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

Technical assistance and capacity-building

Situation of human rights in Afghanistan, and technical assistance achievements in the field of human rights

Report of the United Nations High Commissioner for Human Rights

Summary

Submitted pursuant to decision 2/113 and resolution 14/15 of the Human Rights Council, the present report contains a description of the situation of human rights in Afghanistan during the period from 1 December 2020 to 30 November 2021, including an overview of the work, including technical assistance, conducted by the Human Rights Service of the United Nations Assistance Mission in Afghanistan in cooperation with the Office of the United Nations High Commissioner for Human Rights.

The report is focused on the five principal areas of work of the Mission's Human Rights Service: protection of civilians in armed conflict; children and armed conflict; elimination of violence against women and the promotion of women's rights; prevention of torture and promotion of respect for procedural safeguards; and civic space and the integration of human rights into peace and reconciliation processes.

The report is focused largely on monitoring and technical assistance activities undertaken prior to the Taliban gaining control of the country on 15 August, and it should be read in conjunction with the report of the United Nations High Commissioner for Human Rights on the accountability of all perpetrators of human rights violations and abuses in the conflict.



I. Introduction

1. Submitted pursuant to decision 2/113 and resolution 14/15 of the Human Rights Council, the present report covers the period between 1 December 2020 and 30 November 2021. It was prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA).
2. The report is focused on the five principal areas of work of the Mission's Human Rights Service: protection of civilians in armed conflict; children and armed conflict; elimination of violence against women and the promotion of women's rights; prevention of torture and promotion of respect for procedural safeguards; and civic space and the integration of human rights into peace and reconciliation processes.
3. During the period under review, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to provide technical and financial support to the work of the UNAMA Human Rights Service in Afghanistan. On 17 September, by its resolution 2596 (2021), the Security Council extended the mandate of UNAMA until 17 March 2022.

II. Context

4. On 14 April 2021, the Government of the United States of America announced that it would begin withdrawing military personnel from Afghanistan on 1 May.¹ North Atlantic Treaty Organization partners issued a similar statement on the same date.² As the international troop withdrawal began, the peace process remained stalled, despite high-level meetings being held between the Government and the Taliban's political office in Tehran, on 7 and 8 July 2021, and in Doha, on 17 and 18 July. From May to August 2021, amid rising levels of insecurity, targeted killings and attacks targeting civilians, the Taliban seized effective control of Afghanistan through a military offensive that swept across the country, reaching the capital city Kabul on 15 August. On the same date, the President of Afghanistan, Mohammad Ashraf Ghani, fled the country, leaving the Taliban in control of most of the territory of Afghanistan, with the exception of Kabul airport, which remained occupied by international military forces until 31 August, when the remaining United States military forces departed, and parts of the Panjshir valley, where resistance forces retained control into September. In the period between 15 and 31 August, the situation at Kabul airport was chaotic, with thousands of people gathering in the airport's surrounding areas hoping to gain access to flights organized by international forces in order to leave Afghanistan. On 26 August, so-called Islamic State in Iraq and the Levant – Khorasan (ISIL-K) claimed responsibility for a suicide attack outside Kabul airport, which had resulted in the deaths of at least 170 people and hundreds more wounded.³ On 7 September, the Taliban asserted the formation of a caretaker government.

III. Protection of civilians

5. For most of 2021, Afghanistan remained one of the deadliest countries in the world for civilians. From January to August 2021, civilians, especially women and children, continued to bear the brunt of the armed conflict. The increased intensity of the fighting, including in densely populated urban areas, exacerbated the harm to civilians, particularly as the Taliban made territorial gains and advanced on provincial capitals in July and the first half of August. Even after the establishment of the Taliban's de facto authority, civilians continued to be affected by violence, although to a significantly lesser degree, in the form of ISIL-K improvised explosive device and suicide attacks and detonations of remnant improvised explosive devices and explosive remnants of war, which disproportionately harmed children.

¹ See <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/14/remarks-by-president-biden-on-the-way-forward-in-afghanistan/>.

² See https://www.nato.int/cps/en/natohq/official_texts_183146.htm?selectedLocale=en.

³ See <https://www.un.org/press/en/2021/sc14615.doc.htm>.

6. From 1 January to 30 November 2021, UNAMA and OHCHR documented at least 8,300 civilian casualties, with at least 2,400 killed and 5,900 injured. Women and children represented close to half of all civilian casualties in the first 11 months of 2021, with women comprising 13 per cent of all civilian casualties and children 29 per cent, with both reaching record levels. Ground engagements were the leading cause of civilian casualties, followed by suicide and non-suicide improvised explosive devices, targeted killings and airstrikes.

7. The overall civilian casualties verified during the reporting period marked a 5 per cent decrease compared with the same period in 2020. Approximately 83 per cent of the civilian casualties occurred between 1 January and 15 August, with record numbers of civilian casualties documented during the first six months of the year.⁴ In fact, for the period from May to June 2021, following the announcement in April that United States forces would begin withdrawal, UNAMA and OHCHR documented the highest number of civilian casualties since the beginning of such systematic documentation in 2009, with a total of 2,392 civilian casualties, almost as many as the previous four months combined.

8. UNAMA and OHCHR attributed 57 per cent of the civilian casualties in the reporting period to anti-government elements (mainly Taliban and ISIL-K) and 19 per cent to pro-government forces (Afghan National Defence and Security Forces and international military forces). The remaining 24 per cent of civilian casualties resulted from incidents that could not be attributed to either party, including crossfire between parties to the conflict and explosive remnants of war.

