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Abbreviations

AIHRC	Afghanistan Independent Human Rights Commission
ANDSF	Afghanistan National Defense and Security Forces
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
HRC	Human Rights Council
HRW	Human Rights Watch
EU	European Union
GDP	Gross Development Product
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MoJ	Ministry of Justice
MoPV	Ministry for Propagation of Virtue and Prevention of Vice
MoWA	Ministry of Women Affairs
NGO	Non-Governmental Organizations
OCHA	Office for the Coordination of Humanitarian Affairs
OTP	Office of the Prosecutor
SR	Special Rapporteur on the Situation of Human Rights in Afghanistan
UDHR	Universal Declaration of Human Rights
UNAMA	United Nations Assistance Mission in Afghanistan
UNCAT	United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council

I. Introduction

1. The State of Afghanistan, in accordance with its national and international obligations, is committed to reporting on the human rights situation, including through the important mechanism of the Universal Periodic Review (UPR), as well as the implementation of international human rights conventions to which Afghanistan is a party.

A. Process of preparation of report

2. The Permanent Mission of the Islamic Republic of Afghanistan (PMoIRA) to the United Nations Office and other international organizations in Geneva (UNOG), in accordance with Human Rights Council (HRC) resolution 16/21 of 25 March 2011, its decisions 17/119 of 17 June 2011 and 50/113 of 8 July 2022, had undertaken the task of preparing this National Report for the 4th UPR cycle, in furtherance of its international obligations and its national commitment to the people of Afghanistan.

3. After their military takeover of Afghanistan in 2021, the Taliban dissolved the Afghanistan Independent Human Rights Commission (AIHRC) and the Human Rights Support Unit (HRSU), which was established in 2010 within the MoJ and was the only entity responsible for the follow up of the implementation and reporting of human rights obligations, including the recommendations from the previous cycle of the UPR. The HRSU had prepared the national report for the 3rd UPR cycle, in consultation with other government departments, the AIHRC, and national and international NGOs.

4. Keeping in mind the unprecedented situation in the country, the PMoIRA to UNOG wrote a Note Verbale requesting the postponement of the review of Afghanistan for the 4th cycle on 13 July 2023 (Document: AFM-23/124). However, the HRC bureau, in its meeting on 5 September 2023¹ made a decision that the review of Afghanistan will take place as per the planned schedule and the PMoIRA to UNOG should participate in the review process. The PMoIRA made a call for contributions for civil society organisations and human rights defenders and around 34 organisations and individuals participated in this process. The PMoIRA, as a coordinator of this national report, first established three Working Groups for examining Civil and Political Rights, the rights of Specific Groups, and the Economic, Social and Cultural Rights of the people of Afghanistan. A Drafting Committee was then set up to draft the report based on the findings and information provided by the members of the three Working Groups. This collaborative effort strives to present the human rights situation of the people of Afghanistan and propose concrete recommendations for the way forward.

B. Implementation of recommendations from the previous cycle

5. In the 3rd cycle of the UPR, Afghanistan received 258 recommendations and after the consultation process, supported 235 recommendations on thematic issues concerning: legal and general framework of implementation, universal and cross-cutting issues, civil and political rights; social, economic and cultural rights; and rights of vulnerable groups, including women and children.²

6. In furtherance of its commitment to implement the supported recommendations, the HRSU prepared an Action Plan in 2019 in coordination with the Ministry of Labour and Social Affairs, Ministry of Women's Affairs (MoWA), Ministry of Foreign Affairs, AIHRC, Administrative Office of the President, Office of Attorney General, the Supreme Court of Afghanistan, and other related government departments, institutions and civil society organisations. The Action Plan identified responsible entities within the government for the implementation of each of the recommendations. Many entities responsible for this implementation of the supported recommendations had already started the implementation process. However, this process was halted and ultimately discontinued in August 2021, following the military takeover of Afghanistan by the Taliban.

Edicts, decrees, declarations, and directives issued by the Taliban

7. The Taliban have made claims of respecting the international human rights treaties ratified by Afghanistan in accordance with its interpretation of Sharia law. However, there has been no evidence to support their claim of fulfilling Afghanistan's obligations with respect to the ratified treaties.³ The Taliban has instead issued over 200 edicts, decrees, declarations, and directives curtailing the human rights of the people of Afghanistan, in particular, the rights of women and girls, ethnic and religious minorities, and other vulnerable communities.⁴ These are in contravention of Afghanistan's obligations under the UDHR, CEDAW, ICCPR, CERD, ICESCR, UNCAT and its Optional Protocol, and CRC and its Optional Protocols, which had been incorporated into national legislations before the military takeover.⁵ Within the period from August 2021 to October 2023, over 200 edicts and directives have been issued.⁶ The so-called 'Ministry for Propagation of Virtue and Prevention of Vice' (MoPV), took over the premises of the MoWA, and has so far issued the highest number of directives, which are mostly targeted at curtailing the rights of women and girls.⁷

8. The Taliban continue to lead the international community astray with their claims of respecting the human rights of the citizens of Afghanistan.⁸ However, Afghanistan's dedicated civil society organisations, human rights defenders, journalists and media workers have continued to actively and steadfastly work to shed light on the reality of life on the ground in Afghanistan and counter the false narrative put forth by the Taliban of a resurgence of civil, political and economic stability in Afghanistan.

Cooperation with ICC

9. As provided in the national report of the 3rd UPR cycle, the 2018 Penal Code of Afghanistan criminalized 4 crimes, namely, genocide, crimes against humanity, war crimes and aggression, as contained in the Rome Statute (Art. 332 – 343).⁹ In 2018, the Government of the Islamic Republic of Afghanistan (GoIRA) also introduced a legislative decree that enforced the Law for Cooperation with the ICC.¹⁰

10. After the military takeover by the Taliban, the OTP requested authorisation in September 2021 to resume the investigation, which Pre-Trial Chamber II granted in October 2022, considering that the Taliban were not carrying out genuine investigations and did not demonstrate interest in pursuing the deferral request.¹¹ Moreover, the Taliban has made no indication of cooperating with the ICC.

Combating terrorism

11. Afghanistan, under the GoIRA, was committed to combating and preventing any kind of terrorist activities in the country. The 2004 Constitution and the 2018 Penal Code contained provisions that prohibited any kind of terrorist activity, including financing of any such activities.

12. The Taliban was categorized as a terrorist organization by the GoIRA and several other States. Most recently, the UNSC extended the mandate of the Analytical Support and Sanctions Monitoring Team responsible for monitoring sanctions with respect to individuals and entities designated as the Taliban, as well as other individuals, groups, undertakings and entities associated with the Taliban.¹² Most of the leaders and decision makers of the Taliban are on sanctions lists.¹³ Abdul-Hakim Sharei, the so-called 'interim Minister of Justice'; Abdul Hakim Haqqani, the so-called 'interim Head of the Supreme Court'; and Habibullah Agha, the so-called 'interim Minister of Education' have been placed on a sanction list by the EU under its EU Global Human Rights Sanctions Regime on the ground of committing severe human rights abuses in Afghanistan, in particular the violation of women's and girl's right to education and the right to equal treatment between men and women, among others.¹⁴ The Taliban nevertheless continues to lobby for the removal of sanctions on its members and its affiliates.

13. Despite claims of improved security since the military takeover of Afghanistan, terrorist attacks on schools and places of worship continue to take place, and families of victims have not been informed of any impartial investigations initiated by the Taliban. At present, Afghanistan is witnessing a resurgence and proliferation of terror outfits including

among others, the Al-Qaeda, Tehrik-e-Taliban Pakistan (TTP), Jamaat Ansarullah, ISIS-K, the Islamic Movement of Uzbekistan (IMU), East Turkestan Islamic Movement (ETIM), and the Haqqani Network, which continue to enjoy patronage and protection accorded to them by the different Taliban groups.

