



Australian Government
Refugee Review Tribunal

Country Advice

Afghanistan

Afghanistan – AFG36456 – Pakistan –
Quetta – Hazaras – Land disputes – Shia
Muslims – State protection
15 April 2010

1. Please provide information about whether in 1989 or 1990 there was trouble in Afghanistan whereby Hazaras were being killed by the Pushtuns, Tajiks and Uzbeks?

Sources indicate that ethnic relations in Afghanistan worsened following the withdrawal of the Soviet forces in February 1989 and that civilians were targeted in the conflict; however, no specific information was found regarding targeting of Hazaras by Pushtuns, Tajiks and Uzbeks in 1989-90.

Minority Rights Group International refers to the Pashtuns' dominance of Afghan politics, the strong political influence of the Tajiks, and the "emerging tensions" between different ethnic groups following the departure of the Soviet forces in February 1989, but makes no specific reference to Hazara Mujahadin groups nor to Hazara civilians in the context of this civil conflict. The Minority Rights Group International's overview of Afghanistan observes:

After the Soviet withdrawal, an internal war commenced between the Soviet-supported Government of President Najibullah and the various Afghan factions supported by the US. The civil conflict rapidly acquired an ethnic dimension as people from various localities fled their homes, changing the population dynamics of the state.

...

In terms of the relations between the different ethnic groups within the state, it can be stated that the Pashtuns have largely dominated Afghan politics though other ethnic groups, notably the Tajiks, have, at various stages of history also maintained a strong political influence. Many attribute the worsening of ethnic relations and the emerging tensions between the groups to the Afghan-Soviet war which is said to have changed society significantly.

... With the departure of the common enemy, differences submerged during the war re-emerged and *Mujahadin* groups began to fight among themselves.¹

A report by the UN Special Rapporteur on the conflict in Afghanistan noted in January 1990:

shelling of cities and public places such as markets, bus stations, mosques and schools has caused the death of more than 1,000 civilians since September 1989. Other forms of terrorism have been reported, such as assassinations or the abuse of women and children. It has not been possible to trace the underlying responsibility for these acts.²

¹ Minority Rights Group (undated), 'Afghanistan Overview', Minority Rights Group International website <http://www.minorityrights.org/5429/afghanistan/afghanistan-overview.html> – Accessed 9 April 2010 – Attachment 1.

² United Nations 1990, *Report on the situation of human rights in Afghanistan prepared by the Special Rapporteur, Mr. Felix Ermacora, in accordance with Commission on Human Rights resolution 1989/67*, 31 January, paragraphs 16-17 and 78(6) <http://www.unhcr.org/refworld/pdfid/48299c7c2.pdf> – Accessed 12 April 2010 – Attachment 2.

Such reports are representative of other information found regarding the civil conflict in Afghanistan in 1989-90, indicating the targeting of civilians, but without specific reference to the ethnicities of those targeted or of the aggressors.

2. Is there evidence to confirm Afghan Hazaras escaped to Pakistan around this time?

Amongst the sources consulted on refugee flows from Afghanistan, no information was found to confirm or to negate that Hazaras escaped to Pakistan in 1989-90.

Without reference to separate ethnicities, UN sources in 1990 indicated that there were 850,000 registered Afghan refugees and an unknown number of unregistered refugees in Pakistan's Balochistan province at that time:

the 74 camps located in the five administrative districts of Baluchistan contained 850,000 registered Afghan refugees; the number of unregistered refugees is estimated at over 100,000, mainly in Quetta.²

3. Please provide further information about property disputes in Afghanistan back to the 1980's.

Sources indicate that disputes over land use and ownership have been a longstanding source of conflict in Afghanistan and predate the land reform programmes of the 1980s.

