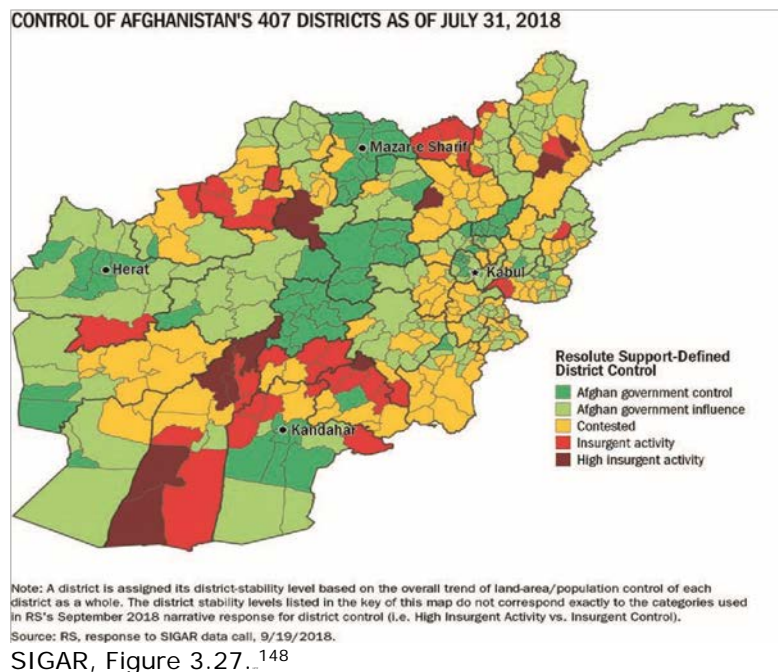
<sup>142</sup> SIGAR, *Quarterly report to the US Congress*, p. 72, 30 October 2018.

<sup>143</sup> SIGAR, *Quarterly report to the US Congress*, pp. 68 and 69, 30 July 2018; SIGAR, *Quarterly report to the US Congress*, p. 73, 30 October 2018.

<sup>144</sup> Le Figaro, *Afghanistan: les talibans sont bien plus forts qu'avant l'intervention américaine*, 11 March 2018; Interview with Karim Pakzad, country specialist and researcher at IRIS, <http://www.lefigaro.fr/international/2018/03/10/01003-20180310ARTF1G00008-afghanistan-les-talibans-sont-bien-plus-forts-qu-avant-l-intervention-americaine.php>; Clingendael Spectator, Jorit Kamminga, *The hand-and-water tale: options for the West in Afghanistan*, 14 March 2018, <https://spectator.clingendael.org/en/publication/hand-and-water-tale-options-west-afghanistan#>; The New York Times, *How the U.S. Government Misleads the Public on Afghanistan*, 8 September 2018, <https://www.nytimes.com/interactive/2018/09/08/world/asia/us-misleads-on-afghanistan.html>. Differences in methodology and definitions used in determining when an area is under the control or influence of the government or AGEs or when an area is disputed account for the divergence in percentages between SIGAR and military analysts. See: <https://www.longwarjournal.org/mapping-taliban-control-in-afghanistan>. Consulted 22 February 2019.



to the situation in the first quarter of 2018. The AGEs lost control or influence in seven districts. The total number of districts under their control or influence was 49 (12% of the total). The number of districts that were under the control or influence neither of the government nor of the Taliban (see official report on security situation) rose by ten compared to the second quarter of 2018, to 132 (32.4%).<sup>145</sup> Both sides are trying to gain control of these areas. Local militias may also (temporarily) hold sway in them.<sup>146</sup> Control over some district capitals alternated between government forces and the Taliban several times. AAN describes this in a case study from 2017 for the Kharmab and Darzab districts in Jawzjan province.<sup>147</sup>



Most of the districts under the control or influence of the insurgents at the end of July 2018 were in the provinces of Uruzgan (four of the six districts; 53% of the population of that province), Kunduz (five of the seven; 62% of the population) and Helmand (nine of the fourteen; 56% of the population). All provincial capitals remained under the control or influence of the government.<sup>149</sup> Incidentally, the fact that the green areas on the map are government-controlled does not mean that no or only a few security incidents such as attacks took place there (see 2.3.). In August 2018, in the northern province of Faryab, the districts of Gormatsch and Bulcheragh fell into the hands of the Taliban.<sup>150</sup>

<sup>145</sup> SIGAR, *Quarterly report to the US Congress*, p. 71, 30 July 2018; SIGAR, *Quarterly report to the US Congress*, p. 69, 30 October 2018.

<sup>146</sup> Ministry of Foreign Affairs, *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018.

<sup>147</sup> AAN, *Non-Pashtun Taleban of the north (4): a case study from Jawzjan*, p. 2, 18 September 2017.

<sup>148</sup> SIGAR, *Quarterly report to the US Congress*, p. 71, 30 October 2018.

<sup>149</sup> SIGAR, *Quarterly report to the US Congress*, p. 71, 30 July 2018.

<sup>150</sup> Zeit, *Taliban erobern weiteres Bezirkszentrum in Afghanistan*, 19 August 2018, <https://www.zeit.de/news/2018-08/19/taliban-erobern-weiteres-bezirkszentrum-in-afghanistan-180819-99-607323>; Confidential source, 20 August 2018.

In mid-December 2018, there was fighting between government forces and the Taliban for control of the Garziwan district in Faryab province.<sup>151</sup> In September 2018, there was a fierce battle between government security forces (ANDSF) and the Taliban around the cities of Tarinkowt (Uruzgan), Lashkar Gar (Helmand) and Gardez (Paktia).<sup>152</sup>

At the end of July 2018, 65% of the *population* of an estimated 33.3 million Afghans, i.e. 21.7 million people, lived in areas under the Afghan government's control or influence. This percentage has remained unchanged since October 2017.<sup>153</sup> At the end of July 2018, an estimated 3.5 million people, i.e. 10.5% of the population, lived in areas held by insurgents or under their influence; this represented a slight decrease compared to the second quarter of 2018. The population in the disputed areas increased slightly to 8.1 million people, compared to 7.7 million in the second quarter of 2018.<sup>154</sup> In the period from the end of October to mid-November 2018, a number of districts with a predominantly Hazara population fell to the Taliban in the provinces of Uruzgan and Ghazni. In particular, these included the districts of Khas Uruzgan, Jaghori and Malestan. As a result, hundreds of families were displaced. In around mid-November 2018, Afghan security forces succeeded in driving the Taliban out of these districts.<sup>155</sup>

## 2.2 Civilian casualties

United Nations Assistance Mission in Afghanistan (UNAMA) stated in its report on the protection of civilians in armed conflict that there were 10,933 civilian casualties across Afghanistan in 2018: 3,804 killed and 7,189 injured. Twenty-eight percent of the total civilian casualties were children (927 killed and 2,135 injured). Compared to 2017, there was a 5 percent increase in the total number of civilian casualties as a result of the conflict and an 11 percent increase in the number of fatalities.<sup>156</sup> Just as in 2017, the citizens of the city of Kabul were hit relatively hard by suicide and complex attacks. Of the 65 suicide and complex attacks throughout Afghanistan, 28 took place in Kabul, involving 1,686 civilian casualties (554 killed and 1,132 injured). Compared to 2017 there was a 5 percent increase in the number of civilian casualties as a result of such attacks.<sup>157</sup>

<sup>151</sup> Pajhwok, *31 killed or wounded as Afghan forces, Taliban clash in Faryab*, 18 December 2018, <https://www.pajhwok.com/en/2018/12/18/31-killed-or-wounded-afghan-forces-taliban-clash-faryab>.

<sup>152</sup> Confidential source, 17 September 2018.

<sup>153</sup> SIGAR, *Quarterly report to the US Congress*, pp. 66 and 71, 30 October 2018.

<sup>154</sup> SIGAR, *Quarterly report to the US Congress*, pp. 68 and 69, 30 July 2018; SIGAR, *Quarterly report to the US Congress*, p. 71, 30 October 2018.

<sup>155</sup> The New York Times, *Bodies pile up as Taliban overrun Afghan Haven*, 13 November 2018; AAN, *Taliban Attacks on Khas Uruzgan, Jaghori and Malestan (I)*, 28 November 2018, <https://www.afghanistan-analysts.org/taliban-attacks-on-khas-uruzgan-jaghori-and-malestan-i-a-new-and-violent-push-into-hazara-areas/>.

<sup>156</sup> UNAMA, *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*, 24 February 2019, pp. 1 and 11. The highest total numbers of civilian casualties in Afghanistan in the past decade was recorded in 2015 (11,035 casualties) and 2016 (11,452 casualties). [https://unama.unmissions.org/sites/default/files/afghanistan\\_protection\\_of\\_civilians\\_annual\\_report\\_2018\\_final\\_24\\_feb\\_2019\\_v3.pdf](https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_final_24_feb_2019_v3.pdf)

<sup>157</sup> UNAMA, *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*, 24 February 2019, p. 23.

The UNAMA analysis below covers the period from January to September 2018. At the end of September 2018, in UNAMA's third quarterly report for 2018, the number of casualties in 2018 had already reached 8,050 people: 2,798 killed and 5,252 injured. The total number of casualties in the first nine months was approximately the same as in the same period in 2017.<sup>158</sup> The UNAMA table below compares the number of civilian casualties in the first nine months of 2018 with previous years. The total number of civilian casualties remained high; the number of deaths in 2018 was the highest since 2014. Of the civilian casualties, 829 were women (250 killed; 579 injured) and 2,136 were children (653 killed and 1,483 injured).

According to UNAMA, 65% of all civilian casualties resulted from actions by armed anti-government elements (AGEs). Of this 65%, 35% was attributable to the Taliban, 25% to ISKP and 5% to unidentified opponents. Pro-government forces were responsible for 22% of civilian casualties: Afghan national security forces for 16%, international forces for 5% and pro-government armed groups for 1%. Ten percent of civilian casualties resulted from fighting between AGEs and pro-government forces; 3% from actions by Pakistani forces.<sup>159</sup> The number of casualties as a result of air strikes by the Afghan and US forces in the first nine months of 2018 was 313 killed and 336 injured; more than half were women and children. The number of air strike casualties rose by 39% compared to the same period in 2017.<sup>160</sup> There was also an increase in the number of civilian casualties that occurred during search operations by Afghan security forces and international military forces.<sup>161</sup> Over the first nine months of 2018, UNAMA documented 222 civilian casualties (178 killed and 44 injured) as a result of search operations by pro-government forces – more than twice the number of casualties during the same period in 2017. Out of this total, 143 casualties were attributed by UNAMA to the operations of the *National Directorate of Security* (NDS), in some cases with the support of international forces. UNAMA also received reports of human rights violations during these military operations, such as deliberate destruction of civilian property, illegal detention and other abuses carried out by NDS special forces and other pro-government armed groups, including the *Khost Protection Force*.<sup>162</sup> The ongoing conflict also caused a large number of people to be internally displaced during the reporting period (see Chapter 4).<sup>163</sup>

<sup>158</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 1, 10 October 2018.

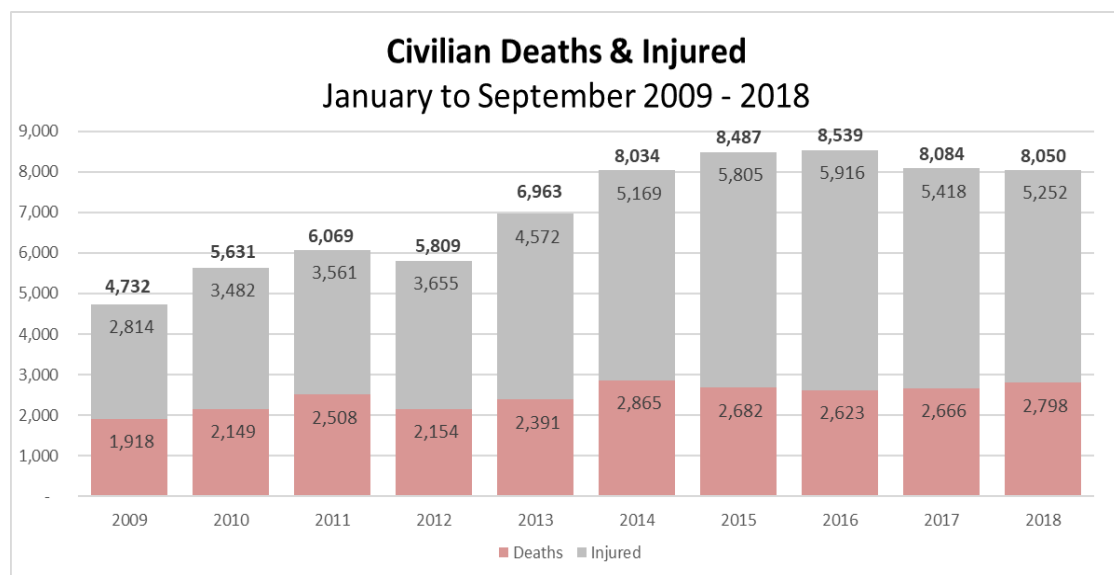
<sup>159</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, pp. 2, 3 and 8, 10 October 2018; UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*, 15 July 2018; UNAMA, *Highest recorded civilian deaths from conflict at mid-year point-latest UNAMA update*, 15 July 2018, <https://unanma.unmissions.org>, consulted on 18 August 2018.

<sup>160</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 3, 10 October 2018; Le Monde, "Plus de mille victimes" en deux mois parmi les forces afghans, 7 November 2018.

<sup>161</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018*, pp. 5 and 6, 15 July 2018; UNAMA indicated that the National Directorate of Security special forces and the Khost Protection Force were especially responsible for the increase in civilian casualties.

<sup>162</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 7, 10 October 2018.

<sup>163</sup> Freedom House, *Freedom in the world 2018: Afghanistan profile*, p. 2, 2018.



UNAMA...<sup>164</sup>

The NATO Resolute Support (RS) operation reported to SIGAR on the number of civilian casualties in the period from January to 15 August 2018. The total number of civilian casualties over the period was 5,588. According to RS, the highest numbers of civilian casualties were in the provinces of Kabul (1,225) and Nangarhar (935); 38.7% of the total number of casualties occurred in these two provinces. SIGAR stated that one striking difference from UNAMA's figures for civilian casualties – allowing for the different periods and reporting techniques used – was the substantially lower number of civilian casualties that RS recorded as a result of air attacks...<sup>165</sup>

The majority of the casualties were civilians living in the provinces of Nangarhar, Kabul, Helmand, Ghazni and Faryab...<sup>166</sup> In the first six months of 2018, UNAMA recorded 993 civilian casualties in Kabul province: 321 killed and 672 injured. Compared to the same period in 2017, this represented a decrease of 5%. The number of civilian casualties recorded in Nangarhar province in the first six months of 2018 rose sharply to 911 (204 killed and 607 injured), up 142% compared to the same period in 2017...<sup>167</sup> In the first nine months of 2018, the highest number of civilian casualties was recorded in Nangarhar province – a total of 1,494 (554 killed and 940 injured); this was more than twice the number of casualties in the same period in 2017...<sup>168</sup>

<sup>164</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January tot 30 September 2018*, p. 1, 10 October 2018.

<sup>165</sup> SIGAR, *Quarterly report to the US Congress*, pp. 79 and 80, 30 October 2018.

<sup>166</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*, p. 5, 15 July 2018; UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 september 2018*, p. 1, 10 October 2018.

<sup>167</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*, p. 2, 15 July 2018.

<sup>168</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 2, 10 October 2018.

According to SIGAR's quarterly report of 30 October 2018, RS indicated that by far the largest number of civilian casualties in the period from January to 15 August 2018 was in Kabul province (1,225), followed by Nangarhar (935). When the number of inhabitants per province is taken into account, the picture is somewhat different: the highest numbers of casualties per 1,000 inhabitants occurred in the provinces of Nangarhar (0.50), Kunar (0.39) and Paktiya (0.38). This figure is 0.22 for Kabul province, 0.09 for Herat and 0.07 for Balkh province, with Mazar-i-Sharif as its capital..<sup>169</sup>

**RS-REPORTED CIVILIAN CASUALTIES: JANUARY–AUGUST 15, 2018**

Province	Population	Total Casualties	Casualties Per Thousand	Province	Population	Total Casualties	Casualties Per Thousand
Nangarhar	1,864,582	935	0.50	Ghazni	1,507,262	176	0.12
Kunar	551,469	214	0.39	Badghis	607,825	63	0.10
Paktiya	677,465	259	0.38	Nuristan	173,222	18	0.10
Logar	481,271	137	0.28	Herat	2,326,261	219	0.09
Helmand	1,112,152	290	0.26	Nimroz	202,488	17	0.08
Laghman	552,694	143	0.26	Balkh	1,633,048	111	0.07
Uruzgan	429,415	109	0.25	Ghor	845,018	48	0.06
Khost	704,149	169	0.24	Parwan	817,955	53	0.06
Farah	620,552	135	0.22	Jowzjan	656,187	36	0.05
Kabul	5,452,652	1,225	0.22	Samangan	475,655	26	0.05
Faryab	1,226,475	247	0.20	Takhar	1,208,745	55	0.05
Kapisa	540,051	92	0.17	Badakhshan	1,165,960	30	0.03
Zabul	374,440	57	0.15	Sar-e Pul	690,566	23	0.03
Kandahar	1,512,293	206	0.14	Panjshayr	187,856	4	0.02
Kunduz	1,237,001	169	0.14	Daykundi	561,651	6	0.01
Paktika	532,953	73	0.14	Bamyan	549,243	0	0.00
Baghlan	1,120,511	151	0.13	<b>Grand Total</b>	<b>33,329,050</b>	<b>5,588</b>	
Wardak	729,983	92	0.13				

Source: RS, response to SIGAR data call, 9/19/2018.

SIGAR, Table 3.8..<sup>170</sup>

According to UNAMA, ISKP was responsible for 52% of total civilian casualties as a result of suicide and complex attacks in the period January to June 2018; 40% of the casualties of such attacks were attributed to the Taliban and the remainder to unidentified armed elements..<sup>171</sup>

A proportion of the civilian casualties in the period from January to the end of September 2018 occurred as a result of election-related violence. During this period, UNAMA recorded 366 civilian casualties related to the elections (126 killed and 240 injured). The majority of the casualties were the result of two bomb attacks on 22 April and 6 May 2018, in Kabul and Khost respectively. Violence associated with the elections began with the start of voter registration on 14 April 2018.

<sup>169</sup> SIGAR, *Quarterly report to the US Congress*, p. 81, 30 October 2018.

<sup>170</sup> SIGAR, *Quarterly report to the US Congress*, p. 81, 30 October 2018.

<sup>171</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*; UNAMA, *Highest recorded civilian deaths from conflict at mid-year point—latest UNAMA update*, 15 July 2018, consulted 18 July 2018, <https://unama.unmissions.org>; According to UNAMA, a complex attack comprises the following elements: two or more attackers, two or more types of weapons, one of which is an improvised (suicide) bomb (Improvised Explosive Device, IED); UNAMA, *Afghanistan: Protection of Civilians in Armed Conflict: Annual report 2017*, p. 1, February 2018, <http://www.refworld.org/docid/5a854a614.html>.

Attacks were carried out on national identity card (tazkera) distribution centres and at voter registration points, including schools, as well as on employees involved in these activities, including police officers. These attacks consisted of bombings, suicide attacks and targeted killings.<sup>172</sup> Casualties also arose during the elections themselves. For more information see Chapter 3.

The main cause of civilian casualties was the use of improvised explosive devices (IEDs) by AGEs, including in suicide attacks. These were responsible for almost half the number of civilian casualties in the first nine months of 2018, and the number of civilians killed in this way (1,065) was the highest since 2011. UNAMA indicated that such attacks were increasingly directed against civilians, including the Shiite minority, most of whom are ethnic Hazara.<sup>173</sup> In the period from January to June 2018, 366 civilian casualties (115 killed and 251 injured) were mainly caused by direct violence against the Shiite population through suicide attacks and complex attacks.<sup>174</sup> According to UNAMA, ground engagements were the second leading cause of civilian casualties in the period January to September 2018, followed by targeted attacks, air strikes and explosive war remnants.<sup>175</sup> At the beginning of December 2018, UNAMA pointed to the sharp rise in the number of child casualties in Afghanistan due to armed violence against civilians. Over the first nine months of 2018 there was an increase of 53% compared to the same period in 2017, mainly caused by air attacks.<sup>176</sup> Targeted and deliberate killing was the third leading cause of civilian casualties in the period from 1 January to 30 September 2018. It resulted in 668 civilian casualties (439 killed and 229 injured), a 32% decrease compared to the same period in 2017. Eighty-nine percent of all casualties in this category were attributed to AGEs. Most of these incidents were targeted attacks by the Taliban on civil government officials and on civilians accused of spying for or providing information to government supporters. The latter, especially pro-government militias, were involved in the targeted killing or injuring of civilians in 11% of cases.<sup>177</sup>

RS also indicates that improvised explosives were the main source of civilian casualties in the period from January to mid-August 2018.

<sup>172</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 8, 10 October 2018; UNAMA, *Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018*, pp. 3 and 4, 15 July 2018; UNAMA, *Protection of civilians in armed conflict: Election-Related Attacks and Abuses during the Initial Voter Registration Period*, 10 May 2018, [https://unama.unmissions.org/sites/default/files/protection\\_of\\_civilians\\_-\\_special\\_report\\_-\\_election-related\\_attacks\\_and\\_abuses\\_may\\_2018\\_english.pdf](https://unama.unmissions.org/sites/default/files/protection_of_civilians_-_special_report_-_election-related_attacks_and_abuses_may_2018_english.pdf).

<sup>173</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018*, p. 5, 15 July 2018; UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, pp. 1 and 4, 10 October 2018.

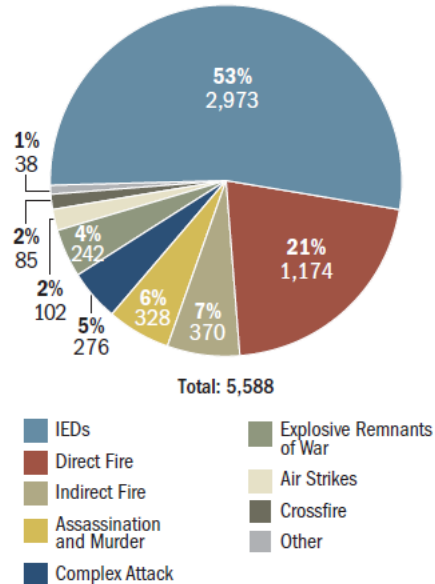
<sup>174</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018*, p. 5, 15 July 2018.

<sup>175</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict: 1 January to 30 June 2018*, p. 5, 15 July 2018; UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, pp. 1 and 4, 10 October 2018.

<sup>176</sup> Confidential source, 10 December 2018.

<sup>177</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 5, 10 October 2018.

RS: CIVILIAN CASUALTIES BY INCIDENT TYPE



Note: The reporting period for this data is January 1–August 15, 2018. Casualties include dead and wounded.  
 Source: RS, response to SIGAR data call, 9/19/2018.

SIGAR, Figure 3.35.<sup>178</sup>

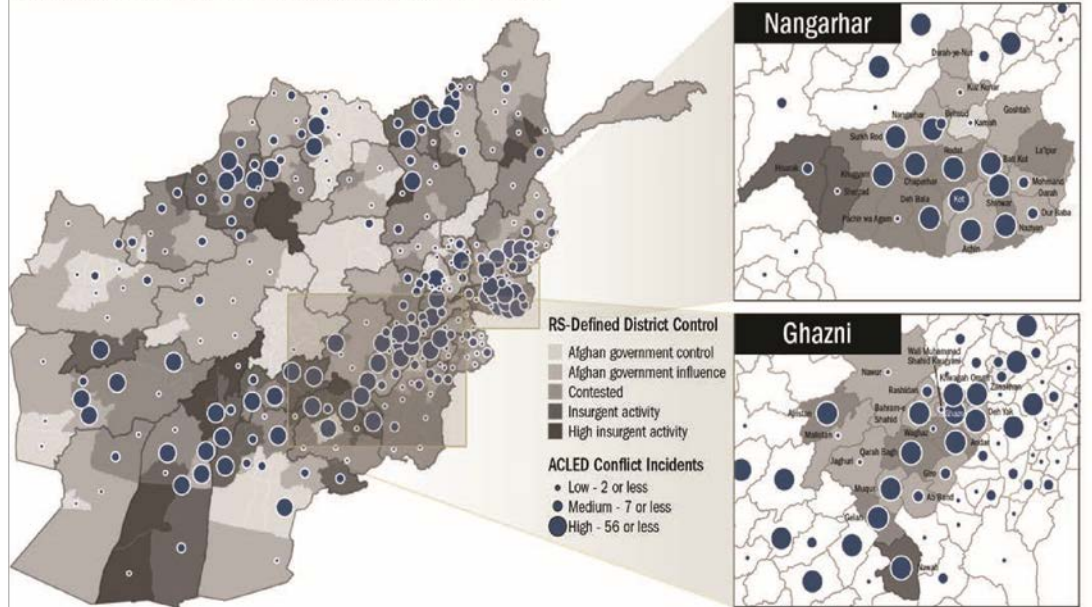
### 2.3 Security situation in regions of Afghanistan

SIGAR uses data on security incidents at district level collected by ACLED over the period from mid-May to the end of July 2018. According to SIGAR, more than 35% of security incidents occurred in government-controlled or government-influenced areas; more than 47% of such incidents occurred in disputed areas and more than 17% of the total of 1,792 violent incidents occurred in areas controlled or influenced by AGEs. Most of the instances of violence in this period occurred (see map below) in districts under government control or influence within Nangarhar province (129 violent incidents in seven districts), Ghazni province (101 incidents in four districts) and Kabul province (46 incidents in one district).<sup>179</sup> The map below, published by SIGAR in its third quarterly report for 2018, combines control of districts with the frequency of security incidents.

<sup>178</sup> SIGAR, *Quarterly report to the US Congress*, p. 80, 30 October 2018.

<sup>179</sup> SIGAR, *Quarterly report to the US Congress*, p. 74, 30 October 2018.

**POLITICAL CONFLICT AND DISTRICT CONTROL, MAY 16-JULY 31, 2018**



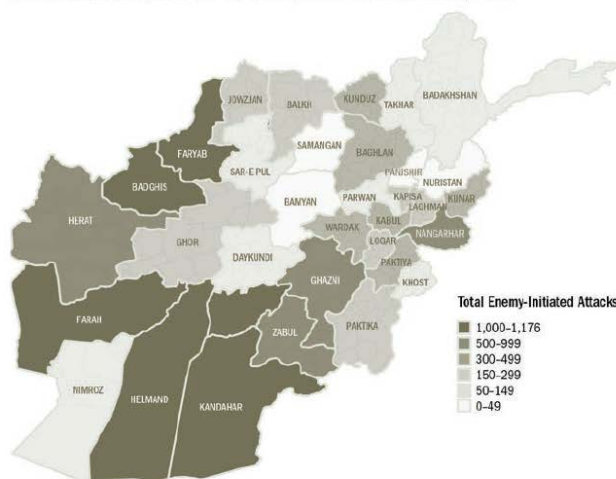
Note: The district map was adapted from the 2012 Afghan Geodesy and Cartography Head Office (AGCHO) shapefile that included 399 districts. Adjustments, some approximate, were made to data for districts that were whole in AGCHO's 399-district set but that were split in RS's 407-district set. See R.L. Helms, District Lookup Tool, <https://arcgis/1b0jGv> accessed 10/14/2018, for differences amongst district sets. This 407-district set was used to aggregate RS-provided district control data and Armed Conflict Location and Event Data Project (ACLED) incident data. SIGAR used ArcGIS Pro 2.2 for this analysis and all layers were projected to UTM 42N. ACLED data showing political conflict and protest data between 5/16/2018 and 7/31/2018 was used in order to match RS's district-control reporting period. ACLED data was sorted to the district-level by using a geo-precision code of 1 or 2 and incidents were summed. This left 1,792 district-level incidents for analysis. To create the map, incidents were categorized into three classes using the quantile method. The quantile method produces an equal number of observations per class to facilitate comparative analysis, but the interval of the class must therefore be variable.

Source: RS, response to SIGAR data call, 9/19/2018; ACLED, South Asia 2016-Present dataset, 5/16/2018-7/31/2018, accessed online on 10/14/2018, available at <https://www.acleddata.com/>; SIGAR, analysis of ACLED and RS-provided data, 10/2018.

SIGAR, Figure 3.29..<sup>180</sup>

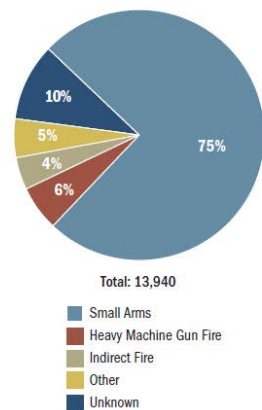
SIGAR also gives an overview of the number of attacks by AGEs in the period from 1 January 2018 to 15 August 2018.

**ENEMY-INITIATED ATTACKS BY PROVINCE, JANUARY 1-AUGUST 15, 2018**



Source: RS, response to SIGAR data call, 9/19/2018; RS, response to SIGAR vetting, 10/22/2018.

**ENEMY-INITIATED ATTACKS BY ATTACK TYPE, JANUARY 1-AUGUST 15, 2018**



Source: RS, response to SIGAR data call, 9/19/2018; RS, response to SIGAR vetting, 10/22/2018.

SIGAR, Figures 3.30 and 3.31..<sup>181</sup>

<sup>180</sup> SIGAR, *Quarterly report to the US Congress*, p. 74, 30 October 2018.

<sup>181</sup> SIGAR, *Quarterly report to the US Congress*, p. 75, 30 October 2018.



Most of the attacks (7,473 or 54% out of a total of 13,940) in the aforementioned period occurred in seven of the 34 provinces: Badghis, Farah, Faryab, Ghazni, Helmand, Kandahar and Uruzgan. The most violent provinces in terms of AGE attacks were Faryab (1,176 attacks), followed by Farah (1,145) and Uruzgan (1,096). In the provinces of Kabul, Herat and Balkh (with Mazar-i-Sharif as its capital), there were 411, 779 and 411 such attacks respectively during this period. Small-arms fire accounted for 75% of AGE attacks.<sup>182</sup>

UNAMA recorded 5,854 security incidents between 16 August and 15 November 2018, similar to the number in the same period in 2017. Most of these occurred in the southern region, followed by the eastern and southeastern regions.<sup>183</sup>

#### *Freedom of movement*

The constitution gives Afghans freedom of movement and the freedom to settle elsewhere in the country. In practice, these rights are severely limited by the conflict, which led to large-scale displacement (see Chapter 4) as well as making travel unsafe in large parts of Afghanistan during 2017.<sup>184</sup> and 2018. As stated earlier, a large part of the country was disputed territory. This led to highways in parts of the country regularly being closed by the government, or to AGEs setting up roadside checkpoints.<sup>185</sup> In the period from August to November 2018, the Taliban temporarily succeeded in occupying strategic positions along various highways, allowing it to restrict freedom of movement between provinces. Along the Highway I route to Kabul, the Taliban took the Daymirdad and Sayyidabad districts in Wardak province. The Taliban also carried out attacks on the Mazar-Shirbingham and Maimana-Andkhoy highways in the northern region and along the Herat-Qala-e Naw road in the west on several occasions.<sup>186</sup>

The insecurity in parts of Afghanistan due to the struggle between the government and armed groups had consequences not just for civilians' freedom of movement but also for the provision of assistance to displaced persons.<sup>187</sup>

There were shootings at road checkpoints in which civilians died. According to UNAMA, at least a dozen civilians were shot at checkpoints in 2017.<sup>188</sup>

A number of noteworthy developments and events are outlined below relating to the security situation in the period from June 2018 to December 2018 for the various regions and provinces.

<sup>182</sup> SIGAR, *Quarterly report to the US Congress*, pp. 75 and 251 (Appendix G), 30 October 2018.

<sup>183</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 5, 7 December 2018.

<sup>184</sup> Freedom House, *Freedom in the world, Afghanistan profile*, 2018, <https://freedomhouse.org/report/freedom-world/2018/afghanistan>, consulted on 21 August 2018.

<sup>185</sup> OCHA, *Afghanistan weekly field report*, 16-22 July 2018. OCHA reported that in the Anardara district of Farah province, three employees of an NGO were detained for a day in July 2018 at a checkpoint manned by insurgents.

<sup>186</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 6, 7 December 2018.

<sup>187</sup> OCHA, *Afghanistan weekly field report*, 5-11 November 2018; OCHA, *Afghanistan weekly field report*, 12-19 November 2018, [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/afghanistan\\_weekly\\_field\\_report\\_12\\_-\\_19\\_november.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/afghanistan_weekly_field_report_12_-_19_november.pdf); Confidential source, 25 September 2018.

<sup>188</sup> Amnesty International, *Annual report: Afghanistan 2017/2018*, quoting information from UNAMA, consulted 23 August 2018, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>.

The overview below is by no means exhaustive, as can be seen from SIGAR's map (Figure 3.30), in which a picture is given per province of the number of AGE attacks during the period from January to 15 August 2018.

### 2.3.1 *The north (Badakhshan, Takhar, Baghlan, Kunduz, Samangan, Balkh, Sar-e Pul, Jawzjan, Faryab)*

#### *Baghlan*

On Wednesday 15 August, the Taliban attacked a military base in Baghlan. Forty-four police officers and soldiers were killed, and the base was occupied by the Taliban.<sup>189</sup>

#### *Faryab*

On 2 July 2018, the Afghan authorities arrested the Uzbek commander Qaisari from Faryab province. This led to fierce protests in that province. Among other actions, his supporters set fire to the governor's building complex. There were also protests in other parts of the country by supporters of the Jombesh political party, which draws most of its support from the Uzbek population group. The protesters felt encouraged by Vice-President Dostum.<sup>190</sup>

In mid-August 2018, a government army military base known as 'the Chinese camp' was captured by the Taliban in Ghormach district.<sup>191</sup>

On 30 September 2018, the Taliban launched a coordinated attack against various government checkpoints in the Qaysar district of Faryab province. This led to a fierce battle before the Taliban pulled back on 1 October 2018.<sup>192</sup>

#### *Balkh*

According to the local authorities, a Taliban attack on a police station in the Chemtal district killed six police officers, and a further seven were injured.<sup>193</sup>

#### *Sar-e-Pul*

In early January 2019 the Afghan government reported the resumption by the Taliban of attacks on the city of Sar-e-Pul. There are oil wells near this city. In one of these attacks on 31 December 2018, at least 20 soldiers died, according to the provincial governor.<sup>194</sup>

<sup>189</sup> Confidential source, 20 August 2018., <http://www.faz.net/aktuell/politik/die-rueckkehr-der-taliban-in-nord-afghanistan-15823101.html>.

<sup>190</sup> Confidential source, 9 July 2018.

<sup>191</sup> The New York Times, *The Afghan Army's Last Stand at Chinese Camp* 14 August 2018. The base, previously manned by foreign troops, is on the site of an abandoned Chinese development project, <https://www.nytimes.com/2018/08/14/world/asia/the-afghan-armys-last-stand-at-chinese-camp.html>.

<sup>192</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 6, 7 December 2018; FAZ, *Die Rückkehr der Taliban in Nord-Afghanistan*, 6 October 2018, <https://www.faz.net/aktuell/politik/die-rueckkehr-der-taliban-in-nord-afghanistan-15823101.html>.

<sup>193</sup> The New York Times, *27 Die as Taliban Targets Afghan Security Officers*, 1 January 2019, <https://www.nytimes.com/2019/01/01/world/asia/afghanistan-attacks-taliban.html>.

<sup>194</sup> Tolonews, *Sar-e-Pul Oil Reservoirs Under Taliban Threat: Officials*, 3 January 2019, <https://www.tolonews.com/afghanistan/sar-e-pul-oil-reservoirs-under-taliban-threat-officials>; the New York Times, *27 Die as Taliban Targets Afghan Security Officers*, 1 January 2019, <https://www.nytimes.com/2019/01/01/world/asia/afghanistan-attacks-taliban.html>.

