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High Commissioner and the Secretary-General**

Situation of human rights in Afghanistan

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

Summary

The present report, submitted by the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett, builds on his previous reports and covers human rights-related developments, mainly from September 2023 to January 2024.

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.



I. Introduction

1. In the present report, submitted pursuant to Human Rights Council resolution 54/1, building on previous reports, the Special Rapporteur outlines human rights developments in Afghanistan during the period 1 September 2023 to 31 January 2024, with further reflections on changes in the human rights situation over the past year.
2. Two and a half years after the Taliban seized control over the territory of Afghanistan, human rights continue to worsen. In particular, the extent of the de facto authority's disrespect for the fundamental rights of women and girls is unparalleled in the world. The level of suffering caused not only by the ongoing desperate humanitarian situation but also by gross, widespread and, in some cases, systematic violations of human rights is unacceptable.
3. In this environment, the Special Rapporteur shares the concerns of many Afghans that some members of the international community may be inching towards acceptance of the inevitability of the situation and that, in return for relative security and promises to control terrorism and narcotics, the de facto authorities will be increasingly "normalized", if not formally recognized as a legitimate government, without making meaningful progress on human rights. However, there is a persuasive case to be made in customary international law in favour of using respect for human rights as a benchmark for recognition as a Government. In particular, and as noted in the joint report of the Special Rapporteur and the Working Group on discrimination against women and girls, which was submitted to the Council at its fifty-third session, the Taliban's appalling treatment of women and girls framed in explicit gender policies violates the principles of the Charter of the United Nations and the fundamental spirit and norms of international human rights law, disqualifying them from being recognized as a Government and placing legal duties on other States not to support or endorse the regime. That matter will be explored further in the Special Rapporteur's report to the Council at its fifty-sixth session where he has been mandated to report on the phenomenon of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls.
4. Although the Taliban's authority in Afghanistan remains de facto, they have a duty to respect international human rights law, in particular the treaties ratified by the State of Afghanistan. However, as is once again highlighted in the present report, and in the Special Rapporteur's previous reports, the de facto authorities are failing in that duty, even in some cases in regard to their own commitments, such as the declared general amnesty for members of the former Government of Afghanistan and its security forces and the Taliban's guidelines on the treatment of detainees. The Special Rapporteur also points to the human rights situation in other areas, including respect for the human rights of children, as well as women, ethnic and religious minorities, civic space, media, and economic, social and cultural rights. It is pertinent to note that the de facto authorities claim to have made progress on security, counter-terrorism, anti-corruption and drug control and to have stabilized the economy and improved infrastructure, despite impediments created by the international community, including the Security Council, the underfunding of humanitarian and development assistance and natural disasters, such as floods, droughts and earthquakes.
5. It is reasonable for the Taliban to argue, as they do, that they should be given credit for progress made, as is done in several parts of the present report, and they should not be held to double standards. However, the progress claimed, for example in the areas of security and anti-narcotics, has in some cases been achieved without regard for the human rights of individuals.
6. That leads to a key practical question that infuses a polarized debate on the possibility of change. Will the Taliban change if given the "right" incentives or are they unwilling to change or incapable of it? That is not a new question. In the recent independent assessment requested by the Security Council, the Special Coordinator appointed to the task proposed that Afghanistan be reintegrated into the international community if it achieved benchmarks, including on women's and girls' rights, in line with international human rights treaties. It is appropriate to be constructive while planning a way forward for an inclusive and stable Afghanistan, and the Special Rapporteur welcomes the priority given to human rights

benchmarks, in particular respect for the equality of women and men. It is also important to take account of the weight of history, which offers little indication that the Taliban leadership is willing to embrace human rights. Their interpretation of the Hanafi school of Islamic jurisprudence, combined with their insistence on near-absolute sovereignty in which the authority of international human rights treaties is rejected (at least as far as it is inconsistent with their interpretation of sharia) may be irreconcilable with that goal.

7. The Special Rapporteur considers that States and other stakeholders must tackle those questions with a sense of realism and a commitment to international human rights law, while giving the highest priority to the human rights of Afghan citizens. There should be no normalization or legitimization of the Taliban until there are demonstrated and measurable improvements of their respect for human rights, as defined in international law.

II. Working methods

8. To date, the Special Rapporteur has carried out three visits to Afghanistan since assuming the mandate in May 2022, including a joint visit, in April and May 2023, with the Chair of the Working Group on discrimination against women and girls. Although he has not carried out a visit to Afghanistan during the preparation of the present report, he has engaged directly in person or online with a range of stakeholders, including victims inside and outside Afghanistan, national and international non-governmental organizations (NGOs), including Afghan human rights defenders, particularly women, States and academics. Since August 2023, he has travelled on mandate-related visits to Germany, the Kingdom of the Netherlands, Norway, Qatar, Sweden, Türkiye and the United States of America. He has met with Afghans who provided information about their experiences, attended conferences and engaged with States.

9. The Special Rapporteur continues to communicate with Taliban representatives on a range of issues. However, he received information in October 2023 that a country visit would not be welcomed at that time and has chosen to delay a request for a visit until 2024. The Special Rapporteur continues to send communication letters and requests to the Taliban for human rights-related information and follows up on individual cases.

10. The Special Rapporteur has operationalized a digital repository to document and securely preserve information regarding human rights violations and abuses in accordance with his mandate. As of 31 January 2024, the mandate has collected and preserved more than 3,000 pieces of information, including both open-source materials and first-hand information, collected by the mandate. That includes interviews, victim statements, civil society reports, documents and statements from the de facto authorities, as well as a significant number of videos and photographs. In 2024, the Special Rapporteur will further strengthen and leverage the repository in relation to mandated activities.

11. The Special Rapporteur adheres to international best practices on documentation and verification of information, including the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council and those of Office of the United Nations High Commissioner for Human Rights. In that regard, details that could identify individual information providers have been omitted in the present report.

12. The Special Rapporteur is increasingly concerned about the mounting security challenges to human rights monitoring and documentation, especially for civil society organizations. Nevertheless, various Afghan human rights organizations have found ways to carry out credible monitoring and reporting on the human rights situation. The Special Rapporteur underscores the role of United Nations Assistance Mission in Afghanistan (UNAMA) and its human rights service and calls upon States to continue to support a robust mandate.

13. The high level of misinformation and disinformation in the context of Afghanistan, in particular in the media (including social media), is of concern to the Special Rapporteur, making it more important than ever to ensure that facts are checked and verified. In effect, there are often duelling narratives and extreme positions being taken, a situation that needs to be countered by independent, verified information on human rights.

III. Human rights situation of groups of particular concern

A. Women and girls

14. In the present section, the Special Rapporteur provides updates on the situation of women and girls during the reporting period, building on previous reports.¹

15. The situation of women and girls continued to deteriorate. The violations reported previously regarding rights to education, employment and participation in public and political life, and freedoms of movement, peaceful assembly, association, opinion and expression continue to perpetuate widespread and institutionalized discrimination against women and girls in all areas of life.

