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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**

Situation of human rights in Afghanistan

Report of the Office of the United Nations High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 51/20, in which the Council requested the Office of the United Nations High Commissioner for Human Rights to submit a comprehensive report to the Council at its fifty-fourth session on the overall situation of human rights in Afghanistan, including an analysis and recommendations on the institutional protection of human rights.

* The present report was submitted after the deadline so as to include the most recent information.



I. Introduction and methodology

1. The present report is submitted pursuant to Human Rights Council resolution 51/20, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to submit a comprehensive report to the Council at its fifty-fourth session on the overall situation of human rights in Afghanistan, including an analysis and recommendations on the institutional protection of human rights.
2. This report was prepared in cooperation with the Human Rights Service of the United Nations Assistance Mission in Afghanistan (UNAMA). On 16 March 2023, by its resolution 2678 (2023), the Security Council extended the mandate of UNAMA until 17 March 2024.
3. Since January 2022, in accordance with its mandate,¹ UNAMA has engaged with the de facto authorities in Kabul and at provincial and district levels on individual cases of human rights violations and on the international human rights obligations of Afghanistan. In addition, UNAMA has cooperated on an ongoing basis with the de facto Directorate of Human Rights and Women's International Affairs within the de facto Ministry of Foreign Affairs and has published four reports based on its human rights monitoring since the last report of the United Nations High Commissioner for Human Rights.² In mid-2022, the de facto Ministry of Foreign Affairs established an interministerial committee tasked with responding to reports, including those prepared by UNAMA, concerning human rights violations in Afghanistan. With regard to access to places of detention, to date only the de facto Office of Prison Administration has formally granted UNAMA access to prisons in numerous provinces.
4. In the present report, OHCHR focuses on the period between March 2022 and August 2023. OHCHR provides an analysis and recommendations on institutional protection for human rights in Afghanistan, examined through the lens of the principal areas of work of UNAMA on human rights, as identified in Security Council resolution 2626 (2022). Those include: the situation of women and girls, including sexual and gender-based violence; protection of civilians; violations of the right to life, liberty and physical integrity; prevention of torture and the promotion of respect for procedural safeguards, civic space and fundamental freedoms.

II. Human rights obligations of the State

5. Afghanistan as a State remains bound by the international human rights obligations that stem from the treaties to which it is a party.³ The de facto authorities have responsibility to uphold those obligations by respecting, protecting and fulfilling human rights in Afghanistan.⁴ That includes not only respecting human rights and responding to violations, but also protecting against violations by third parties and creating an environment in which human rights are respected. At a fundamental level, that obligation requires institutions that protect human rights and the rule of law; laws and policies that promote – rather than curtail – the enjoyment of human rights; and positive measures to prevent human rights violations and hold perpetrators accountable.
6. Prior to the Taliban takeover on 15 August 2021, Afghanistan faced significant human rights challenges, including: the significant barriers in accessing justice faced by women and girls who were the victims of violence;⁵ allegations of torture and ill-treatment and violations of procedural rights in places of detention;⁶ the harm suffered by civilians as a result of the

¹ Security Council resolution 2626 (2022), para. 5 (e).

² The four thematic reports are available at <https://unama.unmissions.org/human-rights-monitoring-and-reporting-0>.

³ See the ratification status of Afghanistan by human rights treaty at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN.

⁴ Security Council resolution 2626 (2022), para. 5 (e).

⁵ See <https://unama.unmissions.org/women%27s-rights-reports>.

⁶ See <https://unama.unmissions.org/treatment-conflict-related-detainees-afghan-custody>.

decades of armed conflict, together with the limited efforts to ensure accountability and reparations;⁷ and the violence directed against human rights defenders and media workers.⁸ There were, however, significant steps taken by the former Government of Afghanistan to protect and promote human rights. Among those were the Constitution adopted in 2004, which enshrined a bill of rights, a commitment to uphold the international human rights treaties and conventions to which Afghanistan was a State party and the establishment of the Afghanistan Independent Human Rights Commission.⁹ Other measures included: the creation of the Ministry of Women's Affairs, the introduction of the Law on the Elimination of Violence against Women adopted in 2009, the adoption and implementation of a national policy to prevent and mitigate civilian casualties, and the establishment, in February 2018, of the International Crimes Directorate within the Office of the Attorney General.

7. Throughout the period covered by the present report, actions taken by the de facto authorities have undermined human rights protection at all levels. External consultation on the development of legislation and parliamentary oversight have been effectively removed from the lawmaking process and the administration of justice has undergone a number of changes. Key institutions, such as the Afghanistan Independent Human Rights Commission, the Afghanistan Independent Bar Association, the specialized courts and prosecution offices addressing the elimination of violence against women and the former Office of the Attorney General, have been successively abolished. The de facto authorities have promulgated edicts and other pronouncements that actively discriminate against women and girls and curtail the fundamental freedoms of the entire population. Human rights violations are widespread and there is a lack of accountability for the perpetrators thereof. The prevailing dire economic and humanitarian situation facing Afghanistan has severely compromised economic, social and cultural rights.

8. In the present report, OHCHR provides an analysis of the status of human rights in Afghanistan since March 2022.¹⁰ OHCHR also makes recommendations regarding the immediate steps that should be taken by the de facto authorities to uphold the international human rights obligations that continue to bind Afghanistan as a State. Swift action is critical to change the trajectory of human rights in Afghanistan and to lay the foundations for a peaceful, prosperous and inclusive future for all those who live in the country.

III. Humanitarian and economic situation

9. States parties to the International Covenant on Economic, Social and Cultural Rights are required to meet what the Committee on Economic, Social and Cultural Rights has referred to as a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights.¹¹ The Committee has also stressed the essential role of international cooperation and assistance in the fulfilment of rights under the Covenant.¹² Throughout the reporting period, the humanitarian and economic crisis facing Afghanistan continued to seriously affect the enjoyment of economic, social and cultural rights.