### 2.3.2 *The south (Helmand, Kandahar, Uruzgan, Nimroz, Zabul)*

#### *Helmand*

At the end of November 2018, heavy fighting took place between Afghan security forces and the Taliban in the south of Helmand province. According to the provincial authorities, at least 30 civilians and 16 Taliban fighters were killed.<sup>195</sup>

On 1 December 2018, Mullah Abdul Manan, Helmand's most influential Taliban commander and its shadow governor, was killed by the ANDSF with drone support from the US. A further 29 Taliban fighters died in the attack.<sup>196</sup>

#### *Kandahar*

On 18 October 2018, the provincial chief of police and most important southern ruler was killed in Kandahar (see 2.1.). On 25 December 2018, a suicide attack in the city of Kandahar killed Aslam Baluch, together with five supporters. Baluch was a commander of the Baluchistan Liberation Army, a movement seeking autonomy for the Pakistani region of Baluchistan. The head of the local police in Kandahar accused the Pakistani intelligence service ISI of involvement in the attack.<sup>197</sup>

### 2.3.3 *The east (Nuristan, Kunar, Laghman, Nangarhar, Logar, Paktia, Khost, Paktika)*

#### *Khost*

Approximately 27 soldiers died in an attack in or near a mosque on an Afghan military base in the eastern province of Khost on 23 November 2018.<sup>198</sup>

#### *Nuristan*

According to the Afghan government, an attack on the night of 25 June 2018 killed 11 people, including six civilians. The US carried out a drone attack on a house in the Waygal district in the northeast of Nuristan province, where Taliban fighters were visiting an injured warrior.<sup>199</sup>

#### *Nangarhar*

On 1 July 2018, a suicide attack took place in Jalalabad, the provincial capital, resulting in at least 19 deaths. The explosion took place close to the governor's building complex and allegedly targeted the Sikh community on its way to a meeting with President Ghani, who was on a two-day visit to Nangarhar at the time of the attack. Awtar Singh Khalsa, the only Sikh candidate for the elections on 20 October 2018, died in the attack. The attack was claimed by ISKP.<sup>200</sup>

<sup>195</sup>The Independent, *Taliban attack on G4S kill at least 10 in Afghanistan*, 29 November 2018, <https://www.independent.co.uk/news/world/asia/taliban-afghanistan-g4s-attack-suicide-bomb-kabul-a8657186.html>; The Guardian, *At least 30 Afghan civilians killed in US air strike in Helmand province*, 28 November 2018, <https://www.theguardian.com/world/2018/nov/28/afghanistan-civilians-killed-us-air-strike-helmand-province>; Confidential source, 3 December 2018

<sup>196</sup> Confidential source, 3 December 2012; BBC, *Key Afghanistan Taliban commander killed in US air strike*, 2 December 2018, <https://www.bbc.com/news/world-asia-46418776>.

<sup>197</sup> Pajhwok. Pakistan intelligence behind attack Balochs: Tadin Khan. 27 December 2018. <https://www.pajhwok.com/en/2018/12/27/pakistan-intelligence-behind-attack-balochs-tadin-khan>

<sup>198</sup> Confidential source, 26 November 2018; The Defense Post, *Afghanistan: Soldiers killed in suicide attack on Khost army base mosque*, 23 November 2018, <https://thedefensepost.com/2018/11/23/afghanistan-soldiers-killed-in-suicide-attack-on-khost-army-base-mosque/>

<sup>199</sup> Washington Post, *Afghan official: 11 killed in US drone attack*, 26 June 2018.

<sup>200</sup> Confidential source, 2 July 2018; BBC news, *Afghanistan blast: Sikhs among 19 dead in Jalalabad suicide attack*, 1 July 2018, <https://www.bbc.com/news/world-asia-44677823>.

However, another source reported that the cause was a land ownership conflict between a Sikh family and the local ruler. This family, supported by others including the Sikh parliamentary candidate, is said to have requested an audience with the president in order to lodge a complaint. The attack took place after the president had already left..<sup>201</sup>

On 29 July 2018, at least two people died and several more were injured in an attack by suicide bombers which was repelled by police at a midwifery school in Jalalabad. The attack was not claimed..<sup>202</sup>

In a suicide bomb attack and armed assault on a government building for refugee affairs in Jalalabad on 31 July 2018, at least 15 people, including an employee of the *International Organization for Migration (IOM)*, were killed and about the same number were injured. The attack was claimed by ISKP..<sup>203</sup> In response to the series of attacks that had taken place in the previous months, the Afghan authorities transferred responsibility for the city's security from the police to the army..<sup>204</sup> On 11 September 2018, at least 68 people died in a suicide attack in Nangarhar province carried out while hundreds of people were demonstrating against the local police commander, Bilal Shah, on the Kabul to Pakistan highway. According to the authorities, 165 people were injured in the attack in the Momand Dara district, 70 kilometres from the city of Jalalabad. The attack was not claimed. The protesters had been calling for the dismissal and arrest of the police chief. Shah had previously been briefly detained following accusations from civilians of serious crimes including torture, kidnapping and murder. The Afghan government launched an investigation..<sup>205</sup>

#### *Paktia*

On 31 July 2018, 22 people were stopped and abducted by unknown attackers on the road between Kabul and Gardez..<sup>206</sup>

In a double suicide attack at the Shiite Khawaja Hassan mosque in the city of Gardez on 3 August 2018, more than 25 people were killed and about 80 people were injured. The attack was reported to have been claimed by ISKP..<sup>207</sup>

<sup>201</sup> Confidential source, 28 September 2018.

<sup>202</sup> Confidential source, 30 July 2018; New York Times, *Extremists kill 2 at Afghan school for midwives, but students escape*, 28 July 2018, <https://www.nytimes.com/2018/07/28/world/asia/afghanistan-midwife-center.html>

<sup>203</sup> BBC News, *Jalalabad attack: '15 killed' in eastern Afghan city*, <https://www.bbc.com/news/world-asia-45022014>, 31 July 2018, <https://www.bbc.com/news/world-asia-45022014>; Confidential source, 6 August 2018.

<sup>204</sup> Confidential source, 6 August 2018.

<sup>205</sup> Le Figaro, *Afghanistan: le bilan de l'attaque-suicide monte à 68 morts*, 12 September 2018, <http://www.lefigaro.fr/flash-actu/2018/09/12/97001-20180912FILWWW00052-afghanistan-le-bilan-de-l-attaque-suicide-monte-a-68-morts.php>; Washington Post, *Death toll in Afghan attack rises to 68; possible link to police chief probed*, 14 September 2018; Confidential source, 17 September 2018.

<sup>206</sup> BBC News, *Jalalabad attack: '15 killed' in eastern Afghan city*, 31 July 2018.

<sup>207</sup> BBC News, *Afghanistan mosque attack: at least 29 worshippers killed in Gardez*, 3 August 2018, <https://www.bbc.co.uk/news/world-asia-45059701>; Zeit online, *Afghanistan. Viele Tote bei Anschlag auf Moschee in Afghanistan*, 3 August 2018, <https://www.zeit.de/gesellschaft/2018-08/afghanistan-selbstmord-anschlag-moschee-gardez>; Al Jazeera, *Afghanistan: dozens killed in bomb and gun attack on shia mosque*, 3 August 2018, <https://www.aljazeera.com/news/2018/08/suicide-bombers-target-shia-mosque-eastern-afghanistan-180803104926634.html>; Confidential source, 6 August 2018. According to this source, the number of fatalities was 40.

#### 2.3.4 *The west (Badghis, Herat, Ghor, Farah)*

##### *Badghis*

Almost immediately after the end of the Taliban's unilateral truce to mark the end of Ramadan, the Taliban attacked the Afghan army in Badghis province. At least 30 soldiers died in attacks on checkpoints and roadside bomb explosions..<sup>208</sup>

##### *Farah*

Eleven people died in this province on 31 July 2018 when a bus hit a roadside bomb. According to the Afghan government, the attack was carried out by the Taliban..<sup>209</sup>

On 26 November 2018, at least 22 police officers were killed in an ambush by the Taliban in Farah province..<sup>210</sup>

##### *Herat*

In an attack by the Taliban on military posts in the Shindand district in early December 2018, at least 14 soldiers were killed and 21 others were taken prisoner..<sup>211</sup>

At the beginning of January 2019, fighting took place in Herat province between government forces and the Taliban, including following an attack in the border town of Islam Qala in which two Afghan police officers shot at Western advisers. One of the attackers was killed..<sup>212</sup>

#### 2.3.5 *The central provinces (Bamyan, Daikundi, Panjshir, Ghazni, Parwan, Kapisa, (Maydan) Wardak, Kabul)*

##### *Ghazni*

On the night of 9 to 10 August 2018, the Taliban attacked the city of Ghazni. With air support from the US, the Afghan army managed to expel the Taliban from the city after several days of heavy fighting. According to some sources, an estimated 2,000 to 2,500 Taliban fighters participated in the offensive..<sup>213</sup> The Taliban fighters penetrated the city centre, where they set fire to government buildings, including a police training institute. An army convoy en route from Paktia to Ghazni was also attacked by the Taliban (80 km outside of Ghazni)..<sup>214</sup> By 20 August, the Taliban attack on the city of Ghazni was still not completely over. Taliban fighters were still moving to the outskirts of the city and mingling with the civilian population. During President Ghani's visit to Ghazni on Saturday 18 August, rockets were fired at the city centre, without claiming any casualties. Estimates of the total number of victims of the attack that started on 10 August vary.

<sup>208</sup> Zeit online, *Afghanistan: Mindestens 30 Tote bei Angriffen von Taliban*, 20 June 2018.

<sup>209</sup> BBC News, *Jalalabad attack: '15 killed' in eastern Afghan city*, 31 July 2018.

<sup>210</sup> The Defense Post, *Taliban kill 22 Afghan police in Farah province ambush*, 26 November 2018, <https://thedefensepost.com/2018/11/26/afghanistan-taliban-kill-police-farah-province-ambush/>

<sup>211</sup> Aljazeera, *Afghan soldiers killed in 'coordinated Taliban attack' in Herat*, 7 December 2018, <https://www.aljazeera.com/news/2018/12/afghan-soldiers-killed-coordinated-taliban-attack-herat-181207082508638.html>.

<sup>212</sup> Confidential source, 5 January 2019; The Defense Post. *Afghan forces open fire on NATO advisors at base in Herat*, 2 January 2018, <https://thedefensepost.com/2019/01/02/afghanistan-guards-open-fire-nato-advisors-herat/>.

<sup>213</sup> Confidential source, 18 August 2018.

<sup>214</sup> BBC-news, *Taliban attack on Afghan city of Ghazni rages for third day*, 12 August 2018, <https://www.bbc.com/news/world-asia-45161909>; BBC-news, *BBC reporter's terrifying days amid Taliban assault on Ghazni*, 15 August 2018, <https://www.bbc.com/news/world-asia-45186341>.

The number of civilian casualties is said to have been around 300 and the number of casualties on the part of the Afghan armed forces was estimated at 200.<sup>215</sup> UNAMA said it had verified 210 civilian casualties (69 killed and 141 injured) occurring in Ghazni city between 10 and 15 August 2018. The majority were attributed to ground fighting between the Taliban and pro-government forces. There were also casualties as a result of pro-government air strikes. RS reported that the US had carried out 32 air strikes, resulting in the deaths of more than 220 Taliban fighters.<sup>216</sup> UNAMA also verified the targeted assassination by the Taliban of a public prosecutor and the kidnapping of an election candidate, who was later found dead. There was also deliberate damage to citizens' property.<sup>217</sup> After being driven from the city of Ghazni, the Taliban continued to carry out attacks elsewhere in the province, including in the Malistan and Jaghori districts of Ghazni province in November 2018 (see 3.5.4.), and controlled many of the province's rural areas.<sup>218</sup>

### *Kabul*

Several people died in a suicide attack in front of the Ministry of Rural Development (MoRD) building on 15 July 2018. This government building was also the target of an attack on 11 June 2018, in which employees waiting for a bus were the victims.<sup>219</sup>

On 22 July 2018, the warlord and vice-president General Dostum returned to Afghanistan. A suicide attack took place shortly after he had left the international airport. According to a spokesperson for the Ministry of Interior Affairs, at least 23 people were killed and 107 were injured. The attack was reported to have been claimed by ISKP.<sup>220</sup>

A suicide attack in Kabul on an Afghan security service convoy on 26 July 2018 resulted in four deaths and five injuries, according to the Afghan police. The attack was reported to have been claimed by the Taliban.<sup>221</sup>

On 15 August 2018 a suicide bombing took place at an educational institution in a Shiite district of West Kabul. According to the police, at least 25 people were killed and 35 were injured. Other sources indicate higher numbers of deaths and injuries: at least 48 people killed and 76 injured.<sup>222</sup>

<sup>215</sup> Confidential source, 20 August 2018.

<sup>216</sup> SIGAR, *Quarterly report to the US Congress*, p. 80, 30 October 2018; UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 7, 10 October 2018.

<sup>217</sup> SIGAR, *Quarterly report to the US Congress*, p. 80, 30 October 2018; UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 7, 10 October 2018.

<sup>218</sup> FDD's Long war journal, Thomas Joscelyn, *Analysis: losing a war*, 29 August 2018, <https://www.longwarjournal.org/archives/2018/08/analysis-losing-a-war.php>.

<sup>219</sup> Frankfurter Allgemeine, *Wichtiges in Kürze: Tote bei Anschlag in Kabul*, 16 July 2018; Confidential source, 30 July 2018. The attack of 15 July at the Ministry of Rural Development (MoRD) also turned out to be aimed at international NGO employees who were present there.

<sup>220</sup> Le Figaro, *Attentat contre Dostum à Kaboul: 23 morts*, <http://www.lefigaro.fr/flash-actu/2018/07/23/97001-20180723FILWWW00026-attentat-contre-dostum-a-kaboul-23-morts.php>.

<sup>221</sup> Le Figaro, *Kaboul: attentat-suicide contre un convoi du renseignement*, 26 July 2018, <http://www.lefigaro.fr/flash-actu/2018/07/26/97001-20180726FILWWW00021-kaboul-attentat-suicide-contre-un-convoi-du-renseignement.php>.

<sup>222</sup> Aljazeera, *Afghanistan: huge explosion hits Kabul-city*, 15 August 2018, <https://www.aljazeera.com/news/2018/08/afghanistan-huge-explosion-hits-kabul-city-180815114313817.html>; Zeit online, *Viele Tote und Verletzte bei Anschlag in Kabul*, 15 August 2018, <https://www.zeit.de/politik/ausland/2018-08/afghanistan-anschlag-kabul-tote>; Washington Post, *Scores killed in Kabul suicide bombing targeting Shiites*, 16 August 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fsuicide-bomber-kills-at-least-25-in-shiite-district-of-afghan-capital%2f2018%2f08%2f15%2fc404df6e-a08b-11e8-a3dd-2a1991f075d5\\_story.html%3f&utm\\_term=.fe7c99c6dd50](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fsuicide-bomber-kills-at-least-25-in-shiite-district-of-afghan-capital%2f2018%2f08%2f15%2fc404df6e-a08b-11e8-a3dd-2a1991f075d5_story.html%3f&utm_term=.fe7c99c6dd50).

Insurgents fired at the presidential palace and the diplomatic quarter on 21 August 2018, as the Afghan president was addressing the people from his palace garden on the occasion of Eid. The insurgents, who were hiding in the Sarai Maahi market near the Eidgah Mosque in Kabul, fired mortar shells from a pickup truck.<sup>223</sup> The two attackers were killed by the Afghan army; other sources spoke of four insurgents being killed and five people being captured. The Taliban denied involvement. The attack may have been an action by the Haqqani network, in collaboration with the Taliban, or of ISKP.<sup>224</sup>

For incidents of violence during the parliamentary elections on 20 October 2018, see 3.5.1.

On 20 November 2018, an attack took place in Kabul during the celebration of the Prophet Mohammed's birthday. There were more than 50 fatalities, especially (Sunni) clergy. The Taliban condemned the attack and denied involvement. On 24 November 2018, the head of the *Ulema* council in Kabul was shot dead in the street.<sup>225</sup>

On 28 November 2018, a complex attack was carried out on the compound of G4S, a British security firm. After a car bomb had exploded, a firefight took place outside the complex in which, according to the Afghan government, at least ten people were killed and 19 were injured. G4S reported that five employees were killed and 38 people were injured. The Taliban said it was responsible for the attack.<sup>226</sup>

On 3 December 2018, a planned raid was carried out by Afghan security forces at the home of Tamim Wardak, son of former Defence Minister Abdul Rahim Wardak. This resulted in a fight of more than 20 hours, in which two police officers were killed. Several people were injured, including members of the security forces. Tamim Wardak was eventually arrested on Thursday morning, as were 17 of his bodyguards. Three bodyguards also died in the battle and three were injured. The reason for the raid was a court order to seize the house, which was held illegally by Tamin Wardak. Tamin Wardak was the owner of a security business.<sup>227</sup>

<sup>223</sup> Tolo news, *Attackers Stationed Near ARG 'Three Days Ahead Of Attack'*, 23 August 2018, <https://www.tolonews.com/afghanistan/attackers-stationed-near-arg-three-days-ahead-attack-sources>; New York Times, *Mortar fire punctures Afghan President's speech on offer of cease-fire*, 22 August 2018; Confidential source, 27 August 2018.

<sup>224</sup> Confidential source, 27 August 2018.

<sup>225</sup> Confidential source, 26 November 2018.

<sup>226</sup> The Independent, *Taliban attack on G4S kills at least 10 in Afghanistan*, 29 November 2018, <https://www.independent.co.uk/news/world/asia/taliban-afghanistan-g4s-attack-suicide-bomb-kabul-a8657186.html>; The Guardian, *Briton among five G4S employees killed in Kabul attack; Taliban claim responsibility for bomb and gun attack on security firm's compound*, 30 November 2018, <https://www.alaraby.co.uk/english/news/2018/11/29/briton-among-five-g4s-employees-killed-in-kabul-blast>.

<sup>227</sup> Confidential source, 10 December 2018; New York Times, *Traffic in Afghan Capital Blocked for Second Day as Police Battle Strongman* 4 December 2018, <https://www.nytimes.com/reuters/2018/12/04/world/asia/04reuters-afghanistan-strongman.html>.

On 11 December 2018, a suicide attack with a car bomb on a military convoy in the Paghman district of Kabul province killed at least 12 people, including eight civilians. Nine people, including three civilians, were injured..<sup>228</sup>

Heavily armed AGEs carried out a complex attack on the Ministry of Public Works and the Ministry of Martyrs and Disabled on 24 December 2018. The attack, in which a car bomb was used, and the firefights with security forces killed at least 43 people, including 11 women working at the ministries, and at least 25 people were injured. The Taliban denied involvement in this attack..<sup>229</sup>

#### *Wardak*

On 27 October 2018, an attack took place in Wardak province, west of Kabul, killing five people and injuring 12 others. The Taliban claimed responsibility for the attack..<sup>230</sup>

<sup>228</sup> Tolonews, *Blast Targets Security Forces Convoy In Kabul; 12 Killed*, 11 December 2018, <https://www.tolonews.com/afghanistan/blast-targets-security-forces-convoy-kabul>.

<sup>229</sup> The Washington Post, *Death toll rises to 43 in attack on two afghan ministries*, 25 December 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fdeath-toll-rises-to-43-in-attack-on-two-afghan-ministries%2f2018%2f12%2f25%2fda0477f4-0858-11e9-8942-0ef442e59094\\_story.html%3f&utm\\_term=.bfc0b7dc1a4](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fdeath-toll-rises-to-43-in-attack-on-two-afghan-ministries%2f2018%2f12%2f25%2fda0477f4-0858-11e9-8942-0ef442e59094_story.html%3f&utm_term=.bfc0b7dc1a4); Die Zeit, *Zahl der Opfer nach Anschlag in Kabul auf 43 gestiegen*, 25 December 2018, <https://www.zeit.de/news/2018-12/25/zahl-der-opfer-nach-anschlag-in-kabul-auf-43-gestiegen-181225-99-341623>.

<sup>230</sup> Confidential source, 30 October 2018.



### 3 Human rights

The National Unity Government (NUG) of Afghanistan introduced a number of measures during this reporting period to improve the human rights situation; however, there was no sign of their implementation.

Most human rights violations in Afghanistan were committed by insurgents and not by the government: the Taliban and ISKP were guilty of attacking civilians and journalists, carrying out extrajudicial executions, recruiting minors, closing schools and blocking access to humanitarian aid. However, government officials were also guilty of committing serious human rights violations with impunity, and the security forces used torture to force confessions from prisoners.

The main concerns with regard to human rights were violence against civilians, women's rights, children's rights, access to fair justice, torture and the death penalty.

The picture concerning freedom of the press was mixed: on the one hand, Afghanistan has a critical and diverse media landscape, at least in comparison with other countries in the region. On the other hand, it is one of the most dangerous countries in the world for journalists.<sup>231</sup>

#### 3.1 Legal context

The human rights situation in Afghanistan must be seen in a context of conflict, poverty and limited power on the part of the central government. The National Unity Government (NUG) took a number of decisions to improve the human rights situation during the reporting period:

- The new Penal Code provided for a ban on 'bacha bazi' (3.5.5.), better protection for women and codification of international treaties (including the Rome Statute and the UN Convention Against Corruption);
- The cabinet agreed to ratify OPCAT,<sup>232</sup> despite objections from the NDS security service to the admission of foreign observers;
- The Afghan forces (ANDSF) took measures to prevent civilian casualties and the recruitment of minors;
- President Ghani issued a presidential decree against torture in government detention.

##### 3.1.1 *The new Penal Code*

With the new Penal Code, which entered into force on 14 February 2018, Afghanistan has a coherent body of criminal law that is in line with international treaty obligations and criminal law norms for the first time.<sup>233</sup> Several provisions of

<sup>231</sup> Confidential source, 11 June 2018.

<sup>232</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>. Afghanistan acceded to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 17 April 2018.

<sup>233</sup> UNAMA, *UNAMA welcomes Afghanistan's new penal code-calls for robust framework to protect women against violence*. 22 February 2018, <https://unama.unmissions.org/unama-welcomes-afghanistan%E2%80%99s-new-penal-code-calls-robust-framework-protect-women-against-violence>. Confidential source, pp. 2 and 3, 7 November 2018. The legal validity of the new code may still come under pressure, as it came into force on the basis of a presidential decree (no. 256) without being adopted by the Afghan parliament. Article 79 of the Constitution of the Islamic Republic of Afghanistan (2004) concerns presidential decrees and states that during the recess of the House of Representatives, the government will, in case of an immediate need, issue legislative decrees, except in matters related to budgetary and financial affairs. Legislative decrees must be presented to

the Rome Statute of the International Criminal Court (ICC) have been incorporated into the law and some crimes that were previously punishable by death now carry a sentence of life imprisonment.<sup>234</sup>

The new code contains criminal provisions, with revisions, from 33 different laws. Article 916 of the code states which laws and regulations have been repealed.

Article 7(2) states that no punishment may be imposed on a person unless it is recognised as such by law, while Article 8(2) emphasises that no act or omission may be considered a crime unless it is seen as a crime under the law.

Based on Article 916(3) of the code, the following laws are exceptions: *Law on Elimination of Violence against Women* (Official Gazette No. 989 of 1<sup>st</sup> August 2009); *Uniform Code of Military Justice* (Official Gazette No. 944 of 29<sup>th</sup> April 2008) and the *Law on Crimes Committed by Military* (Official Gazette No. 604 of 5<sup>th</sup> April 1986).<sup>235</sup>

the parliament within 30 days of convening its first session, and if rejected by parliament, they become void. So far as is known, no steps have been taken to present the decree to parliament.

<sup>234</sup> Amnesty International, *Annual Report. Afghanistan 2017/2018*, 2018.

<sup>235</sup> Confidential source, pp. 3-5, 7 November 2018. The following laws and articles have been repealed: The Criminal Law of 1976 (Official Gazette No. 347 of 7<sup>th</sup> October 1976); 2. Annexure I to Criminal Law (Official Gazette No. 391 of 19<sup>th</sup> February 1978); Annexure II to Criminal Law (Official Gazette No. 498 of 22<sup>nd</sup> December 1982); Annexure III to Criminal Law (Official Gazette No. 547 of 6<sup>th</sup> January 1984); Articles 27, 61-78 of the Traffic Law (Official Gazette No. 484 of 21<sup>st</sup> June 1981); The Law on Crimes against National and International Security (Official Gazette No. 649 of 22<sup>nd</sup> October 1982); The Law on the Sentence of Death (Official Gazette No. 763 of 7<sup>th</sup> March 1992); The Anti-Smuggling Law (Official Gazette No. 793 of 2000); Article 18(3) of the Law on Pastures and Grasslands (Official Gazette No. 795 of 2000); Articles 49-58 of the Law of the *Da Afghanistan Bank* (Official Gazette No. 819 of 19<sup>th</sup> February 2004); Articles 74 – 80 of the Law on Preservation of the Historic and Cultural Heritage of Afghanistan (Official Gazette No. 828 of 20<sup>th</sup> May 2004); Articles 4(1), 5(1), 6, 35 and 39 of the Law on Child Delinquency (Official Gazette No. 846 of 23<sup>rd</sup> March 2005); Article 70 of the Environmental Law (Official Gazette No. 912 of 25<sup>th</sup> January 2007); Articles 8 – 20 of the Law against Terrorist Crimes (Official Gazette No. 952 of 15<sup>th</sup> July 2008); Article 35 of the Water Law (Official Gazette No. 980 of 26<sup>th</sup> April 2009); Article 25 of the Law on Seeds (Official Gazette No. 1005 of 20<sup>th</sup> August 2009); Articles 41 – 64 of the Law against Intoxicating Drinks and Drugs as well as Controlling them (Official Gazette No. 1025 of 14<sup>th</sup> June 2010); Articles 23 – 40 of the Law on Managing Jungle Affairs (Official Gazette No. 1087 of 10<sup>th</sup> September 2012); Article 23 of the Statistics Law (Official Gazette No. 1110 of 3<sup>rd</sup> July 2013); Article 205 of the Criminal Procedure Law (Official Gazette No. 1132 of 5<sup>th</sup> May 2014); Articles 39 and 50-54 of the Law on Money Laundering and Proceeds of Crime (Official Gazette No. 1142 of 23<sup>rd</sup> July 2014); Articles 3(1), 4, and 20-24 of the Law on Preventing Terrorism Financing (Official Gazette No. 1146 of 8<sup>th</sup> September 2014); Law on Prohibition of Child Recruitment in Military Units (Official Gazette No. 1146 of 8<sup>th</sup> September 2014); Article 55 of the Law on Nuclear Energy (Official Gazette No. 1182 of 21<sup>st</sup> September 2015); Articles 45 – 47 of the Law on Administration of Tax Affairs (Official Gazette No. 1198 of 2015); Articles 50(1)(2), 51(1) (2 and 3) and (5 and 6) and 52(1) of the Law on Money Laundering and Proceeds of Crime (Official Gazette No. 1210 of 18<sup>th</sup> April 2016); Article 99 of the Elections Law (Official Gazette No. 1226 of 25<sup>th</sup> September 2016); Article 31 of the Law on Protecting the Rights of Author, Writer, Artist and Researcher (Copyright) (Official Gazette No. 1230 of 15<sup>th</sup> October 2016); Articles 192-194 of the Law on Customs (Official Gazette No. 1235 of 25<sup>th</sup> October 2016); Articles 10 – 21 and Article 22(2 and 3) of the Law on Anti-Human and Emigrants Trafficking (Official Gazette No. 1244 of 29<sup>th</sup> January 2017); Annexure IV of the Criminal Law (Official Gazette No. 1244 of 29<sup>th</sup> January 2017); Annexure V of the Criminal Law related to the Crime of Abduction (Official Gazette No. 1244 of 29<sup>th</sup> January 2017); Articles 96-101 and Article 104 of the Law on Managing Land Affairs (Official Gazette No. 1254 of 17<sup>th</sup> April 2017); Articles 33-53, 54 (2, 3 and 4), and 55 – 58 of the Law on Combating Drugs and Narcotics (Official Gazette No. 1284 of 24<sup>th</sup> February 2018); Articles 24 – 27 of the Law on Prohibition of Harassment against Women and Children (Official Gazette No. 1280 of 30<sup>th</sup> December 2017); Article 17 of the Law on Prohibition of Torture (Official Gazette No. 1256 of 22<sup>nd</sup> April 2017); and Other provisions of penal content that are in contradiction with provisions of this Code.

One important change in the new Penal Code compared to the previous version is that it regulates the punishment of minor offences better, providing for alternatives to prison sentences such as fines. In contrast to its predecessor, the revised code also addresses topics such as cybercrime, homosexuality and proliferation of arms.

The *Elimination of Violence Against Women* law (EVAW) is not included in the Penal Code, but remains applicable alongside it. The new 2017 Penal Code originally contained a specific chapter on the elimination of violence against women, which contained, among other things, all provisions of the EVAW law. The underlying reason for not approving the original proposal was that some conservative members of parliament did not accept the amended code, which included the EVAW provisions and a stricter definition of rape. In August 2017, President Ghani instructed the Ministry of Justice to remove the EVAW chapter from the new Penal Code.<sup>236</sup> On 3 March 2018, President Ghani signed a decree bringing some of the penal provisions from the EVAW law into line with the new Penal Code. He also signed a decree amending the new Penal Code to ensure that the EVAW law applies in the case of violence against women. Furthermore, it was laid down by presidential decree that violent crimes against women are not exempt from punishment by imprisonment.<sup>237</sup>

The new Penal Code provides for tougher penalties for rape than for *zina* (adultery). Carrying out virginity tests without the consent of the woman and without a court order is also a criminal offence under the new code.<sup>238</sup> The 1976 Penal Code stated that a man who killed his wife to defend his honour was not subject to the penalty for murder. Instead, the perpetrator was given a maximum of two years in prison. The new Afghan Penal Code from 2017 contains no reference to honour killings. The justification of murder as an honour killing can therefore no longer be used as a mitigating circumstance for the accused in murder cases.<sup>239</sup> There are offices in all provinces which specifically focus on criminal prosecution for violence against women, and women are also employed in most of these. Yet for many women, access to justice remains limited: they are unable to find their way to such assistance due to a lack of financial resources, the poor security situation or an inability to travel independently.<sup>240</sup>

Afghan law has improved in its protection of human rights. However, the implementation of the law is problematic. The Afghan government is lacking in financial resources, expertise and oversight. For example, perpetrators of sexual violence against women and children are hardly ever prosecuted and convicted, despite the tougher laws.

<sup>236</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 67, 30 August 2018; Human Rights Watch, *Country Summary: Afghanistan*, January 2018; UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, pp. 16-17, May 2018.

<sup>237</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security, S/2018/539*, p. 9, 6 June 2018.

<sup>238</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 26, 2017.

<sup>239</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, p. 21-23, May 2018.

<sup>240</sup> Confidential source, 11 June 2018.

Those guilty of torture and ill-treatment in detention centres are also rarely prosecuted (see 3.4.6)...<sup>241</sup> Judges and prosecutors, certainly outside the capital Kabul, have little knowledge of the content of the new Penal Code...<sup>242</sup>

### *Sharia*

Article 2 of the new Penal Code states that the Code concerns so-called *tazeer* offences...<sup>243</sup> and punishments, just like the old Penal Code. The government defines tazeer offences and determines the penalties for them. These are offences for which the texts of the Koran and Sunna...<sup>244</sup> make no provision. Those who commit Hudood (fixed penalty)...<sup>245</sup>, Qisaas (retaliation) and Diyyat (blood money) crimes can be punished on the basis of the provisions of the Hanafi school of Islamic law...<sup>246</sup> See also 3.4.4 on the informal legal system and customary law.

*Hadd* punishments are part of Islamic criminal law and do not fall within the scope of the Penal Code. Islamic law, however, indicates that their application lies in the hands of the state and that individuals or groups do not have the right to carry out or enforce hadd punishments...<sup>247</sup>

The Afghan government has not carried out hadd punishments for many years. One source reported having encountered a number of cases in which men and women in the provinces of Parwan and Baghlan were given lashes. In these cases, the government spoke out against the authorities involved, as they had no authority for such actions. Some individuals and groups were of the opinion that the state had failed in its duty to enforce hadd punishments, and that they were therefore authorised to carry them out. Incidentally, in North Afghanistan the stoning of a woman is said to have taken place and in South Afghanistan there have been instances of thieves having a hand chopped off. AGEs have sometimes carried out punishments in areas under their control in the name of hadd...<sup>248</sup>

*Shurb* or the drinking of wine or other alcoholic drinks is an offence for which a punishment under the hadd can be imposed (80 lashes) and is therefore not mentioned in the Penal Code. The prohibition is derived from the Koran. Alcohol is smuggled into the country, sold and consumed by many residents and in almost all cities. According to one source, the government is unable or unwilling to enforce the prohibition...<sup>249</sup>

<sup>241</sup> Confidential source, 11 June 2018.

<sup>242</sup> Confidential source, 24 September 2018.

<sup>243</sup> Maurits Berger, *Klassieke Islam en vernieuwing*. 2006. pp. 100 and 101. Tazeer or Tazir: the legislative competence of the government with regard to crimes other than hudud or jinayat. Jinayat: retaliation for murder, manslaughter and abuse. Hadd (pl. hudud): crimes defined in the Koran.

<sup>244</sup> The Sunna is the body of traditions concerning the prophet Mohamed's words and deeds.

<sup>245</sup> Within Islamic law, hadd or hudud (plural) refers to the punishments for all offences that are mentioned in the Koran and considered to be very serious in Islam because they go against God's will.

<sup>246</sup> Confidential source, p. 5, 7 November 2018.

<sup>247</sup> Hadd is the Arabic word for 'boundary'. Confidential source, p. 6, 7 November 2018; Maurits Berger, *Klassieke Islam en vernieuwing*, pp. 46-49, 2006, [https://books.google.nl/books?id=3vOx9zPjY-8C&pg=PA46&lpg=PA46&dq=hadd-misdrijf&source=bl&ots=\\_SmAdqncsW&sig=bzCdJU8wHQaCkEY67duSEuRXBtk&hl=nl&sa=X&ved=2ahUKEwjK3-7k0KvfAhXRY1AKHcQcDDwQ6AEwAXoECAgQAQ#v=onepage&q=hadd-misdrijf&f=false](https://books.google.nl/books?id=3vOx9zPjY-8C&pg=PA46&lpg=PA46&dq=hadd-misdrijf&source=bl&ots=_SmAdqncsW&sig=bzCdJU8wHQaCkEY67duSEuRXBtk&hl=nl&sa=X&ved=2ahUKEwjK3-7k0KvfAhXRY1AKHcQcDDwQ6AEwAXoECAgQAQ#v=onepage&q=hadd-misdrijf&f=false).

<sup>248</sup> Confidential source, p. 6, 7 November 2018; Confidential source, 25 September 2018. In Nuristan province, where the Haqqan network is still very influential, practices such as stoning are said to still occur.

<sup>249</sup> Maurits Berger, *Klassieke Islam en vernieuwing*. 2006. p. 47. Shurb or, more fully *shurb al-khamr*, is the Arabic term for drinking or, more specifically, drinking alcohol; Confidential source, p. 8, 7 November 2018. The evidence of a charge of alcohol consumption must be provided by two adult male witnesses who have seen the suspect drinking, and the statement must be made at a time when alcohol can still be smelled on the accused's breath, unless there is a delay due to unavoidable circumstances. The source indicates that it is very difficult to provide such evidence.

In April 2018, the police in Kabul decided to accompany a member of parliament home after he was found drunk and had fired shots into the air together with his bodyguards.<sup>250</sup>

### 3.1.2 Nationality legislation

With regard to the holding of dual nationality, see the November 2016 official report.<sup>251</sup> It is clear in practice that Article 7 of the *Law on Citizenship* regarding the inadmissibility of dual nationality is not applied. There are many Afghans with dual nationality who hold positions within the government. Articles 62 and 72 of the Constitution of Afghanistan state that persons with dual nationality are not eligible for the office of minister or president. However, this implies that persons with dual nationality are eligible for other government offices.<sup>252</sup>

Article 24 of the Law on Citizenship, adopted during the Taliban period, states that the Council of Ministers and ultimately the *Admirul mo'minin*, the official title of Mullah Omar (the then leader of the Taliban) must approve the request to renounce citizenship. A person may lose Afghan nationality based on a judgment of a competent court.<sup>253</sup> Article 25 states that the renunciation of Afghan nationality cannot be accepted in the following situations:

- if the applicant has not fulfilled his duties and obligations with regard to the Afghan state (at that time the Islamic Emirate of Afghanistan, IEA);
- if the applicant has financial contributions and commitments outstanding towards the emirate (i.e. state institutions) and service-providing bodies, joint ventures and other citizens, and failure to fulfil them would harm the above-mentioned parties;
- if the applicant has been accused of and/or charged with criminal offences;
- if his/her renunciation of nationality may harm the country.<sup>254</sup>

In practice, the application for the renunciation of Afghan citizenship from abroad involves the following steps: The applicant submits the request by completing a form on which prints of all fingers are placed. The application is submitted via the Afghan diplomatic mission in the country where the person resides. The diplomatic mission forwards the application to the Afghan Ministry of Foreign Affairs, which passes it on to the Ministry of Justice. The Ministry of Justice presents the application to the *Commission of Abandoning Afghan Citizenship*. After a decision, the application is submitted to the cabinet for approval. Final approval is given by the president of Afghanistan.

<sup>250</sup> Rahapress. *An Afghan MP took hostage brother of a police while drunk*, 28 April 2018, <http://www.en.rahapress.af/an-afghan-mp-took-hostage-brother-of-a-police-while-drunk/>.

<sup>251</sup> See country of origin report, p. 52, November 2016, still applicable.

<sup>252</sup> Confidential source, pp. 21 and 22, 7 November 2018.

<sup>253</sup> Confidential source, p. 21, 7 November 2018; International Business Publications, *Afghanistan. Constitution and citizenship. Laws handbook*, pp. 123-129, 2013, consulted 19 November 2018, [https://books.google.nl/books?id=FVGaAAAAQBAJ&pg=PA129&lpg=PA129&dq=Admirul+mo%E2%80%99minin&source=bl&ots=P1yJOLTa42&sig=cIF0abNwq9gUcRsA6mqo8tTFSY&hl=nl&sa=X&ved=2ahUKEwjS8ua\\_iODeAhWQZFAKHVc6D3kQ6AEwB3oECAQQAO#v=onepage&q=Admirul%20mo%E2%80%99minin&f=false](https://books.google.nl/books?id=FVGaAAAAQBAJ&pg=PA129&lpg=PA129&dq=Admirul+mo%E2%80%99minin&source=bl&ots=P1yJOLTa42&sig=cIF0abNwq9gUcRsA6mqo8tTFSY&hl=nl&sa=X&ved=2ahUKEwjS8ua_iODeAhWQZFAKHVc6D3kQ6AEwB3oECAQQAO#v=onepage&q=Admirul%20mo%E2%80%99minin&f=false). *Admirul mo'minin* is the 'leader of the believers' – the official title of Mullah Omar, leader of the Taliban. He died in 2013.

