THE RESPONSIBILITY TO PROTECT

Afghanistan's current situation, drivers of migration and returnees experience

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Edmund Rice Centre for Justice and
Community Education
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About the Edmund Rice Centre

The Edmund Rice Centre for Justice and Community Education (ERC) is a non-government research and advocacy organisation working with those made poor, to promote liberation from poverty and injustice and to work for change in order to enable a world where the fullness of life is realised. Our vision is of a just world where right relationships ensure that human rights are protected and promoted and social and environmental justice is a reality. We work to promote, protect and defend human rights, social justice and eco-justice through research, community education, advocacy and partnerships.

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## Acronyms and Abbreviations

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<th>Description</th>
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<tbody>
<tr>
<td>AAN</td>
<td>Afghanistan Analysts Network</td>
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<tr>
<td>AI</td>
<td>Amnesty International</td>
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<tr>
<td>AIHRC</td>
<td>Afghanistan Independent Human Rights Commission</td>
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<td>AML</td>
<td>Australian Migration Law</td>
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<tr>
<td>ANSF</td>
<td>Afghan National Security Forces</td>
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<tr>
<td>AUAF</td>
<td>American University in Afghanistan</td>
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<td>CAT</td>
<td>1984 Convention Against Torture</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<tr>
<td>DIBP</td>
<td>Australia’s Department of Immigration and Border Protection</td>
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<tr>
<td>ERC</td>
<td>Edmund Rice Centre for Justice &amp; Community Education</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<td>FES</td>
<td>Friedrich Ebert Stiftung</td>
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<td>HRW</td>
<td>Human Rights Watch</td>
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<tr>
<td>IAM</td>
<td>International Assistance Mission</td>
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<td>ICCPR</td>
<td>1966 International Covenant on Civil and Political Rights</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>IDPs</td>
<td>Internally Displaced Persons</td>
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<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>IS</td>
<td>Pakistan’s Inter-Services Intelligence</td>
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<tr>
<td>IS-PK</td>
<td>Islamic State of Iraq and the Levant – Khorasan Province</td>
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<tr>
<td>NUG</td>
<td>Afghanistan’s National Unity Government</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<tr>
<td>MORR</td>
<td>Afghanistan’s Ministry of Refugees and Repatriations</td>
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<td>RC</td>
<td>1951 Convention Relating to the Status of Refugees</td>
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<td>RRT</td>
<td>Refugee Review Tribunal</td>
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<td>RSM</td>
<td>Resolute Support Mission in Afghanistan</td>
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<td>SIGAR</td>
<td>U.S. Special Inspector General for Afghanistan Reconstruction</td>
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<td>SSAR</td>
<td>Solutions Strategy for Afghan Refugees</td>
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<tr>
<td>TAF</td>
<td>The Asia Foundation</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UNAMA</td>
<td>United Nations Assistance Mission in Afghanistan</td>
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<td>UNGA</td>
<td>United Nations General Assembly</td>
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<td>UNHCR</td>
<td>United Nations Refugee Agency</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>UNOCHA</td>
<td>United Nations Office for the Coordination of Humanitarian Affairs</td>
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<tr>
<td>US</td>
<td>United States of America</td>
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<td>USAID</td>
<td>United States Agency for international Development</td>
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Executive Summary

The Edmund Rice Centre for Justice & Community Education (ERC) has been documenting the fate of rejected asylum seekers returned to Afghanistan by the Australian government since 2002. This report is the continuation of ERC’s determination to investigate Australia’s most recent deportations to Afghanistan by providing an overview of Afghanistan’s current security, political, and socio-economic situation, the drivers and trends of migration, and the returnees’ experience, compiled from both primary and secondary sources. The sources selected for preparing this report include scholarly analysis, expert commentary, government and international organisations’ documents, officials’ statements, and newspaper reports as well as conducting interviews with experts and practitioners working at national and international development agencies in Afghanistan. In addition to relying on a wide range of primary and secondary sources, a number of deported Afghans from Australia, Europe and other countries have been interviewed in the context of returnees’ experience in order to broaden the focus of the report.

The report concludes that it would be impossible for Australian, European and other governments to guarantee the safety of Afghan returnees in this period of instability. Afghanistan is currently experiencing widespread conflict, intensifying violence, political instability, human rights abuses, lack of rule of law and good governance, economic hardships, and a serious refugee crisis. This has led to a situation whereby many Afghans have been forced to leave their country and seek refuge in foreign nations in numbers that have not been seen since 2001. Between 2015 and 2016, tens of thousands of Afghans fled their homes in the hope of seeking asylum in Europe and other parts of the world. What is clear is that Afghans are leaving their country for a mixture of reasons, including political, security and economic, and it is not as simple as to claim that they are only leaving because of economic reasons.

The report raises concerns that Australian, European and other governments appear to be basing negative protection assessments for Afghan asylum seekers on primarily two premises. Firstly, many Afghans are considered to be fleeing their country due to economic vulnerability, rather than fleeing specific persecution. Secondly, some parts of Afghanistan are considered safe so the rejected Afghan asylum seekers can be returned to their country safely. However, given the deterioration of the security situation in Afghanistan combined with political instability, corruption, a weak judicial system and economic challenges, such assessments seem to be influenced by the domestic deterrence politics of Australian, European and other governments as a means of avoiding their international protection and human rights obligations.
1. Introduction

The Edmund Rice Centre for Justice and Community Education (ERC) has been documenting the fate of rejected asylum seekers returned to Afghanistan by the Australian government since 2002. The ERC’s determination to investigate the consequences of past governments’ actions has led to some key findings over the years, which include instances of deportation to danger occasioning death. After such findings, the ERC previously concluded that Australia has not adequately respected and safeguarded people who have been returned to Afghanistan whether by deportation or voluntary repatriation. These findings have been laid out in several reports, including “No Liability - Tragic Results from Australia’s Deportations” published in October 2003; “Deported to Danger - A Study of Australia’s Treatment of 40 Rejected Asylum Seekers” published in September 2004; and “Deported to Danger II - The Continuing Study of Australia’s Treatment of Rejected Asylum Seekers” published in September 2006.

In 2016, ERC researchers travelled to Afghanistan to prepare a new report “The Responsibility to Protect” to continue the comprehensive reporting from previous years. The Responsibility to Protect challenges Australia’s most recent deportations to Afghanistan by providing an overview of the current security, political, and socio-economic situation in Afghanistan, compiled from published reports and articles, and interviews with experts working at national and international development agencies in Afghanistan, including the International Committee of the Red Cross (ICRC), the United Nations Refugee Agency (UNHCR), the International Organization for Migration (IOM), International Assistance Mission (IAM), Afghanistan Analysts Network (AAN), Reuters, Aschiana Organisation, Afghanistan Independent Human Rights Commission (AIHRC), and Friedrich Ebert Stiftung (FES).

In preparing The Responsibility to Protect, ERC researchers interviewed one Afghan returnee deported to Afghanistan from Australia, collected records of interviews of another Afghan man deported from Australia, and interviewed two Afghan men who were rejected for asylum in Norway. The ERC broadened the focus of the report to include people returned to Afghanistan by other governments, reasoning that what is important is recording the
“returnee experience” rather than only interviewing those people who have been deported by the Australian government. This report provides a detailed and in-depth analysis of the returnees’ experience to highlight the impacts of the Australian government’s deportations on the rejected Afghan asylum seekers.

By providing analyses of the returnees’ experience with first-hand opinions from both Afghan and international experts, this report offers a deeper understanding of the people and policies within the refugee debate. In so doing, ERC researchers found that, despite the presence of thousands of international troops from the United States (U.S.) and allies in the past one and a half decades, Afghanistan remains a violent and unstable country. The security situation and uncertainty about the future of the country has been further complicated by the full transfer of responsibility for security of the country to the Afghan National Security Forces (ANSF) as the U.S. and allies withdrew their combat troops in December 2014. With the transition of international forces from combat role to a training and advisory mission, there are growing concerns about the international community’s long-term commitment towards peace and stability in Afghanistan.

In the meantime, there are significant doubts about the ability of the government of Afghanistan and its security forces to improve the security situation because of a number of inter-connected challenges. Of these, Afghanistan’s continuing reliance on foreign economic and military support, the escalation of the Taliban insurgency in the post-2014 era, the increasing influence of local warlords across the country, the widespread corruption in both local and central government institutions, the absence of rule of law and good governance, and the destabilising role of neighbouring and regional countries are some of the main challenges, contributing to the deterioration of the situation in Afghanistan. More civilians were killed in 2016 than in any of the previous years since the U.S.-led military intervention in the late 2001.¹ According to a recent report of the United Nations Assistance Mission in Afghanistan (UNAMA), between January and June 2016, the highest number of civilian casualties sustained first-half-2016-un-report>.

casualties is recorded in Afghanistan in a six-month period since 2009, and one that includes significant numbers of women and children.²

In addition, the prospect of economic growth in Afghanistan is uncertain due to the withdrawal of international forces, unemployment rates have significantly risen in recent years, the number of internally displaced people caused by the conflict and natural disasters has dramatically increased, and most Afghans have gradually lost their hope for a stable, peaceful and prosperous Afghanistan. All these factors have contributed to an overwhelming feeling among the Afghan population that the country is going to get worse in the coming years before it gets better.

Ultimately, this report concludes that the international protection system has failed to fulfil its obligations, particularly with reference to the principle of non-refoulement. This principle asserts that refugees should not be returned to a country where they face serious threats to their life or freedom. For this reason, all countries, including Australia, have a duty to ensure the safety of the Afghan asylum seekers who they wish to return to Afghanistan. Given the deterioration of the security situation and the unreliability of the Afghan government to provide necessary protection to returnees, it is extremely difficult to ensure the Afghan returnees are safe in their country. Therefore, the ERC believes that if a government cannot guarantee the safety of rejected asylum seekers upon their return to the country of their origin, then questions need to be asked about the efficiency of the country’s refugee assessments and willingness to abide by the 1951 Refugee Convention and its 1967 Protocol.

² Afghanistan mid-year report 2016: protection of civilians in armed conflict, UNAMA.
2. Key Findings

- By November 2016, 31 out of Afghanistan’s 34 provinces were affected by conflict, resulting in a significant number of internally displaced persons (IDPs) in the country.

- The Taliban and other armed opposition groups control or influence more than a third of the country, which is the strongest they have been since 2001.

- In the past two years, the Islamic State of Iraq and the Levant – Khorasan Province (IS-KP)\(^3\) has increased its influence in Afghanistan, particularly in Nangarhar, Kunar, Nuristan, Zabul, Ghazni, Ghor, Logar, Helmand, Faryab, Kunduz, Takhar, and Farah provinces.

- The UNAMA has recorded 2016 as the worst year for civilian casualties in the Afghan conflict since the organisation started systematically documenting casualties in 2009.

- Between January and November 2016, 486,000 Afghans were newly displaced caused by the intensification of the conflict, a 31 percent increase compared to the same period in 2015.\(^4\)

- Since 2007, there have been 200,000 - 300,000 Afghans deported per year from Iran and Pakistan, including refugees who have been living in those countries for the past three and a half decades. Aid officials estimate that more than 700,000 refugees returned to Afghanistan in 2016 alone.\(^5\)

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\(^3\) The IS-KP is a branch of the militant Islamist group Islamic State of Iraq and the Levant (IS), active in Afghanistan and Pakistan. IS announced the group’s formation in January 2015 and appointed former Tehrik-i-Taliban Pakistan militant Hafiz Saeed Khan as its leader, with former Afghan Taliban commander Abdul Rauf Aliza appointed as deputy leader (Designations of foreign terrorist fighters (U.S. Department of State, Washington, DC, 2015), <http://www.state.gov/r/pa/prs/ps/2015/09/247433.htm>.)


• In 2016, perpetual violence and intensification of conflict have significantly hampered the work of international development agencies and local non-government organisations from visiting conflict-affected areas and from fulfilling their project obligations.

• Afghanistan’s economy has been dramatically affected by the deterioration of the country’s security, the withdrawal of the international combat troops, continuous political instability, and lack of effective governance and rule of law.

• The Afghan war economy, centred around the military presence of the U.S.-led coalition forces and the international development aid, has started to collapse since the withdrawal of international combat troops in December 2014.

• The Afghan government is weak, corrupt, unstable and unreliable, and has lost the confidence of the population. The fragility of the government is of great concern because its collapse will result in widespread civil disturbance.

• The majority of the Afghan population has lost faith in the country and their government, which has led to them leaving the country in some of the greatest numbers since 2001.
3. ERC’s Mandate

The ERC is committed to the promotion of human rights, social justice and eco-justice through research, community education, advocacy and networking. The organisation’s priority areas are Indigenous people and reconciliation, refugees, asylum seekers and Pacific Island people affected by conflict and climate change. For many years, the ERC has been working to raise awareness of and advocate for the needs and rights of asylum seekers and refugees. In doing so, each year the ERC publishes a great deal of information in the form of reports, newsletters, audio visual material, and media commentary.

The ERC particularly works to improve the conditions and treatment of asylum seekers and refugees in Australia by conducting research as part of the “Deported to Danger Program” to highlight what happens to those asylum seekers and refugees who are deported from Australia. In this context, the ERC advocates for alternative policies to improve the conditions and treatment of asylum seekers and refugees within Australia by running campaigns and lobbying policy makers. In addition, ERC raises awareness about the experiences of refugees and asylum seekers by organising events, speaking at forums and producing relevant resources.

3.1. Research methodology

The ERC’s reports on the fate of Australia’s rejected asylum seekers are mostly based on personal interviews. To provide comparable information, interviews are conducted on a standardised format. Where possible ERC researchers sought corroborative material evidence to check the returnee’s story. Where researchers are unable to find this and to control for any possible collusive fabrication, they look to see if the pattern of an account is mirrored in independent interviews with other returnees in similar situations. ERC researchers also check the internal consistency of each account given by using the Australia’s Refugee Review Tribunal (now Migration and Refugee Division of the Administrative Appeals Tribunal) to assess the credibility of provided information.

Moreover, ERC researchers draw on reliable accounts from deportee contacts and expert opinions to make sure that the provided information and collected data are reliable.
applying a number of different strategies to verify the reliability of provided information, the ERC is satisfied that its reports provide a reliable case for the Australian government to answer concerns about rejected asylum seekers in their country of origin.

### 3.2. Projects and reports

In 2002, after mounting discontent in Australia over the fate of returned asylum seekers, the ERC decided to seek out returnees and interview them overseas. Thus, disquieting were the initial results that an interim report was published and given to the responsible Minister through the Australia’s then-Department of Immigration and Multicultural and Indigenous Affairs (now the Department of Immigration and Border Protection or DIBP and to the UNHCR in October 2003. The information uncovered by the ERC reports has led to the publication of several reports, submissions and testimony given to the Australian Federal parliamentary enquiries, public meetings, investigations by Federal police into allegations of illegal actions by immigration officials, extensive media coverage, and the production of a documentary film.

No Liability: Tragic Results from Australia's Deportations; Deported to Danger: A Study of Australia's Treatment of 40 Rejected Asylum Seekers; and Deported to Danger II: The Continuing Study of Australia's Treatment of Rejected Asylum Seekers are three examples of the research conducted by the ERC to highlight the returnee experience of rejected asylum seekers by the Australian government.\(^6\)

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4. International Context

The world is currently witnessing the highest levels of displacement on record. According to the UNHCR’s most recent statistics, there are 65.6 million displaced people worldwide, including 22.5 million refugees. By the end of 2015, 1.5 million refugees were recognised by the UNHCR in need of immediate humanitarian resettlement, and 53 percent of refugees worldwide come from the three countries of Syria, Afghanistan and Somalia. Since December 2014, Syria has become the world’s top source country of refugees, overtaking Afghanistan, which had held this position for more than three decades.

75.2 percent of the world’s refugees are hosted in countries sharing land or maritime borders with their country of origin. Developing countries host over 86 percent of the world’s refugees, compared to 70 percent ten years ago. By October 2016, the five countries hosting the largest number of refugees are Jordan, which has taken in more than 2.7 million people, followed by Turkey hosting over 2.5 million, Pakistan hosting 1.6 million, Lebanon hosting more than 1.5 million, and Iran hosting 979,437.

In 2015, Australia resettled 9,399 refugees which was 2,171 fewer than the previous year. Australia is currently ranked third in the resettlement of refugees through the UNHCR (after the United States and Canada), and most of the refugees who are settled in Australia come through the UNHCR. However, when it comes to the total number of refugees recognised and resettled by a country, Australia is ranked 25th and on a per capita basis, Australia is ranked 32nd. When the combined impact of refugee recognition and resettlement is considered, Australia contributed to 0.48 percent of the initial or further protection offered to refugees in 2015.

According to the UNHCR, Afghanistan has 2.7 million externally displaced people, hosted mostly in Pakistan and Iran. Within Afghanistan, there are 1.5 million people the UNHCR classify as “of concern,” including 1.2 million people profiled as internally displaced due to conflict.\(^\text{12}\)

### 4.1. UN Refugee Convention

The United Nations 1951 Convention Relating to the Status of Refugees (often referred to as simply the Refugee Convention) is a multilateral treaty that defines who is a refugee, and sets out the rights of individuals who are granted asylum and the responsibilities of nations that grant asylum. The Convention builds on Article 14 of the 1948 Universal Declaration of Human Rights (UDHR), which recognises the right of persons to seek asylum from persecution in other countries: “Everyone has the right to seek and to enjoy in other countries asylum from persecution”.

