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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

## Situation of human rights in Afghanistan

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

#### *Summary*

The present report is submitted pursuant to Human Rights Council resolution 54/1, in which the Council requested the Office of the United Nations High Commissioner for Human Rights to present a comprehensive report to the Council at its fifty-seventh session on the overall situation of human rights in Afghanistan, including a stocktaking of accountability options and processes for human rights violations and abuses.

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\* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.



## I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 54/1, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to present a comprehensive report to the Council at its fifty-seventh session, including a stocktaking of accountability options and processes for human rights violations and abuses in Afghanistan.
2. The present report was prepared by the OHCHR in cooperation with the Human Rights Service of the United Nations Assistance Mission in Afghanistan (UNAMA). The report was shared with the Permanent Mission of Afghanistan to the United Nations in Geneva. It was also shared with the de facto authorities.
3. Afghanistan remains bound by its obligations under international human rights law, which the de facto authorities, having assumed effective control over Afghanistan, must also uphold. Since January 2022, in accordance with its mandate, UNAMA has engaged with the de facto authorities in Kabul and at the provincial and district levels on individual cases of human rights violations and on the international human rights obligations of Afghanistan. UNAMA has had ongoing cooperation with the de facto Directorate of Human Rights and International Women's Affairs within the de facto Ministry of Foreign Affairs. UNAMA has published seven public reports<sup>1</sup> based on its human rights monitoring since the issuance of the last report of OHCHR.<sup>2</sup> UNAMA has also continued to offer advice on protection measures and capacity-building support to civil society and media stakeholders in Afghanistan.
4. The present report provides an update for the period from September 2023 to July 2024, together with an analysis of accountability options and processes available at the domestic and international levels for past and present human rights violations and abuses in Afghanistan and concludes with recommendations to the de facto authorities and the international community.

## II. Human rights situation in Afghanistan

5. The human rights situation in Afghanistan remains very serious, as severe economic impacts and humanitarian needs have pushed the population into deeper poverty and precarity, women and girls have faced ever tighter restrictions, civic space and media freedom has been severely curtailed, and the rule of law and institutional protection of human rights continue to fall well short of international norms.

### A. Situation of women and girls

6. The de facto authorities continued to curtail severely women's and girls' enjoyment of their fundamental rights and freedoms through a succession of restrictive edicts, orders and practices that have effectively erased opportunities for women and girls in public and political life. On 20 March 2024, the school year in Afghanistan commenced once again with the exclusion of Afghan girls from high schools, owing to the de facto authorities' continued ban on girls' education beyond grade six. Women's freedom of movement is restricted by requirements that they be accompanied by a *mahram* (male family member chaperone) for distances beyond 78 km. Women's employment is mainly limited to the health sector, primary education, security at airports and in detention facilities, some segments of the manufacturing sector, some women's businesses and some peripheral functions within the de facto administration. Women protesting these policies are denied the rights of freedom of peaceful assembly and freedom of opinion and expression and have faced punishment. This web of controls inflicted on women and girls and their agency, in furtherance of the policies

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<sup>1</sup> See <https://unama.unmissions.org/human-rights-monitoring-and-reporting-0>.

<sup>2</sup> [A/HRC/54/21](#).

of the de facto authorities, is widespread and constitutes a form of systematic gender persecution.

7. Following the Taliban takeover of Afghanistan in August 2021, the de facto authorities ordered most female civil servants to stay home, with a few exceptions for women working in the health, education and security sectors. On 2 June 2024, the de facto Directorate General of Administrative Affairs issued a letter purporting to standardize the salaries of women civil servants hired by the former administration to 5,000 afghanis (approximately \$70) per month, regardless of grade, pegging women's salaries to the lowest possible level. On 7 July 2024, the de facto Ministry of Finance issued a letter clarifying that the order would be applied to women civil servants who did not attend work daily or did not perform their duties according to their job description, and that it did not apply to women who were reporting to work and performing their duties.

8. In December 2023 and January 2024, officials of the de facto Department for the Propagation of Virtue and the Prevention of Vice, in cooperation with de facto police, took a series of measures to enforce the strict hijab rules issued in April 2022. They gave verbal warnings and arbitrarily detained a substantial number of women and girls accused of not wearing proper hijab, predominantly in west Kabul/Dasht e-Barchi, a Hazara-dominated area, with some arrests also taking place in Khair Khana, which is mainly populated by people of Tajik ethnicity and communities from Panjshir. Most of the women detained were released after several hours, upon their *mahram* signing a guarantee that the female relative would adhere to the hijab decree in the future.<sup>3</sup> Some, however, were subjected to further punishment and ill-treatment.

