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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

### Technical assistance and capacity-building

## Situation of human rights in Afghanistan

### Report of the Special Rapporteur on the situation of human rights in Afghanistan\*

#### *Summary*

The present report is the first submitted by the recently appointed Special Rapporteur on the situation of human rights in Afghanistan. It contains a reflection on developments since 15 August 2021, when the Taliban took power, including discrimination and violence against women, conflict-related violations and restrictions on freedom of expression, association and peaceful assembly, economic, social and cultural rights, and administration of justice. The report also contains an introduction to the Special Rapporteur's vision and priorities for his mandate.

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\* The present report was submitted after the deadline so as to include the most recent information.



## **I. Introduction**

1. The present report, submitted pursuant to Human Rights Council resolution 48/1, outlines human rights developments in Afghanistan since the fall of the Islamic Republic of Afghanistan, on 15 August 2021, until July 2022.
2. The Special Rapporteur assumed his duties on 1 May 2022 and conducted his first mission to Afghanistan from 15 to 26 May 2022. He expresses his appreciation to the de facto authorities for their cooperation during the visit, including by meeting him at a senior level, providing access to the territory, places of detention and education and medical facilities. He is encouraged by the willingness of the de facto authorities to exchange views and looks forward to ongoing dialogue. During his mission, the Special Rapporteur also met representatives of civil society, including women's groups, representatives of minority communities, persons with disabilities and children, to whom he is grateful.
3. The Special Rapporteur has engaged with United Nations and other agencies and a broad range of States and has held over 100 meetings with more than 1,000 stakeholders. He has participated in online and in-person events, including speaking on behalf of the Coordination Committee of Special Procedures at the urgent debate on the situation of women and girls in Afghanistan held at the fiftieth session of the Human Rights Council. He also met representatives of the Government of Qatar in Doha and representatives of the Afghan diaspora in Istanbul, Türkiye.
4. The present report contains information received by the Special Rapporteur and collected during his missions. The information used in the report has been determined to be credible and has been verified, where possible using multiple sources. The report comprises an initial assessment of the situation; specific human rights issues will be given more detailed attention in future reports. The Special Rapporteur integrates a gender perspective and a survivor-centred approach throughout the report, anonymizing sources of information about alleged human rights violations where necessary.

## **II. Vision and priorities for the mandate**

5. The Special Rapporteur takes the opportunity of this initial report to express views about the potential for the implementation of the mandate.
6. The Special Rapporteur's first responsibility is to report on the developing situation of human rights and to make recommendations to improve it, which is the principal objective of the current report. He will continue to report regularly on the human rights situation in Afghanistan, including through public statements and remarks. He envisages undertaking research on thematic issues, working closely with leading think tanks and research and academic institutions, tabling conference room papers at the Human Rights Council and engaging with other United Nations human rights mechanisms to ensure that the situation of Afghanistan continues to be kept high on the political and human rights agendas.
7. Noting that the mandate includes the responsibility to seek, receive, examine and act on information pertaining to the situation of human rights in Afghanistan and that expertise is to be provided, in particular for fact-finding and other areas, including forensics, the Special Rapporteur considers that his mandate includes an important accountability component and plans to take this forward. He notes that his mandate includes assisting in fulfilling the human rights obligations arising from international treaties that Afghanistan has ratified. This includes the obligations of States to investigate, prosecute and punish serious human rights violations. Integrating a survivor-centred approach throughout the work of the mandate may include prioritizing the right to an effective remedy, as set out in article 2 of the International Covenant on Civil and Political Rights. Further context is provided in Human Rights Council resolution 48/1, in which the Council reiterated the urgency to initiate prompt, independent and impartial review of or investigation into all alleged violations and abuses of human rights and violations of international humanitarian law to end impunity, ensure accountability and bring perpetrators to justice.

8. The Special Rapporteur proposes to work with the de facto authorities and other Afghan stakeholders for the promotion and protection of human rights and to support them in the implementation of recommendations from the United Nations human rights mechanisms, including the treaty bodies and the universal periodic review and in the context of the Sustainable Development Goals.

9. The Special Rapporteur plans to continue to undertake human rights advocacy with the de facto authorities, emphasizing both their international legal obligations and the social and economic benefits that accrue for the whole of society through the fulfilment of human rights and development goals. He will continue to raise the responsibilities arising from international treaties that Afghanistan has ratified, while offering assistance to implement recommendations.

10. The Special Rapporteur plans to work with and complement other United Nations mechanisms, including the United Nations Assistance Mission in Afghanistan (UNAMA) and United Nations entities present in Afghanistan. He will continue to engage closely with civil society, both in Afghanistan and abroad, recognizing its central role in long-term stability and development. In particular, he supports the critical role of human rights defenders, especially women, in promoting and protecting human rights. He will continue to examine and act on allegations of human rights violations and abuses, including collecting and preserving information with the aim of holding perpetrators to account.

11. The Special Rapporteur will utilize the communications procedure to share individual complaints and issues of concern with the de facto authorities. His office has begun translating his reports, statements and other communications into local languages, and hopes that States will look positively on requests for resources to continue this practice.

### III. Background

12. On 15 August 2021, the Taliban took control of Kabul, after rapidly gaining control over many provincial capitals. During an international evacuation operation, there was chaos at Kabul International Airport, which was attacked on 26 August, killing 183 people. On 29 August, a family of 10, including seven children, were killed by an airstrike in Kabul by the United States of America.<sup>1</sup> By 30 August 2021, international forces had withdrawn. On 6 September 2021, the Taliban captured Panjshir Province, long a site of resistance to the Taliban, and declared complete territorial control over Afghanistan.

13. The Taliban declared the Islamic Emirate of Afghanistan, the title used when they controlled the country between 1996 and 2001. The Taliban's Emirate is led by an amir, also known as the Supreme Leader, who has absolute authority over all matters: religious, political and military.

14. On 7 September 2021, the Taliban announced an all-male, predominantly Pashtun, caretaker cabinet and other key positions at the national and provincial levels. Appointees are Taliban affiliates, many of whom are on the Security Council ISIL (Da'esh) and Al-Qaida sanctions list and the sanctions lists of individual States. The administration is not recognized by the United Nations and as such is referred to as the de facto authority in the present report.

15. Although the Taliban have repeatedly claimed that their administration is inclusive, it lacks gender, ethnic, religious, political and geographical diversity. The grand assembly of 4,500 religious scholars and clerics held in Kabul from 30 June to 2 July 2022 was a further missed opportunity to establish an inclusive political process. The all-male assembly was devoid of diversity and achieved little more than reaffirming support for the de facto authorities.

16. In March 2022, the de facto cabinet approved the establishment of the Repatriation and Connection Commission, aimed at persuading senior figures to return to Afghanistan.<sup>2</sup>

<sup>1</sup> Sandi Sidhu and others, "Ten family members, including children, dead after US strike in Kabul", CNN, 31 August 2022.

<sup>2</sup> Najibullah Lalzoy, "Taliban establishes Commission to invite Afghan figures in exile", Khaama Press, 16 March 2022.