14. All major terrorist groups are flourishing financially and operationally in an ecosystem created by the Taliban within Afghanistan. Threats to the region and beyond are imminent.¹⁵ With the expansion of madrasas, the risk of radicalisation remains high; its prevention remains essential, as does a human rights analysis of counterterrorism policies.

Afghanistan Independent Human Rights Commission (AIHRC)

15. The AIHRC was established in line with the Paris Principles under Art. 58 of the 2004 Constitution. The AIHRC had a mandate to protect and promote human rights across Afghanistan by monitoring and verifying the human rights violations and taking appropriate measures. To ensure its independence, it had an independent budget unit in the national budget.¹⁶ The AIHRC contributed to the promotion of gender equality and protection against gender-based violence, and had a programme on the rights of people with disabilities.

16. However, on 17 May 2022, the AIHRC was dissolved by the Taliban.¹⁷ In the absence of the AIHRC, Afghanistan has no national human rights institution, as envisaged in the 2004 Constitution, in compliance with the international standards, and no specialized victim support services and accountability mechanisms for gender-based violence.¹⁸ As a result, the victims of human rights abuses and violations have no recourse to an effective legal remedy.¹⁹ The AIHRC carries on its work in exile.²⁰

17. At present, the Special Rapporteur (SR) on the situation of human rights in Afghanistan and the Human Rights Service of the United Nations Assistance Mission in Afghanistan (UNAMA)²¹ are the only international bodies dedicated to monitor and report on the ongoing human rights situation in Afghanistan.²²

18. However, given the gravity, scale, and continued deterioration of the human rights crisis, the need to establish an independent investigative mechanism for Afghanistan, complementary to the ICC and other existing human rights mechanisms, remains critical, as it offers an avenue for victims and survivors to be heard as atrocities unfold, and a hope for the people of Afghanistan, who continue to bravely fight for justice and durable peace.²³

II. Civil and political rights

19. The widespread and systematic abuse of civil and political rights have been widely documented by UN bodies,²⁴ the SR on Afghanistan,²⁵ UNAMA,²⁶ and international and domestic organisations based in Afghanistan, in exile, or working in the context of Afghanistan.²⁷ The High Commissioner for Human Rights, while presenting his report on the situation of human rights in Afghanistan during the 54th session of the HRC, emphasised that the *“human rights in Afghanistan are in a state of collapse.”*²⁸

A. Right to life, liberty, and security of person

20. The protection of the fundamental human rights of the citizens was embedded within the legislative, judicial and executive structure, and the GoIRA was actively working on addressing human rights abuses in the country.

21. Since the military takeover by the Taliban, Afghanistan continues to witness an escalation in egregious human rights abuses and violations of international humanitarian law, including but not limited to: conflict-related civilian harm, extrajudicial or summary killings, reprisal or revenge killings, torture and other cruel, inhumane or degrading treatment, enforced disappearances, arbitrary arrests and detention.

Enforced disappearances, extrajudicial or summary and reprisal killings

22. On 17 August 2021, the Taliban had announced a general amnesty for former members of the ANDSF and former officials of the GoIRA, after the takeover, which was discussed during the peace deal of the Doha Agreement. However, the Taliban has reneged on its promise to uphold the general amnesty and continues to target former ANDSF members and government officials in direct violation of international humanitarian law and international human rights law.

23. The SR on Afghanistan and UNAMA continue to receive credible information, reports and evidence of enforced disappearances, extrajudicial and reprisal killings being committed by the Taliban²⁹ in Kabul, and Balkh, Kandahar, Kapisa Daikundi, Panjshir, Baglahan, Parwan, Ghazni, Helmand, Takhar and Kunduz provinces.

24. A report by the Human Rights Watch (HRW) documented cases of around 100 summary executions and enforced disappearances of former members of ANDSF apprehended by the Taliban between August 15 and October 31, 2021 in Ghazni, Helmand, Kandahar, and Kunduz provinces, and also highlighted a broader pattern of human rights abuses reported in Khost, Paktiya, Paktika, and other provinces.³⁰ Further, bodies of over 100 men who were summarily executed were discovered to have been dumped in canals and other locations by the residents of Nangarhar and Kunar Provinces.³¹

25. In addition to targeting former ANDSF members and former government officials, the Taliban have also targeted their family members in order to silence them from speaking out against the extrajudicial killings. From the period of 15 August 2021 to 30 June 2023, UNAMA has documented more than 800 human rights violations against these former officials, including around 424 arbitrary arrests and detentions, 218 extrajudicial killings and 144 instances of torture and ill-treatment across the country.³²

26. However, these reports are just the tip of the iceberg. These numbers are likely to be significantly higher as the family members of those targeted have been afraid to come forward in fear of retribution, as across Afghanistan, the Taliban continue to go door-to-door to identify former ANDSF members, security personnel, government officials, political opponents, human rights defenders, women activists, prosecutors, judges, and individuals who are deemed a threat and labelling them as terrorists and rebels, in order to arbitrarily arrest and/or torture and summarily execute them.³³

27. As there is no recourse to remedies for the victims and survivors of human rights abuses or violations of international humanitarian law,³⁴ this conduct by the Taliban should be investigated by the OTP of the ICC concerning its investigation into the allegations of war crimes and crimes against humanity and other potential avenues for accountability.

Torture and other cruel, inhumane or degrading treatment, arbitrary arrest, and detention

28. The GoIRA had introduced various measures to combat human rights abuses and regarding the prohibition and prevention of torture, including the enactment of the Law on Prohibition of Torture and established a monitoring commission, incorporating provisions of UNCAT and its Optional Protocol in the 2018 Penal Code. It had also introduced measures for prison reforms to uphold the human rights of prisoners and set up a monitoring department to prevent torture in prisons and detention facilities.³⁵

29. However, all legislation and measures introduced to combat and prevent torture have been repealed by the Taliban. Rampant abuse of detainees and prisoners by the Taliban, including torture and other cruel, inhuman and degrading treatment in the form of physical, mental and sexual abuse has been reported and documented by UN bodies and NGOs working on Afghanistan. The penitentiary system under the control of the Taliban operates with a lack of transparency, in violation of international human rights standards that protect the rights of prisoners, and in violation of Afghanistan's treaty obligations.

30. Rawadari (NGO) has found credible information on illegal and arbitrary detention and torture of over 1967 persons in 29 provinces between 15 August 2021 and 15 November 2022, including 1836 men, 136 women and 4 children.³⁶

31. Between the period of 1 January 2022 to 31 July 2023, UNAMA has documented more than 1600 incidents of human rights violations relating to arbitrary arrest and subsequent detention of individuals, with 11 percent involving women (over half being torture and other cruel and inhumane acts) committed by the Taliban across Afghanistan.³⁷ It has further documented 466 credible instances of torture and inhuman and ill-treatment of individuals in custody, which includes physical and mental suffering, custodial deaths, prolonged solitary confinement and incommunicado detention.

32. The Taliban's so-called Ministry of Interior Affairs, General Directorate of Intelligence, and Office of Prison Administration continue to use various torture techniques to suppress dissent of any kind and obtain forced confessions from detainees in order to criminally implicate them or brand them as terrorist or threat. They have targeted former ANDSF members, former government officials, journalists, civil society activists, human rights defenders, especially women human rights defenders, members of religious and ethnic minority communities, civilians, and individuals accused of affiliation with armed groups or terrorist groups.

