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**A barrier to securing peace:  
Human rights violations  
against former government  
officials and former armed  
force members in  
Afghanistan:  
15 August 2021 – 30 June 2023**



**United Nations**  
Assistance Mission in Afghanistan

## About this report

This report is part of a series of thematic studies on current human rights issues of concern to the people of Afghanistan, carried out by the United Nations Assistance Mission in Afghanistan's (UNAMA) Human Rights Service in the framework of Security Council Resolution 2626 (2022), which was extended by Resolution 2678 (2023). Resolution 2626 tasks UNAMA with engaging with "all stakeholders at the national and subnational levels and civil society and international non-governmental organizations in the protection and promotion of the human rights of all Afghans", and to "monitor, report and advocate with regard to the situation for civilians (and) the prevention and elimination of violence." As part of this engagement, Afghanistan's de facto authorities were invited to provide factual comments on the content of the report and their response is annexed.

## Introduction

Following their takeover of Afghanistan on 15 August 2021, the *de facto* authorities announced what they termed a “general amnesty”<sup>1</sup> for former officials of the government of the Islamic Republic of Afghanistan<sup>2</sup> and former members of the Afghan National Defense and Security Forces (ANDSF).<sup>3</sup> In the almost two years since, senior *de facto* officials have repeatedly, publicly, expressed their commitment to the general amnesty, calling for it to be upheld and for breaches to be investigated and for those found responsible to be punished.

During this period, the United Nations Assistance Mission in Afghanistan (UNAMA) has recorded credible reports of hundreds of human rights violations – including extrajudicial killings, arbitrary arrests and detentions and torture and ill-treatment – carried out by the *de facto* authorities against former government officials and ANDSF members. There is limited information regarding efforts by the *de facto* authorities to conduct investigations and hold perpetrators of these human rights violations to account.

While the announcement of the general amnesty was a welcome step, the *de facto* authorities’ failure to fully enforce their publicly stated commitment to it, and to uphold their obligations under international human rights law, has the potential to seriously impact both

the cohesion and stability of Afghan society and the prospects for securing lasting peace in the country.

## Background to the general amnesty

To date, the *de facto* authorities have not publicly released any written text or guidance setting out the scope of the general amnesty. Therefore, the background in this section is based on public comments made by the Taliban Leader and other members of the *de facto* authorities.

On 15 August 2021, as the Taliban advanced their control of Afghanistan into Kabul, spokesperson Zabihullah Mujahid tweeted: “We repeat once again that the Islamic Emirate is not thinking of taking revenge from anyone, those who had jobs in the military and civilian departments of Kabul administration are pardoned and at peace.”<sup>4</sup>

On 17 August 2021, these comments were reiterated by a member of the *de facto* authorities’ Cultural Commission, Inamullah Samangani, in a television interview with Afghanistan’s national broadcaster: “The Islamic Emirate of Afghanistan with full dignity, honesty and unity has announced a general amnesty for all Afghanistan especially for those opponents who during these years and most recently supported the occupation and the occupiers.”<sup>5</sup>

[1] The term “general amnesty” as used by the *de facto* authorities is distinct from the concept of an amnesty as understood under international humanitarian law. While there has been no written clarification regarding the scope of the amnesty issued by the *de facto* authorities, their public comments to date suggest that the “general amnesty” refers to a broad guarantee of protection for former government officials and ANDSF members.

[2] Hereafter, the term “former government officials” refers to officials and employees of the former government of the Islamic Republic of Afghanistan.

[3] Afghan National Defense and Security Forces (ANDSF) is an umbrella term used to refer to the security forces of the former government of the Islamic Republic of Afghanistan and includes: Afghan Border Force, Afghan Local Police, Afghan National Army, Afghan Air Force, Afghan National Police, Afghan National Civil Order Force, Afghan Special Forces, Afghan Territorial Army (also referred to as the Afghan National Army – Territorial Force), and the National Directorate of Security.

[4] Zabihullah (ذبيح الله م.) (@Zabehulah\_M33), Twitter, 15 August 2021, 12:27 pm. (Pashto).

[5] Inamullah Samangani has since been appointed as Chief of the *de facto* Government Information and Media Centre.

At a press conference later that same day, Zabihullah Mujahid repeated that the *de facto* authorities had “pardoned...all those who had fought against us”.<sup>6</sup>

In a further statement on 18 August 2021, Inamullah Samangani said that based on Taliban Leader Haibatullah Akhunzada’s general amnesty decree: “all political prisoners should be released. Starting from tomorrow, the Provincial Governors should release all senior and junior political prisoners without any conditions and hand them over to their families.”<sup>7</sup>

Since these initial announcements, senior *de facto* authorities have urged officials to respect the “general amnesty” through comments in the media, via their social media accounts, and at a number of public gatherings, including:

