



**FIDH – International Federation for Human Rights**  
*and its member organization for Afghanistan*  
**Armanshahr Foundation/OPEN ASIA**

**Update for the 1st European Union (EU)-Afghanistan Special Working Group on Human Rights, Good Governance and Migration**  
**5 May 2018, Kabul, Afghanistan**

**Key human rights issues of concern**

- 1...Number of civilian casualties remains high
- 2...Rule of law undermined by rampant insecurity
- 2...Customary justice mechanism still in force, gaps remain in the new Penal Code
- 3...Elections threatened by violence
- 3...Pervasive corruption
- 4...No accountability for perpetrators of grave crimes
- 5...Shrinking space for civil society
- 7...Lack of safeguards for women's rights
- 8...Low rates of school attendance and literacy foster gender inequalities
- 9...Afghan returnees face challenges

**Number of civilian casualties remains chilling**

Ongoing conflict throughout the majority of Afghanistan's provinces continues to severely hinder any efforts to extend the rule of law and protection for human rights throughout the country and sustains the climate of fear and severe insecurity under which most Afghans live. Civilians bear the brunt of violence committed by all sides of the conflict, including the Taliban, Haqqani Network, Islamic State, and government forces and its international supporters. According to the UN Assistance Mission in Afghanistan (UNAMA), from 1 January 2018 to 31 March 2018, there have been 2,258 civilian casualties as a result of armed conflict, including suicide improvised explosive devices (IED) and air strikes. Among the 142 civilian casualties (67 deaths and 75 injured) from aerial attacks, 35% were attributed to international military forces, 35% to the Afghan Air Force, and the remainder to unidentified pro-government forces.<sup>1</sup> The provinces of Kabul, Helmand, Nangarhar, Faryab, and Kandahar are the most impacted.<sup>2</sup> In 2017, more than 10,000 civilians lost their lives or suffered injuries, according to UNAMA.<sup>3</sup>

According to Resolute Support and US Forces-Afghanistan, at the end of November 2017, approximately 64% of the population was living in areas under government control, with another

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<sup>1</sup>UNAMA, Quarterly Report on the Protection of Civilians in Armed Conflict: 1 January to 31 March 2018, *12 April 2018*; available at: [https://unama.unmissions.org/sites/default/files/unama\\_protection\\_of\\_civilians\\_first\\_quarter\\_2018\\_report\\_11\\_april\\_0.pdf](https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_first_quarter_2018_report_11_april_0.pdf).

<sup>2</sup>Ibid

<sup>3</sup>UNAMA, Afghanistan: 10,000 civilian casualties in 2017 - UN report suicide attacks and IEDS caused high number of deaths and injuries, 15 February 2018; available at: <https://unama.unmissions.org/afghanistan-10000-civilian-casualties-2017-un-report-suicide-attacks-and-ieds-caused-high-number>.

24% in “contested areas” and only 12% living in areas controlled by the Taliban.<sup>4</sup> A January, 2018, *BBC* investigation found that the Taliban were active in some 70% of Afghanistan’s districts, 4% of which they fully controlled and demonstrated an “open physical presence” in the remaining 66%.<sup>5</sup>

### **Rule of law undermined by rampant insecurity**

Government-led counter-insurgency operations have been frequently undertaken without due consideration of human rights standards and Afghanistan’s international legal obligations. Rare independent and impartial investigations have been undertaken into military operations in which civilian casualties were reported. This situation is underscored by an Afghanistan Air Force strike on a suspected Taliban gathering in Kunduz on 2 April 2018. According to multiple witnesses, the strike resulted in the death of at least 70 people, including civilians and children.<sup>6</sup>

There are ongoing reports that authorities continue to engage in systematic extrajudicial killings, enforced disappearances, arbitrary and incommunicado detentions, and torture. An April 2017 report by UNAMA and the UN Office of the High Commissioner for Human Rights (OHCHR) noted that of the 469 people detained on conflict-related charges that they had interviewed, 39% gave “credible accounts” of torture or other forms of ill-treatment.<sup>7</sup> Similarly, in its June 2017 Concluding Observations on the review of Afghanistan’s second periodic report, the UN Committee against Torture expressed particular concern regarding allegations that the Afghan national police had engaged in incommunicado detentions, enforced disappearances, mass arbitrary detentions, and extrajudicial killings during counter-insurgency operations, particularly in Kandahar Province.<sup>8</sup>

