



Australian Government  
Department of Foreign Affairs and Trade

# DFAT Country Report

## Afghanistan

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## 1. Purpose and Scope

1.1 This country report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to the source country. The country report replaces the previous DFAT Country Report on Afghanistan dated 31 July 2013.

1.2 The report does not represent an exhaustive country overview and has been prepared with regard to the current caseload for decision makers in Australia. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the *Migration Act 1958* states that

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources. It takes into account relevant and credible open source reports. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

## 2. Background Information

### Recent History

2.1 In 1978, the communist People's Democratic Party of Afghanistan (PDPA) deposed Afghanistan's last king and seized power in the 'Saur Revolution'. Opponents of the PDPA, which collectively came to be known as the *mujahedeen*, launched an uprising in eastern Afghanistan.

2.2 Soviet troops entered Afghanistan in 1979 to support the PDPA, and remained in-country for a decade. The United States and other countries responded to Soviet involvement by arming the *mujahedeen*. Following the departure of Soviet troops and the collapse of the Soviet Union, the *mujahedeen* seized Kabul, declaring the 'Islamic State of Afghanistan'. A 1992 power-sharing arrangement was negotiated between *mujahedeen* factions, but undermined by in-fighting. A renewed civil war ensued, fought primarily between *mujahedeen* factions.

2.3 The Taliban, emerging out of Afghan refugee camps in Pakistan, entered the conflict in 1994. By 1996 it had seized Kabul and declared the 'Islamic Emirate of Afghanistan'. In the ensuing years, the Taliban consolidated its power and imposed an extreme interpretation of Islam, including severe limitations on women and girls and systematic human rights abuses against civilians (primarily non-Pashtuns). The Taliban provided a safe haven to international terrorism elements such as al-Qaeda.

2.4 Following al-Qaeda's 2001 attacks on targets in the US, international forces led by the US launched *Operation Enduring Freedom* which removed the Taliban from power. In December 2001, Hamid Karzai was chosen as leader of the 'Afghan Interim Authority' and the United Nations Security Council established the International Security Assistance Force (ISAF) coalition to assist the Karzai Administration in securing the country. A Constitution was ratified in January 2004 and Karzai was elected President of the Islamic Republic of Afghanistan in the country's first

Presidential elections. Although Karzai was re-elected in 2009, the election was widely criticised, including by the UN, for widespread irregularities.

2.5 Since 2001, a number of different anti-government insurgent groups, including the Taliban, have waged a guerrilla campaign against ISAF and Afghan forces. ISAF assumed security responsibility for the entire country in 2006. However, under a transition strategy beginning in 2011, Afghan National Security Forces (ANSF) have incrementally taken over full responsibility for security in the country, ahead of the planned drawdown of most foreign troops by the end of 2014. Some coalition forces may remain in Afghanistan after this date, dependent on the successful negotiation of relevant security agreements.

2.6 There are many areas of the country contested by insurgent forces and no part of the country can be considered totally free from conflict-related violence. As a result, economic development, health care and education services are affected in many parts of the country. DFAT assesses that uncertainty about the future security, economic and political situation is an important driver of emigration from Afghanistan.

## Economic Overview

2.7 Afghanistan's economy is recovering from decades of conflict and the period of the Taliban regime. Afghanistan remains extremely poor, despite strong economic growth in recent years.

2.8 The World Bank classifies Afghanistan as a low income country, with an estimated 36 per cent of the population living below the poverty line. According to the 2012 UN Human Development Index, Afghanistan is the poorest country in Asia—ranked 175 out of 187 countries globally. Inflation, especially food price inflation, is felt most keenly by Afghanistan's poor, particularly those in urban areas. The rate of consumer price inflation has averaged almost nine per cent per year for the period 2004–2012, peaking at over 23 per cent in 2008.

2.9 Since 2001, Afghanistan has experienced very strong economic growth from a very low base. According to the IMF, between 2004 and 2012 growth in Afghanistan's Gross Domestic Product (GDP) averaged over nine per cent per year, peaking at over 12 per cent in 2012. In 2013, GDP was estimated to be USD 21 billion.

2.10 Economic growth has been driven primarily by significant international funding inflows, particularly international development assistance which is likely to have peaked in 2011. The end of a four-year drought in 2012 boosted economic growth and the agriculture sector, which accounts for approximately 30 per cent of GDP and almost 80 per cent of employment in Afghanistan. Afghanistan has substantial natural resources, but its mining sector is hampered by instability, inadequate infrastructure and remoteness from markets.

2.11 Donor funds made up 65 per cent of the Government's budget in 2012. Substantial international assistance pledged at the Tokyo Conference in 2012 was aimed at supporting longer-term economic development in Afghanistan. However, the relative importance of international assistance for Afghanistan's economy means that the progressive drawdown of the international community is already having a negative effect on growth and the Government's budget.

2.12 Rates of corruption in Afghanistan are among the highest in the world and Afghans routinely pay bribes to access government services. Transparency International ranked it equal worst (with Somalia and the Democratic People's Republic of Korea) in its 2012 Corruption Perception Index. A 2012 report by the UN Office on Drugs and Crime (UNODC) estimated that bribery was equivalent to 20 per cent of GDP. Corruption infiltrates many aspects of government in Afghanistan and remains a key concern for international aid donors.

2.13 Growing opium poppy is illegal in Afghanistan but is poorly policed. It is a major source of income for Taliban and insurgent groups. According to UNODC's 2013 Opium Survey, Afghanistan cultivated 74 per cent of the world's opium poppy. This equated to 5500 tons with a total farm gate value of USD 950 million. Ninety per cent of national production takes place in the southern and western provinces.

2.14 DFAT assesses that the low-level of development and perceived poor economic opportunities in Afghanistan acts as a primary 'push factor' for both internal relocation and emigration from Afghanistan.

## Employment

2.15 Productivity and growth in the labour market are inhibited by corruption, weak government capacity and poor public infrastructure. There are no reliable employment statistics in Afghanistan. However, employment and underemployment are both likely to be high. In some cases, a lack of internal security impedes individuals' ability to reach their place of employment.