33. The Taliban has also resumed the cruel implementation of *qisas* and *hudud* punishments based on their own interpretation of Sharia (in the same manner that the Taliban enforced from 1996 to 2001),³⁸ widely using corporal punishments such as public executions, flogging, lashings, amputations, death by stoning, and other forms of punishment.³⁹ Individuals sentenced to receive corporal punishment have not been convicted with a fair trial, did not have access to their due process rights, and are not allowed any legal representation. On 4 May 2023, the Taliban's so-called Deputy Chief Justice announced that courts across the country had sentenced 175 individuals to *qisas* (retribution in kind) punishments and 37 to stoning. Other sentences included knocking down walls on four individuals and condemning 103 individuals to *hudud* punishments, such as public lashing.⁴⁰

34. Between 13 November 2022 and 30 April 2023, UNAMA has documented at least 43 instances of judicial corporal punishment. Within the 43 instances, 58 women, 274 men and two male children were lashed for a variety of offences, including "running away from home", theft, homosexuality, adultery, consuming alcohol, fraud and drug trafficking.⁴¹ Between 18 November 2022 and 15 January 2023, according to the SR on Afghanistan, the Taliban had reportedly carried out floggings of over 180 individuals in public in several provinces.⁴² Afghan Witness has recorded 71 announcements of Sharia punishments handed down to a total of 417 individuals between the period of 26 October 2022 to 26 October 2023. And between December 2022 and June 2023, nine *qisas* punishment (retributive or retaliatory sentence) of death penalty was announced, out of which seven were pardoned and three sentences of public execution were carried out.⁴³

B. Administration of justice, including impunity, and the rule of law

35. Since August 2021, the Taliban has revoked all laws, rules, and policies intended to promote and protect human rights, framed in consultation with civil society and other stakeholders by the GoIRA. The Taliban have upended the executive, administrative, and judicial structures in Afghanistan, leading to the revocation of domestic laws and regulations concerning human rights. The human rights units established within executive (unit for promotion and protection of human rights), legislative (the Commission on Women affairs, civil society and human rights in the Parliament), and judicial (Division of Violence Against Women and Children in the Supreme Court review all cases of women and children rights violations) power structures have been dissolved.⁴⁴

Constitution and rule of law

36. The people of Afghanistan represented by a constituent assembly (Loya Jirga) led to the adoption of the 2004 Constitution and creation of a sovereign, united and independent Islamic Republic of Afghanistan. The Constitution defined organs of State (executive, legislative and judicial branch) and created separation of powers to ensure the independent functioning of state organs. At the heart of this exercise was establishing an order based on peoples' will and democracy in order to form a civil society void of oppression, atrocity,

discrimination as well as violence, based on rule of law, social justice, protecting integrity and human rights, and attaining peoples' freedoms and fundamental rights.⁴⁵

37. After the military takeover, the Taliban have announced that they would draft a new constitution in line with the Hanafi doctrine, however, there has not yet been any news or update on the same.

38. The National Assembly, consisting of two houses, Wolesi Jirga (House of People, elected by the people of Afghanistan) and Meshrano Jirga (House of Elders) had provisions of quotas for women, disabled persons and other minorities.⁴⁶ However, the Taliban have disbanded both the houses and put an end to the electoral system. The Loya Jirga (Great Council), as envisaged in the 1964 Monarchic Constitution,⁴⁷ has replaced the national assembly, with Mullah Hibatullah Akhundzada, an Al-Qaeda backed Taliban member as the Supreme Leader (religious leader).

39. The entire executive and administrative system has been restructured to a non-inclusive and non-representative model. The Taliban's cabinet's so-called Ministers and Heads of Departments, at the national and provincial level, exclusively comprises male Taliban members of the same ethnic group.⁴⁸

40. The Electoral Commission, Ministry of Parliamentary Affairs and Peace, along with other independent oversight mechanisms and institutions have been dissolved,⁴⁹ undoing all the progress made in the past two decades.

41. Some administrative structures overseeing the security sector have been retained including the Interior and Defence Ministry. Sirajuddin Haqqani, a well-known terrorist, the head of the terror-designated group called the Haqqani Network is currently serving as the so-called acting Interior Minister for the Taliban's so-called Interior Ministry. Mullah Mohammad Yaqoob (son of the founder of the Taliban) is serving as the so-called acting Minister of the Taliban-controlled Ministry of Defence. Mullah Mohammad Hasan Akhund, a Taliban member on the UN sanctions list,⁵⁰ is serving as the so-called acting Prime Minister.

42. The Taliban's Supreme Leader has disavowed the previously existing legal system despite it being in compliance with the tenets and provisions of the religion of Islam as enshrined under Art. 3 of the 2004 Constitution. The current existing legal framework is unclear and the 1964 Constitution, which established Shura (Parliament),⁵¹ a legislative body composed of elected representatives (House of People), containing separation of powers and legislative and judicial oversight, has not been implemented by the Taliban. The Taliban's Supreme Leader has absolute authority over all religious, political and military matters, and exercises complete control over the executive and judicial bodies, while also assuming the role of a legislator.

Administration of justice

43. The 3rd UPR Cycle National Report highlighted the progress and reforms made under the GoIRA in the legal and judicial sectors. The GoIRA, along with AIHRC and its Ministry of Justice, introduced measures to strengthen the legal aid department, in addition to policies centred around the dissemination of knowledge of human rights through training courses in the law enforcement departments, judicial and legal departments.⁵² From a period of 2014 to 2018, key reforms in the Criminal and Civil Code were introduced. The 2018 Penal Code, crimes such as terrorism, cyber-crime, crimes related to elections, corruption, crimes of the Rome Statute were incorporated in the code. It also introduced alternatives to imprisonment and detention and removed permission of honour killing to prevent arbitrary and illegal murders. The Office of the Attorney General under the GoIRA had also set up a committee to review cases of the death penalty, in view of the recommendations received during the 3rd UPR cycle.⁵³

44. However, since the military takeover of the Taliban, these reforms have been invalidated. The Criminal Code (amended in 2018 along with the Annex), and Anti-Corruption Law have been rendered inoperative, along with the Law on Civil Higher Education, Law on Prohibition of Torture, Law on Prohibition of Harassment Against Women and Children, Law on Elimination of Violence against Women (EVAW), Access to Information Law, Administrative Procedure Law, Social Protection Law, Law on

Cooperation with ICC, and Whistleblowers Protection Act, in addition, several regulations, such as the Regulation on Management of Detention Centers' Affairs, Regulation on Women's Shelters, and Regulation on Support of Human Rights in Governmental Administration have also been repealed.

45. The repealing of laws and regulations intended to protect human rights have rendered the people of Afghanistan with limited to no access to effective legal remedies. Moreover, the exercise of administration of justice has been largely left to the discretion of the Supreme Leader and his judicial appointees (religious scholars), further complicated by the issuance of arbitrary edicts and decrees.

Judicial system under the Taliban

46. Under the 2004 Constitution, the judiciary was an independent organ,⁵⁴ with the Supreme Court having the power to implement and prepare its own budget. The Head of the Supreme Court, along with other judges of the Supreme Court, were nominated by the President and endorsed by the Parliament.⁵⁵

47. After the military takeover of Afghanistan, the Taliban retained the Supreme Court and Office of Attorney General. However, the Minister of Justice, Attorney General and Head of the Supreme Court positions were filled by their members with religious backgrounds. In July 2023, the Taliban later converted the Attorney General's Office into the so-called 'Directorate of Supervision and Prosecution of Decrees and Orders'. The Taliban ordered the removal of all Supreme Court judges and all other judges at the provincial level. It further ordered women judges (approximately over 250 judges) and public prosecutors to cease their work.⁵⁶ The judges at the Supreme Court (located in Kabul and a newly established Supreme Court in Kandahar) and all other courts have been replaced by religious mullahs/muftis (Islamic scholars), who have no modern legal qualifications.⁵⁷

Climate of impunity

48. The Taliban ordered the closure of any pending cases against members of the group and released all imprisoned Taliban members, along with members of Al-Qaeda and other terrorist groups. Special Accountability (Ehtesab) Court has been set up to deal with cases concerning the "former national army and police members, alleged spies and supporters of the previous government".⁵⁸

49. The mullahs/muftis have been ordered to re-examine all pending cases as per the Taliban's interpretation of Sharia, who often exercise discretion in their interpretation, refusing access to lawyers and the opportunity of hearing to the accused. As a consequence, such proceedings often result in denial of justice, adding to the climate of impunity.