<sup>254</sup> Confidential source, p. 21, 7 November 2018.

The case is then sent back to the Ministry of Justice, which communicates the decision to all relevant departments and ministries. The person is then no longer considered an Afghan citizen. The applicant receives a letter notifying him/her of the decision..<sup>255</sup>

Article 35 of the law states that the re-acquisition of Afghan nationality is possible if the council of ministers, i.e. the cabinet, gives permission and this decision is approved by the Amirul mo'minin. Article 37 states that 'A person who applies to restore or acquire Afghan nationality fills in the comprehensive citizenship form and presents all the testimonials pertaining to his/her identity'..<sup>256</sup>

### 3.2 Documents

The national identity card, the *tazkera* and the passport are the Afghan identity and travel documents..<sup>257</sup> The passport has a validity period of five or ten years. The *tazkera* is valid indefinitely..<sup>258</sup> Every Afghan citizen must have a *tazkera*: this document is regarded as proof of Afghan nationality..<sup>259</sup>

*Tazkeras* come in various forms and have been changed under different regimes. *Tazkeras* issued under these different regimes have remained in circulation..<sup>260</sup> Applications for both documents must be submitted to bodies that fall under the Ministry of Interior Affairs. The issuing of a *tazkera* is the responsibility of the civil status and population registration department..<sup>261</sup>; the issuing procedures differ between the districts, provincial capitals and the capital, Kabul. To obtain a *tazkera*, an application form must be completed, and six passport photos for a new *tazkera* (and four for a duplicate) and a copy of the *tazkera* of a family member in the male line, such as a father, grandfather or uncle, must be submitted..<sup>262</sup>

The passport department is responsible for issuing passports. A *tazkera* must be submitted in order for a passport to be issued. The passport law of 2000 states that a passport can be issued on submission of an original copy of the *tazkera*, which is confirmed by the *registration of population record office*, as well as four passport photos and proof of payment. Biometric information is also recorded during the application process..<sup>263</sup>

<sup>255</sup> Confidential source, p. 6, 7 November 2018.

<sup>256</sup> Confidential source, p. 21, 7 November 2018.

<sup>257</sup> NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, pp. 16-18, 8 November 2016, <https://reliefweb.int/report/afghanistan/access-tazkera-and-other-civil-documentation-afghanistan>; Confidential source, 28 September 2018.

<sup>258</sup> Confidential source, 28 September 2018.

<sup>259</sup> Embassy of the Islamic republic of Afghanistan: Norway, <https://www.afghanistanembassy.no/consular-services/absentee-tazkira/>, consulted 6 December 2018; Confidential source, 28 September 2018.

<sup>260</sup> NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, p. 16, 8 November 2016.

<sup>261</sup> Confidential source, 28 September 2018.

<sup>262</sup> Confidential source, 28 September 2018; NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, pp. 16-17, 8 November 2016.

<sup>263</sup> NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, p. 18, 8 November 2016.

An Afghan woman may independently apply for an identity card and a passport and must also collect them herself.<sup>264</sup> (see also 3.5.6, 'Legal capacity').

Children of Afghan parents born abroad and Afghans who are not in possession of a tazkera or whose tazkera has been burned or lost can apply to the consular section of an Afghan embassy for a so-called *absentee tazkera*. The application for the tazkera or for a passport abroad must be made in person at the consular department of an Afghan embassy.

An identification form must be completed with this application and a copy of the parent's tazkera must be attached in the case of an application for a child. For identification purposes, the copy is also requested of the tazkera of a close relative in the male line such as the father, brother, uncle or cousin mentioned on the identification form. Information is also requested about the person who represents the applicant in Afghanistan.<sup>265</sup> This could be a lawyer.<sup>266</sup> If an Afghan has previously had a passport, this must be submitted with the application for a new passport, or a police report must be submitted if it has been lost.<sup>267</sup>

If a minor makes an application to an Afghan embassy abroad for a tazkera or passport, he or she must be accompanied by an adult. The document may be applied for and collected by the parents, the grandfather or a close relative in the father's family line. If the child is already in possession of a tazkera, only one of the parents needs to accompany the child when applying for a passport at a consular representation of Afghanistan.<sup>268</sup>

The tazkera is needed to gain access to government services and the courts, including education for children,<sup>269</sup> and to purchase land or property. The Afghan government has indicated that many citizens have also had access to services without a tazkera.<sup>270</sup>

Obtaining a tazkera is often a lengthy and bureaucratic process for Afghans. The tazkera and the process of issuing it are susceptible to fraud and there are different application procedures at the local level.<sup>271</sup>

<sup>264</sup> Confidential source, 28 September 2018.

<sup>265</sup> Embassy of the Islamic republic of Afghanistan: Norway, <https://www.afghanistanembassy.no/consular-services/absentee-tazkira/>, consulted 6 December 2018. The embassy of Afghanistan in Norway also indicates that a copy of a tazkera of a sister can be presented; Consulate-general of the Islamic republic of Afghanistan in the US, <http://afconsulate.us/index.php/consulate-section/tazkira/17-tazkira>, consulted 6 December 2018.

<sup>266</sup> Confidential source, 28 September 2018; Consulate-general of the Islamic republic of Afghanistan in the US, <http://afconsulate.us/index.php/consulate-section/tazkira/17-tazkira>, consulted on 6 December 2018.

<sup>267</sup> NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, p. 18, 8 November 2016.

<sup>268</sup> Confidential source, 28 September 2018.

<sup>269</sup> Confidential source, 28 September 2018; Pajhwok, *Foreigners easily get Afghan citizenship than Afghans*, 20 June 2017, <https://www.pajhwok.com/en/2017/06/20/foreigners-easily-get-afghan-citizenship-afghans>.

<sup>270</sup> UNGA, *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3, pp. 8 and 9, 12 April 2017.

<sup>271</sup> Pajhwok, *Foreigners easily get Afghan citizenship than Afghans*, 20 June 2017, <https://www.pajhwok.com/en/2017/06/20/foreigners-easily-get-afghan-citizenship-afghans>; NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, p. 45, 8 November 2016.

Intermediaries, who are paid one or two thousand afghani for the purpose,<sup>272</sup> can arrange for a tazkera to be issued more quickly. See also 1.1.3.<sup>273</sup>

Afghans who have lost their tazkera or moved to a different locality must return to their place of origin to apply for a new tazkera. Displaced persons in particular have difficulties in complying with this rule, because it is unsafe or because they lack the means to travel. Research has shown that a relatively large number of displaced women are not in possession of a tazkera.<sup>274</sup> Those belonging to certain ethnic groups, including Kuchis, Jogis and other nomads, often do not have a tazkera or have no access to the authorities that issue them.<sup>275</sup> NRC and Samuel Hall state in their November 2016 study that Kuchis (Pashtun nomads) are able to obtain a tazkera in their seasonal residence after the identity of the person concerned has been verified by a close relative and confirmed by a *kuchi malik*, a Kuchi leader or representative of a community.<sup>276</sup>

In 2010, the Afghan government launched a programme aimed at the development of biometric or electronic identity cards, the *e-tazkera*. The aim was to distribute this e-tazkera before the elections scheduled for 2014. Implementation was delayed due to disagreements, among other things about the information that the card should contain, and in particular the holder's ethnicity.<sup>277</sup> The Afghan Senate approved the electronic identity card on 18 December 2017. On 15 February 2018, President Ghani and his wife were among the first to apply for an electronic identity card. On 3 May 2018, the president was the first Afghan to receive an e-tazkera. CEO Abdullah said that the issuing of the e-tazkera was against the law as there was no agreement within the NUG. There were also protests against the issuing of the e-tazkera in a number of provinces. The decision to distribute it led to protests in several provinces. As far as is known, only a small number of e-tazkeras were distributed in Kabul during the reporting period.<sup>278</sup>

It is still common in Afghanistan for a birth, marriage or death not to be officially registered.<sup>279</sup> The *Registration of Population Records Act* requires health centres to register births and the parent(s), guardian or health centre to report births to the authorities. Births must be registered within three months. Marriages must also be registered in accordance with the Afghan Civil Code of 1977 and a marriage

<sup>272</sup> 1 euro = 86 afghani; 1,000 afghani is around €11.50, [https://www.wisselkoers.nl/afghaanse\\_afghani](https://www.wisselkoers.nl/afghaanse_afghani), consulted 6 December 2018.

<sup>273</sup> Confidential source, 28 September 2018; Pajhwok, *Foreigners easily get Afghan citizenship than Afghans*, 20 June 2017, <https://www.pajhwok.com/en/2017/06/20/foreigners-easily-get-afghan-citizenship-afghans>.

<sup>274</sup> UNGA, *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3, pp. 8 and 9, 12 April 2017; IWPR, *Afghan Women Denied Identity Card*, 27 March 2017, consulted on 29 November 2018; NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, p. 17, 8 November 2016. For persons displaced from parts of the country where they cannot go, it is possible to request an official document (an 'Ariza') from the population register in Kabul to support a tazkera application in Kabul. In practice, according to NRC and Samuel Hall, this is only of use to displaced persons living in Kabul.

<sup>275</sup> UNGA, *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3, pp. 8 and 9, 12 April 2017; IWPR, *Afghan Women Denied Identity Card*, 27 March 2017, consulted on 29 November 2018.

<sup>276</sup> NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, p. 17, 8 November 2016.

<sup>277</sup> UNGA, *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3, pp. 8 and 9, 12 April 2017.

<sup>278</sup> Tolonews. *Afghan President, First Lady Apply for e-NIC*. 15 February 2018.

<https://www.tolonews.com/afghanistan/afghan-president-first-lady-apply-e-nic>; Confidential source, 28 September 2018; Library of the congress, *Afghanistan: Distribution of Controversial Electronic Identity Cards Launched*, 9 July 2018, <http://www.loc.gov/law/foreign-news/article/afghanistan-distribution-of-controversial-electronic-identity-cards-launched/>; Ariananews, *1,500 e-NIC Issued Since Launch of the Roll Out Process: Officials*, 3 June 2018, <https://ariananews.af/1500-e-nic-issued-since-launch-of-the-roll-out-process-officials/>.

<sup>279</sup> Confidential source, 28 September 2018.



certificate must be issued. Due to the length of the procedure and the associated costs, many marriages are not registered.<sup>280</sup> When an Islamic marriage takes place, it is not necessary to submit a tazkera.<sup>281</sup>

### 3.3 Monitoring and legal protection

In 2007, the Afghan government approved the *National Reconciliation, General Amnesty and National Stability Law (Qānūn-i Musāliha-yi Millī, Afw-i Umūmī wa Sabāt-i Millī)*.<sup>282</sup> The fact that the Afghan Amnesty Law grants a general amnesty to those who have been involved in both past and present conflicts has led to a call from Afghan civil society for *transitional justice*. Afghan civil society activists have called for the *International Criminal Court* to launch an investigation of war crimes and crimes against humanity.<sup>283</sup>

#### *Parliament and human rights committees*

For committees in the Afghan parliament that deal with human rights, see the country of origin report of November 2016. There are no new developments to report with regard to these committees.<sup>284</sup>

#### 3.3.1 *The Afghan Independent Human Rights Commission (AIHRC)*

The AIHRC is an independent, constitutionally recognised organisation that investigates human rights violations, refers victims of violations to the relevant bodies and provides information about human rights. It is internationally recognised and has been assessed for its independent nature by the *International Coordination Committee of the Human Rights Institutions*, which has given it its highest status (A status). The AIHRC has 14 offices in Afghanistan and is present in 29 provinces. The human rights situation is monitored from these offices. Due to the security situation, the AIHRC does not cover all provinces. As a result of their reporting activities, AIHRC employees experience pressure almost daily from local rulers and

<sup>280</sup> NRC and Samuel Hall, *Access to Tazkera and other civil documentation in Afghanistan*, pp. 19 and 20, 8 November 2016. The procedure for obtaining a marriage certificate consists of several steps: verification of identity on the basis of possession of a valid proof of identity; a certified statement issued by a notary confirming these personal details as well as information about previous marital status; certification of information by a competent court; after confirmation by two witnesses, the marriage certificate can then be registered by the court.

<sup>281</sup> Confidential source, 28 September 2018.

<sup>282</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 67, 30 August 2018; <https://www.legal-tools.org/doc/7825c2/pdf/> consulted 25 February 2019.; Cooperation for Peace and Unity (CPAU). *ROAD TO NATIONAL PEACE*. December 2015. p. 26. <http://cpau.org.af/wp-content/uploads/2016/03/Road-To-National-Peace-final-FINAL-revised.pdf>. This law was published in the Official Gazette on 3 December 2008.

<sup>283</sup> The Diplomat, *Afghanistan: choosing peace over justice*, 20 July 2017, <https://thediplomat.com/2017/07/afghanistan-choosing-peace-over-justice/>; <https://www.legal-tools.org/doc/7825c2/pdf/> Consulted 25 February 2019. Article 3 of the National Reconciliation, General Amnesty and National Stability Law states:

(1) All political factions and hostile parties who were involved in a way or another in hostilities before establishing of the Interim Administration shall be included in the reconciliation and general amnesty program for the purpose of reconciliation among different segments of society, strengthening of peace and stability and starting of new life in the contemporary political history of Afghanistan, and enjoy all their legal rights and shall not be legally and judicially prosecuted. (2) Those individuals and groups who are still in opposition to the Islamic Republic of Afghanistan and cease enmity after the enforcement of this resolution and join the process of national reconciliation, and respect the Constitution and other laws and abide them shall enjoy the benefits of this resolution. (3) The provisions set forth in clause (1) and (2) of this article shall not affect the claims of individuals against individuals based up on Haqullabd (rights of people) and criminal offences in respect of individual crimes.

<sup>284</sup> US, Department of State, *Country Reports on human rights practices for 2017: Afghanistan*, p. 26, 2017.

representatives of the authorities, as well as from the Taliban and ISKP.<sup>285</sup> To date, the *conflict mapping report* prepared by the AIHRC in 2011 and presented to the then President Karzai has not been published by the government.<sup>286</sup>

### 3.3.2 *Transitional justice*

According to the *International Criminal Court*, no one in Afghanistan has been charged with war crimes or crimes against humanity since Afghanistan signed the Rome Statute on 1 May 2003.<sup>287</sup>

In June 2017, the United Nations Committee against Torture concluded that there is still a prevailing culture of impunity in Afghanistan. This is evident from the large number of cases of human rights violations allegedly involving senior government officials. Under the National Reconciliation, General Amnesty and National Stability Law adopted in 2007, criminal prosecutions cannot take place of individuals responsible for serious human rights violations, including torture, committed before December 2001.<sup>288</sup> The various attempts by the Afghan government to achieve reconciliation with the Taliban also include or refer to an amnesty.<sup>289</sup> Gulbuddin Hekmatyar, leader of the second largest group of insurgents, the Hezb-e Islami Gulbuddin (HIG), joined the Afghan government. On 4 May 2017, after two years of negotiations, the peace agreement was finalised. The draft agreement had been signed by the government and Gulbuddin Hekmatyar in September 2016. Under the agreement, Hekmatyar was granted an amnesty for past crimes, including war crimes, and the release of certain detained Hezb-i Islami supporters was approved.<sup>290</sup> Hekmatyar's name was also removed from the sanctions list of the United Nations.<sup>291</sup>

On 10 November 2017, the ICC's prosecutor in The Hague asked permission of the judges to open an investigation into possible war crimes and crimes against humanity committed in Afghanistan since 1 May 2003, the date on which Afghanistan joined the ICC. The investigation would focus on possible crimes by the Taliban and allied groups, the Afghan security forces (ANSF), the United States armed forces and the *Central Intelligence Agency* (CIA).<sup>292</sup> A decision by the ICC to open an investigation has not yet been taken. The Afghan government stated that although it was not opposed to an investigation by the ICC, it was not in the interest of stability at the present time. The US stated that the ICC had no jurisdiction to investigate the involvement of US forces in war crimes.<sup>293</sup>

<sup>285</sup> Confidential source, 25 September 2018. The source mentioned as examples threatening phone calls and letters as well as a bomb attack in 2015 on an AIHRC car parked in front of the organisation's office in Jalalabad. Two staff members were killed and six were injured.

<sup>286</sup> Country of origin report on Afghanistan, November 2016, still applicable.

<sup>287</sup> The Diplomat, *Afghanistan: choosing peace over justice*, 20 July 2017, <https://thediplomat.com/2017/07/afghanistan-choosing-peace-over-justice/>; International Criminal Court: The office of the prosecutor. *Report on preliminary examination activities 2016*, 14 November 2016, [https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE_ENG.pdf).

<sup>288</sup> UN, *Convention against torture and other cruel, inhuman or degrading treatment or punishment*. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan CAT/C/AFG/GO/2*, p. 2, 12 June 2017.

<sup>289</sup> AAN, Thematic Dossier XVI: *Afghanistan's War Crimes Amnesty and the International Criminal Court*, 7 October 2017.

<sup>290</sup> Amnesty International, *Annual Report, Afghanistan 2017/2018*.

<sup>291</sup> The Diplomat, *Afghanistan: choosing peace over justice*, 20 July 2017, <https://thediplomat.com/2017/07/afghanistan-choosing-peace-over-justice/>. Human Rights Watch reported in 2002 that at the height of the fighting in July and August 2002, Hekmatyar's forces destroyed hundreds of houses in Kabul and raped women during their offensives.

<sup>292</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>293</sup> AAN, *Rights & Freedoms, An ICC Delay: Court postpones decision on whether to investigate war crimes in Afghanistan*, 7 April 2018.

### 3.4 Compliance and violations

Afghanistan has undertaken to safeguard human rights in its Constitution, laws and ratification of international treaties. Despite improvements, in particular with regard to legislation, it continues to fail to offer effective protection of human rights. Significant parts of the population, including women, children, ethnic minorities, prisoners and others, continue to suffer human rights violations by different actors.<sup>294</sup>

Human rights violations against the civilian population took place throughout the country, regardless of who had effective control of the area. Serious human rights violations mainly took place in disputed areas where fighting was ongoing.

The main human rights violations were:

- widespread violence, including indiscriminate attacks on civilians and targeted violence against individuals associated with the government by AGEs;
- targeted violence by AGEs against the mostly Hazara Shiite minority;
- torture and ill-treatment of prisoners by security forces, in particular those arrested in connection with the armed struggle;
- widespread disregard of justice and little accountability for human rights violators;
- targeted violence and widespread social discrimination against women and girls.<sup>295</sup>

Lack of security and the actions of AGEs have made *access to education and health centres* in some parts of the country difficult or impossible.<sup>296</sup>

In the period from January to March 2018, the UN recorded 11 attacks on schools and their staff. Five of these attacks were carried out by the Taliban, three by ISKP, two by unknown armed opponents and one by a pro-government militia. A large number of schools were closed during this period due to threats by the Taliban in the provinces of Kunduz (342 schools) and Logar (29 schools). The UN also noted that several schools were used for military purposes during this period: one by ISKP and two by the Afghan national army.<sup>297</sup> UNAMA registered 13 incidents in Nangarhar province during June 2018 in which ISKP attacked educational facilities and teachers in retaliation for air strikes. Offices of the education department in Jalalabad were also attacked. These attacks resulted in 23 civilian casualties,

<sup>294</sup> UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*. HCR/EG/AFG/18/02, p. 23, 30 August 2018; Confidential source, 25 September 2018.

<sup>295</sup> UNAMA, *Afghanistan: Protection of Civilians in Armed Conflict – Annual Report 2017*, pp. 48-51, February 2018; UNAMA, *Treatment of Conflict Related Detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture*, pp. 7-12, April 2017; Amnesty International, *Amnesty International Report 2017/18 – Afghanistan*, 22 February 2018;

US Department of State, *Country reports on human rights practices for 2017: Afghanistan*, p. 1, 4 March 2018, <https://www.state.gov/documents/organization/277519.pdf>; UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*, HCR/EG/AFG/18/02, pp. 23-30, 30 August 2018; Confidential source, 23 September 2018; Confidential source, 25 September 2018; HRW, *Human Rights Watch Submission to the Universal Periodic Review of Afghanistan*, 16 December 2018, <https://www.hrw.org/news/2018/12/16/human-rights-watch-submission-universal-periodic-review-afghanistan>.

<sup>296</sup> UNAMA, *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*. 24 February 2019. p. 4. [https://unama.unmissions.org/sites/default/files/afghanistan\\_protection\\_of\\_civilians\\_annual\\_report\\_2018\\_final\\_24\\_feb\\_2019\\_v3.pdf](https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_final_24_feb_2019_v3.pdf); Human Rights Watch, *'I Won't Be a Doctor, and One Day You'll Be Sick' - Girls' Access to Education in Afghanistan*, p. 78, 17 October 2017; 1TV News Afghanistan, *Daesh Closes Dozens of Schools in North Afghanistan: Local Officials*, 9 December 2017, consulted on 28 November 2018; UNAMA, *Afghanistan: Protection of Civilians in Armed Conflict – Annual Report 2017*, p. 15, February 2018; OCHA, *Humanitarian Bulletin Afghanistan – Issue 68*, p. 2, 30 September 2017; New York Times, *Afghan Province, Squeezed by Taliban, Loses Access to Medical Care*, 23 September 2017, consulted on 28 November 2018.

<sup>297</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*, S/2018/539, 6 June 2018.

including six dead. During the same period, the Taliban closed 29 schools in the Charkh district of Logar province after a Taliban commander's house had been hit in an operation by pro-government forces in late March 2018.<sup>298</sup> The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) indicated in November 2018 that ISKP had closed 40 to 50 schools in areas under its control in the Chaparhar district of Nangarhar province.<sup>299</sup>

The World Health Organization recorded 71 attacks on health centres and their staff in 2018. In the majority of cases these were targeted attacks.<sup>300</sup> For the period January to March 2018, the UN investigated 17 attacks on hospitals, including eight on health workers. Five threats to attack health institutions and four attacks on health centres were also investigated. The Taliban was involved five times and ISKP seven times; the other attacks or threats came from government forces, sometimes in collaboration with a government-related militia or an unknown armed group. In one case, international forces were also involved.<sup>301</sup> At the end of July 2018, AGEs attacked a midwifery training institute in Jalalabad (Nangarhar). In the attack, which was repelled by security forces, in addition to the attackers at least two people were killed and at least five were injured.<sup>302</sup>

#### 3.4.1

##### *Freedom of expression and press freedom.*

The right to peaceful assembly is, albeit with some restrictions, enshrined in the Constitution. However, the enforcement of that right differs from region to region. In some cases, the authorities used live ammunition against demonstrations, resulting in casualties. The government prepared bills to introduce further restrictions. The *Afghanistan Independent Human Rights Commission* and civil society organisations protested against the proposed restrictions, as they would undermine the constitutional right to freedom of association. On 2 June 2017, in response to a terrorist attack in central Kabul on 31 May 2017 in which there were many casualties, a large demonstration took place in Kabul. Representatives from civil society, political activists and the families of the victims took part in the demonstration. The demonstrators protested against the government's inability to guarantee safety.<sup>303</sup> The security forces, mainly guards of the presidential palace, used water cannons but also fired live rounds of ammunition. Human Rights Watch stated that seven demonstrators were killed. The government promised to investigate this incident.<sup>304</sup>

<sup>298</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict, 1 January to 30 June 2018*, p. 3, 15 July 2018.

<sup>299</sup> OCHA, *Afghanistan weekly field report*, 5-11 November 2018.

<sup>300</sup> WHO, *Health Cluster: Health Cluster Bulletin*, December 2018. [https://reliefweb.int/sites/reliefweb.int/files/resources/health\\_cluster\\_bulletin\\_-\\_december\\_2018\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/health_cluster_bulletin_-_december_2018_0.pdf).

<sup>301</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*, S/2018/539, 6 June 2018; WHO, *Afghanistan: Attacks on health care on the rise in Afghanistan*, 19 August 2017, <http://www.emro.who.int/afg/afghanistan-news/attacks-on-healthcare-on-the-rise-in-afghanistan.html>. According to the *World Health Organization*, until 2014 attacks on health centres and health workers were confined to the provinces of Kandahar in the south and Nangarhar in the east. Since then, such attacks have occurred in more places in the country. There has also been an increase in attacks on health centres: 25 attacks on clinics were reported in 2014, and 53 in 2015. These figures partly reflect targeted attacks and partly incidental damage as a result of shelling between warring parties. A large number of health centres also had to close (either temporarily or permanently) due to lack of security.

<sup>302</sup> The Guardian, *Afghanistan: gunmen kill and wound staff at midwife training centre*, 28 July 2018, <https://www.theguardian.com/world/2018/jul/28/afghanistan-gunmen-jalalabad-nangarhar-midwife-training-centre>.

<sup>303</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 13, 2018; Human Rights Watch, *Country summary Afghanistan*, January 2018; Amnesty International, *Annual report. Afghanistan 2017/2018*, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>, consulted 23 August 2018.

<sup>304</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018. HRW stated that the results of the promised investigation into the deaths of the seven protesters were not yet available at the end of December 2017. As far

In early November 2018, Hazara demonstrated in Kabul for improved security in districts in Ghazni province where many Hazara live. On 25 and 26 November 2018, there were further demonstrations by Hazara in Kabul, this time following the arrest of Ali Pur, a popular commander of a Hazara militia. Ali Pur was wanted by the Afghan government, allegedly for human rights violations. The demonstrators faced off against the security services in Kabul and set fire to a checkpoint, among other things. See also 3.5.4.<sup>305</sup>

Citizens who spoke out against AGEs or in favour of the government and citizens regarded by AGEs as government spies were at risk of experiencing violence or summary judgment and punishment in a judicial process controlled by the AGEs. The punishment for such alleged crimes is often the death penalty.<sup>306</sup>

#### *Election-related violence*

There were many killings in the run-up to the parliamentary elections and on election day itself (see also 1.1.2.). During the period when voters were able to register, AGEs attacked tazkera issuing centres and registration points as well as employees of these bodies and employees of the Afghan national police who were responsible for security. These attacks, including suicide attacks, used improvised bombs. There were also targeted killings. Many voter registration points and polling stations were located in schools, health centres and mosques. Between 1 January and 30 September 2018, UNAMA recorded 306 civilian casualties (16 killed and 240 injured) as a result of election-related violence. More than 250 casualties were the result of the attacks with improvised bombs (IEDs) at voter registration centres in Kabul and Khost on 22 April and 6 May 2018 respectively.<sup>307</sup> See also 3.5.1.

#### *Press freedom*

The 2004 Constitution establishes the right to freedom of expression and the right to print and publish without prior approval from the government. The 2009 media law prohibits censorship and guarantees the right of citizens to obtain information. The law on access to government information from 2014 states that all government information is public, unless its disclosure threatens national security, violates individual privacy or jeopardises an investigation into a crime.<sup>308</sup>

The Afghan media landscape is, especially in comparison with countries in the region, diverse, independent and critical. The Afghan media include independent and commercial companies as well as government broadcasters and media channels associated with specific political interests.<sup>309</sup> At the same time, Afghanistan is one of the most dangerous countries in the world for journalists. In recent years, an

as is known, no information has since been released by the Afghan authorities; Amnesty International; *Annual report, Afghanistan 2017/2018*, 2018, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>, consulted 23 August 2018. AI indicated that at least four people died in police violence.

<sup>305</sup> Confidential source, 26 November 2018; The Washington Post, *Protests over arrest of anti-Taliban commander turn violent in Afghanistan*, 26 November 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia\\_pacific%2fprotests-over-arrest-of-anti-taliban-commander-turn-violent-in-afghanistan%2f2018%2f11%2f25%2f11512a08-f0c2-11e8-99c2-cfa6fcf610c\\_story.html%3f&utm\\_term=.78f424ec70de](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia_pacific%2fprotests-over-arrest-of-anti-taliban-commander-turn-violent-in-afghanistan%2f2018%2f11%2f25%2f11512a08-f0c2-11e8-99c2-cfa6fcf610c_story.html%3f&utm_term=.78f424ec70de).

<sup>306</sup> UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*. HCR/EG/AFG/18/02, p. 27, 30 August 2018.

<sup>307</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 8, 10 October 2018; Pajhwok, *Death toll from Kabul attack soars to 69*, 23 April 2018, <https://www.pajhwok.com/en/2018/04/23/death-toll-kabul-attack-soars-69>.

<sup>308</sup> UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*, HCR/EG/AFG/18/02, p. 49, 30 August 2018.

<sup>309</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 10, 2018.

average of ten journalists per year have died while working. See also 3.5.3.<sup>310</sup> HRW stated in a report on 16 December 2018 that the government had promised to investigate all instances of threats and violence by security personnel, MPs and other government officials; in some cases it had launched an investigation, but had consistently failed to prosecute.<sup>311</sup>

An anti-terrorism court convicted three men involved in the murder of the BBC journalist Ahmed Shah in April 2018. According to information obtained by the BBC from the Afghan government, one person was given the death penalty, and the others were sentenced to 30 years and six years in prison respectively.

Shah was shot dead on his way home in April 2018. The perpetrators are imprisoned in Parwan prison, also known as Bagram prison.<sup>312</sup>

Many Afghans have access to information and different opinions due to the rapid spread of mobile phones, the Internet and social media. The national unity government has repeatedly expressed its support for press freedom and has collaborated in initiatives aimed at countering threats to the media. After public outrage in November 2017, the government reversed an alleged attempt to block social media applications such as WhatsApp and Telegram.<sup>313</sup>

#### 3.4.2 *Freedom of association*

The Constitution establishes the right to form associations. Afghanistan also has a legal framework that facilitates the establishment and functioning of associations. The national government offers civil society organisations in general the space to be active; there is little government interference. Non-governmental organisations (NGOs) are sometimes hampered by corrupt practices on the part of government officials and by bureaucratic reporting obligations. The threat of violence by armed groups is a major obstacle to the activities of NGOs and interstate organisations. Thousands of cultural, welfare and sports associations are active, particularly in urban areas.<sup>314</sup>

#### 3.4.3 *Freedom of religion and belief*

The Constitution states that Islam is the state religion. Followers of religions other than Islam may practise their faith within the limits of the law.<sup>315</sup> Freedom House indicates that freedom of religion has improved since the fall of the Taliban regime in 2001. However, this freedom is impeded by violence and discrimination against religious minorities and reformist Muslims.<sup>316</sup> Blasphemy and apostasy by Muslims

<sup>310</sup> NAI Supporting open media in Afghanistan, <http://nai.org.af/about-us/>, consulted 19 November 2018; Freedom House, *Freedom in the world 2018. Afghanistan profile*, pp. 3 and 10, 2018; Amnesty International, *Annual report. Afghanistan 2017/2018*, 2018, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>; AJSC, *Six months report July-December 2016*, 9 January 2017, <https://reliefweb.int/report/afghanistan/afghanistan-six-months-report-july-december-2016-analysis-violence-against>, consulted 23 August 2018; Human Rights Watch, *Country summary. Afghanistan*, pp. 4 and 5, January 2018.

<sup>311</sup> HRW, *Human Rights Watch Submission to the Universal Periodic Review of Afghanistan*, 16 December 2018.

<sup>312</sup> BBC, *Ahmad Shah: Three convicted over BBC reporter's killing*, 3 January 2019, <https://www.bbc.com/news/world-asia-46750584>. The BBC stated that the identity of the perpetrators and their motives were not revealed by the Afghan authorities.

<sup>313</sup> Freedom House, *Freedom in the world. Afghanistan profile*, p. 11, <https://freedomhouse.org/report/freedom-world/2018/afghanistan>, consulted 21 August 2018; Reuters *Afghanistan will not block Whatsapp, Telegram: spokesman*, 6 November 2017, <https://www.reuters.com/article/us-afghanistan-internet/afghanistan-will-not-block-whatsapp-telegram-spokesman-idUSKBN1D61VI>. The controversy arose when a letter from the government circulated on social media containing an instruction to block Whatsapp and Telegram with immediate effect. The NDS reportedly wished to prevent the continued ability of AGEs to use encrypted messaging.

<sup>314</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, pp. 13 and 14, 2018.

<sup>315</sup> US Department of State, *Afghanistan 2017 International Religious Freedom Report*, p. 1, 2017.

<sup>316</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 10, 2018.

are crimes that, according to Sharia, are punishable by death. People who deviate from religious or social norms run the risk of mistreatment because of conservative views, intolerance and the inability or unwillingness of law enforcement to intervene.<sup>317</sup> In recent years, no one has been sentenced to death by the Afghan authorities for atheism, blasphemy or apostasy.<sup>318</sup>

Religious minorities, almost exclusively ethnic Hazara Shiites, were targeted by attacks by the Taliban, ISKP and other armed insurgents. See also 3.5.4.

#### 3.4.4

##### *Judicial process*

The judicial system is characterised by arbitrariness. Judges have insufficient expertise. Corruption and lack of capacity undermine the judicial system in Afghanistan. Judges and lawyers are also threatened or bribed by local leaders or armed groups.<sup>319</sup> Freedom House indicates that there are a number of shortcomings in prosecutions and court proceedings, such as a lack of adequate representation, excessive reliance on unconfirmed witness statements, lack of reliable forensic evidence, arbitrary decision-making and the non-publication of court judgments. The police are usually occupied with military duties and mainly focused on the defence of administrative centres against attacks by AGEs. Police corruption is widespread. Police officers are also involved in organised crime, especially in connection with the main smuggling routes.<sup>320</sup> The UN Committee against Torture, which monitors implementation of the *Convention against torture and other cruel, inhuman or degrading treatment or punishment*, has expressed its concern about the overall climate and culture of impunity in Afghanistan as evidenced by the large number of alleged human rights violations in which senior government officials have been involved.<sup>321</sup> See also 3.4.5 and 3.4.6.

##### *The formal and informal judicial system*

Informal justice, based on a mixture of customary and Islamic law (Sharia), is used in many places, especially in the countryside, to settle conflicts. The practice of this traditional justice is widespread at village and district level. Councils of village elders from tribes, mostly men, make decisions, generally relating to conflicts between people from their community, within families or between families. The Pashtun alone have 450 tribes. Some village elders are educated, but often they are uneducated. There are also religious councils, which can be convened to advise village elders on religious matters.<sup>322</sup>

The administration of justice through assemblies of village elders known as jirgas and shuras is still deeply rooted in the culture, especially for family law. This makes it hard to apply the new Penal Code.<sup>323</sup> The Afghan government states that this

<sup>317</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, pp. 10 and 11, 2018.

<sup>318</sup> Confidential source, p. 16, 7 November 2018; US Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 4, 5, 7 and 8, 2017.

<sup>319</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 14, 2018.

<sup>320</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 15, 2018.

<sup>321</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, p. 2, 12 June 2017; Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 15, 2018. Various senior government officials, such as Atta Mohamed Noor, former governor of Balkh province, and Vice-President Dostum were accused of crimes in 2017 without being prosecuted.

<sup>322</sup> Confidential source, 25 September 2018; US Central Command, *Female shuras uncover hardships facing rural Afghan women*, 20 December 2011. There are several initiatives to involve women in informal/traditional justice, and in some cases even complete female shuras: <http://www.centcom.mil/MEDIA/NEWS-ARTICLES/News-Article-View/Article/884446/female-shuras-uncover-hardships-facing-rural-afghan-women/>.

<sup>323</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 14, 2018; Confidential source, 11 June 2018; *Afghan jirgas and shuras*. <http://www.afghanwarnews.info/topics/jirga-shura.htm>, consulted 12 February 2019. This source indicates that jirgas have a more ad hoc character and focus on conflict resolution, while shuras are assemblies that address specific themes.

informal parallel legal system, in particular the jirga courts, can only handle disputes between citizens.<sup>324</sup>

The tribal councils can be found throughout the country. The Taliban administers justice in areas under its control. The councils deal with a wide range of topics such as disputes about water, land, natural resources (such as nuts), and grazing for cows and sheep, as well as serious matters such as manslaughter and murder and matters such as sodomy. Furthermore, judgments are given in cases concerning women's behaviour (*narkh*). *Narkh* contains rules on how women should behave.<sup>325</sup>

Under customary law, decision-making by the elders is based on a tradition of restoring peace, settling disputes and being obedient to the opinion of the tribal elders. These mechanisms are part of Islam. Settlement can take the form of payment of a sum of money (*blood money*), the provision of support (e.g. financial support), but also the giving away of a daughter for marriage into another family as compensation. In the last case, the daughter's consent is not usually asked.<sup>326</sup>

#### *Parallel justice*

The Taliban and other AGEs have their own judiciary in areas under their control. Citizens who live outside areas under Taliban control sometimes submit cases to Taliban judges.<sup>327</sup> However, Taliban commanders often impose arbitrary punishments without reference to this legal system.<sup>328</sup> In 2017, UNAMA recorded 23 cases of punishment being imposed through parallel judicial structures, with 33 civilian victims (21 killed and 12 injured). Such penalties (including hadd penalties) included public executions by stoning and shooting, beating and flogging and amputation.<sup>329</sup>

#### 3.4.5 *Arrests, custody and detentions*

It is not common for people to be detained indefinitely without due process, except in the case of people accused of involvement in the Taliban, Al Qaeda or ISKP.<sup>330</sup> The United Nations Committee against Torture (CAT) indicated in 2017 that it was deeply concerned about the many allegations that prisoners, and in particular people held by the NDS or the national or local police for national security reasons, have no guaranteed access to a lawyer, legal aid and medical assistance from the point when they are taken into detention. While they are in custody, they usually do not know why they have been detained and have no permission to contact their family.