- On 29 December 2021, the Taliban Leader held a meeting with *de facto* officials in Kandahar in which he made 18 recommendations, the first of which was to “Respect the amnesty, do not punish the employees of the previous system for their past crimes.”<sup>8</sup>
- On 30 March 2022, *de facto* Ministry of Interior announced that *de facto* Minister of Interior Sirajuddin Haqqani had met with tribal elders from Khost, Paktya and Paktika provinces and told them that “the Islamic Emirate had no intention of retribution against anyone and called on them to invite those who had fled Afghanistan [to return].”<sup>9</sup>

- On 29 April 2022, the Taliban Leader shared a message on the occasion of Eid-ul-Fitr, stating that “The Islamic Emirate has granted a general amnesty to all its opponents and has implemented it in practice...However, if anyone disobeys the amnesty and tries to start a war in the country, then they will face a harsh and severe reaction”.<sup>10</sup>
- In May 2022, prominent Taliban member and official of the *de facto* Commission for Return and Communication with Former Afghan Officials and Political Figures Anas Haqqani reportedly made remarks at a gathering in Sabri district of Khost<sup>11</sup> province calling on *de facto* security forces to respect the general amnesty announced by the Taliban Leader.<sup>12</sup>
- On 8 July 2022, in a media interview, Anas Haqqani said: “Yes, the amnesty applies to everyone, without exception, including the armed opposition...The leadership of the Emirate is very serious about the amnesty. Action will be taken against anyone who violates this general amnesty. They will be prosecuted and severely punished. The Emir has ordered the establishment of military courts. If you know of any examples of unjust persecution, please report them to us. There must be no revenge or reprisals against the representatives of the previous government.”<sup>13</sup>

The *de facto* authorities have refuted reports of breaches of the general amnesty, stating,

[6] Al Jazeera, “Transcript of Taliban’s first news conference in Kabul”, 17 August 2021.

[7] Inamullah Samangani [@HabibiSamangani], Twitter, 18 August 2021, 7:46pm. Available at: <https://twitter.com/HabibiSamangani/status/1428012863420047369?s=20> (Dari).

[8] RTA Pashto [@rtapashto], Twitter, 30 December 2021, 10:13am.

[9] Ministry of Interior Affairs- Afghanistan [@moiafghanistan], Twitter, 30 March 2022, 3:1

[10] Zabihullah (ذبيح الله مجاهد) [Zabehulah\_M33], Twitter, 29 April 2022, 9:00 am. (Pashto).

[11] A commission created by the *de facto* authorities to promote the return of Afghans from abroad. See United Nations General Assembly, *The situation in Afghanistan and its implications for international peace and security; Report of the Secretary-General, 14 September 2022*, [A/77/340-S/2022/692], para. [7].

[12] Tolo News, “Haqqani in Khost Again Calls for Respect of General Amnesty”, 4 May 2022.

[13] Spiegel International, “You Ask Questions Like an Investigator”, 8 July 2022.

however, that if breaches had occurred, these were based on “personal enmity or revenge”, as opposed to an official order to take such action:

- In response to the United Nations Secretary-General’s report on the situation in Afghanistan and its implications for international peace and security, released 28 January 2022, spokesperson for the *de facto* authorities, Zabihullah Mujahid tweeted: “The information by the Secretary-General of the United Nations that one hundred members of the previous government were killed after the rule of the Islamic Emirate is not true. After the general amnesty, no one is allowed to harm anyone, if any incident happened due to personal revenge, we have investigated it and punished the perpetrators.”<sup>14</sup>
- Inamullah Samangani also denied the allegations in an interview with the BBC, stating, however, that: “...it is possible that based on personal enmity or in the form of revenge killings, incidents have taken place. IEA has reacted strongly to these incidents and the Commission to Purge the Ranks<sup>15</sup> and all other judicial organs have taken steps to purge such people from the ranks and subjected them to interrogation and eventually have been trying to prevent such incidents.”<sup>16</sup>

Similar statements were made in response to reports by The New York Times<sup>17</sup> and Human Rights Watch.<sup>18</sup>

## Legal framework

### International humanitarian law

International humanitarian law contains rules pertaining to the grant and scope of amnesties at the conclusion of hostilities in a non-international armed conflict. UNAMA has previously acknowledged the presence of a number of non-international armed conflicts, subject to international humanitarian law, in Afghanistan, including the armed conflict between armed forces supporting the former Government of Afghanistan (Afghan national security forces supported by international military forces) and the Taliban.<sup>19</sup> The Taliban takeover of Afghanistan on 15 August 2021, the collapse of the former Government of Afghanistan and its military forces, and the final withdrawal of international military forces on 31 August 2021, saw an end to hostilities between the Taliban and the former Government of Afghanistan.

With regards to non-international armed conflicts, Article 6(5) of Protocol II additional to the Geneva Conventions of 12 August 1949, ratified by Afghanistan, provides that:

“At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.”<sup>20</sup>

[14] Zabihullah (ذبيح الله م.) (@Zabehulah\_M33), Twitter, 31 January 2022, 2:23 pm. (Pashto).