The 1951 Refugee Convention, to which Australia is a signatory, endorses a single definition of the term “refugee” in Article 1 with the emphasis on the protection of persons from political or other forms of persecution. The Convention defines as a refugee a person: “(who) owing to (a) well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.” As of April 2015, there were 145 parties to the Convention, and 146 to the 1967 Protocol Relating to the Status of Refugees.\(^\text{13}\)

### 4.2. Non-refoulement principle

Obligations come into effect after an asylum seeker has entered a state party to the Refugee Convention, and fall squarely on that country. The core obligation of a state party is that of “non-refoulement”. The principle of non-refoulement is the cornerstone of international

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\(^{13}\) 1951 Refugee Convention, Article 1: Any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country (Convention and Protocol Relating to the Status of Refugees, UN Refugee Agency – UNHCR, Geneva, Switzerland, [http://www.unhcr.org/en-au/3b66c2aa10]).
refugee law, obliging countries to not send someone back into a situation of possible persecution. Another important obligation of a state party is not to penalise asylum seekers because of the manner in which they entered a country. The principle of non-refoulement, as outlined in Article 33 (1) of the 1951 Refugee Convention, states that “no contracting state shall expel or return (’refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

The principle of non-refoulement is the cornerstone of asylum and of international refugee law. Following from the right to seek, and to enjoy in other countries, asylum from persecution, as set forth in Article 14 of the UDHR, this principle reflects the commitment of the international community to ensure to all persons the enjoyment of human rights, including the rights to life, to freedom from torture or cruel, inhuman or degrading treatment or punishment, and to liberty and security of person. These and other rights are threatened when a refugee is returned to persecution or danger. As such, the principle of non-refoulement requires that asylum applicants should be protected against return to a place where their life or freedom might be threatened until it has been reliably ascertained that such threats would not exist and that, therefore, they are not refugees.

The UNHCR states that, in order to protect the rights of refugees, asylum applicants must be treated on the assumption that they may be refugees until their status has been determined. Without such a rule, applicants might be rejected at borders or otherwise returned to persecution without their claims having been established. For this reason, procedures or arrangements for identifying refugees should provide a guarantee against refoulement, by ensuring that persons who are entitled to protection do in fact receive it. Such procedures or arrangements are particularly important when a country receives both asylum seekers and migratory movements. In the UNHCR's view, respect for the principle of non-refoulement can

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15 1951 Refugee Convention, UNHCR.  
17 UNHCR note on the principle of non-refoulement.  
18 UNHCR note on the principle of non-refoulement.
be most effectively ensured if claims to refugee status and asylum are determined substantively and expeditiously.\textsuperscript{19}

4.3. Complementary protection

People who fail to establish that they are refugees but are deemed to be in need of protection also have claims for non-refoulement under the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the 1966 International Covenant on Civil and Political Rights (ICCPR). In accordance with the principle of non-refoulement, people seeking protection are also protected by complementary protection provisions which can be given to a person who is not considered to be a refugee under the 1951 Refugee Convention. In this case, a person cannot be returned to their country of origin because there is a real risk of being tortured or exposed to other cruel, inhuman or degrading treatment or punishment.\textsuperscript{20}

The UNHCR states that “the need to provide international protection to persons fleeing armed conflict and civil strife, whether or not they come within the terms of the Refugee Convention definition, is generally accepted in practice by states as a humanitarian responsibility.”\textsuperscript{21} On 24 March 2012, complementary protection was introduced into Australian Migration Law (AML). Since then, asylum seekers processed in Australia have been able to claim protection on broader grounds than those contained in the Refugee Convention, reflecting Australia’s obligations under international human rights law. In this context, a person may face the prospect of serious human rights violations in their country of origin but not satisfy the definition of a refugee. This may occur, for example, if the harm they face is not for one of the five Refugee Convention grounds.\textsuperscript{22}

\textsuperscript{19} UNHCR note on the principle of non-refoulement.
\textsuperscript{21} Factsheet: complementary protection.
\textsuperscript{22} Factsheet: complementary protection.
4.4. **Australian law**

Australia’s international protection obligations extend beyond those imposed by the 1951 Refugee Convention and include non-refoulement obligations contained in the ICCPR, the Second Optional Protocol to the ICCPR on the Abolition of the Death Penalty, the Convention on the Rights of the Child (CRC), and the CAT. However, while Australia has ratified each of these instruments, it has failed to introduce adequate legislative measures to ensure compliance with its non-refoulement obligations. This failure has been the subject of comment and concern by the UN treaty bodies.\(^{23}\)

The obligation of non-refoulement is also a principle of customary international human rights law. This means that people who seek to rely on Australia’s signing of these international agreements depend on the Immigration Minister’s discretion. It also means that there is no illegality in, or legal appeal process for, apparent breaches of these conventions in Australian law. This is why there is much disquiet about this issue in Australia.\(^{24}\) The Refugee Convention prohibits countries making reservations about Articles 1 and 33 – the definition of a refugee and the non-refoulement provision. Australia has, however, placed a number of reservations in the Migration Act, which limit the application of its international obligations of which the following are most significant.

In 2001, the definition of persecution was narrowed so that the reasons for persecution set out in the Refugee Convention will not apply in Australia unless the reason for persecution is essential and significant, involves serious harm and systematic and discriminatory conduct. Such narrowing of the definition can lead people with internationally recognised justifiable refugee claims to depend on the appeals system in Australia to review their cases.

In addition, in December 2014 the Resolving the Asylum Legacy Caseload Bill removed the Australian government’s legal obligation to consider whether someone will be tortured or their life threatened before sending them home. The Bill also allowed the government “to deny a person’s protection if they consider that person could modify their behaviour, such as

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\(^{24}\) Ball, Edwards & Lynch, the right to protection and the obligation of non-refoulement.
changing their profession, and by changing the test regarding whether it is reasonable for a person to relocate to another part of their country to avoid harm.”

The Refugee Convention prohibits discrimination aimed at asylum seekers, or categories of them, which blocks them from the same entitlements and services available to other Australian permanent residents. Nevertheless, Australia has a complex system of such discrimination involving mandatory indeterminate long-term detention for people who arrive without a visa, particularly by boat. Australia has excised some of its territories from the migration zone so that people arriving in those areas can be removed to offshore detention centres such as Christmas Island, Manus Island and Nauru. Australia also returns “maritime arrivals” to their point of disembarkation.

The Resolving the Asylum Legacy Caseload Bill allows fast-track refugee determinations, based on a British model which was recently found by the UK High Court to be unlawful. Refugees are no longer offered permanent protection, but instead must apply for either a Temporary Protection Visa or a Safe Haven Enterprise Visa, which limit residence to 3 years and 5 years respectively, and does not allow family reunion or even temporary departure in family crises.

Whether or not the removals investigated in this research are consistent with Australia’s legal obligations depends largely on the quality of the processes used to determine if people are at risk as defined by international human rights treaties. In turn, the quality of that assessment depends on the natural justice of the process, the quality of information available to the decision makers and on the reservations with which the international obligations have been incorporated into Australia’s domestic law.

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26 Changes to Refugee Law in Australia, Asylum Seeker Resource Centre.
5. Afghanistan Country Report

Afghanistan is a landlocked sovereign state with an area of approximately 652,225 square kilometres. The country is bordered by Pakistan in the south and east, Iran in the west, the Central Asian republics of Turkmenistan, Uzbekistan and Tajikistan in the north, and China in the far northeast. The largest and capital city of Afghanistan is Kabul with an estimated population of four million. Other major cities are Kandahar in the south, Herat in the west, Jalalabad in the east, Mazar-e-Sharif in the north, and Kunduz in the northeast.²⁷

5.1. People and society

Afghanistan is a multi-ethnic society with an estimated population of 30 million. Although the population statistics are highly controversial in the absence of an accurate official census, most international sources acknowledge that there are four major ethnic groups and numerous minor ethnicities in Afghanistan. The largest ethnic group is the Pashtuns (42 percent), who are mainly concentrated in the south and east, and were politically dominant in Afghanistan from 1747 to 1978.²⁸

The second largest ethnic group is the Tajiks (27 percent), who are mainly concentrated in the northeast, north and west, and have been politically influential in the last four decades.²⁹ The third largest ethnic group is the Hazaras (over 9 percent), who are mainly settled in Central highlands, and have historically been the most marginalised group in the country. Uzbeks make up the fourth largest ethnic group (9 percent) mostly settled in the north.³⁰ Afghanistan is nearly 100 percent Muslim, including Sunni Muslims (80 percent) and Shiite Muslims (19 percent). Pashtuns, Tajiks and Uzbeks are mostly Sunni but Hazaras are predominantly Shiite.

Figure 1: Afghanistan’s demographic map

5.2. The U.S.-led military intervention

The presence of the U.S. and the allied forces became inevitable in Afghanistan after the terrorist attacks in Washington, DC and lower Manhattan on 11 September 2001, carried out by the al-Qaeda organisation of Osama bin Laden to whom the Taliban regime had afforded territorial sanctuary. Following the collapse of the Taliban regime, the U.S. and allies became heavily engaged in Afghanistan as the mission evolved from regime change to a long-term peacebuilding process.

After the collapse of the Taliban regime, and under the influence of the U.S., its allies and the United Nations (UN), an agreement was signed on 5 December 2001 in Bonn, Germany by a diverse group of competing Afghan groups, excluding the defeated Taliban. The Bonn

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33 Hodge, short shift for the long war, p. 148.
Agreement aimed at establishing the foundations for a multi-ethnic representative government to rebuild the war-torn country. Fully supported financially and politically by the U.S., the UN, and the rest of the international community, the Bonn Agreement outlined a grand transformative policy framework for the post-2001 peacebuilding building process in Afghanistan, in which promoting liberal democracy, facilitating socio-economic development and rebuilding permanent state institutions were the most important components.  

However, the post-2001 Afghan peacebuilding process has proved to be a challenging experience because of the counter-productive outcomes of the policies and practices of the U.S. and allies. In fact, the early successes in the post-2001 peacebuilding efforts quickly gave way to the deterioration of the security situation, deficit of democratisation, and setbacks in effective and legitimate governance because of a combination of numerous internal and external factors.

After the U.S.-led invasion of Afghanistan in 2001, numerous former warlords returned from exile to participate in the war against the Taliban and al-Qaeda receiving new arms and money from Americans that enabled them to revitalise their patronage networks of militants. As such, many warlords benefited from the peacebuilding process by exploiting reconstruction resources, seeking sponsorship from the U.S. and allies, filling senior government positions, and mobilising their local constituencies.

The result was considerable coercive capacity vested in the warlords controlling many regions of the country but with no parallel political and military capacity at the central government in Kabul. In fact, the empowerment of warlords was the immediate consequence of the reliance of the U.S. and allies on local militia from the Northern Alliance in the north and Pashtun

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37 The Northern Alliance of Afghanistan came into existence after the capture of Kabul by the Taliban on 26 September 1996. Consisting of the leaders of the Tajiks, Hazaras, Uzbeks, the Northern Alliance was a coalition of Afghan anti-Taliban groups, led by president in exile Burhanuddin Rabbani and former Defence Minister Ahmad Shah Massoud. The Northern Alliance was mostly made up of ethnic Tajiks, but later included Uzbeks, Hazaras, and some anti-Taliban Pashtun figures (Mara Tchalakov, *The northern alliance prepares for Afghan elections in 2014*, (Institute for the Study of War, Washington, DC, 2013), pp. 16-17).
warlords in the south to fight the Taliban in the absence of capacity in the Afghan government and the ANSF. The U.S. and allies ignored the fact that warlords represent equally grave threats as the Taliban to peacebuilding efforts, resulting in a situation in which the uncontested power of warlords severely undermined the democratisation process, institution building, socio-economic development, and human rights promotion.\(^{38}\)

This led to the widespread corruption and disintegration of the state institutions, which were already weakened as a result of three decades of conflict. As a result, the security situation in Afghanistan deteriorated significantly because of the insufficient of the military personnel, arms, aid, trainers and advisors of the U.S. and allies, fully ignoring the high level of security threats caused by the Taliban insurgency.\(^{39}\) This clearly indicates that the U.S. and allies quickly lost interest in the Afghan peacebuilding process because of their financial challenges and other global engagements, particularly after the invasion of Iraq in 2003.

After 13 years of military presence, the U.S. and allies decided to withdraw their combat forces from Afghanistan in December 2014. Following the completion of the military combat role of the U.S.-led international forces, a follow-on North Atlantic Treaty Organization (NATO)-led mission called “Resolute Support” was launched on 1 January 2015. The Resolute Support Mission (RSM) provides training, advice and assistance for the ANSF and the Afghan government. At the NATO Summit in Warsaw in July 2016, the U.S. and allied leaders decided to extend the presence of their limited forces in Afghanistan beyond 2016 in an advisory and training role.\(^{40}\)

As a result of the long-term presence of international forces, Afghanistan has come to rely, politically, economically and militarily, on the continuous support of foreign governments and international development and relief agencies. Considering that the U.S.-led military intervention has failed to stabilise Afghanistan, while the Taliban and other armed opposition groups are stronger than ever, the withdrawal of international troops and the reduction of


economic support by the international community has left the country on the verge of collapse.

5.3. Security situation

After the withdrawal of the U.S.-led coalition forces and the transition of the international forces from a combat role to an advisory and training mission, the Taliban have mounted and sustained its toughest military campaign in years, and the war has become bloodier than ever. Despite the Taliban’s recent internal difficulties, their military energy shows no signs of waning, and they have successfully achieved important tactical and even strategic victories in the past two years.\(^41\) Although the beginning of the fighting season in 2016 seemed to have demonstrated a certain weakness in the coordination between different Taliban commanders in the south of the country, they have managed to increase their influence across the country, resulting in the deterioration of the security situation.

In 2016, the number of armed clashes between the ANSF and the Taliban and other armed opposition groups increased by 10-13 percent, and losses sustained by the ANSF has increased by 10 percent compared with 2015.\(^42\) Between May and July 2016, the number of armed clashes increased by 14.7 percent as compared with the three previous months, and was 24 percent higher than during the same period in 2015. According to a recent report of the United Nations General Assembly (UNGA), the security situation in Afghanistan has remained highly volatile as intensive Taliban operations have continued throughout 2016 and armed clashes have occurred at consistently high levels. The most recent armed conflict has taken place in Baghlan, Kunduz and Takhar provinces in the north-eastern region, Faryab and Jawzjan provinces in the northern region and Helmand, Kandahar and Uruzgan provinces in the southern region of Afghanistan.\(^43\)

The Taliban have also focused their operations in challenging the Afghan government’s control by attempting to capture district administrative and provincial centres and cutting key


supply routes of the targeted areas. The Taliban offensive gained further momentum after July 2016, with the brief capture of the district administrative centres of Khanashin and Sangin in Helmand province, Qush Tepa in Jawzjan province, Dahanai Ghuri in Baghlan province, Dasht-e Archi, Khanabad and Qala-i-Zal in Kunduz province, and Khwaja Ghar in Takhar province, as well as continuing pressure on the provincial capital of Helmand, Lashkar Gah. Furthermore, between 20 May and 15 August, the UN recorded 5,996 security incidents across the country, representing a 4.7 percent increase as compared with the same period in 2015. Most recently, the Taliban briefly occupied the Kunduz city centre for 48 hours after carrying out repeated raids on the province despite the limited presence of the U.S. and allies in the country.

In fact, the further deterioration of the security situation in Afghanistan is the continuation of the violent conflict in 2015. In 2015, 31 out of 34 provinces of the country were affected by conflict, resulting in the forcible displacement of thousands of Afghan families. While the Taliban had promised that the withdrawal of international troops would bring less fighting, it seems this has actually led to the intensification of conflict as Taliban forces gain further confidence. The Taliban also appear to be on the verge of taking over Helmand province in the south, which would give them control over a large portion of the drug trade.

Recent estimates suggest that one-fifth of the country is controlled or contested by the Taliban. Bill Roggio, the editor of The Long War Journal, confirms that about one-fifth of the Afghan territory is controlled or contested by the Taliban, but he emphasises that this is a conservative estimate as the Taliban probably either control or heavily influence about a half of the country.

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44 The situation in Afghanistan and its implications for international peace and security.
Musa Mahmoodi, Executive Director of AIHRC, refers to the Afghan conflict as “the continuous war of everywhere,” which may provide a better understanding of how the people feel about the conflict. Moreover, Tom Shackles, Operations Director and Deputy Executive Director of IAM in Afghanistan, believes that “the armed opposition groups are now acting as military forces rather than terrorist forces as in the past”. Shackles stresses that “while the Taliban were terrorist in nature in the past, there’s now a change where there’s a significant increase in the number of incidents that look like conventional warfare as they have started to seize and hold ground.” According to AAN, the single biggest factor affecting the Afghan conflict in 2015 was the almost complete absence of international forces on the battlefield, giving the Taliban the confidence to try to capture administrative centres and provincial capital cities in ways not seen for the past one and a half decades.49

The presence of a limited number of international forces after the 2014 withdrawal suggests that the Afghan government is yet to take care of its security responsibilities. According to former U.S. President Barack Obama, this is because “in key areas of the country, the security situation is still very fragile, and in some areas, there is risk of deterioration.” 50 Many experts

48 Almukhtar & Yourish, more than 14 years after U.S. invasion.
50 Felbab-Brown, Blood and faith in Afghanistan, pp. 7-8.
including Alexey Yusupov, Country Director of FES in Afghanistan, believes that the current limited military involvement of the U.S. and allies is not enough to secure peace or stability, and will only maintain an uncomfortable stalemate.