### **Customary justice mechanism still in force, gaps remain in the new Penal Code**

Efforts to harmonize the legislative framework and to assert state authority over legal matters and access to justice throughout the country have been slow. As a result, informal parallel customary justice mechanisms continue to play a significant – and often harmful – role in Afghanistan, particularly concerning women’s rights [see below, *Lack of safeguards for women’s rights*] and issues that are considered as civil or family matters. These informal customary mechanisms are based on a variety of interpretations of the Shari’a and tribal norms, and can often contradict each other and the Constitution.

The new Penal Code, which came into effect on 14 February 2018, is a step in the right direction because it seeks to harmonize various separate pieces of criminal legislation and is meant to be easier for judges and other legal professionals to identify charges and penalties and prosecute them accordingly. For example, it incorporates a definition of torture more in line with the Convention against Torture than its predecessor and incorporates Rome Statute crimes [see below, *No accountability for perpetrators of grave crimes*]. It also reduces the number of crimes punishable with the death penalty, it criminalizes virginity tests, and it removes judicial discretion to prosecute cases of honor killings. Nevertheless, there are a number of concerns regarding the Penal Code, such as the absence of provisions criminalizing many forms of violence against women [see below, *Lack of safeguards for women’s rights*] and the presence of vague provisions that allow for the application of Shari’a law and the imposition of its punishments for some criminal offenses.

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<sup>4</sup> US Department of Defense, *Press Briefing by General Nicholson via teleconference from Kabul, Afghanistan*, 28 November 2017. Transcript available at: <https://www.defense.gov/News/Transcripts/Transcript-View/Article/1382901/department-of-defense-press-briefing-by-general-nicholson-via-teleconference-fr/>.

<sup>5</sup> Reuters, *Taliban active in 70 percent of Afghanistan, BBC study finds*, 31 January 2018, <https://www.reuters.com/article/us-afghanistan-taliban-study/taliban-active-in-70-percent-of-afghanistan-bbc-study-finds-idUSKBN1FK03C>.

<sup>6</sup> Al Jazeera, *Victims’ relatives demand accountability over Kunduz air raids*, 4 April 2018; available at: <https://www.aljazeera.com/news/2018/04/victims-relatives-demand-accountability-kunduz-air-raids-180404072317530.html>.

<sup>7</sup> UNAMA/OHCHR, “Treatment of Conflict-Related Detainees: Implementation of Afghanistan’s National Plan on the Elimination of Torture,” (April 2017), [https://unama.unmissions.org/sites/default/files/treatment\\_of\\_conflict-related\\_detainees\\_24\\_april\\_2017.pdf](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf).

<sup>8</sup> UN Committee against Torture, 60<sup>th</sup> session, *Concluding observations on the second periodic report of Afghanistan*, 12 June 2017, UN Doc. CAT/C/AFG/CO/2, Para. 15.

## Recommendations

The EU should call on the Afghan government to:

- Conduct thorough, impartial, and effective investigations into all military operations where civilian casualties have been reported, and make the results of these investigations public.
- Ensure that military/counter-insurgency operations are undertaken in compliance with Afghanistan's obligations under international human rights treaties to which the country is a state party.
- Thoroughly and impartially investigate all allegations of torture or ill-treatment and ensure that perpetrators are brought to justice.
- Continue efforts to harmonize the criminal and civil legislative framework and ensure its compliance with international human rights law and standards.

## **Elections threatened by violence**

There are significant concerns that the parliamentary elections scheduled for 20 October 2018 may be postponed, yet again, because of the government's inability to ensure sufficient levels of security in many areas (particularly in Taliban-controlled areas) that will allow people to safely cast a ballot.<sup>9</sup> Ongoing attacks by armed groups, such as the 22 April 2018 suicide bomb attack, claimed by the Islamic State, on a voter registration line in Kabul, which resulted in the death of at least 60 people, and the injury of over 100 more, will likely impact the voter turnout, if security is not guaranteed.

