

# Trafficking in Persons

## An Analysis of Afghanistan



IOM International Organization for Migration  
سازمان بین‌المللی مهاجرت  
د مهاجرت نړیوال سازمان

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental body, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

Publisher: International Organization for Migration  
House No.1093  
Ansari, Wat, Shahr-i Naw  
Kabul, Afghanistan  
Sat Phone: +00.873.762.869.855  
Fax: +00.873.762.869.856  
E-mail: [iomkabul@iomkabul.net](mailto:iomkabul@iomkabul.net)  
Internet: <http://www.iom.int>

This study was made possible thanks to funding from the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons. IOM also thanks the officials of the Transitional Islamic State of Afghanistan and all organizations and individuals who provided input during the research initiative.

---

ISBN 92-9068-176-4  
© 2003 International Organization for Migration (IOM)

---

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without prior written permission of the publisher.

# Trafficking in Persons

## An Analysis of Afghanistan

January 2004



---

IOM International Organization for Migration  
سازمان بین المللی مهاجرت  
د مهاجرت نړیوال سازمان



AFGHANISTAN  
ADMINISTRATIVE DIVISIONS



**BOUNDARIES**

- International
- Province
- District
- Capital
- Province Centre

**Lettering**

**PROVINCE NAME**

Province Centre Name

**NOTE:**

The boundaries and names on the maps do not imply official endorsement or acceptance by the United Nations.

for further information contact AIMS  
e-mail: [info@aims.org.pk](mailto:info@aims.org.pk) May, 2003



# TABLE OF CONTENTS

---

<b><i>Map of Afghanistan</i></b>	
<b><i>Executive Summary</i></b>	<b>6</b>
<b>1. Introduction</b>	<b>9</b>
1.1 Data & methodology	10
1.2 Limitations & constraints	12
1.3 Definition	14
<b>2. Background</b>	<b>18</b>
2.1 History	18
2.2 Ministerial Structure and Functions	19
2.3 Legal structure & explanation of laws	23
2.4 Human rights monitoring mechanisms	25
<b>3. Trafficking trends</b>	<b>28</b>
3.1 Internal trafficking	30
3.2 Afghanistan as a country of origin	39
3.3 Afghanistan as a country of transit	41
3.4 Afghanistan as a country of destination	41
3.5 Neighbouring countries: Pakistan	42
3.6 Incidents of concern: Trafficking-related trends	46
<b>4. Government actions to counter trafficking</b>	<b>61</b>
4.1 National Development Plan	61
4.2 Participation in regional dialogues	62
4.3 Ratification of CEDAW	62
4.4 Other legal efforts	63
4.5 Counter-trafficking office, Mol	64
<b>5. Conclusions</b>	<b>65</b>
<b>6. Recommendations</b>	<b>68</b>
<b>7. Annex</b>	<b>73</b>
7.1 International legal instruments	73
7.2 Afghan civil and penal codes	74
7.3 Decree: Islamic Emirate of Afghanistan (Taliban)	84
7.4 Testimony	85
7.5 Roundtable discussion	87
7.6 Roundtable discussion: Placement of examples	89
7.7 IOM Survey	90
7.8 Glossary	92
7.9 Terminology	93
<b>8. References</b>	<b>96</b>

***Additional Maps: IDP caseload, Repatriation crossing points***

# EXECUTIVE SUMMARY

---

Trafficking in human beings is a global problem, with an estimated 800,000 to 900,000 people trafficked across international borders each year and an untold many trafficked within their own countries. Unfortunately, Afghanistan is confronted with a significant trafficking problem, as recognized by the June 2002 “Declaration of the Essential Rights of Afghan Women,” which highlighted trafficking victims in its first section. Afghanistan was also identified in the 2002 U.S. Department of State “Trafficking in Persons” (TIP) report as a Tier III country – meaning that significant trafficking takes place and that the Government has not undertaken appropriate initiatives to combat the problem. This categorization could, under normal circumstances, make Afghanistan liable for a range of U.S. sanctions, but the 2003 TIP report has placed Afghanistan in a special category of transitional states.

Although this new, special category is certainly a fair exception given the Transitional Islamic State of Afghanistan’s (TISA) array of challenges, it highlights rather than diminishes the pressing human rights problem of trafficking in Afghanistan.

The International Organization for Migration (IOM) has substantial experience in the sensitive fields of anti-trafficking research and programming. With funding from the U.S. Department of State Office to Monitor and Combat Trafficking in Persons and with the approval and support from the TISA, including the Ministry of Women’s Affairs and the Ministry of the Interior, IOM has conducted a study to assess the trends and responses to trafficking in Afghanistan.

Researching trafficking in any country is a difficult enterprise, but it is especially so in Afghanistan. Not only has general insecurity made some parts of the country practically inaccessible to the research team, but Afghans have deep rooted disinclinations to report trafficking crimes. Police forces are sometimes seen to be complicit in these crimes and, more importantly, trafficking and crimes of sexual violence are seen to dishonor the victim and her or his family rather than the perpetrator, making reporting of these crimes seem to some as a second violation. Despite these obstacles, a combined approach of written survey forms, structured interviews, and a literature review have produced a substantial body of information about trafficking in Afghanistan, ranging from specific and verified cases to credible but unverified cases to information about general trends and cultural contexts.

Based on these specific cases and trends and employing the legal framework of the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN Convention against Transnational Organized Crime, IOM believes that the following forms of trafficking are taking place:

- » Exploitation of Prostitution (forced prostitution and prostitution of minors);
- » Forced Labor;
- » Slavery and Practices similar to Slavery (abductions for forced marriage, marriage for debt relief, and exchange of women for dispute settlement);
- » Servitude (sexual servitude and domestic servitude); and,
- » Removal of Organs.

Although the bulk of information on trafficking received is internal and among Afghans in neighboring countries, there have also been cases of cross-border trafficking – Afghanistan as a country of origin, transit, and destination.

This report documents examples of many forms of trafficking (with the exception of the last, for which further technical research is required). A range of “trafficking-related” trends is also documented. Though these incidents may not constitute “trafficking” as defined in the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,” they still raise serious human rights concerns and share many causes and possible counter measures with more traditional trafficking practices. This report also explores the legal, social, economic, and security environment to establish how trafficking has taken root and to point to early recommendations for addressing the problem.

Afghan trafficking victims are drawn from the most vulnerable communities. Displaced, destitute, and indebted persons and families, young people seeking economic opportunity abroad, and rural women are all targets for trafficking crimes. Afghanistan’s chronic insecurity, massive displacement, and poverty born of conflict and drought contribute to making many people vulnerable to this kind of exploitation. The role of women and girls as objects for dispute resolution, the power of local assemblies which often apply customary rather than constitutional or civil law, and the limited autonomy of women in marriage decisions, are additional factors that contribute to trafficking and make it difficult to combat.

The TISA and the international community have taken some steps already. TISA has participated in regional anti-trafficking conferences, ratified the Convention on the Elimination of All Forms of Discrimination against Women, and begun legal reforms that might address some of the institutions that now enable trafficking crimes. Several institutions have also executed monitoring functions, and the Bonn-mandated Afghan Independent Human Rights Commission (AIHRC) has included trafficking violations in their list of core concerns. In addition, the UN Assistance Mission for Afghanistan (UNAMA) and UN specialized agencies have addressed trafficking cases on an individual basis.

IOM further recommends action in the following areas:

- » Legislation. Create a legal framework ranging from a constitutional prohibition on slavery to laws enforcing the various international agreements to which Afghanistan is a signatory to laws protecting women from the most extreme versions of customary justice.
- » Coordination and dialogue. Coordinate both within the TISA and with regional partners to develop and implement a national action plan.
- » Education and awareness. Manage education and outreach regarding trafficking in persons to target Government officials, traditional leaders and members of the community, paying special attention to decreasing the stigmatization of victims.
- » Push factors. Ensure that programmes to reduce economic insecurity, including training and education, micro-credit, and food security take into account trafficking risk factors in selecting beneficiaries.
- » Security. Include trafficking issues in security sector reform programmes such as the Afghan New Beginnings Programme.
- » Protection. Strengthen and sensitize the police and courts to address all forms of trafficking and sexual violence. Re-examine cases in which persons now held in jail may in fact be the victims of trafficking.
- » Assistance. Work with traditional leaders to provide culturally appropriate support mechanisms for victims. Provide a mechanism to file complaints about past violations.



The problem of trafficking in Afghanistan is deeply intertwined with the country's other problems as it emerges from decades of lawlessness. As such, there can be no easy or fast solutions to these disturbing human rights abuses, but measures can be taken to begin to combat trafficking. As the Government of Afghanistan grows stronger and more effective, anti-trafficking measures can also evolve to provide broader protection to victims and ensure its perpetrators are brought to justice.

# 1. INTRODUCTION

---

Trafficking in human beings, particularly women and children, is a phenomenon increasing dramatically all over the world, and is one of the most lucrative transnational crimes. Between 800,000 and 900,000 persons are estimated to be trafficked across international borders each year.<sup>3</sup> This figure does not include trafficking within countries. The main causes of trafficking identified by the international community include: unemployment; lack of opportunity; gender inequality; economic disparities; civil and ethnic violence; absence of legal instruments to combat trafficking or limited implementation of existing legislation; porous international borders and corruption from border officials; and lack of substantive information on countries of destination for those trafficked.

The International Organization for Migration (IOM) initiated this research project to examine trafficking of Afghans, particularly women and children, within and from Afghanistan, and of third country nationals into and through Afghanistan. Within the past four years, media articles and reports issued by NGOs and UN agencies addressing broader human rights issues in Afghanistan have indicated a prevalence of trafficking in persons. While it is unclear whether this newfound awareness stems from increased attention towards Afghanistan or a higher prevalence of trafficking there, the citations have brought international attention to a growing problem. Thus, the IOM sought to define trafficking in the Afghan context and produce a report on its findings.

On 28 June, 2002, an assembly of several hundred Afghan women drafted the *Declaration of the Essential Rights of Afghan Women*, stating in Section One that "poverty and the lack of freedom of movement pushes women into prostitution, involuntary exile, forced marriages, and the selling and trafficking of their daughters."<sup>4</sup> In addition, the U.S. Department of State identified Afghanistan as a country with a significant trafficking problem in its 2002 "Trafficking in Persons" report. The country was placed in Tier III due to a lack of government initiatives to combat the practice. This designation by the U.S. State Department made Afghanistan a 2003 candidate for non-humanitarian and non-trade-related sanctions, dependant on improvements.<sup>5</sup> The 2003 TIP report, however, placed Afghanistan in a special category for transitional governments where there is "no effective central government or the central government does not exercise full control over the country."<sup>6</sup> Retroactively, Afghanistan would not be judged on government effort to combat trafficking, or on the actions or inaction of previous regimes.

The intention of this data gathering effort is to increase the understanding of the phenomenon in Afghanistan, to encourage actions to halt the practice, and provide information that can be applied for effective prevention and assistance activities. The data presented are a reflection of reports and information gathered from Afghan NGOs, community groups and activists, victims, international organizations operating in Afghanistan and neighbouring countries, Afghan government officials, and

---

<sup>3</sup> *Trafficking in Persons Report 2003*, U.S. Department of State, June 2003.

<sup>4</sup> Women Living Under Muslim Laws <http://www.wluml.org/english/new-archives/wtc/afghan-women/declaration-06-00.htm> and the Feminist Majority Foundation

<sup>5</sup> *Trafficking in Persons Report 2002*, U.S. Department of State, June 2002

<sup>6</sup> *ibid.*

available literature. Recommendations to the Transitional Islamic State of Afghanistan, Afghan NGOs and community groups, and the international community have been included. These recommended actions are based on current trafficking trends, the existing legal structure, and discussions with government officials, members of the community and interagency discussions.

## **1.1 DATA & METHODOLOGY**

### ***Project Methodology***

The research design was based on preliminary interviews with organizations and individuals, existing literature, IOM field office locations and NGO/UN assistance networks, and security concerns. International assistance agencies and their functions were identified in each of the provinces, facilitating the classification of groups to query for survey distribution. This preliminary stage enabled researchers to map out basic trends and identify provinces and destination countries of concern. The data-gathering portion of the project encompassed three primary activities: dissemination of a survey to international organizations<sup>7</sup> in Afghanistan and neighbouring countries, and field visits and interviews with community-based organizations and individuals. Measures were taken to develop an effective approach to gathering sensitive data. These included ensuring that questions were clear, appropriate, addressed the correct issues, and framed in a culturally sensitive manner taking into account local perceptions and beliefs. Additionally, case studies were compiled from NGO-interviewed victims and from IOM interviews with victims. The case studies are attached in Annex 7.4.

### ***Literature Review***

A literature review was performed to identify reports containing citations of trafficking instances within, from, through and to Afghanistan, and of trafficked Afghans in other countries. Literature included NGO reports and studies; UN agency situation updates on Afghanistan, academic papers, and media articles. Media coverage of trafficking included Afghan, Pakistani, Iranian and other international newspapers and magazines. Other UN documents including resolutions, international conventions, and committee reports by special representatives were also reviewed.

### ***Survey Distribution***

After the literature review was completed, a survey was developed and distributed to 100 organizations in Afghanistan, Pakistan and Iran. This resulted in a 19 per cent response rate, which can be attributed to time constraints, lack of information or understanding of trafficking, institutional policy restrictions on release of case information, and fear that sharing information would result in repercussions from local authorities or other actors. In Afghanistan, the distribution of the survey was limited to international organizations. Similar questions were posed during interviews with local organizations and community groups to take into account language, personal contact, and the assurance that interviewees understood the reason for the study. The survey distribution target group included organizations with a focus on gender, trafficking, human rights or child labour, and organizations providing assistance to extremely vulnerable Afghans, such as refugee returnees, internally displaced persons (IDPs), and widows. As there is not a network of organizations providing assistance to trafficked victims in Afghanistan or Iran, groups implementing other

---

<sup>7</sup> UN agencies, other intergovernmental organizations, and international non-governmental organizations

assistance and welfare programs were queried as potential first responders. In Pakistan, there is an emerging network of NGOs addressing trafficking and providing assistance to victims. These groups were included in the distribution.

Surveys were also provided to IOM missions in Tajikistan, Turkmenistan, Kazakhstan, the Kyrgyz Republic and India for review. These countries were included in the information-gathering effort because of the geographic proximity (Tajikistan and Turkmenistan are border states), the prevalence of trafficking and victim-assistance networks (in all countries except Turkmenistan), cultural ties, and migration patterns. In Tajikistan, Kazakhstan, the Kyrgyz Republic, and India, IOM offices maintain a close working relationship with the assistance network. The IOM missions queried NGO networks and UN agencies for reported instances of trafficked Afghans, or nationals from the respective country being trafficked into or through Afghanistan. Information from Uzbekistan and China was not obtained because of logistical constraints, including lack of IOM field office presence and few operating NGOs.

## ***Interviews***

Approximately 47 NGOs, community leaders, human rights activists, and community groups -- including *shuras*<sup>8</sup> for men and women -- and other groups working with vulnerable populations were approached to gain information on trends in Afghanistan and neighbouring countries. Questions posed mirrored those in the survey, with additional queries on cultural practices and informal reporting mechanisms. Interviews were carried out in eight provinces in Afghanistan, including Kabul, Kapisa, Logar, Balkh, Jawzjan, Samangan, Faryab, and Herat, as well as two provinces in Pakistan -- the Northwest Frontier (NWFP) and Punjab. Provinces were chosen based on information gained from preliminary interviews and the literature review, and high geographical concentrations of Afghan NGOs, community groups, and IOM field offices.

In addition, various government ministries shared available information on the trafficking phenomenon in Afghanistan, government infrastructure, ministerial functions, relevant laws, and monitoring mechanisms. The level of understanding of trafficking within the government was ascertained. Officials from the Ministries of Interior, Foreign Affairs, Reconstruction and Rural Development, Afghan Diaspora and Experts, Refugees and Repatriation, Justice,<sup>9</sup> Labor and Social Affairs, and Women's Affairs were contacted.

## ***Case Studies***

Four case studies were written, compiled from NGO-performed interviews and from direct interviews with victims, conducted by IOM. Detailed accounts from men, women and children trafficked from Afghanistan, and of those victimised while residing in other countries are provided in Annex 7.4. The stories reflect the various forms of trafficking in the region, as well as some instances that are not clear trafficking cases, but have trafficking-like elements making them significant enough to warrant inclusion.

## ***IOM analysis***

It must be emphasised that although it was crucial for IOM to analyse events in Afghanistan and make determinations on which reports constitute legitimate forms of

---

<sup>8</sup> A traditional Afghan council or association

<sup>9</sup> Officials in the Ministry of Justice and Judicial Commission were interviewed.

trafficking, using pre-existing and internationally recognised definitions, the analysis operates by interpretation. It should not be viewed as an instrument by which unexamined practices are excluded from being considered trafficking cases. It represents an attempt to apply the accepted definition of trafficking in a holistic manner by examining cases with an internal and cross-border nature, soliciting information on all forms of trafficking and not restricting research to women and children.

## **1.2 LIMITATIONS & CONSTRAINTS**

Afghanistan has had 22 years of conflict, beginning with the struggle against the Soviet occupation and followed by years of civil unrest. It is now in a stage of national reconstruction. While the international community is providing much assistance to the Transitional Islamic State of Afghanistan, capacity building is still needed in many of the ministries. At the start of the project, trafficking had not yet been addressed due to lack of capacity, more immediate national priorities, and a denial that trafficking is occurring in Afghanistan. The absence of any framework in which to work delayed the progress of the research initiative. Constraints and limitations on data collection included lack of available statistics on border crossings and insufficient mechanisms to monitor employment and labour contracts (one only recently was established). In addition, there is a lack of reporting due to issues of stigmatisation, family honour, and fear of reprisals. More importantly, security concerns hampered safe access to provinces, where further interviews could be conducted and survey participation could be encouraged. The project's methodology had to take into account the above-mentioned local concerns. It was limited to gathering qualitative information on trends from government ministries, and NGOs and IGOs in Afghanistan and neighbouring countries.

### ***Lack of concise information on government structure and responsibilities***

Gathering information to illustrate a clear picture of the structure, levels of responsibility, and mandates of many ministerial departments is difficult, as there is ongoing restructuring within the government, and procedures, regulations and communication mechanisms are newly established or in the process of being developed. Subsequently, there is a lack of written descriptions and organigrams available to the public. As reconstruction efforts continue, and the functions of government entities solidify, a clearer understanding of the government structure and division of responsibilities will be available.

### ***Obstacles to Reporting: Factors of fear, honour and shame***

There is an inherent difficulty in obtaining information on trafficked victims in Afghanistan because the crimes are often not reported. This is due to many reasons, such as the lack of an official reporting mechanism, a lack of understanding and sensitivity of officials to the practice and to specific needs of victims, a lack of trust by the community in law enforcement structures stemming from long-term conflict and factional and ethnic divisions, fear for personal security due to the continued presence of arms, and the perceived shame surrounding crimes of sexual violence. The latter issue is a major obstacle to Afghan families and victims reporting crimes on abductions for forced marriages and sexual servitude, as sexual acts committed outside the framework of marriage are perceived to diminish family honour. It was repeatedly observed during IOM interviews that regardless of whether the act is

voluntary or forced, the shame factor is significant enough that families will often not report a member abducted for sexual servitude in order to avoid stigmatisation by the community. The ownership of shame is carried entirely by the woman or girl and her family, while the perpetrator assumes none of the shame. In addition, some abuses are instigated by families, such as the exchange of women for dispute settlement,<sup>10</sup> thus eliminating the will to report, as the act is either not viewed as criminal, or the family doesn't want to implicate itself.

To protect the victim and/or his or her family against potential retribution and community stigmatisation, and maintain anonymity for reasons of privacy, the names of victims, locations where the incident occurred,<sup>11</sup> and other identification factors have not been included in this report. The names of many organizations have also been withheld to shield them from strained relations with authorities in Afghanistan and neighbouring countries.

## **Terminology**

As in many countries beginning to address the issue of trafficking in persons, there is a lack of understanding of what "trafficking" is, accompanied by a denial of its occurrence. The international definition was designed to be all encompassing, but remains complex to understand. Gathering information from a population largely unfamiliar with human rights instruments and terminology is difficult. This is compounded by pre-existing terms in local dialects, which describe scenarios, which are often similar to the issue in question, but don't exactly fit the international definition. There are also overlapping terms to describe events, which the international community have separated into different definitions or treaties.<sup>12</sup> No terms in Dari or Pashto were found to adequately describe trafficking in persons. Therefore, the English term "trafficking" followed by the Dari term for *persons*, "darashkhas" ('trafficking darashkhas' and 'smuggling darashkhas') were used in information-gathering efforts. This was followed by an explanation of the definition, providing a visual tool illustrating the linguistic definition via a map (Dari and English versions),<sup>13</sup> and asking direct questions on specific forms of exploitation known to occur in Afghanistan.

## **Security**

The UN perception of threats in Afghanistan is considered to be terrorism, warlordism, factionalism, crime, and narcotics-related activities. Revenues gained from poppy growing affect the four other threat categories. Terrorism and crime remain the biggest security threats in Afghanistan. The border remains porous, facilitating the undocumented or illegal crossing of persons. The border with Pakistan has particular concerns, as the combination of the ongoing fighting between coalition forces and the Taliban and Al Qaeda, lack of border monitoring, and the general lawlessness around the border area adds to the overall sense of instability. Recent reports indicate that the Taliban and Al Qaeda have been re-infiltrating the country for the past six months from the Pakistani border. There is also a presence of criminals and drug smuggling along the southern border, rendering access to some provinces difficult and dangerous. In addition to Taliban and Al Qaeda presence, there are other renegade commanders waging their own battles for territory, power and respect. Skirmishes between factional commanders have

---

<sup>10</sup> The exchange of women for dispute settlement isn't always decided by the family; a *jirga* can issue a decision to end a blood feud or conflict

<sup>11</sup> Some provinces are cited, but the names of districts and villages are not included.

<sup>12</sup> *Qachaq*: illegal smuggling of persons or goods. *Intakal*: Movement of persons or goods. *Hamla naqli ghairi mayaz*: illegal transportation of persons.

<sup>13</sup> See Section 1.4 for definition chart

occurred in regions across Afghanistan throughout the past year.<sup>14</sup> As IOM is subject to UN security rules and regulations, all road missions in Afghanistan must receive UN clearance prior to departure. Perceived instability on the route to, or within the destination province, will result in a denial of permission to travel, and eliminate the possibility for data collection efforts in that area.

### **Information sources**

Close attention was paid to sources of information used in this report. Cases compiled were interviewed or assisted by internationally- and locally-recognised organizations, as well as by government staff. While some anecdotal information is also included, due to the lack of official records and quantitative data, it is clearly referred to as unconfirmed and is meant to convey community views and concerns. Literature with reference to trafficking and related events were scrutinised, as there is often a noticeable confusion between trafficking and smuggling, different perceptions of what trafficking constitutes, and broad references to trafficking and "selling" of persons without taking into account traditional practices, such as the payment of a bride-price.

### **Data Presented**

The information provided in this report represents the first-step towards addressing trafficking in persons in Afghanistan. It presents basic trends and incidents which Afghan NGOs, community organizations, and individuals, and the international community were willing or able to share. It is an initial inquiry and should not be viewed as a definitive work reporting all trafficking trends occurring in Afghanistan and to Afghans. It is rather a first step to build upon and promote more detailed information gathering in the near future. While a considerable amount of anecdotal information points to forced prostitution, few cases have been substantiated. This can be attributed to many factors cited earlier, including fear of reporting, lack of safe and accessible reporting mechanisms, denial of the occurrence of prostitution among Afghans, and the social implications for victims if they admit to prostitution activities, regardless of whether it is voluntary or forced. As the infrastructure is built in Kabul, and the provinces and reporting mechanisms are established, an increase in the amount of hard data is expected.

## **1.3 DEFINITION**

IOM has adopted the international definition of trafficking as stated in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, which supplements the *United Nations Convention against Transnational Organized Crime* in December 2000.

*The "...recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;"*

---

<sup>14</sup> Interview with UN security sources

Afghanistan has signed and/or ratified a number of international human rights treaties<sup>15</sup> that recognise equality between women and men in terms of economic, social, political, civil, and cultural rights. It is also party to the ILO Convention on forced labour, and the conventions on slavery, discrimination against women, the rights of the child, and its optional protocol on the sale of children, child prostitution and child pornography. A list of all relevant international conventions to which Afghanistan has signed and/or ratified is included in the Annex 7.1.

For the purpose of this research initiative, IOM examined the issue of trafficking in Afghanistan from a broad perspective. Information on trafficking for forced prostitution and sexual exploitation, forced labour or services, slavery and practices similar to slavery, servitude and the removal of organs was solicited. Furthermore, cases involving men, as well as women and children, were included in our examination.

The history, culture, and traditions play a key role in understanding trafficking in Afghanistan. Instances that clearly fall within the scope of the international definition are cited in this report. However, IOM applied internationally recognised definitions on slavery, slavery-like practices and servitude to examine reported trends in Afghanistan and neighbouring countries. Instances of concern with trafficking-like elements are also provided in this report. To facilitate an understanding on why certain practices were chosen to be mentioned, and to assist in identifying true trafficking trends, the following international definitions are cited:

Prostitution: No international definition  
(Prostitution and sexual exploitation is not defined in the Protocol. NGOs, activists, academics and politicians have created definitions of prostitution, but there still lacks an international consensus on what prostitution entails<sup>16</sup>. Differing stances on the morality of prostitution, and whether it should be recognised as a legitimate form of employment, have contributed to the difficulty among countries to agree upon a definition.)

Child Prostitution: *Use of a child in sexual activities for remuneration or any other form of consideration.*<sup>17</sup>

Forced Labour: *'Forced or compulsory labour' shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*<sup>18</sup>

---

<sup>15</sup> Including: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child, Convention on Political Rights of Women, Covenant on Civil and Political Rights, and Covenant on Economic, Social and Cultural Rights. Special measures still need to be taken to disseminate CEDAW's content so that Afghan women, and in particular rural women, know their rights, as well as to incorporate CEDAW concepts into existing law (customary or otherwise) and the future constitution.

<sup>16</sup> Prostitution: the act or practice of indulging in promiscuous sexual relations especially for money (Merriam-Webster Dictionary); the sale of sexual services (typically oral sex or sexual intercourse, less often anal sex) for money or other kind of return, generally indiscriminately with many persons (Wikipedia Encyclopedia), and; female sexual slavery (the gorilla pimp) and survival sex (sale of sexual services by persons with very few other options, such as homeless youth and women in poverty) through to more bourgeois styles of sex trade (including some street prostitution) where both adults are consenting, albeit it in a way that is shaped by their gender, occupation, ethnicity, socio-economic status and cultural values (*Prostitution Law Reform in Canada*, John Lowman, Simon Fraser University)

<sup>17</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002

<sup>18</sup> Convention Concerning Forced or Compulsory Labour (28 June, 1930) as modified by the final articles revision convention, 1946.



Worst Forms  
of Child Labour:

*a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;*<sup>19</sup>

Slavery:

*Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.*<sup>20</sup>

Institutions and  
Practices Similar  
to Slavery:<sup>21</sup>

1. *Debt bondage*: the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

2. *Any institution or practice whereby*:

- i. A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
- ii. The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
- iii. A woman on the death of her husband is liable to be inherited by another person;

3. *Any institution or practice whereby*: a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

Servitude:

*“A person of servile status” means a person in the condition or status resulting from any of the institutions or practices mentioned in article 1 of this Convention;*<sup>22</sup>

Other related international definitions to note while reviewing reported trends in Afghanistan:

Sale of Children:

*Any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.*<sup>23</sup>

<sup>19</sup> ILO Convention on Worst Forms of Child Labour C182, 1999.

<sup>20</sup> Slavery Convention, 60 L.N.T.S. 253, entered into force 9 March, 1927.

<sup>21</sup> Article 1, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3, entered into force 30 April 1957.

<sup>22</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 U.N.T.S. 3, entered into force 30 April 1957.

<sup>23</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002

Rape: *A physical invasion of a sexual nature, committed on a person under circumstances that are coercive.*<sup>24</sup>

---

<sup>24</sup> The International Criminal Tribunal for Rwanda set precedence through the inclusion of rape as a form of genocide, in the 1998 Akayesu conviction. The court defined rape, making it applicable to both men and women (not gender-specific), and considering "coercion" as not exclusive to force, but including threats and intimidation.

## 2. BACKGROUND

---

### 2.1 HISTORY

Afghanistan has been plagued with internal conflict for more than twenty years. After the Soviet invasion in 1979, a resistance movement commenced. Separatists fought for an independent state for 10 years. The Soviets withdrew from Afghanistan in 1989, relinquishing its claim on the Afghan government and policies. Fighting resumed when various factions began vying for power. In 1996, a group of ultra-conservative religious students, calling themselves the Taliban, took over the capital, Kabul. They enacted a series of ultra-conservative social regulations and brutally suppressed any resistance or displays of 'western' ideologies. At the height of their power, the Taliban controlled about 90per cent of the country. However, they fought a continuous battle against an alliance of factions referred to as the United Front of the Northern Alliance, who maintained control of a small portion of Northeastern Afghanistan, until the time the Taliban fell.

