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## The Taliban, an overview of human rights violations

Afghan civilians have paid a heavy price since hostilities between the Taliban and US-led coalition forces began in October 2001 – and they continue to do so. The international armed conflict formally ended with the conferral of power to the Afghan Transitional Government in June 2002. Since then civilians have been directly targeted for attack by the Taliban and other armed groups. They have also been caught up in the crossfire in the ongoing armed conflict between the Afghan army and foreign forces on the one side, and the Taliban and other armed groups opposed to the Afghan government and presence of foreign troops on the other. Both sides have committed serious human rights abuses and violations of international humanitarian law resulting in the deaths or injury of Afghan civilians.

The Taliban have been responsible for hundreds of civilian deaths. According to the Afghan Independent Human Rights Commission (AIHRC) around 600 civilians were killed or wounded only in the first seven months of 2006. Around 70 per cent of these casualties were linked to Taliban attacks. The Taliban have targeted and killed civilians whom they consider to be "spies" or "collaborators", including Afghan and foreign reconstruction and aid workers, religious leaders, government administrators, women's rights activists and teachers. The Taliban have attacked civilians and civilian objects, such as school buildings, with little or no effort to distinguish between these and military targets, such as soldiers and combat vehicles.

Hundreds of people have been killed or injured, including children, as a result of indiscriminate attacks using car bombs, suicide attacks and improvised explosive... *continued on page(2)*

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## Making peace with the Taliban, at what cost?

Seven keys to a just peace for the people of Afghanistan

FIDH-Armanshahr Foundation/OPEN ASIA position paper before the Bonn Conference on 5 December 2011



### Kabul/Paris/Brussels/Bonn, 17 November 2011

The Afghan people live in a general climate of fear and uncertainty, ten years after the launch of the US-led international intervention to remove the Taliban from power and put an end to terrorist networks in Afghanistan. While many are disillusioned by the meagre progress of economic development and social welfare in the country, other major challenges are yet to be adequately addressed, especially in building democratic, just and rights-respecting institutions. The security situation is steadily deteriorating and daily acts of terror and intimidation against civilians in different regions have alarmed the Afghan people, whose memories of systematic and generalised human rights violations, atrocities and oppression under the Taliban regime remain vivid. Despite these hardships, Afghans have nevertheless consistently and unswervingly expressed their faith in progressive change and democratisation, as well as a strong desire for justice, and for the end to all-pervasive impunity.

As the Bonn conference on 5 December 2011 approaches, a fair, sustained and transparent re-engagement of the international community vis-à-vis the Afghan people is crucial. Safeguarding and consolidating important institutional and democratic achievements in Afghanistan since 2001 is essential to ensure that the country does not slip back into a situation of prevalent mass human rights violations, as is already the case in certain parts of Taliban-controlled Afghanistan; however it is equally necessary to fulfil the international community's original purpose in investing resources in the country. For the Bonn conference to be successful, it must embody a strong commitment from the Afghan State and the international community to fully endorse justice and human rights as core, non-negotiable principles in all institutional and strategic arrangements.

This paper highlights seven key criteria that must be met for sustainable peace in Afghanistan to be possible. The idea of reconciliation at any cost prevails in Afghanistan, as demonstrated by the Loya Jirga convened on 16 November 2011 in Kabul. This approach has consistently proven unsuccessful, with dire consequences: it not only obliterates truth-seeking instances, but obviates justice, promotes continued impunity and leads to further human rights violations. It does not lay the foundations for sustainable peace. Recent experience shows that reconciliation before truth seeking and justice only rehabilitates those responsible for grave human rights violations. International actors should face their responsibilities and obligations, and assist the Afghan people in openly confronting past and present violations. Reconciliation cannot occur in a vacuum: the constraints imposed by Afghanistan's constitution, its national legislation and its international obligations, should preclude negotiating with entities – such as the Taliban - who are accused of grave human rights violations and drastically oppose human rights.

### Key 1: Do not endorse a return of Taliban to power at the Bonn conference

Peace and justice in Afghanistan cannot be achieved if the reconciliation process is limited to a talk show between an internationally supported government rapidly losing its popular backing, and the Taliban who intend to impose their own terms on negotiations and their repressive ideology on the Afghan society. Short sighted solutions and quick-fixes will once again create a safe haven for fundamentalist activities in the heart of Asia; this would have damaging and alarming consequences on human rights for the Afghan population. To believe that it is possible to broker with the Taliban whilst guaranteeing protection of the most basic human rights is deluded. ... *continued on page(2)*



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devices, such as roadside bombs, aimed at military convoy patrols and bases of the foreign forces. Targets of indiscriminate attacks have also included government administrators, police and private individuals.

### TALIBAN OUSTED BUT INSECURITY PREVAILS

The failure to win "hearts and minds" in the ongoing armed conflict and to establish security in the country has led to an erosion in public confidence in the Afghan government and US-led intervention. The US removal from power of the Taliban in 2001 was generally welcomed across Afghanistan. Over time, however, public support seems to have declined.

Much of the discontent is attributable to human rights violations by the Afghan state forces and foreign forces. Between 2001 and 2004, foreign forces, alongside the Afghan national army, arrested and arbitrarily detained hundreds of men, in many cases without respect for human rights, including guarantees of due process. Many detainees were subjected to torture or other ill-treatment, and at least eight men died in US custody. The detention of men, often the principal breadwinners in Afghan society, meant that family members left behind often faced poverty and destitution. The thousands of civilian deaths resulting from foreign military operations since the US-led intervention began in 2001 has steadily increased discontent, especially in the south. The aggressive, sometimes violent, conduct of foreign troops during house raids and the lack of cultural sensitivity shown towards women during house searches have also fuelled local resentment.

While the failure to deliver on security is considered a key factor in the resurgence of the Taliban, a failure in the state-building process has also contributed to distrust of the government. Following the overthrow of the Taliban

and the Bonn Agreement of December 2001, Afghanistan and its international partners were provided with a key opportunity to build an effective, functioning state. The failure in the state-building process has resulted in institutions that are weak and corrupt, notably the Ministry of Interior, the judiciary and the police force: "Without effective and honest administrators, police and judges, the state can do little to provide internal security – if the government does not provide

security people will not recognize it as a government," noted Barnett Rubin, a director at the US-based Centre on International Co-operation and an expert on Afghanistan. These weak institutions have resulted in corrupt governance and the absence of rule of law across the country, leaving a security gap for the Taliban to fill.

The government's opium eradication campaign with little or no effort to provide alternative livelihoods to farmers has provoked local opposition, especially in the opium-producing centre of Helmand. The Taliban seem to have effectively exploited this policy, winning the support of poppy farmers by providing them protection. Meanwhile, the poor provision of effective aid and development in the south and southeast has increased public frustration and disillusionment towards the Afghan government and the international community.

Poverty and lack of economic opportunity has enhanced the Taliban's ability to boost their ranks. A Taliban fighter is paid around US\$300 a month, while an Afghan soldier's monthly salary is around US\$100, proving a financial incentive to many living in one of the world's poorest countries. In addition, in areas where the Taliban have gained control, young men are often reportedly coerced into joining the armed group.

These factors, together with escalating violence, now threaten to reverse some of the earlier gains made in the country's political, social and economic development. The Taliban have capitalized on the political, economic and security vacuum and have gained de facto control over large swathes of territory in the south and east of the country and attacks are reportedly growing near the outskirts of Kabul and in centres in the north-west along the border with Iran and Turkmenistan.

As the insurgency gained ground in 2003, the resurgent Taliban began emulating tactics used in Iraq. These consist of suicide attacks, improvised explosive devices, assassinations and beheadings – all with scant regard for civilian lives.

### WHO ARE THE TALIBAN?

The make-up of the insurgency in Afghanistan is diverse and complex and it is not always clear who is behind the violence. Many armed groups are said to be operating in Afghanistan, including al-Qa'ida, Jeysh-e-Mohammadi, Lashkar-e-Tayyiba and the armed political group, Hezb-e-Eslami. The term "Taliban" has often served as a catch-all tag for armed groups or elements hostile to the central government and foreign forces. As a result, *continued on Page(4)*

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To actually attempt to do so exhibits irresponsibility. As highlighted below, the Taliban have systematically engaged in crime and human rights violations, particularly of women's rights. To claim that the Taliban have popular backing makes a mockery of Afghanistan's democratic institutions as well as of the consistent and genuine expressions of popular will against the Taliban over the years, notably during four elections. The Taliban clearly cannot be considered as an organized and legitimate political group capable of administering political responsibilities, ensuring the general welfare of the population and reinforcing democratic institutions.

### Recommendation:

- The Government of Afghanistan, its regional allies, the United Nations and democratic countries represented at the Bonn conference must not allow the Taliban impose their terms nor their repressive ideology on the final agreement that will emerge from the conference. Basic human rights are non-negotiable. The Taliban must immediately cease hostilities. They should only be accepted as interlocutors if they fully respect, and comply with, the constitution, existing laws, and Afghanistan's international obligations; this is something they do not and will never do.

### KEY 2: Strengthen democratic institutions, in particular the justice system, and enforce a true separation of powers

Durable peace and sustainable justice in Afghanistan requires a vigorous support of its democratic institutions, its elected bodies, and a proper and functioning separation of powers. The executive has been allowed to dominate the legislature and the judiciary for too long, at a heavy cost to the healthy functioning of the Afghan State apparatus. The justice system lacks resources, manpower and training, and is consistently subject to political interference at every level. In particular, a comprehensive review of the mandate of the Supreme Court and the Attorney General's Office is crucial to severing the judiciary's close ties to the executive. The deterioration of the formal justice system has not only fueled the insurgency and weakened all other institutions, but also paradoxically affected the informal justice system, which does not abide by human rights or constitutional norms; it has also fallen prey to political games of coercion as well as new, ultra-conservative interpretations of Islamic Law, with no guarantee for basic rights, least of all women's rights. Sustained commitment to establish a genuine rule of law throughout the country is necessary. All rights enshrined in the Afghan constitution and the international treaties to which Afghanistan is party must be enforced through law-making and the development of the security and the justice sectors. Widespread election fraud should not be tolerated in the future.

### Recommendations:

- The progressive withdrawal of international troops must take place along with the demonstration of a serious commitment of the international community to support the strengthening of democratic institutions all over the country (including the justice system) and capacity-building within the national security forces. The Afghan Independent National Human Rights Commission (AIHRC) and other human rights organisations must receive appropriate support, and their independence must be guaranteed. The Recommendations made by the United Nations Commissioner for Human Rights in her 2011 annual report to support and strengthen institutional capacity in the country through the United Nations Assistance Mission in Afghanistan, must be implemented.
- The Afghan government, in collaboration with and under the supervision of the international community, must fight the endemic corruption that prevents democratically-elected institutions from functioning adequately. Independent monitors should be mandated by the international community to reinforce vetting processes and prevent election fraud in the future.

### KEY 3: Protect women's rights in law and in practice

Justice in Afghanistan means eradicating all laws and practices that discriminate against women. This means putting an end to stoning, lashing, forced and child marriage, acid attacks, exchange of girls and women as a means of conflict resolution, so-called "honour" killings and other forms of physical and psychological abuse. It means fighting impunity for violence against women and ensuring the security of women and girls, as well as their full access to independent justice across the whole territory. Full compliance with international human rights obligations, including under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)2 and the effective implementation of the article 22 of the Afghan Constitution is vital. The rights of women cannot be guaranteed in a void: their protection is intrinsically linked to securing a democratic State and strong and fully functioning institutions.

### Recommendations:

- The international community must ensure the strong representation of women at all stages of any peace negotiations. Women should also be represented in the implementation of negotiated agreements in line with UN Security Council Resolution 1325. The government of Afghanistan must adopt a National Action Plan to implement Resolution 1325, nominate women to key government posts and ensure their full representation in political and other





→ decision-making bodies.

- The government of Afghanistan must immediately repeal all discriminatory laws against women. This includes repealing the Shiite Personal Law, the law on marriage, discriminatory provisions within the Criminal Code, property laws and discriminatory customary laws. Steps should be taken, with the support of the international community, to end recourse to parallel customary informal courts and to ensure that women have full access to an effective formal system. The government must adopt laws to protect women from discrimination at all levels and strengthen, jointly with the Supreme Court and the Office of the Attorney General, the implementation of the Elimination of Violence against Women Act as the government's main tool to end harmful practices. It must use all possible means, in collaboration with the international community, to improve women's access to basic social services such as primary healthcare and education throughout the country.

#### KEY 4: Establish transitional justice mechanisms and fight impunity

Justice means establishing transitional justice mechanisms (possibly inspired by successful international experiences) to put an end to the impunity that has now undermined Afghan society for several decades. All those responsible for grave human rights violations should be investigated and prosecuted. Many of these persons currently hold positions that allow them to commit further violations; vetting and accountability mechanisms in elections processes and government institutions should therefore be strengthened. Victims should be provided with redress. These requirements are key elements in the future success of a strong democratic Afghanistan. Victims' rights to truth, justice and reparation should be respected and properly implemented. The role of the International Criminal Court (ICC), the Statute of which was ratified by Afghanistan in 2003, is paramount in this respect. The Office of the Prosecutor has been analysing the situation in Afghanistan for the last five years: the ICC should without further delay decide whether to open a proper investigation, and apply the principle of complementarity.

#### Recommendations:

- The United Nations should seriously investigate and document international crimes committed by the Taliban and other groups in Afghanistan, and propose and implement a solid framework for the establishment of transitional justice mechanisms. Such mechanisms include truth commissions, redress for victims and memorial centres, to complement essential criminal justice mechanisms.
- The International Criminal Court (ICC) should also be vocal on the state of the Office of the Prosecutor's preliminary analysis of the Afghan situation. It should open an investigation into international crimes committed in the country since 2003, should national justice mechanisms continue to demonstrate their inability and unwillingness to genuinely investigate and prosecute the main perpetrators of these crimes. The ICC would thereby respond to victims' desperate need for redress and thus contribute to breaking the vicious circle of impunity.
- The Government of Afghanistan and its international supporters should renew their pact with the Afghan population by allowing transitional justice mechanisms to become an issue of public debate and competence. The government should act on a victim-oriented Action Plan for Peace and Reconciliation, as originally drafted in 2005. The Public Amnesty and National Stability Law should be revoked as it clearly violates the Constitutional provisions and the Government's international treaty obligations.

#### KEY 5: Fully perform human rights obligations under the protection mandate of the international community

The international community should perform a complete overhaul of its strategy in Afghanistan. It should endorse, through the United Nations system, a strong and ambitious mandate to protect and promote human rights in the whole country. In cases of concrete threats against human rights defenders and Afghan citizens, full protection, including a right to asylum, should be provided. The ISAF mandate, which was defined in 2001 under very special circumstances, needs to be brought to an end by 2014. Civilian deaths, targeted killings and inhumane practices such as torture and illegal detention under the responsibility of ISAF forces or international troops need to be urgently brought to an end, and perpetrators systematically brought to justice. The same forces must immediately strengthen their accountability and improve access to justice and redress for civilians who suffer harm.

