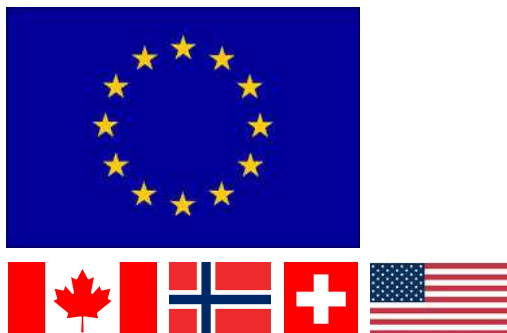




# **EU+ Local Strategy for Human Rights Defenders in Afghanistan 2014 – Revised 2016**



## Introduction to the strategy

Human rights defenders are those individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence.

The activities of human rights defenders include: documentation of violations; seeking remedies for victims of such violations through the provision of legal, psychological, medical or other support; developing and discussing new human rights ideas and principles and advocating their acceptance; promotion and education on human rights; and combating cultures of impunity, which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms.

This local strategy for Afghanistan is based on the European Union Guidelines on Human Rights Defenders<sup>1</sup>, and the EUSR workshop on human rights defenders held in Kabul on 1-2 October 2014.

The EU+ Local Strategy on Human Rights Defenders in Afghanistan 2014, which was revised in December 2016, is agreed upon by the EU and its Member States and Canada, Norway, Switzerland and United States.

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<sup>1</sup> [http://eeas.europa.eu/human\\_rights/guidelines/defenders/docs/16332-re02\\_08\\_en.pdf](http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf)

# 1. Situation of Human Right Defenders

## 1.1. Legislation in Afghanistan

Afghanistan has ratified all the major human rights conventions and its reservations and declarations to the conventions concern mainly the complaints procedures. Human rights, including the equality of men and women, are enshrined in the chapter two of the Afghan Constitution (2004), both at a national level and with reference to the international treaties ratified by the Afghan government. As a member of the United Nations Afghanistan should observe the UN Declaration on human rights defenders which was adopted by consensus by the UN General Assembly.<sup>2</sup>

Afghanistan lacks at present any legislative or otherwise codified measures, which offer specific protection for the human rights defenders (HRDs). Article 58 of the Constitution gives, however, the mandate to the Afghan Independent Human Rights Commission (AIHRC) to monitor, foster and protect human rights at national level. It also establishes complaint mechanism at the AIHRC, useable by each individual for violation of personal human rights. Violations of HRD's rights are, according to the binding and non-binding UN mechanisms, violations of human rights *per se*. Therefore, the AIHRC is competent in receiving and dealing with complaints related to HRDs. There are other existing legislations, mainly concerning freedom of expression and freedom of association and of peaceful assembly, which may have an impact on the HRDs.

In addition, the Law on Non-Governmental Organisations governs the modalities of the work of NGOs in Afghanistan and their relation with the Afghan government. The law requires national NGOs to register with the Ministry of Economy and the international NGOs to register with the Ministry of Foreign Affairs, but apart from a registration fee it does not pose major impediments to the work of NGOs, however, there is a draft proposal to change the NGO law, which might change this situation.

## 1.2. Enabling environment of the community of human rights defenders in Afghanistan

The continuing conflict in many parts of the country means limited access and continuous risks to the HRDs. Especially in the South, North and the East of Afghanistan the freedom of movement is restricted, and the space for HRDs is shrinking. HRDs not only face threats and violence from government entities, but also from armed opposition groups, Taliban, warlords, and organised crime. The impediments arising from the political and cultural reality of the country make the work of the HRDs a truly difficult and often dangerous challenge all over Afghanistan, where the general lack of adequate government protection and theoretical legal protection are of limited help.

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<sup>2</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.res.53.144.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.res.53.144.en)

HRDs suffer violations and abuses of the right to life, to freedom from torture and other cruel, inhuman or degrading treatment or punishment, to liberty and security of person, to freedom of expression and association, and to privacy and family life, as well as gender-specific violations. However, more subtle and often diffuse forms of violence also occur, like denial of medical care, education for the children, loss of housing, land or citizenship, or other types of social disqualification. During Taliban's takeover of Kunduz from 28 September to 13 October 2015 Taliban had prepared lists of names and addresses of HRDs, particularly women HRDs, and journalists and conducted targeted searches at their offices and homes. In October 2015, Taliban issued a statement naming particular media as "military targets" following their reporting on alleged violations by Taliban in Kunduz. In 2016, Taliban continued to issues statements threatening independent media.