While this scheme holds promise as a step towards reconciliation, factors discussed below, including extrajudicial executions and the failure to uphold an amnesty announced on 17 August, suggest that it will not yield sufficient results in the absence of an inclusive and representative administration.

17. The de facto authorities have suspended the Constitution and dissolved independent oversight mechanisms and institutions, including the Afghanistan Independent Human Rights Commission, both houses of parliament, the Electoral Commission and the ministries of women's affairs, parliamentary affairs and peace.

18. Afghanistan is experiencing a complex economic crisis, with natural disasters exacerbating the humanitarian emergency that began prior to the Taliban takeover. Real gross domestic product per capita declined 34 per cent between the end of 2020 and the end of 2021.<sup>3</sup> Afghanistan received enormous international support over two decades, driving human development gains from among the worst in the world to around the average for a country at its income level. After the Taliban takeover, the Afghan economy almost collapsed as international support halted. This was exacerbated as the now Taliban-controlled Central Bank of Afghanistan has been cut off from the international banking system, including access to the country's foreign currency reserves.

#### **IV. Application of the international legal framework**

19. The de facto authorities have effective control over the country and therefore are responsible for fulfilling the obligations emanating from the international human rights and humanitarian treaties to which Afghanistan is a party, regardless of whether there is recognition of a formal change of government.

20. In meetings with the Special Rapporteur, the de facto authorities acknowledged that, from their perspective, the great majority of international human rights norms were compatible with their understanding of sharia and that they were committed to the country's international obligations. The Special Rapporteur urged them to fully implement the human rights standards that Afghanistan had freely accepted, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the Rome Statute of the International Criminal Court.

#### **V. Observations on the human rights situation**

##### **A. Situation of the human rights of women and girls**

21. The Special Rapporteur expresses grave concern about the staggering regression in women and girls' enjoyment of civil, political, economic, social and cultural rights since the Taliban took power. In no other country have women and girls so rapidly disappeared from all spheres of public life, nor are they as disadvantaged in every aspect of their lives. Despite this, women and girls remain at the forefront of efforts to maintain their rights and continue to call for accountability. One woman who the Special Rapporteur met in Kabul said: "Afghan women know what it means to be resilient and strong, we have endured pain and hardship for years during the conflict, we have buried our sons and daughters, but the pain and fear we feel today for ourselves and our daughters' futures, while feeling forgotten by the international community, is a pain much worse."

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<sup>3</sup> World Bank, "Towards economic stabilization and recovery", Afghanistan Development Update (April 2022).

22. The Special Rapporteur notes that women in Afghanistan have faced severe discrimination throughout history. Nonetheless, in the past two decades, Afghanistan took important steps towards realizing the human rights of women and girls. These include enshrining women's rights and gender equality in the 2004 Constitution and other laws, including the Law on Elimination of Violence against Women, ratifying the Convention on the Elimination of All Forms of Discrimination against Women and establishing the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission and specialized victim support services and accountability mechanisms for gender-based violence. Noteworthy progress was made in women and girls' education, health and participation in public affairs. The Special Rapporteur is deeply concerned about the virtual erasure of women from all areas of public life. Women held parliamentary seats, ministerial and diplomatic posts and senior offices, including as judges and chairs of independent commissions before the Taliban takeover. None remain in these positions.

23. The de facto authorities assert that women's rights are protected under sharia; however, measures taken thus far generate concern about what this means in practice for women and girls. The suspension of the 2004 Constitution and the review of all laws throw women's legal status into question. The dissolution of specialized courts for women and the de facto authorities' unwillingness to let female judges serve is adversely affecting women's access to justice.

24. The Special Rapporteur is deeply concerned about numerous evolving rules that are affecting women and girls' rights. Examples include suspending girls' secondary education, enforcing mandatory hijab wearing, stipulating that women must stay home unless necessary, banning women from undertaking certain types of travel without a close male family member (*mahram*), revoking female lawyers' licences and demanding that women not wear coloured attire. Of particular concern is the decree that male family members are punishable for women's conduct, effectively erasing women's agency and prompting increased domestic abuse: "The Taliban have affected even our normal, educated men, and changed their minds and behaviour", the Special Rapporteur heard. With the exception of one decree issued on 28 December 2021 (forbidding forced marriage, declaring that widows have inheritance rights and the right to a dowry in a new marriage, and asserting that the de facto courts will consider applications involving women), these directives violate the rights of women and girls. The increasing constraints on women's freedom of movement significantly affect their ability to access health care and education, earn a living, seek protection and escape situations of violence. Cumulatively, they have a deep impact on the mental health of women and girls, creating a sense of hopelessness.

25. Notwithstanding these discriminatory measures, even in the face of threats, detention and violence, Afghan women continue non-violent protest and resistance; they need support. One woman who the Special Rapporteur met in Kabul said "We will keep our head high, we do not deserve to be imprisoned in our homes, without work or education; we will keep raising our voices until we are heard. We will keep fighting for our rights and dignity."

## 1. Education

26. Between 1996 and 2001, when the Taliban were in power, schools were closed to girls. Despite their pledge to allow all Afghan girls to return to school after 21 March 2022, they announced two days later that girls' secondary schools would remain closed until policies and uniforms followed principles of Islamic law and Afghan culture. The Special Rapporteur notes with grave concern that this prohibits girls from attending secondary schools. Girls' secondary schools are closed in 24 of 34 provinces, preventing about 850,000 girls from attending school.

27. Tertiary education remains open for women; however, there are reports that women are not permitted to go to classes taught or attended by men, thereby reducing their educational opportunities significantly. Without girls graduating from secondary school, tertiary education for women will soon be unlikely.

28. A young woman who the Special Rapporteur met expressed her frustration: "During the last months, I wake up with tears. I tell myself this is a nightmare because the future looks darker every day. I had dreams to study finance and open my own clothing business. I wanted

to travel to many countries and learn from them and bring this knowledge back to Afghanistan. From one day to another, my and my friends' lives and dreams were hijacked. I want the international community to remember that, without them, we, the girls of Afghanistan, can never win this battle, alone."

29. The Special Rapporteur stresses that legislation discriminating against individuals or groups on any prohibited ground, including sex, in the field of education violates article 10 of the Convention on the Elimination of All Forms of Discrimination against Women and article 13 of the International Covenant on Economic, Social and Cultural Rights, by which the *de facto* authorities are bound. Education, which must be of good quality for not only girls but also boys, is an indispensable means of realizing other human rights and has a lifelong and multifaceted impact on women and society as a whole.<sup>4</sup>

30. The Special Rapporteur is impressed by the determination of the young Afghan women he met during his visit who made it clear that they were determined to continue studying despite the restrictions and the accompanying pressure to abide by conservative gender roles.

## 2. Child marriage

31. Children's rights organizations in Afghanistan have reported a sharp increase in child marriage due to the worsening economic and humanitarian crisis and lack of educational and professional opportunities for girls and women. A group of younger women told the Special Rapporteur about the increased pressure to marry young, especially in female-headed households, as livelihood and educational opportunities had evaporated. The Special Rapporteur was told that girls were being forced to marry members of the Taliban as a safety measure for families.