Targeting of legal professionals

50. The Afghanistan Independent Bar Association (AIBA), an independent bar organisation created under the Advocates' Law of 1999 passed by the Parliament in 2007, *inter alia*, was responsible for issuing practice licences to advocates and overseeing the activities and conduct of advocates, was disbanded by the Taliban. The Taliban seized all its offices, along with all the records maintained by AIBA.⁵⁹ The Taliban also cancelled all attorney licences issued to women and barred women from the legal profession, in addition to limiting their access to courts and receiving legal aid.⁶⁰

51. Judges, public prosecutors and human rights lawyers who prosecuted and helped convict members of the Taliban before the military takeover, now face the threat of retaliation from the convicts who were released after the takeover.⁶¹ In August 2021, the International Bar Association (IBA), along with other international and regional NGOs helped evacuate around 500 judges (majority women) along with their families. Those who could not be evacuated or flee the country have been forced to live in hiding at risk of retribution.⁶²

52. Furthermore, several prosecutors have been killed across the country, while a defence attorney in Panjshir has been illegally detained without any prior notice or explanation for the arrest.⁶³

53. The future of the rule of law-based system and legal profession and its practitioners in Afghanistan under the Taliban remains uncertain and in peril. Furthermore, in an effort to support Afghanistan's legal professionals, AIBA launched the Afghanistan Independent Bar Association in Exile (AIBIE) in collaboration with the Council of Bars and Law Societies of Europe (CCBE), the International Bar Association (IBA), and French-speaking Brussels Bar on the International Day of Endangered Lawyers, observed on 24 January 2023.⁶⁴

C. Fundamental freedoms and the right to participate in public and political life

54. The 2004 Constitution was drafted keeping in mind the political struggle, previous injustices, and innumerable disasters that had befallen the country. It emphasised attaining peoples' freedoms and fundamental rights and protecting the integrity and human rights of all citizens without any discrimination.⁶⁵ Chapter 2 (Art. 22-59) of the 2004 Constitution encapsulated the fundamental rights and duties of citizens.

55. The Taliban has had a long-standing and brutal history of committing human rights abuses and violations against civil society, across all 34 provinces, and especially in the areas that were under its control before August 2021.⁶⁶ Since their military takeover of Afghanistan, the Taliban has violently repressed the civic space, imposing restrictions on the freedom of opinion and expression, freedom of peaceful assembly and association, rights to participate in public and political life, freedom of religion, cultural rights, among other human rights, completely banning women from enjoying and exercising any of these rights.

Freedom of opinion and expression

56. Art. 34 of the 2004 Constitution provided that freedom of expression shall be inviolable.⁶⁷ The Mass Media Law of 2009, pursuant to Art. 34 of the Constitution and Art. 19 of UDHR, ensured the protection of freedom of speech and expression, protection of journalists and independence of a pluralistic mass media. The Law on Access to Information (2017) was enacted to promote government transparency and to ensure that every citizen was able to receive information from government institutions.⁶⁸ Up until August 2021, mass media continued to flourish and was also a source of employment. More than 60 TV stations and newspapers were functional in the country.

57. However, after the military takeover, the Taliban escalated their attacks against journalists, media workers, human rights defenders and civil society activists.⁶⁹ The majority of the media stations and newspapers were forced to shut their operations in the country and now report from outside of Afghanistan. Since August 2021, 245 cases of violations against media freedom have been registered, including 130 cases of detention, physical violence, ill-treatment and torture.⁷⁰ The Afghanistan Journalists Center documented 61 arrests of journalists in 2023.⁷¹ As we present this report, many journalists and human rights defenders continue to be held in detention.

58. The Taliban has muzzled free and independent journalism and media in the country.⁷² The Taliban imposed a ban on the use of smartphones in Panjshir province to suppress sharing any information on the human rights abuses in the region, in addition to confiscating smartphones and conducting physical inspection of phones at checkpoints.⁷³ It actively monitors and surveys social media activities to identify and target journalists, activists or any dissenter, who speaks out against the Taliban. Meanwhile, news is screened before it is published. It has further imposed a ban on publishing any kind of literature and books by publishers and book houses, which does not conform to their interpretation of Sharia. They have banned more than 100 books.⁷⁴

59. In 2021, one of the first restrictions on women's right to work was directed against women working in journalism and media. Before August 2021, more than 1,700 women media workers (including 1,139 journalists) were active in the country.⁷⁵

60. The challenging circumstances under which the media, particularly social media, is operating in Afghanistan has also led to an increase in the spread of misinformation and

disinformation. This frustrates the process of documenting and investigating human rights abuses and violations.

Freedom of peaceful assembly and association

61. Freedom of association and right to peaceful protest was a constitutionally guaranteed right under Art. 34 and 35 of the 2004 Constitution.

62. In September 2021, a decree was issued, banning protests, including peaceful demonstrations and sloganeering without the approval of the Taliban.⁷⁶

63. Human rights defenders and women's rights activists have been actively holding peaceful demonstrations, often at the risk of their lives, to protest against edicts and decrees passed by the Taliban imposing bans on their access to workplace, education, public spaces, and participation in political and social life. However, in response, the Taliban have used violent methods to crackdown on women's rights demonstrations.⁷⁷ In order to suppress these demonstrations, the Taliban often resort to excessive use of force, including firearms, enforced disappearances, harassment, ill-treatment, arbitrary detention and arrest of women demonstrators.⁷⁸ Many women detainees have stated that the Taliban had tortured them during detention.⁷⁹

64. After an intense international campaign calling for the release of Mortaza Behboudi (journalist)⁸⁰ and Matiullah Wesa (education activist and founder of PenPath),⁸¹ the Taliban released them after arbitrarily detaining them for many months. However, Rasul Parsi (women's education activists), Sultan Ali Jawadi and Aminullah Alami (journalists), Abdul Hakim Ulfat, Mohammad Hussain Dadgar, Mohammad Fahim Azimi, and Siddiqullah Afghan, among others, human rights activists, continue to languish in the custody of Taliban.⁸²

Right to participate in public and political affairs

65. Afghanistan has grappled with political instability in the past few decades. The fall of the Taliban in 2001 paved the way for the realisation of establishing an inclusive and representative democracy. Women were active participants in the 2002 Loya Jirga, and between 2004 to 2019, accounted for more than 30 percent of voters. Prior to August 2021, women comprised 27 percent of members in the lower house of parliament, 22 percent in the upper house, and 30 percent in the civil service, and held key roles in the Government, independent commissions and the judiciary.⁸³

66. Afghanistan was a multi-party electoral democracy, and its constitution granted people the right to form political parties and the right to vote.⁸⁴ It also established the Independent Election Commission of Afghanistan, which oversaw the conduct of a free and fair election in Afghanistan. This commission aimed to maintain quality and accountability in delivering electoral services and promoting Afghanistan citizen's trust and confidence in the electoral process.⁸⁵

67. On 26 December 2021, the Taliban dissolved the Commission, stating that the country does not require elections.⁸⁶ It further imposed a ban on political parties, deeming it to be contrary to Sharia.⁸⁷

68. Furthermore, the Taliban ordered the abolition of legislative bodies and the MoWA, eliminated women's representation and access to decision-making, and effectively their right to political participation.⁸⁸ Women are completely excluded from public and political life.⁸⁹ They do not hold public or political office.⁹⁰ Furthermore, the Taliban ordered a ban on the participation of women in the workplace. This ban forced women to cease their work as legislators, civil servants, lawyers and judges. Reprisal attacks persist against former government officials who were women, many of whom have fled, and the remaining continue to live in fear.⁹¹ UN Women collaborated with UNAMA and IOM to regularly consult women inside the country.⁹² However, expanded efforts are required to ensure their participation in any further dialogues concerning the future of Afghanistan.

