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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

## The 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*

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Afghanistan from 1 January to 30 November 2018, and provides an overview of the work and 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 focuses on the five principal areas of work of the Human Rights Service, namely the protection of civilians in armed conflict; children and armed conflict; women's rights and the elimination of violence against women and increasing women's participation in peacebuilding and security; the prevention of torture and arbitrary detention; the civil society space and the integration of human rights into peace and reconciliation processes. The report also highlights the key areas of technical cooperation engagement and achievements.

The High Commissioner concludes with concrete recommendations addressed to the Government of Afghanistan, anti-government elements and the international community.

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\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## I. Introduction

1. The present report, prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA), is submitted to the Human Rights Council pursuant to its decision 2/113 and resolution 14/15. It covers the period from 1 January to 30 November 2018.
2. The report focuses on the five priority areas of work of the UNAMA Human Rights Service, namely the protection of civilians in armed conflict; children and armed conflict; women's rights and the elimination of violence against women and increasing women's participation in peacebuilding and security; the prevention of torture and arbitrary detention; the civil society space and the integration of human rights into peace and reconciliation processes.
3. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to provide technical and financial support to the human rights mandate of UNAMA.

## II. Context

4. The year began with two major attacks in Kabul and one in Jalalabad, resulting in at least 143 civilian deaths and 265 injured between 20 and 27 January. Amidst rising political uncertainty and limited prospects for peace, security concerns increased. The armed conflict continued to inflict serious harm to civilians as anti-government elements perpetrated a campaign of targeted attacks in both rural and urban areas. The escalation in conflict and increased attacks by Taliban and Islamic State in Iraq and the Levant (ISIL)-Khorasan Province continued to cause a high level of civilian casualties, with the United Nations recording the highest number of civilian deaths in the first nine months of the year in any comparable period since 2014.
5. On the other hand, there were developments in peace negotiations. In February, the Government proposed unconditional peace talks with the Taliban. However, the Taliban did not respond formally and instead announced its annual spring offensive. In June, the Government announced a 10-day unilateral cessation of hostilities while the Taliban announced a three-day ceasefire to mark the end of the month of Ramadan. During that time, Taliban fighters came into cities and celebrated with their families unhindered by the Afghan National Defence and Security Forces. However, the parties to the conflict relapsed into fighting.
6. Following the ceasefire in midyear, the country witnessed a large-scale civic movement for peace, including a march from Lashkar Gah to Kabul, with participants demanding that armed groups renounce violence and engage in negotiations for a peaceful solution of the conflict. However, this call for peace remained unheeded by the parties to the conflict. The Taliban's pursuit of territorial gain created challenges for the Afghan National Defence and Security Forces. The continuous fighting left civilians with a persistent fear of insecurity, with continued high levels of civilian casualties and other conflict-related harm to civilians and civilian infrastructure. Continued fighting caused disruption to public services, affecting the enjoyment of economic, social and cultural rights and inducing widespread internal displacement.
7. Targeted and deliberate attacks by anti-government elements, particularly the Taliban, continued to cause death and injury to civilians, particularly women and children. ISIL-Khorasan Province continued to conduct attacks targeting the Shia Hazara Muslim minority in their pursuit of fomenting sectarian strife. Meanwhile, the United States of America continued to implement its new strategy for South Asia, announced in August 2017, increasing foreign troops with more autonomy for the North Atlantic Treaty Organization (NATO) in Afghanistan to conduct airstrikes. As a result of increased aerial attacks, UNAMA/OHCHR documented an increase in civilian casualties from aerial strikes by pro-government forces.

8. Following a campaign of targeted attacks against voter registration centres and other election-related targets, Afghanistan's long-awaited parliamentary elections took place on 20, 21 and 27 October. During these three days, UNAMA documented more civilian casualties than on any previous election days since the Mission began systematic documentation in 2009. Throughout the voter registration period and on the election days, anti-government elements, mainly Taliban, targeted civilian objects used for election-related purposes, including schools and mosques. These acts of violence involved the use of tactics aimed directly at the civilian population as part of a deliberate campaign intended to disrupt and undermine the electoral process and prevent people from exercising their right to political participation.

### III. Protection of civilians

9. During the reporting period, civilian deaths and injuries remained at the same high levels as in 2017. Conflict-related violence also continued to destroy livelihoods, homes and property, displaced thousands of families, and restricted access to health, education and other services. The conflict had a severe impact on women and children. UNAMA/OHCHR consistently documented the combination of suicide attacks and non-suicide improvised explosive devices as the leading causes of civilian casualties, followed by ground engagements. Civilian casualties attributed to anti-government elements continued to increase and represented by far the highest percentage of the overall civilian casualties during the reporting period, while the number of civilian casualties attributed to pro-government forces also increased by 17 per cent compared with the same period in 2017.

10. From 1 January to 30 November, UNAMA/OHCHR documented 10,269 civilian casualties (3,464 deaths and 6,805 injured). It attributed 65 per cent of these casualties to anti-government elements and 22 per cent to pro-government forces (comprising the Afghan National Defence and Security Forces, pro-government armed groups and international military forces). Ground engagements between anti-government elements and pro-government forces where responsibility could not be attributed to a specific party to the conflict accounted for 10 per cent of civilian casualties. The remaining 3 per cent resulted mainly from explosive remnants of war that could not be attributed to any party to the conflict.

11. UNAMA/OHCHR documented increases in civilian casualties in all regions of Afghanistan except the central highlands and the southern and western regions.