[15] The Code of Practice for the Commission for the Purgation of the Ranks does not reference the general amnesty. It does, however, appear to suggest that individuals affiliated with former pro-government paramilitary forces – known as Arbaki/Afghan Local Police and the National Uprising Movement – should be dismissed from the *de facto* armed forces, stating that the Commission for the Purgation of the Ranks “will ascertain comprehensive and exact information” about such individuals and “will make him known to the head of the concerned organ with regard to dismissal” [Article 7, Code of Practice of the Commission for Purgation of the Ranks of the Islamic National Army].

[16] Inamullah Samangani (@HabibiSamangani), Twitter, 1 February 2022, 8:59am. (Dari).

[17] Zabihullah (ذبيح الله م.) (@Zabehulah\_M33), Twitter, 13 April 2022, 7:53 pm. (Pashto).

[18] Zabihullah (ذبيح الله م.) (@Zabehulah\_M33), Twitter, 13 September 2021, 9:29 pm. (Pashto).

[19] UNAMA/OHCHR, “Afghanistan: Protection of civilians in armed conflict”, 2020 Annual Report, February 2021, p 97.

[20] International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 UNTS 60, Art. 6(5).

While there is no definition of an amnesty in international law, the International Committee of the Red Cross has stated that the term can be understood as: “an official legislative or executive act whereby criminal investigation or prosecution of an individual, a group or class of persons and/or certain offences is prospectively or retroactively barred, and any penalties cancelled.”<sup>21</sup> The announcement of such an amnesty would therefore preclude criminal investigation and/or prosecution of former government officials and ANDSF members related to their participation in the armed conflict in Afghanistan. There is, however one important exception to this: Rule 159 of the International Committee for the Red Cross’ Customary International Humanitarian Law Study states that persons suspected of, accused of, or sentenced for war crimes should be excluded from such amnesties,<sup>22</sup> as this would be incompatible with States’ obligations to investigate and, if appropriate, prosecute, alleged offenders of war crimes. The 2014 Belfast Guidelines on Amnesty and Accountability further state that amnesties which prevent investigation and ensure impunity for persons responsible for “serious crimes” are viewed as “illegitimate”, noting that states have obligations under international law with respect to the

investigation and prosecution of individuals responsible for gross violations of human rights and of international crimes.<sup>23</sup>

### *International human rights law*

Former government officials and former ANDSF members are entitled to the same human rights protections as all Afghans. Afghanistan remains a state party to a number of international human rights treaties and conventions which prohibit extrajudicial killings, arbitrary arrests and detentions and torture and ill-treatment.<sup>24</sup>

Under international law, States have obligations to respect, protect and fulfill human rights. This includes obligations to implement legislative, administrative and other appropriate measures to prevent human rights violations and abuses, investigate alleged violations effectively, promptly, thoroughly, independently and impartially and, where appropriate, take action against those responsible.<sup>25</sup>

States parties bear positive duties to ensure the rights<sup>26</sup> set out in international human rights treaties and conventions to which they are a party – including the rights to life,

[21] International Committee on the Red Cross, “Amnesties and International Humanitarian Law: Purpose and Scope”, (4 October 2017).

[22] Mallinder, L., & Hadden, T. (2013) *The Belfast guidelines on amnesty and accountability*. Belfast, Northern Ireland: Transitional Justice Institute, University of Ulster, Guideline 4(b).

[23] International Committee of the Red Cross, Customary International Humanitarian Law, 2005, Volume I: Rules, Rule 159.

[24] Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (ratified 1 April 1987), Optional Protocol of the Convention against Torture (accession by Afghanistan 17 April 2018), International Covenant on Civil and Political Rights (accession by Afghanistan 24 January 1983), Convention on the Elimination of All Forms of Discrimination against Women (ratified 5 March 2003), International Convention on the Elimination of All Forms of Racial Discrimination (accession by Afghanistan 6 July 1983), International Covenant on Economic, Social and Cultural Rights (accession by Afghanistan 24 January 1983), Convention on the Rights of the Child (ratified 28 March 1994), Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (accession by Afghanistan 24 September 2003), Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (accession by Afghanistan 19 September 2002), Convention on the Rights of Persons with Disabilities (accession by Afghanistan 18 September 2012).

[25] UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: resolution / adopted by the General Assembly, 21 March 2006, II. Scope of the obligation.

[26] International Covenant on Civil and Political Rights (1966), Article 2(1).