9. Between 1 January and 15 August, most civilian casualties occurred during ground engagements between parties to the conflict, attributed mainly to the Taliban and Afghan National Defence and Security Forces, especially through the use of indirect fire, such as from howitzers, mortars and rockets, in civilian-populated areas. Between 1 January and 30 November, UNAMA and OHCHR documented an increase in the number of civilian casualties from improvised explosive devices and suicide attacks perpetrated by anti-government elements, compared with the previous year.

10. UNAMA and OHCHR advocated with parties to the conflict for better protection of civilians from harm, through public and private interactions, by sharing information on incidents causing civilian harm for parties to better understand the impact of their operations on civilians and take relevant action and making recommendations and providing training on prevention and mitigation measures. UNAMA and OHCHR coordinated work on civilian casualty tracking and advocacy with the Afghanistan Independent Human Rights Commission. It also held meetings with international military forces, in the context of their departures, and with the Commission and other organizations in order to provide recommendations for how their work could be continued thereafter.

11. Prior to 15 August, the Government continued its implementation of the national policy on civilian casualty prevention and mitigation. It sought to organize a national symposium on the mitigation of civilian casualties and was in the process of creating a formal civilian casualty mitigation mechanism with the support of UNAMA and OHCHR.

12. UNAMA and OHCHR maintained its engagement with the Taliban's commission for the prevention of civilian casualties and complaints, which continued to review allegations of civilian casualties shared by UNAMA and OHCHR. After the Taliban took control of the country, UNAMA and OHCHR continued its interactions and engagement with the Taliban via the de facto ministry of defence.

13. UNAMA published two public reports between January and November 2021, highlighting civilian casualty trends, namely, a special report focused on the targeting of human rights defenders and media workers,⁵ in which the Mission called upon parties to the

⁴ In the first six months of 2021, 5,183 civilian casualties were documented.

⁵ Available at https://unama.unmissions.org/sites/default/files/special_report_-_killing_of_human_rights_defenders_and_journalists_2018-2021_-_unama_-_14_february_2021_english_0.pdf.

conflict to take specific measures to prevent civilian casualties, and in July, the mid-year update on the protection of civilians in armed conflict in Afghanistan in 2021.⁶

A. 1 July to 15 August

1. Harm to civilians from fighting in urban areas

14. While there was a peaceful handover of power in many parts of the country, including in some of the cities that changed hands in August, intense fighting in other densely populated urban areas in the final weeks of the Taliban advance resulted in severe harm to civilians. From 1 July to 15 August, with fighting occurring in and around many cities, high numbers of civilian casualties were recorded in Lashkar Gah, Kandahar, Herat and Kunduz. During that period, fighting between the Taliban and Afghan National Defence and Security Forces⁷ resulted in at least 2,100 civilian casualties (nearly 400 killed and at least 1,700 injured), including many children.⁸ The majority of civilian casualties were caused by ground engagements and airstrikes.

15. From July 2021, many regular interlocutors hid or fled for fear of reprisals, and many UNAMA national staff members were relocated within the country due to the deteriorating security situation. Consequently, UNAMA and OHCHR supplemented its regular working methods with remote monitoring and focused fact-finding and reporting mainly on credible allegations of violations and abuses committed during and following large-scale Taliban offensives. UNAMA and OHCHR monitored the impact of armed conflict taking place in urban areas during the final weeks prior to the Taliban taking effective control of the country in mid-August.

2. Allegations of extrajudicial killings

16. UNAMA and OHCHR received credible reports of the summary execution of civilians and members of Afghan national security forces who were *hors de combat* by the Taliban, especially in newly controlled territory. For example, in Ghazni province, UNAMA and OHCHR conducted fact-finding enquiries into allegations that Taliban fighters had killed at least 26 civilians (one woman and 25 male civilians between 16 and 74 years of age) in at least seven locations of Malistan district. They received credible reports that some victims had been beaten before being shot and that Taliban members had set fire to homes and shops in one of the villages. It was also reported that the Taliban had killed, including by beheading, persons *hors de combat* in Malistan.

17. Similarly, in Spin Boldak district, Kandahar province, after 16 July, UNAMA and OHCHR received credible allegations that at least 85 individuals might have been victims of Taliban abuses, including killings, enforced disappearances and unlawful detention. Notwithstanding the deployment by UNAMA and OHCHR of a fact-finding team to Kandahar in early August, due to the changing environment there at that time, it was not possible to obtain sufficiently detailed information to determine how many of those individuals had been killed, disappeared or detained, or how many may have fled or gone into hiding in fear for their lives.

18. In addition, during that period, UNAMA and OHCHR saw evidence of orders made by senior officials from the Afghan National Defence and Security Forces that Taliban members, if captured, should be summarily killed, rather than taken prisoner.

B. 15 August to 30 November

19. After gaining effective control of the country on 15 August, the Taliban made several announcements of general amnesties for former members of Afghan national security forces

⁶ Available at <https://unama.unmissions.org/protection-of-civilians-reports/>.

⁷ Afghan national security forces also had support from armed international military aircraft.

⁸ The figures are likely an incomplete depiction of the actual harm that occurred, given that UNAMA and OHCHR were not able to verify all civilian casualties occurring at the time.

and those who had worked with international military forces. Despite such announcements, UNAMA and OHCHR received credible allegations of the killing, detention and other abuses perpetrated against former Afghan national security forces and others associated with the Government. In total, between 15 August and 15 November, UNAMA and OHCHR received credible allegations of more than 110 such killings, of which at least 80 extrajudicial killings were reportedly attributed to the de facto authorities. Furthermore, UNAMA and OHCHR are increasingly concerned about the extrajudicial killings of individuals suspected of affiliation with ISIL-K, mostly from Nangarhar province. UNAMA and OHCHR documented at least 50 such killings, including beheadings, and the public display of corpses.