2.16 Lower wages in Afghanistan have encouraged both permanent and temporary migration to neighbouring countries. For example, higher wages in Pakistan have traditionally attracted migrant workers from Afghanistan, a trend which slowed as a result of the scale of international funding inflows to Afghanistan. Seasonal employment opportunities in Iran remain important for many Afghan families.

## Education

2.17 Access to education has improved greatly since 2001, particularly for girls. Primary and secondary school enrolments have increased from one million in 2002 to 7.3 million in 2011, 32 per cent of which were girls. Public education is free and available to most Afghans, but tends to be over-subscribed. The quality of education and rates of attendance vary throughout the country. Some children do not attend school because they are required to seek employment instead. A survey by Afghanistan's Centre for Policy and Human Development in 2011 estimated that 46 per cent of children were enrolled in primary or secondary education.

2.18 In some cases, the poor internal security situation prevents teachers or students from attending school and results in school closures. The great majority of security incidents during 2012 which affected access to education were attributed to insurgents—for example the closure of schools in Zabul province by the Taliban in May 2013.

## Health Care

2.19 Although the health care system in Afghanistan has improved greatly since 2001, demand for public health care continues to exceed supply. As a result, Afghanistan's health indicators are worse than the average for low income countries. For example, the World Health Organization has estimated life expectancy to be 59 for males and 61 for females. Infant mortality (the probability of dying under the age of five) is ranked among the highest in the world at 101 deaths per 1000 live births.

2.20 In some cases, ongoing a lack of internal security limits access to health services. For example, medical staff are sometimes threatened and taken hostage, primarily in rural areas in southern Afghanistan. Insecurity sometimes prevents medical supplies from reaching remote communities and has also prevented the comprehensive reach of polio vaccination programs.



## Political System

2.21 The 2004 Constitution sets out the division of powers in Afghanistan's political system. The Afghan National Assembly is bicameral, consisting of the *wolesi jirga* ('House of People') and the *meshrano jirga* ('House of Elders'). The *wolesi jirga* has 250 seats, with members (64 of whom must be women) directly elected for five-year terms through a system of semi-proportional representation in a nominally free, general, secret and direct ballot. The *meshrano jirga* has 102 seats, with two-thirds of members elected from provincial councils for four-year terms, and one-third nominated by the President for five-year terms.

2.22 The executive consists of a President and two Vice Presidents elected by direct vote for five-year terms (eligible to serve a maximum of two terms). Ministers are appointed by the President, but require approval from the *wolesi jirga*. President Hamid Karzai was elected in 2004 and re-elected in 2009. Presidential elections are scheduled for April 2014.

2.23 In addition to the National Government, the Constitution divides Afghanistan into 34 provinces, each governed by an elected council overseen by a Governor who is appointed by the President. Provinces are further divided into districts.

2.24 The Constitution can be amended by a Constitutional *loya jirga* (Grand Council), which is made up of members of the National Assembly and the provincial and district council chairs. A Constitutional *loya jirga* may only be convened by the Government on issues of independence, national sovereignty and territorial integrity. In practice, it is not currently possible for a Constitutional *loya jirga* to take place, since district council chairs are yet to be appointed. Consultative or Traditional *loya jirgas* are sometimes held on matters of national importance.

2.25 Although the structures of Government are, for the most part, in place under the Constitution, corruption is rife and institutional capacity is low. This means the ability of Government to establish, implement and enforce policies and decisions varies across the country. Government capacity is further constrained in areas contested by insurgents.

2.26 DFAT assesses that the uncertainty about the current and future political situation in Afghanistan acts as a primary 'push factor' for emigration from Afghanistan.

## Security Situation

2.27 Insurgent groups, including the Taliban, the Haqqani Network, Hezb-e-Islami Gulbuddin Hekmatyer and others, remain engaged in a violent armed conflict against the Government and its international partners. In addition to these anti-government insurgent groups, there are also a number of other local non-state militias operating within Afghanistan that exist for the protection of particular groups and are not necessarily hostile to the Government.

2.28 The ANSF, with the support of international forces, maintains effective control over most provinces and districts, particularly major urban areas such as Kabul, Herat, Mazar-e-Sharif, Kandahar and all other provincial capitals. In June 2013, the ANSF—including the Afghan National Army (ANA), the Afghan National Police (ANP), Afghan Local Police (ALP) and the National Directorate of Security (NDS)—assumed the lead responsibility for security across all of Afghanistan. However, in some parts of Afghanistan, government control is weak or absent, in part due to ANSF capacity constraints (see 'State Protection', below).

2.29 There are many areas of the country contested by insurgent forces and no part of the country can be considered totally free from conflict-related violence. The situation remains fluid and any categorical assessment on the security in a particular area could be rendered quickly inaccurate. Although this list is not exhaustive, contested areas are mainly in the south (including in parts of

Helmand, Kandahar, Uruzgan and Zabul) and east of the country (including in parts of Ghazni, Paktika, Khost, Paktia, Nangarhar, Kunar and Nuristan). Insurgents are also present in areas of western, central and northern provinces.

## Insurgent Groups

2.30 Insurgents regularly conduct high-profile attacks in many parts of Afghanistan. DFAT assesses that the primary target for insurgent attacks are government institutions, political figures, ANSF, ISAF, other security forces and international organisations. These attacks can include direct attacks using small arms, suicide bombings, car bombs, improvised explosive devices and complex attacks involving a combination of these methods. Although these attacks are frequently directed against specific targets, the methods used are often indiscriminate and result in the deaths of civilian bystanders. For example, a complex attack by insurgents against a restaurant in Kabul during January 2014 killed at least 21 people, including 13 foreigners. The restaurant was known to be popular with foreigners and government officials. An attack against Kabul's Serena Hotel in March 2014 killed at least nine people, including four foreigners.

2.31 In 2013, the UN Assistance Mission in Afghanistan (UNAMA) documented 2959 civilian deaths and 5656 injuries due to conflict, a 14 per cent increase in total civilian casualties compared to 2012. UNAMA attributed 74 per cent of civilian deaths and injuries to anti-government elements, 11 per cent to Government and ISAF forces, 10 per cent to engagement between pro- and anti-government forces and five per cent to other sources.