Following complaints that alleged fraud during the 2014 elections was due to the existence of millions of duplicate voter registration cards, the government decided to void these cards and to require people register again, including through the development of voter lists linking voters with specific polling centers. In addition to the complex logistical and security aspects of doing this within Afghanistan, there has yet to be any clear answer as to how the millions of Afghans who are internally displaced or living as refugees in neighboring countries will be able to register and vote in the elections.

In addition, there is widespread lack of trust in the Afghanistan Independent Election Commission (IEC) and its ability to organize free and fair elections. The reasons for distrust are multiple: links to the disputed 2014 elections; the lack of any meaningful vetting processes; ongoing allegations of corruption within the IEC; and the IEC's lack of independence from the executive branch of government. Ongoing disagreement between political parties over how to run the elections means that these issues are unlikely to be addressed in time to secure funds for the elections, most of which are expected to be provided by international donors.

## Recommendations

The EU should call on the Afghan government to:

- Ensure that voters can safely participate in the election process and that the polls will be genuine, participatory, and inclusive.
- Put in place a comprehensive and meaningful vetting process of candidates and a mechanism to allow voters to reach out to authorities with complaints or suggestions.
- Allow and provide logistical support for the monitoring of voting procedures at polling stations by independent observers.

## **Pervasive corruption**

In addition to insecurity and ongoing conflict throughout the country, widespread corruption continues to hinder efforts to reinforce the rule of law and to strengthen state institutions. The Asia Foundation's 2017 Afghanistan Survey found that 83.7% of all Afghans believe corruption is a

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<sup>9</sup> Parliamentary elections were initially scheduled to be held on 15 October 2016 and were postponed a first time to 7 July 2018 and then to the current date of 20 October 2018.

major problem in Afghanistan.<sup>10</sup> Percentages related to the perception of corruption have increased consistently over the years. In its 2017 Corruption Perceptions Index, Transparency International ranked Afghanistan 177 out of 180 countries surveyed, and gives it a score of 15 out of 100 (0 meaning high corruption).<sup>11</sup>

Corruption in Afghanistan is due in part to the lack of a comprehensive anti-corruption bill that complies with international standards and to the existence of multiple anti-corruption agencies. These agencies duplicate many functions, are poorly coordinated, are often not sufficiently independent from the executive branch, and operate with limited budgets and staff.

Moreover, the culture of impunity continues to prevail in Afghanistan. In 2017, the European Union (EU) in Afghanistan led an anti-corruption campaign focused on corruption in the judiciary. Dialogues undertaken with all levels of the Afghan society allowed for the identification of key root causes of corruption in the judiciary, such as: corrupt officials and absence of disciplinary measures, investigations, and prosecutions; the absence of independent monitoring, as corruption cases in the judiciary are dealt with by the judiciary itself; the absence of merit-based posts in the justice sector; and the lack of transparency into the work of the courts, resulting in an unaccountable judiciary. The campaign also noted the need for continued support for the Anti-Corruption Justice Center to ensure its independence and effectiveness.<sup>12</sup>

### Recommendations

The EU should call on the Afghan government to:

- Amend the Anti-Corruption Law to ensure that it is comprehensive and in line with international standards and best practices.
- Work to harmonize and integrate different anti-corruption agencies.
- Immediately implement the five concrete actions to end the culture of impunity for corruption, based on recommendations made by the EU in Afghanistan in 2017 regarding corruption in the judiciary.