<sup>324</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, p. 9, 12 June 2017. The committee expressed its concern about the existence of this parallel system of case law, stating: "the Committee is seriously concerned by the sentences still imposed by *jirga* courts and other forms of dispute resolution systems on the Afghan population, in particular on women, notably for so-called "moral crimes", including the death sentence and corporal punishment, that amount to torture or cruel, inhuman or degrading treatment or punishment".

<sup>325</sup> Confidential source, 25 September 2018; See also: EASO Country of Origin Information Report Afghanistan Individuals targeted under societal and legal norms, December 2017.

<sup>326</sup> Confidential source, 25 September 2018.

<sup>327</sup> ODI. Jackson, Asley. Life under the Taliban shadow government. June 2018

<https://www.odi.org/sites/odi.org.uk/files/resource-documents/12269.pdf>, p. 20.

Jackson points out that: "Taliban justice is also less enduring than portrayed, particularly in civil cases. Afghans, particularly in urban centres, can choose from several justice systems – state courts, Taliban courts and local forms of community dispute resolution – and may shop around. Where control flips back and forth, relitigation is common as cases are retried."

<sup>328</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, p. 14, 2018.

<sup>329</sup> UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*. HCR/EG/AFG/18/02, pp. 26 and 27, 30 August 2018; Freedom House, *Freedom in the world 2018. Afghanistan profile*, 2018.

<sup>330</sup> Confidential source, p. 17, 7 November 2018.



These people are often detained for longer than the law permits, and some are said to have been in custody for over a year.<sup>331</sup>

Amnesty International states that people detained by the NDS or police are at risk of being tortured. (see also 3.4.6.)<sup>332</sup> The CAT expressed its concern about the many credible allegations and the fact that complaints of mistreatment and torture were ignored by the Afghan government due to lack of evidence, because the alleged victims had not been given a medical examination, or not soon enough. It was also concerned because, although the law states that no use may be made of forced confessions, in practice they have frequently been used as evidence forming the basis for prosecution or conviction at trial. The Committee also expressed its concern at the lack of prosecutions and convictions of public officials who have obtained forced confessions.<sup>333</sup>

One confidential source states that judges do not even bother to check the evidence: instead they judge on the basis of intelligence reports shared with them. That is one of the reasons why the number of prisoners is increasing at both Bagram prison and Pul-e Charkhi prison. On the other hand, there have also been cases, due to widespread corruption, in which arrested terrorists have been released within a month and the case against them closed.<sup>334</sup>

#### *Prison conditions*

General conditions in prisons are poor because they are overcrowded and unsanitary. There is only limited access to medical care. The government has insufficient facilities to keep suspects separate from convicted prisoners. The Ministry of Interior Affairs (*General Directorate of Prisons and Detention Centers, GDPDC*) is responsible for all detention centres for civilians managed by civilian officials. Among other things, the GDPDC manages the national prison complex in Pul-e Charkhi. Juvenile prisons are overseen by the Ministry of Justice. The NDS has detention facilities at provincial and district level. The Ministry of Defence runs a national detention centre in Parwan. According to the US State Department, there are also unofficial prisons run by members of the ANDSF where detainees are abused.<sup>335</sup>

The detention centres of the security service, the *National Directorate of Security (NDS)*, are also overcrowded, mainly with people accused of terrorism or crimes against national and international security. According to a confidential source, the NDS uses a system whereby it first holds detainees for up to ten days after arrest without talking to them.

<sup>331</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, point 25, 12 June 2017.

<sup>332</sup> Amnesty International, *Annual Report: Afghanistan 2017/2018*, 2018.

<sup>333</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, points 11 and 27, 12 June 2017.

<sup>334</sup> Confidential source, p. 17, 7 November 2018.

<sup>335</sup> US Department of State, *Country reports on human rights practices for 2017: Afghanistan*, p. 4, 4 March 2018.

Once the interrogation starts, detainees are interviewed several times and the information that the NDS receives is analysed in the light of the information they have about the person. If the information collected is insufficient to continue the case, the detainee is released; however, the soonest this can happen is after ten days in detention. If the NDS has gathered enough information to convict the detainee, the case is then transferred to a court. This transfer process can take up to three months. After the court of first instance or primary court has convicted the detainee, the person is transferred to prison and the remainder of the process takes place from detention.<sup>336</sup>

#### *Women in detention*

As indicated, prison conditions in Afghanistan are poor; this also applies to women's prisons. Women detained for moral offences are often held together with women detained for serious crimes such as murder. Some of the women in detention centres are mothers who have given birth in detention or whose children have come to prison with them.<sup>337</sup> Women in detention, both in custody and in prison, are at risk of sexual abuse by police officers and other staff.<sup>338</sup> As indicated in the November 2016 official report, there are many women in detention who have been convicted of zina (adultery or other illicit sexual relations), when what they have really done is to violate social conventions by running away from home, rejecting a suitor or fleeing domestic violence or rape. Running away from home or fleeing a domestic situation is not punishable under the Penal Code, but Article 130 of the Constitution states that in cases not covered in the Constitution or other laws, the court may act in a manner consistent with Hanafi jurisprudence. This often means a zina conviction.<sup>339</sup>

According to a 2016 Human Rights Watch report, nearly half of all women detained in Afghanistan and 95% of girls in juvenile detention are held for moral offences such as sex before marriage.<sup>340</sup> In 2016, President Ghani promised to discontinue the handing out of prison sentences to women accused of running away from home. However, Afghan police and prosecutors continue to send women and girls to prison who have been accused of 'moral crimes' such as running away from home.<sup>341</sup>

#### 3.4.6 *Torture, maltreatment and threats*

On 22 April 2017, the Afghan government published the law on the prohibition of torture in the state newspaper. This law was issued by the government in March 2017 and is based on Articles 64 and 69 of the 2004 Constitution. The new Penal Code deals with torture in Chapter 9 (Articles 450-452) and must be taken in conjunction with what is stated in the law on the prohibition of torture. Article 6 of the law on the prohibition of torture states that police, officers of the National

<sup>336</sup> Confidential source, pp. 17 and 18, 7 November 2018.

<sup>337</sup> UK. Home office. *Country information and guidance. Afghanistan: prison conditions*. September 2015. Par. 5.4.; ; The Diplomat. *The Women in Afghanistan's Moral Prisons*. 8 March 2017. <https://thediplomat.com/2017/03/the-women-in-afghanistans-moral-prisons/>; Reuters. *Most Afghan women serve sentences in elders' homes, not prisons*. 11 October 2016. <https://www.reuters.com/article/us-afghanistan-women-prisons-idUSKCN12A2KR>. In remote rural areas it is common for women convicted under traditional justice to be employed in the household of local leaders as a punishment.

<sup>338</sup> IWPR. Afghanistan. *Female detainees face sexual abuse*. 28 March 2017. <https://iwpr.net/global-voices/afghanistan-female-detainees-face-sexual-abuse>

<sup>339</sup> Country of Origin Report on Afghanistan, November 2016.

<sup>340</sup> Marie Stopes International, *Breakthrough could lead to an end to virginity testing in Afghanistan*, 23 July 2018, <https://www.mariestopes.org/news/2018/7/breakthrough-could-lead-to-an-end-to-virginity-testing-in-afghanistan/?page=0>.

<sup>341</sup> Human Rights Watch, *Human Rights Watch Submission to the Universal Periodic Review of Afghanistan*, p. 5, 16 December 2018.

Directorate of Security and Defence, officers of the public prosecutor's office, judges, public officials and any other person or persons acting in an official capacity will under no circumstances whatsoever torture suspects, convicted persons or anyone else during the judicial process. Article 7 emphasises that no justification for torture can be derived from a state of war, danger of war, internal political instability or other circumstances, or from an order from a superior or a competent government official.<sup>342</sup>

In August 2017, the government also agreed on a compensation scheme for torture victims, as stated in Article 5 of the aforementioned law. The new laws and regulations have brought the definition of torture in line with the provisions of the United Nations Convention against Torture. In addition, a new supervisory body has been established, the Torture Commission (under Article 11 of the law), chaired by the AIHRC with members of the Ministry of Justice and the Ministry of Interior Affairs, the judiciary, the legal profession and civil society.<sup>343</sup> This has led to complaints about torture that were rejected by a court of first instance being referred for appeal. According to a well-established source, the awareness of judges in appeal cases in particular is gradually being raised, and this is preventing confessions from being forcibly obtained during interrogations under pressure of torture or ill-treatment.<sup>344</sup>

On 17 April 2018, Afghanistan acceded to the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) and dropped its reservation concerning the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*, as the government had promised to do during the campaign for Afghan membership of the Human Rights Commission.<sup>345</sup>

Despite the improved legislation and the international obligations that the government has entered into, there is still no evidence that torture in government detention has been reduced in practice, and perpetrators are rarely prosecuted or tried.<sup>346</sup>

<sup>342</sup> Confidential source, p. 21, 7 November 2018.

<sup>343</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*, S/2018/539, p. 9, 6 June 2018; Confidential source, p. 21, 7 November 2018; Confidential source, p. 4, 7 December 2018; Amnesty International, *Annual Report: Afghanistan 2017/2018*, 2018.

<sup>344</sup> Confidential source, 25 September 2018.

<sup>345</sup> Confidential source, 11 June 2018; UNGASC, *The situation in Afghanistan and its implications for international peace and security*, /2018/539, p. 9, 6 June 2018.

<sup>346</sup> Confidential source, 11 June 2018; Amnesty International, *Annual Report: Afghanistan 2017/2018*, 2018; UNHCR, *Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan*, p. 24, 30 August 2018; International Criminal Court, *Public Redacted Version of "Request for Authorization of an Investigation Pursuant to Article 15"*, pp. 7-8, 20 November 2017.

Information could not be obtained from the Afghan government about the prosecution of perpetrators of torture, severe mistreatment and rape. The perpetrators of such crimes succeed in avoiding prosecution and convictions because they are usually influential people, warlords and personnel of the security services, police or other law enforcement services.<sup>347</sup> Amnesty International states that many individuals suspected of being responsible for such crimes remain in government service, including in the administration.<sup>348</sup>

In January 2017, the Public Prosecution Service ordered the hearing of nine personal security guards of first Vice-President Dostum. They were suspected of involvement in the kidnapping, illegal detention and assault of the Uzbek politician Ahmad Ischi, a political rival of Dostum. In absentia, seven of the bodyguards were convicted of sexual assault and illegal detention and sentenced to five years in detention. None of them were in detention at the end of 2017.<sup>349</sup>

UNAMA monitors the implementation of the February 2015 *National plan on the elimination of torture*. In its last report in April 2017, UNAMA noted that despite the Afghan government's efforts to implement the plan, credible claims are regularly made about the torture and ill-treatment of people detained in connection with the conflict. Torture and ill-treatment mainly take place during interrogation. There also continued to be a lack of accountability for such acts by the Afghan security forces, in particular the NDS and the ANP, and to a lesser extent the ALP and the ANA. There were no prosecutions.<sup>350</sup> Another source indicated that although there appears to be a decrease in the number of cases of torture in recent years, torture is still taking place during investigations and interrogations by the ANP, the NDS and the Afghan National Army (ANA). These bodies use torture to enforce confessions, to obtain information or as punishment or revenge for losses.<sup>351</sup> Judges, police, lawyers, prosecutors, government officials and even some citizens are, according to this source, aware of what takes place in these detention centres. Citizens are aware of this situation because so many people are held, released or convicted.<sup>352</sup>

Between 1 January 2015 and 31 December 2016, UNAMA spoke to 469 conflict-related detainees in 62 detention facilities in 29 Afghan provinces. Of these 469 prisoners, 378 were adult men, six were adult women, and 85 were children under the age of 18. UNAMA found that 39% of prisoners interviewed gave credible accounts of having experienced torture or other forms of inhuman treatment. The most common torture and abuse involved severe beatings to the body (including with sticks, plastic pipes and cables), beatings to the soles of the feet, electrical shocks (including to the genitals), prolonged suspension by the arms and suffocation (both using plastic bags and through forced immersion in water).

<sup>347</sup> Confidential source, pp. 18-20, 7 November 2018; UNHCR, *Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan*, p. 23, 30 August 2018.

<sup>348</sup> Amnesty International, *Annual Report: Afghanistan 2017/2018*, 2018.

<sup>349</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>350</sup> UNAMA, *Treatment of conflict-related detainees: implementation of Afghanistan's national plan on the elimination of torture*, pp. 6-11, April 2017. [https://unama.unmissions.org/sites/default/files/treatment\\_of\\_conflict-related\\_detainees\\_24\\_april\\_2017.pdf](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf); Human Rights Watch, *World Report 2018: Afghanistan: Events of 2017*, 2018.

<sup>351</sup> Confidential source, p. 4, 7 December 2018.

<sup>352</sup> Confidential source, pp. 17 and 18, 7 November 2018.

Other forms of torture and ill-treatment included the wrenching of testicles, use of cigarette lighters to burn the soles of the feet, prolonged use of stress positions, sleep deprivation, sexual assault and threats of execution. UNAMA recorded the highest number of credible accounts of torture at the ANP. At NDS detention centres at national and provincial level there was systematic or regular and frequent use of torture. In most cases, prisoners indicated that torture was used to enforce a signed or thumb-marked confession. Almost all detainees reported that they had no access to a lawyer before signing the confession. UNAMA found no indications that detainees continued to be tortured or ill-treated after they had been transferred from an Afghan security forces detention centre to a prison run by the *Central Prisons Department* of the Ministry of Interior Affairs.<sup>353</sup> UNAMA found no information indicating that criminal prosecutions had been initiated against NDS officials during 2015 or 2016. In January 2017, however, two NDS officials are said to have been convicted by a court of first instance on charges of mistreatment of a minor in Daikundi province.<sup>354</sup>

AIHRC recorded 79 cases of torture in 2017 based on monitoring and speaking to 621 suspects and accused persons in detention centres. In 2016, AIHRC recorded 102 cases of torture, and in 2014 there were 305 cases. Of the 79 cases relating to torture, 62 involved the ANP, 13 the NDS and 4 the ANA.<sup>355</sup>

In its June 2017 report, the United Nations Committee against Torture stated, on the basis of a large number of investigative reports by the UN, the International Criminal Court, the Afghan Independent Human Rights Commission and NGOs, that beatings, electric shocks, suspensions, threats, sexual abuse and others forms of mental and physical abuse are widely and increasingly used on detainees held in facilities managed by the *National Directorate of Security* (NDS), the Afghan National Police and the Afghan Local Police. Such practices are mainly used to extract confessions or information to be used in criminal proceedings. The Afghan government is said to have dismissed or demoted a number of NDS employees for involvement in abuse and torture. However, the Committee noted that there had been hardly any prosecutions and convictions. The detention centre at the Bagram military base in Parwan province was still being run by the Ministry of Defence in 2017. Prisoners are thought to be routinely tortured there as punishment for past terrorist activities or as a disciplinary measure. Lawyers had limited access to prisoners in Parwan.<sup>356</sup>

<sup>353</sup> UNAMA, *Treatment of conflict-related detainees: implementation of Afghanistan's national plan on the elimination of torture*, pp. 6-11, April 2017. [https://unama.unmissions.org/sites/default/files/treatment\\_of\\_conflict-related\\_detainees\\_24\\_april\\_2017.pdf](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf).

<sup>354</sup> UNAMA, *Treatment of conflict-related detainees: implementation of Afghanistan's national plan on the elimination of torture*, p. 9, note 17, April 2017, [https://unama.unmissions.org/sites/default/files/treatment\\_of\\_conflict-related\\_detainees\\_24\\_april\\_2017.pdf](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf).

<sup>355</sup> Confidential source, p. 4, 7 December 2018.

<sup>356</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, pp. 2 and 3, 12 June 2017.

UNAMA stated in an April 2018 report that it had recorded the largest number of reports of torture during police custody of people held in connection with armed conflicts since 2010. The report focused in particular on the extent – more than 90% of detainees – and nature of police torture in Kandahar province.<sup>357</sup> The United Nations Committee against Torture indicated in its report of June 2017 that such practices occur in several provinces in Afghanistan such as Farah, Herat and Nangarhar. The situation was particularly concerning in Kandahar province.<sup>358</sup>

#### 3.4.7

##### *Extrajudicial executions and disappearances*

Various sources reported abuse and torture by the security service, the *National Directorate of Security* (NDS) and the Afghan National Police (ANP) during operations against insurgents. The abuses included incommunicado detentions, disappearances, large-scale arbitrary detention and extrajudicial executions. In the case of Kandahar province, General Abdul Raziq, the commander of the ANP, was also said to be personally involved in such human rights violations, including extrajudicial executions and the establishment of secret detention centres.<sup>359</sup>

Armed groups, including the Taliban, committed crimes under international law, including murders, mistreatment, and other forms of abuse as punishment for alleged crimes or violations. Amnesty International states that executions and severe punishments imposed under the parallel justice system can be regarded as crimes under the law and in some cases as war crimes.<sup>360</sup> The United Nations Committee against Torture pointed to a large number of armed groups, including the Taliban, ISKP and Hizb-i Islami, who had been involved in serious human rights violations including extrajudicial killings and use of physical punishments such as flogging and stoning.<sup>361</sup> Amnesty International gives several examples of extrajudicial executions by AGEs. In January 2017, five armed men in Badakshan province killed a pregnant woman who, according to witnesses, was accused of being a government supporter. On 8 March 2017, armed men burst into an ANA military hospital in Kabul and killed 49 people, including patients.

<sup>357</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>358</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, pp. 3 and 4, 12 June 2017. Among other sources, the Committee refers to UNAMA reports from 2015 and 2017; UNAMA, *Treatment of conflict-related detainees: implementation of Afghanistan's national plan on the elimination of torture*, April 2017, [https://unama.unmissions.org/sites/default/files/treatment\\_of\\_conflict-related\\_detainees\\_24\\_april\\_2017.pdf](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf).

<sup>359</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, pp. 3 and 4. Among other sources, the Committee refers to UNAMA reports from 2015 and 2017; UNAMA, *Treatment of conflict-related detainees: implementation of Afghanistan's national plan on the elimination of torture*, April 2017, [https://unama.unmissions.org/sites/default/files/treatment\\_of\\_conflict-related\\_detainees\\_24\\_april\\_2017.pdf](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf); UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*. HCR/EG/AFG/18/02, p. 23-26, 30 August 2018.

<sup>360</sup> Amnesty International, *Annual Report. Afghanistan. 2017/2018*, 2018; UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum seekers from Afghanistan*. HCR/EG/AFG/18/02, pp. 26-29, 30 August 2018.

<sup>361</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, p. 5, 12 June 2017.

In August 2017, armed groups attacked the village of Mirza Olang in Sar-e-Pul province, killing at least 36 people, including civilians.<sup>362</sup>

In June 2017, pro-government forces killed a father and his two sons (aged five and twelve years) outside a brick factory where they worked. There was no military activity in the area at the time.<sup>363</sup>

#### 3.4.8

##### *Blood feuds and honour killings*

The new Penal Code contains no provisions on blood feuds or honour killings. In the case of honour killings, the old Penal Code provided, on the basis of Article 398, for a reduction of the penalty if a family member discovered that his wife or another family member was committing adultery or fornicating or was homosexual.

Perpetrators of honour killings or blood feuds are usually not prosecuted and punished because such actions are tolerated by society, as women are not supposed to 'dishonour' their families by doing things that the community does not allow.<sup>364</sup>

Traditionally and as far as is known, honour killings are restricted to extramarital heterosexual relations and to women and men who have an affair or sexual relations with each other. Other family members, though not excluded and as far as could be checked, are not targeted as a result of the woman's and man's actions. Honour killings are almost always committed by the woman's family. The woman is killed first, and then the man's family is asked to hand him over to be killed, as he has shamed the woman's family. If the man is poor, the local elders usually decide that the man must be handed over to be killed as the girl has already been killed. However, the man's family sometimes arranges for him to flee to Pakistan, Iran or the United Arab Emirates, since a ticket and a visa for these destinations are relatively easy to arrange.

Local authorities try not to get involved in matters relating to honour killings, as they come from the same ethnic groups living in these regions. They ask the community elders to come together and find a solution to the dispute.<sup>365</sup>

Honour killings occurred in the reporting period, but it is difficult to determine with what frequency. As far as is known, honour killings are more common in rural areas than in urban areas and the big cities.<sup>366</sup>

Honour killings are often not reported to the government or NGOs. From January 2016 to December 2017, UNAMA documented 280 cases of murders and honour killings of women. The perpetrators were convicted in 50 cases, representing 18% of the documented instances. In practice, especially in the countryside, honour killings are often dealt with under customary law, and the formal legal system is not involved.<sup>367</sup>

<sup>362</sup> Amnesty International, *Annual Report: Afghanistan. 2017/2018*, 2018.

<sup>363</sup> Amnesty International, *Annual Report: Afghanistan. 2017/2018*, 2018.

<sup>364</sup> Confidential source, p. 13, 7 November 2018.

<sup>365</sup> Confidential source, p. 13, 7 November 2018.

<sup>366</sup> Confidential source, p. 13, 7 December 2018.

<sup>367</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, May 2018; Confidential source, 25 September 2018.

The statistics do not reflect all cases of honour killings that take place in the country, as cultural and social sensitivities prevent their being reported, and there are also all kinds of obstacles of a traditional, cultural, social, economic and security-related nature, as well as extensive corruption which means that families do not involve the judicial system. In 2015, the main reason for honour killings was extramarital sexual relations. However, honour killings were also committed in cases where the victim had run away from home or shown interest in a man with a view to marrying him.<sup>368</sup> The *Afghanistan Independent Human Rights Commission (AIHRC)* indicated in 2017 that there had been 51 incidents over the past three years involving violation of the right to life through violence against women in villages and rural areas. In 15 cases, women were burned or there was self-mutilation. The women were murdered in 16 cases. Most of these murders were regarded as honour killings by the AIHRC.<sup>369</sup>

The government is unable to provide protection against honour killings, and potential victims – mostly women – are unlikely to request it, out of shame or fear of violence or the loss of their children. There are reports of young couples who married against the wishes of their family and were threatened or killed by the family to preserve its honour.<sup>370</sup> In April 2018, a young woman in Faryab province was stabbed to death by her brother in an honour-related crime. The woman had run away with a boy and they went to court together to get married. The court, however, sent her to a women's shelter. The brother tracked down his sister and managed to gain access to the shelter, where he killed her.<sup>371</sup> Women are sometimes taken into custody as a preventive measure 'for their own safety' to protect them against honour killings.<sup>372</sup> Women who flee to a shelter for fear of an honour killing are often unable to leave again because of the high probability that they will be killed. Avoiding an honour killing by resettling in a big city is very difficult, if not impossible, for an Afghan woman. Without the protection of her family, a woman is 'fair game' and cannot rent accommodation without the agreement of a male relative.<sup>373</sup>

Blood feuds<sup>374</sup> occur mainly among the Pashtun, but can also occur among or between other ethnic groups. Adult men are the most common target of blood feuds. The conviction of the perpetrator in the formal legal system does not mean that the blood feud is over.

<sup>368</sup> Confidential source, p. 2, 7 December 2018. This was an explanation by the AIHRC of figures for the period from 2013 to May 2015. A total of 243 cases were reported to the AIHRC. The report also stated that almost 67% of the perpetrators were arrested in cases of honour killing and rape. Sixty percent of those arrested were convicted; AIHRC, *National Inquiry Report on Factors and Causes of Rape and Honor Killing in Afghanistan*, 26 August 2015, [https://www.refworld.org/publisher/AIHRC/5a1fe8144\\_0.html](https://www.refworld.org/publisher/AIHRC/5a1fe8144_0.html), consulted 26 November 2018.

<sup>369</sup> AIHRC, *Human rights situation of women and girls living in the villages in Afghanistan*, p. 21, 2017, <https://www.aihrc.org.af/media/files/Human%20Rights%20situation%20of%20women%20and%20girls%20living%20in%20the%20villages%20in%20Afghanistan.pdf>.

<sup>370</sup> EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 50, December 2017.

<sup>371</sup> TOLONews, *Faryab Woman Killed By Brother In 'Honor Killing'*, 26 April 2018, <https://www.tolonews.com/index.php/afghanistan/faryab-woman-killed-brother-%E2%80%98honor-killing%E2%80%99>, consulted on 25 October 2018.

<sup>372</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 27, 2017; IWPR, *Afghanistan: Women Seek Refuge in Safe Houses*, 20 April 2017, <https://iwpr.net/global-voices/afghanistan-women-seek-refuge-safe-houses>; Country of Origin Report on Afghanistan, November 2016.

<sup>373</sup> Country of Origin Report on Afghanistan, November 2016.

<sup>374</sup> In a blood feud, revenge killings are committed for the deaths of family members. The victim's family will kill the guilty person or a member of the guilty family in an act of revenge: UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers From Afghanistan*, p. 97, 30 August 2018.



The victim's family may reportedly still take revenge against the perpetrator after he has served a prison sentence.<sup>375</sup> *Jirgas* and *shuras* are often consulted in connection with blood feuds. Through traditional mediation, a settlement can be made to put an end to the feud.<sup>376</sup> Sometimes blood money can be paid to resolve disputes peacefully. If the blood money is paid, the feud must end. A blood feud can also be resolved by offering a girl or woman from the perpetrator's family for marriage; this practice, called *baad*, is a criminal offence under the EAW law.<sup>377</sup> In Article 25, this law states that, in the event of *baad*, the perpetrator, depending on the circumstances, will be sentenced to a long-term prison sentence of up to ten years. Those involved in the approval of *baad* may also be given prison sentences, depending on the circumstances. The law also states that the marriage will be considered invalid at the request of the wife. The practice of *baad* is decreasing, but it is still used in some parts of the country. AIHCR reported seven cases in 2017.<sup>378</sup>

#### 3.4.9 *The death penalty*

In the new Penal Code, the death penalty has been replaced by a life sentence for some crimes.<sup>379</sup> Article 170 of the new Penal Code states that the following crimes carry the death penalty:

- a. genocide, crimes against humanity, war crimes, treason, terrorism and bomb explosions, kidnapping, hostages and theft leading to the death of a person or persons;
- b. manslaughter/ murder;
- c. acts and omissions (crimes) that lead to the absolute surrender of Afghan territory to a foreign power or that undermine national sovereignty, territorial integrity and independence;
- d. gang rape of a woman; and
- e. gang rape of a man leading to the death of the victim.<sup>380</sup>

The UN Committee against Torture stated in mid-2017 that about 600 people were awaiting the death penalty. The Committee drew attention to the enormously long period before the execution takes place and to the detention conditions of prisoners awaiting execution.<sup>381</sup> In mid-June 2018, the number of people awaiting execution in Afghanistan was estimated at around 700.<sup>382</sup>

Amnesty International reported that five executions took place at Pul-e-Charkhi prison in Kabul in November 2017. The Ministry of Justice announced that the five had been convicted of murder and kidnapping in 2016. They were executed despite the fact that an appeal procedure was still pending at three courts of appeal.<sup>383</sup> Another source indicated that another execution took place at the end of 2017, after more than a year. Three men were also executed in January 2018. The Afghan

<sup>375</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, pp. 97-98, 30 August 2018; EASO, *Country of Origin Information Report: Afghanistan Individuals targeted under societal and legal norms*, pp. 87-88, December 2017.

<sup>376</sup> EASO, *Country of Origin Information Report: Afghanistan Individuals targeted under societal and legal norms*, pp. 89-91, December 2017.

<sup>377</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, p. 3, 22, May 2018; EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 90, December 2017.

<sup>378</sup> Confidential source, p. 14, 7 November 2018; AIHCR, *Summary of the Report on Violence Against Women: The causes, context, and situation of violence against women in Afghanistan*, p. 3, 11 March 2018.

<sup>379</sup> Amnesty International, *Annual Report: Afghanistan 2017/2018*, 2018.

<sup>380</sup> Confidential source, p. 16, 7 November 2018.

<sup>381</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan*, CAT/C/AFG/GO/2, p. 8, 12 June 2017.

<sup>382</sup> Confidential source, 11 June 2018.

<sup>383</sup> Amnesty International, *Annual Report: Afghanistan 2017/2018*, 2018.

government has stated its support for the death penalty. With the introduction of the new Penal Code, the number of crimes punishable by the death penalty has been greatly reduced..<sup>384</sup>

### **3.5 Position of specific groups**

#### *3.5.1 Persons associated with or supporting the Afghan government*

Armed opposition groups target civilians associated with or regarded as supportive of the Afghan government, pro-government armed groups, Afghan civil society or the international community in Afghanistan, including international armed forces. The (alleged) links with any of these actors may be due to current or previous work or family ties. Citizens who have been attacked have included district or provincial governors, court and public prosecutor employees, former or off-duty police officers, tribal elders, religious scholars and leaders, women in public places, teachers and other civil servants, citizens seen as opposed to values adhered to by the AGEs, human rights activists and humanitarian and development aid workers..<sup>385</sup>

Between 1 January and 31 December 2017, according to UNAMA, there were 570 targeted killings by armed insurgents involving 1,032 civilian casualties (650 killed and 382 injured). This was 10% of the total number of civilian casualties in that year..<sup>386</sup>

#### *Violence against politicians and individuals involved in organising elections*

In the run-up to the elections, ten parliamentary candidates were murdered, probably by both political opponents and the Taliban and ISKP. On 25 September 2018, a candidate who was active in civil society and an outspoken critic of corrupt politicians was killed by unknown gunmen. The Taliban claimed responsibility for the attack..<sup>387</sup> On 2 October 2018 an attack took place at a campaign meeting that was claimed by ISKP. On 13 October 2018 an attack on a female candidate took place. She survived the attack. On 17 October 2018 an attack took place on a candidate from Helmand province, which was claimed by the Taliban. Employees of the Independent Election Commission (IEC) were also kidnapped..<sup>388</sup>

<sup>384</sup> Confidential source, 11 June 2018.

<sup>385</sup> UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylumseekers from Afghanistan*, p. 39, note 250, 30 August 2018. UNHCR refers, among other things, to various UNAMA annual and quarterly reports on the protection of civilians in Afghanistan during armed conflicts.

<sup>386</sup> UNAMA, *Afghanistan: Afghanistan: Annual report on the protection of civilians in armed conflict 2017*, pp. 33-34, February 2018.

<sup>387</sup> UNAMA, *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*, p. 8, 10 October 2018.

<sup>388</sup> Confidential source, 18 October 2018.

The number of incidents on election days themselves is estimated by several sources at around 190, and more than 70 election-related deaths, including of members of the security forces, are thought to have occurred (there were more deaths, but these are not attributed to the elections)..<sup>389</sup> The UN reported that violence during the parliamentary election on 20 October 2018 claimed the most civilian casualties on any one day in 2018. UNAMA recorded a total of 435 civilian casualties (56 killed and 379 injured) for that day. Almost all victims were the result of targeted or indiscriminate attacks by AGEs, mainly the Taliban. ISKP claimed a suicide attack on a polling station in Kabul in which there were 53 civilian casualties (13 killed and 40 injured)..<sup>390</sup>

On 29 October 2018 an attack took place at the IEC office in Kabul, in which a police officer and an IEC employee were killed and four others were injured. ISKP claimed this attack..<sup>391</sup>

#### *Religious leaders*

In June 2018, a suicide attack at a meeting in Kabul of the *Afghan Ulema Council* killed seven people and injured twenty. The attack was claimed by ISKP. The council had issued a decree against suicide attacks and called for peace negotiations (see also Chapter 1)..<sup>392</sup> On 20 November 2018, a major suicide attack took place at a meeting of Sunni Muslim religious leaders from across the country convened by the *Afghan Ulema Council*. The clerics had gathered in a large banquet hall in Kabul on the occasion of the prophet's birthday. At least 50 people died and 80 were injured..<sup>393</sup>

#### *Persons working for emergency aid or development organisations*

On 24 January 2018, armed attackers burst into the offices of the international NGO *Save the Children* in Jalalabad and killed four employees. The attack was claimed by ISKP. Most of the victims were local employees.

<sup>389</sup> Confidential source, 1 November 2018; Brookings, Vanda Felbab-Brown, *Ballots and bullets in Afghanistan*, 23 October 2018, [https://www.brookings.edu/blog/order-from-chaos/2018/10/23/ballots-and-bullets-in-afghanistan/?utm\\_campaign=Brookings%20Brief&utm\\_source=hs\\_email&utm\\_medium=email&utm\\_content=66922773](https://www.brookings.edu/blog/order-from-chaos/2018/10/23/ballots-and-bullets-in-afghanistan/?utm_campaign=Brookings%20Brief&utm_source=hs_email&utm_medium=email&utm_content=66922773).

<sup>390</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 8, 7 December 2018.

<sup>391</sup> Confidential source, 30 October 2018.

<sup>392</sup> USA Today, *At least 7 killed as suicide bomber targets Afghanistan's top clerics*, 5 June 2018, <https://eu.usatoday.com/story/news/world/2018/06/04/afghanistan-suicide-bombing-least-7-killed-top-clerics-targeted/668280002/>; The Independent, *Kabul explosion: At least 50 dead and 80 injured in suicide blast at religious gathering in Afghanistan capital*, 21 November 2018, <https://www.independent.co.uk/news/world/asia/kabul-explosion-blast-attack-terror-wedding-hall-victims-afghanistan-death-toll-a8643106.html>; The Washington Post, *Explosion rips through large Sunni gathering in Kabul, killing at least 50*, 21 November 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia\\_pacific%2fexplosion-rips-through-large-sunni-gathering-in-kabul-killing-at-least-40%2f2018%2f11%2f20%2fc8295b7a-eccf-11e8-baac-2a674e91502b\\_story.html%3f&utm\\_term=.e0ad39921bf0](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia_pacific%2fexplosion-rips-through-large-sunni-gathering-in-kabul-killing-at-least-40%2f2018%2f11%2f20%2fc8295b7a-eccf-11e8-baac-2a674e91502b_story.html%3f&utm_term=.e0ad39921bf0).

<sup>393</sup> The Independent, *Kabul explosion: At least 50 dead and 80 injured in suicide blast at religious gathering in Afghanistan capital*, 21 November 2018, <https://www.independent.co.uk/news/world/asia/kabul-explosion-blast-attack-terror-wedding-hall-victims-afghanistan-death-toll-a8643106.html>; The Washington Post, *Explosion rips through large Sunni gathering in Kabul, killing at least 50*, 21 November 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia\\_pacific%2fexplosion-rips-through-large-sunni-gathering-in-kabul-killing-at-least-40%2f2018%2f11%2f20%2fc8295b7a-eccf-11e8-baac-2a674e91502b\\_story.html%3f&utm\\_term=.e0ad39921bf0](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia_pacific%2fexplosion-rips-through-large-sunni-gathering-in-kabul-killing-at-least-40%2f2018%2f11%2f20%2fc8295b7a-eccf-11e8-baac-2a674e91502b_story.html%3f&utm_term=.e0ad39921bf0).

Due to lack of security in certain parts of the country, with threats having been received in some cases, local organisations felt compelled to cut down on or stop their programmes in areas such as rural education and women's rights.<sup>394</sup> According to data from the International NGO Safety Organization (INSO), 11 employees of NGOs active in Afghanistan were killed in the period from January to June 2018, including one foreigner. Twenty-two NGO employees were injured during this period, including one foreigner. NGO employees were also victims of accidents, crime and conflict-related violence. Twenty-six NGO employees, all Afghan, were abducted during this period.<sup>395</sup> A source at a multilateral organisation reported that three employees resigned in 2017 because they felt threatened. The source stated that this does not necessarily mean that they felt threatened because they were working for a foreign organisation, adding that in the past year an employee's child had been abducted on two occasions in order to obtain money. <sup>396</sup>

*Citizens who are or have been employed by foreign military missions*  
Afghans currently or formerly employed by foreign military missions, including interpreters, said they felt threatened and approached their foreign employers with a view to obtaining visas for themselves and/or family members.<sup>397</sup> The United Kingdom (UK) has a support programme for former local employees seeking protection for themselves and family members in connection with threats due to their (now ended) work for the UK. By 27 February 2017, the UK had processed 401 applications from local Afghan staff, mostly interpreters. In 284 cases the persons concerned received security advice, in 35 cases financial assistance was provided for domestic resettlement and in one case the UK considered resettlement. However, the person concerned did not receive a visa for the UK as he did not pass the security screening. The other 85 cases were withdrawn or closed due to lack of evidence.<sup>398</sup>

### 3.5.2

#### *Human rights activists*

Amnesty International indicated that human rights advocates were arrested or intimidated by the government for charges related to national security. In 2017, UNAMA and OHCHR investigated threats against representatives of civil society and human rights advocates.<sup>399</sup>

<sup>394</sup> IRIN, *Afghan attacks force aid rethink, leave local ngo's more exposed*, 8 February 2018, <https://www.irinnews.org/news/2018/02/08/afghan-attacks-force-aid-rethink-leave-local-ngos-more-exposed>; UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylumseekers from Afghanistan*, p. 44, 30 August 2018; BBC, *Afghanistan Attack: Save the Children suspends programmes*, 24 January 2018, <https://www.bbc.com/news/world-asia-42808342>, consulted on 3 December 2018.