A 2003 International Crisis Group report noted that contested claims over land are a main cause of local disputes that often lead to violence:

Contested claims over land often go back generations. The picture has been complicated by decades of poorly considered land reform and development programs, the flight of so many people during the war and the fact that successive waves of political parties and combatants have seized both private and state property to claim as their own. Examples abound across the country where land has changed hands repeatedly. Few people have clear legal title, and the court system is ill equipped to mediate disputes or the police to enforce judgments.³

No information was found to indicate that disputes over land ownership or use abated in the 1980s.

4. Please provide information on the treatment or protection of illegal Afghan Hazara Shia Muslim refugees, especially those who moved into Pakistan around 1989 or 1990, by the Pakistani authorities. Is the treatment of those who moved then any different to the treatment of those who moved more recently?

Pakistan is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, but has provided temporary protection to millions of refugees from Afghanistan since 1979.

With respect to the recent treatment of Afghan refugees by the Pakistani authorities, the US Department of State's 2009 report on human rights practices in Pakistan observed:

³ 'Peacebuilding in Afghanistan: Executive summary and recommendations' 2003, International Crisis Group website, 29 September <http://www.crisisgroup.org/home/index.cfm?l=1&id=2293> – Accessed 15 April 2010 – Attachment 3.

the government in most cases provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The country is a member of the UNHCR's governing Executive Committee and cooperated with the UNHCR in protecting, assisting, and repatriating Afghan refugees.

Since 1979 the government has provided temporary protection to millions of refugees from Afghanistan. According to the government-run National Database and Registration Authority, there were approximately 1.7 million registered Afghan refugees in the country. There were no credible estimates of how many Afghans are undocumented or unregistered. The government continued to work closely with the UNHCR to provide support to this refugee population, although the Tripartite Agreement between the UNHCR and the governments of Pakistan and Afghanistan, setting the terms and conditions under which Afghan refugees can remain in Pakistan and the structure for the UNHCR-assisted voluntary repatriation program, expired December 31. Although the prime minister did not sign the Afghan Management Strategy by December 31, the Ministry for States and Frontier Regions (SAFRON) released a statement to the UNHCR that Pakistan would comply with the Tripartite Agreement and would not force Afghan refugees to return to Afghanistan upon expiration of their Proof of Registration (PoR) cards. SAFRON also requested that the Ministry of Interior issue instructions to provincial home departments and other authorities to prevent harassment of PoR card holders while the Management and Repatriation Strategy for Afghan Refugees in Pakistan (201012) was being finalized. According to the UNHCR, there were more than 80 Afghan refugee camps in the country, including 71 in the NWFP, 12 in Balochistan, and one in Punjab. Most Afghan refugees resided in urban areas.⁴

The report indicated restrictions on access to work and to services, particularly for those not registered with the UNHCR or Pakistan's Commissionerate for Afghan Refugees, and discriminatory treatment by some state and non-state actors:

Police in some cases demanded bribes from Afghan refugees. There were credible reports that members of the intelligence services harassed refugees. Some female refugees who accepted jobs with NGOs reported harassment from Taliban sympathizers in their own community. Refugees faced societal discrimination and abuse from local communities, which resented economic competition and blamed refugees for high crime rates and terrorism.

Although refugees did not have access to courts, the government provided access to basic health and education services, especially for Afghan refugees. Every refugee who registered with both the UNHCR and the government-run Commissionerate for Afghan Refugees was granted admission to public education facilities after filing the proper paperwork.⁴

The US Department of State's report noted also that refugees' access to services, education and employment are restricted by the absence of protective laws in Pakistan:

The country lacks a legal and regulatory framework for the management of refugees and migration. In many instances the rights of refugees and services to which Afghans can or cannot have access are open to local government or even individual interpretation. For example, the State Bank governor decided that Afghans could not have bank accounts, but the National Database and Registration Authority regularly verified for banks the identity of refugees who wished to open accounts. Although there is no legislation specifically permitting Afghans to obtain driver's licenses, Afghans drove a large percentage of the trucks in the NWFP. Afghans owned and leased property, but occasionally a city or a provincial government issued instructions to cancel all leases to Afghans. Afghans could not get jobs in government but could often get jobs in industry, although sometimes there will be a local order to fire Afghan workers. Although there are a number of Afghan schools funded by foreign assistance, Afghan children usually had no problem attending Pakistani primary schools. For older students, and particularly in cities, access was harder. Even Afghans who have grown up in Pakistan usually needed a student visa to attend university in Pakistan but

could get a student visa on the basis of their refugee PoR card. Afghan refugees could avail themselves of the services of police and courts, but some, particularly the poor, were afraid to do so.⁴