2.32 In some cases, violence perpetrated by criminal groups and insurgents can be difficult to differentiate. There have been documented cases of abduction and killings by both criminals and insurgents, including while travelling by road. Wealthy or high-profile individuals, or those openly identified as working for the Government, are at higher risk of kidnap for ransom.

2.33 DFAT assesses that a lack of internal security and perceived insecurity in Afghanistan act as primary 'push factors' for both internal relocation and emigration from Afghanistan.

## Demography

2.34 Afghanistan's population stands at over 31 million, according to a July 2013 estimate. Ethnicity, language, religion and tribal affiliation are important markers of identity in Afghanistan. No reliable census data is available on Afghanistan's ethnic groups, languages and religions and numbers can vary significantly depending on the source—the last census was conducted in 1979. However, Pashtuns are estimated to be the largest ethnic group (42 per cent), followed by Tajiks (27 per cent), Hazaras (9 per cent) and Uzbeks (9 per cent). Aimaks (4 per cent), Turkmen (3 per cent) and Baloch (2 per cent) are other significant ethnic groups in Afghanistan.

2.35 Dari and Pashto are both recognised as official languages. Dari is spoken by an estimated 50 per cent of the population, Pashto 35 per cent, Turkic languages (including Uzbek and Turkmen) by 11 per cent and 30 other languages by 4 per cent of the population.

2.36 Afghanistan has experienced rapid urbanisation since 2001, particularly to major urban areas such as Kabul, Herat, Mazar-e-Sharif and Kandahar. Displacement as a result of conflict or natural disasters are important factors in the decisions of many families and individuals to relocate to urban areas. However, a lack of economic opportunity in rural areas is also an important factor in the ongoing process of rural–urban migration.

2.37 Millions of Afghans have left the country as a result of conflict and to seek better economic opportunity abroad. Although many have returned to Afghanistan (see 'Treatment of Returnees',

below), sizable Afghan diaspora populations remain in Pakistan and Iran, and also in the US, Europe and Australia.

2.38 DFAT assesses that the presence of Afghan diasporas serves as an important ‘pull factor’ for further emigration.

## Human Rights Overview

2.39 Afghanistan’s human rights infrastructure includes constitutional guarantees, adherence to international human rights instruments and the establishment of the Afghan Independent Human Rights Commission (AIHRC).

2.40 The Constitution enshrines many fundamental human rights, including the right to life (Article 23), liberty (Article 24) and freedom from arbitrary arrest or detention (Article 27). Some of these rights are addressed in implementing legislation.

2.41 Afghanistan has ratified a number of important international human rights instruments, including the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention Against Torture.

2.42 The AIHRC, established in 2002, is widely regarded as a credible, independent human rights organisation. It is accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights with an ‘A’ rating (compliant with the Paris Principles). However the UN High Commissioner for Human Rights warned that appointments to the AIHRC made by President Karzai in June 2013 risked compromising the Commission’s independence and effectiveness.

2.43 However, years of conflict, lack of rule of law, a culture of impunity and corruption have severely impacted the Government’s ability to implement human rights guarantees. In both the public and private spheres, traditional interpretations of *sharia* (Islamic law) and tribal norms frequently conflict with internationally recognised human rights principles.

2.44 DFAT considers credible the January 2013 Report of the UN High Commissioner for Human Rights on the human rights situation in Afghanistan, which included among key areas of concern: the rights of women; the rights to personal freedom and security due to conflict; and the right to a fair trial, including documentation of arbitrary detention and torture in detention. UNAMA has also documented the widespread use of torture and ill-treatment of conflict-related detainees held by the ANSF (see ‘Torture’, below).



## 3. Refugee Convention Claims

### Race/Nationality

#### Ethnicity

3.1 Ethnic, tribal and family affiliations are important factors in almost every aspect of life in Afghanistan, particularly in rural areas. For the majority of Afghans, this kinship is central to identity and acceptance in a community, including for finding shelter and employment. As such, Afghans prefer to live in areas where their ethnic group constitutes the local majority. Outside of major urban areas, most Afghans are organised into ethnic-based communities with their own traditions and customs. Even within ethnically-mixed urban areas, Afghans tend to live alongside members of their own ethnic group.

3.2 Geographic distribution of ethnic groups is not uniform, but Pashtuns generally dominate the southern and eastern provinces; Hazaras predominately reside in the central provinces; and Tajiks, Uzbeks and Turkmen in northern provinces.

#### *Violence*

3.3 Ethnic violence was widespread during the 1990s civil war and under the Taliban. For example, thousands of fighters and civilians were killed in fighting for Mazar-e-Sharif in 1997–1998, during which at least 2000 Hazaras were killed by the Taliban in reprisal for earlier killings of Taliban fighters. Tensions were reduced significantly after 2001, and there has been no large-scale ethnic violence since then. However, ethnic rivalry exists throughout the country at a local level, and results in sporadic violence—for example, seasonal clashes over land claims and access to natural resources between nomadic Pashtun Kuchi tribes and Hazaras. Intra-ethnic violence also occurs from time to time, particularly between different Pashtun tribal groups.

3.4 DFAT assesses that, in the current environment, insurgents—including the Taliban—generally do not target individuals solely on the basis of ethnicity and no particular ethnic groups are disproportionately subject to violence. Although ethnicity or religion is sometimes a contributing factor, the Taliban’s primary targets are the Government and its international partners.

#### *Discrimination*

3.5 DFAT has no evidence of any official policy of discrimination pursued by the Government on the basis of ethnicity. No ethnic minorities are excluded from elections or political representation under the current constitutional system, and there are no laws preventing ethnic (or religious) minorities from participating in political life. Ethnic minorities have their own media outlets, political parties and politically-active representatives.

3.6 Although political parties tend to be ethnically-based, no mainstream parties in Afghanistan have made ethnicity a campaign issue ahead of the 2014 elections. There is also some evidence that political parties representing different ethnic groups are able to work together to defend their collective interests—for example, to prevent proposed changes to electoral laws that could threaten some parties’ registration.

3.7 However, prejudice at the community-level (societal discrimination) exists and is widespread. As noted above, ethnicity and tribal affiliations are an important factor in Afghan daily life. Most commonly, societal discrimination tends to be in the form of nepotism within ethnic and religious communities. For example, ethnic, tribal or family connections will often trump merit as the basis for employment decisions for both government and private sector positions. These connections are crucial in an economic environment where paid work is hard to find.

