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Technical assistance and capacity-building

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

Report of the United Nations High Commissioner for Human Rights

Summary

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Afghanistan from 1 January to 30 November 2019, and provides an overview of the work, including technical assistance, conducted by the Human Rights Service of the United Nations Assistance Mission in Afghanistan (UNAMA) in cooperation with the Office of the United Nations High Commissioner for Human Rights.

The report focuses on the five principal areas of work of the Human Rights Service: the protection of civilians in armed conflict; children and armed conflict; the elimination of violence against women and the promotion of women's rights; the prevention of torture and respect for procedural safeguards; and civic space and the integration of human rights into peace and reconciliation processes. The High Commissioner highlights the technical assistance provided by the Human Rights Service and the achievements under these areas.

The High Commissioner concludes the report with concrete recommendations for the Government, anti-government elements and the international community.



I. Introduction

1. The present report, prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA and submitted to the Human Rights Council pursuant to its decision 2/113 and resolution 14/15, covers the period between 1 January and 30 November 2019.
2. The United Nations High Commissioner for Human Rights focuses on the five priority areas of work of the UNAMA Human Rights Service, namely the protection of civilians in armed conflict; children and armed conflict; the elimination of violence against women and the promotion of women's rights; the prevention of torture and respect for procedural safeguards; and civic space and the integration of human rights into peace and reconciliation processes.
3. During the period under review, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to provide technical and financial support to the UNAMA Human Rights Service.

II. Context

4. The first half of 2019 was marked by a significant decrease in conflict-related civilian casualties; the extreme violence documented by UNAMA/OHCHR in July, August and September, however, resulted in unprecedented numbers of civilian casualties. In the third quarter of 2019, UNAMA/OHCHR witnessed the highest number of civilian casualties in a single quarter since it started its systematic documentation in 2009. This steep increase in civilian casualties was mainly due to a spike in suicide and non-suicide attacks using improvised explosive devices attributable to anti-government elements, mainly the Taliban. Following the trends documented in 2018, civilian casualties due to airstrikes carried out by pro-government forces also increased.
5. On 7 September, following the killing of a soldier from the United States of America claimed by the Taliban on 5 September, the United States announced that it would halt direct talks with the group, which has been ongoing for more than a year. Earlier in the year, unofficial intra-Afghan talks were held in Moscow and Doha, with participants attending in their personal capacity. The first round of the presidential election was held on 28 September. Voter turnout was lower than in the 2014 presidential and 2018 parliamentary elections.

III. Protection of civilians

6. The armed conflict continued to have a devastating effect on civilians, causing loss of life, limbs and livelihoods, restricting access to education and health care, and displacing many families. During the period under review, a slight decrease in the number of civilian deaths and injuries was documented in comparison to 2018. Women and children were severely affected, accounting for 42 per cent of civilian casualties. The use of explosive devices, including in suicide attacks, was the leading cause of civilian casualties, followed by ground engagements. Anti-government elements continued to cause the majority of civilian casualties. While civilian casualties attributed to anti-government elements declined by 9 per cent in comparison to 2018, those caused by pro-government forces increased by 16 per cent.
7. From 1 January to 30 November, UNAMA/OHCHR documented 9,720 civilian casualties (3,138 deaths and 6,582 injured). It attributed 62 per cent of these casualties to anti-government elements and 28 per cent to pro-government forces (the Afghan national security forces, international military forces and pro-government armed groups). The remaining civilian casualties resulted from incidents that could not be attributed to either party, including crossfire between parties to the conflict and explosive remnants of war.
8. In the first 11 months of 2019, UNAMA/OHCHR documented a decrease in civilian casualties in half of the regions of Afghanistan, and an increase in the central highlands, northern, north-eastern and western regions.

9. UNAMA/OHCHR saw the continuation of certain trends from 2018: a further decrease in civilian casualties from ground engagements and a continued rise in civilian casualties from aerial operations. Civilian casualties caused by suicide attacks decreased, while civilian casualties from the use of non-suicide improvised explosive devices increased.

10. UNAMA/OHCHR recorded 473 civilian casualties from violence relating to the 2019 presidential election, mainly attributable to the Taliban.¹ On polling day alone, on 28 September, election-related violence caused 280 civilian casualties (31 deaths and 249 injured); two election-related attacks in July and September caused 152 civilian casualties (51 deaths and 101 injured).² In addition, the Taliban offensive targeting the presidential election infringed upon the right of Afghans to participate safely and freely in the elections.