A 2002 report by the New York-based Women's Commission for Refugee Women and Children on youth refugees in Pakistan noted that the majority of Afghan refugees are ethnic Pashtuns, but also from other minority groups including the Hazaras. The report observed "a traditional pattern of neglect for those taking refuge in urban areas" in noting the arrival of some 200,000 new refugees from Afghanistan in the last months of 2001:

Humanitarian assistance is favoring new arrivals residing in Pakistan government-sanctioned, United Nations-administered camps. Development assistance has also not significantly reached long-standing Afghan refugee and migrant populations, who stretched their thin resources to receive the new refugees. As a result, tens of thousands – perhaps the majority of the new refugees – have integrated into already struggling, pre-existing urban refugee communities in Pakistan with limited to no access to humanitarian assistance or protection interventions...

The report noted that "deeper discrimination" was faced by the minority communities within the Afghan refugee population, including the Hazara, and that more limited humanitarian assistance was provided in urban areas:

Life is especially difficult for Afghan minority groups living among the Pashtun majority in Pakistan, as they often face deeper discrimination than other Afghan refugees and have fewer opportunities.

What limited interventions do exist for refugees in these areas focus principally on those residing in camps, not in urban areas. United Nations and other international organizations say that the double standard in the provision of humanitarian assistance and protection stems from long-standing Pakistan government policies and actions to thwart refugee screenings and discourage work with Afghans in urban areas.

...
Minority groups face particularly difficult choices, as they are discriminated against in the wider Pashtun-majority Pakistani and Afghan communities in Pakistan, often facing lower wages and fewer job opportunities in urban areas and conflict in mixed camps. Relocation camps designated for minority groups have been established, but members of the Hazara community interviewed, for example, are waiting to make any moves as a whole community and have not yet transferred in large numbers to relocation camps despite enormous economic hardship.⁵

The US Department of State's report on human rights practices in Afghanistan for 2009 observed that the UNHCR had suspended repatriation of Afghan citizens from Pakistan due to insecurity in Afghanistan and in the processing areas in Pakistan.⁶

⁴ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Pakistan*, March – Attachment 4.

⁵ Women' Commission for Refugee Women and Children 2002, 'Fending for Themselves: Afghan Refugee Children and Adolescents Working in Urban Pakistan', UNHCR Refworld website, January, pp. 2, 24 <http://www.unhcr.org/refworld/pdfid/48aa82dc0.pdf> – Accessed 12 April 2010 – Attachment 5.

⁶ Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Afghanistan*, March – Attachment 6.

5. Please provide information about the Wahabis and Sunni Muslims and the Baloch targeting the Hazaras in Pakistan.

Information on the South Asia Terrorism Portal (SATP) website indicates that there has been “a sharp increase in incidents of targeted killing” in the Pakistani province of Balochistan, including the targeted killing of Hazaras in Quetta, the provincial capital. The website’s ‘Balochistan Assessment – 2010’ reports “substantial militant activity, both from the Islamist extremists and the Baloch nationalists”:

According to a senior official of the provincial Government, there have been two principal kinds of targeted killings – the sectarian and those backed by insurgent or separatist groups. In most reported incidents, the targets were found to have been shot in the head by highly trained shooters. Most of the victims of these targeted killings have been Shias and Punjabis generally referred to as settlers). In Quetta and other Baloch-dominated areas of the province, Punjabi barbers and labourers have also been routinely targeted. Dr. Farrukh, the Superintendent of Police in Quetta, disclosed that the Police had arrested four high-profile killers and blamed the outlawed Sunni outfit, Lashkar-e-Jhangvi (LeJ), for the targeted killing incidents. The Hazara community in Quetta claims that over 270 of its people have been killed over the past six years.