Following the events of 11 September 2001, the U.S. initiated a global campaign to counter terrorism. A coalition of countries attacked Afghanistan in October 2001, in an effort to topple the Taliban and capture Osama bin Laden, alleged leader of the Al Qaeda terrorist network that attacked the U.S. The Taliban regime fell in November of that year, and a transitional government was established.

Prior to Taliban rule, Afghan law guaranteed women constitutional rights, although local traditions and customs affecting the role of women in society varied throughout the country. The Taliban enforced gender apartheid, forbidding women's access to education and restricting access to health care and employment. Women were no longer permitted to leave their homes unless accompanied by a close male relative, and the windows of their homes were painted to hide them from view. Since the fall of the Taliban, women have had increased access to employment, health services, and education.<sup>25</sup> However, many women in Kabul continue to wear the *burqa*, many for the security it offers. The role of women in society varies throughout the country, especially between rural and urban areas. A January 2003 UN report reads: "In rural areas, especially in the more conservative tribal belt, the situation of women has not changed to any great extent since the removal of the Taliban."<sup>26</sup>

Afghan society continues to have a patriarchal structure whereby the male head of family makes all decisions related to his family, including whether females of the household may attend school or work, and with whom they marry.

### **Demography**

Afghanistan is a country that consists of various ethnic groups, including Pashtuns, Tajiks, Hazaras, Uzbeks, Turkmens, Aimaks, Baluchis, Nuristanis, and Kizilbashis. Pashtuns are the largest group, at 44per cent, followed by Tajiks (25per cent), Hazara (10per cent) and Uzbeks (8 per cent).<sup>27</sup> Approximately 84 per cent of the

---

<sup>25</sup> The Situation of Women and Girls in Afghanistan: Report of the Secretary General 23 January 2003 (E/CN.6/2003/4)

<sup>26</sup> *ibid.*

<sup>27</sup> Wikipedia The Free Encyclopedia – Afghanistan ([www.wikipedia.org/wiki/Afghanistan](http://www.wikipedia.org/wiki/Afghanistan))

population are Sunni Muslims, 15 per cent Shi'a Muslims, and one percent follow other religions.

### ***Migration flows***

Afghanistan is located at the crossroads of Central Asia. Historically, for social and cultural reasons, travel and migration was popular along the great Silk Road, a series of trade routes that link Asia with Europe and the Middle East.<sup>28</sup> People travelled freely through areas that now have internationally recognised borders. Sharing cultural and religious customs with people in neighbouring countries was the norm. For example, the Kuchis, a nomadic people, regularly migrated across Afghanistan, and into the border areas of Pakistan for centuries.

The dynamics of migration changed with the onset of civil conflict in 1979, which lasted more than 22 years. It is estimated that up to 1 million persons were internally displaced. Afghanistan also came to produce the largest and most long-standing refugee flow in the world. As of December, 2002, there are approximately 3,500,000 Afghan refugees and asylum seekers worldwide, and an estimated 700,000 internally displaced persons (IDPs) remaining in country. The highest concentrations of refugees in the region are in Iran (2 million), Pakistan (1.5 million), India (13,000) and Tajikistan (3,500).<sup>29</sup>

After the fall of the Taliban and the establishment of the Interim (2001 Dec. – 2002 June) and Transitional (2002 June – present) Administrations, Afghan refugees and IDPs began to return to their homes. By the end of 2002, approximately 300,000 refugees had returned from Iran and 1.5 million from Pakistan. Additionally, 250,000 IDPs were assisted to return to their provinces of origin, and 200,000 returned independently.<sup>30</sup>

Assistance packages have been provided to refugees and IDPs who returned under an internationally-assisted return program. Packages have varied according to the area of returns and agency funding levels. Overall, reintegration assistance packages provided to IDPs and refugees have included (at one time) wheat, high-protein biscuits and cooking oil, non-food items, including soap and other hygiene materials, blankets, and tents, agriculture items, such as seeds and fertilisers, and cash assistance.<sup>31</sup> Although cash and material items have been provided to returnees to ease reintegration into communities of origin and increase the sustainability of return, many of these groups still face unmet needs. Poverty, lack of employment opportunities and insecurity in the provinces act as push factors for some Afghans to return to their previous host countries, some by illegal means.

## **2.2 MINISTERIAL STRUCTURE AND FUNCTIONS**

### ***Transitional Islamic State of Afghanistan (TISA)***

The Transitional Islamic State of Afghanistan was established at a conference in December, 2001, as a result of the Bonn Agreement. An interim government was created at that time, led by Chairman Hamid Karzai, until a transitional administration was established in June 2002. Afghans, living in provinces around the country and

---

<sup>28</sup> Wikipedia – Silk Road ([www.wikipedia.org](http://www.wikipedia.org))

<sup>29</sup> World Refugee Survey 2003, U.S. Committee for Refugees

<sup>30</sup> *ibid.*

<sup>31</sup> Refugee families were given a cash allowance, plastic and tarpaulins, soap, a hygiene cloth, and 50 kg of wheat, according to the *World Refugee Survey 2003*, U.S. Committee for Refugees.

among the diaspora, selected representatives to choose a new government. These representatives gathered at a *Loya Jirga*, or grand council, (the traditional method to formulate policy decisions in Afghanistan), elected Hamid Karzai as President of the TISA, and appointed Cabinet members. The permanent government will be determined through elections, currently planned for June 2004.

In December, 2003, a new Constitution will be adopted at a Constitutional *Loya Jirga*. The U.N. and others have initiated programs in the provinces to increase awareness and encourage participation in the voting. Teams are providing outreach to men and women in the rural areas in an effort to ensure more participation.

## ***Ministry of Women's Affairs***

### **Promotion and Protection of Women's Rights**

The Ministry of Women's Affairs (MoWA), headed by Minister Habiba Sarabi, was established under the Bonn Agreement in late 2001. It is a government structure to promote the advancement of women in Afghanistan. The MoWA focuses on advocacy and gender mainstreaming through coordination with other ministries to ensure a gender perspective in national priority areas. Its primary function is to "catalyze, coordinate, support and monitor the implementation of international treaties, commitments and national policies on the promotion of women's status in Afghanistan."<sup>32</sup> The MoWA aims to ensure that the specific needs of women are reflected in national policy; develop projects targeting vulnerable women, including the development of mechanisms to identify measures to eliminate discriminatory and abusive practices; promote gender awareness among the public; collaborate with NGOs and other relevant groups on advocacy to ensure the government and donors respond to issues affecting women; and to monitor government action on the development and implementation of national policies on women.<sup>33</sup>

The structure of the MoWA includes the following departments: Planning, Policy and Research; Advocacy and Training; Provincial Relations; Women in Trade and Economic Empowerment; Women's Health; Women's Education; Human Resource, Administration and Finance; and Women's Legal Protection. The legal department includes offices for research, and legal education and advocacy for women. It liaises with the Judicial and Constitution Commissions to mainstream women's special needs into legal instruments. The department aims to "monitor laws, administrative issuances, court decisions and other legal issuances that directly affect women's status."<sup>34</sup> Currently, 29 provincial MoWA representatives have been appointed.

## ***Ministry of Labor and Social Affairs***

The Department of Inspections and the Ministry of Labor and Social Affairs (MoLSA) are mandated to monitor government and private sector employment. Application of current labour laws are examined by MoLSA investigators in Afghanistan. There are MoLSA branches in 30 provinces; however, the Inspections Department is only located in Kabul. There are complaint mechanisms for breaches in labour contracts in both the Labor and Inspections departments.

The MoLSA reports no information at this time on foreigners subjected to forced labour in Afghanistan. At present, no TISA ministry is examining the status of illegal labour migrants in country. However, there is a notable lack of skilled labour in

---

<sup>32</sup> Ministry of Women's Affairs Organigram and Terms of Reference, 13 April 2003

<sup>33</sup> *Ibid.*

<sup>34</sup> Ministry of Women's Affairs Organigram and Terms of Reference, 13 April 2003

Afghanistan because of the continuous conflict, and subsequent disruption in the education system. To supplement this, skilled Iranians and Pakistanis are being recruited for legal employment in Afghanistan.<sup>35</sup> Rules and regulations for foreign workers in country are being developed by a committee consisting of the MoLSA, other ministries and the ILO. The regulations will include a complaint mechanism for legal foreign workers, but will not address migrants working illegally in Afghanistan.<sup>36</sup>

### Afghan labour force working abroad

The MoLSA can assist Afghans working legally in foreign countries, and take necessary actions to defend their rights if serious complaints are received. The level of intervention, however, is dependent on bilateral agreements or protocols with the host country. The MoLSA does not have official links with Afghan Embassies abroad in terms of monitoring. In the event that Afghan refugees are placed in situations of labour abuse, the Ministry of Refugees and Repatriation is the appropriate TISA body to intervene. However, the MoLSA doesn't have the authority or mandate to examine labour conditions of Afghans working abroad illegally, or to provide assistance if needed. This group represents a population of concern, as they lack a means of protection in the Afghan government and in the government of the country they are currently residing in. Many Afghans are still using illegal means to enter foreign countries for the purpose of employment. According to the MoLSA, Afghans are resorting to illegal labour migration due to insufficient employment opportunities in Afghanistan. Families pay large sums of money to send a family member to another country to work.

"Years ago, it was considered shameful in the villages to sell one's land or property," according to a MoFA Consular Affairs official. "It was equivalent to selling one's wife. Now people are selling their property and goods to send their young sons abroad to work. This has become fashionable, and people brag about it."<sup>37</sup>

## ***Ministry of Interior***

### Border Management

Afghanistan has borders with six countries: Iran, Pakistan, China, Tajikistan, Uzbekistan, and Turkmenistan. Afghanistan is situated at the heart of Central and South Asia and Iran, the Northeastern link to the Middle East. Afghanistan shares its longest borders with Iran and Pakistan. Borders on all sides, however, are porous and easy to cross.<sup>38</sup> There are eleven border-crossings which are regulated by the central government in Kabul, with immigration officials and customs agents from both countries placed on either side of the border. These include: Sherkhan (Kunduz-Tajikistan), Ashkashem (Badakhshan-Tajikistan), Hayratan (Balkh-Uzbekistan), Tour Ghoundi (Herat-Turkmenistan), Aqeena (Faryab – Turkmenistan), Hi Khanem (Takhar – Tajikistan), Islam Qala (Herat-Iran), Zar Balkh (Nimroz-Iran), Spin Boldak (Kandahar-Pakistan), Gulam Khan (Khost – Pakistan), and Torkham (Nangarhar-Pakistan). There are also four official entry points by air (via airports): Kabul, Kunduz, Herat, and Mazar-i Sharif.<sup>39</sup>

The majority of unofficial border-crossings, approximately 30, are controlled by militias and tribal communities. There are recent efforts to extend government management over these areas, but information on such activities has not been made

---

<sup>35</sup> Interview with MoLSA official

<sup>36</sup> *ibid.*

<sup>37</sup> Interview with MoFA Consular Affairs official

<sup>38</sup> *ibid.*

<sup>39</sup> Provided by the MoI

available to the public. The Ministry of Frontier and Tribal Affairs was originally responsible for management of checkpoints, but this function has since been shifted to the Ministry of Interior (Mol).

The Mol is in the process of recruiting and training border officials. An estimated 12,000 border police will be trained and placed by 2005. The Mol intends to place an additional 40-50 customs police in each of the major entry/exit points. The customs police will assist the Ministry of Finance to collect revenue through customs taxes.<sup>40</sup>

#### Iran – Afghan border

The border between Iran and Afghanistan is 936 kilometres, much of which is porous. According to recent reports, the Government of Iran is constructing multiple police stations along the border, in an effort regulate cross-border activities, including narcotics smuggling.<sup>41</sup> The Office of the United Nations High Commissioner for Refugees discontinued its activities on the Milak crossing, a major exit point for Afghans returning from Iran, on numerous occasions during 2002 due to security concerns.<sup>42</sup>

#### Zaranj border crossing:

The Southern Afghan border with Iran is extremely porous. There are not any man-made barriers separating the two countries, only a river. People can cross illegally by walking through areas without a checkpoint. The checkpoint is strict, but easy to avoid. Smugglers who choose to cross at the checkpoint allegedly use bribes. There is not a customs office on the Iranian side. This area is reportedly used to transport drugs, because of the low risk of detection.<sup>43</sup>

#### Islam Qala border crossing:

Islam Qala is the most sophisticated border in the West and has a strict checkpoint. There is an Iranian customs point on the other side. Afghans use stolen or “empty” passports (the latter is allegedly gained through bribes at the passport office) and place the appropriate photo inside. An Iranian visa can also be secured through bribes, to pass through the border “legally.”<sup>44</sup>

### ***Ministry of Foreign Affairs, Consular Affairs Department***

#### Protection of Afghans Abroad

The Consular Affairs department of the Ministry of Foreign Affairs is responsible for the protection of Afghans abroad. Although there is not a mechanism designed to specifically receive complaints on forced labour or trafficking, Afghan citizens can approach the consulates for assistance. No reports of forced labour from Afghans living abroad have been received thus far, nor is the Consular Affairs aware of foreign nationals being brought into Afghanistan for forced labour or other forms of exploitation, through the issuance of Afghan visas. When questioned about visa applications for single women from various countries, including but not limited to women from India, Ukraine, Arab states, Pakistan and China, the Consular Affairs Department responded that most people involved in illegal cross-border activities don't apply for Afghan visas. The long and porous border makes illegal entry easier

---

<sup>40</sup> Interview with Mol official

<sup>41</sup> RFE/RL Newsline, 29 July 2003: Checkpoints Established along Iran-Afghanistan Border

<sup>42</sup> IRIN report: Afghanistan: Chronology of Humanitarian and Related Developments in 2002, 17 January 2003.

<sup>43</sup> Information is based on interviews with NGOs and frequent border-crossers, and is unsubstantiated

<sup>44</sup> Interview with an IGO (based on information from a staff member formerly employed at an NGO in Iran assisting refugees and extensive interviews with smuggling/hostage victims.)

than attempting legal entrance, in terms of facilitated movement and minimal risk of detection.<sup>45</sup>

According to the Consular Affairs Department, most illegal cross-border activities involving Afghans and the use of false travel documents, including smuggling of persons, occurs outside of Afghanistan's borders. Afghans are using non-Afghan smugglers in neighbouring states (Iran, Pakistan and Central Asian states, particularly Tajikistan) to reach further destinations, like Europe. The TISA is redesigning Afghan passports and visas in an effort to reduce forgeries.<sup>46</sup> Afghans and foreigners are reportedly using stolen or forged Afghan passports for facilitated illegal movement and smuggling of goods. Illegal usage of Afghan passports includes the following scenarios:

#### Passports

- Duplicate passports being manufactured in Pakistan, Iran and India, and later sold on the black market; and
- Passports being stolen from Afghan consulates.

#### Visas

- Visas being forged in Pakistan; and
- Pakistani visas (also used by Afghans) being forged in Pakistan.

The Consular Affairs department will inform the Afghan community abroad on the changes and provide guidance on methods to exchange the old version for the new one. Afghan passport holders who reside in countries by foreign visas, and who cannot easily obtain new visas or work permits will be permitted to maintain the old passport until the visa expires.

## **2.3 LEGAL STRUCTURE AND EXPLANATION OF LAWS**

### ***Judicial Commission***

Under the 2001 Bonn Agreement, the TISA was charged with reforming existing civil and criminal codes, and to engage in an ongoing process to conform Afghan law with international standards. The Judicial Commission has commenced efforts, with the assistance and support of the Italian Government and other donors. Currently, laws on criminal procedure regulations for minors,<sup>47</sup> the formation of the Constitutional Court, the regulation of the Defence Council, the regulation of the judiciary organization and structure, and anti-narcotics<sup>48</sup> are being drafted.<sup>49</sup> The Judicial Commission will also play a key role in the development of gender-sensitive judicial mechanisms.<sup>50</sup> In addition to legal reformation, the Commission is also responsible for launching a legal awareness program on judicial reform and explaining current laws to the general public.<sup>51</sup>

---

<sup>45</sup> Interview with the MoFA, Consular Affairs Office

<sup>46</sup> The MoI is structurally responsible for issuing three types of passports: tourist, business, and service passports. The MoFA issues diplomatic passports. However, as the head of the MoI passport office has not been appointed, the MoFA is currently issuing all passports within Afghanistan. (Interview with MoI official)

<sup>47</sup> JC in cooperation with the MoJ and UNICEF.

<sup>48</sup> JC in cooperation with the MoJ and UNODC

<sup>49</sup> Interview with judicial official

<sup>50</sup> E/CN.6/2003/4

<sup>51</sup> Interview with judicial official



### ***Applicable Labour Laws and Labour Law Reform***

The Ministries of Labour and Social Affairs, Interior, and Justice are working in collaboration to address criminal labour issues,<sup>52</sup> such as forced labour; forced prostitution and trafficking, and to incorporate ILO labour standards into the Afghan civil and criminal codes. The TISA is an ILO member state and as such must implement ILO labour standards into the domestic legal system.

At present, current civil codes on labour and ILO standards are applied by the MoLSA. Forced labour and employment of children under the age of 15 years is illegal.

### ***Role of Sharia Law the Afghan Judicial System***

*Sharia* or Islamic law is an interpretation of the Holy Q'uran<sup>53</sup> and the Sunnah,<sup>54</sup> the practices of the Prophet Mohammad. In Afghanistan, the main principles of the Constitution and Afghan laws must be consistent with *Sharia* law. The courts consider provisions of the Constitution<sup>55</sup> and valid national laws when issuing decisions. If the case cannot be adjudicated based on the above-mentioned instruments, the court can refer to Islamic jurisprudence.

### ***Traditional Methods to Resolve Disputes***

A *jirga* is an Afghan tribal council and consists of respected members of the community. *Jirgas* have been used for centuries as a venue through which community issues and concerns are addressed and resolved. Although it is a common structure throughout Afghanistan, and among Afghans in neighbouring countries, it has no legal authority. However, in a country where the majority of the population resides in rural areas and access to the judicial system is limited, traditional bodies have served a valuable purpose, and carry considerable weight among the Afghan people. The *jirgas* in Afghanistan are not regulated by the central government,<sup>56</sup> and despite lack of official authority, civil and criminal cases are often resolved in these community forums. Occasionally, the cases are referred to the official court system when people disagree with decisions issued. The courts consider traditional or customary law when consistent with the laws of Afghanistan. The final judgement is ultimately based on existing Afghan law. In some instances, decisions issued by the *jirgas* have violated the rights of individuals.<sup>57</sup> Although this should not be interpreted as representative of all *jirgas*, decisions issued that do violate the human rights of persons need to be addressed by the TISA, and reiterate the need for the Government to develop an effective mechanism for monitoring and regulation.

---

<sup>52</sup> Interview with MoLSA official

<sup>53</sup> Book of Revelation which is believed to be God's Word Transmitted through the Angel Gabriel to the Prophet Mohammad (Unpublished thesis: Women in Decision-Making and Leadership in Muslim Countries: Focus on Afghanistan May 2003, Belquis Ahmadi)

<sup>54</sup> Practical traditions of the Prophet Mohammad (Unpublished thesis: Women in Decision-Making and Leadership in Muslim Countries: Focus on Afghanistan May 2003, Belquis Ahmadi)

<sup>55</sup> The 1964 Constitution was recognised under the Bonn Agreement 2001 as valid until the adoption of a new Constitution in October 2003.

<sup>56</sup> The Judicial Commission is drafting a law to regulate the proceedings and decision-making practices of the tribal councils; the *jirgas* and *shuras*. The draft legislation will be presented to the Legislative Department, MoJ, before submission to the Cabinet for approval.

<sup>57</sup> In early 2003, a woman left her family and fled to Pakistan. Her husband found her and returned her to her home on the Pakistani border. At the husband's request, the case was reviewed by a local *jirga*. It was decided that the woman would be sold 'for donkeys' as punishment for running away. This is apparently not a common punishment, but one deemed appropriate for her crime. The AIHRC will intervene, as the punishment violates civil and *Sharia* law.

## 2.4 Human Rights Monitoring Mechanisms

There is no institution that exclusively addresses or monitors trafficking in persons in Afghanistan at present, nor is there a reporting mechanism.<sup>58</sup> Official records of victims assisted or complaints filed are not available for review.<sup>58</sup> In fact, individuals remain fearful of reporting abuses in general. Much of the information available on trafficking trends is received by organizations operating general assistance programs and/or monitoring broader human rights abuses. Information on specific cases is often received by these agencies, despite the fact that trafficking is not a primary focus. Information has also been obtained by human rights groups conducting field assessments on general security and ongoing violations. There are two institutions which actively monitor and investigate human rights abuses in Afghanistan: the Afghan Independent Human Rights Commission (AIHRC) and the UN Assistance Mission to Afghanistan (UNAMA) human rights unit.

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

The AIHRC was an outcome of the Bonn Agreement and given authority, with the support of the United Nations, in Afghanistan through a Decree issued by President Karzai (then Interim Administrator). The AIHRC was initially limited in its mandate to the promotion and protection of human rights. Another Presidential Decree<sup>59</sup> expanded the scope of the AIHRC to include: monitoring and investigation, human rights education, transitional justice, advocacy on child protection, and the advancement of women's rights.

The Monitoring and Investigation unit has received 650 complaints, encompassing a total of 869 violations, including forced marriage, as of June 2003.<sup>60</sup> Complaints have been categorised into nineteen groups of core violations.<sup>61</sup> The unit also accepts complaints of abuses inflicted on Afghans in other countries.

The Monitoring and Investigation unit is not investigating previous abductions of women by the Taliban, as it is responsible for current abuses only. The Transitional Justice unit, which is reviewing potential systems of justice to deliberate past human rights abuses, does intend to investigate violations against women, including abductions.

The AIHRC is beginning to address trafficking in persons, including trafficking for organ stealing. The following have recently been identified as core violations against women and children.

<u>Women &amp; Girls:</u>	beating, killing, forced marriage and engagement, exchange of women for dispute settlement, trafficking/kidnapping, rape, and domestic and sexual violence
<u>Children:</u>	rape of boys, beating, child labour, child trafficking, child soldiers

---

<sup>58</sup> When cases are deliberated in court, records are kept but are not available for public review. A system of legal reporting has not been established in Afghanistan. "Only litigants and judges know the results of trials." (Interview with Judicial official)

<sup>59</sup> 6 June 2002

<sup>60</sup> AIHRC briefing, 1 June 2003

<sup>61</sup> Right to life, Property, Rights to Liberty and Security of the Individual, Liberty and Security, Rights of Women and Girls, Discrimination, Right to Due Process, Children's Rights, Right to Health and Environment, Deprivation, Freedom of Opinion, Government Failure to Assure Basic Rights of Refugees/Displaced Persons, Right to Water, Right to Food, Right to Work, Right to Healthcare, Right to Education, Other (Afghan Independent Human Rights Commission - Categories of Core Human Rights Violations 2003)

The above-mentioned violations will be incorporated into AIHRC advocacy and public awareness activities, and AIHRC staff have been internally trained on international standards targeting these issues.

The Commission is based in Kabul, with seven satellite offices in Mazar-i Sharif, Kandahar, Herat, Bamyan, Jalalabad, Gardez, and Faizabad.

*Obstacles to AIHRC Activities:*

1. Many Afghans perceive human rights as a Western or foreign concept. The AIHRC is trying to foster ownership by the Afghan people.
2. Human rights violators remain in power and are a visible presence in communities. Many of these violators portray themselves as human rights activists to garner public and donor support.

*Deterrents Against Reporting:*

People report human rights abuses to the AIHRC, but still fear filing complaints with the police. There is a significant fear for individual safety if families push for police investigation. For Afghans to feel more comfortable with reporting crimes to authorities, the safety of the victim's family members must be ensured prior to police investigation.

**The UN Assistance Mission for Afghanistan (UNAMA)**

The UN Assistance Mission for Afghanistan, initially established by the UN Secretary General and endorsed by Security Council Resolution 1401, includes a human rights function. The Human Rights Unit is mandated to build and strengthen human rights institutions, primarily the Afghan Independent Human Rights Commission, to monitor and investigate human rights violations, and to propose corrective actions to the TISA. Priority issues of concern are gross human rights violations; violations which threaten the peace process; political intimidation against civil society organizations, political groups and human rights activists, particularly the right to liberty and security, and the right to freedom of expression and association; and abuses against vulnerable groups, such as returning refugees or internally displaced persons (IDPs).

UNAMA identifies main patterns of abuses through its human rights investigation team, which consists of one international and two national staff in eight provincial capitals: Kabul, Kandahar, Bamyan, Herat, Jalalabad, Gardez, Mazar-i Sharif, and Kunduz. In addition, human rights protection meetings have been established in these provinces, within which UN agencies, select international NGOs and IGOs, and AIHRC satellite offices discuss protection issues and human rights violations. These groups monitor human rights violations through information sharing. Organizations report violations, within the limits of their mandate or confidentiality guidelines, and propose solutions. UNAMA is in the process of formalising these meetings in an effort to increase information sharing and build the capacity of the AIHRC.

Although trafficking is not a focus for UNAMA, it can intervene when cases are received. There is a limited ability to provide protection, though, and any action is entirely dependent on whether the victim and/or family chooses to a) report and b) follow through with the investigation. The human rights unit has received reports of

forced and early marriages, abductions for sexual servitude, abductions by the Taliban, and exchanging women/girls for dispute settlement.<sup>62</sup>

## **Protection Working Groups**

In addition to human rights reporting and investigation teams, there are work groups that monitor protection issues of specific populations (i.e. refugees, children).

### *Children*

UNICEF monitors gross human rights violations, and provides training and capacity building to NGOs to carry out monitoring at the local level.<sup>63</sup> UNICEF, in partnership with children's assistance NGOs, has a team of community-based child monitors, which focus on protection issues of Afghan children. Child protection meetings are held in the northern province of Mazar-i Sharif on a monthly basis to share information.<sup>64</sup> A similar venue will be established for central Afghanistan, based in Kabul, in October 2003.

### *Refugee Protection*

The UNHCR hosts protection working group meetings<sup>65</sup> in Kabul, Mazar-i Sharif, Herat, Jalalabad, Kandahar.<sup>66</sup> UN agencies and IGOs, the AIHRC, and international NGOs discuss protection issues of refugees, returnees and IDPs.<sup>67</sup>

---

<sup>62</sup> Interview with UNAMA Human Rights Advisor

<sup>63</sup> Interview with UNICEF field office

<sup>64</sup> UNICEF aims to make the protection meetings more action-oriented.

<sup>65</sup> Some meetings are also called Protection and Human Rights meetings

<sup>66</sup> Kabul (1x month), Mazar-i Sharif (1x week), Herat (2x week). The Mazar-i Sharif is a joint UNHCR-UNAMA human rights meeting.

<sup>67</sup> One NGO voiced concern that UNHCR has limited capacity, due to funding shortfalls, to follow-up on many of the protection cases brought to these meetings. (Interview with an NGO)

### 3. TRAFFICKING TRENDS

---

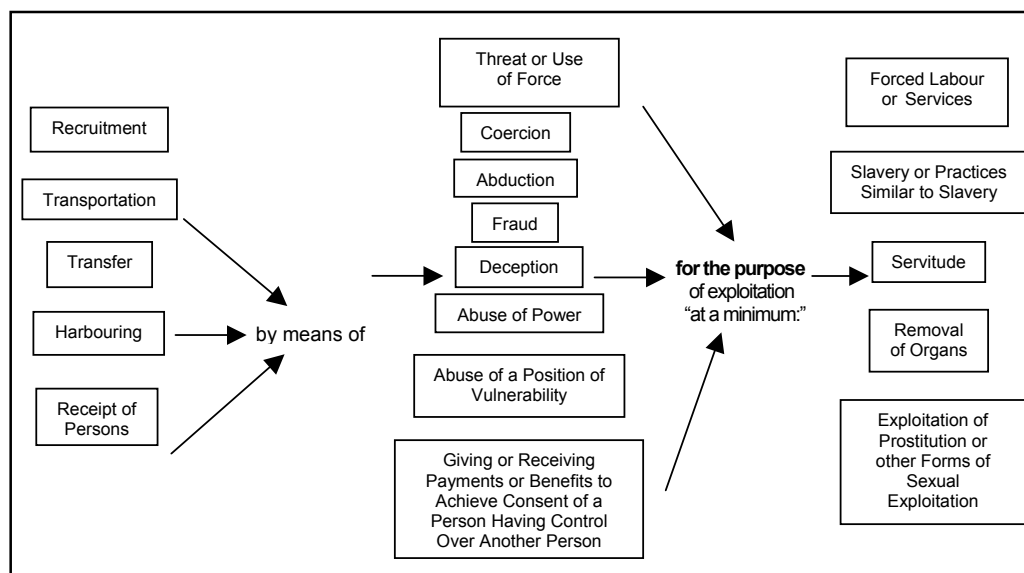
In 2000, the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,” which supplements the UN Convention Against Transnational Organized Crime, was drafted. The Protocol defines trafficking and seeks to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among States Parties in order to meet those objectives. Until the drafting of the Protocol, perceptions of trafficking differed among NGOs, IGOs, and governments. The application of different criteria hindered assistance to victims, due to a lack of consensus on what constituted trafficking. The inclusion of an internationally recognised definition in the Protocol has alleviated confusion and facilitated a global effort to combat the practice.

