

# AFGHANISTAN 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Afghanistan is an Islamic republic with a strong, directly elected presidency, a bicameral legislative branch, and a judicial branch. In 2009 the constitutionally mandated Independent Elections Commission (IEC) declared Hamid Karzai president for a second term, after his challenger withdrew from a runoff election. Reports of widespread fraud and irregularities marred that election, as well as the 2010 parliamentary elections. Civilian authorities generally maintained control over the security forces, although there were instances in which security forces acted independently.

The most significant human rights problems were credible reports of torture and abuse of detainees by Afghan security forces; widespread violence, including armed insurgent groups' killings of persons affiliated with the government and indiscriminate attacks on civilians; pervasive official corruption; and endemic violence and societal discrimination against women and girls.

Other human rights problems included extrajudicial killings by security forces; poor prison conditions; ineffective government investigations of abuses and torture by local security forces; arbitrary arrest and detention, particularly of women accused of so called "moral crimes"; prolonged pretrial detention; judicial corruption and ineffectiveness; violations of privacy rights; restrictions on freedom of speech and press; restrictions on freedom of religion; limits on freedom of movement; underage and forced marriages; abuse of children, including sexual abuse; discrimination and abuses against ethnic minorities; trafficking in persons; discrimination against persons with disabilities; societal discrimination based on race, religion, gender, sexual orientation, and HIV/AIDS status; abuse of worker rights; and sex and labor trafficking.

Widespread disregard for the rule of law and official impunity for those who committed human rights abuses were serious problems. The government was either unwilling or unable to prosecute abuses by officials consistently and effectively.

The Taliban and other insurgents continued to kill civilians using improvised explosive devices, car bombs, and suicide attacks. The Taliban used children as suicide bombers, including in a September attack against the NATO compound in Kabul. Antigovernment elements also threatened, robbed, and attacked villagers,

foreigners, civil servants, and medical and nongovernmental organization (NGO) workers.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were several credible reports that the government or its agents committed arbitrary or unlawful killings. For example, the UN Assistance Mission in Afghanistan (UNAMA) reported that in May in Paktika Province, an Afghan Local Police (ALP) commander and four ALP members shot and killed a man during a land dispute.

There were numerous reports that the Taliban and other insurgent groups committed politically motivated killings. The year-end UNAMA report attributed 81 percent of all civilian casualties to anti-government elements (AGEs) and found a 108 percent increase in civilian casualties (including deaths and injuries) resulting from targeted killings.

In May the Taliban announced a spring offensive targeting high-ranking government officials, members of parliament, High Peace Council (HPC) members, contractors, and others regarded as working against the Taliban's objectives. The Taliban committed several high-profile, targeted killings of high-ranking officials during the year, including the May killing of HPC member Mullah Arsala Rahmani in Kabul, a July suicide bomb that killed several lawmakers, and killings that targeted regional police commanders, provincial police chiefs, governors, and other officials. In August the Taliban claimed responsibility for the killing of the Alisheng district governor of Laghman Province due to his support of the public uprising against the Taliban in that province.

The Taliban and other insurgents also killed numerous civilians. For example, the Taliban claimed responsibility for a highly coordinated and prolonged June attack on a popular lakeside resort outside Kabul, in which at least 17 persons were killed and many were held hostage before being freed by Afghan and NATO forces. On August 26, the Taliban reportedly killed 17 civilians who were attending a party in Helmand Province. Also in August five civilians were injured in a bomb blast in Nangarhar Province.

UNAMA reported that improvised explosive devices (IEDs) employed by insurgents continued to be the single largest cause of civilian deaths. AGEs continued to use suicide attacks to target civilians and government officials.

There were reports of summary justice by the Taliban resulting in extrajudicial executions. In June the Taliban videotaped the extrajudicial execution of 22-year-old Najiba in Parwan Province, alleging adultery.

### **b. Disappearance**

There were reports that insurgent groups and criminals were responsible for disappearances and abductions (see section 1.g.). For example, on September 9, the Taliban abducted six civilians from their vehicle in Wardak Province; they later were found dead.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution prohibits such practices; however, there were widespread reports that government officials, security forces, detention center authorities, and police committed abuses. NGOs reported that security forces continued to use excessive force, including torturing and beating civilians.

NGO, UNAMA, and media reports alleged that Kandahar Provincial Chief of Police Abdul Raziq facilitated the torture of detainees and extrajudicial killings. The Afghanistan Independent Human Rights Commission (AIHRC) found multiple individuals detained by the Afghan National Police (ANP) in Kandahar who claimed mistreatment and torture while in ANP custody. Detainees were reportedly tortured at official and unofficial locations, including ANP check posts, ANP headquarters, and other ANP facilities in Kandahar. Methods of torture included beatings with kicks, fists, electric and wire cables; choking; electric shock; and squeezing of testicles. In July UNAMA expressed concern that the Afghan National Security Forces (ANSF) in Takhar Province used torture in their interrogations of prisoners to elicit confessions to poisoning schoolgirls in the absence of any evidence that the girls were poisoned.

In a March report, the AIHRC cited evidence of torture at nine National Directorate of Security (NDS) facilities and several ANP facilities, such as beating with sticks, electric cables, pipes, and rubber hoses; suspension; electric shock; threatened sexual abuse; twisting of genitals; forced prolonged standing; burning

with cigarettes; and biting by interrogators. The AIHRC also reported detainees being held at secret NDS locations to which they were not granted access. AIHRC monitors received several reports of NDS officials acting to conceal evidence of torture and mistreatment from monitoring organizations, including transferring detainees to unknown places before monitoring visits.

The Ministry of Women's Affairs (MOWA) and NGOs reported that police raped female detainees. There were some reports that security officials and those connected to the ANP raped children with impunity. However, in one case in July, a juvenile rehabilitation officer was sentenced to 16 years' imprisonment for raping a 15-year-old ward. NGOs reported incidents of sexual abuse and exploitation of children by the ANSF, although cultural taboos against reporting such crimes made it difficult to determine the extent of the problem. In December media officials alleged that an Afghan Border Police commander in Kandahar was involved in child sex abuse.

In November four members of the ALP were found guilty of rape and abuse of power and sentenced for their involvement in the May rape of an 18-year-old girl in Kunduz Province. In the second half of the year, there were 96 investigations into ALP abuses that resulted in 77 dismissals or prosecutions of ALP members. A UNAMA report alleged, in spite of investigations, arrests, and prosecutions of these ALP members involved in human rights abuses, that impunity for past and ongoing human rights abuses continued. In July NATO initiated a complete revetting of all ALP members; as of December 27, 88 percent of units had been revetted, and 1.1 percent of ALP members were fired as a result.

There were credible reports of abuses of power by "arbakai" (untrained local militia) commanders and their followers. These included accounts of murder, rape, assault, the forcible levy of informal taxes, and the traditional practice of "baadh," the transfer of a girl or woman to another family to settle a debt or grievance. In September a group of arbakai reportedly killed 11 civilians in a reprisal for a Taliban killing of one of their militia members in Kunduz Province.

There were reports of torture and other abuses by the Taliban and other insurgent groups.

### **Prison and Detention Center Conditions**

Prisons, juvenile rehabilitation centers, and detention facilities were overseen by different organizations. The General Directorate of Prisons and Detention Centers

(GDPDC), as part of the Ministry of Interior (MOI), has responsibility for all civilian-run prisons—both male and female. The Ministry of Justice's (MOJ) Juvenile Rehabilitation Directorate (JRD) is responsible for all juvenile rehabilitation centers and civilian detention centers. The ANP, under the MOI and the NDS, also run short-term detention facilities at the provincial and district level, usually colocated with their headquarters facility. The Ministry of Defense runs the Afghan National Detention Facilities at Parwan and Pul-e-Charki.

Physical Conditions: The AIHRC and other observers continued to report that inadequate food and water, poor sanitation facilities, insufficient blankets, and infectious diseases were common in the country's prisons. However, some observers found the food and water to be sufficient throughout the GDPDC. The GDPDC had a nationwide program to feed prisoners but was on an extremely limited budget. Many prisoners' families provided food supplements and other necessary items.

NGOs reported cases of prison officials raping female inmates. In March media reports indicated as many as 100 prisoners went on a hunger strike to protest their mistreatment at the Pul-e-Charkhi facility.

In November President Karzai issued an order for the execution of 16 prisoners, with all 16 prisoners hanged within a two-day period. Although the law permits use of the death penalty and grants authority to the president personally to approve all executions, human rights organizations, the AIHRC, and the UN expressed concern about the fairness of the judicial system and the method of execution.

There were 34 provincial prisons under GDPDC control, 187 active MOJ detention facilities, and 30 juvenile rehabilitation centers. The total number of active detention facilities reportedly fluctuated from month to month. Overall, the MOI lacked sufficient detention facilities. No official information was available on the number of prisoners the NDS held or the number of facilities the NDS operated.

Authorities generally did not have the infrastructure capacity to separate pretrial and posttrial inmates. As of November the GDPDC reported 6,558 male pretrial detainees, 17,987 male prisoners, 154 female pretrial detainees, and 590 female prisoners. In most instances limited infrastructure hindered housing prisoners by their classification, but where it was feasible the GDPDC separated them. Women were not imprisoned with men. Authorities generally did not have the infrastructure capacity to separate juveniles based on the nature of the charges against them.

Under the law children younger than age seven may live in prison with their mothers who have been convicted of a crime. However, this practice was reduced significantly under the direction of the GDPDC and in conjunction with the opening of some children's support centers. Reports indicated that the children placed in the support centers were thriving in this new environment and that some mothers requested that their children remain in the centers even after being released due to improved education and health.

Administration: There was an informal grievance procedure within the GDPDC. The MOJ, the attorney general, and some governors monitored or assessed prison conditions; however, investigations and monitoring did not fully meet international standards. A formal prisoner complaint process was outlined under a GDPDC directive, but it was not in place. Although the practice varied by prison, commanders designated certain inmates to report back to them on security and internal situations. In 2011 the NDS established a human rights unit to investigate claims of detainee mistreatment and take action against perpetrators of abuse; however, human rights observers complained that progress and effectiveness of this unit was limited. The International Security Assistance Force (ISAF) worked to bolster the resources and effectiveness of this organization through partnering with ISAF detention monitoring teams and the AIHRC.

The law provides prisoners with the right to leave prison for up to 20 days for visits. However, this right was not respected in most prisons, and the law is unclear in its application to different classes of prisoners. At GDPDC and JRD correctional facilities, inmates were able to receive visitors on a regular basis.

Provisions for alternatives to incarceration were rarely utilized in practice. Regular presidential pardons on holidays were the only practice that diverted inmates from prison.