In the current conservative and insecure environment, women HRDs<sup>3</sup> are in a particularly difficult situation: they are not only targeted for the work they do, but also for who they are and for challenging social and religious patriarchal norms, which may result in stigmatization, isolation and various forms of threats and violence.

There is little awareness of human rights among the people, and in a society where different variations of customary and religious law are the most common framework for justice, human rights are often seen as an alien, Western or non-Islamic concept. In this context, HRDs, including the AIHRC, face harassment and threats. The justice system is weak, and there is lack of knowledge of the Constitution and laws and of their correct interpretation, especially in many rural areas. Currently, most of the threat cases against HRDs are handled by the AIHRC<sup>4</sup>, though it is enjoying only a limited protection by the Afghan government and its commissioners are also regularly threatened. Police, prosecutors and courts fail to take threats against HRDs seriously, with few investigations and even fewer prosecutions and convictions for those threatening or attacking HRDs. Women HRDs attempting to report violations are stigmatised or even blamed for causing the violations themselves.

### **1.3. Assessment of the community of human rights defenders in Afghanistan**

The AIHRC is represented throughout the country with a number of offices. However, the AIHRC faces considerable constraints in movement and cannot access many of the areas where they are expected to monitor the human rights situation. In addition, at the forefront of the defence of human rights are several umbrella/network civil society organisations having regional/provincial offices as well.

The biggest networks include the Afghan Women Network (AWN), Civil Society and Human Rights Network (CSHRN) and Afghan Civil Society Forum (ACSF) with more than 120 member organisations in total. Smaller organizations with specific focuses are also becoming more and more active. Moreover a number of international human rights and legal aid

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<sup>3</sup> Women of all ages who engage in the promotion and protection of all human rights and fundamental freedoms and all people who engage in the defence of the rights of women and gender equality. (UN-GA Res 68/181).

<sup>4</sup> The AIHRC has established an Ombudsman Section dealing with human rights violations by security forces, based on an MoU signed in May 2016 between AIHRC, and the MoD, MoI and NDS.

organisations work in the country. Some of the bigger organisations work in the provincial capitals. However, there are local organisations and individuals committed to the defence of human rights throughout the country.

All HRDs face considerable threats and constraints in movement in some regions and cannot access some of the areas, where they are expected to monitor the human rights situation.

## **2. EU action to protect Human Rights Defenders**

### **2.1. The EU+ Human Rights and Gender Working Group (HRGWG)**

The EU+ countries (EU Member States, Canada, Norway, Switzerland and United States) have a strong human rights profile in Afghanistan. Most of the EU+, as well as EUSR/EUD, have dedicated staff on human rights: The Office of the EUSR has an Adviser on Human Rights and Gender, who serves as the focal point for human rights, including for contacts with HRDs. The EU Delegation (EUD) has an expert developing and monitoring the EUD projects and programmes in the areas of human rights and gender and civil society. Most of the 12 EU+ missions in Afghanistan have persons responsible for human rights and participate in the regular EU+ Human Rights and Gender Working Group Meetings (HRG WG).

Chaired by the Office of the EUSR, the HRG WG meets bi-weekly to share information on current issues and human rights cases, and to devise EU+ action when needed. The WG consist of EUSR/EUD, EU Member States, EUPOL, and Australia, Canada, Norway, Switzerland, UNAMA, UNICEF, UN Women, United States, RS/NATO and the AIHRC. Besides the meeting, EU+ missions and the EUSR/EUD constantly share information at the working level. Human rights and related issues are also often on the agenda of Heads of Missions (HoMs) meetings and in EU+ representatives' meetings with the Afghan leadership.

