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[Previous](#) - [Home](#)

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AFGHANISTAN

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Head of state and government: Hamid Karzai

Death penalty: retentionist

International Criminal Court: ratified

UN Women's Convention: ratified

Optional Protocol to UN Women's Convention: not signed

Overview - Covering events from January - December 2005

[Background](#) : [Redressing past violations](#) : [Violence against women](#) : [Ineffective justice system](#) : [Abuses by armed groups](#) : [Violations by US and Coalition Forces](#) : [Refugees](#) : [Human rights defenders](#) : [Death penalty](#) : [AI country visits](#)

The government and its international partners remained incapable of providing security to the people of Afghanistan. Factional commanders secured positions of public authority, acted independently of government control and remained a major source of insecurity. Absence of rule of law, and a barely functional criminal justice system left many victims of human rights violations, especially women, without redress. Over 1,000 civilians were killed in attacks by US and Coalition forces and by armed groups. US forces continued to carry out arbitrary arrests and indefinite detentions. Refugees were pressured into returning to Afghanistan, despite continuing threats to their safety.

Background

The 2001 Bonn process culminated in the holding, in September, of elections to the National Assembly (*Wolesi Jirga*) and provincial councils. Marred by a climate of intimidation in the run up to polling, there was widespread public dismay at the number of factional leaders – many accused of human rights abuses – who stood for election.

Women were guaranteed at least a quarter of the seats in the *Wolesi Jirga* but faced social and administrative barriers. The legitimacy of the process was called into question on account of the low turnout, notably in Kabul.

In February, the UN Development Programme ranked Afghanistan at 173 of 178 in the world in terms of development, reflecting the country's severe socio-economic situation.

The flawed UN-supported Disarmament, Demobilization and Reintegration (DDR) programme ended in March. It was supplemented by the Disarmament of Illegal Armed Groups (DIAG) project. In September, the UN extended the mandate of the NATO-led International Security Assistance Force to 2006.

In February, Cherif Bassiouni, the UN Independent Expert on the Situation of Afghanistan, criticized the Afghan criminal justice system and the US detention of Afghans. The mandate of this position was, however, ended by the UN Commission on Human Rights in April, in accordance with US wishes.

Redressing past violations

In January, the Afghanistan Independent Human Rights Commission (AIHRC) issued a report examining measures to address past human rights violations. In December, the government passed the Transitional Justice Action Plan, which calls for the commemoration of victims, vetting of state employees to exclude human rights violators, the creation of a truth-seeking mechanism, the promotion of national reconciliation and the establishment of justice mechanisms for past crimes.

- In July Faryadi Sarwar Zardad, a commander who had fled to the UK in 1988, was sentenced to 20 years' imprisonment in connection with human rights violations carried out by him and those under his command. The UK authorities cited their obligations under the UN Convention against Torture as the basis for prosecution.
- In September, Habibullah Jalalzai and Hesamuddin Hesam, both former senior officials of KHAD, a security body during the 1980s, were sentenced to nine and 12 years' imprisonment respectively following a trial in the Netherlands.

Many regional officials and commanders – often called warlords – continued to wield power within Afghanistan. Some continued to maintain links with armed groups responsible for abuses that included war crimes committed during armed conflicts since 1979-80, including mass killings and rape. In December a national conference on truth-seeking and reconciliation was held.

Violence against women

In a climate of continued lack of public security and rule of law, women were denied enjoyment of their human rights. Women continued to face systematic and widespread violence and discrimination in public and private including discriminatory customary practices. In June the government established an inter-ministerial council aimed at combating violence against women, but by the end of 2005 few legal provisions to protect women had been promulgated, and fewer implemented.

- In April, a 29-year-old woman called Amina was killed in Badakhshan. An elder, a member of her family and at least two other people were subsequently arrested.
- In May, the bodies of three women were found raped and strangled on a road in Pul-e Khumri. Arrests followed but it was not known whether these resulted in trials.

Ineffective justice system

Flaws in the administration of justice remained a key source of human rights violations, especially in rural areas. All stages of the legal process were hampered by corruption, the influence of armed groups, lack of oversight mechanisms, non-payment of salaries and inadequate infrastructure. Detainees continued to be held unlawfully for prolonged periods and denied a fair trial. There were reports of inhumane conditions in prisons.