<sup>395</sup> INSO, *Country data: Afghanistan*, <https://www.ngosafety.org/country/afghanistan>, consulted 22 August 2018.

<sup>396</sup> Confidential source. 25 September 2018

<sup>397</sup> Le Figaro, *La mort d'un interprète afghan oublié par la France: Qader Daoudzai, qui avait servi l'armée française, n'avait pas obtenu de visa pour fuir les talibans. Une de leurs bombes l'a tué*, 25 October 2018, <http://www.lefigaro.fr/international/2018/10/24/01003-20181024ARTFIG00250-la-mort-d-un-interprete-afghan-oublie-par-la-france.php>; The guardian, *How two men and a WhatsApp group rescued scores of Afghan heroes; Home Office issues commitment to resettle more Afghan interpreters and their families in latest victory for two-man campaign*, 7 September 2018, <https://www.theguardian.com/world/2018/sep/07/how-two-men-and-a-whatsapp-group-rescued-scores-of-afghan-heroes>.

<sup>398</sup> UK. House of Commons. Defence Committee, *Lost in Translation? Afghan Interpreters and Other Locally Employed Civilians*, 26 May 2018, <https://publications.parliament.uk/pa/cm201719/cmselect/cmdfence/572/57203.htm>. The report (point 40) indicates that under an earlier version of this support programme, one Afghan was resettled in the UK.

<sup>399</sup> Amnesty International, *Amnesty International Report 2017/18*, 22 February 2018; UN General Assembly, *The situation of Human Rights in Afghanistan and Technical assistance Achievements in the Field of Human Rights*, p. 13, 21 February 2018, [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/\\_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A\\_HRC\\_37\\_45.docx&action=default&DefaultItemOpen=1](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_45.docx&action=default&DefaultItemOpen=1).

There were 12 cases of threats being issued, mostly by AGEs. Female human rights advocates faced threats, assault or assassination during the reporting period..<sup>400</sup> AGEs carried out targeted attacks on human rights activists in which activists were injured or killed. The security services consistently failed to investigate and address these threats. As a result, there is a lack of confidence in the security services on the part of human rights activists, so that most cases of threats and violence against female human rights advocates are not reported to the police..<sup>401</sup>

### 3.5.3 *Journalists and media personnel*

In 2017, *NAI Supporting Open Media in Afghanistan* (NAI) reported 167 incidents and the deaths of 21 journalists and media personnel. There were numerous attacks on journalists and media personnel in 2017, including terrorist attacks on broadcasting stations in Jalalabad in May 2017 and in Kabul in November 2017. Journalists faced attacks by ISKP and were pressured by both the Taliban and parties allied to the government to alter their reporting..<sup>402</sup> The NAI stated that it had reported at least 240 violent incidents against media personnel in 2016, including reporters and journalists. A year later the government had taken no action and no one had been brought to justice..<sup>403</sup> On 18 October 2018, after the attempted murder of a cameraman in Kandahar by unknown assailants, the NAI indicated that since the beginning of January 2018, 17 journalists and media personnel in Afghanistan had been killed..<sup>404</sup>

Amnesty International reported the following incidents in its 2017/2018 annual report. In March 2017, a reporter working for Ariana TV in Sar-e-Pul province was beaten by police after trying to report on excessive use of force against civilians. Officers seized the reporter's camera and other equipment; he sought refuge in the governor's office. In August 2017, a prominent reporter from Zabul province received death threats from Taliban members, followed by attempts on his life. Security officials made little effort to protect him after he reported the incidents, and he felt compelled to leave the province. In November 2017, ISKP fighters attacked Shamshad TV's station in Kabul; one staff member was killed and others were injured..<sup>405</sup>

<sup>400</sup> UN General Assembly, *The Situation of Human Rights in Afghanistan and technical assistance achievements in the field of human rights*, p. 14, 21 February 2018.

<sup>401</sup> Amnesty International, *Amnesty International Report 2017/18*, p. 68, 22 February 2018.

<sup>402</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, pp. 3 and 10; Amnesty International, *Annual report. Afghanistan 2017/2018*, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>, consulted 23 August 2018.

<sup>403</sup> Amnesty International, *Annual report. Afghanistan 2017/2018*, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>, consulted 23 August 2018.

<sup>404</sup> NAI, *Journalistic community has witnessed another loss*, 18 October 2018, <https://nai.org.af/journalistic-community-has-witnessed-another-loss/>.

<sup>405</sup> Amnesty International, *Annual report. Afghanistan 2017/2018*, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>, consulted 23 August 2018; New York Times, *A Leading Afghan TV Station Is Attacked in Kabul*, 7 November 2017, <https://www.nytimes.com/2017/11/07/world/asia/kabul-shamshad-tv-attack.html>.

In 2018, the *Afghan Journalists Safety Committee (AJSC)* recorded 121 cases of violence against journalists and media personnel, including murder, injury, threats, detention and kidnapping. Seventeen journalists and media personnel were killed in 2018. Compared with 2017, there was a decrease in violence according to the AJSC (169 cases in 2017). ISKP and the Taliban were responsible for most of the attacks in 2018, as was the case in 2017. Fifty attacks were attributed by the AJSC to ISKP and the Taliban and 44 to groups affiliated to the government. Most of these attacks (42) took place in Kabul province and nearby provinces and areas. <sup>406</sup>

On 30 April 2018, nine journalists were killed in a single attack while they were attempting to report on an earlier attack; as far as is known, this was the deadliest attack on journalists since 2001. <sup>407</sup> The AJSC reported a similar incident on 5 September 2018 when two Tolo television employees died in a car bomb attack in western Kabul while they were trying to report on an earlier suicide attack. <sup>408</sup>

The International Federation of Journalists reported that Afghanistan was the country where the highest number of journalists in the world, 16, were killed in the course of their work in 2018. <sup>409</sup>

#### 3.5.4 *Ethnic and/or religious minorities*

Afghanistan has a multi-ethnic population. Almost all Afghans are Muslims; the majority belong to the Sunni sect within Islam. Less than 0.3% of the population adheres to a different religion – mainly Hindus, Sikhs, Bahais and Christians. <sup>410</sup>

##### *Shiites*

The Afghan government does not have statistical data on the number of Sunnis and Shiites in Afghanistan. Shiite religious leaders estimate that 20 to 25% of the population adheres to this sect within Islam. Sunni religious leaders estimate the Shiites' share of the population at no more than 10%. The US Department of State reports that according to religious community leaders, 90% of the Shiite population group are from the *Hazara* ethnic group. The Hazara live mainly in the central and western provinces as well as in Kabul. During 2017, media reported at least 13 attacks on Shiite mosques or communities, resulting in more than 500 casualties. Eighty-three percent of all civilian casualties in attacks on places of worship, religious leaders and believers in 2017 were Shiites. <sup>411</sup> In 2018, UNAMA documented 19 events of sectarian-motivated violence against the Shiite Muslim community.

<sup>406</sup> Afghan Journalist Safety Center (AJSC). 2018 annual report. <http://ajsc.af/wp-content/uploads/2019/01/2018%20annual%20report.pdf>. 10 January 2019. p. 1.

<sup>407</sup> UNAMA. *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*. 24 February 2019. p. 23. [https://unama.unmissions.org/sites/default/files/afghanistan\\_protection\\_of\\_civilians\\_annual\\_report\\_2018\\_fin\\_al\\_24\\_feb\\_2019\\_v3.pdf](https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_fin_al_24_feb_2019_v3.pdf); Confidential source, 11 June 2018; SIGAR, *Quarterly report to the US congress*, p. 65, 30 July 2018, <https://www.sigar.mil/pdf/quarterlyreports/2018-07-30qr.pdf>. This incident involved a double suicide bombing near the US embassy and the headquarters of Operation Resolute Support, killing at least 25 people, including nine journalists, and injuring 45 people.

<sup>408</sup> Afghan Journalist Safety Center (AJSC). 2018 annual report. <http://ajsc.af/wp-content/uploads/2019/01/2018%20annual%20report.pdf>. 10 January 2019. pp. 1 and 3.

<sup>409</sup> Aljazeera, *Number of journalists killed on the job in 2018 rises*, 31 December 2018, <https://www.aljazeera.com/news/2018/12/number-journalists-killed-job-2018-rises-181231021858196.html>.

<sup>410</sup> US. Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 3 and 4, 2017.

<sup>411</sup> US. Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 3 and 4, 2017.

These incidents claimed 747 civilian casualties (223 killed and 524 injured). Compared to 2017, there was a 34% increase in civilian casualties as a result of such attacks. Seven of the nineteen attacks, in which there were a total of 711 civilian casualties (212 killed and 499 injured), were claimed by ISKP.<sup>412</sup>

### *The Hazaras*

The Hazaras are the third ethnic group in Afghanistan after the Pashtuns and the Tajiks. The Hazaras feel that they are an ethnic and religious minority discriminated against by other population groups. Apparently they are also often regarded by other Afghans as stooges of predominantly Shiite Iran. Although the Hazaras have reportedly made significant economic and political progress since the fall of the Taliban in 2001, this community has been subjected to increased intimidation, abductions.<sup>413</sup> and murders by the Taliban, ISKP and other AGEs.<sup>414</sup>

In a suicide attack on 17 August 2018 at an educational institution in a neighbourhood of Kabul populated by Shiite Hazara, at least 34 young people were killed and 57 were injured. These boys and girls were taking classes in preparation for admission to a university.<sup>415</sup>

On 25 August 2017, ISKP attacked a Shiite mosque in Kabul, killing at least 28 people and injuring dozens of others. Similar attacks took place on two other Shiite mosques on 20 October 2017 – one in western Kabul and the other in Ghor province – killing more than 60 people and injuring dozens of others.<sup>416</sup> In December 2017, at least 41 people, including children, died in a suicide attack in Kabul on a Shiite cultural organisation.<sup>417</sup>

During the first half of November 2018, the security situation deteriorated in the western parts of Ghazni province, where mainly Hazara live. Large-scale attacks by the Taliban led to heavy fighting and significant numbers of displaced persons. Fighting between the Taliban and pro-government militias in the Khas Uruzgan district of Uruzgan province also led to the displacement of Hazara families in

<sup>412</sup> UNAMA, *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*, 24 February 2019, p. 31, [https://unama.unmissions.org/sites/default/files/afghanistan\\_protection\\_of\\_civilians\\_annual\\_report\\_2018\\_final\\_24\\_feb\\_2019\\_v3.pdf](https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_final_24_feb_2019_v3.pdf); UNAMA-OHCHR, *Afghanistan. Protection of civilians in armed conflict. Annual report 2017*, p. 27, February 2018, <https://www.ohchr.org/Documents/Countries/AF/ProtectionCiviliansAnnualReport2017.pdf>. In 2017, UNAMA recorded 557 civilian casualties (211 killed and 346 injured) as a result of 22 sectarian attacks. For details see: UNAMA *Protection of Civilians Annual Report 2017* pp. 41-42; see also UNAMA *Special Report on Attacks against Places of Worship, Religious Leaders and Worshipers* of November 2017; US Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 13-16, 2017. ISKP claimed responsibility for 18 attacks and the Taliban for 20 attacks on places of worship, religious leaders and/or believers in 2017.

<sup>413</sup> Confidential source, 25 September 2018. In 2014 and 2015, there were a number of abductions of Hazaras travelling by bus on the highway through the province of Zabul. ISKP claimed responsibility. There were three or four such incidents in a period of six to eight months. During this period, non-Hazaras were also stopped during their journeys and abducted. In one case, according to a well-established source, the abduction turned out to be related to a private dispute over the repair of a car.

<sup>414</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, pp. 93-94, 30 August 2018; Minority Rights Group International, *No escape from discrimination: minorities, indigenous people and the crisis of displacement*, p. 17, December 2017; The Globe Post, *Attacks on Hazara Community Killing Political Efficacy in Afghanistan*, 14 May 2018, <https://theglobepost.com/2018/04/29/afghanistan-hazara-community/>, consulted on 3 December 2018; Le Monde, *A Herat le sentiment d'abandon des Hararas*, 26 August 2015, [https://www.lemonde.fr/proche-orient/article/2015/08/26/a-herat-le-sentiment-d-abandon-des-hazaras\\_4737156\\_3218.html](https://www.lemonde.fr/proche-orient/article/2015/08/26/a-herat-le-sentiment-d-abandon-des-hazaras_4737156_3218.html).

<sup>415</sup> Washington Post, *Deadly bombing of Kabul student center targeted minorities*, 17 August 2018, <https://www.bostonglobe.com/news/world/2018/08/16/bombing-student-center-kabul-highlights-threat-minority-shi-ite-youth/WpXZre8cqjkHcq89ZTwGHL/story.html>; New York Times, *Suicide attack ends Afghan dream of better life*, 17 August 2018, <https://www.nytimes.com/2018/08/16/world/asia/afghanistan-students-bombing.html?partner=rss&emc=rss>.

<sup>416</sup> Amnesty International, *Annual Report. Afghanistan, 2017/2018*, 2018.

<sup>417</sup> Amnesty International, *Annual Report. Afghanistan. 2017/2018*, 2018.

November 2018..<sup>418</sup> Hundreds of protesters marched from the western parts of Kabul to near the presidential palace in the city centre on the night of 11 to 12 November 2018. They accused the government of failing to adequately ensure security in the provinces of Uruzgan and Ghazni and, more specifically, the Khas Uruzgan district of Uruzgan province and the Malistan and Jaghori districts of Ghazni province – districts where mainly Hazara live..<sup>419</sup> Following the arrest on 25 November 2018 of Abdul Ghani Alipur, a Hazara militia leader, riots broke out in Kabul in which police checkpoints were attacked. Some police officers and demonstrators were reportedly injured, although nobody was killed. Alipur was arrested on the basis of an allegation by the security service, NDS, of corrupt practices such as extortion from merchants. He was released after intercession by Vice-President Sarwar Danish, also a Hazara, on condition that he should commit no further offences. Alipur is popular among Hazaras as his militia ensured that they could travel safely via the main road in Wardak province through areas where the Taliban was active..<sup>420</sup>

#### *Hindus and Sikhs*

Reliable data on the current size of the Hindu and Sikh communities in Afghanistan is not available. In the United States Department of State's *Afghanistan 2017 international religious freedom report*, Sikh and Hindu leaders estimate that there are currently 245 Sikh and Hindu families with a total of 1,300 people in Afghanistan. Hindus and Sikhs indicated that they were able to practise their faith in public..<sup>421</sup> Hindus and Sikhs are said to be discriminated against by the state, including when seeking access to the judicial system, political participation and government jobs. They also face social discrimination and intimidation..<sup>422</sup> Hindus and Sikhs have been victims of the illegal occupation and seizure of their land, but they have abstained from legal action for fear of retribution..<sup>423</sup>

<sup>418</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092, p. 6, 7 December 2018.

<sup>419</sup> Tolonews, *Hundreds Protest In Kabul Over Ghazni, Uruzgan Insecurity*, 12 November 2018, <https://www.tolonews.com/afghanistan/hundreds-protest-kabul-over-ghazni-uruzgan-insecurity>, consulted 13 November 2018. Ghazni province has 18 districts, among which the Malistan, Jaghori and Nawor districts had the reputation of being relatively safe. There are reports that the Taliban has started an offensive.

<sup>420</sup> The Washington Post, *Afghan authorities free Hazara fighter whose arrest ignited street clashes*, 27 November 2018, [https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia\\_pacific%2fin-afghanistan-an-anti-taliban-militia-hero-or-a-rogue-criminal%2f2018%2f11%2f26%2fab34ba4c-f16f-11e8-aeea-b85fd44449f5\\_story.html%3f&utm\\_term=.c5f14c081137](https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fasia_pacific%2fin-afghanistan-an-anti-taliban-militia-hero-or-a-rogue-criminal%2f2018%2f11%2f26%2fab34ba4c-f16f-11e8-aeea-b85fd44449f5_story.html%3f&utm_term=.c5f14c081137).

<sup>421</sup> US. Department of State, *Afghanistan 2017 International Religious Freedom Report*, p. 3, 2017; AAN, *Afghanistan election conundrum (16): Basic facts about the parliamentary elections*, 9 October 2018, <https://www.afghanistan-analysts.org/afghanistan-election-conundrum-16-basic-facts-about-the-parliamentary-elections/>. The IEC stated that among the nearly nine million registered voters there were 583 Sikhs and Hindus. This is a further indication of the small size of these communities.

<sup>422</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, p. 62, 30 August 2018; IWPR, *Afghan Hindus and Sikhs Still Struggling*, 30 November 2017, <https://iwpr.net/global-voices/afghan-hindus-and-sikhs-still-struggling>, consulted on 3 December 2018; Aljazeera, *The decline of Afghanistan's Hindu and Sikh communities*, 1 January 2017, <https://www.aljazeera.com/indepth/features/2016/12/decline-afghanistan-hindu-sikh-communities-161225082540860.html>, consulted on 3 December 2018.

<sup>423</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, p. 63, note 265, 30 August 2018. In total, according to Hindu and Sikh community leaders, some 30 pieces of land with temples have been seized by citizens in recent years. The land concerned was in the provinces of Kandahar, Ghazni and Paktya, as well as elsewhere.



Children from the Hindu and Sikh communities are often harassed by other children in ordinary Afghan schools. The communities used to have their own schools, but because many Hindus and Sikhs have left Afghanistan in recent years and their economic situation was poor, many of these schools have closed. According to the *United Nations High Commissioner for Refugees* (UNHCR), there was only one government school left for Sikh children anywhere in the country.<sup>424</sup> Many Hindus and Sikhs from Afghanistan have left for India in recent years.<sup>425</sup>

The BBC reported on a suicide attack in Jalalabad on 1 July 2018 in which at least 19 people were killed; 17 of the dead were Sikhs and Hindus. Among the victims was the only Sikh candidate who was standing in the October parliamentary elections. The attack was claimed by Islamic State (see also 2.3.3).<sup>426</sup>

### *Christians*

There was no reliable data available on the (small) number of Afghan Christians. Christians indicated that they practise their faith at home to avoid social rejection and persecution.<sup>427</sup> According to the Christian organisation *Open Doors*, most Christians in Afghanistan have a Muslim background.<sup>428</sup>

### *Converts and apostasy*

Public opinion was hostile towards converts and Christian missions.<sup>429</sup> There is no reference to apostasy in the Penal Code. The code does state, however, that those who commit hudood offences will be punished on the basis of the provisions of the Hanafi legal school. According to Islamic law, the state is the only one authorised to carry out hadd punishments<sup>430</sup> (see 3.1.1). Apostasy is one of the offences under hudood as defined by Sharia. Converting from Islam to another religion is apostasy according to the Hanafi legal school. Proselytising activities are also punishable under sharia according to the Hanafi legal school. This school of jurisprudence defines blasphemy as a crime subject to the death penalty. However, according to the *Afghanistan 2017 international religious freedom report* from the US, no cases are known of in which the government, i.e. the public prosecutor, has conducted a prosecution for apostasy or blasphemy.<sup>431</sup> See also 3.1.1.

<sup>424</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, p. 63, 30 August 2018; IWPR, *Afghan Hindus and Sikhs Still Struggling*, 30 November 2017, <https://iwpr.net/global-voices/afghan-hindus-and-sikhs-still-struggling>, consulted on 3 December 2018.

<sup>425</sup> The Independent, *India invites non-Muslim refugees to become citizens, sparking protests ahead of crunch election*, 10 January 2019, <https://www.independent.co.uk/news/world/asia/india-refugees-muslim-citizenship-amendment-bill-assam-bjp-hindu-sikh-buddhist-a8719591.html>.

<sup>426</sup> BBC, *Afghanistan blast: Sikhs among 19 dead in Jalalabad suicide attack*, 1 July 2018, <https://www.bbc.com/news/world-asia-44677823>, consulted on 3 December 2018.

<sup>427</sup> US Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 3 and 17, 2017.

<sup>428</sup> Open Doors USA, *Afghanistan*. <https://www.opendoorsusa.org/christian-persecution/world-watch-list/afghanistan/>. Consulted 27 February 2019. Open doors reports: 'There are reports that several converts were killed in the 2019 World Watch List reporting period but for security reasons, no details can be published. Even foreign Christian aid workers have been targeted and killed as recently as May 2017'.

<sup>429</sup> US Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 3 and 17, 2017.

<sup>430</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, pp. 63 and 64, August 2018; Confidential source, pp. 5 and 6, 7 November 2018

<sup>431</sup> US Department of State, *Afghanistan 2017 International Religious Freedom Report*, pp. 4 and 7, 2017; Confidential source, pp. 5 and 6, 7 November 2018; Berger, Maurits. *Klassieke Islam en vernieuwing*. 2006. Berger names apostasy as one of the hadd crimes, but states that this is controversial. 'This offence is not mentioned in so many words in the Koran, but is instituted by the *fiqh*. Whether apostasy is a *hadd* crime is therefore controversial, but the schools of law are unanimous on the penalty: death. The apostate can escape his penalty by retracting his apostasy. Apostasy is also deemed to have occurred in the case of defamation of Prophet Muhammad, to which the death penalty also applies. However, retraction is not possible in this case.'

### 3.5.5

#### *Children*

Afghanistan is a party to the International Convention on the Rights of the Child and to the optional protocol on the involvement of children in armed conflicts.<sup>432</sup> Violations of children's rights occur, including child marriages and child labour. The Afghan *Child Protection Act* of 2016, approved by the Afghan government, guarantees the rights of children in Afghan law. This law is still awaiting parliamentary approval.<sup>433</sup> Child labour is common in Afghanistan. According to Save the Children, child labour affects 29% of children.<sup>434</sup> The US Department of Labor indicated that Afghanistan made modest progress in 2017 in combating the most serious forms of child labour. The new Penal Code explicitly forbids and punishes *bacha bazi* (see below). The *High Commission for Combating Crimes of Abduction and Human Trafficking* carried out 210 awareness campaigns. The government also removed nearly 40 children from a *madrassa*, a school for Islamic education, where they were receiving military training from the Taliban. Children nevertheless remained subject to the most serious forms of child labour, including deployment in fighting and forced labour in the production of bricks. *Bacha bazi* is found in all provinces of the country and boys who were victims of this practice were often treated as criminals rather than victims. The Afghan government's labour inspectorate is not allowed to impose penalties in the case of child labour, and the government has insufficient resources to combat the worst forms of child labour.<sup>435</sup>

#### *(Forced) recruitment and press-ganging of minors*

The new Penal Code contains provisions that prohibit and criminalise the recruitment and use of children by armed forces. Despite the government's efforts to ban the recruitment of minors, this practice has continued. The *Afghan Local Police* (ALP) and pro-government militias in particular were guilty of this.<sup>436</sup> The Ministry of Interior Affairs has taken steps to prevent the recruitment of minors by the police: in 32 of the 34 provinces, there are *child protection units* at the recruitment centres. In 2017, nearly 300 applicants were rejected because they were not yet 18. In 2017, UNAMA documented several dozen cases in which boys under the age of 18 were deployed by the ANDSF.<sup>437</sup> During the first six months of 2018, UNAMA investigated the recruitment and deployment of 22 boys in the armed conflict. These boys were deployed in hostilities; in the case of armed government opponents, this included laying explosives and killing civilians.

<sup>432</sup> [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN), consulted 21 January 2019.

<sup>433</sup> Confidential source, consulted 2 August 2018; Save the children, *From Europe to Afghanistan. Experiences of child returnees*, p. 9, 2018, [https://www.savethechildren.net/article/new-report-highlights-alarming-lack-oversight-afghan-child-returns-europe-0\\_16\\_10\\_ktober\\_2018](https://www.savethechildren.net/article/new-report-highlights-alarming-lack-oversight-afghan-child-returns-europe-0_16_10_ktober_2018); Tolonews, *Govt Urged To Finalize Child Protection Act*, 6 December 2018, <https://www.tolonews.com/index.php/afghanistan/govt-urged-finalize-child-protection-act>.

<sup>434</sup> Save the Children, <https://www.savethechildren.org/us/what-we-do/where-we-work/greater-middle-east-eurasia/afghanistan>, consulted 21 January 2019.

<sup>435</sup> US Department of Labour, *Child Labour and Forced Labour Reports: Afghanistan in 2017*, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/afghanistan>, consulted 15 November 2018.

<sup>436</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, p. 54, 30 August 2018; Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>437</sup> Confidential source, 11 June 2018.

UNAMA found evidence for the recruitment and deployment of seven of these minors: four by the Taliban, two by the Afghan National Police and one boy who was used by both the national security service (NDS) and the Taliban.<sup>438</sup> According to the human rights organisation the AIHRC, there was increased recruitment of minors in Nangarhar province in 2017 by groups affiliated to ISKP.<sup>439</sup>

In 2017, at least 160 children were detained in the Parwan detention centre run by the Afghan Ministry of Defence. They were held with adults and received the same treatment. Children accused of involvement in armed groups were punished instead of being prepared for reintegration into civilian life.<sup>440</sup> The 55 young people mentioned in 1.4.2, who were part of a group of 250 ISK supporters who surrendered to the Afghan security forces on 31 July 2018, were transferred to the *Kabul Juvenile Rehabilitation Centre*, the youth prison, on 10 November 2018. These youngsters were detained without charge by the NDS, contrary to the requirements of the Penal Code.<sup>441</sup>

Both the Afghan security forces (ANDSF) and the Taliban occupied or used schools for military purposes in disputed areas. As a result, thousands of children, especially girls, have no access to education.<sup>442</sup> The United Nations investigated 16 incidents in 2017 involving military use of schools and hospitals; in ten cases the ANDSF was involved, in four cases the Taliban and in two cases ISKP. The *Norwegian Refugee Council* reported that since April 2018 at least ten schools in the province of Faryab have been damaged and occupied by armed parties: nine schools by the ANDSF and one by AGEs.<sup>443</sup> In its 2018 annual report, UNAMA states that educational facilities, as well as being targeted in election-related attacks, were also threatened and attacked by AGEs in response to military operations by government forces. ISKP particularly threatened girls' schools in Nangarhar province. From June 2018, ISKP attacked 34 such educational institutions, with 64 victims (17 killed and 39 injured), including nine children. The ISKP also planted improvised bombs in the vicinity of schools. The Taliban threatened and also attacked or set fire to schools in response to military actions by Afghan forces and other government measures. In response to a decision by the Ministry of Education to pay teachers by bank transfer instead of in cash, the Taliban ordered the closure of 342 schools in Kunduz province. The Afghan government wanted to use bank transfers to limit the possibility for the Taliban to 'tax' this income.

<sup>438</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*, p. 3, 15 July 2018.

<sup>439</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>440</sup> UN. Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture, *Concluding observations on the second periodic report of Afghanistan CAT/C/AFG/GO/2*, p. 4, 12 June 2017.

<sup>441</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security. A/73/624-S/2018/1092*, p. 9, 7 December 2018.

<sup>442</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018; VOA, *Afghan Schools Used as Military Bases By Government, Taliban*, 26 January 2017, <https://www.voanews.com/a/afghanistan-schools-used-as-military-by-government-taliban/3694992.html>.

<sup>443</sup> <https://childrenandarmedconflict.un.org/where-we-work/afghanistan/>, this information comes from the SGVN report on children and armed conflict of 16 May, (A/72/865-S/2018/465); NRC, *Afghanistan: Amid progress talks in Geneva, military use of schools put thousands of children at risk*, 28 November 2018, <https://www.nrc.no/news/2018/november/afghanistan-amid-progress-talks-in-geneva-military-use-of-schools-put-thousands-of-children-at-risk/>.

UNAMA recorded five Taliban attacks on mixed or girls' schools in Farah and Herat provinces in 2018.<sup>444</sup>

### *Bacha bazi*

The new Afghan Penal Code criminalises the sexual abuse of boys, known as *bacha bazi* in Afghanistan.<sup>445</sup> The children concerned are treated as sex slaves. Previously, according to one source, such children were considered to have committed a crime. Now they are seen as victims in need of protection.<sup>446</sup>

Warlords, police commanders, influential tribal leaders and leaders of criminal organisations force boys, usually under the age of 18, to provide social and sexual entertainment. The boys are usually dressed as girls or women and perform as dancers at parties and ceremonies. Such practices occur throughout the country.<sup>447</sup> The boys are often orphans or from poor families. Poor families sometimes force boys into *bacha bazi*, and in other cases boys are taken away under false pretences or kidnapped by others. Boys sometimes also try to help their family in this way.<sup>448</sup>

Under Chapter 5, the Code has 15 articles criminalising the practice of *bacha bazi* as well as participation in parties at which boys (usually dressed as girls) dance. Victims of *bacha bazi* are entitled to protection on the basis of Article 667 and therefore cannot be prosecuted. Those who incite children or force them into indecent and immoral activities and those who facilitate this are guilty of a criminal offence. The punishment is at least three years' detention. The punishment is increased if the offender is a family member of the child or the crime was committed for financial gain. In that case, under Article 618, the culprit may receive a maximum prison sentence of ten years. Article 654 of the same code states that a person keeping an under-age boy for dance parties or sexual pleasure will receive up to three years in prison. Training children to dance at such parties carries a maximum sentence of two years. Article 656 states that a person who forces children to dance for reasons of financial gain can be punished with a maximum of three years in detention. This penalty may be increased to a maximum of five years in the case of a repeat offence. A spectator at a *bacha bazi* party can be given a fine under Article 658 of between AFG 5,000 and 30,000.<sup>449</sup> In the event of a repeat offence, the culprit may be sentenced to between three months and one year in prison. Article 660 of the Penal Code deals with the punishment of soldiers found guilty of or complicit in *bacha bazi*. They are liable to short (maximum one year) to medium-term prison sentences (at least two years).

<sup>444</sup> UNAMA, *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*, 24 February 2019, pp. 15 and 16.

<sup>445</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>446</sup> Confidential source, 24 September 2018. The source made this comment in connection with the new Penal Code.

<sup>447</sup> Confidential source, p. 12, 7 November 2018; UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*, p. 3, 15 July 2018; The Journal.ie: *Stolen boys: Life after sexual slavery in Afghanistan*, 1 July 2017, <http://www.thejournal.ie/sex-slave-afghanistan-bacha-bazi-children-3464413-Jul2017/>.

<sup>448</sup> The Afghan Dispatch, *Bacha Bazi, the ugly life of Afghanistan's "dancing boys"*, 9 March 2017, <https://www.afghandispatch.com/bacha-bazi/>; Daily mail, *The secret shame of Afghanistan's bacha bazi 'dancing boys' who are made to dress like little girls, then abused by paedophiles*, 7 January 2016, <https://www.dailymail.co.uk/news/article-3384027/Women-children-boys-pleasure-secret-shame-Afghanistan-s-bacha-bazi-dancing-boys-dress-like-little-girls-make-skirts-abused-paedophiles.html>.

<sup>449</sup> 1,000 afghani is around €11.50, [https://www.wisselkoers.nl/afghaanse\\_afghani](https://www.wisselkoers.nl/afghaanse_afghani), consulted 19 December 2018.

In the event that bacha bazi parties result in sexual intercourse with the children involved, a conviction may lead to a more severe sentence (Articles 663, 664 and 666) of up to 20 years of additional imprisonment.<sup>450</sup>

The government takes little action against violations of the ban on bacha bazi. The application of this article, according to one source, is a challenge: the judicial system is not functioning properly and there is enormous corruption. In the case of bacha bazi, the offenders are often powerful people – warlords and military commanders.<sup>451</sup> In January 2017, the Afghan national border police in Paktika province were involved in sexually abusing and then shooting dead a 13-year-old boy. The Afghan national police conducted an investigation and arrested suspects who were sentenced to six years in prison for this murder.<sup>452</sup> During the first half of 2018, UNAMA documented the sexual abuse of six boys, for the purpose of bacha bazi, by the Afghan national police and the Afghan local police.<sup>453</sup>

#### *Child marriages*

Child marriages still occur despite the legal minimum age of 16 for girls and 18 for boys laid down in the Afghan Civil Code. On 18 April 2017, the First Lady, Rula Ghani, launched a national action plan against child and forced marriage (2017-2021).<sup>454</sup>

The implementation of the action plan announced by the First Lady has fallen behind schedule due to lack of financial resources.<sup>455</sup>

According to research by UNICEF and the Ministry of Labour and Social Affairs, the number of child marriages has fallen by 10% in the last five years. Despite this, the number remains high: in 42% of households at least one child under the age of 18 is married.<sup>456</sup> See also 3.5.6 on forced marriages.

#### *Access to education*

The education system managed by the Afghan Ministry of Education (MOE) consists of three levels: primary education (grades one to six), secondary education (grades seven to nine) and higher secondary education (grades ten to twelve).

<sup>450</sup> Confidential source, pp. 10-12, 7 November 2018. Article 666 titled "Aggravated Punishments in Cases of *Bacha Bazi*" explains that the punishment for *bacha bazi* shall be aggravated in the following circumstances:

1. When a perpetrator has retained more than one child in his/her custody for *bacha bazi*;
2. When the victim(s) are children below 12 years of age;
3. When poverty of the child has led to his involvement in crimes mentioned under this chapter;
4. When the crime has been committed by relatives or someone with legal authority over the child;
5. When the crimes have been committed by someone with influence on the child; and
6. When the crime leads to adverse physical or psychological implications for the child.

<sup>451</sup> Confidential source, 24 September 2018; US Department of Labour, *Child Labour and Forced Labour Reports: Afghanistan in 2017*, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/afghanistan>, consulted 15 November 2018; UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, p. 86, 30 August 2018; IWPR, *Boys Sold for Sex in Afghan Province*, 2 March 2017, <https://iwpr.net/global-voices/boys-sold-sex-afghan-province>.

<sup>452</sup> Amnesty International, *Annual report. Afghanistan 2017/2018*. Information from UNAMA. <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan/>, consulted 23 August 2018.

<sup>453</sup> UNAMA, *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*, p. 3, 15 July 2018.

<sup>454</sup> UNICEF, *Child Marriage in Afghanistan: Changing the narrative*, 24 July 2018; Confidential source, consulted 2 August 2018.

<sup>455</sup> Confidential source, 11 June 2018; Confidential source, 25 September 2018.

<sup>456</sup> Confidential source, 30 July 2018.

In general, the ages of school-going children are seven to twelve years for primary education, thirteen to fifteen years for secondary education and sixteen to eighteen years for higher secondary education. Although it is a legal requirement that all children must complete grade nine, according to Human Rights Watch the Afghan government lacks the resources to offer this level to all children and has no system to ensure that all children go to school. In practice, many children do not have access to education, or, if they do, it is often only to primary education..<sup>457</sup> UNICEF estimates in a report that 3.7 million children do not go to school in Afghanistan, which represents 43.7% of children of primary school age..<sup>458</sup> According to UNICEF, girls account for 60% of children who do not go to school..<sup>459</sup>

The actual number of school-going children in Afghanistan has always been an estimate. Statistics of all kinds, even basic population data, are often difficult to obtain in Afghanistan and of doubtful accuracy..<sup>460</sup> According to a World Bank report, more than 9.2 million Afghan children and young people were enrolled in school in 2016..<sup>461</sup> Human Rights Watch, the spokesperson for the Afghan Ministry of Education and other education officials provide similar figures for the number of children attending school..<sup>462</sup>

Since the fall of the Taliban in 2001, girls have regained access to the education system. In general, the position of schoolchildren in Afghanistan is very vulnerable. Attacks on students and schools are a significant cause of school closures..<sup>463</sup> The current humanitarian crisis in Afghanistan has further aggravated the already vulnerable education system. More than a thousand schools have been destroyed, damaged or occupied as a result of conflicts and insecurity..<sup>464</sup> Due to cultural, economic and safety-related restrictions, girls usually leave school at the age of 14 and boys at the age of 16..<sup>465</sup>

While the number of girls going to school remains considerably lower than the number of boys, the fact that girls go to school at all is an improvement on the time of Taliban rule, when women and girls were forbidden from attending school..<sup>466</sup> In some areas, the Taliban works with the government in the areas it controls so that education continues to be provided.

<sup>457</sup> Human Rights Watch, "*I Won't Be A Doctor, and One Day You'll Be Sick*": *Girls' Access to Education in Afghanistan*, 9, October 2017; UNICEF, *Global initiative on out-of-school children*, p. 9, 2018.

<sup>458</sup> UNICEF, *Global initiative on out-of-school children*, p. IX, 2018.

<sup>459</sup> <https://www.unicef.org/afghanistan/education>.

<sup>460</sup> <https://afghanistan.unfpa.org/en/node/15230>. Consulted 10 January 2019. The last census dates from 1979 and was incomplete.

<sup>461</sup> Worldbank, *Afghanistan: promoting education during times of increased fragility*, p. 21, 2018.

<sup>462</sup> Human Rights Watch, "*I Won't Be A Doctor, and One Day You'll Be Sick*": *Girls' Access to Education in Afghanistan*, pp. 37 - 38, October 2017; New York Times. *A New Push Is On for Afghan Schools, but the Numbers Are Grim*. 1 April 2018. <https://www.nytimes.com/2018/04/01/world/asia/afghanistan-schools-taliban.html>; AAN, *A Success Story Marred by Ghost Numbers: Afghanistan's inconsistent education statistics*, 13 March 2017, consulted on 26 September 2018.