20. UNAMA and OHCHR also recorded continued harm to civilians from improvised explosive device attacks, both suicide and non-suicide, attributed mainly to ISIL-K, documenting at least 13 such attacks affecting civilians, resulting in at least 850 civilian casualties between 15 August and 30 November 2021. Leftover pressure-plate improvised explosive devices and other explosive remnants of war continued to be the other main cause of harm to civilians, with more than 70 civilian casualties recorded between 15 August and 30 November from such devices. As ever, children were disproportionately affected by explosive remnants of war, highlighting the need for increased efforts towards mine risk education and clearance.

IV. Children and armed conflict

21. The country task force on monitoring and reporting on children and armed conflict, chaired jointly by UNAMA and the United Nations Children's Fund (UNICEF), continued to document violations committed against children in Afghanistan.⁹ The task force verified the killing and maiming of at least 2,150 children (at least 570 killed and 1,580 maimed) from 1 January to 30 November 2021, a 13 per cent decrease compared with the same period in 2020. Of those cases, 95 per cent occurred between 1 January and 15 August, and, as documented in the mid-year update, the number of children killed and maimed in the first six months of the year was at record levels, with a sharp decline after 15 August when the Taliban gained effective control and military operations between Taliban forces and Afghan national security forces ceased. Children continued to comprise nearly all civilian casualties from explosive remnants of war after 15 August, and they continued to be disproportionately killed and maimed during improvised explosive device attacks.¹⁰

22. The task force verified at least 47 incidents affecting the right to education, including attacks on schools¹¹ and education-related personnel, as well as incidents of threats, intimidation and harassment and the abduction of education-related personnel. The Taliban were responsible for nearly half of such attacks, all of which occurred between 1 January and 15 August.

23. The task force verified at least 62 incidents affecting health-care facilities and health-related personnel. Of those incidents, 38 were attributed to anti-government elements, 23 to pro-government forces and 1 attributed jointly to pro-government forces and anti-government elements. For example, on 15 June, in five separate incidents in Nangarhar province, undetermined anti-government elements suspected to be ISIL-K conducted targeted attacks against polio vaccinators, shooting and killing six health-care personnel and wounding three others.

⁹ All figures in the children and armed conflict section of the present report are likely incomplete depictions of the actual number of violations, given that, at the time of preparation of the present report, some cases under verification by the task force had not been finalized and/or reviewed and therefore could not be included.

¹⁰ For further details on the attribution of casualties among children during the first six months of 2021, please see the mid-year update. Available at <https://unama.unmissions.org/protection-of-civilians-reports/>.

¹¹ Those incidents include attacks that were directly targeted at schools and indiscriminate attacks that incidentally affected schools.

24. The task force verified the recruitment and use of at least 47 boys, 24 of whom were recruited by the Taliban, 16 by pro-government militia and 7 by the Afghan National Police. The recruitment of nearly all of them occurred prior to 15 August. Due to sensitivity around the issue and protection concerns, the recruitment and use of children remains underverified. At the same time, children in the ranks of Taliban have become more visible since its takeover, leading to perceptions that the recruitment of children has increased, despite much of the recruitment likely having occurred previously.

25. The task force verified incidents of rape and sexual violence perpetrated against at least eight children, involving one girl and seven boys; the abuse of one child was attributed to the Taliban, six to Afghan National Police and one jointly to Afghan National Army and the Afghan National Police. Six children were forced to become *bacha bazi*, a harmful practice whereby boys are exploited by wealthy or powerful men for entertainment, particularly dancing and sexual activities. The task force received other allegations of sexual violence against children which are still under verification, or which the task force was unable to verify without putting the children at risk of harm, and notes that the issue remains extremely underreported.

26. Prior to the Taliban takeover, progress had been made by the Ministry of the Interior of Afghanistan, with the support of the task force, to halt and prevent underage recruitment and use through the child protection units in the Afghan National Police recruitment centres. For example, at least 113 underage applicants, all of whom were boys, were prevented from enlisting in the Afghan National Police.

27. The country task force on monitoring and reporting worked with the Ministry of Foreign Affairs and the Office of the Second Vice-President prior to August 2021 to elaborate a draft policy on the possible reintegration of children held in custody on actual and alleged national security charges. The elaboration of the proposed framework was in progress when the Taliban gained effective control. While many were released as the Taliban emptied detention facilities in the final weeks of the conflict, some were re-arrested and some with alleged links to ISIL-K were not released. The task force is in the process of reopening engagement on the issue with the de facto authorities.

28. On 20 June 2021, the Office of the National Security Council launched a policy on the protection of children and armed conflict, which was ratified by the senior security leadership and approved by the President. The policy was developed in coordination with the security sector, including the Ministry of Defence, the Ministry of the Interior and the National Directorate of Security, and international actors working on child protection. The task force provided technical support for the drafting of the policy, which was aimed at preventing six specific grave violations against children, and has begun engagement with the de facto authorities to advocate for a commitment to similar policies.

29. After 15 August 2021, as the economic situation became increasingly dire after the Taliban takeover, the main factors affecting child protection stemmed from the increase in poverty. It served as a driving factor for the recruitment and use of children by armed groups, the sale of children and child and/or forced marriage. Serious concerns relating to the education of girls and limitations on access to education and health care for both girls and boys also emerged following the gender segregation rules imposed by the de facto authorities.

V. Prevention of torture and respect for procedural safeguards

30. On 3 February 2021, UNAMA and OHCHR issued a public report on torture and the treatment of detainees in the custody of the former Government of Afghanistan. The report contained the findings resulting from interviews of 656 persons detained for security-related or terrorism-related offences, in 63 detention facilities in 24 provinces, between 1 January 2019 to 31 March 2020.¹² The report documented that, compared with the period 2017–2018, torture allegation rates had decreased from 31.2 per cent to 27.2 per cent of documented instances of detention in the custody of the Afghan National Police and from 19.4 per cent to

¹² UNAMA and OHCHR suspended its interviews with detainees, due to the COVID-19 outbreak in Afghanistan on 31 March 2020.