3.8 Ethnicity is an important factor in many political and policy issues, including for appointments to government positions and access to higher education. For example, students at a Kabul university staged an eight-day hunger strike in front of Parliament in May 2013 in protest about ethnic discrimination and nepotism among the university's leadership. To counter a perceived Hazara domination of higher education, the Government proposed in July 2013 to replace the current merit-based system with an ethnically-based quota system for university entrance. Legislation to implement the change has not yet passed Parliament.

3.9 The introduction of Afghanistan's first electronic identity cards ('*e-Taskera*' see 'Documentation', below) also resulted in controversy as a result of rumours that the Government planned to 'hide' some information from the public—particularly ethnicity—in the computerised cards.

## Hazaras

3.10 Hazaras are a visibly distinct ethnic group in Afghanistan and constitute approximately nine per cent of the Afghan population. Hazaras are overwhelmingly Shia Muslims, mostly of the Twelver Sect (*athna asharia*), with a small Sunni minority. Hazaras living in rural areas speak Hazaragi, a dialect of the Persian (Farsi) language.

3.11 The traditional Hazara area in Afghanistan ('Hazarajat') lies in the central highlands and includes the provinces of Bamiyan and Daykundi, and parts of the provinces of Ghor, Uruzgan, Wardak and Ghazni.

3.12 DFAT assesses that, since the removal of the Taliban regime in 2001, minorities in Afghanistan have made significant gains, albeit from a low base. Afghanistan's Hazara community has taken advantage of the opportunities available to them since then, particularly in politics and education. For example, Hazara candidates won all the lower house seats in Ghazni, despite being a minority of the province's population. In addition, Afghanistan's current Second Vice President Mohammad Karim Khalili, an ethnic Hazara from Wardak Province, was appointed in 2002 and subsequently elected to this post in 2004.

3.13 The historical enmity between Afghanistan's Hazara and Pashtun communities, particularly during the Taliban regime, contributes to the Hazara community's uncertainty about the security situation in Afghanistan ahead of the ISAF drawdown in 2014.

3.14 In general, DFAT's current assessment is that there is currently a low risk of criminal or insurgent violence for Hazaras in Afghanistan. Hazaras are not currently at any greater risk of violence than other ethnic groups in Afghanistan (see also the March 2014 DFAT Thematic Report 'Hazaras in Afghanistan and Pakistan').

## Religion

3.15 Article 2 of Afghanistan's Constitution establishes Islam as the official religion, but also requires that believers of other religions should be 'free within the bounds of law in the exercise and performance of their religious rites.' Article 62 requires that presidential candidates be Muslim.

3.16 There is no reliable information on the size of religious groups in Afghanistan, but approximately 99 per cent of the population identify as Muslim. Sunnis represent approximately 80 per cent of the population and Shias 19 per cent. Other minorities, including Christians, Sikhs, Hindus and Baha'is constitute the remaining one per cent of the population.

3.17 Mosques, clerics and religious leaders (both Sunni and Shia) have been the target of violence and harassment by insurgents. Since 2001, numerous religious scholars and leaders have been killed for condemning the tactics used by the Taliban insurgency as 'un-Islamic'. In the year to

July 2013, the UN documented 14 attacks by insurgents against religious leaders or places of worship, resulting in seven deaths. In some of these attacks, imams were specifically targeted, including for performing funeral rites for ANSF personnel.

## Non-Muslims

3.18 There are some religious facilities for Christians in Kabul that are generally available only to non-Afghans. There are also a number of religious facilities for Hindus and Sikhs, including in Kabul. Many non-Muslims do not openly practice their religion because of the risk of discrimination or violence. DFAT is not aware of any person in detention by the Government for practising a minority religious faith.

3.19 Although there is some official discrimination on the basis of religion, in practice, DFAT assesses that the main impediment to religious freedom in Afghanistan is societal discrimination against non-Muslim religious minorities. Christians, Sikhs and Hindus may suffer discrimination by the Muslim majority in the form of unequal access to government or private sector jobs and harassment in their schools. However, violence against non-Muslim minorities is rare, primarily because there are so few practitioners of non-Muslim religions in Afghanistan. DFAT has no current evidence of violence against non-Muslim minorities in Afghanistan.

3.20 The Baha'i faith has been declared a form of blasphemy by the Supreme Court, and most followers do not openly declare their beliefs.

## Shias

3.21 Afghanistan's Constitution and laws recognise some separate legal rights for Shias. Article 131 of the Constitution provides that Afghanistan's courts shall apply Shia jurisprudence in certain civil cases involving Shias. In 2009, Afghanistan's Parliament passed a Shia Personal Status Law, which recognised differing practices on issues like marriage, divorce and inheritance among Afghanistan's Shia community. The law commenced in July 2009, after being amended to reflect concerns about the rights of women in the Shia community (see 'Women', below).

3.22 DFAT assesses that Shia Muslims (mostly Hazaras, but also the minority Ismaili sect) face a low level of societal discrimination, primarily as a result of nepotism within the Sunni majority. Shias have also been subject to occasional violence. For example, a bombing attributed to Pakistan-based Lashkar-e Jhangvi (LeJ) of the Shia Abu Fazl mosque in Kabul during Moharram in December 2011 reportedly killed at least 70 people. DFAT assesses that Shia-Sunni sectarian violence is infrequent in Afghanistan. However, because many adherents of Shia Islam are also Hazaras, it is not always possible to differentiate between religion and ethnicity as the basis for discrimination or violence (see 'Hazaras', above).

## Blasphemy and Apostasy

3.23 Afghanistan's Constitution states that no law can be contrary to the beliefs and provisions of Islam. Although not stipulated in the Criminal Code, a number of 'egregious crimes', including blasphemy and apostasy, may be punished according to Islamic law, which may attract the death penalty.

3.24 In July 2013, several MPs used Parliament to call for Afghans who had converted to Christianity to be identified and executed. These statements reflect community sentiment amongst more conservative elements in Afghanistan. The Baha'i faith has been declared a form of blasphemy by the Supreme Court, and most followers do not openly declare their beliefs.