To thoroughly address trafficking in persons in Afghanistan, close examination of practices deemed legitimate by international law is necessary. The culture, social structure, history, and population flows must be considered when analysing and presenting data. For the purpose of this report, IOM reviewed reported instances of abuse to determine if they constituted one of the five forms of continued and forced exploitation outlined in the protocol: exploitation of prostitution or other forms of sexual exploitation; forced labour or services; slavery or practices similar to slavery; servitude; and the removal of organs. Instances that clearly represent one of these five conditions, AND occur in the context of the other key elements of trafficking, including the;

- a) **the Method:** Was the individual recruited, transported, transferred, harboured, or received?
- b) **the Means:** Was the individual coerced, deceived, abducted, threatened, forced, was there an abuse of power or position of vulnerability, or were payments or benefits given or received?

are considered trafficking for the purposes of this report.

A diagram has been developed to better illustrate the complex nature and process of trafficking, and to facilitate the identification of actual cases. It is not interpretative, but rather a dissection of the definition, word for word, to produce a visual tool.



Furthermore, the Protocol stipulates that the ‘recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons regardless of whether the ‘means’ set forth in the definition are used.’<sup>68</sup> The consent of child victims is considered irrelevant when any of the means are utilised in the trafficking process.<sup>69</sup>

Existing international definitions on forced labour, slavery, practices and institutions similar to slavery, and servitude were taken from UN and ILO conventions and used to identify the forms of exploitation.

Upon careful review, it was determined that the following trends occurring in Afghanistan, and among Afghans in neighbouring countries, and could be considered as forms of exploitation under the Protocol.

### **Exploitation of prostitution**

Forced prostitution

Prostitution of minors

### **Forced labour or services**

Forced labour

### **Slavery and practices similar to slavery**

Abductions for forced marriage

Marriage for debt release

Exchange of women for dispute settlement

### **Servitude**

Sexual servitude

Domestic servitude

### **Removal of organs**

Removal of organs

<sup>68</sup> A/RES/55/25 Trafficking Protocol, Article 3(c)

<sup>69</sup> A/RES/55/25 Trafficking Protocol, Article 3(b)

It should be noted, however, that all elements of the definition must be satisfied before a case of “trafficking” within the meaning of the Protocol can be established.

Some instances reported were not clear trafficking cases, but contained trafficking-like elements. An additional section on these trends is also included in section 3.6.

### ***Geography of Trafficking***

The data gathered are presented in five categories that represent the geographic dispersion of trafficking trends in Afghanistan and involving Afghans: Internal, Afghanistan as a country of origin, Afghanistan as a country of transit, Afghanistan as a country of destination, and trafficking among Afghans in neighbouring countries.

## **3.1 INTERNAL TRAFFICKING**

Internally, through interviews and survey responses, it was found that the following incidents have occurred in Afghanistan (instances cited have occurred within the past two years, or occurred up to 8 years ago but are mentioned because the abuse of the victim is ongoing). Abuses have been presented in different categories, under each of the five forms of exploitation in the trafficking definition: Exploitation of prostitution or other forms of sexual exploitation; forced labour or services; slavery or practices similar to slavery; servitude; and the removal of organs. It should be noted that many trends overlap between the different categories (e.g. forced marriage). They were separated to facilitate an understanding and to present findings in a cohesive and structured way.

### ***Exploitation of prostitution***

One form of exploitation is the forced prostitution of individuals. To better understand prostitution in Afghanistan, the legal and cultural views on prostitution must be reviewed. Prostitution is not defined in international law, or in the Afghan legal system. There are a series of laws in Afghanistan which strictly ban any sexual contact outside the perimeters of marriage.<sup>70</sup> The level of punishment is dependent on the marital status of the accused. According to Afghan judicial experts, however, a woman or girl who runs away from her family with a non-relative can be charged with a crime equivalent to adultery or prostitution, and imprisoned.<sup>71</sup> Interviews by IOM with members of the Afghan community, including provincial government employees, suggest a public perception that the acts of running away, adultery, and prostitution, are all synonymous. The terms are used interchangeably when discussing “crimes” committed by women.

Accusations of “bad” behaviour or prostitution can be used as a tool to maintain control over women and punish them for stepping out of the traditional boundaries that society has created to define women’s roles. It can also be used as a threat to deter women from attempting to participate in the public sphere, or even appear in public without a *burqa* or male relative (*mahram*). In June 2003, approximately 20-30 women were arrested in a northern city for being ‘street women’ or prostitutes. Police allegedly entered the homes of women, and beat and jailed them. The arrests were carried out without proper judicial authority. The majority of women were from the Uzbek ethnic group. A high-level government official from the same ethnic group requested assistance from the Afghan Independent Human Rights Commission

---

<sup>70</sup> Interview with Judicial expert

<sup>71</sup> Interview with Judicial expert

(AIHRC). The Commission intervened and the women were released within 24 hours. The Commission staff did not interview the women and it is unknown whether allegations of prostitution were warranted, or if any of the women were victims of forced prostitution.<sup>72</sup>

Information on prostitution in Afghanistan is difficult to obtain due to the belief that such crimes do not occur in an Islamic state. There are, however, numerous references to prostitution in Afghanistan, especially in Kabul now and during the Taliban regime. Restrictions on movement without a *mahram* severely hindered the basic survival of many Afghan women by preventing them from accessing health care and employment. Widows were particularly affected by these restrictions because they had no other means of support. Many women reportedly engaged in prostitution as they had no other viable means of survival. There are unsubstantiated reports that prostitution is still ongoing in Kabul and other provinces.

### ***Prostitution of minors***

Afghanistan acceded to the Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 19 September 2002, which obligates State Parties to prohibit child prostitution, defined as “the use of a child in sexual activities for remuneration or any other form of consideration.”<sup>73</sup> In addition, prostitution of minors would come within the meaning of “exploitation” under the Protocol, which stipulates that recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is trafficking regardless of whether the means set forth in the definition are utilized to gain control of the person.

- After their fall in the North to the Northern Alliance and coalition forces, the Taliban fled to a province in the East.<sup>74</sup> There, Taliban forces allegedly abducted a 13-year old Uzbek girl. They initially tried to take the girl’s mother – a widow – but her children surrounded her and her daughter was taken instead. The girl was transported to another province in Central – Northern Afghanistan, where she was subjected to forced sexual contact for approximately two years. She didn’t know if she was “a woman or a girl” because she “spent the night with a different man every night.” The girl’s father searched for her for two years, at times enlisting the help of friends. Eventually she was found, and through the intervention of human rights activists and a senior-level government official, brought to a neighbouring province, where she was interviewed by the police and a women’s *shura*. She was recently reunified with her family.<sup>75</sup>

### ***Slavery and practices similar to slavery***

Marriage<sup>76</sup> has been defined as “a formalised relationship with legal and/or social standing between individual men and women, in which sexual relations are

---

<sup>72</sup> The AIHRC was focused on the illegality of the arrests, rather than the cause (based on interviews with the AIHRC).

<sup>73</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Article 2

<sup>74</sup> After the fall of the Taliban in the south, troops had two options: 1) to flee to Pakistan, or 2) to join local coalition forces. Some Northern Alliance forces also offered to incorporate Taliban members into their factions and provide them ‘protection’ in return to their service. Some of these troops still enjoy protection, i.e. in the north-central province where the girl was held. (Interview with the AIHRC)

<sup>75</sup> Interview with the AIHRC and a women’s *shura*.

<sup>76</sup> The following International Conventions make reference to the rights of women and girls regarding marriage: UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Art. 1(C)(1), 2; Recommendations on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Principle II, Art. 1; Covenant on Economic, Social and Cultural Rights, Art. 10, 12, 13; Convention on the Rights of the Child, Art. 12, 24, 28; International Convention on Civil and Political Rights, Art. 23 (3)(4); Universal



legitimised and as an arena for reproduction and child rearing which has state recognition.”<sup>77</sup> Marriages in Afghanistan are predominantly arranged by the parents of both parties to the marriage. The input and consideration of the woman often correlates with the socio-economic standing of the family. Women appear to have greater input when they come from wealthier families in urban areas, where greater access to and emphasis is placed on education. Particular instances of forced marriage, including the abduction of women, and arrangements for debt release, may represent some instances which can be viewed as trafficking if all criteria in the Protocol definition are satisfied.

### Abductions for forced marriage

The UN expressed “grave concern about recent attacks against women and girls, including sexual violence and forced marriage”<sup>78</sup> while reviewing the human rights situation in Afghanistan in late 2002. It further noted that “intimidation and violence by regional and local commanders against women continue unabated” in 2003.<sup>79</sup> Twenty-four complaints of forced marriage and engagement have been received by the AIHRC since June 2002. In Mazar-i Sharif, kidnapping and forced marriage, the selling of women, and rape were identified as some of the principle violations inflicted against women in the North. Complaints received through the Monitoring and Investigation Unit indicate that most forced marriage cases in the North are committed by commanders or armed groups.<sup>80</sup>

Despite the establishment of the Transitional Administrative Government, and the international effort to assist Afghanistan in reconstruction, women and young girls have been, and continue to be, abducted for forced marriages in many provinces. Women and girls are taken while outside the home (e.g. walking to school, shopping, or playing outside) and by armed groups of two or more persons who enter homes and forcefully take people. Male relatives who object to or try to prevent the abduction are beaten, and in some cases, killed. The woman or girl is then forced to marry one of her abductors, or a relative or acquaintance of the abductors. She is not given a choice.

Reports vary in terms of destinations to which the women are taken, whether it is to another part of the city, a different province, or another country. Regardless of how far the victim is transported, she is removed from her home and family, and taken to the living quarters of her new husband. There she carries out the duties of a wife, including the provision of domestic and sexual services, but lacks any form of protection she may receive through a formal marriage arrangement, where links between two families are strengthened, rather than shattered.

She is completely isolated in her new surroundings, as the lives of many women in Afghanistan, especially in the rural areas, revolve around the ‘home.’ Due to her new status of being married, the restrictions on freedom of movement that subsequently apply, and the profound shame of being abducted, the woman may have limited access to informal support networks. In addition, few cases of abductions of women in Afghanistan are reported to police, as the abductors are often the groups that control arms in that area. Interviewees reported the belief that police may be

---

Declaration of Human Rights, Art. 16(1)(2)(3); Convention Against the Elimination of All Forms of Discrimination Against Women, Art. 16(1)(a-d)(2); Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children, (29-37). (Compiled by the [Forum on Marriage and the Rights of Women and Girls](#), in the speech, “Early Marriage: Whose Right to Choose?”)

<sup>77</sup> *Early Marriage: Whose Right to Choose?*, Forum on Marriage and the Rights of Women and Girls, May 2000

<sup>78</sup> UN Resolution 57/234, 18 December 2002

<sup>79</sup> E/CN.6/2003/4

<sup>80</sup> Interview with AIHRC satellite office

prevented from providing assistance or conducting a thorough investigation because of the presence and political authority that the armed groups yield, or the police themselves are complicit or have committed the crime.

Although abductions for forced marriage are illegal according to Afghan civil and criminal codes, women have minimal legal recourse. Divorce is frowned upon in Afghan culture, regardless of how the marriage occurred.

Cases of abduction or threats of abduction for forced marriage include:

- In 2002, a 16-year old girl was abducted by a Junbish commander. The girl was taken to Pakistan where she was forcibly married to the commander's son. The girl's husband later returned to her village and informed her family of her whereabouts and new marital status, and that she had given birth to a son. The family was not told which city or province she resides in Pakistan. The visit was perceived as an effort by the man to create 'family relations' with the girl's mother and brother. The girl's 11-year old brother threatened to find the sister and return her to her real family to no avail.<sup>81</sup>
- Threats were made to a family by a commander that he would take their daughter for forced marriage. The family complained to an international organization. The complaint was apparently sufficient to deter the commander from carrying out his threat.<sup>82</sup>

In addition to recent cases of abductions, there was significant reference in interviews to the abduction of women and girls by the Taliban, both during their regime and while they were fleeing coalition attacks. Many of these women are still missing. The difficulty in addressing this group is that many of the women were forced to marry their abductors. Social constraints, fear of physical repercussions to maintain family honour, and a commitment to the institution of marriage make it difficult for many women to come forward, or attempt family reunification. One Afghan official believes "at least 1000 women (were) abducted by the Taliban."<sup>83</sup> Other reports:

- "The war and militarization of society led to an increased number of abductions of young girls and women by Taliban fighters. Numbers were not obtained because of fear of reprisals and social stigma issues. Forced marriage and forced prostitution were also cited."<sup>84</sup>
- "Families of girls and young women were reportedly forced to marry them to the Taliban or give them large amounts of money instead."<sup>85</sup>
- "Women were left behind by retreating Taliban, and women were abducted from the Kabul area by fleeing Taliban. Their fate remains unknown. The Minister of Justice promised to investigate the kidnappings but stated difficulty as some women were forced to marry Taliban officers or were trafficked outside Afghanistan. According to the Minister, the Taliban regularly sold women as sex slaves to fund its regime."<sup>86</sup>

---

<sup>81</sup> Interview with an IGO – based on testimony from victim's grandmother. Note: the victim's brother, a 12-year old boy, was later forcibly recruited into the military in early 2003. This case is cited in Section 3.6.

<sup>82</sup> Survey response

<sup>83</sup> *Kabul's Lost Women – Many Abducted by the Taliban Still Missing*, Washington Post, Kevin Sullivan, 19 December 2001

<sup>84</sup> E/CN.4/2001/73 in reference to the report of the Special Rapporteur on Violence Against Women

<sup>85</sup> E/CN.6/2002/5

<sup>86</sup> *ibid.*

- The Taliban abducted many women from Kapisa and other provinces for forced marriage and sexual servitude. When the U.S. attacked Afghanistan, many Taliban troops in Kapisa fled to Jalalabad and Pakistan. A foreign Embassy reportedly returned 70 women, Taliban wives, to Kabul this year. The women were identified in Jalalabad. The Embassy issued a 'statement' requesting families to come forward and identify the women. All women were reunified with their families.<sup>87</sup> (This report is unconfirmed by the Embassy)
- In late 2002, an Afghan man requested assistance in returning his daughter to her family. The Taliban abducted the woman approximately 2-3 years ago for forced marriage. The family has been searching for her, and finally located her abandoned in Pakistan. The whereabouts of her husband is unknown. The family wants the daughter to be returned, but it remains unclear if she is willing to return.<sup>88</sup>

### Debt release

Some marriages are being arranged for women and girls for the purpose of debt alleviation. The parents, or specifically the father as reported in many cases, arranges the marriage of one of his daughters to the man he owes money. In some cases, the marriage is arranged with another individual, but the bride-price received is applied to the debt. Reports have been received of girls being married to money-lenders in IDP camps, and to men in other provinces. In some instances, women or girls have been kidnapped by money lenders when the debt is outstanding.<sup>89</sup> The transport of the young wife varies according to the origin of her new husband. The input of the woman or girl is not solicited, nor is it relevant as the marriage represents in part, a business transaction. The woman or girl is given to another man for marriage. The estimated age of women and girls reportedly married for this purpose ranges from four<sup>90</sup> to 16 years. Instances of forced and early marriage for debt release were reported in Kandahar, Herat, Uruzgan, and Bamyan.<sup>91</sup>

As the woman or girl is officially married, she loses all forms of freedom to the control of her husband. As with the case of abducted women, she performs the duties expected of a wife, with no possibility to refuse. The benefits gained from the marriage, about which the woman or girl had no choice, are reaped by the father, who is released from a debt, and the husband who gains a wife who is bound to him for the remainder of her life. It is acknowledged that whether or not marriage for debt release constitutes trafficking depends on whether each of the elements of the definition in the Protocol is met in the individual situation.

Instances of debt release include:

- An IOM IDP operations team identified the following case: A young Tajik girl, estimated age 12-16 years, was forcefully married to a Pashtun money-lender for debt release. The girl's father owed money to the man while living in an IDP camp in the West, but lacked the funds to pay the debt. He negotiated to have the girl given in lieu of a cash payment for alleviation of the debt. The case was identified during the assisted return transport from the IDP camp, to

---

<sup>87</sup> Interview with provincial government official

<sup>88</sup> Interview with an IGO

<sup>89</sup> UNHCR Returnee Monitoring Report – Afghanistan Repatriation January 2002 – March 2003, UNHCR, July 2003.

<sup>90</sup> Also refers to engagement

<sup>91</sup> UNHCR Returnee Monitoring Report – Afghanistan Repatriation January 2002 – March 2003, UNHCR, July 2003.

a village of origin in a neighbouring province.<sup>92</sup> The case was referred to UNHCR for follow-up.

- In early 2003, a woman was sold to a Pashtun male from the West. The victim was sold by her father, a widower, for debt alleviation. The incident occurred at an IDP camp in the South. The victim's status or current location is unknown. The case was reported to an IGO.<sup>93</sup>

#### Exchange of women and girls for dispute settlement

Women and girls have been used to settle disputes between families and communities for centuries. It is used as a means to end a blood feud, in which the member of one family or community has killed the member of another. The family of the perpetrator must offer one or more girls to the victim's family to restore their honour, which was lost through the death of the victim, and end the cycle of revenge. The girl is engaged or married to one member of the victim's family. Occasionally, the victim's family will also offer a daughter to the perpetrator's family, especially if members on both sides have been killed through retribution attacks. In some cases, the girl is not married, but becomes a member of the family serving as a wife, in both a sexual and domestic labour capacity, but denied the legitimacy of marriage. The girl(s) exchanged carries the burden of shame for her relative's initial crime. She is bestowed the lowest status in the family and often extreme physical and mental abuse is inflicted on her because of it. It has been reported that girls often commit suicide to avoid this lifetime sentence from which she cannot escape.

The age of the woman or girl varies. Young girls and adult women have been reported. Although it is more prevalent in Pashtun communities, it has occurred in other ethnic groups throughout Afghanistan. The families or *jirgas*, traditional decision-making bodies, decide the fate of the girl, and she is not consulted or given the opportunity to decline. She is coerced; or else she faces repercussions from her family or community, which can sometimes result in death. She is transferred to another family or community and loses all forms of freedom or control over her life. The group that receives her doesn't receive monetary gain from her ownership, but attains other benefits – restoration of family honour, and a wife or domestic servant.

Although this is a long-standing method for communities to resolve disputes, the freedom of the woman or girl is stripped from her, and she is burdened with the shame of the initial crime for life. The method of obtaining a solution, even in order to end cycles of revenge and bloodshed, comes at the expense of an individual. The exchange is a life sentence from which she cannot escape, and should not be ignored because of the element of tradition. The person is given and received, without her consent, for an express purpose. The community, her own family, and the family to whom she is given achieve a benefit from her status. And she is exploited through forced marriage or conditions of servitude for the remainder of her life. Similar to cases of forced marriage for debt release, the incident must be examined closely to identify the key trafficking elements.

- The status of many families in terms of economic standing and power has changed. Families whose positions in society have improved are enacting revenge for previous grievance and conflicts. Daughters are being demanded from the families of murderers by those of the victim. The daughter who is exchanged carries the shame of her relative's crime forever and is constantly reminded that she represents a criminal. The age of the daughter exchanged

---

<sup>92</sup> IOM IDP Convoy Escort report 21 July 2003

<sup>93</sup> Survey response

varies. If the girl is young, an additional daughter is occasionally demanded. If she is 10 years of age or older, she is formally married to one of the male members of the family to which she is given. If she is under 10, she is kept as a servant until she becomes 'of age' and then is married. This occurs predominantly in villages.<sup>94</sup>

- When a murder is committed, the sister or daughter of the accused is given to the family of the victim. The girl's presence is meant to replace the honour lost by the family of the deceased. It is the father or eldest male from the victim's family that makes the demand. The girl is given to the family for marriage to one of the eligible males. The marriage is tainted however, as a "bad *nikkah*" or marriage. The stigma of the crime remains with the girl for life. Many of these girls commit suicide. There were an estimated 3-4 cases of women and girls exchanged last year in one Eastern province. This tradition, once very common, has is reported by officials to have halted in this area because of a directive from Kabul issued to provincial governors banning the practice. Since that time, the governor has reportedly condemned the practice and people are obeying.<sup>95</sup>
- In 2002, a young girl (already engaged to another man) was kidnapped by the relative of a local commander and forced into marriage. After two years, she was released based on the decision of the *ulema*<sup>96</sup> and pressure from local political actors. It was decided by the *ulema* that the girl would be divorced from both men (the engagement was also treated as a marriage) and the sister of the abductor would be given to the family of the girl. In turn, the family of the girl would give the younger sister of the abducted girl to clear bad blood. The case gained the attention of the international community. UNAMA intervened to prevent the exchange and succeeded in getting the tribal elders to agree to sign a letter prohibiting the exchange. In accordance to the girl's wishes, UNAMA and AIHRC also facilitated obtaining a divorce from both parties. The case was high profile and received the attention of politicians and the international community in Kabul.<sup>97</sup>

## **Servitude**

### Sexual and/or domestic servitude

Sexual servitude was identified as a specific form of servitude; however, a definition does not exist in international law. It is referred to, but not expanded upon as to exactly what it constitutes. Given that many of the reports received were forms of servitude with a sexual violence component, the difficult task of differentiating between rape and sexual servitude had to be performed. Rape is a form of sexual violence, or "a physical invasion of a sexual nature, committed on a person under circumstances which are coercive."<sup>98</sup> While rape may be viewed as an act(s), sexual servitude could be considered a state of perpetual rape.

Women and children, including girls and boys, have been abducted in provinces across Afghanistan. People are taken by armed men, as well as by lone individuals.

<sup>94</sup> Interview with Community Forum, Women's Division

<sup>95</sup> Interview with provincial government official. The decree was issued by the Taliban. As official Taliban actions are no longer recognised, the Judicial Commission is drafting a law which will include language banning this practice. The draft legislation has not been submitted to the Cabinet for approval yet.

<sup>96</sup> Islamic scholars or respected elders

<sup>97</sup> Interview with an IGO

<sup>98</sup> International Criminal Tribunal for Rwanda conviction of genocide, which included rape as an act of genocide, in 1998 September.

The individuals abducted, aged 4 years to adulthood, and are held captive between 1-2 days to many months. They have been held in locations in the city where the abduction occurs, as well as taken to other provinces. During captivity, they are subjected to perpetual rape, as well as forced to perform domestic labour (the latter pertains primarily to women and girls). Threats of abductions are also occurring. The captives' actions, movements, and freedom are completely controlled by the abductors. Sexual services demanded of the victims vary in terms of whether he or she is kept for the exclusive use of one individual, or shared with others.

Substantial anecdotal reports indicate that boys, as young as 4 and 5 years of age, are frequently abducted by armed men in the South. They are held overnight, and occasionally for up to 2-3 days. When the boys are released, there is evidence of rape, i.e. rectal bleeding.<sup>99</sup> There is a trend of sexual abuse of boys in Afghanistan, particularly by those who bear arms. Although homosexuality and paedophilia is against Afghan law, such sexual interaction does not constitute adultery or premarital sexual relations. Men, "particularly military commanders...take boys as young as 14 to wedding parties and other celebrations, to get them to dance and, in some cases, have sex with them." "They use these boys as their slaves."<sup>100</sup>

Whether or not a case of abduction constitutes trafficking depends on the particular circumstances of an individual case. In many cases, however, abductions for sexual and domestic servitude constitute trafficking because of the presence of all key criteria in the trafficking definition. Abduction, force, threats, and the abuse of power and of a position of vulnerability are the means used to obtain the victim. The victim was transferred to another location, where his or her movements and freedom were completely dominated by another individual. Lastly, the individual who controls the victim receives sexual, and often domestic, services on demand from the victim. The victim is not given the opportunity to refuse, and is prevented from leaving. The abduction is carried out with the intent to reap the above-mentioned services.

Examples provided below include recent abductions, as well as some which occurred during the period of Taliban control. Past abductions are included because the abuse may be ongoing. As illustrated below, some victims have recently been rescued.

- An intelligence commander was working in an office with a woman whom he decided he wanted to marry. As she was already married, she denied him. One night, the commander accompanied by armed soldiers entered her home, and beat and shot her husband. While he was seriously injured, he was forced by the commander to 'divorce his wife.' The man later fled to Iran and has not returned. The commander forced the woman to live with him as his wife, but never performed a *nikkah* or marriage ceremony. She still lives with this commander<sup>101</sup> (this case occurred approximately eight years ago).
- The Taliban in Northeast Afghanistan abducted a woman, aged 18. She was transported to the South where she was subjected to sexual and domestic servitude for an unspecified amount of time. Although her abductor did not marry her, she became pregnant and had a child. She escaped while searching for firewood one day, and hitchhiked back to her village. The status and location of the child is unknown.<sup>102</sup>

---

<sup>99</sup> Interview with an IGO

<sup>100</sup> Excerpt from an interview quoted in the *IWPR Afghan Recovery Report, Child Sex Abuse Alarm, No.49, 24 February 2003*

<sup>101</sup> Interview with an IGO – testimony from victim's relative

<sup>102</sup> Interview with provincial government official

- The mother, wife, sister and daughter of a man from the Northeast were allegedly abducted by the Taliban and taken to the South. The man searched for his family, and upon learning their whereabouts, he travelled to the South to retrieve them. He was able to retrieve his mother and wife, but the status of his sister and daughter remain unknown. He found his mother and wife in a room filled with other women, all of whom were naked and had been raped. It is unclear whether the women were abducted for the purpose of trafficking. It was reported, however, that the abducted children were sold, although individual cases were not confirmed.<sup>103</sup>
- A man returned to Northeast Afghanistan from Pakistan with his three daughters. Commanders allegedly took possession of his house and threatened to take his daughters. There was reportedly a trend in the region of commanders taking girls or young women for 1-2 days for sexual servitude or forcibly marrying them, only to discard them after 2-3 weeks of “marriage.” The estimated ages of his daughters are 20, 24 and 26 years. The man returned to Pakistan with his daughters after 1-2 months in Afghanistan, and appealed to UNHCR for resettlement. The case is still pending<sup>104</sup> (the girls were not trafficked, but received threats of abduction for forced marriage).
- An Afghan woman was abducted and kept at a military base for sexual servitude. She was not forced to marry her abductor, but had to provide sexual and domestic services. She claimed to have freedom of movement within the compound. She mentioned the presence of another woman being held captive. Eventually she escaped and fled to another city in Pakistan. She was resettled by UNHCR as a protection case in 2002.<sup>105</sup>
- At least two boys have been imprisoned for murdering their abductors. One boy was abducted by a commander and held captive for four to five months at a check-post in a neighbouring province. The boy was forced to dance at parties, and later admitted to being sexually abused. The boy eventually killed his abductor, and was promptly arrested. When he was interviewed by an NGO, he had been in prison for seven months without being sentenced.<sup>106</sup> Two soldiers abducted the second boy in a market. He was taken to a check-post and held for one month. He reports to being sexually abused by the two men. One of them would abuse him every two to three hours of his captivity. He finally shot that particular man and was arrested. At the time of the interview, he had been in prison for eight months and had not yet appeared in court. As his family didn’t know his whereabouts, an international organization traced them and informed them of his location.<sup>107</sup>

The UN General Assembly “strongly condemned the gross violations of the human rights of women and girls, including abductions and kidnappings, as well as accounts of many instances of forced marriage and trafficking” at the start of the new Transitional Administration in December 2001.<sup>108</sup> Unfortunately, abductions for forced marriage and sexual and domestic servitude, the exchange of women for dispute settlement, and early marriages are still occurring in Afghanistan. Abuses are being inflicted upon women and children, including boys. These abuses are human rights violations, and specifically, instances of trafficking.

---

<sup>103</sup> *ibid.*

<sup>104</sup> Interview with UNHCR Pakistan

<sup>105</sup> *ibid.*

<sup>106</sup> Interview with an NGO, based on the NGO’s interview with the prisoner

<sup>107</sup> *ibid.*

<sup>108</sup> UN Resolution 56/176 19 December 2001, as reported in E/CN.6/2002/5

### ***Informal reporting mechanisms***

It was indicated through interviews with Afghan NGOs, human rights activists, and members of the community that people still fear reporting incidents to the police in many instances. In the provinces, there is a strong belief that even if the police were informed of incidents, such as kidnappings, they would be unable to assist because 'armed groups still hold power.'<sup>109</sup>

Many of the abductions are instead reported to television and radio stations, which issue public announcements. In Kabul, the AIHRC is working with local stations to monitor and track reports of missing and abducted children, as these venues have maintained loose statistics.