Currently, there are at least six active insurgent groups in Balochistan: the Balochistan Liberation Army (BLA), the Baloch Republican Army, the Baloch People’s Liberation Front, the Popular Front for Armed Resistance, the Baloch Liberation Front (BLF) and BLUF.

The insurgents retain capabilities to carry out acts of sabotage on a daily basis across the province. Acts of violence are, importantly, not restricted to a few areas but are occurring in practically all the 26 Districts, including the provincial capital Quetta. Quetta continues to witness substantial militant activity, both from the Islamist extremists and the Baloch nationalists. There were 73 militancy-related incidents in Quetta during 2009 (till November 15) as against 81 in 2008; 72 in 2007; 75 in 2006; 61 in 2005; 51 in 2004; and 32 in 2003.⁷

An article published in Pakistan’s *Daily Times* on 6 February 2009 reported that Hazaras in Balochistan province:

have been subject of discrimination by the majority Balochs and Pashtuns due to their ethnic background and religious affiliations. While a majority of Hazaras is Shia, local Baloch and Pashtun are Sunnis. The Hazaras in Quetta have been targeted by some religious quarters for some time now, with more than two dozen men from the minority tribe having been killed in the last two months. Lashkar-e-Jhangavi (LJ), a banned Sunni organisation has accepted responsibility for most of the killings.⁸

The Wahabi (or Wahhabi) sect is one of a number of Sunni sects in Pakistan that “advocate[s] a rigid and radical version of Islam... similar in their exclusionary principles and in their stand on guarding their cause through violence”.⁹ Specific mention of suspected Wahabi involvement in the targeting of Shiite Muslims in Quetta was found only in a media report from 2003:

On July 4, Sunni Muslim terrorists attacked Shiites performing prayers in a Quetta, Pakistan mosque. About 60 people were killed...

⁷ ‘Balochistan Assessment – 2010’ (undated), South Asia Terrorism Portal (SATP) website <http://satp.org/satporqtp/countries/pakistan/Balochistan/index.html#> – Accessed 9 April 2010 – Attachment 7.

⁸ Akbar, M.S. 2009, ‘Hazara tribesmen under attack in Quetta’, *Daily Times*, 6 February http://www.dailytimes.com.pk/default.asp?page=2009\02\06\story_6-2-2009_pg7_15 – Accessed 29 March 2010 – Attachment 8.

⁹ Behuria, Ashok 2002, ‘Many Pakistans within Pakistan’, International Centre for Peace Studies website <http://www.icpsnet.org/description.php?ID=350> – Accessed 30 October 2008 – Attachment 9.

And it was Wahhabi madrassas in South Asia that educated the Taliban's leaders, most of al-Qaeda's shock troops and, almost certainly, the dozens of militants arrested in connection with the Quetta attack.¹⁰

6. Is there information indicating that Hazara people in Quetta are unable to go out freely at night or that they are found dead in the streets?

Targeted killings of Hazaras in Quetta have been reported, as has the Hazara community's ongoing vulnerability to such attacks.

An article published in *The Australian* on 13 April 2010 reported that a senior official with the human trafficking arm of Pakistan's Federal Investigation Agency had said that Hazaras were regularly targeted in Balochistan province and in Quetta "eight to 10 Hazaras are being murdered every week"¹¹

An article dated 21 March 2010 on the Hazara News Pakistan website reported a recent public protest in Quetta :

Hazara Democratic Party held a large protest rally against the sectarian and target killing of Hazara. The protesters holding banners with slogans against the failure of Provincial Govt. demanded of the concerned authorities to immediately arrest the group behind target killing. Speakers called on all the nationalist parties of Balochistan Province to raise voice against target and sectarian violence.

