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**Submission to the Universal Periodic Review of Afghanistan**

Human Rights Watch

**October 2023**

## **Introduction**

This submission highlights Human Rights Watch's concerns about the human rights situation in Afghanistan. Afghanistan's last Universal Periodic Review (UPR) was in January 2019 during the armed conflict between the former Islamic Republic of Afghanistan and United States and other allies, and the Taliban. Two and a half years later, US forces withdrew, the government collapsed, and the Taliban returned to power.

The human rights situation in Afghanistan has deteriorated significantly since then as the Taliban have imposed policies that have violated the rights of women and girls in most aspects of their lives including education, employment, and freedom of movement. Afghanistan is the only country where women and girls cannot access secondary and higher education and are banned from many jobs with the civil service, international NGOs and the UN, except some positions in the fields of healthcare and primary education. Human Rights Watch has concluded that the pattern of abuse against women and girls in Afghanistan amounts to the crime against humanity of gender persecution.

Taliban authorities have also prohibited all protests that are not pre-approved and have imposed severe restrictions on local media that essentially prohibit all criticism of the Taliban. They have arbitrarily detained and tortured journalists, human rights defenders, and civil society activists, including women protesters. Taliban forces have detained and summarily executed or forcibly disappeared at least several hundred members of the former government's security forces.

Afghanistan's economy collapsed after the Taliban takeover when the US and other former donors cut off almost all foreign aid, on which the economy was dependent, and imposed sanctions on the Central Bank. A trust fund established in 2022 helped stabilize the economy, but the ongoing loss of liquidity and the dramatic loss of income from jobs lost has driven millions of Afghans into poverty.

Afghanistan is a party to core international human rights treaties, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention against Torture. However, the Taliban authorities' laws, policies, and practices systematically violate the rights of the Afghan people.

## **Women's Rights**

In Afghanistan's 2019 UPR, the then-Afghan government accepted several recommendations on women's rights calling for combatting discrimination and investigating and appropriately prosecuting cases of violence against women.<sup>1</sup> Since August 15, 2021, the situation in Afghanistan has become the most serious women's rights crisis in the world, as the Taliban have banned girls and women from secondary education and universities; banned women from many forms of paid employment including working for the civil service, the United Nations and many international non-governmental organizations, with some limited exemptions, and closed all beauty parlors, a source of employment for 60,000 women; prohibited women from using public spaces like parks; dismantled specialized prosecution units, courts, shelters, and services established to respond to gender-based violence, and disregarded the 2009 Law on the Elimination of Violence Against Women. The loss of these shelters and services means that girls and women are likely at greater risk of imprisonment for so called "moral crimes." Human Rights Watch's research on Afghanistan since 2021 has found that the Taliban's treatment of

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<sup>1</sup>A/HRC/41/5, Recommendation 136.189 (Albania); 136.35 (Australia); 136.192 (Austria); 136.56 (Bahrain); 136.193 (Belgium); 136.195 (Chile); 136.58 (Costa Rica); 136.97 (Finland); 136.59 (France); 136.207 (Lithuania); 136.208 (Luxembourg); 136.210 (Malta); 136.61 (Slovakia); 136.114 (Slovakia); 136.215 (Republic of Korea); 136.219 (Sri Lanka); 136.25 (Switzerland); 136.194 (Thailand); 136.217 (United Kingdom); 136.188 (United States of America); 136.109 (Uruguay).

women and girls meets the requirements for crimes against humanity as set out under the Rome Statute.

Women and some men who have protested against Taliban policies violating women's rights have frequently been detained. In some cases, women have been held in unacknowledged incommunicado detention for up to 40 days, amounting to enforced disappearance. Nadima Noor and Parwana Ibrahimkhel were among some 35 women activists and their relatives who were detained incommunicado for up to three weeks in January-February 2022. Activists Neda Parwani and Zholia Parsi were detained with members of their families in September 2023. Women who were detained said Taliban authorities subjected them to threats and beatings and administered electric shocks and beatings to detained male relatives.