9. Though women and girls in Afghanistan have long been subjected to high levels of gender-based violence, frameworks to end violence against women in place under the previous administration have been dismantled under the de facto authorities. On 14 December 2023, UNAMA published a thematic report on the handling of complaints of gender-based violence against women and girls by the de facto authorities.<sup>4</sup> It found a lack of clarity regarding the legal framework applicable to complaints of gender-based violence against women and girls, including which de facto justice actors were responsible for handling such complaints. Many survivors reportedly prefer to seek redress through traditional dispute resolution mechanisms owing to fear of the de facto authorities. Traditional mechanisms often put women at a disadvantage, with settlements usually reflecting mainly the interests of the families and male perpetrators rather than the female victims. The de facto police, courts and departments of justice appear to prioritize mediation of complaints of gender-based violence over prosecution and trial, an issue that was already of concern before the de facto authorities took control.

## **B. Humanitarian situation and economic, social and cultural rights**

10. While the de facto authorities have pursued an economic strategy based on self-reliance that has led to an increase in exports, appreciation of the value of the afghani and decreased inflation and corruption, Afghanistan remains in a state of economic paralysis, with the majority of its population continuing to be deprived of their economic, social and cultural rights, in particular the fundamental right to adequate food. Surveys for the (UNDP) showed that 84 per cent of the population was below the national poverty line, and this rose to 90 per cent in terms of food poverty exacerbated by inflation of food prices. UNDP found that more than three quarters of the Afghan population was borrowing money to buy food and spending whatever remained (if anything) on essential healthcare and tertiary basic needs. The exclusion of women and girls from education and employment opportunities has also negatively impacted the economy.<sup>5</sup>

<sup>3</sup> See UNAMA, "UNAMA deeply concerned over detentions of Afghan women and girls", 11 January 2024; and UNAMA Human Rights Service, "Human rights situation in Afghanistan: October–December 2023 update" (2024), p. 3.

<sup>4</sup> See UNAMA Human Rights Service, "Divergence of practice: the handling of complaints of gender-based violence against women and girls by Afghanistan's de facto authorities" (2023).

<sup>5</sup> See [A/HRC/54/21](#).

11. This extremely precarious situation is compounded by ongoing humanitarian crises, which also disproportionately impact women and girls, who lack freedom of movement and other coping options. In Herat, in October 2023, a series of earthquakes killed thousands of people. The northern and western regions of Afghanistan experienced repeated flooding events and mudslides in April and May 2024. About 120,000 people were affected, with hundreds killed, villages destroyed and tens of thousands of acres of agricultural land devastated. The country's topography, the effects of climate change and socioeconomic vulnerability combined to increase the deadly impact of natural disasters, and the country has little infrastructure or resources to prepare for, and respond to, such events.

12. It is estimated that in 2024, 23.7 million people will require humanitarian assistance, yet, as at 15 May, the Afghanistan Humanitarian Needs and Response Plan for 2024 had received only 16.2 per cent of the required \$3.06 billion in funding.<sup>6</sup> The de facto authorities' ban on women working for national and international non-governmental organizations and the United Nations, despite a small number of exceptions, and restrictions on women's freedom of movement, continue to negatively impact women's access to humanitarian assistance and the ability of humanitarian organizations to reach those most in need, particularly women-headed households.

### C. Conflict-related civilian harm

13. While overall levels of armed conflict and civilian casualties remained relatively low throughout the period, UNAMA recorded deaths and injuries of civilians from attacks by armed groups and explosive remnants of war.

14. Attacks carried out by Islamic State of Iraq and the Levant-Khorasan (ISIL-K), using improvised explosive devices, targeted the Shia community. On 13 October 2023, in Pul-e-Khumri, a suicide bombing using an improvised explosive device in a Shia mosque killed at least 20 people (19 men and 1 boy) and wounded at least 31 others (ages and genders unknown). On 7 November 2023, an improvised explosive device attack on a commuter bus in the Dasht-e Barchi area of Kabul killed at least 11 men and wounded at least 21 other people (19 men and 2 women). These attacks particularly targeted the Hazara community.