In government detention facilities, observers reported that prisoners were permitted religious observance.

Monitoring: The AIHRC, UNAMA, ICRC, and ISAF generally were provided access to MOI, MOJ, NDS, and Ministry of Defense (MOD) detention facilities. Security constraints and obstruction by some authorities occasionally prevented visits to some places of detention. Access to NDS facilities improved over the year with the NDS granting unannounced access to the AIHRC and ISAF, but compliance by facility commanders to that order was sporadic. The AIHRC

reported that before visiting detention facilities, NDS officials usually required the AIHRC to submit a formal letter requesting access at least one to two days in advance. NDS officials continued to prohibit AIHRC and UNAMA monitors from bringing cameras into NDS facilities, thereby preventing AIHRC monitors from properly documenting physical evidence of abuse such as bruises, scars, and other injuries.

Improvements: According to the AIHRC, the NDS conducted training for its staff on human rights abuses, established a human rights unit to investigate allegations of abuse, and formed a government committee to address allegations of torture emanating from a 2011 UNAMA report. In a June presidential decree, the MOI was tasked to report to the cabinet on conditions and human rights abuses within the country's prisons and detention centers, but it did not issue a report by year's end.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest or detention; however, both remained serious problems. Many citizens were detained without enjoying essential procedural protections.

According to NGOs, law enforcement officers continued to arbitrarily detain citizens without clear legal authority and due process. Local law enforcement officials reportedly illegally detained persons on charges not provided for in the penal code and used their official status to resolve petty disputes. In April the Attorney General's Office (AGO) ordered a halt to arrests and convictions for "running away," which is not a crime under the law. However, reports indicated that prosecutors instead charged women who had left home with "attempted adultery" for being outside the home in the perceived presence of nonrelated men. In some cases women who had left home were imprisoned because it was unsafe for them to return home and there was no shelter available elsewhere (see section 6). In President Karzai's June decree, the AGO was ordered to review all detentions in the prosecutor's office, stop any unlawful detentions, and provide explanation for detention of all others.

#### **Role of the Police and Security Apparatus**

Three ministries have responsibility both in law and in practice for providing security in the country. The ANP and the ALP, under the MOI, have primary responsibility for internal order but increasingly were engaged in fighting the

insurgency. The Afghan National Army (ANA), under the Ministry of Defense, is responsible for external security. The NDS has responsibility for investigating cases of national security and also functions as an intelligence agency. The investigative branch of the NDS operated a facility in Kabul where it held prisoners on a pretrial basis until their cases were handed over to prosecutors. In some areas insurgents rather than the ANP or ANA maintained control.

There were reports of official impunity and a lack of accountability throughout the year. Observers believed that ALP and ANP personnel were largely unaware of their responsibilities and defendants' rights under the law. According to UNAMA, accountability of NDS and ANP officials for torture and abuse was weak, not transparent, and rarely enforced. There was limited independent, judicial, or external oversight of the NDS and ANP as institutions, and of crimes or misconduct committed by NDS and ANP officials, including torture and abuse.

International support for recruiting and training new ANP personnel continued with the goal of professionalizing the police force, including the continuing implementation of the GDPDC staff prison reform and restructuring program. The international community worked with the government to develop and offer awareness and police training programs. In addition to core policing skills and internal investigation mechanisms to curb security force corruption and abuses, these programs emphasized law enforcement, the constitution, values and ethics, professional development, the prevention of domestic violence, and fundamental standards of human rights.

Nevertheless, human rights problems persisted; observers criticized the inadequate preparation and lack of sensitivity of local security forces. Human rights institutions expressed concerns about the limited oversight and accountability that existed for security institutions, especially the ALP, although the MOI took some measures at the end of the year to increase accountability of the ALP. For example, the MOI worked with the International Committee for the Red Cross (ICRC) to increase human rights training for ALP recruits.

NGOs and human rights activists noted that societal violence, especially against women, was widespread; in many cases the police did not prevent or respond to the violence and in some cases arrested women who reported crimes committed against them, such as rape.

### **Arrest Procedures and Treatment While in Detention**



Arbitrary Arrest: Arbitrary arrest and detention remained problems.

Pre-trial Detention: The law provides for access to legal counsel and the use of warrants and limits how long detainees may be held without charge. The ICRC, the AIHRC, and other observers reported that arbitrary and prolonged detention frequently occurred throughout the country. Authorities often did not inform detainees of the charges against them. Police have the right to detain a suspect for 72 hours to complete a preliminary investigation. If they decide to pursue a case, the file is transferred to the AGO, which must interrogate the suspect within 48 hours. The investigating prosecutor can continue to detain a suspect without formal charges for 15 days from the time of arrest while continuing the investigation. With court approval the investigating prosecutor may detain a suspect for an additional 15 days. The prosecutor must file an indictment or release the suspect within 30 days of arrest. An investigation may continue even if an indictment cannot be completed within the 30 days.

In practice many detainees did not benefit from any or all of these provisions, largely due to a lack of resources, limited numbers of defense attorneys, unskilled legal practitioners, and corruption. The law provides that upon request by defense counsel, the court shall release a detainee held over the 30-day period when an indictment is not filed. However, many detainees were held beyond 30 days, despite the lack of an indictment. Observers reported that prosecutors and police detained individuals on average for nine months without charging them, sometimes for actions that were not crimes under the law, in part because the judicial system was inadequate to process detainees in a timely fashion.

The seven government entities involved in the criminal justice sector--the MOJ, AGO, Supreme Court, MOI, NDS, MOD, and High Office of Oversight--continued to implement a standard case management system.

Arbitrary arrests were reported in most provinces. Incommunicado detention remained a problem, and prompt access to a lawyer was rare. While detainees were allowed access to their families, there were many cases in which such access was not prompt. Some detainees were subjected to torture and other mistreatment, including being whipped, exposed to extreme cold, and deprived of food. UNAMA reported that police also detained individuals for moral crimes, breaches of contracts, family disputes, and to extract confessions. Observers reported that those detained for moral crimes were almost exclusively women. The criminal code still proscribes penalties for some sexual behavior and contractual violations.

There was little consistency in the length of time detainees were held before trial or arraignment. Postsentence detention also was reportedly common.

According to the MOJ, 81 children were detained on national security-related charges in juvenile rehabilitation centers during the year; all were male, six younger than age 15. The juvenile code presumes that children should not be held to the same standards as adults. The code states that the arrest of a child “should be a matter of last resort and should last for the shortest possible period.” A November 2011 report indicated that children in juvenile rehabilitation centers across the country lacked access to adequate food, health care, and education. Detained children typically were denied basic rights and many aspects of due process, including the presumption of innocence, the right to be informed of charges, access to defense lawyers, and the right not to be forced to confess. The law provides for the creation of juvenile police, prosecution offices, and courts. Due to limited resources, the special juvenile courts functioned only in six areas (Kabul, Herat, Balkh, Kandahar, Jalalabad, and Kunduz). In provinces where special courts do not exist, children’s cases fall under the ordinary courts. The law also mandates that children’s cases be addressed in private and like all criminal cases may involve three stages: primary, appeals, and the final stage at the Supreme Court.

Some of the children in the criminal justice system were victims rather than perpetrators of crime. Particularly in cases of sexual exploitation, perpetrators seldom were imprisoned since cases seldom were prosecuted. Some victims were perceived as shameful and in need of punishment because they brought shame on their family by reporting the abuse. In some cases abused children were imprisoned because they could not return to their families, and shelter elsewhere was unavailable. Some children related to the perpetrator allegedly were imprisoned as a family proxy for the actual perpetrator.

“Zina,” the term for adultery and other illicit sexual relations, is a criminal act under the penal code. Police and legal officials often charged women with intent to commit zina to justify their arrest and incarceration for social offenses such as running away from home, defying family choice of a spouse, fleeing domestic violence or rape, or eloping. Police often detained women for zina at the request of family members. There were reports of cases in which judges converted rape cases into zina cases even when the police and prosecutor found the case to be rape.

Authorities imprisoned some women for reporting crimes perpetrated against them and some as proxies serving as substitutes for their husbands or male relatives

convicted of crimes. The AIHRC received reports of men being arrested in place of a male relative when a suspect could not be located, on the assumption that the suspect would turn himself in to free the family member.

Authorities placed some women in protective custody to prevent violent retaliation by family members. Authorities also placed women who were victims of domestic violence in protective custody (including in a detention center) if there was no shelter facility available to protect them from further abuse. Under the 2009 decree on the Elimination of Violence Against Women Act (EVAW), the police have the obligation to arrest those who abuse women. However, implementation and awareness of the EVAW law was limited.

Authorities frequently did not rearrest defendants even after an appellate court convicted them in absentia. There was no bond system, although a rudimentary personal recognizance system was utilized in some areas where international observers monitored cases; authorities justified posttrial detention because defendants released pending appeal often disappeared.

Prosecutors did not exercise discretion in making decisions on charges. International mentors observed that prosecutors filed indictments in cases transferred to them by the police, even where there was a reasonable belief that no crime actually was committed.

Amnesty: The Afghanistan Peace and Reintegration Program (APRP) provided political amnesty to insurgents who met program eligibility criteria, including breaking ties with al-Qaida, renouncing violence, agreeing to abide by the constitution including its protections for women and minority groups, and formally enrolling in the program. The APRP does not define political amnesty; however, the program document states that the APRP “is not a framework for pardoning all crimes and providing blanket amnesty.” The APRP has not yet defined what offenses are eligible for amnesty. In May the National Security Council issued a joint order, noting that the APRP could not be used by convicted criminals to evade punishment for crimes prior to joining the insurgency. Reintegration candidates also are informed prior to enrollment that entry into the program does not amount to blanket immunity from prosecution. The government estimated that an additional 2,935 insurgents formally reintegrated from January through December, bringing the total number of those reintegrated to 5,974.

Five persons met the government’s conditions for reconciliation (renunciation of violence, no links to international terrorist organizations, and respect for the

constitution, including the rights of women and minorities) and were removed from the UN Sanctions List during the year.

Human rights activists continued to express concern that war criminals and human rights abusers remained in positions of power within the government.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, but in practice the judiciary continued to be underfunded, understaffed, inadequately trained, ineffective, and subject to threats, bias, political influence, and pervasive corruption. For instance, the Supreme Court Chief Justice and two associate justices continued to serve as “acting justices” beyond the August 2010 expiration of their constitutionally mandated term limits (one of these associate justices was replaced in May), widely regarded as a government effort to maintain its influence over the judicial branch. Bribery, corruption, and pressure from public officials, tribal leaders, families of accused persons, and individuals associated with the insurgency continued to impair judicial impartiality. Most courts administered justice unevenly, according to a mixture of codified law, Sharia (Islamic law), and local custom. Traditional justice mechanisms remained the main recourse for many, especially in rural areas. There was varying adherence to codified law, with courts disregarding applicable statutory law in favor of Sharia or local custom. According to a 2012 Freedom House report, the Supreme Court was primarily composed of religious scholars who had limited knowledge of civil jurisprudence.