### **No accountability for perpetrators of grave crimes**

There has been a disappointing lack of accountability for severe crimes – including crimes against humanity and war crimes – committed in Afghanistan over the past several decades. Although some members of the Afghan National Security Forces were prosecuted for their conduct between 2014 and 2016, information about these cases is extremely limited and there is no indication that other national investigations or prosecutions have been pursued against those responsible for the crimes committed.<sup>13</sup>

The current legal framework is partly responsible for this lack of accountability. While the new Penal Code includes provisions on war crimes, crimes against humanity, genocide, and the crime of aggression, in accordance with its obligations as a state party to the Rome Statute, it does not have any retroactive effect and is inapplicable to crimes committed before it came into effect in February 2018. Moreover, the 2007 National Reconciliation, General Amnesty and National Stability Law grants legal immunity from prosecution to parties and belligerent groups fighting before the formation of the Interim Administration in December 2001. Such immunity is in violation of Afghanistan's international legal obligations and impedes efforts to conduct domestic prosecutions of perpetrators of grave human rights abuses committed during the past several

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<sup>10</sup> Asia Foundation, A Survey of the Afghan People, 2017, available at: <https://asiafoundation.org/publication/afghanistan-2017-survey-afghan-people/>

<sup>11</sup> Transparency International, Afghanistan Country Page, available at: <https://www.transparency.org/country/AFG>.

<sup>12</sup> Delegation of the European Union to Afghanistan, Press release, *Corruption: five steps to end the culture of impunity*, available at: [https://eeas.europa.eu/delegations/afghanistan/24286/corruption-five-steps-end-culture-impunity\\_en](https://eeas.europa.eu/delegations/afghanistan/24286/corruption-five-steps-end-culture-impunity_en)

<sup>13</sup> International Criminal Court, *Request for authorisation of an investigation pursuant to article 15*, 20 November 2017, para. 276-288; available at: [https://www.icc-cpi.int/CourtRecords/CR2017\\_06891.PDF](https://www.icc-cpi.int/CourtRecords/CR2017_06891.PDF)

decades. Moreover despite promising political will to address the issues of truth, justice and dignity for the victims after the Bonn Agreement<sup>14</sup>, transitional justice is off the agenda in Afghanistan.<sup>15</sup>

The November 2017 request by the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) to the Pre-Trial Chamber to authorize the opening of an investigation into crimes committed in Afghanistan is a first step towards the establishment of accountability for serious international crimes committed since Afghanistan's ratification of the Rome Statute in 2003. The investigation, if authorized, would cover crimes committed in Afghanistan by all sides to the conflict, possibly including the conduct of US armed forces and CIA agents, and crimes committed in the context of, and associated with, the armed conflict in Afghanistan.<sup>16</sup> If authorized, the OTP will need significant support and cooperation from both the Afghan government and the international community if it is to be effective in investigating these crimes.

Finally, ongoing attempts to negotiate a peace deal with the Taliban and other armed groups continue to pose challenges to securing justice and accountability for victims of grave crimes in Afghanistan. There are concerns that accountability, justice, and respect for human rights will be neglected in the negotiations, as they have been in the past, as the Afghan government strives to secure deals with armed groups. The September 2016 peace agreement signed with Hezb-e Islami, through which the group's leader, Gulbuddin Hekmatyar – known as the “Butcher of Kabul” for his alleged role in the killing of thousands of civilians during the civil war – was pardoned, is a prime example of justice being negotiated away.

### Recommendations

The EU should call on the Afghan government to:

- Investigate and prosecute graves crimes and ensure effective judicial proceedings in accordance with its international standards in order to ensure accountability for severe international crimes.
- Reinvigorate a national action plan on transitional justice processes, allowing the participation of people not only in peace-building but also in truth-telling, justice, and dignity for the victims.
- If an ICC investigation is authorized, provide meaningful support to such an investigation, in compliance with its obligations as a state party to the Rome Statute.
- Ensure that any peace deals address the issues of accountability, justice, and respect for human rights and that specific measures to achieve these goals are part of the negotiations.

### **Shrinking space for civil society**

A climate of fear generated by widespread insecurity has created one of the most challenging environments in the world for civil society actors. NGOs, women's rights activists, human rights defenders (HRDs), and media professionals face various threats, including from the government and armed groups.

Significant international support for rebuilding civil society was provided post-2001. However, in more recent years, the space for civil society has been shrinking, and government actions have contributed to this negative trend. Registration of NGOs and associations is a long and onerous process, which impedes many from formalizing their status. Registration under the 2005 Law on Non-Governmental Organizations requires evaluation by both a Technical Commission and a High Evaluation Commission, the latter being composed of representatives of five ministries. The 2013

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<sup>14</sup> Signed on 5 December 2001 by representatives of various anti-Taliban groups and factions, the Bonn Agreement set out a roadmap and timeline for rebuilding the country, including government institutions, securing peace and protecting human rights.