12. The decrease in civilian casualties caused by ground engagements and explosive remnants of war was more than offset by a 28 per cent increase in civilian casualties from suicide and complex<sup>1</sup> attacks and a 40 per cent increase in casualties caused by aerial strikes. The rise in civilian casualties resulting from complex and suicide attacks occurred mainly in the eastern and central regions. The eastern region recorded a ten-fold increase in civilian casualties from such attacks, mainly in Nangarhar. Casualties from aerial attacks increased in all regions except the southern and western regions and the central highlands.

13. ISIL-Khorasan Province claimed responsibility for 38 incidents that caused 1,752 civilian casualties (514 deaths and 1,238 injured), nearly double the number of casualties claimed by the group in 2017. Of these, 1,631 casualties resulted from suicide and complex attacks.

14. UNAMA/OHCHR recorded 1,003 civilian casualties from violence related to the parliamentary elections. The Mission recorded 479 civilian casualties (64 deaths and 415 injured) during the three days of polling, with the rest of the casualties occurring during pre-election activities between 14 April and 19 October.

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<sup>1</sup> A deliberate and coordinated attack which includes a suicide device (i.e. body-borne improvised explosive device or suicide vehicle-borne improvised explosive device), more than one attacker and more than one type of device (i.e. body-borne improvised explosive device and mortars). All three elements must be present for an attack to be considered complex.

15. In 2018, UNAMA released eight public reports (including four special reports), including jointly with OHCHR, highlighting civilian deaths and injuries, analysing key trends and making recommendations to all parties to the conflict.<sup>2</sup>

## A. Anti-government elements

16. Between 1 January and 30 November, UNAMA/OHCHR attributed 6,631 civilian casualties (2,095 deaths and 4,536 injured) to anti-government elements. These figures comprise 64 per cent of the total number of civilian casualties and represent similar figures compared with the same period in 2017. The leading cause of civilian casualties was combined improvised explosive device tactics (including non-suicide improvised explosive devices and suicide and complex attacks together), which accounted for 44 per cent of the total number of civilian casualties. Suicide and complex attacks accounted for nearly 26 per cent of all civilian casualties while non-suicide improvised explosive devices accounted for nearly 18 per cent. Anti-government elements caused 1,332 civilian casualties (285 deaths and 1,047 injured) during ground engagements, the next leading cause, representing 13 per cent of the total civilian casualties.

17. During the reporting period, UNAMA/OHCHR documented 3,975 casualties (1,315 deaths and 2,660 injured) resulting from deliberate targeting of civilians, a 57 per cent increase compared with the same period in 2017. These figures also include nine cases of sectarian attacks by anti-government elements against minority Shia Muslims, the majority of whom are ethnic Hazara, that caused 732 civilian casualties (219 deaths and 513 injuries). ISIL-Khorasan Province claimed responsibility for all but one of these incidents.

18. The majority of the increase came from attacks targeting civilians in election-related incidents. For example, from the beginning of the voter registration period on 14 April up to the day before the elections, UNAMA verified 154 election-related security incidents resulting in 512 civilian casualties (156 deaths and 356 injured) and the abduction of 245 civilians. Women and children comprised 35 per cent of these casualties. Two deadly attacks on 22 April in Kabul city and on 6 May in Khost city resulted in more than 250 civilian casualties alone.

19. Among the total number of election-related civilian casualties verified by UNAMA/OHCHR, 87 casualties (38 deaths and 49 injured) resulted from attacks against parliamentary candidates, eight of whom were killed. Violence targeting voters and polling centres on the three days on which voting took place caused an additional 479 civilian casualties (64 deaths and 415 injured), resulting in the highest level of civilian harm on election days since UNAMA/OHCHR began systematic documentation of civilian casualties in 2009. In addition to loss of life and other harm, this pattern of attacks, threats and intimidation also deprived Afghan citizens of their right to participate in the political process freely and without fear of harm.

20. During the reporting period, UNAMA/OHCHR recorded 249 conflict-related incidents of kidnapping or abduction by anti-government elements involving 1,806 civilians; 54 of the victims were killed and 23 injured.

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<sup>2</sup> *Protection of Civilians in Armed Conflict: Annual Report 2017* (February 2018); “Quarterly report on the protection of civilians in armed conflict: 1 January to 31 March 2018” (April 2018); “Election-related attacks and abuses during the initial voter registration period” (May 2018); “Special report: airstrikes in Dasht-e-Archi District, Kunduz Province, 2 April 2018” (May 2018); “Midyear update on the protection of civilians in armed conflict 1 January to 30 June 2018” (July 2018); “Special report: increasing harm to Afghan civilians from the deliberate and indiscriminate use of improvised explosive devices” (October 2018); “Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018” (October 2018); and *Special Report: 2018 Elections Violence* (November 2018). All reports are available at <http://unama.unmissions.org/protection-of-civilians-reports>.

## B. Pro-government forces

21. Between 1 January and 30 November, UNAMA/OHCHR attributed 2,289 civilian casualties (1,007 deaths and 1,282 injured) to pro-government forces, a 17 per cent increase compared with the same period in 2017. These casualties were mainly caused by Afghan National Defence and Security Forces and the majority resulted from ground engagements, though UNAMA/OHCHR documented a 7 per cent reduction in such civilian casualties. The next leading cause of civilian casualties by pro-government forces was aerial attacks, for which UNAMA/OHCHR recorded a 40 per cent increase compared with the same period in 2017. Together with a significant increase in civilian casualties from search operations, this more than offset the decrease in civilian casualties from ground engagements,<sup>3</sup> leading to the overall increase.