11. In 2019, UNAMA released six public reports on the protection of civilians (including two special reports), highlighting civilian deaths and injuries, analysing key trends and making recommendations for all parties to the conflict.³

A. Anti-government elements

12. Between 1 January and 30 November, UNAMA/OHCHR attributed 6,063 civilian casualties (1,542 deaths and 4,521 injured) to anti-government elements, representing 62 per cent of the total of civilian casualties, a 9 per cent decrease compared with 2018; 46 per cent of civilian casualties were attributed to the Taliban, 13 per cent to ISIL-Khorasan Province, and 3 per cent to undetermined anti-government elements. The leading cause of civilian casualties attributed to anti-government elements was the combined use of improvised explosive devices in suicide and non-suicide attacks, accounting for 42 per cent of civilian casualties. Suicide and complex attacks accounted for 20 per cent of all civilian casualties, while the use of improvised explosive devices in non-suicide attacks accounted for 22 per cent. Anti-government elements caused 1,181 civilian casualties (239 deaths and 942 injured) during ground engagements (the second type of tactic causing civilian casualties), accounting for 12 per cent of the total number of civilian casualties.

13. During the period under review, UNAMA/OHCHR documented 2,738 casualties (784 deaths and 1,964 injured) resulting from the deliberate targeting of civilians, a 32 per cent decrease compared with the same period in 2018. Incidents of such deliberate targeting included attacks relating to the presidential elections and against the Shia Muslim minority, the majority being ethnic Hazaras. UNAMA documented seven cases of sectarian-motivated attacks claimed by ISIL-Khorasan Province against minority Shia Muslims, that caused 473 civilian casualties (112 deaths and 361 injured). The overall decrease in civilian casualties attributable to anti-government elements during the period under review was mainly due to a 48 per cent decrease in civilian casualties attributed to ISIL-Khorasan Province for these types of attack.

14. UNAMA/OHCHR also continued to document indiscriminate and disproportionate suicide and non-suicide attacks attributed to anti-government elements. In the first 11 months of 2019, some of these attacks affected schools and hospitals, hindering the provision of and access to education and health-care services. On 7 July, in Ghazni city, Ghazni province, the Taliban detonated a truck bomb near the entrance of a National Directorate of Security compound located in a residential area, close to three private schools. The attack caused 174 civilian casualties (6 killed and 168 injured), mostly students of nearby schools. Due to the damage to the schools, emergency tents and mats had to be provided to allow continuation of educational services. On 19 September, in Qalat city, Zabul province, a Taliban-claimed attack on the National Directorate of Security headquarters, which damaged the nearby

¹ Violence relating to the 2018 parliamentary elections caused 1,007 civilian casualties (226 deaths and 781 injured).

² Final civilian casualty figures will be published in the *Protection of Civilians in Armed Conflict: Annual Report 2019* (expected release in February 2020).

³ See UNAMA Protection of Civilians reports, available at <https://unama.unmissions.org/protection-of-civilians-reports>. Two of the reports were issued with OHCHR.

provincial hospital, causing 158 civilian casualties (28 deaths and 130 injured), including patients, visiting family members and health workers.

15. UNAMA/OHCHR documented 608 civilian casualties (256 deaths and 352 injured) from victim-activated pressure-plate improvised explosive devices, which are inherently indiscriminate and function as landmines.

B. Pro-government forces

16. Between 1 January and 30 November, UNAMA/OHCHR attributed 2,757 civilian casualties (1,358 deaths and 1,399 injured) to pro-government forces, a 16 per cent increase compared with the same period in 2018. This represents 28 per cent of the overall number of civilian casualties, with 16 per cent attributed to the Afghan national security forces, 8 per cent to international military forces, 2 per cent to pro-government armed groups and 3 per cent to undetermined or multiple pro-government forces. Once again, the incident type that led to most civilian casualties attributable to pro-government forces was ground engagements, followed by aerial operations and search operations. Civilian casualties from both ground engagements and aerial operations increased, with the latter causing the highest number of victims since UNAMA/OHCHR started its systematic documentation of civilian casualties in 2009.

17. UNAMA/OHCHR continued to document an increase in civilian casualties from pro-government airstrikes, trend observed since 2014. During the period under review, 1,000 civilian casualties (660 deaths and 340 injured) were caused by airstrikes, mainly attributed to international military forces, amounting to 10 per cent of all civilian casualties. For example, on 19 September, in Khogyani district, Nangarhar province, United States Forces – Afghanistan (USFOR-A) conducted multiple airstrikes targeting individuals in a wooded area controlled by ISIL-Khorasan Province, causing 30 civilian casualties (20 deaths and 10 injured). The victims were harvesting pinecones for the pine nut industry. They had given the authorities, including the Afghan national security forces, advance notice in writing of their plans to work in the area. Shortly after the incident, USFOR-A paid compensation to the families of eight of the individuals killed, acknowledging they were civilians. In October, UNAMA/OHCHR issued a joint report on airstrikes conducted on 5 May by USFOR-A on alleged drug-processing facilities in Farah province, causing at least 39 civilian casualties (30 deaths, five injured and four undetermined), including 14 children and a woman. The report concludes that drug facilities and associated workers may not be lawfully made the target of attack based on their possible economic or financial contribution to the war effort of a party to the conflict, and should be protected.