Between 1 January and 30 September 2016, the UNAMA documented 8,397 conflict-related civilian casualties (2,562 deaths and 5,835 injured). There has been an increase in civilian casualties, which is a strong case for Afghan refugees’ eligibility for complementary protection under generalised violence criteria of the Refugee Convention. According to the UNAMA, both 2015 and 2016 were the worst years for civilian casualties in the Afghan conflict since the organisation started systematically documenting casualties in 2009. Suicide bombings, improvised explosive devices, and targeted attacks by the Taliban and other insurgents have caused 70 percent of all civilian casualties.\footnote{UNAMA report on civilian casualties in Afghanistan (UN Assistance Mission in Afghanistan, Kabul, Afghanistan, 2016), <http://reliefweb.int/report/afghanistan/un-chief-afghanistan-renews-call-parties-protect-civilians-unama-releases>.}

In the first nine months of 2016, the UNAMA documented 2,461 child casualties (639 deaths and 1,822 injured), a 15 percent increase compared with the same period in 2015. Similarly, there was a 37 percent increase in women casualties (333 deaths; 913 injured), and a 14 percent increase in child casualties (733 deaths; 2,096 injured), compared to 2014. In the first quarter of 2016, the UNAMA reported at least 600 civilians were killed and 1,343 others were wounded, a five percent increase in women casualties and a 29 percent increase in child casualties compared to the first three months of 2015.\footnote{UNAMA report on civilian casualties in Afghanistan.} In addition, the UNAMA reports that the Taliban offensive in Kunduz in September and October 2015 killed at least 289 civilians and wounded 559 others, including 67 people killed and injured during a U.S. air strike on a hospital run by Medecins Sans Frontieres.

In the meantime, there have been numerous terrorist attacks in major cities including Kabul, which the Australian and many other Western governments consider a “safe zone”. Kabul remains a high-profile target for large-scale insurgent attacks, as successful operations tend to warrant greater media coverage. There were 249 significant attacks in Kabul in 2015, an
increase of 29 percent over the 193 attacks in 2014. In 2016, Kabul has witnessed more terrorist attacks than the previous years. On 1 February 2016, a Taliban suicide bomber struck near a Kabul police complex, killing at least 20 police officers and wounding 29 people.

On 27 February 2016, five days after ERC researchers arrived in Kabul, a suicide bomber killed 12 people and injured 13 more in front of the Afghan Ministry of Defence in Kabul. According to Abdul Rahman Rahimi, Kabul's Police Chief, most of the victims were civilians. Additionally, on 19 April 2016, a bomb blast in Kabul caused at least 30 people dead and 327 wounded. The Taliban claimed responsibility for the attack, near government offices, which sent clouds of acrid smoke billowing in the sky and rattled windows several kilometres away. “One of the suicide attackers blew up an explosives-laden truck in a public parking lot next to a government building”, Kabul Police Chief Rahimi told reporters. “The second attacker engaged security forces in a gun battle before being gunned down”.

On Wednesday, 25 May 2016, eleven people were killed when a Taliban suicide bomber targeted rush hour traffic in Kabul, including a bus full of judiciary department employees. A spokesman for the Afghan Interior Ministry confirmed that a further four civilians had suffered critical injuries in the blast. On 20 June 2016, a wave of attacks in Kabul killed at least 23 people. The Taliban immediately claimed responsibility for attacks. In these attacks, at least 14 Nepali security guards working at the Canadian embassy were killed after a suicide bomber hit a minibus in Kabul along the main road to the eastern city of Jalalabad.

Less than three hours later on the same day, another attack in eastern Kabul which targeted MP Ataullah Faizani, injured the MP and wounded five other civilians. Taliban spokesman

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Zabihullah Mujahid claimed responsibility for the attack on social media, saying it was "against the forces of aggression" in Afghanistan.\(^{58}\)

Additionally, On 23 July 2016, a twin bombing occurred in the vicinity of Deh Mazang square in Kabul that targeted thousands from the Shia Hazara minority, who were protesting over a new power line, saying its route bypasses their provinces in the central region of the country where many of them live. In this attack, over 80 people were killed and more than 230 were injured. IS-K claimed responsibility for the deadly attack.\(^{59}\) In August 2016 insurgents attacked the American University in Afghanistan (AUAF) in Kabul, killing 12 people, and trapping students, academics and staff on campus for hours. Also in August, an American and an Australian professor at AUAF were reported to be kidnapped at gunpoint.\(^{60}\)

On 5 September 2016, a wave of explosions in Kabul killed over 24 people and injured 91 others in twin suicide bombings near the Afghan Ministry of Defence. Just hours later on the same day, at least one person was killed and six injured in another attack on a charity organisation, CARE International, in Shar-e-Naw area of Kabul. The attack lasted overnight with a siege and hostage situation, at least 3 of the attackers were killed and 42 hostages were rescued. The Taliban claimed the responsibility for the attacks.\(^{61}\)

On Wednesday 5 October 2016, an explosion struck a bus carrying government employees during rush hour traffic in Kabul, wounding four people. The targeted vehicle was a bus carrying employees of the Afghan Ministry of Mining and Petroleum, said Sediq Seqqi, the Spokesman for the Afghan Interior Ministry.\(^{62}\) On 11 October 2016, at least 14 people were


killed in an attack on a shrine in Kabul as Shia Muslims prepared for a religious day of mourning.  

On 21 November 2016, a suicide bomber killed at least 27 people and wounded many more at an annual Shia ceremony at the Baqir ul Olum mosque in the west of Kabul. While the Afghan Police gave the figure of 27 dead, the UNAMA said 32 were killed and more than 50 injured. Some reports suggest a higher number of wounded. The attacker arrived on foot and blew himself up among worshippers inside the mosque. The Islamic State immediately claimed responsibility for the attack.

On 8 March 2017, more than 30 people are dead and dozens more are wounded after an attack on a military hospital in the Afghan capital, Kabul, in which gunmen dressed as doctors slipped into the facility and battled security forces inside the building for several hours. The attack comes just a week after dozens of people were killed and wounded in coordinated attacks on a police station and an office of the intelligence service in Kabul. While the Taliban had "no connection" with the attack, a spokesman for the militant group said, the Islamic State claimed responsibility for the attack.

The intensification of conflict has produced anxiety among the people of Afghanistan and there is a significant perception of risk. ERC researchers were restricted from travelling to most parts of Afghanistan due to the conflict and insecurity. To give a more realistic picture of the security situation, the ANSF in Kabul sit in the back of their armoured fighting vehicles, carrying guns, rocket launchers and protective battle equipment. Helicopters frequently fly overhead to observe the movement of suspicious people in the city. Even supermarkets and shopping centres are protected by heavily-armed security guards. There is a military zone in the city known as the “ring of steel” to protect targets of terrorism such as embassies, international development organisations and government buildings. The ANSF perform comprehensive checks of vehicles when people try to enter the zone.

ERC researchers were told the entrance to the Kabul International Airport is one of the most dangerous roads in Kabul because terrorists target the bottleneck caused by security checks. Most Afghans are quick to tell ERC researchers stories of violence. A 29-year-old taxi driver was born into conflict and has never experienced peace. Two weeks before talking with ERC researchers, there was an explosion near his house that killed 25-30 people. “When we want to go [to the] office or to work, we don’t know we are alive until night because there is too much explosion in Kabul.” Another taxi driver told ERC researchers that one month ago he was in an area close by and he was about 50 metres away from a suicide bombing. He was ducking and falling over to avoid the blast. He has an eight-year-old son, a four-year-old daughter, and his wife is pregnant.

Tom Shackles states that IAM staff are anxious about moving around the city in a way he has never seen before. According to the 2015 report of The Asia Foundation (TAF) “A Survey of the Afghan People”, the proportion of Afghans who fear for their personal safety is at the highest point in the past decade.66 A local staff member of ICRC67 in Afghanistan who works in 12 provinces, many of which are affected by conflict and insecurity, states that “everyone in the country [has] stress, and are not very focused on their objective of life as it is also a problem with the war coming.” That same staff member tells the story of a man from a village who was captured by the Taliban and accused of being pro-government: “The person was killed, beheaded and cut into different parts. It is not only one case. It is also the reality of the country.”

There is also anxiety about what is to come in the next years. With conflict becoming more intense throughout the country, many people are concerned that their homes could be next. Interviewee M,68 a returnee from Australia to Afghanistan, says: “If you [are] in this situation, it scares you. You don’t feel safe here. You don’t know what will happen because everything is getting worse in this country.” The interviewee further adds: “You can see reports from the UN or the UNHCR. It’s getting worse, day by day. You don’t feel safe in this country. If you go

67 Identity of the local staff from ICRC is kept anonymous because of security concerns in Afghanistan.
68 The identity of Interviewee M is kept anonymous because of security concerns in Afghanistan.
out of Kabul, you don’t know what will happen to you because if Taliban come and stop your bus, if they come into the bus, if they ask: Are you working for the government? If you say no, can you convince them you are not working for the government? You don’t know. Can you convince them to not kill you? I don’t know what else I can say.”

5.4. Taliban and other armed opposition groups

The main threat to the Afghan government and the country continues to be the Taliban who are seeking a return to power and the removal of the remaining international forces. In addition to the Taliban, the country is also threatened by other loosely-allied groups such as the Haqqani Network, al-Qaeda and affiliated groups, and the IS-KP.69

Taliban

The Taliban ruled Afghanistan from 1996 until 2001 when the U.S.-led military intervention toppled the regime in November 2001. The Taliban emerged as an Islamic fundamentalist militant organisation in 1994 under its spiritual leader, Mullah Mohammad Omar. A large majority of Taliban supporters hail from Afghanistan and Pakistan, educated at Islamic religious schools referred to as “madrasas,” and the direct Pashto translation of “Taliban” is “students”.70 In 1996, Osama bin Laden returned to Afghanistan, allied with the Taliban leader, and began to build a major al-Qaeda hold on the country. Al-Qaeda very quickly became a major power in Afghanistan from which it launched a global jihad against the U.S. and its allies, and organised the 11 September 2001 terrorist attacks, bringing about the U.S.-led military intervention and the overthrow of the Taliban regime.71

After the death of Mullah Omar in a hospital in Pakistan in April 2013, Mullah Akhtar Mansour was appointed as the new leader of the Taliban on 29 July 2015. On 21 May 2016, it was reported by a U.S. Department of Defense official that Mansour had been killed in a U.S. drone strike in Pakistan. Subsequently, on 25 May 2016, Mullah Hibatullah Akhundzada was

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promoted to the top position of leadership in the Taliban.\textsuperscript{72} Both the U.S. and Afghanistan have pursued a negotiated settlement with the Taliban, but talks have little momentum as the international community decided to conclude combat operations in Afghanistan in December 2014 and continue its role in an advisory and training mission.\textsuperscript{73}

The Taliban remain an effective insurgent force capable of challenging the Afghan security forces and exploiting the weaknesses of the Afghan government, particularly in rural areas. Although there is no agreement on the current size of the Taliban forces, in April 2015, the U.S. Department of Defense assessed that the hardcore element of the Taliban comprised some 22,000 members. The real strength of the Taliban, however, is not its numbers but its ability to influence and intimidate the population and to co-opt local support by taking advantage of tribal, religious and societal associations.\textsuperscript{74} The Taliban operate throughout Afghanistan, with most of its forces located in the Pashtun homeland in the country’s south and east.

The Taliban’s successful capture of Kunduz province in north-eastern Afghanistan in September 2015 is evidence that the Taliban have established themselves outside their traditional Pashtun heartland and have increased their influence in Afghanistan’s northern provinces.\textsuperscript{75} Afghanistan’s frontier provinces along the Pakistani border are of particular importance to the Taliban. They have established sanctuaries in these areas, adjacent to their safe havens in Pakistan, where they continue to plan, train, re-equip and seek refuge from Afghan security forces and the U.S.-led offensive operations. In a testimony to a U.S. House of Representatives’ committee in 2013, it was asserted that a U.S. withdrawal and continuing Pakistan’s support of Afghan armed opposition groups could lead to the Taliban control of part or most of Afghanistan over the next decade.\textsuperscript{76}

More than a decade and a half since their fall from power, the Taliban enjoy continued support in many parts of Afghanistan. TAF found that in 2013 a third of Afghans—mostly


\textsuperscript{74} Kenny, instability in Afghanistan, pp. 6-8.

\textsuperscript{75} Ibid, pp. 6-7.

\textsuperscript{76} Ibid.
Pashtuns and rural Afghans—had sympathy for armed opposition groups, primarily the Taliban. Nearly two-thirds of Afghans, the survey found, believed that reconciliation between the government and the insurgent groups would stabilise the country.77 Afghan support for the Taliban and other insurgent groups stems in part from grievances directed at public institutions. While the TAF’s survey found that the ANSF garner high public confidence, many civilians see government institutions such as the militia-like Afghan local police as predatory. Likewise, international forces’ support for warlords and strongmen, an expedient in securing territory, likely also alienated many rural Afghans from Kabul, analysts say.78

With the withdrawal of the U.S.-led international forces, the Taliban have reorganised their mission from one resisting foreign occupation to one that is confronting a government they consider to be a Western pawn. Meanwhile, the Taliban’s battlefield position and financial interests further reduce their incentives to negotiate. Many analyses are less optimistic about the Afghan government’s ability to hold its ground. The International Crisis Group reports that insurgents are increasingly confident as “ongoing withdrawals of international soldiers have generally coincided with a deterioration of Kabul’s reach in outlying districts.” An independent assessment of Afghan security forces commissioned by the Pentagon predicts that the Taliban will pick up the tempo of their operations and expand areas under their control between 2015 and 2018.79

Meanwhile, strong revenues from a bumper poppy harvest in 2013 and other illicit trade have further reduced the Taliban’s incentives to reach a negotiated settlement with the Afghan government. Some Taliban factions have become less ideology-driven armed opposition groups than profit-driven mafias, according to the UN.80

According to a recent report of the UN Security Council, opium production in Afghanistan may rise by 10 percent in 2016. The potential increase is more likely due to favourable climatic conditions in 2016 as well as a significant increase in poppy production in the north of the country, particularly in Balkh, Badghis and Faryab provinces.81 In areas such as Nangarhar in

77 Laub, the Taliban in Afghanistan.
78 Ibid.
79 Ibid.
80 Ibid.
81 Seventh report of the analytical support and sanctions monitoring team, UN Security Council.
the east, it has been reported that the Taliban are winning support by allowing farmers to cultivate opium.

What is clear is that if the Afghan government does not take strong steps towards addressing locals’ demands, and if they cannot ensure security, provide job opportunities for people, improve the judicial system for the country, then the following years will only see more insecurity and potentially a surge in support for the Taliban in many regions of the country.

**Haqqani Network**

The Haqqani Network is a U.S.-designated terrorist organisation, which American officials consider to be a “veritable arm of Pakistan’s Inter-Services Intelligence (ISI).” The network has been cited as being the “most violent element of the insurgency in Afghanistan and the greatest risk to remaining international forces. The group is also considered as a significant threat to Afghanistan’s security and a key enabler of al-Qaeda in the country. The network is also considered the key facilitator of foreign militant fighters into Afghanistan and the most effective militant group at conducting successful high-profile attacks in Kabul.**

The Haqqani Network shares similar goals to the Taliban: namely, to expel coalition forces, destabilise the Afghan government and re-establish the Islamic Emirate of Afghanistan. The size of the network is unknown, it was believed to have had 3,000 fighters at its height in 2010. The network’s core support area is three of Afghanistan’s south-eastern provinces of Paktika, Paktiya and Khost. The network is also reliant on safe havens in Pakistan to protect it from the Afghan and U.S. counter-terrorism operations. The network is known to receive support from the ISI, and is suspected as often acting as a tool for Pakistan’s interests in Afghanistan. U.S. officials have cited the network as being responsible for at least four high-profile attacks on Indian interests in Afghanistan, including India’s embassy in Kabul.