16. The reporting period was characterized by harsh enforcement of the Taliban's dress code since early January 2024, including the arbitrary and, at times, violent deprivation of liberty of women and girls who did not comply, or are perceived not to comply, with the gendered roles that the Taliban has assigned for them in society. The Special Rapporteur has received information, which he duly verified, that numerous women have been arbitrarily deprived of their liberty since early January 2024 for allegedly violating the Taliban's dress code for women. Operations initially surfaced in western Kabul, a predominantly Hazara-populated area, but swiftly extended to other areas of Kabul, primarily Tajik-populated areas, and other provinces, including Bamyan, Baghlan, Balkh, Daykundi and Kunduz.

17. Due to the areas in which they were conducted, those operations have disproportionately affected Hazara women and girls, exposing them to intersecting forms of discrimination. One Hazara woman told the Special Rapporteur that: "My father went to the Taliban to rescue my sister, but they beat and tortured my father saying he is raising an immoral girl. They accused Hazaras of not being real Muslims." The arrests reportedly occurred in public spaces, from which women and girls were forcibly removed in police vehicles and then held in overcrowded rooms in police stations. Some reported being subjected to physical violence, threats and intimidation. They had no access to legal representation. Their release was conditional upon on a male family member providing assurances that they would adhere to the dress code in the future.

18. In most cases, the Taliban reportedly contacted family members to go to police stations to pick up their female relatives. However, the Special Rapporteur also received information that some families spent several days searching for their relatives. They would often initially face denials about their family members' being detained at a location at which they were eventually found. It remains unclear if some are still in detention.

19. At the time of reporting, the dress code does not seem to have been enforced uniformly across the country, which might suggest that the arrests may have been directed locally. The de facto authorities also issued conflicting statements, with the Taliban's spokesperson both denying and justifying the arrests at different times. Statements by the Taliban, confirmed by interviewees, indicate that women who are perceived to be protesting are treated particularly harshly, especially if there is a suspicion of foreign influence.

20. Those incidents mark the first time that the Taliban have enforced their dress code in such a harsh manner. In May 2022, they ordered all women to observe "proper hijab", preferably by wearing a *chadari* (a non-fitted garment with a face covering) in public and placed responsibility on male relatives to enforce the prohibition or be punished themselves. The Special Rapporteur underscores that punishing woman for their choice of clothing violates their freedom of expression and their right to privacy. Furthermore, assigning responsibility for women's attire to men violates women's agency and perpetuates and further institutionalizes discrimination and control over women and girls.

21. Arrests based on contraventions of dress codes are arbitrary and manifest the enduring erosion of the rule of the law. The heightened arbitrariness and unpredictability of the

¹ In particular, [A/HRC/53/21](#).

restrictions is suffocating women and girls and has created a pervasive climate of fear that could deter many from leaving their homes and thus accessing learning opportunities, work and even shops for basic family needs. It is noted that there are a substantial number of women-only households in Afghanistan for whom such restrictions have a huge impact.

22. The de facto authorities have also used arbitrary deprivation of liberty as a tool to further restrict civic space, especially to silence the voices of women, girls and gender equality advocates. The Special Rapporteur welcomes the release, in December 2023, of two women human rights defenders, Neda Parwan and Zholia Parsi,² after approximately two months of arbitrary detention. Also in other cases, the Special Rapporteur continues to follow and advocate against the arbitrary detention of women and men for asserting the rights of women and girls.

23. Gender-based violence remains a key concern, as the Taliban takeover exacerbated a high prevalence of gender-based violence against women and girls. The legal status of acts that were criminal offences under the now abolished Law on the Elimination of Violence against Women (2009) has been diminished and is unacceptable, including gender-based killings (including so-called honour killings), rape, violence causing injury or disability, including battery and laceration, forced marriage, and forced self-immolation or suicide.³

24. The Special Rapporteur is concerned that the response from the de facto authorities to allegations of gender-based violence fails to meet minimum standards of protection, fairness and equal access to justice, services and reparation for survivors. First, some of these acts, including forced marriage⁴ and beatings, are now considered civil cases instead of criminal offences. Second, the de facto authorities prioritize mediation and traditional dispute resolution mechanisms that lack a gender-sensitive and victim-centred approach. Third, after dismantling the previous prosecutorial authority, the de facto police refer cases directly to the de facto courts, raising concerns about respect for procedural guarantees. Fourth, the de facto law enforcement sector and the judiciary is composed almost exclusively of men, which can be a deterrent for women victims to engage in the process. Lastly, while seeking justice, some survivors end up being accused themselves of so-called moral crimes, such as *zina* (extramarital sexual relations), or running away from their homes. While the de facto authorities have resumed a legal aid programme that could allow some women to obtain legal representation, only men can appear in the de facto courts.

25. The Special Rapporteur has received information that some women lawyers are providing legal counselling to victims.

26. The above-mentioned problems are exacerbated by an overarching atmosphere of fear, wherein the trust of women and girls in the de facto authorities is virtually non-existent, owing to the imposition of numerous other restrictions.

27. In addition to the obstacles in access to justice, the Special Rapporteur received information that survivors of gender-based violence lack access to services, including protection, health care, sexual and reproductive services and psychosocial support. The infrastructure supporting survivors, such as specialized women's protection centres, legal assistance, specialized prosecution units and courts, and the Ministry of Women's Affairs have been dismantled.⁵ It has been documented that some de facto authorities consider women's shelters "a Western concept" and have stressed that women should stay with their male relatives. Some consider placing survivors in prisons as an effective strategy to ensure their safety. The ban on women working for NGOs or the United Nations also affects survivors' access to services.

² See www.ohchr.org/en/press-releases/2023/10/taliban-must-immediately-release-women-human-rights-defenders-say-un-experts.

³ See <https://unama.unmissions.org/handling-complaints-gender-based-violence-against-women-and-girls-afghanistan%E2%80%99s-de-facto-authorities>.

⁴ A/78/338, in particular, paras. 11 and 12.

⁵ S/2023/725, para. 65.

28. The Special Rapporteur has also documented gender-based violence in online spaces,⁶ particularly in the form of hate speech and gendered attacks against politically active Afghan women. Online insults often adopt a sexualized and aggressive tone, echoing the narratives propagated by the Taliban regarding women's expected societal roles. Threats of sexual assault, rape and death, as well as ethnic slurs, have also been reported. While the Internet has offered a unique tool for women and girls to continue to engage in activism and to connect to a global audience, the digital manifestations of violence have created an increasingly toxic digital space. That can further reduce their political participation, suppress their voices and isolate them. As a woman human rights defender told the Special Rapporteur: "I am an activist, I feel scared, and I carry psychological trauma after being attacked online, with threats of rape and death. I fear backlash and that my family will be harmed, so I will keep quiet."

29. Freedom of movement remains restricted and the de facto authorities persist in implementing measures to enforce such prohibitions. The Special Rapporteur has documented new restrictions in Khost and Zabul, directing women to not visit local markets or shops without a *mahram* (male escort).⁷ In Kandahar, officials from the de facto Ministry for the Propagation of Virtue and the Prevention of Vice visited a bus terminal to ensure that women were not travelling long distances without *mahrams*. They also instructed bus drivers not to allow women to board without a *mahram*. Similarly, in Paktiya Province, women without *mahrams* were prevented by officials from the de facto Ministry for the Propagation of Virtue and the Prevention of Vice from accessing health facilities.⁸ That systematic imposition of restrictions further curtails the freedom of movement of women and notably puts widows and women who do not live with a man for various reasons in a particularly precarious situation.