The formal justice system was relatively strong in urban centers, where the central government was strongest, and weaker in rural areas, where approximately 80 percent of the population lived. Nationwide, courts, police forces, and prisons continued to operate at less than full capacity. The judicial system continued to lack the capacity to handle the large volume of new and amended legislation. A lack of qualified judicial personnel hindered the courts. Some municipal and provincial authorities, including judges, had minimal training and often based their judgments on their personal understanding of Sharia, tribal codes of honor, or local custom. Compared with 2011, there was an increase during the year in the number of judges who were graduates of law school, many from universities with Sharia law faculties. Access to legal codes and statutes increased, but limited availability continued to hinder some judges and prosecutors.

There were widespread shortages of judges, primarily in insecure areas. UNAMA documented targeted killings of judges across the country, including in Nangarhar

and Laghman provinces. District prosecutors faced similar threats, for example in Kunar Province, where a district prosecutor was abducted. The Supreme Court reported that there were an estimated 1,886 judges at the primary, appellate, and Supreme Court levels, including 171 female judges, at year's end.

In major cities courts continued to decide criminal cases, as mandated by law. Civil cases continued to be resolved frequently in the informal system. Because the formal legal system often was not present in rural areas, local elders and shuras (consultative gatherings, usually of men selected by the community) were the primary means of settling both criminal matters and civil disputes; they also levied unsanctioned punishments. Some estimates suggested that 80 percent of all disputes were resolved by shuras. In many cases the shuras did not respect the constitutional rights of--and sometimes violated the rights of--women and minorities.

In some areas not under government control, the Taliban enforced a parallel judicial system based on strict interpretation of Sharia. In some cases punishments imposed resulted in the accused being executed or mutilated. There was no government redress for punishments carried out by these parallel judicial structures. For example, in April a woman accused of an illicit affair was extrajudicially executed by her two brothers after a verdict by tribal elders in Paktiya Province. In September a 16-year-old girl was sentenced to 100 lashes for allegedly having an "illicit relationship" with a boy and was publicly flogged by a local mullah in Jaghori District, Ghazni Province.

### **Trial Procedures**

Trial procedures rarely met internationally accepted standards. The administration and implementation of justice varied in different areas of the country. By law all citizens are entitled to a presumption of innocence, and defendants have the right to be present at trial and to appeal; however, these rights were not always applied. In some provinces public trials were held. Judges decided all criminal trials because there is no right to a jury trial under the constitution. An indigent defendant also has the right to consult with an advocate or counsel at public expense when resources allow. This right was applied inconsistently, in part due to a severe shortage of defense counsel. Defendants frequently were not allowed to confront or question witnesses. Citizens often were unaware of their constitutional rights. Defendants and attorneys were entitled to examine the physical evidence and the documents related to their case before trial; however, observers noted that in practice court documents often were not available for review before cases went

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

In cases lacking a clearly defined legal statute, or cases in which judges, prosecutors, or elders were unaware of the law, judges and informal shuras enforced customary law; this practice often resulted in outcomes that discriminated against women. The practice of baadh--in which young girls were offered as compensation to families whom the defendant had wronged--was reported to have continued in some instances.

### **Political Prisoners and Detainees**

There were no reports that the government held political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Citizens had limited access to justice for constitutional and human rights violations, and interpretations of religious doctrine in some cases took precedence over human rights or constitutional rights. The state judiciary did not play a significant or effective role in adjudicating civil matters due to corruption and lack of capacity, although the judiciary adjudicated family law matters with some frequency.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits arbitrary interference in matters of privacy; however, the government did not respect these prohibitions in practice, and there were no legal protections for victims.

Government officials continued to forcibly enter homes and businesses of civilians without judicial authorization. For example, according to a July report by

UNAMA, in March in Uruzgan Province, ALP members entered and searched several homes without authorization, reportedly killing two persons and arresting another.

Authorities imprisoned men and women as substitutes for male relatives who were suspects or convicted criminals in order to induce those persons at large to surrender themselves (see section 1.d.).

The law provides for wiretapping in certain cases, which includes tracking money laundering and narcotics trafficking.

The government's willingness to recognize the right to marry varied according to nationality, gender, tribe, and religion. Although more than 99 percent of the population was Muslim, the AIHRC reported that on several occasions, marriages between Sunnis and Shias or among Syed and non-Syed Shias were annulled as "haram," or against Islam. In September a man and woman from different tribes in Herat Province were killed after eloping. Religious leaders convinced the couple to return to their province, where they were killed after a mediator turned them over to their families.

Insurgents continued to intimidate mobile telephone operators to shut down operations. Reports of destruction of mobile telephone towers, bribing of guards, and disconnecting networks at night were particularly common in the southwestern, southern, and eastern provinces.

#### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

Continuing internal conflict resulted in civilian deaths, abductions, prisoner abuse, property damage, the displacement of residents, and other abuses. The security situation remained a problem during the year due to insurgent attacks. Civilians continued to bear the brunt of intensified armed conflict, particularly women and children, according to UNAMA. Civilian deaths decreased by 12 percent during the year compared with 2011. The decrease in civilian deaths was attributed to fewer deaths and injuries of civilians from ground engagement among parties to the conflict, a decline in suicide attacks by AGEs, reduced numbers of aerial operations, and other measures taken by pro-government forces (PGFs) to minimize harm to civilians. The large number of attacks by AGEs continued to limit the capability of the central government to protect human rights in many districts, especially in the south.

Killings: Government and PGFs were responsible for civilian casualties. The UNAMA Annual Report on the Protection of Citizens in Armed Conflict stated that PGFs were responsible for 8 percent of total civilian casualties (587 total), which represented a 46 percent drop from 2011.

The UNAMA report stated that airstrikes remained responsible for the largest percentage of civilian casualties caused by PGFs (126 deaths and 78 injuries), but civilian casualties by aerial attacks decreased by 42 percent compared with 2011.

UNAMA noted that AGEs were responsible for 81 percent of all civilian casualties during the year, compared with 72 percent in 2011.

AGEs continued to attack religious leaders they concluded spoke against the insurgency or the Taliban. In August two grenades exploded in a mosque in Khost Province. AGEs also continued to target government forces. According to a UNAMA report, from the onset of the ALP program in August 2010 until June, 224 members of the ALP were killed. Many attacks against PGFs resulted in civilian casualties, such as an August Taliban attack against the Kandahar police chief, which resulted in four civilian deaths and 21 injuries.

The Taliban and AGEs continued to engage in indiscriminate use of force, attacking and killing villagers, foreigners, and NGO workers. The Taliban and other insurgents killed numerous civilians, both in attacks and with car bombs and suicide bombs. IED attacks killed more civilians than any other tactic during the year. IEDs alone accounted for 33 percent of all civilian casualties in 2012.

On April 15, AGEs launched a coordinated attack against foreign embassies, hotels, a supermarket, and government offices in Kabul. In June the Taliban attacked a music store in Jalalabad, killing at least two civilians.

On August 15, in addition to a triple suicide bombing in Nimroz Province that killed at least 29 persons, a motorcycle bomb in Kunduz Province killed 10 persons who were at a bazaar. In Badakhshan Province, Taliban militants ambushed a vehicle, killing a district governor and three police officers.

Abductions: The MOI's Anti-Crime Police reported 102 abductions during the year, as the Taliban targeted construction and mining projects, teachers, and citizens perceived to be cooperating with the international community (see section 1.b.). The actual number of cases may have been much higher. The annual UNAMA detentions report cited six cases of illegal detentions at the hands of



ALP, all tied to a unit in Kunduz. It was unclear at year's end whether this unit was a formal part of the ALP or was linked to an earlier program.

Physical Abuse, Punishment, and Torture: Land mines and unexploded ordnance continued to cause deaths and injuries, restricted areas available for farming, and impeded the return of refugees. The Mine Action Coordination Center for Afghanistan (MACCA) reported that deaths and injuries from land mines and unexploded ordnance remained static. In 2010-11, an average of 42 persons were killed or injured each month. This average continued, with 123 reported victims during the first quarter of the year. In addition to these casualties from traditional antitank and antipersonnel mines, there continued to be thousands of civilian casualties from IEDs. According to the MACCA, land mines and unexploded ordnance imperiled 31,847 communities, which represented approximately 11 percent of total communities. The majority of remaining mine hazard areas included a relatively low number of arbitrarily placed mines dispersed over a large area but that nonetheless denied full use of the land to communities. The Ministry of Education (MOE) and NGOs continued to conduct educational programs and mine awareness campaigns throughout the country.

Child Soldiers: Officially the government, with international assistance, vetted all recruits into the armed forces and police, rejecting applicants under the age of 18. Yet there were reports that children were recruited and used for military purposes by the ANSF, the ANP, and progovernment militias. Reports indicated that children manipulated national identity cards to reflect an age of 18 or older to bypass official vetting procedures, in some cases with the knowledge of government officials. The media also reported that children were in some cases used for sexual purposes by police commanders.

There were also reports that the Taliban and other insurgent forces recruited children younger than age 18, in some cases as suicide bombers and human shields, and in other cases to assist with their work, such as placing IEDs, particularly in southern provinces. The media, NGOs, and UN agencies reported that the Taliban tricked children, promised them money, used false religious pretexts, or forced them to become suicide bombers. In August 2011 President Karzai ordered the release of 20 children incarcerated for alleged support to the Taliban and other insurgent forces. Two of these children were arrested again in February while wearing suicide vests. On September 8, a teenage suicide bomber killed six civilians in an attack on the NATO compound in Kabul.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Other Conflict-related Abuses**

The security environment continued to have a negative effect on the ability of humanitarian organizations to operate freely in many parts of the country. Insurgents deliberately targeted government employees and aid workers. The Afghanistan NGO Safety Office reported that by the end of September the total number of security incidents had fallen by 20 percent from the prior year.

Suspected Taliban members fired on NGO vehicles and attacked NGO offices, guest houses, and hotels frequented by NGO employees. Violence and instability hampered development, relief, and reconstruction efforts. NGOs reported that insurgents, powerful local individuals, and militia leaders demanded bribes to allow groups to bring relief supplies into the country and distribute them.

On September 2, unknown gunmen attacked a car carrying UNICEF workers in Faryab Province, resulting in at least one aid worker being hospitalized. No one claimed responsibility for the attack.