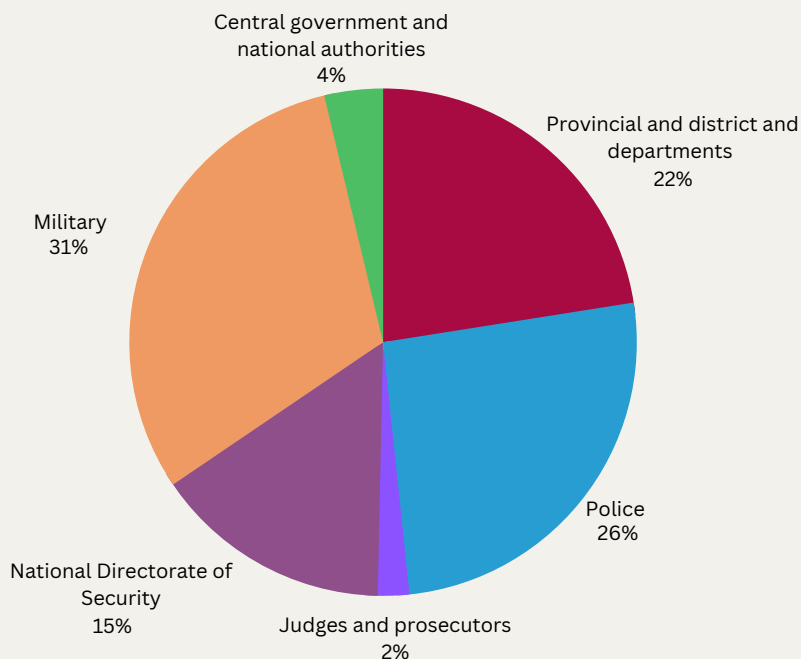
personal liberty and freedom from torture and ill-treatment. With regards to the right to life, the Human Rights Committee has stated that States parties have:

“...a due diligence obligation to take reasonable, positive measures that do not impose disproportionate burdens on them in response to reasonably foreseeable threats to life originating from private persons and entities whose conduct is not attributable to the State.”<sup>27</sup> Hence, States parties are obliged to take adequate preventive measures in order to protect individuals against reasonably foreseen threats of being murdered or killed by criminals and organized crime or militia groups, including armed or terrorist groups.”<sup>28</sup>

## Human rights violations against former government officials and ANDSF members

UNAMA has documented at least 800 human rights violations<sup>29</sup> against former government officials and ANDSF members between the Taliban takeover on 15 August 2021 and 30 June 2023. This report focuses on extrajudicial killings, enforced disappearances, arbitrary arrests and detentions, torture and ill-treatment and threats experienced by former government officials and ANDSF members. Cases are only included in overall figures where UNAMA has obtained credible reports that a member or members of the *de facto* authorities were responsible for the incident.

### Human rights violations against former government officials and ANDSF members



[27] This obligation includes a duty to take measures to prevent violations of the right to life which are reasonably foreseeable, including when carried out by persons whose conduct is not attributable to the State. Under customary international law: “The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.” ILC, ‘Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’ (November 2001) Supplement No. 10 UN Doc A/56/10), Article 8.

[28] UN Human Rights Committee, General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, [21].

[29] “Human rights violations” in this section refers to credible reports of extrajudicial killings, arbitrary arrests and detentions, enforced disappearances, torture and ill-treatment and threats.



Between 15 August 2021 and 30 June 2023, former Afghan National Army members were at greatest risk of experiencing human rights violations, followed by police (both Afghan National Police and Afghan Local Police) and National Directorate of Security officials.

Human rights violations against former government officials and ANDSF members have been recorded across all 34 provinces; with the greatest number of violations recorded in Kabul, Kandahar and Balkh provinces. While the groups set out above are at risk across all provinces, there does appear to have been increased targeting in some locations:

- UNAMA has documented at least 33 human rights violations against former ANP members in Kandahar, accounting for over one quarter of all human rights violations against former ANP members nationwide.
- In Khost, UNAMA has documented at least 11 instances of human rights violations carried out against former Khost Protection Force (KPF)<sup>30</sup> members, including extrajudicial killings, arbitrary arrests and detentions and torture and ill-treatment.

The majority of violations took place in the four months following the Taliban takeover of Afghanistan (15 August 2021 – 31 December 2021), with UNAMA recording almost half of all extrajudicial killings of former government officials and ANDSF members during this period. Despite this, human rights violations have continued beyond this initial period, with 70 extrajudicial killings recorded between 1 January and 31 December 2022.

## Extrajudicial killings

*"Taliban killed my brother...He was working as a Police officer in the [former] Ministry of Interior...10 days after Taliban takeover, while returning back to Kabul, Taliban pulled him out of a private vehicle...Taliban checked his mobile phone and saw his photos with some Ministry of Interior officials. He told them he was a student. But Taliban did not care about his argument. Then, Taliban took him away. After three days, his body was found. Locals informed my father about the location of corpse. Then, my father transferred the corpse to [province] and we buried him. The signs of many bullets were at his body. Also, dogs had eaten some part of his body."*<sup>31</sup>

UNAMA has documented at least 218 extrajudicial killings of former government officials and ANDSF members since the Taliban takeover of Afghanistan. The most targeted groups affiliated with the former government were ANA members, Afghan National Police, National Directorate of Security officials and Afghan Local Police. In most instances, individuals were detained by *de facto* security forces, often briefly, before being killed. Some were taken to detention facilities and killed while in custody, others were taken to unknown locations and killed, their bodies either dumped or handed over to family members.

For example:

- On 9 October 2022, in Ghor province, two *de facto* police officers went to the house of a former NDS official and said they had an order for his arrest. They arrested the

[30] Khost Protection Force was a pro-government armed group based in Khost province.