22. UNAMA/OHCHR documented 837 civilian casualties (410 deaths and 427 injured) from airstrikes by pro-government forces, amounting to 8 per cent of all civilian casualties. For example, on 2 April, Afghan Air Force helicopters conducted aerial operations in Laghmani village, Dasht-e-Archi District of Kunduz Province, releasing multiple rockets and firing heavy machine guns during an open-air religious ceremony next to a madrasa where hundreds of men and boys were gathered. UNAMA/OHCHR verified 95 civilian casualties (30 children killed and 65 civilians injured, of whom 49 were children) as a result of this airstrike. UNAMA issued a special public report on the incident, following which the President formally apologized.

23. An area of increasing concern is civilian casualties from search operations by pro-government forces. In 2018, UNAMA/OHCHR documented 326 civilian casualties (258 deaths and 68 injured) during search operations, nearly triple the number recorded during the same period in 2017. UNAMA/OHCHR attributed nearly two thirds of these casualties to search operations involving the National Directorate of Security Special Forces, either alone or partnered with international military forces. UNAMA/OHCHR also received consistent, credible accounts of intentional destruction of civilian property, illegal detention and other abuses carried out by the National Directorate of Security Special Forces and pro-government armed groups, including the Khost Protection Force. UNAMA/OHCHR continued to seek avenues with the National Directorate of Security Special Forces to resolve disputes about facts regarding incidents affecting civilians. UNAMA/OHCHR remained concerned at what appeared to be a lack of accountability for abuses by these forces.

24. UNAMA/OHCHR noted continued positive developments during the reporting period with respect to government policies and mechanisms for civilian casualty mitigation. The Government continued implementing the national policy on civilian casualty prevention and mitigation endorsed by the National Security Council in 2017. UNAMA/OHCHR further noted that the coordinated civilian casualty tracking mechanism continued to improve its functionality under the guidance of NATO Resolute Support advisers.

25. The Government's obligations under the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and Additional Protocols I, II (as amended in 1996), III, IV and V thereto came into effect on 9 February. This established new obligations to adopt measures and allocate additional resources to protect civilians from explosive remnants of war.

26. Throughout the reporting period, UNAMA/OHCHR continued to engage in civil-military dialogue to improve protection of civilians with provincial, regional and high-level government and military representatives and the international protection community to advocate with the parties to the conflict and others who may have influence over their actions. The regular dialogue resulted in orders and policies issued by the Government and

<sup>3</sup> The increase in casualties from airstrikes and search operations was more than the decrease from ground engagements, leading to the overall 9 per cent increase in civilian casualties attributed to pro-government forces.

international military forces which aimed at better protecting civilians from the tactics causing the most harm to civilians.

#### **IV. Children and armed conflict**

27. Between 1 January and 30 November, the country task force on monitoring and reporting on children and armed conflict verified 1,171 incidents of killing and maiming of children, a 24 per cent decrease in the number of incidents compared with the same period in 2017. There was a 4 per cent decrease in the number of child casualties compared with the same period in 2017, with the task force verifying that at least 832 children were killed and 2,017 injured.

28. During the reporting period, ground engagements were the leading cause of child casualties, accounting for 40 per cent of such casualties, with 1,141 boys and girls killed and injured (273 deaths and 868 injured). Improvised explosive devices were the second leading cause, with 483 casualties (116 deaths and 367 injured), followed by explosive remnants of war, resulting in 405 casualties (130 deaths and 275 injured). Of concern, child casualties from aerial operations increased by 55 per cent, with the task force documenting 407 child casualties (179 deaths and 228 injured) compared with 263 (113 deaths and 150 injured) during the same period in 2017. The task force documented 248 child casualties (65 deaths and 183 injured) from suicide attacks – a 75 per cent increase compared with the same period in 2017. Targeted killings resulted in 78 child casualties (40 deaths and 38 injured), a decrease of almost 40 per cent compared with the same period in 2017.

29. The task force recorded child casualties in all regions of Afghanistan, with the highest numbers recorded in the southern (699), eastern (544) and northern (427) regions.

30. Anti-government elements were responsible for 45 per cent of child casualties while 33 per cent were attributed to pro-government forces. Fifteen per cent of child casualties were attributed to both anti-government elements and pro-government forces and 1 per cent to cross-border shelling, while the remaining 6 per cent could not be attributed to any party to the conflict.

31. During the reporting period, the task force verified 179 incidents affecting education and education-related personnel. Such incidents included attacks on schools<sup>4</sup> and education-related personnel, incidents of threats, intimidation and harassment, abduction of education-related personnel and the military use of schools. In addition, the task force verified 81 election-related incidents affecting schools designated as voter registration centres and polling stations for the parliamentary elections. The task force attributed 164 incidents affecting education and related personnel to anti-government elements, 13 to pro-government forces and 2 to both anti-government elements and pro-government forces. The task force also verified four incidents of military use of schools; three were attributed to the Afghan National Army and one to ISIL-Khorasan Province.

32. The task force verified 57 incidents affecting health facilities and related personnel, as in 2017. Of these, 41 were attributed to anti-government elements, 14 to pro-government forces and 2 jointly to pro-government forces and anti-government elements. On 2 August, in Talaqan village, Panjwayi District, Kandahar Province, an ambulance transporting a pregnant woman in labour from Mushan village to Kandahar city was hit by a remote-controlled improvised explosive device, injuring six civilians and causing damage to the ambulance. On 13 June, in Kamdish District, Nuristan Province, anti-government elements set fire to the district hospital building, equipment and an ambulance and handcuffed and abducted six staff members, including a doctor, two male nurses, one driver and two security guards. The staff were released unharmed within a few hours. Following the incident, the health clinic suspended its services.