30. The number of prohibitions and restrictions on the rights and freedoms of women and girls continues to escalate. There is also a high level of uncertainty about the rules and their enforcement. While the Special Rapporteur acknowledges information suggesting that some restrictions are not strictly enforced across the country and welcomes this flexibility, the mere existence of these prohibitions and the potential for unpredictable enforcement create immense stress for women and girls and their family. They live in constant fear, often complying with Taliban rules out of perceived necessity, yet remaining vulnerable to punishment at any moment. The de facto authorities persist in repressing women and girls, institutionalizing discrimination across all facets of life. The Special Rapporteur reiterates that the level of discrimination against women and girls gives rise to critical concern that women and girls are being persecuted on the basis of gender, a crime against humanity,⁹ and that the institutionalized, systematic and widespread nature justifies it being framed as "gender apartheid". He will report more extensively on the matter at the next session of the Human Rights Council in June.

31. The Special Rapporteur has been moved by hundreds of individual stories of women and girls in Afghanistan who continue to demonstrate immense courage and resilience amidst serious and daily violations of their rights. He expresses deep admiration for those who continue to claim their space in society, advocate for their rights, demand accountability and find creative ways to ensure that women and girls retain access to at least some services despite the ongoing restrictions.

32. The Special Rapporteur believes that Afghanistan cannot successfully reintegrate into the international community while half of its population is systematically oppressed and excluded from public life. Effective pursuit of sustainable peace, development and economic growth depends on the unconditional respect for human rights of everyone.

⁶ See www.afghanwitness.org/reports/violence-behind-a-screen%3A-rising-online-abuse-silences-afghan-women--.

⁷ A/78/628-S/2023/941, para. 36.

⁸ See <https://unama.unmissions.org/human-rights-monitoring-and-reporting-0>.

⁹ A/78/338 and A/78/338/Corr.1, para. 19.

B. Children and youth

33. Afghanistan currently faces multidimensional challenges in protecting children, both legally, at the policy level, and in practice. Many of the challenges existed before August 2021, however, under the rule of the Taliban, some have been exacerbated. As a result, children have become extremely vulnerable, not only exposed to grave violations and potential targets of extremism, but also bearing the brunt of poverty and the humanitarian crisis. Since August 2021, in their efforts to protect children, the Taliban has not referred to existing domestic laws, such as the Law on Protection of Child Rights, the Law on Prevention of Harassment against Women and Children or policies such as the national child protection policy. Nor have they taken action to align their approach with international law. The Special Rapporteur is concerned that there is currently no law to hold perpetrators of crimes against children to account and that allegations are often handled through non-judicial mechanisms, where girls in particular face gender-based discrimination.

34. According to the report of the Secretary-General on children and armed conflict, there were 4,519 grave violations against children between 1 January 2021 and December 2022,¹⁰ with killing and maiming being the most common. Most were attributed to the Taliban. The Special Rapporteur is concerned about the high number of children who are killed or injured, especially due to incidents involving landmines and explosive remnants of war. Access to previously unreachable but mined areas has exposed them to greater risks of such incidents. The Special Rapporteur underlines the critical need to address the problem urgently and systematically.

35. The Special Rapporteur notes that there has been a decrease in the recruitment and use of children, but highlights that children are still used in combat and support roles.

36. Children continue to be subjected to rape, sexual violence and harmful practices, such as *bacha bazi*¹¹ and child, early and forced marriages. There is still no national law in place to prevent child marriages. While the Taliban has issued an order prohibiting forced marriage, the Special Rapporteur is concerned about allegations that the Taliban has been involved in forced and underaged marriages without legal consequences, especially in rural and remote areas.

37. The Special Rapporteur is also alarmed about the high rate of suicide reported among young girls, especially in the south of the country. Some reports indicate that 50 per cent of suicides are committed by young girls. There have also been allegations of violence and mistreatment, including sexual abuse, against boys in some madrassas, reportedly committed by their instructors with impunity. Those incidents are often concealed, due to security risks and social stigma, resulting in none or limited physical and psychosocial support for the child survivor.

38. The Special Rapporteur expresses deep concern over the absence of legal safeguards for children and highlights that the international human rights framework emphasizes the need for their physical integrity and mental well-being and the responsibility to take measures to prevent violations. The Special Rapporteur is concerned that the de facto authorities have not carried out awareness-raising campaigns for new teachers and too little has been done to address child abuse in light of their international obligations.

39. The Special Rapporteur notes with concern the widespread food and water insecurity affecting children. As reported by Save the Children, almost 8 million children in Afghanistan, roughly one in three, faced crisis levels of hunger at the end of 2023. That dire situation is exacerbated by extreme weather conditions, which not only threaten the availability of food and clean water but also pose health risks, such as malnutrition and weakened immune systems. The combination of hunger and weather conditions creates a

¹⁰ S/2023/893, para. 21.

¹¹ A practice in which men buy and keep boys for entertainment and sexual exploitation.

perilous situation for children, affecting their physical and cognitive development and leading to psychological distress.¹²

40. The Special Rapporteur reported previously on the alarming changes to the education system since the Taliban takeover. On 21 December 2023, the de facto Ministry of Higher Education issued a directive for the review and elimination of books from private university libraries that conflict with Hanafi jurisprudence and of other materials considered ideologically inappropriate.

41. While girls beyond sixth grade have been banned from having access to education, boys have also experienced a marked decline in the quality of education. Although the de facto authorities have hired 55,000 new teachers, including women, with the removal of female teachers from secondary and high schools, the newly appointed male teachers reportedly often lack proper subject specialization and focus predominantly on religious teachings.¹³

42. The educational environment has also witnessed an increase in corporal punishment, such as beating, slapping and foot whipping, creating a climate of fear.¹⁴ The Special Rapporteur emphasizes the crucial need for a secure and violence-free environment for children, underscoring the ban on corporal punishment in all settings, including educational institutions in line with the Convention on the Rights of the Child.

43. The Special Rapporteur notes that there are reports of a noticeable decline in the school attendance of boys aged 13 to 18, particularly in urban areas. A mere 44 per cent attend secondary school,¹⁵ as many appear to be abandoning their educational pursuits prematurely to seek employment to support their families due to the harsh economic conditions. However, the proportion of girls aged 13 to 18 who are not engaged in any educational activities is double that of their male counterparts.¹⁶

44. The Special Rapporteur emphasizes the critical need for equitable, accessible and inclusive education and further underscores the significance of providing education that meets international benchmarks, in addition to religious schooling, highlighting that the right to education enables individuals to contribute to the welfare and development of their country.

45. The Special Rapporteur welcomes advances in primary school attendance that have benefited girls and those in rural areas due to the significant decrease in hostilities, leading to a narrowing of gender and urban-rural disparities.¹⁷ The de facto authorities claim that more than 1,000 new schools have been built. However, millions of Afghan children aged 7 to 12 remain out of school.¹⁸

46. The Special Rapporteur reiterates his utmost concern about the ban on education for girls above the sixth grade. As of March 2023, merely 3 per cent of girls at the national level were attending secondary schools, a stark decline from the 14 to 24 per cent attendance rates before the Taliban takeover. Concerningly, none of the 84,234 high school graduates who conducted the university entrance exams in 2023 were women or girls.