15. The impact of explosive remnants of war remains dramatic, with children representing the vast majority of victims. For example, on 31 March 2024 in the Giro district of Ghazni Province, a group of children found a leftover artillery shell, which detonated, killing nine children from two families (five girls and four boys).

### D. Targeting of members of specific groups

#### 1. Former government officials and Afghan National Defence and Security Forces

16. The de facto authorities reiterated their commitment to a "general amnesty"<sup>7</sup> for former government officials and former members of the Afghan National Defence and Security Forces. On 31 December 2023, the de facto Minister of Defence held a press conference, in which he stated that the de facto security and defence forces were fully committed to the general amnesty.<sup>8</sup> He denied that any violations of the general amnesty had occurred in the past 12 months, stating that such allegations were misleading and pertained to cases of personal enmity which were being investigated by the courts.

17. Nevertheless, UNAMA has documented extrajudicial killings, arbitrary arrests and detentions, torture and ill-treatment of, and verbal threats against, former government officials and former Afghan National Defence and Security Forces members by members of the de facto authorities. Killings of such individuals by unknown perpetrators have also been

<sup>6</sup> A/78/914-S/2024/469, para. 3.

<sup>7</sup> See UNAMA Human Rights Service, "A barrier to securing peace: human rights violations against former government officials and former armed force members in Afghanistan: 15 August 2021–30 June 2023" (2023).

<sup>8</sup> See [https://www.youtube.com/watch?v=xzX\\_sZTk0Gg](https://www.youtube.com/watch?v=xzX_sZTk0Gg) (in Pashto).

documented.<sup>9</sup> It is unclear to what extent the de facto authorities have investigated these violations and taken action against those responsible.

## **2. Individuals accused of affiliation with armed groups**

18. Throughout the reporting period, UNAMA documented human rights violations including extrajudicial killings, arbitrary arrests and detention, torture and ill-treatment, of individuals accused of affiliation with armed groups, primarily ISIL-K and the National Resistance Front.

## **E. Civic space and media freedom**

19. Media workers and civil society activists, particularly campaigners for girls' education and women's rights, continued to be subject to arbitrary detention. The head of the non-governmental organization PenPath was arbitrarily arrested for advocacy on girls' education and detained for seven months, until his release on 26 October 2023. From September to December 2023, four women protesters were arbitrarily detained for periods ranging from one to six months. Since mid-2023, women-led protests have become rare; videos of women protesting in private, at undisclosed locations with their faces covered, were occasionally circulated on social media.

20. In 2024, peaceful protests over economic and livelihood issues, from taxes for rickshaw drivers to the drilling of water wells, took place. While most protests ended peacefully, some were dispersed by force.

21. The independence of the media remained severely constrained. Media outlets are required to coordinate and seek approval from the de facto authorities prior to publishing a report. In September 2023, three media workers of a radio station in Daykundi were arrested, and the radio station was suspended for several months. Two of the media workers were released without charges, but one of them was sentenced to one year of imprisonment (and later released on 6 April 2024) for producing reports perceived as critical of the provincial de facto authorities.<sup>10</sup> In April 2024, the operation of two television stations was suspended for alleged failure to comply with journalistic standards.<sup>11</sup> The targeting and detention of workers from Afghan media outlets now based abroad, such as Afghanistan International, Amu TV and Etilaatroz, have also been observed.

## **F. Treatment of detainees**

22. In September 2023, UNAMA published a report on the treatment of detainees in the custody of the de facto Ministry of the Interior, the de facto General Directorate of Intelligence and the de facto Office of Prison Administration.<sup>12</sup> From 1 January 2022 to 31 July 2023, UNAMA documented over 1,600 violations of the rights of detainees from the time of arrest until release from detention, principally attributable to the de facto Ministry of the Interior and de facto General Directorate of Intelligence. Approximately 50 per cent of those violations concerned torture or other forms of ill-treatment, predominantly during the questioning of detainees. The report also found systematic violations of detainees' rights to access to lawyers, their families, doctors and judges, as well as arbitrary and prolonged detention. Although the report findings were rejected by de facto spokespersons,<sup>13</sup> the de

<sup>9</sup> UNAMA Human Rights Service, "Human rights situation in Afghanistan: October–December 2023 update", p. 5.

<sup>10</sup> See Afghanistan Journalists' Support Organization, "Sultan Ali Jawadi, the manager of Nasim Radio in Daikundi, was released from prison today after six months of detention", 6 April 2024.