16 per cent of documented instances of detention in the custody of the National Directorate of Security. However, the procedural rights of those detained, such as the rights to information about their rights, to access to lawyers, to communication with their families and to the timely conduct of medical examinations, remained largely ignored. UNAMA and OHCHR highlighted that practices of incommunicado and solitary confinement and blindfolding had been used during questioning. The report was widely covered by the media, including the Afghan media. In response to the report, on 4 February 2021, the Ministry of the Interior issued a public statement acknowledging its obligation to address unprofessional behaviour by police officials and reiterating its commitment to strengthening and continuing reforms in making police more professional and making them behave based on principle so that they acted in accordance with the enforced laws of the country and international conventions in dealing with suspects and convicts.

31. With a view to contributing to the reduction of incidents of torture and ill-treatment, in 2021, UNAMA and OHCHR started implementing a training course on non-coercive interviewing skills for Afghan National Police officials in selected provinces. Utilizing a training module developed in 2020, the eight-day train-the-trainer course on the planning/preparation, engagement/explanation, account, closure and evaluation (PEACE) interviewing model¹³ was completed for seven staff from four selected field and headquarters teams. The training course covered the psychology of rapport, relevant law and each element of the PEACE model, in addition to planning complex interviews. The initial project plan was to deliver 16 workshops in the following 12 months in four provinces (Kandahar, Paktya, Balkh and Badakhshan). The first workshop in Badakhshan was held for 12 Afghan National Police investigative officials in Faizabad on 7 and 8 April, and the second workshop in Balkh was held in Mazar-e Sharif for 12 Afghan National Police investigative officials on 25 and 26 May. The feedback from the workshops indicated that participating officers welcomed the course, which was focused on taking a practical approach to questioning in order to avoid torture while collecting credible information. In parallel, in Kabul, UNAMA and OHCHR received a request from the National Police Academy to conduct a training course for its lecturers as an initial step to integrate the PEACE interviewing model into the regular curriculum of the Afghan National Police. The rapidly deteriorating security situation in June and July forced UNAMA and OHCHR to halt the project implementation and the preparation of the training course for the Academy.

32. Between January and May, UNAMA received reports that 39 prisoners and three staff, from six prisons, had tested positive for the virus that causes the coronavirus disease (COVID-19). The next wave of the COVID-19 pandemic that hit the country around June also affected prisons. By the last week of June, 21 of 38 prisons nationwide had at least one prisoner who tested positive. By July, the COVID-19 outbreak appeared to have subsided, with six prisons reporting 26 positive cases in total.

33. Between January and August, in line with the methodology developed in 2020 in the context of the COVID-19 pandemic, UNAMA and OHCHR continued remote monitoring of all major detention facilities across the country, encompassing all prisons, police and National Directorate of Security provincial detention facilities and juvenile rehabilitation centres, through monthly or weekly calls. In total, through that method, between 1 January and 15 August, UNAMA and OHCHR made contact on 1,078 occasions, with 33 National Directorate of Security detention facilities, 34 Afghan National Police facilities, 38 prisons and detention facilities and 34 juvenile rehabilitation centres in 34 provinces. The calls were focused on the COVID-19 situation in each place of detention, overcrowding and other relevant issues, such as vaccination against COVID-19. The findings of remote monitoring were summarized monthly or weekly and shared with key partners providing support in places of detention. In February 2021, with the COVID-19 outbreak subsiding in places of detention, UNAMA and OHCHR recommenced interviewing detainees. In total, UNAMA and OHCHR undertook 239 interviews with persons deprived of their liberty in 2021. However, in June 2021, due to the third wave of the COVID-19 outbreak in the country,

¹³ The PEACE model, originally developed in the United Kingdom of Great Britain and Northern Ireland, is a model that is globally recognized as being human rights compliant and effective for use in obtaining good information.

UNAMA and OHCHR were compelled to again suspend detention visits and returned to remote monitoring through regular contact with relevant facilities.

34. The increase in the prison population continued until mid-August 2021, with overcrowding remaining a concern. By the end of July, at least 28 of the 38 prisons nationwide had reached their full capacity, with average occupancy rates at around 180 per cent. In July and August 2021, the Taliban seized prisons, releasing most of the prisoners. However, by November, UNAMA and OHCHR had received information that detention facilities of some of the largest prisons in the country still suffered from overcrowding due to delays in processing of pretrial detainees caused by the uneven functioning of the de facto justice system.

35. The developing security and political situation around the country in July and August also affected places of detention. On 7 July, the Taliban attacked Badghis prison and released an undetermined number of prisoners. In response to the Taliban's targeting of prisons, the Government transferred at least 853 prisoners from nine prisons around the country to the Pul-e Charkhi prison in Kabul and the detention facility in Parwan. Most of the transferred prisoners were reportedly convicted of security or terrorism crimes, but they also included those convicted of common crimes and sentenced to long terms of imprisonment or death. Some prisoners refused to be transferred, leading to riots. On 13 July, one prisoner was killed in a riot in Kandahar prison. A riot was also reported in Nimruz prison on the same day, although the total number of casualties could not be verified.