<sup>15</sup> David Knaute & Armanshahr/OPEN ASIA, Afghanistan - How and why truth and justice have been kept off the agenda, November 2015; available at: <http://openasia.org/en/?p=6661>

<sup>16</sup> For more information, see FIDH, *Questions and Answers on Afghanistan and the International Criminal Court*, 23 November 2017; available at: <https://www.fidh.org/en/region/asia/afghanistan/questions-and-answers-on-afghanistan-and-the-international-criminal>.

Law on Associations requires a minimum of 10 founding members and a fee of AFD 10,000 (approximately USD150) for registration with the Ministry of Interior.

A new draft Law on Gatherings, Demonstrations and Strikes, leaked in July 2017, has been heavily criticized for seeking to further curtail the right to freedom of peaceful assembly, including by adding restrictions to the right to protest and introducing additional requirements for organizing and holding demonstrations and other gatherings. The draft of the new law has since been sent as a Presidential Decree to the Wolesi Jirga [Lower House], which voted against it and instead asked President Ghani to suggest amendments to the existing 2003 Law on Gatherings, Demonstrations and Strikes. The draft legislation aimed at amending the 2003 law is now in the hands of the Meshrano Jirga [Upper House].<sup>17</sup>

Most problematically, civil society, and in particularly human rights NGOs, continue to be excluded from the peace-building process and from peace negotiations with armed groups. NGOs working on human rights issues, such as freedom of expression or women's rights, are being particularly impacted and relegated to the margins.

Civil society is also at significant risk of attacks by armed groups, who see many civil society organizations as foreign puppets or spreading foreign ideals that are contrary to extremist religious viewpoints. Deadly attacks continue to highlight the dangers that both civil society organizations and media professionals face in Afghanistan. For example, on 28 December 2017, a bomb attack at a building housing a Shi'a cultural center and the *Afghan Voice* news agency in Kabul killed 41 people and wounded 80. On 24 January 2018, a suicide bomb attack outside of the office of Save the Children in Jalalabad in eastern Afghanistan resulted in the death of four staff members and the injury of four others.

According to the Afghan Journalists Safety Committee, 2017 was the bloodiest year for journalists in Afghanistan's history. During the year, 169 cases of violence and threats against journalists were recorded, including the murder of 20 journalists and other media workers. Of the 169 cases, 87 were perpetrated by armed groups and 57 by security forces or government officials.<sup>18</sup>

NGOs and CSOs also face severe capacity problems due to a decrease in funding, as donors are starting to show signs of fatigue. This has forced many NGOs to downsize and carry out less effective activities. Combined with low levels of education and literacy [See below, *Low rates of school attendance and literacy foster gender inequalities*], and a restrictive environment, NGOs are less and less able to affect policy at the national level.

## Recommendations

The EU should call on the Afghan government to:

- Amend the legislative framework to ease registration requirements for NGOs and associations.
- Withdraw the draft bill amending the Law on Gatherings, Demonstrations and Strikes and ensure that any amendments to existing laws protect the fundamental rights to freedom of association and peaceful assembly.
- Include a broad cross-section of Afghan civil society in peace-building processes and negotiations with armed groups.
- Implement concrete measures to provide security for civil society organization and HRDs.
- Publicly state support for civil society organizations and human rights groups, activists, and HRDs.

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<sup>17</sup> Pajhwok, *MPs reject Ghani's decree on public protests, strikes*, 15 January 2018; available at:

<https://www.pajhwok.com/en/2018/01/15/mps-reject-ghani%E2%80%99s-decree-public-protests-strikes>.

<sup>18</sup> Afghan Journalists Safety Committee, *Six Month Report Jul-Dec 2017*, 11 January 2018; available at: <http://ajsc.af/six-month-report-jul-dec-2017/>.

