

## 3.2. Public officials and servants of the former government and judicial system

### COMMON ANALYSIS

Last update: May 2024

This profile refers to individuals affiliated with the previous government and members of the judiciary, including court personnel and civil servants.

### COI summary

During the years of conflict, employees of certain ministries (for example the Ministry of Defence, the Ministry of Interior Affairs, and the Ministry of Justice) and judicial staff, including judges and prosecutors, were regularly targeted by the Taliban. To a lesser degree, employees of other ministries not involved directly in the fight against insurgents were also targeted. Personal enmities or open statements against the Taliban could be seen as relevant circumstances in this regard. There were also reports of civilians being threatened and/or killed for being employees or (perceived) supporters or spies for the former government [ [Anti-government elements](#), 2.6.2., pp. 24-26; [Security 2020](#), 1.3.3., pp. 33-34; 1.3.4., pp. 34-36; 2.; [Conflict targeting](#), 1.2.2., p. 31; 1.5.1.1., p. 68].

Individuals under this profile were also seen as a legitimate target by other insurgent groups, for example the ISKP and foreign armed groups [ [Security 2020](#), 1.2.2., p. 30; [Anti-government elements](#), 3.5., p. 34; 3.6.3., p. 35; 4.3., pp. 38-39].

After the takeover, the Taliban issued a general amnesty for individuals serving the former government, saying that they had pardoned 'all of those who had fought against [them]' [ [Country Focus 2023](#), 4.1.1., p. 56, [Security September 2021](#), 1.1.2., p. 13]. Nevertheless, Taliban's policies have been described as *ad hoc*, inconsistent, and contradictory. Sources report that senior officials, including former president Karzai, have been able to stay in Afghanistan [ [Country Focus 2023](#), 4.1.1., p. 56].

Most civilian former public officials, except female civil servants, have been able to resume their duties within the new *de facto* administration in Kabul. However cases are reported in which threats or pressure were used in this regard [ [Country Focus 2023](#), 4.1.1., p. 56; [Targeting 2022](#), 4.1., pp. 78-81].

Female government workers have not been asked to resume their work, with the exception of some positions for which the Taliban have assessed that men cannot replace women, including education and healthcare workers, and positions in passport and post offices, and at Kabul's international airport [ [Targeting 2022](#), 1.1.4., p. 27; 4., pp. 80-81; [Country Focus 2022](#), 1.1.4., p. 19; 1.2.1., p. 20]. The Taliban have also tried to bring in their own members to be trained by former officials and then replace them [ [Country Focus 2023](#), 4.1.1., pp. 56-57].

Despite the amnesty and the call on former government officials to resume work, retaliatory acts by Taliban members against persons under this profile were reported, albeit to a lesser extent than against former

ANDSF personnel [[Targeting 2022](#), 4., pp. 78-84; [Country Focus 2022](#), 2.5., pp. 45-48].

Incidents of summary executions, torture and detentions of persons affiliated with the former government have been reported in various parts of the country, and such individuals have reportedly been living in hiding [[Country Focus 2023](#), 4.1.1., p. 57; [Targeting 2022](#), 2.1., pp. 58-60; 3.2., pp. 76-77; 4., pp. 78-80]. Out of the 800 human rights violations against former government officials and former security personnel that UNAMA documented in the period between 15 August 2021 and 30 June 2023, 22 % of targeted individuals were affiliates to the former provincial and district departments and 4 % belonged to the former central government and former national authorities. Other sources have recorded cases of servants of various former civilian departments being targeted, as well as their relatives. According to UNAMA, individuals on 'differing level of affiliation to the former government' fell victim to such acts, 'from senior officials to drivers, bodyguards and relatives' [[Targeting 2022](#), 2.1., p. 57; 4.1., p. 80; [Country Focus 2023](#), 4.1.4., p. 61; 4.1.5. p. 62]. Furthermore, the prevalence of enforced disappearances was believed to be much higher, with reports about the Taliban threatening family members not to speak to human rights organisations [[Country Focus 2023](#), 4.1.4., p. 62].

In Spring 2022, the Taliban set up a return commission in order to facilitate the return of exiled political and military personalities and announced that former officials returning from abroad would have been ensured safety. Several former high-ranking persons returned to the country, although sources cited that some may have left again. It was reported that in general the initiative was met with scepticism. Some reports indicate that Taliban officials detained individuals despite having been assured of their safety upon return [[Country Focus 2023](#), 4.1.1., pp. 56-58, [Targeting 2022](#), 4.3., p. 83].

Former judges, prosecutors and defence lawyers remained mostly excluded from the *de facto* justice system. After the takeover, the Taliban fired all judges. However, few former male judges working in administration and considered 'professional' had reportedly been asked to return to temporary or limited roles. Nevertheless, these reports remained unconfirmed. The legal and operational status of prosecutors have remained unclear and 'varied substantially from region to region' [[Country Focus 2023](#), 4.1.6., p. 63; [Targeting 2022](#), 4.2., pp. 81-82].

Servants of the former judicial system were reportedly subjected to house searches, harassment, death threats and killings. Many prosecutors and judges, especially female judges, have reportedly been living in hiding or have left Afghanistan. The Office of the United Nations High Commissioner for Human Rights (OHCHR) deemed the situation of former judicial personnel a matter for particular alarm. Female judges were claimed to be at added risk due to their gender as the Taliban do not accept that women have the right to judge men [[Country Focus 2023](#), 4.4.5., p. 77, [Country Focus 2022](#), 2.5., p. 48; [Security 2022](#), 3.2.(c), p. 69]. Furthermore, criminal offenders released by the Taliban have sought to carry out reprisals against prosecutors and judges who had sentenced them [[Country Focus 2023](#), 4.1.6., p. 64].

Cases were also reported where family members were targeted. Family, friends, and neighbours were said to have been pressed to reveal judges' whereabouts. One source also reported that at least 28 former prosecutors and their family members have been killed since the Taliban takeover [[Country Focus 2023](#), 4.1.6., p. 64; [Targeting 2022](#), 2.1., p. 63; 2.2., p. 64; 4., p. 81; 4.2., p. 82; [Country Focus 2022](#), 2.5., p. 46].

## Conclusions and guidance

### Do the acts qualify as persecution under Article 9 QD?

Acts reported to be committed against individuals under this profile are of such severe nature that they amount to persecution (e.g. summary executions, killing, torture, enforced disappearances).



### **What is the level of risk of persecution (well-founded fear)?**

For judges, prosecutors, and former court personnel well-founded fear of persecution would in general be substantiated.

For others under this profile, the individual assessment should take into account the institution they were employed by and their role and functions. Being female and possible personal enmities may also constitute risk-impacting circumstances.

Family members may also have a well-founded fear of persecution, for example in the context of the Taliban searching for the individual they are related to.



### **Are the reasons for persecution falling within Article 10 QD (nexus)?**

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion. In some cases, membership of a particular social group and/or religion could also be seen as relevant grounds, such as in the case of former female judges and other female public officials.

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