- In October, prisoner of conscience Ali Mohaqqueq Nasab, the editor of a journal on women's rights, was sentenced to two years' imprisonment for "defamation" and "blasphemy". An appeal court in December suspended his sentence and he was freed.

Abuses by armed groups

Hundreds of civilians including aid workers, election officials and clerics were killed by armed groups such as the Taleban, who were resurgent in the southern region. Most of the killings resulted from suicide attacks and roadside bombs.

- On 30 May, cleric Molavi Abdollah Fayyaz, who had spoken out against the Taleban, was shot dead in Kandahar. During his funeral ceremony the following day, a suicide bomber killed at least 21 people.
- On 20 July, two or more unidentified gunmen in Paktika killed Hamid Mohammad Sarwar, an election worker from the Joint Electoral Monitoring Board, who was educating voters ahead of the September elections. At that stage, he was the fourth Afghan working in support of the elections to be killed.

Violations by US and Coalition Forces

US forces continued to arbitrarily detain hundreds of people beyond the reach of the courts and their own families, UN human rights experts, the AIHRC and, in some instances, the International Committee of the Red Cross (ICRC). Excessive use of force during arrest and torture and ill-treatment inside Bagram airbase and other US facilities continued to be reported. Conditions for many detainees reportedly improved in the second half of the year.

In May, reports of torture and ill-treatment in US-controlled facilities led to civil unrest across the country. In Jalalabad up to seven people died in riots. The UN called on the USA to open the detention facilities at Bagram airbase to the AIHRC.

Despite repeated calls for independent investigations into reports of torture by US forces and deaths in custody, investigations were conducted under the auspices of the US Department of Defense.

Military operations undertaken by US and Coalition Forces continued to result in civilian deaths or injury, usually following air strikes in southern areas. There were concerns that not all necessary precautions had been taken in the conduct of such attacks.

- In 2005, more than 20 US military personnel were investigated in connection with the deaths in custody in 2002 of Dilawar and Habibullah, two Afghan detainees held in Bagram airbase. As of December 2005, seven low-ranking soldiers had been convicted of minor offences and received light penalties, but no one had been held directly responsible for the deaths in custody.
- On 4 July, US military sources confirmed that they had killed 17 civilians in an air strike in Chichal village, Kunar province.

Hundreds of Afghans were released by the US authorities from Bagram airbase and Guantánamo Bay during 2005. Some claimed that they were ill-treated in custody.

Refugees

In response to pressure from the authorities in Iran and Pakistan, more than 100,000 refugees returned to Afghanistan during 2005.

The Iranian authorities reportedly added to restrictions imposed on Afghan refugees in recent years by refusing to issue them with identity cards. There were unconfirmed reports that Iranian authorities expelled hundreds of asylum-seekers from southern Iran.

In June it was announced that up to 90,000 Afghans had left Pakistan for Afghanistan over the preceding two and a half months. Hundreds of others had moved within Pakistan as camps were consolidated.

In August, the Minister for Refugees and Repatriation stated that 40 per cent of all returned refugees were in a vulnerable situation, "struggling between hope and hopelessness". The same month Afghanistan ratified the UN Refugee Convention.

Human rights defenders

The growing community of human rights defenders faced harassment and death threats. In November, a member of the AIHRC was the target of a grenade attack.

- Shaheeda Hussain, a women's human rights defender and candidate for the *Wolesi Jirga*, was shot at in her car during the election campaign.

Death penalty

At least 24 death sentences were passed by lower and appeal courts. AI did not learn of any executions. In February, three people were sentenced to death in connection with the killing of a taxi driver. They appealed against the sentence. In May, four men were sentenced to death in connection with armed robbery and murder. In August, seven men were sentenced to death in connection with the kidnapping of election workers and, in a separate case, robbery.

AI country visits

AI visited Afghanistan in November and December to carry out research into human rights abuses in the context of the "war on terror".

Afghanistan

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[Afghanistan: Women still under attack – a systematic failure to protect](#)

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[Previous](#) - [Home](#)

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