The new barriers that women face to access health services, including requirements in some areas that a *mahram* (husband or close male relative) escort them to appointments, and the shrinking supply of female healthcare professionals, compounds a growing health and mental health crisis for women across Afghanistan.

#### Recommendations:

- End all restrictions on girls' and women's access to education.
- End restrictions on women working for the civil service, UN, nongovernment organizations, and other forms of works such as beauty salons.
- End all bans on women's access to public spaces like parks, baths, and gyms.
- Promptly investigate and appropriately prosecute all cases of violence against women and girls. Cases of violence against women should not be addressed through mediation or traditional dispute resolution mechanisms.
- End all detention of girls and women for "running away," *zina* (sexual relations outside of marriage), and other so-called moral crimes.

#### Sexual Orientation and Gender Identity

Afghanistan's criminal code has long made same-sex conduct a criminal offense, and lesbian, gay, bisexual and transgender (LGBT) people faced grave risks under the previous government. Under the Taliban, the situation for LGBT people has become worse. Since the Taliban takeover, Taliban officials have made abusive [statements](#) about LGBT people including calling for them to be killed.

#### Recommendations:

- Fully respect the right of all people to be protected from discrimination or violence based on their sexual orientation or gender identity.

#### Arbitrary Detention, Torture, Enforced Disappearances and Summary Executions

During Afghanistan's third cycle UPR, the then-Afghan government accepted numerous recommendations calling to promptly and thoroughly investigate all allegations of torture in custody, criminalize the use in court of confessions obtained under coercion and prosecute perpetrators.<sup>2</sup> However, the former government failed to implement these recommendations. Practices of torture under the former government included beatings, electric shocks, and near suffocation.

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<sup>2</sup> A/HRC/41/5, Recommendation 136.100 (Germany); 136.103 (Hungary); 136.104 (Norway), 136.83 (Slovakia); 136.85 (Spain); 136.84 (Sweden); 136.72 (Turkey); 136.86 (Ukraine).

Since taking power in August 2021, Taliban authorities have continued these forms of torture with the addition of waterboarding. Torture and other ill-treatment have become part of a wider system of surveillance and punishment for anyone who violates the Taliban's prescribed social code. Taliban security forces routinely beat detainees from the moment of arrest through interrogation. Civil society activists, including women protesters, and journalists have told Human Rights Watch of their treatment in custody, including beatings, threats to themselves and family members, and being forced to "confess" to alleged crimes like "insulting Islam" or "encouraging prostitution." Methods of torture such as electric shock and waterboarding tend to be reserved for suspected insurgents, although Taliban security and intelligence officials have subjected journalists to such practices to extract "confessions." The Taliban's General Directorate of Intelligence (GDI), the successor to the National Directorate of Security, is responsible for the greatest number of cases of torture documented by the UN Assistance Mission in Afghanistan (UNAMA). As was the case with successive Afghan governments in the past that prohibited torture, the Taliban authorities have frequently used torture to extract confessions that are used in court.

The Taliban authorities have frequently failed to comply with their obligations under international human rights law. UNAMA and Human Rights Watch have documented summary executions and enforced disappearances of members of the former government's security forces. Taliban authorities claimed to have granted an amnesty to all former government officials and security forces, and they excuse such killings as due to "personal enmity and revenge motives." They have not held perpetrators accountable.

#### Recommendations:

- Promptly and thoroughly investigate all allegations of torture and other ill-treatment of detainees, enforced disappearances, and summary executions. Appropriately prosecute all those found responsible for committing, ordering, or having superior responsibility for these crimes.
- Prohibit the use of coerced confessions in judicial proceedings and take appropriate disciplinary action against prosecutors and judges who permit the use of such information.
- Invite the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Afghanistan.

#### **Freedom of Expression and Media Freedom**

Taliban authorities have enforced extensive censorship and used violence against Afghan journalists in Kabul and the provinces. Hundreds of media outlets have been closed, and most women journalists across Afghanistan have lost their jobs. Foreign correspondents also face [visa restrictions](#) when coming to Afghanistan to report, and many Afghan journalists now live in exile.