32. The Special Rapporteur notes with concern the reported surge in child marriage and the lack of a legal framework to prohibit it. While welcoming the decree, issued in December 2021, that bans forced marriage, he regrets that it falls short of setting a minimum age for marriage. The Special Rapporteur notes with concern that a girl under the age of 15 may be married under the Shia Personal Status Law provided that her guardian proves her competency, puberty and readiness for that marriage.

## 3. Violence against women

33. The Special Rapporteur is gravely concerned about the high levels of violence against women and girls, including domestic violence, the collapse of mechanisms for victims to seek protection, support and accountability, and the use of the informal justice system to deal with such cases. The *mahram* policy makes it harder for survivors of gender-based violence to seek help. Ongoing stigmatization and penalization of victims contribute to underreporting. Women and girls with disabilities face increased challenges to seeking help.

34. One woman told the Special Rapporteur: "Violence against women has always existed in Afghanistan; however, before we had a place to go: we had the Afghanistan Independent Human Rights Commission, special courts, the shelters, and now it is all vanished. We are left alone to fight for justice and safety."

35. The Special Rapporteur met with women human rights defenders who had been harassed, detained and ill-treated for peaceful protest. Others have been victims of violence, enforced disappearance, ill-treatment or torture. To be released from detention, some had had to make video confessions or declare in writing that they would not engage in any activities seen as harmful to the authorities and had their identity documents confiscated. Consequently, some stopped their activities or left the country due to fears for their safety and that of their families.

<sup>4</sup> Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999).

36. The Special Rapporteur is alarmed at reports that a high number of women have died by suicide in 2022.<sup>5</sup> The Special Rapporteur calls for an urgent study into this, matched by remedial measures.

#### **4. Right to work and livelihood**

37. The right to work, being the opportunity to gain a living by freely chosen or accepted work, is enshrined in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women. States parties are obligated to ensure the right to work without discrimination.

38. The restrictions on Afghan women are disproportionately affecting their ability to sustain themselves, thereby further diminishing their enjoyment of other basic rights. In early 2021, about 17,369 women-owned businesses were creating over 129,000 jobs, over three quarters of which were held by women, and many more unregistered women-owned businesses operated in the informal economy.<sup>6</sup> By March 2022, 61 per cent of women had lost their jobs or income-generating activities; the current restrictions are estimated to have contributed to an immediate economic loss of between \$600 million and \$1 billion (about 3–5 per cent of GDP).<sup>7</sup> In the informal sector, women can no longer take products to market due to movement restrictions and the closure of many women's markets. Women who continue to work often face harassment and abuse. The Special Rapporteur underscores the importance of space for female entrepreneurs and workers, who are pivotal to the economy.

39. Women have been excluded from the de facto justice system. Previously, 265 of 1,951 judges were female, female prosecutors worked in 32 out of 34 provinces and a fifth of defence counsel were women. Female civil servants, except those doing jobs in health, security and education that cannot be carried out by men, were directed to stay home until conditions enabled them to return to work in accordance with sharia, although their male counterparts were called back. On 19 July 2022, the de facto Ministry of Finance tweeted that women were asked to nominate a male family member to replace them, in order to reduce the volume of work and speed things up, but that this was voluntary. Some female public servants met by the Special Rapporteur said that they had reported to work but were told to stay at home. Some were told that they would continue to be paid if they signed an attendance sheet. However, several women said that they had not been paid, and believed that they no longer had a job. When they tried to speak to the administration, women were told to communicate their concerns through male family members.

## **B. Economic, social and cultural rights**

### **1. Poverty and food insecurity**

40. Access to livelihoods and food security is increasingly precarious due to drought, rising commodity prices, reduced incomes, supply chain disruptions, decreased supplies caused by conflicts, including the war in Ukraine, and insufficient donor support. An Afghan former employee of an international non-governmental organization told the Special Rapporteur: "Without jobs, money and with a steep increase in the food, electricity and petrol prices, we cannot live, our children will starve and we have no means to provide for them, more than begging for help on the streets."

41. The World Food Programme and the Food and Agriculture Organization of the United Nations warn that by November 2022, 18.9 million people – nearly half the population – are estimated to face acute levels of food insecurity. The Office for the Coordination of

<sup>5</sup> UN News, "In Afghanistan, women take their lives out of desperation, Human Rights Council hears", 1 July 2022.

<sup>6</sup> Matthew P. Funairole, "Women-owned businesses in Afghanistan are in jeopardy", Center for Strategic and International Studies, 10 September 2021.

<sup>7</sup> United Nations Development Programme, "Afghanistan: socio-economic outlook 2021–2022: averting a basic needs crisis", Advance ed. (2021).

Humanitarian Affairs estimates that 4.7 million people will suffer from acute malnutrition due to food insecurity in 2022, an increase of 21 per cent from 2021.<sup>8</sup>

42. Afghan women and children and female-headed households are disproportionately affected by food insecurity. In June 2022, the World Food Programme assessed that 1,078,804 children under the age of 5 had severe acute malnutrition, 2,807,452 children had moderate acute malnutrition and 836,657 pregnant and lactating women had acute malnutrition.<sup>9</sup> The Special Rapporteur asked a group of children aged 7–10 about their main concern when they woke up; one responded: “Food. The whole day I think about how I can find a job or make some money to buy food for my family. I am scared that we will not have food in the future.”

## 2. Health

43. Dependent on foreign aid for 20 years, the health-care system is in a precarious state. In August 2021, services were disrupted as major funding was withdrawn, suspended or partially rerouted to avoid benefiting the new regime. Medicine and medical equipment are lacking.

44. Women and children face additional challenges accessing health care due to restrictions on mobility, high medical costs and an insufficient number of female health-care workers.

45. The de facto authorities informed the Special Rapporteur of their concern about drug addicts and say that many have been taken to rehabilitation centres. However, it has not been possible to monitor the conditions in those centres or whether the programme is successful. There are concerns that people are not treated in accordance with professional standards, with reports that they live as detainees for three months with no medical treatment and are then discharged without support.

## 3. Maximum available resources

46. The de facto authorities are responsible for the realization of economic, social and cultural rights to the maximum of their available resources, including through domestic and international cooperation, under the International Covenant on Economic, Social and Cultural Rights. In May 2022, the authorities announced their first annual national budget, reportedly comprising expenditure of 231.4 billion afghanis and domestic revenue of 186.7 billion, i.e. a deficit of 44 billion afghanis (\$501 million). Revenues are reportedly mainly coming from tax collection.<sup>10</sup> While revenue collection is in principle a positive step, the lack of transparency about the taxation system and fiscal policy is concerning.

47. The Special Rapporteur notes with concern that a lower proportion of the budget is reportedly allocated to basic services compared with the proportion allocated for military and security purposes. This does not comply with the State’s obligations to use the maximum available resources to realize economic, cultural and social rights. The allocation may also not align with the principles upon which religious taxes are collected, notably to assist the poor and needy.

48. Despite the humanitarian exemption included in Security Council resolution 2615 (2021), its application by the relevant international actors raises serious questions as it appears to contribute to the humanitarian crisis.