...

General Secretary of HDP Abdul Khaliq Hazara, addressing protesters at Mezan Chowk, said that the Government must take stern action against those behind the target and sectarian killing of Hazaras immediately. He added the Government is involved in creating conflicts among the brotherly nations of Quetta, while it has totally failed to maintain an orderly situation. He added that sectarian outfits have been given free hands and perpetrators of Hazara target killing have not been arrested.¹²

The previously mentioned 'Balochistan Assessment – 2010' on the South Asia Terrorism Portal website reported that "[t]he Hazara community in Quetta claims that over 270 of its people have been killed over the past six years".⁷

RRT *Country Advice PAK36448* of 30 March 2010 provides very detailed information on the targeted killings of Hazaras in Quetta including, most relevantly to the current matter, the following list of documents illustrating the extent to which the Hazara community in Quetta has been subject to attack in the past year¹³:

- 4 March 2009: "Four Hazara laborers and their Punjabi colleague were killed by unknown gunmen on Eastern Bypass today".¹⁴
- 11 March 2009: "Unknown gunmen shot dead two Hazara tribesmen in an apparent sectarian attack at Arbab Karam Khan Road here on Monday".¹⁵

¹⁰ Kay, J. 2003, 'Defaming Islam – one bomb at a time', *National Post*, 16 July – Attachment 10.

¹¹ Hodge, A. 2010, 'Officials ridicule visa rethink', *The Australian*, 13 April – Attachment 11.

¹² 'HDP Protests Hazara Target Killing' 2010, Hazara News Pakistan website, 21 March <http://hazaranewspakistan.wordpress.com/2010/03/21/hdp-protests-hazara-target-killing/> – Accessed 15 April 2010 – Attachment 12.

¹³ RRT Country Advice and Information 2010, *Country Advice PAK36448*, 30 March – Attachment 13.

¹⁴ "'Unknown Gunmen' Strike Again, Kill 5 On Eastern Bypass' 2009, Hazara News Pakistan, 4 March <http://hazaranewspakistan.wordpress.com/2009/03/04/unknown-gunmen-strike-again-kill-5-on-eastern-bypass/> – Accessed 30 March 2010 – Attachment 14.

¹⁵ '2 tribesmen gunned down' 2009, *The Nation*, 9 March – Attachment 15.

- 11 March 2009: “In row of merciless target killings of Hazara minority tribesmen, three more Hazaras came under fire and all of them escaped unhurt, but a passerby got bullet wounds, here on Spini Road on Wednesday, police officials said”.¹⁶
- 12 April 2009: “Ghulam Hussein Hazara was killed while another person sustained critical wounds when unknown armed men opened fire at them on Kirani Road”.¹⁷
- 12 October 2009: “Unidentified armed men killed the Balochistan Chief Mines Inspector on Sariab Road in Quetta. Ashraf Ali was a member of the Shia Hazara community”.¹⁸
- 15 October 2009: “Another Hazara, Muhammad Asif, brother AIG Musa Jaffari has been shot dead on Jinnah Road, Quetta this evening at 7:30pm. A friend of him is critically injured”.¹⁹
- 18 March 2010: “gunmen attacked three construction workers, killing two of them and injuring the third. All of them belonged to the Hazara tribe”.²⁰
- 19 March 2010: “gunmen killed a trader belonging to Hazara tribe in the Hazargangi area. Sources said Asad Ali Hazara was sitting in his shop when the gunmen opened fire. He died on the spot”.²¹
- 21 March 2010: “gunmen riding a motorcycle killed three people and injured three others who were travelling in a pick-up in the Killi Sardo Karez area near western bypass. ... All the six men belonged to the Hazara tribe.”²²

7. Please provide information on the treatment of the Hazaras of the Shia Muslim religion in Afghanistan and whether they face serious harm in Afghanistan.

Information on the current treatment of Hazaras in Afghanistan indicates that the situation for Hazaras has improved; however, there is inconsistency of reporting on the subject of whether they continue to face serious harm.