<sup>463</sup> Worldbank, *Afghanistan: promoting education during times of increased fragility*, p. 16, 2018.

<sup>464</sup> UNOCHA, *Humanitarian Needs Overview*, 20, December 2017; Worldbank, *Afghanistan: promoting education during times of increased fragility*, p. 16, 2018.

<sup>465</sup> Confidential source, 28 September 2018.

<sup>466</sup> Aljazeera, *Afghan Girls' Struggle for Education*, 10 June 2018, <https://www.aljazeera.com/indepth/features/aid-money-afghan-girls-struggle-education-180606134316480.html>, consulted on 30 August 2018.

In the province of Helmand, for example, the Taliban has made written agreements with the government to ensure that education is provided and schools remain open under Taliban control.<sup>467</sup>

Boys from the age of 16 are often forced to work, which means they can no longer go to school. Also, many of them become the family breadwinners when the father is gone.<sup>468</sup> According to Human Rights Watch, two-thirds of girls between the ages of 12 and 15 do not attend school.<sup>469</sup> A third of girls in Afghanistan marry before the age of 18, which forces them out of education. Also, due to the low proportion of female teachers, many girls cannot go to school.<sup>470</sup> Other reported obstacles for school-going girls are poverty, lack of family support, lack of sanitation, lack of access to identity documents and long distances to school.<sup>471</sup>

Schoolgirls can become the victims of abduction or sexual harassment on the way to school. A single kidnapping can lead to families in a community keeping their children, especially girls, at home.<sup>472</sup> Even if the distance to school is short, sexual harassment by boys and men on the way can prevent girls from going to school. In Kandahar province, after men intimidated and threatened girls on their way to school, people in the community no longer allowed their daughters to attend.<sup>473</sup> Schoolgirls with an alleged western lifestyle may be at higher risk of sexual harassment.<sup>474</sup>

### 3.5.6 Women

Afghan society is changing fast. Globalisation and the consequences of the crises that Afghans face have had a major impact on their lives and their relations, including those between generations, between educated and uneducated, between rural and urban residents, and between men and women.<sup>475</sup> The position of women did not improve in general during the reporting period. However, there has been some progress in the major cities in the areas of education, food and living standards. Armed opposition groups are the de facto rulers in the countryside and they impose their own values and principles on the population. They generally do not recognise women's rights according to international standards.<sup>476</sup>

<sup>467</sup> Confidential source, 25 September 2018; Confidential source, 26 September 2018.

<sup>468</sup> Confidential source, 28 September 2018; Human Rights Watch, "I Won't Be A Doctor, and One Day You'll Be Sick": *Girls' Access to Education in Afghanistan*, p. 12, October 2017.

<sup>469</sup> HRW, *15 Years After Forces Overthrew Taliban, Afghanistan Failing Its Girls*, 15 November 2017, consulted on 25 October 2018.

<sup>470</sup> UNOCHA, *Humanitarian Needs Overview*, 20 December 2017.

<sup>471</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, pp. 84-85, 30 August 2018;

<sup>472</sup> Human Rights Watch, *Girls' Access to Education in Afghanistan*, 17, October 2017; Human Rights Watch, "I Won't Be A Doctor, and One Day You'll Be Sick": *Girls' Access to Education in Afghanistan*, p. 17, 20, October 2017.

<sup>473</sup> Human Rights Watch, "I Won't Be A Doctor, and One Day You'll Be Sick": *Girls' Access to Education in Afghanistan*, p. 74, October 2017.

<sup>474</sup> Confidential source, 28 September 2018.

<sup>475</sup> Die Zeit. *Von Wandel zerrissen; die Globalisierung und die Folgen der Kriege schleudern die Afghanen in eine neue, ihnen unbekannt Welt. Die Folgen für die Psyche der Menschen sind enorm.* 22 October 2018. <https://www.zeit.de/feature/afghanistan-globalisierung-wertewandel-tradition-zukunft>.

<sup>476</sup> Confidential source, p. 5, 7 December 2018.

Since the fall of the Taliban regime in 2001, the overall position of women in Afghanistan has improved somewhat. For example, the Afghan government has taken measures to increase women's political participation and a Ministry of Women's Affairs has been established.<sup>477</sup>

The annual survey by the *Asia Foundation* of Afghans' perceptions of all aspects of their lives shows that there is improvement – albeit very slowly – in women's rights and women's participation in public life in Afghanistan.<sup>478</sup> Despite the progress made since 2001, Afghan women and girls still face systemic problems. The difference between city and countryside is large.<sup>479</sup>

Women continue to face serious and persistent discrimination, violence, forced marriages, restrictions on working and studying and limited access to justice. Many women in Afghanistan experience physical, sexual and/or psychological violence.<sup>480</sup> Factors such as culture, economics, geography, ethnicity and religion distinguish women's social position. The vast majority of educated women are in the cities, while uneducated women tend to live in the countryside. The position of women differs per province. For example, in Kandahar, a province with a Sunni conservative population, few women have attended school, but in Daikundi province, many girls go to school. In large cities such as Kabul, Mazar-i Sharif and Herat, women's social position is better than in the provinces. Women's social position is better among Shiites because they have more independence, enabling them to participate in education and work.<sup>481</sup>

#### *Participation in public life*

Women encounter obstacles to participation in public life in Afghanistan. MPs, members of the provincial councils, civil servants, journalists, lawyers, police officers, teachers, human rights activists and women working for international organisations faced frequent intimidation, threats and violence. They are seen as 'immoral' by some Afghans because they are contravening social norms.<sup>482</sup> Despite this, more women hold a position of power in Afghanistan than ever before.<sup>483</sup>

The NUG has various action plans in the areas of education for girls, gender-based violence and women's political participation, but few budgetary resources are available to implement them. The Afghan government has a target that 30% of those in government service should be women. According to the Ministry of Women's Affairs, the figure is currently 22%. During the reporting period, women's rights were promoted at universities and through social media, such as campaigns for more liberal clothing for women athletes, campaigns against street harassment, and the call for men to call women by name (and not 'wife').<sup>484</sup>

According to a US Department of State report from 2017, women make up just 7% of the workforce in Afghanistan.<sup>485</sup> Women face numerous barriers to working, including intimidation, discrimination and violence, as well as practical obstacles

<sup>477</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, pp. 66-67, 30 August 2018.

<sup>478</sup> The Asia Foundation. 2018 Survey of Afghan People Shows Women's Rights are Complicated. 5 December 2018. <https://asiafoundation.org/2018/12/05/2018-survey-of-afghan-people-shows-womens-rights-are-complicated/>

<sup>479</sup> Human Rights Watch. *Country Summary. Afghanistan*. January 2018.

<sup>480</sup> Bertelsmann Stiftung, *BTI 2018 Country Report – Afghanistan*, p. 19, 2018.

<sup>481</sup> Confidential source, 28 September 2018; Confidential source, 24 September 2018.

<sup>482</sup> Country of Origin Report on Afghanistan. November 2016; UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 45-46, 30 August 2018.

<sup>483</sup> Bertelsmann Stiftung, *BTI 2018 Country Report – Afghanistan*, p. 19, 2018;

Confidential source, 30 September 2018.

<sup>484</sup> Confidential source, consulted 2 August 2018; Confidential source, 11 June 2018.

<sup>485</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 35-36, 2017.



such as lack of work experience, work skills and education..<sup>486</sup> *The Institute for War and Peace Reporting (IWPR)* writes of a 25-year-old woman who has a university degree and cannot find a suitable job for someone with her qualifications. More than half of the educated women she knows cannot find a job, even though they have overcome numerous obstacles to study..<sup>487</sup> Female journalists are at high risk of intimidation and threats..<sup>488</sup> Many female journalists work under a pseudonym to avoid recognition, intimidation and retaliation..<sup>489</sup> IWPR gives the example of Sadaf, a woman with a flourishing career in the media. She works under a pseudonym and is frustrated because she cannot use her real name..<sup>490</sup> Female police officers are also often victims of intimidation and violence. A secure residential area is being built in Kabul for Afghan female police officers. The complex is being built to guarantee the safety of policewomen and their families..<sup>491</sup>

Afghanistan has a two-chamber system in which a minimum number of seats must be held by women..<sup>492</sup> For the October 2018 elections, 417 female candidates campaigned for a seat in the 250-member Afghan parliament. The Afghan constitution reserves 27% of seats for women. According to World Bank figures, 28% of MPs were women in 2017..<sup>493</sup>

Access to education and healthcare remains a major challenge for women and girls, according to a report from the Asia Foundation..<sup>494</sup> Many Afghans object to education for women if it forces women to travel from home. Due to high travel costs and long distances to health centres, Afghan women have less access to healthcare than men. The social pressure to be accompanied by a *mahram* also forms an obstacle preventing women from going to health centres. The following may be a mahram: the husband or immediate male relatives whom the woman may not marry under sharia law, i.e. father, brother, paternal and maternal uncles and cousins whom she may not marry..<sup>495</sup>

<sup>486</sup> UN Women Afghanistan, <http://asiapacific.unwomen.org/en/countries/afghanistan>, consulted on 22 January 2019.

<sup>487</sup> IWPR, *Few jobs for educated women*, 5 December 2017, <https://iwpr.net/global-voices/afghanistan-few-jobs-educated-women>.

<sup>488</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, pp. 50-51, 30 August 2018.

<sup>489</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 18, 2017.

<sup>490</sup> Aljazeera, *Copland? A town in Afghanistan for female police officers*, 10 September 2018, consulted on 5 November 2018, <https://www.aljazeera.com/news/2018/09/copland-town-afghanistan-female-police-officers-180910075954500.html>; IWPR, *Afghanistan: Female Reporters Hide Their Identities*, 8 March 2018, <https://iwpr.net/global-voices/afghanistan-female-reporters-hide-their>, consulted on 26 September 2018.

<sup>491</sup> Khaama Press, *Construction of a Major Town for the Afghan Women Police celebrated in Kabul*, 9 April 2018, <https://www.khaama.com/construction-of-a-major-town-for-the-afghan-women-police-celebrated-in-kabul-04834/>, consulted on 25 October 2018.

<sup>492</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 18, 2017.

<sup>493</sup> Confidential source, consulted 2 August 2018; Confidential source, 11 June 2018.

<sup>494</sup> The Asia Foundation, *A Survey of the Afghan People. Afghanistan 2017*, p. 30, November 2017.

<sup>495</sup> Ministry of Foreign Affairs. Country of Origin Report on Afghanistan. November 2016;

UNAMA, *Afghanistan: Protection of civilians in armed conflict. Annual Report 2017*, pp. 9-10, February 2018.

Under traditional prevailing culture, especially in rural areas, it is not acceptable for a woman to visit a male doctor for medical treatment.<sup>496</sup>

There are no legal barriers prohibiting women from travelling by public transport.<sup>497</sup>

In practice, however, it is often risky for women to travel alone – not just in the countryside, but also in large cities such as Kabul.<sup>498</sup>

In Afghanistan, as a result of the prevailing culture and associated social pressure, women are often accompanied by a mahram outside the home.<sup>499</sup> The idea behind this is that the mahram can support the woman should she experience problems.<sup>500</sup>

This pressure is greatest in rural areas<sup>501</sup> and areas under the control of the Taliban and other AGEs.<sup>502</sup>

There are few facilities that allow women to travel alone by public transport without the risk of being harassed by men. However, there are buses on which women can take a seat in a separate section. Some employers arrange their own transport for female employees.<sup>503</sup>

Although this is not required by law, it is customary for women in Afghanistan, both Sunnis and Shiites, to wear a headscarf – including in Kabul. The way the headscarf is worn varies according to family or ethnicity. The burqa is also still common, especially among the Pashtun.<sup>504</sup> Women cover themselves with a headscarf or burqa because of religious and social tradition, but also to feel better protected against intimidation.<sup>505</sup>

<sup>496</sup> Bertelsmann Stiftung, *BTI 2018 Country Report – Afghanistan*, p. 19, 2018; Confidential source, 30 September 2018.

<sup>497</sup> Confidential source. 10 February 2019

<sup>498</sup> Confidential source. 10 February 2019; Confidential source. 25 September 2018. This source gives as an example the problems that female students from outside Kabul encounter when studying in Kabul. If a female student walks alone in the street or takes a taxi alone in the evening, there is a risk that she will be arrested by the police or stopped at a checkpoint and taken in for questioning. The first assumption is that she is a prostitute or is carrying on a secret love affair. This can cause major problems for the person concerned, especially if she has no family in the city.

<sup>499</sup> Confidential source, 10 February 2019; Confidential source. 25 September 2018. This source gave the following explanation: 'When you are found not in company of any of these mahrams, and on your own in public space, there is always a underlying assumption that you are there to commit some sort of sexual relationship with an unknown man, or that you are running away from your acknowledged male guardian, to another male that is not your guardian, and all of that is prohibited under islam. It is all considered wrong under islam. Sharia in itself does not say that if you are not found in the company of your male guardian that you have to be punished. It is tradition incorporated with religion, which has led to this conclusion in Afghanistan that if women are not in the company of the legal guardian, the assumption is that they want to commit some sort of sexual relationship. But traditionally even under the Hafani jurisprudence, there is nothing that says that if a community finds a woman in such public space you have to punish her, there is nothing in sharia that says that. So it is a lot of practice patriarchy coming into play and the male domination in society'.

<sup>500</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 77, 30 August 2018; AREU, *Women in Agriculture in Afghanistan*, p. 2, July 2017; Confidential source, 28 September 2018.

<sup>501</sup> Premiere urgence. *Finding ways to help women to get access to healthcare in Afghanistan*. 19 June 2017. <https://www.premiere-urgence.org/en/women-s-health-in-afghanistan/>

<sup>502</sup> UNAMA, *Afghanistan: Protection of civilians in armed conflict. Annual Report 2017*, pp. 9-10, February 2018. On 21 August 2017, the Taliban in Faryab province shot a 25-year-old woman dead after she had travelled in a shared taxi without a mahram.

<sup>503</sup> Swedish Committee for Afghanistan, *Women and Girls Have Right to Travel Without Being Harassed*, 24 December 2018, <https://swedishcommittee.org/blog/women-and-girls-have-right-travel-without-being-harassed/>; Worldbank, *Making higher education accessible to Afghan women*, 11 June 2018, <http://blogs.worldbank.org/endpovertyinsouthasia/making-higher-education-accessible-afghan-women>; <http://www.afghanistans.com/Information/Economy/Transportation.htm>; Confidential source, 24 September 2018.

<sup>504</sup> Country of Origin Report on Afghanistan, November 2016.

<sup>505</sup> EASO, *Country of Origin Information Report: Afghanistan Individuals targeted under societal and legal norms*, pp. 34-35, December 2017.

In rural areas and areas under the control of AGEs in particular, women who violate social norms, for example by not wearing a headscarf or burqa, are threatened and discriminated against.<sup>506</sup>

#### *The position of single women*

In Afghanistan it is very unusual to live as a single woman. Women are seen as the property of their father before they become the property of their husband.<sup>507</sup> It is unsafe for women to live alone, and single women move around outside the home in groups. Without male protection, women are at greater risk of being harassed and discriminated against.<sup>508</sup> A single mother can go into the street without being bothered if she is accompanied by a son. Boys from the age of seven can play this role of chaperone.<sup>509</sup>

Divorced women find themselves in an insecure situation. Neither Afghan society nor the government sees young divorced women as adults who can function independently of a man. Divorced women may not be able to return to their father's house, or may be considered a burden to the family. They are sometimes forced to hand over their property, their housing rights and the custody of their children to the man or the man's family.<sup>510</sup> In the eyes of Afghan society, a widow is a 'woman without identity or protection'. Widows are regarded as a burden in Afghanistan because they are seen as an additional economic responsibility.<sup>511</sup> There are estimated to be around 2.5 million widows in Afghanistan. Women are often illiterate and have little or no experience working outside the home, which means they have few opportunities to earn money when their husbands die. At best, they may receive 150 dollars per year from the government if their husband died in military action. Many Afghan widows survive by doing domestic work in other houses, by begging or by sending out their children to beg.<sup>512</sup>

<sup>506</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 77, 30 August 2018.

<sup>507</sup> The Daily Mail, *Afghanistan's 'Hill of Widows' Live in a World Apart*, 23 June 2017, <https://www.dailymail.co.uk/wires/afp/article-4631438/Afghanistans-hill-widows-live-world-apart.html>, consulted on 3 October 2018.

<sup>508</sup> EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, pp. 61-62, December 2017; The Daily Mail, *Afghanistan's 'Hill of Widows' Live in a World Apart*, 23 June 2017, <https://www.dailymail.co.uk/wires/afp/article-4631438/Afghanistans-hill-widows-live-world-apart.html>, consulted on 3 October 2018; IGUACU, *Women of War – Behind the Frontlines in Afghanistan*, 29 November 2017, <https://blog.politicsmeanspolitics.com/the-anxiety-ridden-wives-of-afghanistans-security-forces-55d6d81b43e0>, consulted on 3 October 2018.

<sup>509</sup> Confidential source, 28 September 2018.

<sup>510</sup> EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 57, December 2017; New York Times, *In Afghanistan, 'I Feel Like a Divorced Woman Is Up for Grabs*, 17 April 2017, <https://www.nytimes.com/2017/04/17/world/asia/afghan-women-divorce.html>, consulted on 27 August 2018.

<sup>511</sup> ACCORD, *Query Response on Afghanistan: Rights of Single Mothers (Widows and Divorced Women): Legislation and Practices*, 2 June 2017.

<sup>512</sup> The Daily Mail, *Afghanistan's 'Hill of Widows' Live in a World Apart*, 23 June 2017, <https://www.dailymail.co.uk/wires/afp/article-4631438/Afghanistans-hill-widows-live-world-apart.html>, consulted on 3 October 2018; Japan Times, *War Widows in Afghanistan Pay a Heavy Price for their Husbands' Sacrifice*, 4 December 2017, <https://www.france24.com/en/20171204-afghan-war-widows-pay-heavy-price-husbands-sacrifice>, consulted on 3 October 2018.

A widow is often completely dependent on her husband's family. There is a high chance that she will marry an available brother or cousin. Women usually have little say in the matter, although occasionally one will refuse to remarry.<sup>513</sup> When a woman who has lost her husband is forced to remarry, she usually becomes the man's second or third wife, so that she has a husband who can take care of her family. Women who choose to remarry outside the family risk losing custody of their children.<sup>514</sup> According to the customary law of the Pashtun population group, the woman is part of the estate. When the husband dies, the widow must marry her brother-in-law or cousin.<sup>515</sup>

Article 194 of the new Penal Code states that a woman may request a divorce at the court if the husband has been away without a reasonable excuse for a period of three years or more. After hearing the request for divorce from the wife, the court will inform the husband in writing and set a period within which he must return to his family. If he remains absent without reasonable excuse or if it is impossible to notify him, the court will rule on the divorce. In practice, however, the three-year period is not followed, and women will wait for years longer unless they are young, in which case they will marry a male relative of the missing husband. This protects the honour of the family. According to Article 196 of the Penal Code, a woman whose husband has been given a prison sentence of ten years or more in a final judgment of a court may seek a divorce after five years.<sup>516</sup>

#### *The position of Westernised Afghan women*

This section deals with Afghan women and girls who have been abroad for a long time. Women who have adopted Western values and/or a Western appearance are at risk of being targeted by AGEs.<sup>517</sup> It can be difficult for Afghan women and girls who have become accustomed to the freedoms and independence in Western countries to adjust to the social restrictions in Afghanistan. They are expected to be submissive and adapt to what men decide; if they rebel against this, they are likely to be threatened. In Western countries women can go wherever they like without male accompaniment, but in Afghanistan this is very unusual and unsafe, especially outside the big cities. Women are at risk if they do so.<sup>518</sup> In Afghanistan, women also have to re-adapt to the strict standards that apply to clothing, appearance and behaviour, especially in public. They cover themselves with a burqa, niqab or headscarf to feel more protected and because of religious and social tradition. Failure to observe these clothing standards can be risky.<sup>519</sup>

<sup>513</sup> The New York Times. *A Generation of Widows, Raising Children Who Will Be Forged by Loss*. 1 December 2018. <https://www.nytimes.com/2018/12/01/world/asia/afghanistan-widows-war.html>.

<sup>514</sup> ACCORD, *Query Response on Afghanistan: Rights of Single Mothers (Widows and Divorced Women): Legislation and Practices*, p. 2, 2 June 2017; TED Ideas, *A Rare, Intimate Look at the Lives of Single Mothers in Afghanistan*, 27 October 2017, <https://ideas.ted.com/a-rare-intimate-look-at-the-lives-of-single-mothers-in-afghanistan/>; Confidential source, 30 September 2018.

<sup>515</sup> Bundesamts für Fremdenwesen und Asyl, *AfPak: Principals of the Tribal & Clan Structure*, p. 48, 5 April 2017.

<sup>516</sup> Confidential source, p. 26, 7 November 2018.

<sup>517</sup> Australian Government Department of Foreign Affairs and Trade, *DFAT Country Information Report*, p. 31, 18 September 2017;

<sup>518</sup> EASO, *Country of Origin Information Report: Afghanistan Individuals targeted under societal and legal norms*, pp. 105-106, December 2017; Confidential source, 25 September 2018.

<sup>519</sup> EASO, *Country of Origin Information Report: Afghanistan Individuals targeted under societal and legal norms*, pp. 35-37, December 2017; Confidential source, 25 September 2018.

Girls/women who went to school in Western countries are also used to going to school with boys/men. In Afghanistan, the worlds of men and women are kept more separate.<sup>520</sup> When someone is identified as a person from abroad, it is often assumed that they come from a wealthy family. They are therefore at risk of being kidnapped, for example so that a ransom can be demanded.<sup>521</sup>

Afghan women who have lived in Western countries for a long time, been educated there and come to cities such as Kabul, Herat or Mazar-i Sharif are more likely than local women to find work, for example at an international organisation.<sup>522</sup>

#### *Forced marriages*

Article 70 of the Civil Code states that men may marry at the age of 18 and women at the age of 16. Article 71 states that with the permission of the girl's father or a competent court, a girl may marry at the age of 15. Paragraph 2 of Article 71 adds that the marriage of girls under the age of 15 is not permissible under any circumstances.<sup>523</sup> In practice, however, the age at which boys and girls are allowed to marry is determined on the basis of puberty, so that girls do sometimes marry before the age of 15. Due to the lack of registration of marriages, there is hardly any supervision of the marriage of children.

The forced marriage of adult women is a regular occurrence in Afghanistan.<sup>524</sup> The forced marriage of young girls with (older) men also occurs in Afghanistan, with girls being married off before the legal age of 16.<sup>525</sup> Girls who do not go to school are at greater risk of being married off. Due to safety problems, parents do not let their daughters go to school. Because families believe that they are unable to take care themselves of their daughters in the unsafe conditions in Afghanistan, the daughters are married off.<sup>526</sup> Poverty is often a reason for families to arrange marriage for their daughters: girls are sometimes married off to much older men in exchange for money.<sup>527</sup> The IWPR gives the example of Zargar, who as a 14-year-old schoolgirl was sold for 14,000 dollars to a 65-year-old man in March 2017. She was then abused and humiliated by her husband, his brothers and even his other wives.<sup>528</sup> The consequences of early marriage are very harmful to girls. Married girls are often excluded from education and face serious health risks, including death as a result of pregnancy at a young age.<sup>529</sup>

<sup>520</sup> Confidential source, 25 September 2018.

<sup>521</sup> Confidential source, 25 September 2018.

<sup>522</sup> Confidential source, 25 September 2018.

<sup>523</sup> Confidential source, pp. 23-24, 7 November 2018; UNICEF, *Child Marriage in Afghanistan: Changing the narrative*, p. 24, July 2018

<sup>524</sup> HRW, *Girls' Access To Education in Afghanistan*, p. 52, 17 October 2017.

<sup>525</sup> Freedom House, *Freedom in the World 2018: Afghanistan*, p. 18, 2018; EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 40, December 2017.

<sup>526</sup> HRW, *Girls' Access To Education in Afghanistan*, pp. 53-54, 17 October 2017.

<sup>527</sup> Pahjwok, *Forced marriage: a cultural dimension of human trafficking*, 1 March 2017, <https://www.pahjwok.com/en/2017/03/01/forced-marriage-cultural-dimension-human-trafficking>, consulted on 1 October 2018.

<sup>528</sup> IWPR, *Afghanistan: Children or Brides?*, 7 August 2018, <https://iwpr.net/global-voices/afghanistan-children-or-brides>, consulted on 24 October 2018.

<sup>529</sup> Confidential source, 28 September 2018; HRW, *Girls' Access To Education in Afghanistan*, pp. 53-54, 17 October 2017.

Young Afghans are starting to question the tradition of arranged marriage, leading to conflict because young people are less willing to submit to their parents' wishes. *Die Zeit* gives as an example the story of Marwa, a young woman from the suburbs of Herat. She has fallen in love with a boy and is fighting for her right to choose her husband herself. Her parents want her to enter into a marriage arranged by them. Less than 20 years ago, arranged marriages were rarely questioned by young people.<sup>530</sup>

#### *Violence against women*

The implementation of legislation to protect women's rights in Afghanistan, in particular the *Elimination of Violence Against Women* law (EVAW law), is taking place slowly.<sup>531</sup> The Afghan public prosecutor has reported that when prosecution cases under the EVAW law occur, most prosecutors try to use mediation. Many female victims feel compelled to accept this under pressure from family and justice officials.<sup>532</sup>

In Afghanistan, violence against women is seen as a private or family matter. It is not usual to talk about family conflicts, violence and personal problems.<sup>533</sup> Afghan women are therefore less inclined to report violence outside their families, and this contributes to the under-reporting of sexual and domestic violence against women.<sup>534</sup> Although Afghanistan has good laws on paper, including on women's rights, the problem is that these laws are not being observed.<sup>535</sup> Justice is largely administered via the informal legal system. The formal legal system is characterised by corruption, which means that people do not go to court but resort to traditional ways of making decisions about cases.<sup>536</sup> Men responsible for domestic violence almost always go unpunished. Because women are often economically dependent on their husbands, many women do not report violence when the perpetrator is the husband.<sup>537</sup>

The EVAW law, which has been in force since 2009 by presidential decree, has made it possible to criminalise violence against women (rape, enforced prostitution, persecution or harassment, causing injury or disability, exchanging women in conflict resolution (*baad*), polygamy, forced marriages and marriages with minors). The EVAW law does not criminalise marital rape or the rape of men and boys.<sup>538</sup> In the case of violence against women, the EVAW law provides for the possibility of prosecuting the perpetrator in Article 39, which states that legal proceedings and the prosecution of offenders must be based on the charge filed by the victim or her lawyer. The victim may withdraw her case at any stage of the legal proceedings.<sup>539</sup>

In urban areas such as Kabul, Herat and Mazar i-Sharif there are courts where formal justice is administered, but few such courts exist outside the cities.<sup>540</sup>

<sup>530</sup> *Die Zeit*, *Vom Wandel zerrissen*, 22 October 2018, <https://www.zeit.de/feature/afghanistan-globalisierung-wertewandel-tradition-zukunft>, consulted on 23 October 2018.

<sup>531</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, p. 57, 19 April 2016.

<sup>532</sup> Human Rights Watch, *World Report 2018: Afghanistan: Events of 2017*, p. 3.

<sup>533</sup> *Die Zeit*, *Vom Wandel zerrissen*, 22 October 2018, consulted on 23 October 2018.

<sup>534</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, p. 25-26, May 2018.

<sup>535</sup> Confidential source, 30 September 2018; Confidential source, 7 November 2018.

<sup>536</sup> Confidential source, 30 September 2018; Confidential source, 25 September 2018; Confidential source, 25 September 2018.

<sup>537</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 73, 30 August 2018.

<sup>538</sup> Country of Origin Report on Afghanistan, November 2016.

<sup>539</sup> Confidential source, 7 November 2018, p. 28.

<sup>540</sup> Confidential source, 25 September 2018; Confidential source, 25 September 2018.

Women often experience discrimination within the legal system when they want to report abuse or other forms of violence.<sup>541</sup> According to Human Rights Watch, research conducted in 2017 and 2018 shows that the police routinely refuse to register cases. Instead, they tell women who have experienced domestic violence to return to their husbands.<sup>542</sup> Especially in villages and rural areas there is a severe lack of access to the legal system for women. As a result, many cases of violence against women are never registered.<sup>543</sup> The resolution of the vast majority of incidents of violence is still sought through traditional mediation and not through prosecution as required by law, thus undermining the implementation of the EAW law.<sup>544</sup>

The Afghan public prosecutor has reported that when prosecution cases under the EAW law occur, most prosecutors try to use mediation. Many female victims feel compelled to accept this under pressure from family and justice officials. According to data from the Afghanistan Independent Human Rights Commission (AIHRC), which investigated 5,575 cases of violence against women in late 2016, these were often not registered with the authorities.<sup>545</sup> The Afghan government issued its fifth report on the enforcement of the EAW law on 28 March 2018. This report, which covers the period from March 2016 to March 2017, mentioned 4,290 cases of violence against women.<sup>546</sup>

A young woman, Soraya, told *Human Rights Watch* that she went to the police after her husband had attacked her with a knife and her father-in-law had raped her. When she tried to report the matter, an officer told her that they would not register her case because it was not important enough. She had to resolve the matter with her family.<sup>547</sup>

Women's rights activists point out that when women approach the formal justice system, this is often the last resort for them. They usually only do so when there is repeated serious violence or when previous mediation has not worked.<sup>548</sup>

Courts often fail to deal with family issues and refer them back to the informal justice system, which seeks resolution through mediation. Given the prevailing traditions, the position of women is weak, as it is the village elders (men) who pass judgment.<sup>549</sup>

<sup>541</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 70, 30 August 2018; US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 28, 2017.

<sup>542</sup> Human Rights Watch, *Human Rights Watch Submission to the Universal Periodic Review of Afghanistan*, p. 5, 16 December 2018.

<sup>543</sup> AIHRC, *Human rights situation of women and girls living in the villages in Afghanistan*, p. 20, February 2017; Confidential source, 25 September 2018.

<sup>544</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, pp. 6 and 24, May 2018.

<sup>545</sup> Human Rights Watch. *Country Summary. Afghanistan*. January 2018

<sup>546</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security*, S/2018/539, p. 9, 6 June 2018.

<sup>547</sup> Human Rights Watch, *Afghan Government Ignoring Violence Against Women*, 30 May 2018, <https://www.hrw.org/news/2018/05/30/afghan-government-ignoring-violence-against-women>, consulted on 21 August 2018.

<sup>548</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, p. 25-26, May 2018.

<sup>549</sup> Confidential source, 30 September 2018;

Many women do not seek legal support because they do not know their rights, or because they are afraid of being prosecuted or sent back to their family or the perpetrator.<sup>550</sup> Women's access to the legal system is further hampered by the fact that female police officers make up less than 2% of all police officers in Afghanistan. Female police officers are themselves at risk of sexual harassment and abuse at the workplace.<sup>551</sup> Moreover, impunity is a serious problem in Afghanistan. Most women who seek help use traditional ways to resolve the conflict, which often works to the perpetrator's advantage.<sup>552</sup> Although neither the Afghan Penal Code nor the EAW law allows mediation in criminal cases, many criminal cases are still resolved in this way. UNAMA documented countless mediation cases between August 2015 and December 2017.<sup>553</sup>

Conservative traditions make it very hard for Afghan women to talk openly with a man about their problems, and there are few women working in the justice system in Afghanistan. The IWPR gives the situation in the province of Kandahar as an example. As the only female prosecutor in Kandahar province, Zainab handled nearly 50 cases of violence against women in 2017. A woman from the Panjwai district had reported domestic violence after ten years because she was able to share her story with a female prosecutor, which meant she was able to talk openly and honestly about the domestic violence. Due to the lack of female employees in the justice system, many women are forced to mediate instead of having the case handled in the formal system, especially in cases of sexual violence. The IWPR gives the example of a 37-year-old woman, Anisa, from the city of Gardez in Paktia province. She wanted to divorce her violent husband, but was forced to drop the case because she could not find a female lawyer. She had to resolve her case through a *jirga*, which ruled that her husband was no longer allowed to mistreat Anisa. If he carried on doing so, he would be fined.<sup>554</sup> From March 2017 to March 2018, according to an AIHCR report, 168 cases of violence against women were transferred to the Special Prosecution Office for Combating Violence Against Women. Forty-nine of these cases were resolved through mediation, 42 cases were handed over to the court, 32 cases were deferred pending the submission of the required documents by the defendant and in 31 cases the legal proceedings were withdrawn by the parties.<sup>555</sup>

<sup>550</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 27, 2017; Oxfam Novib, *Fighting for women's rights in Afghanistan, a door-to-door job*, <https://www.oxfam.org/en/afghanistan/fighting-womens-rights-afghanistan-door-door-job>.

<sup>551</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 73, 30 August 2018; UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, p. 7, 15 April 2017.

<sup>552</sup> Associazione Diritti e Frontiere, *Under Warlords, Rule Solidarity Party of Afghanistan Celebrates International Women's Day*, 15 May 2018, <https://www.a-dif.org/2018/05/15/under-warlords-rule-solidarity-party-of-afghanistan-celebrates-international-womens-day/>, consulted on 2 October 2018.

<sup>553</sup> IWPR, *Afghanistan: Sexual Violence Needs Justice, Not Mediation*, <https://iwpr.net/global-voices/afghanistan-sexual-violence-needs-justice-not>, 29 June 2018, consulted on 24 October 2018; UNAMA, *Injustice and Impunity, Mediation of Criminal Offences of Violence against Women*, p. 6, May 2018.

<sup>554</sup> IWPR, *Women Sidelined from Services in Afghan Province*, 1 August 2018, <https://iwpr.net/global-voices/women-sidelined-from-services-afghan-province>, consulted on 24 October 2018; [http://cso.gov.af/Content/files/Population\(3\).pdf](http://cso.gov.af/Content/files/Population(3).pdf). According to the Central Statistical Organisation of Afghanistan (2013-2014), the province of Kandahar is 54,850 km<sup>2</sup> in size, with a population density of 21 people per km<sup>2</sup>. Consulted 10 December 2018.

<sup>555</sup> AIHCR, *Summary of the Report on Violence Against Women: The Causes, Context, and Situation of Violence Against Women in Afghanistan*, p. 5, 11 March 2018.



*Legal status of women*

Plans to modify family law, including provisions on divorce, were not made concrete.<sup>556</sup>

The Afghan Shiites have the constitutional right to regulate family matters for their own community by law. In 2009, a special law for Afghan Shiites was adopted, the *Shia Personal Status Law*. This contains a number of articles that limit the rights of Afghan Shiite women. Among the matters covered by these articles are child marriage, polygamy, inheritance law, self-determination, freedom of movement and guardianship.<sup>557</sup>

*Legal capacity*

Legal capacity does not depend on gender or marital status. Article 39 of the Civil Code states that a person is an adult at the age of 18 (according to the Islamic solar calendar). An adult has full legal capacity.<sup>558</sup> On the basis of civil law, women have the same legal capacity as men, but they do not usually have equal rights. For example, a woman does not receive custody of her children if her husband dies: it is awarded to her parents-in-law. In early childhood (up to the age of seven years for boys and nine for girls) children are 'under the care' of the mother by law, but in practice this is not usually the case. Often they are more or less forced to marry another man from their deceased husband's family so as not to lose the children.<sup>559</sup> Under civil law and Islamic jurisprudence, women (as daughter or widow) have the right to inherit, but much less than what a husband or son inherits. Divorced women are not entitled to inherit. In practice, women usually inherit nothing under customary law unless they marry a male relative from among their in-laws. It is easier for men to divorce than women, although it is legally possible for both. A divorce is considered a disgrace for a woman, because she has failed to protect her marriage, even if she seeks the divorce on grounds of abuse.<sup>560</sup>

In general, women in the informal judicial system have less legal capacity than in the formal judicial system, but even in the formal judicial system women often face discrimination if they bring a case. Limited access to money to pay fines (or bribes), the lack of female officials to consult and the need for a male guardian have a negative impact on women's access to and participation in the judicial system.<sup>561</sup>

<sup>556</sup> Human Rights Watch, *World report 2018. Afghanistan events*, <https://www.hrw.org/world-report/2018/country-chapters/afghanistan>.

<sup>557</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 70, 30 August 2018.

<sup>558</sup> Confidential source, p. 23, 7 November 2018; <https://www-cdn.law.stanford.edu/wp-content/uploads/2015/10/Civil-Code-of-Afghanistan-ALEP-Translation.pdf>. Article 46 of the Civil Code states that 'Civil status of persons who attain eighteen years shall be recorded in special registration books in accordance with provisions stated in articles (47-48-49-50) of this Law'.

<sup>559</sup> Free Women Writers, *What Life is Like for Afghan Widows*, 23 June 2017, <https://www.freewomenwriters.org/2017/06/23/life-afghan-widows-afghanistan/>; Country of Origin Report Afghanistan, November 2016.

<sup>560</sup> EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 82, December 2017; Free Women Writers, *What Life is Like for Afghan Widows*, 23 June 2017, <https://www.freewomenwriters.org/2017/06/23/life-afghan-widows-afghanistan/>; Country of Origin Report Afghanistan, November 2016.