49. Humanitarian access continues to be impeded: between 1 January and 23 May 2022, there were 185 incidents of interference in humanitarian activities, compared with 138 during the same period of 2021. Female aid workers have also reportedly been threatened and intimidated by local de facto authorities.<sup>11</sup> In their response to the present report, the de facto

<sup>8</sup> World Food Programme, “WFP Afghanistan: situation report” (19 July 2022).

<sup>9</sup> *Humanitarian Needs Overview: Afghanistan* (Office for the Coordination of Humanitarian Affairs, 2022).

<sup>10</sup> Thematic policy research paper entitled “Bleeding us dry”, received from Afghanistan Human Rights and Democracy Organization.

<sup>11</sup> [A/76/862-S/2022/485](#).



authorities claimed that human rights observers and humanitarian activists had been granted access to all their desired locations. The Special Rapporteur is alarmed by multiple accounts from Afghans he spoke to that aid was not consistently reaching those most in need, that there was corruption in the system and that aid was sometimes being diverted by the Taliban. The Special Rapporteur stresses the duty of the de facto authorities and the international community to ensure that international assistance reaches the most marginalized and disadvantaged people in the country without hindrance and discrimination. The Special Rapporteur welcomes the establishment of the Afghan Women's Advisory Group to advise the humanitarian country team and encourages strengthening it.

#### 4. Cultural heritage

50. Since 15 August 2021, deliberate damage to cultural heritage has been reported, affecting Afghans' access to such heritage and contributing to the deterioration of the country's cultural diversity, social cohesion and creative economy. Incidents include the partial destruction of a wall of the Bala Hisar castle, excavations and illegal constructions on cultural sites such as Gholgola city and Lashkari Bazar and on archaeological sites in Zargar Tepe. However, other reports indicate that some historical sites and artefacts are being preserved and restored. Artistic images and artefacts, including murals, and musical instruments have been destroyed at the Afghanistan National Institute of Music. Musicians and artists have been subjected to public shaming and penalties, including lashing, slapping and harassment, forcing many to flee the country or go into hiding. The Special Rapporteur emphasizes that preservation of cultural heritage is key to avoiding ethnic tensions, threatening the country's already fragile security situation.

### C. Conflict-related human rights violations

51. Conflict between de facto security forces and the self-identified National Resistance Front continues to result in significant suffering and violations of international humanitarian and human rights law, especially in Panjshir Province and the Andarab district of Baghlan Province. The Special Rapporteur has received reports of civilians being subjected to arbitrary arrest, extrajudicial killings and torture in those areas, some amounting to what appears to be collective punishment. Some civilians have been tortured to death, while others were summarily executed or held incommunicado in unknown locations. The de facto forces regularly conduct house-to-house searches in residential areas, often accompanied by abuses and violence, targeting neighbourhoods, including in Kabul and northern cities, and punishing residents for their alleged involvement with the National Resistance Front. In addition, the de facto authorities regularly impose movement restrictions at night, negatively affecting farmers' livelihoods as they are unable to irrigate their lands or move livestock. While the conflict has not significantly expanded to other parts of the country, the risk of intensification of armed hostilities is high, as is its impact on the right to life and physical integrity of civilians.

52. The Special Rapporteur received reports of violence against civilians in Balkhab district, Sari Pul Province, during clashes between de facto forces and armed men loyal to Maulawi Mehdi, a Hazara Taliban commander who came into conflict with the leadership. The clashes caused civilian casualties and destruction of private properties and businesses. Some reports have confirmed 12 summary executions of civilians; 10 were carried out by de facto forces and 2 by forces loyal to Maulawi Mehdi. Other reports have documented a much higher number of civilians killed, as well as the alleged killing of fighters *hors de combat*. There are strong suggestions that the killings by the Taliban were motivated by ethnic prejudice. This is of great concern and further investigation is needed. According to the Office for the Coordination of Humanitarian Affairs, at least 27,000 people were displaced following the fighting.

53. Increasing activities and attacks by Islamic State in Iraq and the Levant- Khorasan (ISIL-K), which continues to primarily target civilians of the Shia religious community, remain a cause for serious concern. For instance, in April 2022, attacks in Balkh and Kunduz Provinces resulted in over 100 civilian casualties. On 20 June 2022, in Nangarhar Province,

an explosive device attached to the vehicle of the de facto head of Ghani Khel District Hospital was detonated, killing at least 32 civilians and wounding 32 others.

54. The Special Rapporteur believes that extrajudicial killings, arbitrary detention, torture and ill-treatment, denial of due process and fair trial rights, forced displacement, collective punishment and severe deprivation of liberty of populations have taken place and stresses that all parties to the conflict have obligations to prevent violations of international humanitarian and human rights law.

#### **D. Reprisal killings**

55. The Taliban announced a general amnesty for Afghan National Defence and Security Forces members and other officials; this could be an important step towards national reconciliation, but there are serious flaws in its implementation. The Special Rapporteur is alarmed about reports of ongoing extrajudicial and reprisal killings and enforced disappearances of Afghan National Defence and Security Forces members and officials by the Taliban.

56. The United Nations and international human rights organizations have documented the killing of hundreds of Afghan National Defence and Security Forces members and government personnel or their family members since 15 August 2021. UNAMA recorded 160 extrajudicial killings of former Afghan National Defence and Security Forces members and governmental officials by the de facto authorities between 15 August 2021 and 15 June 2022. Residents of Nangarhar and Kunar Provinces reportedly discovered over 100 bodies of men dumped in canals and other locations.<sup>12</sup> The number killed is likely much higher, as family members of victims are often reluctant to make a report for fear of retribution. There are concerns that the de facto authorities use attacks against its forces as a pretext to summarily kill former Afghan National Defence and Security Forces members and those perceived to be affiliated with ISIL-K. The Special Rapporteur notes that international human rights and humanitarian law prohibit summary executions and other forms of mistreatment and enforced disappearances and is concerned that these killings are increasing the atmosphere of animosity. He calls upon the de facto authorities to enforce the general amnesty and hold responsible those involved in the killing, disappearance and mistreatment of Afghan National Defence and Security Force members and other officials.

57. Since taking power, the de facto authorities have been waging a war against ISIL-K. In June 2022, the grand assembly of religious scholars and clerics in Kabul declared ISIL-K a rebellious and seditious group and also declared that any support for and affiliation with it was religiously forbidden. There are serious concerns about the campaign against ISIL-K, which has allegedly relied heavily on arbitrary detention, extrajudicial killings and enforced disappearances of their alleged members and supporters. The de facto forces have instituted night raids, house-to-house searches and arrests of individuals suspected of supporting ISIL-K; they have failed to afford due process rights to those in custody. There are allegations that, in Nangarhar, Afghan National Defence and Security Forces members were targeted under the pretext that they were ISIL-K fighters.