18. UNAMA/OHCHR remain concerned about civilian casualties from search operations by pro-government forces. UNAMA/OHCHR documented 306 civilian casualties (232 deaths and 74 injured) during search operations, a 4 per cent decrease compared with 2018. UNAMA/OHCHR attributed the vast majority of these casualties to operations involving the National Directorate of Security Special Forces and two pro-government armed groups, the Khost Protection Force and Shaheen forces, either alone or partnered with international forces. In addition to civilian casualties, UNAMA/OHCHR has repeatedly raised concerns about incidents of human rights violations and abuses committed by these forces, including arbitrary arrests, extrajudicial killings and damage to civilian property, which have fuelled protests and caused frustration among local communities. UNAMA/OHCHR notes that, in the second half of 2019, investigations into some incidents have commenced, and the President issued statements on the need to change the conduct of the National Directorate of Security Special Forces.

19. UNAMA/OHCHR noted a continued increase in attention to civilian casualties, with the Government adopting policies and establishing mechanisms for civilian casualty mitigation and prevention. The Government continued to implement the national policy on civilian casualty prevention and mitigation endorsed by the National Security Council in 2017, and the coordinated civilian casualty tracking mechanism continued to improve its functionality under the guidance of North Atlantic Treaty Organization (NATO) Resolute Support advisers.

20. Progress was also made in the implementation of the Protocol on Explosive Remnants of War (Protocol V) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, which came into effect on 9 February 2018. As at December 2019, the Government was discussing a draft mechanism that would define specific responsibilities for its implementation.

21. UNAMA/OHCHR continued to engage regularly in civil-military dialogue to improve the protection of civilians with provincial, regional and high-level government and military representatives, and the international protection community. Investigations were consequently opened, and the Government and international military forces issued orders and policies aimed at better protecting civilians from the tactics causing the most harm to civilians.

IV. Children and armed conflict

22. The United Nations country task force on monitoring and reporting on children and armed conflict, co-chaired by UNAMA/OHCHR and the United Nations Children's Fund (UNICEF), verified 1,054 incidents of killing and maiming of children, a 12 per cent decrease compared with the same period in 2018. During the period under review, 2,923 child casualties (796 deaths and 2,127 injured) were documented, accounting for 30 per cent of all civilian casualties, similar to the same period in 2018. The main causes of child casualties were ground engagements, suicide and non-suicide improvised explosive devices, and explosive remnants of war.

23. The task force recorded child casualties in all regions of Afghanistan, with the highest numbers recorded in the southern (595), eastern (478) and northern (443) regions.

24. Anti-government elements were responsible for 49 per cent of child casualties, while 33 per cent were attributed to pro-government forces. Some 12 per cent of child casualties were jointly attributed to anti-government elements and pro-government forces, 1 per cent to cross-border shelling by Pakistani military forces, while 5 per cent could not be attributed to any party to the conflict.

25. During the period under review, the task force verified 66 incidents affecting education and education-related personnel, including attacks on schools and education-related personnel, threats, intimidation, harassment and abduction of education-related personnel. Of the 66 incidents, 21 were aimed at education facilities designated as polling centres for the presidential election. The task force attributed 54 incidents to anti-government elements, 9 to pro-government forces, 2 to both anti-government elements and pro-government forces and one to Pakistani military forces. For instance, on 1 July, the Taliban conducted a complex attack on a Ministry of Defence facility in Kabul city. After the detonation of a vehicle-borne improvised explosive device, members of the Taliban armed with AK-47s entered a nearby building, the ground floor of which belonged to a private school, and where around 300 students were in class. Seven civilians were killed in this attack, including a boy, while 144 civilians were injured, including 21 boys and 7 girls. Six schools in the area were damaged in the attack.

26. The task force verified 70 incidents affecting health-care facilities and health-related personnel. Of these, 52 were attributed to anti-government elements, 17 to pro-government forces and one to both pro-government forces and anti-government elements.

27. Moreover, the task force verified 27 cases of recruitment and use of children involving 63 boys (56 boys recruited by the Taliban, 3 by Afghan National Police, 2 by the Afghan Local Police, one by pro-government militia, and one by both the Afghan Local Police and pro-government militia). The task force received allegations of the recruitment and use of 21 other boys by parties to the conflict, which were under verification at the time of writing. The task force verified 9 incidents of abduction of 14 boys (7 incidents during which 12 boys were abducted involved the Taliban, the abduction of one boy by the Afghan National Police, and the abduction of another by pro-government militia).

28. The task force also verified seven incidents of sexual violence, including rape, against four girls and 13 boys. Four incidents were attributed to the Taliban, two to the Afghan National Police and one to both the Afghan National Police and the Afghan Local Police. These include two incidents of *bacha bazi*⁴ involving two boys. The task force also received allegations of 16 incidents of sexual violence against children that could not be verified due to the sensitivities involved and concerns for the protection of the victims. The figures most likely do not reflect the full extent of incidents of sexual violence affecting children.

29. The task force verified 19 incidents of denial of humanitarian access, involving abductions, threats and intimidation, killing and injuring of humanitarian personnel and the looting of humanitarian goods. It attributed 18 of those incidents to anti-government elements (13 to the Taliban, 3 to ISIL-Khorasan Province and 2 to undetermined anti-government elements) and one to pro-government forces.