III. By specific group

A. Women

69. Afghanistan under the Taliban remains the most repressive country in the world for women's rights.⁹³ Women and girls also continue to experience deep inequality and the effects of persistent armed conflict.⁹⁴ The unprecedented situation concerning women and girls in Afghanistan cannot be found anywhere else in the world, including all Islamic nations. The Taliban has introduced a widespread, systematic institutionalised policy of oppression, meant to erase women from public, political and social life.

Women rights prior to August 2021

70. Prior to the takeover, the GoIRA was committed to implementing reforms, including a National Action Plan for Women, to strengthen and promote women rights and gender equality across all provinces of Afghanistan.⁹⁵ Discrimination against women was prohibited under the Constitution (Art. 22) and Art. 218 and 409 of the Penal Code prohibited the Discrimination in Administration. The GoIRA had also introduced a Gender Strategy prohibiting discrimination against women and rested on five pillars, each grounded in a cross-government action program: (1) Implementing global commitments on human rights, security, and freedom from domestic violence for women; (2) Ensuring full access to education and health services, including higher education; (3) Launching the Women's Economic Empowerment National Priority Program; (4) Securing the constitutional rights for women through the full execution of the laws; and (5) Advancing women in government and business.⁹⁶

71. In furtherance of this strategy, following measures were introduced:

- The 2016 Anti-Women's Harassment Law prohibiting any form of discrimination against women in offices and public places and provided specific measures to support the victims.
- The criminal procedures law contained specific provisions on the victim's rights and protection of evidence. Enacted the Law on EVAW to deal with gender-based crimes.
- The EVAW Specialized Courts for women were established in 22 provinces.
- The creation of EVAW high commission and provincial commissions of all 34 provinces to monitor critical areas.
- Special units at all 34 Provincial Office of Attorney's (mostly women led) to investigate and prosecute gender-based crimes.
- Establishment of institutions, policies, regulations, training of judges, prosecutors, police, and other relevant employees, as well as social and legal awareness campaigns on women's and children rights.⁹⁷
- The GoIRA also undertook economic measures to encourage their participation in the economy and created the Women Chamber of Commerce (women comprised of 27 percent of the labour workforce).

72. Prior to August 2021, women living in Taliban-controlled territories were able to flee to provinces governed by the GoIRA, to access legal remedies provided under the EVAW law. They sought divorce, protection from domestic and sexual abuse, and were provided safety in government/NGO run women shelters.

Restrictions on women's rights under the Taliban

73. Since the military takeover of Afghanistan, the Taliban has repealed all women-centric laws and regulations, and the Law on EVAW has also been dismantled. The Taliban replaced the MoWA with the MoPV in September 2021. This controversial Ministry existed during the previous Taliban period, from 1996 to 2001, and was a notorious symbol of arbitrary abuses, particularly against women and girls.⁹⁸

74. Since the military takeover, the Taliban issued edicts, decrees, declarations and directives restricting the rights of women and girls. This includes banning women and girls from secondary and higher education, and suspension of women from universities; banning women from travelling without a *mahram* (male guardian/chaperone); enforcing a strict dress code of mandatory hijab and chadari (a non-fitted black garment), dictating women to avoid wearing bright colours, and requiring face coverings; prohibiting employment of women, including working for UN agencies, international and national NGOs; shutting down women-owned businesses and organisations; prohibiting women from public parks, baths, and gyms; annulment of divorces granted prior to August 2021; banning women-friendly health centres; banning participation in sports and arts; banning women from radio and tv stations; denying access to participate in decision-making; denying women access to legal services and access to justice, among other prohibitions and restrictions.⁹⁹ Violation of any of these rules is a punishable offence, often violently enforced, and in some instances, men have been subjected to punishment for violating the rules. Some women and girls are disproportionately affected by the restrictive environment, including those who are members of marginalised ethnic and religious communities or who have disabilities.¹⁰⁰

Freedom of movement

75. Women are prevented from leaving their homes without a *mahram* or risk facing harassment and the threat of imprisonment, while men are required to prove their relationship with the women when travelling with them, which is enforced at checkpoints.¹⁰¹ Many women and girls have lost the men and boys of their families to conflict and do not have a *mahram*.¹⁰² As a result, they are often unable to meet family, friends or colleagues for their well-being.¹⁰³

Gender-based violence and access to justice

76. After the military takeover, ERAW family response/resolution units in national police, specialised prosecution units and courts for women across Afghanistan, consisting exclusively of women judges and prosecutors, access to legal assistance, and specialised women's protection centres were ordered to shut down, as Taliban views women's shelters as a 'western concept' and the law as contrary to their interpretation of Sharia.¹⁰⁴ After the abolition of this law, women have no access to effective legal remedies and protection under the law from violence. Women and girls remain unable to access safe spaces or shelters, while funding for protective and preventive services has diminished.¹⁰⁵ Furthermore, women have been barred from attending/accessing court proceedings. It has become impossible for women and girls to seek justice.¹⁰⁶ The absence of a clear, predictable legal system adds to the lack of accountability for violence against women and girls.¹⁰⁷ There remains no prevention, protection against, or prosecution of gender-based violence.¹⁰⁸

77. Since August 2021, gender-based violence has increased and become normalised, particularly worsened by the restrictive environment for women and girls.¹⁰⁹ Women escaping domestic and family violence have been forced to return to their abusive household, and those remarried forced to go into hiding, after the Taliban passed a decree annulling divorce granted before August 2021 to thousands of women on grounds of domestic and family violence.¹¹⁰

78. The country is seeing an increase in forced marriages, with reports of women and girls being forced to marry Taliban members. Forced marriages and beatings are now treated as civil matters rather than criminal offences.

79. Impunity persists for gender-related killings, or femicide, or the unlawful deaths of women and girls.¹¹¹ These incidents remain undocumented, while legal protection and avenues for recourse remain unavailable.¹¹²

Women-led peaceful demonstrations

80. Women have courageously continued to stand for their rights, leading peaceful public demonstrations, even in the face of excessive use of force, harassment, intimidation, arbitrary arrests and detention, enforced disappearance, sexual and gender-based violence, torture, and ill-treatment carried out by the Taliban in an effort to seek information about organizers.¹¹³

Their release has been conditional upon guarantees to stop their activism, not reveal what happened to them, and payments.¹¹⁴ Men who have supported the women's rights movement have also been subjected to arrest, detention and ill-treatment.¹¹⁵ Women and girls have adapted their approaches, and have kept going, steadfast in their resilience and advocacy for their rights.¹¹⁶

Gender persecution

81. The CEDAW Committee, Working Group on discrimination against women and girls and the SR on Afghanistan have expressed their concern that gender persecution is occurring across Afghanistan.¹¹⁷ The conduct of the Taliban displays a clear pattern of discrimination and institutionalised oppression against women. This is a direct violation of Afghanistan's obligations under ratified international human rights treaties. The conduct of the Taliban should be investigated as a crime against humanity of gender persecution by the ICC, other courts on the basis of universal jurisdiction, and other potential forums for accountability.¹¹⁸

Gender apartheid

82. In solidarity with the women and girls of Afghanistan, the UN Human Rights Experts and many international NGOs working on women's rights have called for the recognition and codification of gender apartheid as an international crime, which has garnered support by various States, allowing for a pathway to address the Taliban's systematic and institutionalised oppression and discrimination, through prevention and prosecution.¹¹⁹

B. Children

Child rights under the GoIRA

83. Keeping in view the impact of conflict on children, the GoIRA had introduced legislation and regulations to improve conditions for children in Afghanistan and provide a holistic environment for healthy development.