The international organizations which responded to the survey in Afghanistan, received reports on trafficking through the following activities/venues:

- Interviews with community leaders and households for program assessments
- Local staff discussing customs and traditions with communities
- Outreach (health) programs (conducted by local staff)
- Mental health clinics
- Community health education initiatives (midwives)
- Psycho-social counselling groups
- Informal dialogue with partner agencies
- Incidents against agency staff

### ***Referral of cases***

According to survey respondents, cases were referred by international organizations to the following institutions:

- 'Relevant' authorities
- AIHRC
- UNHCR Protection Unit
- UNAMA Human Rights Monitoring Units
- No referral (victim requested confidentiality)

## **3.2 AFGHANISTAN AS A COUNTRY OF ORIGIN**

Organizations surveyed in Pakistan and Iran, and organizations interviewed in Afghanistan indicated receiving reports on forced prostitution and trafficking for organ removal.

### ***Exploitation of prostitution***

#### **Forced prostitution**

There is significant anecdotal information on women who were abducted by the Taliban and sold in Pakistan for forced prostitution. Girls were reported to have been purchased in Afghanistan, and trafficked for forced marriage and prostitution through Pakistan to Gulf countries.<sup>110</sup> No reports were received from agencies, which had assisted such victims in Pakistan. One case of a woman sold into prostitution in

---

<sup>109</sup> Interview with an Afghan NGO

<sup>110</sup> Watchlist on Children and Armed Conflict November 2001



Pakistan at the age of 11 or 12 years was identified in Afghanistan. There are also unconfirmed reports of children being drugged in Southern Afghanistan, and trafficked to Pakistan for forced prostitution and begging.<sup>111</sup>

### ***Forced labour***

There are reports of boys from Jawzjan and Sar-i Pul provinces in Northern Afghanistan being trafficked for forced labour.

- One family admitted to “selling” their son for labour, with an agreement that the child would be returned at a later date. Minimal information is known on this case, such as the form of labour or the final destination country. The incident, however, is confirmed.<sup>112</sup>
- A government official reported that boys from the Aymak tribe in Sar-i Pul are being trafficked to Pakistan and Iran for forced labour. Interviews with members of the tribe indicated that Baluchis are responsible for abducting the boys. An IGO was requested to examine these incidents, but the investigation was halted because of factional fighting.<sup>113</sup>

### ***Slavery and practices similar to slavery***

#### **Forced marriage for debt release**

There have been reported instances of early marriages for debt alleviation.

- An Afghan man living in Iran owed a gambling debt. His family was living in Afghanistan. He returned to Western Afghanistan, retrieved his daughter, aged 12, and transported her to Iran. She was forced to marry the person her father owed money, a 45-year old Afghan man.<sup>114</sup>

### ***Removal of Organs***

The AIHRC has received information on alleged victims of trafficking for organ removal. The Commission has recently funded an Afghan filmmaker, who has documented cases of individuals victimised by these traffickers. As the process of transporting live organs for successful implants requires sophisticated equipment and planning, IOM was unable to substantiate any of these claims. Scientists with demonstrated expertise in organ removal and transport should work in collaboration with investigators and human rights organization to examine this trend. The claims are unconfirmed; however, the incidence at which they are referred to by Afghans should be noted.

### ***Informal reporting mechanisms***

International organizations who participated in the survey in Afghanistan, received reports on trafficking through the following activities/venues:

- Local NGOs
- International organizations (informal dialogue)

---

<sup>111</sup> Survey response

<sup>112</sup> Information provided by an IGO

<sup>113</sup> Information provided by an IGO

<sup>114</sup> Interview with Community Forum, Women's Section

## ***Referral of cases***

Survey respondents on case referrals supplied no information.

### **3.3 AFGHANISTAN AS A COUNTRY OF TRANSIT**

There were only two cases of trafficking discovered in this research project where Afghanistan served as a country of transit. One case was obtained in the literature review, and the other is cited in section 3.4 (country of destination), as the victims were initially brought to Afghanistan, but later transported out, only to later transit through Afghanistan, from Pakistan to Iran.

#### ***Exploitation of prostitution***

Iranian women are allegedly being transported from Iran to Pakistan. There are two primary transit routes from Iran to Pakistan. One route transits through Afghanistan from the Sistan Baluchistan province, beginning in Zahidan and crossing the border from Zabol into Nimroz. The women are reportedly taken to Kandahar, and then proceed to Quetta, Pakistan. The second route bypasses Afghanistan, beginning in Zahidan and crosses the Pakistani border at Taftan. Taftan is a largely open border located in a desert, with one border checkpoint. There is reportedly minimal law and a high prevalence of smuggling and crime.<sup>115</sup>

- A large group of traffickers, predominantly Afghan Baluchi refugees and a few Iranian women, were arrested and prosecuted in Northeast Iran (Mashad), for selling Iranian girls into prostitution in Pakistan. According to one article, it is estimated that up to 250 girls were sold as “sex slaves.” The girls, aged 12-20 years, and their families were approached with offers of marriage. Once the offers were accepted, however, the girls were transported from Khorasan, Iran, through Afghanistan and into Pakistan.<sup>116</sup> It is thought that the criminal network responsible for this operation could include up to 200 persons.<sup>117</sup> Forty-three traffickers were sentenced to a total of 281 years in prison, 222 lashes, and other fines.<sup>118</sup>

### **3.4 AFGHANISTAN AS A COUNTRY OF DESTINATION**

Minimal information was received on trafficking to Afghanistan, and some is unsubstantiated. Among the data provided, however, are reports of forced prostitution, false marriage, and servitude.

#### ***Exploitation of prostitution***

##### Forced prostitution

There are unconfirmed accounts of Iranian and Pakistan women trafficked to Kandahar in southern Afghanistan for the purpose of forced prostitution.<sup>119</sup>

---

<sup>115</sup> Interview with IOM sub-office, Afghanistan

<sup>116</sup> *Afghan Sex Traffickers Serving Pakistani Brothels Go On Trial*, Agence France Press, 21 November 2002.

<sup>117</sup> *ibid.*

<sup>118</sup> *Iranian Court Sentences Sex Gang Members to 281 Years in Prison*, Payvand Iran News, 5 June 2003

<sup>119</sup> Interview with an IGO

## ***Slavery and practices similar to slavery***

### False marriages

- An Afghan Tajik woman, estimated age to be in her 20s, was sold into false marriages on two occasions.<sup>120</sup> The amount of the bride-price received is unknown. As refugees in Iran, her father and brother sold her to Afghans in Western Afghanistan. She was transported across the Islam Qala border into Afghanistan. The victim eventually escaped and reported the incidents to staff at a mental health clinic. She did not want to be reunified with her family due to fear of being resold. She is destitute, and her whereabouts remain unknown.<sup>121</sup>

## **3.5 NEIGHBORING COUNTRIES PAKISTAN**

There is still a considerable population of Afghans living in countries neighbouring Afghanistan, particularly in Iran and Pakistan. Pakistan hosts approximately 1.5 million Afghan refugees,<sup>122</sup> many of whom are unwilling to return home. According to refugees interviewed by the Women's Commission for Refugee Women and Children, reasons for not wanting to return included "violence, factional fighting, food insecurity, and lack of shelter and employment."<sup>123</sup> Given the high concentration of refugees in neighbouring countries, it is necessary to review protection issues affecting these populations. The particular vulnerability of women and young female refugees to human rights violations and sexual violence was recognised in the Draft Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination and Xenophobia and Related Intolerance.<sup>124</sup> More information was obtained on protection issues in Pakistan because of the large network of NGOs and international organizations implementing programs for Afghan refugees.

### ***Exploitation of prostitution***

#### Background on prostitution

There is a paucity of information available on the incidence of prostitution of Afghans in Pakistan. Cultural beliefs on women and the status of family honour regarding their chastity makes information gathering on this topic extremely difficult. Women perceived as "loose" in Afghan culture can be severely punished or killed. It is considered a taboo subject, and one that "is not relevant to Afghan women." Anecdotal information gathered through interviews with NGOs in two provinces, however, indicates that prostitution is ongoing in major urban areas and is economically driven. Although prostitution in brothels has been reported, it appears that many of the Afghan women engaged in the practice are working out of private homes. Primary cities of concern, based on discussions, are Peshawar and Charsadda (Northwest Frontier Province, NWFP), Quetta (Balochistan), Karachi (Sindh), and Lahore (Punjab).<sup>125</sup>

---

<sup>120</sup> It is unclear how she returned to her family after the first incident

<sup>121</sup> Survey response

<sup>122</sup> World Refugee Survey 2003, U.S. Committee for Refugees

<sup>123</sup> *Emerging Challenges: Closing Gaps in the Protection of Afghan Women and Girls*, Women's Commission on Refugee Women and Children, March 2003

<sup>124</sup> "Special attention should be given to the violations of human rights of refugees in refugee camps and detention centres. In these places, women and girls who are bereft of effective protection often face particular problems under these circumstances." WCR/IC/2001/Misc.4

<sup>125</sup> An NGO in Pakistan is conducting research and is in the process of producing a documentary on trafficking of Afghans for forced sexual exploitation in and from Pakistan

In Pakistan, pimps often marry women with the intent to force or sell them into prostitution. This is to avoid prosecution, as laws on extra-marital sexual relations (Zina) and rape outside a valid marriage (Zina-bil-Jabr) are severe.<sup>126</sup>

### Forced prostitution

Anecdotal reports of forced prostitution include women being coerced into it and managed by their husbands; men marrying women for the express purpose of forcing them into prostitution; and women being sold to Afghan, Pakistani and Arab agents in Pakistan for prostitution within Pakistan and in other countries.

Of the information received on trafficking of Afghans for forced prostitution within Pakistan, two cases were referred to UNHCR for resettlement. Another woman has been rescued by an NGO, but is not receiving any special protection measures.

- An Afghan woman, approximately 23 years of age, was transported by her husband from Peshawar to another city. Through interviews with the woman, it was determined that her husband, who already had a wife, married her for the purpose of forcing her into prostitution. He used his position as husband to push her into the sex industry for his own financial gain. She was forced to provide sexual services to men for three years before escaping.<sup>127</sup>
- A man in a refugee camp was reportedly forcing his three wives into prostitution.<sup>128</sup>
- An Afghan refugee woman was brought to Bariah from Peshawar for forced prostitution. She was working as a domestic servant in Peshawar prior to being recruited.<sup>129</sup>

Although few confirmed cases were received through the survey distribution and interviews, there was much unsubstantiated information on Afghan women trafficked from Pakistan to the United Arab Emirates for forced prostitution now and during the Taliban regime. Syria was also cited as a destination country, but there is no concrete data available to support these claims.

Many Afghan women may be hesitant to seek assistance because of the Foreigners Act, which stipulates up to a ten-year jail term for illegal entry, and the possibility of being charged with *Zina* or a related offence.<sup>130</sup>

### Prostitution of minors

Numerous NGOs voiced concern over the prostitution of Afghan boys. The Watchlist on Children in Armed Conflict identified Afghan refugee children as being at risk for various forms of exploitation, including sex work for boys.<sup>131</sup> In a refugee camp, a 14-year old boy was identified as being involved in the sex trade.<sup>132</sup> Boys allegedly engage in prostitution at rest stops for truckers and male travellers along major transportation routes. The rest stops have beds available to rent for the night. Child

---

<sup>126</sup> Shattered Dreams and Living Nightmares – A Situational Analysis on Trafficking of Women and Children in Pakistan, ActionAid, December 2000

<sup>127</sup> Interview with an NGO

<sup>128</sup> *Child Protection – The Kotkai Experience*, Save the Children UK, June 2002

<sup>129</sup> Interview with NGO in Pakistan; (NGO has a shelter for women and children in high-risk situations)

<sup>130</sup> *Shattered Dreams and Living Nightmares – A Situational Analysis on Trafficking of Women and Children in Pakistan*,

ActionAid, December 2000

<sup>131</sup> *Afghanistan - Watchlist for Children in Armed Conflict*, 15 October 2001

<sup>132</sup> *Child Protection – The Kotkai Experience*, Save the Children UK, June 2002

pornography is also reported to be shown at these venues. Reports on parental involvement or complicity vary, as some are unaware of what their children endure to assist their families financially, and others reportedly push their children into prostitution. The level of organization surrounding child prostitution is unclear. However, if the children are recruited, it is not necessary to establish the 'means' set forth in the Protocol to identify this as trafficking, due to the fact that they are minors.

According to one NGO, Afghan children often convey the pressure to find employment, and admit that, "if we don't earn rupees or have the chance to work, then we have to sell our bodies."<sup>133</sup>

## ***Slavery and practices similar to slavery***

### Exchange of women for dispute settlement

According to the Afghan Commissionate for Refugees (ACR), Social Welfare cell in Peshawar, which is responsible for the coordination of refugee camps in the NWFP – 48 – and for urban refugees, *Sawara*<sup>134</sup> is occasionally still practised among Afghan refugees, primarily in camps in the tribal areas. However, the prevalence at which this common method for resolving conflicts is used is reportedly decreasing. The ACR has implemented activities among refugee populations to increase awareness on the rights of women and children. Field staff consists of men and women who approach Afghans on various issues. *Sawara* has been incorporated into the awareness-raising curriculum.

- One case that has been reviewed by a court in Pakistan is a 1997 Afghan *jirga* decision to offer a girl in marriage to end a dispute. The girl was permitted to remain with her family, as she was a minor, approximately 14 years old. Now that she has reached marriageable age, she has filed an affidavit to revoke the *jirga* decision, stating that she is unwilling to marry the man she is promised to.<sup>135</sup>

## ***Servitude***

### Child labour and exploitation

"Don't listen to strangers or give away any information, or people will abuse you or sell you."<sup>136</sup>

Reports of Afghan children subjected to forced labour, exploitation, and the worst forms of child labour vary. Kidnapping, deception, and gaining parental consent (through offering of loans) are methods used to obtain the forced labour of children in Pakistan. Although not all forms of child labour, or even forced labour, are true trafficking cases, the following incidents reflect the potential for trafficking among child labourers in Pakistan.

The ILO Global Report 2001 focused on *Stopping Forced Labour* and concluded that "trafficking related to forced labour ...is a world-wide phenomenon...It occurs because the worker is below the minimum age of employment; the employment is illegal; the conditions of work are worse than those prescribed by law.

---

<sup>133</sup> Interview with an NGO

<sup>134</sup> "Sawara" is the Pashto term to describe the exchange of women for dispute settlement

<sup>135</sup> A case study on this incident is provided in Annex 7.4.

<sup>136</sup> Former Afghan street child living in Pakistan

Children who are trafficked are almost always placed in slavery-like conditions of bondage and servitude. Frequently, their employer demands that they work until a “debt” is paid off - in other words the cost to transport the child, such as associated bribes.<sup>137</sup>

Abduction:

- It has been reported that Afghan children have been abducted from the new Shamshatoo refugee camp and transported to the Punjab province for forced labour. An Afghan boy, estimated age 8-9 years, was abducted from Peshawar and taken to Punjab. He was forced to perform labour that involved digging holes in the ground. He escaped and walked for two days back to Peshawar where he was reunited with his family.<sup>138</sup>

Deception:

- An Afghan boy, aged 17, was studying English at a language centre in Pakistan. An Uzbek man spent a lot of time at the centre, talking to and befriending the students. He convinced some of the boys to accept his offer of employment. The boy was taken to another province, where he was locked in a room for two days with 11 other boys. The traffickers were apparently holding them while arrangements were made to sell them. The boy's father paid money to the traffickers for the child's release.<sup>139</sup>

Debt incurred by parents:

- Many Afghan children are working in carpet factories in Pakistan. The owners prevent the children from returning to Afghanistan because of debts incurred by the children's parents. They are forced to remain and work until the debt is repaid. The children are not paid salaries.<sup>140</sup>

The National Commission for Child Welfare and Development is proposing a national plan of action to combat the worst forms of child labour in Pakistan, including prostitution and child trafficking. The current draft contains no language regarding Afghan minors involved in the worst forms of child labour, however.<sup>141</sup>

Afghans in Pakistan, by virtue of being refugees or considered illegal migrants, do not have access to the level of protection offered to Pakistani citizens, therefore are more vulnerable to exploitation and trafficking. In Pakistan, incidents of forced prostitution and prostitution of minors, the exchange of women for dispute settlement, early marriage, and forced labour and exploitation have been documented by organizations operating in Pakistan. Victims include urban refugees and refugees in camps. Instances of Afghans exploited have been reported in many areas of Pakistan where there are large concentrations of Afghans. In a survey developed by an NGO to obtain a comprehensive picture of child protection issues affecting Afghan refugee children, child labour, recruitment, and trafficking (in relation to disappearances) were incorporated into the questions as a key form of exploitation and abuse – indicating that these issues are already a concern.<sup>142</sup>

---

<sup>137</sup> The role of employers and workers' organizations in action against the worst forms of child labour, including the trafficking of children into labour and sexual exploitation, Background paper for the ILO-Japan Meeting on Trafficking of Children for Labour and sexual Exploitation, Manila, Philippines, 10-12 October 2001

<sup>138</sup> Interview with NGO, Pakistan. The NGO interviewed the victim's mother.

<sup>139</sup> Interview with NGO, Pakistan

<sup>140</sup> Interview with Afghan former street child in Pakistan

<sup>141</sup> Interview with an IGO

<sup>142</sup> *Child Protection – The Kotkai Experience*, Save the Children UK, June 2002

### ***Informal reporting mechanisms***

International organizations who participated in the survey in Afghanistan, received reports on trafficking through the following activities/venues:

- Health units
- Partner / other agencies

### ***Referral of cases***

According to survey respondents, cases were referred to relevant Pakistani authorities.

## **3.6 INCIDENTS OF CONCERN: TRAFFICKING-RELATED TRENDS**

Exploitative practices that fall within the international definition of trafficking have been documented in this report. However, keeping in the mind that the purpose of the report is to provide information that will be used to better understand the issue, and to assist victims, it was felt that some additional trends should be mentioned. There are a multitude of cases that fall in a grey area, that contain trafficking-like elements, but cannot be defined as clear trafficking cases. While the general trends may not be considered as clear categories of trafficking, there may be specific trafficking cases within them. Not wanting the definition to act as an excluding factor in terms of reporting, but keeping in mind the importance of false labelling, it was felt that the following incidents warranted inclusion in the report.

### ***Labour Migration***

Statistics from UNHCR and relevant NGOs indicate an ongoing migration from Afghanistan to Iran for employment opportunities. Afghans are reportedly travelling to work in the unskilled labour industry, primarily in plastic and brick factories, and construction.<sup>143</sup> These Afghans fill the unskilled labour market in Iran, but are often subject to long working hours, hard labour, and low wages.<sup>144</sup>

According to the AIHRC, the profile of these migrants is largely young, single, males, primarily from villages in Western Afghanistan. Destination points in Iran include Mashad and Tehran. During AIHRC interviews with families in the Shaidayee IDP camp, most families reported at least one member working abroad. The AIHRC intends to interview returnees and deportees to identify violations against Afghans in other countries, such as involuntary repatriation and other human rights issues.<sup>145</sup>

Among the individuals travelling to Iran are a group of unaccompanied minors. From 21 July – 31 December 2002, 608 unaccompanied minors deported from Iran were assisted by UNHCR and partner agencies (ICMC).<sup>146</sup> From 1 January – 23 June 2003, 668 unaccompanied minors were assisted.<sup>147</sup> Interviews with agencies providing assistance to this group indicate that many of the children are repeat border-crossers. The youths were deported by Iranian authorities, and received assistance from UNHCR and partner agencies. A paucity of information is available on forms of employment and conditions in Iran. This group must receive further assessment to identify if any of the youths are victims of trafficking.

---

<sup>143</sup> *ibid.*

<sup>144</sup> *ibid.*

<sup>145</sup> Interview with AIHRC

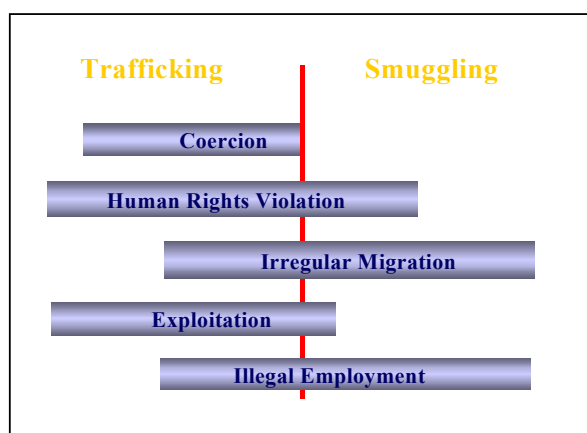
<sup>146</sup> UNHCR Monitoring Report – Afghanistan Repatriation January 2002 – March 2003, UNHCR, July 2003.

<sup>147</sup> UNHCR

## ***Smuggling of persons***

A consensus was achieved on the inherent differences between trafficking and smuggling in persons through the creation of the two supplementary protocols to the UN Convention against Transnational Organized Crime. Smuggling is defined as the “procurement, in order to obtain directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” in the protocol Against the Smuggling of Migrants by Land, Sea and Air.<sup>148</sup> In essence, smuggling is the facilitated movement of an individual or group of individuals from one country to another through illegal means. It can be attributed to decreased access to legal migration channels and a lack of economic opportunities in the country of origin. The profit gained by the smugglers stems from the fee charged for the transport and logistical arrangements, often including the procurement of entry documents. Smugglers facilitate entrance through various methods, including but not limited to the use of fraudulent or stolen passports and visas, or crossing at a “green border,” avoiding border checkpoints. Interaction with the smuggler should theoretically end upon reaching the final destination.

There are, however, increasing reports of smugglers subjecting individuals to various forms of exploitation during travel and upon reaching the final destination point. This can occur when individuals have insufficient funds at the time of departure, and agree to work for a specified amount of time to pay the remainder of the initial smugglers fee. This can lead to human rights abuses due to the position of vulnerability of the smuggled person. In other instances, smugglers increase the fee substantially during transit, leaving individuals no other option than to agree to the newly incurred debt.



Source: IOM

The Zaranj border (Nimroz province) is divided by the Helmand River, and easy to cross. There is a purported high incidence of smuggling of persons. There is also a high rate of deportations of Afghans from Iran across this border. Approximately 97

<sup>148</sup> According to the Protocol on Smuggling, "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State; "Fraudulent travel or identity document" shall mean any travel or identity document: (i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or (ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or (iii) That is being used by a person other than the rightful holder; "Vessel" shall mean any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.



per cent of the deportees are undocumented.<sup>149</sup> Many of the deportees have little or no money, as much is allegedly taken by Iranian authorities during the deportation process. Smugglers target recent deportees – literally as they arrive back in Afghanistan<sup>150</sup> – and offer assistance for immediate re-entry. This population is given the option to work to repay the smuggling debt.<sup>151</sup>

### Hostage-taking and extortion

In Afghanistan, people are enlisting the services of smugglers to illegally enter Iran and other destinations in the West for increased access to employment opportunities. There have been numerous cases reported to NGOs and IGOs of smuggled Afghans being held hostage in Iran. The smugglers contact relatives in Iran or Afghanistan, and money is demanded for the release of the victims. Threats of physical violence, forced labour, and “selling the victim on the black market” are used to extort money. Victims are allegedly held from one or two days to two or more months. Many former victims indicate that they were subjected to forced labour during their captivity. Strong anecdotal evidence points to the sexual abuse and exploitation of boys who are held hostage. It was also indicated that smuggling and hostage taking is closely linked with other illegal activities, including drugs and arms smuggling. Hostage taking of smuggled persons has been reported to occur in Zabol, Zahidan, Rabat, and Mashad.<sup>152</sup>

Often, families who choose to use the services of a smuggler do not have sufficient money to cover the initial fee. The smugglers encourage the migration anyway. During transit, the smugglers demand jewellery, personal items, and anything of value. If families refuse, or don't have items of value, the smugglers threaten to take one family member hostage, sometimes to be sold. People who are sold are reportedly sold for forced drug couriering, other forms of forced labour, or for organ removal. The networks in Iran are considered ruthless, and it has been said that people fear some neighbourhoods in Zabol and Zahidan where known smugglers reside and/or operate.

According to a provincial official in the Northwest, smugglers are approaching Afghan boys who have recently returned from Iran,<sup>153</sup> with offers to facilitate re-entry into the country. Two of the primary destinations are reportedly Zahidan and Zabol. Upon arrival, smugglers question the boys on whether they have relatives in Iran. Telephone numbers are obtained for families of boys who do have relatives in the country. The smugglers then contact relatives, and money is demanded for the release of the boys. The boys are held captive until the money is paid. This is common pattern of exploitation used by smugglers according to many interviewees. The boys who do not have relatives in Iran are kept for sexual exploitation or other forced labour.<sup>154</sup> Although the men and boys travel to Iran for economic reasons, an official noted that many are “young and handsome”: “Upon reaching Iran, these boys are jailed and used for sex.”<sup>155</sup>

- An Afghan man hired a smuggler to facilitate entry into Iran. It took two days and two nights to cross the Chaman border, through Zahidan, to reach the final destination of Rabat. The man travelled in a water tanker/truck for these

---

<sup>149</sup> Interview with an IGO

<sup>150</sup> Interview with provincial government official

<sup>151</sup> Interview with an IGO

<sup>152</sup> Interviews with community organizations, individuals and IGOs

<sup>153</sup> Smugglers don't target boys who frequently cross the border unaccompanied, but members of refugee families who have returned or boys who have been deported without their families.

<sup>154</sup> Interview with a provincial government official

<sup>155</sup> Interview with a provincial government official

two days. He was held in basements in Zahidan and Rabat, while money was being extorted from his relatives. He was fed one piece of *nan* (bread) per day. He claims that hundreds of Afghans have been kept in these basements. The interviewee also claimed that while he was living in Iran, smugglers contacted him after holding his family hostage. His family was held for one month, and fed minimal food – mostly bread. In addition to the extortion amount, the smugglers also charged him “rent” for accommodating his family. The total amount paid was US\$300 per person.<sup>156</sup>

In 2000-2001, an NGO interviewing approximately 200 refugee families per day, were receiving 2-3 reports of hostage taking (of at least one family member) per week. In 2002, cases were not received due to the change in the profile of people migrating to Iran. Single, unaccompanied, young men began travelling to Iran for employment. Their disappearance went unnoticed and was therefore not reported.<sup>157</sup>

Smuggling and extortion of Afghans who use smugglers has occurred in other countries as well. The case below involves a man in Pakistan who was taken to Africa instead of London, where he was held hostage.

- A 24-year-old Afghan refugee male in the NWFP (Peshawar) enlisted the services of a smuggler, an “Afghan travel agent.” The man’s mother gave the smuggler money from lands she had sold in Afghanistan. The man understood that the smuggler would facilitate travel to London. He was transported to Bamaku, Mali instead, where he was handed over to an African counterpart. The initial smuggler contacted the victim’s mother from Moscow, demanding more money. She paid an unspecified sum to a Pakistani agent in Pakistan, who provided her with a “receipt.” She was contacted a second time by the African middleman in Mali, requesting more money for her son to be transported to London as planned. The money was sent to the middleman in Africa. Upon receiving the money, the victim was severely beaten, expelled from the place he was being held captive and threatened with being reported to the police as an illegal migrant. His documents were also confiscated. The man is presently living in a cheap hotel awaiting return assistance. The case was not reported to police, as the family is illegally residing in Pakistan. The case occurred in 2003.<sup>158</sup>

### Exploitation

Some refugees are returning to their communities to find no further assistance and a lack of employment opportunities. Many young boys and men are returning to Iran for economic reasons. (The estimated age varies from 16 to 50 years.) Smugglers are acutely aware of the situation facing returnees and use this to their advantage. They approach newly returned boys and offer to facilitate the movement. Upon reaching Iran, many of these boys are “jailed” (held by the smugglers) and used for sex.

- *Border-crossing:* Smugglers move Afghans across the border at night. Every week, approximately 30 to 40 boys cross. Fake passports are not used, as the border is porous. Main destinations for the boys from the northwest provinces are Zahidan and Zabol. Baluchis were reported to be common

---

<sup>156</sup> Interview with a provincial government official (representative’s account of being held hostage)

<sup>157</sup> Interview with an IGO (based on information from a staff member formerly employed at an NGO in Iran that assisted refugees and held extensive interviews with smuggling/hostage victims)

<sup>158</sup> The victim’s mother interviewed by Pakistani NGO. Case referred to IOM for repatriation assistance. UNHCR Pakistan was also notified, and the reporting NGO is assisting the victim’s family to register the man with a request for resettlement.

smugglers (and are from Zahidan and Zabol). Sexual exploitation or *tajalwaz* occurs.<sup>159</sup>

- Smugglers take boys to Spin Boldak for eventual travel to Zahidan, Iran. Many are held in Spin Boldak in a “prison” for up to 3-4 months by armed groups. The smugglers or captors then contact the boys’ families in Afghanistan or Iran and extort money for their release. The boys are often sexually abused during captivity. (It is unclear if this is forced prostitution or sexual abuse committed by the captors.) Afghans pay up to US\$300 to smugglers in order to enter Iran.<sup>160</sup>
- In late 2002, 4 unaccompanied male minors, aged 13-15 years, were deported from Iran. They were assisted at the Islam Qala transit centre and interviewed by ICMC EVI<sup>161</sup> caseworkers. The boys were smuggled to Quetta, Pakistan separately.<sup>162</sup> All four boys were then taken as a group to Zahidan, Iran, by a different set of smugglers. Iran. They were kept in a house for approximately one year, where they were sexually abused and forced into prostitution. They eventually escaped and were assisted by a local mullah, who referred them to UNHCR. UNHCR and ICMC worked in collaboration for tracing and family reunification.