#### Recommendations:

- International military forces and Afghan National Security Forces, as recommended by the United Nations High Commissioner for Human Rights in her 2011 annual report, must ensure that systems are in place so that incidents causing civilian harm and misconduct of international troops are properly documented and followed up with credible and transparent investigations. All those affected must be offered appropriate redress (including guarantees of non-repetition and compensation, apologies, investigations, tangible gestures of recognition). Compensation should be provided promptly, uniformly

and systematically to all civilian victims of conflict-related casualties and human rights violations.

- The international community, through the United Nations system, should immediately implement the responsibility to protect, as recommended by the Secretary General's report A/63/677 of 2009. It should therefore assist the Afghan government to exercise that responsibility and build its protection capacities. Should the Afghan government manifest an inability or unwillingness to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, the international community should be prepared to take collective action in a "timely and decisive manner" through the Security Council and in accordance with the United Nations Charter.

#### KEY 6: Respect the economic, social and cultural rights of Afghan people, and foster a sustainable model of development

Justice means building a sustainable model of development for Afghanistan, in line with the social, economic and cultural rights of all Afghans in their diversity. Economic development must be fair and lead to adequate redistribution. The international community's commitment to supporting Afghanistan's immediate and long-term development and providing humanitarian assistance, as necessary, must conform with internationally recognized human rights principles.

#### Recommendation:

- Donor countries should ensure that development assistance exclusively addresses needs as defined in consultation with Afghan civil society, including women, instead of being subordinate to security and military objectives which do not systematically serve the population; all structures linking civilian to military assistance should be dismantled as soon as possible during the transition process.

#### KEY 7: Respect human rights while promoting regional security and fighting international terrorism

Respect for human rights must be at the core of any cooperation agreement between the Government of Afghanistan, neighbouring countries and the international community to promote regional security and fight international terrorism.

#### Recommendations:

- Relevant UN Security Council Committees, international organizations and expert groups, including the Committee established pursuant to UN Security Council Resolution 1267 (1999), the Counter Terrorism Committee (CTC), the United Nations Office of Drugs and Crime, the Counter-Terrorism Executive Directorate (CTED) must set up appropriate institutions and implement, in a transparent way, efficient mechanisms to guarantee the full respect for human rights while fostering regional security and coordinating the fight against international terrorism among all

concerned actors.

- In regard with the UN Security Council latest resolution on international terrorism and the threat it poses to Afghanistan<sup>3</sup>, the Security Council must guarantee that the UN sanctions list of Taliban and other individuals, groups and undertakings associated with them gets regularly updated. Should any doubt persist about the intentions and behaviour of designated Taliban, the Security Council should not hastily lift, in the name of reconciliation, some individuals from the list, as expressed in the same resolution.

#### Who are the Taliban?

For the past few years, the number of civilians killed by Taliban insurgents in Afghanistan has been exponential. In 2010, 75% of the 2777 civilian casualties were reportedly victims of the Taliban. During the first semester of 2011, 1167 civilians were killed by Taliban forces. Moreover, there is growing evidence that most human rights violations and restrictions on fundamental freedoms imposed under the Taliban regime before 2001 have been revived in regions where the Taliban are present. Recourse to intimidation and threat against the population is being used by the Taliban who, for the past few years, have targeted schools with bomb attacks, and attacked female pupils with acid. On 16 August, 2010, the Taliban restored public executions by stoning, stoning a young couple who had eloped to escape family pressures. There are numerous similar cases of brutality and summary execution. On 11 November, 2011, a group of armed men stoned and shot dead a woman and her daughter in Ghazni province, just 300 meters from the governor's office in Ghazni city, a territory prioritised for transfer to Afghan security control. The mother was accused of "moral deviation and adultery". The Taliban also control major roads and are taxing people in many of the regions where they are present. People working for government institutions have been targeted, killed and imprisoned by the Taliban, who deny the government's legitimacy. Some district officials have been beheaded. The Taliban have banned mobile phones, video cameras and music apart from Taliban radio stations which play hypnotic chants.

Under the Taliban regime (1996-2001), physical force was used as punishment. One particularly harsh dimension of the Taliban's rule was their implementation of justice according to extreme interpretations of Islamic, Sharia and tribal law. Regular public executions, lashing and stoning took place at stadiums or in specific parks during the regime. *continued on Page(5)*

Respect human rights while promoting regional security and fighting international terrorism  
Respect for human rights must be at the core of any cooperation agreement between the Government of Afghanistan, neighbouring countries and the international community to promote regional security and fight international terrorism.

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some attacks attributed to the Taliban by the media may have been carried out by al-Qa'ida, or the armed political group Hezb-e-Eslami, headed by Gulbudin Hekmatyar. Other elements attributed to the Taliban might include local warlords, criminal gangs involved in the drugs trade or private individuals. Wherever possible, every effort has been made in this report to distinguish between those attacks carried out by the Taliban and other armed elements operating in Afghanistan.

The Taliban overwhelmingly comprise Pashtuns from southern Afghanistan. Widespread support for the Taliban movement is also derived from Pashtuns living across the border in Pakistan, largely in the Northwest Frontier Province and the Federally Administered Tribal Areas. In these two regions, as well as parts of Baluchistan, the majority people are of Pashtun ethnicity and share the same history, norms and religious beliefs as their Afghan counterparts. Many Pashtuns in both countries do not recognize the porous Pakistan-Afghan border and cross it at will.

In 2003 the Taliban's leader, Mullah Omar, created a 10-member council (Rahbari Shura) of commanders to lead Taliban military operations in Afghanistan. The council has since expanded to 33 members and includes members of the older Taliban leadership, who led campaigns against US military operations in 2001-2002, as well as newer fighters recruited from religious seminaries or madrassas in Pakistan. A small portion of the movement is said to consist of foreign fighters, including Arabs, Chechens and Iranians. Currently, there are believed to be 5,000 "core" fighters and 10,000 "part-timers" in the Taliban's ranks.

Financial support for the Taliban flows in from supporters in the region but is also thought to come from wealthy donors from the Persian Gulf states. Other sources of income are derived from the illegal drugs trade, kidnappings in which ransoms are demanded and the smuggling of goods. The Taliban also receive money and support in strongholds in southern Afghanistan either by coercion, for example, by demanding food and shelter, or by religious tax known as zakat.

The Taliban have repeatedly claimed that their policies are in accordance with Islamic law and Afghan culture, and thus not open to question. The Taliban leader, Mullah Mohammad Omar, has been reported as saying: "We do not accept something which somebody imposes on us under the name of human rights which is contradictory to the holy Quranic law." "Anybody who talks to us should be within Islam's framework. The holy Qur'an cannot adjust itself to other people's requirements. People should adjust themselves to the requirements of the holy Qur'an."

### TALIBAN AND WAR CRIMES<sup>1</sup>

#### MASSACRES OF HAZARAS IN AFGHANISTAN<sup>2</sup> : THE CASES OF BAMIYAN, ROBATAK AND YAKAOLANG

The massacres (January 2001, May 2000) documented by HRW took place in the context of the six-year civil war between the Taliban and parties now grouped in the United National Islamic Front for the Salvation of Afghanistan. The killings were part of a pattern of efforts to intimidate minority populations and to deter them from cooperating with the United Front, Human Rights Watch said.

The HRW report quotes eyewitness accounts of the 8-12 January 2001 killings. According to those sources, Taliban forces retook the town of Yakaolang, in Bamiyan province, nine days after they had been driven out by two Shia-based parties in the United Front. After conducting search operations throughout the city and nearby villages, the Taliban detained about 300 civilian adult males, including staff members of humanitarian organizations. The men were herded to assembly points in the center of the district and several outlying areas, and then shot by firing squad in public view.

The May 2000 massacre took place near the Robatak pass on the border between Baghlan and Samanagan provinces in north central Afghanistan. All of those killed had been detained for four months and many of them were tortured before they were killed. Human Rights Watch has obtained confirma-

tion that thirty-one bodies were found at the site, of which twenty-six have been positively identified as civilians from Baghlan province.

Taliban forces were driven out of Yakaolang by the United Front on 23 January 2001. In a major setback to the Taliban, the United Front also captured Bamiyan city, the provincial capital, on the night of February 13-14. Taliban authorities had barred journalists from visiting the region, while denying that their forces had massacred civilians in Yakaolang.

### THE MASSACRE IN MAZAR-I SHARIF<sup>3</sup>

On 8 August 1998, Taliban militia forces captured the city of Mazar-i Sharif in northwest Afghanistan, the only major city controlled by the United Front, the coalition of forces opposed to the Taliban. The fall of Mazar was part of a successful offensive that gave the Taliban control of almost every major city and important significant territory in northern and central Afghanistan. Within the first few hours of seizing control of the city, Taliban troops killed scores of civilians in indiscriminate attacks, shooting noncombatants and suspected combatants alike in residential areas, city streets and markets. Witnesses described it as a "killing frenzy" as the advancing forces shot at "anything that moved." Retreating opposition forces may also have engaged in indiscriminate shooting as they fled the city. According to HRW, at least hundreds of civilians were among those killed as the panicked population of Mazar-i Sharif tried to evade the gunfire or escape the city.

### TALIBAN SHIELDING AND AIRSTRIKES<sup>4</sup>

In several instances, Human Rights Watch obtained eyewitness testimonies confirming that shielding was occurring. "Shielding" refers to intentionally using the presence of civilians to render areas or forces immune from military attack.

For instance, on 16 June 2007, Taliban forces attacked and occupied several villages in Chora district, Uruzgan province. NATO and Afghan forces responded in a fierce battle that lasted until June 19, 2007. Numerous civilians reportedly died in the fighting. Villagers told Human Rights Watch that when the Taliban entered the villages they told the villagers they had to join in their fight against Afghan government forces or they would be killed. In the village of Sarab the Taliban reportedly executed approximately 30 civilians both for not joining in the fight and as a message to the local population.

### WOMEN UNDER THE TALIBAN AND ATTACKS ON WOMEN

Women in Afghanistan have suffered a catastrophic assault on their human rights during more than twenty years of war and under the repressive rule of the Taliban. The Taliban's oppressive treatment of women while they held power from 1996 to 2001 has been well documented. Under their hardline rule, women were discriminated against in all aspects, including the denial of education, employment, freedom of movement and political participation and representation. They were excluded from public life and prohibited from studying, working or leaving the house without being chaperoned by a mahram, a close male relative. The severe restrictions on their freedom of movement virtually confined women to the home. The effects of these restrictions were particularly hard on widows and other women-headed households. Many forms of gender-based violence were also perpetrated by the Taliban state including stoning to death for "adultery".

In the ongoing armed conflict, women continue to face attacks, threats and harassment by the Taliban and other armed groups. During the past two years women aid and health workers, election candidates, teachers, women's rights activists and other human rights defenders have been subjected to threats and attacks, in some cases resulting in death. Women have also been injured or killed in indiscriminate attacks like suicide bombings. As noted above, the country's education system has come under relentless assault from the Taliban and other groups, with girls' schools and their teachers subjected to attacks.

Throughout Afghanistan's civil war, the major armed factions - primarily the Taliban and the United National Islamic Front for the Salvation of Afghanistan (commonly known as the "United Front" or by its previous name, the Northern Alliance), a coalition of mainly Tajik, Uzbek, and ethnic Hazara parties - have repeatedly committed serious abuses of international human rights and humanitarian law. Women have borne the brunt of this violence and discrimination. In the civil war, women have suffered massive, systematic, and unrelenting human rights abuses that have permeated every aspect of their lives. Both Taliban forces and forces forming the former United Front sexually assaulted, abducted, and forcibly married women during the armed conflict, targeting them on the basis of both gender and ethnicity. Thousands of women were physically assaulted and had severe restrictions placed on their liberty and fundamental freedoms.

### TALIBAN MILITARY RULES

A Taliban military rulebook, or Layeha, containing 30 rules was distributed to the Taliban's highest council, the Rahbari Shura, by Haji Obaidullah, the Taliban's former Defence Minister, during Ramadan 2006. The rulebook essentially covers three areas: the treatment of those believed to be "enemies"; discipline and conduct of soldiers; and the administration of justice. The rulebook has since been disseminated to fighters on the ground although it is difficult to determine how often it is referred to by Taliban fighters. The rules, however, pay little or no heed to the provisions of international humanitarian law. The rulebook offers no explanation of who is a "civilian" and offers little





in the way of their protection. International humanitarian law provides that civilians and others not actively engaged in hostilities must "in all circumstances be treated humanely", while the Taliban rulebook only requires the group to guarantee the "personal security" and "security of possessions" of those who "turn [their] back on infidels". Some rules explicitly sanction the targeting and killing of civilians. Rule 25 states that a teacher who ignores warnings from the Taliban and continues to teach "must be beaten" and should they "continue to teach contrary to the principles of Islam, the [Taliban] district commander or a group leader must kill him". Rule 26 suggests that NGOs and humanitarian workers may be targeted: "Those NGOs that come to the country under the rule of the infidels must be treated as the government is treated...we tolerate none of their activities, whether it be building of roads, bridges, clinics, schools, madrassas or other works".

#### ATTACKS ON SCHOOLS AND TEACHERS

Despite the five-fold increase in the number of children attending school since the fall of the Taliban in December 2001, seven million children are missing out on formal education, according to the development agency Oxfam. Currently, around 5 million children, including girls, attend school. In primary education Grades 1-6, there are approximately 1.73 million girls currently attending school, compared to around 3 million boys. However, the unrelentingly violent campaign against schools by armed groups is seriously damaging the government's ambitious education programme for the country, especially in the south and southeast.

Attacks on schools in Afghanistan have been attributed to a number of different groups, including the Taliban and Hezb-e-Eslami. Other attacks have been reportedly attributed to local warlords who target schools in efforts to undermine government intervention in their regions of control. Criminal gangs have also been implicated in school attacks apparently designed to divert attention away from their involvement in illegal activities such as drug-trafficking. A clear and common motive behind these attacks is the intention to undermine the authority of the central government. A common effect of such attacks is that civilians are killed and injured and an already fragile education system is seriously undermined.

#### ATTACKS ON WOMEN HUMAN RIGHTS DEFENDERS

On 25 September 2006, The Voice of Jihad; Islamic Emirate of Afghanistan, also known as Al-Emarah, a website widely associated with the Taliban, posted an announcement that Safiye Amajan, Director of Women's Affairs department in Kandahar province, "was shot and killed by the Islamic Emirate Mojahedin for spying for the United States of America in the name of women's rights against the Mojahedin." A Taliban commander, Mullah Hayat Khan, was reported as saying that Safiye Amajan had been "executed" because she worked for the government. "We have told people again and again that anyone working for the government, and that includes women, will be killed." When questioned about the killing of Safiye Amajan, Taliban spokesman Qari Yousef Ahmadi denied that the Taliban were responsible for her death despite the statement issued on the day of her killing on the Al-Emarah website. Safiye Amajan's death brought to greater attention the dangers that women's rights activists and human rights defenders face daily in the ongoing armed conflict in Afghanistan. Amajan's killing added to the climate of fear and insecurity for many women activists whose activities often engender hostility as they are perceived as defying cultural, religious or social norms about the role of women in Afghan society.