#### **E. Conditions of detention and treatment of prisoners**

58. The Special Rapporteur has received testimonies alleging torture and other cruel, inhuman or degrading treatment in detention. Several individuals who spoke to him were victims of arbitrary arrest; they were not informed of charges and were denied contact with their families and legal counsel. One man said that the Taliban “came armed into my house in the middle of the night; they took me to a ‘room’ outside the city. I asked them not to hurt me and I asked repeatedly why they do this. I was told I have insulted the authorities and my religion. I told them this must be a mistake and then it started. They brought rubber bands to tie my hands. They hit me with electricity cables, all parts of my body. I passed out on the

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<sup>12</sup> Human Rights Watch, “Afghanistan: Taliban execute, ‘disappear’ alleged militants”, 7 July 2022.

floor. I do not know how many days I stayed. It happened a few more times then I was released. I could not walk for weeks due to the pain.”

59. Accounts described kicking, punching, slapping, beatings with cables, sticks and pipes, tools and electric shocks to sensitive body parts. In some instances, individuals, including women, were subject to public flogging and shaming or held in private prisons. On 31 May 2022, de facto intelligence officials arrested a shepherd in Panjshir Province for alleged affiliation with the National Resistance Front; his body was delivered to his family on 2 June 2022, bearing marks of severe beating with sticks and metal rods and of electric shocks. The Special Rapporteur has documented similar harrowing accounts from elsewhere and is concerned that the de facto authorities have not undertaken a prompt, effective and impartial investigation into allegations of torture and that those responsible are not being transparently held to account.

60. While torture was prevalent in Afghanistan prior to the takeover by the Taliban, the number of incidents and types of torture appear to have worsened under the Taliban. Prisoners lack legal safeguards and protection and the de facto authorities have not promulgated laws and procedures that prohibit torture. However, in January 2022, a code of conduct on system reform relating to prisoners was introduced that prohibits torture throughout arrest, transfer or detention, and provides for punishment for those who commit torture.<sup>13</sup>

61. The alleged existence of private prisons remains a cause for serious concern. Credible reports suggest that senior de facto officials have established private places of detention where individuals, including human rights defenders and journalists, some of whom served or had connections with the Republic are held, tortured and sometimes killed.

62. During his visit to Sarposha Prison in Kandahar Province, the Special Rapporteur noted poor conditions, including overcrowding and inadequate access to water, sanitation, sufficient and quality food and medical services. Of particular concern was the situation of juveniles, women and their accompanying children. An inadequate budget was stated as a major cause of the poor conditions and the inability to maintain minimum standards. The Special Rapporteur was informed of many people in prolonged pretrial detention, mainly detained by the de facto Ministry of the Interior and General Directorate of Intelligence.

## **F. Ethnic and religious minorities**

63. Afghanistan is home to a number of ethnic and religious minorities, with diverse cultural, linguistic and traditional values. While Islam remains the country’s main religion, with Muslims comprising over 95 per cent of the population, other religious groups such as Sikhs, Hindus, Jews and Christians have lived there for centuries. Due to repressive policies, religious persecution, conflict and intolerance, most non-Muslim Afghans began to flee in the 1990s, during a time when religious communities faced serious risk of harm and persecution and were forced to practise their faith in hiding for fear of reprisals.

64. The Special Rapporteur is seriously concerned about the situation of minorities since August 2021. Their places of worship and educational and medical centres have been systematically attacked and their members have been arbitrary arrested, tortured, summarily executed, evicted, marginalized and, in some cases, forced to flee the country.

65. Hazaras, who are overwhelmingly Shia, are historically one of the most severely persecuted groups in Afghanistan. They are subjected to multiple forms of discrimination, affecting a broad spectrum of human rights, including economic, social and cultural rights. The Taliban have appointed Pashtuns to senior positions in government structures in Hazara-dominated provinces, forcibly evicted Hazaras from their homes without adequate prior notice and imposed religious taxation contrary to Shia principles. There are reports of arbitrary arrests, torture and other ill-treatment, summary executions and enforced disappearances. There are also reports of an increase in inflammatory speech, both online and in some mosques during Friday prayers, including calls for Hazaras to be killed. The

<sup>13</sup> UNAMA, *Human Rights in Afghanistan: 15 August–15 June 2022*, p. 37.

Special Rapporteur has received submissions and representations from Hazaras regarding their ill-treatment and exclusion.

66. In May, the Special Rapporteur visited the Se Dokan Mosque in Mazar-e Sharif and the Sayed ul Shuhada and Abdul Rahman Shahid schools in Dasht-e Barchi, Kabul, all of which were attacked by ISIS-KP in 2021 and 2022. The attack on Sayed ul Shuhada school on 8 May 2021 killed 85 people, most of them Hazara schoolgirls aged between 11 and 17. One survivor told the Special Rapporteur: “We had finished school and were going home, and suddenly I heard an explosion, I fell to the floor, my ears were hurting, then I realized that I was bleeding, and I saw my friends not moving, I cried. I did not see anything, I only heard screams. I tried to find my way out when the second bombing took place. I will never forget this day. I was scared to go to school for a long time. Why can’t we just be left alone to learn, we are children and we have never hurt anyone.”

67. These attacks, frequently claimed by ISIL-K, and the historical persecution of Hazaras and other minorities noted above, appear to be systematic in nature and reflect elements of an organizational policy, thus bearing hallmarks of international crimes, including crimes against humanity. The de facto authorities have a duty to protect the whole population of Afghanistan. This includes safeguarding schools, places of worship and other locations frequented by of ethno-religious minorities against attacks.

68. In September 2021, the last member of Afghanistan’s Jewish community was forced to flee the country.<sup>14</sup> The population of Hindus and Sikhs has also declined dramatically over the years, reportedly bringing their numbers to under 50 in 2022 from about 7,000 in 2016.<sup>15</sup> While successive Afghan authorities are responsible for this forced migration, the Taliban and ISIL-K bear the brunt of responsibility for their historical intolerance, rejection of religions other than Islam, restrictions on their religious practices and failure to protect them.

69. The current administration lacks religious and ethnic diversity. Except for a couple of senior posts granted to ethnic Hazaras, which appear symbolic in nature, religious and ethnic minorities are absent from the administration and decision-making processes. During the previous administration, Hazaras were represented in senior positions all three branches of the Government, including at the vice-presidential level. Sikhs and Hindus had representatives in the legislative bodies, enabling them to participate in political and decision-making processes. Experiences elsewhere have shown that durable peace and reconciliation requires an inclusive administration, represented by all political, religious and ethnic groups.

70. The Special Rapporteur is seriously concerned about the systematic attacks and broader discrimination and is committed to advocating for and pursuing an investigation leading to justice and preventing future persecution.

## **G. Other groups of particular concern**

### **1. Children**

71. The Special Rapporteur is greatly concerned about the situation of children. In addition to restrictions to the right to education, the effects of the economic hardship and humanitarian crisis are magnified for children, whose basic needs are not being met. According to a recent needs assessment, 45 per cent of girls and 36 per cent of boys reported that their family could not provide for their basic needs.<sup>16</sup> Children are suffering from hunger at alarming rates: 9.6 million children in Afghanistan are going hungry every day and 9.2 million children are projected to face high levels of acute food insecurity between June and November 2022.<sup>17</sup> Many families are utilizing harmful coping strategies, including the

<sup>14</sup> Associated Press, “Last member of Afghanistan’s Jewish community leaves country”, *The Guardian*, 8 September 2021.