30. In all provinces, the task force noted further progress by the Ministry of Interior Affairs on the prevention of recruitment and use of children through the Child Protection Units in Afghan National Police recruitment centres. UNAMA/OHCHR and UNICEF have been providing technical support to the child protection units, which prevented the enlistment of 401 boys in the ranks of the Afghan National Police during the period under review.

31. On 5 March, the Child Rights Protection Law (Child Act) was enacted by Presidential Decree. The law defines a child as a person who has not “completed” the age of 18 years. The law constituted one of the priorities of the road map to compliance agreed in 2014, which details measures to fully implement the 2011 action plan to end recruitment and use of children in Afghan national security forces. The law includes provisions prohibiting *bacha bazi* and the recruitment and use of children, which are also reflected in the 2018 revised Penal Code. UNAMA/OHCHR had actively engaged with the Government to ensure the incorporation of such provisions.

32. The Child Act also established a national commission on the protection of children’s rights, chaired by the second Vice President, mandated to observe and protect children’s rights, to oversee and evaluate the implementation of the provisions of the law, and to ensure coordination among ministries and relevant governmental and non-governmental organizations. On 22 October, a national technical committee established under the commission met for the first time to develop a national plan of action for the implementation of the Child Act, and to establish a monitoring mechanism to ensure proper implementation of the law.

33. UNAMA/OHCHR continued to sensitize and train key stakeholders on the protection of children in armed conflict, specifically on the prevention of sexual violence (such as *bacha bazi*). This included a training session for 30 teachers in Logar province, and two training sessions for 83 judges, prosecutors and personnel of the Afghan National Defence Security Forces in Kandahar province.

34. In mid-November, a civil society organization in Logar province, amplified by media reports, brought to the attention of the public allegations of widespread sexual abuse of children in schools. UNAMA/OHCHR held a series of advocacy meetings, including with the Attorney General, and through the Group of Friends of Children and Armed Conflict, called for a prompt, independent, transparent and impartial investigation into the allegations.⁵

V. Prevention of torture and respect for procedural safeguards

35. On 17 April, UNAMA/OHCHR issued its regular biennial report on the treatment of conflict-related detainees, covering the period from 1 January 2017 to 31 December 2018. The analysis presented in the report was based on interviews with 618 detainees held in 77 detention facilities run by the Government in 28 provinces. In the report, UNAMA/OHCHR

⁴ A harmful practice whereby boys are exploited by wealthy or powerful men for entertainment, particularly for dancing and sexual activities. It is criminalized in the revised Penal Code, which came into effect in February 2018.

⁵ See <https://unama.unmissions.org/children-and-armed-conflict>.

noted an overall reduction in the percentage of conflict-related detainees, who gave credible reports of torture and ill-treatment in the custody of the Afghan national security forces, from 39 per cent during the previous reporting period of 1 January 2015 to 31 December 2016 to 31.9 per cent. The decrease was attributed to concerted advocacy and technical support by UNAMA/OHCHR, which also led to the adoption of specific measures by the Government, including the implementation of the national action plan on the elimination of torture and the enactment of a national framework for the prevention of torture and ill-treatment.

36. In June, the Afghan National Army closed the block dedicated to solitary confinement as a disciplinary measure at its facility in Parwan. In the above-mentioned report, UNAMA/OHCHR had raised concern about the use of solitary confinement as the sole disciplinary measure in the facility.

37. UNAMA/OHCHR continued to monitor detention across the country, conducting 499 interviews in places of detention nationwide by 30 November. In 2019, it began to compile data on respect for and fulfilment of procedural safeguards critical to the prevention of torture and ill-treatment, such as informing persons deprived of their liberty about their rights, access to lawyers, contact with families, and medical checks upon arrival at detention facilities. A preliminary analysis of the data collected between January and September 2019 indicated that, generally, respect for and fulfilment of such safeguards remained very weak in National Directorate of Security and Afghan National Police facilities.

38. UNAMA/OHCHR notes the important role played by internal monitoring mechanisms, such as the human rights officers of the National Directorate of Security. The Office of the Attorney General also plays a significant preventive role through its Detention Monitoring Directorate and by ensuring accountability through its Anti-Torture Commission. The Commission, an inter-agency entity established under the 2018 anti-torture law and comprising members of key security agencies, including from the National Directorate of Security and the Ministry of Interior Affairs, has also started its operations.

39. Despite the State's accession to the Optional Protocol to the Convention against Torture in April 2018, the Government is yet to take any concrete step to establish a national preventive mechanism. UNAMA/OHCHR continued to advocate for its creation.

40. UNAMA/OHCHR are also concerned at allegations of torture and ill-treatment of persons in the custody of anti-government elements. In May 2019, UNAMA released a press statement expressing its grave concern about credible accounts of the Taliban subjecting detainees to ill-treatment and torture, and allegations that some detainees were killed. Reportedly, the detainees were also held incommunicado, in poor conditions, in underground facilities.⁶

VI. Death penalty

41. The revised Penal Code has significantly reduced the number of crimes punishable by death, and available information indicates that no executions were held in 2019. At the time of writing, however, some 700 people were reported to be on death row, including about 100 convicted of crimes against internal and external security. UNAMA/OHCHR continued to advocate for the Government to implement a formal moratorium on the death penalty and for compliance with fair trial guarantees, in accordance with international and national law.