The Haqqani Network commanders had earlier indicated that the network may be prepared to participate in peace talks with the U.S. and the Afghan governments, contingent on the Taliban doing so. American officials assess that the network will remain a major threat to

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82 Kenny, instability in Afghanistan, p. 8.
83 Ibid.
Afghan and international security forces via its demonstrated capability for high-profile, complex attacks, particularly if it continues to enjoy safe haven in the Pakistan’s territory.\textsuperscript{84}

Al-Qaeda

Al-Qaeda’s presence within Afghanistan is now mostly focused on facilitating other insurgent forces, rather than acting as a fighting force itself. As a result of successful U.S. counter-terrorism operations, al-Qaeda has largely been denied the use of Afghan territory for the planning and preparation of transnational terrorist acts. The key concern for the U.S. and its coalition partners is that al-Qaeda could re-group in Afghanistan’s remote areas if the security situation worsens.\textsuperscript{85} Many analysts explain that al-Qaeda fighters act as specialised instructors for the Taliban and the Haqqani Network fighters, in particular the design of improvised explosive devices.\textsuperscript{86}

Major General Jeff Buchanan, former Deputy Chief of Staff for the U.S. military presence in Afghanistan says that they were concerned about al-Qaeda leaders in remote areas of the country and there may be many more core operatives in Afghanistan than previously thought. The warnings of al-Qaeda’s resurgence came as Afghanistan faced perhaps one of the most significant summer fighting seasons in 2016 in recent years, with government security forces facing huge internal challenges, the Taliban both gaining ground and building links to al-Qaeda. He further adds that the recent discovery and destruction of an al-Qaeda training camp in the southern Kandahar province means previous U.S. estimates of the group’s strength in Afghanistan were being revised.\textsuperscript{87}

Islamic State of Iraq and the Levant – Khorasan Province (IS-KP)

The IS-KP established itself in Afghanistan in 2015, and by the end of 2016 it increased its presence in the eastern, southern, central and northern regions of the country. The IS-KP fighters have been confirmed in Zabul, Ghazni, Ghor, Nangarhar, Kunar, Nuristan, Faryab, Farah and Helmand provinces. In late September 2015, the UN reported that IS-KP was

\textsuperscript{84} Kenny, instability in Afghanistan, p. 8.
\textsuperscript{85} Ibid.
\textsuperscript{86} Seventh report of the analytical support and sanctions monitoring team, UN Security Council.
recruiting in 25 of the country’s 34 provinces. However, it is believed that the majority of the IS-KP members operating in Afghanistan are foreign fighters and a small number of disaffected Taliban commanders and their supporters who have been able to launch coordinated attacks on the Afghan government and the ANSF.88

The ANSF have increased ground and air operations, supported by international military assets, against the IS-KP in Nangarhar province in the eastern region of the country. Reportedly, these operations have resulted in significant casualties among the IS-KP fighters, including the death of its leader, Hafiz Saeed Khan, on 26 July 2016, and a further reduced presence of the group in the province.89 Nearly half of the members of IS-KP in Afghanistan are of non-Afghan origin, with a large portion of fighters hailing from the Afghanistan-Pakistan border area.90

The Taliban and the IS-KP remain engaged in a fight for control over territory in the eastern districts of Afghanistan bordering Pakistan. The existence of the IS-KP in Afghanistan further complicates the Taliban’s approach to negotiations with the Afghan government as both have continued to attack the Afghan government and its security forces.91

5.5. Political instability

In 2014, Afghanistan’s contentious presidential election was ultimately resolved not by the ballot box but by a U.S.-brokered deal that created the National Unity Government (NUG). The power-sharing deal was seen as a major setback in Afghanistan’s democratic transition, but it was a necessary price to pay for stability.92 After months of negotiation with the assistance of the former U.S. Secretary of State John Kerry, in September 2014 Ashraf Ghani became president, while runner-up Abdullah Abdullah was appointed as the Chief Executive of the government with powers similar to those of a prime minister. The NUG nevertheless

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88 Kenny, instability in Afghanistan, pp. 9-10.
89 The situation in Afghanistan and its implications for international peace and security, UN General Assembly.
90 Seventh report of the analytical support and sanctions monitoring team, UN Security Council.
91 Kenny, instability in Afghanistan, p. 9.
has been a fragile political arrangement because of its controversial and unconstitutional formation.\(^{93}\)

According to the 2016 World Report of Human Rights Watch (HRW), the NUG has failed to make significant gains in achieving human rights reforms because it has been unable to restrain abusive militias, reduce corruption, improve good governance, promote women’s rights, and reform the judicial system of the country. Additionally, The NUG agreement obliges the Afghan government to initiate a number of political and electoral reforms within two years of its formation. However, there has been no meaningful step towards implementing these important reforms as means of strengthening the country’s democratic transition. Parliamentary and provincial elections scheduled for 2015 were postponed indefinitely pending contested electoral reforms.\(^{94}\)

The Afghan government has failed to deliver basic services to citizens across the country with hospitals, schools and basic amenities losing funding. An opinion poll by BBG-Gallup Survey in early 2016 shows that nearly 81 percent of respondents said they were dissatisfied with the performance of the Afghan government, and only 17 percent said they were somewhat or very satisfied. Nearly 69 percent said their lives have become worse over the past year, and almost 46 percent said they expected life to get even worse in next 12 months. Just over 24 percent said life would get better, while 30 percent said they did not know how it would fare.\(^{95}\)

Support for the Afghan government has dropped dramatically with a dysfunctional judicial system allowing corruption to thrive. Afghan citizens rated the judiciary as the most corrupt institution in the country. Afghanistan ranked 174 of 176 in Transparency International's 2012 Corruption Perceptions Index and is routinely named as one of the world's five most corrupt


countries. In 2016, the country ranked 169 out of 176 countries in Transparency International’s newest Corruption Perceptions Index.\textsuperscript{96} Corruption has led to a breakdown in the public’s trust of their elected leaders with James McKenzie, a journalist from Reuters, claiming it is one of the reasons why Afghans are leaving the country. “They think that the politicians just do it to get money for themselves, just get all this aid money and steal it and put it in Dubai.”

As the level of dissatisfaction with the performance of the Afghan government has increased, there have been numerous mass protests in Kabul and across the country against the government. In November 2015, Kabul witnessed a historic protest when tens of thousands of people marched to the Presidential Palace. It was one of the largest demonstrations in Afghanistan’s modern history. Demonstrators carried the coffins and photos of seven innocent people, including two women and a nine-year-old girl, who were killed by the IS-KP fighters in Arghandab district of southern Zabul province. The victims were all from the ethnic Hazara minority.\textsuperscript{97}

In another protest on 23 July 2016, thousands of people from the Shia Hazara community gathered in Kabul to demonstrate their anger over a new power line, saying its route bypasses their provinces in the central region of Afghanistan. The central region is predominantly populated by Hazaras who constitute over 9 percent of the country’s population. The protest was targeted by a twin-bombing which killed over 80 people and injured more than 230. The IS-KP claimed responsibility for the deadly attack.\textsuperscript{98}

Public dissatisfaction with the performance of the Afghan government has been well-documented by a 2016 report of TAF, called “A Survey of the Afghan People.” The survey reveals that only 29.3 percent of the respondents have said that their country is moving in the right direction, which is the lowest level of optimism since the survey began in 2004. Following a sharp decline in 2015, Afghan perceptions of how well government institutions

\textsuperscript{96} Corruption by country: Afghanistan (Transparency International, Berlin, Germany, 2016), <http://www.transparency.org/country#AFG>.
\textsuperscript{97} Ali R. Yunespour, ‘Afghans march against terrorism and for a political system to secure their future’ (The Conversation, 12 November 2015), <http://theconversation.com/afghans-march-against-terrorism-and-for-a-political-system-to-secure-their-future-50575>.
do their job again declined to historically low levels in 2016. Only 49.1 percent of Afghans surveyed say that the government is doing a good job, down from 57.8 percent in 2015.\textsuperscript{99}

Overall, political infighting between the two divisions of the government (Ashraf Ghani and Abdullah Abdullah) has significantly affected political stability in Afghanistan. The government has failed to deliver its promises in the areas of reforming the political system, improving security, promoting human rights, fighting wide-spread corruption, responding to economic challenges, and addressing the problem of refugees, including Afghan returnees and IDPs.

5.6. Peace talks

The future of Afghanistan may rest upon unreliable peace negotiations between the government and the Taliban and other armed opposition groups. In November 2015, a nationwide survey of public opinion by TAF found that nearly two-thirds of Afghans believe that reconciliation between the government and the Taliban would stabilise the country.\textsuperscript{100} Without a peace process, the most likely outcome is ongoing war because neither side is showing that it is strong enough to defeat the other. The possible collapse of the government would lead to further conflict and potentially another period of divided warlord rule.

The hope of the Afghan government is to split the Taliban by persuading the reconciliatory side of the group to engage in the country’s political process, form a political party and run in the elections. But there is no concrete proof that the Taliban have splintered and if the Taliban were to agree to come to the table, there is uncertainty about what they would look like in modern day Afghanistan. How moderate or conservative will their policies be? Will girls be able to go to school? Many analysts predict a conservative rollback would be inevitable, especially in rural areas of the country. And what if the Taliban are elected to power?

However, the prospect for achieving peace and stability in Afghanistan through a negotiated peace settlement between the Afghan government and the Taliban is looking unlikely in the near future. Such efforts were largely unsuccessful during Hamid Karzai’s presidency (2002 – 2014), as a result of Pakistani interference and friction between Karzai and Washington over


\textsuperscript{100} Warren & Hopkins, Afghanistan in 2015: a survey of the Afghan people.
the process. President Ashraf Ghani has made peace talks “the centre of his agenda” since he came to power in the late 2014. In early 2015, President Ghani visited both China and Pakistan and raised the issue of peace talks, with both nations expressing their willingness to assist in getting the process started. In May 2015, the Afghan government and the Taliban met in Qatar, where both expressed enthusiasm about starting official negotiations.\(^{101}\)

In October 2016, the Taliban held peace talks with the Afghan government for the first time since the group's leader was killed in a U.S. airstrike earlier in 2016. Mullah Abdul Manan Akhund, a member of the Taliban leadership, was understood to have been among those present at the meeting, which was held in Doha, Qatar. These talks would have marked the first known negotiations with the Taliban since peace talks were abandoned on May 2016 following the death of Mullah Akhtar Mansoor in a U.S.-led air strike.\(^{102}\) Taliban sources said Mullah Abdul Manan - brother of the late Taliban founder Mullah Omar - met with U.S. and Afghan officials but there was no breakthrough toward restarting formal talks.\(^{103}\)

In the meantime, on 22 September 2016, Afghanistan signed a peace agreement with the Hezb-i-Islami party of Afghanistan, paving the way for the armed group's leader, Gulbuddin Hekmatyar, to make a political comeback despite allegations of war crimes during the 1990s. The deal with Hezb-i-Islami marks a symbolic victory for President Ghani who has struggled to revive peace talks with the more powerful Taliban fighters while, at the same time, attempting to reintegrate other controversial military figures into society by granting immunity for past crimes. The agreement grants Hekmatyar amnesty for his offences and the release of certain Hezb-i-Islami prisoners. Once branded the “butcher of Kabul,” Hekmatyar was a prominent anti-Soviet commander in the 1980s who stands accused of killing thousands of people when his fighters fired on civilian areas of the capital city during the 1992-1996 civil war.\(^{104}\)

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\(^{101}\) Kenny, instability in Afghanistan, pp. 9-10.


\(^{103}\) Jibran Ahmad, ‘Afghan Taliban envoys in Pakistan to discuss possible peace talks’ (Reuters, 22 October 2016), <http://www.reuters.com/article/us-pakistan-talibantalks-idUSKCN12M0FK>.

Musa Mahmodi from AIHRC believes that incorporating the Taliban, as they are, into the democratic process could negatively impact Afghanistan’s path towards long-term stability and a just and democratic society. “The good outcome is that the Taliban accept the new Afghan realities: human rights, women rights, the minority rights and not persisting and insisting on the rules that they used to have. We are not very optimistic about this.”

Aside from the competing desires of the Taliban and the Afghan government, there are many obstacles to peace. James McKenzie, a reporter from Reuters, believes that the social institutions that would normally encourage a peace process are not there anymore. More than 30 years of conflict and corruption has damaged the country almost beyond repair and engaging in peace negotiations “is like trying to build a house on shifting sands.” In an effort to encourage peace talks, the Chinese, American, Pakistani and Afghan governments have recently formed a quadrilateral coordination committee. However, as of yet, this has not brought the Taliban to the table. For now, it seems the future of Afghanistan is in the balance and no-one is certain what will happen next.

5.7. Economic situation

Afghanistan is one of the poorest countries in the world and relies heavily on donor grants. Per capita income for 2016 is estimated at about USD 620, and the country ranks well below its neighbours on most human development indicators. Afghanistan is extremely dependent on foreign aid as 70 percent of the country’s national budget has been funded by international donors since 2001. In 2016, Afghanistan’s core national budget expenditures were estimated to be about USD 7.331 billion of which the total committed funds by donors is USD 4.98 billion. This constitutes 68 percent of the overall national budget of the country. The Afghan government was only able to finance USD 2.03 billion, constituting 28 percent of the national budget from its domestic revenues. According to the national budget allocation based on sectors, the security sector’s portion accounts for 40 percent (USD 2.904 billion) of the total national budget.

The withdrawal of international troops, along with the construction services, the military services, the investments, and the projects associated with the troop’s presence has left a devastating hole in the country’s economy. “It’s a governance failure, a security failure and you cannot address one without the other,” Alex Mundt, Assistant Representative for Protection of the UNHCR says. This places Afghanistan in a paradox as the over-reliance of the country on the international community has significantly weakened the economy and yet the economy cannot grow without more assistance from the international community.

For instance, almost 90 percent of Kabul’s 4.50 million people had directly benefited from 75 international forces and ANSF facilities in pre-2014 era. However, following the withdrawal of the international forces, Kabul’s febrile atmosphere is born of the shrinkage of economic activity as small businesses collapse, the construction industry winds down, and many of the wealthy prepare to leave the country.¹⁰⁷

A substantial portion of commerce, especially in the services sector, has catered to the international troops presence in the country in the past 15 years. With the withdrawal of international troops, in the Central/Kabul region of Afghanistan the number of high wage jobs with foreign development and security companies has declined, while in the north-eastern region large contracts to supply oil to the NATO ended in 2014. Housing prices in urban centres, particularly in Kabul, have dropped significantly since 2014 amidst uncertainty and a weakening economy.¹⁰⁸

The deterioration of the security situation also continues to exert a binding constraint on confidence, investment, and economic growth in the country. In 2015, economic growth reached only 0.8 percent. Available data for the first half of 2016 indicates low levels of investment, while agricultural production has been disrupted by crop diseases and pests. Some provinces, such as Wardak, experienced strong farming harvests together with high security deterioration, and others such as Helmand were affected by a crop disease affecting poppy plants. Economic growth in 2016 is expected to reach only 1.2 percent, despite progress with a number of initiatives, including Afghanistan’s accession to the World Trade

Organization and the opening of the Chahbahar port in Iran, which has excellent potential as an alternative trade route for Afghanistan.\textsuperscript{109}

More than a third of the Afghan population is estimated to live below the national poverty line of USD 1 per day, and a similar proportion experience food insecurity. Amid conditions of rising insecurity, decreasing foreign aid and growing political instability, Afghans express high rates of concern about economic conditions and employment. The World Bank confirms that the unemployment rate in the country increased to 40 percent in 2015 from 25 percent in 2014, and it reached 45 percent in 2016. The lack of job opportunities is pushing people from rural communities to join armed opposition groups because they pay wages. It has also paved the way for an increase in child labour across the country.\textsuperscript{110}

In Kabul, ERC researchers saw people sitting on the street waiting for work. People are risking travel between major cities to look for work. When Interviewee K\textsuperscript{111} was deported back to Afghanistan after being denied asylum in Norway, he returned to his family in Jaghori district in Ghazni province, but would regularly travel to Kabul to find work. According to Interviewee K, those who travel this route risk being blown up by landmines or being attacked by the Taliban. The Kabul-Kandahar highway, which is usually I am using that road to go to Jaghori, it’s called the “death road.” Usually, those people who haven’t anything necessary to do in Kabul, they don’t travel. It was during one of these trips from Jaghori to Kabul that Interviewee K was captured by the Taliban.

ERC researchers met former engineers, interpreters for foreign forces and chefs, who have taken up driving taxis in Kabul because there is no other work. One driver is 29 years old. He is a photo journalist during the day and drives taxis after 4pm. He has a wife and a four-year old son. “The salary that I take from the office is not enough for me.” Another taxi driver is an engineer for Perkins Generators. He is 27, well-dressed and clean-shaven. There is no work for him, so he drives taxis.

\textsuperscript{111} The identity of Interviewee K is kept anonymous due to security concerns in Afghanistan.
In an effort to improve food security, create jobs and stem the flow of people leaving the country, President Ghani introduced a program called “Jobs for Peace” at the heart of his economic agenda, but this initiative relies on international donors’ support which has not been forthcoming.

Additionally, Afghanistan’s health status is one of the worst in the world with many having little or no access to medical treatment. Health indicators are three to five-fold higher than in neighbouring countries: maternal mortality, at 1,600/100,000 live births per year. Epidemics are frequent, including cholera, Congo-Crimea haemorrhagic fever, measles, meningitis, pertussis and malaria. There are high levels of both acute and chronic malnutrition. Immunisation programs are frequently disrupted by the violence and conflict across the country. According to The World Bank, about one in 10 children will die before reaching the age of five, and there are about 396 deaths per every 100,000 births - well above the 2015 world average of 216.

Moreover, the once diverse agricultural ecosystem of Afghanistan has been destroyed by years of conflict. Afghan citizens are concerned by the state of food security in the country as they faced a hot and dry summer in 2016. About 33 percent of the total population are food insecure, according to the 2014 Afghanistan Living Conditions Survey of the UN World Food Programme.

Meanwhile, opium cultivation in the country continues to surge as the Taliban and other armed opposition groups use it to fund their conflict with the Afghan government, and to win support from the local population. The illicit drug trade is no doubt contributing to increased insecurity in the country. Interestingly, opium cultivation surged in 2003, a few years after the downfall of the Taliban. The UN estimated that the poppy crop accounted for 63 percent of the gross domestic product and by 2004 supplied 93 percent of the world’s heroin supply. Redistributing funds to the agricultural industry to subsidise farmers for not growing the

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114 Afghanistan: current issues and what the World Food Programme is doing (World Food Programme, Rome, Italy), <https://www.wfp.org/countries/afghanistan>. 
poppy crop could save the economy in the long term, but it is unclear where this money will come from.

When ERC researchers arrived in Kabul, the city’s power grid had been crippled by conflict in Baghlan province in the north-east of the country. With 60 percent of the power to the city cut, citizens, local businesses and government departments suffered. According to the World Bank, Afghanistan has one of the lowest rates of electricity usage in the world and only about 38 percent of its population is connected to the grid with huge disparities between the rural and city communities.

A number of experts have criticised the lack of quality teachers in the Afghan education system. This is a view supported by the World Bank which reports that half of Afghanistan's 412 districts do not have qualified female teachers and 40 percent of Afghanistan’s children are not in school. In 2014, 163 schools were attacked by the Taliban and other armed opposition groups in the country. According to Mohamed Yousef of Aschiana, “There are 6 million children at risk in the country. When the children are not receiving proper education, there is a real fear for the future of the country. These uneducated, unskilled, unemployable children become the future recruits for the armed groups, just as they have been for the last 30 years.”

Yousef believes that irresponsible and corrupt spending of international funds has contributed to the worsening state of the education system. “The majority of the money spent in Afghanistan did not go to the people. The international community gave money according to the priority of the government of Afghanistan. The priority of the government is development of the military.”