47. The Special Rapporteur recognizes the importance of community-based and alternative education initiatives. Leveraging informal networks, local resources and, increasingly, digital platforms, these initiatives aim to sustain educational continuity.

¹² See www.savethechildren.net/news/one-three-children-afghanistan-enter-2024-facing-crisis-levels-hunger.

¹³ See www.hrw.org/sites/default/files/media_2023/12/afghanistan1223_web.pdf.

¹⁴ Ibid.

¹⁵ See <https://thedocs.worldbank.org/en/doc/975d25c52634db31c504a2c6bee44d22-0310012023/original/Afghanistan-Welfare-Monitoring-Survey-3.pdf>.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

Reportedly, 37 per cent of girls are enrolled in alternative educational setups, primarily in religious schools, such as formal Islamic institutions or madrasas.¹⁹

48. The Special Rapporteur draws attention to the severe consequences of gender-based educational bans, stressing the long-term social, economic and psychological impacts. The Special Rapporteur cautions that such bans not only reinforce patriarchal norms but also isolate girls from the broader society, impeding their social development and the formation of supportive networks, evoking feelings of worthlessness, powerlessness and diminished self-esteem.

49. The Special Rapporteur warns against an education system overly focused on religion. Such an unbalanced approach not only jeopardizes the future prospects of children and adversely affects their intellectual and psychological well-being, it also negatively effects the economy and thus stability and economic, social and cultural rights.

C. Minorities

50. Afghanistan is a multi-ethnic, multilingual and multireligious country, made up of Pashtuns, Tajiks, Hazaras, Uzbeks, Turkmen, Aimaq and Baluchi, as well as Sunni, Shia, Sikhs, Hindus, Baha'is, Christians, Ahmadiyya, Ismaili and many other religious, ethnic and linguistic communities. The Special Rapporteur observes that inclusiveness and social cohesion is critical for a peaceful future and the development of Afghanistan.

51. The term “minorities” is sometimes contested²⁰ in Afghanistan. Communities marginalized by their ethnicity, religion or language have never enjoyed full protection of their human rights. On the contrary, in the volatile history of Afghanistan, all communities have suffered with each being able to claim periods of discrimination and exclusion with little acknowledgement or accountability for their suffering.

52. After August 2021, the situation has worsened and the Special Rapporteur remains concerned that minorities are at heightened risk of human rights violations with intensified tensions between different communities, each often claiming to be disadvantaged and the subject of attacks. Crimes committed against ethnic and religious minorities by various actors, discriminatory policies and practices, the ambiguity about the continuation of previous practices, ambiguous land reform decisions and reduced representation in politics and the de facto government, among others, have led to further marginalization. At the same time, intercommunal tensions have also led to anti-Pashtun sentiments that are also of concern. The Special Rapporteur warns against discriminatory or exclusionary actions by any authority or community and emphasizes the need for understanding and the peaceful resolution of disputes.

53. The Special Rapporteur has taken note of reports of meetings between de facto authorities and minority groups in which the Taliban reassure those groups about non-discrimination and offer to address the specific concerns of minorities. In the same vein, in October, the Taliban took the rare step of appointing a representative of the Hindu and Sikh communities to the de facto municipality council of Kabul. The Special Rapporteur is encouraged by such small steps and hopes that they lead to tangible evidence of progress.

D. Targeted attacks against ethnic and religious minorities

54. The Special Rapporteur has documented at least seven attacks that have been carried out against Shia Muslims of Hazara ethnicity between September 2023 and January 2024, a concerning increase in comparison with the first nine months of 2023.

55. Within one month, three deadly attacks claimed by the Islamic State in Iraq and the Levant-Khorasan killed 40 persons and injured 86 others according to verified figures from

¹⁹ On 21 December 2023, the Spokesperson of the de facto Ministry of Education stated that there was no age restriction for girls' enrolment in government-controlled madrasas.

²⁰ For the purpose of the present report, minorities are described in accordance with the definition used by the Special Rapporteur on minorities (A/75/211, para. 20).

UNAMA and data received by the Special Rapporteur. Subsequent claims of responsibility from the Islamic State in Iraq and the Levant-Khorasan indicated that they targeted Shia Muslims. The attacks included a blast on 13 October 2023 at a Shia Mosque in Baghlan Province and explosions targeting a sports club on 26 October and a bus on 7 November 2023 in Dasht-e Barchi, a predominantly Hazara neighbourhood in Kabul.²¹ The Islamic State in Iraq and the Levant-Khorasan also claimed responsibility for an attack on a passenger bus on 6 January 2024 in the same neighbourhood in Kabul that killed and injured at least 25 persons.

56. In addition, three shootings in Herat between 22 November and 1 December 2023 killed nine persons in total, including four Shia Ulema Council members. No responsibility has been claimed for these attacks. In response to the attacks, hundreds of Hazara demonstrated peacefully in Herat City demanding justice and security.

57. The de facto Ministry of the Interior has labelled the most recent incident in Herat as a “terrorist attack” and expressed its condolences to the victims. The de facto governor reportedly met with Hazara communities and indicated that investigations would be carried out. The Special Rapporteur received information from the de facto authorities that subsequent arrests have been made in relation to the incidents in Herat.

58. As noted in previous reports, that type of attack targeting Hazara seems to be widespread and systematic and bears the hallmarks of international crimes.

59. The Special Rapporteur notes with concern that the number of Sikh and Hindu families that reside in Afghanistan has dropped further due to the security and economic situation. Community representatives indicate that there are about 50 Sikh and Hindu families left in Afghanistan. The Special Rapporteur has also been informed by other non-Muslim communities that they are exposed to threats and violence and fear arbitrary detention.

60. The Special Rapporteur calls for enhanced protection and accountability measures in accordance with human rights standards to safeguard ethnic and religious minorities, including Hazara, Shia, Sufi, Hindu and Sikh communities, against attacks. He commits to advocate at the national and international levels for investigations that lead to justice and the prevention of further persecution.

E. Land disputes

61. Disputes over land have plagued Afghanistan for generations. Disputes are often between different communities or related to water management, fertile land and mineral resources, as well as struggles for power and wealth. The Taliban’s seizure of authority has also caused a shift in delicate balances of power and the representation of communities, including at local, district and provincial levels and in the legal system. In addition, the de facto Ministry of Justice has instituted a Land-Grabbing Prevention and Restitution Commission, which so far has claimed about 700,000 acres of land as State property. While the Special Rapporteur notes that land-grabbing of State-owned land through corruption has been widespread for decades, he warns that any reallocation of land should follow international standards and not lead to forced evictions or other violations.

62. The ripple effects of all those developments have surfaced most clearly in land disputes between Hazara, Uzbek, Turkmen and Tajik landowners and communities who are regarded as having closer ties to the Taliban. The Special Rapporteur has received such claims in various provinces, including Baghlan, Bamyan, Daykundi, Faryab, Ghazni, Ghor, Jowzjan, Kabul, Mazar-e-Sharif, Sar-e Pul, Takhar and Uruzgan.