36. In late July and the first half of August, the Taliban seized provincial prisons and other detention facilities, as they captured provincial capitals. By 14 August, the Taliban controlled at least 25 provincial prisons, releasing most detainees and prisoners. In some cases, such as in Balkh and Faryab provincial prisons, prisoners were reportedly released by the prison authorities as the Taliban approached the provincial capitals. UNAMA and OHCHR received credible information that three prison officers and four prisoners were reportedly killed by the Taliban in Kunduz prison, while a prisoner who was the son of an anti-Taliban militia commander was reportedly killed in Badakhshan prison.

VI. Death penalty

37. Information available up to 15 August indicated that no public executions had been carried out. The number of individuals sentenced to death, including those with sentences confirmed by the Supreme Court, was not available at the time of reporting. UNAMA and OHCHR continued to advocate for the Government to implement a formal moratorium on the death penalty and for compliance with fair trial guarantees, in accordance with international and national law. The policy position of the United Nations with regard to the death penalty was also restated in meetings with the de facto authorities.

38. The Taliban have announced that sharia law was to serve as the basic law of the country, including in relation to criminal justice. On 23 September, a senior Taliban official in an interview with the media stated that the movement would carry out executions and amputations of hands, although perhaps not in public.¹⁴ Between 15 August and 30 November, UNAMA and OHCHR did not document any case of public execution after judicial decision.

VII. Elimination of violence against women and promotion of women's rights

A. Women's rights

39. Before August 2021, the Government had made progress in the implementation of strategies to improve gender equality. On 12 August, Presidential Decree No. 55 of 2021

¹⁴ Kathy Gannon (Associated Press), "Taliban official: Strict punishment, executions will return", 23 September 2021. Available at <https://apnews.com/article/religion-afghanistan-kabul-taliban-22f5107f1dbd19c8605b5b5435a9de54>.

formally established the High Council of Women to oversee and guide the Government's actions in relation to its commitments on women's rights, in particular economic, social and cultural rights, and legal protections across Afghanistan's socioeconomic development initiatives and in the security and political spheres.

40. Law reforms aimed at advancing non-discrimination against women had also continued to progress. On 5 December 2020, the Cabinet Legislative Committee approved the prohibition of so-called "virginity testing" and requested the Office of the Attorney General, the Afghanistan Independent Human Rights Commission and the Afghanistan Women's Network to draft an amendment to article 640 of the Penal Code. On 25 May 2021, the Ministry of Women's Affairs completed its review of the Elimination of Violence Against Women Law of 2009, and the number of crimes increased from 22 to 29, with the addition of specific types of acts deemed as a form of violence, such as forcing women to dance at a party, as a sub-set of the crime of forced prostitution, and the addition of another 12 articles, bringing the total number of articles to 56. In mid-June, review of the draft family law was completed by the former Ministry of Justice, with a plan for final stakeholder review in August and September.

41. On 31 December 2020, as part of initiatives led by the Ministry of Women's Affairs and supported by UNAMA and OHCHR, to commemorate the International Day for the Elimination of Violence against Women, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the United Nations Communications Group in Afghanistan, an agreement was reached between the Ministry, the Office of the Attorney General and the Independent Administrative Reform and Civil Service Commission to establish a joint committee to combat harassment in the workplace, aimed at increasing the participation of women in the civil service. On 14 July, the Ministry of Women's Affairs and the Ministry of Telecommunications launched a toll-free hotline, staffed by five professional lawyers, to receive complaints and provide legal advice to women and girls who were survivors of violence.

42. To mark International Women's Day, a presidential decree issued on 4 March 2021 ordered the early release of women prisoners who had been sentenced to up to two-and-a-half years' imprisonment and were breastfeeding mothers, and of those sentenced to up to five years' imprisonment; there was also a reduction in sentence for women prisoners who had been sentenced to more than two-and-a-half years' imprisonment on the basis of the length of time that they had already spent in prison. The Ministry of Women's Affairs led events in Kabul on 7 March celebrating the contributions made by Afghan women to Afghan society over the past century. UNAMA and OHCHR supported six events in the provinces, in which 358 women from all walks of life participated in radio panel discussions and awareness-raising sessions on advances and remaining gaps in the full enjoyment by Afghan women of civil, political, economic, social and cultural rights.

43. Following the Taliban takeover on 15 August, all awareness-raising activities, workshops and radio programmes on women's rights were temporarily brought to a halt, given the de facto authorities general clampdown on civil society, human rights defenders and activists. Women's rights activists feared for their lives, and many either fled the country or went into hiding in Afghanistan. The de facto authorities' policy of the curtailment of enjoyment by Afghan women and girls of their fundamental rights and freedoms, such as the right to work, education, freedom of movement and peaceful assembly, although not uniformly applied across the country, stands directly opposed to 20 years of hard-won progress made by Afghans on gender equality and non-discrimination.

B. Elimination of violence against women

44. From 1 November 2020 to 30 July 2021, UNAMA and OHCHR documented 200 cases addressed by formal justice processes concerning alleged criminal offences of violence against women and girls, including the following: beating (60); rape (34); harassment and annoyance (23); murder (19); forced marriage (18); child marriage (16); causing injury (15); forced self-immolation/suicide (13); and forced prostitution (2). During the same period, UNAMA and OHCHR documented eight cases addressed by the Taliban's informal justice

processes, including the following: murder (4); inhuman and cruel treatment (3); and rape (1). A conflict-related sexual violence case of rape was also documented.

45. On 7 December 2020, UNAMA and OHCHR released a public report, entitled “In search of justice for crimes of violence against women and girls”, the culmination of 18 months of monitoring, from September 2018 to February 2020, of the judicial processing of reported crimes of violence against Afghan women and girls in line with the Elimination of Violence against Women Law, particularly by the Ministry of Women’s Affairs, the Afghan National Police family response units and the specialized units for prosecution of violence against women, to understand the institutions’ handling of such crimes and the redress provided to survivors of violence. UNAMA and OHCHR focused on documenting 12 crimes of violence against women and girls in particular, namely: murder; rape; forcing into prostitution; recording and publishing the identity of a victim; burning or use of chemicals or other dangerous substances; forcing into self-immolation or suicide or using poison or other dangerous substances; causing injury or disability; selling and buying for the purpose, or on the pretext, of marriage; *ba’ad*;¹⁵ forced marriage; child marriage; and forced isolation.