The smuggling of Afghans from Afghanistan, as illustrated above, can result in human rights abuses closely resembling trafficking. Although trafficking and smuggling are two different crimes, as laid out in the protocols, the “distinction is less clear on the ground, where there is considerable movement and overlapping between the two categories.”<sup>163</sup> The UN Commission on Human Rights, Sub-commission on the Promotion and Protection of Human Rights recognises the minimal guidance for identification in terms of who should partake in the process and how it should be done. It further recommended that state parties address this issue, as it is relevant to the state’s responsibility and the needs of victims.

### Forced Labour

The following examples illustrate how the distinction between smuggling and trafficking can be blurred. Instances which begin as smuggling, may in fact become trafficking.

- Zahidan and Zabol are destination points for smugglers who hold victims for hostage in Iran. Afghan men and boys are held for two to three months and subjected to forced labour. Labour primarily includes farming and construction. The hostages are released after family members pay a ransom fee.<sup>164</sup>
- A provincial government office in the Northwest has received reports that young boys are being smuggled into Iran. Smugglers approach villages and offer work to young boys. Upon reaching Iran, the boys are forced into hard labour. There are no reports of girls being smuggled at this time. The number of smuggled boys has increased this year (the Islamic year beginning

---

<sup>159</sup> Interview with provincial government official

<sup>160</sup> *ibid.*

<sup>161</sup> Extremely Vulnerable Individuals program

<sup>162</sup> Three boys were enticed by the smugglers with offers of work, while the fourth was taken by force

<sup>163</sup> E/CN.4/2001/26

<sup>164</sup> Interview with provincial government official

in March). Lack of economic opportunities is the primary motivation for migrating.<sup>165</sup>

### Intercepted unaccompanied minors

The Criminal Investigation Department, Ministry of Interior, of Takhar province has intercepted eighty-five minors being smuggled to Iran in the last year. The victims are males, aged 7 - 17 years, and predominantly from Badakhshan province, and some areas of Takhar. The boys and smugglers were taken into custody by the Takhar police, interviewed and returned to Badakhshan. Although 7 smugglers have been arrested, jurisdiction regulations mandate that they be returned to their province(s) of origin. No arrests have been made by authorities in Badakhshan to date. Police interviews revealed a well-established network of smugglers in Kunduz, Kabul and Iran. The boys are transported from Badakhshan, through Takhar and Kunduz provinces to Kabul. They cross the border into Iran in Nimroz province.<sup>166</sup> The final destination is Zahidan, Iran. The minors are reportedly transferred to different smugglers during the route. Although there is a lack of information on what happens to the boys in Iran, officials have stated the belief that they may be used for forced prostitution or organ removal.

### ***Forced conscription***

UNHCR has reported forced conscription of persons in Ghazni, Balkh, Faryab, Jawzjan and Samangan provinces<sup>167</sup>. Other sources indicate forced recruitment in the South. Persons targeted in the North and South include adolescents, approximately 16 years of age.<sup>168</sup> A reported trend of “voluntary” recruitment of boys between the ages of 15 and 18 years into Afghan military forces was also discovered.<sup>169</sup> Armed groups include three major factions in Afghanistan, Junbish, Jamiat, and the Taliban.

Not all ongoing recruitment is forced, but specific instances involving threats, use of force, abuse of power, are particularly concerning. Forced conscription does constitute forced labour, as they are working “under the menace of (a) any penalty” and that the work is not secured voluntarily.<sup>170</sup> In certain instances, it could also be considered a form of trafficking. The person was taken and forced to perform the duties of a soldier, or partake in military training for a specific amount of time, normally about two months. In some villages, villagers were given the option to be taxed rather than provide a male family member. While this shouldn’t deter from the obvious protection issues, it can’t be labelled in all circumstances as trafficking. Rather, individual cases within this practice may be deemed trafficking depending on the particular circumstances of each case.

There are many cases of forced recruitment in the North, particularly Faryab, as there is a struggle for power between different factions. The local staff of one NGO reported to have witnessed armed groups forcefully taking men from the bazaar for military recruitment in 2002.<sup>171</sup> Armed groups have reportedly targeted rural villages throughout the province, rather than concentrated in one area. The Almar district

---

<sup>165</sup> Interview with an IGO

<sup>166</sup> The Zaranj border-crossing is located in Nimroz province

<sup>167</sup> UNHCR Monitoring Report – Afghanistan Repatriation January 2002 – March 2003, UNHCR, July 2003.

<sup>168</sup> Survey response

<sup>169</sup> UNHCR Monitoring Report – Afghanistan Repatriation January 2002 – March 2003, UNHCR, July 2003.

<sup>170</sup> Convention Concerning Forced or Compulsory Labour (1930), as modified by the final articles revision convention (1946)

<sup>171</sup> Interview with NGO. Note: This NGO began issuing ID cards for all local staff as a prevention measure against harassment and forced recruitment. Afghans linked with international organizations are not perceived as optimal targets, as factions want to avoid drawing attention to this.

may be an exception in that more recruitment drives have been cited in this area, as it is controlled by one faction, while another faction controls the surrounding districts. Pashtuns are beaten and taxed doubly – taxes to support the armed groups and taxes to avoid young men from being taken. The estimated age of recruits is 16 years. Soldiers are kept for two to three months and then released. Commanders then initiate new recruitment drives. Victims of forced recruitment do not report incidents to officials because of the belief that law enforcement and judicial authorities are under the control or intimidation of different factions.<sup>172</sup>

According to an IGO, armed soldiers enter villages and “request” young men for military training. Villagers can’t refuse without facing repercussions. Families who do not contribute a recruit are taxed for the food, and occasionally, the salary of new recruits. Reports indicate that some recruits do receive salaries, but most funds collected are used for food and pocketed by commanders.<sup>173</sup> Although information on tax amounts were not obtained in Faryab, an IGO reported that some villages in Balkh and Jawzjan provinces were forced to pay 2.5 million jumbishi, or US\$25.<sup>174</sup>

- A 12-year old Pashtun boy was reportedly taken by force from his village by a Junbish commander in early 2003. The commander and an unconfirmed number of soldiers entered the boy’s home and announced that his age “is good to learn to be a soldier.” His mother, a widow, was informed that he was being taken for military training. He has not been seen or heard from since. The village elder is aware of the case. It is unclear if the case was ever formally reported to the police. It was stated, however, that police cooperation or thorough investigation into the incident was unlikely due to the child being Pashtun.<sup>175</sup>

### ***Forced poppy cultivation activities***

The cultivation and harvest of opium poppy crops requires significant labour. In the past, smaller farmers could rely on family and relatives to harvest the crop. However, as the crop size has increased during the last few years, a larger labour force has been needed. According to the UN Office on Drugs and Crime, the labour force required to cultivate “one hectare of opium poppy is 2 to 3 times greater than for black cumin and 8 to 9 times greater than for wheat.” In fact, opium production has been determined to be largely dependent on availability of labour. In certain districts of Kandahar and Nangarhar provinces, approximately 30 per cent of the farmers were found to be able to rely on family labour to complete poppy cultivation. The remaining farms used itinerant labourers, who were generally paid in-kind - about 1/6 to 1/5 of the poppy harvested.<sup>176</sup>

Complaints of men taken to participate in poppy cultivation activities have been received in the North. Poppy harvest occurs between mid-May to July.<sup>177</sup> The movement or trafficking of the harvest takes place in July. Instances have been reported where commanders are sent to villages to acquire a specific number of men. Villages are approached and “requested” to provide male labourers. The villagers can’t refuse. Villages are satisfied if they aren’t taxed as well. The men are taken for approximately two weeks. Some labourers apparently receive a minimal

---

<sup>172</sup> Interview with an IGO

<sup>173</sup> Interview with an IGO

<sup>174</sup> UNHCR Monitoring Report – Afghanistan Repatriation January 2002 – March 2003, UNHCR, July 2003.

<sup>175</sup> Interview with IGO

<sup>176</sup> *The Opium Economy in Afghanistan – An International Problem*, UNODC 2003

<sup>177</sup> In low altitude areas, the harvest period is early April to the end of May, early June to the end of July in medium altitude areas, and early July up to the end of September in high altitude areas. (*The Opium Economy in Afghanistan – An International Problem*, UNODC 2003)

salary and food. Reports indicate, however, that many are not paid for their services. The age also varies, as both young and old men are taken. Turkmen are alleged to be the preferred labourers for cultivation activities, however, as the process is delicate and they are considered to have greater expertise.<sup>178</sup>

Similar to forced recruitment into armed factions, forced poppy cultivation activities constitute forced labour. Some instances may constitute trafficking cases. Coercion, threats or intimidation, and an abuse of power and of a position of vulnerability are used to “recruit” labourers, and those labourers are often not given the opportunity to decline or to leave.

### ***Forced drug couriering***

There is significant anecdotal evidence pointing to Afghans being forced to act as drug couriers. In certain cases, individuals are made to illegally transport drugs from Afghanistan to Iran and other destinations allegedly by threats of force, or threatening to or holding hostage family members. The drugs are placed inside the body by swallowing or inserting into orifices. In other instances, drugs are placed in dead bodies.

Many people refer to children being abducted and killed for the purpose of drug smuggling, during and since the Taliban regime. However, people infer that this was more prevalent during the Taliban.

There are also reports of voluntary couriers facing severe repercussions if the drugs are lost, the courier is arrested or the transaction goes awry. Repercussions include the “selling of the courier’s female relatives.”

Overall, this is viewed more as a case of forced labour or services with severe human rights abuses involved. There is threat or use of force against the person and/or his family, and coercion is used to obtain the needed service, and the work is performed based on these factors.

### ***Forced religious studies***

There have been numerous cases, and anecdotal information, pointing to a trend in forced religious studies. The actual cases received, and currently under investigation by two governments, involve large numbers of young males, under the age of 18 years. The case under current investigation points to Afghanistan as a country of origin and of destination. Elements both of deception and movement, often including the transportation of minors across international borders or provincial boundaries within Afghanistan, are present.

The parents are often unaware of the true purpose of the “education.” Recruiters who offer general education or vocational training approach them. There is an inherent loss of freedom and inability of the students to return to their countries of origin, either through forceful prevention of leaving, or lack of alternative options. The latter scenarios includes being unfamiliar with the country’s infrastructure, logistical concerns such as the method of transport, lack of funds, and often lack of required travel documents. The benefit gained by the recruiters is a population of young, impressionable, dependent youth, often from poverty-stricken areas, available

---

<sup>178</sup> There is a population of Afghans with the expertise required for poppy cultivation. According to the 2003 UNODC study, some Afghan refugees had worked on poppy farms in Pakistan and in Afghanistan, the latter group crossed into Afghanistan during the harvest period and returned to the camps in Pakistan upon completion. (*The Opium Economy in Afghanistan – An International Problem*, UNODC 2003)

to be trained in a certain ideology. The environment where this occurs, *madrasas*, is often not regulated by governments. This can result in unmonitored curriculum in the education of youth, and also provides an atmosphere where physical and sexual abuse could occur with impunity.

It should also be noted that in the past, some *madrasas* in Pakistan<sup>179</sup> have been used to recruit combatants, such as the fight against Soviet forces in the 1980s.

- In eastern Afghanistan, there are unconfirmed accounts that boys between the ages of 15-16 years were taken by the Taliban for religious training in Pakistan. The boys went voluntarily, but upon arrival, they were sexually abused. They were told that they were pretty, "just like wives."<sup>180</sup> Some of the boys escaped and returned to their village, arriving in time to intercept another group heading for Pakistan. After relaying their story, the second group decided against travelling to Pakistan for religious training.

NGOs in Pakistan have voiced concern that *madrasas* are still flourishing due to the lack of schools and education opportunities available to Afghans. An ordinance has been issued requiring *madrasas* to register with the Government of Pakistan.<sup>181</sup> This has not been fully implemented yet, and it will take time to complete full registration. It should be noted that the ordinance does not contain a monitoring clause, and is restricted to recording existing *madrasas*.<sup>182</sup>

This is not a generalised statement on all religious institutions and *madrasas*, but rather a reference to specific instances to call attention to the relative freedom these institutions enjoy, and the potential for abuse as illustrated in the cases cited below.

### Country of destination

- A Tajik religious fanatic from southern Tajikistan is allegedly responsible for kidnapping up to 57 children, estimated age range 6-10 years. The majority of children come from a remote valley area. The trafficker used various methods to gain control of the children, including kidnapping and convincing parents to send their children to schools to learn computer sciences, English and religious studies. They were allegedly enrolled in a *madrasa* in Kabul. It is reported that the perpetrator received US\$1000<sup>183</sup> for each child brought to Afghanistan. The final destination of the students, however, was not Afghanistan.

*Sequence of events:* In 1999, August-September, a Tajik man took a group of 57 Tajik children to a *madrasa* in Kabul. Following the events of September 11, 2001, and the subsequent bombing of Afghanistan, the perpetrator took the children and fled to Peshawar, where they remained for 3-4 months. They were then transported to Zahidan, Iran. After three months in Iran, four children wrote a letter to one of the children's father to explain their situation, how they were taken to Iran, and to request help. A former student who had managed to escape to Tehran, along with three other students delivered the letter. These four crossed the border from Zahidan into Pakistan, and then through Peshawar and Kabul, finally reaching Tajikistan. The boy who wrote the letter for help was recently repatriated back to Tajikistan. The boy's

<sup>179</sup> The Opium Economy in Afghanistan – An International Problem, UNODC 2003

<sup>180</sup> Interview with provincial government official

<sup>181</sup> Ordinance No. XL of 2001, F.No.2, Ministry of Law, Justice, Human Rights and Parliamentary Affairs, Gazette of Pakistan, Islamabad, 18 August 2001

<sup>182</sup> Interview with an NGO

<sup>183</sup> Amount is not verified

father, through the assistance of the Government of Tajikistan, travelled to Iran and retrieved his son.<sup>184</sup>

### ***Forced labour of Afghan men***

A few reports have been received that some Afghan men are in situations of forced labour for debt repayment in Pakistan. In some instances, Afghans have taken “loans” from businessmen. The Afghan men then work at factories and receive only partial salaries, as the remainder is applied to the debt. It is unclear how widespread this may be.

- The Legal Aid Center (ALAC), which provides legal assistance to refugees, has received information on at least two such incidents, one involving four Afghan men (17 family members) who were reportedly rescued from a brick factory in 2003. The men were not paid salaries and were reportedly prevented from returning to Afghanistan by the owner. In such cases, the ALAC is playing an active role in mediating between complainants and factory owners to resolve disputes.<sup>185</sup>

### ***Early Marriage***

Institutions and practices similar to slavery include debt-bondage, and institutions and practices where a woman is given in marriage for a benefit without the right to refuse, the transfer of a woman by her family for an added value or benefit, the inheritance of widows to another person, and the giving of persons under the age of 18 years by a parent or guardian to another person for the exploitation of the child or his/her labour. While the Protocol does not specifically cite child marriages as a form of exploitation, some hold the view that all marriages of girls under 16 years of age is exploitation of the child and her labour, as the marriage is illegal and unrecognisable under Afghan law.

#### Marriage process

When an Afghan marriage takes place, the consent of the man and woman, or her guardian, is supposed to be secured.<sup>186</sup> The woman or girl, or commonly her guardian, is asked if she gives “*nafs*,” or consent for marital relations. The ceremony requires that at least two witnesses be present. If the woman, girl, or her guardian responds affirmatively, the groom is then questioned whether he accepts her. If he agrees, a formal marriage contract is drawn up, which stipulates the marriage portion or *mah'r* - the amount of money she will be granted in the event her husband divorces her at a later date.<sup>187</sup> It provides an assurance or guarantee to the new bride. The marriage can be officially registered at the Supreme Court, or at the main administrative building in the provincial capitals. A marriage certificate is issued after registration and payment of a fee.

In many rural areas, however, the money or goods is agreed upon verbally, not formalized in a written contract, and occurs prior to the marriage ceremony where consent is given.<sup>188</sup> It is a custom referred to as the giving of a bride-price or *shir-baha*,<sup>189</sup> which is different from the *mah'r*. In such circumstances, it can be viewed

---

<sup>184</sup> IOM interview with victim's father

<sup>185</sup> Case details provided by an IGO

<sup>186</sup> See 7.2 Afghan Civil and Penal Codes

<sup>187</sup> Interview with judicial official

<sup>188</sup> *ibid.*

<sup>189</sup> Literal translation is the “cost of milk”



that the bride-price is the determinant factor for whether the marriage will take place. Registration of marriages in the villages is sporadic, as some elders/leaders keep informal records and others do not.

#### Background on marriage portion or *mah'r*<sup>190</sup>

When examining early marriages, it is necessary to review the legal right of a marriage portion or *mah'r* in order to have a fuller understanding of how marriage takes place in Afghanistan. Many organizations refer to women and girls being “sold.” This term can be misleading as brides are entitled to a marriage portion of 300 Afghanis upon marriage.<sup>191</sup> The marriage portion must be outlined in the marriage contract according to Afghan civil law.<sup>192</sup> It has also become customary for the groom and/or his family to give additional money or goods to the family of the bride. The money is traditionally spent on furniture, jewellery, and other items for the new bride and groom, and is meant to be a form of security for the new family, especially for the woman. It is practised by Afghans in Afghanistan and in neighbouring countries. In Pakistan, the practice is the reverse scenario in which money, land, cattle, or other items of value are given by the bride’s family to the family of the groom.

Some organizations interpret the giving or receiving of money or goods for marriage as a form of trafficking in persons. It is important to note that while money and/or goods are given and received, it is a strong tradition and is practised in many parts of the world. The purpose of the marriage portion is to extend a means of protection and security to the woman being married. Whether or not this applies in all cases, and whether or not the woman directly benefits from this security, varies. The practice is motivated by protection, however.

Additionally, although material benefits are exchanged, this factor touches upon only one aspect of trafficking. Continued and forced exploitation is one of the key elements of trafficking. It would be flagrantly deceptive or presumptuous to coin all marriages in which a marriage portion or a bride-price was exchanged and result in conditions equivalent to slavery. It is strongly recommended that institutions carefully review the context and actual conditions of individuals before applying the term “trafficking” to instances relating to the exchange of a marriage portion. Loose application of the term could serve to inadvertently decrease the credibility of claims, re-initiate the confusion experienced prior to the internationally agreed-upon definition, and potentially prevent actual trafficked victims from accessing protection and assistance services.

This report does not affirm or condemn the practice of giving a bride-price. Where it has relevance to this study, are situations in which the acquisition of a bride-price acts as an incentive to early marriages. Destitution, the need to meet basic survival requirements, and/or a disregard for the well-being of the woman or girl to achieve an economic benefit, are all factors which some argue can lead to early marriage constituting a trafficking-like situation.

#### Early Marriages in Afghanistan

The accepted minimum age for marriage under *Sharia* law varies. It has been specified as 14 years of age for girls and 16 for boys, as well as cited as the age at

---

<sup>190</sup> “Mah'r” is the legal entitlement of a bride to a marriage portion

<sup>191</sup> Interview with Faculty of Law and Political Sciences Kabul University, legal staff

<sup>192</sup> See Annex 7.2 Afghan Civil and Penal Codes, Articles 14 & 16, Law of Marriage 17 Assad 1350, Title Three: Civil Law

which puberty is reached, menstruation for girls and the growth of facial hair for boys. The marriage age under Afghan civil law is 16 years for girls and 18 years for boys. The marriage of a girl younger than 16 years can occur under the authority of her father or a competent court of law.<sup>193</sup> However, marriages of girls under the age of 15 years are never sanctioned.<sup>194</sup> According to some legal authorities, however, courts occasionally apply 14 years as the age at which marriage can occur. It was indicated by the same authority that illegal or under-age marriages are not punished in the courts.

Under the Afghan civil code, Article 257, a father is obligated to continue providing for the care of his children, even after they reach legal age for marriage<sup>195</sup>, if they are unable to provide for themselves. His (financial) responsibility ends for his daughters when they marry. Although this article was most likely enacted for the protection of offspring, it may inadvertently serve as a push factor for families to encourage marriage of women or girls as soon as possible, particularly among destitute families.

It is also important to note, that the care and maintenance of children is transferred to a guardian “next to the father” if the father is unable to provide for his children adequately.<sup>196</sup> The father is obligated to repay the guardian for expenses incurred for the care of the children when he is financially capable. Although there have not been any reported instances of forced labour or trafficking to repay debts incurred through transferred guardianship, it is worthy to note that this clause exists under current Afghan law.

Early marriages are reported to be occurring in Afghanistan, particularly in rural areas and among extremely vulnerable groups, such as returning refugees and IDPs, groups that are still displaced within Afghanistan, and areas that were severely affected by the long-standing drought<sup>197</sup>. In some areas, early marriage has been documented as a coping strategy for families in drought-stricken areas. Girls between the ages of eight and twelve years in Jawzjan province were married in exchange for a bride-price of US\$300-800. No further reports were received in these areas after WFP food distribution commenced.<sup>198</sup> In a recent assessment of a village in the Samangan province, it was discovered that families of poor and medium wealth used early marriage as a coping strategy from 1999 to 2002. The bride-price ranged from US\$100-800. It was noted that the bride-price was dependent on the age of the girl, and whether she was the first wife. A girl who marries an older man, and becomes a second wife, has less security within the family and therefore commands a higher price.<sup>199</sup>

Often an engagement occurs prior to the actual marriage, which can last up to years. In some communities, part or half of the bride-price is given at the time of the engagement. The remainder is exchanged at the time of the marriage. Most worrisome are early engagements where the girl is not permitted to remain with her family until the actual marriage occurs. Reports indicate that it varies whether or not the girl remains with her own family during the engagement or is immediately transferred to live with the groom and his family. A girl removed from her home

---

<sup>193</sup> Civil code

<sup>194</sup> See Annex 7.2 Afghan Civil and Penal Codes, Article 71

<sup>195</sup> See Annex 7.2 Afghan Civil and Penal Codes

<sup>196</sup> Civil code

<sup>197</sup> The drought lasted approximately three years, and was followed by four years of poor harvests in the North. (*Child Brides and Indentured Labour in Jawzjan and Samangan*, GOAL report, Tim Stewart and Mohammad Nadir, 26 June 2003.)

<sup>198</sup> *Child Brides in Northern Afghanistan – A Coping Strategy Halted by WFP Food Aid*, GOAL Ireland, Catherine Dunnion, July 2002.

<sup>199</sup> *Child Brides and Indentured Labour in Jawzjan and Samangan*, GOAL report, Tim Stewart and Mohammad Nadir, 26 June 2003

during the engagement period is vulnerable to physical, sexual and emotional abuse, as she is removed from the support network of her nuclear family.

Some survey participants responded that they had received complaints that young brides are often treated as servants. One survey response said: "Many cases (were) reported where husbands marry young girls with the specific purpose of looking after the ailing mother or relative while the husband goes to Iran for work. Many girls are treated little better than slaves."<sup>200</sup>

Aside from mistreatment, early marriage can also result in negative health repercussions. Physical, sexual and psychological damage has been attributed to sexual intercourse when a body that has not reached maturity. The chances of death during childbirth (the maternal mortality rate) for women between 15-19 years is doubled compared to women in their twenties. The rate of death is six-fold for girls under 15 years.<sup>201</sup> According to a health assessment of four provinces in Afghanistan in 2002, the mortality rate was determined to be one of the highest in the world: 1,600 maternal deaths per 100,000 live births.<sup>202</sup>

It appears that many of the early marriages stem from community acceptance of early marriages, the belief that being unmarried is a bad reflection on the family for that girl, and the economic desperation experienced by families whose only perceived option is to obtain money by taking a bride-price.

Here are some reports of bride-price as motivation for early marriage:

- There are confirmed reports that young girls are being sold forcefully by parents for between US\$200 - 1000 in the Northeast. Some of these girls are being brought to Pakistan.<sup>203</sup>
- In the North, there are anecdotal reports of some Turkomen families marrying young girls skilled at carpet weaving to carpet dealers. The family receives a substantial bride-price due to the high profits that the dealer will make from her weaving skills. The marriage is a method of legitimising a business transaction, in which an Afghan woman can spend her time in the residence of someone, other than a nuclear family member. It would be impossible for an Afghan woman to work in the presence of unrelated males in many provinces, due to culture and traditions relating to the chastity and honour of women.<sup>204</sup>
- In an IDP camp in the West, there are many cases of early marriage. Daughters are engaged between 4-10 years and married between 8-14 years of age. In three NGO-run schools for girls in this camp, it was discovered that at least 80per cent of the girls in each class were engaged. The estimated age range of the students is 4-16 years. The bride-price received provides enough income to sustain the entire family for an unspecified amount of time.<sup>205</sup>
- Two years ago, a man married his 11-year old daughter to a Kuchi man. He received a bride-price. The man and his daughter were from an isolated

---

<sup>200</sup> Survey response

<sup>201</sup> *Early Marriage: Whose Right to Choose?*, Forum on Marriage and the Rights of Women and Girls, May 2000. (taken from Barnes, G and Paton, L. 'The Child Brides' video 1998)

<sup>202</sup> E/CN.6/2003/4

<sup>203</sup> Information provided an inter-agency meeting on protection. The meaning of "sold" is not clarified

<sup>204</sup> Interview with government official

<sup>205</sup> Survey response

village. He reported that he was economically driven to sell his daughter. The daughter went to live with the Kuchi man until she was of “marriageable age.” The father was employed at an NGO and later quit, stating that the income wasn’t worth a change in lifestyle, as he missed his village.<sup>206</sup>

- A girl, age eight, from the West, was married to a 48-year old man in March 2003. The mother of the girl is deceased, and the father is an opium addict. There was no sexual contact, but there was a *nikkah* or formal marriage. The *saranwali*, public prosecutor, took custody of the girl and facilitated a divorce. The marriage was considered illegal and grounds for divorce because the girl was under-aged. The court and the law will not permit marriages “of this age.” Early marriages are occurring because people are creating their own interpretation of *Sharia* law, frequently citing the example that the Honorable Prophet Mohammad married Aisha, aged 9, as justification. Under the law, the father and husband can be charged. There has been no punishment enacted against them, however. The primary problem with the judicial system is lack of consistency and that judges are making independent decisions on cases. Judgments are being based on an interpretation of *Sharia* law and civil and criminal codes, and lack consistency.<sup>207</sup>

Early marriages were reported among particularly vulnerable groups, such as returnees, IDPs, people in areas stricken by the drought, and destitute families. Early marriages among IDPs were reported in Jawzjan, Samangan, Herat, Kabul and Kunduz<sup>208</sup>.

#### Early marriage from Afghanistan to neighbouring countries

International assistance agencies operating in Afghanistan have received reports of children being sent to Iran and Pakistan for early marriage. The reports received indicate that the girls are from Faryab, Samangan, Sar-i Pul, and Kunduz provinces, many of whom are nomadic Kuchis.

- In a settlement in Jawzjan province, UNHCR monitors discovered that certain Kuchis<sup>209</sup> are marrying girls for a bride price ranging from US\$200 - 1000. The girls are married to men living in Pakistan and families “acknowledge that once the girl leaves, they lose total contact with her.” Interviews with some of the mothers revealed that the girls are below the age of 10 years.<sup>210</sup>

#### Early marriage among Afghans in neighbouring countries

In a child protection-monitoring program conducted in a refugee camp in Pakistan,<sup>211</sup> refugees identified early marriage as a key issue to be addressed. Children and adults interviewed cited economic incentives as one of the primary reasons for families choosing to marry their girls at an early age. Girls were married for the families to receive a bride-price and also given to moneylenders for debt alleviation.

Marriages occurring under the age of 16 years are illegal under Afghan civil law. It is often argued that when economic motivation supersedes the family’s acting on behalf of the best interest of the child, then early marriage becomes sale of a human being.

<sup>206</sup> NGO interview

<sup>207</sup> Interview with a legal authority (Saranwali)

<sup>208</sup> Verbal reports on two girls, aged 4 and 7 years, sold for marriage in an IDP camp outside Kunduz (*Out of Sight, Out of Mind: The Fate of Afghan Returnees*, Amnesty International, June 2003)

<sup>209</sup> Nomads

<sup>210</sup> Information provided by UNHCR

<sup>211</sup> *Child Protection – The Kotkai Experience*, Save the Children UK, June 2002

That decision places the child in a situation resembling an institution similar to slavery, as it is irreversible. She has not consented or been given the opportunity to consent, and she is removed from the protection of her “home.” Regardless of whether the interest for financial gain stems from destitution and meeting basic survival needs, or the mere added benefits of additional funds, money and/or goods is exchanged for the purpose of placing that child within the institution of marriage.