[31] Statement by relative of victim to UNAMA Human Rights Service.

man from his house and his dead body was found two days later.

- On 13 November 2022 in Kandahar, the decapitated corpse of a former ANP officer was found by local people. He had been arrested by *de facto* security officials on 17 October 2022.

Some killings also occurred in public places. For example:

- On 30 November 2022 in Faryab province, a local *de facto* security force member shot and killed a former ALP officer as he was walking to his relative's house for dinner. The victim had reportedly been involved in the ambush and killing of the perpetrator's brother during the former armed conflict.
- On 17 May 2023 in Takhar Province, *de facto* security personnel shot and killed a former ANA member who was walking from his farm.

For the vast majority of these killings, UNAMA was unable to determine which specific entity from the *de facto* authorities was responsible.

## Enforced disappearances

UNAMA has documented at least 14 instances of enforced disappearance of former government officials and ANDSF members.

On 2 October 2021, Alia Azizi,<sup>32</sup> former head of the Women's Prison in Herat province, did not return home from work and as of August 2023, her whereabouts remains unknown. Despite reportedly initiating an investigation

into her disappearance, the *de facto* authorities have not publicly released any information about her whereabouts. UNAMA has also recorded cases where a person disappears and their body is subsequently found or handed over to family members by the *de facto* authorities, who provided no explanation regarding the individual's disappearance and death. For example:

- In January 2023, the dead body of a former ANA member who had been arrested from his home in Kabul around three months earlier was returned to his family members by the *de facto* authorities. His family had no contact with him, nor were they informed of his whereabouts, following his arrest.
- On 13 January 2023, in Paktya province, *de facto* security forces arrested a former ANA member. His family had no contact with him following his arrest, despite visiting numerous places of detention. On 28 March 2023, his dead body was returned to his family, bearing signs of torture.

## Arbitrary arrests and detentions

UNAMA has documented more than 424 arbitrary arrests and detentions of former government officials and ANDSF members since the Taliban takeover.<sup>33</sup> Many arrests and detentions carried out by the *de facto* authorities may be considered arbitrary due to a lack of clarity regarding the applicable legal framework,<sup>34</sup> as well as failures to inform

[32] Amnesty International, "Afghanistan: Taliban authorities must reveal Alia Azizi's whereabouts", 21 January 2022.

[33] Arrests and detentions are considered arbitrary where they are: not in accordance with national laws, because they are not properly based on grounds established by law or not in accordance with procedures established by law; or otherwise arbitrary in the sense of being inappropriate, unjust, unreasonable, or unnecessary in the circumstances. The arbitrariness of an arrest or detention is based on an individual assessment of the circumstances. Since there is no exhaustive list of criteria of arbitrariness, in the view of the Working Group on Arbitrary Detention "arbitrariness must be assessed in the light of all the relevant circumstances of a given detention." For example, if a person is detained with the goal of denying their human rights (such as expression of political opinions or peaceful demonstration) or it is based on discriminatory grounds. See UN Commission on Human Rights, Working Group on Arbitrary Detention, Deliberation No. 7, 1 December 2004, E/CN.4/2005/6, para. 54(b).

[34] The *de facto* authorities have initiated a review of laws passed under the Islamic Republic of Afghanistan to assess their compliance with Sharia and Afghan traditions. At present, the outcomes of the review – and therefore, the legal status of laws adopted by the Islamic Republic of Afghanistan – remain unknown. In addition, the Taliban leader and other *de facto* authorities have issued various instructions, while repeatedly stating that Sharia is the applicable legal framework in Afghanistan.

individuals of the reasons for their arrest and the charges against them, the length of time, for which people are kept in pre-trial detention lack of access to legal counsel and other procedural rights to which detainees are entitled.

As previously mentioned, in a number of cases, arbitrary arrests and detentions led to the extrajudicial killing of the individual. UNAMA has recorded numerous cases in which former government officials and ANDSF members were held incommunicado on unknown charges:

*"I approached the General Directorate of Intelligence several times. Finally, they told me that my brother is detained in GDI 40. They haven't allowed his family to visit him. Before the collapse of the former government, [my brother] was an NDS staff member.... After the Taliban takeover, he was in Kabul and several times have gone to his duty and signed attendance sheet. Then the Taliban told him that he should stay at home until further notification. He was arrested by GDI on [date]. I don't know the reason. GDI didn't tell us anything about his allegation. He stayed in [province] as Taliban announced general amnesty."*<sup>35</sup>

*"[my relative] was a police officer in [province] in the previous government... After Taliban took power, he was home and was working in the garden and taking care of his family. He was heading to another part of the city, but he never came back. The family member searched a lot but could not find his address since he got missing. He got missing around 21 days ago. We ask families and friends to help us to find his address. Finally, his family understood that he was arrested by*

*GDI and detained in GDI detention facility. One of the relatives of my neighbor was working with Taliban in GDI. He released information regarding [my relative] 17 days after his arrest. His family do not know the reason of the arrest, but he is probably arrested for his work background with previous government. We tried too much to meet him but authority did not allow his family to visit him. He is currently in GDI detention facility in [province]."*<sup>36</sup>