<sup>11</sup> See Afghanistan Journalists' Center, "AFJC condemns Taliban's suspension of TV stations, calls for immediate reversal", 17 April 2024.

<sup>12</sup> See UNAMA Human Rights Service, *The Treatment of Detainees in Afghanistan: Respecting Human Rights – A Factor for Trust* (2023).

<sup>13</sup> See Zabihullah Mujahid (@Zabehulah\_M33), "The UNAMA report on prisons in Afghanistan is propaganda and far from reality", 20 September 2023, available at

facto Office of Prison Administration welcomed cooperation and extended UNAMA access to prisons countrywide.

23. During the reporting period, there have been several public communications by the de facto authorities on criminal justice issues. On 31 December 2023, the de facto Ministry of Defence held a press conference at which it was stated that the torture of detainees and their prolonged detention without a court order were absolutely prohibited, that dozens of people had been arrested over the previous year and investigated for violation of this decree and that 4,261 cases involving de facto military personnel were reportedly resolved in the past year,<sup>14</sup> although no information was made available about the alleged crimes or judicial outcomes. The de facto Supreme Court has also highlighted periodic efforts of the de facto Appeals Court judges to visit prisons, engage with detainees and review case files to address prolonged arbitrary detention. The de facto Ministry of Justice periodically announces legal awareness sessions in some provinces with de facto provincial police on the proper role of lawyers, though lawyers widely report that they are still frequently denied access to places of detention and face other challenges in their work.

## G. Infliction of the death penalty and corporal punishment

24. Since August 2021, the de facto authorities have carried out five public executions following judicial decisions approved by the Taliban leader. Three took place during the reporting period: on 22 February in the city of Ghazni, two men were publicly executed in the Ali Baba football stadium;<sup>15</sup> and on 26 February, in the city of Sherberghan, one man was publicly executed in the Jowzjan football stadium.<sup>16</sup> In both instances, the de facto Supreme Court asserted that the men had been convicted of crimes of intentional killing after careful consideration by all three levels of de facto courts (primary, appeal and final) and that the Taliban leader had approved the *qisas* (death penalty) order.<sup>17</sup> The executions were announced in advance by the respective de facto Departments of Information and Culture in each province, inviting the public to attend, but prohibiting photography at the event. In both Ghazni and Jowzjan, local de facto officials and hundreds of local residents attended the executions.

25. The de facto authorities continued to implement judicially ordered corporal punishment<sup>18</sup> in public, generally in venues such as football stadiums and the exterior courtyards of local de facto government buildings, with both local residents and de facto officials in attendance. Such punishments involved a specified number of lashings, often accompanied by a period of imprisonment. The implementation of such corporal punishments is usually announced by the de facto Supreme Court via its X social media account and concerns a variety of offences, including *zina*,<sup>19</sup> running away from home, theft, homosexuality, consuming alcohol, fraud and drug trafficking. Punishments are sometimes administered against large groups of individuals. For example, on 10 November 2023 in the

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[https://x.com/Zabehulah\\_M33/status/1704503324668498155?s=20](https://x.com/Zabehulah_M33/status/1704503324668498155?s=20); and Ministry of the Interior (@moiafghanistan), 21 September 2023, available at <https://x.com/moiafghanistan/status/1704861393743430044?s=20> (in Pashto).

<sup>14</sup> See UNAMA Human Rights Service, “Human rights situation in Afghanistan: October–December 2023 update”; and Ministry of the Interior (@moiafghanistan), 31 December 2023, available at <https://x.com/moiafghanistan/status/1741398560900251912?s=20> (in Pashto).

<sup>15</sup> See Supreme Court of Afghanistan (@SupremeCourt\_af), “The Supreme Court of the Islamic Emirate of Afghanistan sentenced two murderers to retaliation punishment (Qisas) in Ghazni Province”, available at [https://x.com/SupremeCourt\\_af/status/1760923382378291455](https://x.com/SupremeCourt_af/status/1760923382378291455).

<sup>16</sup> See Supreme Court of Afghanistan (@SupremeCourt\_af), “The Supreme Court of the Islamic Emirate of Afghanistan sentenced the murderer to retaliation punishment (Qisas) in Jowzjan Province”, 26 February 2024, available at [https://x.com/SupremeCourt\\_af/status/1762025353373983231](https://x.com/SupremeCourt_af/status/1762025353373983231) (in Pashto).