#### INDISCRIMINATE ATTACKS RESULTING IN CIVILIAN DEATHS

Hundreds of Afghans were killed or wounded as a result of car bombs, improvised explosive devices such as roadside bombs, or suicide attacks attributed to the Taliban. Those killed and wounded include children. Suicide bombings, unknown in Afghanistan until 2001, are now a routine tactic of warfare by the Taliban. In November 2005, Taliban commander and former Defence Minister, Mullah Obaidullah, announced that the "Taliban have planned and prepared for suicide attacks since long ago and a large number of Taliban are present in all cities in Afghanistan, including Kabul, and are only waiting for orders to attack." Later in February 2006, Taliban commander Mullah Dadullah was reported to have said: "Praise be to God, we have announced some 200 suicide bombers, but that number is now in the thousands and more people are coming forward." Suicide attacks, whether aimed at military or civilian targets, frequently cause a high number of deaths and injuries among the civilian population in the vicinity of the attack. In some cases suicide attacks have been directed at military targets such as convoys and bases but have also struck civilians and civilian objects (shops, market stalls, schools) causing disproportionate harm to civilians. In other cases attacks have targeted civilians not actively taking part in military operations, including police, governors, civil servants, ambassadors and private individuals. The Taliban rulebook does not cover the subject of suicide attacks. This is treated in a separate 49-page document entitled Omar's Missiles: A shortcut to heaven. The authors of this document, the Islamic Mojaheddin, render suicide bombings legitimate through their interpretation of "Jihad" within the Qur'an, the Hadiths (the sayings of Prophet Muhammad), and religious decrees within the various schools of Islam.

#### ROUGH 'JUSTICE' AND UNLAWFUL KILLING OF CAPTIVES

In areas where the Taliban have control, incidents of torture and other ill-

treatment towards civilians, including threats, beatings and killings, have been reported. According to the Taliban rulebook, under Rule 16, fighters are not allowed "to search houses or confiscate weapons without the permission of a district or provincial commander". Rule 17 forbids seizing "money or personal possessions of civilians". However, numerous reports indicate that Taliban treatment of civilians appears to contradict their own rules.

#### ABDUCTIONS AND KILLINGS

The Taliban and other armed groups have taken hostages for a variety of purposes, including as a lever to pressure foreign governments to withdraw troops, or compel foreign companies to suspend their commercial activities in the country. The Taliban have also used hostage-taking, abductions and killings to spread fear. Recently aired footage from a Taliban video showed the armed group's operations. One segment of the video entitled The Fate of Spies reportedly showed a Taliban commander, Mullah Dadullah, beheading five persons allegedly captured on "charges" of spying. Some press reports say that eight captives were killed. The men are reportedly described as "spies" working for "Christians and crusaders". The video appears to be part of a Taliban campaign to both gain recruits and instil fear in the local Afghan population to deter them from supporting or co-operating with the government and foreign forces.

On the Taliban's legal duty to treat prisoners humanely, Qari Yousef Ahmadi told Amnesty International: "...we are trying hard not to misbehave with prisoners and this is not only our duty as humans, but our shari'a obligations require us to behave properly with prisoners." He added that the Taliban leader, Mullah Mohammed Omar, "always emphasizes good behavior, and prevention of... inhuman and degrading acts against prisoners". Ahmadi continued: "We are always acting in accordance with human rights and international law..." Ahmadi clarified, however, that "human rights and international conventions and treaties" were only acceptable to the Taliban in so far as they conform to shari'a Islamic law: "We are against those rules and regulations that contradict our Islamic and shari'a values."

1 Amnesty International, August 10, 2010

2 HRW FEB 19, 2001

3 HRW NOVEMBER 1, 1998

4 HRW Report entitled "Troops in Contact" September 8, 2008

#### from page (3) Making peace with the Taliban...

The hands and feet of thieves were regularly hanged from trees for several days. Women were particularly singled out, especially if they behaved or dressed inappropriately; the burqa was compulsory dress and wearing shoes with heels was banned. Across the country, girls' schools were closed and women, including widows with no family income, were banned from having jobs.

House windows were painted black so that no one could look through them and see women.

The Taliban regime was also characterized by the extreme restriction of basic freedoms and imposed codes of conduct. The Taliban ordered all people with non-Islamic names to change them to Islamic names; men were not permitted to shave or trim their beards (beards had to be grown long enough to protrude from a fist clasped at the point of the chin); all people had to attend prayers in mosques five times daily on penalty of arrest and punishment. Anyone who converted from Islam to any other religion was executed. Non-Muslim minorities and the Shia had to wear a distinct badge or stitch a yellow cloth onto their dress to be differentiated from the majority Sunni population. Kite flying, the keeping of birds or other activities considered to be non-Islamic were banned; violators were imprisoned.

The Taliban also targeted specific ethnic groups and religious minorities. The Hazara and the Shia, but also Tajiks and Uzbeks, faced particular abuse and repression. Many communities believe the Taliban's overall aim was to eliminate the Hazara population and drive them out of Afghanistan. The Taliban even used tricks to capture and kill Hazaras. The Taliban thought the Hazara to be Buddhist - allegedly because of the presence of Buddha statues in Bamiyan. Hazaras were viewed as infidels - populations had to pay an infidelity tax if they were not Sunni - and the Taliban considered that killing Hazaras was part of waging jihad. In July 1998, the Taliban executed approximately 2000 Hazara civilians in the city of Mazar-e-Sharif, going door to door for 6 days, looking for male and executing Hazara men. Thousands of prisoners were transported in metal transport truck containers where many suffocated or died of heat stroke. The highest and most prolonged levels of Hazara migration to neighbouring countries took place during the Taliban era, reflecting the severity of the situation at this time. As demonstrated by the destruction of Buddha statues in Bamiyan in March 2001, the Taliban denied the legitimacy of art, painting, music, poetry, and the heritage of generations. They burnt films and videotapes in public places, banning television broadcasts, erasing pictures of individuals, and burning photographed manuscripts in Kabul Museum. In 1997, during their surge against books including those of the Kabul University library, the Taliban incinerated 55,000 archival volumes and manuscripts from the library of Hakim Nasser Khosrow in Pul-e Khumri in Baghlan province. Anyone who carried objectionable literature was executed.

## Taliban's constitution – a comparative review



The Taliban occupied Kabul in the mid-1990s after the civil wars of the previous decades and were ousted by foreign forces and the National United Front of Afghanistan in 2001.

The Taliban did not have a constitution at the beginning. They believed that there was no need for any laws because the Quran and the sharia existed. However, Mullah Mohammad Omar issued his decree Number 18 on 2 July 1998 that stipulated: "All the laws and regulations should be brought through the Supreme Court to the attention of the ulama and their irreligious provisions be omitted. Thus, a constitution known as the "Basic Principles", "Statute" or "Directive" was prepared under the supervision of the Taliban's Supreme Court. The law was approved by a council headed by the Taliban's supreme leader, Mullah Mohammad Omar. The Taliban later ratified it again in 2005, when they were no longer empowered. The law is written in the two languages of Dari Persian and Pashto and has 10 chapters and 110 articles. The chapters include: General Principles, People's Basic Rights and Duties, Islamic Council, Amir Al-Momenin [Commander Of The Faithful], Government, Judiciary, Administration, Economic System and Financial Affairs, Foreign Policy and Miscellaneous Decrees. Here, we shall discuss several important aspects of the Taliban's constitution in comparison with the present Constitution of the Afghanistan.

### Political system

**Under Taliban:** Article 2 the Taliban's constitution provides: "The Islamic emirate system in Afghanistan is based on the letter of the Quran, i.e. 'all decrees come from Allah.'" Article 5 declares: "No laws can be legislated in contravention of the basics of Islamic sharia."

The Commander of the Faithful [amir al-momenin] or the imam, i.e. Mullah Mohammad Omar or his substitute, shall have the final say in all matters. One of the important conditions of the imam is his adherence to the Hanafi school of Islam.

Article 55 lists the powers of the omniscient Commander of the Faithful as follows: commander-in-chief of the Islamic Army of Afghanistan, appointing and dismissing the Prime Minister and the ministers, assigning authorities to other people, ratifying the ministers proposed by their prime minister upon the approval of the Islamic Council, appointing the president of the Supreme Court, appointing members of the Supreme Court in consultation with the court's president, ratifying the appointment and dismissal of the judges, ratifying the promotion and retirement of the high-ranking government officials and civil servants as directed by the law, appointing ambassadors and representatives to other countries and international organisations and receiving letters of credentials, awarding titles, medals and coats of honour as directed by the law, declaring war and peace upon the approval of the Islamic Council, representing the Islamic Emirates of Afghanistan in international bodies at the level of heads of governments, ratifying the laws and issuing legislative decrees, signing agreements and treaties with other governments upon the approval of the Islamic Council, pardoning, mitigating or suspending punishments as directed by the sharia decrees, approving the ordinary and development budgets of the Emirate, convening the extraordinary meeting of the ministers, awarding Afghan citizenship as directed by the law, granting official permission to print banknotes and their distribution as proposed by the Ministry of Finance, declaring state of emergency and its termination as directed by the law upon the approval of the Islamic Council.

Under article 46, the Commander of the Faithful appoints members of the Islamic Council. First-degree provinces will be represented by three members, second-degree provinces by two members and third-degree provinces by one member. However, it is not clear how the provinces are classified. There is no direct reference to the people. However, it is clear from Article 47 that the general public play no role in the Islamic Council, as it requires all members

to be 'people of opinion', and in effect leaves out the overwhelming majority of the people. The Commander of the Faithful shall appoint the speaker of the Islamic Council from among its members. To sum up, the Commander of the Faithful has all the powers in on the areas of domestic policy, foreign policy, economy, culture and judiciary. There is no reference to his accountability in this law.

**Since 2001:** In contrast, the Constitution of Afghanistan is based on the rule of the people; the three branches of the state may not interfere in the affairs of each other; the president is elected by direct majority of votes of the people; elections are free with secret ballots. Members of the two houses of parliament are elected by the people with the exception of one third of upper house's members who are appointed by the president. The president has two deputies and may not serve more than two terms. The laws have foreseen the possibility of putting the president on trial, although it is difficult to reach that stage. The president is accountable to the people and members of the Parliament. Provincial councils and district councils oversee the administrative affairs in the provinces and districts and can provide them with consultation.

### Citizenship rights

**Under Taliban:** The Taliban's constitution makes some references to certain rights. For example, although it has not specifically banned torture, it has provided punishment for people who administer it. Arbitrary detention has been ruled out, property rights are respected, forced labour is banned, right to education exists.... There are, however, stringent restrictions in it that effectively totally rule out citizenship rights. It has recognised only the Hanafi school of Islam as the official religion of the country. There is no reference to religious freedom and personal status of believers of other religions.

Article 9 of the Taliban's constitution deems it imperative for all to enjoin virtues and prohibit vices and mandates the Islamic Emirate of Afghanistan to enact a religious law to implement it.

Article 34 appears to uphold the freedom of expression: "Thought and expression are free within the framework of the Islamic sharia; every Afghan has the right to express their thoughts through speech, writing or otherwise as directed by the laws." However, article 42 stipulates: "1) All the people of Afghanistan are required to comply fully with the Islamic laws in their personal, family and social life, obey the decrees of the present Directive and other laws of the Emirate, complying with the security and order of the public and protect the interests of the Islamic Emirate. 2) It is forbidden to publicise non-Islamic thoughts. Foreign and domestic offenders shall be condemned to punishment under the sharia."

**Since 2001:** In stark contrast, Article 2 of the Constitution of Afghanistan provides for freedom of the believers of other religions to practice their faith and religious rituals, even though Islam is the official religion of the country. Article 24 of Afghanistan's Constitution provides: "Freedom is the natural right of humans. There is no limit to this right except the freedom of others and interests of the public that shall be decided by the law. Freedom and dignity are free from disturbance. The government is obliged to respect and protect human freedom and dignity"

Article 33 of the Afghanistan Constitution provides: "Citizens of Afghanistan have the right to elect and be elected." Article 34 stipulates: "Freedom of expression is in free from encroachment. Every Afghan has the right to express their thoughts through speech, writing, picture or other means, in compliance with the decrees of this Constitution. Every Afghan has the right to write and publish without submitting it to government officials in advance, upon compliance with the law."

### Discrimination among citizens

**Under Taliban:** The Taliban's constitution discriminates among the citizens in regard to education. Articles 12 and 13 promote the teaching of Arabic as the language of the Quran and teaching of Arabic books and instructions of the Hanafi religious leaders.

Article 39 stipulates in regard to education of women: "Education of women shall be governed by a specific law within the framework of Islamic sharia." However, there was no such law force during all the years of the Taliban's rule and women were deprived totally of the right to education.

Article 43 states: "Compliance with sharia hejab is statutory." As directed by the Article 65 (12), one of the duties of the government is "the implementation of the hejab as required by the sharia." It has made no reference to employment and participation of women in political, social, cultural and economic life.

The Taliban's Constitution recognises only Persian and Pashto as the official languages. Education will be undertaken only in these two languages. There is no reference to other languages common in Afghanistan and speakers on all other languages out to read and write in one of these two languages.

**Since 2001:** Article 44 of the Constitution of Afghanistan requires the government to prepare effective programmes to promote education of women. As directed by Article 84, the president shall appoint 50% of the non-elected members of the Senate from among the women; 28% of members of Parliament shall be women.

*continued on page(14)*



# The sad fate of peace and justice in Afghanistan

## Human rights & transitional justice in Afghanistan – a 10-year record sheet

Afghanistan has gone through several decades of foreign and domestic wars, destruction, suppression, mass executions, torture, disappearances, internal displacement and forced migrations. Studies by the Afghanistan Independent Human Rights Commission show that 70% of the people of Afghanistan or their close relatives have been direct victims of the war. On the other hand, the country is still at war with armed insurgents, in particular the Taliban. The question is how the society will deal with the legacy of widespread human rights violations and war crimes. How will the war end and how will the society achieve peace? These are complicated questions where armed conflict and human rights violations persist, the state institutions are weak and lack credibility and legitimacy, and the perpetrators of some of the crimes are among the political elite.

The remarkable development of international laws, the establishment of international tribunals to investigate crimes by the UN, the establishment of the International Criminal Court and the use of Universal Jurisdiction indicate an international consensus on the need to protect individual rights and to punish perpetrators of genocide, war crimes and crimes against humanity.<sup>1</sup>

A provisional government was established in Afghanistan in 2001 after the US-led military intervention and fall of the Taliban rule, based on the decisions of the September 2001 UN-organised Bonn Conference. Despite a decision to end the war and tragedy in Afghanistan and bring about national reconciliation, peace and lasting stability, and respect for human rights, the Bonn Agreement did not pay much attention to transitional justice as one of the means to take the society through violence and war to peace. A paragraph that required the Provisional Administration not to approve of any amnesty for war crimes or crimes against humanity was thrown out when the Agreement was being drafted. Hence, no measures were adopted to examine the fundamental reasons for the war or its consequences for millions of Afghan citizens. Indeed, the Bonn Agreement was not a peace treaty among the fighting groups but an agreement among selected leaders of four anti-Taliban groups that had united to overthrow the Taliban. Such shortcomings prevented the implementation of justice regarding the human rights violators who were signatories to the Bonn Agreement and prepared the ground to bring them back to power. They took part in the Emergency Loi Jirga without any obstacles. The agreements at Bonn and the Emergency Loi Jirga concentrated on a halt to hostilities and conciliation among the political parties through power-sharing. In the process, the pressing need to identify and implement structural, organisational and systemic changes needed to consolidate peace and to prevent new wars was ignored.<sup>2</sup>

### Measures and approach of the Afghanistan government to transitional justice

After the Bonn Conference I, the Provisional Administration established the Afghanistan Independent Human Rights Commission with the help of the UN to protect human rights and undertake studies about human rights violations. Subsequently, the president issued an order requiring the commission to undertake national consultations and propose a national transitional justice strategy to achieve justice and investigate past crimes. Consequently, the Plan of Action of Afghanistan government was prepared and approved by the commission and UNAMA in 2005 with the title of "Peace, Reconciliation and Justice in Afghanistan." It was stated in the Plan that the terms peace, reconciliation and justice had been used in the relatively new context of "transitional justice". It was added: There is a misunderstanding in relation to transitional justice, whereby many people reduce the concept to investigation of criminal responsibility.