⁶ <https://unama.unmissions.org/un-grave-concern-about-accounts-taliban-ill-treatment-detainees>.

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

A. Women's rights

42. The Government continued its efforts to advance the promotion and protection of women's rights. On 4 March, a cabinet committee on gender signed a memorandum of understanding with relevant ministries regarding the implementation of the policy on women's inheritance and property ownership,⁷ and approved, in principle, a policy on the protection of women in war and emergency situations, and another on increasing women's participation in elections.

43. From 4 to 14 March, UNAMA/OHCHR convened eight events across Afghanistan to mark International Women's Day. The events, including round table and panel discussions, raised awareness of women and girls' rights issues, such as access to education and sports and the elimination of crimes of violence, including sexual assault, and underage and forced marriage. On 14 March, the United Nations marked International Women's Day in Kabul with a "One United Nations" public event that highlighted Afghan women as models in various professional sectors.

44. Two key laws with an impact on women's lives in Afghanistan remain under consultation. Ten years in development, the draft family law seeks to articulate human rights-compliant provisions pertaining to marriage, divorce, matrimonial property, inheritance and child custody, while the conciliation of civil disputes law endeavours to ensure formal judicial oversight over civil matter proceedings of the informal justice system, the *jirgas* and *shuras*.

45. Despite some progress, women continued to face obstacles to their participation in civic and public life, including in social and economic activities, and in their access to justice. Challenges include ongoing insecurity and related restrictions on movement, lack of legal awareness owing to the high levels of female illiteracy, conservative sociocultural mores regarding gender norms manifested in discrimination against and the ill-treatment of women and girls, including harmful traditional practices, and discrimination in public and private sector services delivery. These factors considerably weaken the enforcement of legislation and policies enabling women's rights, rendering them ineffective for most women. Improvement in the rights-enabling environment is thus essential to closing the gender gap, in voice and agency.

B. Elimination of violence against women

46. Throughout the period under review, the Ministry of Women's Affairs Legislative Committee continued its review of the Elimination of Violence against Women Law of 2009. In January, at a national coordination and rule of law conference on combating violence against women convened by the Office of the Attorney General, delegates representing the prosecution office, police, courts, the Ministry and provincial departments of women's affairs concluded that all cases of violence against women should be addressed pursuant to the law of 2009; mediation should be undertaken only in relation to civil – and not criminal – cases; and that cases involving girls (such as forced or underage marriage or giving away girls for dispute resolution (*baad*)) would be treated as rape, given that a child is unable to give informed consent to sexual relations.

47. The Government took steps to combat impunity for sexual harassment and abuse. On 11 July, a case of sexual harassment of female footballers was referred to the court responsible for judging cases of violence against women in Kabul. Although six individuals

⁷ Policy to be overseen and monitored by the Ministry of Women's Affairs and implemented by the Office of the Attorney General, the Afghanistan Independent Human Rights Commission, the Afghanistan Independent Bar Association and the ministries of justice, education, higher education, Hajj and religious affairs, and industry and commerce).

were charged with rape, sexual harassment, abuse of jurisdiction and concealment of the crime, three suspects remain at large. In October, the Office of the Attorney General established the General Directorate on Anti-Harassment. Intended as a deterrent to curb the crime and signal the Government's seriousness in prosecuting perpetrators, the Directorate is empowered to address cases that are outside the competency of the anti-harassment complaint committees in workplaces and in institutions of higher learning.

48. The cabinet committee on legislative matters proposed an amendment to article 640 of the 2017 Penal Code to retain the possibility of a court-ordered "virginity test". That article allows for such tests only pursuant to court order or consent by the victim. The Afghanistan Independent Human Rights Commission and civil society organizations called upon the Government to prohibit – in law and practice – all forms of forensic "virginity testing".

49. The criminal justice system infrastructure that supports survivors' access to justice was further strengthened, with the recruitment of 92 additional prosecutors, resulting in 32 of the 34 provincial violence against women prosecution units headed by female prosecutors. The Government also provided incentives for the recruitment and retention of female prosecutors, such as the recruitment of a male family member in provinces where *maharams* (male escorts) are expected by the community, and special consideration is given for female applicants in entrance exams. The Office of the Attorney General is working towards reaching its 23 per cent target of female personnel, in accordance with the structural reform outlined in the National Justice and Judicial Reform Plan (2017–2021).

50. The expansion of courts to hear cases of violence against women continued across Afghanistan; six new courts were established during the period under review. There are now two such courts in 28 provinces: a primary court and an appeals court.

51. Five of the courts are headed by female judges (the Appeal Courts of Takhar, Parwan and Kapisa provinces, and the Primary (city) Courts of Kabul and Balkh provinces).