46. The key finding from an analysis of 303 documented cases was that, while the response by the justice system to crimes of violence against women and girls continued to improve, it still failed women and girls in a number of respects, and their access to justice remained tenuous. Only half of the 303 cases documented by UNAMA and OHCHR progressed through the full justice chain to adjudication by a primary court. Perpetrators were convicted in just over 40 per cent of cases, with too many women and girls not seeing justice for the violence that they had experienced, and impunity remained prevalent. When compared with previous monitoring conducted by UNAMA and OHCHR, it appeared that conviction rates for crimes of violence against women and girls were increasing, but survivors still carried the burden of initiating the process of an investigation and prosecution for most of the crimes under the Elimination of Violence against Women Law. There remained multiple concerns regarding the justice system’s treatment of women and girls, such as low rates of convictions for so-called “honour” killings.

47. On 9 December 2020, the Office of the Attorney General released its inaugural report on the state of violence against women across the country; it was based on an analysis of the 2,435 cases registered by its units for prosecution of violence against women across Afghanistan between 22 December 2019 and 21 October 2020. A key finding was that the predominant contributing factors to incidents of violence in the provinces were illiteracy and poverty. The Office highlighted the close link between women’s access to justice for incidents of violence and harmful practices and the full enjoyment by women of economic, social and cultural rights. The Office followed the release of the report with a press conference on 28 January, at which the Office noted that, of the 2,990 cases of violence against women and girls registered by the Office and processed during the Afghan fiscal year (21 December 2019 to 20 December 2020), Kabul had registered 814 cases and the provinces had registered a combined 2,176 cases. Compared with the preceding fiscal period, in which a total of 2,975 cases were registered and processed by the Office, there had been a drop in the number of cases registered in Kabul (from 1,157) and the provinces (from 1,818), a contributing factor being the limited freedom of movement across Afghanistan in 2020 due to the COVID-19 pandemic, which affected access for survivors to services and the limited hours of operation of government offices, including the Office of the Attorney General and units for prosecution of violence against women at the provincial level.

48. On 20 April, at its High Council meeting, the Supreme Court announced that, in the Afghan year 1399 (21 March 2020–20 March 2021), the primary and appellate courts had adjudicated 1,160 cases of violence against women and girls, involving 1,594 alleged perpetrators, and 326 cases of rape, involving 390 accused persons. Of the combined 1,984 accused, 464 had been acquitted and the remainder convicted, with punishments ranging from the death penalty to a monetary fine. Since 15 August 2021, UNAMA and OHCHR could not ascertain the number of cases of violence against women and girls that were reported, prosecuted and adjudicated by the de facto authorities, nor the sentencing, conviction rate or

¹⁵ *Ba’ad* is a traditional method of dispute settlement whereby a woman or girl from the offender’s family is given, in compensation for the offending act, to the victim’s family as a servant or bride.

types of punishment, although UNAMA and OHCHR received reports of survivors and their families being unable to gain access to justice for personal safety reasons, lack of resources to do so, given the economic crisis, and/or confusion as to the applicable law in the country.

49. During the reporting period, UNAMA and OHCHR conducted 96 advocacy and outreach activities on the elimination of violence against women and 30 advocacy meetings on its two public reports. UNAMA and OHCHR also held 41 awareness-raising activities, including workshops and radio programmes, on issues around the elimination of violence against women and girls. Since August, UNAMA and OHCHR had temporarily ceased its awareness-raising activities, workshops and radio programmes on the elimination of violence against women, but advocacy continued with the international community for continuing funding for programmes that supported survivors of violence.

VIII. Civic space, including the safety of journalists, media workers and civil society actors

50. In February 2021, UNAMA issued a special report on the killing of human rights defenders, journalists and media workers in the period 1 January 2018 to 31 January 2021, noting a shift from victims being indirectly affected in the context of mass casualty attacks affecting civilians in 2018 towards intentional, premeditated and deliberate targeting of individuals, especially following the start of the Afghanistan peace negotiations on 12 September 2020, after which no fewer than 11 human rights defenders and media workers had been killed in targeted attacks. UNAMA also found that, in contrast to prior years, in 2020, responsibility had not been claimed or acknowledged for almost any of the targeted killings.

51. Targeted killings generated a climate of fear among the civilian population and had a chilling effect on civil society, with many human rights defenders, journalists and media workers seeking to leave Afghanistan. In April 2021, UNAMA and OHCHR initiated discussions with members of the international community about visa support and resettlement programmes for human rights defenders and media workers at risk. Such advocacy continued in June and July, when, following the deterioration of the security situation, UNAMA and OHCHR supported the relocation within Afghanistan of 97 individuals, of whom 19 were women from several provinces, in close cooperation with the non-governmental organization coalition, Afghanistan Human Rights Defenders Committee. In 2021, UNAMA and OHCHR sent more than 390 letters of support to human rights defenders and journalists.

52. The establishment by presidential decree, on 1 December 2020, of a Joint Commission on the Protection of Human Rights Defenders, under the Second Vice-President of Afghanistan, advocated for by civil society groups, had provided a platform for discussion between the Government and civil society, but it fell short in addressing security concerns by human rights defenders. Following the publication of the special report of UNAMA in February 2021, UNAMA and OHCHR commenced a focused study on the implementation of victims' rights in Afghanistan, conducting in depth interviews with relatives of the human rights defenders and media workers killed in the period 2018–2021; the research could not be completed before 15 August 2021.