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<sup>4</sup> This includes attacks that directly targeted schools as well as indiscriminate attacks that incidentally affected schools.

33. Moreover, the task force verified 12 incidents of recruitment and use of children involving 35 boys (5 boys recruited by the Taliban, 17 by Tehrik-I-Taliban Pakistan, 7 by pro-government militias, 3 by the Afghan Local Police, 2 by ISIL-Khorasan Province and 1 by the Afghan National Police). The task force also documented credible allegations of recruitment and use of 16 boys (11 by the Taliban, 2 each by the Afghan Local Police and Afghan National Police and 1 jointly by the National Directorate of Security and the Taliban).

34. The task force verified 17 incidents of abduction, involving at least 42 boys (12 incidents by the Taliban involving 36 boys, 2 incidents by ISIL-Khorasan Province involving 3 boys, and 1 incident each by self-proclaimed ISIL, the Afghan Local Police and Tehrik-I-Taliban Pakistan involving 1 boy each).

35. The task force also verified four incidents of rape and sexual violence against boys and girls, three perpetrated by the Afghan National Police and one by the Afghan Local Police. These include a case of *bacha bazi*, a harmful practice whereby boys are exploited by wealthy or powerful men for entertainment, particularly dancing and sexual activities, and another case where a girl was used for the purpose of *bacha bazi*. The task force received allegations of other cases of sexual violence against children that could not be verified due to the sensitivities involved. For the same reason, such cases are often underreported; therefore, the figures probably do not reflect the extent of these incidents in the country.

36. During the reporting period, the task force verified 39 incidents of denial of humanitarian access, involving abductions, threats and intimidation, killing and injuring of humanitarian personnel and looting of humanitarian goods. The task force attributed 34 of those incidents to anti-government elements (24 to the Taliban, 9 to ISIL-Khorasan Province and 1 to undetermined anti-government elements) and 5 to pro-government forces (2 to pro-government militia, 1 each to the Afghan National Police and the National Directorate for Security, and 1 jointly to the National Directorate for Security and the Afghan National Police).

37. The task force noted further progress by the Ministry of Interior Affairs regarding the expansion of child protection units in the Afghan National Police recruitment centres, as the inauguration in Uruzgan and Nuristan provinces completed the establishment of these units in all 34 provinces. Through this mechanism, 327 underage applicants (325 boys and 2 girls) were prevented from enlisting in the ranks of the Afghan National Police, compared with 294 boys in 2017.

38. Joint efforts by UNAMA/OHCHR, the Afghanistan Independent Human Rights Commission and the task force led to the criminalization of *bacha bazi* in the revised Penal Code, which entered into force in February. The revised Penal Code further criminalizes the recruitment and use of children by armed forces and the falsification of *tazkera* (national identity card).<sup>5</sup>

39. In May, UNAMA/OHCHR submitted a special confidential report to the Government documenting the awareness and observations of Afghan communities on the prevalence of the recruitment and use of children by parties to the conflict, and of the root causes and enabling factors driving such practices in Afghanistan. The report is based on an analysis of almost 700 interviews and monitoring conducted by UNAMA/OHCHR human rights teams between 15 October 2016 and 31 December 2017. It highlights that the practice of child recruitment and use is perceived as common in Afghanistan, with the Taliban reported to be the main perpetrators. Communities in all regions of Afghanistan further alleged the use of boys for sexual abuse, including *bacha bazi*, by armed forces, particularly the Afghan Local Police and Afghan National Police.

40. On 6 August, UNAMA/OHCHR convened an event with representatives of the Government, international military forces and the Afghanistan Independent Human Rights Commission to discuss strategies for combating impunity for sexual violence against

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<sup>5</sup> Falsification of *tazkera* is a factor facilitating recruitment of children into the Afghan armed forces, particularly the Afghan Local Police.

children, particularly *bacha bazi*. The event offered an opportunity to deliberate on awareness-raising, promoting accountability, and the need for a strategy to eliminate the practice of *bacha bazi*. During the reporting period, UNAMA/OHCHR, jointly with the task force, engaged with the Office of the Attorney General and the National Directorate of Security, advocating for the transfer of the child detainees from the National Directorate of Security to the Juvenile Rehabilitation Centre. The juvenile detainees were being held in an adult facility without charge, in violation of the Criminal Procedure Code and the Juvenile Procedure Code. In November, 55 child detainees were transferred to the Juvenile Rehabilitation Centre, which is a first step towards their rehabilitation and provision of psychosocial support.

## V. Protection from arbitrary detention and respect for fair trial rights

41. UNAMA/OHCHR welcomes the progress made by the Government in implementing its commitments set out in the national plan on the elimination of torture.

42. In February, the Government adopted the revised Penal Code which contains a definition of torture broadly in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

43. In April, Afghanistan acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires the Government to establish an independent national preventive mechanism for the prevention of torture and other forms of ill-treatment within one year of accession. In the same month, Afghanistan withdrew its reservation to the Convention against Torture, thereby recognizing the authority of the Committee against Torture to conduct confidential inquiries into allegations of torture on its territory.