The Taliban continued to distribute threatening messages in attempts to curtail government and development activities. Insurgents used civilians, including children, as human shields, either by forcing them into the line of fire or by basing operations in civilian settings.

In the south and east, the Taliban and other AGEs frequently forced local residents to provide food and shelter to their fighters. The Taliban also continued to attack schools, radio stations, and government offices.

According to the ICRC, 2011 saw a marked increase in the number of health centers, particularly in rural areas, that were unable to provide services due to fighting, intimidation of staff, and closure. There was no improvement during the first three months of 2012. Some health-care facilities were attacked.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and of the press; however, the government restricted these rights in practice.

Freedom of Speech: Authorities used pressure, regulations, and threats to silence critics. Politicians, security officials, and others in positions of power arrested, threatened, or harassed a growing number of journalists as a result of their coverage. Freedom of speech and an independent media were even more constrained at the provincial level, where many media outlets were linked to specific personalities or political parties, including local power brokers such as former mujahedeen-era military leaders who owned many of the broadcasting stations and print media and influenced their content. Many local warlords did not tolerate independent media in their provinces.

Freedom of Press: Despite obstacles, print media continued to publish independent magazines, newsletters, and newspapers, although circulation was low. A wide range of editorials and dailies openly criticized the government. Due to high levels of illiteracy, however, most citizens preferred television or radio over print media. Radio remained more widespread due to its relative accessibility, with 81 percent radio penetration, compared with 42 percent for television and 13 percent for print.

In May the Ministry of Information and Culture (MoIC) presented a draft media law for public comment, with the goal of replacing the 2009 Mass Media Law. Local and international analysts roundly criticized the draft, arguing that it would increase government control over media and introduce new restrictions on press freedoms such as special courts. In September, after conducting a referendum, a revised draft was released, which media observers generally recognized as an improvement to the May draft. However, the draft still contained vague language that sought to prohibit material in violation of “provisions of Islam” and did not recognize the internet as a form of media. At year’s end the MoIC had not moved forward with the draft.

The law provides the media direct access to parliamentary proceedings. In August journalists were removed from the floor of the lower house of parliament and restricted to a separate media pool room with video and audio access to parliamentary proceedings. There were reports that the video and audio feeds were cut during a vote of no confidence on the minister of defense and minister of interior.

Violence and Harassment: Authorities regularly used threats, violence, and intimidation to silence opposition journalists, particularly those who spoke out

about impunity, war crimes, government officials, and powerful local figures. In March a government statement personally attacked a *Wall Street Journal* reporter for writing an article alleging military complicity in drug smuggling.

On April 21, the AGO ordered the arrest of Noorin TV journalist Nasto Naderi on charges of making false accusations against government officials after he broadcast a program critical of the Kabul mayor. He was released on bail on May 8 following domestic and international pressure. In October the president's chief spokesman announced that the government would be assessing the International Crisis Group's activities after it released a report analyzing post-2014 outcomes in the country when a majority of international forces plan to withdraw.

The prevailing security conditions created a dangerous environment for journalists, even when they were not targeted specifically. In a number of instances, crowds attacked and beat journalists who were reporting on demonstrations against the government. Nai Media Watch reported that in the first six months of the year, 23 incidents of violence and threats against journalists occurred. Nai alleged government involvement in 15 of these incidents. In one case unknown assailants beheaded Sadim Khan Bahador Zoy, a radio station manager in Paktika Province. Authorities initiated an investigation, but his killers remained at large at year's end.

An independent journalist safety committee continued to operate a safe house for journalists facing threats. It reported that law enforcement officials generally cooperated in providing assistance to journalists with credible fear, although limited investigative capacity meant many cases remained unresolved. The Afghan Independent Bar Association established a media law committee to provide legal support, expertise, and services to media bodies.

The number of female journalists remained low, and female reporters found it difficult to practice their profession, although some women oversaw radio stations across the country, and some radio stations were devoted to women's issues. Factors such as poor security, low capacity, lack of access to training, and unsafe working conditions continued to reduce the participation of women in the media industry.

Censorship or Content Restrictions: The government reportedly sought to censor the media directly or indirectly and restrict reporting on topics contrary to the government message. On July 27, after Radio Killid reported on a shootout between bodyguards of two members of parliament (MPs), an official from the

MoIC reportedly called the outlet and urged it to stop broadcasting news on the incident.

Some media observers claimed that journalists self-censored reporting on administrative corruption, land embezzlement, and local officials' involvement in narcotics trafficking due to fear of violent retribution by provincial police officials and powerful families. In Herat Province, for example, political pressure allegedly caused a local television station to cancel a program that discussed the role of domestic political factions and local Iranian influence. Because of such pressures, media outlets often preferred to quote from foreign media reports on sensitive cases and in some cases fed stories to foreign journalists.

Libel Laws/National Security: The penal code and the 2009 Mass Media Law prescribe jail sentences and fines for defamation. In practice defamation sometimes was used as a pretext to suppress criticism of government officials. On June 11, the AGO initiated an investigation of Pajhwok News Agency after Pajhwok published a series of articles alleging that MPs accepted Iranian bribes to affect their views. The MoIC reportedly claimed that the Pajhwok articles defamed the MPs, in violation of article 45 of the media law.

Publishing Restrictions: The MoIC has the authority to regulate the press and media. The number of publishing houses remained low, with approximately 205 publishing houses and 800 registered print publications. Unlike the previous year, there were no confirmed reports that the government sought to restrict their operations.

While the MoIC legally is responsible for regulating media, in practice the country's council of religious scholars (the Ulama Council) had considerable influence over media affairs. In February, responding to pressure from conservative scholars and MPs, the MoIC announced a new policy requiring female television broadcasters to wear headscarves and avoid wearing excessive makeup. Commentators noted that nearly all female television presenters already wore headscarves, and some suggested the move was intended to pander to the Taliban to promote the reconciliation process.

Nongovernmental Impact: Factional authorities reportedly controlled media in some parts of the country. Journalists also faced threats from the Taliban and other insurgents. Reporters continued to avow that they avoided criticizing the insurgency in their reporting because they feared Taliban retribution.

Violence and intimidation of journalists, reporters, and media outlets at the hands of insurgent forces and the Taliban remained a concern and continued to restrict journalists' operating space. In June the Taliban set fire to three mobile telephone towers in central Logar Province after warning mobile telephone companies to cut their services between 6 p.m. and 6 a.m. The Taliban also destroyed two mobile telephone towers in Helmand Province.

The Taliban manipulated the media, especially print journalism, both directly and indirectly by threatening to harm some journalists physically and by directly feeding news to others. Journalists reported receiving threats if they published stories favorable to the government.

The Committee to Protect Journalists reported that local and foreign reporters continued to face a risk of kidnapping.

In addition, according to many media sources, private Iranian, Pakistani, and Gulf state citizens actively influenced the media, shaping it through both ownership and threats. There were allegations that Iran intimidated reporters in the western provinces to increase antigovernment reporting and decrease anti-Iranian articles.

### **Internet Freedom**

There were credible reports that the government restricted access to the Internet. In September the government blocked access to YouTube to prevent citizens from watching an anti-Islam film. YouTube remained blocked at year's end. In June the Ministry of Telecommunications announced its intent to filter pornographic content and gambling Web sites but continued to lack the capacity to enforce this directive.

The Taliban also used the Internet and sites like Twitter to spread its messages, despite purported government restrictions on media messages promoting violence. Although Internet coverage was high, usage remained low due to high prices, inadequate local content, and illiteracy.

### **Academic Freedom and Cultural Events**

The government imposed restrictions on curricula and research it deemed un-Islamic, requiring prior approval of "concerned ministries and institutions," such as the Ministry of Hajj and Religious Affairs. In June President Karzai dismissed four academics from the Afghan Academy of Science after they published a report

that allegedly made ethnically charged remarks about the Hazara ethnic group. Also in June the MoIC prohibited the exhibition of several works of art deemed un-Islamic at the National Art Gallery of Afghanistan. In August a concert by a famous singer in Herat was canceled, purportedly due to security concerns, after calls by a religious leader claiming the event was “immoral.” Several female actresses were killed or threatened during the year, such as in August when six men surrounded and killed an actress in Kabul.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The government generally respected citizen’s rights to demonstrate peacefully. There were numerous public gatherings or protests during the year related to a variety of causes, including corruption, civilian casualties, and violence against women. In February demonstrations broke out throughout the country after the accidental burning of Qurans at Bagram Airfield. While 41 deaths resulted from the protests, reports indicated that security forces responded in a measured fashion and took efforts to avoid civilian casualties.

### **Freedom of Association**

The 2009 law on political parties obliges parties to register with the MOJ and to pursue objectives consistent with Islam. The law raised the hurdles for registration of parties, requiring at least 10,000 registered members.

In April the Solidarity Party organized demonstrations calling for accountability for war crimes and declaring the anniversaries of the 1978 Saur Revolution (April 27) and the national Mujahedin Day holiday to be “black days in Afghanistan’s history.” In response, members of parliament’s upper house sent a letter to the MOJ demanding suspension of the party. Human rights organizations called this attempt a violation of both the law and the rights of freedom of expression, association, and assembly under international human rights law. The law does not allow the government to suspend a political party but does allow the Supreme Court to dissolve a party. The MOJ referred the case to the AGO for investigation but allowed the Solidarity Party to continue its activities in the interim.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation; however, the government sometimes limited citizens' movement for security reasons.

The government continued to cooperate with the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration, and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, and other persons of concern. Government assistance to vulnerable persons, including returnees from Pakistan and Iran, remained low, with a continued reliance on the international community.

In-Country Movement: Taxi, truck, and bus drivers reported that security forces operated illegal checkpoints and extorted money and goods from travelers.

The greatest restriction to movement in some parts of the country was the lack of security. In many areas insurgent violence, banditry, land mines, and IEDs made travel extremely dangerous, especially at night.

Armed insurgents also operated illegal checkpoints and extorted money and goods. The Taliban imposed nightly curfews on the local populace in regions where it exercised authority, mostly in the southeast.

Social custom limited women's freedom of movement without male consent or a male chaperone.

#### **Internally Displaced Persons (IDPs)**

The country experienced increased levels of internal population movements, mainly triggered by military operations, as well as by natural disasters and irregular labor conditions. According to the UNHCR, at year's end an estimated 486,298 persons were internally displaced due to conflict in the country. Armed conflict and hostilities, the general deterioration of security, threats and intimidation, and military operations were cited as the largest specific causes of displacement.



During the year a total of 203,457 persons were recorded as conflict-induced displaced persons. During this same period, 245,669 conflict-induced IDPs were assisted with nonfood items by the regional IDP task forces that undertook interagency assessments to ascertain needs.