<sup>17</sup> UNAMA Human Rights Service, “Update on the human rights situation in Afghanistan: January–March 2024 update” (2024), pp. 4 and 5.

<sup>18</sup> See UNAMA Human Rights Service, “Brief on corporal punishment and the death penalty in Afghanistan” (2023).

<sup>19</sup> *Zina* is an Arabic term used to describe the prohibition under sharia law of sexual intercourse outside of marriage.



city of Zaranj, in Nimroz Province, 25 men were publicly lashed at the Central Sports stadium.<sup>20</sup> Women, and in some instances children, have also been subjected to judicially ordered corporal punishment. On 14 February 2024, in the city of Bamyān, the de facto authorities lashed 13 people (7 men, 5 women and 1 girl) convicted of separate incidents of alleged adultery, illicit relations and running away from home. Women and girls who are publicly punished for *zina* and other moral crimes are also at increased risk of violence from their families and communities after the punishment, owing to the extreme levels of stigmatization of women accused of extramarital relationships.

## H. Activities of the de facto Ministry for the Propagation of Virtue and Prevention of Vice

26. In March 2024, a Law on Hearing of Complaints was enacted by a decree of the Taliban leader. The Law defined the responsibility of the de facto Ministry for the Propagation of Virtue and the Prevention of Vice in reviewing complaints against officials of the de facto authorities. People in Afghanistan and from abroad can submit complaints through a hotline, in writing or in person. The Law stipulates that threats against a complainant could result in court proceedings. In addition, the de facto Ministry has tried to improve discipline among its staff by publishing a manual establishing standards of acceptable conduct for its inspectors and defining the scope of their work.

27. The de facto Ministry for the Propagation of Virtue and Prevention of Vice has continued to enforce instructions regulating the daily private and cultural life of individuals. In a report dated 9 July 2024,<sup>21</sup> UNAMA and OHCHR found that the policies devised and implemented by the de facto Ministry had negatively impacted the enjoyment of human rights in various aspects of life, again with disproportionate impacts on women. For example, provincial de facto departments had at times enforced the *mahram* requirement restricting women's movement without a male accompanying them, irrespective of the distance travelled, preventing women from accessing certain services. On 24 December 2023, the de facto Ministry announced that the celebration of *Yalda* (winter solstice) was forbidden. Its inspectors have enforced the prohibition of music, including in private places, such as vehicles and student dormitories, and at events such as weddings. Men must adhere to a prescribed physical appearance, according to which beards shorter than the length of a fist and "western style" haircuts are prohibited. They are also required to attend congregational prayers. Shops that remained open during prayer times were forced to close. Inspectors also visited educational institutions and workplaces to prevent intermingling of men and women.

## I. Impact of forced expulsion of Afghans from neighbouring countries

28. On 26 September 2023, the Government of Pakistan announced its decision to implement the illegal foreigners' repatriation plan, ordering all undocumented foreigners, including Afghans, residing in Pakistan, to leave the country by a deadline of 1 November 2023 despite concerns being continuously raised by United Nations agencies, including the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF) and OHCHR, and appeals to Pakistan to continue its protection of all vulnerable Afghans.<sup>22</sup>

29. From 15 September 2023 to 1 June 2024, IOM and UNHCR recorded more than 610,751 arrivals from Pakistan.<sup>23</sup> Numbers increased from less than 200 per day in early

<sup>20</sup> See <https://supremecourt.gov.af/ps/node/2624> (in Pashto).

<sup>21</sup> See UNAMA Human Rights Service and OHCHR, "De facto authorities' moral oversight in Afghanistan: impacts on human rights" (2024).

<sup>22</sup> See UNHCR and IOM, "UNHCR and IOM urge Pakistan to maintain protection space for Afghans in need of safety", 7 October 2023; UNHCR, IOM and UNICEF, "UNHCR, IOM and UNICEF call for protection of children and families seeking safety in Pakistan", 3 November 2023; and OHCHR, "Türk alarmed by reports of human rights abuses against Afghans forced to leave Pakistan", 15 November 2023.

<sup>23</sup> See UNHCR and IOM, "UNHCR-IOM flash update No. 21", 7 June 2024.