63. Various claimants in land disputes have informed the Special Rapporteur that, in some cases, land is reassigned to members of another ethnic group or the Taliban on the basis of contentious historical claims through decisions by de facto commissions or courts, which they regard as biased and unfair. In addition to losing their land, previous owners are often forced to pay compensation to the new owners. The Special Rapporteur has received claims from ethnic and religious minorities about incidents of violence, damage to property and intimidation. One man told the Special Rapporteur: “They receive different kinds of threats

²¹ See https://unama.unmissions.org/sites/default/files/english_hr_update_22jan_2024.pdf.

by telephone or in-person, there are cases in which the Kuchi go armed to a house to force them to sign land-dispute papers. ... Then a Taliban court verifies these papers and makes unjust decisions, which are implemented by force.”

64. While the level of involvement of the Taliban in land disputes differs, the Special Rapporteur underlines that the de facto authorities must invariably fulfil the right to a fair and public hearing by a competent, independent and impartial tribunal and to provide protection from forced evictions. The de facto authorities have a responsibility to investigate allegations of threats and violence to obtain land and to hold those responsible to account. He reiterates that all evictions require legal justification in accordance with international human rights standards, including in cases in which land that was allegedly taken illegally from the State is reclaimed.

F. Sexual orientation and gender identity

65. The challenges faced by the LGBTQI+ community in Afghanistan were massive before the political changes in 2021. Historically, many LGBTQI+ individuals in Afghanistan lived in secrecy, concealing their gender identity or sexual orientation due to fear of rejection by families, societal stigma and prosecution. Since the collapse of the Islamic Republic, their situation has become even more perilous.

66. Members of the LGBTQI+ community in Afghanistan have informed the Special Rapporteur that they are subject to severe hardship. In interviews, they have indicated that those whose non-conforming sexual orientation or gender identity or expression becomes known to the de facto authorities face gender persecution and serious ill-treatment. Disturbing accounts have emerged of persons being subjected to physical and sexual violence in prisons, possibly amounting to torture, based on their sexual orientation or gender identity. One individual who recounted their harrowing experience told the Special Rapporteur: “I was beaten, tortured and gang-raped several times during my 16 days of imprisonment.”

67. Consequently, many persons have been compelled to seek asylum in neighbouring countries or further afield. However, even as refugees, their struggles are compounded by their sexual orientation and gender identity, adding layers of complexity to the challenges common to other Afghan refugees. Life in exile has also proven to be fraught with challenges. One individual in Pakistan detailed the traumatic experience to the Special Rapporteur: “My landlord wanted to rape me, and I shouted, which led the neighbours to come to my rescue.” Furthermore, it has been reported that they experience severe challenges in obtaining identity documentation, both in Afghanistan and abroad. One individual shared the following with the Special Rapporteur: “I was taken to a room for fingerprinting by an old man. While using the fingerprint machine, he touched my hand inappropriately. I pulled away, but he said if you want a passport, you should do what I tell you. He then went to drink water, locked the door and proceeded to touch my body and, after he was done, he opened the door and said you can go.”

68. The Special Rapporteur is troubled by the accounts that he has heard of gender-based violations and discrimination against persons due to their sexual orientation and gender identity. Pre-existing social stigma and taboos, exacerbated by the Taliban’s discriminatory gender ideology, create additional obstacles for them to access justice and services. He emphasizes the importance of acknowledging and supporting their identities without prejudice and protecting them against discrimination, harassment and violence.

G. Persons with disabilities

69. In Afghanistan, the prevalence of disability is high. Persons with disabilities experience increased vulnerability in times of crisis, including in terms of access to essential services, including humanitarian aid. Afghan women with disabilities face intersecting forms

of discrimination. Often, they are seen as a burden on their families and are at increased risk of violence both in and out of the home.²²

70. The Special Rapporteur has received reports from Afghans with disabilities criticizing the de facto Ministry of Martyrs and Disabled Affairs for interrupting or cutting financial support to persons with disabilities, in some cases leading to protests. According to the de facto authorities, as of December 2023, it had registered more than 180,000 persons with disabilities, of whom approximately 75 per cent received monthly assistance.²³ Persons with disabilities have repeatedly communicated to the Special Rapporteur that they want to participate, in an equal manner, in all forms of political, economic, social, humanitarian and cultural developments and actions at all stages. In addition, they want to be represented in decision-making platforms and processes.

71. The Special Rapporteur notes that, although the Taliban has paid attention to the situation of persons with disabilities, he emphasizes that the engagement with this community should shift away from a charity-based model towards a rights-based approach. He calls upon the Taliban to continue increasing its financial support for persons with disabilities, as well as redoubling its efforts in relation to the inclusion, participation and representation of persons with disabilities in all facets of public life.

IV. Civil and political rights

A. Civic space: freedom of expression, association and peaceful assembly

72. Civic space continued to shrink inside Afghanistan with the Taliban continuing to arbitrarily arrest and detain persons critical of their policies and leadership, in some cases raising questions of enforced disappearance. The Taliban stated in August 2023 that anyone, including journalists, acting against national interests and religion would be arrested.²⁴ The Special Rapporteur expresses his utmost concern about the collapse of civic space. Together with other mandate holders, he called upon the Taliban to stop the arbitrary arrest and detention of individuals on the basis of their opinions. On multiple occasions, he has requested that the Taliban unconditionally release women human rights defenders, education activists, NGO workers and journalists.

73. The suppression of civic space by the Taliban has had a chilling effect, manifested through self-censorship, disproportionately affecting women and girls, ethnic and religious minorities and human rights defenders. For example, protests demanding the human rights of women and girls have largely shifted indoors.

74. The small number of human rights organizations that persist face threats of closure, impeding their ability to engage in advocacy or initiatives aimed at fostering social change. Many efforts of NGOs have subsequently transitioned towards providing humanitarian aid. Several Afghan-led organizations have re-established themselves abroad and carry out human rights monitoring, although they report that gathering and verifying information has become increasingly challenging.

75. Since September 2023, the Special Rapporteur has documented information about dozens of arrests of human rights defenders, civil society members and journalists, an increase in comparison with the first nine months of 2023. In addition, the Special Rapporteur regularly followed up with the de facto authorities on cases of persons who had been arrested

²² See www.hrw.org/report/2020/04/28/disability-not-weakness/discrimination-and-barriers-facing-women-and-girls.

²³ See <https://tolonews.com/afghanistan-187036>.

²⁴ <https://afjc.media/english/index.php/events/press-release/afjc-releases-2023-annual-report-on-media-freedom-in-afghanistanmedia-freedom-in-afghanistan>.

prior to September 2023, such as Mortaza Behboudi and Matiullah Wesa, who were both released in October 2023, as well as Rasoul Parsi Abdi who remains detained.²⁵

76. Arrests appear to be related to the opinions, beliefs and activities of human rights defenders, gender equality advocates, NGO workers and journalists. Persons suspected of cooperating with foreign organizations have been disproportionately targeted. However, it is challenging to discern the reasons for arrests because detainees are typically not charged with an offence.²⁶ The de facto authorities claim that the cases are under investigation, but detainees are not usually brought before a court.

77. The Afghanistan Journalists Center documented 61 arrests of journalists in 2023, a decrease from the 119 documented arrests in 2022. In his engagements with media outlets, the Special Rapporteur was informed about threats and fear of arrests, which has made it increasingly challenging for journalists to continue their work. Journalists have been arrested on suspicion of cooperating with foreign media and their release was often made conditional on refraining from such cooperation.