52. Incidents of violence against women, including harmful traditional practices, continued to be reported. During the period under review, UNAMA/OHCHR documented 403 cases of alleged criminal offences of violence against women and girls, including beatings (140), murder (63), rape (52), causing injuries or disabilities (30), forcing women to self-immolate or to suicide (29), forced marriage (17), honour killings (15), and underage marriage (10). In 93 of the cases, the victims were minors. Relevant institutions mediated three of the 307 cases documented, and seven cases were closed due to the absence of a complainant. In 38 cases, the perpetrators were convicted by courts; in two others, the court acquitted the persons charged. Forty-six of the cases were withdrawn by the complainant upon resolution of the matter between the survivor and the perpetrator.

53. UNAMA/OHCHR conducted 323 advocacy and outreach activities on the elimination of violence against women, including 28 on the 2018 UNAMA/OHCHR report on the elimination of violence against women with State and non-State partners, and held 44 awareness-raising activities that reached 970 individuals, including 721 women.

C. Women, peace and security

54. During the period under review, even greater attention was paid to the upholding, fostering and advancement of human rights achievements to date, particularly women's rights, given continuing national discussions of a peace process. This propelled advocacy efforts by human rights defenders countrywide, encouraging the Government and the Taliban to include women as equal participants in such discussions.

55. On 28 February, around 4,000 women from all walks of life across Afghanistan rallied in Kabul to submit a 15-clause resolution to President Ghani, addressed to the Government of Afghanistan, the Taliban and the international community. The resolution, the outcome of a six-month national consultation with 15,000 Afghan women across 34 provinces, emphasized the need for women's participation in the peace process and the protection of their rights during peace talks. The communiqué of the Consultative Peace Loya Jirga, held from 29 April to 3 May, included a 23-point resolution, with two articles referring

specifically to women and women's rights.⁸ Women comprised 30 per cent of delegates, chaired 13 of the 50 committees, and two women were elected as deputy heads of the assembly (out of five members).

56. Women's participation in law enforcement slightly increased, from 3,200 policewomen in 2018 to 3,617 policewomen at the time of writing. Harassment in the workplace remained a concern for female security sector personnel. In March 2019, the Ministry of Interior Affairs endorsed its internal sexual harassment complaint mechanism for policewomen,⁹ a gender policy and a policewomen incentive policy.

VIII. Peace and reconciliation, including accountability and transitional justice

57. UNAMA/OHCHR continued to support the Government, the Afghanistan Independent Human Rights Commission and civil society in the promotion of increased democratic space, the protection of human rights defenders, accountability for human rights violations, the fight against discrimination, the promotion of inclusive and human rights-compliant peace and reconciliation processes, and transitional justice. To promote these agendas, UNAMA/OHCHR organized 45 events countrywide involving 1,069 (267 women) human rights defenders, journalists, government officials, the Commission and local community leaders. UNAMA/OHCHR also supported the broadcasting of thematic radio programmes across Afghanistan. In October, in Herat, it led two training sessions on women's engagement in peacemaking and transitional justice.

58. In February, UNAMA/OHCHR supported a two-week visit by a Senior Mediation Adviser from the Department of Political and Peacebuilding Affairs. The Senior Adviser provided UNAMA with recommendations in areas relating to transitional justice, the promotion of human rights in peacemaking and inclusiveness and participation in peace-related processes. UNAMA/OHCHR continue to follow up on the recommendations, including by organizing discussions with local scholars on issues relating to the promotion and protection of human rights under Islamic law. On 25 August, UNAMA and the Embassy of the Netherlands in Afghanistan established an informal "group of friends" on transitional justice to further coordinate engagement in this area.

59. On 14 February, in Kabul, UNAMA/OHCHR participated in the inauguration of the Afghanistan Centre for Memory and Dialogue, a civil society initiative. The Centre has a collection of "memory boxes" that survivors – family members and relatives of victims – have created and filled with carefully chosen personal objects and stories of their loved ones. The Deputy Secretary-General was shown the advocacy work performed by the Centre during her two-day visit to Afghanistan, in July.

60. On 12 April, Pre-Trial Chamber II of the International Criminal Court unanimously rejected the request to proceed with an investigation for alleged crimes against humanity and war crimes in Afghanistan submitted by the Prosecutor on 20 November 2017.¹⁰ The judges decided that an investigation into the situation in Afghanistan would not serve the interests of justice at the present time. On 27 September, the Appeals Chamber of the International Criminal Court scheduled a hearing for 4 to 6 December to receive oral arguments in the appeals of victims and of the Prosecutor against the decision of Pre-Trial Chamber II of 12 April. Given the importance of the legal issues at stake, the Appeals Chamber invited interested States to attend the hearing, and academic and civil society experts to submit applications to participate as *amici curiae*.

⁸ Article 7 states that the rights of citizens, including women's rights, as set forth in the Constitution should be strengthened as they are the foundations of the peace process, meaning that human rights should not be compromised. Article 18 states that the persons involved in negotiations should include Afghans from different walks of life, including women, though it does not specify any quotas.