3.25 DFAT understands that a number of individuals may have been arrested for blasphemy and apostasy in Afghanistan. DFAT is not aware of the death penalty having been carried out in these cases since the Constitution was ratified in 2004.

## Political Opinion (Actual or Imputed)

3.26 Many political freedoms are enshrined in Afghanistan's Constitution. For example, Article 33 provides for citizens' rights to 'elect and be elected' and Article 35 allows citizens to form associations, including political parties, in accordance with the law. The 2009 *Political Parties Law* and subsequent regulations manage the operation of parties in Afghanistan.

3.27 There are 55 political parties registered in Afghanistan, many of which represent the interests of particular ethnic groups. Although the Constitution forbids parties from having military or quasi-military organisations, many current parties were originally formed as insurgent groups to resist the Soviet invasion and many may still maintain links with affiliated militias.

3.28 Elections in Afghanistan continue to be held against the backdrop of significant security and logistical challenges—Parliamentary and Presidential elections conducted since 2001 have been marred by widespread fraud, intimidation (of voters, polling staff and candidates) and corruption. However, formal opposition to, or intimidation of, political parties and opposition groups by the Government is uncommon.

### *Violence*

3.29 Since 2001, political demonstrations have generally been peaceful and have not generated significant opposition. A number of small parties, generally those with more liberal agendas, consider themselves to be under threat.

3.30 Numerous high-profile political figures, including mayors, governors and members of parliament have been targeted for assassination by the Taliban and other insurgents. For example, former President Burhanuddin Rabbani was killed by a suicide bomber at his home in Kabul in September 2011, soon after his appointment as the head of the High Council for Peace. In October 2013, Arsala Jamal, Governor of Logar province, was killed in a bomb attack at a mosque in Logar.

### *Discrimination*

3.31 DFAT assesses that low-profile members of a political party are generally not subject to discrimination on the basis of their membership of that party.

## Groups of Interest

### Women

3.32 Women's rights have improved significantly since the end of the Taliban regime in 2001 and in many respects women are now legally able to participate openly in public life. For example, in the 2010 Parliamentary elections, women accounted for approximately 41 per cent of registered voters and 16 per cent of candidates. Sixty-nine female candidates were elected—over a quarter of the members of Parliament. More broadly, the Government is working to implement a National Action Plan to improve the situation of women in Afghanistan.

3.33 However, DFAT assesses that women in Afghanistan are still frequently subject to violence, including targeted killings, sexual violence, domestic violence and honour killings, as well as a high level of systemic discrimination.

## Violence

3.34 The Taliban and other insurgent groups have been known to specifically target women, especially high-profile women leaders. For instance, in July 2012, the head of the Department of Women's Affairs in Laghman province was assassinated, along with members of her family. In December 2012, the acting head of the same Department in the same province was also killed. These women were targeted due to their high profile stance on women's rights. On 3 July 2013, unidentified assailants shot and killed the most senior female police officer in Helmand as she was travelling to work. Such attacks are more likely to take place in areas where the Taliban have control, or are actively contesting control, but high-profile women may be targeted by the Taliban throughout the country.

3.35 On a societal level, the AIHRC has documented more than 4000 cases of violence against women from March to October 2012, a 28 per cent increase on the same period of 2011, probably as a result of better reporting. However, reporting rates are likely lower than the actual rates, due to a mix of cultural, social and religious factors.

3.36 DFAT considers credible the AIHRC summary report of its 'National Inquiry on Rape and Honor Killing in Afghanistan' released in June 2013. Within the overall context of under reporting, over the two-year study period, 243 honour killings and 163 cases of sexual assault were reported to regional and provincial AIHRC offices. According to the AIHRC, 21 per cent of honour killings were perpetrated by the victim's husband and 15 per cent by police officers. The AIHRC report noted that two-thirds of alleged perpetrators had been arrested, but only 60 per cent of those arrested had been brought to trial and imprisoned.

3.37 The Afghan Government has taken some steps to protect women, including the *Law on the Elimination of Violence against Women*, issued by Presidential decree in 2009. The law criminalises child marriage, forced marriage, rape, domestic violence and other acts of violence against women. UNAMA's 2013 report found that despite progress, gaps in enforcement of the law remained. Parliamentary committees have indicated their desire to wind back aspects of the law's operation, reflecting community sentiment amongst more conservative elements in Afghanistan.

## Discrimination

3.38 Article 22 of Afghanistan's Constitution states that 'The citizens of Afghanistan, man and woman, have equal rights and duties before the law.' Although there have been significant improvements since 2001, in practice, women in Afghanistan continue to experience pervasive discrimination in most aspects of daily life which frustrates their pursuit of personal, economic, social and cultural rights. Discrimination is worse in areas where Taliban influence is stronger.

3.39 In some rural areas, traditional justice mechanisms, which disproportionately affect women, frequently hold more sway than the established courts or other state protection mechanisms. For example, Islamic clerics in the Deh Salah district of Baghlan province (a mostly Tajik community) have issued a *fatwa* that prohibits women from leaving their homes without a male relative, bars them from attending medical clinics without a male escort, and states that all 'cosmetic shops' be shut down. In some cases, traditional justice mechanisms are used to resolve disputes between families. This includes, for example, the practice of *baad dadan*, where a family offers a girl for marriage to settle a dispute.

3.40 Arranged marriages are traditional in Afghanistan—in many cases these are forced or coerced. Although reliable data is difficult to obtain, up to 80 per cent of marriages in Afghanistan are forced. Women and girls may also be married according to the practice of *badal*, where two families exchange girls to minimise the high cost of marriage. Child marriages are also common.



3.41 The *Shia Personal Status Law 2009* derogated some constitutional rights for Shia women, leaving questions of inheritance, marriage and other personal freedoms to be determined by Shia religious authorities.

### Sexual Orientation and Gender Identity

3.42 Homosexuality is illegal in Afghanistan. ‘Pederasty’, as homosexuality is defined, can be punished by a long prison term under Article 427 of the Afghan penal code. Under sharia, homosexuality may be punished by the death penalty, but DFAT is not aware of any cases in which this penalty has been enforced.