<sup>15</sup> Ruchi Kumar, “The decline of Afghanistan’s Hindu and Sikh communities”, *Al Jazeera*, 1 January 2017.

<sup>16</sup> Silvia Mila Arlini and Melissa Burgess, *Multi-Sectoral Needs Assessment* (Singapore, Save the Children International, June 2022).

<sup>17</sup> Save the Children, “Almost 10 million children going hungry in Afghanistan as food aid alone fails to meet tidal wave of need, Save the Children says”, 9 May 2022.

sale of children, child marriage, child labour and decreased spending on health care and education.

72. Conflict-related violence continues to affect children and military recruitment continues. Killing and maiming of children, mostly by explosive remnants of war, account for 72 per cent of the recorded 636 violations affecting 489 children between January and June 2022. Many children are enduring hardship following decades of conflict, insecurity and other grave violations; reports of military recruitment continue. *Bacha bazi* – a form of sexual slavery of boys – continues, despite its criminalization.

73. The Special Rapporteur is concerned that the age of criminal responsibility (12) is not aligned with international human rights standards.

## **2. Persons with disabilities**

74. According to data available to the Special Rapporteur, 13.9 per cent of the population live with severe disabilities and about 65 per cent with mild to moderate disabilities. Severe disabilities are more prevalent among women and girls. Many disabilities are conflict-related, with roadside mines continuing to be a major cause of physical disability, particularly among children.

75. In meetings with members of disability rights non-governmental organizations, the Special Rapporteur discussed challenges since August 2021, including ambiguity regarding implementation of the National Law on the Rights of Persons with Disabilities and other laws on benefits and allowances for persons with disabilities, the suspension of financial benefits for military personnel with disabilities who worked for the Republic and the absence of mechanisms for and lack of consideration of the needs of persons with disabilities when delivering humanitarian aid. Non-governmental organizations are struggling to conduct their work due to the prohibition of associations and unions, and security risks. The abolition of the Afghanistan Independent Human Rights Commission, which had a programme on the rights of people with disabilities, is a significant setback. The Special Rapporteur welcomes the announcement by the de facto authorities on 2 August 2022 of funds to be dedicated and directed to persons with disability and stresses the need to adopt a rights-based approach.

## **3. Sexual orientation and gender identity**

76. The Special Rapporteur notes with concern that the de facto authorities have reaffirmed the previous Government's criminalization of same-sex relations, regarding them as being against sharia law. A 2022 manual issued by the Ministry for the Promotion of Virtue and Prevention of Vice states that religious leaders must prohibit same-sex relations and that "strong allegations" of homosexuality are to be referred to the Ministry's district manager for adjudication and punishment.<sup>18</sup>

# **H. Fundamental freedoms**

## **1. Freedom of expression**

77. In the 20 years before August 2021, freedom of expression and access to information expanded in Afghanistan, albeit with limitations, particularly when reporting was deemed to be against the national interest. Since 15 August, the de facto authorities have repeatedly stressed their commitment to guaranteeing freedom of expression, considering Islamic principles, sharia and national interests. In March 2022, it confirmed that the 2015 mass media law remained in place.<sup>19</sup> However, since 15 August, access to information has become increasingly challenging, and journalistic independence and freedom of expression has been significantly curtailed. In May 2022, Afghanistan was ranked 156th out of 180 on the Reporters Without Borders World Press Freedom Index, a drop from 122nd place in 2021.<sup>20</sup>

<sup>18</sup> Human Rights Watch, "Afghanistan: Taliban target LGBT Afghans", 26 January 2022.

<sup>19</sup> Reporters Without Borders, "Act quickly to protect Afghan journalists, RSF tells new UN special rapporteur", 11 April 2022.

<sup>20</sup> <https://rsf.org/en/index>.

78. Evolving and arbitrarily interpreted rules and decrees are used as a basis for the detention and ill-treatment of journalists and media workers. At the time of writing, 6 journalists had been killed, 4 wounded and over 100 arbitrarily detained.<sup>21</sup> Media workers have suffered physical attacks, threats, intimidation and harassment, including through phone calls and summons for questioning by the General Directorate of Intelligence. A journalist told the Special Rapporteur: “Freedom of speech and access to media do not exist in Afghanistan. There is a total control of what is said in the media, any news outlet that is not following the directives from the Taliban will face serious threats and violence. The safety of journalists and media workers needs to be prioritized and, when people disappear, someone should be held to account.”

79. The impact of these challenges has been far worse for women. According to Reporters Without Borders, 84 per cent of female media workers have lost their jobs since August 2021.<sup>22</sup> Rules have been issued concerning clothing for female media workers<sup>23</sup> and full-face coverings for women on television.<sup>24</sup> On 28 March 2022, the de facto authorities banned privately owned TV channels from retransmitting news programmes from international broadcasters, as the clothing worn by women presenters was deemed inappropriate.<sup>25</sup>

80. Lack of revenue and halting of foreign funding, lack of access to information, self-censorship and constant pressure and warnings from the de facto authorities have contributed to the closure of or reduction in media activities. Some journalists have quit their jobs or gone into hiding after receiving serious threats to their lives from the General Directorate of Intelligence. Journalists and media outlets outside major urban areas are particularly affected. There is no local media in at least 4 provinces; in 15 provinces, between 40 and 80 per cent of outlets have closed.

81. The Special Rapporteur is concerned about restrictions on the arts and music. The de facto authorities have banned live and broadcasted music and have attacked, arrested and detained artists and musicians. During his visit, musicians informed the Special Rapporteur that they had stopped performing since the Taliban takeover. One musician stated that he had been arrested for possessing music videos on his phone, detained for four nights and lashed on his back for two days.

## 2. Freedom of peaceful assembly and association

82. Soon after the fall of the Republic, numerous peaceful assemblies took place, often led by women, mainly in Kabul but also in other provinces. Early protests focused on issues such as girls’ education, mandatory hijab wearing, women’s rights, economic sanctions and humanitarian assistance. The de facto authorities have increasingly limited the freedom of peaceful assembly. To disperse protests, they often use excessive force, including live ammunition, batons, whips, pepper spray and tear gas, and house raids to target protesters, thereby heightening people’s fear of reprisals for publicly expressing dissent.

83. On 7 and 8 September, protestors in Herat, Mazar-e-Sharif and Kabul, including women, were arrested and allegedly subjected to serious mistreatment, including torture and incommunicado detention. Journalists covering the protests were also arrested, detained and subjected to ill-treatment, including incommunicado detention.<sup>26</sup> An activist informed the Special Rapporteur that the Taliban repeatedly called her husband, who left her for his own safety because she was a protester. Another activist said that the Taliban had threatened to put protestors in jail until the end of their lives for protesting.

<sup>21</sup> UNAMA, *Human Rights in Afghanistan: 15 August 2021–15 June 2022* (Kabul, 2022), p. 26.

<sup>22</sup> Reporters Without Borders, “Afghanistan”. Available at <https://rsf.org/en/country/afghanistan>.

<sup>23</sup> Reporters Without Borders, “RSF condemns the Taliban’s attempt to cover Afghan women journalists’ faces”, 25 May 2022.