Limited humanitarian access caused delays in identification, assessment, and timely assistance to IDPs. IDPs continued to lack access to basic protection, including personal and physical security and shelter. Women in IDP camps reported high levels of domestic violence. There were limited opportunities for livelihood during displacement, which led to secondary displacement, making tracking of vulnerable persons difficult.

### **Protection of Refugees**

Access to Asylum: Laws do not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees. In accordance with international protocols and agreement among Afghanistan, Pakistan, and the UNHCR, repatriation must be voluntary.

In practice the government continued to provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

The government's capacity to absorb returned refugees remained low, although the UNHCR reported that economic and security difficulties in Pakistan and Iran led to the increased return of Afghan refugees. In addition some returnees cited local improvement in security in some parts of the country as a primary reason for their return.

From January 1 through November 30, more than 82,000 Afghan refugees voluntarily repatriated with UNHCR assistance. The average number of returns per day during the year reflected a 24 percent increase from the same period in 2011.

From January 1 through November 30, Iran deported a total of 234,151 undocumented Afghan nationals (nonrefugees), representing an increase of 32 percent compared with the same period in 2011. Increased economic distress

caused by international sanctions was widely believed to be a contributing factor behind increased deportations.

Likewise, from January 1 through November 30, Pakistan deported a total of 7,114 undocumented Afghan nationals (nonrefugees), representing a 14 percent decrease compared with the same period in 2011. Pakistan periodically highlighted the possibility of deporting undocumented Afghans, usually during periods of tension in bilateral relations.

Access to Basic Services: Resettlement of the increased number of returnees was difficult. The UNHCR, in conjunction with Afghanistan, Iran, and Pakistan, developed a strategy aimed at preserving refugee status for those remaining in neighboring countries while assisting with the reintegration of returnees through targeted assistance, including educational, health, and employment assistance. Returnees ostensibly had equal access to health, education, and other services, although in practice some sites of high reintegration had limited avenues of transportation or roads leading to larger, more established villages and urban centers, making access to said services and economic opportunities difficult.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice in the September 2010 parliamentary elections based on universal suffrage. The elections were marred by serious, widespread fraud and corruption. The parliamentary elections were disputed for nearly a year after President Karzai established an unconstitutional special elections tribunal to investigate the election results. In August 2011 President Karzai issued a decree acknowledging that the IEC was the sole authority to resolve the parliamentary impasse.

#### **Elections and Political Participation**

Recent Elections: The September 2010 parliamentary elections were held amid significant security and logistical challenges. Widespread fraud and corruption hampered the elections, particularly at the subnational level. International observers and civil society groups documented instances of ballot stuffing, ghost polling stations, and some interference by staff of electoral bodies; fraud was especially notable in areas with high levels of insecurity, limited observer and candidate agent coverage, and insufficient female electoral staff. In response to

protests to the election results, in December 2010 President Karzai appointed a special tribunal to investigate and recommend changes to the election results. The IEC, parliamentarians, and NGOs challenged the legality and constitutionality of the special tribunal, calling for its dissolution. The creation of the special tribunal resulted in a political impasse virtually halting legislative action until June 2011.

While security preparations improved relative to the 2009 presidential election, security was still inadequate in many locations, and numerous irregularities occurred, including intimidation of voters, polling staff, and candidates, especially women.

In 2009 citizens voted in their second contested presidential election. The IEC declared Karzai president for a second term, after his challenger, Abdullah Abdullah, withdrew from a runoff election. The elections were similarly marred by allegations of widespread fraud.

Political Parties: Negative associations with warlords and the communists, as well as allegations of persistent corruption and inefficiency, led many citizens to view political parties with suspicion. The 2009 Party Law replaced the initial law of 2003, which granted parties the right to exist as formal institutions for the first time in the country's history. The Party Law requires parties to have at least 10,000 members from a minimum of 22 provinces. The law was passed in 2009 and allowed very little time for parties to complete the registration process in advance of the 2010 parliamentary elections. The National Democratic Institute reported that a number of parties complained about the process, citing fraud in the MOJ, which was responsible for registration of political parties, and the unequal treatment of parties by the registration department. Political parties were not always able to conduct activities throughout the country, particularly in regions where antigovernment violence affected overall security. Violence against participants in the political party system was common, even during nonelection periods. A total of 21 political parties had representation in the lower house, with only 10 having significant representation consisting of more than one seat.

Participation of Women and Minorities: The constitution provides for seats for women and minorities in both houses of parliament. The constitution provides for at least 68 female delegates in the lower house of the national assembly, while 10 seats are provided for the Kuchi ethnic minority. According to the constitution, the president should appoint one-third of the members of the upper house, including two members with physical disabilities and two Kuchis. Fifty percent of the president's appointees to the upper house must be women.

The implementation of the constitutionally mandated quota system provided for women to constitute more than 25 percent of parliament and more than 30 percent of provincial council members. Nonetheless, traditional societal practices, including the need for male escorts or permission to work, that limit women's participation in politics and activities outside the home community likely continued to influence the central government's male-dominated composition.

Women active in public life continued to face levels of threats and violence and were the targets of attacks by the Taliban and other insurgent groups. Most female MPs reportedly experienced some kind of threat or intimidation; many believed that the state could not or would not protect them.

Female members of the High Peace Council were marginalized by their male counterparts, prohibited from participating in initial contacts with representatives from the Taliban or other insurgent groups, and largely excluded from pertinent decision-making processes. Women filled nine of the 70 seats on the High Peace Council.

There were three women in cabinet-level positions (Public Health, Social Affairs, and Women's Affairs).

The Pashtun ethnic group had more seats than any other ethnic group in both houses but did not have more than 50 percent of the seats. There was no evidence that specific societal groups were excluded. There were no laws preventing minorities from participating in political life; however, different ethnic groups complained that they did not have equal access to local government jobs in provinces where they were a minority.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption. In practice the government did not implement the law effectively, and there were reports that officials frequently engaged in corrupt practices with impunity. There were some reports of corruption cases successfully tried at the provincial level. The government made several commitments to combat corruption, including President Karzai's July 26 decree, but little progress was made towards implementation by year's end.

Reports indicated corruption was endemic throughout society, and flows of money from the military, international donors, and the drug trade continued to exacerbate the problem. Corruption and poor governance continued to enable the Taliban to extend its reach into the east-central part of the country (the five provinces surrounding Kabul) and maintain influence in some parts of the southern provinces.

Prisoners and local NGOs reported that corruption was widespread across the justice system, particularly in relation to the prosecution of criminal cases and “buying” release from prison. There were also reports of money paid to reduce prison sentences, halt an investigation, or have charges dismissed outright.

The case of Kabul Bank, which had been the country’s largest private financial institution prior to its collapse in a huge bank fraud scandal that began unfolding in 2010, had not been resolved at year’s end. Reportedly, nearly 50 billion Afghanis (\$1 billion) was misappropriated and a vast number of bribes amounting to several million dollars were paid to politicians and ministers. Nearly all the illicit funds were received by politically well-connected shareholders of the bank. Through December 21, the Ministry of Finance reported 7.1 billion Afghanis (\$137.7 million) in total asset recovery. In November the first public trials in the Kabul Bank case were held—including those of the bank’s founder and former deputy head. Instead of focusing its efforts on shareholders, the government sought to place significant blame for Kabul Bank’s collapse on foreign entities, regulators, and low-level functionaries and employees of Kabul Bank and the Central Bank, including persons from the Afghan Financial Intelligence Unit (FinTRACA).

There were reports that the AGO was unwilling or unable to pursue corrupt officials and that high-level officials who were arrested on corruption-related charges were released subsequent to political pressure. Further, prosecutors in the AGO’s Anti-Corruption Unit reportedly were removed from their positions after winning convictions in two cases involving members of the political and power elite. In addition there was anecdotal evidence that accusations of corruption on the part of others were used by corrupt officials to damage their opponents’ reputations or to deflect attention from their own misdeeds.

Provincial police benefited financially from corruption at police checkpoints and from the narcotics industry. It was reported that ANP officers paid higher-level officials or officials in the MOI for their positions and to secure promotions. The justice system rarely pursued corruption cases, especially if they involved police,

but there was a report of a case in Bamyan Province in which a police officer was sentenced to two years for taking a bribe.

In addition to official impunity issues, low salaries exacerbated government corruption. The international community worked with the national and provincial governance structures to address the problem of low salaries, but implementation of grade reform remained slow.

Credible sources reported that local police in many parts of the country extorted a “tax” and inflicted violence at police checkpoints for nonpayment. Truck drivers along the Kabul-Kandahar-Herat highway told Afghan television that they had to pay bribes to both the ANP and bandits to allow their trucks to pass.

Police also reportedly extorted bribes from civilians in exchange for release from prison or to avoid arrest. Lack of formal education and low literacy rates among the ANSF and the judiciary hampered the consistent delivery of justice. Citizens also paid bribes to corrections and detention officials for the release of prisoners who had not been discharged at the end of their sentence.

The government made efforts to combat corruption within the security apparatus. Before the 2010 elections, the MOI trained and deployed provincial inspectors general (IGs) who remained on duty after the elections. Merit-based promotion boards continued, with at least three candidates competing for each job; the process of instituting pay reform and electronic funds transfer for police salaries also continued. The MOI continued to obtain training for its IG office.

The High Office of Oversight oversees and develops the government’s ability to mitigate corruption in line with commitments made at the 2010 London and 2012 Kabul conferences and as directed by the 2012 Presidential Decree 45 on good governance. According to these commitments, the oversight office must collect information from senior Afghan officials on all sources and levels of personal income. The office must publish the 2,500 personal asset declarations collected to date on its Web site and in mass media that reach at least 40 percent of the public. Additionally, the office must substantively verify at least ten percent of the asset declarations, with confirmation from joint Afghan/international experts independent of government. There was minimal progress on the registration and publication of asset declarations by senior government officials due to a lack of enforcement. No penalty exists for any official who submits documentation with omissions or misrepresentations, undermining a key tool to identify possible

wrongdoing. Overall the oversight office continued to be ineffective, with reports of corruption within the office itself.

The government continued to make electronic direct deposits of police and military salaries and expanded a pilot project to pay police via mobile telephone in areas without banks, making salary payment a more transparent and accountable process and theoretically less subject to corruption.

Governors with reported involvement in the drug trade or past records of human rights violations reportedly continued to receive executive appointments and served with relative impunity. In March hundreds of demonstrators in Takhar and Helmand provinces protested against growing corruption in local government institutions, urging the governors of both provinces to resign. Both governors denied the allegations.