10. Following the Taliban takeover, the economy went into free fall due to the disruption to markets and financial and trade mechanisms, the freezing of \$9.5 billion in central bank reserves and loans and the sudden suspension of direct development aid to Afghanistan.¹³ In 2023, 28.3 million people – two thirds of the country's population – are in need of urgent

⁷ See <https://unama.unmissions.org/protection-of-civilians-reports>.

⁸ See <https://unama.unmissions.org/people%27s-dialogue-on-peace>.

⁹ Constitution of Afghanistan, chap. 2 (fundamental rights and duties of citizens). See also arts. 6, 7 and 58.

¹⁰ A/HRC/49/24, which should be read in conjunction with A/HRC/49/90, covered the period until February 2022.

¹¹ Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990), para. 10.

¹² Ibid., para. 13.

¹³ Office for the Coordination of Humanitarian Affairs, *Humanitarian Needs Overview: Afghanistan* (2023), p. 6.

humanitarian assistance and, despite the dire situation, the Humanitarian Response Plan for 2023 had received only 9 per cent of the total required funding as at 2 June 2023.¹⁴

11. The restrictions imposed on the rights of women and girls to work, education and freedom of movement by the de facto authorities have compounded existing pressures and created new ones. The United Nations Development Programme (UNDP) has estimated that there has been a \$1 billion reduction in the gross domestic product of Afghanistan as a result of the de facto authorities' decisions to curb women's access to work, noting that this could have a broader impact on poverty and humanitarian needs throughout the country.¹⁵ The bans on women working for international and national non-governmental organizations and the United Nations have adversely affected the ability of Afghan women to participate in the humanitarian response, jeopardizing the ability of humanitarian assistance to effectively reach women and girls.¹⁶ While humanitarian actors have strived to continue their work and negotiate exemptions and local authorizations,¹⁷ the overall environment remains extremely challenging.

IV. Administration of justice

12. Strong rule of law and administration of justice are fundamental in protecting human rights. The rule of law requires a system of certain and foreseeable law, which allows individuals to regulate their conduct in conformity with legislation that is formulated with sufficient precision and clarity and is consistent with international human rights norms and standards and in which laws are publicly promulgated, equally enforced and independently adjudicated.

13. During the reporting period, the de facto authorities introduced a number of changes affecting the administration of justice and the rule of law. Those changes generated ambiguity in relation to the domestic legal framework, as well as inconsistent practices within the justice system, and curtailed the role of lawyers and the participation of women lawyers and judges in the legal system.

A. Domestic legal framework

14. Following their takeover of Afghanistan, the de facto authorities suspended the Constitution¹⁸ and initiated a review, in November 2021, of laws passed by the Government of Afghanistan to assess their compliance with sharia law and Afghan traditions.¹⁹ A spokesperson of the de facto authorities stated, in October 2022 and April 2023, that a commission tasked with the development of a new Constitution had been appointed.²⁰ As of August 2023, no information on the work of the commission or the outcomes of the review of the laws adopted by the Government of Afghanistan had been shared. In parallel, the de facto authorities have stated on numerous occasions that sharia law is the legal framework applicable in Afghanistan.²¹

¹⁴ [A/77/914-S/2023/453](#), para. 57.

¹⁵ UNDP, "One year in review: Afghanistan since August 2021: a socio-economic snapshot" (2022), p. 27.

¹⁶ Office for the Coordination of Humanitarian Affairs, *Revised Humanitarian Response Plan (Jun–Dec 2023): Afghanistan* (2023).

¹⁷ *Ibid.*

¹⁸ Hadia Ziaei, "Officials: Afghanistan does not need a constitution", TOLO News, 4 September 2022.

¹⁹ De facto Ministry of Justice, "Minister of Justice accentuated upon the expedition of law revision process", 10 April 2022.

²⁰ Mohammad Farshad Daryosh, "Efforts underway to form new constitution: Mujahid", TOLO News, 22 October 2022; and Fatema Adeeb, "Mujahid: writing of constitution ongoing", TOLO News, 26 April 2023.

²¹ Reuters, "Exclusive: Council may rule Afghanistan, Taliban to reach out to soldiers, pilots", 18 August 2021; and Kathy Gannon, "Taliban official: strict punishment, executions will return", Associated Press, 23 September 2021.

15. The domestic legal framework has been further complicated by the Taliban leader issuing decrees and edicts that govern a range of administrative, legal and judicial matters. Many legal texts, whether new laws, procedures or instructions, are announced on the official web pages or social media accounts of various de facto ministries. Notwithstanding the ad hoc nature of such announcements, the publication by the de facto Ministry of Justice of three official gazettes has contributed to a degree of increased clarity on the law and matters of governance. The official gazette of 22 May 2023 published a collection of 65 decrees, 20 of which had been issued by the Taliban prior to their takeover of Afghanistan.

B. Judicial system and the role of de facto prosecutors

16. During the reporting period, the formal judicial system continued to function countrywide staffed with new personnel (all men), including muftis and scholars, to advise de facto judges. No judges appointed under the Government of Afghanistan were retained. The de facto authorities have maintained the three levels of courts that previously existed, together with a right to appeal the judgments of de facto primary courts before the de facto appeal courts and, subsequently, the de facto Supreme Court.

17. Since February 2022, the de facto Supreme Court has allowed de facto police to refer criminal cases directly to de facto courts for investigation, bypassing de facto prosecutors. That was followed in August 2022 by an announcement by the former de facto Attorney General of the suspension of the role of de facto prosecutors and the handover of pending investigations to de facto judges. In March 2023, a decree was issued establishing the de facto High Directorate of Supervision and Prosecution of Decrees and Edicts, which formally terminated the role and functions of the de facto Office of the Attorney General.