## 4. GOVERNMENT ACTIONS TO COUNTER TRAFFICKING

---

### 4.1 National Development Plan 1382 -1384 (March 2003 - 2005)

The Ministry of Finance (MoF) solicited programs and budgets for incorporation into the Public Investment Program for each of the national priorities. The Ministry of Women's Affairs submitted recommendations for financial support of activities, including *Focused Campaigns on Increasing Community Awareness, Resource Allocation and Service Provision for Women and Girls Issues and Concerns*. A National Campaign against Violence against Women and Trafficking in Women and Children was identified as a potential focus.<sup>212</sup>

In addition, the Ministry attributed many obstacles that women face to re-emerging traditions and cultural beliefs. "Some of these obstacles affects women's psychological health and physical well-being and contravene international human rights standards, e.g. early age of marriage, exchange of women for payment of feuds."<sup>213</sup>

Although recommendations were submitted to include a trafficking focus, the Cabinet only approved five MoWA projects as national priorities, none of which contain an anti-trafficking component.

#### **Consultative Groups**

The Afghan Transitional Government has created 12 Consultative Groups (CG) to promote national priorities and to plan, finance, and implement the National Development Budget. The CGs have been created for each national development programme and consist of government ministries, donors, and select IGOs and NGOs with demonstrated expertise in relevant areas. Advisory Groups (AG) were established for crosscutting issues, including gender.

The Gender Advisory Group, chaired by the Minister of Women's Affairs, meets on a monthly basis to mainstream gender into eight identified Consultative Groups within which gender issues must be addressed, and to liaise with the Advisory Groups on human rights and humanitarian affairs. It reports to the CG Standing Committee twice a year. The following objectives have been identified:

- 1) To promote the integration of gender equality and advancement of women into each national priority programme area through provision of high quality policy, strategy and programme advice to Consultative Groups and monitoring for it's reflection in the budget, policy, strategy and programmes of the National Development Plan.

---

<sup>212</sup> Government of Afghanistan Ministry for Women's Affairs Position Paper supporting A Public Investment Programme in Advocacy and Support for the Integration of Gender into the National Development Budget (SY 1382-84), March 2003

<sup>213</sup> *ibid.*

- 2) To promote strategy and policy coherence on gender concerns between the Standing Committee and ADF (Afghan Development Forum) and its Consultative Groups.<sup>214</sup>

Expertise and input on counter-trafficking measures was requested by the Minister through active membership on a technical working group (TWG) which addresses security, rule of law, human rights, and politics. The function of the technical working groups is to assist the MoWA to develop sound policies and strengthen coordination between relevant ministries, donors, and other parties, to ensure that MoWA priorities are voiced, and women's issues are effectively addressed. TWG members assist the MoWA in developing strategies and policies on gender issues, and indirectly build the capacity of MoWA through cooperation of MoWA staff with international experts at the (eight) identified Consultative Groups.

## **4.2 Participation in Regional Dialogues**

Officials from the Ministries of Interior and Women's Affairs participated in a capacity building workshop on Counter-Trafficking and Law Enforcement in Almaty, Kazakhstan in April 2003. The training was a component of a larger regional initiative on migration management for Central Asian states. Afghan officials liaised with counterparts from the Kyrgyz Republic, Tajikistan, Turkmenistan, Uzbekistan, Kazakhstan, and Russia, and engaged in-group discussions, and were provide tools (in the form of best practices) for prevention, protection and prosecution efforts. Government delegates concluded the workshop by providing feedback and presenting recommendations for country-specific activities to counter trafficking in their respective countries.

In addition, the TISA participated in the Bali Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime, of which IOM has secretariat responsibilities, in 2002 and 2003. Delegates from 32 countries in Asia and the Pacific attended the four-day conference and follow-up working groups<sup>215</sup> to engage in a ministerial policy dialogue, share information on concerned issues, and discuss opportunities for regional cooperation.

## **4.3 Ratification of CEDAW**

The TISA ratified the Convention on the Elimination of All Forms of Discrimination against Women on 5 March 2003. (in force 4 April 2003) The government has committed itself, through becoming a member state, to incorporate CEDAW provisions into domestic law and to ensure applicability to the population at large. This includes taking "all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women," as stated in Article 6. In addition, Article 5 (a) requires state parties to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." With regard to child marriages, Article 16.2 states that the "betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory."

---

<sup>214</sup> Proposed framework for the Work of the CG Advisory Group on Gender

<sup>215</sup> An MoI official attended the Bali follow-up conference on "Prevention of International Trafficking and Promotion of Public Awareness Campaign" 22-23 September 2003 in Seoul, Korea. 24 Bali Process participating countries and 15 observer countries attended.

A CEDAW Task Force has been established to develop strategies for promoting awareness and commitment on CEDAW implementation among government officials, and mainstreaming CEDAW provisions into the new Afghan Constitution. The Task Force is chaired by the Minister of Women's Affairs, and consists of MoWA staff, international organizations, donor agencies, and Embassies. A full-time CEDAW specialist will be deployed to work with TF members, and liaise with the Gender and Law work group and the MoWA legal department. However, education efforts must be extended to Afghan women, and in particular rural women, to increase the basic level of understanding of the rights entitled to them within this Convention.<sup>216</sup>

The Transitional Islamic State of Afghanistan has also acceded to the Protocol on the Sale of Children, Child Prostitution and Child Pornography, supplementing the Convention on the Rights of the Child.

## **4.4 Other Legal Efforts**

### ***Regulation of jirgas / shuras***

The Judicial Commission is drafting a law to regulate the proceedings and decision-making practices of the tribal councils; the *jirgas* and *shuras*.<sup>217</sup> Within this law, language will be incorporated which bans the practice of exchanging women as a form of compensation in the settlement of disputes and/or blood feuds.<sup>218</sup> A legal recognition banning the practice paves the way for increased awareness on the issue and provides a legal avenue for victims to access.

### ***Inter-Ministerial Commission***

An inter-ministerial commission has been established to review trafficking in persons, draft domestic legislation banning trafficking, and to review international instruments relating to trafficking for Afghanistan to become party.<sup>219</sup> The Commission consists of select officials from the Ministries of Defence, Foreign Affairs, Justice, Interior, Frontier Affairs, and National Security. Although members of the Commission have indicated their intention to work with the international community for the development of comprehensive legislation, the Commission has not yet convened.<sup>220</sup> It should be noted that key offices were not invited to be members of the Commission e.g. the Ministry of Women's Affairs and the Afghan Independent Human Rights Commission.

### ***Afghan Independent Human Rights Commission***

The Afghan Independent Human Rights Commission reviewed existing penal codes and submitted recommendations to the Judicial Commission on provisions to combat trafficking.

---

<sup>216</sup> The Minister requested assistance from international agencies on specific measures to promote articles in the CEDAW. One of the recommended actions for Article 6 was for Ministerial advocacy with the Constitution Commission for the inclusion of an article prohibiting slavery and slavery-like practices into the new Afghan Constitution.

<sup>217</sup> The draft legislation will be presented to the Legislative Department, MoJ, before submission to the Cabinet for approval.

<sup>218</sup> Interview with judicial official

<sup>219</sup> Based on discussions with TISA officials and the Afghan Independent Human Rights Commission

<sup>220</sup> As of September 2003



#### **4.5 Counter-trafficking Office, Ministry of Interior**

A new department within the Ministry of Interior has been designed and proposed to combat organized crime, and includes an office to counter trafficking. The office will be responsible for law enforcement efforts to halt smuggling and trafficking in persons, including organ trafficking. The office will be situated within the Ministry of Interior in a parallel structure with offices addressing other issues relevant to organized crime. The structure has not yet been approved by the Minister of Interior or President Karzai.

## 5. CONCLUSIONS

---

“In rural areas, where local customs prevail, girls may be bartered and sold, or captured as war booty.”<sup>221</sup>

Despite the fact that improvements have been made for women and girls in Afghanistan, severe human rights abuses are still occurring, including the abuse of trafficking in persons. Trafficking in Afghanistan includes many forms, including forced marriages through abduction and for debt release; early marriages; the exchange of women for dispute settlement; abductions of women and children, including boys, for sexual and domestic servitude; situations of forced labour; forced prostitution and sexual exploitation of children. It is occurring to Afghans within and from Afghanistan, to Afghans in neighbouring countries, and to some extent, to foreign nationals being trafficked to and through Afghanistan.

Other human rights abuses with trafficking-related elements are also being inflicted upon Afghans. These include forced recruitment into armed groups, forced labour for poppy cultivation activities, such as harvesting and transportation, hostage-taking of smuggled persons subjected to forced labour and other forms of exploitation, and the abduction or deception used for forced religious training of minors.

### ***Who is trafficked?***

Afghans victimised by traffickers within Afghanistan represent vulnerable populations, including refugee returnees, deported persons, internally displaced persons, communities affected by the drought, and other destitute groups. Traffickers also target persons seeking employment opportunities in other countries, and prey upon their desire for a better life through facilitated illegal entry, followed by exploitation. Afghan refugees in neighbouring countries are victimised for many reasons, including lack of access to basic services and protection, poverty, as well as the same traditions practised within Afghanistan, such as exchanging women for dispute settlement.

### ***Who are the traffickers?***

The identity of the traffickers depends on the type of trafficking committed. Forced marriages are committed by families (i.e. for debt release), criminals, and members of armed groups. The exchange of women and girls for dispute settlement can be an informal arrangement among two families, or a decision issued by a community forum or *jirga*. Afghan authorities have identified smuggling rings in three provinces. Networks of smugglers commit abuses against those who use their services. Prosecutions in Iran and interviews with Afghans, who have used smugglers, indicate that Baluchi tribesmen are active in this operation. Additionally, abuses with trafficking elements are committed by various actors e.g. early marriages are arranged by family members.

---

<sup>221</sup> Emerging Challenges: Closing Gaps in the Protection of Afghan Women and Girls, Women's Commission for Refugee Women and Children, March 2003

### ***Push/Pull or enabling factors***

The UN Commission on Human Rights has stated that the precarious legal, social and economic situation of women and girls are factors which increase their vulnerability to trafficking and other forms of exploitation.”<sup>222</sup> Trafficking and exploitation of women and children is exacerbated during armed conflict and in post-conflict situations. The specific protection needs of women against sexual violence in war, including rape and prostitution was recognised in the Fourth Geneva Convention, and in Additional Protocols I and II. The prevalence of trafficking in Afghanistan, and the various forms it takes, can be attributed to many factors, including a long-standing conflict, lack of internal security, effects from the drought, and socio-economic reasons. Some traditions constitute its own distinct form of trafficking, such as the exchange of women to end feuds. The lack of security enables the above-mentioned push factors to occur undeterred and creates an environment where criminal activity can flourish without accountability or punishment.

Culturally enabling factors of trafficking include a lack of understanding of the current judicial system, including existing national and *Sharia* law, and the laws by which citizens are expected to abide by, and an inadequate understanding of the long-term physical and psychological effects of trafficking on victims, particularly forced prostitution, sexual servitude, and other forms of sexual violence and exploitation. There is a lack of recognition that some traditional practices have devastating consequences on the victim and community.

### ***Obstacles to combating trafficking***

It is difficult for the central government, to halt trafficking, particularly tribal practices, which have harmful effects on women and girls, because of the lack of a mechanism through which to notify the government in Kabul, and in the provincial capitals of such incidents.<sup>223</sup> The inability of women to access the judicial system because of restrictions on movement without a *mahram*,<sup>224</sup> especially if the woman is attempting to report abuse inflicted upon her by her family, contributes to the government’s lack of understanding of the extent of the problem, and its inability to curtail these practices. A woman can in fact be imprisoned for leaving her family, which makes travelling to another village or city, if a venue exists there where she can issue complaints (i.e. AIHRC), a danger to her personal security. The overall insecurity factor also acts as a deterrent against reporting cases.

### ***Correlation between insecurity and trafficking***

IOM assists governments to develop strategies to counter trafficking, within the context that trafficking is an exploitative form of irregular migration involving the violation of the migrants’ human rights and that such criminal activities and the presence of criminal networks has an impact on national security. Over 22 years of internal conflict, the continued presence of armed militias across the country, the present stage of national reconstruction, and lack of central government authority in the provinces, are all factors and security concerns that have a direct impact on the prevalence of trafficking in Afghanistan. The presence, mobility and impunity of armed factions have perpetuated trafficking through direct involvement,<sup>225</sup> and by preventing the protection and assistance of victims through its influence and authority across Afghanistan. Fighting between factions and overall insecurity has also

---

<sup>222</sup> E/CN.4/Sub.2/2001/26

<sup>223</sup> Interview with judicial official

<sup>224</sup> Male relative

<sup>225</sup> As reported by victims, and agencies that assisted victims

prevented international organizations from operating in certain areas,<sup>226</sup> which denies Afghans access to some forms of assistance. It also creates an environment where abuses occur “out of the range of the international eye,” increasing the vulnerability of victims and potential victims.

### ***Special note on assistance to victims***

All efforts to prevent trafficking and assist victims must recognise and take into account the ramifications of sexual violence on Afghan victims, their families and communities. Through this recognition, more effective prevention and assistance measures could be implemented. Considerable effort should be focused on the ‘proper ownership of shame.’ Blame, stigma and the severe diminishment of honour is placed on the woman or girl, and is perceived as having a direct reflection on her family. While shame is an appropriate response to a crime of this egregious nature, it is commonly misplaced. Perpetrators who commit such crimes must be prosecuted to the full extent of the law, irrespective of their ethnic background, political affiliation, or authority over armed factions, and where there are gaps in the current legal structure appropriate legislation must be developed. Government recognition of guilty persons and definitive action taken against them will serve three purposes. It will reinforce the appropriate placement of responsibility on the individual who committed the crime, rather than on the victim. It will demonstrate the government’s commitment to the protection of human rights and the pursuance of justice. Lastly, it will contribute to the end of the perception that those who bear arms are exempt from criminal liability.

---

<sup>226</sup> Travel to areas outside Kandahar city, and to Zabul, Uruzgan, and Helmand provinces is restricted for all UN agencies.

## 6. RECOMMENDATIONS

---

The following are recommendations for initial steps to combat trafficking in persons and protect and assist victims in Afghanistan:

### PREVENTION

#### *Legislation*

- Include an article prohibiting slavery and slavery-like practices in the draft Constitution to be adopted at the Loya Jirga, December 2003. **(Constitution Commission)**
- Sign and ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Make every effort to implement standards in the Protocol and other relevant instruments to which Afghanistan is already party to, and incorporate into domestic law/policy. **(TISA)**
- In efforts to conform civil and criminal codes to international standards, work for the inclusion of “abductions for forced marriage” as legitimate grounds for separation or divorce. Explore additional legal options for the protection and assistance of women in forced marriages. **(Ministry of Justice, Judicial Commission)**
- Efforts to prevent early marriages should include ensuring that there is no legal recognition of early betrothals and marriages, enact legislation, and make marriage registration mandatory.<sup>227</sup> **(Ministry of Justice)**
- Pass the draft legislation, which prohibits the offering of women and girls in the settlement of blood feuds and other inter-familial or tribal conflicts. **(Ministry of Justice, Cabinet)**
- Develop national legislation against trafficking in persons, in compliance with the Trafficking Protocol, and include a provision prohibiting abductions for forced marriage and sexual and domestic servitude. The law should be applicable to all persons. **(Commission on Trafficking, Ministry of Justice)**
- Develop and enact legal safeguards to protect women and girls from legal repercussions for leaving her family when seeking shelter or protection from violence or abuse, particularly trafficking. **(Ministry of Justice, Ministry of Interior)**

#### *Coordination and dialogue*

- Convene quarterly meetings and submit reports to the Office of the President on actions taken to combat smuggling and trafficking in persons. **(Inter-Ministerial Commission to Combat Smuggling and Trafficking in Persons)**

---

<sup>227</sup> CEDAW

- Develop a National Plan of Action to counter trafficking in persons in Afghanistan. **(TISA)**
- Continue participation in regional dialogue and cooperation on trafficking in persons and related cross-border criminal activities. **(TISA)**
- Coordinate and exchange information for the planning and execution of all counter-trafficking activities. **(TISA, national and international NGOs, UN agencies and IOs)**
- Convene the new Commission on Trafficking and ensure participation of relevant institutions. **(TISA)**

### ***Education and awareness***

- Fully implement CEDAW provisions, particularly articles 1(f), 5 (a), 6, and 16 (1a,b)(2).<sup>228</sup> Include in all training exercises for the government and general public conducted by the CEDAW Task Force, chaired by the MoWA. **(TISA, Ministry of Women's Affairs)**
- Decrease harmful traditions against women and girls through community outreach on Afghan national law. Educate local *jirgas* and tribal elders on the phenomenon of trafficking and raise awareness of victims' specific needs. **(TISA, national and international NGOs, UN agencies, IOs)**
- Support the Afghan Independent Human Rights Commission efforts to ensure access to complaint mechanisms in Kabul and the provinces. Special efforts should be focused on women and children. **(TISA, UN agencies, IOs)**
- Promote efforts to decrease stigmatisation on victims of sexual exploitation and violence through outreach and awareness-building. **(TISA, national and international NGOs, UN agencies, IOs)**
- Apply the definition of trafficking in the Protocol in all training and prevention activities. **(Afghan Independent Human Rights Commission, national and international NGOs, UN agencies, IOs)**
- Conduct focused research on forced prostitution of Afghans in Afghanistan and neighbouring countries, particularly among refugee populations. **(national and international NGOs, UN agencies, IOs)**
- Conduct awareness raising campaigns on trafficking in human beings targeting local communities. **(TISA, national and international NGOs, UN agencies, IOs)**

---

<sup>228</sup> Article 1(f): Take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. Article 5(a): States parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. Article 6: States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. Article 16.1: States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same rights to enter into marriage; (b) The same rights freely to choose a spouse and to enter into marriage only with their free and full consent; 2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

- Initiate prevention programs targeting Afghan children on child safety and crimes against children. **(TISA, national and international NGOs, UN agencies, IOs)**
- Investigate and compile data on claims of trafficking for organ removal. **(Ministry of Interior, Ministry of Health)**

### ***Push factors***

- Address factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination and prejudice through increased access to micro-credit loans, vocational training, ensuring a higher level of food security, access to education, and awareness-raising. Such initiatives would contribute to prevention of victimisation, more sustainable and safe reintegration, and serve to decrease the chances of re-victimisation. **(TISA, national and international NGOs, UN agencies, IOs)**

### ***Security***

- Ensure that trafficking and related crimes committed by armed groups are taken into consideration within the framework of disarmament, demobilisation, and reintegration (DDR) and other efforts to improve security in Afghanistan. **(ANBP, actors involved in security sector reform)**
- While addressing external criminal elements that operate in Afghanistan for terrorist, narcotics and arms related activities, include a focus on trafficking as networks and routes are often similar. Develop information-sharing mechanisms within the TISA, and between the TISA and international community. **(TISA, UN agencies, IOs)**

## **PROTECTION AND ASSISTANCE**

### ***Protection***

- Strengthen the capacity of the Forensics Department, including increased training and sensitisation on investigations of trafficking crimes, foster positive collaboration between the Dept. and the police, and develop guidelines on the role of the Dept. and on police cooperation to allow effective and objective investigation. Recognise the crucial importance of forensics in identifying cases of sexual violence, create an atmosphere where the work of the Dept. is unimpeded, and promote training and exchange of expertise (involvement of the international community) to maximise the capacity of the Dept and the subsequent protection of victims. **(Ministry of Health, Ministry of Interior, donors, UN agencies, IOs)**
- Re-examine cases of women and children, including boys, who are serving sentences for adultery, pre-marital sexual relations, or murder in self-defence (against an abuser), to determine if any persons are victims of trafficking. Release legitimate victims of trafficking and ensure appropriate counselling and medical services. Grant unimpeded access to women prisoners by the Ministry of Women's Affairs legal staff. **(Ministry of Justice, Ministry of Women's Affairs)**

- Educate and train judicial officials, law enforcement, and prison guards on trafficking in persons. Incorporate a trafficking focus into the training curriculum for lawyers and judges currently being implemented by the Judicial Commission. **(national and international NGOs, UN agencies, IOs)**
- Initiate a dialogue between NGOs and UN agencies operating in refugee and IDP camps and the AIHRC, and develop a strategy to address the issue of women and girls abducted by armed groups for forced marriage or sexual servitude. **(Afghan Independent Human Rights Commission, UN agencies, IOs)**
- Ensure methods for recording cases, referral mechanisms, and voluntary returns are contingent upon maintaining personal security for the individual, efforts to minimise additional trauma, and a thorough assessment to determine if the woman or girl is willing to and can be safely reintegrated into her family and community. **(Afghan Independent Human Rights Commission, national and international NGOs, UN agencies, IOs)**
- Incorporate anti-trafficking and anti-child labour clauses into all contractual agreements with sub-contractors. **(private sector, national and international NGOs, UN agencies, IOs)**
- Develop standard indicators to identify victims, create appropriate referral systems for victim assistance, including a reporting structure, and establish a working relationship between the police, NGOs and community groups. **(Police, Judicial Authorities, UN agencies, IOs)**
- Recognise all forms of trafficking, including trafficking for the exploitation of the prostitution of others or other forms of sexual exploitation; slavery or practices similar to slavery; servitude; and the removal of organs in all measures taken to suppress trafficking in persons, including assistance and legal protection. **(TISA)**
- Maintain confidentiality of records during compilation of data and investigation of cases. Share relevant information on past abuses of trafficking with the Afghan Independent Human Rights Commission transitional justice unit. **(Ministry of Interior, Ministry of Health – Forensics)**

### **Assistance**

- Take appropriate measures to protect the human rights of victims. Assistance extended to trafficked children, in particular boys and girls trafficked for sexual exploitation or servitude, must be catered to their specific and special needs. **(TISA, national and international NGOs, UN agencies, IOs)**
- Engage Afghan community and religious leaders to develop culturally appropriate measures to assist victims of trafficking and initiate traditional forms of healing and healthy (and accepted) methods for the restoration of honour for the victim and family. Efforts extended should include a focus on boys abducted for sexual slavery. **(TISA, national and international NGOs, UN agencies, IOs)**
- Accept reports on women and children abducted for forced marriage or sexual servitude, even if the abduction occurred prior to the establishment of



the Commission. Although the incident may have occurred in a timeframe outside the scope of the AIHRC, the human rights abuses may be ongoing and thus relevant. **(Afghan Independent Human Rights Commission – Monitoring and Investigation unit)**

- Foster and enable the opening of reception centres for victims of trafficking, including medical and legal assistance. **(Ministry of Health, Ministry of Justice, Ministry of Women's Affairs)**

## 7. ANNEX

---

### ANNEX 7.1 INTERNATIONAL INSTRUMENTS<sup>229</sup>

Afghanistan has signed and / or ratified most international human rights treaties<sup>230</sup> that recognises equality between women and men in terms of economic, social, political, civil, and cultural rights. The following is a list of international legal instruments relevant to the issue of trafficking, and the current signatory status of Afghanistan:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime (2000)

No Action

- UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)

Accession      21 May 1985

- Convention on the Rights of the Child (1990)

Ratification      28 March 1994

- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography supplementing the Convention on the Rights of the Child (2002)

Accession      19 September 2002

- Optional Protocol on the Involvement of Children in Armed Conflict supplementing the Convention on the Rights of the Child (2002)

No Action

- ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No. C182 (1999)

No Action

- ILO Convention Concerning Forced or Compulsory Labour No. C29 (1930)

No action

- ILO Abolition of Forced Labour Convention No. C105 (1957)

Ratification      16 May 1963

---

<sup>229</sup> Current as of 1 September 2003

<sup>230</sup> Including: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child, Convention on Political Rights of Women, Covenant on Civil and Political Rights, and Covenant on Economic, Social and Cultural Rights.

- Slavery Convention (1927)  
Signature<sup>231</sup> 16 August 1954
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1957)  
Ratification 16 November 1966
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003)  
No action<sup>232</sup>
- Convention on the Elimination of All Forms of Discrimination against Women (1981)  
Ratification 6 March 2003
- Optional Protocol supplementing the Convention on the Elimination of All Forms of Discrimination against Women (2000)  
No Action

## ANNEX 7.2 AFGHAN CIVIL AND PENAL CODES

### ***Kidnapping***

#### Transportation of minors

A person who, himself or through another, kidnaps a child, not yet seven years old, or someone who cannot look after himself, or leaves at large one of the persons mentioned in an uninhabited area, shall be sentenced to medium imprisonment, not exceeding three years.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 418**

If as a result of commitment of the crimes specified under Article 418 of this law, some bodily member of the child or the person (kidnapped) is defeated or lost, the offender shall be punished in accordance with the provisions of "Deliberate Laceration", or if the child or the person (kidnapped) dies, the offender shall be punished in accordance with the provisions of "Deliberate Murder".

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 419**

(1) A person who, himself or through another, kidnaps, without coercion or fraud, a child not yet eighteen years old, shall be sentenced to long imprisonment, not exceeding seven years.

<sup>231</sup> Definitive signature or participation in the Convention or Protocol (not clarified)

<sup>232</sup> As of July 2003

(2) If the kidnapped child is a girl, the offender shall be sentenced to long imprisonment, not exceeding ten years.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 420**

(1) A person who, himself or through another, kidnaps, with coercion or fraud, a child not yet eighteen years old, shall be sentenced to long imprisonment.

(2) If the kidnapped child is a girl, the offender shall receive the maximum anticipated punishment of the above paragraph.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 421**

A person who, himself or through another, kidnaps someone who is eighteen years or over, shall be sentenced to medium imprisonment (from three to five years).

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 422**

If the acts specified under Article 420 and 421 of this Law are committed by a person who has influence or authority over the person against whom the crime has been committed, or if the former is charged with the responsibility of raising the latter, or if the former is a servant of the latter, or if a number of people are involved in the act, the offender shall be sentenced to long imprisonment, not less than ten years.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 423**

A person who, himself or through another, kidnaps a woman who is eighteen years or over shall be sentenced to long imprisonment. In the case where the kidnapped woman is married, or act of adultery is committed with the kidnapped; the offender shall be sentenced to the maximum anticipated punishment.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 424**

## ***Smuggling***

### Definition

The following terms in this law shall be defined as follows:

a) Smuggling consists of the commission of one of the following transactions:

1. Import or export of allowed commodities through procedures not usual in the customs house or without customs house documents; or purchase and sale and / or retention of allowed commodities without paying the import duty.
2. Production, import, export, purchase, sale, retention and transportation of banned commodities and commodities under Government monopoly without permission from competent authorities.
3. Payment of duties, customs, fines and monopoly rights of allowed commodities by showing a different kind or quality for the commodities or in any other method causing deficits in Government income.

### Punishment

The smuggler, in addition to expropriation of his smuggled commodities, shall be sentenced to imprisonment:

- a) For one to three years imprisonment if the smuggled commodities are allowed commodities and cost more than Afs. 10.000.
- b) For one six years imprisonment: if the smuggled commodities are banned commodities and cost more than Afs. 10. 000.

In case of repetition of the crime, the perpetrator shall be imprisoned for the maximum of assigned penalty.

If smuggling is perpetrated through a band of smugglers, the organizer and perpetrator of the band shall be penalized by an imprisonment of two times that of article 13.

## ***Rape***

(1) A person who, through violence, threat, or deceit, violates the chastity of another (whether male or female), or initiates the act, shall be sentenced to long imprisonment, not exceeding seven years.

(2) In the case where the person against whom the crime is committed is not eighteen years old, or the person who commits the crime is one of the persons specified under paragraph 2 of Article 427 of this Law, the offender shall be sentenced to long imprisonment, not exceeding ten years.

## ***Prostitution and Adultery***

### Adultery, pederasty and violation of honour

(1) A person who commits adultery or pederasty shall be sentenced to long imprisonment.

(2) In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:

- a. In the case where the person against whom the crime has been committed is not yet eighteen years old.
- d. In the case where the person against whom the crime has been committed is a married woman.
- e. In the case where the offender deflowers a maiden.
- f. In the case where two or more persons have assisted each other in committing the crime or that the offenders have committed the act one after another.
- g. In the case where the person against whom the crime has been committed is affected by genital disease.

h. In the case where the person against whom the crime has been committed becomes pregnant.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 427**

## ***Labour***

### Labour contracts

Labour contract is a contract whereby one of the contracting parties commits to work for the other, under his guidance, against determined rewards.

**Chapter Two: Labour Contracts**  
**The Civil Law of Afghanistan**  
**Article 1529**

### Forced labour

A person who, through fraud or deceit, exploits or sells the working force of others or makes a transaction on the working force of others with foreign parties, in addition to compensation, shall be sentenced to long imprisonment.