The Three-Year Plan Contains four key sections to achieve peace, reconciliation, justice and the rule of law in Afghanistan and to bring about a culture of accountability and respect for human rights: 1) Admitting people's suffering; 2) establishing credible and accountable state institutions and purging the state institutions from human rights violators and perpetrators; 3) truth seeking and documentation; 4) promoting reconciliation and national unity. Notwithstanding the numerous criticisms of this minimum programme, the government of Afghanistan did not seem to be committed to it and ignored it except in some Minimal Instances. Hence, the term of the Plan of Action expired in March 2008 and President Karzai did not extend it in spite of repeated requests from the AIHRC and the civil society. The only activity that was fulfilled in the framework of the Plan was the designation of the National Day of Victims and establishment of a special board to examine senior presidential advisers. However, the board has been rendered ineffective with the appointment of suspected war criminals and gross human rights violators to

high-ranking posts and positions. The representative of Afghanistan Watch said in 2008: We no longer have the president we had two years ago. President Karzai cried on the International Human Rights Day in 2006. In 2007, he declared that Transitional Justice was harmful to reconciliation. This year, he says transitional justice is a foreign process.

When the Plan of Action came into force and Human Rights Watch published a list of human rights violators in 2006, the House of Representatives and subsequently the Senate approved the Reconciliation and National Stability Law, which granted full amnesty to all opposing political parties that had been fighting one another before the establishment of the Provisional Administration.

The said law (referred to as the Amnesty Law) gave the responsibility of filing complaints and bringing to trial of the perpetrators to individuals concerned, which is impossible in view of the influence that the criminals enjoy. In the absence of complaints on the part of the victims, the government officials have been banned from using their jurisdiction to accuse war criminals. Hence, the government is able to evade its responsibility to investigate and bring to trial war criminals. In addition, it hinders accountability and promotes impunity. The law is in contravention of the domestic law. Afghanistan ratified the Rome Statute in 2002 and thereby accepted responsibility for criminal investigation against perpetrators of international crimes. It is also in contravention of the president's commitment to pursue justice and fight impunity as stated in the Plan of Action.

Numerous non-governmental international organisations and institutions such as Amnesty International, International Centre for Transitional Justice, Human Rights Watch and many domestic civil societies groups voiced their opposition to the law. Many people believe that the approval of the Amnesty Law is an indication of the extensive influence of human rights violators within the government. On the other hand, human rights activists consider the Amnesty Law to be a measure intended to provide a legal framework for reconciliation with the Taliban and other armed insurgent groups. In the words of the Universal Periodic Review: "The approval of the Amnesty Law has further complicated the fulfilment of transitional justice in Afghanistan."

### Government's efforts for reconciliation and reintegration

The National Commission for Consolidation of Peace was established in 2005, headed by Mr. Sebgatollah Modjaddadi, to establish peace and security. Since then it has been renamed as the Independent Commission for Resolution of Conflicts and Contact between People and the Government. With the passing of the years, efforts for reconciliation with the Taliban increased. The president revealed his proposed plan for a lasting national peace and reintegration in the 2008 London Conference, through which the Taliban insurgents would be provided with jobs, education, retirement pension and land.<sup>3</sup> In the same conference, the international community committed itself to create a fund to support the peace and reintegration plan under the leadership of the Afghanistan government.<sup>4</sup>

After the London Conference, the government organised the Peace Jirga from 2 – 4 June 2010. There are strong criticisms of such jirgas and critics consider them contrary to the principles of democracy, because there are democratic and popular traditions such as the Parliament. Nevertheless, more than 1,600 elders, members of provincial councils, and members of the two houses of Parliament took part in the Jirga. In the concluding resolution, the participants called on the government of Afghanistan and the international forces to remove names of opponents including leaders of the Taliban from the UN blacklist to facilitate negotiations with the Taliban, and to guarantee the security of people who joined the peace process. They also asked for the establishment of a qualified commission or a Supreme Council of Peace as a means of putting the recommendations of the Jirga into practice. To gain international support for the Peace Jirga's resolution, the participants mandated the Afghanistan government to annex the resolution to the agenda of the subsequent Kabul Conference.<sup>5</sup>

Demobilisation and winning over the Taliban forces was one of the greatest challenges of the Kabul Conference. It had been announced in the London Conference but it became clearer in Kabul.<sup>6</sup> In the concluding resolution of the Kabul Conference, the participants welcomed the outcome of the Peace Jirga and the peace and reintegration plan of the Afghanistan government. ➔



They appreciated the creation of the Supreme Peace Council and reaffirmed that the government plan was open to Afghan members of the armed insurgency and communities that renounced violence, were not in contact with international terrorist organisations, respected the Constitution and participated in building a peaceful Afghanistan. The international community reaffirmed its commitment to support the plan through a Peace and Reintegration Fund. The government was mandated to work with the UN Security Council and the international community to remove the names from the sanctions list of Security Council Resolution 1267.

The Reintegration Plan was put into practice since a year ago. According to the British General Phil Jones of NATO, 1,700 fighters have laid down their arms until now, which is a very low figure in comparison with the corresponding budget. The officials in charge of the reconciliation and reintegration process are engaged in talks with 45 insurgent groups nationwide. About 2,000 other fighters are tipped to join the process. The international community has spent \$141 million for the process so far.<sup>7</sup> After the establishment of the Supreme Council of Peace (June 2010), regional peace jirgas were established between the government of Afghanistan and Pakistan. However, their decisions were not implemented in practice and head of the Council, Prof. Burhaneddin Rabani was killed by the Taliban on 20 September 2011.

### International community and transitional justice

Many foreign countries, which have a presence in Afghanistan, are signatories to international human rights treaties and members of the International Criminal Court. In theory, even if not in practice, they endorse the international consensus to end impunity for genocide, war crimes and crimes against humanity. The international community has a responsibility to pressure the Afghanistan government not to shelve its promises to the victims in regard to implementation of the Plan of Action. Nevertheless, some of the international partners of Afghanistan are silent in regard to accountability for war crimes.

Some of the governments and NGOs have included the question of transitional justice in their political agenda, e.g. Norway, Mexico and Morocco. They have asked the government of Afghanistan to implement the Plan of Action. The Netherlands and the Czech Republic emphasised the importance of transitional justice in the Universal Periodic Review. The international community would not emphasise the need for accountability for war crimes if it were regarded as a hindrance to peace.<sup>8</sup>

### Civil society and transitional justice

The civil society of Afghanistan is not powerful enough to influence the decision makers. Some of the civil society groups have tried to mobilise the victims, collect documents and raise consciousness. On the other hand, many civil society institutions are concentrated in Kabul with little reach in other areas, mainly caused by insecurity and lack of budget. In addition, the media are not adequately active in respect of transitional justice. More than 20 domestic and international civil society institutions operating in the field of transitional justice formed the Transitional Justice Coordination Group in 2008. The Group has voiced its views by publishing its statements on important issues and events, e.g. London Conference, Peace Jirga, Kabul Conference, the Amnesty Law and accountability for past crimes. The Group has organised two important events so far: National Victims Jirga in 2010 on the eve of the Kabul Conference and the National Conference of Victims in April 2011. More than 150 victims of various eras took part in each of those conferences. Despite its achievements in the field of transitional justice, absence of a joint platform and a proper structure and lack of specialised knowledge has pushed the group into a defensive position.

### Using the capacities to investigate human rights violations and war crimes

The judicial system in Afghanistan is incapable of investigating the gross human rights violations and war crimes. Militia commanders exert control over many judges and prosecutors and bribery and corruption are rampant.<sup>9</sup> Even though Afghanistan ratified the Rome Statute in 2002, the government has never asked the ICC to investigate the crimes committed by the Taliban and foreign forces since then. Furthermore, the bilateral agreement signed between the US government and the government of Afghanistan in 2003 hinders the ICC from investigating crimes committed by the US forces. Very few human rights violations and war crimes have been investigated through the Universal Jurisdiction mechanisms. Hesamuddin Hesam, former director of the secret police and Habibullah Jalalzoy, director of investigations, were convicted in the Netherlands in 2005 and 2007 respectively on charges of war crimes and torture of government opponents. Faryadi Sarwar Zardad, a former commander of the forces of Gulbuddin Hekmatyar's Islamic

Party was convicted in the United Kingdom on charges of torture in 2007. Charges concerning war crimes, crimes against humanity and genocide are pending against him.

### Conclusion

Rights of victims are often neglected during talks to end the war and the post-war guidelines. Victims are not as important as the negotiating parties. Besides, they do not seem to pose an immediate threat to stability. Nevertheless, there is a moral responsibility to fulfil the rights of victims through transitional justice, which would reinforce the mutual trust between the government and the people, and is of strategic importance for the long-term political interests and an enduring peace. On the other hand, the government of Afghanistan must assume the responsibility to implement the transitional justice in view of its obligations under the various treaties and pacts. Despite the approval of the Plan of Action, there are signs that the government of Afghanistan is lacking the political will to implement the process. The president recently refuted the criticisms that his government included war criminals and blamed the conspiracies of enemies of Afghanistan for such assertions.<sup>10</sup> The international community also has preferred to support reconciliation instead of the transitional justice process. However, it has a moral and legal responsibility to guarantee that the Afghanistan government will pay attention to millions of common Afghan people who have suffered in the war and shall not forget it.



The civil society of Afghanistan should raise the capacity of its institutions and of the Transitional Justice Coordination Group in particular and to extend its reach to all the provinces to promote accountability, to prevent impunity and increasing violence.

The tendency of the decision-makers and politicians to ignore the past after several decades of war and the failure to investigate impunity shall perpetuate the war and insecurity. Transitional justice is not concerned only with the pursuit of past crimes but also with dealing with impunity at present, which prevents the rule of law and the fight against insurgents. The importance of dealing with the past and its relationship to the talks about the future of Afghanistan must be given careful attention,<sup>11</sup> in particular in the Bonn Conference which is due to convene in Germany on 5 December 2011, 10 years since the coming into office of a new government in Afghanistan.

1 Winterbotham, Emily, The State of Transitional Justice in Afghanistan, Afghanistan Research and Evaluation Unit, 2010 at [www.areas.org.af](http://www.areas.org.af)

2 *ibid.*

3 *ibid.*

4 <http://www.koofi.net/index.php?id=1092>

5 <http://www.afghanpaper.com/nbody.php?id=10995>

6 <http://jamejonline.ir/newstext.aspx?newsnum=100880945619>

7 Zeit-Online 20.05.2011

8 Winterbotham, Emily, *ibid.*

9 Is Time Ripe for Transitional Justice in Afghanistan? By David Wisner

10 Winterbotham, Emily, *ibid.*

11 *ibid.*



# Repression and violence against Afghan journalists

## A Partial Chronology (2008-2011)

### 2008:

**24 March:** Herat Governor Seyed Hossein Anwari summoned the local head of the National Radio TV, Hesameddin Shams, to his office and insulted and threatened him after a critical-analytical programme had been aired by the channel. The governor then assigned his cultural advisor to re-examine and reformulate the broadcasting policy to his liking. Mr. Shams and 15 journalists were dismissed and Mr. Shams's passport was confiscated to prevent him from travelling abroad. Mr. Shams had received death threats several times and been targeted in armed attacks.

**7 May:** Fayzi Zadran, news broadcaster of the National Radio TV, was forced to resign after taking part in a talk show on the private Tolou TV, where he criticised the National Radio TV's performance and questioned the government's commitment to media freedom.

**11 May:** Herat Governor Seyed Hossein Anwari beat up Farhad Jooya for failing to obey his orders. Mr. Jooya had been newly appointed as the temporary head of broadcasting of the National Radio TV in Herat.

**15 May:** Ms. Niloofar Habibi, broadcaster of National Radio TV in Herat, was attacked and stabbed at her home by unidentified persons. She kept receiving threats after leaving the hospital and was forced to change her residence.

**7 June:** Abdulsamad Rohani, reporter of the BBC Pashto Service and freelance journalist with Pejwak News Agency in Lashkargah, provincial capital of the southern Helmand Province, disappeared after his car was stopped by unidentified armed men. His body bearing signs of torture and three bullets was found a day later.

**12 June:** Ms. Jamila Rashtin Ghaderi, reporter of Radio Azadi in Herat Province, was threatened to death by phone. She worked previously in Kandahar and Helmand provinces and had reported on the improper attitude of the Iranian government to Afghan refugees.

**16 June:** Shahpour Arab, reporter of Pejwak News Agency, was threatened by police commanders at Lugar Province after reporting on the Taliban's claim to capture the Barakibarak District. Police officials and the director of Information and Culture Department prepared a case against him alleging his cooperation with the Taliban, which puts him at risk of detention by the National Security Directorate.

**18 June:** A number of journalists received threatening phone calls to stop their work. Aziz Ahmad Shafi, BBC photographer, Sefatullah Zahed, reporter of Salam Watandar Radio and daily Peyman in Helmand, Davood Wafa, reporter of Radio Azadi in Nangarhar, Rashtin Ghaderi, reporter of Radio Azadi in Herat, and Amir Bahir, reporter of Radio Azadi in Khost, were threatened with death if they went on working.

**17 June:** National Security Directorate agents in Lugar detained Rahmatollah Afghan, news director of Ruz News Agency, for three hours. The reason for the detention is believed to be complaints by head of the province's Information and Culture Department and security officials.

**2 July:** Shahpour Saber, reporter of the private Faryad Radio, who planned to attend a meeting of Vice-President Ahmad Zia Masoud with business-people, was beaten up by the police, who apologised to him later for their mistake.

**12 July:** Shahpour Arab, journalist of Pejwak News Agency, was beaten up by the district governor of Mohammad Agheh in

Lugar Province, after he interviewed the local people about detention of a mosque prayer leader and his brother. He was released after two hours when he submitted an undertaking not to publish a report.

**22 July:** Samim Sirat, Aryana TV cameraman, was injured by demonstrators near Kabul University. His camera and other equipment were broken.

**27 September:** The Ulama Council of Ghazni Province asked all independent media, in particular radio stations, not to broadcast voices of women. It was declared in the statement that conversation and contact with strange women and broadcasting their voice on the radio is forbidden by Islam and offenders would be dealt with.