18. With the transfer of investigative functions to de facto judges, numerous complaints highlight the fact that many newly appointed judges lack legal education and experience in administering justice and in leading investigations. That has given rise to reports of unfairness, abuses and corruption, as well as violations of due process and fair trial rights, including the presumption of innocence, the right to legal representation, the right to silence, and the rights not to be compelled to testify against oneself or to confess guilt. Furthermore, as de facto judges resumed investigations into pending case files transferred from the offices of de facto prosecutors, the judicial system experienced a backlog in the processing of cases, causing prolonged pretrial detention for the several thousand detainees in prisons across Afghanistan.

19. Given the growing number of individuals in prolonged pretrial detention and the limited capacity of the de facto Office of Prison Administration to support the incarcerated population for extended periods, in September 2022, the Taliban leader instructed the de facto Supreme Court to appoint additional panels of de facto judges to expedite the processing of cases. Furthermore, the de facto Supreme Court, upon the recommendation of committees composed of mixed de facto entities, pardoned and released thousands of detainees during Ramadan, Eid al-Fitr and Eid al-Adha. Delegations from the de facto Supreme Court in Kabul also periodically visit de facto courts countrywide, instructing them to promptly investigate disputes and adjudicate cases with a view to minimizing prolonged pretrial detention. Notwithstanding those efforts, the majority of detained individuals are subjected to arbitrary and prolonged pretrial detention. The judicial system faces ongoing challenges in relation to capacity as the volume of pending cases continues to increase and those arrested are admitted to prisons pending judicial investigation.

20. On 30 March 2023, the de facto authorities reportedly issued an order allowing parties to request re-examination of cases, including criminal and divorce cases, adjudicated under the former Government of Afghanistan, claiming that those decisions were tainted by corruption and contrary to sharia law. That raises serious concerns about breaches of the principles of legality, the retroactive application of new “laws”, double jeopardy and finality of litigation.

C. Role of lawyers

21. The role of lawyers in the criminal justice process continues to be contentious. After the de facto Ministry of Justice seized authority, in November 2021, from the Afghanistan Independent Bar Association to issue licences to lawyers, it initiated a process that has to date only permitted the relicensing of male lawyers. As of 4 July 2023, 1,479 male defence lawyers had been relicensed. Lawyers are almost uniformly denied access to detainees in the custody of de facto police or the de facto General Directorate of Intelligence, and de facto judges reportedly persist in rejecting the role of lawyers in proceedings, often abusing, threatening and sidelining them.

22. The de facto Ministry of Justice reports that indigent suspects and accused persons or their relatives, as well as indigent women and orphaned children in family cases, are entitled to request legal assistance from the de facto Department of Legal Aid to defend their rights, including before judicial institutions. Despite that, the de facto departments of justice in the provinces have insufficient staff to meet the needs of all those detained.

23. Women lawyers and judges have been excluded altogether from working or practising by the de facto authorities, negatively affecting the ability of women and girls to obtain legal representation, their equality before the law and access to justice. Many non-governmental organizations that previously worked to provide legal aid have also ceased their activities.

V. Institutions for the promotion and protection of human rights

24. National human rights institutions play a crucial role in promoting and monitoring the effective implementation of international human rights norms and standards at the national level. Shortly after their takeover of the country, the de facto authorities seized control of the premises of the Afghanistan Independent Human Rights Commission, which they abolished by decree in May 2022. Other institutions, such as specialized courts and prosecution offices addressing the elimination of violence against women and the Ministry of Women's Affairs and its departments across provinces, have also been dismantled. While no analogous institutions have been created to take over or provide similar functions to support accountability for human rights violations or women's access to justice, the de facto authorities have taken some steps to establish institutions with mandates that purport to address some of those matters.

25. The de facto Ministry for the Propagation of Virtue and Prevention of Vice, a new ministry established by the de facto authorities after 15 August 2021, defines its scope of work as the implementation of orders of the Taliban leader that entail elements of sharia law.²² It reportedly also accepts all complaints from the public against any personnel of a de facto authority or ministry. The de facto Ministry for the Propagation of Virtue and Prevention of Vice comprises three directorates, which respectively seek to receive and mediate cases between parties, carry out further investigations into complaints by parties and, in situations in which a resolution is not possible, refer cases to the de facto military courts. In some provinces, departments of the de facto Ministry for the Propagation of Virtue and Prevention of Vice reportedly also visit places of detention where complaints have been received from individuals, such as family members, about the treatment of detainees or their conditions of detention.

26. The former de facto Office of the Attorney General was abolished in March 2023 and its mandate transferred to the de facto High Directorate of Supervision and Prosecution of Decrees and Edicts, which created a body mandated to oversee certain functions within the criminal justice system. In addition to monitoring places of detention and the treatment of detainees, the de facto High Directorate is empowered to oversee the legality of the activities of "detection agencies", which includes monitoring the legality of arrests and detentions and exercising quasi-judicial powers in this regard. It is also mandated to prevent torture and ill-treatment and, when such acts arise, to investigate complaints, submit rulings "to the

²² See mopvpe.gov.af (in Pashto).

authoritative source” and reallocate case files to other investigators. To date, it is not clear whether the de facto High Directorate has commenced such activities.

27. With regard to sexual and gender-based violence, the de facto Supreme Court instructed de facto courts, in accordance with the special decree on women’s rights issued on 3 December 2021,²³ to adjudicate cases related to the violation of women’s rights. During the reporting period, at least 324 cases of violence against women and girls, including murders, so-called honour killings, forced and child marriages, beatings and domestic violence resulting in self-immolation or suicide, were documented by UNAMA. Despite the decree, cases of gender-based violence are handled inconsistently by the de facto authorities and are, in many instances, resolved through informal means, such as mediation.