44. In June, the Government submitted its follow-up report to the concluding observations of the Committee against Torture (CAT/C/AFG/CO/2/Add.1), outlining progress made in the implementation of some of the recommendations of the Committee regarding specific areas of concern, including the culture of impunity, coerced confessions and the death penalty (CAT/C/AFG/CO/2, paras. 8 (c), 28 (c) and 34 (a)). In a letter dated 23 October 2018, the Committee against Torture requested additional information from the State party.

45. In October, the anti-torture law was published in the official gazette. It sets out provisions on redress for victims of torture to bring legal claims before criminal and civil courts and establishes an anti-torture commission mandated, inter alia, to monitor places of detention and investigate allegations of torture and other forms of ill-treatment.

46. Preliminary analysis of interviews conducted in the framework of UNAMA regular detention monitoring between 1 January 2017 and 15 October 2018 indicates an overall decrease during this period in the percentage of detainees interviewed who gave credible reports of torture and other forms of ill-treatment in the National Directorate of Security and Afghan National Police facilities.<sup>6</sup> Despite this downward trend, UNAMA/OHCHR notes that the number of credible reports of ill-treatment of those held in the custody of the Afghan National Defence and Security Forces remains high.

## VI. Death penalty

47. The revised Penal Code has significantly reduced the number of crimes to which the death penalty applies. UNAMA/OHCHR noted that the Government did not implement the death penalty in 2018. UNAMA/OHCHR continued to advocate for the Government to

<sup>6</sup> UNAMA/OHCHR plan to release a public report on the treatment of conflict-related detainees held in the custody of Afghan National Defence and Security Forces covering the period 1 January 2017–31 December 2018 in the first half of 2019. The preliminary findings may be subject to change.

implement a formal moratorium on the death penalty and for compliance with fair trial guarantees, in accordance with the Constitution, the Criminal Procedure Code and the International Covenant on Civil and Political Rights. At the time of reporting, 836 persons were still on death row.

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

### **A. Women's rights**

48. The Government continued efforts to advance the promotion and protection of women's rights. In October, two policies, on women's inheritance and property ownership rights and on the protection of women in war and emergencies, were resubmitted to the Cabinet's gender committee for endorsement. The first draft policy aims at facilitating women's economic empowerment and financial independence, while the second is intended to ensure a holistic State response for the protection of women in the event of emergencies.

49. On 8 March, Afghanistan marked International Women's Day with over 30 events nationwide. UNAMA/OHCHR, jointly with United Nations partners, organized 14 events highlighting women's rights and the importance of their role in peace and security and in decision-making processes.

### **B. Elimination of violence against women**

50. On 3 March, presidential decree No. 262 was issued, amending the Penal Code 2017 to enable the Law on Elimination of Violence against Women (2009) to remain applicable. This was necessary to ensure continuing legal protection for women and girls from crimes of violence against women because, in August 2017, the entire chapter on violence against women was removed from the revised Penal Code with the exception of crimes of murder and sexual assault, where the Penal Code would apply. Presidential decree No. 259 was also signed on the same day, bringing the sentencing provisions on crimes of sexual assault, battery causing injury and disability, and aiding and abetting into alignment with the Penal Code.

51. In May, the Office of the Attorney General recruited 93 women as prosecutors, enabling the deployment of more female prosecutors to the provinces and districts and the expansion of female-headed prosecution units under the Law on Elimination of Violence against Women from 25 to 31 of the 34 provinces. Afghanistan has 2,826 prosecutors, including 130 deployed to elimination of violence against women prosecution units across the country, 75 of whom are women. The number of courts under the Law on Elimination of Violence against Women increased from 15 in 2017 to 22 during the reporting period, with 92 judges deployed to these courts, including 25 women, most of whom remain in Kabul due to security reasons.

52. Incidents of violence against women, including harmful traditional practices, continued to be reported. From January to November, UNAMA/OHCHR documented 318 cases of alleged violence against women, including murder (91), honour killing (25), sexual assault (30), beating (94) and underage marriage (15). In 63 of these cases, the victims were minors. Of the 318 cases documented, 20 were mediated (10 by institutions under the Law on Elimination of Violence against Women and 10 by informal justice mechanisms); 1 was closed for lack of evidence, and another due to the death of the alleged perpetrator. Nine cases were withdrawn by the complainants upon resolution of the matter between the survivor and the perpetrator.

53. Women's shelters, monitored by the Ministry of Women's Affairs, offer protection and psychosocial and legal aid services to survivors of violence. However, decreased donor funding during the reporting period led to a reduction in services at 2 of the 28 shelters operated by non-governmental organizations in 21 provinces.

54. On 29 May, UNAMA/OHCHR released its report titled *Injustice and Impunity: Mediation of Criminal Offences of Violence against Women*. On 17 July, it convened a national conference gathering 40 high-level representatives of Government, civil society, the international community and United Nations partners, aimed at fostering joint action for the implementation of the recommendations in the report. Between June and November, UNAMA/OHCHR organized some 23 advocacy meetings with State and non-State partners on the implementation of the recommendations. In October, the Office of the Attorney General established a directorate on alternatives to imprisonment tasked with developing a policy on non-custodial sentencing options in line with the 2017 Penal Code. UNAMA/OHCHR advocated that such a policy should include alternatives to imprisonment for less serious crimes of violence against women.

55. In June, the Government commenced the implementation of the 2017 Law on Elimination of Harassment against Women and Children with the establishment of a high commission to oversee the Government's implementation efforts. Harassment of women and children is a crime under the Penal Code and the Law on Elimination of Violence against Women, but underreporting of cases remains a challenge in identifying key trends and patterns. With the Penal Code criminalizing forced gynaecological testing of females, in March, civil society organizations established a working group on protection and support for women against forced gynaecological testing to coordinate strategic advocacy aimed at the eradication of the practice. The Ministry of Interior Affairs subsequently issued a countrywide verbal directive in April prohibiting law enforcement entities from forcing female detainees to undergo such tests.