84. The Law on Protection of Child Rights, 2019 was drafted in conformity with the Convention on the Rights of the Child and its Optional Protocols, and provided a comprehensive set of rights under Art. 12, including, but not limited to, the rights to education, healthcare, participation in social life and youth affairs etc. The law prohibited detention and arrest (Art. 78), torture and ill-treatment (Art. 79), *bacha bazi* (Art. 99), forced labour, child marriage, sexual and physical violence,¹²⁰ child conscription (Art. 75), and criminalised purchase and sale, kidnapping and trafficking of children (Chapter 14). It also created the National Commission and Technical Commission on Protection of Child Rights (Art. 9-11) to observe and protect child rights, and oversee effective implementation of this law.

85. The protection of children was also incorporated in the Civil and Criminal Code. Art. 605-608 of the Penal Code prohibits recruitment of children in military units, Art. 613 prohibited child labour, and the Penal Code also prohibited the use of the death penalty for, and the imprisonment and punishment of, children. Training and workshops on the rights of women and children and the promotion of education were organised in different provinces. Furthermore, a National Strategy for the protection of children, a National Strategy for social protection and a National Social Policy, in addition to a national child labour prevention strategy and action plan pursuant to Afghanistan's commitments under the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) was implemented by the ministries under the GoIRA.¹²¹ Afghanistan had reached the point of zero child recruitment in its defence and security forces.

Child rights under the Taliban

86. The specialised laws, regulations and policies respecting and promoting child rights are no longer accessible since the military takeover by the Taliban.¹²² There are no legal safeguards for children.¹²³

87. From restrictions on education, to the impacts of the economic and humanitarian crises, displacement, food insecurity, and restrictions on women, children's basic needs are not being met.¹²⁴ Moreover, families have resorted to the sale of children, forced and child marriage, child labour and trafficking, while children continue to suffer from child abuse, child exploitation, and sexual violence including rape and *bacha bazi*.¹²⁵ The absence of child protection and social welfare services have further negatively impacted children.¹²⁶

88. The Report of the UN Secretary-General on Children and Armed Conflict revealed 4,519 verified grave violations against children between 1 January 2021 and December 2022, most of which were attributed to the Taliban.¹²⁷ Children continue to bear the costs of conflict-related violence, killed and injured by explosive remnants of war, while remaining at risk of recruitment.¹²⁸ Despite the Taliban announcing a ban on child conscription, they continue to recruit children for combat and support roles alongside other terror groups.¹²⁹ Attacks on schools and students have also sharply increased.¹³⁰ At present, there are no institutions protecting children subjected to grave violations.

89. The age of criminal responsibility is 12 (twelve) and children have been subjected to arbitrary detention without due process.¹³¹ Children have also been subjected to corporal punishment.¹³² No laws are available at present to hold perpetrators accountable for crimes against children.¹³³

C. Persons with disabilities

90. Afghanistan is a party to the CRPD. In accordance with the Constitution (Art. 53), and the Law on Rights and Privilege of Disabled Persons, the GoIRA had implemented measures towards empowerment and integration of persons with disabilities. It drafted a National Policy for Disabled Persons, to ensure that persons with disability enjoy all their rights, without discrimination. The GoIRA also provided affordable housing, established quotas in government institutions and entities, educational scholarships, and created local intensive classes for disabled children.¹³⁴

91. Since the military takeover, persons with disabilities face increased vulnerability. There has been ambiguous implementation of the National Law on the Rights of Persons with Disabilities. The abolition of the AIHRC has further detrimentally impacted persons with disabilities.

92. Persons with disabilities continue to face escalating barriers to access essential services, including adequate medical and healthcare services, and humanitarian support, especially in rural areas.¹³⁵ Because of the economic crisis, services have been reduced or ceased. According to OCHA, more than 60,000 persons with disabilities have no or limited access to rehabilitative care.¹³⁶

93. Former members of the security forces have less access to support and benefits than members of the Taliban and continue to live in fear of retaliation. Women and girls with disabilities, and those from ethnic and religious minority communities, face increased barriers and multiple forms of discrimination with no legal protection.¹³⁷ The ban on women from working, including, for NGOs has further exacerbated access to essential services for disabled women.

D. Minority communities

94. Afghanistan is a multi-ethnic, multireligious, and multilinguistic country, comprising of Pashtun, Tajik, Hazara, Uzbek, Turkman, Baluch, Pashaie, Nuristani, Aymaq, Qirghiz, Qizilbash, Gujur, Brahwui and other tribes, as well as, Sunni, Shia, Sikhs, Hindus, Baha'is, Christians, Ahmadiyya, Ismaili, Buddhists, Zoroastrians and many other religious, and linguistic communities. Sunni Muslims make up the majority of the population.

95. Afghanistan's governance structure prior to August 2021 followed a syncretistic approach, keeping in view the religious and ethnic composition of the country. Freedom of religion and religious minorities were protected under Art. 2 of the Constitution. Art. 323–325 of the Penal Code prohibited acts of insulting religion, disturbance of rites and attack to

followers of any religion through words or actions. The GoIRA took significant steps to ensure safety of religious and ethnic minorities, and to promote social cohesion, encouraging their participation in public and political affairs.¹³⁸ However, due to a constant state of conflict, religious groups, particularly the Hazaras (Shia), Sikhs, Hindus, Baha'is, Christians, Ahmadiyya, Ismaili suffered discrimination and persecution at the hands of extremist groups, including the Taliban within the minority groups.¹³⁹

96. The Taliban has a history of targeting religious and ethnic minorities in Afghanistan. After the takeover, minority communities fearing persecution under the Taliban, fled the country *en masse*. The Taliban has backtracked on its assurances to protect minorities and passed directives and decrees severely restricting the rights of religious, ethnic and linguistic minorities. The Taliban's so-called administration consists of only Sunni Muslims and has no members of other minority communities represented.

97. Minorities continue to face persecution, forced displacement, harassment and ill-treatment, targeted attacks. The Taliban continues to harass and target religious and ethnic minorities, their places of worship, educational and social institutions, particularly the Hazara community.¹⁴⁰ The Taliban has repealed laws protecting religious minorities in the country; denied minorities representation in political life; and ordered the use of Pashto as the primary language of the country.

Attacks against minority communities

98. The return of the Taliban has bolstered the religious extremists to escalate attacks against religious and ethnic minorities.¹⁴¹ In September 2021, the last member of Afghanistan's Jewish community was forced to flee the country and the members of the Hindu and Sikh community were reduced down to 50 families.¹⁴²

99. The attacks on minorities continue to rise. The reports of the SR on Afghanistan and UNAMA provide that from 30 August 2021 to 30 September 2022, in 22 recorded attacks against civilians, at least 334 were killed and 631 injured, 16 attacks, including three against educational facilities, targeted the Hazara population specifically. On 30 September 2022, an attack against the Kaaj Educational Centre in the Dasht-e-Barchi area of Kabul claimed the lives of 54 individuals and injured another 114. Most of the victims, 51 out of the 54 killed, were young women and girls between the ages of 14 and 22 who were studying for their university entrance examination.¹⁴³

100. UNAMA documented 345 casualties (95 killed, 250 wounded) in attacks targeting the Hazaras.¹⁴⁴ Between September 2023 and January 2024, three deadly attacks targeting Shia Muslims were claimed by the Islamic State in Iraq and the Levant-Khorasan killed 40 persons and injured 86 others according to verified figures from UNAMA. Between 22 November and 1 December 2023, three shootings took place in Herat, killing nine persons in total, including four Shia Ulema Council members.¹⁴⁵