28. Parliaments play a key national role in the protection and realization of human rights, as they are instrumental in translating human rights obligations into national legislation and policies and ensuring their implementation. With the parliamentary legislative process effectively abolished in October 2022, the new lawmaking process is effectively entrusted to an ulema of experts within the de facto Ministry of Justice who submit their recommendations to an independent commission that seeks final approval thereon from the Taliban leader. There is no apparent consultation process or input from external bodies, including civil society, in the development of legislation.

VI. Policies affecting the enjoyment of human rights

29. States are obliged to create an enabling environment for the fulfilment of human rights, which can include the promulgation of laws and policies that promote and protect human rights. They are also required to avoid curtailing human rights.

30. Since their takeover of Afghanistan and throughout the reporting period, the de facto authorities have introduced a series of edicts and pronouncements that directly infringe upon human rights and fundamental freedoms. The impact on women and girls – in all aspects of life – has been particularly severe, with a raft of discriminatory measures announced and implemented that deny their rights to participate in public life, freedom of movement, health, work, education and to attain an adequate standard of living, effectively confining them to their homes.

A. Discrimination against women and girls

31. Decrees and edicts announced during the reporting period compounded previously introduced restrictions on the human rights and fundamental freedoms of Afghan women and girls across all areas of life, notably:

(a) On 23 March 2022, despite public pronouncements to the contrary, the de facto Ministry of Education announced that girls’ secondary schools, which had been closed since the Taliban takeover, would remain closed pending the development of a plan for their reopening, in line with sharia law and Afghan tradition and culture;²⁴

(b) On 7 May 2022, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice introduced a regulation that rendered the wearing of the hijab mandatory for women in public places.²⁵ The regulation established a set of disciplinary actions applicable to the male relatives of women deemed non-compliant, involving a warning for the first instance of non-compliance, followed by imprisonment of the male relative and possible prosecution in court for further infractions. Furthermore, the regulation recommended that the best method to observe the regulation was for women to avoid leaving the house unless absolutely necessary;

²³ See www.moic.gov.af/en/special-decree-issued-amir-al-momenin-womens-rights.

²⁴ See <https://twitter.com/bnapashto/status/1506480143275069440?s=20> (in Pashto).

²⁵ See <https://twitter.com/MOPVPE1/status/1522882293718818816?s=20&t=sshqCD9cwGCRkJbt8HL3LQ> (in Pashto).

(c) On 10 November 2022, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice announced that women were prohibited from using parks, gyms and public baths,²⁶ with the spokesperson of the de facto Ministry stating that the prohibition was necessary due to the “violation of rules” regarding segregation between men and women and the wearing of the hijab;

(d) On 20 December 2022, the de facto Ministry of Higher Education suspended higher education for girls until further notice;²⁷

(e) On 24 December 2022, the de facto Ministry of the Economy issued an order prohibiting Afghan women from working for domestic and international non-governmental organizations.²⁸ On 4 April 2023, that prohibition was extended to include Afghan women working for the United Nations, communicated verbally to the United Nations by the de facto Ministry of Foreign Affairs;²⁹

(f) On 26 June 2023, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice issued a letter ordering all women’s beauty salons to close by 25 July 2023. The spokesperson of the de facto Ministry stated that the ban was necessary because beauty salons offered services forbidden by Islam and caused economic hardship for the families of grooms during wedding festivities.³⁰

32. In addition to the restrictions imposed by the policies themselves, their implementation has involved further violations of human rights. Instances of women being harassed or beaten at checkpoints for failure to observe hijab, as interpreted by the de facto authorities, or ordered to return home from the market because they were shopping without a *mahram* (male family member chaperone) are frequently documented.

B. Curtailment of freedom of opinion and expression

33. States have a duty to create an enabling environment for the free exercise of the right to freedom of opinion and expression. That right has been severely curtailed in Afghanistan since the Taliban takeover, with increasing restrictions introduced during the reporting period. Key challenges for the media sector include lack of access to information, legal uncertainty created by the suspension, pending a review, of the media law passed by the Government of Afghanistan and the introduction of policies that directly restrict freedom of expression and opinion and the independence of the media. Media outlets have also experienced financial difficulties due to the withdrawal of significant donor funding following the Taliban takeover, and some have been forced to close as a result.

34. Guidelines issued between August 2021 and March 2022 to media outlets by the de facto Government Media and Information Centre and the de facto Ministry for the Propagation of Virtue and the Prevention of Vice remained in place. The guidelines include requirements to abstain from: publishing content contrary to Islam and sharia law; disrespecting national and influential figures in reporting; screening films or soap operas featuring women actors and foreign films that are contrary to Afghan or Islamic values; and playing music. In addition, women and men are prohibited from appearing together in programmes and women journalists are required to cover their faces while broadcasting.³¹

35. The de facto authorities have taken steps to halt the operations of numerous media outlets, including blocking or suspending access to the websites of some outlets, including Zawia News, the *Hasht-e-Subh Daily*, Voice of America and Azadi Radio. On 30 November

²⁶ See <https://twitter.com/MOPVPE1/status/1590768823971368960> (in Pashto).

²⁷ See <https://twitter.com/HafizZeiya/status/1605227230648483842> (in Pashto).

²⁸ The letter, on social media, was confirmed by a spokesperson of the de facto Ministry of the Economy. See www.reuters.com/world/asia-pacific/taliban-orders-ngos-ban-female-employees-coming-work-2022-12-24.

²⁹ UNAMA, “UN protests order from Taliban de facto authorities prohibiting Afghan women from working with the United Nations in Afghanistan”, 5 April 2023.

³⁰ See <https://twitter.com/MOPVPE1/status/1676588150682992641?s=20> (in Pashto).