In fact, the conflict-related and donor-driven economy has not helped the economic and social infrastructure of Afghanistan and the development process remains ineffective. It has created an unequal economic power relationship between the small economic and political elite and the average Afghan population. This has also created extreme conditions of exploitation, where the small ruling elite are able to make gains at the expense of the majority. The free market approach, which has been implemented in Afghanistan in the post-
2001 era, has not succeeded, and the Afghan economy has not provided the security people require.115

5.8. International development and relief agencies

International development and relief agencies, including the United States Agency for International Development (USAID) and their implementing partner organisations, report that increased insecurity throughout Afghanistan has hampered the implementation of ongoing humanitarian programs, restricting access to newly displaced populations across the country. For example, the USAID-partner Focus Humanitarian Assistance reported in May 2016 that insecurity and resultant road blockages made it difficult for staff to access project sites in northern Badakhshan and Baghlan provinces to carry out planned disaster risk reduction activities. In Afghanistan’s southern Uruzgan province, the USAID partner ZOA International decided to move Water, Sanitation and Hygiene (WASH) activities from Dehrawud district to Chinartoo and Tarinkot districts due to an increase in fighting in recent months.116

As a result of the deterioration of the security situation, international development and relief agencies have not only been prevented from fulfilling their project obligations, but their foreign workers have also been restricted to protected compounds and cannot go to the field without diplomatic security. In the meantime, local workers are targeted for working with international organisations. This has meant that local staff are more likely to leave and foreign staff are less likely to come to Afghanistan. In April 2016, an Australian aid worker, Katherine Jane Wilson, was kidnapped while in Jalalabad city, close to the border with Pakistan. She was held for four months by the kidnappers and was finally released on 29 August 2016. Attaullah Khogyani, a spokesman for the governor of Nangarhar province confirmed the release. He said: “Ms Wilson was freed in the city on Sunday through the efforts of our national intelligence agency.”117

As of May 31, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) reported 91 security incidents involving aid workers in 2016. The security incidents primarily affected national and international NGOs, and resulted in six deaths, 12 injured persons, and 81 abductions. Although the UN reports that the overall number of security incidents across Afghanistan in the first half of 2016 is comparable to 2015, the number of armed clashes has increased and ground engagements have caused more frequent and longer-lasting access constraints.\textsuperscript{118}

In addition, IAM has had to terminate or suspend a number of its community projects, including vaccination programs and de-mining programs, due to conflict in Badakhshan and Kunduz provinces. According to Tom Shackles of IAM, “We are reluctant to close our projects because to a large degree most of the people who are working in our projects are local people from that area and they will stay there. So we don’t actually reduce their exposure to security incidents at all. All we bring about is that they don’t have jobs any more.”

Local Afghan staff also find it difficult to perform their jobs in such an environment. A local staff member\textsuperscript{119} from ICRC says: “When we travel to the south there are fighters moving from one village to another village and it is dangerous. One of the realities [is that for] one or two persons travelling to Kabul some of the Taliban think we are spy of the government, and when we are coming from such an area the government forces are thinking we are pro-Taliban.” The perception that this is a “never-ending war” together with the crisis in Syria has also diverted humanitarian funds away from Afghanistan. Alex Mundt of UNHCR believes that humanitarian budgets are under enormous strain, “South Sudan, the Horn, Syria, West Africa...the world is not in good shape. There’s not enough to go around. And certainly, rightly or wrongly, it’s Syria’s turn and we do deal with donor fatigue.”

According to Alex Mundt: “We were 47 percent funded against our total budgetary needs in 2015.” Meanwhile expenses around security and administrative costs have skyrocketed. As organisations’ budgets tighten and expenses increase, organisations are limited by the quality and quantity of information they can gather, making it more difficult to justify a presence in

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{118} Afghanistan: complex emergency, pp. 1-3.
\item \textsuperscript{119} Identity of the local staff from ICRC is kept anonymous because of security concerns in Afghanistan.
\end{enumerate}
\end{footnotesize}
Afghanistan. After years and years of international support, it seems Afghanistan is experiencing donor fatigue.

5.9. Human rights and rule of law

According to the 2017 World Report of HRW, the Afghan government made no measurable gains to improve human rights in 2016. Intensified fighting between Taliban and government forces killed or injured more than 8,000 civilians, most in deliberate attacks by insurgent forces, and increased indiscriminate attacks by the ANSF and pro-government militias. In addition, infighting among powerful political elite in the government and a lack of political will stalled progress on securing women’s rights, reining in abusive militias, and protecting schools and media freedom from regular attacks.

While both President Ghani and Chief Executive Abdullah have publicly affirmed the government’s commitment to improve human rights, the government has failed to address long-standing concerns, including violations of women’s rights, continuous abuses of children and attacks on journalists. The government recently launched an action plan to curb torture and enacted legislation criminalising the recruitment of child soldiers, but impunity continued.120

2016 was the bloodiest year on record for Afghan journalists since 2001, with 12 killed in the first 10 months of the year. Government or pro-government elements were responsible for most of the violence against journalists, followed by the Taliban. On 20 January 2016, a suicide attack on a minibus in Kabul killed seven journalists affiliated with Tolo TV, one of the largest national media outlets in Afghanistan. The Taliban claimed responsibility for the attack, describing in a statement as “revenge for false allegations made against the insurgent group.”121

Among other challenges, one of the greatest obstacles for promoting human rights and establishing the rule of law in Afghanistan is impunity. Since 2001, a consistent pattern of

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non-accountability for crimes and abuses has been firmly established. Powerful individuals are increasingly able to flout the law because of their weapons, their family connections, and their financial capability. In almost all of the important areas of law enforcement in Afghanistan, including corruption, narcotics trafficking, land grabbing and violent crimes, no powerful individual has ultimately been brought to justice in the past 15 years. Those few that have been marginalised or demoted were due to political deals made behind closed doors, re-enforcing the impression that individuals matter more than institutions in Afghanistan, and personal negotiations matter more than legal processes.

Afghanistan’s judicial system is one of the most inefficient judiciaries in the world, suffering from widespread corruption and major structural constraints. In the absence of an efficient judicial system, a large part of the Afghan population goes to local religious and customary justice authorities, or in many cases to the Taliban to resolve their disputes. This has been a major challenge for the international community which has struggled to reform the judicial system as part of its long-term state-building process in Afghanistan. In spite of the international community spending millions of dollars to reform the country’s justice system, there is little hope of seeing substantial progress.122

Musa Mahmodi of AIHRC believes that during this time of increased conflict, terrorism and poverty, it is difficult to expect human rights to be respected because his organisation is dealing with thousands of cases without any support from Afghan judicial or legal authorities. “In terms of rule of law and implementation of law and justice, the state is very weak. We are trying to hold the state accountable but we are as good as the recommendation we put out and the implementation of that by the state.”

To highlight Mahmodi’s concerns, on 8 May 2016, six Afghan Taliban inmates on death row were hanged in the first set of executions endorsed by President Ghani in response to critics who had demanded that the government take a harder line against the Taliban. The

executions were the first capital sentences carried out by President Ghani since he took office in 2014.123

According to Mahmodi, AIHRC receives threats every day by phone, by post, and on social media. He, himself, has been threatened personally and spent time away from the country as a result. His children cannot go to school because he cannot guarantee their safety. He has even formulated escape plans: “We have to have an emergency plan. I always believe in being brave, and patriotic and help other people. But I don’t believe in being stupid to not calculate and see the danger coming to you. That’s the very fine line between these two things.” Mahmodi has every reason to be concerned. In October 2015, anti-government insurgents killed two AIHRC staff members and injured six more. Combine this breakdown in human rights monitoring and the increase in civilian casualties, the effect is a growing public distrust in the government’s capacity to protect the people.

5.10. Travelling between provinces

Travel around Afghanistan is considered extremely dangerous due to the Taliban and other armed opposition groups’ control over many rural parts of the country.124 According to a recent travel guide published by the U.S. Department of State, “travel to all areas of Afghanistan remains unsafe due to the ongoing risk of kidnapping, hostage taking, military combat operations, landmines, banditry, armed rivalry between political and tribal groups, militant attacks, direct and indirect fire, suicide bombings, and insurgent attacks, including attacks using vehicle-borne or other improvised explosive devices. Attacks may also target official Afghan and U.S. government convoys and compounds, foreign embassies, military installations, commercial entities, NGO offices, restaurants, hotels, airports, and educational centers.”125

The following map published recently by the British Foreign and Commonwealth Office indicates the level of threat in travelling between provinces in Afghanistan. The map shows that there is a high threat of kidnapping throughout the country when passengers are

124 Afghanistan travel warning, U.S. Department of State.
125 Afghanistan travel warning, U.S. Department of State.
travelling by roads. According to this map, the level of threat is particularly high and travel is extremely dangerous outside the capital city, Kabul.

![Map of Afghanistan showing travel advice](image)

**Figure 3**: Travelling between provinces in Afghanistan

The Taliban now control several highways surrounding Kabul including the so-called “Death Road” to central Afghanistan. The highway is the main route between the Afghan capital and the Hazara-populated central region of the country. The highway has seen many beheadings, kidnappings and other Taliban attacks in recent years against members of the Hazara community. In addition, multiple armed opposition groups including the IS-KP, which are hostile to the government have established themselves in the eastern region of the country, that links Kabul to the Pakistani border. In July 2013, an Australian Department of Foreign Affairs cable said: “Security on the roads linking Kabul... and Ghazni has deteriorated in the

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last two years. There have been more and more documented cases of abductions and targeted killings perpetrated by the Taliban.”

In May 2016, Taliban militants reportedly killed at least 16 people after kidnapping dozens of bus passengers near the city of Kunduz in Afghanistan. Two buses were stopped and more than 185 passengers seized by armed gunmen. The buses were travelling from Kabul to Badakhshan, in north-eastern Afghanistan, when they were stopped by the Taliban fighters who had set up a roadblock. On 7 June 2016, Taliban insurgents killed 12 people after stopping their vehicles on a road in Ghazni province. Jawid Salangi, a spokesman for the provincial governor of Parwan province, stated that several members of the Afghan security forces were among those killed.

In November 2015, the IS-KP fighters kidnapped at least 20 bus passengers in southern province of Zabul. One month earlier, IS-KP fighters beheaded seven civilian hostages including three females. According to Afghan police officers, militants stopped several buses on the main Kabul-Kandahar highway not far from the provincial capital early in the morning of 21 November 2015, and seized the passengers.

Afghan lawmaker Mr Ghulam Hussain Nasiri, during an open session of Afghan Parliament on 1 October 2016, said that during the last 15 years 163 Hazara passengers have been murdered travelling from the central region of the country to capitals of various provinces. In 2015 alone, 33 passengers including three women were killed. He further stressed that highways from Bamyan, Daikundi, Ghor and some parts of Maidan Wardak provinces are now infamously known as “Death Road”. The lawmaker added that 11 passengers have been abducted recently.

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128 Deadly road blocks Afghanistan’s Hazara minority from homeland, The Australian.
130 Twelve people killed, 50 kidnapped in Afghan highway attacks (Reuters, 8 June 2016), <http://uk.reuters.com/article/uk-afghanistan-violence-idUKKCN0YU0S1>.
132 163 Hazara passengers have been kidnapped and murdered in Afghanistan (Hazara.net, 1 October 2016), <http://www.hazara.net/2016/10/163-hazara-passengers-have-been-kidnapped-and-murdered-in-afghanistan-says-afgan-lawmaker>.
ERC researchers were told the story of a young woman\textsuperscript{133} who was working for the Afghan Ministry of Education. She and her colleague were travelling from Kabul to the country’s western Herat province when they were stopped by insurgents. The woman and her friends were carrying identification papers from a government office. The insurgents beheaded the woman's colleague in front of her.

5.11. Targeted killings of Hazaras

There have been many news reports about Shia Hazaras being targeted by the Taliban and the IS-KP militants. Researchers at AAN agree that there have been cases of targeted killings of Hazaras, such as in October 2015, when seven Hazaras were captured in Gilan district of Zabul province and had their throats slit by alleged IS-KP militants. Among the group were two women and a 9-year-old girl. They were returning to their home district Jaghori in Ghazni province. Recounts of targeted killings appear, particularly on the 40-kilometre stretch of highway known as “Death Road” in the Wadak province although there are no statistics available charting the number of killings along the highway.

Interviewee K told of being kidnapped by the Taliban while travelling to Jaghori on “Death Road.” It is difficult to ascertain whether he was targeted for being a Hazara or not, but he believes that he was. He was fortunate to be released. There have been a number of high-profile cases of Hazaras being targeted that directly relate to Australia. A returnee from Australia, Zainullah Naseri, travelling to Jaghori district in Ghazni was kidnapped by the Taliban, just three weeks after being deported to Afghanistan. In September 2014, only one week later an Afghan-Australian Sayed Habib Musawi, also an ethnic Hazara who grew up in Afghanistan’s southern province of Helmand and came to Australia by boat in 2000, was stopped on the same road by the Taliban, dragged from a bus, beaten and shot three times.\textsuperscript{134}

In these two cases, the men were targeted for their time spent in “infidel” countries but their Hazara ethnicity may have contributed to their death too. Either way, Afghan Hazaras perceive that they are being persecuted for their ethnicity and this is making them extremely

\textsuperscript{133} Her identity is kept anonymous because of security concerns in Afghanistan.

anxious, particularly when travelling between provinces. Tom Shackles believes that the fact that Shia Hazaras need strongholds to be considered safe, is evidence of persecution in other parts of Afghanistan.

Take the example of Hazara-dominant Jaghori district, which is surrounded by Pashtun-populated districts. The local people perceive that to travel outside of Jaghori is dangerous, although there is no empirical data to back this up. Many people will not travel to or from Jaghori because of this. Even within the district, accounts from local people suggest that Hazara homes still stock guns for protection against the threat of Kuchi nomads. This then gives the impression of a country divided among ethnicities.

On 11 October 2016, a gunman wearing an ANSF uniform opened fire on Shia mourners at Kabul’s landmark Sakhi Shrine on Wednesday, killing 18 people and wounding 54. Victims included four women, including Sumaya Muhammadi, a member of the Daikundi provincial council, and two children. The IS-KP claimed responsibility for the attack.  

5.12. Internally displaced people

Between January and November 2016, 486,000 Afghans have been newly displaced internally as a result of intensification of the conflict, showing a 31 percent increase over the same period in 2015. This brings the estimated total number of conflict-induced IDPs to 1.2 million. In 2015, the intensifying conflict had displaced over 335,000 individuals, an increase of 78 percent compared to 2014.  

A recent report by Amnesty International (AI) “My children will die this winter: Afghanistan’s broken promise to the displaced” states that the displaced population faces an array of problems, including inadequate shelter, food, and water, as well as poor access to education, healthcare and employment. Despite the Afghan government’s launch of a national policy for IDPs in 2014, Amnesty reports that corruption, lack of capacity in the Afghan government,  

and decline in international NGO assistance has seen the program fail to support the displaced communities effectively. To make matters worse, IDPs also risk forced eviction from camps.\(^{137}\)

Mohamed Yousef, Director of Aschiana Organisation, believes that “lack of job opportunities in Afghanistan forces displaced children to work to support their families rather than go to school.” Yousef blames the Afghan government for failing to establish a clear policy to settle IDPs and provide them job opportunities. Of the over one million displaced people, many would be classified as landless. They may have been forced to flee after their land was taken from them, or they may fear their land will be taken by the time they return home. Alex Mundt from the UNHCR, believes that “there is a growing IDP crisis in the country which he expects will continue in 2016.”

This poor treatment of IDPs will no doubt contribute to people’s decision to flee the country. Those who remain are most likely too poor to afford the cost of a people smuggler. ERC researchers visited one of the 42 IDPs camps in Kabul. The camp was named Nasagee Bagrami after the textile factory the camp now surrounds. There are roughly one thousand IDPs, predominantly Pashtun and Tajik, in the camp, coming from Helmand, Kandahar, Uruzgan, Mazar-e-Sharif, and Nangarhar provinces. The camp was established 8 years ago on government-owned land.

The camp was a field of mud-brick homes, mud walls and narrow corridors. The ground was muddy and there were piles of rubbish pushed up against walls. The roofs of the houses were tarpaulins stretched across thick sticks and weighted down by rocks. The camp classroom was a canvas tent that had the United Nations Children’s Fund (UNICEF) printed on it, although the UNICEF has nothing to do with the camp. Aschiana Organisation provides the classes for the children in this particular community.

ERC researchers were invited to meet a family in the camp. The front door to the house was a gap in the mud-brick street wall covered by a piece of green material. The front yard was muddy and full of litter. A man stood in the centre of the yard, well-dressed with a Pakol perched on his head. A clutch of grubby children gathered around him. The man was from

Helmand province and his family was displaced by conflict. Their house was destroyed during fighting between the U.S. forces and the Taliban militants. There were 12 people in the man’s group including his parents and they all came by car to Kabul. They have been in the camp for 7 years. All of his children were born there. He was a farmer in Helmand and now he has no source of income. He said if there was no war in Helmand then he would return to his home as soon as possible, but for the time being it is better in this impoverished community.

5.13. Returnees from Iran and Pakistan

Afghanistan is the site of the largest repatriation operation in the world with over 4.7 million refugees having returned to the country under the UNHCR voluntary repatriation programme since 2002. HRW reports that: “In the years immediately after the fall of the Taliban in 2001, a huge number of Afghans returned to Afghanistan from Iran, Pakistan and other countries, with an estimated 2.3 million people returning in 2002 alone. While some Afghans enthusiastically returned to their homeland, many others felt pressured to return by increasing hostility and abuse in both Iran and Pakistan.”