56. On 29 July, the Ministry of Labour, Social Affairs, Martyrs and Disability and the United Nations Children's Fund released their report *Child Marriage in Afghanistan: Changing the Narrative*. The report provided a contextualized analysis of the knowledge, attitudes and practices of communities in five provinces. In August, UNAMA/OHCHR began advocacy with provincial and district partners on the importance of ending the practice, which is a crime under the Law on Elimination of Violence against Women, and because of the long-term harm it causes to young girls. Of concern, between August and November, in drought- and poverty-affected areas, particularly Herat and Badghis provinces, internally displaced families sold 161 of their children, due to extreme circumstances.

### C. Women, peace and security

57. In March, the High Peace Council Joint Secretariat increased the number of women in provincial peace councils from two to three in each of the 34 provinces. Of the 114 women in peace councils, 102 are represented at the provincial peace councils and 12 in the High Peace Council. Although this is commendable progress, women remain underrepresented in peace processes and local peace initiatives.

58. On 31 July, the Government launched its second progress report on the implementation of the Afghan national plan for the implementation of Security Council resolution 1325 (2000), covering the period from September 2016 to September 2017. In the report, the Government noted an increase in the number of women in national security sector institutions, including in the higher-level and command roles, from 1.3 per cent in 2015 to 2.5 per cent in 2016 for the national army and from 0.5 per cent in 2015 to 0.6 per cent in 2016 for the national police.<sup>7</sup>

59. Despite the low number of rural women registering for the 2018 parliamentary election, 35 per cent of the 8.5 million registered voters were women (an 8 per cent increase compared with the 2014 presidential election). Of the 2,565 candidates that contested the 249 parliamentary seats, 417 were women. There were 7,429 polling stations for women compared with 11,667 for men, and about 13,000 Afghan women served as election observers.

<sup>7</sup> "2017 Status Report on the Afghanistan's National Action Plan on UNSCR 1325 (Women, Peace and Security)", 2017, p. 13.

60. In 2018, UNAMA/OHCHR organized 11 events in connection with the Global Open Day on Women, Peace and Security, with representation from 16 of the 34 provinces. The events were attended by 249 Afghans (212 women and 37 men), who shared their views and proposals on Afghan women's participation in peace processes and local peace initiatives. The discussions focused on addressing deep-rooted cultural norms and discriminatory practices that prevent women's participation in peace processes.

61. The United Nations in Afghanistan celebrated International Day for the Elimination of Violence against Women on 25 November, which marked the beginning of the 16 Days of Activism against Gender-Based Violence global campaign. In that context, between 25 November and 10 December, UNAMA/OHCHR, jointly with partners, organized 13 workshops, round tables, panel discussions, an art competition and radio messages around the global theme "Orange the World: #HearMeToo". The campaign focused on crimes of violence against women and girls prevalent in the provinces, such as particular harmful traditional practices, underreporting of specific crimes, and improvements to criminal justice services to ensure effective accountability.

## **VIII. Peace and reconciliation, including accountability and transitional justice**

62. UNAMA/OHCHR remained actively engaged with civil society and the Afghanistan Independent Human Rights Commission to promote civil society space and protection for human rights defenders, end impunity for human rights violations, support efforts to end discrimination, and promote inclusive peace and reconciliation processes. UNAMA/OHCHR also supported efforts to promote the centrality of human rights of women, girls, minorities and other vulnerable groups and to ensure their participation in political and social spheres, including peace processes.

63. UNAMA/OHCHR continued its engagement with the civil society-led Transitional Justice Coordination Group composed of 20 organizations active in promoting the voice of Afghan war victims for justice-based peace and reconciliation processes. In 2018, the group conducted seven coordination meetings and memorial events in Kabul, Balkh, Herat and Badakhshan, including a photo exhibition that was launched on the national day of war victims, 10 December, in Kabul.

64. Following the request by the Prosecutor of the International Criminal Court to the Pre-Trial Chamber on 20 November 2017 for judicial authorization to commence an investigation of alleged war crimes and crimes against humanity committed in Afghanistan since 1 May 2003, almost 800 submissions were lodged with the Court by Afghan war victims and their representatives. UNAMA/OHCHR raised public awareness on the Court's procedures through the Afghan Bar Association, which helped victims to prepare submissions.

65. UNAMA/OHCHR continued to monitor peace and reconciliation efforts, and advocated for the inclusion of civil society groups in the process, by promoting space for civil society participation, improving their advocacy skills and facilitating their understanding of international human rights mechanisms and standards. During the reporting period, UNAMA/OHCHR organized 39 round-table discussions, workshops and seminars to promote civil society space and engagement in human rights-based peace processes and to enable civil society activists and human rights defenders to monitor, report and advocate on human rights. UNAMA/OHCHR supported the broadcast of seven radio programmes in 2018 to promote human rights values in Afghanistan.

66. On 30 April, UNAMA/OHCHR published in Kabul a compilation of 34 provincial road maps for peace. This was followed by 20 advocacy events and the launching of provincial road maps in 20 provinces, with the participation of approximately 616 Afghans including local authorities, civil society and media organizations (460 men and 156 women).