³¹ UNAMA Human Rights Service, *Human Rights in Afghanistan: 15 August 2021–15 June 2022* (Kabul, 2022).

2022, the de facto Ministry of Information and Culture ordered Voice of America and Radio Azadi to cease their FM broadcasts due to alleged violations of guidelines issued to journalists.

36. The de facto Ministry of Information and Culture established the Media Violations Commission on 23 August 2022. While the exact mandate of the Commission has not been formally announced, the former Government of Afghanistan had established a similar commission under its Mass Media Law (2009).³² While the Commission's membership during its first year was comprised predominantly of members of the de facto authorities and some representatives from journalist support organizations, including the Afghan Journalists Safety Committee, as of 12 August 2023 it had expanded to include an increased number of representatives from media outlets, academia, media unions and journalist support organizations. No women, however, are members of the Commission.

C. Regulation of daily and cultural life

37. The de facto authorities have introduced a series of measures that regulate the private lives of people living in Afghanistan, curtailing their enjoyment of various human rights and fundamental freedoms, including their rights to privacy and to participate in cultural life. The majority of those measures have been promulgated and enforced by the de facto Ministry for the Propagation of Virtue and the Prevention of Vice and its respective departments at the provincial level.

38. In addition to the restrictive edits and instructions determining how women and girls should lead their lives, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice has issued guidance advising barbers not to trim men's beards or give "Western-style" haircuts. While the guidance is reportedly only advisory in nature,³³ instances of men and barbers being ill-treated and arbitrarily detained temporarily for allegedly breaching the guidance have been reported consistently since the Taliban takeover. At district and provincial levels, men have been ordered by officials of the de facto Ministry departments to attend congregational prayers at mosques and, in some instances, failure to do so has led to fines and ill-treatment.

39. The de facto Ministry for the Propagation of Virtue and the Prevention of Vice has issued various guidance regarding music. On 28 November 2022, in Kabul, signs were put up at the entrances of wedding halls and hotels to urge people to refrain from playing music. In a video shared on social media, the de facto Ministry explained that music was forbidden as it promoted vice in society and destroyed the roots of Islam.³⁴ In January 2023, the spokesperson of the de facto Ministry confirmed an order circulated in the media that disallowed poetry with a musical rhythm. Instances of private vehicles, telephones and weddings being subject to searches for music – and arbitrary arrests and detentions and ill-treatment of individuals when such music was found – have been recorded.

40. Restrictions on the commemoration of religious and cultural events and other holidays have also been ordered. On 21 March 2023, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice announced a prohibition on the celebration of Nowruz.³⁵ Vehicle checkpoints were set up to search for items used for the celebration. On 17 July 2023, a spokesperson of the de facto authorities, Zabihullah Mujahid, announced that large

³² Art. 42.

³³ In an interview posted on a social media account of the spokesperson of the de facto Ministry for the Propagation of Virtue and the Prevention of Vice, he stated that the policy on barbers' not shaving clients' beards or trimming their hair was advisory in nature. See <https://twitter.com/MOPVPE1/status/1590768823971368960> (in Pashto).

³⁴ See <https://twitter.com/MOPVPE1/status/1597470802139807745> (in Pashto).

³⁵ See two social media posts (with video clips) by the de facto Ministry for the Propagation of Virtue and the Prevention of Vice, available at <https://twitter.com/MOPVPE1/status/1638052712079040519> (in Pashto) and <https://twitter.com/MOPVPE1/status/1638052716525105152> (in Pashto).

gatherings and movement in groups during the commemoration of Ashura', a holy day for Shia Muslims, were prohibited in order to ensure the security of mourners.³⁶

VII. Violations of the rights to life, liberty and security of the person

41. States parties to the International Covenant on Civil and Political Rights are obliged to respect human rights and protect against human rights abuses and ensure accountability when violations do occur. Throughout the reporting period, UNAMA documented instances of conflict-related civilian harm, extrajudicial killings, arbitrary arrests and detentions, and torture and ill-treatment.

A. Conflict-related civilian harm

42. The Taliban takeover of Afghanistan on 15 August 2021, and the final withdrawal of international military forces on 31 August 2021, saw a significant reduction in hostilities in Afghanistan. There was a corresponding reduction in the scale of conflict-related civilian harm, which continued throughout the reporting period. Despite that, civilian casualties continued to be recorded.

43. During the reporting period, UNAMA recorded at least 2,618 civilian casualties (719 killed and 1,899 wounded), among whom there were 196 women (76 killed and 120 wounded) and 701 children (183 boys and 53 girls killed, and 391 boys, 70 girls and 4 children of unknown gender wounded). The leading causes of civilian harm were the result of improvised explosive devices and explosive remnants of war.

1. Improvised explosive devices

44. As highlighted in a report of the UNAMA Human Rights Service,³⁷ despite a marked decrease in overall levels of civilian casualties since the Taliban takeover, improvised explosive devices continue to result in significant levels of civilian harm. The majority of improvised explosive device attacks causing civilian harm during the period were carried out by the Islamic State in Iraq and the Levant-Khorasan (ISIL-K), although a significant number remained unclaimed and the perpetrators unknown.

45. UNAMA documentation indicates an increase in civilian harm resulting from improvised explosive device attacks on places of worship compared with that prior to the Taliban takeover, with improvised explosive device attacks on places of worship causing 1,218 civilian casualties (368 killed and 850 wounded) between 15 August 2021 and 15 February 2023. Shia communities were found to be most at risk of attacks on their places of worship.