Former ANDSF members have also reported being verbally abused while in detention on the basis of their former military affiliation:

*"In the police office, there were many Taliban armed men. Two of them insulted me and used bad words against me. They told me: 'You have supported the Americans to kill Mujahideen and the Afghan people. You are an infidel. You are not a Muslim. You are a dog of the Americans. The Americans evacuated their good friends but their dog is still here. You will receive punishment for what you have done against the Taliban in the past.' I told them to forget the past. The Taliban leaders already pardoned everyone. He was angry at me and told me: 'Keep silent infidel.'"*<sup>37</sup>

In a number of cases documented by UNAMA, former ANDSF members were arrested or detained on accusations of failing to surrender weapons connected with their role in the former conflict.<sup>38</sup> Such arrests were often accompanied by other violations of procedural rights, for example: ill-treatment and torture, lack of access to legal counsel and – despite general allegations regarding “illegal weapons” – failures to properly inform individuals about the reasons for their arrest and/or charges against them.

[35] Statement by victim to UNAMA Human Rights Service.

[36] Statement by victim to UNAMA Human Rights Service.

[37] Statement by victim to UNAMA Human Rights Service.

[38] On 1 April, the *de facto* Ministry of Interior issued a statement which requires the security forces, military personnel and civil government employees to register their weapons, noting that they would subsequently be issued a weapons licence. [Ministry of Interior Affairs- Afghanistan \(@moiafghanistan\), Twitter, 1 April 2023, 12.44pm.](#)

*"They brought me to the Head of the police station...He asked me to give him the 'pardon letter' that I allegedly had received from Taliban. But I told him that I was not a military man, and that I have not received a pardon letter from anyone. He then slapped me on my face and kicked me. He instructed his armed men to beat me. One of them got a water pipe and beat me around 15 times. He hit me at my back that caused the most excruciating pain. The head of the police station told me that: 'We have a report that you are an Arbaki'<sup>39</sup> commander. You have 12 guns with you.' I denied everything he said. I told him that I was not Arbaki. I used to work at the [civilian government department] for the last 15 years...I told him that he could check the attendance sheet."*<sup>40</sup>

UNAMA has also recorded cases where former government officials and former ANDSF members have been arrested or detained on accusations of their affiliation with the self-identified "National Resistance Front". In many of these instances, relatives or victims themselves have said that these allegations are false and that the primary reason for their arrest was their affiliation with the former government and/or ANDSF. While UNAMA cannot verify these claims, there is a notable trend of former government officials and former ANDSF members being arrested on the basis of alleged affiliation with the self-identified "National Resistance Front". Additionally, on 26 February 2022, *de facto* General Directorate of Intelligence officials arrested a group of around to 36 former government officials and former ANDSF members in Lashkar Gah city, Helmand province, accusing them of involvement in security incidents targeting the *de facto* authorities in the province.

## Torture and ill-treatment

More than 144 instances of torture and ill treatment of former government officials and ANDSF members by *de facto* security force members have been documented since 15 August 2021, including beatings with pipes, cables, verbal threats and abuse.

Individuals reported to UNAMA that they were tortured or ill-treated by *de facto* officials in order to force them to make confessions regarding their work with the former government or ANDSF, or to hand over weapons:

*"At midnight, one armed person entered the cell and took me out in the corridor, where he and his other colleagues closed my eyes and handcuffed me behind my back, laid me down on the floor and beat me up seriously with a plastic cable for a few minutes while I was screaming and asking them why they were beating me, and one of them answered, 'I will continue beating you until you tell us your origin and whom do you work for and what was your real position in the previous government.'"*<sup>41</sup>

*"He told me that 'I know you worked with [civilian government department] and other organizations to encourage women and girls to attend to your programs.' He then slapped me on my face and told me 'You are not an Afghan. You are not a Muslim. You are an infidel. From your face color, it seems that you are not a good person.' I told him that I have not done anything wrong. I have done to raise awareness of people about their rights. He then instructed another Talib to hit me. He kicked me and beat me with the back of a long gun. They then stretched my body until I lost my consciousness. When I regained my consciousness, I saw myself back inside a container."*<sup>42</sup>

[39] "Arbaki" was a term used during the period of the government of the Islamic Republic of Afghanistan to describe pro-government militia or Afghan Local Police members.

[40] Statement by victim to UNAMA Human Rights Service.

[41] Statement by victim to UNAMA Human Rights Service.

[42] Statement by victim to UNAMA Human Rights Service.



## Threats and harassment

UNAMA has received multiple reports of threats made to former government officials and ANDSF members, both by unknown people and by members of the *de facto* authorities. In some instances, individuals reported receiving threatening calls from *de facto* authority members. For example, a married couple, both former NDS officials, reported receiving multiple calls from *de facto* GDI personnel threatening to kill them if they did not handover weapons and a motorbike in their possession. They said they have gone into hiding and had changed their location multiple times to avoid being targeted by members of the *de facto* authorities.