**Book Two: Felonies, Misdemeanor Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 516**

## ***Legal Procedures - Police and Public Prosecutor's Office***

For purpose of implementation of the provisions of this law, the following terms shall have the following meanings:

- a. Saranwali, the high administration for public prosecution.
- b. Loyi-saranwal, the public prosecutor of Afghanistan which is the person of the Minister of Justice.
- c. Marrastial-loai-saranwal, Deputy-Public Prosecutor of Afghanistan.
- d. Saranpal, Assistant Public Prosecutor of Afghanistan.
- e. Temiz- Saranwal, Aide (Mossaaed) Associate Public Prosecutor for the High Court.
- f. Central Appellate Court Saranwal, Associate Public Prosecutor of appellate cases for crimes relating to civil servants and public security.
- g. Central Primary Court Saranwal, Associate Public Prosecutor for crimes relating to civil servants, public security, or the central offices of the Ministries.
- h. Provincial Courts Appeal Saranwal, the Associate Public Prosecutor for the provinces.
- i. Wolesswali, Primary Court Saranwal, Associate Public Prosecutor for the Woless-walis.

**Title 2: Crimes, Criminal Administration and Police**  
**Law of Saranwali 15 Hoot 1345**  
**Article 1**

The Saranwali is organized in the Ministry of Justice under the supervision of the Loyi-Saranwal.

**Title 2: Crimes, Criminal Administration and Police**  
**Law of Saranwali 15 Hoot 1345**  
**Article 2**

Professional and administrative members of the Saranwali shall be assigned to every High Court, courts of appeal, and primary courts.

**Title 2: Crimes, Criminal Administration and Police**

Law of Saranwali 15 Hoot 1345  
Article 4

The police of certain place shall commence the preliminary investigation and shall be duty-bound to dispatch officially and directly its report to the Saranwal of the place within 24 hours.

Title 2: Crimes, Criminal Administration and Police  
Law of Saranwali 15 Hoot 1345  
Article 12

### ***Scope of application of laws - Role of Sharia and civil law***

1. In case where the law has a provision, the practice of religious jurisprudence is not permitted. Provisions of this law are applicable in letter and spirit.

2. In cases the law has no provision, the court shall issue a verdict in accordance with the fundamental principles of Hanafi jurisprudence of Islamic Sharia to secure justice in the best possible way.

Chapter One: Application of Law  
Civil Law of the Republic of Afghanistan  
Article 1

Where there is no provision in the law or in the fundamental principles of the Hanafi jurisprudence of Islamic Shariat, the court issues a verdict in accordance with the public.

Chapter One: Application of Law  
Civil Law of the Republic of Afghanistan  
Article 2

#### **"Ta'zeeri" crime and penalties**

This Law regulates the "Ta'zeeri" crime and penalties. Those committing crimes of "Hodod", "Qassass" and "Diat" shall be punished in accordance with the provisions of Islamic religious law (the Hanafi religious jurisprudence).

Book One: General Provisions  
Penal Code 15 Mizan 1355  
Article 1

#### **Crimes**

Crimes are classified to felony, misdemeanor and obscenity from the point of view of seriousness.

Book One: General Provisions  
Penal Code 15 Mizan 1355  
Article 23

Felony is a crime whose doer is sentenced to death or continued imprisonment or long imprisonment.

Book One: General Provisions  
Penal Code 15 Mizan 1355  
Article 24

Misdemeanor is a crime whose doer is sentenced to imprisonment of more than three months up to five years, or cash fine of more than three thousand Afghanis.

Book One: General Provisions  
Penal Code 15 Mizan 1355  
Article 25

Obscenity is a crime whose doer is sentenced to imprisonment of 24 hours to three months, or cash fine of up to three thousand Afghanis.

Book One: General Provisions

Penal Code 15 Mizan 1355  
Article 26

### Abuse

Abuse is the attribution of something to someone, even if without reference to a certain incident, as a result of which the honour or standing of the person is hurt.

Book Two: Felonies, Misdemeanor Obscenities and its Punishments  
Penal Code 15 Mizan 1355  
Article 441

### Honour killings

A person, defending his honour, who sees his spouse, or another of his close relations, in the act of committing adultery or being in the same bed with another and immediately kills or injures one or both of them shall be exempted from punishment for laceration and murder but shall be imprisoned for a period not exceeding two years, as a "Tazeeri" punishment.

Book Two: Felonies, Misdemeanor Obscenities and its Punishments  
Penal Code 15 Mizan 1355  
Article 398

## ***Children's Rights***

### Responsibility of parents and guardianship

The father shall be bound to pay for the maintenance of his son who is attaining majority age but is poor and has no ability to work. He shall also provide for the maintenance of his daughter, who has attained the age of majority but is poor, until she gets married.

Topic 10: Children's Rights  
The Civil Law of Afghanistan  
Article 257

Where the father is not able to pay for the maintenance of his children, and if he is not able to work, the responsibility for providing maintenance to the children shall be transferred to the guardian next to the father.

Topic 10: Children's Rights  
The Civil Law of Afghanistan  
Article 259

Where the father is insolvent but not unable to work, his responsibility for providing maintenance to his children shall not be discharged. In such case, the guardian next to the father shall be bound to pay for the expenses, and he shall demand the charges at the time of father's opulence.

Topic 10: Children's Rights  
The Civil Law of Afghanistan  
Article 260

### Child Endangerment

(1) A person who himself or through someone else endangers the life of a person who has not completed the age of fifteen or due to health, mental or psychological state is incapable of protecting himself, shall be sentenced to medium imprisonment of not more than three years or cash fine of not more than thirty six thousand Afghanis.

Book Two: Felonies, Misdemeanor Obscenities and its Punishments  
Penal Code 15 Mizan 1355  
Article 358



## ***Debt***

Whenever the debtor borrows money from a third party with the objective to pay the debt, he can make the person who offered the loan as locum tenens to the creditor whom he fulfilled his obligation. If the person is not fully agreed with this issue, it should be mentioned in the contract that the loan is to pay the payment of a debt. It should be clear that the payment is made from the debt taken from the third party.

**Chapter Two**  
**The Civil Law of Afghanistan**  
**Article 905**

## ***Right of Defence***

Legitimate right of defence permits the threatened person to make use of any necessary means for the purpose of defending against any criminal act that poses a material loss or danger of life to the defender or someone else.

**First Book: General Provisions**  
**Penal Code 15 Mizan 1355**  
**Article 58**

Intentional murder on the basis of exercising the legitimate right of defence is not permitted, unless it takes place for defence against one of the following acts.

1. Defence against an act, which poses the fear of death or serious injury, provided the said fear is created by reasonable instruments.
2. Defence against the act of adultery, homosexuality or threat to either.
3. Defence against human kidnapping.
6. Defence against unauthorized entry at night into residential house and/or its annexes.

**First Book: General Provisions**  
**Penal Code 15 Mizan 1355**  
**Article 61**

(1) A person who takes up the leadership of group of criminal or, one way or another, takes up such leadership with the intention to loot, extort and plunder land and properties of the State or that of a group of people, or resist against soldiers or security forces responsible for vanquishing such criminal groups, the person shall be sentenced to death.

(2) A person who directs: and manages such criminal groups mentioned in the above paragraph shall be sentenced to continued or long impotents. In the light of circumstances.

(3) The rest of the members of the criminal group mentioned in the above paragraph shall be sentenced to long imprisonment, in the light of circumstances.

**Book Two: Felonies, Misdemeanor, Obscenities and its Punishments**  
**Penal Code 15 Mizan 1355**  
**Article 213**

## ***Hostage-taking***

(1) A person who holds as hostage another person through threat, coercion, or another means, shall be sentenced to long imprisonment.

(2) If the person, held hostage, is wounded, killed or disabled, the offender shall be sentenced to the anticipated punishment of the crime committed, provided the punishment is not less than the punishment stated under the above paragraph.

(3) If the offender has acquired money or any other good as a result of committing the crime specified under paragraph 1 of this Article, he shall be adjudged to return the same good, or its equivalent, too.

Book Two: Felonies, Misdemeanor, Obscenities and its Punishments

Penal Code 15 Mizan 1355

Article 515 (1-3)

## ***Marriage***

### Mah'r or Marriage Portion

The bride's mah'r shall be fixed at the contract meeting and defined in the marriage document. If the mah'r is immovable goods, the four bounds of that mah'r shall be registered in the marriage document.

Title Three: Civil Law

Law of Marriage 17 Assad 1350

Article 14

Mah'r is the right of the bride and must be paid to her. The immediate and deferred mah'r must be defined in this marriage contract and according to the provisions of this law should be paid to the bride or her Sharia representative.

Title Three: Civil Law

Law of Marriage 17 Assad 1350

Article 16

Marriage-portion shall be considered the property of the wife. She can exercise any ownership power over her marriage-portion.

Topic Seven: Evidence of Marriage

Civil Law of the Republic of Afghanistan

Article 110

The wife cannot be forced to place all or part of her marriage-portion at the disposal of the husband or any other person. When the wife dies before acquiring all her marriage-portion, her heirs can demand from the husband the marriage-portion and in case of the death of the husband, they can demand it from his heirs.

Topic Seven: Evidence of Marriage

Civil Law of the Republic of Afghanistan

Article 114

### Marriage age

Marriage shall not be considered adequate until the male completes the age of 18 and the female the age of 16.

Topic Six: Marriage

Civil Law of the Republic of Afghanistan

Article 70

1. Where the girl does not complete the age provided under Article 70 of this law, the marriage may be concluded only through her father or the competent court.

2. The marriage of a minor girl whose age is less than 15 shall never be permissible.

Topic Six: Marriage

Civil Law of the Republic of Afghanistan

Article 71

The marriage of a bride and groom, who have not reached the age of maturity, cannot be considered a matured marriage. The age of the groom is

fixed by his identity card. For the age of the bride, the court will take into account the information given by the bride or her parents.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 3

### Legality of marriage

A marriage proposed and accepted by willing parties should be made in the presence of witnesses in accordance with the provisions of the honorable Sharia (Islamic Law). The wedding ceremony is invalid if it is done according to custom and tradition prior to the marriage contract.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 1

The marriage certificate is a document printed in the court for the benefit of the couple.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 2

A marriage certificate that is not arranged according to the provisions of this law is not valid.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 4

A marriage contract for a minor, in the absence of the permission of a Sharia wali (custodian) or a legal marriage certificate, is not valid.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 19

Whenever the wali of the bride or bridegroom has a bad moral reputation and the marriage is not of foreseeable benefit to the minor boy or girl, the marriage is not to be held. If the marriage of the minor boy or girl is for the material use of the wali, the marriage contract is invalid.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 20

No one, including the relatives of the deceased husband, has the right to contract the widow to anyone without her consent, or to prevent her from (making) a Sharia contract.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 24

The marriage of a person to the widow of one of his ancestor and to the widow of his descendants shall be permanently prohibited. Similarly, the marriage of a person to progenitresses of his wife is absolutely forbidden and to the descendants of his wife is permanently prohibited.

Topic Six: Marriage  
Civil Law of the Republic of Afghanistan  
Article 82

(1) A person who gives in marriage a widow, or a girl who is eighteen years or older, contrary to her will or consent, shall be sentenced in view of the circumstances to short imprisonment.

(2) If commitment of the crime specified under the above paragraph is for the purpose of “Bud dedan” (as compensation for a wrongdoing), the offender shall be sentenced to medium imprisonment not exceeding two years.

Book Two: Felonies, Misdemeanor Obscenities and its Punishments  
Penal Code 15 Mizan 1355  
Article 517

A marriage contract cannot be taken in lieu of debt or bad (blood money).

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 21

### Marriage to foreigners

In case one of the contractors (of the marriage) or both are citizens of any foreign state, if they have residence in Afghanistan, the provisions of Articles 18 will be applied in the absence of objections based on the Sharia. In a foreign country, if one of the contractors (of the marriage) or both of them are citizens of Afghanistan, by going to an Embassy or other Afghan agency, provided that there is no Sharia prohibitions to the marriage, the marriage certificate may be given in accordance with the provisions of this law by the Afghan agency.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 23

### Government regulation of marriages

The Ministries of Interior and Justice and the mayors of the cities are charged with the prosecution and supervision of the enforcement of the provisions of these regulations.

Title 3: Civil Law  
Law of Marriage, Weddings, and Circumcision 8 Hamal 1338  
Article 12

Recording births, deaths and marriages in a special ledger and making a complete report monthly to the statistics offices.

Title 1: Provincial Administration, Municipalities and Elections  
Law of Municipalities 16 Jadi 1336  
Article 9(22)

## ***Separation***

### Separation

If the husband becomes absent, without any reasonable excuse, for a period of three years or more, and in case the wife suffers a loss as a result of his absence, she can demand separation from the court even though the husband may own such property from which the wife can provide her maintenance.

Topic Seven: Evidence of Marriage  
Civil Law of the Republic of Afghanistan  
Article 194

## **Divorce**

### Divorce and annulment

1. Divorce is the dissolution of marriage relationship in the present or in the future between husband and wife through words which could clearly express the occurrence of divorce.

2. Divorce shall be issued by husband in the authoritative court according to the provisions of this law.

Topic Seven: Evidence of Marriage  
The Civil Law of Afghanistan  
Article 135

The women may, in accordance with the provisions of the Sharia, demand her divorce or separation in the related court.

Title Three: Civil Law  
Law of Marriage 17 Assad 1350  
Article 35

Following are the cases which cause the annulment of marriage contract as mentioned in Article (132):

- 1) Disruption at the time of marriage may arise from the following causes:
  - b. Lack of one of the conditions necessary for correct marriage
  - c. Insanity
  - d. Deficiency in the nature of marriage-portion fixed for the wife
- 2) After-the-marriage disruption, which may hinder continuation of marriage may arise from:
  - a. Legally prohibited marriage
  - b. Cursing
  - c. Refusal of the wife disbelieving in the heavenly books to become a muslim while her husband has become a muslim

Topic Seven: Evidence of Marriage  
The Civil Law of Afghanistan  
Article 133

## **ANNEX 7.3 DECREE OF THE ISLAMIC EMIRATE OF AFGHANISTAN (TALIBAN)<sup>233</sup>**

Women's Rights in Society

No. 104

18 May, 1419 (lunar year)

Whereas women possess legitimate rights in the Islamic jurisprudence which with obtaining that her stature and prestige will be highly protected. Unfortunately, in the Afghan society due to bad and illegal customs, the women are deprived from their legal rights and diverse atrocities are being imposed on them. Therefore, in order to prevent such injustice, I<sup>234</sup> endorse the following:

### Article 1

In case of murder of Afghan citizens of the country, nobody can give a woman in exchange for *deyat*<sup>235</sup> for murder, peace or other name to the family of the deceased.

<sup>233</sup> The inclusion of this decree is not an endorsement of Taliban policies. It is a reference on previous judicial measures issued for the protection of women. All edicts issued by the Taliban are not recognised by the present administration.

<sup>234</sup> Mullah Omar Mohammad, former Taliban leader

<sup>235</sup> Compensation

#### Article 2

- (1) The muslim citizens of the country cannot compel a widow woman to marry a family member of her husband.
- (2) A widow can marry someone in accordance with the Islamic laws on her own consent

#### Article 3

All responsible figures of the Emirate and judges are obligated to severely punish the violators of this decree.

## **ANNEX 7.4 TESTIMONY**

### ***Exchange of Daughters for Dispute Settlement***

*In 1997, an Afghan jirga in Afghanistan, was requested to review a dispute between two Afghan families. The jirga consisted of district elders and ulema. A man was accused of 'adultery' (not clear if he was married at the time or if adultery refers to pre-marital sex) with an Afghan girl. The incident occurred in Afghanistan in 1997. It was decided that the accused girl would be given to the accused boy to avoid a breach in Islamic principles. In addition, to avoid enmity and disaster, and to compensate the family of the girl, it was also decided that the younger sister of the accused would be given to a member of the other family for marriage. The girl was estimated 14 years of age at the time. It was also decided that the family of the accused would pay 200 Lacks Afghanis to the opposite family. This has since been paid.*

The case was reviewed by the Afghan Zone Chief of that province, following the decision of the *jirga*. (1997) The County confirmed that the case had been resolved by the *jirga*, elders and *ulema*. "The matter between XXX and XXX was solved by your *Jerga* and the County has confirmed and you have given XXX's minor daughter to the other side, ..." The County requested the *jirga* to 'clear the matter' of whether the girl would be given before or after the age of maturity. The County also requested clarification on whether any parties did not accept this judgment. (no specification given on whether this includes the girl's opinion, or even if she was ever queried) The *jirga* clarified to the Magistrate that most *jirga* representatives agreed that the girl would live at her father's house until she reached the age of maturity, but would spend religious holidays with the groom's family. One representative did agree to the provision, as "we don't know further more about the first accused person in this provision," indicating that the marriage may not adequately resolve the conflict. The best interests of the girl did not appear to be the questioning factor.

The girl, aged 19 years, appealed to the courts in 2002 and submitted a written affidavit objecting to the decision of the *jirga*, and refusing the marriage of which she has been agreed to. (As she is now of age to marry.) She stated "my life is in danger because the said Mr. XXX is not a man of means and is also a bad reputed person."

The case was reportedly referred too relevant authorities and UNHCR.<sup>236</sup>

---

<sup>236</sup> Survey response

## ***Forced Labour***

An Afghan woman travelled to Pakistan 14 years ago. She has 4 sons and 2 daughters. Her eldest son, 17 years, was kidnapped in late 2002.

Her son was studying at a language centre in the Northwest Frontier Province (NWFP). While studying in this centre, he met an Uzbek man who was very friendly with the students, who were primarily boys. The man apparently looked very nice and was a sympathetic person. For two months the man visited the young boys daily, talking to them outside the centre. He told them that they were living a poor life and that he could help them, if only they would go somewhere with him. He offered to take them abroad where they could work and earn money for their families. They could repay him later. Eight boys decided to accept his offer.

Soon after their consent, he told them that he would bring a van in which all of them could be taken to another place, where they would then fly to their dream land. One day, he came and told the boys to tell everyone that they were going on a picnic and would be back by evening. One of the boys was prevented from 'going to the picnic' by his brother, so he was dropped from the program.

The group, now seven boys, and the Uzbek man drove away. When they reached a check-post, three other men entered the van. These men were very rude to the boys. The boys were taken to another city, and then after three days, were transferred to a camp in a third location. In the camp, there were many other children brought from other regions of Pakistan. The children were not allowed to talk to each other. They were forced to work, breaking stones and making bricks. The interviewee's son managed to escape from the camp with another boy, and return to his home after 15 days.

In the mean time, when the woman's son initially disappeared, she and her husband became worried and started looking for him. His father went to the language centre, where he met the boy who had intended to go with the trafficker but was prevented by his brother. The boy told him that his son had gone on a picnic with 6 other boys and an Uzbek man, and drove away in a green van. The boy's father kept investigating, and was referred to an acquaintance of the trafficker – a carpet shop owner. When he arrived at the shop, he recognized a man, who assured him that his son was okay, and that he had gone on his own free will. He told the father that getting his son back, however, was not an easy task, as police and other governmental officials had to be bribed. He requested Rs. 20,000 to help him retrieve his son. The boy's family could only arrange payment of Rs. 17,000, which was given to the men. The family didn't hear from them for two days, so the father went in search again. The next day, however, his son returned and relayed how he and another boy had escaped despite the heavily guarded camp where they were held.<sup>237</sup>

## ***Smuggling, Hostage-Taking and Extortion***

A hazara family of 10 came to Iran 3 years ago. They left their village in central Afghanistan because of the fighting between the Taliban and an armed faction and in that area. They heard reports of hazara people being killed by the Taliban forces. Moreover, the prices of food had increased due to the drought. The head of family and his wife worked as daily labourers doing farm work.

---

<sup>237</sup> NGO interviewed victim's mother

The family travelled through Shaghali (near Zabol) into Iran. Baluchi smugglers helped them cross the border, and then demanded money from the family. When they couldn't afford the fee, the smuggler took the eldest son as hostage. The smuggler brought the family to Mashad, where the family had relatives, and told them to borrow the money from their relatives. They borrowed the money and paid the smuggler money, \$1,050,000Ts (US\$1400), after which the son was released.<sup>238</sup>

### ***Selling of Children***

The following is an account of an Afghan youth, orphaned during the war, and expelled from the orphanage in Kabul by the Taliban. He spent multiple years in Pakistan living and working on the streets. This is an account of one of the many hardships/experiences he had in Pakistan. (His age is unknown, as well as the identity of his birthparents and his ethnic group. He was expelled from the orphanage at the approximate age of 12 years, so the experience relayed below occurred somewhere between the age of 13 and 16 years.) To maintain the anonymity of the individual, the name “Soa” is used as a pseudonym.

“Soa” had been living in Pakistan for many years, many of which were spent on the streets. He sold fruit, drove trucks, and worked in restaurants and hotels to earn a living, and to avoid working in ‘illegal activities’ as many Afghan orphans were doing. At one point, “Soa” began working in a hotel in Peshawar. After a short period of employment, the owner of the hotel lured him through a small door into the backyard. He locked the door behind him and kept “Soa” there for a few days. “Soa” complained to one of the guards, who threatened him and explained that he had been sold and was being sent to Iran. “Soa” eventually convinced the guard to allow him to use a bathroom. While walking through the hotel, he slipped a note to one of the wait staff, a friend, explaining the situation. He was taken back to the yard. A group of friends apparently entered the restaurant a short time later and questioned the owner on “Soa’s” whereabouts. The owner denied holding “Soa” captive. Two days later, the same group returned and questioned the waiter to whom the original note had been given. The group figured out that “Soa” was being held, and beat the owner of the hotel until he confessed. “I sold him to another person to take him to Iran.” The group broke the door to the backyard and released “Soa.” The incident was reported to the police, but no information on whether any follow-up action was taken is available. “Soa” learned that an Afghan boy in Peshawar and Afghan girl from Lahore had also been sold and were being transported to Iran. No information is available on the location or status of these children.

Although he can’t confirm this, “Soa” believes that Afghan children are being sold to Iran to work as domestic servants or other forms of forced labor. Traffickers use various methods to obtain Afghan children in Pakistan, including trickery and abduction. He feels this is happening in all major cities in Pakistan.<sup>239</sup>

## **ANNEX 7.5 ROUNDTABLE DISCUSSION**

IOM facilitated a workshop in coordination with the Ministry of Women’s Affairs to address the definition of trafficking in the Afghan context. It was the first government-hosted forum in Afghanistan to discuss trafficking in persons. NGOs were invited to participate and provide input on the various forms of exploitation occurring now and during the 1990s. The international definition, as defined in the Protocol on Trafficking supplementing the UN Convention against Transnational Organized

---

<sup>238</sup> Survey response

<sup>239</sup> Account from an Afghan former street child



Crime, was reviewed, and current cases were discussed taking into account the history of Afghanistan, and strong cultural traditions.

### ***Participants***

Roundtable participants included international organizations, Afghan NGOs, human rights activists, and Ministry of Women's Affairs staff. Organizations with a focus on assistance to vulnerable populations, human rights or gender, or a demonstrated institutional understanding of trafficking through public policy statements or program implementation in other countries were invited to participate. (\*Note: No organizations in Afghanistan are currently focused on counter-trafficking, although some may have assisted victims within the context of implementing broader assistance programs.) The participant list was kept small to promote genuine and active dialogue among people.

### ***Outcome***

The Protocol on Trafficking in Persons was reviewed. Copies of the definitions of both trafficking and smuggling were distributed in Dari and English to lay the groundwork for responsible discussion and to alleviate confusion on the two separate issues. An overview of common myths and misconceptions on trafficking was given. Following distribution of these tools and background information, participants were encouraged to brainstorm on trends in Afghanistan. People cited instances of 'trafficking' and examples were placed on a flip chart. Participants formed break-out sessions, where each group was requested to select examples from the brainstorming session and place them into three categories: 1) instances of trafficking which clearly fell within the scope of the international definition; 2) trafficking-like instances; and 3) instances that are not trafficking according to the definition. Justification for placement in each category was given by citing the elements that determined legitimate trafficking cases, and the elements that excluded instances from being defined as clear incidents of trafficking.

The placement and justifications provoked debate among groups, and prolonged the dialogue. The exercise encouraged participants to discuss openly and objectively. It also reinforced the need for responsible speech when citing abuses. It was emphasised that instances found not to be clear trafficking cases didn't diminish the gravity of the abuse, or the effects on the victims, but reinforced the reason and function of international instruments and the dangers of applying them broadly or irresponsibly, which could serve to decrease the credibility of reports and undermine the overall objectives of such instruments.

It was difficult to predict how participants would react in this forum. Trafficking, especially trafficking for forced sexual exploitation, is a sensitive issue in Afghanistan. People are not accustomed to speaking openly about issues that are commonly viewed as shameful and private. Discussion on acts of sexual violence remains in the private sphere, to avoid bringing shame upon the family. It was impossible to predict if participants would actively participate in an open discussion and voice concerns. Another factor considered was the mixed background of participants. There were a variety of international experts on trafficking and related issues who were familiar with terminology and global policies to combat trafficking, and there were MoWA officials, local women leaders, and NGOs staff. Would the international presence dominate the discussion? The outcome was positive and there were equal contributions. Local participants were enthusiastic and ended the workshop with requests for extensive training.

It should be emphasised that the above-mentioned forum was not a training. It served as the first open dialogue to discuss trafficking in persons in Afghanistan. The exercises partaken should not be viewed as legal determinations of what constitutes trafficking in Afghanistan. It was merely an exercise to provoke group discussion, examine the complexities in trafficking, and emphasise the importance of responsible labelling when citing abuses. The category placements are provided in the annex for background and to relay the level of understanding of trafficking and international law, and should demonstrate the need for concrete training on trafficking and other human rights issues.

## **ANNEX 7.6 ROUNDTABLE DISCUSSION: PLACEMENT OF EXAMPLES**

1. Trafficking Instances: Examples provided by workshop participants that clearly fall within the international definition, explanation for category placement, and justification elements.
  - *Abductions for sexual servitude*: During the war, men were killed by armed factions, and women and girls were being systematically raped in Kabul. Young girls were abducted from their homes for 'sexual exploitation.' In one incident, 15 girls were rescued through an act of mercy by opposition groups and removed from the high conflict zone. The girls were handed over to a group of unknown persons. Three were told that they would be reunified with their families, but learned that arrangements were being made to traffic them to an unknown destination. One girl escaped and found refuge in a sympathetic family. The fate of the other two girls is unknown.
  - *Abductions for organ removal*: Children being abducted by traffickers for the removal and sale of their kidneys. (The use or threat of the use of force to abduct children, and maintaining absolute control over the child.)
  - *False marriage for forced prostitution*: Offers of marriage to women and girls with the intent of selling them into forced prostitution in neighbouring countries and Arab states. (Deception against the woman and her family, and the transfer to another country.)
  - *Early marriage*: A girl, aged 10 years, was married to an older man with two wives. The husband married her for sexual purposes. The father agrees to the marriage for economic reasons – to receive a bride-price. (Transfer, exchange of money, and sexual benefit of husband.)
  - *Narcotics smuggling & hostage taking*: In Western Afghanistan, people are transporting drugs to Iran for large-scale dealers/smugglers. If the courier is arrested or disappears, his wife or female family member is taken by the dealers and sold for "illegal purposes."

2. Trafficking-like instances: Examples cited that fall within the grey area of the international definition, elements that make the instance trafficking-related, and reasons for not being placed in category 1.

- *Removal of organs*: Destitute families are selling organs of family members for financial gain. This is poverty induced.
- *Forced marriage and sexual servitude*: Women forcefully taken for marriage or sexual and domestic servitude. (Threat or use of force used, exploitation)
- *Early marriage for debt release*: Underage girls are married for an exchange of money, or payment of a debt. (Transfer of person against her will, benefit received, but doesn't necessarily result in exploitation.)
- *Marriage with false intentions*: Due to 23 years of conflict and severe poverty, some Afghan families permitted their daughters to marry with the understanding that they would be taken to another country. The husbands abandoned or divorced the women after a few months of marriage. Being separated from their families and support networks, and living in an unfamiliar environment, these women often fall into the hands of unknown persons. Their fate is unknown.

3. Instances outside the international definition: Examples of practices that do not fall within the scope of the international definition, and explanations why.

- *Smuggling in persons*: An individual who enlists the services of a smuggler to facilitate illegal entry into another country for employment. (No force, coercion, or deception was used. Payment received by smugglers.)
- *Marriage of widows*: It is culturally acceptable for widows to marry their brother-in-laws or other relatives to ensure her children are supported and have access to inheritance rights. The tradition maintains the dignity of marriage, where vows are exchanged and a bride-price is given to the woman. (Culture of Afghanistan, no element of sexual exploitation, no denial of women's rights, no violence against women.)  
Note: This example was cited by two groups and placed in category three.