46. In addition, improvised explosive device attacks targeting the – predominantly Shia Muslim – Hazara community in schools and other educational facilities, crowded streets and on public transport occurred during the reporting period. A suicide improvised explosive device attack that occurred at the Kaaj Educational Centre in the Dasht-e Barchi district of Kabul on 30 September 2022 killed 54 persons and wounded 114 others, most of them young women and girls (48 women and girls killed, including 3 children; and 67 women and girls wounded, including 9 children). ISIL-K claimed responsibility for the attack. Improvised explosive device attacks targeting the de facto security forces and de facto civilian entities also contributed to civilian harm throughout the reporting period, with most incidents being claimed by ISIL-K. The first six months of 2023 did, however, reflect a 53 per cent reduction in civilian casualties compared with the same period in 2022, largely due to a reduction in improvised explosive device attacks.

³⁶ See https://twitter.com/Zabehulah_M33/status/1680919805451288576?s=20 (in Pashto).

³⁷ UNAMA Human Rights Service, "Impact of improvised explosive devices on civilians in Afghanistan: 15 August 2021–30 May 2023" (Kabul, 2023).

2. Explosive remnants of war

47. UNAMA documented 512 civilian casualties (169 killed and 343 wounded) as a result of explosive remnants of war during the reporting period. That represents a slight increase compared with the same period a year earlier. Most victims were children (115 boys and 28 girls killed, and 233 boys and 43 girls wounded) who picked up unexploded ordnance while collecting scrap metal or playing. In several instances, multiple members of a single family lost their lives or were seriously wounded. For example, on 19 March 2023, in Ghor, five children and one woman were killed when a hand grenade detonated in their home.

B. Extrajudicial killings

48. During the reporting period, UNAMA documented extrajudicial killings carried out by the de facto security forces targeting former government officials and former security force members, and individuals perceived to be affiliated with the self-identified National Resistance Front and with ISIL-K.

49. On 15 August 2021, the de facto authorities announced what they called a “general amnesty” for former officials of the Government of Afghanistan and former members of the Afghan National Defence and Security Forces. In August 2023, UNAMA published details³⁸ about the human rights violations against former government officials and former armed force members that had occurred despite senior de facto officials having repeatedly expressed their commitment to protect such persons under the general amnesty. Between 15 August 2021 and 30 June 2023, UNAMA documented at least 218 extrajudicial killings of former government officials and members of the Afghan National Defence and Security Forces. The most targeted groups were former members of the Afghan National Army and the Afghan National Police, officials of the National Directorate for Security and officers of the Afghan Local Police. In most instances, individuals were detained by the de facto security forces, often briefly, before being killed. Some were taken to detention facilities and killed while in custody, others were taken to unknown locations and killed, their bodies either dumped or handed over to family members.

50. UNAMA also recorded 61 instances during the reporting period of extrajudicial killings of individuals affiliated with the National Resistance Front. Between 12 and 14 September 2022, at least 48 summary executions of individuals affiliated with the National Resistance Front in the Dara and Khinj districts of Panjshir Province were documented.

51. During the reporting period, UNAMA documented 48 extrajudicial killings of individuals perceived to be affiliated with ISIL-K, predominantly in Nangarhar and Kunar Provinces, where the group is known to be most active. The incidents followed a similar pattern, with bodies found dumped, sometimes hanging from trees, and often dismembered or beheaded. In several instances, bodies were accompanied by notes in which it was claimed that the individuals were killed due to their affiliation with ISIL-K. Such killings reached a peak shortly after the Taliban takeover and continued throughout the reporting period.

C. Unnecessary and disproportionate use of force

52. Extrajudicial killings and injuries due to unnecessary or disproportionate use of force by the de facto authorities were also recorded. Most instances concerned shootings at checkpoints, allegedly because individuals had failed to stop when signalled to do so by members of the de facto security forces or because of unlawful use of force in the dispersal of crowds and protests.

53. For example, on 28 July 2023, during the commemoration of Ashura’ in Ghazni City, de facto security personnel opened fire to disperse a crowd of mourners. Four persons were killed, including one child and one woman who was shot through the window of her house,

³⁸ UNAMA, “A barrier to securing peace: human rights violations against former government officials and former armed force members in Afghanistan: 15 August 2021–30 June 2023” (Kabul, 2023).

and six were injured. In response to the incident, the de facto Office of the Provincial Governor commented on social media that, among the group of Ashura' mourners, some had thrown stones and opened fired at the de facto security forces, resulting in the casualties. According to UNAMA monitoring, the mourners were unarmed. In its statement, the de facto Office of the Provincial Governor expressed sympathy for the victims and stated that a committee, to include members of the Shia community, would be established to investigate the incident.

D. Arbitrary arrests and detentions

54. Many arrests and detentions carried out by the de facto authorities are likely to be arbitrary due to a lack of clarity regarding the applicable legal framework and the failure to inform individuals of the reasons for their arrest and the charges against them, the length of time for which people are kept in pretrial detention, lack of access to legal counsel and their own families and denial of other procedural rights to which detainees are entitled. UNAMA recorded more than 2,400 arbitrary arrests and detentions during the reporting period.

55. The de facto authorities have used arrests and detention to suppress dissent. Numerous women who had participated in peaceful protests or spoke out against the de facto authorities' discriminatory policies towards women and girls were arbitrarily detained, sometimes for extended periods. UNAMA documented the arbitrary arrest and detention of at least 78 women civil society activists during the reporting period.

56. For example, on 3 November 2022 in Kabul, women's rights activist Zarifa Yaqobi and four of her male colleagues were arrested at a press conference. They were held for more than a month, on unknown charges, by the de facto General Directorate of Intelligence. Matiullah Wesa, an outspoken advocate for girls' education, was arrested on 27 March 2023 in Kabul and remains in the custody of the de facto authorities.