The constitution provides citizens the right to access government information, except when access might violate the rights of others; however, access to information from official sources continued to be limited due to a lack of clarity regarding citizens' right to access and a lack of transparency among government institutions. Civil society and media representatives sought passage of a law on freedom of access to information and worked with government officials to draft such laws. Journalists and other stakeholders made recommendations to the ministerial working group with the goal of reconciling a unified draft law. At year's end the bill was under review at the MoJ.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The lack of security and instability in parts of the country continued to affect NGO activities. While insurgent groups and the Taliban directly targeted NGOs during the year, the Afghanistan NGO Safety Office reported a 17 percent decrease in NGO security incidents.

In September President Karzai appointed the former minister of border and tribal affairs, Asadullah Khalid, as the chief of the National Directorate for Security.

Human rights groups were critical of the appointment due to past allegations of human rights abuses and called for a reversal of the appointment. The AIHRC, which conducted an investigation into these allegations, declined to take a position on the appointment.

Government Human Rights Bodies: The constitutionally mandated AIHRC continued to address human rights problems and operated with minimal government funding, relying almost exclusively on international donor funds. The Mutual Accountability Framework agreed upon at the July Tokyo conference included provisions for expeditious enforcement of constitutional provisions and assurances that the AIHRC would be able to perform its appropriate functions. Nonetheless, President Karzai failed to renew the terms of eight AIHRC commissioners whose terms had expired in December 2011, as well as a vacancy left by Commissioner Hamida Barmaki, who was killed in a 2011 suicide bombing in Kabul. Critics asserted that President Karzai's inaction was a government effort to exercise greater control over independent institutions.

Although President Karzai signed the Action Plan for Peace, Justice, and Reconciliation in 2006, the action plan had yet to be implemented despite calls from civil society for transitional justice. The government's efforts focused primarily on reconciliation and negotiations with the Taliban led by the High Peace Council.

Three parliamentary committees deal with human rights in the Wolesi Jirga (the lower house of parliament): the Gender, Civil Society, and Human Rights Committee; the Counternarcotics, Intoxicating Items, and Ethical Abuse Committee; and the Judicial, Administrative Reform, and Anticorruption Committee. In the Meshrano Jirga (the upper house of parliament), the Committee for Gender and Civil Society addresses human rights concerns.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution prohibits discrimination among citizens and provides for the equal rights of men and women; however, local customs and practices that discriminated against women prevailed in much of the country. The constitution does not explicitly address equal rights based on race, disability, language, or social status. There were reports of discrimination based on race, ethnicity, religion, and gender.

### **Women**



Although the situation of women marginally improved during the year, international gender experts considered the country very dangerous for women, and women routinely expressed concern that social and economic gains would be lost in the post-2014 transition. Pursuant to the constitution, the 2009 Shia Personal Status Law governs family and marital issues for the approximately 19 percent of the population who are Shia. Although the law officially recognized the Shia minority, the law was controversial both domestically and internationally due to its failure to promote gender equality. Articles in the law of particular concern include those on minimum age of marriage, polygyny, right of inheritance, right of self-determination, freedom of movement, sexual obligations, and guardianship.

**Rape and Domestic Violence:** The 2009 EVAW law criminalizes violence against women, including rape, battery, or beating; humiliation; intimidation; and the refusal of food. The law punishes rape with “continued imprisonment,” widely interpreted to mean life imprisonment although not always implemented as such. If the act results in the death of the victim, the law provides for the death sentence for the perpetrator. The law punishes the “violation of chastity of a woman...that does not result in adultery (such as touching)” with imprisonment of up to seven years. Under the law rape does not include spousal rape. The law, which was implemented by presidential decree, had limited support in parliament. The law was not widely understood, as some in the public and religious community deemed the law un-Islamic. The AIHRC, justice implementers, and civil society made efforts to increase awareness of the law. However, there was limited political will to implement the law, and a lack of its successful and proper enforcement continued.

According to a survey by The Asia Foundation, less than one in five respondents said that an organization, institution, or authority existed in their area where women can go to have their problems resolved, while more than three-quarters said that there was no such organization in their area. There were reports that women who sought assistance under the EVAW law in a case of rape were subjected to virginity tests and in some instances had their cases converted into adultery cases. Interpretations of Sharia also impeded successful prosecution of rape cases. Female leaders believed that revisions and improvements to the EVAW law were needed but feared that presenting the law to parliament for review would result in it being overturned or amended to the law’s detriment.

During the year 1,352 complaints were brought to the Violence Against Women (VAW) prosecution units for crimes under the EVAW law, marking a significant increase over the 500 cases registered in 2011. Provincial directorates of women’s

affairs indicated this reflected increased awareness of women's rights more so than an increase in the incidence of violence against women. The vast majority of complaints brought under the EAW law were resolved through family mediation. The Kabul VAW unit prosecuted 38 cases and obtained 28 convictions, with 10 acquittals. Government entities such as the Ministry of Women's Affairs and law enforcement officials referred a small number of cases, but civil society referred most cases.

Prosecutors and judges in some remote provinces were unaware of the EAW law, and others were subject to community pressure to release defendants due to familial loyalties, threat of harm, or bribes. Reported indicated that men accused of rape often claimed the victim agreed to consensual sex or made false claims of marriage to the victim, leading to adultery charges against the victim. The MOI's Anti-Crime Police reported 397 cases of violence against women during the year; most NGO observers believed the actual number of cases was probably much higher. Statistics on convictions were unavailable by year's end. Rapes were difficult to document due to social stigma. Male victims seldom came forward, but peer sexual abuse was allegedly common. Female victims faced stringent societal reprisal, from being deemed unfit for marriage to being imprisoned to being a victim of extrajudicial killing.

In December 2011 President Karzai pardoned Gulnaz, an 18-year-old rape victim, and her eight-month-old baby following international criticism and lobbying by human rights groups after she served two and one-half years of a 12-year sentence for the crime of "adultery by force." Although released from prison, Gulnaz, like many women accused of moral crimes, remained in a shelter with her child; her family did not accept her, and she was unable to live freely without a male family member.

In response to the controversy surrounding the Gulnaz case and other cases involving women prosecuted for perceived moral crimes, President Karzai issued a series of pardons, and the AGO issued guidance in April to prosecutors informing them not to proceed with unjustifiable charges of this nature. While implementation of the EAW law remained weak, there were reports of successful prosecutions by the VAW units in the AGO, including a 16-year sentence for throwing acid on a woman and a 12-year sentence for rape.

The penal code criminalizes assault, and courts entered judgments against domestic abusers under this provision. According to NGO reports, hundreds of thousands of women continued to suffer abuse at the hands of their husbands, fathers, brothers,

armed individuals, parallel legal systems, and institutions of state such as police and justice systems. A UN women's commission report released in January 2011 found that 87 percent of women were victims of domestic violence, and AIHRC reports indicated that violence against women increased during the year. Observers believed this could either be a sign of increased physical violence or indicate increased reporting as a result of greater awareness of legal rights and resources. Killing, assault, and sexual violence against women commonly involved family members as suspects.

Police response to domestic violence was limited, in part due to low reporting, sympathetic attitudes towards perpetrators, and limited protection for victims. There were reports of government officials' complicity in violations of the EVAW law. For example, in November several ALP members were convicted under the EVAW law for an assault on a woman in Kunduz. Some police and judicial officials were not aware or convinced that rape was a serious criminal offense, and investigating a rape case was in some cases not a priority. Even in instances when some justice officials took rape seriously, some cases reportedly fell apart due to bribery, family or tribal pressure, or other interference at some point during the process. NGOs confirmed that domestic violence occurred in many homes but went largely unreported due to societal acceptance of the practice.

According to the AIHRC, between March and June there were 1,748 cases of violence against women reported, of which 475 were cases of physical violence and 152 were cases of sexual abuse. A total of 1,121 cases were classified as traditional and cultural violence, such as child and forced marriages, the practice of exchanging women to settle disputes (baadh), forced isolation, and honor killings. Most women did not seek legal assistance for domestic or sexual abuse because they did not know their rights or because they feared prosecution or return to their family or the perpetrator. Women sometimes turned to shelters for assistance and sometimes practiced self-immolation, with the Ministry of Women's Affairs reporting that there were more than 171 cases of suicide as a result of domestic violence. NGOs that ran women's shelters in Kabul reported an increase in referrals from police, likely reflecting improved ANP training and awareness. Women's access to shelters also increased due to international efforts to open new shelters and expand to more remote provinces. However, space at the 21 formal and informal shelters across the country was insufficient. Women who could not be reunited with their families were compelled to remain in shelters indefinitely due to the fact that "unaccompanied" women are not commonly accepted in society. The difficulty of finding durable solutions for women compelled to stay in shelters was compounded by societal attitudes toward shelters, the belief that

“running away from home” is a serious violation of social mores, and the ongoing victimization of women who were raped but perceived by society as adulterers.

Women in need of shelter who could not find a place often ended up in prison, either due to a lack of shelter alternatives, for their own protection, or based on local interpretation of “running away” as a moral crime. According to a March Human Rights Watch report, up to 70 percent of the approximately 700 female prisoners in the country had been imprisoned for the act. The report asserted that these women were nearly always fleeing forced marriage or domestic violence. The AIHRC and MOWA indicated the actual number was lower, at approximately 25 percent of the 700 women and girls incarcerated. The Supreme Court acknowledged that women have a right to be free from violence in the home and indicated that women who leave the home and approach relatives or government institutions for assistance with violence committed no crime. However, there were reports that some justice officials conflated running away with the intent to commit adultery and proceeded with prosecution without regard to the conditions that prompted the woman to leave her home.

In 2011 the government announced a plan to bring all shelters under the MOWA’s oversight. Human rights NGOs worked with the MOWA to change the regulations and stop the proposed nationalization of shelters. The final shelter regulation authorizes the MOWA to regulate all shelters but allows NGOs to continue to run them. In June the Minister of Justice made comments at a parliamentary conference on ending violence against women that equated shelters to brothels; he later apologized for the remarks. While the MOWA, civil society, and the international community criticized these statements, the existence and independent operation of shelters continued to be an issue under analysis.

There were reports that the MOWA, as well as nongovernment entities, sought to arrange marriages for women who could not return to their families.

Policewomen trained to help victims of domestic violence were hindered by instructions to wait for victims to reach out. There were 355 Female Response Unit investigators nationwide working out of 146 offices, which were staffed primarily by female police officers who addressed violence and crimes against women, children, and families. Women serving in civilian and ANP positions in the MOI offered mediation and resources to prevent future domestic violence.

Extended family violence was reportedly widespread and difficult to prosecute. In July 2011 a prosecutor in Uruzgan Province released on bail the father-in-law of

Bibi Aisha, the 16-year-old girl from Uruzgan Province whose husband and in-laws cut off her nose and ears in September 2009 because she had run away after years of domestic violence. The accused had served 11 months in jail without movement on the prosecution of the case, possibly because the victim was unable to testify. In August there were reports that her husband had possibly fled to Pakistan.