### **2.2. Promotion of Human Rights**

The EU+ provides political and financial support to a number of organizations working in the field of human rights and the EU+ has been playing an important role for promoting human rights and supporting human rights organizations in Afghanistan. As the EU+ presences in Afghanistan are known to have a human rights profile, the missions regularly receive information about pressing human rights cases and issues from victims and from those in the Afghan society working to defend human rights.

Apart from monitoring high-profile human rights cases and key human rights issues, the EUSR/EUD make efforts to regularly re-contact individuals, who have referred human rights cases to the EU+ and to follow developments that fall within the broad spectrum of human rights concerns that are of interest for the EU+. However, the cultural context needs to be taken into account here as well: information is often shared based on trust built by long-established personal relationships with EU+ personnel working in Afghanistan, rather than by the EU+ as an institution. It is therefore important to ensure handover and personal introductions of the incoming human rights officers to the key people to ensure continuity.

Besides the bi-weekly EU+ HRGWG meetings, where AIHRC is now a member, and where information on current cases and the situation of human rights defenders is shared, the EU has in January 2015 established an HRD emergency mechanism (see section 3.2.) and has also in June 2015 established an annual Afghanistan - EU Human Rights Dialogue between EU and the Afghan Government<sup>5</sup>.

### **2.3. Emergency Actions**

Given the low capacity of governmental, security and justice sector institutions in Afghanistan, HRDs especially in the insecure areas do take risks when engaging in individual cases or challenging the government or local leaders on accounts of patterns of abuse. It is therefore in the area of “emergency action” that the EU+ strategy for the HRDs is most needed. Confrontation with the Afghan government should not be avoided over issues, which directly impact on key human rights while efforts to promote democratic process suitable for the country and in line with its culture and traditions at the working level should also be supported by consistent high-level political support.

The EU+ therefore needs to be prepared to use swiftly all the tools at its disposal, ranging from quiet diplomacy at highest levels, via demarches to the Afghan authorities, to public actions such as trial monitoring and press releases, taking into account the particularities of each individual case and the consent of the individual HRD. In this regard, the EU+ missions in Afghanistan should agree upon a flexible mechanism of decision-making for action in urgent situations.

Moreover, the EU+ missions should have agreed or at least shared policies for action when a HRD faces a situation of imminent threat to his or her life. To this end, all EU+ missions should maintain a list of organisations to which the HRDs can be referred to, establish guidelines on giving practical support to the relocation of the HRDs in such situations – both inside and outside Afghanistan, and ultimately share information on policies or guidelines on granting asylum when needed.

## **3. Action Plan for promoting and protecting HRDs and their activities in Afghanistan**

On 1-2 October 2014 the EUSR's Office held a workshop on Human Rights Defenders with participation of local Afghan HRDs and representatives from EU+ Embassies as well as UN Women. The purpose of the workshop was to develop a coordinated strategy of support for HRDs, rooted in a local analysis of the challenges facing HRDs in Afghanistan, so that EU+ collaborate effectively regarding practical action e.g. urgent response, resources, monitoring/documentation, advocacy, funding, aid, security.

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<sup>5</sup> The second Human Rights Dialogue was held on 1 June 2016 regarding topics such as women's rights, children's rights, death penalty, torture and ill-treatment, access to justice, freedom of expression and socially vulnerable and/or persons with disabilities. The follow-up meeting to the dialogue was held on 30 November 2016.

### 3.1. EU+ Strategy on Human Rights Defenders

The EU+ Strategy on Human Rights Defenders in Afghanistan was approved by Heads of Missions (HoMs) on 16 and 20 November 2014 and publicised on Human rights Day 10 December 2014. The strategy was evaluated at a workshop on 1 February 2016 and revised in December 2016. The revised Strategy was approved by HoMs on 15 January 2017.

### 3.2. Protection mechanism

*HRD Emergency Mechanism:* The EU has in January 2015 established a Human Rights Defenders Committee<sup>6</sup>. Furthermore the EU is funding a program to support to HRDs, which has focal points in 18 provinces, who have established local networks of HRDs. The HRD Committee has been actively dealing with individual HRD cases as well as with coordination of support to HRDs fleeing the Taliban military advancement in Kunduz, Helmand, Uruzgan and Farah provinces in August to October 2016. The EU is also working on establishing a program with a secretariat for the HRD Committee in order to assist the HRD Committee in its work.