78. The Special Rapporteur has received information about restrictions placed on publishing houses, bookstores and libraries to prevent the distribution of books that are judged by the Taliban's Book Evaluation Commission to be "against Islamic sharia, national values and Afghan culture".²⁷ The Taliban has implemented the restrictions through inspections of bookstores, publishing houses and a licensing regime.²⁸ The Special Rapporteur is concerned that those limitations unduly violate the rights of Afghans to seek, receive and impart information and ideas.

B. Rule of law

79. The radical disruptions to the legal architecture of Afghanistan since August 2021, including the suspension of the Constitution and laws, as well as the inconsistent enforcement of laws and the lack of transparency and clarity about law-making processes, have put at risk the principle of legal certainty, the bedrock of the rule of law.

80. Those changes have also compromised international due process obligations, including, inter alia, the presumption of innocence, independence of the judiciary and the right to legal defence.

81. The Taliban has continued to subject persons to corporal punishment in public, often involving groups, in violation of the prohibition of torture and cruel, inhuman or degrading treatment or punishment. For instance, UNAMA refers to an incident on 16 August 2023, a group of 19 persons (2 women and 17 men) were publicly flogged in a sports stadium in Sar-e Pul. Similarly, on 17 September 2023 in Zabul, a group of nine people (including one woman and eight men) were flogged, in another sports stadium.²⁹ The Special Rapporteur again calls upon the de facto authorities to refrain from implementing corporal punishment.

82. Moreover, the Taliban's claimed adherence to sharia law has led to the imposition of corporal punishment for what they deem as moral or sexual offences, including illicit relationships, adultery and sodomy, as well as conventional offences, such as robbery. A report by the NGO Afghan Witness indicates that between 26 October 2022 and 26 October 2023, the de facto authorities issued 71 declarations of sharia punishments, involving 417 individuals. In the report, the organization claimed that nine *qisas* sentences had been

²⁵ See communications OTH 22/2023 and OTH 24/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27964> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27986>.

²⁶ A notable exception is the one-year prison sentence handed out to the director of an independent radio station in Daykundi on 10 December 2023.

²⁷ See <https://moic.gov.af/ar/node/2485>.

²⁸ See <https://moic.gov.af/en/officials-department-information-and-culture-visited-printing-houses-and-bookstores-taloqan-city>.

²⁹ See https://unama.unmissions.org/sites/default/files/human_rights_situation_in_afghanistan_jul-sep_2023.pdf.

announced, of which, two had led to the execution of individuals accused of murder in December 2022 and June 2023, whereas the other seven individuals had received pardons.³⁰

C. Right to life and security of the person, extrajudicial executions, arbitrary arrests and detentions, torture and ill-treatment

83. The Special Rapporteur expresses profound concern regarding the widespread instances of extrajudicial killings, torture, ill-treatment and enforced disappearances. He underscores that Afghanistan is obliged to uphold its human rights obligations under the international human rights framework. The Special Rapporteur has received first-hand accounts from victims, as well as information from NGOs,³¹ encompassing a wide range of abuses, inter alia, revenge and extrajudicial killings, enforced disappearances, torture and sexual violence, highlighting the pervasive nature of these violations throughout the country. In addition, UNAMA documented more than 1,600 instances of human rights violations by the de facto authorities during arrest and detention, with half involving torture and other inhuman acts.³²

84. The Special Rapporteur has been alerted to extrajudicial killings, ill-treatment and torture of former security personnel and government officials. The prevailing lack of accountability for those grave violations and the rampant impunity pose serious doubts about the commitment or capability of the de facto authorities to enforce the rule of law and bring the culprits to justice. The Special Rapporteur asserts that the situation requires the urgent and comprehensive attention of the international community. He calls for immediate measures to safeguard the victims and hold those responsible accountable, ensuring that the international human rights commitments of Afghanistan are actively upheld and enforced.

85. Additionally, judges and prosecutors who served with the Islamic Republic have informed the Special Rapporteur that they are facing dire circumstances, not only being without jobs but also fearing for their lives and seeking assistance and relocation. Despite the Taliban's proclaimed amnesty, they have targeted not only former security personnel but also former members of the judiciary. The Special Rapporteur received information about the killing of 20 prosecutors (18 men and 2 women) across the country since January 2023. During the reporting period, the Special Rapporteur received information that the Taliban had detained a defence attorney in Panjshir without any prior notice or explanation for the arrest. Furthermore, judges and prosecutors are under threat of retaliation from prisoners who were released immediately after the takeover.

V. Economic, social and cultural rights

A. Humanitarian crisis

86. The humanitarian crisis, which deteriorated after August 2021, continued during the reporting period with additional factors coming into play, including the devastating Herat earthquakes in October 2023 and the Pakistan Illegal Foreigners' Repatriation Plan, which could affect approximately 1.7 million Afghans residing in Pakistan and involve forced deportation within 28 days and seizure of property and businesses.

87. The Office for the Coordination of Humanitarian Affairs forecasts that, in 2024, 23.7 million persons, more than half the population of Afghanistan, will need humanitarian assistance. That is the third largest population in need in the Office's 2024 global humanitarian overview. However, that figure represents a decrease compared with the corresponding number in 2023 when 29.2 million persons were in need. The Special Rapporteur has consistently reported on the economic situation and the vulnerability of

³⁰ See www.afghanwitness.org/reports/one-year-of-sharia-punishments.

³¹ See www.hrrleague.org/New-HRRL-Report-on-Revenge-Killings-in-Afghanistan#wbb2.

³² See https://unama.unmissions.org/sites/default/files/unama_report_-_eng_-_treatment_of_detainees_sept_23_0.pdf.

Afghanistan to natural disasters and the tangible consequences of climate change and urged that more could and should be done to increase the country's resilience and improve the protection of economic, social and cultural rights. Policies that impede those efforts include the ban on women working for NGOs and the United Nations, the lower levels of international funding to support livelihoods and finance humanitarian assistance, as well as the continued freezing of the assets of the central bank of Afghanistan.

88. However, there are pockets of hope. The economy of Afghanistan seems to be "bottoming out" and, instead of a continuation of year-on-year decline, economists forecast that the economy will hover around no growth or, more optimistically, slow growth. Some indicators are slightly more positive, including decreased levels of inflation. However, the economic situation remains fragile and the well-being of many Afghans will remain dependent on foreign assistance. The Special Rapporteur notes that the funding gap increased in 2023. Donors funded approximately 46 per cent of the \$3.2 billion humanitarian response plan of the Office for the Coordination of Humanitarian Affairs, down from 75 per cent in 2022. He notes that an expansion of financial support does not entail recognition of the *de facto* authorities.

89. For more sustainable progress, the Special Rapporteur recommends addressing the dichotomy between development and humanitarian support by focusing more on the human rights consequences for the Afghan population. The current approach is mainly focused on traditional humanitarian assistance, which is costly, unsustainable and stimulates donor dependency without sufficiently empowering communities to improve their livelihoods.