Farid Ahmad Rustai, director of Radio Dehkada in Shahr-i Naw of Ghazni, told the Afghan Independent Journalists Association that he had received a written death sentence from the Taliban.

Subsequently, female employees of the independent media in Ghazni were forced to reduce their physical presence at workplace and record their programmes at home.

### 2009:

**25 January:** Pakistan imposed new restrictions on Afghanistan's visual media in Peshawar and the neighbouring areas, asking officials of cable networks to stop broadcasting programmes of four Afghan television channels: Tolou, Aryana, Shemshad and National Radio TV.

**10 March:** Jawid Ahmad Yazmi, local reporter of a Canada TV channel, was killed by unidentified people in Kandahar six months after his release from prison. He had spent 11 months in detention in Bagram Prison by American forces on suspicion of contacts with the Taliban.

**11 March:** Monir Amel, journalist of Emrooz TV's news service, was shot dead in his car by the police when he was crossing a security check point in Kabul.

**24 August:** Janullah Hashemzad, reporter with daily Wahdat, Shemshad TV and Pejwak News Agency, and representative of the Afghan Independent Journalists Association in Peshawar, was shot dead by unidentified persons near Peshawar in Pakistan, who had been following his car. He had received several death threats before.

**9 September:** Sultan Monadi, local reporter of the New York Times, and his colleague Stephen Frail, were kidnapped in Konduz Province, where they were preparing a report on civilian deaths caused by international forces. During a rescue operation by British forces, Frail was saved but Sultan Monadi was killed.

**30 September:** Mahmoud Fayeze, reporter and cameraman of Tamaddon TV, was attacked and beaten up by the police in Kabul who took his camera, even though he had his press card and a permission from the police.

**30 December:** Michelle Lang, reporter of Calgary Herald in Canada, was killed by a roadside mine in Kandahar Province, on her assignment to Afghanistan. Four Canadian soldiers were also killed in the incident.

### 2010:

**9 January:** Rupert Hamer, defence correspondent of the British Sunday Mirror, was killed in an explosion in Helmand Province.

**18 January:** James P. Hunter, an American Army Journalist, was killed in a roadside mine explosion in Kandahar Province.

**7 February:** Giles Duley, a freelance British photographer with Camera Press in London, lost three limbs as a result of a landmine explosion when he accompanied American soldiers on patrol in Kandahar Province.

**27 June:** Taj Gol, correspondent of Al-Jazeera TV, who was travelling with the National Army convoy, came under fire and was injured during an attack on the convoy on the Kabul-Kandahar Road.

**5 September:** Seyed Hamed Noori, journalist and orator, was found dead outside his home in Kabul. He was apparently had been stabbed to death. He had worked as deputy director of Afghan Independent Journalists Association, broadcaster of National Radio TV and spokesperson of Mr. Qanuni, former parliament speaker.

**20 September:** International forces attacked the home of Rahmatullah Nikzad, local correspondent of the Al-Jazeera in Ghazni and detained him. His family alleged that the international forces had ransacked their house. ISAF accused him of slyly publicising the armed insurgents and the Taliban. Nikzad was released on 24 September.

**24 October:** Joao Silva, New York Times photographer, was injured by a roadside mine when he was accompanying American forces in Arghandab Province. He lost his two legs.

**11 December:** Ghaith Abdul-Ahad, correspondent of the Guardian, and his Afghan colleague and cameraman, were kidnapped in Konar Province by unidentified persons and were released on 15 December.

### 2011:

**9 January:** Assadullah Wahid, managing editor of daily Sarnewesht, was detained by the prosecutor upon a complaint by Rangin Dadfar Spanta, the president's national security advisor, after reporting that the latter's brother and former MP had formed an armed group. Wahid was released after 30 hours.

**18 May:** A number of journalists, who were trying to report on a demonstration in Takhar Province against the international forces for attacking a house and killing four people, were badly beaten up by the security forces as well as the demonstrators. The police reportedly fired shots, one of which lightly injured Mohammad Esmail Modabber, correspondent of the Ayena TV.

**20 May:** One of the two mines planted by the entrance to the house of Dr. Sebghatullah Khaksari, Managing Editor of the weekly Sedaye Bakhshan (voice of Badakhshan), exploded as he was about to leave in the morning, but failed to harm him. Having taken refuge in Kabul, he said he knew the people responsible, but did not dare name them for fear of his life. Dr. Khaksari said certain government circles did not tolerate the weekly's reports and some officials had made threatening phone calls to him.

Sources: Afghan Independent Journalists Association (AIJA); Afghanistan Media Watch; Reporters without Borders





Joint Statement of Afghanistan Women's 50% Campaign and Afghanistan Women's Political Participation Committee to Bonn 2 Conference

Conscientious souls must not allow women's fate to become a plaything once again under the pretext of national interests

19 September 2011



The people of Afghanistan are experiencing highly sensitive and fateful days in the period leading to the "traditional" Luján Conference and the Bonn 2 Conference. There are very important issues at stake that cannot be ignored, i.e. issues that would impact the destiny of every man and woman in Afghanistan. The question at the centre of attention is peace with the Taliban or, in other words, peace between the government of Afghanistan and the armed insurgents. The remarkable aspect in this process is that unconditional concessions are being given to the Taliban. That means the rights of the majority of the people are bestowed upon a small number of human rights violators. There will be a just and lasting peace if it brings justice for the people, otherwise it may be a temporary and transient ceasefire. Experience of the international community in countries such as South Africa is a proof of this. Peace must originate from within the people and take deep roots in the society. Therefore, if the people of Afghanistan wish to forgive and pardon the insurgents and gun-wielders, it is their natural right. However, no amount of pressure and coercion by the government and the international forces can force the people of Afghanistan to forgive and pardon them. Afghanistan is a society with capacity and capability for peace, but this peace must not come through forgiveness for murders of the people of Afghanistan and opponents of peace.

The central issue that should have been the principal focus of the international community and the Afghanistan government is transitional justice, which the Bonn 1 Conference emphasised. However, that essential and vital issue has been intentionally sent to oblivion. The women of Afghanistan know too well that without justice and rehabilitation of victims of four decades of war, this reconciliation indeed is a division of power with armed insurgents. It is neither a peace of the just nor will it provide a favourable ground for reconciliation nationwide. The government of Afghanistan has a duty to shoulder the responsibility for all the harms that the society has incurred. Violators of human rights may not become guardians of this country. Afghanistan has experienced all forms of gross violation of human rights, from genocide to injustice, discrimination against women and ethnic communities, lack of freedom of expression etc. The international community has a duty to stop this dangerous trend in the name of universality of the Universal Declaration of Human Rights.

A unilateral peace, if underlined in Bonn 2 Conference, shall only display the fatigue and failure of the international community in the war in Afghanistan. The result will be a failed experience and fire under the ash, which will erupt into flames again in subsequent years and engulf Afghanistan and stir the whole world. The

We women of Afghanistan have not forgotten the dark era of the Taliban. In that era, women of Afghanistan had been eradicated from its geography. We women know the misogyny-centred ideology of the Taliban. We know that without it, the Taliban will lose their identity and they cannot compromise over their principle.

In any coalition with the Taliban, the women of Afghanistan will evidently be the first group to be sacrificed in deals. We have not forgotten that the abhorrence expressed by the informed men and women – i.e. the public opinion worldwide, especially in democratic countries – at the fate imposed by the Taliban, opened the way for the arrival of democratic countries in Afghanistan. Women of Afghanistan, and improvement of their conditions, constituted one of the most important issues that mobilised the international public opinion and the whole world. We women of Afghanistan have not forgotten the dark era of the Taliban.

This may be the last time you hear the collective voice of women of Afghanistan

We, the women of Afghanistan, highly value the emergence of progressive movements and the creation of a safe environment for women's participation in the society as well as the relative achievements despite their symbolism and the existing shortcomings during the past decade. Examples of this include the establishment of the Ministry of Women's Affairs, the extensive participation of women in cultural, social, political and economic activities. We ask ourselves in total astonishment what prescription will the international community and democratic countries, in particular Germany as the facilitator of this conciliation, offer for a lasting and enduring peace in this country to prevent the women of Afghanistan from re-experiencing the bitter events of the previous decades?

How could the international community and conscientious people accept petrified conditions similar to the Taliban era to be imposed on women as 50% of the people? If this armed peace were to be established, this may be the last time you hear the collective voice of women of Afghanistan. We the women of Afghanistan have been prisoners of homes for several generations. Our awakened girls and boys have aspirations similar to your children. They wish to go to school and the university. They wish to have access to quality media. Our young people wish to be able to choose their future spouses when they reach the legal age. They wish to have access to healthy entertainment and sports and to build their country in the framework of their own race, language and ideas without scars on their body or without its fear.

We, the awakened women together with the progressive men of our country, have set our hope on you. We believe in the international public opinion and hope that conscientious souls will never allow the fate of women to become a plaything once again this of national interests.

Afghanistan Women's 50% Campaign and Afghanistan Women's Political Participation Committee

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## Afghanistan 10 years on: Slow progress and failed promises

6 October 2011

Ten years after a US-led military invasion removed the Taliban from Afghanistan, the Afghan government and its international supporters have failed to keep many of the promises they made to the Afghan people, Amnesty International said today.

"Hopes were high in Afghanistan in 2001 following the international intervention but since then human rights gains have been put at risk by corruption, mismanagement and attacks by insurgent groups who have shown systematic contempt for human rights and the laws of war," said Sam Zarifi, Amnesty International's Asia Pacific director.



"Today, many Afghans dare to hope for improvements in human rights in their country. The Afghan government and its international supporters must back these hopes with concrete action to defend them."

An Amnesty International scorecard on the state of human rights in Afghanistan has found some progress in enacting human rights laws, reduction of discrimination against women and access to education and health care. However, progress on justice and policing, human security and displacement had stagnated or even regressed, Amnesty International found. Afghans living in areas heavily affected by the insurgency have seen a serious deterioration in their conditions.

The development of a small but vibrant community of journalists and the modest re-entry of women into schools, the workplace and the government are all signs of the progress made over the last ten years.

Afghanistan has also enacted a number of laws that appear to strengthen

women's rights. The new constitution gives equal legal status to men and women and also sets aside a quota of a quarter of parliamentary seats for women. Two parliamentary elections held in 2005 and 2010 saw women take slightly more seats than their allotted quota.

However, violence against journalists and media workers has increased. In areas heavily affected by the Taliban and other insurgent groups, freedom of speech and opinion are severely curtailed.

Without the restrictions imposed by the Taliban, access to education has also significantly improved since 2001. There are now 7 million children attend- ➔





ing school, of whom 37 per cent are girls. Under the Taliban there were less than a million students and almost no girls were allowed to attend school. However, in the nine months leading up to December 2010 at least 74 schools in Afghanistan were destroyed or closed as a result of insurgent violence including rocket attacks, bombings, arson, and threats. Of these attacks, 26 were directed at girls' schools, 13 at boys' schools, and 35 at mixed schools. "The Afghan government and its partners can't continue to justify their poor performance by saying that things are better than during the 1990s. Whenever Afghans were given security and financial assistance, they overcame tremendous obstacles to improve their conditions. But too often promises of assistance were not kept," said Sam Zarifi. Initial improvements made after 2001 have been significantly harmed by the burgeoning conflict, as insecurity hinders the work of schools and clinics in conflict areas and rural communities. Maternal mortality rates in Afghanistan have improved but remain among the highest on the planet. At the start of 2010 the Afghan government began a reconciliation process with the Taliban and other insurgent groups. But a 70-member "High Peace Council" body established to negotiate with the Taliban has only nine women members and Afghan women's groups have expressed their fear that their modest gains will be traded away in exchange for a ceasefire. "It's vital we don't sell out women's rights in expedient peace deals. The peace process in Afghanistan shouldn't mean putting a price on women's rights. These are non-negotiable. The Taliban has an appalling human rights record, and all negotiation for reconciliation must include proper representation of

Afghan women," said Sam Zarifi. In the last decade increasing numbers of Afghan civilians have been injured during armed conflict. Over the last three years, around three-quarters of civilian casualties have been caused by attacks by insurgent groups, and the rest by international and Afghan forces.

The UN documented 1,462 civilian deaths in the first six months of 2011, another record high. 80 per cent of these deaths were attributed to "Anti-Government Elements", with IEDs and suicide attacks, accounting for almost half of all civilian deaths and injuries.

The conflict has left nearly 450,000 internally displaced people in Afghanistan, mainly situated in Kabul and Balkh provinces and often living in extremely poor conditions with limited access to food, adequate sanitation or safe drinking water.

"The Afghan government's international allies, including the US, have repeatedly said that they will not abandon the Afghan people. They must stand by this commitment to ensure that rights are not swept aside as the international community seeks an exit," said Sam Zarifi.

<http://www.amnesty.org/en/news-and-updates/report/afghanistan-10-years-slow-progress-and-failed-promises-2011-10-06>

## Taliban leader's orders to reduce civilian casualties "hypocritical"

8 November 2011

Claims from Afghanistan's Taliban leadership that the movement is trying to minimise civilian casualties do not match the group's actions, Amnesty International said today.

In a message to mark the religious festival of Eid, the Taliban leader, Mullah Omar, issued a detailed list of steps his commanders should take to stem the rising number of civilian deaths, the vast majority of which are caused by the Taliban and other insurgent groups.

Mullah Omar implied that the majority of those casualties were caused by Afghans being caught in the crossfire between the Taliban and international forces. He made no mention of Taliban attacks that have targeted civilians or have indiscriminately harmed large numbers of civilians.

"The Afghan people would welcome any genuine effort to reduce civilian casualties," said Sam Zarifi, Amnesty International's Asia Pacific Director.

"However, Mullah Omar's message seems hypocritical, as it is more about propaganda and less about actually protecting civilians. He suggests that the majority of civilian casualties are accidental and could be avoided if Afghans kept away from foreign troops.

"He doesn't order his commanders to halt targeted assassinations, or stop using suicide bombers or improvised explosive devices in civilian areas."

Although civilian casualties caused by NATO have dropped, aerial bombardment, particularly from unmanned drones, has caused public resentment.

Recent UN figures show that insurgents are responsible for 80 per cent of civilian casualties in Afghanistan.

Amnesty International has documented how the Taliban and other insurgent groups have regularly hid behind civilians, knowingly putting them in danger, and have increasingly attacked busy civilian areas, including hospitals, schools, and mosques. The Taliban killed a headmaster of a girl's school in May this year, and insurgents have also attacked and killed female MPs.

There are also reports that the Taliban, as well as other groups, are increasingly using children as fighters or even as suicide bombers.

The insurgents have also stepped up the planting of IEDs. And they have targeted both Afghan civilians working for the government and their families. Their victims include the 11 year old son of a policeman who was hanged as a "spy".

In his Eid message, Mullah Omar ordered his fighters to stop threatening civilians, report civilian casualties to their superiors, investigate reported violations and punish those found guilty of abuses.

However, Sam Zarifi says much more needs to be done. "The Taliban leader seems to suggest that certain categories of civilians are legitimate targets. This is simply not true," he said.

"International humanitarian law stipulates that nobody should target civilians, regardless of their political allegiance. The Taliban and other armed groups in Afghanistan are familiar with the laws of war and use them when they need to, but their current strategy seems to rely on systematically violating these laws by jeopardizing civilians."