53. Civil society organizations also continued advocating against new legislation restricting freedom of association that was under consideration by the Government, envisaging unnecessary restrictions on associations and disproportionate controls by the Government, including over legal, administrative, financial and operational matters.

54. During the period from 1 December 2020 to 15 August 2021, UNAMA and OHCHR documented incidents affecting 44 civil society activists, 9 of whom were women, due to their work. Eight were killed, including one woman (four by the Taliban, one by ISIL-K and the other three cases could not be attributed), and one was injured by the Taliban. The remaining 35 cases involved temporary arrests, threats and abductions, attributed to the former Government and anti-government elements. In the same period, UNAMA and OHCHR documented incidents affecting 42 journalists and media workers, including 8 women, and six radio/TV stations due to their work. Ten of the victims were killed, including

five women and one foreign journalist (five by ISIL-K, two by the Taliban and the other three cases could not be attributed). Three were injured, including one woman whose case could not be attributed. The remaining 29 cases involved threats or intimidation, temporary arrest or deprivation of liberty, abduction and/or attempted attacks attributed to the former Government and anti-government elements. Casualty figures decreased by 32 per cent, compared with 2020, when 9 journalists and media workers were killed and 10 were injured.

55. In the period from 16 August to 30 November 2021, UNAMA and OHCHR documented incidents affecting 23 civil society activists due to their work. Eight were killed (three by the de facto authorities, three by ISIL-K and two cases could not be attributed). The remaining 15 cases involved temporary arrests, beatings and threats by the de facto authorities. In the same period, UNAMA and OHCHR documented incidents affecting 48 journalists and media workers, including 2 women, and one radio/TV station due to their work. Two of the victims were killed (one by ISIL-K and one could not be attributed), and two were injured by unknown armed men. The remaining 44 cases involved temporary arrests or deprivation of liberty, beatings and/or threats or intimidation, attributed to the de facto authorities. Although the casualty figures decreased following the takeover of the country by the Taliban, there was a significant increase in temporary arrests and beatings by the de facto authorities, with 28 arrests and 10 beatings recorded since 16 August 2021.

56. During the reporting period, UNAMA and OHCHR and the Afghanistan Independent Human Rights Commission held 75 coordination meetings in Kabul and the provinces. The Commission published 10 thematic reports on various human rights issues, including the protection of civilians, the rights of children, internally displaced persons, persons with disabilities and detainees. In a statement on 18 September, the Commission informed the public of its inability to operate since 15 August 2021. The Commission's offices have been taken over by the de facto authorities and its staff in the country is not reporting to work.

57. UNAMA and OHCHR organized 27 capacity-building and outreach events countrywide, involving 913 participants, comprising human rights defenders, journalists, government officials, staff of the Afghanistan Independent Human Rights Commission and local community leaders, of whom 205 were women. UNAMA and OHCHR held 402 meetings with human rights defenders and journalists, 78 meetings with community elders, 88 with government officials, 56 with international actors and 142 with other interlocutors. UNAMA and OHCHR held 13 meetings with the de facto authorities on human rights issues.

IX. Peace and reconciliation, including accountability and transitional justice

58. Until 15 August 2021, UNAMA and OHCHR continued supporting the relevant State institutions, the Afghanistan Independent Human Rights Commission and civil society in the promotion of inclusive and human rights-compliant peace and reconciliation processes and victim-centred justice. UNAMA and OHCHR continued raising the awareness among the parties to the conflict of the continuity of international human rights obligations and victim-centred justice, including with regard to victims' rights and inclusion.

59. In cooperation with a senior mediation adviser from the Department of Political and Peacebuilding Affairs of the Secretariat, UNAMA and OHCHR continued to advise the Afghanistan Independent Human Rights Commission on various aspects related to peace, human rights and victim-centred justice, including the development of sustainable policy options in areas related to victims' inclusion, reparations, documentation and truth-seeking, accountability and prevention. In December 2020, a delegation from the Commission met separately with representatives of the Taliban and Government negotiating teams in Doha, as well as with relevant Doha-based interlocutors. On 23 March and 6 August 2021, the Commission's Chairperson addressed the Security Council, reiterating the importance of an inclusive peace process and meaningful victim-centred justice measures and detailing civilian casualty trends and their impact on civic space.

60. In December 2020 and May and June 2021, UNAMA and OHCHR hosted three meetings of the informal group of friends on victim-centred justice to further coordinate engagement in the area with national actors, including the Afghanistan Independent Human

Rights Commission and civil society, and with members of the diplomatic community. On 10 December, a representative of UNAMA and OHCHR delivered a keynote address at the opening of a national victims' convention organized by civil society groups, underlining the importance of victims' recognition and inclusion. On 21 April, UNAMA visited the Afghan Centre for Memory and Dialogue, a civil society memorial initiative, and discussed with civil society groups possible approaches to victim-centred justice in Afghanistan.

61. On 27 September, the Prosecutor of the International Criminal Court applied to the Court's Pre-Trial Chamber seeking authorization to resume the Prosecutor's investigations into the situation in Afghanistan, which had been paused following a March 2020 request by the Government of Afghanistan to defer the investigation to the national authorities, given that, due to the significant change in circumstances, there was no longer the prospect of genuine and effective domestic investigations. The Prosecutor indicated his intention to focus the investigation on crimes allegedly committed by the Taliban and ISIL-K and to deprioritize other aspects of the investigation.