<sup>24</sup> Associated Press, “Taliban orders female Afghan TV presenters to cover faces on air”, *The Guardian*, 19 May 2022.

<sup>25</sup> Reporters Without Borders, “Act quickly to protect Afghan journalists, RSF tells new UN special rapporteur.”

<sup>26</sup> Office of the United Nations High Commissioner for Human Rights, “Press briefing notes on Afghanistan”, 1 February 2022.

84. At the same time, the authorities facilitated protests that were held on issues supported by the Taliban such as lifting economic sanctions, unfreezing assets and policies on the hijab.

### 3. Human rights defenders and shrinking civic space

85. The Special Rapporteur is concerned about the rapidly shrinking civic space and constant pressure that civil society organizations, notably human rights organizations, are subjected to by the de facto authorities. He continues to receive many reports of violations against human rights and women rights defenders (see above) and is particularly concerned that some remain deprived of their liberty. Human rights work and civic space are critical for a peaceful society in which rights are respected. Many civil society organizations have become dormant and many human rights defenders and, due to threats and fear, entire organizations, have relocated to other countries, where some continue to work. Relocation and resettlement after 31 August 2021 remain extremely challenging and further efforts by the international community are needed. Some human rights organizations have shifted their focus to humanitarian work due to the availability of funding or upon instruction by the de facto authorities.

86. Soon after 15 August, the Afghanistan Independent Human Rights Commission generally ceased functioning due to concerns about security and the Taliban occupying the Commission's premises around the country. On 18 September 2021, it issued a statement addressing its status and expressed concerns about its inability to carry out its functions, urging the de facto authorities to respect its mandate and independence without imposing restrictions on the women on its staff. On 17 May 2022, the de facto authorities announced the abolition of the Commission. The Commission issued a press release on 26 May calling the abolition illegitimate and committing to continuing its work.<sup>27</sup> It has issued several statements from exile. The Special Rapporteur is concerned that this situation has left victims of human rights violations and abuses without recourse to a remedy, as there are no other credible and independent domestic mechanisms in place that monitor, document and bring concerns to the attention of the de facto authorities.

## VI. Administration of justice

87. Prior to the takeover by the Taliban, the justice system struggled with delays in judicial proceedings and corruption, and substantial portions of the country were outside its reach. However, capacity-building in the sector resulted in actors and institutions having defined roles and the adjudication of most cases based on published laws, with broad adherence to due process. Since the Taliban takeover, this system has been largely abandoned. Former judges and women are excluded from the de facto justice system, and there is uncertainty about applicable laws and processes. The de facto authorities assured the Special Rapporteur that judges had not been dismissed and were still on the payroll; however, judges informed him that they had not received their salaries or pensions since August 2021.

88. The Minister of Justice, Chief Justice, Attorney General, Head of the Supreme Court and key judicial positions are newly appointed individuals with religious rather than secular legal training. In addition to the provincial and district courts, the de facto authorities are empowered to administer justice in the provinces, and a military court with jurisdiction over security personnel has been established.

89. In November 2021, the de facto authorities announced the takeover of the Afghan Independent Bar Association,<sup>28</sup> abolishing its ability to certify lawyers and advocate on their behalf. Lawyers remain able to represent clients and many prosecutors remain employed; however, they are often deemed unnecessary by judges and banished from the courts under the pretext of expediting cases. There is uncertainty about the applicable laws, judicial

<sup>27</sup> Afghanistan Independent Human Rights Commission, "The AIHRC position regarding the dissolution of the Commission by the Taliban", 26 May 2022. Available at [www.aihrc.org.af/home/press\\_release/1854449](http://www.aihrc.org.af/home/press_release/1854449).

<sup>28</sup> Madina Morwat, "Independent Bar Association Office taken over by Islamic Emirate", Tolonews, 28 November 2021.

process and remedies available. Cases are handled idiosyncratically across jurisdictions and venues. Crimes such as theft or assault are often dealt with by security forces without involving prosecutors or judges. In some provinces, more serious crimes may be tried without the assistance of either a prosecutor or a defence lawyer.

90. Former judges remain at high risk of retribution by the Taliban or now-freed prisoners whose cases they presided over. Some judges and prosecutors fled the country, but the majority remain and face threats and violence, including from the people they held accountable. A female judge, who served at a provincial high court and is now in hiding, informed the Special Rapporteur about death threats that she had received from men she sentenced to imprisonment and who were released by the Taliban. Some of them were Taliban members who were part of the provincial administration. Her former homes were visited by the Taliban and her neighbours were interrogated as to her whereabouts. On 16 July, a former prosecutor was killed by unknown gunmen in Khost. He is one of at least 20 prosecutors allegedly killed since August 2021.<sup>29</sup> There is no information that those cases have been investigated.

91. The de facto authorities have announced a review of the compliance of existing laws and regulations with Islamic law and a commission under the leadership of the de facto Ministry of Justice is under way. However, they have provided very little information about the outcome of this review process, including which areas the laws cover or whether any contradictions with Islamic law have been found.

92. The de facto authorities have repeatedly stressed that improving order and security has been their priority. In October 2021, a commission for the purification of the ranks was established to address complaints of abuse by Taliban members. The commission has reportedly expelled over 4,000 members.<sup>30</sup> The authorities made numerous arrests, detentions and made police uniforms mandatory to professionalize law enforcement and reduce arbitrariness. The commission had reportedly tried to address complaints from victims of abuses and deliver accountability, although there are no details on whether it has referred anyone for prosecution.

93. The establishment of a complaints hearing authority under the Ministry for the Promotion of Virtue and Prevention of Vice, mandated to receive and address citizens' complaints, was announced. While details remain unclear, such a mechanism cannot substitute an independent institution such as the Afghanistan Independent Human Rights Commission, since its role, as described to the Special Rapporteur by the de facto authorities is, inter alia, to prevent moral crimes and enforce restrictions in areas such as alcohol and drugs, dress code and music and books.

## VII. Conclusions and recommendations

94. A year ago, the withdrawal of international forces, the collapse of the Islamic Republic of Afghanistan and the assumption of power by the Taliban was greeted with trepidation by many Afghans and others who had painful memories of the previous regime, between 1996 and 2001. However, given their assurances about respecting human rights, including the rights of women, within the framework of Islam, there was some hope that the gains of the two previous decades, including for women and girls, could be preserved, at least to some extent. Now, however, the situation has deteriorated to the point where the human rights crisis matches the country's humanitarian and financial crises.

95. While all parties bear degrees of responsibility for failures to deliver economic and social rights, the deterioration in civil, political and cultural rights, with widespread gross violations continuing to be committed, is primarily due to the Taliban's actions and failure to meet their obligations as duty bearers. The situation is extremely serious, and the country is showing strong signs of descending into authoritarianism. The

<sup>29</sup> Personal communication with a former attorney general.

<sup>30</sup> Ahmad Shah-Erfanyar, "4,350 undesired persons expelled from forces ranks: Mufti Hakimi", Pashwok Afghan News, 21 February 2022.