Harmful Traditional Practices: The ERAW law criminalizes forced or underage marriage and baadh. An estimated 70 percent of marriages were forced, and despite laws banning the practice, a large proportion of brides were younger than the legal marriage age of 16 (or 15 with a guardian's and a court's approval). In December 2011 a 15-year-old woman in Baghlan Province was rescued by police after being locked in a basement bathroom, having her fingernails pulled out, and being forced into prostitution by her 30-year-old husband and in-laws. The husband escaped arrest, but a court sentenced her mother-in-law and sister-in-law to 10-year sentences in May. A survey of married women ages 20 to 24 found that 39 percent had been married before the age of 18. Very few marriages were registered, leaving forced marriages outside legal control. There were reports that women who sought assistance under the ERAW law in cases of forced marriage or rape were subjected to virginity tests.

Local officials occasionally imprisoned women at the request of family members for opposing the family's choice of a marriage partner or being charged with adultery or bigamy. There were also reports that local officials imprisoned women in place of a family member who had committed a crime but could not be located. Human Rights Watch reported that some women remained in detention facilities because they had run away from home to escape domestic violence or the prospect of forced marriage.

The AIHRC reported a significant increase to 60 honor killings during the first half of the year; however, the unreported number was believed to be much higher and thought to include reported cases of suicide and self-immolation that actually covered honor killings. Under the penal code, a man convicted of honor killing after finding his wife committing adultery cannot be sentenced to more than two years' imprisonment. In July a woman and her two children were beheaded in Ghazni Province after the woman divorced her husband. Police were still searching for the husband at year's end.

The wide range of violence against women also included trafficking and abduction.

Sexual Harassment: There is no law specifically prohibiting sexual harassment. Women who walked outside alone or went to work often experienced abuse or harassment, including groping, or were followed on the streets in urban areas. Women who took on public roles that challenged gender stereotypes (such as female lawmakers, political leaders, NGO leaders, police officers, and news broadcasters) continued to be intimidated by conservative elements or received death threats to their or their families' lives. NGOs reported violence against women working in the public and nonprofit sectors, including killings, and initiated awareness raising campaigns to mobilize groups against harassment. Female members of the ANP reported harassment by their male counterparts, and there were reports of intimidation and discrimination of female members of the ANP and their families in their communities.

Reproductive Rights: Women generally exercised little decision-making authority regarding marriage, timing of pregnancies, birthing practices, and child education.

Couples were free from government discrimination, coercion, and violence to decide the number, spacing, and timing of their children, but family and community pressures to reproduce, the high prevalence of child and early marriages, and lack of accurate biological knowledge continued to limit their ability to do so. Women could expect to bear on average 5.1 children in their lifetimes. Oral contraceptives, intrauterine devices, injectables, and condoms were available commercially and were provided at no cost in public health facilities and at subsidized rates in private health facilities and through community health workers. According to the 2012 State of World Population Report, the maternal mortality rate in 2010 was 460 deaths per 100,000 live births. Although the situation improved, early marriage and pregnancy still put girls at greater risk for premature labor, complications during delivery, and death in childbirth. Postpartum hemorrhage and obstructed labor were key causes of maternal mortality. Only 34 percent of births were attended by a skilled health practitioner, and only 16 percent of women between the ages of 15 and 49 used a modern form of contraception.

Discrimination: Women who reported cases of abuse or who sought legal redress for other matters reported discrimination within the judicial system. Some observers, including female judges, asserted that discrimination was a result of faulty implementation of law and cultural nuances, rather than the law itself. A woman's limited access to money and other resources to pay fines (or bribes) and the social requirement for women to have a male guardian affected women's access to and participation in the judicial system. Local practices were

discriminatory against women in some areas, particularly in parts of the country where courts were not functional or knowledge of the law was minimal. Judges in some remote districts acknowledged wide influence by tribal authorities in preempting cases from the formal justice system. In the informal system, elders relied on interpretations of Sharia and tribal customs, which generally discriminated against women. In some cases, including one case in Paktiya Province in March, tribal shuras adjudicated matters and executed sentences far exceeding their commonly recognized authority, including authorizing the death penalty for sexual activity. Many women reported limited access to justice in male-dominated tribal shuras, where inquiries focused on reconciliation with the community and family rather than the rights of the individual. Women in some villages were not allowed any access to dispute resolution mechanisms. Lack of awareness of their legal rights and illiteracy also limited women's ability to access justice. Women's advocacy groups reported that in some cases the government intervened informally with local courts to encourage them to interpret laws in ways favorable to women. However, many cases in remote districts still were reportedly resolved according to the local police officer's or prosecutor's discretion or interpretation of the law. When legal authorities were aware of the ERAW law and its implementation, women were in some cases able to get appropriate assistance. However, prosecutors in some provinces, such as Paktiya, continued to be reluctant to use the ERAW law and brought no charges under the law despite awareness of its existence.

Police, prosecutors, and judges discriminated against women in criminal and civil legal proceedings stemming from violence and forced marriages. Enhanced availability of legal aid, including through female attorneys, provided some relief in formal justice system proceedings.

Cultural prohibitions on free travel and leaving the home unaccompanied prevented many women from working outside the home and reduced their access to education, health care, police protection, and other social services. The Ulama Council issued statements that called for restrictions on women's ability to participate in society. Women faced discrimination in access to employment and terms of occupation. Some educated urban women found substantive work, but many were relegated to menial tasks. There were approximately 1,563 female police officers, constituting just 1.1 percent of the total police force. The government's goal was to have 5,000 female police officers by 2014, but with just 350 female officers recruited during the year, reaching that goal appeared unlikely. While the government made efforts to recruit additional female police officers, cultural mores and discrimination rendered recruitment and retention difficult.

The MOWA and NGOs continued to promote women's rights and freedoms. While the Independent Administrative Reform & Civil Service Commission Gender Directorate worked on implementation of an action plan for increasing the percentage of women in the civil service to 30 percent by 2013, the percentage of women in the civil service decreased to 21 percent during the year. According to the AIHRC, many women in the civil service could not meet the minimum qualification of a bachelor's degree imposed by the Priority Reform and Restructuring system. The MOWA, the primary government agency responsible for addressing gender policy and the needs of women, had offices in all provinces and established gender units in all ministries. Gender units were established at low ranks, and men typically dominated leadership positions. Although the MOWA provincial offices assisted hundreds of women by providing legal and family counseling and referring women, they could not directly assist relevant organizations. The ministry and provincial line directorates continued to suffer from a lack of capacity and resources. Reports that the MOWA provincial offices returned abused women to their families led to protests in some provinces and Kabul.

The country achieved substantial improvements in health over the past decade, and public health statistics indicated a drop in maternal mortality. The overall health situation of women and children remained poor, however, particularly among nomadic and rural populations and those in insecure areas. Similar to males, female life expectancy was 64 years of age. Rural women continued to suffer disproportionately from insufficient numbers of skilled health personnel, particularly female health workers.

Women and children were disproportionately the victims of preventable deaths due to communicable diseases compared with men. Although free health services were provided in public facilities, many households could not afford certain costs related to medicines or transportation to health-care facilities, and many women were not permitted to travel to health facilities on their own.

## **Children**

Birth Registration: Citizenship is transmitted by a citizen father to his child. Birth in the country or to a citizen mother alone is not sufficient.



Education: Education is mandatory up to the secondary level (six years for primary school and three years for lower secondary), and the law provides for free education up to and including the college level.

In most regions boys and girls attended primary classes together but were separated for intermediate and secondary-level education. Of the country's 8.4 million schoolchildren, the MOE estimated that 3.27 million, or 39 percent, were female. Many students, however, were not enrolled full-time or dropped out early. A 2012 UNESCO report estimated that boys outnumbered girls by a ratio of two to one at the secondary level and four to one at the tertiary level.

The status of girls and women in education remained a matter of grave concern. Key obstacles to girls' education included poverty, early and forced marriage, insecurity, lack of family support, lack of female teachers, and the long distance to school. President Karzai's July Decree on Governance and Corruption addressed the lack of female teachers, particularly in conservative rural areas, by charging the MOE with recruiting an additional 11,000 teachers and increasing the number of district-level teacher training support centers to provide training opportunities for female teachers. Violent attacks against schoolchildren, particularly girls, also hindered access to education.

Violence impeded access to education in various sections of the country, particularly in areas controlled by the Taliban. The Taliban and other extremists threatened and attacked school officials, teachers, and students and burned both boys' and girls' schools. For example, in August alone there were reports of killings of principals of girls' schools in Balkh Province and Faryab Province. In a range of cases between April and July, the government alleged that insurgents poisoned more than 1,000 students, mainly in northern provinces. However, with a lack of clear physical evidence to substantiate the poison claims, the World Health Organization alleged that the incidents resulted from the psychological trauma of a war-torn environment, a phenomenon called "mass psychological illness."

Insecurity, conservative attitudes, and poverty denied education to millions of school-age children, mainly in the southern and southeastern provinces. In May the MOE estimated that more than 530 schools in 11 provinces had been shut down due to insecurity. Nationwide the MOE reported that 4.2 million children lacked educational access due to security reasons. Particularly in Helmand, security concerns inhibited parents from sending their children to school. In May the MOE stated that it had managed to reopen only 100 of 170 schools in Helmand that had been shut down in the preceding months. Reports of abduction and

molestation also existed. The lack of community-based, nearby schools was another factor inhibiting school attendance.

Child Abuse: NGOs reported increased numbers of child abuse victims during the year, and the problem remained endemic throughout the country. Such abuse included general neglect, physical abuse, sexual abuse, abandonment, and confined forced labor to pay off family debts. There were reports that police beat and sexually abused children, including a case in which a Kunar provincial police officer was jailed after raping a 14-year-old boy. NGOs reported a predominantly punitive and retributive approach to juvenile justice throughout the country. Although it was against the law, corporal punishment in schools, rehabilitation centers, and other public institutions remained common.

Sexual abuse of children remained pervasive. NGOs noted that most child victims, particularly girls, were abused by extended family members. While boys were more frequently abused by men outside their families, NGOs noted that families often were complicit, allowing local strongmen to abuse their children in exchange for status or money. While the MOI tracked cases of rape, most NGOs and observers estimated that the official numbers significantly underreported the phenomenon, with AIHRC reporting an increase of rape during the year, with most victims being children. Many child sexual abusers were not arrested, and there were reports that security officials and those connected to the ANP raped children with impunity. The practice of “bacha baazi” (dancing boys)--which involves powerful or wealthy local figures and businessmen sexually abusing young boys who were trained to dance in female clothes--was on the rise. Although the practice was believed to be more widespread in conservative rural areas, at least one media report alleged that it had become common in Kabul. Media reports also alleged that local authorities, including the police, were involved in the practice, but the government took few steps to discourage the abuse of boys or to prosecute or punish those involved.