⁹ An implementation plan was under development and is to be operationalized in 2020.

¹⁰ Supported by the representations of 699 victims on behalf of 6,000 individuals, 1,690 families and 26 villages.

61. UNAMA/OHCHR continued to provide technical assistance to the Ministry of Justice in drafting anti-discrimination legislation to protect the rights of ethnic and religious minorities, women and girls, and other vulnerable groups. UNAMA/OHCHR regularly attended meetings of a working group tasked with reviewing progress on the drafting of the law.

62. UNAMA/OHCHR actively continued its long-standing engagement with the Afghanistan Independent Human Rights Commission. On 17 July, following a selection process lasting more than a year, the President of Afghanistan appointed nine new commissioners (including four women, including the new Chair). UNAMA/OHCHR further strengthened its cooperation with the Commission on issues relating to its functional review and financial sustainability, its re-accreditation by the Global Alliance of National Human Rights Institutions, transitional justice, cooperation with civil society actors, and other areas.

63. In March and April 2019, the Commission held public hearings across 33 provinces as part of its national inquiry on the role of women in peace and security in Afghanistan. UNAMA/OHCHR attended hearings in Kabul, Bamyán, Herat, Helmand and Kandahar provinces, where it advocated for the promotion of human rights and women's rights in peace processes.

IX. Safety of journalists, media workers and civil society actors

64. During the period under review, UNAMA/OHCHR documented incidents affecting 25 journalists and media workers (including two women) due to their work. Of the victims, four were killed (one by the Taliban, one by ISIL-Khorasan Province, and two cases could not be attributed) and six were injured (three by the Taliban and three by ISIL-Khorasan Province). The remaining 15 cases involved threats or intimidation, temporary arrest or deprivation of liberty, beating or other ill-treatment attributed to governmental, pro-governmental or anti-governmental elements. Casualty figures slightly decreased compared to the previous year, when 10 journalists and media workers were killed and 15 were injured.

65. On 24 June, the Taliban published a statement warning media outlets to stop airing "anti-jihad propaganda paid for by the Government" lest they be considered military targets, following government commercials calling upon the public to report any suspicious activities to the authorities. Following the Taliban statement, two journalists resigned and a local radio station closed.

66. UNAMA/OHCHR documented incidents affecting 10 civil society activists (including five women) involving threats, beating and temporary arrests in relation to their work. Five incidents were attributed to the Taliban, three to the Government and one to a local religious group. In one case, the perpetrators could not be identified.

X. Cooperation with United Nations human rights mechanisms

67. In 2019, UNAMA/OHCHR continued to support the Government to strengthen its capacity for increased engagement with United Nations human rights mechanisms, including the universal periodic review.

68. From 7 to 9 January, UNAMA/OHCHR implemented a technical assistance programme to support the Government, civil society organizations and the Afghanistan Independent Human Rights Commission in implementing the recommendations made by the treaty bodies and in the context of the universal periodic review. The programme comprised a series of three workshops attended by 106 participants (including 21 women), including by members of the interministerial committee and of the delegation participating in the session of the Working Group on the Universal Periodic Review at which Afghanistan was reviewed, civil society organizations and the Commission.

69. In January, during the third cycle of its universal periodic review, Afghanistan received 258 recommendations. At the forty-first session of the Human Rights Council, the Government accepted 235 recommendations, noted 22 and partially accepted one. The

recommendations that the Government accepted included the continued implementation of measures to minimize, investigate and prosecute civilian casualties and allegations of torture and ill-treatment; the enforcement of the law on the elimination of violence against women; ensuring women's full participation in public and political life, including in the peace and reconciliation process; and the protection of journalists and human rights defenders. The recommendation partially accepted concerned the commutation of death sentences of persons below 17 years of age at the time of the crime commission (accepted) and an immediate moratorium on executions (noted). The recommendations that were noted concerned the establishment of a moratorium on the death penalty and/or its abolition, and the accession to human rights treaties and other treaties to which Afghanistan was not yet a State party.

70. The Government announced its intention to establish a national mechanism for reporting and follow-up to facilitate the implementation of recommendations made by the treaty bodies, the special procedures of the Human Rights Council and in the context of the universal periodic review.

XI. Conclusions

71. **The plight of civilians continued to the same or to an even greater degree in 2019. Unlike in 2018, there was no ceasefire during the period under review. Civilian casualties decreased slightly in comparison to the numbers documented in 2018, and hope for peace remained elusive.**

72. **The right to political participation came under serious threat by anti-government elements, with intense violence affecting civilians, particularly on the day of the presidential election. Civil society actors, human rights defenders, journalists and media workers continued to face threats, intimidation and harassment.**

73. **During the accreditation process in October, the A status of the Afghanistan Independent Human Rights Commission was confirmed, underscoring its important role in the promotion and protection of human rights and in preserving the human rights gains made to date.**