101. The SR on Afghanistan has noted that the type of attack targeting the Hazara community seems to be widespread and systematic and bears the hallmarks of international crimes.¹⁴⁶

E. Migrants, refugees, asylum seekers, and Internally Displaced Persons (IDPs)

102. The GoIRA devised an Action Plan for Returnees and IDPs. The National Policy for IDPs implemented by the GoIRA acknowledged the right to full access to basic health services and education, without any national identity card or other educational documents. It was also building townships for IDPs and Returnees with proper infrastructure, including schools and hospitals.¹⁴⁷

103. After August 2021, the rights of migrants, IDPs, refugees and asylum seekers remains a critical concern, as the Taliban actively discriminates against members from minority and vulnerable communities. Furthermore, there have been reports of forced evictions carried out by the Taliban, targeting Tajiks, Uzbek and Turkmen communities in the Jowzjan, Faryab,

Ghor, Mazar-e Sharif, Kabul and Takhar, and expulsion of Hazaras families from their homes and farms in more than five provinces.¹⁴⁸

Migration and involuntary repatriation

104. For more than two decades, Pakistan, the Islamic Republic of Iran and Türkiye, among other States have hosted nationals from Afghanistan; with Pakistan and Islamic Republic of Iran also hosting over 7.7 million people of Afghanistan. Since 2021 more than 1.6 million nationals of Afghanistan have been forced to return to Afghanistan.¹⁴⁹

105. Despite the UNHCR issuing non-return advisories for migrants and refugees from Afghanistan, on 3 October 2023, Pakistan’s National Apex Committee introduced its Illegal Foreigners’ Repatriation Plan, announcing that all “illegal foreigners” had to leave Pakistan by 1 November 2023. This resulted in the deportation of over 500,000 migrants and refugees from Afghanistan, including those who were born in Pakistan.¹⁵⁰ OCHA reports project that in 2024, over 1.46 million asylum seekers and refugees will return from Pakistan (483,000) and Iran (978,000).¹⁵¹ This forced repatriation policy puts the lives of asylum seekers and refugees, including former government officials, former members of the national security forces, human rights defenders, civil society activists, members of ethnic and religious minority groups, persons with disabilities, and members of other groups, at risk.

Internally Displaced Persons (IDPs)

106. Afghanistan has one of the highest numbers of IDPs in the world. Conflict-related internal displacement has created food insecurity, access to shelter and water, and financial instability in the country. The Taliban has no concrete action plan in place to protect the rights of IDPs. It is largely reliant on UN agencies and international humanitarian aid organisations to respond to the specific needs of IDPs.

Asylum seekers and refugees

107. Afghanistan makes up one of the largest refugee populations worldwide. After August 2021, the human rights crisis forced people to flee the country, fearing for their lives.

108. The situation concerning refugees and asylum seekers in transit States is particularly concerning, as many are stuck in limbo and in detention-like facilities for months, awaiting the processing of their asylum application by host countries. Asylum seekers from Afghanistan have had to wait for months for their refugee status determination (RSD) process for registration as a refugee with UNHCR in countries like India and Pakistan, and continue to wait.

109. Sweden, Finland, Denmark and Switzerland have announced that they will grant asylum to all women and girls from Afghanistan “solely based on their gender.”¹⁵² However, it is nearly impossible for women and girls inside Afghanistan to leave the country without safe passage to the host country. Moreover, after the implementation of mahram by the Taliban, it is impossible for women and girls with no male guardian to travel or leave the country.

110. The Embassies and Consulates of the IR of Afghanistan continue to function to assist and provide technical support, including certain consular services to asylum seekers and refugees from Afghanistan.

IV. Economic, social and cultural rights

A. Economic and humanitarian crisis

111. Since the military takeover by the Taliban, the grave economic and humanitarian crisis in Afghanistan continues to worsen.¹⁵³ The majority of the population of Afghanistan lives below the poverty line.¹⁵⁴ Millions face food and water insecurity, exacerbated by climate-related disasters.¹⁵⁵ States are responsible for the realization of economic, social and cultural rights to the maximum of their available resources, yet the Taliban has allocated the majority

of its budget to military and security purposes.¹⁵⁶ As per the estimates of OCHA, half the population of Afghanistan, which is more than 29.2 million, is in dire need of humanitarian assistance.¹⁵⁷ Moreover, Afghanistan is also facing a climate-induced emergency, ranking among one of the most at-risk countries with limited capacity to respond to humanitarian crises and natural disasters, such as floods, droughts and earthquakes.¹⁵⁸ Moreover, there have been reports of the Taliban engaging in the diversion of aid away from vulnerable and minority groups.¹⁵⁹

112. In October 2023, Herat was struck by three consecutive earthquakes, resulting in the loss of over 2,000 lives and affecting thousands,¹⁶⁰ and women accounted for 58 percent of adult casualties and 60 percent of injuries. With no disaster management policy and team in place, the Taliban's so-called Ministry of Natural Disaster Management struggled to handle the disaster, which resulted in more than 275,000 people in need of urgent shelter support¹⁶¹ and around 114,000 people in need of humanitarian assistance.¹⁶²

B. Access to education

113. Under Art. 43 of the Constitution, as well as the educational law, rules and regulations of Afghanistan, all children, without any gender discrimination were entitled to enjoy free education up to the undergraduate level. National and provincial plans, policies, initiatives were underway concerning girl's education, literacy goals, rural areas, and school safety.¹⁶³

114. Since the military takeover, the Taliban barred women and girls from all forms of education beyond grade six, hindering not only their personal development, but also the country's progress, sustainable development and lasting peace.¹⁶⁴ The Taliban also banned NGOs from providing educational programmes, most affecting rural children.¹⁶⁵ Although several education initiatives have arisen, challenges to accessibility persist.¹⁶⁶ Millions remain out of schools.¹⁶⁷ At the same time, activists standing for the universal right to education are targeted by the Taliban.¹⁶⁸ The disruption in education and economic instability has made young girls more vulnerable to fall prey to exploitation and forced marriages. The SR on Afghanistan's report has further highlighted that the economic loss as a result of girls missing just one year of education could amount to a loss of \$500 million in GDP, and a lifetime of underinvestment in girls' education could result in a loss of \$1.3 billion in GDP.¹⁶⁹

115. On June 2023, the Taliban's so-called 'Minister of Education' announced the approval plans of hiring over 100,000 madrassa teachers,¹⁷⁰ to focus on imparting ultra-orthodox religious teachings. The proliferation of madrassas (religious schools), curriculum changes, religious education, and the elimination of books in contradiction to it, not only impacts the quality of education, it risks the spread of indoctrination and radicalisation, incentivizes violence, and threatens regional and global stability.¹⁷¹ In addition, impartial investigations have not followed after multiple terror attacks on educational facilities.¹⁷²

C. Access to work

116. The right to work has been enshrined in the Constitution under Art. 48. Before the military takeover, women were represented in every sector of employment.

117. After the military takeover, the Taliban restricted women's right to work, adversely impacting the economy, women have lost their jobs, approximately 60,000 women-owned businesses were forced to shut down,¹⁷³ and if they attempted to continue to work, they faced harassment and abuse.¹⁷⁴ Women-only households have been particularly affected. Women were further banned from working in national and international NGOs and the UN, impacting their ability to deliver essential services, including to those most vulnerable.¹⁷⁵ Women civil servants were told not to return to work, physical access to job sites without a *mahram* has been limited, and women have been prevented from pursuing professional development opportunities.¹⁷⁶

D. Access to healthcare

118. Under the 2004 Constitution, the right to preventive health and medical treatment were guaranteed, the healthcare system that was in place helped improve health outcomes, particularly for women and girls, who, during the previous period of the Taliban, were not permitted to be treated by male medical professionals.