Child Marriage: Despite a law setting the legal minimum age for marriage at 16 for girls and 18 for boys, international and local observers estimated that approximately 60 percent of girls were married younger than the age of 16. Under the EVAW law those who arrange forced or underage marriages may be sentenced to imprisonment of not less than two years, but implementation of this law remained limited. The Law on Marriage states that marriage of a minor may be conducted with a guardian’s consent.

By law the marriage contract requires verification that the bride is 16 years of age; however, only a small fraction of the population had birth certificates. Following custom some poor families pledged their daughters to marry in exchange for “bride money,” although the practice was illegal. According to local NGOs, some girls were promised as young as six or seven years of age, with the understanding that the actual marriage would be delayed until the child reached puberty. However, reports indicated that this delay was rarely observed and that young girls were sexually violated by the groom and by older men in the family, particularly if the groom was also a child.

Media reports also noted a growing “opium bride” phenomenon, in which farmer families married off their daughters to settle debts to opium traffickers. In one reported case, a father promised his 12-year-old daughter to a man 30 years her senior to repay a debt the father had incurred for his opium venture.

Sexual Exploitation of Children: Although pornography is a crime, child pornography is not specifically prohibited by law. Exploiting a child for sex purposes, as is done with bacha baazi, also is not specified as a crime under the law.

Displaced Children: The Ministry of Labor, Social Affairs, Martyrs, and Disabled’s (MoLSAMD) estimated that the number of street children in Kabul dropped during 2011 from previous NGO estimates of 37,000 street children in urban areas, but no new survey was undertaken by the National Census Directorate. Street children had little or no access to government services, although several NGOs provided access to basic needs such as shelter and food. Overall, experts stated that almost two million children worked to help their impoverished families (see section 7.c.).

Living conditions for children in orphanages were poor. The MoLSAMD oversaw 84 Child Protection Action Network centers and 70 residential orphanages, which were designed to provide vocational training to children from destitute families. Of these, 30 were privately funded orphanages and 40 were government-funded centers (but operated by NGOs by agreement with the ministry). NGOs reported that up to 80 percent of four-to 18-year-old children in the orphanages were not orphans but were children whose families could not provide food, shelter, or schooling. Children in orphanages reported mental, physical, and sexual abuse; sometimes were trafficked; and did not always have access to running water, winter heating, indoor plumbing, health services, recreational facilities, or education.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **Persons with Disabilities**

The constitution prohibits any kind of discrimination against citizens and requires the state to assist persons with disabilities and to protect their rights, including the rights to health care and financial protection. The constitution also requires the state to adopt measures to reintegrate and ensure the active participation in society of persons with disabilities. The 2010 law on Rights and Benefits of Disabled Persons provides equal rights to, and the active participation of, disabled persons in society. The MoLSAMD continued to implement a five-year National Action Plan through signing a memorandum of understanding with the MOIC to implement public awareness programs on the rights of persons with disabilities through the national media, as well as by signing a memorandum of understanding with the Ministry of Higher Education to provide scholarships for students with disabilities.

The government and NGOs estimated that there were up to 900,000 mobility-impaired persons, of whom approximately 40,000 were limb amputees. The MoLSAMD stated that it provided financial support to 79,202 individuals with disabilities. The MoLSAMD accorded special treatment to families of those killed in war.

Updated and comprehensive data on persons with disabilities continued to be lacking. Handicap International carried out a National Disability Survey in 2005, which remains the most up-to-date source of information. Security remained a challenge for disability programming. Insecurity in remote areas, where a disproportionate number of persons with disabilities lived, in some cases precluded delivery of assistance. The majority of buildings remained inaccessible to those

with disabilities, prohibiting many from benefitting from education, health services, and other services.

In the Meshrano Jirga, two of the presidentially appointed seats were reserved for persons with disabilities.

### **National/Racial/Ethnic Minorities**

Ethnic tensions between various groups continued to result in conflict and killings. For example, in November riots occurred at Kabul University after Sunni students tried to prevent ethnic Hazara students from observing Shiite religious practices.

Societal discrimination against Shia Hazaras continued along class, race, and religious lines in the form of extortion of money through illegal taxation, forced recruitment and forced labor, physical abuse, and detention. Clashes between ethnic Hazaras and the nomadic Kuchi tribes continued, with Hazaras alleging that Kuchis attempted to illegally seize their lands. Sikhs and Hindus continued to face discrimination, reporting unequal access to government jobs and harassment in their schools, as well as verbal and physical abuse in public places. In August a Sikh community leader publicly requested assistance to relocate Sikhs outside the country.

There were few reports of targeted discrimination against Ismailis (a minority Shia Muslim group).

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The law criminalizes consensual same-sex sexual conduct activity, and there were reports that harassment, violence, and detentions by the police increased significantly during the year. No law exists to address discrimination or harassment on the basis of sexual orientation or gender identity. Homosexuality was widely seen as taboo and indecent. Organizations devoted to the protection or exercise of freedom of sexual orientation remained underground. While social taboos remained strong against open consensual same-sex sexual conduct, there were some reports of improving perceptions within communities in Kabul. Organizations carrying out health-related activities were able to provide services to gay men but not exclusively, due to fear of community reprisals.

### **Other Societal Violence or Discrimination**

There were no confirmed reports of discrimination or violence against persons with HIV/AIDS, but there was reportedly high social stigma against persons with AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The 2007 labor law allows workers to join and form unions and conduct legal strikes; the 2002 Social Organizations Law permits workers to bargain collectively. However, the law provides no definition of a union or its relationship with employers and members. The law does not prohibit antiunion discrimination or provide for reinstatement of workers fired for union activity. Other than protecting the right to participate in a union, the law provides no other legal protection for union workers or workers seeking to unionize.

Although articles 145 and 146 of the labor law identify the Labor High Council, established in the MoLSAMD, as the highest decision-making body on labor-related issues, no implementing regulation to establish the council had been drafted. There was an inspection office within the ministry, but inspectors could only advise and make suggestions because they had no authority or designated powers. As a result, implementation of the labor law remained a problem because of a lack of central enforcement authority, implementing regulations that describe procedures and penalties for violations, funding, personnel, and political will.

In practice the government allowed several unions to operate without interference. Most unions were able to operate independent of government and political influence. Freedom of association and the right to collective bargaining were generally respected. However, most workers were not aware of their rights to associate freely and bargain collectively. This was particularly true of workers in rural areas or the agricultural sector, who had not formed unions.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor. However, the law does not stipulate penalties for forced labor, and government enforcement of the law was ineffective. The Law Countering Abduction and Human Trafficking (2008) prescribes penalties, including a “maximum term” of imprisonment for labor trafficking, which in practice was between eight and 15 years.

Compulsory labor was used in practice, and the government made minimal efforts to prevent and eliminate forced labor over the course of the year. Men, women, and children were forced into poppy cultivation, domestic work, carpet weaving, brick kiln works, organized begging, and drug trafficking. NGO reports documented the practice of bonded labor, whereby customs allow families to force men, women, and children to work as a means to pay for debt or to settle grievances. The debt can continue from generation to generation, whereby children are forced to work to pay off their parents' debt (see section 7.c.). Labor violations against migrant workers were common in practice, especially the widespread practice of bondage labor in brick kilns.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The labor law sets the minimum age for employment at 18 years but permits 14-year-olds to work as apprentices, allows children 15 years and older to do "light work," and permits children ages 16 to 18 to work up to 35 hours per week. Children younger than age 13 are prohibited from work under any circumstances. The labor law prohibits the employment of children in work likely to threaten their health or cause disability; however, there was no defined list of hazardous jobs.

The government lacked a specific policy on implementing the law's provisions on child labor, and the MoLSMD had only 20 inspectors for 34 provinces. Generally poor institutional capacity was a serious impediment to effective enforcement of the labor law, and the government made minimal efforts over the course of the year to prevent child labor or remove children from exploitative labor conditions. In addition reports estimated that fewer than 10 percent of children in the country had formal birth registrations, further limiting authorities' already weak capacity to enforce laws on the minimum age of employment.

Child labor remained a pervasive problem in practice, with indications that the problem could become more widespread as families became more reliant on income produced by children as development aid dropped and profit margins became lower. According to UNICEF estimates, almost two million children were in full- or part-time work.

Child laborers worked as domestic servants, street vendors, peddlers, and shopkeepers, as well as in carpet weaving, brick making, the coal industry, and

poppy harvesting. Children were also heavily employed in agriculture, mining (especially family-owned gem mines), commercial sexual exploitation, transnational drug smuggling, and organized begging rings. Some sectors of child labor exposed children to land mines. Children faced numerous health and safety risks at work, and there were reports that children were exposed to sexual abuse by adult workers.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The minimum wage for government workers was 5,000 Afghanis (\$100) per month. No specific minimum wage was set for the private sector, although the labor law states that it may not be less than the minimum wage of the government sector. According to the Central Statistics Office, 36 percent of the population earned wages below the poverty line, which is 1,250 Afghanis (\$25) per month. The law provides for equal work without discrimination, but there are no provisions for equal pay for equal work.

The law defines the standard workweek for both public-sector and private-sector employees as 40 hours: eight hours per day with one hour for lunch and noon prayers. The labor law makes no mention of informal sector day workers, leaving them completely unprotected. There are no officially adopted occupational health and safety standards and no regulations for occupational health and safety. However, reduced standard workweeks are stipulated for youth, pregnant women, nursing mothers, miners, and others in other occupations that present health risks. The law provides workers the right to receive wages, annual vacation time in addition to national holidays, compensation for injuries suffered in the line of work, overtime pay, health insurance for the employee and immediate family members, and various other incidental allowances. The law prohibits compulsory work and stipulates that overtime work be subject to the agreement of the employee. The law prohibits women and minors (15 to 18 years of age) from engaging in physically challenging work, work that is harmful to health, and working at night. The law also requires employers to provide daycare and nurseries for children.

In practice, requirements under the law were prohibitively expensive, and employers often chose to hire workers informally or to not comply with the law. Workers do not have the right to remove themselves from situations that



endangered their health or safety without jeopardizing their employment, as all employment could be terminated without cause. Actual working conditions showed that most employees worked longer than 40 hours per week, were underpaid, and worked in poor conditions, particularly in the informal sector. Workers were generally unaware of the full extent of their labor rights under the law.