Taliban still have an opportunity to redeem the situation, which requires a substantial change of approach. The Taliban must be more inclusive, respect women's rights, accept diversity and differences of perspective, protect the population, renounce violence, acknowledge and address human rights abuses and violations, rebuild the rule of law, including oversight institutions, and accept, demand and provide accountability. They must close the gap between their words and their deeds and will continue to be judged on the latter.

96. At the same time, the international community must acknowledge its own role in and responsibility for the situation unfolding in Afghanistan today. While much was done in the past 20 years to strengthen institutions designed to promote and protect human rights and to ensure the enjoyment of those rights by the people of Afghanistan, reflection is needed on what more could have been done to prevent the human rights crisis and what should be done now to resolve it. In this, the international community must recognize the primacy of Afghan survivors and victims and listen to them about what they consider necessary to rebuild Afghanistan. Equally, the international community should pay particular attention to the calls from Afghans across all walks of life for accountability and justice, for concrete and effective challenges to the impunity pervasive in the country and to remedying the wrongs of the past to prevent their recurrence in the future.

97. The Special Rapporteur recommends that the de facto authorities:

(a) Restore the constitutional order and review the rules and directives issued since the takeover, bringing them into line with international human rights standards, and seek technical assistance from United Nations and other relevant entities;

(b) Restore the clarity and certainty of applicable laws, judicial independence and capacity and protect judges and lawyers, especially women, from reprisals;

(c) Uphold their responsibility as duty bearers to protect all Afghans from threats to life and security posed by any actors and undertake, in line with international standards, investigations and accountability measures in accordance with international standards for any such attacks, including on ethnic and religious communities, such as Hazara, Shia, Sufi and Sikh, that appear to be systematic in nature, bearing hallmarks of crimes against humanity;

(d) Urgently reverse the discriminatory policies and directives that unduly restrict the rights and fundamental freedoms of women and girls, including freedom of movement and the rights to work and public participation;

(e) Engage directly with women and jointly develop and implement concrete action plans with clear timelines to ensure the equal participation of women in education, employment, governance and all other aspects of public life and legal or policy measures affecting their lives;

(f) Immediately and unconditionally reopen all girls' secondary schools, and ensure equal and good-quality education for girls and boys at all levels;

(g) Immediately reinstate an independent national human rights institution, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), to protect and promote all human rights, receive complaints from the public and bring issues to the attention of the de facto authorities. This mechanism needs to have a broad mandate and adequate resources;

(h) Immediately abolish laws, policies and practices that discriminate against persons belonging to ethnic and religious minority groups, including Hazaras, prohibit and prevent discrimination and violence against them and ensure their representation in all decision-making processes affecting their lives;

(i) Provide an enabling environment for civil society activists and the media to carry out their activities without hindrance and fear of reprisal and investigate cases of intimidation and attacks against members of civil society and journalists, bringing

perpetrators to justice, and take all measures necessary to guarantee freedom of expression and access to information;

(j) Protect tangible and intangible cultural heritage and fully comply with article 15 of the International Covenant on Economic, Social and Cultural Rights and the Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two optional protocols;

(k) Implement the general amnesty and take measures to prevent and investigate all cases of arbitrary arrest and detention, extrajudicial killing, enforced disappearance, torture and ill-treatment committed by officials or others acting on their behalf, including against individuals or their families accused of affiliation with armed groups, notably ISIL-K and the National Resistance Front, and punish perpetrators in line with international standards;

(l) Explicitly prohibit torture, in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ensure that all cases of torture and ill-treatment are promptly and thoroughly investigated, with perpetrators prosecuted in line with international standards after fair trials, abolish all private prisons and immediately release those detained therein, improve conditions of detention and establish a national preventive mechanism as prescribed in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(m) Intensify efforts to mobilize sufficient resources through domestic sources and international assistance in a just and transparent manner, including by adopting a concrete fiscal policy, effectively collecting taxes and combating corruption, and ensure that a sufficient level of the national budget is allocated to basic services, in a gender-sensitive manner, essential to the realization of economic, social and cultural rights;

(n) Ensure that basic services are provided for all Afghans, with special attention to disadvantaged and marginalized groups, including women, girls, persons belonging to minority groups and persons with disabilities, and ensure that international assistance reaches the most marginalized and disadvantaged in the country, including by guaranteeing the safe and unhindered access of all aid workers, including female staff;

(o) Continue and strengthen cooperation with the Special Rapporteur on the situation of human rights in Afghanistan, the Office of the United Nations High Commissioner for Human Rights, UNAMA and other human rights mechanisms, including treaty bodies and other special procedures of the Human Rights Council.

98. The Special Rapporteur recommends that the international community and States:

(a) Continue to provide assistance and cooperation to ensure that adequate resources are made available to realize human rights, particularly rights to adequate food, safe drinking water, sanitation, health and education without discrimination, put in place mechanisms to ensure meaningful consultation with and participation of all groups, including women, in the planning, decision-making, delivery and monitoring of humanitarian aid, and ensure that it is distributed equitably, giving priority to disadvantaged groups, and that the roles of women aid workers in reaching people most in need are strengthened;

(b) Take necessary measures to strengthen accountability for human rights violations and abuses, including through the Special Rapporteur and others, including potential mechanisms to address impunity, provide redress for survivors and victims, and bring perpetrators to justice;

(c) Explore additional means, including through incentives as well as penalties, to convince the de facto authorities to ensure that the rights and freedoms of women and girls are respected, protected and promoted and take all measures necessary to support and protect women and girls, especially women's rights defenders;

(d) Ensure that equal and quality education is provided, in line with international human rights standards, including prioritizing adequate funding allocation for adolescent girls' education;

(e) Make all efforts necessary to protect human rights defenders and to strengthen the capacity of civil society organizations to protect and promote human rights, including through political support and by providing flexible and accessible funding arrangements to those inside and outside Afghanistan, especially women-led organizations;

(f) Support an international inquiry, involving the Special Rapporteur, into attacks on ethnic and religious communities, such as Hazara, Shia, Sufi and Sikh, that appear to be systematic in nature and bear hallmarks of crimes against humanity;

(g) Ensure and support the safe passage of Afghans most at risk seeking to leave the country, such as human rights defenders, journalists, judges, prosecutors and members of the LGBTIQ community, giving priority to women;

(h) Develop clear human rights conditionality for any activities or support that intersects with the Taliban movement or any sanctioned individuals or organization and, if made, acknowledge progress by the Taliban on human rights;

(i) Adopt measures that pave the way for the recovery of the economy of Afghanistan, including the implementation of the humanitarian exemption to the international sanctions regime to ensure compliance with international human rights and humanitarian law, taking effective actions to remediate the adverse impact. Any release of foreign reserves must be subject to safeguards ensuring that funds are made available for central banking and humanitarian functions to benefit all Afghan people;

(j) Strengthen support for UNAMA, in particular its Human Rights Service.

99. The Special Rapporteur recommends that the United Nations entities in Afghanistan:

(a) Ensure better coordination across the United Nations system, civil society organizations, judicial mechanisms and relevant authorities, with a view to promoting and protecting human rights, including by strengthening its partnership with Afghan civil society and putting in place adequate feedback loops and support;

(b) Provide the de facto authorities with the technical cooperation necessary to abide by and implement their obligations under international human rights treaties.