## Lack of safeguards for women's rights

The situation for women in Afghanistan remains dire, with too few safeguards in place, despite extensive international attention to the issue post-2001. Violence against women – including honor killings, domestic violence, rape and sexual harassment, acid attacks, forced marriages, and dowry violence – remains prevalent, and the government has done little to concretely address these violations.

Although accurate figures on violence against women in Afghanistan are hard to find, as most incidents remain unreported to the authorities, attempts at data collection by the Afghanistan Independent Human Rights Commission (AIHRC) give an indication of the magnitude and severity of these violations. According to AIHRC documentation, from March 2017 to March 2018, there were at least 4,340 reported instances of violence against women, of which 4,118 (94%) occurred inside the home.<sup>19</sup> Sexual harassment also remains widespread. A March 2018 AIHRC report found that 85.4% of 1,530 women the organization interviewed had suffered one or more type of sexual harassment.<sup>20</sup> Among the causes of violence against women are: customs and traditions; insecurity and a lack of rule of law; impunity for perpetrators; corruption; limited access to judicial mechanisms; a lack of adequate support systems for survivors of violence; illiteracy; and low public awareness of these issues.

The 2009 Law on Elimination of Violence Against Women 2009 (EVAW Law), passed by Presidential Decree during recess by then-President Hamid Karzai, was considered groundbreaking because it listed about 20 crimes against women. Although efforts to fully integrate the EVAW Law's provisions in the new Penal Code were unsuccessful, the EVAW Law remains applicable.<sup>21</sup> However, in the years that followed the EVAW Law's introduction in 2009, reticence by lawmakers to introduce it and adopt it in the National Assembly have raised concerns that the EVAW Law, should it remain solely a Presidential Decree, could be abrogated in the future by an administration less friendly to women's rights.

There have been challenges to fully implement the EVAW Law, in part due to prevailing reliance on customary and informal justice mechanisms. This is particularly true in rural areas, where many cases of violence against women are addressed through mediation conducted by *jirgas* or *shuras* [tribal councils], and where very few cases, especially of rape or other forms of sexual assault, are reported to the authorities.

The ongoing challenges to fully implement criminal provisions for violence against women are being compounded by a context of regression in women's rights, which continue to be targeted by armed groups, and a lack of government support for concrete measures to support women. In March 2018, it was announced that women's shelters, currently run independently by NGOs, would be placed under control of the Ministry of Women's Affairs, which would collect donor funds for these projects and in turn distribute the money to shelters.<sup>22</sup> This is cause for great concern, as it would place women who need refuge at the mercy of changing government policies and priorities.

## Recommendations

The EU should call on the Afghan government to:

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<sup>19</sup> AIHRC, *Summary of the Report on Violence Against Women: The causes, context, and situation of violence against women in Afghanistan, Fiscal year 1396*; available at: <http://www.refworld.org/publisher.AIHRC,,,5ab132774,0.html>.

<sup>20</sup> AIHRC, *Summary Report: Survey of Harassment of Women and Children in Afghanistan; Fiscal year 1396*; available at: <http://www.aihrc.org.af/media/files/Research%20Reports/summary%20report%20on%20harassment%20of%20women.pdf>.

<sup>21</sup> According to UNAMA, "The removal of the chapter [in the Penal Code] penalizing violence against women, however, causes concern with regard to ensuring the strongest possible legal protection of women. Technical amendments to the Code will be essential to ensure that the criminal provisions of the Law on the Elimination of Violence Against Women (the EVAW Law) still apply. UNAMA notes that the current EVAW law remains in place and continues to provide overall legal protection for women [...]" available at: <https://reliefweb.int/report/afghanistan/unama-welcomes-afghanistan-s-new-penal-code-calls-robust-framework-protect-women>.

<sup>22</sup> New York Times, *Shelters Have Saved Countless Afghans Women. So Why Are They Afraid?*, 17 March 2018; available at: <https://www.nytimes.com/2018/03/17/world/asia/afghanistan-womens-shelters.html>.