October 2023 to a peak of more than 25,000 per day by early November 2023.<sup>24</sup> The majority of arrivals from Pakistan in 2023 were classified as “spontaneous” (as opposed to deportations or pushbacks), with fear of arrest the most commonly stated reason for leaving Pakistan (90 per cent of arrivals).<sup>25</sup> According to IOM, the number of arrivals from Pakistan dropped at the start of 2024, but began to increase again in May 2024. During the reporting period, arrivals of Afghans from the Islamic Republic of Iran also increased: according to UNHCR data, 631,000 Afghans were deported in 2023.<sup>26</sup>

30. The de facto authorities responded to the sudden arrival of these large numbers of Afghans promptly, to the extent limited resources permitted. Long-term integration, however, remains challenging. UNHCR reports that 49 per cent of those returning from Pakistan in 2023 were women or girls.<sup>27</sup> Women and girls are particularly disadvantaged and marginalized, given the de facto authorities’ policies on education and employment.<sup>28</sup> Persons in situations of vulnerability, including chronically ill people, older persons, persons with disabilities and others account for 3 per cent of returnees. Once back in Afghanistan, families face severe challenges to reintegration, given the precarious economic situation.<sup>29</sup> An estimated three out of four recent returnee households in rural areas lack adequate housing.<sup>30</sup>

### III. Stocktaking of accountability options and processes

31. In its resolution 54/1, the Human Rights Council requested OHCHR to provide a stocktaking of accountability options and processes for human rights violations and abuses in Afghanistan. The efforts to provide accountability for past and current crimes in Afghanistan require a multilayered and multidimensional approach, given the complex history of more than 40 years of conflict and international interventions and the scope and range of violations that have affected generations of Afghan people from all communities and have implicated multiple actors at different stages of the conflict. The discussion below focuses on accountability efforts and options during the period since international military intervention began in the country in 2001,<sup>31</sup> ending the first period of Taliban rule, through to the present.

#### A. Legal framework on accountability

32. All States have legal obligations, including under the Geneva Conventions of 1949 and associated instruments of international humanitarian law, international human rights conventions,<sup>32</sup> and customary international law, to investigate, prosecute and punish persons who bear responsibility for gross violations or abuses of human rights or serious violations of international humanitarian law, and to provide reparations to victims. Afghanistan became a State party to the Rome Statute of the International Criminal Court in 2003, which now covers four international crimes: genocide, crimes against humanity, war crimes and the

<sup>24</sup> See Border Consortium, “Emergency border operations: 10–23 March 2024”, 1 April 2024; and IOM, “DTM flow monitoring of Afghan returnees – bi-weekly report (16–30 November 2023)”, 6 December 2023.

<sup>25</sup> See UNHCR and IOM, “UNHCR-IOM flash update No. 8”, 6 December 2023.

<sup>26</sup> See UNHCR, “Returns to Afghanistan”, 28 May 2024.

<sup>27</sup> Ibid.

<sup>28</sup> See OHCHR, “Türk alarmed by reports of human rights abuses against Afghans forced to leave Pakistan”.

<sup>29</sup> Ibid.

<sup>30</sup> See UNHCR, “Returns to Afghanistan”.

<sup>31</sup> The original mandate of UNAMA in Security Council resolution 1401 (2002) was to support the implementation of the Bonn Agreement.

<sup>32</sup> For the status of ratification of human rights treaties by Afghanistan, see [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN).



crime of aggression.<sup>33</sup> Those crimes are not subject to any statute of limitations.<sup>34</sup> The Afghan Penal Code, which entered into force in February 2018, incorporates the substantive treaty obligations of Afghanistan under the Rome Statute and includes provisions relating to war crimes, crimes against humanity, genocide and aggression, as well as command responsibility as a mode of liability.

33. In November 2021, following their takeover of Afghanistan, the de facto authorities initiated a review of laws passed under the former Government of Afghanistan to assess their compliance with sharia and Afghan traditions, effectively suspending the Penal Code. On 12 April 2024, the de facto head of legislation of the Ministry of Justice stated that the Ministry was committed to implementing sharia and that the laws of the previous Government had been annulled.<sup>35</sup> The de facto authorities currently apply their interpretations of sharia law as expressed in edicts issued by the Taliban leader, but still apply laws passed under the former administration in certain contexts, such as commercial or trade matters.

## **B. Past attempts at transitional justice or accountability processes at the national level**

34. Following the signing of the Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (Bonn Agreement) in 2001,<sup>36</sup> there was little impetus for accountability or transitional justice processes at the national level. However, in the decade that followed, there were a number of initiatives to map and document past human rights violations and abuses and develop options for a domestic accountability and transitional justice process.