90. The Special Rapporteur reiterates that the provision of essential services, which are necessary for the enjoyment of human rights, should not be impeded by sanctions. The Special Rapporteur cautions against tendencies towards overcompliance and notes that in its resolution 2664 (2022), the Security Council allows for humanitarian assistance and support for other activities that support basic human needs and notes that such measures are not intended to have adverse humanitarian consequences for civilian populations.

91. An underutilized funding source remains the Fund for the Afghan People, with assets totalling approximately \$3.69 billion. However, to date, the Fund has not made any money available for the benefit of the Afghan people.³³ The Special Rapporteur reiterates his concern about the delay in the disbursement of funds and places importance on such disbursement for sustainable socioeconomic development.

92. The Special Rapporteur notes the concerns of donors about the role of the Taliban, including the diversion of funds, which harms, in particular, minorities and women and girls. While measures have been taken to minimize the involvement of the Taliban, due to the current operating environment, a zero-tolerance approach would be unrealistic and was not the case either with funds allocated prior to the Taliban takeover. Ultimately, the Taliban have the ability to improve the economic situation by respecting human rights, especially the rights of women and girls, and by strengthening institutions that could improve the socioeconomic situation.

93. The Special Rapporteur remains highly concerned that women and girls and women-headed households bear the brunt of the humanitarian and economic crisis. The restrictions of the Taliban on women and girls have severely exacerbated the situation. Women-headed households experience a higher reliance on "emergency" livelihood coping strategies, increased rates of early marriages of daughters and higher rates of food insecurity and child labour when compared with men-headed households.

94. The United Nations Development Programme indicates a growing gap between the employment rate of men and women and that between younger and older men.³⁴ Socially, the lack of employment opportunities for young men could potentially fuel social unrest or susceptibility to radicalization. For women, unemployment and underemployment perpetuate financial dependence, reinforce traditional gender roles and impede progress towards gender equality.

³³ See www.sigar.mil/pdf/lessonslearned/SIGAR-24-07-LL.pdf.

³⁴ See www.undp.org/afghanistan/two-years-review.

95. The Special Rapporteur notes that the Afghanistan Women's Chamber of Commerce and Industry reopened in April 2022, and the de facto authorities have made steps to promote products made by women. However, the areas of enterprise that have been supported are mostly limited to traditional, socially acceptable activities that are often carried out in the home, such as handicrafts and confectionery. However, online businesses are developing.

96. The Special Rapporteur remains concerned about the longer term prospects for women's health care due to the education ban, as well as the inadequate access to emergency reproductive, maternal, and child health services. He calls upon the Taliban to enable girls and women to become medical professionals, including through the recent positive step taken to allow them to sit for the relevant examinations.

97. At the same time, the mental health landscape is alarming, especially for women and girls, with half of that population experiencing psychological distress, while a significant fraction are impaired due to mental health issues.

98. In practice, restrictions on women and girls and at the level of women aid workers differ widely across the country. In 2023, the Office for the Coordination of Humanitarian Affairs observed a sharp increase in bureaucratic and administrative impediments.³⁵ The Special Rapporteur applauds humanitarian organizations that have found local solutions to alleviate those challenges. However, he notes that local agreements or exceptions have proven fragile and are not replacements for policy change in relation to women's human rights at the national level.

B. Migration and internationally displaced persons

99. Pakistan, the Islamic Republic of Iran, Türkiye and other States have together hosted millions of Afghan nationals, often for more than two decades. Pakistan and the Islamic Republic of Iran alone host around 7.7 million Afghans, of whom 1.6 million have arrived since August 2021.

100. Due to the human rights, rule of law and security situation in Afghanistan, the Office of the United Nations High Commissioner for Refugees issued a non-return advisory against forcible returns.³⁶ However, hundreds of thousands of Afghans had to leave Pakistan and the Islamic Republic of Iran³⁷ and, to a lesser extent, Türkiye.

101. In October 2023, Pakistan introduced its Illegal Foreigners' Repatriation Plan, under which it announced that all "illegal foreigners" had to leave Pakistan by 1 November 2023. Pakistan has linked the policy to the increased activity of Tehrik-e Taliban Pakistan since the Taliban takeover in August 2021 and claims that Afghans were involved in attacks.³⁸ As a result, more than 500,000 Afghans left Pakistan for Afghanistan, including Afghans who were born and raised in Pakistan. Some 89 per cent indicated that fear of arrest was the reason that they left.

102. As a reaction to the Repatriation Plan, the de facto authorities established a commission for returnees affairs on 8 October 2023. The commission established a "road map" for temporary camps and basic facilities for the returnees. The de facto authorities also created a committee to support the transfer of property of Afghans in Pakistan who were forced to leave for Afghanistan. The Special Rapporteur notes the scale of effort from the Taliban, especially considering the limited time and resources available and the cooperation with humanitarian actors to meet the basic needs of many of the Afghan returnees.

103. The Special Rapporteur and other mandate holders have urged Pakistan to continue to provide protection for Afghans and called for respect for the principle of non-refoulement, noting that women and girls, victims of trafficking, ethnic and religious minorities, former

³⁵ See www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-access-snapshot-december-2023.

³⁶ See www.ecoi.net/en/file/local/2086941/63e0cb714.pdf.

³⁷ The Islamic Republic of Iran reportedly announced that more than 200,000 Afghans had returned to Afghanistan.

³⁸ See www.rferl.org/a/pakistan-afghans-expulsions-kakar-terrorism/32676719.html.

government and security officials, persons with disabilities, members of the LGBTQI+ community and older persons are at particular risk of persecution upon their return.³⁹ In addition, the Special Rapporteur has expressed concerns about allegations of forced evictions and arbitrary detention in Pakistan and has counselled against disadvantaging refugees and migrants under the guise of anti-terrorism measures.

104. The current human rights situation requires a continuous commitment to support vulnerable Afghans who need to seek protection. The Special Rapporteur has called upon States, especially those further afield, to provide support for the hosting of Afghan refugees, including in the region, as well as increased opportunities for resettlement and family reunification.

105. While the level of conflict-related internal displacements continued to decline in 2023, the earthquakes in Herat, other natural disaster events, and the surge of Afghans entering from neighbouring countries, has put additional strains on the de facto authorities and humanitarian aid providers. Afghanistan has the second largest internally displaced population globally. For 2024, OCHA estimates that 6.6 million people will be in need of shelter and non-food-item assistance. The Special Rapporteur remains concerned about the risk of evictions of displaced persons, especially those residing in informal settlements.

C. Cultural rights

106. The cultural landscape of Afghanistan has historically been rich and diverse, featuring music, arts and cultural celebrations, such as Nowruz and Yalda. However, that vibrant cultural scene has faced severe challenges following the Taliban takeover in 2021. The de facto authorities have not only banned music and other forms of art but have also actively suppressed artists, musicians, actors, poets and singers.

107. That suppression was starkly highlighted on 2 November 2023, when Faridon Fakoori, a renowned theatre director in Herat Province, was arrested for presenting a play that was perceived as critical of the Taliban. He had previously criticized the Taliban's neglect of theatre arts, which resulted in his demotion. After 45 days in prison, he was released on 24 December 2023.

108. The crackdown on cultural expression extends beyond the theatre. The de facto authorities banned music at wedding ceremonies with reports of enforcement of the ban in various provinces, including those of Ghazni, Badakhshan and Kapisa.