Amnesty International has called on the International Criminal Court to investigate the conflict in Afghanistan.

<http://www.amnesty.org/en/news/taliban-leader%E2%80%99s-orders-reduce-civilian-casualties-%E2%80%9Chypocritical%E2%80%9D-2011-11-08?mid=52363>

## Guarantee Afghan women's rights in peace talks with the Taliban

04 November 2011

Ten years ago, the Afghan government and its international allies pledged to advance women's rights following the military intervention to oust the Taliban. Millions of Afghan women and girls have seen progress in their lives since 2001: two-and-a-half million girls are enrolled in school, women can work outside their homes and the constitution grants women and men equal legal status.

But many Afghan women now fear their rights will be sacrificed as the Afghan government and its international partners seek a political settlement with the Taliban. The Taliban have an appalling record of human rights abuses both in government and as insurgents. Today, in areas under their control, the Taliban have severely curtailed the rights of women and girls, including the denial of education, employment, freedom of movement and political participation.

Afghan women's groups have voiced their demand that any peace talks, or "reconciliation" with the Taliban, must not compromise the human rights and well-being of the Afghan people. Sadly, their voices have largely been marginalised.

On 5 December 2011, a high-level ministerial meeting will take place in Bonn in Germany and the peace process will be an important point of discussion. Let's use this opportunity to call on the Afghan government to guarantee women's rights and women's participation in the peace process.

We will deliver your signatures to the President of Afghanistan, Hamid Karzai, who will be attending the Bonn Conference on 5 December.

### TAKE ACTION

Dear President Karzai,

A vital safeguard to protect women's rights in the peace process is to have meaningful representation of women at the negotiating table. I therefore urge you to ensure that:

- Human rights are guaranteed and monitored during the reconciliation process and at its conclusion and that abuses are promptly and effectively dealt with.
- Afghan women are meaningfully represented and their concerns fully reflected in all stages of the reconciliation talks, in keeping with UN Security Council Resolution 1325.
- Any agreement must include human rights benchmarks, for instance, increased school attendance of girls; improved access to health care for women; greater ability of women's human rights defenders to operate in all regions of Afghanistan.
- Reconciliation talks should not result in impunity for violations of human rights and war crimes.

<http://www.amnesty.org/en/appeals-for-action/Guarantee-Afghan-women%27s-rights-in-peace-talks-with-the-Taliban>



amnesty international



amnesty international

## Civilian casualties in the war in Afghanistan (2001–present)

The decade-long War in Afghanistan (2001–present) has caused the deaths of thousands of Afghan civilians directly from insurgent and foreign military action, as well as the deaths of possibly tens of thousands of Afghan civilians indirectly as a consequence of displacement, starvation, disease, exposure, lack of medical treatment, crime and lawlessness resulting from the war. The war, launched by the United States as “Operation Enduring Freedom” in 2001, began with an initial air campaign that almost immediately prompted concerns over the number of Afghan civilians being killed[1]” as well as international protests. With civilian deaths from airstrikes rising again in recent years[2], the number of Afghan civilians being killed by foreign military operations has led to mounting tension between the foreign countries and the government of Afghanistan. In May 2007, President Hamid Karzai summoned foreign military commanders to warn them of the consequences of further Afghan civilian deaths.[3]

### Estimates

There is no single official figure for the overall number of civilians killed by the war since 2001, but estimates for specific years or periods have been published by a number of independent organizations and are presented here.

Most, if not all, of the sources state that their estimates are likely to be underestimates.

| Year | Civilians killed as a result of insurgent actions   | Civilians killed as a result of U.S.-led military actions  | Civilians killed as a result of the war  |
|------|---|--|--|
| 2001 | n/a   | <ul style="list-style-type: none"> <li>The Project on Defense Alternatives estimated that in a 3-month period between October 7, 2001 and January 1, 2002, at least 1,000-1,300 civilians were directly killed by the U.S.-led aerial bombing campaign[4], and that by mid-January 2002, at least 3,200 more Afghans had died of «starvation, exposure, associated illnesses, or injury sustained while in flight from war zones», as a result of the U.S. war and airstrikes.[5]</li> <li>The Los Angeles Times found that in a 5-month period from October 7, 2001 to February 28, 2002, there were between 1,067 and 1,201 civilian deaths from the bombing campaign reported in U.S., British, and Pakistani newspapers and international wire services.[6]</li> </ul> | 2001-2003: <ul style="list-style-type: none"> <li>direct civilian deaths: at least 3,100 to 3,600</li> <li>indirect civilian deaths: at least 3,200 - 20,000</li> <li>direct &amp; indirect civilian deaths: 6,300 - 23,600</li> </ul>   |
| 2002 | n/a   | <ul style="list-style-type: none"> <li>A 2002 analysis by The Guardian estimated that as many as 20,000 Afghans died in 2001 as an indirect result of the initial U.S. airstrikes and ground invasion.[7]</li> <li>Professor Marc W. Herold of the University of New Hampshire estimated that in the 20-month period between October 7, 2001 and June 3, 2003, at least 3,100 to 3,600 civilians were directly killed by U.S.-led forces.[8]</li> <li>2001-2003 direct deaths: at least 3,100 to 3,600</li> <li>2001-2003 indirect deaths: at least 3,200 - 20,000</li> <li>2001-2003 direct &amp; indirect deaths: 6,300 - 23,600</li> </ul>  |  |
| 2003 | n/a   |  |  |
| 2004 | n/a   | n/a  | n/a  |
| 2005 | n/a   | <ul style="list-style-type: none"> <li>Professor Marc W. Herold of the University of New Hampshire estimated at least 408-478 Afghan civilians were directly killed by U.S./NATO actions.[9]</li> </ul>  | <ul style="list-style-type: none"> <li>direct civilian deaths: at least 408 to 478</li> <li>indirect civilian deaths: n/a</li> </ul>   |
| 2006 | <ul style="list-style-type: none"> <li>Human Rights Watch estimated at least 699 Afghan civilians were killed by various insurgent forces in 2006.[10]</li> </ul>   | <ul style="list-style-type: none"> <li>Human Rights Watch estimated at least 230 Afghan civilians were killed by US or NATO attacks in 2006: 116 by airstrikes and 114 by ground fire.[11]</li> <li>Professor Marc W. Herold of the University of New Hampshire estimated at least 653-769 Afghan civilians were directly killed by U.S./NATO actions.[9]</li> </ul>   | <ul style="list-style-type: none"> <li>Human Rights Watch estimated at least 929 Afghan civilians were killed in fighting related to the armed conflict in 2006.[10] In all, they estimated more than 4,400 Afghans (civilians and militants) were killed in conflict-related violence in 2006, twice as many as in 2005.[12]</li> <li>An Associated Press tally based on reports from NATO, coalition, and Afghan officials, estimated 4,000 Afghans (civilians and militants) were killed in 2006.[12]</li> <li>Indirect civilian deaths: n/a</li> </ul> |
| 2007 | <ul style="list-style-type: none"> <li>The UN Assistance Mission Afghanistan (UNAMA) estimated that 700 Afghan civilians were killed by anti-government elements in 2007, accounting for 46% of the civilian casualties.[13][14]</li> <li>Human Rights Watch estimated that at least 950 Afghan civilians were killed by various insurgent forces in 2007.[10]</li> </ul> | <ul style="list-style-type: none"> <li>Human Rights Watch estimated at least 434 Afghan civilians were killed by US or NATO attacks in 2007: 321 by airstrikes and 113 by ground fire. Another 57 civilians were killed in crossfire, and 192 died under unclear circumstances.[11]</li> <li>The UN Assistance Mission Afghanistan (UNAMA) estimated that 629 Afghan civilians were killed by international and Afghan forces in 2007, accounting for 41% of the civilian casualties.[13][14]</li> <li>Professor Marc W. Herold of the University of New Hampshire estimated at least 1,010-1,297 Afghan civilians were directly killed by U.S./NATO actions.[9]</li> </ul>  | <ul style="list-style-type: none"> <li>The UN Assistance Mission Afghanistan (UNAMA) estimated that 1,523 Afghan civilians died as a direct result of armed conflict in 2007.[13][15]</li> <li>Human Rights Watch estimated at least 1,633 Afghan civilians were killed in fighting related to the armed conflict in 2007.[10]</li> <li>Indirect civilian deaths: n/a</li> </ul>   |



|           |  |  |  |
|-----------|--|--|--|
| 2008      | <ul style="list-style-type: none"> <li>• The Afghan Independent Human Rights Commission (AIHRC) estimated that around 1,000 civilians were killed by militant groups in 2008.[16]</li> <li>• The UN Assistance Mission in Afghanistan (UNAMA) reported that 1,160 Afghan civilians were killed by anti-government forces in 2008, accounting for 55% of the civilian deaths.[17][18]</li> </ul>  | <ul style="list-style-type: none"> <li>• The Afghan Independent Human Rights Commission (AIHRC) estimated that around 800 civilians were killed by U.S.-led military forces in 2008.[16]</li> <li>• The UN Assistance Mission in Afghanistan (UNAMA) reported that 828 Afghan civilians had been killed by international-led military forces in 2008, accounting for 39% of the civilian deaths. Air-strikes accounted for the largest proportion of this number, 64%, with 552 civilians killed as a result of U.S./NATO airstrikes.[17][18]</li> <li>• According to Afghanistan's ambassador to Australia, Amanullah Jayhoon, 1,000 Afghan civilians were killed by coalition forces in 2008.[20]</li> </ul> | <ul style="list-style-type: none"> <li>• The Afghan Independent Human Rights Commission (AIHRC) estimated that around 1,800 civilians were killed as a result of the armed hostilities in 2008.[16]</li> <li>• The UN Assistance Mission in Afghanistan (UNAMA) reported that 2,118 Afghan civilians were killed as a direct result of armed conflict in 2008, the highest number since the end of the initial 2001 invasion.[15][17][18][22]</li> </ul> |
| 2008      | <ul style="list-style-type: none"> <li>• The Afghanistan Rights Monitor(ARM) estimated that over 2,300 civilians were killed by insurgents in 2008, including 930 in suicide bombings.[16][19]</li> </ul>  |  | <ul style="list-style-type: none"> <li>• The Afghanistan Rights Monitor (ARM) estimated that in 2008 around 3,917 civilians were killed, over 6,800 were wounded, and around 120,000 were forced out of their homes.[16][19]</li> <li>• Indirect civilian deaths: n/a</li> </ul>   |
| 2009      | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) attributed 1,630 Afghan civilian deaths as having been caused by anti-government elements in 2009, representing two-thirds of the 2,412 Afghan civilian deaths it recorded in the American-led war in 2009.[23][24]</li> </ul>   | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) attributed 596 Afghan civilian deaths as having been caused by international-led military forces in 2009, representing about a quarter of the 2,412 Afghan civilian deaths it recorded as having been caused by the war in 2009.[23][24]</li> </ul>  | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) recorded 2,412 Afghan civilian deaths in the American-led war in 2009, representing a jump of 14% over the number killed in 2008. In 186 (8%) of the deaths, UNAMA was unable to clearly attribute the cause to any one side.[23][24]</li> <li>• Indirect civilian deaths: n/a</li> </ul>  |
| 2010      | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission (AIHRC) attributed 2,080 Afghan civilian deaths as having been caused by anti-government elements in 2010, up 28% from 2009 and representing 74.9% of the 2,777 Afghan civilian deaths they recorded in the American-led war in 2010.[25][26]</li> </ul>   | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission (AIHRC) attributed 440 Afghan civilian deaths as having been caused by U.S.-led military forces in 2010, down 26% from 2009 and representing 15.9% of the 2,777 Afghan civilian deaths they recorded in the American-led war in 2010.[25][26]</li> </ul>   | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission (AIHRC) recorded 2,777 Afghan civilian deaths in the American-led war in 2010, a jump of 15% over the number killed in 2009. In 9% of the deaths, UNAMA and AIHRC were unable to clearly attribute the cause to any one side.[25][26]</li> </ul>   |
| 2011      | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission (AIHRC) attributed 1,167 Afghan civilian deaths as having been caused by anti-government elements in the first six months of 2011, up 28% from the same period in 2010 and representing 79.8% of the total 1,462 Afghan civilian deaths they recorded in the conflict during this period.[27]</li> </ul> | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission (AIHRC) attributed 207 Afghan civilian deaths as having been caused by U.S.-led military forces in the first six months of 2011, down 9% from the same period in 2010 and representing 14.2% of the 1,462 Afghan civilian deaths they recorded in the conflict during this period.[27]</li> </ul>  | <ul style="list-style-type: none"> <li>• The UN Assistance Mission in Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission (AIHRC) recorded 1,462 Afghan civilian deaths in the American-led war in the first six months of 2011, a jump of 15% over the number killed in the same period in 2010. In 6% of the deaths, UNAMA and AIHRC were unable to clearly attribute the cause to any one side.[27]</li> </ul>                |
| Total[28] | <ul style="list-style-type: none"> <li>• direct deaths: at least 7,276 - 8,826</li> </ul>  | <ul style="list-style-type: none"> <li>• direct deaths: at least 6,215 - 9,007</li> <li>• indirect deaths in initial invasion: 3,200 - 20,000</li> <li>• direct &amp; indirect deaths: 9,415 - 29,007</li> </ul>   | <ul style="list-style-type: none"> <li>• direct deaths: at least 14,411 - 17,208</li> <li>• indirect deaths in initial invasion: 3,200 - 20,000</li> <li>• direct &amp; indirect deaths: 17,611 - 37,208</li> <li>• indirect deaths after initial invasion: N/A</li> </ul>   |
| Year      | Civilians killed as a result of insurgent actions (Total of available estimates, lower - upper)  | Civilians killed as a result of U.S-led military actions* (Total of available estimates, lower - upper)  | Civilians killed as a result of the war* (Total of available estimates, lower - upper)   |

\* For footnotes, please see the original source

Source:

[http://en.wikipedia.org/wiki/Civilian\\_casualties\\_in\\_the\\_War\\_in\\_Afghanistan\\_%282001%E2%80%93present%29](http://en.wikipedia.org/wiki/Civilian_casualties_in_the_War_in_Afghanistan_%282001%E2%80%93present%29)

from page (6)

### Taliban's constitution...

Article 16 of the Constitution of Afghanistan provides: "From among the Pashto, Dari, Uzbek, Turkmen, Baloch, Pashai, Nurestani, Pamiri and other languages common in the country, Pashto and Dari are the official languages of the government. In areas where the majority of the people speak any of the Uzbek, Turkmen, Baluchi, Pashai, Nurestani, Pamiri languages, that language shall be regarded as the third official language in addition to Pashto and Dari and its implementation shall be decided by the law. The government shall prepare and implement effective programmes to promote and develop all the languages of Afghanistan. Publication of the press and the mass media in all the languages common in the country is free."

Article 43 of the Constitution deems education to be the right to all the citizens and requires the government to prepare and implement effective programmes to provide mandatory secondary education nationwide and to facilitate the teaching of the mother tongue in all areas.