<sup>561</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, pp. 25-26, May 2018; UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 70, 30 August 2018; Country of Origin Report Afghanistan, November 2016.

Afghan women are also generally unaware of their rights in the judicial system. According to a UNAMA report, on average 83% of women are illiterate. Due to the high levels of illiteracy and the obstacles to leaving the house or village, a large proportion of Afghan women have no direct access to legal information or social networks that can help them understand the legal system.<sup>562</sup>

The Afghan constitution stipulates that nobody can be prohibited from owning and acquiring property. According to Sharia, the Afghan constitution and other applicable laws, women can acquire the same property rights as men. Despite the formal legal provisions that allow women to own land, very few women actually do so.<sup>563</sup> From a legal point of view, preventing the acquisition of property by women is considered an act of violence against women. According to Article 34 of the EAW Law, a person who takes inherited property from a woman or prevents her from acquiring it, depending on the circumstances, will be sentenced to up to three months' imprisonment. The property will be returned to the woman.<sup>564</sup> Due to the prevailing discriminatory attitude towards women, however, property is often assigned in formal and informal processes to older sons or male family members. Widows who inherit land often pass it on to their sons. In the absence of male family members, women can own inherited land. Sometimes widows are recognised at local level as the owner of a piece of land. They rarely register these rights in their own name, but do so in the name of a male family member instead.<sup>565</sup>

In large cities there are women who run businesses and own property, and in many cities they receive education. Some universities also encourage women to be economically independent. However, violations are widespread. Sometimes family members do not allow women to choose their profession, husband, school or university. The social climate prevents most women from taking part in cultural, social and economic activities. Banks are often unwilling to provide loans to female entrepreneurs unless a male family member has approved and supported her loan application.<sup>566</sup>

### *Zina*

Sexual intercourse outside marriage between two individuals is referred to with the term 'zina' in Afghanistan and is a criminal offence. Under Article 643 of the Penal Code, zina is interpreted as intercourse between a man and a woman outside the legal marriage. Zina can be committed both by someone who is married and by unmarried couples, and only relates to sexual contact between a man and a woman.<sup>567</sup> Zina is a 'moral' offence and is seen by Afghan society as deeply shameful.<sup>568</sup>

Sexual acts outside marriage are widely seen in Afghanistan as a disgrace for the family, putting those involved – including victims of rape by someone outside the family – at risk of rejection, forced abortion, imprisonment or even death. Victims often do not dare to report sexual or gender-related violence due to social taboos

<sup>562</sup> UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, p. 32, May 2018.

<sup>563</sup> AREU, *Land Governance Assessment Framework Afghanistan: Final Report*, p. 63, June 2017; EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 82, December 2017.

<sup>564</sup> Confidential source, p. 24, 7 November 2018.

<sup>565</sup> AREU, *Land Governance Assessment Framework Afghanistan: Final Report*, p. 63, June 2017; EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 82, December 2017.

<sup>566</sup> Confidential source, p. 6, 7 December 2018.

<sup>567</sup> Confidential source, p. 7, 7 November 2018.

<sup>568</sup> EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, p. 43, December 2017.

and out of fear of stigmatisation and retribution, including by their own community or family.<sup>569</sup>

Zina is hard to prove in Islamic law: four male witnesses must confirm the charge, giving detailed testimony.<sup>570</sup> Under the new Afghan Penal Code from 2017, zina is a punishable offence. Article 644 states that if the party is married, he/she may be sentenced to no more than two years in prison. If an unmarried person commits zina, he/she will receive less than two years in prison.<sup>571</sup> Article 636 contains a clearer and more comprehensive definition of rape.<sup>572</sup> Article 17 of the EAW law, in accordance with Article 636 of the Penal Code, states that if a man rapes a girl or a woman, he will be sentenced to life imprisonment. If the rape results in the death of the victim, the offender will be sentenced to death. The offender will also have to pay an amount equal to the dowry as compensation to the victim or to the victim's family in the event of death.<sup>573</sup>

Although both men and women can be prosecuted for *zina*, it is almost exclusively women who are prosecuted.<sup>574</sup> Women are also punished more severely than men for zina or adultery. Often the only evidence in the case is the confession of a woman. According to Human Rights Watch, when a woman is arrested for zina, the police collect statements under intimidating conditions. It is not unknown for formal courts to carry out corporal punishment for zina, despite the fact that this is against Afghan law.<sup>575</sup> Women are often condemned as having committed zina, when in most cases they are the victims of rape. To obtain proof of zina, many women who have been accused are subjected to a virginity test. A government-appointed doctor determines whether the woman is still a virgin by internal examination. If she is not, this is seen as proof of *zina* and the woman is convicted.<sup>576</sup> In July 2018, the Afghan Ministry of Health announced a new policy by which government health workers are no longer allowed to perform these virginity tests.<sup>577</sup>

<sup>569</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 72, 30 August 2018.

<sup>570</sup> Confidential source, p. 7, 7 November 2018.

<sup>571</sup> Confidential source, p. 8, 7 November 2018.

<sup>572</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 73, 30 August 2018.

<sup>573</sup> Confidential source, p. 20, 7 November 2018; Afghanistan Public Policy Research Organization, *New Penal Code and EAW Law: To Incorporate or Not to Incorporate?*, pp. 13-14, July 2018.

<sup>574</sup> Country of Origin Report on Afghanistan, November 2016.

<sup>575</sup> EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, pp. 43-47, December 2017.

<sup>576</sup> Country of Origin Report on Afghanistan, November 2016.

<sup>577</sup> HRW, *A Step Toward Ending 'Virginity Exams' in Afghanistan*, 10 July 2018, <https://www.hrw.org/news/2018/07/10/step-toward-ending-virginity-exams-afghanistan>, consulted on 25 October 2018.

An NGO reported that in one prison alone in Balkh province, 200 girls were being held on the basis of the virginity test. The detention conditions were poor and they were also at risk of being raped by prison officials. Those involved were usually detained for more than a year and when released might be rejected by their family..<sup>578</sup>

The risk of being accused of zina is a strong deterrent from reporting rape for women. Women rarely approach the Afghan authorities on their own initiative to report rape, with a few exceptions where rape has led to a pregnancy..<sup>579</sup> As indicated in the November 2016 official report, there are many women in detention who have been convicted of zina (adultery or other illicit sexual relations). It is estimated that almost half of all women (and almost all girls) in prison in Afghanistan have been convicted of 'moral offences',..<sup>580</sup> when what they have really done is to violate social conventions by running away from home, rejecting a suitor or fleeing domestic violence or rape. Running away from home or fleeing a domestic situation is not punishable under the Penal Code, but Article 130 of the Constitution states that in cases not covered in the Constitution or other laws, the court may act in a manner consistent with Hanafi jurisprudence. This often means a zina conviction..<sup>581</sup>

During the reporting period, 163 cases of moral offences (mainly zina) were recorded at the public prosecutor's office. How many of these women were actually detained was not disclosed..<sup>582</sup> When women run away from home, they are often trying to escape from domestic violence. However, rather than being helped they are punished because they have run away from home without permission..<sup>583</sup> In February 2016, under increasing pressure from human rights activists, President Ghani promised to prevent women accused of running away from their families from being locked up, but Afghan police and prosecutors continue to detain girls for moral crimes such as running away from home..<sup>584</sup> A few examples of this are given in an article in *The Diplomat*. For instance, Humaira ran away from home at the age of 13 to escape *baad*: marrying off a girl to resolve a feud between families. Because she had run away, she was accused of a 'moral offence' and sent to prison.

<sup>578</sup> Marie Stopes International, *Breakthrough could lead to an end to virginity testing in Afghanistan*, 23 July 2018. <https://www.mariestopes.org/news/2018/7/breakthrough-could-lead-to-an-end-to-virginity-testing-in-afghanistan/?page=0>.

<sup>579</sup> Wimpelmann, Torunn, *Adultery, rape, and escaping the house*, CMI Working Paper, p. 12, December 2017.

<sup>580</sup> Penal Reform International, *Eliminating violence against women in the criminal justice system*, 21 November 2017, <https://www.penalreform.org/blog/eliminating-violence-women-criminal-justice-system/>, consulted on 3 October 2018.

<sup>581</sup> Confidential source, p. 10, 7 November 2018.

<sup>582</sup> Confidential source, p. 30, 7 November 2018.

<sup>583</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, pp. 78-79, 30 August 2018; Ministry of Foreign Affairs, *Country of Origin Report Afghanistan*, November 2016.

<sup>584</sup> The Guardian, *Breakthrough made in fight to end virginity testing in Afghanistan*, 5 July 2018, <https://www.theguardian.com/global-development/2018/jul/05/breakthrough-fight-to-end-virginity-testing-afghanistan>, consulted 18 September 2018; Human Rights Watch, *End 'Moral Crimes' Charges, 'Virginity' Tests*, 25 May 2016, <https://www.hrw.org/news/2016/05/25/afghanistan-end-moral-crimes-charges-virginity-tests>, consulted 18 September 2018; UNAMA, *Treatment of Conflict-Related Detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture*, p. 6, April 2017.

Eighteen-year-old Sumaira is also in prison. Sumaira was raped by her uncle at the age of 16 and became pregnant. When her family found out she was pregnant, she told them what had happened. Her uncle accused her of seducing him and claimed that she was lying. The uncle was never prosecuted and Sumaira was convicted of zina.<sup>585</sup>

During the reporting period, no death sentences were pronounced and carried out for adultery or zina.<sup>586</sup> However, penalties were pronounced and carried out by AGEs for zina. In 2017, UNAMA documented four cases in which AGEs pronounced and carried out the death penalty on women accused of committing 'moral crimes'.<sup>587</sup> On 7 March 2017, the Taliban convicted and stoned a woman accused of adultery in Badakhshan province.<sup>588</sup> In August 2017, a woman was shot dead by Taliban members in Jawzjan province. The woman had fled to a shelter several months earlier due to domestic violence. After local mediation, she returned, but was then dragged from her home and shot by Taliban members.<sup>589</sup> In Herat province, the Taliban shot a woman dead on 6 September 2017, accusing her of committing adultery.<sup>590</sup>

#### *Shelter options*

To avoid violence, women can go to shelters. According to the New York Times and a confidential source, there are around 40 women's shelters in Afghanistan, run by NGOs.<sup>591</sup> The UN has stated that there are 26 shelter projects in 21 provinces, at least two of which were forced to reduce their services due to lack of resources.<sup>592</sup> Women who cannot be reunited with their families are often forced to remain in the shelter. The women's shelters are mainly concentrated in the western, northern and central regions of Afghanistan. Because most reception centres are in cities, rural women have difficulty accessing them. The shelters are regarded as highly disreputable, and religious scholars have problems with the idea that there are places where women who run away from home can find shelter. Conservative Afghans view the shelters as Western attacks on Afghan culture.<sup>593</sup> Shelters are also blamed for the disintegration of families and the breakdown of the social order.<sup>594</sup> The authorities have also placed women who were victims of domestic violence in detention centres when there were no shelters available to protect them against further abuse.<sup>595</sup>

### 3.5.7

#### *LGBTI*

The law does not offer protection for LGBTI (lesbian, gay, bisexual, transgender and intersex) people, who face rejection by society and abuse from the police. Sexual acts between persons of the same sex are illegal under the Penal Code and under

<sup>585</sup> The Diplomat, *The Women in Afghanistan's Moral Prisons*, 8 March 2017, <https://thediplomat.com/2017/03/the-women-in-afghanistans-moral-prisons/>, consulted on 26 September 2018.

<sup>586</sup> Confidential source, p. 16, 7 November 2018.

<sup>587</sup> UNAMA, *Afghanistan: Protection of civilians in armed conflict. Annual Report 2017*, p. 10, February 2018.

<sup>588</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 27, 2017.

<sup>589</sup> Amnesty International, *Amnesty International Report 2017-2018*, page 67, 22 February 2018.

<sup>590</sup> UNAMA, *Afghanistan: Protection of civilians in armed conflict. Annual Report 2017*, p. 10, February 2018.

<sup>591</sup> New York Times, *Shelters Have Saved Countless Afghan Women. So Why Are They Afraid?*, 3 March 2018, <https://www.nytimes.com/2018/03/17/world/asia/afghanistan-womens-shelters.html>, consulted on 20 December 2018; Confidential source, pp. 29-30, 7 November 2018.

<sup>592</sup> UNGASC, *The situation in Afghanistan and its implications for international peace and security. A/73/624-S/2018/1092*, p. 9, 7 December 2018.

<sup>593</sup> Confidential source, pp. 29-30, 7 November 2018.

<sup>594</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 27, 2017; EASO, *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, pp. 59-60, December 2017; IWPR, *Afghanistan: Women Seek Refuge in Safe Houses*, 20 April 2017, <https://iwpr.net/global-voices/afghanistan-women-seek-refuge-safe-houses>; Country of Origin Report Afghanistan, November 2016.

<sup>595</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, p. 8, 2017.

sharia law.<sup>596</sup> In Afghanistan, under a law prohibiting sex between individuals who are not married to each other, sexual relations between people of the same sex carry a prison sentence of between five and fifteen years.<sup>597</sup> Homosexuality is regarded as an offence in the new Penal Code. Articles 645 and 649 of the Code state that if a woman is found in an intimate position with another woman (performing sexual acts) or if a man performs a sexual act other than actual penetration, each of the persons involved is liable to a short-term prison sentence. Article 147 describes a short-term sentence as between three months and one year.<sup>598</sup> If a man has anal sex with a woman or a man, this is punishable by up to two years in prison on the basis of Articles 646 and 647 of the Penal Code. Article 648 states that the penalty is more severe if the offence was committed by the suspect with a relative in the third degree; with a chaperone, teacher or servant, as the suspect has authority over or influences these persons in some way; and/or if the person who is the victim of the offence becomes infected with a sexually transmitted disease. As far as is known, the Afghan government has not initiated criminal proceedings and/or imposed penalties either in cases of voluntary sexual acts between persons of the same sex, or in cases where one of the persons involved was a minor.<sup>599</sup>

Homosexuality is a taboo in Afghanistan. Many Afghans regard it as unislamic and immoral. Homosexual men are liable to be imprisoned, or to be murdered by family members in honour killings.<sup>600</sup> The Afghan law offers no protection against discrimination or intimidation based on sexual orientation or gender identity. According to a *US Department of State* report from 2017, members of the LGBTI community had no access to certain health services and could be dismissed because of their sexual orientation. Organisations dedicated to protecting the freedom of the LGBTI community remained underground because they could not legally register with the government and to avoid being attacked. Members of the LGBTI community report that they face discrimination and abuse.<sup>601</sup> The police do not offer protection to LGBTI people.

<sup>596</sup> Freedom House, *Freedom in the world 2018. Afghanistan profile*, <https://freedomhouse.org/report/freedom-world/2018/Afghanistan>, Consulted 21 August 2018.

<sup>597</sup> Human Rights Watch, *Country summary Afghanistan*, January 2018.

<sup>598</sup> Confidential source, p. 9, 7 November 2018.

<sup>599</sup> Confidential source, p. 10, 7 November 2018; Confidential source, p. 2, 7 December 2018. Not since the fall of the Taliban in 2001 according to the source.

<sup>600</sup> Radio Free Europe Radio Liberty, 'Fake Life': *Being Gay in Afghanistan*, 12 September 2017, <https://www.rferl.org/a/afghanistan-being-gay-fake-life/28731934.html>, consulted on 3 December 2018; Open Democracy, 'I am not safe'. on the run as a gay man in Afghanistan, 3 March 2017, <https://www.opendemocracy.net/5050/ritu-mahendru/i-am-not-safe-on-run-as-gay-man-in-afghanistan>, consulted on 3 December 2018.

<sup>601</sup> US Department of State, *Country Reports on Human Rights Practices for 2017*, pp. 32-33, 2017; Human Rights Watch, *Afghan LGBT Asylum Seekers in UK Among Most Vulnerable*, 27 February 2017, <https://www.hrw.org/news/2017/02/26/afghan-lgbt-asylum-seekers-uk-among-most-vulnerable>, consulted on 3 December 2018.

Instead, there have been reports of police officers who subject LGBTI people to harassment, violence (including rape), arrest and detention based on their orientation..<sup>602</sup>

### 3.5.8

#### *Ex-communists*

For the position of ex-communists and in particular of people who held positions under the former communist regime as well as ex-communists who worked for the security service Khad-Wad, see the country of origin report of November 2016 and section 3.3 of this report on the *National Stability and Reconciliation law*, which granted an amnesty to all those involved in armed conflicts before the formation of the Interim Administration in Afghanistan in December 2001.

Many former members of the People's Democratic Party of Afghanistan (PDPA) and ex-employees of the former intelligence services Khad and WAD currently work for the Afghan government. Various sources indicate that the Chairman of the National Security Council Hanif Atmar, who resigned in August 2018, was a former Khad-Wad employee..<sup>603</sup>

Abdul Jabar Qahraman, a former general during the communist period and in recent years an MP and in 2016 briefly security adviser to the president for Helmand province in southern Afghanistan, was campaigning as a parliamentary candidate when he was murdered by the Taliban at his campaign office in Helmand province in mid-October 2018..<sup>604</sup> The *Afghanistan Analysts Network* reported that Qahraman was the initiator of the re-establishment of Hezb-e Watan: he held several meetings for this purpose. Hezb-e Watan was the PDPA's successor in 1990 during President Najibullah's administration. The party was dissolved by the then mujahedin government in 1992. Several requests to regain recognition for the party were rejected by the Ministry of Justice, with which all parties must be registered..<sup>605</sup>

<sup>602</sup> UNHCR, *Eligibility Guidelines For Assessing The International Protection Needs of Asylum-Seekers From Afghanistan*, p. 89, 30 August 2018; Australian Government department of Foreign Affairs and Trade, *DFAT Country of Information Report Afghanistan*, p. 22, 18 September 2017.

<sup>603</sup> Afghan biographies, *Who is who in Afghanistan. Atmar, Hanif resigned*, [http://afghan-bios.info/index.php?option=com\\_afghanbios&id=226&task=view&total=3424&start=424&Itemid=2](http://afghan-bios.info/index.php?option=com_afghanbios&id=226&task=view&total=3424&start=424&Itemid=2), consulted 10 December 2018; The New York Times, *Afghan president pressured, reshuffles cabinet*, 2008, <https://www.nytimes.com/2008/10/12/world/asia/12afghan.html?mtrref=www.google.nl&qwh=3A4B3278A233EE509A4916455EAA5EF5&gwt=pay>; Confidential source, 17 January 2019.

<sup>604</sup> The Telegraph. Taliban sofa bomb kills prominent Afghan election candidate. 17 October 2018; AAN. The Ghost of Najibullah: Hezb-e Watan (another) relaunch. 21 August 2017. <https://www.afghanistan-analysts.org/the-ghost-of-najibullah-hezb-e-watan-announces-another-relaunch/>

<sup>605</sup> AAN. The Ghost of Najibullah: Hezb-e Watan (another) relaunch. 21 August 2017. <https://www.afghanistan-analysts.org/the-ghost-of-najibullah-hezb-e-watan-announces-another-relaunch/>

At the end of 2017, the United Nations emphasised in its *2018 humanitarian needs overview Afghanistan* that it regarded Afghanistan as one of the most complicated humanitarian emergencies. This emergency situation was characterised by deteriorating security conditions, with the result that by the end of 2017 there were more than a million people in a new<sup>606</sup> displacement situation.<sup>607</sup> The total number of internally displaced persons as a result of conflicts at the end of 2017 was more than two million out of an estimated population of 34.5 million.<sup>608</sup> Around 2.6 million Afghans were living as refugees outside Afghanistan at the end of 2017, particularly in Pakistan and Iran.<sup>609</sup>

Afghanistan is regularly hit by natural disasters. On average, according to OCHA, a quarter of a million Afghans suffer the consequences of natural disasters such as floods and landslides every year. Nearly four decades of conflicts have also made Afghanistan especially vulnerable to drought due to the destruction or poor maintenance of irrigation infrastructure.<sup>610</sup> The United Nations indicated in early January 2019 that 10.2 million Afghans were affected by the food crisis brought about by drought; 3.6 million of these were so severely affected that they urgently needed humanitarian assistance. People in the west of the country in the provinces of Herat, Ghor and Badghis have been particularly affected by the drought.<sup>611</sup>

After a period of slowing economic growth in the period 2014–2017, with a low of 1.5% growth in 2015, the World Bank foresaw economic recovery for 2017 with expected economic growth of 2.7%, partly as a result of budgetary reforms and a sharp increase in exports; inflation was expected to remain stable (at around 3%) in 2018.<sup>612</sup> The *Central Statistics Office* of Afghanistan indicated that the picture of stagnation and deterioration in many indicators in recent years must be seen against the background of a deteriorating security situation, the large number of returnees from neighbouring countries (see 4.3), the reduced international presence in and aid to Afghanistan and macroeconomic conditions. It also drew attention to other factors such as the low level of education and high population growth. Afghanistan has an extremely young population: almost half of the population consists of children under the age of 15. The average Afghan household has 7.7 people. About 44% of the population lives in overcrowded accommodation, defined as a household with more than three people per room.<sup>613</sup>

<sup>606</sup> OCHA, *2018 Humanitarian needs overview*, page 5, December 2017. OCHA's reference to a new displacement situation means that (at the end of 2017) for more than 50% of those displaced as a result of conflicts in Afghanistan, this was at least the second time that this had happened, compared to 7% five years earlier.

<sup>607</sup> OCHA, *2018 Humanitarian needs overview*, p. 5, December 2017.

<sup>608</sup> Amnesty International, *Annual report 2017/2018*, 2018, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report>; OCHA, *2018 Humanitarian needs overview*, p. 6, December 2017.

<sup>609</sup> Amnesty International, *Annual report 2017/2018*, 2018, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report>.

<sup>610</sup> OCHA, *2018 Humanitarian needs overview*, p. 8, December 2017.

<sup>611</sup> Confidential source, 30 July 2018; Confidential source, 10 January 2018.

<sup>612</sup> The World Bank, *Afghanistan Development Update*, pp. I and II, August 2018, <http://documents.worldbank.org/curated/en/985851533222840038/pdf/129163-REVISED-AFG-Development-Update-Aug-2018-FINAL.pdf>.

<sup>613</sup> Islamic republic of Afghanistan, *Afghanistan Living Conditions Survey. 2016–2017*, Executive summary, [http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web\\_rev.pdf](http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web_rev.pdf).



According to the World Bank's half-yearly *Development Update*, the Afghan economy is still growing (at an estimated rate of 2.4% for 2018, but possibly less in the event of political instability), but despite this poverty is increasing (with population growth is estimated at 2.9%).<sup>614</sup> According to the United Nations, around 39% of the Afghan population live under the UN poverty threshold of 1.90 dollars per day. <sup>615</sup>. The Afghan government states that the proportion of poor people in the population has risen from 38.3% in 2011-2012 to 55% in 2016-2017. Nearly sixteen million Afghans live in poverty.<sup>616</sup> An estimated ten million people have little or no access to essential healthcare. Three and half million children do not go to school in Afghanistan. The infant mortality rate is among the highest in the world, although it is steadily decreasing: 68 out of every 1,000 babies born alive die. Afghanistan is also one of the two countries in the world where polio is endemic.<sup>617</sup>

The Afghan economy consists largely of informal and illegal activities, including the opium trade. That trade in turn creates instability.<sup>618</sup> According to statistics from the Afghan government, unemployment increased from 22% in 2013-2014 to 24% in 2016-2017. There is a severe lack of employment. Only 13% of the population has suitable work or work that is not characterised by job insecurity or poor working conditions. There are few jobs for young people: youth unemployment (between the ages of 15-24) is around 31%. The chance of finding a job for young women is much smaller than for their male peers.<sup>619</sup>

#### 4.1 Displaced persons

In 2016, more than 652,000 Afghans (about 96,000 families) fled armed conflicts and sought refuge elsewhere in Afghanistan. In 2016, on average, more than 1,500 people felt the need to leave their homes every day. The more than 650,000

<sup>614</sup> Worldbank, *Afghanistan Development Update*, August 2018. <http://documents.worldbank.org/curated/en/985851533222840038/pdf/129163-REVISED-AFG-Development-Update-Aug-2018-FINAL.pdf>; Islamic republic of Afghanistan, *Afghanistan Living Conditions Survey. 2016-2017*, [http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web\\_rev.pdf](http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web_rev.pdf); unfpa, *Population dashboard*, <https://www.unfpa.org/data/world-population/AF>, Consulted 3 December 2018.

<sup>615</sup> The UN poverty threshold is USD 1.90 per day, <https://www.un.org/sustainabledevelopment/poverty/>, consulted 29 November 2018. The Central Statistics Office indicated in May 2018 that more than 54% of the population lives below the poverty line; in 2007 the figure was 34%. According to the Minister of Economic Affairs, 85% of the population in rural areas lives below the poverty line. A survey was conducted among 155,000 Afghans from 34 provinces about poverty, food security, unemployment, the labour market and education. The results indicated that 44% of the population lacked food security and the unemployment rate was 24%; Ariana news, *Over 54% of Afghans live under poverty line*, <https://ariananews.af/over-54-percent-of-afghans-live-under-poverty-line-cso/>, consulted 29 November 2018; Central Statistics Office, *Afghanistans living survey 2016-2017*, <https://washdata.org/sites/default/files/documents/reports/2018-07/Afghanistan%20ALCS%202016-17%20Analysis%20report.pdf>.

<sup>616</sup> OCHA, *2018 Humanitarian needs overview*, p. 5, December 2017; Islamic republic of Afghanistan, *Afghanistan Living Condition Survey. 2016-17*, [http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web\\_rev.pdf](http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web_rev.pdf); The World Bank, *Afghanistan Development Update*, p. II, August 2018, <http://documents.worldbank.org/curated/en/985851533222840038/pdf/129163-REVISED-AFG-Development-Update-Aug-2018-FINAL.pdf>.

<sup>617</sup> OCHA, *2018 Humanitarian needs overview*, p. 5, December 2017; Islamic republic of Afghanistan, *Afghanistan Living Condition Survey. 2016-17*, [http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web\\_rev.pdf](http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web_rev.pdf); Unicef, <https://data.unicef.org/country/afg/>, consulted 22 January 2019.

<sup>618</sup> World Bank, *The World Bank in Afghanistan: Overview*, 10 April 2018, <http://www.worldbank.org/en/country/afghanistan/overview>.

<sup>619</sup> Islamic Republic of Afghanistan, *Afghanistan Living Conditions Survey. 2016-17*, Survey, [http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web\\_rev.pdf](http://cso.gov.af/Content/files/ALCS/ALCS%20-%202016-17%20Analysis%20report%20-%20pre-print%20for%20web_rev.pdf).

displaced persons from 2016 joined the more than one million long-term displaced. Most of the displaced sought protection from communities in the local area that were already experiencing extreme poverty. The majority live in shelters they have built themselves and unauthorised settlements with hardly any access to basic services; others live in shared and overcrowded rented accommodation or move in with relatives.<sup>620</sup> Many of the internally displaced population have had to flee several times in their lives due to insecurity. Many sell or leave their land and property due to lack of security, threats of violence or forced recruitment or for other reasons and settle permanently elsewhere, usually in areas where they have ethnic or family ties. This large-scale displacement and the large number of returnees from the region (see 4.3.) have contributed to urbanisation, and have also put even more pressure on basic services. Around the city of Kabul alone, there were more than 50 slums in 2016 where an estimated 55,000 displaced Afghans lived.<sup>621</sup> The province of Kabul – and more specifically the capital – attracts the most migrants in the country, both those who move within the country and those who return from abroad. Other provinces that attract many migrants are Balkh, Herat and Kandahar.<sup>622</sup>

In 2017, an estimated 474,000 Afghans were displaced.<sup>623</sup> Up to mid-September 2018, UNOCHA registered 225,166 new displaced persons (32,762 families) as a result of conflicts, particularly in the northeast, northern and western regions.<sup>624</sup> By the first half of November 2018, the number of new displaced persons in 2018 had risen to 289,000.<sup>625</sup> This was 33% lower than at the same point in the previous year.<sup>626</sup>

## 4.2 Refugees

Afghanistan has been a party to the UN Refugee Convention of 1951 and the Protocol of 1967 since 2005. It has no national asylum laws or regulations. The Afghan government has set up a task force that includes the Ministry of Refugees and Repatriation (MoRR), the Ministries of Foreign and Interior Affairs, some agencies and UNHCR.<sup>627</sup>

At the end of 2017, 100,000 Pakistani refugees in the southeastern provinces of Khost and Paktia were living in spontaneous settlements, often without basic provisions. These people had fled Pakistan three years earlier.<sup>628</sup> UNHCR indicated that 75,023 Pakistanis were registered as refugees in Afghanistan in 2018; 3,937 new Pakistani refugees were registered in the provinces of Khost and Paktika up to

<sup>620</sup> UNHCR, *Guidance note. Informing Afghanistan Protection Cluster Strategic Priorities for 2017-2018*, pp. 7 and 8, 23 July 2017,

[http://www.globalprotectioncluster.org/\\_assets/files/field\\_protection\\_clusters/Afghanistan/files/afghanistan-pc\\_strategic\\_guidance\\_note\\_2017-2018.pdf](http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Afghanistan/files/afghanistan-pc_strategic_guidance_note_2017-2018.pdf).

<sup>621</sup> UNGA, *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3. p. 4, 12 April 2017.

<sup>622</sup> Central Statistics Office, *Afghanistans living survey 2016-2017, Survey findings*, <https://washdata.org/sites/default/files/documents/reports/2018-07/Afghanistan%20ALCS%202016-17%20Analysis%20report.pdf>.

<sup>623</sup> IDMC, <http://www.internal-displacement.org/countries/afghanistan>. Consulted 28 February 2019.

<sup>624</sup> OCHA, *Afghanistan weekly field report*, 20-26 August 2018; UNHCR, *Afghanistan. Fact sheet*, 15 September 2018.

<sup>625</sup> OCHA, *Afghanistan weekly field report*, 5-11 November 2018.

<sup>626</sup> Confidential source, 26 November 2018; Ocha, *Afghanistan weekly fieldreport. 12-19 November 2018*, [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/afghanistan\\_weekly\\_field\\_report\\_12\\_-\\_19\\_november.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/afghanistan_weekly_field_report_12_-_19_november.pdf).

<sup>627</sup> Inter-agency refugee operational update, *Afghanistan*, December 2017, [www.unhcr.org](http://www.unhcr.org).

<sup>628</sup> OCHA, *2018 Humanitarian needs overview*, pp. 8 and 12, December 2017.

mid-September that year. In addition, around 500 people were registered as refugees and asylum-seekers at UNHCR in Kabul and other urban centres.<sup>629</sup>

#### 4.2.1 *Reception in the region*

The governments of Afghanistan, Iran and Pakistan as well as UNHCR are working together in implementing the *Solutions Strategy for Afghan Refugees (SSAR) to Support Voluntary Repatriation and Sustainable Reintegration and Assistance to Host Countries*. At a steering group meeting on 1 December 2017, the framework was established for the implementation of SSAR in the period 2018-2019. In addition, there are tripartite consultations on the implementation of the SSAR between Afghanistan, UNHCR and Iran and Pakistan respectively.<sup>630</sup> At the end of 2017, around 2.4 million registered Afghan refugees were living in the neighbouring countries of Pakistan and Iran. In Pakistan, 1.4 million Afghan refugees were in possession of a *Proof of Registration (POR) card*. In Iran there were around 951,000 Afghans with a so-called *Afghan Amayesh card*. An estimated 2.3 to 3 million Afghans were living in Pakistan or Iran without documentation, i.e. without the above-mentioned registration card. According to the Iranian government, 1.5 to 2 million undocumented Afghans live in Iran. The estimated number of undocumented Afghans in Pakistan is 800,000 to 1 million.<sup>631</sup>

### 4.3 **Repatriation**

#### *Repatriation from the region*

In 2018, nearly 806,000 undocumented Afghans returned from Pakistan and Iran, more than 773,000 of them from Iran. Compared to 2017 (462,361 people) there was a more than 70% increase in the number of returnees from Iran. Of this total, 358,065 people returned to Afghanistan voluntarily; 415,060 were deported. Most of those returning travelled via border crossings in Herat province (421,255 people) and Nimroz province (351,870 people). The deteriorating economic situation in Iran was a significant factor in these movements. The large-scale return also had consequences for the Afghan economy, because the Afghan migrants had been sending money to their families.<sup>632</sup> The depreciation of the Iranian currency had the effect of making it less attractive for Afghans to continue working in Iran. Since Afghans mainly work in the informal economy in Iran, the demand for this type of work has fallen sharply.<sup>633</sup>

A total of 32,725 people returned from Pakistan to Afghanistan in 2018, a decrease of 70% compared to 2017. Of these, 30,168 returned voluntarily to Afghanistan.<sup>634</sup> UNHCR assisted 15,699 Afghan refugees in returning in 2018: 13,584 from Pakistan

<sup>629</sup> UNHCR, *Afghanistan. Fact sheet*, Afghanistan. As at 15 September 2018. UNHCR uses the term 'active population'. They had fled the North Waziristan Agency in Pakistan in 2014.

<sup>630</sup> UNHCR, *Conclusions of the fifth meeting of the quadripartite steering committee. Solutions Strategy for Afghan Refugees (SSAR) to Support Voluntary Repatriation and Sustainable Reintegration and Assistance to Host Countries*. Istanbul, 1 December 2017; UNHCR, *Afghanistan. Multi-year country strategy. 2017-2019*, Confidential source, 27 September 2018.

<sup>631</sup> IOM and UNHCR, *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*, p. 4, February 2018.

<sup>632</sup> IOM, *Return of undocumented Afghans. Weekly situation report*, 16-22 September 2018.

<sup>633</sup> Le Monde. *Le désarroi des travailleurs afghans en Iran. La situation économique, aggravée par les sanctions américaines, pousse des milliers de ressortissants afghans à retourner dans leur pays malgré les violences qui y règnent*. 8 January 2019, [https://www.lemonde.fr/international/article/2019/01/08/le-desarroi-des-travailleurs-afghans-en-iran\\_5406082\\_3210.html](https://www.lemonde.fr/international/article/2019/01/08/le-desarroi-des-travailleurs-afghans-en-iran_5406082_3210.html); IOM, *Return of undocumented Afghans. Weekly situation report*, Jan-Dec 2018/ 01-05 Jan 2019, [http://afghanistan.iom.int/sites/default/files/Reports/iom\\_afghanistan-return\\_of\\_undocumented\\_afghans- situation\\_report\\_30\\_dec\\_2018\\_05\\_jan\\_2019\\_-\\_es\\_0.pdf](http://afghanistan.iom.int/sites/default/files/Reports/iom_afghanistan-return_of_undocumented_afghans- situation_report_30_dec_2018_05_jan_2019_-_es_0.pdf).

<sup>634</sup> IOM, *Return of undocumented Afghans. Weekly situation report*, Jan-Dec 2018/ 01-05 Jan 2019, [http://afghanistan.iom.int/sites/default/files/Reports/iom\\_afghanistan-return\\_of\\_undocumented\\_afghans- situation\\_report\\_30\\_dec\\_2018\\_05\\_jan\\_2019\\_-\\_es\\_0.pdf](http://afghanistan.iom.int/sites/default/files/Reports/iom_afghanistan-return_of_undocumented_afghans- situation_report_30_dec_2018_05_jan_2019_-_es_0.pdf).

and 1,964 from Iran. 4,099 people were assigned to Kabul province, 2,275 to Nangarhar province and 1,322 to Sar-e Pol province.<sup>635</sup>

In addition to the improved protection and socio-economic conditions in Pakistan, the worrying security situation in Afghanistan also seems to be a factor in the decreasing number of returnees.<sup>636</sup>

Most returnees have settled in urban areas such as Kabul and Jalalabad in recent years, being unable or unwilling to return to their areas of origin due to the fighting or because the areas were in the hands of armed groups. Almost all provinces accommodate internally displaced persons and returnees to a greater or lesser extent. The government was committed to helping displaced persons and returnees, but lacked the capacity and resources for effective assistance.<sup>637</sup> Research into the situation of displaced persons in different provinces shows that many of them face interrelated problems such as poor housing, inadequate access to water, food and healthcare, and lack of regular work and income.<sup>638</sup>

The returnees are almost entirely dependent on extended family networks and international assistance on their arrival. Some of those deported from Iran had been living in that country for decades. About 58% of the returnees were under the age of 18, many of them in need of education. OCHA and IOM mentioned unaccompanied minors as extra-vulnerable groups among the returnees, especially those returning from Iran. Single women and people deported by Pakistan or Iran were also considered to be extra-vulnerable. The main risks identified by OCHA and IOM were human trafficking, exploitation and recruitment by armed groups. In some parts of the country, the large number of returnees led to significant demographic changes: one in three people in Nangarhar province were returnees or internally displaced at the end of 2017.<sup>639</sup>

Some of the returnees proved unable to return to their area of origin and were dependent on support from family or international organisations. There was an increase in returnees who sought refuge in urban areas, hoping to gain access to basic services and work.<sup>640</sup> An estimated 44% of the 2.1 million Afghans living in spontaneous settlements such as slums are returnees. In Nangarhar province, 69% of the one million people living in spontaneous settlements were returnees. Such settlements usually lack basic facilities.<sup>641</sup>

Returned registered refugees were eligible for the sum of USD 200 per person and for temporary accommodation. This sum, paid by UNHCR in collaboration with the *Ministry of Refugees and Repatriations* (MoRR), was intended to cover transport costs and basic necessities on repatriation. The Ministry of Health, supported by the WHO and UNICEF, took care of basic healthcare and vaccinations. Other activities

<sup>635</sup> UNHCR, *Afghanistan voluntary repatriation update*, January 2019, <https://data2.unhcr.org/en/documents/download/67539>.