The Australian Department of Foreign Affairs and Trade (DFAT) released in February 2010 a report on the situation of the Hazara minority in Afghanistan, in which it is stated:

Afghanistan’s Hazaras do not live in fear of violence or systemic persecution as they did under Taliban rule. And the current period is perhaps the best in several hundred years for Hazaras in terms of personal and community freedoms, opportunities and human security. However, they claim to face social, economic and political barriers to upward mobility and community development. The human rights gains Hazaras have experienced in recent years are very real but they wonder if it will continue.²³

¹⁶ ‘Three escape unhurt in row of target killings in Quetta’ 2009, *Baluchistan Times*, 11 March – Attachment 16.

¹⁷ ‘Pakistan police say 11 killed in Baluchistan violence’ 2009, *BBC Monitoring Newsfile*, source: *Associated Press of Pakistan* (11 April 2009), 12 April – Attachment 17.

¹⁸ ‘Pakistan: 2009: Year of Terrorism’ 2009, *Daily The Pak Banker*, 25 December – Attachment 18.

¹⁹ ‘Another Victim of Target Genocide’ 2009, Hazara News Pakistan website, 15 October <http://hazaranewspakistan.wordpress.com/2009/10/15/another-victim-of-target-genocide/> – Accessed 29 March 2010 – Attachment 19.

²⁰ Shahid, S. 2010, ‘Retired SP among three shot dead in Quetta’, *Dawn*, 18 March <http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/retired-sp-among-3-shot-dead-in-quetta-830> – Accessed 29 March 2010 – Attachment 20.

²¹ Shahid, S. 2010, ‘Violence in Balochistan leaves five dead’, *Dawn*, 19 March <http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/provinces/22-three-killed-and-twelve-injured-in-balochistan-aj-02> – Accessed 29 March 2010 – Attachment 21.

²² Shahid, S. 2010, ‘More violence in Balochistan leaves six dead’, *Dawn*, 21 March <http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/19-six-killed-in-balochistan-130-hh-09> – Accessed 29 March 2010 – Attachment 22.

²³ Department of Foreign Affairs and Trade 2010, ‘Afghanistan: Situation of the Hazara Minority’, 21 February – Attachment 23.

Information from sources cited in the DFAT report is not, however, consistent in its assessment of the current situation for Hazaras in Afghanistan.

With reference to UNHCR's "eligibility guidelines" for Afghan asylum seekers of July 2009, DFAT observed that "UNHCR said there was no evidence of a campaign by the insurgency to target Hazaras", but noted also:

While UNHCR were not convinced that the majority of Hazara protection seekers abroad were genuine, the political and security situation in Afghanistan was fluid and therefore the current situation where Hazaras enjoyed freedom from fear of persecution might not last indefinitely. Currently, however, Hazaras were not being persecuted on any consistent basis.²³

DFAT reported that the US Embassy had pointed to the US Department of State's country reports on human rights practices and that "[t]he Embassy considered that while discrimination against Hazaras did occur it was not a major systemic concern".²³

Information from the Afghanistan Independent Human Rights Commission (AIHRC) was cited by DFAT report, indicating that "Hazaras outside of Hazarajat were more vulnerable to violent attacks and feared travelling beyond their immediate communities, in some cases even to the district centre", and that in some areas Hazara minorities felt pressure "from both the government and insurgents".