On August 13, the Taliban [detained Ataullah Omar](#), a journalist reporting for Tolo News and accused him of working with media outlets operating from exile. On August 10, Faqir Mohammad Faqirzai, the manager of Kilid Radio, and Jan Agha Saleh, a reporter, [were detained](#) by the Taliban's GDI. On the same day, Hasib Hassas, a reporter for Salam Watandar, was arrested in Kunduz. All three journalists were released a few days later. Taliban authorities rarely provide any information about the basis for these arrests or whether those detained will be charged and tried. Those in custody lack access to lawyers; in most cases, family members are not allowed to visit them. On January 5, the French Afghan journalist [Mortaza Behboudi was detained](#); as of October 2023 he remained in custody on unknown charges.

In 2023 Taliban forces increasingly carried out arbitrary arrests of media workers and civil society activists, including [Matiullah Wesa](#), an education activist and the founder of Penpath, an organization that advocates for education in Afghanistan, along with several of his family members. As of October 2023, he remained in detention.

#### Recommendations:

- Promptly and impartially investigate all attacks on journalists and ensure that any officials or security force personnel found responsible for obstructing, abusing, or assaulting journalists are appropriately disciplined or prosecuted.
- Allow the media to function freely without fear of reprisals, including in broadcasting critical reports.
- Release all journalists, media workers, civil society activists, and others detained for exercising their basic rights, including reporting, expressing criticism, or engaging in peaceful protests.

#### **Economic and Humanitarian Crisis**

In 2023, an unprecedented number of Afghans were in need of humanitarian assistance. According to the UN, acute malnutrition affected more than four million people, including more than 840,000 pregnant and nursing women and over three million children. Six million people were expected to face extreme food insecurity by the end of the year, putting them one step away from famine. The loss of millions of jobs after August 2021, the loss of most foreign aid, and a multi-year drought [were the principal reasons](#) people were unable to buy enough food to feed their families.

The ban on Afghan women working for international humanitarian NGOs and the UN have constrained the operational capacity of humanitarian aid organizations, with long-lasting consequences for all people in need, especially women-headed households.

The Taliban's restrictions on women's rights have been among the factors influencing donors' decisions to cut aid, leading to an alarming funding shortfall. By mid-2023, several organizations providing health care were either closing clinics and hospitals or withdrawing support for them due to a lack of funding.

#### Recommendations

- Facilitate the provision of humanitarian aid, including the delivery of assistance to women and women-headed households.
- End bans on women working for the UN and nongovernmental agencies and other entities, including the civil service, and end prohibitions on other forms of work such as beauty salons.

#### **Attacks on Civilians**

Since 2019 insurgent groups and the armed forces of the previous government carried out unlawful attacks on civilians. While such attacks diminished once the Taliban and US were engaged in talks, attacks by the Islamic State of Khorasan Province (ISKP)—the Afghan affiliate of the Islamic State—continued, causing hundreds of civilian casualties. These largely targeted Afghanistan's Shia and Hazara communities. While the former government and US forces, as well as the Taliban fought the ISKP, there was little focus on protecting vulnerable communities, and none on justice for victims of ISKP attacks and their families.

#### Recommendations:

- Fully comply with international humanitarian law, and appropriately punish or prosecute those responsible for grave abuses.
- Protect at-risk minorities, including the Hazara and Shia, and ensure their rights to access education and worship without fear.

### **International Crimes, Impunity, and the International Criminal Court**

During Afghanistan's second UPR, the then-government accepted three recommendations focused on amending the government's amnesty law and ending impunity, and one urging the government to prosecute officials implicated in unlawful violence and to put an end to impunity<sup>3</sup>. Although Afghanistan became a member of the International Criminal Court in 2003, the former government did not incorporate Rome Statute crimes under national law until 2018. While the laws remain part of Afghanistan's penal code, Taliban authorities have given no indication that they will cooperate with the court.

#### **Recommendations:**

- Ensure full cooperation with the ICC, including through legislation.

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<sup>3</sup>A/HRC/26/4, Recommendation 137.19 (Switzerland).