### Human rights and international conventions

**Under Taliban:** Notwithstanding what the Taliban did in practice, in their constitution they claim support for the charter of 'United Nations, the Organisation of Islamic conference, the Non-Aligned Movement and the Human Rights Declaration,' but this support is extremely qualified as follows: "to the extent that they do not contravene the principles of Islam and the national interests." The Taliban constitution, however, makes no reference to the responsibility to implement human rights and international conventions even within the framework of the sharia, and lacks a definition of national interests.

**Since 2001:** The Constitution of Afghanistan (Article 7, paragraph 1), in contrast, stipulates: "The government shall comply with the charter of United Nations, international treaties international conventions, which Afghanistan has joined, as well as the Universal Declaration of Human Rights."

Furthermore, Article 58 of the Constitution stipulates: "The government is required to establish the Independent Human Rights Commission to improve, protect and oversee the compliance with human rights." All the citizens can file their complaints with this commission.

### The Taliban's sharia

There are differences among the Islamic schools regarding the Islamic sharia. The Taliban's sharia is rooted in a version of Wahhabism that prevailed in the Indian subcontinent. It was founded by Shah Waliullah Dehlawi and later

split to different branches. One of them is the Jamaat al-Ulama of Pakistan led by Mowlana Fadhl ur-Rahman and Mowlawi Abd Fadhl al-Haq. That is branch that the Taliban follow. They are probably the first group to advocate the Islamic Caliphate in modern times. On the other hand, the idea of Caliphate is compatible with tribal culture in parts of Afghanistan where the Taliban originate from. When the Taliban occupied Kandahar, their first action was to appoint a Caliph. They have declared many times: Elections will not be held in Afghanistan, because elections are non-Islamic imitations.

The Taliban, in comparison with some other moderate Islamic groups elsewhere, are opposed to all aspects and achievements of civilisation. Hence, they are opposed to representative democracy and people's participation, women's rights and education, various aspects of culture such as cinema and television and free press etc. During the past decade since 2001, they have continued to kidnap and kill journalists.

### Conclusion

To sum up, the Taliban's constitution practically leaves no place for human rights, civil and political rights, separation of powers, freedom of speech and media, free elections, freedom of political parties and civil institutions, media and press, rights of religious and ethnic communities, people's power and participation, and women's rights. They deem it their duty under the sharia to oppose and eradicate all those rights. Even after their fall from power, they have continued to attack girl's schools and throw acid at women.

Their sharia allows interference in personal affairs of the people to the extent of deciding the length of hair, statutory beard, ban on women's presence in public places, and lashing people to force them to pray, among others.

Their opposition to culture led to Mullah Mohammad Omar's order on 1 March 2001 to destroy Buddha's statues in Bamiyan, and demolition of the National Museum, among others. Their concept of justice was tantamount to implementation of the stoning sentences, amputations and beheadings.

Their attitude to other religions and ethnic communities led to massacres of the Hazaras for being Shi'ite and the Uzbeks in northern Afghanistan for cooperation with the Communists. According to Amnesty International's November 1999 report (Afghanistan, The Human Rights of Minorities), after occupying Mazar Sharif in 1998, the Taliban Governor Mowlawi Niazi declared: The Hazaras have three choices: to become Sunni, to move to Iran or to be killed.



## Message of Afghan civil society institutions to the International Conference on Afghanistan in Bonn<sup>1</sup>

Acknowledging that the International Conference on Afghanistan in Bonn is a critical opportunity for the Islamic Republic of Afghanistan and the international community...

### 1. TRANSITION PROCESS

#### What is expected of the Islamic Republic of Afghanistan:

- The second phase of transition (Inteqal) should be based on a thorough evaluation of the first phase and the lessons learned, giving full consideration to the necessary capacities, resources (human and financial), and the demands and satisfaction of the people,
- Equal attention must be paid to the civilian dimension of the transition process (quality of the delivery of social services without any gender or ethnic discrimination, good governance, effective measures to curb corruption, promotion and protection of human rights, as well as the reform and independence of the judiciary) in parallel to the military aspect of transition (qualitative and quantitative support for Afghan security institutions),
- It should give priority to implementing the rule of law, supporting and strengthening the democratic process and institutions (i.e. reform and independence of the electoral process, in particular), and to merit-based appointments,
- It should strengthen healthy working relations between the judiciary, legislative, and executive, and specifically to establish a professional, effective, and responsive cabinet.

#### What is expected of the international community:

- It should support systems and institutions (particularly civil society and democratic institutions) and focus on infrastructure rather than supporting individuals and their dependent groups,
- It should focus on supporting and building the national security forces

(ANA & ANP), and not quasi and parallel security setups (Arbaki, local police and security companies),

- It should continue political, technical, and financial support for state building and nation building efforts in Afghanistan, and exert the required political pressure on regional spoilers meddling in and challenging security in Afghanistan,
- It should provide structural and continued support and leverage the complementary monitoring and consulting roles of civil society and human rights defenders, as well as women's rights activists in the efforts to promote responsive, inclusive, and good governance.

#### What is expected of both the Islamic Republic of Afghanistan & the international community:

- They should effectively explore and leverage existing capacities and capabilities available within Afghan civil society institutions as a de facto potential for delivering social services and implementing the National Priority Programmes (NPP).

### 2. LONG-TERM COMMITMENT OF THE INTERNATIONAL COMMUNITY:

It is, specifically, expected that the International Community will:

- Extend its cooperation to the implementation of sustainable development (poverty alleviation schemes, support to local industries, agriculture, irrigation, commerce, communication networking, and other infrastructure facilities) in order to lead Afghanistan to self-sufficiency and prosperity,
- Strengthen the Islamic Republic of Afghanistan's capacity and capability in furthering its efforts to fight terrorism, drug trafficking and poppy cultivation, based on the decade-long experience in fighting terrorism (at the regional





- and international levels),
- Assist – through technical, financial, and security support – the Islamic Republic of Afghanistan in conducting a national census in order to have the reliable figures and statistics needed for sustainable development and lasting economic growth,
  - Develop unified and practical mechanisms and procedures to fight corruption, and enable the Islamic Republic of Afghanistan to implement it, while providing support to the role of Afghan civil society institutions in monitoring good governance and responsive government,
  - Regularly evaluate aid effectiveness in terms of service delivery and monitoring roles of civil society organizations, as well as elected institutions/entities,
  - Support and protect, both politically and technically, the democratic and civil society institutions, as the connecting and bridging entities between regional powers, and in particular between Afghanistan and Pakistan.

**3. POLITICAL SOLUTIONS AND REINTEGRATION:**

The civil society institutions of Afghanistan have always supported efforts to promote a peaceful settlement with full consideration given to upholding human rights, women's rights, social justice, victims' demands, and ensuring those efforts are within the accepted religious, national and international values. Therefore,

*The Islamic Republic of Afghanistan is expected:*

- Based on past experience and the ineffectiveness of previous methods, which were one-sided and offered privileges, to consider the Peace and Reintegration Strategy as a necessary and inseparable component to complement and support good governance, and to curb corruption, carry out reforms to make the judiciary independent, end the culture of impunity and promote justice,
- To uphold human rights values and civil norms in all negotiations and efforts for peace and reconciliation initiatives in order to make a clear distinction between friend and foe and to implement its policies with a clear vision.
- To implement, based on the international obligations and commitments it entered into at the Kabul Conference, the action plan of transitional justice, while taking practical measures to improve the rule of law, justice and due processes,
- Not to subordinate human rights values, women's rights, fundamental and civil rights in any political efforts for peace and reintegration process,
- To consider mechanisms for reintegration that support justice and accountability for armed groups which wish to join the peace process, while ensuring that they no longer pose a threat to the people and the country.

*The international community is expected:*

- Not to favour strategies that lead to short-term political solutions and speedy reintegration process as a premature exit strategy,
- Not to overshadow the regional and international dimension of the conflict in Afghanistan, and, to assist the Islamic Republic of Afghanistan in addressing the root causes of the external factors (through military, political and economic pressures),
- To formalize its presence, and based on the Geneva Conventions, to strictly avoid civilian casualties in order to limit political exploitation by fundamentalists and regional spoilers,
- To simultaneously support the advocacy efforts of civil society institutions and human rights defenders to protect war victims and to promote mechanisms for addressing war crimes while building the relevant capacities of the Islamic Republic of Afghanistan,
- To uphold and apply universal human rights values in Afghanistan in all humanitarian and development assistance (civil and military), while supporting the complementary roles of civil society institutions in consultation, service delivery, humanitarian assistance, public awareness raising and advocacy initiatives.

The civil society institutions of Afghanistan sincerely believe that this great gathering in Bonn can lead to further cooperation and the creation of a unified vision shared by the Government of Afghanistan, the international community, and Afghan civil society institutions in order to bring peace and a prosperous future to the country and the Afghan people.

Bonn, Germany

Monday, 5 December 2011

1 Here we have excerpted the message. For the full text, see: [http://www.auswaertrien-amt.de/Car/Service/content/job/502180/publicationFile/161822/111121\\_Botschaft\\_Zivilgesellschaft\\_engl.pdf](http://www.auswaertrien-amt.de/Car/Service/content/job/502180/publicationFile/161822/111121_Botschaft_Zivilgesellschaft_engl.pdf)

**Afghan women towards Bonn and beyond**

Afghan Women's Network: Position paper<sup>1</sup>  
6 October 2011



**AFGHAN WOMEN: REALITIES, PERSPECTIVES AND RECOMMENDATIONS**

Afghan women as half of the population are half of the solutions for Afghanistan and want to contribute in aspirations and commitments for a better future for their communities and children. After 10 years, with many achievements, setbacks, and aspirations, Afghanistan is looking to move ahead. There are many challenges to be met, internally and regionally that are associated with international engagement or transition. The newborn democracy, human rights, development, peace and stability are the issues on the minds of many Afghans. How will the transition process uphold the promises made regarding protecting constitutional rights and the concerns raised by civil society.

**TRANSITION**

Policy makers in Afghanistan reiterate constantly that transition is not about military and security matters only, however the practical experience on the ground shows that there isn't any attention paid to improving rule of law, governance and access to justice during transition process and how women's security is being impacted through such processes. Transition should start from a citizen's led vision in which women and men of Afghanistan take responsibility for their own future. Women should be consulted and included to ensure that security and transition plans are implemented successfully.

**Security:**

- 1) Given the deterioration of security conditions, no evaluation can be observed in transitioned areas. Women should be included in designing, evaluation and monitoring of security indicators based on which transition takes place.
- 2) The recruitment process of Afghan forces should go through an external community based process in which women can report on the background of the newly enrolled security forces.
- 3) There are presently no mechanisms that enable the implementation of the Transitional Justice Action Plan. Security initiatives and the recruitment of Afghan Local Police (ALP) must go through a transparent process to avoid the presence of warlords with previous HR violation records.
- 4) Women leaders in government and civil society are under constant attacks. This is why it is necessary for the Afghan government to ensure the protection of women and civil society members.

**Rule of Law and Justice:**

- 1) Afghan government has signed many women's rights and human rights related international treaties, but lacks any clear reporting and compliance. We recommend the Afghan government to have a clear reporting process ensuring the respect of international law.
- 2) In order for past wounds have to be healed, Afghan women recommend the creation of a joint International Afghanistan War Memory Commission so that the past 30 years of war violations are identified. Otherwise, the practice of impunity will not unite Afghans towards a rule of law culture.

**PEACE AND REINTEGRATION PROGRAM,  
"You can't build peace leaving half of the people out"**

The women of Afghanistan appreciate the inclusion of women in the High Peace Council, Provincial Peace Council. However, these structures lack transparency and community level involvement is still missing within the national and sub-national structures created for peace process. No matter who is counter side of negotiation, the promotion of dialogue, reconciliation with due participation of women is vital.

- 1) Insurgents, who embrace peace process and join re-integration, should be under a strict monitoring for at least two years by the Afghan government under to ensure that insurgents do not rejoin the insurgency.
- 2) Women organizations are able to connect with the women who live in the areas under control and can be effective in implementing peace process in these regions. Therefore, the government should ensure that women organizations are provided with a clear line of inclusion and participation besides an allocated budget.
- 3) The Afghan government should promote women's empowerment through increasing the number of women in the security sector, judiciary and peace process in general. ...continued on page(16)

# Statement of CSHRO To the Bonn Conference<sup>1</sup>



Kabul/13 November 2011T

... The Civil Society and Human Rights Network would like to bring to your attention the following issues in the hope that they will be addressed in the Bonn conference and its prospective declaration and outcomes:

## 1. Strengthening of regional cooperation:

... The Civil Society and Human Rights Network would like to call on all participants of the Bonn conference to support regional cooperation and create a useful mechanism for the Afghanistan and Pakistan peace building process. The role of international community in this process is indispensable.

## 2. In the field of good governance

...The CSHRN sees that sustainability of Afghan government can be achieved with capable and well organised government. We ask our international friends to support Afghans in reaching proficient government.

## 3. Strengthening of the legitimacy of the system

...The government cannot ensure peace and security in Afghanistan. This situation has widened the gap between Afghan citizens and the Afghan government. We see that the Afghans deserve a legitimate government. The legitimacy of the international community in Afghanistan is dependent on the legitimacy of the Afghan Government.

CSHRN call on our international partners to work with the Afghan government on trust and confidence building measures between the Afghan people and Afghan government and international community.

## 4. Empowerment of democracy

... Without democracy we cannot build a society based on the basis of voice and choice for the people. The Afghans have experienced different kinds of dictatorships and totalitarian regimes. We see that a democratic society in Afghanistan will be the foundation for further development in the country. Four elections in Afghanistan showed that the people support the democracy and understand the importance of the people's vote to the current situation. CSHRN call on the international community to support the democratic changes in Afghanistan and support democratic institutions in our country.

## 5. Strengthening of human rights

...Unfortunately the level of violations of human rights in Afghanistan is very high. We are still missing mechanisms and structures of the implementation and monitoring of fundamental principles of human rights in the government framework. The state of Afghanistan has ratified many international human rights conventions; however the implementation of these conventions has not happened... Application of the human rights conventions into the national legislations have not been integrated in the national policy.

The CSHRN would like to call on the international community to support the process and programs concerning the promotion and protection of human rights in Afghanistan with special focus on human rights issues after 2014.

## 6. Empowerment of civil society

... CSHRN call on our international partners, without your support the Afghan civil society will not function properly. CSHRN need your support for our capacity building to become a sustainable and capable partner in Afghanistan.

## 7. Strengthening of peace-building structures

Peace and security are the most important needs and rights amongst Afghan population. There should be a constructive cooperation between Afghan state and the international community. The Afghan civil society would like to support any attempts toward peace and security. At the same time we would like to emphasize that peace-building should not be at the expense of justice in Afghanistan. With respect to human rights and women's rights, justice and security should constitute the precondition for peace-building programs in Afghanistan. The Afghan women, based on UN Resolution 1325, should have the opportunity to contribute to peace and security building in

the country. We would like to ask the participants of the Bonn conference to support Afghanistan's peace and security building programs based on respect for human rights and the role of women.