74. **Violence against women and girls and harmful traditional practices remain prevalent, affecting their enjoyment of fundamental rights and freedoms and impeding their active participation in civic and public life, not least because impunity for perpetrators continues. The enactment of the Child Rights Protection Law, with provisions on the prohibition of *bacha bazi* and the recruitment and use of children, was a positive development in 2019.**

75. **Despite the decrease in allegations of torture and ill-treatment of persons in the custody of the Government, such practices remain prevalent, and the procedural safeguards critical for prevention were insufficiently implemented. The Government has not taken concrete steps to establish a national preventive mechanism.**

XII. Recommendations

76. **The United Nations High Commissioner for Human Rights recommends that the Government of Afghanistan:**

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

Protection of civilians

(b) **Continue to implement the national policy on civilian casualty prevention and mitigation, strengthen measures to investigate all incidents of conflict-related harm to civilians to ensure accountability, and further strengthen the efforts of the National**

Security Council and the Afghan national security forces to systematically document harm to civilians from conflict-related incidents;

(c) Immediately disband and disarm all illegal armed groups and militias, including the Khost Protection Force and Shaheen Forces, and formally incorporate members into the Afghan national security forces following a robust vetting procedure; increase transparency and accountability concerning operations conducted by the National Directorate of Security Special Forces, which appear to fall outside of the official governmental chain of command and to be coordinated with international military actors; and ensure accountability by investigating all allegations of human rights abuses and violations of international humanitarian law by illegal armed groups and militia

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

Children and armed conflict

(e) Strengthen the capacity of child protection units within the Afghan National Police to monitor, identify and prevent underage recruitment and use through proactive monitoring, particularly at checkpoints, investigate all reports of child recruitment and use of children, and of sexual violence against children, and address the lack of services and alternatives for children who have been rejected for recruitment by the Afghan national security forces or released from active service;

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

(g) Consider children recruited by armed groups foremost as victims, and prioritize their rehabilitation, and consider decentralizing jurisdictions in cases of children charged with security- or terrorism-related offences so that they may remain closer to their families and be tried near to their areas of origin;

(h) Ensure the implementation of relevant provisions of the revised Penal Code criminalizing *bacha bazi* with a focus on accountability for perpetrators, including for members of the Afghan national security forces;

Prevention of torture and respect for procedural safeguards

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

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

(k) End the practice of incommunicado detention, and strictly enforce national laws requiring detaining authorities to inform the families of detainees about their whereabouts;

(l) Allocate adequate resources for investigative officers and forensic facilities to improve the use of forensic evidence so that investigations and trials rely less on suspects' statements;

(m) Improve the ability of the judiciary to guarantee fair trials and due process in all criminal proceedings, pursuant to article 14 of the International Covenant on Civil and Political Rights;

(n) **Accede to the International Convention for the Protection of All Persons from Enforced Disappearance;**

(o) **Establish a de jure moratorium on the death penalty, and respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular article 6 of the International Covenant on Civil and Political Rights and the minimum standards set out in the safeguards guaranteeing protection of the rights of those facing the death penalty;¹¹**

Women's rights and elimination of violence against women

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

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

Peace and civil society

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

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

(t) **Implement a robust vetting process to prevent members of armed groups involved in serious crimes, such as violations of international humanitarian law and international human rights law, from being recruited by security or government institutions as part of any peace settlement, while ensuring that no blanket amnesty or immunity is granted and that victims' rights are respected;**

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

(v) **Ensure the ability of the Afghanistan Independent Human Rights Commission to make unannounced visits to all places of detention, provide a sustainable budget for the Commission, and amend its enabling law to limit the terms of its commissioners to one.**

77. The High Commissioner recommends that international military forces:

(a) **Thoroughly review and strengthen tactical protocols to prevent civilian casualties, particularly in the context of airstrikes conducted in support of Afghan and/or international military forces on the ground that come under attack, or airstrikes conducted on structures in any context; and review targeting policies towards objects and individuals associated with "war-sustaining" activities to ensure their alignment with international humanitarian law;**

¹¹ Economic and Social Council resolution 1984/50, annex.

(b) Continue to conduct post-operation reviews and investigations; ensure transparency following allegations of civilian casualties from aerial and search operations so as to identify broader patterns of harm; improve operational practice and promote accountability; and ensure that prompt and adequate reparations are provided for any harm suffered.

78. The High Commissioner recommends that anti-government elements:

(a) Cease the deliberate targeting of civilians, civilian locations and places of worship and culture, in recognition of their protected status guaranteed under international humanitarian law;

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

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

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

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

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

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

(h) Immediately cease torture and ill-treatment, and ensure humane conditions of detention, including adequate access to food, water and sanitation.

79. The High Commissioner recommends that all parties to the conflict:

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

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

80. The High Commissioner recommends that the international community:

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

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

(c) Support the Government in the protection of women and girls from violence, including by providing the resources necessary for psychosocial and legal aid services for survivors of violence;

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

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

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

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

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

(h) Assist the Government in strengthening the criminal justice system, including by improving investigative methods and reducing reliance on suspects' statements as evidentiary material.