57. Journalists and media actors continued to experience threats, ill-treatment, and arbitrary arrest and detention in connection with their work, often related to accusations of criticizing the de facto authorities in their reporting. UNAMA documented the arbitrary arrest and detention of at least 115 media workers during the reporting period. Between 6 and 13 August 2023, nine journalists from six provinces were detained by de facto General Directorate of Intelligence. Mortaza Behboudi, a French-Afghan journalist arrested by officials of the de facto General Directorate of Intelligence on 7 January 2023, remains in detention on unknown charges.

58. During the reporting period, UNAMA documented the arbitrary arrest and detention of at least 356 former government officials and members of the Afghan National Defence and Security Forces, 408 individuals accused of affiliation with the National Resistance Front and 39 individuals accused of affiliation with ISIL-K.

E. Torture and ill-treatment

59. The de facto police and de facto General Directorate of Intelligence routinely use illegal force, blindfolding, beatings and ill-treatment during the course of arrests. Additionally, while in the custody of both de facto institutions, detainees are routinely subjected to torture and ill-treatment, particularly during investigations and questioning, often resulting in the signing of forced confessions. That is coupled with the almost systematic denial of their fundamental due process rights while in custody.

F. Corporal punishment and the death penalty

60. Since their takeover of Afghanistan, the de facto authorities have implemented corporal punishment and the death penalty. In a report published in May 2023,³⁹ UNAMA

³⁹ UNAMA Human Rights Service, "Corporal punishment and the death penalty in Afghanistan" (Kabul, 2023).

Human Rights Service found that the implementation of judicial corporal punishment had increased significantly following a social media post made by a spokesperson of the de facto authorities, Zabihullah Mujahid, on 13 November 2022, in which he stated that the Taliban leader had met with de facto judges and emphasized their obligation to apply the applicable punishments under sharia law for *hudud* and *qisas* offences.⁴⁰ For example, 14 persons (11 men and 3 women) were publicly flogged in a football stadium in Logar Province on 23 November 2022.

61. The social media post was also followed, on 7 December 2022, by the first execution sanctioned by the de facto judicial authorities since the takeover in Farah Province. A second such execution was carried out in Laghman Province in June 2023. Both executions were carried out in public⁴¹ against individuals convicted of intentional killing.

VIII. Accountability

62. Conducting prompt, thorough, effective, independent, impartial and transparent investigations into human rights violations and holding perpetrators to account is a key obligation of States under international human rights law. Accountability is also critical to prevent the recurrence of violations. There is limited information regarding measures taken by the de facto authorities to investigate reports of human rights violations and hold perpetrators to account and a general climate of impunity prevails.

63. The de facto authorities have, in isolated instances, publicly announced the opening of investigations into specific incidents. To date, such announcements have not been followed by the release of public information regarding the progress or outcome of such investigations. For example, on 17 September 2022, the de facto Ministry of Defence announced that “serious investigations” would be conducted into allegations of killings in Panjshir. On 16 October 2022, it was reported that a commission led by the former de facto Provincial Governor for Kabul, Mawlawi Neda Mohammad Nadeem (subsequently appointed as de facto Minister of Higher Education), would examine the files of individuals detained during military operations in Panjshir. The findings of the investigation have not been publicly announced.

64. With regard to torture and ill-treatment, in its response to the UNAMA report on corporal punishment and the death penalty, the de facto Ministry of Foreign Affairs stated that 93 cases of torture or ill-treatment of individuals in the custody of the de facto security forces had been recorded and investigated, with some of the perpetrators dismissed from their positions and punished according to their crimes. No breakdown by responsible entity was specified or provided.⁴²

65. While levels of civilian harm have significantly decreased since the Taliban takeover of Afghanistan and the conclusion of hostilities between the Taliban and the former forces of the Government of Afghanistan, efforts regarding accountability for harm suffered by civilians over decades of conflict – already a significant challenge prior to the takeover by the de facto authorities – have largely stalled. The suspension of the role of prosecutors and the transfer of the functions of the former Office of the Attorney General also effectively ended the work of its International Crimes Directorate, which was created in 2018 to investigate allegations of violations of international human rights law and international humanitarian law committed during the conflict. On 31 October 2022, Pre-Trial Chamber II

⁴⁰ Ibid., p. 5.

⁴¹ In its general comment No. 36 (2018), the Human Rights Committee stated (in para. 40) that public executions were contrary to article 7 of the International Covenant on Civil and Political Rights. Regarding public executions, in its resolution 2005/59 (para. 7 (i)), the Commission on Human Rights urged all States that still maintained the death penalty to ensure that, where capital punishment occurred, it should be carried out so as to inflict the minimum possible suffering and should not be carried out in public or in any other degrading manner. The prohibition was reaffirmed by the Secretary-General (A/HRC/39/19, para. 38).

⁴² UNAMA Human Rights Service, “Corporal punishment and the death penalty in Afghanistan: annex – response from the *de facto* Ministry of Foreign Affairs of the Islamic Emirate of Afghanistan” (Kabul, 2023).

of the International Criminal Court authorized the Office of the Prosecutor to resume investigations into the situation in Afghanistan.⁴³ On 4 April 2023, the Appeals Chamber clarified the scope of the Prosecutor's investigation as being "in relation to alleged crimes committed on the territory of Afghanistan in the period since 1 May 2003, as well as other alleged crimes that have a nexus to the armed conflict in Afghanistan and are sufficiently linked to the situation and were committed on the territory of other States Parties in the period since 1 July 2002".⁴⁴

IX. Conclusions

66. International human rights law requires States to respect human rights, protect individuals under their jurisdiction from human rights abuses and to take positive action at all levels to facilitate the enjoyment of human rights. Over the past two years, the de facto authorities have steadily dismantled institutional protection for human rights and eroded the rule of law, despite the international human rights obligations that continue to bind Afghanistan as a State. In addition, the humanitarian and economic crisis facing Afghanistan continues to seriously affect the enjoyment of the full spectrum of human rights.