According to the UNHCR, the rate of returns to Afghanistan has dwindled in the years since 2008, coinciding with the worsening security situation in the country. This has not stopped Iran and Pakistan from forcibly deporting Afghan asylum seekers and refugees. Since 2007, there were 200,000-300,000 Afghans deported per year from Iran and Pakistan, including refugees who have been living in those countries since the invasion of Afghanistan by the Soviet Union in 1979. During the first ten months of 2015, Pakistan deported 20,000 undocumented Afghan refugees and reported nearly 96,000 spontaneous returns of undocumented refugees. In the same period, Iran deported nearly 200,000 undocumented Afghan refugees and reported nearly 261,000 spontaneous returns of undocumented refugees.138

There was a spike in returns from Pakistan in early 2015 following the attack on a military school in Peshawar in December 2014, and actions by Pakistani security forces and local

authorities continue to push Afghan refugees to return to Afghanistan.\textsuperscript{139} Aid officials estimate that more than 700,000 refugees returned to Afghanistan in 2016 alone. Afghans are primarily returning from Pakistan, often not voluntarily. There are also returnees from Iran and to a lesser extent from Europe. In the first seven months of 2016, a total of 19,646 Afghan refugees returned to Afghanistan under UNHCR’s assisted voluntary repatriation program. An overwhelming majority (18,291) returned from Pakistan, followed by smaller numbers (1,271) from Iran and from other neighbouring and non-neighbouring countries.\textsuperscript{140}

Pakistani military operations in North Waziristan have also forced 250,000 refugees to cross the border into Afghanistan. "What you’re seeing is the people coming back with no other option and no resources to come. It was the poorest of the poor", says Alex Mundt from the UNHCR. Support programs for people returning to Afghanistan are overwhelmed, underfunded and corrupted. According to Alex Mundt, UNHCR assists returnees from Pakistan and Iran at five Encashment Centres where they receive a cash grant and can benefit from transit facilities and basic health services. Returnees are given mine-awareness training and are also briefed on how to enrol their children in school, and access legal aid. The UNHCR livelihood programmes also provide shelters and non-food item packages for returnees.

IOM provides undocumented Afghans returning from Iran and Pakistan with immediate humanitarian post-arrival assistance, which includes transportation from the border to their final destination via a transit centre, short-term accommodation, the provision of non-food Item relief kits, and other support, such as medical care or family tracing. The Cross Border Return and Reintegration program assists 1,000 to 2,000 people per day mostly returning from Iran. IOM’s Afghan mission is their second biggest mission in the world, and yet IOM is limited by its lack of funding. “The level of funding enables us only to give basic assistance,” says Laurence Hart, Special Envoy and Chief Mission of IOM in Afghanistan.

Lack of funding is not the only impediment to effective support of returnees. The Solutions Strategy for Afghan Refugees (SSAR) was developed by the governments of Afghanistan, Pakistan and Iran in May 2012 to facilitate voluntary return of Afghan refugees and

\textsuperscript{139} Ahmadi & Lakhani, the forced return of Afghan refugees and implications for stability.
\textsuperscript{140} Afghanistan: voluntary repatriation and border monitoring monthly update, pp. 1-2.
sustainable reintegration of returnees. Afghanistan’s Ministry of Refugees and Repatriations (MORR) was supposed to implement development projects, such as constructing roads, health clinics, and schools; effectively distribute land to Afghan returnees under the Land Allocation Scheme, and identify the needs of returnees in areas of high return and communicate those needs to other Afghan ministries.

In August 2015, the U.S. Special Inspector General for Afghanistan Reconstruction (SIGAR) conducted an audit into the SSAR and found that the program has failed to deliver its services due to institutional corruption, bribery, forgery, nepotism, embezzlement, and poor customer service. According to the SIGAR report, “As a result of the MORR’s limited capacity and its problems with corruption, it has been unable to effectively lead and coordinate Afghan refugee and returnee efforts across the Afghan government and with international partners, thus preventing the ministry from fully implementing the Solutions Strategy and addressing the challenges refugees and returnees continue to face.”

5.14. Refugee crisis and decision to leave

There is a crisis of hope and a crisis of confidence in the future of Afghanistan. The majority of the Afghan people have lost faith in their government. They do not see a resolution to the long-lasting conflict in the near future, and the growing insecurity is making people anxious. People cannot get jobs, there is limited money coming into the country, and the withdrawal of the international forces feels like abandonment. The growing insecurity combined with political instability, corruption, a weak judicial system and economic challenges have made people highly concerned about the improvement of the overall situation in the country. This has led to a situation whereby people have been forced to leave their country and seek refuge in foreign nations in numbers that have not been seen since 2001.

According to the UNHCR, Afghans accounted for one-quarter of the more than 1 million refugees and migrants who arrived in Europe in 2015, the second-largest group after Syrians fleeing their country’s civil war. In 2015 alone, 213,000 Afghans arrived in Europe, with

176,900 claiming asylum that year, according to European Union (EU)’s data. 50 to 60 percent of such Afghan requests have been denied so far, meaning that tens of thousands of people could be returning to Afghanistan in the near future.\(^\text{142}\) The UNOCHA reveals that approximately 118,000 Afghans fled their homes in the first four months of 2016. Even so, there is a perception in European and other countries that many Afghans fleeing their country are not necessarily refugees.\(^\text{143}\)

In talking to civilians, ERC researchers found an overwhelming amount of conversations reverted to people’s desire to leave. Taxi drivers spoke of family members abroad or of their own plans to leave. “My aunt and some of my relatives and family members live there in Australia. And then Germany also and America and Canada. Most of my relatives live there. And they are living there very comfortable and very good. They run after the regime of the Taliban, and went to Pakistan. The UNHCR registered and then selected interviewed. Very lucky,” says a taxi driver in Kabul.

Another taxi driver worked with the U.S. Army in the kitchen for eight years. Many of his colleagues who were working for the Americans went to the U.S. He could not get the authority from his American commander for permanent residency in America because he did not hold a high enough position. Another taxi driver was a language assistant with the U.S. Army for four years and is waiting for the American visa.

One man told ERC researchers a story of his daughters playing a game: ”The younger daughter sat on the ground like this, put the mattress here. I called: “What are you doing?” She said: “We are immigrating.” I told her: “Where are you going?” Believe me, I swear, she told me that: “I think to Australia.” This is the real story of my life. Then my next daughter who is 5 years old says: “Not Australia. I think Australia has a lot of water. Go to Canada.”

Tom Shackles believes that the thought of having to flee alongside a million other people if violence or civil disturbance breaks out, such as what is happening in Syria, is motivating


\(^{143}\) Rod Nordland & Mujib Mashal, ‘Europe makes deal to send Afghans home, where war awaits them’ (<em>New York Times</em>, 5 October 2016), <http://www.nytimes.com/2016/10/06/world/asia/afghanistan-eu-refugees-migrants.html?_r=0>.
Afghans to leave. “We've had some staff leave that we would consider are economic refugees and we've had other staff leave who, if they had stayed, there was a reasonable chance that they would've been killed. Picking the difference between those two: I am glad it's not my job,” Shackles says.

For many Afghans this is not an immediate humanitarian crisis. For many there is no “trigger event” which forces them to flee. Decisions to leave are often considered, weighed up over time and influenced by numerous issues. Many Afghan migrants and refugees descend from generations of refugees living in the region, particularly in Iran and Pakistan, who were never integrated or offered resettlement in those countries. For many of them going home is not an option because of the deterioration of the security situation and other serious challenges in Afghanistan. Alexey Yusupov of FES sees the exodus from Afghanistan as a pre-emptive move to avoid a deteriorating nation. He believes that their reasons for fleeing are genuine, but because Afghan asylum seekers are being channelled into the professional smugglers’ network they are advised to create personal endangerment stories.

What is clear is that Afghans are leaving their country for a mixture of reasons including political, security and economic, and it is not so simple as to claim that they are only leaving their country because of economic reasons. AAN performed a series of twelve in-depth interviews with families of Afghans who recently travelled to Europe: “People’s motivations for going to Europe, as reflected in the twelve interviews, were often a combination of frustration felt over the lack of jobs and/or educational opportunities as well as concerns over the deteriorating security situation. Even in cases where the lack of opportunities for employment and education were mentioned as the primary reason for migration, these were usually followed by explicit and implicit references to the security situation. None of the respondents cited the lack of opportunity as the exclusive reason for leaving.”

What also emerged from the interviews was that in at least four cases, people had fled due to threats because of their past employment, their unemployment was caused by direct insurgent threats or the fear of being exposed to insecurity because of their work. People were also concerned about recruitment of unemployed youth by the Taliban or the Afghan security forces. Mohamed Yousef sums up his opinion on the matter succinctly: “If I am safe and secure in this country, I will never go out of this country.”
5.15. Seeking protection

In the case that someone is targeted in Afghanistan, it is important to look at what options are open to them to seek protection and resettlement. ERC researchers spoke to Habib\textsuperscript{144}, a Hazara man in Kabul who was threatened by militia for the work he had previously completed with an international NGO. Habib was trying to formulate a plan to escape the country and seek resettlement. Habib wanted to take his wife and children with him but this would make it extremely expensive. His organisation would not help him because he no longer worked for them. To flee a country is an expensive venture. The poorest of the poor in Afghanistan cannot afford to flee and will most likely be found in the IDPs camps around the country.

It is more difficult for Afghans to reach protection than ever before because the region has seen a huge amount of mass movement of refugees and neighbouring countries are far less accepting of refugees from Afghanistan. The most common countries Afghans flee to are Pakistan and Iran.

**Islamic Republic of Iran**

Iran is not a desirable option as there is no UNHCR resettlement program in that country. Afghan refugees suffer systematic discrimination from the Iranian authorities, and the discrimination has increased particularly since the U.S-led invasion of Afghanistan in 2001 to deter new arrivals and to coerce returns. According to the UNHCR, there are over 950,000 registered Afghan citizens living in Iran. However, Iran’s Ministry of Interior’s Bureau for Aliens and Foreign Immigrants’ Affairs (BAFIA) estimates 1.4 to 2 million Afghans, not registered as refugees, live and work in Iran. After 2001, Iran stopped registering newly arrived Afghans as refugees and submitted registered refugees to a complex and bureaucratic process to retain their refugee status.\textsuperscript{145}

Alex Mundt says that the UNHCR cannot afford to establish a refugee resettlement program in Iran. Afghans are denied citizenship and permanent status in Iran and have limitations to

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\textsuperscript{144} His name has been changed to protect his identity because of security concerns in Afghanistan.

their marriage rights, especially to Iranian women. They are restricted in their movement around the country with most provinces being designated “no-go zones.” They are arbitrarily denied education opportunities. Interviewee M accounts for losing his refugee status after enrolling at university. Interviewee B claims that he was not permitted to study law because of his nationality.146

Afghans in Iran can also be subject to violent abuse. Interviewee B alleges that he was sexually assaulted by Iranian police. Iran has also carried out forcible repatriation of Afghans migrants and refugees. Since 2007, there have been 200,000 – 300,000 Afghans deported per year from Iran and Pakistan, including refugees who have been living in those countries since the invasion of Afghanistan in 1979 by the Soviet Union.

**Islamic Republic of Pakistan**

According to the UNHCR, Pakistan hosts 1.5 million registered Afghan refugees and 1 million undocumented Afghans. The border town of Quetta in Pakistan has a large Hazara population. Although there is a UNHCR resettlement program in Pakistan, there is no guarantee of resettlement and, just like in Iran, Afghan refugees are only permitted temporary residency status. That residency status is subject to threats of deportation from the Pakistani government.147

Hostility towards Afghan refugees in Pakistan is not new, but it increased dramatically after the Pakistani Taliban, Tehreek-i-Taliban Pakistan, attacked the Army Public School in Peshawar on 16 December 2014, killing 145 people including 132 children. Since then, Pakistani police have carried out raids on Afghan settlements, detained, harassed, and beaten Afghan men, extorted bribes, and demolished Afghan homes. Every Afghan interviewed by HRW who had returned to Afghanistan said that fear of the police was the reason they had done so. Afghans remaining in Pakistan described a repeated pattern of arbitrary detention,

146 Identities of interviewees M and B are kept anonymous because of security concerns in Afghanistan.
extortion, and intimidation. Both registered and undocumented Afghans have been the victims of the Pakistani police abuse.148

Jelena Bjelica, a researcher at AAN, says: “You remember there was this school killing in Pakistan? 140 kids were killed and after that the Pakistani police put pressure on the Afghan refugees. You know, berating their settlements by closing the shops. The owners of the houses refused to rent the houses. So, in ten weeks’ time you had 52,000 Afghans returning spontaneously to Afghanistan.”

According to a report of IOM and the UNHCR in September 2016, hundreds of thousands of people are crossing into Afghanistan from Pakistan, prompting warnings of a major humanitarian crisis. Aid officials estimate that more than 700,000 refugees — registered refugees and undocumented returnees — returned to Afghanistan in 2016 alone.149 In 2015, more than 88,000 Afghans were pushed out of the country by the Pakistani government. Since last year, Pakistani officials have begun referring to Afghans as “illegal aliens” and many fear that when their temporary residency visas expire they will be forced back too.

The rise of the Pakistani Taliban in the border areas of Pakistan and Afghanistan is also concerning. Hazaras in Quetta have been targeted with bombings and violence in recent years. Abdul Ghafoor believes that from 2000, the situation for Hazaras in Pakistan deteriorated. He tells of suicide bombings in his local area: “One was in Alamdar Road, the other was in Hazara town. So, the one that happened in Hazara town that was the place we used to play volleyball every day. People gather there. That’s where they blew this tank laden with explosives, C-4 explosive which is the worst in the history of Pakistan.”

Ghafoor left Pakistan after he was targeted by the Taliban because of his work with an international NGO. “We couldn’t go out of town. I couldn’t go to work. I had to quit...We got threats and everything and there was this day that when three and four of them, you know, armed, they just came inside of our office...So, in 2009, I resigned from the office. I said no, I

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can’t put my life at risk and I want to give up.” Interviewee R tells ERC researchers that he returned to Afghanistan from Pakistan after a suicide attack in Quetta ended with a human body part landing in his yard.

Other options

Interviewee M went to Australia from Afghanistan. ERC researchers asked him if he considered other routes to register with the UNHCR. “No, because Pakistan is the same as Afghanistan. If you go there, Taliban are there as well. I prefer to go to Iran instead of Pakistan but I knew that if I come to Iran I will have one month visa and after one month I will become illegal.”

According to the UNHCR officials, Habib’s best option for protection and resettlement would be to cross to a neighbouring country. The three other countries bordering Afghanistan in the north are Central Asian republics of Uzbekistan, Tajikistan and Turkmenistan. A UNHCR office has not been present in Uzbekistan since 2006 and the country is not a party to the Refugee Convention. Tajikistan hosts the largest Afghan refugee population in Central Asia: approximately 4,000 asylum seekers and refugees almost entirely from Afghanistan. However, refugees do not have the freedom to establish their place of residence, and are banned from living in major cities.

Habib told ERC researchers he applied for a visa to Tajikistan but was rejected. The system and standard of living is fragile in Tajikistan and Habib was not convinced he and his family would be safe if he went there illegally. Turkmenistan is a signatory to the Refugee Convention and could be an option, although there is little reliable information on Turkmenistan’s refugee policy or even if there is one. For both Tajikistan and Turkmenistan, Habib would be taking a risk: he would have to enter the countries without a visa not knowing how he will be treated upon arrival or if he can actually access resettlement.

ERC researchers asked Interviewee M if he considered seeking resettlement in places like Turkmenistan or Tajikistan. “No, I didn't think about those countries because I never saw people who go to Turkmenistan or Tajikistan. I never saw people do that.” India is the only

Identity of Interviewee R is kept anonymous because of security concerns in Afghanistan.
country for which Habib can obtain a visa, which makes it his only ‘legal’ option, and it has a UNHCR resettlement program. “I have thought about that. I’d have to stay in New Delhi or Chennai where the two UNHCR offices are. I could not afford to live in New Delhi: it is more expensive than Pakistan or Afghanistan. I don’t know anything about Chennai. The visa is 30 days long and after that I am unsure what will happen to me.”

The other option open to Habib would be to use people smugglers to head further than the neighbouring countries of Afghanistan. The Gulf states traditionally have not been generous with resettling refugees from Afghanistan. Those Afghan migrants who do end up in Saudi Arabia are usually employed to do menial tasks. Turkey and Jordan act as feeder countries for the UNHCR resettlement but both are already overburdened with refugees. By the end of 2015, Turkey had hosted 2.5 million refugees and in Jordan there were over 4 million Syrians of whom over 600,000 were registered as refugees. According to AI, the dire conditions for many refugees and asylum seekers in Turkey contribute to their movement to Europe. Australia is not considered an option.

If he was going to spend the money to leave Afghanistan in this manner then he may as well head for Europe. Macedonia closed the border for asylum seekers to Europe in March 2016, which pushes the most desperate to cross the Mediterranean Sea by boat. This route would risk Habib and his family’s lives. In 2014, 2,500 people died or were lost in the Mediterranean Sea en route to Europe.

The Mediterranean Sea continues to be the deadliest route for refugees and migrants. More than 300,000 refugees and migrants used the dangerous sea route across the Mediterranean Sea between January and August 2015 with almost 200,000 of them landing in Greece and a further 110,000 in Italy. According to the UNHCR, this represents a large increase from 2014, when around 219,000 people crossed the Mediterranean Sea during the whole year.  

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proved to be particularly deadly as some 2,510 lives lost their lives between 1 January and 31 May, compared to 1,855 in the same period in 2015. ¹⁵²

People smugglers can arrange passage by plane, but this is more expensive. “$5,000 per person,” Habib said. “For 6 people that is $30,000. I cannot afford this.” Some Afghans have sought protection in China. The life prospects are grim, but Habib would be away from persecution in his country of origin and resettlement is available, eventually. “How could I live there? What language would I speak? What would my family do? Why would I spend that money to go to China when I could use it to go to Europe?” he said. “I should have left for Europe when I was young and the options were available for me. I wanted to help my country. I wanted to stay to improve the situation. Now I must leave Afghanistan as a fifty-year old, at a time when thousands are trying to find protection and nobody can tell who needs it and who doesn’t, and I will have to convince the UNHCR that I am not an economic migrant,” Habib said.