109. Further suppression of the arts was evident in Balkh Province. On 27 December 2023, the local Taliban authorities prevented journalists from covering an art exhibition organized by the Afghan Women's Educational Center, in collaboration with the United Nations Children's Fund. The event, held in a hotel in Mazar-e-Sharif, showcased more than 50 young artists, male and female, who displayed their art and handicrafts in a space with a designated area for female participants. In addition, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice asserted that the celebration of Yalda was haram⁴⁰ and against Islamic values. The Special Rapporteur is concerned about the treatment and suppression of artists and cultural activities in a country in which art and culture have been deeply embedded in its history and widely celebrated by its people.

VI. Conclusions and recommendations

110. **As noted in the introduction and throughout the present report, the human rights situation in Afghanistan continues to deteriorate. Women and girls are erased from public life, peaceful dissent is not tolerated, violence and the threat thereof is used to control and instil fear among the population with impunity. That includes extrajudicial**

³⁹ See communication PAK 11/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28622>.

⁴⁰ Forbidden or proscribed by Islamic law.

killings, disappearances and torture. Marginalized communities and opponents of the regime experience discrimination and exclusion.

111. The way forward must be for a more tolerant and inclusive society that is committed to upholding international human rights standards under the umbrella of the rule of law. The de facto authorities have the primary responsibility, while other States have a greater duty than is usually the case because of their intervention from 2001, their hasty withdrawal and the Taliban's ongoing treatment of women and girls. Any inclination towards normalization of the current situation without very substantial progress on human rights, including on gender equality, should be resisted. The human rights of Afghan people are no less important than those in other countries and they must not be abandoned.

112. The following recommendations should be read in conjunction with the recommendations in the Special Rapporteur's previous reports.

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

(a) Take steps to fulfil their responsibilities in accordance with the international human rights treaties ratified by Afghanistan, including by reversing policies and practices that violate these international commitments;

(b) Hold accountable, in accordance with international standards, officials who perpetrate human rights violations;

(c) Cease all forms of institutionalized discrimination against women and girls, urgently reversing discriminatory policies and directives that curtail the rights and fundamental freedoms of women and girls, including by:

(i) Immediately and unconditionally releasing any women and girls who may be arbitrarily detained, including those arrested on the ground of alleged contraventions of the hijab dress code, and women human rights defenders;

(ii) Ensuring that women and girls can enjoy their right to privacy and freedom of expression, including by making free choices about their physical appearance and attire;

(iii) Lifting restrictions on the freedom of movement of women and girls, notably the requirement to be accompanied by a *mahram*;

(iv) Take measures to prevent and investigate cases of violence against women, including online, by restoring an institutional system to protect women survivors, ensuring their access to justice, reparations and required services, and holding perpetrators to account;

(v) Ensure that women and girls across Afghanistan have access to quality health services, including psychosocial and reproductive health services;

(vi) Immediately restore the right of women to work for the United Nations and international NGOs and in the national civil service;

(vii) 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 and policy measures affecting their lives;

(d) Re-establish equal, inclusive and equitable access to education without discrimination for women and girls at all levels and across all subjects that meet minimum standards of accessibility, acceptability and adaptability;

(e) Take robust measures to protect children from harmful practices, including forced recruitment and use, forced labour, smuggling, trafficking, child marriage and *bacha bazi*;

(f) Enhance child protection by adopting a proactive and comprehensive strategy to eliminate child casualties caused by landmines and other explosive war

remnants, through increased clearance programmes, awareness-raising activities and community safety measures;

(g) Promote inclusiveness and refrain from discrimination towards communities and persons from minority backgrounds, and protect their security, including by:

- (i) Repealing laws, policies or practices that discriminate against individuals and communities on the grounds of ethnicity and religious belief;
- (ii) Ensuring their security in places of worship, transportation and educational institutions;
- (iii) Preventing violence and intimidation against these communities, such as forced evictions or the destruction of properties;
- (iv) Investigating and bringing to justice those who are responsible for violence against these communities;
- (v) Guaranteeing the full and meaningful participation of ethnic and religious minority groups in all decision-making processes that have a direct impact on their lives;

(h) Take proactive measures to end discrimination and violence against individuals based on their sexual orientation or gender identity or expression and ensure that hate speech and attacks are duly investigated and perpetrators held to account;

(i) Take the necessary measures to guarantee freedom of expression and access to information by providing an enabling environment for human rights defenders, civil society activists and the media to carry out their activities without hindrance and fear of reprisals, including by:

- (i) Refraining from arbitrarily arresting persons and penalizing organizations for exercising their right to freedom of expression, association and peaceful assembly;
- (ii) Investigating cases of intimidation and attacks against members of civil society and journalists;
- (iii) Taking the necessary measures to guarantee freedom of expression and access to information, respecting the right to seek, receive and impart information and ideas without censorship;

(j) Guarantee the rights of detainees, including legal representation and access to legal documents, and ensure trials adhere to international standards;

(k) Implement the general amnesty, safeguarding former members of the security forces, judges, prosecutors, defence attorneys and civil servants, including those who promoted and protected human rights, from retaliatory actions;

(l) Prevent and thoroughly investigate arbitrary deprivation of liberty, extrajudicial executions, enforced disappearances, torture and other forms of ill-treatment;

(m) Ensure that a sufficient proportion of the national budget is allocated to basic services, in an inclusive and gender-sensitive manner;

(n) Engage constructively and facilitate visits to the country by the Special Rapporteur and other United Nations human rights mechanisms.

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

(a) Avoid normalization or legitimization of the de facto authorities until there are demonstrated, measurable and independently verified improvements in the human rights situation;

- (b) Maintain the central role of human rights in policy on Afghanistan, also keeping a strong focus on the well-being of the population, given regional and global implications of failing to protect human rights in Afghanistan, especially those of women, girls and ethnic and religious minorities;
 - (c) Support inclusive, community-driven processes in Afghanistan aimed at consolidating peace and addressing grievances that respect the country's diversity;
 - (d) Continue to insist that gender equality is essential for international cooperation and the future of the country;
 - (e) Support the representative, equal and meaningful participation of Afghan women and men in all deliberations concerning the country's future, including while defining the international community's policies towards the de facto authorities;
 - (f) Support international investigation and accountability mechanisms and initiate or collaborate with accountability processes in domestic jurisdictions for past and current violations by all parties to the conflict in Afghanistan, including for gender justice and attacks on ethnic and religious communities;
 - (g) Take all possible steps to support access to education for all girls at all levels and continue to advocate for the readmission of girls at secondary schools and women at universities, and the reversal of the ban on women's employment in NGOs and the United Nations system;
 - (h) Support Afghan human rights defenders and gender equality advocates and other Afghans at risk, and take measures to protect their long-term security, including by granting them refugee, protected or regular status, facilitating their safe resettlement and expanding the provision of educational scholarships;
 - (i) Increase their contributions to humanitarian funding, including going beyond traditional humanitarian support, with a view to ensuring the fulfilment of the economic, social and cultural rights of Afghan people;
 - (j) Release the foreign reserves of Afghanistan subject to safeguards ensuring that the funds are disbursed for sustainable socioeconomic development;
 - (k) Provide political support and accessible financial support to human rights defenders and women's groups and support Afghan journalists and media advocacy organizations inside and outside the country.
-