In other instances, while no direct threats appear to have been made, individuals perceive a risk to their security due to their role with the former government and/or security forces. For example, stating that they believe they or their relatives were targeted or treated more harshly during a search operation by the *de facto* authorities because of their links to the former government. While UNAMA cannot verify the claims of harsher treatment, these reports indicate a broader climate of fear among former government officials and ANDSF members. One former police officer from Kandahar, who had left Afghanistan after the Taliban takeover, told UNAMA that his house had been searched eleven times by the *de facto* authorities between 15 August 2021 and early March 2022. He believed that the *de facto* authorities were looking for him and this motivated the repeated searches.

## Accountability for human rights violations

The apparent impunity with which members of the *de facto* authorities continue to commit human rights violations against former government officials and ANDSF members is of serious concern.

The *de facto* authorities have not issued any written text setting out procedures for dealing with breaches of the general amnesty. While some decrees and edicts issued by the Taliban Leader to date refer to prohibitions on torture or ill-treatment of detainees, they do not explicitly order prompt and impartial investigations into such acts, instead referring generally to “punishment” of individuals responsible.<sup>43</sup>

For the majority of violations discussed in this report, there is limited information regarding measures taken by the *de facto* authorities to investigate incidents and hold perpetrators to account. There are exceptions to this. In some instances, UNAMA has received reports that the alleged perpetrators of incidents targeting former government officials and ANDSF members have been arrested. The *de facto* authorities have also publicly announced their intention to investigate certain incidents.

For example, in December 2021, the *de facto* Ministry of Interior spokesperson told the media that an investigation had been launched into a video depicting *de facto* security force members allegedly torturing a former ANDSF member and that the perpetrators would be arrested.<sup>44</sup>

[43] For example, in March 2022, the Taliban leader issued a ‘Code of Conduct on system reform relating to prisoners’ which provides that an official or member of personnel who has ill-treated a prisoner will be considered worthy of punishment or even removal from their post (art. In addition, on 15 March 2022, the Taliban leader issued: Order on Detention of Accused Persons During Investigation and Duration of the Detention, 15 March 2022, Issue No. 29. The order states: “During detention, all types of torture shall be prohibited because only the court has the authority to take punitive decision. If someone other than the court punishes an individual, his action shall be considered injustice and oppression and prevention of injustice is obligatory while tolerating oppression is prohibited.”

[44] [Shia News Association, “Torture of a former soldier by the Taliban in Kabul” \(Dari\), 27 December 2021.](#)

However, even where investigations have been announced, there has been a lack of transparency and accountability regarding the progress of these efforts beyond their initial announcement.

UNAMA is mandated by the UN Security Council to “promote, support and advise on Afghanistan’s implementation of the provisions of instruments concerning human rights and fundamental freedoms to which Afghanistan is a State party and by which it is bound”.<sup>45</sup> As part of this engagement, UNAMA has shared many of the human rights violations discussed in this report – particularly those involving allegations of intentional killing – with the *de facto* authorities. Consistent with their public statements on this issue (discussed earlier under “Background to the general amnesty”), the *de facto* authorities have often responded that while a killing may have occurred, it was a “personal enmity or revenge” case and not carried out in an official capacity.

## Conclusions

International humanitarian law provides for – and encourages – the authority in power at the conclusion of hostilities to grant amnesties for those involved in the former armed conflict. While the introduction of the general amnesty by the *de facto* authorities was a welcome step, ongoing human rights violations – as documented in this report – against former government officials and ANDSF members indicate that the general amnesty has not been fully upheld.

Furthermore, extrajudicial killings, arbitrary arrests and detentions and torture and ill-treatment of former government officials and ANDSF members by *de facto* officials, security forces and others are contrary to the international human rights obligations binding on Afghanistan.

In addition to the duty not to commit such human rights violations, the *de facto* authorities have obligations to take appropriate steps to prevent human rights violations from occurring and to investigate alleged violations effectively, promptly, thoroughly and impartially and, where appropriate, to take action against those allegedly responsible. The *de facto* authorities bear a positive duty to prevent “reasonably foreseeable” threats to life. The well-documented, ongoing human rights violations experienced by former government officials and ANDSF members in the 20 months since the Taliban takeover, indicate that members of the *de facto* authorities continue to perpetrate, or fail to respond to, human rights violations that are carried out with apparent impunity, given there is little evidence of preventative action being taken, beyond public statements, by senior *de facto* officials.

No written text regarding the general amnesty, apart from a recommendation by the Taliban Leader for *de facto* officials to ensure that it is upheld, has been publicly released. There is, therefore, a lack of clarity regarding the temporal scope of the general amnesty and procedures for dealing with complaints or breaches thereof.

The targeting of former government officials and ANDSF members has contributed to a climate of fear among these groups. UNAMA has heard from many such individuals who report that they live in fear of being arrested or killed by a member of the *de facto* authorities. Some have gone into hiding or fled the country for this reason. One of the purposes of an amnesty is to encourage reconciliation and contribute to restoring normal relations in the life of a nation, contributing to the establishment of lasting peace and preventing resurgence of armed conflict.<sup>46</sup>

[45] United Nations Security Council Resolution 2626, 17 March 2020, S/RES/2626 (2022), para. 5(e), extended by United Nations Security Council Resolution 2678, 16 March 2023, S/RES/2678 (2023).