The views of various "Hazara advocates" were also cited in the DFAT report, as follows:

Despite indications that Hazaras have made significant advances in recent years there are still strong perceptions of discrimination and systemic neglect from within the Hazara community. Conversations with a number of Hazara rights advocates from Afghanistan Watch, Kabul Centre for Strategic Studies and The Human Rights and Eradication of Violence Organisation – revealed several consistent themes:

- The Hazarajat region was neglected by the government and donors in terms of development assistance in the areas of education (particularly the lack of adequate buildings) and public infrastructure. Hazara advocates consistently cited the lack of progress on construction of paved roads in the central highlands as indicative of the lack of attention given to the region. Limited socio-economic development was consistently compared against the resources that have flowed to less secure areas in the Pashtun-dominated southern provinces. Hazaras perceive themselves as being penalised for their peace and stability while the insurgency was being rewarded for its violence. (It should be noted however that this is a common theme echoed by all areas of the country where the insurgency is not dominant, not just the Hazara areas)
- The failure of Parliament to yet confirm a single Hazara minister in the recent rounds of Cabinet nominations was seen as demonstrating the dominance of other groups, particularly Pashtuns, in central Government institutions. (However, a Hazara MP told us that some of the nominees may have been rejected because they had lived abroad for many years and were not well known to the Parliament, or even to the Hazara community)
- Hazaras were denied academic posts in Afghanistan's universities despite being qualified. Administrative requirements, including needing to have degrees from within Afghanistan rather than from abroad, were blocking the way for qualified lecturers.
- Hazaras were denied employment opportunities in government agencies through administrative barriers such as requiring a record of past Government experience (which was impossible considering historical circumstances) or needing to be fluent in Pashto.
- Hazaras were anxious that current talk of re-integration and reconciliation was paving the way for further Pashtun domination of the central Government.²³

The *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers for Afghanistan* referred to in the abovementioned report considers the main categories of claims, including claims by members of minority religious groups. According to the guidelines:

In light of the widespread application of strict Shari'a law in Afghanistan and widely held conservative religious views, Afghan asylum-seekers claiming a fear of persecution on grounds of contravening normative provisions or as members of minority faiths, may be at risk of persecution depending on the individual circumstances of the case.²⁴

With respect to minority ethnic groups, the UNHCR guidelines state in part:

Generally, asylum-seekers originating from areas where they are an ethnic minority are at heightened risk if they attempt to reclaim land and property...

Land disputes, particularly when ethnic differences are involved or claims are made against persons in positions of authority, may be resolved violently or with some measure of threatened force... In many of these cases, land occupiers may be local commanders with relationships to political parties in Parliament. In case restitution is being pursued, the rightful owners may be at risk if they do not have political, tribal or family protection, and the authorities are unable or unwilling to protect their rights – including the enforcement of a court decision. The rightful owners risk ill-treatment, arrest and detention by local militia leaders or security officials.

Social discrimination against the Hazaras continues to be reported, including being asked to pay bribes at border crossings where Pashtuns were allowed to pass freely. Despite significant efforts by the Government to address historical tensions affecting the Hazara community, including preferential employment, some Hazaras community leaders accused President Karzai of providing preferential treatment to Pashtuns to the detriment of other minorities, particularly the Hazaras. Furthermore, the rising power of warlords is also a concern for the Hazaras as they may pose a direct threat to the Hazara community given the absence of State presence and rule of law in many areas. Despite constitutional guarantees of “equality among all ethnic groups and tribes” and Government’s attempts to address the problems faced by ethnic minorities, discrimination and ethnic clashes, particularly in relation to land ownership disputes, still occur. Severe discrimination against ethnic minorities in some areas is also reported, most commonly in the form of denial of access to education and other services and political representation. As such, members of ethnic groups may be at risk of persecution on the ground of their ethnicity/race, in areas where they constitute a minority. In this respect, the fear of being persecuted need not always extend to the whole territory of Afghanistan.²⁴

The US Department of State’s report on human rights practices in Afghanistan for 2009 noted, at Section 2(c):

Social discrimination against Shia Hazaras continued along class, race, and religious lines. Ethnic Hazaras reported occasionally being asked to pay additional bribes at border crossings where Pashtuns were allowed to pass freely.⁶

Section 6 of the report states that Hazaras face economic oppression:

Ethnic minorities continued to face oppression, including economic oppression. Dasht-i Barchi, one of Kabul’s poorest neighborhoods, was home to a large Hazara population. Average earnings per day were 13 Afghanis (25 cents) per person, although the minimum wage was 63 Afghanis (\$1.25) per day; average household size was nine to 10 persons. In Dasht-i Barchi, 60 percent of all families rented their homes and were therefore subject to landlord exploitation; 50 percent of families’ income went to cover rent, and families moved frequently.⁶

²⁴ United Nations High Commissioner for Refugees 2009, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers for Afghanistan*, July – Attachment 24.