119. Since the military takeover, the healthcare system collapsed, as critical services were disrupted and funding withdrawn or diverted by the Taliban, and medicine and medical equipment became insufficient.¹⁷⁷ Women and children continue to face challenges to access health care, multiplied by restrictions on health-care professionals and women's ability to work in the sector, for NGOs, and the UN.¹⁷⁸

120. Moreover, the Taliban's restrictions and systematic discrimination have created an overwhelming sense of fear and psychological distress among the women and girls of Afghanistan. This environment has led to a rise in the suicide rates among young women and girls.¹⁷⁹ The mental health crisis affecting women and girls has reached unprecedented levels and the impact on future generations could be irreversible.¹⁸⁰

E. Cultural rights

121. Afghanistan's syncretistic society is a beautiful amalgamation of distinct cultures and traditions, with a rich cultural history. Yet, from deliberate damage to cultural heritage to the destruction of cultural sites, artistic images and artefacts, centuries-old cultural practices and traditions of religious and ethnic minorities have come under threat since the military takeover by the Taliban.

122. Cultural and religious practices, including Nowruz, Shab-e-Chella, Muharram celebrations, have been prohibited and discouraged.¹⁸¹

123. While everyone has the right to take part in cultural life and freedom of religion or belief, religion and culture have been invoked by the Taliban to justify discriminatory practices, including against women and girls and minority communities.

124. The Taliban has amplified its attack on artists, writers, and musicians. For instance, they have imposed a ban on music in public and private events, including in wedding parties,¹⁸² and destroying musical instruments, including guitar, harmonium, drum, amps, and speakers across various provinces, including Kabul, Balkh, Herat, Ghazni, Badakhshan and Kapisa. Radio and television stations also have restrictions on what they can broadcast. Poetry is disallowed. The arrest of a prominent theatre director and the prevention of journalists from covering an art exhibition are a few examples of the Taliban stifling cultural expression. The Taliban has also shut down all women-led galleries and art schools in Kabul.¹⁸³

125. Facing threats, harassment, arrests, detention, and ill-treatment, many artists, writers, and musicians have left the country or have gone into hiding, suffering financial and psychological challenges.¹⁸⁴ Nevertheless, they continue their craft, for instance, the National Academy of Music, whose students were forced to flee, relocated to Portugal and continues to perform concerts abroad.¹⁸⁵

V. Conclusion and recommendations

126. Despite assurances by the Taliban to respect human rights, the people of Afghanistan are witnessing the systematic dismantling of their inherent and inalienable human rights and women witnessing their erasure. However, no amount of repression and oppression can wipe the resilience of our people, especially the women of Afghanistan.

127. The PMoIRA to UNOG remains committed to advocating for an effective response to the ongoing violations and abuses of the human rights of the people of Afghanistan.

Recommendations

128. In light of the ongoing human rights crisis in Afghanistan, this report proposes the international community the following recommendations:

(a) Ensure any dialogue or engagement with the Taliban is contingent on and centred around respect for the human rights and fundamental freedoms of the people of Afghanistan. Engagement should be seen as a means to the restoration of a political settlement as envisaged in several UN resolutions not as an end by itself.

(b) Take steps to facilitate the establishment of an inclusive and representative government, including about gender and all ethnic and religious minorities, ensuring the full, equal, and meaningful participation of women and youth in decision-making positions that are committed to promoting and protecting human rights.

(c) Establish an independent investigative mechanism by the UN Human Rights Council to investigate all alleged violations and abuses of human rights, violations of international humanitarian law, and international crimes, collect, consolidate, and analyse evidence of violations, to document and verify information, to identify those responsible with a view to ensuring they are held accountable, and to provide access to justice and remedies for victims and survivors.

(d) Formally recognize the institutionalised regime of systematic oppression and discrimination against women and girls by the Taliban as ‘gender apartheid’, and support the codification of gender apartheid as a crime against humanity in the Draft Articles on Prevention and Punishment of Crimes Against Humanity.

(e) Uphold the principle of non-refoulement; cease deportation and forced repatriation of nationals of Afghanistan; facilitate safe resettlement, transit passage and practical pathways for refugees and asylum-seekers; expedite asylum procedures and applications for those awaiting their final destination and strengthen protection measures.

(f) Provide funding to OCHA’s Humanitarian Needs And Response Plan for Afghanistan.

Notes

¹ Human Rights Council, Bureau Meeting, (15 September 2023), <https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Pages/Bureau-meetings.aspx>.

² OHCHR, Third Cycle Infographic, *Afghanistan*, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session32/AF/Infographic_Afghanistan.pdf.

³ See e.g., UN HRC DOC A/HRC/53/21, Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls, para. 16 (15 June 2023), [hereinafter: A/HRC/53/21].

⁴ Human Rights Defenders Plus, *LIST OF THE TALIBAN’S EDICTS, Order and Directives Infringing on the Rights of Women and Men in Afghanistan*, (24 December 2023), <https://hrd-plus.net/list-of-the-talibans-edicts/>; Report of the Office of the High Commissioner for Human Rights, Situation of human rights in Afghanistan, U.N. Doc. A/HRC/54/21 (11 September 2023), at para. 7, [hereinafter: A/HRC/54/21].

⁵ UN DOC A/HRC/52/84, Report of the Special Rapporteur on the situation of human rights in Afghanistan, para. 56 (9 February 2023), [hereinafter: A/HRC/52/84].

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⁷ Heather Barr, *For Afghan Women, the Frightening Return of ‘Vice and Virtue’*, Human Rights Watch (29 September 2021); Haroun Rahimi, *ISAS Working Papers, Remaking of Afghanistan: How the Taliban are Changing Afghanistan’s Laws and Legal Institutions*, Institute of South Asian Studies (NUS) (26 July 2022).

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⁹ UN DOC A/HRC/WG.6/32/AFG/1, National report submitted in accordance with paragraph 5 of the

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- ¹⁰ 3rd National Report of Afghanistan, 2019, para 19.
- ¹¹ International Criminal Court, *Situation in the Islamic Republic of Afghanistan*, <https://www.icc-cpi.int/afghanistan>; *Statement of the Prosecutor of the International Criminal Court, Karim A. A. Khan QC, following the application for an expedited order under article 18(2) seeking authorisation to resume investigations in the Situation in Afghanistan*, (27 September 2022), <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-khan-qc-following-application>.
- ¹² UNSC Resolution 2716 (2023); UNSC, *United Nations Security Council Consolidated List*, <https://www.un.org/securitycouncil/content/un-sc-consolidated-list>.
- ¹³ A/HRC/51/6, para. 14.
- ¹⁴ Council of European Union, *Implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses*, REGULATION (EU) 2023/1499 (20 July 2023), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1499>.
- ¹⁵ Documents-dds-ny.un.org, accessed June 10, 2023. The original English of the quoted texts in this dispatch has been lightly edited for standardization and clarity. UNSC Report: Taliban Paying Al-Qaeda Salaries | MEMRI.
- ¹⁶ 3rd National Report of Afghanistan, 2019, para 23.
- ¹⁷ UN HRC DOC A/HRC/51/6, Report of the Special Rapporteur on the situation of human rights in Afghanistan, para 17 (9 Sept 2022), [hereinafter: A/HRC/51/6]; Office of High Commissioner for Human Rights, Press Release, *Comment by Michelle Bachelet, UN High Commissioner for Human Rights, on the dissolution of Afghanistan's Independent Human Rights Commission*, (19 May 2022), <https://www.ohchr.org/en/press-releases/2022/05/comment-michelle-bachelet-un-high-commissioner-human-rights-dissolution>.
- ¹⁸ A/HRC/53/21, para 8.
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