67. UNAMA/OHCHR continued engagement with the Afghanistan Independent Human Rights Commission and conducted regular coordination meetings aimed at sharing

information, conducting advocacy on protecting the rights of religious and ethnic minority groups and following up on incidents of violence against journalists, media workers, civil society activists and human rights defenders. On 9 May, the Commission organized a national conference on accountability, human rights, justice and peace in Kabul. The conference was attended by the Assistant Secretary-General for Human Rights. On 26 June, UNAMA/OHCHR delivered a training on the preparation of stakeholder reports by civil society as part of the country's third cycle universal periodic review, scheduled for 21 January 2019.

68. The term of office of the commissioners of the Afghanistan Independent Human Rights Commission expired on 30 June. On 9 July, a presidential order was issued setting out the procedure for the selection of new commissioners, amending a previous order issued on 26 May. The order established a two-tier vetting system to ensure suitable qualifications and diversity among a final pool of 27 applicants, from which 9 will be selected by the President.

## **IX. Safety of journalists and media workers**

69. Journalists and media workers continued to face intimidation and violence by anti-government elements and pro-government forces. During the reporting period, UNAMA/OHCHR documented 31 conflict-related incidents (30 by anti-government elements and 1 by an unidentified perpetrator) in six provinces. These incidents resulted in the killing of 15 journalists and injuries to 13, 1 incident of threat, and the burning of a radio station and a television station. On 30 April, in a targeted attack in Kabul, nine journalists were killed and six injured while performing their professional duties.

70. On 16 October, the Government launched the journalists support fund aimed at helping journalists and bereaved families of media workers. UNAMA/OHCHR continued to engage with civil society organizations and government officials to promote protection for journalists and media workers.

## **X. Cooperation with the United National human rights mechanisms**

71. In 2018, UNAMA/OHCHR continued to support the Government to strengthen its capacity for increased engagement with United Nations human rights mechanisms, including the universal periodic review process. Discussions have been under way between UNAMA/OHCHR and the Government to agree upon a time frame for the provision of technical assistance in support of the establishment of a national mechanism for reporting and follow-up. On 22 October, the Government submitted its national report for the third cycle of the universal periodic review.

72. On 5 November, the Ministry of Foreign Affairs informed UNAMA/OHCHR that the drafting process for several reports, namely to the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, was under way.

73. The Government of Afghanistan continued efforts to implement the national plan for the implementation of Security Council resolution 1325 (2000), utilizing its own capacity to implement the first phase of the action plan without the support of the international community. The third report of the Government on the implementation of the national action plan was to be submitted in December.

74. In August, with the technical support of UNAMA/OHCHR, Afghanistan began work on drafting an anti-discrimination law which aims at safeguarding the rights of minorities, women and other marginalized groups.

## XI. Conclusion

75. In 2018, the renewed calls for peace by the Government had little effect on the plight of Afghan civilians. Although the overall number of civilian casualties remained at approximately the same level as in 2017, the United Nations documented the highest number of civilian deaths during the reporting period since 2014.

76. Demands by a civic movement for peace and for renunciation of violence by armed groups remained unheeded as the security situation continued to deteriorate. The people of Afghanistan witnessed an unprecedented ceasefire at the end of the Islamic month of Ramadan. However, hope for peace remained elusive amidst intensified fighting and targeted attacks by anti-government elements against civilians in both urban and rural areas.

77. The people's right to political participation came under serious threat by anti-government elements who conducted a campaign of targeted attacks against voter registration centres and polling stations on the three days of the parliamentary elections.

78. The Government made efforts to implement pledges made during its campaign for membership of the Human Rights Council. In April, Afghanistan acceded to the Optional Protocol to the Convention against Torture and withdrew its reservation to the Convention against Torture. The Government also took measures aimed at establishing a national mechanism for reporting and follow-up and expedited drafting of several pending reports to treaty bodies.

79. Women continued to suffer from violence as progress towards promoting women's rights remained slow. In March, presidential decree No. 262 was issued, amending the 2017 Penal Code to enable continued applicability of the Law on Elimination of Violence against Women as the entire chapter on violence against women had been removed from the Penal Code in August 2017.

80. Civil society actors, including women and human rights defenders, journalists and media workers, continued to face threats, intimidation and harassment, thus restricting civil society space.

## XII. Recommendations

81. **The High Commissioner for Human Rights makes the following recommendations.**

82. **The Government of Afghanistan should:**

(a) **Create a climate conducive to respect for human rights by expanding and implementing the legal framework and strengthening relevant institutions, and continue to fulfil its voluntary pledges and commitments as presented to the General Assembly in support of its candidature for the Human Rights Council;**

(b) **Establish, in consultation with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a national preventive mechanism for the prevention of torture;**

(c) **Continue to implement the national policy on civilian casualty prevention and mitigation, strengthen measures to investigate all incidents of conflict-related harm to civilians and further reinforce the dedicated entity for the documentation of conflict-related incidents;**

(d) **Develop a plan of action to meet its obligations under the Protocol on Explosive Remnants of War (Protocol V) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;**

(e) **Strengthen the capacity of the child protection units within the Afghan National Police to monitor, identify and prevent underage recruitment and use through proactive monitoring, particularly at checkpoints, investigate all reports of child recruitment and use and sexual violence against children, and address the lack**

of services and alternatives for children who have been rejected for recruitment by the Afghan National Defence and Security Forces or for children released from active service;

(f) Strengthen laws and policies to prevent military use of schools to supplement statements included in the Safe Schools Declaration, which Afghanistan adopted in May 2015;