More recently, an article published in *The Australian* on 13 April 2010 cited opinion from a senior official within Pakistan's Federal Investigation Agency that Hazaras are being persecuted both in Pakistan and in Afghanistan. The article reports:

Pakistani immigration and human rights officials say Hazaras faced life-threatening persecution on both sides of the border.

...

Immigration Minister Chris Evans said last Friday "the Taliban's fall, durable security in parts of the country, and constitutional and legal reform to protect minorities' rights have improved the circumstances of Afghanistan's minorities, including Afghan Hazaras".

But asked if the security situation for Hazaras in Afghanistan had improved sufficiently for them to return, ... [a senior official with the human trafficking arm of the Federal Investigation Agency] replied: "No, there's no basis for saying this."

"Right now they're being persecuted on both sides of the border. In Quetta (the capital of Balochistan), eight to 10 Hazaras are being murdered every week. If that's happening just in Quetta, magnify this problem all the way to central Afghanistan."¹¹

8. Please provide information on whether the authorities in Afghanistan, most of whom are not Hazara, can actually protect Hazaras.

DFAT reported in February 2010 that Hazaras are now "well represented in government institutions" in Afghanistan; however, given information elsewhere in the report that Hazaras constitute only about 10 percent of the population and historically have not been associated with central government²³, it remains likely that most government officials are not of Hazara ethnicity.

No information was found to indicate that protection is withheld from Hazaras because most government officials are of other ethnicities, although reporting indicates that unofficial discrimination persists and that endemic corruption and limited resources restrict the availability of protection more generally.

The US Department of State's most recent report on human rights practices in Afghanistan observed, at Section 2d, that "human rights problems persisted" in the police force and that, additionally, resources were limited:

The formal justice system was relatively strong in the urban centers, where the central government was strongest, and weaker in the rural areas, where approximately 72 percent of the population lives. Nationwide, fully functioning courts, police forces, and prisons were rare.⁶

The observation that "officials frequently engaged in corrupt practices with impunity" was made in section 4 of the report, and in section 6 of the report it was variously noted that:

Claims of social discrimination against Hazaras and other Shias continued.

... Soldiers also reportedly discriminated along ethnic lines when harassing drivers at checkpoints.

... Discrimination continued in some areas, in the form of extortion of money through illegal taxation, forced recruitment and forced labor, physical abuse, and detention.⁶

Attachments

1. Minority Rights Group (undated), 'Afghanistan Overview', Minority Rights Group International website <http://www.minorityrights.org/5429/afghanistan/afghanistan-overview.html> – Accessed 9 April 2010.
2. United Nations 1990, *Report on the situation of human rights in Afghanistan prepared by the Special Rapporteur, Mr. Felix Ermacora, in accordance with Commission on Human Rights resolution 1989/67*, 31 January, paragraphs 16-17 and 78(6) <http://www.unhcr.org/refworld/pdfid/48299c7c2.pdf> – Accessed 12 April 2010.
3. 'Peacebuilding in Afghanistan: Executive summary and recommendations' 2003, International Crisis Group website, 29 September <http://www.crisisgroup.org/home/index.cfm?l=1&id=2293> – Accessed 15 April 2010.
4. US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Pakistan*, March.
5. Women' Commission for Refugee Women and Children 2002, 'Fending for Themselves: Afghan Refugee Children and Adolescents Working in Urban Pakistan', UNHCR Refworld website, January, pp. 2, 24 <http://www.unhcr.org/refworld/pdfid/48aa82dc0.pdf> – Accessed 12 April 2010.
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