X. Cooperation with United Nations human rights mechanisms

62. UNAMA and OHCHR continued documenting and forwarding the allegations of enforced disappearances, which emanated mostly from the southern region, to the Working Group on Enforced or Involuntary Disappearances. In total, UNAMA and OHCHR documented 16 allegations of enforced disappearance and sent eight cases to the Working Group between January and August. In addition, in February, UNAMA and OHCHR provided a briefing to the Working Group, focusing in particular on the trends of enforced disappearance cases in Afghanistan and the context of Kandahar province, from where the majority of allegations were reported. The Working Group stressed that there was no time limit, no matter how short, for an enforced disappearance to occur and that accurate information on the detention of any person deprived of liberty and their place of detention should be made available promptly to family members. In parallel, UNAMA and OHCHR shared the list of allegations of enforced disappearances received between 2019 and 2021 with the Attorney General, advocating for investigations by his office.

63. Before 15 August, the Government provided its replies to the list of issues raised by the Committee on the Rights of the Child in relation to the combined second to fifth periodic reports of Afghanistan submitted under the Convention on the Rights of the Child. The review of that report was ultimately postponed at the request of the Permanent Mission of Afghanistan to the United Nations Office and other international organizations in Geneva. On 30 September, UNAMA, OHCHR, UNICEF and the Child Rights Commissioner of the Afghanistan Independent Human Rights Commission provided a briefing to the Committee at a closed meeting on the situation of children in Afghanistan. Similarly, on 19 October, UNAMA, OHCHR and UN-Women provided a briefing to the Committee on the Elimination of Discrimination against Women at a closed meeting on the situation of Afghan women and girls, held during the eightieth session of the Committee.

XI. Conclusions

64. **Record levels of harm to civilians occurred in the first six months of 2021, as the conflict increased. Although wide-spread fighting generally ceased after 15 August, apart from small pockets of conflict, civilians in Afghanistan remain at risk of harm due to ISIL-K attacks, and leftover improvised explosive devices and explosive remnants of war, which disproportionately affect children.**

65. **Increased poverty levels have exacerbated the situation of the people of Afghanistan and have had a particular impact on child protection issues, including recruitment and use by armed groups and child and/or forced marriage. Access to education, particularly for girls, and broader issues related to equal access to education and health care for both boys and girls are of concern due to the gender segregation rules imposed by the de facto authorities.**

66. Despite efforts by the Government up to August 2021 to ensure legal protections that facilitated the full enjoyment by women and girls of their fundamental rights and freedoms and their access to justice, significant gaps existed. The gaps remain in the new context.

67. Notwithstanding further efforts by the Government up to August 2021, ill-treatment and torture continued to be prevalent, to different degrees in various institutions, with lack of respect for procedural safeguards being widespread. Lack of training on interviewing methods, and a focus on obtaining confessions from suspects, remained a serious issue. Overcrowding in the penitentiary system continued to be of concern, in particular since the outset of the COVID-19 pandemic.

68. Civil society actors, including human rights defenders, journalists and media workers, as well as staff of the Afghanistan Independent Human Rights Commission, continue to be increasingly targeted and face threats, intimidation and harassment. Several media outlets have stopped their operations due to lack of funds, fear of repercussions and lack of access to information from the de facto authorities. Human rights defenders and media workers remain concerned about the political and security situation and keep low profiles, mostly exercising self-censorship.

69. The Afghanistan Independent Human Rights Commission has ceased to function, and its legal status remains unclear. A strong and independent national human rights institution remains vital for supporting the implementation of the international human rights obligations of Afghanistan, protecting human rights and promoting in particular the right of victims, women, minority communities and other vulnerable groups to have their views taken into account.

XII. Recommendations

70. The High Commissioner recommends that the de facto authorities:

(a) Engage with UNAMA and OHCHR regarding specific incidents of alleged human rights abuses and violations of international law;

(b) Prioritize the clearance of explosive remnants of war and mine risk education efforts, in order to ensure the safety and security of its population;

(c) Ensure awareness of child protection concerns, consider allocating resources towards special child protection officials within their structures, and immediately cease the recruitment and use of children by any de facto forces and other armed groups;

(d) Ensure that there are no unofficial and/or private places of detention and that no detainees are held incommunicado, thereby guaranteeing their prompt ability to have effective contact with counsel and family members outside the place of detention;

(e) Ensure that law and policy reforms are not discriminatory, in text or effect, towards women and girls and fully meet international human rights standards;

(f) Ensure sustained efforts to prevent, punish and eradicate all forms of violence against women and girls, through the adoption policies compliant with international human rights standards, and ensure that survivors of violence have immediate access to effective remedies, shelter, legal assistance and reparation, including compensation;

(g) Ensure that victims and their families and representatives can safely advocate for accountability and can have access to effective remedies, including gender-sensitive and inclusive reparations;

(h) Ensure that journalists, human rights defenders and civil society actors can enjoy their legitimate rights to freedom of expression and have access to information, without fear of reprisal or attack;

(i) **Protect and promote civic space, including by refraining from adopting and/or implementing restrictive laws or policies on freedom of association, peaceful assembly and freedom of expression, and facilitate the increased engagement of civil society actors in political and peace processes at the national and local levels;**

71. The United Nations High Commissioner for Human Rights recommends that the international community:

(a) **Facilitate financial measures and assistance to support urgent humanitarian needs and basic services;**

(b) **Support all efforts aimed at the protection of women and girls from violence, including by providing the resources necessary for psychosocial and legal aid services for survivors of violence;**

(c) **Support programmes for mine risk education and the clearance of explosive remnants of war in Afghanistan;**

(d) **Support the continuation of the human rights mandates of UNAMA and OHCHR and ensure that adequate resources are provided for the necessary human rights monitoring, reporting and advocacy through the in-country presence.**