Habib’s situation reveals the bitter truth of seeking protection: once he was forced to flee his country, his family’s future would be forfeit. Whichever option he took he would lose everything: his home, his property, his standing in society, his expertise and qualifications, his sense of well-being and his control over his future. “I can become a cleaner of rich people’s homes if I can understand them,” he said with an ironic smile.

5.16. Legal migration pathways

Since 2014 and the onslaught of the Islamic State and increased violence in Syria’s multi-sided civil war, over a million people have crossed the Mediterranean Sea to seek protection in Europe. This has been described as the “European migrant crisis” and has tested European countries’ processing systems and challenged their resolve to uphold the international protection system to which they are signatories. Unfortunately, a conservative backlash against refugees has seen countries close down borders, build walls, and demonise refugees.

“Politicians mostly argue that this is a threat to the cultural identity and this comes from the sense of the population and of the country that they are not in control of the process. There is no statistical data or actual reasons saying why this endangers the country or society or economy. Politicians who argue against it, capitalise on the feeling of endangerment and risk and threat,” says Alexey Yusupov of FES.

Laurence Hart of IOM in Afghanistan, believes that the international protection system is under a huge amount of strain at the moment. However, he believes that the ad hoc response from the EU is a “solidarity crisis” and a sign of growing fatigue to welcome people. “There is concern for security, there is concern for job competition,” Hart says.

Alex Mundt of the UNHCR agrees with Hart: “I think what you’re seeing now is a perfect storm that’s threatening, even though it perhaps shouldn’t, the social fabric of European states and maybe Australia. But if you look at the numbers, it shouldn’t be a threat.” One of the reasons why the system is experiencing such high demand is that there are few legal migration pathways for Afghan migrants to leave the country. This means that many Afghan migrants are forced into people smuggling channels in order to escape the country. This then overburdens the protection system and makes it more difficult for refugees to access protection. It is obvious that providing Afghans with a legal migration pathway will alleviate the pressure on countries with refugee determinations.

Experts in Afghanistan believe that deterrence policies adopted by Australia and European nations are short-sighted and fail to understand that the outflows from Afghanistan are systemic migratory patterns to avoid a failing state. While Afghans leaving the country may not have personal endangerment stories, it is clear they are fearing generalised, widespread conflict. The continuous conflict in the country over the last three and a half decades has overburdened the region with refugees and led to generational displacement. It has also meant that fleeing to neighbouring countries to seek immediate protection is not an answer to this imminent humanitarian crisis. Many countries are negatively assessing Afghan refugee claims, but are finding that they cannot safely return them.

Alexey Yusupov of FES suggests that countries need to address crisis areas such as Afghanistan with humanitarian migration quotas. This would alleviate pressure on the international
protection system and would help to identify those who need immediate, quick, humanitarian assistance. Afghans would have hope of resettlement and would not be forced into dangerous people-smuggling channels. The biggest barrier to such reform is political will.

5.17. Rejected asylum seekers and voluntary returns

Since the number of people fleeing to Europe surged in 2014, many European governments deemed it possible to deport rejected asylum seekers to Afghanistan safely. The EU has struck a tentative deal with Afghanistan to return an unlimited number of Afghan asylum seekers with a conference held in 2016 in Brussels aimed at securing international financial aid for the war-torn nation. The EU officials, however, have denied that aid pledges would depend on the Kabul government accepting the return of tens of thousands of Afghans from an overstretched Europe. “This agreement, signed on 5 October 2016, allows for the repatriation of failed asylum seekers from the EU member states. There could be tens of thousands of them,” Al Jazeera’s Jennifer Glasse, reporting from Kabul, says.153

In addition to the EU, in early October 2016 Afghanistan signed three new readmission agreements, with Germany, Sweden and Finland. These new agreements are a response to the large influx of Afghan asylum seekers in 2015 and 2016, with over a quarter of a million Afghans arriving in Europe in this period. Germany, one of the main countries pushing for a deal, received the bulk of the influx, with 180,000 asylum applications by Afghans in 2015 and 2016.154

Prior to these agreements, in March 2016 the United Kingdom’s Court of Appeal ruled that deportations to Afghanistan can be resumed, lifting a blanket ban on deportations from the UK set in August 2015. In October 2015, Germany began deportations of Afghan asylum seekers just two weeks after announcing it would keep troops in Afghanistan to cope with the deteriorating security situation there. Norway also began deporting families with children in

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late 2013. According to the Norwegian police, the country forcibly deported 438 people to Afghanistan, including 84 children in 2014.

In March 2016, Turkey forcibly returned around 30 Afghan asylum seekers just hours after the EU-Turkey refugee deal came into force, which promises Turkey up to 6 billion euros in financial support from the EU in exchange for halting the flow of refugees seeking to reach Europe.\(^{155}\) Moreover, in February 2016, 125 Afghans “voluntarily” returned home from Germany with the IOM support, although analysts such as Alexey Yusupov from FES believe that there is a strong likelihood these returnees were coerced into leaving.

In September 2014, it was reported in the Australian media that Zainullah Naseri, a 29-year-old ethnic Hazara, was the first Hazara to be forcibly deported from Australia back to Afghanistan. His claim for asylum was rejected, and his appeal to the Refugee Review Tribunal (RRT) in December 2012 failed, the tribunal ruling that it was safe to live in his home district of Jaghori, in central Afghanistan, which is populated predominantly by Hazaras. Previous forcible deportations have seen Hazaras returned to Pakistan, but never to Afghanistan.\(^{156}\)

Laurence Hart from IOM states that forced returns are necessary to uphold the integrity of the international protection system. However, signatory countries to the Refugee Convention must still uphold the principle of non-refoulement and ensure that these people are not being returned to danger. It is clear from the generalised and widespread violence throughout the country that Afghanistan is not a safe country. The increased violence against civilians makes a strong case for asylum seekers to be eligible for complementary protection or the generalised violence criteria of the convention.

Alexey Yusupov of FES argues against the classification of Afghanistan as a country of safe origin because that legally gives governments the opportunity to deport people back to Afghanistan which he feels would be exploited. ERC researchers are also concerned that


protection assessments and Afghan country assessments made by Australia and European
nations may be influenced by their domestic deterrence politics.

Afghanistan’s Minister for Refugees and Repatriations, Sayed Hussain Alemi Balkhi, told
Australian government officials in February 2015 that the forcible repatriation of Afghans
should be stopped because of the worsening security situation in the country. He stated that
Australia’s memorandum of understanding with Afghanistan, which allows for the forcible
deportation of Afghan citizens, was signed in 2011, when the security situation was
significantly more stable. And yet, Interviewee M was returned to Afghanistan in August 2015.

Zainullah Naseri was deported by the Australian government on the basis of an out-of-date
country assessment. Amendments by the Australian government to the Migration Act, which
narrow the scope of protection for asylum seekers, no doubt assisted the government to
return him and other rejected asylum seekers to Afghanistan. Despite the Afghan
government’s statements that the country is not safe, Laurence Hart of IOM says: “The
position of the Afghan government is one that accepts the return of its nationals as long as
there is a reintegration package attached to it - meaning financial support to start a business
activity”.

A number of countries, including Australia, offer reintegration packages to try to incentivise
rejected asylum seekers’ voluntary return. ERC researchers are concerned that Australia’s use
of financial incentives and punitive detention as ways of convincing people to voluntarily
return to their country of origin allow Australia to avoid violating the principle of non-
refoulement. Both Zainullah Naseri and Interviewee M reported sustained government
pressure to voluntarily return while imprisoned in indefinite detention. Interviewee M may
even have been tricked into signing a repatriation package.

“They [Australian immigration officials] said: “You can get support from IOM if you ask.” And
I told them I just have $200. It's all of my money.” They told me to ask them [the SERCO
guards] about money. “You don't have any money. What you want to do there in
Afghanistan?” And when the SERCO guys came I asked them: “Can I get some money?” They
said: “Yes. If you want, you can ask from IOM to give you money. We can organise that for
you, if you want?” I say: “Yeah, please do that.”
Australia has returned Afghans before in similar circumstances. Interviewee R describes being pressured to voluntarily return to Afghanistan while being held indefinitely on Nauru. He eventually returned in 2001 with 179 refugees from the MV Tampa. Of these returnees, there have been 30 reported deaths. Many of these killings can be linked to the Taliban.

Considering Australia has never incorporated the non-refoulement provisions of the CAT or the ICCPR into its domestic law, it appears the country has few legal repercussions for violating the non-refoulement principle. The ERC has previously concluded that Australian governments have returned rejected asylum seekers to danger. The Responsibility to Protect supports this research by providing case studies of returnees and a detailed analysis of the returnee experience. By examining the psychological and economic impacts of being returned, as well as the physical dangers, it is hoped that the ERC aims to provide a more nuanced understanding of what it means to be sent back to Afghanistan.
6. Returnee Experience

Consider this: a person embarks on a monumental journey to seek protection, which often begins with engaging a people smuggler and following, at times illegal and dangerous, routes across multiple countries. The person may be away for a number of years while they navigate a peaceful Western nation’s asylum system. They may work in the country and settle, and then their application is rejected and they are returned to Afghanistan to another part of the country where they did not come from in the first place, where their family does not live. Is it a surprise that the reintegration process can be extremely difficult?

The returnee experience in Afghanistan can be one of isolation and destitution. When people are sent back to Afghanistan, the problems that forced them to leave in the first place are almost certainly still present. Returnees can be targeted as “spies” or “infidels”. They often have trouble finding work, they suffer societal stigma, and can become disconnected from their family and friends. This can exacerbate mental health issues, which can result in drug addiction, alcoholism and homelessness. The combined effect can often push the returnee to flee the country again.

“When a returnee is returned it doesn’t end there. For the returnee the problem starts from that time,” says Abdul Ghafoor, founder of the Afghanistan Migrant Advice and Support Organisation, a support service for returnees.

6.1. Safe zones

It is argued that there are “safe zones” in Afghanistan, such as major cities like Kabul or Hazara-majority areas for people of Hazara ethnicity, to which rejected asylum seekers can be returned. The volatile nature of Afghan politics and the ongoing conflict, including the resurgence of armed opposition groups, makes it extremely difficult to make long-standing security assessments. Zainullah Naseri was forcibly deported from Australia in August 2014, but the Refugee Review Tribunal ruling to send him back was made in December 2012, based on security advice at that time. In the time between the ruling and his deportation, the security situation in Afghanistan had dramatically deteriorated.
Alexey Yusupov from FES admits that there are currently “safe areas” where certain ethnicities are the majority, such as Hazara-majority Bamyan province. But he argues that there are delicate balances which ensure peace in these areas and the returning of rejected asylum seekers could cause problems. “What about the people who live in this safe province? What will they do to the people you want to put there? Will it be safe then? There is a reason it is safe. Maybe it is ethnically balanced. Bamyan you will see it is mostly Hazaras. Panjshir province is another example of a safe area, you will see it is predominantly populated by Tajiks. You do not want to put 10 families of Pashtun refugees into there. They are going to be even more in danger before they left Afghanistan.”

Furthermore, to assume ethnic groups can be grouped together homogeneously would be to ignore the tribal rivalries within the ethnic groups of Afghanistan. “It will be interesting for you to know that if a Hazara is from Ghazni province, he is so hated by a Hazara in Bamyan. This is how things work in Afghanistan. You can’t just do that. I am from Ghazni and I have never been to Bamyan,” Abdul Ghafoor says.

Therefore, there really are not any areas that are truly safe. They may be safe for a while, but not for long. Afghan asylum seekers are rejected in European and other countries on the basis that they are economic refugees. However, the poor socio-economic situation which is the result of the decades-long conflict in Afghanistan is not taken into serious consideration in assessing the asylum cases of the Afghans. Realistically speaking, Afghanistan will not be safe until a political solution is found to the long-lasting conflict. 157

6.2. Restricted movement

Many of the so called “safe zones” are isolated as travel around Afghanistan is considered extremely dangerous due to the growing influence of the Taliban and other armed opposition groups over many rural parts of the country. The Taliban now control several highways surrounding Kabul, including the so-called “Death Road” to central Afghanistan. The country’s battered Ring Road, a highway network over 2,000 miles long built by international donors at a cost of $3 billion, is still not complete after more than a decade of work. Parts of it remain

unfinished, other sections have repeatedly fallen under insurgent control, and on much of its length, only heavily armed military convoys can travel safely because of the risk of insurgent roadblocks and bombings.\textsuperscript{158}

This means that many Afghans cannot leave the areas to which they are being returned. For those who are not returned to their areas of origin this means that they can easily become isolated. Abdul Ghafoor says: “I have had returnees who could not go back to their provinces for a long time, especially in the past few months with these kidnappings [of] Hazaras...Many returnees are stuck here and I met some of them who ended up homeless on the streets.”

Jaghori district in Ghazni province may be considered a safe district for Hazara people, but the districts surrounding Jaghori are Pashtun-populated and heavily influenced by the Taliban. Travel outside of Jaghori, for example, to Kabul, could endanger a person’s life. When Interviewee K\textsuperscript{159} returned to Afghanistan, he lived with his family in Jaghori, but would regularly travel to Kabul to find work. It was during one of these trips from Jaghori to Kabul that Interviewee K was kidnapped by the Taliban. He was fortunate enough to be let free. Interviewee M is too frightened to leave Kabul and visit his family in Jaghori.

Ghafoor is critical of people being returned to areas not of their origin because he believes without the support of family or friends they will find it difficult to cope. If they cannot find work they may have to risk travel through Taliban-controlled areas. Alternatively, even if a person is returned to their area of origin to live with their family, if they cannot find work they may have to risk travel through the Taliban-controlled areas.

Tom Shackles sums up the security situation: “It might be possible for a Hazara to have gone to seek asylum and it might be possible for them to come back and live within a strongly-held Hazara area and be safe in that area. It might also be possible that they come to Kabul to visit someone or other and they are pulled off a bus and killed.”

\textsuperscript{159} Identity of Interviewee K is kept anonymous because of security concerns in Afghanistan.
6.3. Targeted attacks against returnees

There have been several reports of returnees being targeted by the Taliban and other armed opposition groups. In September 2014, Zainullah Naseri was stopped by the Taliban at a roadside checkpoint while travelling from Kabul to his home town of Jaghori in Ghazni province. The Taliban found his Australian driver’s licence in his pocket and his iPhone. This is when the Taliban abducted Zainullah. He claims they beat him and threatened to kill him because he had come from an “infidel country”. He was fortunate enough to escape.160

One week after Zainullah’s capture, Afghan-Australian citizen Sayed Habib Musawi was stopped on the same road by the Taliban dragged from a bus, beaten and shot dead. According to a Guardian report, Habib had been in Afghanistan for months, waiting for it to be safe enough to travel from Kabul to Jaghori to visit the wife and children of his son, who is currently in Indonesia, attempting to gain asylum in Australia.161

Returnees may be targeted by the Taliban or other armed groups upon return to Afghanistan because they have been to Western countries. They could be accused of being a spy, of working with foreign troops or governments, of being a Christian missionary, or they may be seen as wealthy after spending time in the West. “They can be targeted by the Taliban just because they have been in those countries,” says Abdul Ghafoor. “And this has been raised by many returnees with me. Because the Taliban do not understand what deportation is. What they understand is that this person has been in those countries and now that they have returned they can be a spy. How can they assure the Taliban that they have been deported? There is no way. They fear to be kidnapped because the whole Europe and Australia thing, when you talk about those countries, people assume that whoever has been there has millions of dollars. They say: “We can be kidnapped at any time.”

Interviewee K was kidnapped by the Taliban on the road to Jaghori. He thinks if the Taliban had found his immigration papers from Norway then they would have killed him. He is still

161 Ansari, Daughter thought dual citizen tortured and killed in Afghanistan would be ransomed and released.
fearful of being persecuted and has asked for his identity to be withheld. This fear of being found out is a major cause of stress for returnees. When Ghafoor returned to Afghanistan he found it extremely difficult: “The first days and months I was not able to stay at one place because this fear in my mind of being found out, being targeted, because in countries like Afghanistan, it is very easy to kill people.” Interviewee R was back in the country 5 days before he fled for Pakistan. He had received an unwelcome amount of media attention upon his arrival that put him in danger.

If returnees are being targeted in this way, this would mean that the act of fleeing Afghanistan could become a person’s reason that they need protection from Australia, Europe and other countries. It would also mean returning them to Afghanistan could violate the principle of non-refoulement. “I think it is possible that there are people who were in the economic refugee category and I think it would be possible for them to return safely to Afghanistan. It's also possible that they'll be killed when they come back. How do you tell before the event?” says Tom Shackles.

As such, the ERC’s stance on this matter is clear: if governments cannot guarantee the safety of people upon return to Afghanistan, they should not be forcibly returning them. Even if these fears of physical endangerment are addressed, returnees still face a huge range of challenges to successful reintegration.

6.4. Refugee background

Afghanistan has a very complicated history of migration throughout the different phases of conflict. Many people in the country have refugee backgrounds. They may be the children of refugees who fled the Soviet invasion of their country, and were born and raised in countries like Pakistan or Iran where they were never offered citizenship or permanent residency. Sometimes their first steps in Afghanistan occur after deportation to their parents’ country of origin.

Interviewee M’s parents fled Afghanistan during the Soviet Union’s occupation of the country in the 1980s. He was born and raised in Iran. The first time he entered in Afghanistan was when he was forced to leave Iran in 2010 when he was 25 years old. His family still live in Iran.
Interviewee B’s parents also fled Afghanistan during the Soviet occupation. He was born and raised in Iran. He first entered Afghanistan aged 18. Abdul Ghafoor was born and raised in Pakistan. He fled Pakistan to seek asylum in Norway and when his application for refugee status was rejected he was deported to Afghanistan. At that point, he had never stepped foot inside the country. With family left behind or spread across the region, returnees face a challenging integration process.