## **ANNEX 7.7 IOM SURVEY**

### **Survey**

**Definition of Trafficking; according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime**

*The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a*

*minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*

1. Name of organization:
2. Office locations in Afghanistan:
3. What type of services do you provide to Afghans? (programs)
4. Who are your beneficiaries? (general population, returnees, IDPs, children, widows, etc..)
5. Does your organization's definition of trafficking differ from that in the Protocol? Please explain.
6. What measures, if any, is your organization taking to counter trafficking in Afghanistan?
7. Do you participate in any working groups to monitor human rights violations? If yes, please indicate name of group, location, and what violations it monitors.
8. Please cite any discussion forums your organization has participated in that addressed trafficking in Afghanistan or in neighbouring countries. Who were the participants? (government representatives, NGOs, international organizations) Include date and country/province.
9. Has your organization received reports of trafficking within, from, through, or to Afghanistan, or involving Afghans in another country?
10. Has your organization received reports of any of the following incidents in Afghanistan, or involving Afghans in another country? (If yes, please indicate how many cases for each)
  - a) Selling or loaning children for labour or other purposes
  - b) Abductions for sexual slavery or exploitation, forced marriages, or other
  - c) False marriages
  - d) Abductions or deception for forced labour
  - e) Forced prostitution
  - f) Organ stealing
  - g) Forced conscription
  - h) Coercion, threats or violence for forced drug couriership

**Or reports of the following practices:**

- i) Marrying of young girls for bride price to:
  - 1) Money lenders
  - 2) Foreigners
- j) Marrying of young girls for material goods or release of debt to:
  - 1) Money Lenders
  - 2) Other
- k) Exchange of daughters for the settlement of community disputes \_

I) Other

11. For each of the above-mentioned cases, can you provide details on the incident?
12. How did you come to hear about these cases? (source of data)
13. If your organization has received reports on trafficking in Afghanistan, how have these cases been assisted? (Please also indicate which, if any, human rights monitor was notified)
14. For persons trafficked outside, by what means did the majority cross the border?
  - a) Legal entry (e.g. asylum claim or short term visa, followed by illegal stay)
  - b) Avoiding inspection on entry (hiding in a truck, container)
  - c) Crossing a “green border” where there is no border check point )
  - d) False papers, either real passport with false visa or false passport
  - e) Other (please specify)
15. Do the reports your organization has received indicate that smuggling (drugs/arms) routes are being used to traffic persons within, from, into or through Afghanistan? Please explain.
16. Is your staff aware of foreign nationals being trafficked into Afghanistan for forced labour, prostitution or other exploitative purposes? Have you received reports of foreign nationals being exploited in Afghanistan? Please explain.
17. Have you received reports from returnees of Afghans falling victim to traffickers en route to other countries? (refugees, asylum seekers, irregular migrants) Please explain.
18. How many unaccompanied minors returning to Afghanistan has your organization assisted in the past year?

**If possible, please provide the following details:**

- a) What are their immediate protection needs?
  - b) How are they being assisted?
  - c) What efforts, if any, are being made to trace their families and reunify them?
  - d) How did they return?
  - e) Why did they return?
19. Have you received reports that displaced persons or returnees are selling their children or marrying their daughters off at an earlier age than normal for material benefit? In other words, is this group resorting to exploitative practices to meet basic survival needs? Please explain.

## **ANNEX 7.8 GLOSSARY**

AG: Advisory Group

AIHRC: Afghan Independent Human Rights Commission

ANBP:	Afghan New Beginnings Programme
CEDAW:	Convention Against the Elimination of All forms of Discrimination against Women
CG:	Consultative Group
CSE:	child sexual exploitation
ICMC:	International Catholic Migration Commission
IDP:	internally displaced person
IGO:	inter-governmental organization
ILO:	International Labour Organization
MoWA:	Ministry of Women's Affairs
MoF:	Ministry of Finance
MoH:	Ministry of Health
Mol:	Ministry of Interior
MoJ:	Ministry of Justice
MoLSA:	Ministry of Labor and Social Affairs
MoRR:	Ministry of Refugees and Repatriation
MRRD:	Ministry of Reconstruction and Rural Development
NGO:	non-governmental organization
NWFP:	Northwest Frontier Province, Pakistan
TISA:	Transitional Islamic State of Afghanistan
UAM:	unaccompanied minor
UN:	United Nations
UNAMA:	United Nations Assistance Mission to Afghanistan
UNHCR:	United Nations High Commissioner for Refugees
UNICEF:	United Nations Children's Fund
UNIFEM:	United Nations Development Fund for Women

## ANNEX 7.9 TERMINOLOGY

<i>Bad (Nikkah):</i>	tainted marriage or woman, commonly referred to women who are exchanged for the settlement of disputes or blood feuds
<i>Deyat:</i>	compensation
<i>Bud dedan:</i>	compensation for a wrongdoing; often a woman or girl is offered in marriage as the compensation
<i>Bride-price</i>	custom of a man and/or his family giving money and/or goods to the family of his bride

<i>Burqa:</i>	a dress which covers the entire body, with a small mesh area over the eyes, worn by Afghan women
<i>Darashkhas:</i>	persons ('trafficking darashkhas' has been used for 'trafficking in persons')
<i>Dowry:</i>	Pakistani custom for the family of a bride to give money or goods to the new couple and/or the groom's family
<i>Farman:</i>	decree or directive
<i>Hazara:</i>	ethnic group in Afghanistan, largely concentrated in central Afghanistan
<i>Intakal:</i>	transport or movement of people or things
<i>Jirga:</i>	an assembly or gathering of leaders to address community issues
<i>Kuchi:</i>	nomads; Pashtun and Baluchi ethnic groups
<i>Loya Jirga:</i>	grand council, usually consisting of tribal leaders and elders, where policy decisions are made
<i>Madrasa:</i>	religious school
<i>Mah'r:</i>	A monetary entitlement of 300 Afghanis to a bride, fixed in the marriage contract
<i>Mullah:</i>	spiritual leader
<i>Narkh:</i>	Pashtun tribal laws, dating back 1000s of years
<i>Nikkah:</i>	marriage
<i>Pashtun:</i>	largest ethnic group in Afghanistan, largely concentrated in the south
<i>Qachaq:</i>	illegal smuggling in people or goods
<i>Saranwali:</i>	district attorney
<i>Saranwal:</i>	office of the district attorney
<i>Sharia:</i>	basic principles of Islamic law
<i>Shia:</i>	sect of Islam, minority in Afghanistan
<i>Shir-baha:</i>	bride price or "cost of milk" (literal translation)
<i>Shura:</i>	council or association
<i>Siegha:</i>	temporary marriage, which is illegal under Afghan law

<i>Sunni:</i>	sect of Islam, majority in Afghanistan
<i>Tajalwaz:</i>	rape or sexual aggression
<i>Tajik:</i>	ethnic group in Afghanistan, concentrated in northern Afghanistan
<i>Ulema:</i>	Islamic scholar or respected elder (AREU)
<i>Urbur murour:</i>	movement of people
<i>Uzbek:</i>	ethnic group in Afghanistan, concentrated in northern Afghanistan



## 8. REFERENCES

---

Ahmadi, Belquis

2003 "Women in Decision-making and Leadership in Muslim Countries: Focus on Afghanistan," Unpublished Thesis, Ahmadi, Belquis, Washington, D.C., May 2003.

ActionAid

2000 *Shattered Dreams and Living Nightmares – A Situational Analysis on Trafficking of Women and Children in Pakistan*, ActionAid, December 2000.

Amnesty International

2001 *Annual Report 2002: Afghanistan*, Amnesty International, [amnesty.org/web/at2002.nsf/asa/Afghanistan](http://amnesty.org/web/at2002.nsf/asa/Afghanistan).

Amnesty International

2002 *Pakistan Insufficient Protection of Women*, Amnesty International, Pakistan, [amnesty.org/library/index/engasa330062002](http://amnesty.org/library/index/engasa330062002)

Amnesty International

2003 *Out of Sight, Out of Mind: The Fate of the Afghan Returnees*, Amnesty International, London, June 2003.

AP

2001 "Taliban Hang Convicted Prostitutes", AP, Feb 23, 2001

Asadullah.

2002 "Trafficking in Women and Children", paper presented at the Conference on Trafficking in Women and Children, 18 April 2002.

Child Labour News Service (CLNS)

2003 "Child Labour" CLNS, July 2003

AFP

2000 "UN report flays Taliban Rights violations against women in Afghanistan, RAWA, [www.rawa.com](http://www.rawa.com)

Anti Slavery

1999 "Bonded Labour in Pakistan", Anti Slavery, 23 June- 2 July 1999.

Aita, J.

2001 "UNICEF Calls for End to Sexual Exploitation of Children", Paper presented at the Press conference December 12, 14 December 2001.

Action Aid

2001-2003 *Challenging Power Imbalances Country Strategy Review 2001- 2003*, Action Aid, Pakistan.

Action Aid

2000 *Trafficking in Women and Children National Seminar*, Action Aid, Islamabad, Pakistan,

Action Aid

2000 *Situational Analysis on Trafficking of Women and Children in Pakistan, Shattered Dreams and Living Nightmares*, Action Aid, Islamabad, Pakistan.

AREU

2003, *Land Rights in Crisis: Restoring Tenure Security in Afghanistan*, AREU, 2003.

AIWUSA

2003 "Iranian Women Brief #58", AIWUSA, 2003.

Badkhen, A.

2002 "Reports of rape, looting by Afghan Militiamen", 15 February 2002, San Francisco Chronicle, USA, <http://rawa.fancymarketing.net/dostum3.htm>.

BBC

2003 "Afghan Child Slavery Probe" BBC, September 2003.

BBC

2001 "Analysis: Afghanistan's Tribal Groups", BBC, 15 November 2001

BBC

2003 "Trading in Women", BBC NEWS, 4 July 2003.

BBC

2003 "Tajik Northern Region Launch Campaign Against Human Trafficking", BBC, 2 July 2003.

Brurush Daily Telegraph

2003 "Parades for National Day Can't Hide Weakness in Afghan Army", 29 April 2003

CNN

2001 "U.S.: Taliban continue to profit from drug trade" CNN/U/S, [www.cnn.com](http://www.cnn.com). 4 October 2001

Coalition to Stop the Use of Child Soldiers

*1379 Child Soldiers*, CSUCS, Bentonville, London, [www.child-soldiers.org](http://www.child-soldiers.org)

Coalition to Stop Child Soldiers

2000 *Global Report on Child Soldiers 2001: Child Soldiers an Overview*, [www.reliefweb.int](http://www.reliefweb.int)

Cooperation Center for Afghanistan (CCA)

2003 "Editorial Comment", CCA, Vol. X, No. 2. February 2003.

Co-Operation for Afghanistan (CCA)

2001 *Commercial Sexual Exploitation of Children*, CCA, Galle Road, Colombo 6, [www.eureka.lk/sapint](http://www.eureka.lk/sapint).

EURASIANET

2003 "Central Asia: Governments Slowly Changing Approach to Human Trafficking", EURASIANET, 7 July 2003.

Frankfurter Rundschau

1999 "Trafficking of Afghan Women from Kabul", Frankfurter Rundschau, 7 Jan 1999

Frontier Post

2003 "Kidnapping on Rise", The Frontier Post, Peshawar, Pakistan, 16 March 2003.

Frontier Post

2003 "Amendments in Child Labour Laws Demanded", Frontier Post, 28 March 2003.

Forum

2000 "Early Marriage: Whose Right to Choose?", Speech by Mission Statement of Forum on Marriage and the Rights of Women and Girls, 2000.

Gall, Carlotta

2003 "Women Gather in Afghanistan to Compose a Bill of Rights," New York Times, 28 September 2003.

Global March

2000 *Asia Report: Afghanistan*, Global March, [www.globalmarch.org/virtual-library/csucs/country-report/asia/afghanistan.html](http://www.globalmarch.org/virtual-library/csucs/country-report/asia/afghanistan.html)

GOAL

2003 *Child Brides and Indentured Labour in Jawzjan and Samangan*, GOAL, 26 June 2003.

GOAL

2002 *Child Brides in Northern Afghanistan – A Coping Strategy Halted by WFP Food Aid*, GOAL, July 2002.

Human Rights Watch

1999 *Pakistan: Women Face Their Own Crisis*, HRW, New York, U.S.A.

Human Rights Watch

2000 *Repression of Women and Girls in Western Afghanistan "We Want to Live As Human"*, New York, USA, <http://www.hrw.org>.

IDP Project

2003 *Kuchis IDPs, the Largest of Afghanistan's Displaced Population, Need Alternative Solutions*, Global IDP Database, IDP Project, June 2003.

International Labour Organization (ILO)

2002 *Getting at The Roots, Stopping Exploitation of Migrant Workers by Organized Crime*, ILO, Geneva, Switzerland, [www.ilo.org](http://www.ilo.org).

International Labour Office (ILO)

2002 *Every Child Counts - New Global Estimates on Child Labour*, ILO, Geneva, Switzerland, April 2002.

International Crisis Group (ICG).

2003 *Afghan Women and Reconstruction*, ICG, Kabul, Afghanistan.

International Human Rights Law Group (IHRLG)

2003 "National Conference on Women's Rights, Law and Justice in Afghanistan", Washington, DC and Kabul, Afghanistan, 26-27 May 2003.

IWPR

2000 "Child Sex Abuses," IWPR Afghan Recovery Report, No 29, 24 February 2003.

IRIN

2003 "Daily Selection of IRIN Asia English Reports", 26 March; 1,14-17,18,22-24 April; 19,20,23,29 May; 9,24 June; 2,9 July 2003.

Jalalzai, K.M

2003 *Children Trafficking in Pakistan*, Royal Book Company, Karachi,

Kabul Times

2003 "Women from All Over Afghanistan Meet in Southern Kandahar Province," The Kabul Times, 10 September 2003.

Los Angeles Times

2002 "Self-Immolations On Rise in Afghanistan", Los Angeles Times, 18 November 2002.

Lawyer for Human Rights and Legal Aid (LHRLA)

2002 "LHRLA appreciates approval of Human Trafficking Ordinance by Federal Cabinet", 30 August 2002.

Lawyer For Human Rights and Legal Aid (LHRLA)

2001 *Year 2K: A Violent Year for Women & Children in Pakistan*, LHRLA, Pakistan.

MSNBC

2003 "Afghan poor sell daughters as brides", February 23, 2003.

Murphy, B.

2002 "For a few precious meals, the poorest sell a child (Afghanistan) [http://www.oggham.com/combodia/archive/child\\_trafficking/000379.html](http://www.oggham.com/combodia/archive/child_trafficking/000379.html), 2 August 2002.

Mcgirk, T.

2000 "Lifting the Veil on Taliban Sex Slavery", Speech presented at Times, 18 February 2002

MARPHY, J

2001 "For Afghan refugees, Childhood is Labor Children with Work Considered Fortunate", The Baltimore Sun Company, Quetta, Pakistan.

Norwegian Refugee Council

2003 Insecurity and Lack of Assistance are Major Constraints to IDP Return, NRC, [www.idpproject.org](http://www.idpproject.org).

Sullivan, K

2001 "Kabul's Lost Women", The Washington post, 21 December 2001.

Sparc

2003 *The State of Pakistan's Children 2002*, Pan Graphics (Pvt) LTD, Islamabad.

Trafficking List Serve

2001 "Iran Arrests Members of Sex Trade Ring", 25 October 2001.

LHRLA

2003 "Eleventh Asia-Pacific Workshop on Human Rights", 3 March 2003.

RAWA

1999 *Prostitution Under the rule of Taliban*, RAWA, [www.rawa.com](http://www.rawa.com).

Refugees International

2003 *A Powerful Voice for Lifesaving Action*, Refugees International, Washington, DC, USA, [www.refintl.org](http://www.refintl.org).

RFE/RL News line

2003 "Tajik Slaves Discovered in Russian Province", RFE/RL News line, 3 July 2003.

Save the Children UK

2002 *Child Protection - The Kotkai Experience*, Save the Children UK, Pakistan, June 2002.

Save the Children UK

2002 *Child Protection, Child Speak Out*, Save the Children, Pakistan.

Shawky, S., and Milaat, W.

2000 "Early Teenage Marriage and Subsequent Pregnancy Outcome," Eastern Mediterranean Health Journal, Vol. 6 No. 1, 2000.

TIMES

2002 "Lifting The Veil on Taliban Sex Slavery", TIME, 18 February 2002.

The Protection Project

2002 A Human rights Report on Trafficking of Person, Especially Women and Children, The Protection Project.

The Friday Times

2001 "Trafficking of Afghan and Pakistani Girls to Gulf States", May 9, 2001

The Mirror

2002 "Zarina's Story", The Mirror, 20 June 2002, Kabul, Afghanistan

The Guardian

2002 "Afghan Warlords Still Enforced Taliban Oppression", The Guardian, December 17, 2002.

The Guardian

2003 "Kandahar Berates Straw for a Leftover Life of Gun Law and Broken Promises", 2 July 2003.

The New York Times

2002 "Pakistani Gang Said to Kidnap Children to Be Sold Abroad", New York Times, 17 March 2002.

UN Assistance Mission in Afghanistan (UNAMA)

2002 Press Briefing by Olara Otunnu, USG and SRSG for Children and Armed Conflict, 21 July 2002.

UN CEDAW

1992 *General Recommendation No.19, Violence Against Women*, Committee on the Elimination of Discrimination Against Women, A/47/38, eleventh session, 1992.

UNECOSOC

2002 *Recommended Principles and Guidelines on Human Rights and Human Rights*, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2002/68/Add.1, Substantive session, 20 May 2002

UNECOSOC

2001 *Smuggling and Trafficking in Persons and the Protection of their Human Rights*, Note by the Secretary General, E/CN.4/sub.2/2001/26, Commission on Human Rights, Fifty-third session, 5 July 2001.

UNECOSOC

2001 *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women*, Report of the Special Rapporteur on violence against women, its causes and consequences, E/CN.4/2001/73, Commission on Human Rights, Fifty-seventh session, 13 February 2001.

UNECOSOC

2002 *Discrimination Against Women and Girls in Afghanistan: Report of the Secretary-General*, E/CN.6/2002/5, Economic and Social Council, Commission on the Status of Women, Forty-sixth session, 24 January 2002.

UNECOSOC

2003 *The Situation of Women and Girls in Afghanistan*, Report of the Secretary-General, E/CN.6/2003/4, Economic and Social Council, Commission on the Status of Women, Forty-seventh session, 23 January 2003.

UN General Assembly

2002 *Resolution Adopted by the General Assembly 57/234, Question of Human Rights in Afghanistan*, General Assembly, Fifty-seventh session, 28 February 2003.

UNHCR

2003 *Return Information Update 1-15 July 2003*, UNHCR, Kabul, Afghanistan.

UNIFEM

2001 Brussels Action Plan, Building Women's Leadership in Afghanistan, UNIFEM, Brussels, Belgium.

UNICEF

2000 *Children in War: Special Focus*, UNICEF, [www.unicef.org.uk/news/soldiers.htm](http://www.unicef.org.uk/news/soldiers.htm).

UNICEF

2002 *The State of the World's Children 2002*, UNICEF, New York, USA.

UN Security Council

2002 *Report of the Secretary-General on Children and Armed Conflict*, S/2002/1299, UN Security Council, 26 November 2002.

U.S. Committee for Refugees (USCR)

2003 *World Refugee Survey 2003*, USCR, 2003.

U.S. Congress, U.S. Government  
1999 Public Law 107-81, Congressional Record, Vol.147, USA

U.S. Department of State  
2003 "Country Report on Human Rights Practices - 2002," U.S. Department of State, Government of the U.S.

U.S. Department of State  
2003 "Trafficking in Persons Report 2003," U.S. Department of State, June 2003.

U.S. Department of State  
2003 "Trafficking in Persons Report 2003," U.S. Department of State, June 2003.

Watch List on Children and Armed Conflict.  
2001 *Afghanistan Update Recommendation to the United Nation Security Council*, WLCAC, New York, USA, [www.watchlist.org](http://www.watchlist.org).

Wareham, R.  
2003 "Trapped by Tradition", Women & Girls in Detention in Kabul Welayat, 5 March 2003, Kabul, Afghanistan.

Washington Post  
2003 "Young Girls Sold as Birds By Desperate Afghan Poor", Washington Post, 23 February 2003.

Watchlist on Children in Armed Conflict  
2001 *Afghanistan*, Watchlist on Children in Armed Conflict, 15 October 2001.

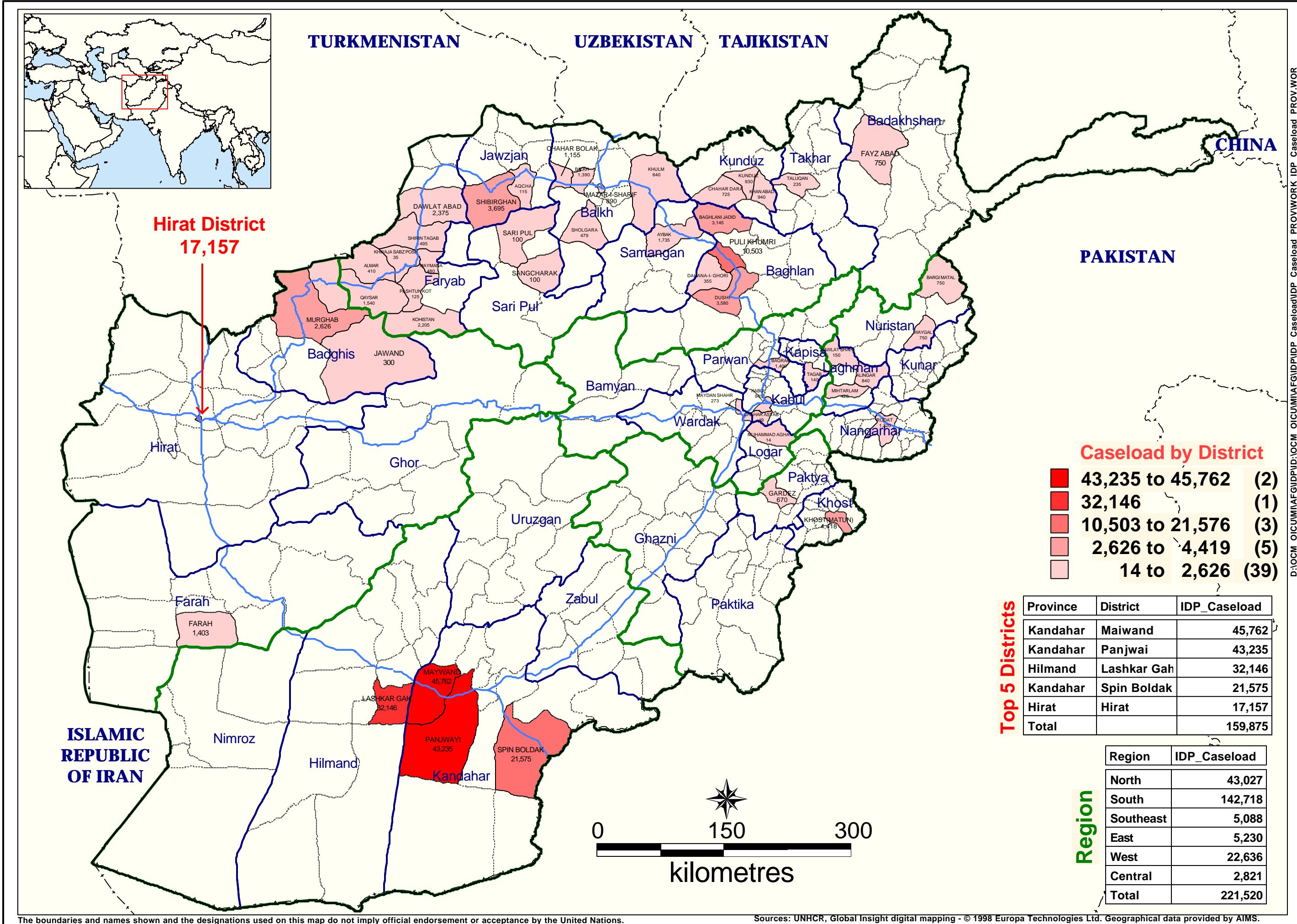
World Food Programme (WFP)  
2006 *Emergency Report No. 17 of 2003*, [www.reliefweb.int](http://www.reliefweb.int).

Women's Commission For Refugee Women and Children  
2003 *Emerging Challenges: Closing Gaps in the Protection of Afghan Women and Girls*, Women's Commission for Refugee Women and Children, New York, U.S.A. [www.womenscommission.org](http://www.womenscommission.org).

Women in Iran  
2002 "45 Iranian girls are sold in Karachi (Pakistan) every month", Women in Iran, 2002

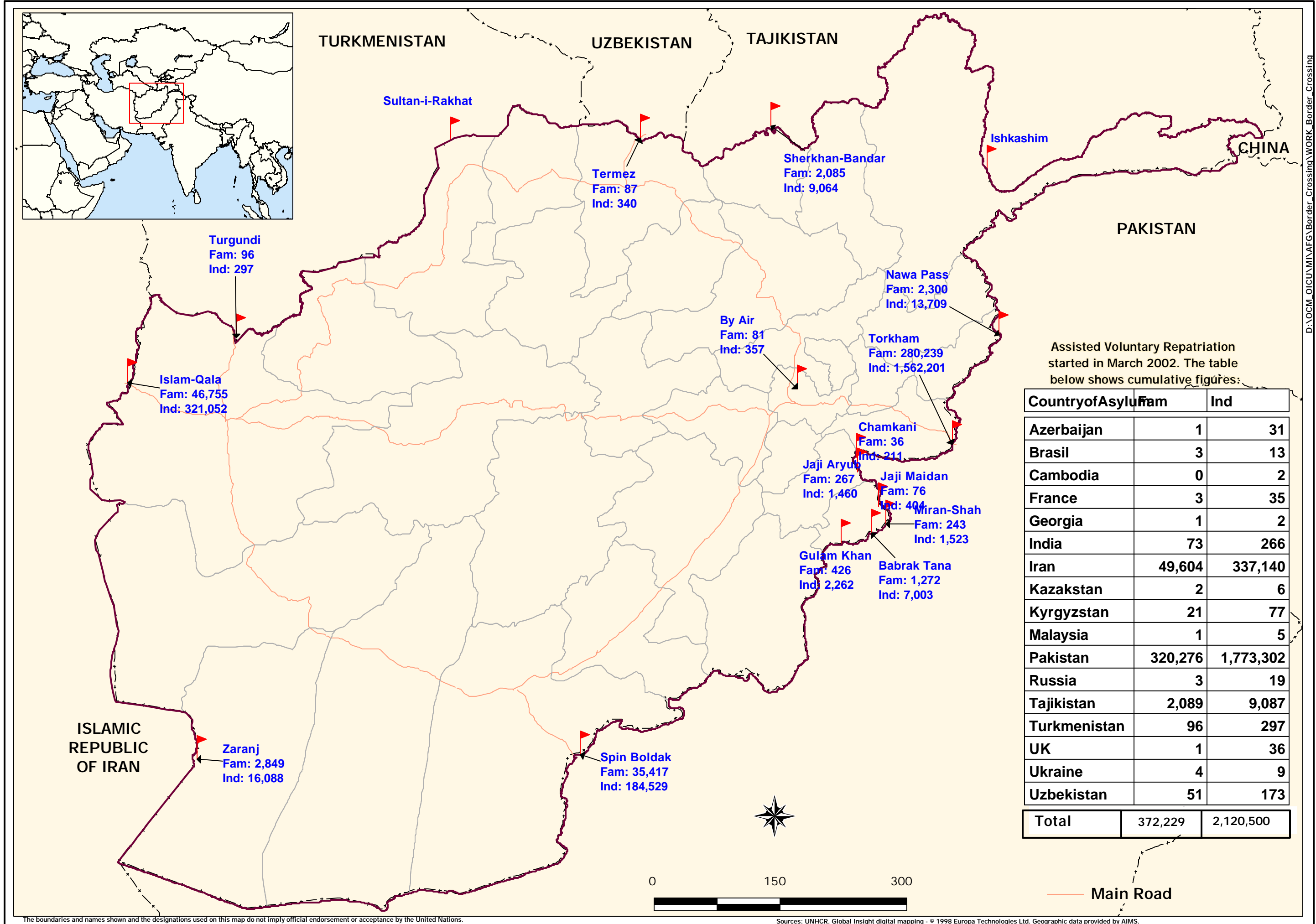
Women Living Under Muslim Laws  
2000 Afghan Women Declaration, [www.wluml.org](http://www.wluml.org), June 2000.

World Health Organization (WHO)  
2003 "Very Young Adolescents: The Hidden Young People," Technical Meeting on 10-14 Year Olds, WHO, 29 April – 2 May 2003.



D:\OCM\_OICUMIAFG\IDP\IDP\OCM\_OICUMIAFG\IDP\IDP\_Caseload\IDP\_Caseload\_PROV.WOR









**International Organization for Migration**

House No. 1093  
Ansari Wat, Shahr-i Naw  
Kabul, Afghanistan  
Tel: +00.873.762.869.855  
Fax: +00.873.762.869.856  
E-mail: [iomkabul@iomkabul.net](mailto:iomkabul@iomkabul.net)  
Internet: <http://www.iom.int>