(g) Ensure the implementation of relevant provisions of the revised Penal Code criminalizing *bacha bazi* with a focus on accountability for perpetrators, including for members of the Afghan National Defence and Security Forces;

(h) Ensure that victims of human rights violations have an effective remedy; strengthen procedures to ensure gender-sensitive and inclusive reparations, including compensation for families of civilians killed and injured in conflict-related violence, and raise public awareness of these procedures; and pay special attention to ensuring equal and effective access for women and girls;

(i) Ensure that conflict victims, their families and representatives can safely advocate for accountability for perpetrators of war crimes and crimes against humanity;

(j) Enhance its coordination with the International Criminal Court and facilitate visits of representatives of the Court to Afghanistan;

(k) Increase efforts to prevent, punish and eradicate all forms of violence against women through the adoption and implementation of legal and policy frameworks compliant with international human rights standards, strengthen the capacity of the criminal justice system to ensure accountability and conduct countrywide campaigns to raise women's awareness of the remedies available in cases of violence, including mediation procedures;

(l) Ensure the swift implementation of the national plan for the implementation of Security Council resolution 1325 (2000) by providing dedicated human and financial resources and creating accountability mechanisms to track and report on its effective application, to ensure women's meaningful participation in all peace and reconciliation processes;

(m) Implement a robust vetting process to prevent members of armed groups involved in serious crimes, such as violations of international humanitarian law and international human rights law, from being recruited by security or government institutions as part of any peace settlement, while ensuring that no blanket amnesty or immunity is granted and that victims' rights are respected;

(n) Ensure that impunity for violations committed against journalists and civil society actors ends, that all violations are investigated promptly and thoroughly and that perpetrators are brought to justice; and ensure that journalists and civil society actors enjoy their legitimate rights to freedom of expression and to have access to information, without fear of reprisal or attack; and protect civil society space and increase engagement of civil society actors in peace and reconciliation processes;

(o) Establish a *de jure* moratorium on the death penalty and respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular article 6 of the International Covenant on Civil and Political Rights and the minimum standards set out in the safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1984/50, annex);

(p) Strictly enforce national laws prohibiting torture and other forms of ill-treatment; ensure that the procedural and other legal safeguards required by national and international law, designed to prevent torture and ill-treatment, are upheld by all national authorities; and take steps to ensure that coerced confessions are not admitted as evidence in court proceedings;

(q) Improve the ability of the judiciary to guarantee fair trials, including for juveniles detained on allegations of national security-related allegations, and due process in all criminal proceedings, pursuant to article 14 of the International Covenant on Civil and Political Rights.

83. Anti-government elements should:

(a) Cease the deliberate targeting of civilians (including government officials, journalists, tribal elders, religious leaders, human rights defenders, judges and prosecutors) and civilian locations and of places of worship and culture, in recognition of their protected status guaranteed under international humanitarian law;

(b) Cease indiscriminate attacks against members of religious minorities and their justification using a language of hatred;

(c) Respect the right to political participation and cease attacks directed at election-related facilities and personnel, and pay special attention to ensure that schools, health facilities and mosques used in the election process remain protected from attacks;

(d) Take measures to implement directives prohibiting the recruitment and use of children and ensure accountability for those commanders who recruit and use children for military purposes;

(e) Issue statements recognizing the important role of civil society actors, notably human rights defenders and journalists, including women and girls, and their right to freedom of expression and critical opinion and denouncing attacks against the media and civil society, acknowledging and respecting their civilian status;

(f) Cease the use of improvised explosive devices in all areas frequented by civilians and the use of illegal pressure-plate improvised explosive devices and the firing of explosive weapons, particularly indirect fire systems, from and into civilian-populated areas and respect at all times the civilian status of humanitarian deminers;

(g) Uphold statements by national leaders regarding the human rights of women and girls in areas under Taliban influence, in particular by ceasing attacks and threats against girls' education, teachers and the education sector in general.

84. All parties to the conflict should:

(a) Take preventive measures to mitigate civilian casualties, including child casualties, in compliance with their obligations under international human rights and humanitarian law, ensure accountability for the perpetrators and facilitate humanitarian access;

(b) Guarantee the protection of civic space and civil society actors, including journalists and human rights defenders and media workers, as civilians under international humanitarian law and respect their right to monitor and report freely on the armed conflict without fear of attack or reprisal for their work.

85. The international community should:

(a) Support the Afghan security forces in their efforts to prevent civilian casualties and protect civilians from the harm of conflict-related violence;

(b) Support the Government in promoting protection for women and girls through provision of necessary resources for uninterrupted psychosocial and legal aid services to survivors of violence;

(c) Encourage the Government to deliver on its pledges and commitments made before it became a member of the Human Rights Council, including with regard to cooperation with the International Criminal Court;

(d) Support the Government's efforts to advance the women, peace and security agenda, including through the implementation of the national plan for the

**implementation of Security Council resolution 1325 (2000), through technical support, resources and targeted advocacy;**

**(e) Advocate with parties to the conflict for women's effective and meaningful participation in informal and formal peace negotiations and the protection of their rights through future peace agreements, promote just and inclusive peace processes and increase active participation by civil society in peace and reconciliation processes;**

**(f) Ensure that the rights of victims and their families, as well as witnesses, are respected and protected in peace and reconciliation processes and settlements;**

**(g) Assist the Government, in particular through resource mobilization, to fully implement its commitments under the action plan on prevention of underage recruitment and ensure active cooperation with, and support for, the country task force on monitoring and reporting.**

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