*Raise Awareness:* Raise awareness through publishing translated versions of the strategy as well as through advocacy with GIRoA. Establish regular meetings with HRDs and have individual meetings with HRDs in EU+ Embassies. Invite HRDs to functions and host Bi-monthly meetings with HRDs at the EUSR/EUD with guests from Parliament, GIRoA and the International Community in order to raise awareness of the work and conditions of the HRDs as well as monitoring the situation of HRDs and discussing action the EU+ could take.

*Advocacy for Presidential Decree on protection of HRD:* Advocate and provide technical assistance for the design and implementation of a national legal instrument embedding the UN Declaration and EU principles for protection of HRDs.

*Overview of Afghan human rights organisations and focal points in all provinces:* Compile a list of human rights organizations, and cross-check them with local networks and international ones. The focal points may disseminate information to HRDs, identify and monitor cases and forward information to the Afghan HRD Committee and EU+, as well as provide assistance to HRDs in acute danger.

*Visa for protection out of country:* As a last resort, facilitate, where appropriate, visa issuance and/or shelter for HRDs in accordance with national and EU Legislation and guidelines. To this end, the EU+ and Member States should agree on a process for providing swift assistance, including the issuing visas for HRDs under threat.

*Protection for HRDs at risk:* Contact to GIRoA (central, provincial or district) on individual cases, and conduct trial monitoring in prominent HR cases and cases involving HRDs, Visit HRDs in detention/prison and publish press statements + FB/Tweet.

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<sup>6</sup> The member organisations of the HRD Committee are: AWN, ACSFO, CSHRN, HAWCA, AWSDC, EPD (RWN), SAAJS, DQG, AWNA, AIHRC and EU participate as an observer without voting power.

*Emergency Funding:* The emergency fund for human rights defenders at risk managed under the EIDHR allows the Commission to give direct small grants of up to 10.000 euro per grant to Human Rights Defenders (HRD), who is in need of urgent support. This urgent support may for instance cover the fees for legal representation of defenders, cover medical expenses, or pay for evacuation of a HRD to another country. Requests to use the small grants mechanism or emergency facility for HRDs should be addressed to EUD, Kabul or to the EIDHR team [europaaid-eidhr@ec.europa.eu](mailto:europaaid-eidhr@ec.europa.eu) with information about the particular case to assist: name of the defender(s), background on the case(s), amount of grant requested, and for what purpose. The information received will be dealt with in confidentiality.

*HRD Database:* A HRD Database should be established and up-dated frequently. It should be considered, if the list in the database should be cross checked with local HRD networks.

### **3.3. Communication/Networking**

*EU Contact:* Contact details of EU focal point for HRDs are: Michael D. Pedersen, phone +93 (0) 790 489 941, mail: [michael.pedersen@ext.eeas.europa.eu](mailto:michael.pedersen@ext.eeas.europa.eu), which is posted on the EUD website, <http://eeas.europa.eu/delegations/afghanistan/>. The name and contact details of the EU focal point for HRDs will be kept updated.

*Networking and Outreach:* First Bi-Monthly HRD Meeting was held on 15 December 2014. The network has been utilized to share information on the security situation in Afghanistan and on individual HRDs. It has also been used for approving rules for the HRD Committee and to obtain comments on topics for the Afghanistan – EU Human Rights Dialogue as well as other topics.

*Early warning:* Assess the possibility of developing early warning systems, especially at sub-national level, which also should be the basis for information sharing on HR-cases.

### **3.4. Capacity building**

*Training of HRDs:* Allow HRDs to make use of EU+ facilities to hold human rights training programmes or similar activities. Include security training of HRDs in EU+ funded human rights projects.

### **3.5. UN Special Rapporteur on human rights defenders.**

The EU has as part of the Afghanistan – EU Human Rights Dialogue advocated with the Afghan Government (MoFA) for an invitation for a country visit of the UN Special Rapporteur on human rights defenders. The Afghan Government sent an invitation in the end of May 2016 to the Special Rapporteur to visit Afghanistan in 2017.