67. Afghan women and girls have been restricted from participating in most areas of public and daily life by the introduction of progressively more severe and discriminatory edicts, policies and other pronouncements. Those measures deny the rights of women and girls to access education, to work and to freedom of movement and affect access to health and other essential services.

68. The ambiguity regarding the domestic legal framework and inconsistent practices within the justice system have affected the entire legal process. Allegations of torture and ill-treatment during arrests and in places of detention are widespread, most notably with regard to the de facto General Directorate of Intelligence and the de facto police. Such treatment occurs in the context of an almost routine denial of procedural safeguards and due process rights. Violations of the rights to which all accused persons are entitled contribute to an increased risk of arbitrary detention and human rights violations in places of detention, as well as abuses of due process and the right to a fair trial before de facto courts.

69. The exclusion of women lawyers and judges from the legal system, along with the abolition of the specialized courts and prosecution offices addressing the elimination of violence against women, affects the rights of women and girls to obtain legal representation, equality before the law and access to justice.

70. Some decrees and policies appear intended to offer some protection, such as the decree on women's rights of December 2021 and the code of conduct on reforming the prison system of January 2022,⁴⁵ which regulates the treatment of individuals deprived of their liberty. However, the protection that they offer is limited and is overshadowed by the issuance of other edicts and decrees that infringe on human rights, particularly those of women and girls, and the continued prevalence of human rights violations.

71. The practical absence of a national human rights institution has left a significant gap with regard to the protection and promotion of human rights at the national level. While other institutions purport to have mandates that may cover some of those functions, seemingly intended to provide accountability, effective action in this regard remains to be seen.

⁴³ International Criminal Court, Pre-Trial Chamber II, *Situation in the Islamic Republic of Afghanistan*, No. ICC-02/17-196, Decision pursuant to article 18 (2) of the Statute authorising the Prosecution to resume investigation, 31 October 2022.

⁴⁴ International Criminal Court, Appeals Chamber, *Situation in the Islamic Republic of Afghanistan*, No. ICC-02-17 OA5, Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber II entitled "Decision pursuant to article 18 (2) of the Statute authorising the Prosecution to resume investigation", 4 April 2023, para. 58.

⁴⁵ The code of conduct regulates treatment of individuals deprived of their liberty and contains numerous provisions prohibiting torture and ill-treatment.

72. The de facto lawmaking process currently suffers from a lack of consultation with and input from external bodies, including civil society, further diminishing opportunities to strengthen human rights protection.

73. In addition to the broader climate of repression of human rights and fundamental freedoms, violations of the rights to life, liberty and security of person continue to be carried out by members of the de facto authorities with apparent impunity. There is little information about steps taken by the de facto authorities to hold perpetrators accountable.

74. More than two years on from the Taliban takeover of the country, there has been a systematic regression of the rule of law and human rights in Afghanistan, particularly with regard to the rights of women and girls. The de facto authorities still have an opportunity to change the trajectory of human rights and bring Afghanistan into line with its international obligations. That will require concerted action at all levels to address the current vacuum of institutional human rights protection and establish a more inclusive and responsive system of governance that protects, promotes and fulfils human rights.

X. Recommendations

75. OHCHR calls upon the de facto authorities to fundamentally change their approach to human rights and reiterates previous calls to fully comply with the obligations of Afghanistan under international human rights law.⁴⁶

76. OHCHR recommends that the de facto authorities:

(a) Rescind promptly discriminatory edicts and decrees that curtail the human rights and fundamental freedoms of women and girls, enable their access to secondary and tertiary education and work, respect their freedom of movement and cease interference with other aspects of their daily lives;

(b) Ensure, in view of the review of applicable laws being carried out, that all legislation applicable in Afghanistan is in line international human rights law;

(c) Establish a legal aid framework through which legal services for persons suspected or accused of criminal offences are effectively ensured;

(d) Halt immediately arbitrary arrests and detentions and ensure that persons detained are given prompt access to an independent, impartial and competent court, and that the legality of their detention is subject to a speedy and effective court review;

(e) Issue clear instructions to de facto courts and de facto judges, in line with international human rights norms and standards, on professional standards for judicial actors, prohibiting ill-treatment or harassment of lawyers and those accused;

(f) Permit resumption of a credible and independent national human rights institution, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), with a broad mandate for the promotion and protection of human rights at the national level;

(g) Ensure access to justice and the right to a remedy for survivors of gender-based violence through the formal justice system;

(h) Promote and protect fundamental freedoms by replacing restrictive policies with ones that comply with human rights;

(i) Take immediate legal, policy and practical measures to prevent human rights violations, in particular extrajudicial killings, arbitrary arrests and detentions and torture and ill-treatment, and ensure accountability when violations occur;

(j) Establish a complete moratorium on executions with a view to abolition of the death penalty;

⁴⁶ See recommendations in [A/HRC/51/6](#).

(k) Ensure the professionalization of de facto security personnel in executing their duties in accordance with international human rights norms and standards, particularly those applicable to the use of force in law enforcement; and ensure that criminal investigations are conducted without resorting to torture or ill-treatment;

(l) Conduct prompt, thorough, effective, independent, impartial and transparent investigations into alleged human rights violations and hold perpetrators accountable, in particular with regard to allegations of extrajudicial killings and torture and ill-treatment.

77. OHCHR recommends that the international community:

(a) Maintain concerted dialogue and advocacy with the de facto authorities regarding the human rights obligations of Afghanistan, in particular with regard to the situation of women and girls;

(b) Continue to facilitate financial measures and assistance to support urgent humanitarian needs and basic services;

(c) Support the continuation of the human rights mandate of UNAMA and ensure that adequate resources are provided for ongoing human rights monitoring, documentation, reporting and advocacy.