- Work with the National Assembly to reintroduce and pass a comprehensive Law on Elimination of Violence against Women that adheres to Afghanistan's obligations under international law, particularly the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).
- Ensure that violence against women is duly investigated and prosecuted under the existing EVAW Law and not through informal justice mechanisms.
- Ensure that women's rights are a key issue during negotiations between the government and armed groups.
- Immediately withdraw plans to place women's shelters under control of the Ministry of Women's Affairs.

### **Low rates of school attendance and literacy foster gender inequalities**

Many schools throughout Afghanistan reopened post-2001, and enrollment has increased due to significant international funding for the education sector. However, enrollment and school retention rates remain very low throughout the country. According to the Ministry of Education, as of 2015, over 9.2 million children (out of some 16.7 million) were enrolled in school, 39% of whom were girls.

In addition, enrollment rates do not necessarily equate attendance rates and, in rural areas, school attendance can be as low as 21% for girls and 43% for boys.<sup>23</sup> Moreover, the Afghan government's statistics remain disputed and are likely to be inflated because a child is counted as attending school until he or she has not attended for up to three years.<sup>24</sup> UNICEF estimates 3.5 million children are out-of-school in Afghanistan, 75% of whom are girls.<sup>25</sup>

Children, and particularly girls, are kept from attending school for various reasons: insecurity; a lack of nearby schools (including because schools have been closed as a precaution or destroyed by the conflict); a lack of female teachers and schools for girls; continuing beliefs that girls should not be educated; child marriage; and poverty and child labor. In some areas that remain under the control of the Taliban, it is reported that girls are not allowed to attend schools, or that they are not allowed to attend school above a certain age.

Furthermore, the continued – and according to some accounts, increasing – presence of madrasas, or private religious schools, is cause for concern, as they remain largely unregulated by the government, thereby providing, in many cases, inadequate education to pupils. In some cases, such schools provide an ideal context for religious extremists to indoctrinate children, particularly in rural areas.

Challenges to ensuring universal education and the long-term impacts of that are compounded by widespread adult illiteracy. Afghanistan continues to have one of the lowest adult literacy rates in the world at just under 32%.<sup>26</sup> Low literacy rates affect women disproportionately: the overall rate of literacy is only 17% for women, and in some provinces, that rate can be as low as 2%.<sup>27</sup> Adult literacy programs are hindered by significant corruption. A 2017 report by the Independent Joint Anti-Corruption Monitoring and Evaluation Committee found that these programs were often non-existent in provinces (with many “ghost” programs or beneficiaries), or when existent, improperly implemented.<sup>28</sup>

<sup>23</sup> Afghanistan Ministry of Education, *National Education Strategic Plan (2017-2021)*; available at:

[https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/nesp\\_final\\_20-01-2017\\_0.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/nesp_final_20-01-2017_0.pdf).

<sup>24</sup> Human Rights Watch, *'I Won't Be a Doctor, and One Day You'll Be Sick': Girls' Access to Education in Afghanistan*, 17 October 2017; available at: <https://www.hrw.org/report/2017/10/17/i-wont-be-doctor-and-one-day-youll-be-sick/girls-access-education-afghanistan>.

<sup>25</sup> UNICEF Afghanistan, Education page, available at: <https://www.unicef.org/afghanistan/education>.

<sup>26</sup> UNESCO Institute for Statistics, education statistics, available at:

[http://data.uis.unesco.org/Index.aspx?DataSetCode=EDULIT\\_DS&popupcustomise=true&lang=en#](http://data.uis.unesco.org/Index.aspx?DataSetCode=EDULIT_DS&popupcustomise=true&lang=en#).

<sup>27</sup> UN Women, Afghanistan Country Page, available at: <http://asiapacific.unwomen.org/en/countries/afghanistan>.

<sup>28</sup> Independent Joint Anti-Corruption Monitoring and Evaluation Committee, *Ministry-wide Vulnerability to Corruption Assessment of the Ministry of Education*, October 2017; available at: [http://www.mec.af/files/2017\\_23\\_10\\_moe\\_english.pdf](http://www.mec.af/files/2017_23_10_moe_english.pdf).