<sup>636</sup> UNHCR, *Afghanistan. Voluntary repatriation update*, July 2018; UNHCR, *Afghanistan voluntary repatriation update*, January 2019, <https://data2.unhcr.org/en/documents/download/67539>.

<sup>637</sup> UNGA, *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3, 12 April 2017.

<sup>638</sup> NRC, IDMC, Samuel Hall. *Escaping war: where to next? A research study on the challenges of IDP protection in Afghanistan*, pp. 25-41, January 2018, <http://www.internal-displacement.org/sites/default/files/publications/documents/20180124-NRC-IDMC-SamuelHall-escaping-war-where-to-next.pdf>; Österreichisches Rotes Kreuz und Accord, *Afghanistan: Entwicklung der wirtschaftlichen Situation, der Versorgungs- und Sicherheitslage in Herat, Mazar-e Sharif (Provinz Balkh) und Kabul 2010-2018*, pp. 26-184, 7 December 2018, [https://www.ecoi.net/en/file/local/2001546/Afghanistan\\_Versorgungslage+und+Sicherheitslage\\_2010+bis+2018.pdf](https://www.ecoi.net/en/file/local/2001546/Afghanistan_Versorgungslage+und+Sicherheitslage_2010+bis+2018.pdf).

<sup>639</sup> UN.OCHA, *2018 Humanitarian needs overview*, p. 8, December 2017; IOM, *Humanitarian protection overview. Western Afghanistan*, November 2017.

<sup>640</sup> UN.OCHA, *2018 Humanitarian needs overview*, p. 12, December 2017.

<sup>641</sup> UN.OCHA, *2018 Humanitarian needs overview*, p. 12, December 2017.

that the UN took care of in collaboration with the Afghan government and NGOs included raising awareness of the risk of landmines and additional assistance to vulnerable groups among returnees. UNHCR also carries out community-based projects that benefit returnees, displaced persons and the local population..<sup>642</sup> The Pakistani government, in cooperation with IOM, offered undocumented Afghans the opportunity to register as Afghan nationals. By the end of February 2018, more than 800,000 applications had been submitted to 21 registration centres in Pakistan. The possibility to register was extended to 30 September 2018; the initial deadline was February 2018. Registration makes those concerned eligible for an *Afghan Citizen Card (ACC)* with which they can stay in Pakistan pending their return, or regularise their legal status by obtaining a passport and visa..<sup>643</sup>

In 2017, 68% of returnees registered as refugees returned to the provinces of Kabul, Nangarhar, Kunduz, Logar and Sar-e-Pul. Kabul, Nangarhar and Kunduz have been the destination provinces of most returnees since 2002. The provinces of Nangarhar, Kabul, Kandahar, Kunduz and Helmand were the destination of 52% of undocumented Afghan returnees from Pakistan. Returnees from Iran mainly went to the provinces of Badakhshan, Badghis, Baghlan, Balkh and Bamyan..<sup>644</sup> Afghan refugees returning from the region in the period from 1 January 2018 to the end of July 2018 indicated as their main provinces of destination Kabul, Nangarhar, Sar-e-Pul, Paktya and Logar. Fifty-six percent of the refugees said they wanted to return to their province of origin, while the remaining 44% did not. Kabul was indicated as the destination province of 2,832 of the returnees, only 1,245 of whom originated from there. The main reasons for refugees not to return to their province of origin were: experienced insecurity (33%); reunification with family (17%); lack of land (17%); lack of income options (13%); lack of shelter (11%), lack of facilities (7%) and other (2%)..<sup>645</sup>

IOM and UNHCR monitor the arrival and return of refugees and undocumented migrants respectively, including forced returnees. UNHCR monitors the return of refugees throughout the voluntary return process, with an initial interview at a voluntary return centre in the host country, and then a second one after repatriation, at the time of payment of financial assistance at an *encashment centre (EC)*, and finally through a telephone survey one to six months later..<sup>646</sup> IOM has a presence at four border crossings with Iran and Pakistan to identify, screen and register returnees with special needs in cooperation with the Afghan Ministry of Refugees and Repatriation (MoRR). IOM then offers humanitarian assistance at transit centres and at a number of reception points in destination areas. Special attention is given within the assistance programme to vulnerable groups such as unaccompanied minors, single women with or without children, the sick and victims of human rights violations. These contacts between UNHCR and returnees also help to identify any harassment of and violence against returnees so that this can be brought to the attention of the authorities..<sup>647</sup>

IOM and UNHCR indicated that the main challenges for returnees were food security, accommodation, land, livelihoods and access to services..<sup>648</sup>

<sup>642</sup> IOM and UNHCR, *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*, p. 5, February 2018; UNHCR, *Afghanistan. Voluntary repatriation Update*, July 2018.

<sup>643</sup> IOM and UNHCR, *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*, p. 5, February 2018; UNHCR, *Afghanistan. Voluntary repatriation Update*, July 2018.

<sup>644</sup> IOM and UNHCR, *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*, p. 5, February 2018.

<sup>645</sup> UNHCR, *Afghanistan voluntary repatriation update*, July 2018.

<sup>646</sup> UNHCR, *Afghanistan voluntary repatriation update*, July 2018.

<sup>647</sup> IOM and UNHCR, *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*, pp. 5 and 9, February 2018.

<sup>648</sup> IOM and UNHCR, *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*, pp. 6 and 7, February 2018.

EASO (August 2017) and the Austrian Red Cross in partnership with Accord (December 2018) published reports with information on, among other things, socio-economic indicators from the cities of Kabul, Herat and Mazar-i Sharif. <sup>649</sup> According to the sources consulted by EASO, Afghans who want to settle in one of these cities after a long period of time abroad are more at risk of problems if they do not have a social network locally that can protect them or otherwise help them. There is also a greater chance that the police and/or local authorities will not help them with any difficulties. Afghans who grew up abroad can be extra-vulnerable if they are not familiar with local relations and culture. Even for returnees who do have family in Afghanistan, the possibilities when they return are usually limited, given the poverty in which many Afghans live. <sup>650</sup>

#### *Repatriation from Europe*

The Netherlands and Afghanistan work together on the basis of a *memorandum of understanding* (MoU) from 2003 – signed by the Netherlands, Afghanistan and UNHCR – that makes forcible repatriation possible, provided that relevant humanitarian aspects are taken into account.

The *Joint Way Forward* agreed between the EU and the Afghan government endorses this; the bilateral MoU is still in force. The Netherlands deported Afghans in both 2017 and 2018. <sup>651</sup>

The Joint Way Forward concerns the cooperation agreements established in October 2016 between the EU and Afghanistan in order to tackle and prevent irregular migration and to cooperate on the return of irregular migrants to whom protection cannot be offered, taking account of all relevant international legislation and legal procedures. Regular consultations take place between representatives of the EU and the Afghan government about the implementation of these agreements. <sup>652</sup> An exhaustive overview with data on forcible repatriation to Afghanistan from various European countries was not available. Euro-stat provides the following information about the return of Afghans to Afghanistan.

#### **Return of Afghans to Afghanistan (2017)**

<b>Host country</b>	<b>Total</b>
France	915
Austria	330
Sweden	470
Bulgaria	200

<sup>649</sup> EASO. *Country of Origin Information Report. Afghanistan*. August 2017. *Socio-economic indicators, state action*, [https://www.easo.europa.eu/sites/default/files/publications/EASO-COI-Afghanistan-IPA-August-2017\\_0.pdf](https://www.easo.europa.eu/sites/default/files/publications/EASO-COI-Afghanistan-IPA-August-2017_0.pdf); Österreichisches Rotes Kreuz und Accord, *Afghanistan: Entwicklung der wirtschaftlichen Situation, der Versorgungs- und Sicherheitslage in Herat, Mazar-e Sharif (Provinz Balkh) und Kabul 2010-2018*, 7 December 2018, [https://www.ecoi.net/en/file/local/2001546/Afghanistan\\_Versorgungslage+und+Sicherheitslage\\_2010+bis+2018.pdf](https://www.ecoi.net/en/file/local/2001546/Afghanistan_Versorgungslage+und+Sicherheitslage_2010+bis+2018.pdf).

<sup>650</sup> EASO. *Country of Origin Information Report. Afghanistan*. August 2017, pp. 66, 67 and 103.

*Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and*

<sup>651</sup> Country of origin report on Afghanistan, November 2016; Confidential source., 20 September 2018; Confidential source, 25 September 2018.

<sup>652</sup> EU, *Joint Way Forward on migration issues between Afghanistan and the EU*, 2 October 2016,

[https://eeas.europa.eu/sites/eeas/files/eu\\_afghanistan\\_joint\\_way\\_forward\\_on\\_migration\\_issues.pdf](https://eeas.europa.eu/sites/eeas/files/eu_afghanistan_joint_way_forward_on_migration_issues.pdf), consulted 3 December 2018.

The United Kingdom	165
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Euro-stat..<sup>653</sup>

Another Euro-stat overview shows the number of deported Afghans in 2017 as a proportion of the total number of Afghans who left. How many of these Afghans actually returned to Afghanistan cannot be deduced from the available data.

#### **Number of deported Afghans as a proportion of the total number of returning Afghans (2017)**

Host country	Deported	Total number of Afghans leaving
Sweden	415	1,440
France	130	1,025
Bulgaria	185	695
Norway	355	420
Austria	120	355
Belgium	105	170
Hungary	105	105

Euro-stat..<sup>654</sup>

Die Zeit reported on 5 December 2018, at the time of the nineteenth group deportation, that since 2016 the German government, including that of the federal states, has sent back 439 men to Afghanistan..<sup>655</sup>

With help from the *International Organisation for Migration*, 28 people returned to Afghanistan from the Netherlands voluntarily in 2018, compared to 72 in 2017 and 110 in 2016..<sup>656</sup> The Return and Departure Service of the Ministry of Justice and Security indicated that a total of 70 people were forcibly repatriated to Afghanistan in 2017, and 20 people in 2018 up to the end of November..<sup>657</sup>

IOM-Afghanistan offers assistance to returnees from Europe and other countries outside the region through two programmes:

- The Assisted Voluntary Return and Reintegration Program (AVRR). Voluntary returnees who are eligible for assistance under this programme receive the following support from IOM: reception on arrival, accommodation in a hotel; referral in the event of the need for psychosocial assistance; help with reintegration, such as starting a business or learning a trade.
- The *Post Arrival Reception Assistance* (PARA) programme offers assistance on arrival to voluntary returnees and to deported migrants. The following assistance is offered: IOM attendance on arrival at the airport; the possibility of phoning family; assistance with domestic travel..<sup>658</sup>

<sup>653</sup> Confidential source, 11 December 2018. Information from: Euro-stat. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics\\_on\\_enforcement\\_of\\_immigration\\_legislation#Latest\\_trends\\_in\\_enforcement\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation#Latest_trends_in_enforcement_statistics), consulted 10 December 2018.

<sup>654</sup> Confidential source, 11 December 2018. Information from: Euro-stat. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics\\_on\\_enforcement\\_of\\_immigration\\_legislation#Latest\\_trends\\_in\\_enforcement\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation#Latest_trends_in_enforcement_statistics), consulted 10 December 2018.

<sup>655</sup> Die Zeit, *Afghanistan. Erneut Abschiebeflug in Kabul gelandet*, 5 December 2018, <https://www.zeit.de/gesellschaft/zeitgeschehen/2018-12/afghanistan-abschiebeflug-kabul-asy/politik-deutschland>.

<sup>656</sup> <http://www.iom-nederland.nl/nl/vrijwillig-vertrek/cijfers-vrijwillige-terugkeer>, consulted 28 February 2019.

<sup>657</sup> Confidential source, 11 December 2018.

<sup>658</sup> Confidential source, 27 September 2018; The European Return and Reintegration Network (ERRIN) programme implemented by the organisation International Returns and Reintegration Assistance (IRARA) falls under PARA

1,901 Afghan returnees were helped under the PARA programme in 2018 up to the end of August. The main countries from which returns took place were Turkey (1,167 people), Germany (293), Austria (146), Greece (106) and Indonesia (75). Nineteen Afghans who returned from the Netherlands also received assistance from the IOM under the PARA programme, compared to 70 in 2017..<sup>659</sup>

#### *Repatriation of minors from Europe*

*Save the Children* has carried out research into the situation of repatriated children. The research focused on the repatriation process as conducted by EU member states – including the Netherlands, Germany and Sweden – and Norway over the past five years. A study of the situation of 53 children (46 boys, 7 girls) was included as well as a dozen in-depth interviews with children, their parents or guardians. The research took place in the cities of Kabul and Herat. The group investigated fell into three groups:

- Children under 18 years who returned (11);
- Children who returned with their family (18);
- Young people who returned alone within one year of turning 18 (24).

*Save the Children* pointed in particular to the following findings:

- Nearly three-quarters of the young people surveyed indicated that they did not feel safe during the return process, and more than half reported examples of coercion or violence, including some who said they had returned voluntarily;
- About half of the young people arrived alone or under police supervision;
- Only three children had received a specific reintegration plan;
- Three-quarters of the young people did not rule out migrating again in the coming year;
- While 45 of the 53 children went to school in Europe, only 16 had gone to school after their return. Three-quarters of the young people mentioned education as their greatest need.
- Nearly one in five indicated that someone had attempted to recruit them after their return to participate in the armed struggle, commit acts of violence or cooperate with an armed group..<sup>660</sup>

## **4.4 Activities of international organisations**

The major international organisations working in Afghanistan with refugees and rejected/repatriated asylum seekers are UNHCR (refugees and internally displaced persons), IOM (voluntary repatriations of rejected asylum seekers, humanitarian assistance for undocumented Afghans from Iran and Pakistan), OCHA (humanitarian aid) and the Red Cross (humanitarian assistance). For the latest information, see the websites of the respective organisations.

During the ministerial donor conference, *Brussels Conference on Afghanistan*, in 2016, the international community pledged 13.6 billion euros for reconstruction for the 2016-2020 period.

assistance. The Netherlands participates in the ERRIN programme. See: <https://www.irara.org/wp-content/uploads/afghanistan.pdf> Consulted 28 February 2019.

<sup>659</sup> IOM-Afghanistan, *IOM Afghanistan: European return statistics 2017/2018*, 1 October 2018.

<sup>660</sup> *Save the children, From Europe to Afghanistan*, 16 October 2018. The target group included 57 children, 53 of whom completed questionnaires, <https://resourcecentre.savethechildren.net/library/europe-afghanistan-experiences-child-returnees>.



On 27 and 28 November 2018, the *Geneva Conference on Afghanistan* took place in Geneva, chaired by UNAMA and the Afghan government. The conference focused on the peace process and assessing progress on the reform agreements between Afghanistan and the international community. President Ghani, CEO Abdullah and other Afghan government ministers expressed their thanks for international support. They also emphasised the positive developments in Afghanistan, despite the increasingly complex security situation. Many speakers expressed concern about the rapidly deteriorating humanitarian situation, which is mainly caused by drought, a large number of returning refugees and limited access for humanitarian workers due to the current security situation. The international community confirmed its willingness to provide the assistance promised in Brussels.<sup>661</sup>

#### 4.5 UNHCR's position

UNHCR believes that no internal flight or relocation alternative is present in parts of Afghanistan that are under the de facto control of AGEs. It also believes that no internal flight or relocation alternative is present in parts of the country where combat operations are taking place between pro-government forces and AGEs, and between different AGEs. In its report of 30 August 2018, UNHCR also states that in general *Kabul* cannot offer an internal flight or relocation alternative. It bases this view on the deteriorating trend in the security situation for citizens. In this context, UNHCR refers in particular to UNAMA's reports on the number of civilian casualties and, more specifically, to the fact that 70% of all civilian casualties due to suicide and complex attacks in Afghanistan in 2017 were killed in the city of Kabul. Citizens taking part in daily economic and social activities in Kabul are exposed to widespread violence that affects life in the city. Such activities include travelling to and from work, hospitals and clinics or school, income-generating activities that take place on the street such as street vending, but also visiting markets, mosques and other places where people gather. Moreover, living conditions in Kabul, including housing and access to work, are poor for most of the population.<sup>662</sup>

<sup>661</sup> Confidential source, consulted 22 November 2018; Confidential source, 3 December 2018; *Geneva Conference on Afghanistan: Joint Communiqué Securing Afghanistan's Future: Peace, Self-Reliance and Connectivity*, [https://unama.unmissions.org/sites/default/files/geneva\\_conference\\_on\\_afghanistan\\_-\\_joint\\_communique\\_-\\_english\\_0.pdf](https://unama.unmissions.org/sites/default/files/geneva_conference_on_afghanistan_-_joint_communique_-_english_0.pdf).

<sup>662</sup> UNHCR, *UNHCR eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan*. HCR/EG/AFG/18/02, pp. 9 and 10, 30 August 2018.

## 5 Appendixes

### 5.1 Reports and publications

AAN. *Afghanistan's Incomplete New Electoral Law: Changes and controversies*. 22 January 2017.

Afghanistan Analysts Network (AAN). *The Ghost of Najibullah: Hezb-e Watan (another) relaunch*. 21 August 2017.

Afghanistan Analysts Network (AAN). *Non-Pashtun Taleban of the North (4): A case study from Jawzjan*. 18 September 2017.

Afghanistan Analysts Network (AAN). *Thematic Dossier XVI: Afghanistan's War Crimes Amnesty and the International Criminal Court*. 7 October 2017.

Afghanistan Analysts Network (AAN). *Qari Hekmat's Island: A Daesh enclave in Jawzjan?* 11 November 2017.

Afghanistan Analysts Network (AAN). *Rights & Freedoms. An ICC Delay: Court postpones decision on whether to investigate war crimes in Afghanistan*. 7 April 2018.

Afghanistan Analysts Network (AAN). *Political landscape. Inside and outside the system: new AAN report on Afghanistan political parties published*. 6 May 2018.

Afghanistan Analysts Network (AAN). *Afghanistan Election Conundrum (10): Failure to hold the first ever district council elections?* 7 August 2018.

Afghanistan Analysts Network (AAN). *Afghanistan election conundrum (16): Basic facts about the parliamentary elections*. 9 October 2018.

Afghanistan Analysts Network (AAN). *Election Days in Zurat, Paktia: real voting only in the districts centre*. 29 October 2018.

Afghanistan Analysts Network (AAN), *Harassment of Women in Afghanistan: A hidden phenomenon addressed in too many laws*, 2 April 2017.

Afghanistan Analysts Network (AAN). *Taleban Attacks on Khas Uruzgan, Jaghori and Malestan (I)*. 28 November 2018.

Afghanistan Independent Human Rights Commission (AIHRC). *Human rights situation of women and girls living in the villages in Afghanistan*. 2017.  
<https://www.aihrc.org.af/media/files/Human%20rights%20situation%20of%20women%20and%20girls%20living%20in%20the%20villages%20in%20Afghanistan.pdf>

Afghanistan Independent Human Rights Commission (AIHRC), *Summary of the Report on Violence Against Women: The causes, context, and situation of violence against women in Afghanistan*, 11 March 2017.

Amnesty International, *Amnesty International Report 2017/18*, 22 February 2018.

Afghanistan Public Policy Research Organization, *New Penal Code and EAW Law: Ro Incorporate or Not to incorporate?*, July 2018.

Afghanistan Research and Evaluation Unit (AREU), *Land Governance Assessment Framework Afghanistan*, June 2017.

Afghanistan Research and Evaluation Unit (AREU), *Women in Agriculture in Afghanistan*, July 2017.

AJSC. *Six months report July-December 2016*. 9 January 2017.

Ashraf, Sarah. *ISIS KHORASAN: PRESENCE AND POTENTIAL IN THE AFGHANISTAN PAKISTAN REGION*. 2017. <http://henryjacksonsociety.org/wp-content/uploads/2017/10/HJS-ISIS-Khorasan-Report.pdf>.

Australian Government Department of Foreign Affairs and Trade, *DFAT Country Information Report Afghanistan*, 18 September 2017.

Berger, Maurits. *Klassieke Islam en vernieuwing*. 2006.

Bertelsmann Stiftung, *BTI 2018 Country Report – Afghanistan*, 2018.

Brookings. Vanda Felbab-Brown. Ballots and bullets in Afghanistan. 23 October 2018. [https://www.brookings.edu/blog/order-from-chaos/2018/10/23/ballots-and-bullets-in-afghanistan/?utm\\_campaign=Brookings%20Brief&utm\\_source=hs\\_email&utm\\_medium=email&utm\\_content=66922773](https://www.brookings.edu/blog/order-from-chaos/2018/10/23/ballots-and-bullets-in-afghanistan/?utm_campaign=Brookings%20Brief&utm_source=hs_email&utm_medium=email&utm_content=66922773)

Chr. Michelsen Institute (CMI), *CMI Working Paper number 9: Adultery, rape and escaping the house: The protection and policing of female sexuality in Afghanistan*, December 2017.

Center for Strategic and International Studies (CSIS). A Cordesman. *Telling the Truth About the War in Afghanistan*. September 2018.

Clingendael Spectator. Jorit Kamminga. *The hand-and-water tale: options for the West in Afghanistan*. 14 March 2018. <https://spectator.clingendael.org/en/publication/hand-and-water-tale-options-west-afghanistan#>

Cooperation for Peace and Unity (CPAU). *ROAD TO NATIONAL PEACE*. December 2015.

Confederation Suisse. Secrétariat d'Etat aux migration SEM. *Note Afghanistan. Désertion : provisions légales et application*. 31 March 2017. <https://www.sem.admin.ch/dam/data/sem/internationales/herkunftslaender/asien-nahost/afg/AFG-desertion-f.pdf>

Congressional Research Service. In Focus. Al Qaeda and Islamic State Affiliates in Afghanistan. 23 August 2018. <https://fas.org/spp/crs/row/IF10604.pdf>.

Derksen, Deedee. In Afghanistan, today's pro-government militia's could be tomorrow's insurgents. 11 December 2017.

<https://warontherocks.com/2017/12/afghanistan-todays-pro-government-militias-tomorrows-insurgents/>

European Asylum Support Office (EASO). *Country of Origin Information Report. Afghanistan. Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City*. August 2017. [https://www.easo.europa.eu/sites/default/files/publications/EASO-COI-Afghanistan-IPA-August-2017\\_0.pdf](https://www.easo.europa.eu/sites/default/files/publications/EASO-COI-Afghanistan-IPA-August-2017_0.pdf)

European Asylum Support Office (EASO), *Country of Origin Information Report: Afghanistan: Individuals targeted by armed actors in the conflict*, December 2017.

European Asylum Support Office (EASO), *Country of Origin Information Report: Afghanistan: Individuals targeted under societal and legal norms*, December 2017.

EIU. *Country Report 2nd Quarter 2018*

EU. *Joint Way Forward on migration issues between Afghanistan and the EU*. 2 oktober 2016.

[https://eeas.europa.eu/sites/eeas/files/eu\\_afghanistan\\_joint\\_way\\_forward\\_on\\_migration\\_issues.pdf](https://eeas.europa.eu/sites/eeas/files/eu_afghanistan_joint_way_forward_on_migration_issues.pdf).

FDD's Long war journal. Thomas Joscelyn. *Analysis: losing a war*. 29 August 2018.

Foreign Policy. Ashley Jackson. *The Taliban Just Won a Key Battle for Afghanistan's Future. The killing of a strongman police chief creates a dangerous power vacuum*. 20 October 2018.

Freedom House. *Freedom in the world 2018. Afghanistan profile*.  
<https://freedomhouse.org/report/freedom-world/2018/afghanistan>.

Giustozzi, Antonio. *The Islamic State in Khorasan. Afghanistan, Pakistan and the new Central Asian Jihad*. August 2018.

Human Rights Watch. *Country summary. Afghanistan*. January 2018.

Human Rights Watch, *"I Won't Be A Doctor, and One Day You'll Be Sick": Girls Access to Education in Afghanistan*, October 2017.

Human Rights Watch, *World Report 2018: Afghanistan: Events of 2017*.

Human Rights Watch. *Human Rights Watch Submission to the Universal Periodic Review of Afghanistan*. 16 December 2018

International Business Publications. *Afghanistan. Constitution and citizenship. Laws handbook*. Washington DC. 2013.

International Criminal Court. The office of the prosecutor. *Report on preliminary examination activities 2016*. 14 November 2016.

IOM and UNHCR. *Returns to Afghanistan in 2017. Joint IOM-UNHCR Summary Report*. February 2018.

IWPR. Afghanistan. *Female detainees face sexual abuse*. 28 March 2017.

Minority Rights Group International, *No escape from discrimination: minorities, indigenous people and the crisis of displacement*, December 2017.

Ministry of Foreign Affairs. *Antwoord op feitelijke vragen over Nederlandse inzet in Afghanistan 2018-2021*, 2 July 2018.

Norwegian Refugee Council (NRC) and Samuel Hall. *Access to Tazkera and other civil documentation in Afghanistan*. 8 November 2016.

<https://reliefweb.int/report/afghanistan/access-tazkera-and-other-civil-documentation-afghanistan>

NRC, IDMC, Samuel Hall. *Escaping war: where to next? A research study on the challenges of IDP protection in Afghanistan*. January 2018. pp. 25-41  
<http://www.internal-displacement.org/sites/default/files/publications/documents/20180124-NRC-IDMC-SamuelHall-escaping-war-where-to-next.pdf>

ODI. Jackson, Asley. *Life under the Taliban shadow government*. June 2018  
<https://www.odi.org/sites/odi.org.uk/files/resource-documents/12269.pdf>

Österreichisches Rotes Kreuz und Accord. *Afghanistan: Entwicklung der wirtschaftlichen Situation, der Versorgungs- und Sicherheitslage in Herat, Mazar-e Sharif (Provinz Balkh) und Kabul 2010-2018*. 7 December 2018. pp. 26-184.  
[https://www.ecoi.net/en/file/local/2001546/Afghanistan\\_Versorgungslage+und+Sicherheitslage\\_2010+bis+2018.pdf](https://www.ecoi.net/en/file/local/2001546/Afghanistan_Versorgungslage+und+Sicherheitslage_2010+bis+2018.pdf)

Save the children. *From Europe to Afghanistan*. 16 October 2018.  
<https://resourcecentre.savethechildren.net/library/europe-afghanistan-experiences-child-returnees>

The Asia Foundation, *Afghanistan in 2017: A Survey of the Afghan People*, November 2017

The Asia Foundation. *A survey of the Afghan people. Afghanistan in 2018*. 4 December 2018. [https://asiafoundation.org/wp-content/uploads/2018/12/2018\\_Afghan-Survey\\_fullReport-12.4.18.pdf](https://asiafoundation.org/wp-content/uploads/2018/12/2018_Afghan-Survey_fullReport-12.4.18.pdf).

The Special Inspector General for Afghan Reconstruction (SIGAR). *Quarterly report to the US congress*. 30 July 2018.  
<https://www.SIGAR.mil/pdf/quarterlyreports/2018-07-30qr.pdf>.

The Special Inspector General for Afghan Reconstruction (SIGAR). *Quarterly report to the US congress*. 30 October 2018.

The Special Inspector General for Afghan Reconstruction (SIGAR). *Quarterly report to the US Congress*. 30 January 2019.

UK. House of Commons. Defence Committee. UK. *Lost in Translation? Afghan Interpreters and Other Locally Employed Civilians*. 26 May 2018.  
<https://publications.parliament.uk/pa/cm201719/cmselect/cmdfence/572/57203.html>

UK. Home Office. *Country information and guidance. Afghanistan: prison conditions*. September 2015. *ost in Translation? Afghan*

UNAMA, *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*, May 2018.

UNAMA. *Treatment of conflict-related detainees: implementation of Afghanistan's national plan on the elimination of torture*. April 2017.

UNAMA-OHCHR. *Afghanistan: Protection of Civilians in Armed Conflict: Annual report 2017*, February 2018. <http://www.refworld.org/docid/5a854a614.html>

UNAMA. *UNAMA welcomes Afghanistan's new penal code-calls for robust framework to protect women against violence*. 22 February 2018.

<https://unama.unmissions.org/unama-welcomes-afghanistan%E2%80%99s-new-penal-code-calls-robust-framework-protect-women-against-violence>.

UNAMA. *Midyear update on the protection of civilians in armed conflict. 1 January to 30 June 2018*. 15 July 2018.

UNAMA. *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*. 10 October 2018.

UNAMA. *AFGHANISTAN PROTECTION OF CIVILIANS IN ARMED CONFLICT. Special Report. Increasing Harm to Afghan Civilians from the Deliberate and Indiscriminate Use of Improvised Explosive Devices*. October 2018.

UNAMA. *Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2018*. 24 February 2019.

UNICEF, *Child Marriage in Afghanistan: Changing the narrative*, July 2018.

UNICEF, *Global initiative on out-of-school children*, 2018.

UN. S/2018/466. 30 May 2018. Letter dated 16 May 2018 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security Council. Annex. Letter dated 30 April 2018 from the Analytical Support and Sanctions Monitoring Team addressed to the Chair of the Security Council Committee established pursuant to resolution 1988 (2011). Annex. Ninth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2255 (2015) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan.

UN. *Seventh report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat*. S/2018/770. 16 August 2018.

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2018/770&referer=/english/&Lang=E](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2018/770&referer=/english/&Lang=E)

UNGASC. *Report of the special rapporteur on the human rights of the internally displaced persons on his mission to Afghanistan*. A/HRC/35/27/Add.3. 12 April 2017.

UNGASC. *The situation in Afghanistan and its implications for international peace and security*. S/2018/539. 6 June 2018.

UNGASC, *The situation in Afghanistan and its implications for international peace and security*. A/73/374-S/2018/824, 10 September 2018.

UNGASC. *The situation in Afghanistan and its implications for international peace and security*. A/73/624-S/2018/1092. 7 December 2018.

UN. *Convention against torture and other cruel, inhuman or degrading treatment or punishment. Committee against Torture. Concluding observations on the second periodic report of Afghanistan*. 12 June 2017. CAT/C/AFG/GO/2.

UN Human Rights Council, *The situation of human rights in Afghanistan and technical assistance achievements in the field of human rights*, 21 February 2018.

UNHCR. *Guidance note. Informing Afghanistan Protection Cluster Strategic Priorities for 2017-2018.*

UNHCR. *Eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan.* HCR/EG/AFG/18/02. 30 August 2018.

UN.OCHA. *2018 Humanitarian needs overview.* December 2017.

UN Security Council, *Report of the Secretary-General on Conflict-Related Sexual Violence*, 15 April 2017.

US Department of Defense. *Report on enhancing security and stability in Afghanistan.* June 2015.

US. Department of State. *Afghanistan 2017 International Religious Freedom Report.*

US Department of State, *Country Reports on Human Rights Practices for 2017*, 2017.

US Department of State, *2017 Trafficking in Persons Report – Afghanistan*, 27 June 2017.

United States Institute of Peace (USIP). Casey Garret Johnson. *The political deal with Hezb-e Islami. What it means for talks with the Taliban and peace in Afghanistan.* Peace Works. July 2018.

Worldbank. *Afghanistan Development Update.* August 2018.

Worldbank, *Afghanistan: Promoting education during time of increased fragility*, 2018.

## 5.2 Newsletters

1TV Afghanistan  
Al-Jazeera  
Associazione Diritti e Frontiere  
Frankfurter Allgemeine Zeitung  
BBC  
Daily Mail  
International Committee of the Red Cross (ICRC)  
Institute for War and Peace Reporting (IWPR)  
Khaama Press  
Le Monde  
OHCHR

OpenDemocracy  
Pahjwok  
Radio Free Europe/Radio Liberty  
The Diplomat  
The Globe Post  
The Japan Times  
The New York Times  
The Guardian  
The Independent  
Tolo News  
The Washington Post  
Die Zeit  
Weareiguacu

### 5.3 Websites

<https://president.gov.af>

<https://www.cia.gov/library/publications/the-world-factbook/geos/af.html>.

<https://culturalatlas.sbs.com.au/afghan-culture/core-concepts>

<https://gandhara.rferl.org>

<https://thedefensepost.com/>

<https://www.globalsecurity.org/military/world/afghanistan/society-distribution.htm>

<http://www.iom-nederland.nl/nl/vrijwillig-vertrek/cijfers-vrijwillige-terugkeer>.

<https://www.mariestopes.org/>

<http://nai.org.af/about-us/>

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>.

<https://www.pajhwok.com/en/>

<http://www.en.rahapress.af/>

<https://www.tolonews.com>

[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017)

<https://www.unfpa.org/data/world-population/AF>

<http://www.worldbank.org/en/country/afghanistan/overview>

<https://datacatalog.worldbank.org/dataset/worldwide-governance-indicators>

<https://www.freewomenwriters.org/>

<https://www.oxfam.org/en>

<https://ideas.ted.com/>

<https://unama.unmissions.org/>

<http://wolesi.website>



#### 5.4 Abbreviations

AAF	Afghan Air Force
AAN	Afghanistan Analysts Network
ASSF	Afghan Special Security Forces
ACC	Afghan Citizen Card
ACCRA	Afghanistan's Central Civil Registration Authority
ACLED	Armed Conflict Location Event Data
AJSC	Afghan Journalists Safety Committee
AGE's	Anti-Government Elements
AIHRC	Afghan Independent Human Rights Commission
ALP	Afghan Local Police
ANA	Afghan National Army
ANDSF	Afghan National Defense and Security Forces
ANP	Afghan National Police
APAPPS	Afghanistan-Pakistan Action Plan for Peace and Solidarity
AVVR	Assisted Voluntary Return and Reintegration Program
CAT	Committee Against Torture
CEO	Chief Executive Officer
CIA	Central Intelligence Agency
EC	Encashment Centre
ETIM	East Turkestan Islamic Movemen
EVAV	Elimination of Violence Against Women
GDPDC	General Directorate of Prisons and Detention Centers
GNCA	Grand National Coalition of Afghanistan
HIA	Hezb-e Islami Afghanistan
HIG	Hezb-e Islami Gulbuddin
HPC	High Peace Council
HRW	Human Rights Watch
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
IEA	Islamic Emirate of Afghanistan
IEC	Independent Election Commission
IECC	Independent Electoral Complaints Commission
IED	Improvised Explosion Device
IMU	Islamic Movement of Uzbekistan
INSO	International NGO Safety Organization
IOM	International Organization for Migration
IS	Islamic State
ISI	Inter-Services Intelligence
ISKP	Islamic State of Khorasan Province
IWPR	Institute for War and Peace Reporting
LGBTI	Lesbian, gay, bisexual, transgender and intersex
MOE	Afghan Ministry of Education
MoRD	Ministry of Rural Development
MoRR	Ministry of Refugees and Repatriation
MoU	Memorandum of Understanding
NAI	NAI Supporting Open Media in Afghanistan
NDS	National Directorate of Security
NGO	non-governmental organisation
NUG	National Unity Government
OCHA	Office for the Coordination of Humanitarian Affairs
OPCAT	Optical Protocol to the Convention against Torture
PARA	Post Arrival Reception Assistance

PDPA	People's Democratic Party of Afghanistan
POR	Proof of Registration
RS	Resolute Support
SIGAR	Special Inspector General for Afghanistan Reconstruction
SSAR	Solutions Strategy for Afghan Refugees
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCR	United Nations High Commissioner for Refugees
UK	United Kingdom
UN	United Nations
US	United States

## 5.5 Glossary<sup>663</sup>

**Diyya:** Compensation (blood money), to be paid in requital for injury or killing.

**Fiqh:** 1. The Islamic legal science by which the divine will for society could be ascertained, 2. The body of rules developed by this science

**Hadd** (pl. hudud/ huduud): Offences laid down in the Koran

**Imam:** 1. Leader of the faith community, 2. Worship leader

**Jihad:** 1. Striving to be a good Muslim ('greater jihad'), 2. Armed struggle in defence of Islam ('lesser jihad')

**Jinayat:** Right of retaliation for murder, manslaughter and abuse

**Kanun:** Regulation or law promulgated by the government

**Niqab:** Face-covering veil

**Qisas:** Retaliation for personal injury (ius talionis, or 'an eye for an eye, a tooth for a tooth')

**Ridda:** Apostasy from Islam

**Shiites:** The second biggest movement in Islam after the Sunnis (Literally: Supporters of the faction, i.e. the faction of Ali)

**Shura:** Deliberation

**Shurb al-khamr:** The drinking of alcoholic beverages (hadd offence)

**Sunna:** Acts of the Prophet Muhammad (source of sharia)

**Sunnis:** Followers of religious movement representing majority of all Muslims (Literally: Supporters of the tradition)

**Takfir:** Denunciation; calling a fellow Muslim an infidel

<sup>663</sup> Based on Berger, Maurits. *Klassieke Islam en vernieuwing*. 2006.

Tazir / tazeer: Legislative competence of the authorities with regard to offences which are not hudud or jinayat

Ulama (sg. alim): Scholars

Umma: Faith community of Muslims

Zina: Sexual intercourse outside marriage (Hadd offence)

## 5.6 Map of Afghanistan