[46] International Committee on the Red Cross, “Amnesties and International Humanitarian Law: Purpose and Scope”, (4 October 2017).

The *de facto* authorities' failure to fully uphold their publicly stated commitment and to hold perpetrators of human rights violations to account may have serious implications for the future stability of Afghanistan.

## Recommendations to the *de facto* authorities of Afghanistan:

That the *de facto* officials issue clear, written guidance setting out the terms of the general amnesty, including with regards to its temporal and geographic scope.

That the *de facto* authorities take action to prevent human rights violations against former government officials and ANDSF members, including those carried out by private entities or groups, by:

- issuing clear instructions to *de facto* officials and personnel that such acts are unlawful and that perpetrators will be held accountable through criminal investigations
- ensuring that credible, transparent criminal investigations are conducted into alleged human rights violations against former government officials and ANDSF members, and
- releasing public information about the progress of investigations into such violations and their efforts to hold perpetrators to account.



# Response by the *de facto* Ministry of Foreign Affairs to UNAMA Human Rights Service report, regarding the violation of human rights against the employees and military forces of the previous government

Directorate of Human Rights & Women's International Affairs  
Kabul, August 2023

Reporting on the human rights activities and achievements is one of the most important obligations of every member state of the United Nations and the international community.

Afghanistan is also an inalienable member of the international community, and the Ministry of Foreign Affairs of the Islamic Emirate of Afghanistan, as a reporting body to the international human rights conventions of the United Nations, shared the draft report of the UNAMA Human Rights service in Kabul with all the government departments involved in the technical and coordination committee to find out the truth and provide feedback based on objective facts, existing documents and method of implementation of court verdicts by rule of law agents, and below is the response to the report of the human rights service of the UNAMA office in Kabul:

The draft report of the human rights service of UNAMA in Kabul was evaluated regarding human rights violations against the employees of the previous government. In relation to the prohibition of torture, the rights of suspects and detainees, a decree has been issued by His Highness Amir al-Mu'minin, which is enforced throughout the country. On the other hand, after the victory of the Islamic Emirate until today, cases of human rights violations (murder without trial, arbitrary arrest, detention, torture, and other acts against human rights) by the employees of the security institutions of the Islamic Emirate against the employees and security forces of the previous government have not been reported.

Simultaneously with the victory of the Islamic Emirate of Afghanistan on August 15, 2021, all persons and individuals who had performed duties in the previous government and various

institutions were pardoned, and the decree of general amnesty of Amir al-Mu'minin, was officially announced by the spokesman of the Islamic Emirate in a press conference. In order to reassure the employees of the previous government and those who were worried about their security in any way, it was announced and propagated by all the departments of the Islamic Emirate so that the necessary measures could be taken accordingly. Also, Decree No. 29 dated 15 March 2022 of the supreme authority of the Islamic Emirate of Afghanistan regarding the non-torture, insult, humiliation and beating of the accused during the arrest and investigation has been issued. In case of disobeying the above, serious, and legal action will be taken against the violators.

Regarding torture, it should be said that the human rights monitors of the security institutions of the Islamic Emirate are practically employed in all detention centers. In case of violation, the violators will be dealt with legally. In cases of arbitrary arrests, night operations and other issues, the written orders of His Highness Amir al-Mu'minin, have been issued and all government departments are seriously obliged to comply and implement them.

No military staff of the previous administration has been arrested, detained or tortured because of his activities in the security institutions. Those employees of the previous administration who joined the opposition groups of the Islamic Emirate or had military activities to the detriment of the system, have been arrested and introduced to judicial authorities, keeping in mind all the legal processes.

Until now, no case of non-compliance with the order of general amnesty of Amir al-Mu'minin has been received. In case any official or security and defense institution of the Islamic Emirate has violated the decree of amnesty, the matter will be officially investigated, and the perpetrators will be introduced to the judicial authorities for prosecution.

Suspects who have committed crimes after the decree of general amnesty have been interrogated by the intelligence agencies, and they will be treated according to Sharia rules. During the investigation, all the rights of the suspects were respected, and no ill-treatment was done against them.

What should be remembered is that a number of orders of the Amir al-Mu'minin regarding observance of human rights, prisoners of war, obtaining permission from the leadership in implementing the Hudud and retribution (Qisas) after the three courts, the authority to imprison and the period of detention, treating prisoners well, preventing punishment without a court decision, determining the Hudud of military courts, the evaluations of the cases in the courts, which are related to the UNAMA report, have been published in the official journal number 1432 of the year 1444 AH are accessible.

If the UNAMA office in Afghanistan has any specific and documented claims about human rights violations by intelligence agencies, they should share the matter with this ministry in detail in order to share it with the relevant institutions and conduct an all-round investigation.

**END.**