3.43 In addition to legal constraints, the freedom to publicly identify as being homosexual is constrained by cultural and societal mores. However, the practice of homosexuality itself is generally more widespread and tolerated, including because of the difficulties many men may have in finding a bride. The situation for homosexual women is even less visible because their lower level of autonomy often makes it difficult to establish these relationships.

### Children

3.44 Children in Afghanistan continue to suffer severe human rights abuses as a result of the ongoing armed conflict. According to the Office of the High Commissioner for Human Rights (OHCHR), at least 1103 children were killed and injured in the first 11 months of 2012, on average more than 20 children killed or injured per week across the country.

3.45 The Taliban continue to attack both schools and their staff—especially girls schools. The OHCHR Country Task Force on Monitoring and Reporting received reports of 102 incidents of attacks against schools and teachers during 2012, though only 25 of these incident reports were able to be verified by OHCHR.

3.46 There are credible reports that children continue to be recruited to take direct part in hostilities. Officially, the Government only accepts applicants over the age of 18 for the armed forces and police. However, children may have been recruited and used for military purposes by the Afghan National Security Forces (ANSF), including the Afghan National Police (ANP), and pro-government militias. The US State Department reported that the Taliban has recruited children younger than 18, in some cases as suicide bombers or to place improvised explosive devices, particularly in southern provinces.

3.47 Child abuse is also endemic. According to the AIHRC, this abuse included “general neglect, physical abuse, sexual abuse, abandonment and forced labour to pay off family debts.” Sexual abuse against children is widespread. The Afghan Ministry of the Interior reported approximately 100 child rapes in Kabul in 2011, but this figure is likely to be significantly lower than the actual number of incidents. The number of arrests is low. For example, the traditional practice of dancing boys (*bacha bazi*) involves young boys from predominantly poor families being selected by powerful men to entertain and serve them, leaving them open to sexual abuse.

### Media

3.48 Under Article 34 of the Constitution, freedom of expression ‘shall be inviolable’ according to provisions of law. The most recent 2009 *Mass Media Law* sought to clarify press freedoms and limit government interference, but media outlets must be licensed by the Ministry of Information and Culture. The law also prohibits the publication of materials considered to be contrary to the principles of Islam.

3.49 Afghanistan’s media is much freer than it was under the Taliban regime, under which only one government radio station was in operation and independent media was banned. By 2010, there were more than 175 FM radio stations, 75 TV channels, four news agencies and hundreds of



publications, including at least seven daily newspapers. Media diversity and freedoms are considerably higher in Kabul than elsewhere in the country. A large number of private radio and television stations, in addition to print and Internet-based media, routinely convey stories that are critical of the Government. There is increased reporting of human rights abuses, with serious crimes against women and children given prominence. Despite improvement in media diversity since 2001, the quality of journalism in Afghanistan varies. Journalists are often poorly paid and have been known to publish false reports for payment.

3.50 Media employees and journalists continue to face security challenges. Authorities have been known to use threats, violence and intimidation to silence journalists who report critically on impunity, war crimes, government officials and powerful local figures. Taliban and insurgent groups have also been known to attack journalists and media infrastructure. Amnesty International reported 69 attacks on journalists by security forces, insurgents and private individuals in 2012 (14 per cent down on 2011 figures). The prevailing security environment creates a dangerous environment for journalists, even when not specifically targeted.

### People Associated with the Government or the International Community

3.51 DFAT assesses that individuals working for, supporting, or associated with the Government and the international community are at a high risk of violence perpetrated by insurgents. These individuals are often subject to intimidation, threats, abduction and killing. In 2013, UNAMA documented the deaths of 743 civilians and the wounding of 333, reflecting a continuing shift in tactics of insurgents to deliberately target civilians perceived to support the Government or international community. These attacks occurred throughout Afghanistan. In these instances it is unlikely that the ethnicity or religion represented the primary motivation of the insurgents, but may have been contributing factors.

3.52 In many cases, individuals working with the Government or international community will take measures to mitigate these risks. This includes concealing their employment from their families, not travelling with documentation that would identify them as employees of international organisations and deleting contact information from mobile phones. Some international organisations instruct their staff not to carry identification.

## 4. Complementary Protection Claims

### Arbitrary Deprivation of Life

4.1 There are credible reports of incidents of arbitrary deprivation of life by both government security officials and insurgents in the form of extra-judicial killings and enforced or involuntary disappearances. However, there is a lack of accurate data on the number and type of incidents due in part to under-reporting. For example, as at January 2013, the UN Working Group on Enforced or Involuntary Disappearances only had three outstanding cases for Afghanistan.

4.2 Insurgent groups use targeted assassinations in their campaign against the Government and its international partners. Further, the Taliban is known to impose summary justice, such as the June 2012 execution of a woman accused of adultery, which was videoed and placed online. During 2013, the UN Assistance Mission in Afghanistan (UNAMA) documented the killing of 19 civilians and injury of four others as a result of death sentences and punishments carried out by insurgents. The majority of these killings were the execution by insurgents of civilians suspected of spying for the Government.

4.3 There are also credible reports that members of the Afghan National Security Force (ANSF) and the International Security Assistance Force (ISAF) have also committed extra-judicial killings. For example, UNAMA reported that in May 2012 members of the Afghan Local Police shot and killed a man during a land dispute in the Paktika Province. UNAMA also documented 182 civilian casualties including 118 deaths and 64 injuries due to aerial operations conducted by ISAF in Afghanistan during 2013, a decline of 10 per cent compared to the previous year.

### Death Penalty

4.4 The death penalty in Afghanistan is imposed according to the Penal Code or sharia for range of serious offences. Since 2008, executions have been carried out for offences including aggravated murder, murder, treason, espionage, kidnapping not resulting in death, and terrorism.

4.5 There are a number of other offences that may be punished by death, but for which no executions have been carried out. For example, sex outside of marriage may technically be punishable by death, but evidentiary requirements are stringent and the death penalty has not been applied in any such cases.

4.6 Executions are generally carried out by hanging or by firing squad. The Supreme Court must consider and uphold a sentence of death issued by lower courts against individuals convicted of serious offences. The President must also approve executions before they can be carried out.