Alexey Yusupov of FES says: “Returnee’ implies just went and then you were brought back. But if it is happened like 20 times before then it is a different type of migration. And it happens to many Afghans.”

6.5. Deportation

Returning to Afghanistan begins with the traumatising process of deportation. “I have lived in Norway for example 7 years and suddenly I have been arrested and I am thrown in a war-torn country. I have the right to be in a state of trauma,” says Abdul Ghafoor. Ghafoor accounts for physical and humiliating means to deport Afghans. “The border police of Norway, Sweden, or the UK for example, they have been using a lot of force; they have handcuffed them; they have injected [sedated] them so the person cannot resist any more, so they are unconscious in a form.”

As well as alleged beatings, Abdul tells a story of a deportee who tried to use the wash room on the plane home. “When he got up to go to the wash room the police went with him and the police didn't let him close the door. Do you know how tiny the wash rooms are? And if you don't close the door it is a humiliation. How are you going to do what you have gone for? So the police stood there and said: “Do what you're going to do but we are not going to let you close the door.” Deportation marks the end of a person’s dream of a new life and this perception of failure can have detrimental effects on their emotional well-being upon return.

6.6. Stigma

All the returnees ERC researchers spoke to suffered some sort of stigma or discrimination when they came back to the country. Abdul Ghafoor believes people in Afghanistan do not know what deportation is and as a result deportation becomes a stigma. “People think this
person who is deported, it means that they have done something criminal...If your cousin was granted asylum, if your uncle was granted asylum, why weren't you? What have you done? Have you done a crime? Have you done something wrong and [they] deported you?”

Sometimes deportees were unaware they could be deported. For this reason, many people are humiliated to come home and find it difficult to share their stories. They can be seen as failures by society and by themselves and made to feel ashamed for having tried to flee the country. Many Afghans are also resentful towards returnees due to the financial assistance they receive to help them reintegrate. Not only was the returnee rich enough to flee in the first place, now they are taking money that could go to the poorest Afghans.

The Refugee Support Network says: “A fear of stigma or discrimination has, in many cases, created a barrier to building open and honest friendships, leaving young people internally isolated and disconnected.”

6.7. Isolation from family and friends

A strong network of friends and family is an important part of reintegrating successfully. However, if someone is returned to the so called “safe zones” rather than their home province they will be separated from this network. “If someone has a family in Ghazni or a family in Helmand, they cannot return there, they cannot go there. Because of the situation on the highways for example. So what happens is they get stuck in Kabul. Now in Kabul, it is a very expensive city. If you do not have a network, if you do not know people, if you do not have friends, you cannot just survive in Kabul,” says Abdul Ghafoor.

A study of 25 returnees by a British charity, the Refugee Support Network, found that for the majority of returnees, family and friendship networks have disappeared, weakened or become fractured.

Interviewee M says: “In the first week I was just happy because I am not in detention centre and I am free, but after that I came out of my room and I [was] looking for my old friends but most of them were gone. They are in Germany at the moment, or Europe, or Australia. Two of them they got married. My friends, most of them are gone. They left Afghanistan, before
me or after me. It was very hard because my family, they are in Iran. It was very hard to get a passport and it’s very expensive for me to go to Iran.”

6.8. Unemployment

Without a strong network of family and friends, many returnees can find it almost impossible to find work. Interviewee M has been in Kabul since August 2015 and he still has not found work, seven months later. “I tried to find a job here but it is very hard to find a job when you do not have relatives in the government or in the companies.” Unemployment can force people into desperate measures. They may send their children to work on the street, or they may take risks with travel around the country or even leave the country to look for work.

When Interviewee K returned to Jaghori in 2007, he could not find work. He travelled regularly to Kabul for work along dangerous roads and it was during one of these trips from Jaghori to Kabul that Interviewee K was captured by the Taliban. After that kidnapping, he left for Iran to work in a cotton fabric factory. He returned to Afghanistan to be with his family and he is trying to find work so he can send his children to school.

Interviewee R uses a pseudonym at work because he is scared he may be targeted. He works two jobs: as a watchman and as a clerk. He believes if he was free from danger he could find work much easier and be paid more. Some returnees are so desperate for work they will join armed opposition groups because they guarantee paid employment.

“One of the returnees he joined the Taliban,” Ghafoor says. “He was with Taliban for a long time. When I asked the reason, he said because these people were giving him trouble. “For my own safety.” The other reason he mentioned was [his] need to survive. He gets paid. He gets food. I told him: “But you know this is wrong: Taliban, the whole idea.” He said, “What am I supposed to do?”

IOM support packages encourage returnees to start their own business. However, the Refugee Support Network study found that “setting up a business was only a potentially viable option for the small minority with access to money and resources”. Work and finance pressures directly affect returnees’ ability to study and become better qualified.
The vulnerability caused by unemployment upon return creates numerous other issues for returnees which often leads to them leaving the country again. A person’s ability to find work can make all the difference. Abdul Ghafoor says when he returned from Norway he was also thinking of leaving Afghanistan until he found purpose in his life working with returnees. “Otherwise I would also have been out of Afghanistan.” Even then, Ghafoor volunteered in Kabul for a year and a half without any income, surviving off savings from Norway.

Alex Mundt of the UNHCR states that in the refugee eligibility guidance, there’s a reasonability criteria which includes return to a safe area that is not the area of origin and “reasonably plug into an economic network and sustain themselves”. However, he believes that the poor state of the Afghan economy makes it impossible to guarantee their safe reintegration back into the country. “The complicating factor for us now is basically the bottom has fallen out of the economy here. So it is not like five years ago when somebody could, say, fleeing, you know, Kunduz could come to Kabul and plug into a network and find a job. I think it is much harder now.”

6.9. Accommodation and homelessness

Without family and friendship networks, many returnees find it difficult to find accommodation. There is not a rental market like in Western countries, rent is very high and, according to Musa Mahmodi of AIHRC, people can often end up in slums. Abdul Ghafoor explains to ERC researchers that when returnees first arrive in the country they are taken to a reception centre provided by IOM where they can stay for 14 days. After that they must find their own accommodation.

This is exactly what happened to Interviewee M when he arrived in Afghanistan from Australia in 2014. After 2 weeks staying in the IOM-provided hotel, he was expected to find a boarding house for himself. Interviewee M has no family in Kabul, but he found a place with some students from Jaghori. “It is like a share house in Australia, but it is not a house, it is a room.”

Interviewee M was lucky to find accommodation. Those returnees who cannot find a place to live or cannot afford rent could be forced to join the growing numbers of beggars and
homeless on the streets. AI reported in 2012 that there are 500,000 people homeless in Afghanistan.\textsuperscript{162}

“The mind of this people is completely changed from the past. If you read the history of Afghanistan and the community of Afghanistan, you are not able to find a lot of beggar. The people was ashamed or shy to beg. And also the people in the community they do not let them to become a beggar...Now, that system is completely gone,” says Mohamed Yousef.

6.10. Land allocation

Alexey Yusupov of FES believes that one of the main reasons returnees come back to Afghanistan is because they have been promised land under the 2005 Presidential Decree 104 on Land Distribution for Housing to Eligible Returnees and IDPs. “This Decree is issued on the basis of the Afghan Council of Ministers’ approval no. 30, dated 16/08/1384 [the year 2005 by the Western calendar] and for the purpose of distributing intact and uncultivated government land to address the housing needs of eligible returnee and IDP compatriots.”

According to Alexey Yusupov of FES, legally speaking, a returnee must be allocated land and housing as per the presidential decree. However, an audit by the SIGAR in August 2015 found that the Afghan Ministry of Refugees and Repatriation’s process for distributing land under the Land Allocation Scheme is afflicted by institutional corruption.\textsuperscript{163} Jelena Bjelica, a researcher with AAN, says that there were 300,000 requests for the land allocation since 2006 and yet in less than 25,000 cases was land actually allocated.

Alexey Yusupov of FES accounts for a family who was returning from Germany and they were allocated land in Kunduz, a conflict zone. “No-one wants to go there, so then legal obligation is met. You have fled the Taliban and then you get land allocated to you in an area controlled by the Taliban,” says Yusupov.

Interviewee K claims that IOM promised him land upon his return to Afghanistan from Norway in 2007. “When you are back to Afghanistan and we will provide a place for you for living

\textsuperscript{162}War leaves half million homeless in Afghanistan (Radio Free Europe/Radio Liberty, 23 February 2012), <http://www.rferl.org/a/war_homeless_afghanistan_amnesty_international_report/24493337.html>.

\textsuperscript{163}Afghan refugees and returnees: corruption and lack of Afghan ministerial capacity have prevented implementation of a long-term refugee strategy, SIGAR report.
there.” He is still waiting for land allocation. “It is corrupted because the land is grabbed,” Bjelica says. “The really viable land, it is grabbed by the best buddies from the provincial council members. So, if you have good land which is close to a city or in the city, that's certainly not going to be given the refugees or IDPs. The empty land which is far from the cities which does not have water, electricity, that is the land that is allocated.”

According to Alexey Yusupov of FES, the major type of conflict in Afghanistan is over land. “Everything in the end somehow goes back to that. Everyone has documents, everyone has ancestors, everyone has bought it during different regimes, during different legal systems, and so on, different currencies and then you go to courts and buy decisions. Conflict over land is the Afghan conflict.”

6.11. Mental health

There is now an overwhelming amount of evidence showing that many of those people who have been through the international protection system suffer from a range of mental health problems such as depressive illnesses, post-traumatic stress disorder, anxiety, and trauma. Often returnees must endure prolonged stays in immigration detention prior to deportation which can result in poor mental health outcomes and isolation.

Reintegration can exacerbate trauma, or in itself be a traumatising experience. Returnees could have been receiving treatment and medication for mental health issues in the country where they were seeking asylum; returning to Afghanistan could leave them without adequate health care.

There are concerns regarding the mental health of Zainullah Naseri, the returnee from Australia who was kidnapped by the Taliban. Friends of his reported that he was unwell at their last meeting with ERC researchers. “Personally, ERC researchers were feeling that, you know, psychologically he was very disturbed,” one said. “And he was not normal. Because when he was talking with me he used to go in somewhere else.” After that meeting, he went missing and later turned up in another Asian country.
6.12. Drug abuse

Once faced with the hardships of returning to Afghanistan, returnees can resort to drug abuse. Drug addicts can be found under bridges spanning the Kabul River smoking opium in pitiful conditions. The increase in opium cultivation in Afghanistan in the last two decades has caused a significant increase in heroin addicts in the region. Afghan health ministry research found that 3.5 million people in Afghanistan have substance abuse problems, amounting to 11 percent of the population.

ERC researchers visited the Mother’s Trust Drug Rehabilitation Centre. Laila Haidari, the founder of the organisation, states that many Afghans working low-level jobs in Iran turn to drugs as a way of coping. Often, they return from Iran as drug addicts. Staff at Mother’s Trust also refer to cases of deportees from Australia. “A couple of youngsters, when they were deported from Australia, because already they had lost everything, money, family, everything, then they went under the bridge. They started, you know, using heroin.”

6.13. Support programs

Voluntary returnees can access reintegration packages from the IOM Afghanistan which are provided in instalments. “Every country has a different amount of money they provide,” Ghafoor says. “For example, Norway gives US$1,800, UK gives £750. Then you have to start a business or share a business so you are able to go and get these money instalments. Which is just a waste of time because in first instalment, for example, you get $1,300 and they expect you to go and start a business with $1,300 or share a business with $1,300.”

Ghafoor says most returnees use fake documents to access these packages to help them either survive for a few days in Kabul or to re-emigrate. When Interviewee M arrived in Afghanistan from Australia in 2014, he was met by an IOM official who gave him 2,000 Afghani [A$40] and took him to a hotel where he could stay for 2 weeks. After 2 weeks he was told he had to leave. Interviewee M received further monetary assistance from IOM after he started a fake business.

IOM provides assistance to rejected asylum seekers under its post-arrival integration services; however, the organisation recognises that it has limited impact on reintegration and that its
strength lies in emergency assistance. According to IOM, “We don’t have long-term monitoring mechanisms. The maximum that we have in more sophisticated project goes up to one year. In some cases, we know where they go, we take them there, then we have no projects that enable us to do that kind of follow-up. When the project ends, the money ends and we have no possibility to carry forward.”

Interviewee K returned to Afghanistan from Norway in 2007. He claims that IOM failed to deliver on promises of housing and money made to him before return. “I registered myself to IOM in Norway and of course they promised many things to us but they didn’t act to their promise. And one of the things that they promised to us, to provide a home for us because we already have nothing to stay in. They also promised to give some money...I went to IOM office here in Kabul and I could not receive anything.”

When Interviewee R returned to Afghanistan from Nauru in 2001, he believes that the UNHCR and IOM staff in Nauru made false promises: “The head of UNHCR and IOM were saying: “Afghanistan is now good for you. Afghanistan needs people to work there and we provide for you. There is a lot of work.” When we came to Afghanistan there was not anything that they said for us. Until airport there was guard with us and IOM was with us. When we got out of the airport, we saw no-one. No-one was with us.”

According to Alex Mundt of the UNHCR, failed asylum seekers are not considered part of the UNHCR’s mandate of protection. Mundt states that it is difficult to allocate resources to the issue considering the state of the UNHCR Afghanistan budget. “Are there situations where people are being returned to a dangerous situation? Yes. Are we interested? Yes. Do we have the resources to stretch our envelope? We can barely address emergency needs in the country due to significant decrease of financial resources. Of that, our expenses around security and administrative costs are skyrocketing.”

Jelena Bjelica believes that if certain support provisions are met it could be possible to return rejected asylum seekers safely, but these services are not being provided due to corruption within the Afghan government, particularly the Ministry of Refugees and Repatriation.
6.14. People leave again

A likely outcome of the returnee experience is that people lose hope that they can support themselves and, faced with economic strife, poor mental health, and at risk of persecution, they consider fleeing again. “I know people who haven’t been able to stay here for a week post return,” Abdul Ghafoor said. “Most of these boys who I have been working with from 2013, 2014, until now are already back in Europe. Deportation does not work.”
7. Conclusion and Recommendations

After examining the current situation in Afghanistan and the experience of rejected asylum seekers upon return to the country, ERC researchers conclude that it would be next to impossible for Australian, European and other governments to guarantee the safety of returnees to Afghanistan in this period of instability. Afghanistan is bereft with problems: there is widespread, intensifying violence, the political and economic situation is unstable and heavily reliant on international support that is waning, and armed opposition groups like the Taliban are growing in confidence and power. In the meantime, the Afghan people are losing hope that peace and stability can be restored in their country. All this is leading to people leaving the country in the hundreds of thousands.

A lack of legal migration pathways for Afghan migrants has forced people into smuggling channels in order to escape the country. This has overburdened the international protection system and has made it more difficult for Afghan refugees to seek protection. Australia, European and other governments appear to be basing negative protection assessments for Afghans on two premises. Firstly, the notion that many Afghans are not fleeing specific persecution but are fleeing the country due to economic vulnerability and fear of imminent conflict as well as the failure of the state. The second premise is that Afghan rejected asylum seekers can be returned to Afghanistan safely.

ERC researchers are concerned that these assessments are influenced by the domestic deterrence politics of host countries by trying to avoid their international protection responsibilities. There is a suggestion that some decisions to refuse protection visas were based on out-of-date refugee and country assessments, and that voluntary returns are being coerced into repatriation. It is understood that deportations and forced returns are necessary to uphold the integrity of the international protection system. However, using financial incentives or punitive detention as ways of convincing people to voluntarily return to their country of origin, allowing host countries to violate the moral principle, if not the strict definition of non-refoulement principle. As such, the best way to convince Afghans to return to or remain in Afghanistan is to restore peace and stability to the war-torn country.
Rejected asylum seekers are returned to the so called “safe zones” within this fragmented, unstable situation. They are often disconnected from their family and friends who remain in conflict zones. They are too afraid to travel between provinces due to the serious deterioration of security and threats of kidnapping on highways. They can be economically vulnerable and face difficulties finding work and accommodation. Worst of all, they can be persecuted upon return for having come from a Western country. This means that for many, the act of fleeing, regardless of its initial motivation, has become a reason to seek protection as a refugee.

ERC researchers believe that the international community assesses danger differently when an asylum seeker first asks for protection compared to when they return or are deported to their country of origin. In the first instance, host countries assess asylum seekers against the Refugee Convention, and find no evidence of persecution. However, when it comes to returning the rejected asylum seekers, there is a real fear of the principle of refoulment. The increased violence against civilians and the deterioration of security make a strong case for asylum seekers to be eligible for complementary protection or to be covered by the generalised violence criteria of the Refugee Convention. In this instance, people should not be returned to danger.

What’s more, the current instability in Afghanistan is due in no small part to the international community’s intervention and withdrawal of international forces from the country, placing the onus on the U.S. and its allies which intervened to right their wrongs and protect the people most affected by their mistakes. With the withdrawal of international forces in December 2014, there are significant concerns about the long-term commitment of the international community towards Afghanistan and the ability of the Afghan government to survive the post-2014 era.

Therefore, at a time when the world needs cooperation, countries have mostly withdrawn from their international protection responsibilities, and have instead implemented deterrence policies which offer no solutions to the growing problem of refugee crisis. In this context, it is clear that new ways of thinking are needed to assist the Afghan people to rebuild their country as a means of preventing the people fleeing their country. ERC researchers believe that one possible way of assisting the Afghan people is in establishing humanitarian
migration quotas. This could provide Afghans with safe legal pathways to protection and alleviate pressure on the international protection system.
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