Low rates of education and literacy are repeatedly cited as a major obstacle to achieving greater gender equality and reducing rates of violence against women. This severe gender inequality, if not urgently addressed, will continue to have long-lasting impacts on democracy and human rights, and particularly women's rights, as well as on the ability of civil society to play a meaningful role in Afghanistan's future. Low rates of education and literacy are repeatedly cited as a major obstacle to achieving greater gender equality and reducing rates of violence against women.

### Recommendations

The EU should encourage the Afghan government to:

- Invest in initiatives to increase school enrollment and attendance rates, particularly for girls, including by increasing the number of female teachers and of girls' schools, and public awareness programs aimed at countering opposition to girls' education.
- Ensure greater regulation over religious educational institutions, to ensure that basic curricula are adequate and correspond to national curricula.
- Address corruption within the Ministry of Education, and ensure that adult literacy programs are expanded and effective and implemented, particularly in rural areas.
- Ensure that adult literacy programs address the particular needs and challenges faced by women in Afghanistan.

### **Afghan returnees face challenges**

Conflict and insecurity in Afghanistan continue to result in large amounts of refugees and internally displaced persons (IDPs). According to the UN High Commissioner for Refugees (UNHCR), as of 2 March 2018, 34,381 individuals had been displaced by conflict since the beginning of the year.<sup>29</sup> UNHCR predicts that some 150,000 people will be displaced in 2018.<sup>30</sup> These high numbers of internal displacement cause strain on the resources of both the government and local populations, as humanitarian and protection needs are significant.

Adding to this strain on resources is the ongoing return of Afghan refugees from Pakistan, Iran, and other countries. The Afghan government estimates some 280,000 registered Afghan refugees, mainly displaced in Pakistan, will return in 2018. The International Organization for Migration (IOM) projects the return of some 420,000 undocumented Afghans from Pakistan and 400,000 from Iran.<sup>31</sup> These 1.1 million returnees will join the more than 1.61 million who returned in 2016 and 2017.<sup>32</sup>

In many cases, refugees who return home do so to provinces where conflict and insecurity are rampant and where significant numbers of IDPs continue to be reported. Kabul, Nangarhar, and Kunduz provinces remain the top three destinations for registered refugee returnees and have been so since 2002.<sup>33</sup> Yet these are provinces where insecurity is prevalent. In March 2018, the French Cour National du Droit d'Asile [National Court of Asylum] ruled that the situation in Kabul was too dangerous to deport asylum seekers who had been denied asylum in France.<sup>34</sup>

As a result, many returnees come home to find little reasons to stay. Danger, insecurity, ongoing conflict; scarce job opportunities; destroyed infrastructure and homes; inexistent re-integration plans and social security; and little effort by the government to support the reintegration process -

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<sup>29</sup> UNHCR, *Factsheet Afghanistan*, March 2018, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Afghanistan%20Factsheet%20-%20March%202018.pdf>.

<sup>30</sup> UNHCR, *Factsheet Afghanistan*, March 2018, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Afghanistan%20Factsheet%20-%20March%202018.pdf>.

<sup>31</sup> UNHCR & IOM, *Returns to Afghanistan in 2017*, February 2018; available at: <https://data2.unhcr.org/en/documents/download/63077>.

<sup>32</sup> UNHCR & IOM, *Returns to Afghanistan in 2017*, February 2018; available at: <https://data2.unhcr.org/en/documents/download/63077>.

<sup>33</sup> UNHCR & IOM, *Returns to Afghanistan in 2017*, February 2018; available at: <https://data2.unhcr.org/en/documents/download/63077>.

<sup>34</sup> Cour Nationale du Droit d'Asile, decision no. 17045561, 9 March 2018; available at: <http://www.cnda.fr/content/download/130526/1323291/version/1/file/CNDA%209%20mars%202018%20M.%20H.%20n%C2%B0%2017045561%20C.pdf>.

these factors create a situation in which many are forced to leave again and look for opportunities abroad, including in Europe.

### Recommendations

The EU should call on the Afghan government to:

- Invest in programs to support the reintegration of returnees in Afghan society.
- Ensure that any decision to accept refugee returnees and to reintegrate them in Afghanistan is undertaken in accordance with its obligations under the 1951 Refugee Convention.