4.7 Convicted criminals continue to be executed by the Government. As recently as November 2012, 14 prisoners on death row from Kabul's Pul-e-Charki prison were executed by firing squad. Although there is no accurate data on the number of individuals who have been sentenced to death in Afghanistan, DFAT considers credible Amnesty International's estimate that more than 250 people remained on death row as of November 2012.

## Torture

4.8 Torture is prohibited under Article 29 of the Afghan Constitution, but there have been credible reports that government officials (including security forces) have committed such abuses in detention and prison facilities in Afghanistan.

4.9 In 2012, the Afghan Independent Human Rights Commission (AIHRC) reported allegations of torture at a number of National Directorate of Security (NDS) and Afghan National Police facilities, based on over 100 interviews. These included beatings, suspension from the ceiling, electric shocks, threatened or actual sexual abuse, and other forms of mental and physical abuse. The AIHRC considered that the Government failed to hold suspected perpetrators accountable, in some cases simply reassigning them to other detention facilities.

4.10 In January 2013, a UNAMA report found that of 635 conflict-related detainees interviewed, more than half had experienced ill-treatment or torture whilst in detention. The Government ordered a Presidential delegation to investigate the allegations and President Karzai consequently issued a decree ordering the Attorney-General's Office, the NDS and the Ministry of the Interior to take follow-up action, including by providing equipment to officers to record investigation procedures via video and human rights training. UNAMA has noted that it is unclear whether any of the investigations resulted in prosecutions or other sanctions.

## Cruel, Inhuman or Degrading Treatment or Punishment

4.11 Reports of cruel, inhuman or degrading punishment by the Taliban persist, though are largely undocumented or publicised.

## 5. Other Considerations

### State Protection

5.1 The ongoing insurgency, particularly in the south and east of Afghanistan means that the Government struggles to exercise effective control over many parts of the country. As a result, the Government lacks the ability to adequately address human rights issues, protect vulnerable groups and prosecute human rights violators in those areas.

5.2 Despite these challenges, DFAT assesses that the Government maintains effective control in major urban areas, particularly Kabul, all provincial capitals, including Herat, Mazar-e-Sharif and Kandahar, and the majority of other district centres.

### Areas not under Effective State Protection

5.3 Insurgents maintain parallel political and judicial structures in contested areas where the Government's control is weaker, particularly in the south and east of Afghanistan. Due to their inherent illegality, UN Assistance Mission in Afghanistan (UNAMA) considers their existence and resulting punishments carried out to be human rights abuses.

5.4 Insurgents also seek to propagate fear and uncertainty among the civilian population to discourage them from cooperating with the Government and international forces. For example, insurgents will distribute 'night letters' that typically threaten retribution against individuals or communities.

### Police

5.5 The Afghan National Police (ANP) has primary responsibility for internal law and order and plays an active role fighting insurgent groups, but does not exercise effective control across the whole country. The capacity of the ANP to maintain law and order is limited by a lack of resources, poor training, insufficient and outmoded equipment and political manipulation. In many cases, the ANP will not be able to resist concerted attacks by insurgents. The notional strength of the ANP is currently 151,000. In addition to the ANP, irregular militia units were organised into the Afghan Local Police (ALP) in 2010 to provide defensive protection for village communities. The notional strength of the ALP is currently 22,000.

5.6 Significant international donor effort has gone into building a credible and effective police force. Despite extensive work to provide human rights and other training, reports of abuse persist. UNAMA and the Office of the High Commissioner for Human Rights (OHCHR) have expressed concerns over incidents of human rights abuses, including intimidation, extortion and sexual abuse, by members of the ANP and the ALP.

### Judiciary

5.7 Article 116 of the Constitution provides for an independent judiciary, arranged in hierarchy from primary local and district courts, appeals courts to the Supreme Court, whose members are appointed by the President for 10-year terms. In cases where there is no provision in the Constitution or laws, cases are decided according to Islamic jurisprudential practice.

5.8 The formal judicial system is hampered by underfunding, corruption and a lack of qualified and properly trained judges and lawyers, and does not operate evenly across the country. It is relatively strong in Kabul and the provincial capitals, but even in these areas, the judicial system lacks the capacity to handle the volume of new or amended legislation and the large number of cases. Attacks and threats against judges and lawyers carried out by insurgents or tribal leaders

undermine the formal judicial system. For example, in 2013 insurgents attacked court buildings in Kabul and Farah provinces.

5.9 While written laws governing conditions within prison and legal rights for prisoners are often sound, the implementation of these laws is weak. Conditions within prisons and legal rights for prisoners in Afghanistan remain poor. Challenges include delays in addressing prisoners' cases, limited access of prisoners to their cases and defence lawyers, deprivation of their right to be informed about accusations against them, lack of separation of prisoners by crime type, lack of separation of detainees from convicted persons, and use of shackles, arbitrary arrest and detention. Lack of access to defence lawyers is particularly acute for women. The Afghan Independent Human Rights Commission has specifically commented on widespread and deliberate violations of due process rights, including the right to counsel, and family notification, that contribute to increasing the risk of torture and other abuse.

5.10 In practice, the majority of criminal and civil disputes in more remote rural districts are handled outside the formal legal system, including through *sharia* and traditional justice mechanisms, such as the Pashtun tribal code *pashtunwali*. These traditional justice mechanisms often deal with grievances and disputes (including generations-long disputes) by the convening of a community-based *jirga*. In some cases, disputes are settled by payment as restitution (*diyya*) or exchange (*badal*), which sometimes involves violence as a reprisal punishment.

## Internal Relocation

5.11 Article 39 of the Constitution guarantees Afghans' rights to 'travel and settle in any part of the country, except in areas forbidden by law'.

5.12 According to the UN High Commissioner for Refugees (UNHCR) as of October 2013, there were over 619,000 internally displaced persons (IDPs) as a result of conflict in Afghanistan, an increase over the previous year. Populations may be displaced from any part of Afghanistan and areas of displacement change over time as a result of military operations or natural disasters, including floods, earthquakes and droughts. The International Committee of the Red Cross estimated in 2009 that 76 per cent of Afghans were displaced at least once in their lives.

5.13 Resettlement and reintegration in areas of origin is not always possible and the great majority of IDPs, especially those displaced for long periods, will seek to move to urban areas. For example, a large number of people from a wide range of ethnic groups have moved to Kabul since 2001. This movement to Kabul is largely the result of economic opportunity, but it is often difficult to differentiate between economic migrants and those internally displaced as a result of conflict or natural disasters.