## 8. Transition of responsibilities to Afghans

We need to support an independent, well-functioning state in Afghanistan. Economic and political sustainability is the one most important goal for the new Afghanistan. Afghanistan should have the ability to self defence. The military, police and intelligent services should be built in a professional way. The transitional strategies should be implemented carefully and professionally. The civil society of Afghanistan is concerned about the future of Afghanistan. The lessons of the 90s should be learned by Afghans and their international partners...

1 Here we have excerpted the message. For the full text, see:

[http://www.cshrn.af/CSHRN\\_English/Documents%20of%20CSHRN/Statements%20and%20Messages/Statements.htm](http://www.cshrn.af/CSHRN_English/Documents%20of%20CSHRN/Statements%20and%20Messages/Statements.htm)

*from page ( 15)*

*Afghan women towards...*

### International Commitment beyond 2014

Despite the achievements of the past 10 years, the focus of international aid has shifted from socio-economic and development projects to those that support transition and peace process. Therefore, international aid is being mostly used for the political agendas of the Afghan government rather than for the basic needs of Afghans. Therefore, all bilateral and multilateral accords should clearly include the protection of Afghan women's rights. Regional cooperation should focus on elimination of poverty, low health and poor education. These challenges can be faced by strengthening existing networks of women in the region.

- 1) International aid beyond 2014 must have clear gender-allocation specifying a percentage of the aid that will go to the women-focused initiatives.
- 2) To prevent aid from being used for supporting extremists' elements, it is recommended that the UNMA plays a strong role in monitoring the transition and peace process.
- 3) Stability cannot be achieved only through international diplomatic pressures. Women organizations must be a bridge between communities living in both sides of the border and thus, promote dialogue and reconciliation.

### LOOKING FORWARD

During the Bonn process, the Afghan women ask their government and the international community leaders to envisage a prosperous Afghanistan only through upholding the rights and obligations to the half of its population. Stability and success cannot be achieved without a just rule of law that respects the human rights of Afghan woman. Women want to use the opportunity of Bonn conferences to seek accountability from the Afghan government and the international community. Afghan women are risking their lives for securing the vision of Afghanistan and values of democracy and rule of law.

We as the women of Afghanistan will be watching over the process from now up to Bonn and beyond during the transition process to see whether the Afghan government and its international supporters meet the challenge of doing things right for the last time in Afghanistan.

1 Here we have excerpted the paper. For the full text, see:

[http://www.afghanwomennetwork.af/Latest%20Updates/AWN\\_Position\\_Paper\\_FINAL\\_FINAL\\_English.pdf](http://www.afghanwomennetwork.af/Latest%20Updates/AWN_Position_Paper_FINAL_FINAL_English.pdf)



# Joint NGOs statement for the Istanbul Conference

Kabul, 1st November 2011

The following are excerpts from the joint statement issued on behalf of a group of national and international development and humanitarian aid agencies working in Afghanistan.<sup>1</sup>

## 1. Security

... Both anti government and pro-government forces are responsible for the majority of Afghan civilian casualties and serious abuses of human rights. Recent efforts to improve the effectiveness of the Afghan forces (ANSF) are welcome but serious concerns remain on the readiness, conduct and accountability of the forces and the impunity in case of human rights abuses. The Afghan army is still incapable of properly tracking and investigating on civilian casualties. Initiatives such as the Afghan Local Police legitimize and empower militias and local commanders, many of whom have abused civilians. There must be a sustained focus on the recruitment, retention, training and equipping of the national forces and developing ANSF capability to monitor, minimize and respond to civilian casualties...

### Recommendations:

- Urge all parties in the conflict to increase efforts to prevent and minimize civilian casualties, and to respect international humanitarian law.
- Support the Afghan government to ensure that where casualties do occur, they are properly tracked, investigated and compensation is provided as appropriate.
- Ensuring quality training in international human rights and humanitarian law.
- Support the enforcement of regulations to ensure that those who are accused of abuses are thoroughly and transparently investigated and appropriately disciplined and / or prosecuted, regardless of rank.

## 2. Peace and Reconciliation

It is widely recognized that there is no military solution to the conflict in Afghanistan. A political settlement is necessary to put an end to war and achieve sustainable peace. Regional states can also only benefit from a stable and peaceful Afghanistan. In addition, there can be no lasting peace without the support of regional actors and the international community. The only solution is a transparent and inclusive peace process involving both representatives from all sections of the Afghan society and regional actors. The important role of women must also be acknowledged. The more women feel involved in and committed to a political settlement which guarantees their rights, the more likely they are to promote changes in attitude and genuine reconciliation...

### Recommendations:

- Demonstrate commitment to the participation of women, civil society and other minority groups in all phases and levels of peace processes.
- Ensure that women's rights are not sacrificed, by pledging that any political settlement must explicitly guarantee women's rights (rights to education, political participation as enshrined in the Afghan constitution)
- Support efforts to improve the technical capacity of local government, increase the resources available to government at the sub-national level and ensure that the rule of law is upheld and applies to all members of society.

## 3. Economic and social development

Afghanistan's ... rapid economic growth is not sustainable and has not reduced the levels of extreme poverty... Afghanistan is rich in minerals... but this opportunity must be accompanied with strong governance reforms that can benefit Afghan people as a whole.

Rural development is also vital to reduce poverty... more than seven million Afghans continue to suffer from food insecurity.

... Above all, economic development must involve Afghans from all parts of society... in particular, Afghan women... Finally, economic progress will remain restricted unless the Afghan population has effective access to basic services, including quality education for boys and girls and reliable healthcare.

### Recommendations:

- Support the development of a coherent and long-term plan for accessing, and distribution of profits from Afghanistan's mineral wealth in an accountable and transparent manner.
  - Improve the access to basic services such as health and education, especially in rural areas and especially for women.
  - Increase support to the agriculture sector (poorer farmers, investment in sustainable land and water management, long term disaster risk reduction to avoid hunger caused by drought and food insecurity).
  - Focus on investment in supporting the government to develop micro hydro power and sustainable energy production measures (solar power).
- Action Contre La Faim; Afghan Health and Development Services; Afghan Institute for Learning; British Agencies Afghanistan Group; Civil Society Development Centre; Christian Aid; Coordination of Afghan Relief; Cooperation Centre for Afghanistan; Integrity Watch Afghanistan; Medica Afghanistan; Oxfam; Swedish Committee for Afghanistan; Terre des Hommes.

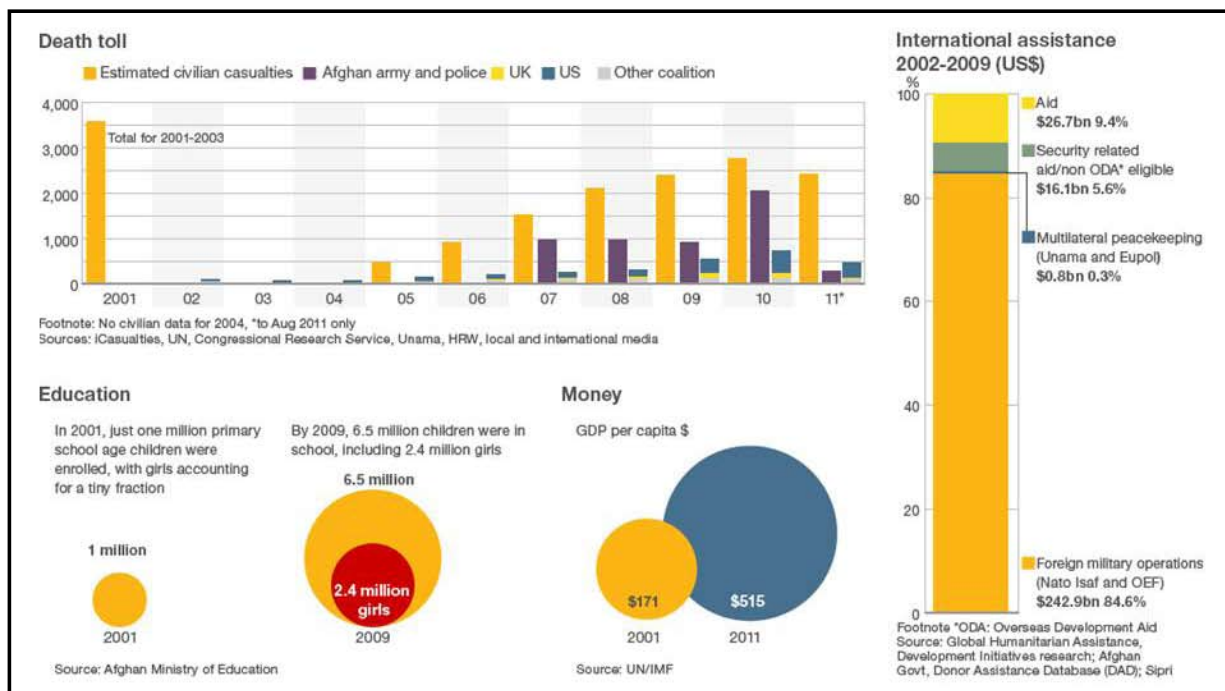
1 Here we have excerpted the message. For the full text, see:

<http://www.cimicweb.org/Document/CEC%20AFGH%20Governance%20Archive/Bonn%20Page%20Documents/NGOs%20Istanbul%20Conference%20Statement.pdf>

## Afghanistan in figures, 10 years after the Taliban BBC 4 October 2011

Since October 2001, billions of dollars in foreign assistance have poured into the country, most of it spent on military operations. While some aspects of life have improved for some people, the death toll from a decade of violence is high.

Source: <http://www.bbc.co.uk/news/world-south-asia-15115539>



**Armanshahr/OPEN ASIA Publications**

- One Thousand and one Poems for Afghanistan (anthology of writings and poems trilingual edition), Winter 2003
- Caravan of Poetry for Peace and Democracy in Afghanistan (An anthology of poems); Spring 2003
- Caravan of Light (for young readership); Spring 2003
- Poems for Peace (Tajik edition in cyrillic), Summer 2003
- In praise of Ahmad Shamlou, Living Conscience of International Poetry, December 2006 Goftegu series
- Who is a citizen? What are their obligations and rights vis-à-vis government and the society? December 2006 Goftegu series
- Role of Citizens in Seeking Truth and Justice, December 2006 Goftegu series
- Social Justice in Islam, Systems of Governance and other Schools of Thought, January 2007 Goftegu series
- Challenges of Freedom of Expression, Media and Press in Afghanistan, February 2007 Goftegu series
- Democracy and Social Justice in Multi-ethnic Countries, March 2007, Goftegu series
- In Search of Civil Society, International Experiences and Local Realities, April 2007 Goftegu series
- Cultural Incursion and Impact of a Quarter of Century of Immigration on Cultural and Political issues, May 2007, Goftegu series
- Against Oblivion, Experience of Truth and Justice Commissions, Monireh Baradaran, May 2007 Let's break the silence series
- Do Afghanistan Universities have the Capacity to Produce Elites? June 2007, Goftegu series
- Two Interpretations of Globalization, July 2007, Goftegu series
- We are All Feminists (Perhaps we don't know it), August 2007, Goftegu series
- Women's Movement: A National Movement or an Artificial Process? August 2007, Goftegu series
- Women Celebrate Peace (An anthology of national/international poems by women for Afghanistan), Guissou Jahangiri, 2009, Spring 2009; Let's break the silence series
- Tradition and Modernism, Confrontation or Correlation? Spring 2009, Goftegu series
- Sayyed Jamaledin and New Religious Thinking; Spring 2009, Goftegu series
- What has gone astray in Afghanistan's Higher Education System? Causes and Solutions; Spring 2009, Goftegu series
- The 50% Campaign: Afghanistan Women's Demands from the Future President, Spring 2009
- Violations of Human Rights and US Policy, Summer–Autumn 2009 (Politis asia 1-2)
- Simorgh (An Anthology of Poems for Peace); Autumn 2009; Let's break the silence series
- Youth and the Provincial Council; What is the Provincial Council doing? What do People Want? Autumn 2009, Goftegu series
- A Practical Guide for Victims to the International Criminal Court, autumn 2009; Let's break the silence series
- National Dialogue with Women: Justice Rendered or One Step Back? Autumn 2009, Goftegu series
- It is an Abandoned Time Here, Rooholamin Amini; Winter 2010; Let's break the silence series
- NATO, Exceptions to Democracy and Decline of Empires, Winter 2010, (Politis asia 3)
- Voice of Victims for Justice, summer 2010; Let's break the silence series
- From Structure of Parliament to a Critical Evaluation of First Parliament in Afghanistan; Summer 2010, Goftegu series
- Discrimination and Political Participation of Women: Role of Education, Spring-Summer 2010 (Politis asia 4-5)
- Simorgh's Feather (Selected poems of Simorgh Peace Prize); Autumn 2010, Let's break the silence series
- Market Economy in Afghanistan, Autumn 2010, Goftegu series
- From Book to Freedom of Expression, Autumn 2010, Goftegu series
- Animal Farm, George Orwell, Summer 2010, Simorgh series
- An evaluation of a decade of international presence in Afghanistan, Autumn 2010, Goftegu series
- Afghanistan: In Search of Truth and Justice, Autumn 2010, Let's break the silence series
- To the 21st Cigarette, Rooholamin Amini, Autumn 2010, Simorgh series
- Universal Jurisdiction, mechanisms to prosecute human rights violators, Autumn 2010, (Politis asia 6-7)
- The Afghanistan Women's 50% Campaign, Winter 2010
- Simorgh, the Thirty Wise Birds (an anthology of poems and photographs for peace in Afghanistan), Guissou Jahangiri, Rooholamin Amini, Winter 2010, Simorgh series
- Violations of Human Rights and US Policy, 2nd Edition, Winter 2011, (Politis asia 1-2)
- NATO, Exceptions to Democracy and Decline of Empires, 2nd Edition, Winter 2011, (Politis-asia 3)
- Against Oblivion, Experience of Truth and Justice Commissions, Monireh Baradaran, 2nd Edition, Winter 2011, Let's break the silence series
- Young people, a World Between Fear and Doubt, Winter 2011, Goftegu series
- Revisiting our Collective Memory, Winter 2011, Goftegu series
- Nothing Can be Said in Fifty Years (collection of poems), Homeira Nekhat Dastgirzada, Spring 2011, Simorgh series
- Discrimination and Political Participation of Women: Role of Education, 2nd Edition, Spring 2011 (Politis asia 4-5)
- The Past Enlightens the Future (a collection of interviews with victims and political personalities), Spring 2011, Let's break the silence series
- A Review of War Ruins (an exact account of war, Herat 1989), Rasoul Pouyan, Spring 2011, Let's break the silence series
- Justice for Women in War and Peace (international contributions), Spring 2011, Let's break the silence series
- Truth Seeking and the Role of Forensic Science, Physicians for Human Rights, Summer 2011
- From illiteracy to war, from war to illiteracy, Summer 2011, Goftegu series
- Writers without readers, readers without books, Summer 2011, Goftegu series
- Simorgh Stories, Selected Stories, Summer 2011, Simorgh series
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- A Handbook of Transitional Justice, A to Z, 2011, (Politis asia 8-9)
- Zeer o Bam, a Study of Traditional Music from Badakhshan, Heart and Badgis, 2011, Goftegu
- Federalism and Democracy, 2011 (Politis asia 10-11)
- Universal Declaration of Human Rights for Children and Adolescents, 2011



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