5.14 Traditional extended family and tribal community structures of Afghan society are the main protection and coping mechanism for IDPs, particularly in rural areas. Afghans rely on these networks for their safety and economic survival, including access to accommodation and an adequate level of subsistence.

5.15 Large urban areas such as Kabul are home to mixed ethnic and religious communities. Urban areas offer greater opportunities for employment, access to services and a greater degree of state protection than many other areas, including as a result of a higher degree of anonymity for returnees. In practice, internal relocation to urban areas can be limited by a lack of financial resources. Internal relocation to urban areas is generally more successful for single men of working age. Unaccompanied women and children are least likely to be able to relocate to urban areas without the assistance of family or tribal networks.

5.16 DFAT assesses that because of Afghanistan's size and diversity, there are generally options available for members of most ethnic and religious minorities to be able to relocate to areas of relative safety elsewhere in Afghanistan. Afghans are more likely to be able to resettle successfully when provided with a level of reintegration support beyond that provided by the Government.

## Treatment of Returnees

5.17 Since 2002 an estimated 5.8 million Afghan refugees—25 per cent of Afghanistan's population—have returned to Afghanistan, predominantly from Pakistan and Iran; 4.7 million of those with the assistance of the UNHCR. The rate of returns slowed in 2013 compared to previous years. The UNHCR estimates 40 per cent of these returnees have been unable to reintegrate in their home communities due to a lack of internal security and problems with access to land, shelter, services and livelihoods. Approximately a third of returnees have chosen to settle in new locations, mostly in urban areas.

5.18 Returnees generally have lower household incomes and higher rates of unemployment than established community members. Those returnees who receive cash or in-kind reintegration assistance on return to Afghanistan are therefore more likely to resettle successfully. Men of working age are more likely to be able to return successfully than unaccompanied women and children without the assistance of family or tribal networks. Returnees who have obtained foreign language and computer skills (often as a result of their time in another country) may be best placed to find well-paid employment, including in major urban areas. Those who have not obtained useful skills whilst seeking protection outside Afghanistan often seek to depart Afghanistan again.

5.19 At present, all involuntary and most voluntary returnees from Western countries are to Kabul. A high proportion of returnees choose to remain in Kabul rather than return to other places of origin. DFAT assesses that because of Kabul's size and diversity, returnees would be unlikely to be discriminated against or targeted on the basis of ethnicity or religion.

## Exit and Entry Procedures

5.20 A valid travel document (usually an Afghan passport) and appropriate entry visa for any intended destination are required for legal exit from Afghanistan, including for movement across the Afghanistan–Pakistan border. However, because of its length and rugged terrain, undocumented movement across the border is common.

5.21 Because asylum seekers generally leave Afghanistan for interim destinations on valid travel documents, they are unlikely to have committed immigration offences in Afghanistan. DFAT assesses that persons returning to Afghanistan (either voluntarily or involuntarily) who have departed illegally are rarely punished unless they are suspected to have committed other crimes by Afghan authorities.

## Documentation

5.22 In Afghanistan, the most reliable form of documentation is the machine-readable passports. The e-Taskera, an electronic ID card that has been tested in 2013 also has a number of features to prevent document fraud. Other types of documentation, including birth, death and marriage certificates and driver's licences, are less reliable.



## Identification Cards

5.23 The Taskera certificate is the most common form of identification in Afghanistan. Taskeras are printed on plain paper and include information including the bearer's name, father's name, grandfather's name, place and date of birth, place of residency, type of occupation and status of military service. Information included on Taskera certificates is sometimes incomplete. Other than stamped seals, Taskeras do not include any security features.

5.24 Taskera identification certificates are needed for employment, admission to schools and universities, applications for a passport, permission to run a business and to rent, buy or sell property.

5.25 Official Taskeras are issued by the Population Registration Department of the Ministry of the Interior in provinces and districts throughout Afghanistan. Generally, the required supporting information for the issuance of a Taskera will be a copy of the father's Taskera. Record keeping is not centralised or computerised.

5.26 Electronic identification cards (e-Taskera) are being tested in Afghanistan. e-Taskera cards feature biometric information including fingerprints, iris scans and digital images of the bearer. The issuance of e-Taskeras is centrally controlled and computerised.

## Passports

5.27 Old non-machine-readable passports include standard security features that offer a higher (but not universal) adherence to standard procedures to establish identity. The biometric page contains information on the bearer's first name, surname (or father's name), occupation, photograph, date of birth, place of birth, date of issue and validity of up to five years. The passport does not include information about a bearer's religion.

5.28 Passports are issued by Afghanistan's National Passport Office of the Ministry of Interior. Generally, the only supporting documentation required is a copy of the bearer's Taskera.

5.29 New machine-readable Afghan passports are less vulnerable to fraud than other identity documents. These have been issued from some passport offices in Afghanistan since 2012. These passports contain the same information as non-machine-readable passports, but their validity is often ten years instead of five years.

## Birth Certificates

5.30 Although they are not common in Afghanistan, the Ministry of Public Health has begun issuing birth certificates through hospitals. Parents of newborn children register their births with the Ministry of Interior's population registration office and are issued with a Taskera after the birth is attested by government officials. The birth of children is not always registered in Afghanistan.

## Document Fraud

5.31 There are widespread concerns regarding the availability of fraudulent identity documentation in Afghanistan. Because the process for obtaining some documents, including Taskeras, is largely decentralised to the provincial level, it is vulnerable to fraud. Forgeries of Afghan documentation are able to be purchased with relative ease in many parts of Afghanistan and Pakistan.

5.32 Genuine documents are sometimes issued under false pretences or are sometimes issued beyond the jurisdiction of the issuing authority. For example, Afghan overseas missions do not have authority to issue death certificates for a death in their country of responsibility but such documents are known to exist. DFAT has no information on how widespread the practice is. The Identity

Checking Unit (IDCU) within the Ministry of Interior can, in many cases, verify the full range of officially-issued Afghan identity documents.

5.33 Other forms of documentation including, for example, school, academic and bank records are frequently forged.