35. In 2005, the Afghanistan Independent Human Rights Commission, established under the Bonn Agreement and by presidential decree, conducted a national consultation with 6,000 Afghans in preparation for a national strategy for transitional justice and for addressing the abuses of the past. The result was the publication of *A Call for Justice: A National Consultation on Past Human Rights Violations in Afghanistan*, which highlighted the strong demand among Afghans for justice and accountability.

36. The publication of the report led to the drafting of an action plan on peace, reconciliation and justice<sup>37</sup> by the President's Office, the Afghanistan Independent Human Rights Commission and UNAMA, which was launched on 10 December 2006. The action plan sets out a five-point, three-year process focused on truth-seeking, institutional reform and criminal accountability, including reparation measures and accountability mechanisms involving vetting procedures for public office and institutional reform. However, only limited parts of the plan were implemented.<sup>38</sup>

37. In 2007, the National Assembly adopted the National Reconciliation, General Amnesty and General Stability Law,<sup>39</sup> which granted general amnesty to all political factions and parties that were involved in hostilities before December 2001, including for crimes under international law, and without temporal limitations. The then President, Hamid Karzai, signed the Law in December 2008. The then United Nations High Commissioner for Human Rights expressed concern about the Law, warning that it would undermine the process towards securing long-term peace by hindering the re-establishment of the rule of law in

<sup>33</sup> Rome Statute of the International Criminal Court, arts. 6 (genocide), 7 (crimes against humanity), 8 (war crimes) and 8 bis (crime of aggression).

<sup>34</sup> Rome Statute, art. 29.

<sup>35</sup> See TOLONews, "Islamic Emirate leader ratifies seven new laws", 12 April 2024.

<sup>36</sup> See [S/2001/1154](https://www.ahrc.org.af/media/files/Reports/Thematic%20reports/Action_Pln_Gov_Af.pdf).

<sup>37</sup> See [https://www.ahrc.org.af/media/files/Reports/Thematic%20reports/Action\\_Pln\\_Gov\\_Af.pdf](https://www.ahrc.org.af/media/files/Reports/Thematic%20reports/Action_Pln_Gov_Af.pdf).

<sup>38</sup> See Patricia Gossman and Sari Kouvo, "Tell us how this ends: transitional justice and prospects for peace in Afghanistan", Afghanistan Analysts Network, 2013.

<sup>39</sup> See Afghanistan, National Reconciliation, General Amnesty and National Stability Law, *Official Gazette* (2 December 2008).

Afghanistan.<sup>40</sup> Following international pressure, a clause on the rights of the people (victims) was finally included, leaving some scope for limited accountability.<sup>41</sup>

38. The work of the Afghanistan Independent Human Rights Commission on transitional justice continued with a mapping project, supported by international donors, that commenced in 2008 and was finished in 2011. The mapping report was shared by the Commission with President Karzai (and later with President Ghani), but never published, in view of assessed security and protection risks at the time. The Commission subsequently lost funding for this work, and its Transitional Justice Unit was disbanded.

39. With regard to accountability for torture and ill-treatment of conflict-related detainees by former Afghan national security and defence forces documented by UNAMA,<sup>42</sup> the then Government established several torture prevention mechanisms, including the internal mechanisms of the National Directorate of Security and the Afghan National Police, the Anti-Torture Committee of the Office of the Attorney General and the Anti-Torture Commission. Torture was also criminalized through the adoption of the revised Penal Code (2018) and the Law on the Prohibition of Torture (2018), which also provided for redress for victims. Despite those measures, domestic efforts by the authorities on accountability through investigations and prosecution remained weak,<sup>43</sup> with victims lacking any meaningful possibility of obtaining an effective judicial or administrative remedy for the violations they claimed, and prosecutions were rare.<sup>44</sup>

40. In February 2018, the International Crimes Directorate was established within the Office of the Attorney-General to investigate allegations of violations of international human rights law and gross international humanitarian law committed during the conflict which had been integrated into the newly adopted Penal Code. Given the status-of-forces agreements in force at the time, which precluded jurisdiction over crimes involving foreign forces,<sup>45</sup> the Directorate focused on crimes by the Afghan National Defence and Security Forces, including the police and armed groups, such as the Taliban and ISIL-K. Following its establishment, the Directorate had difficulty in building cases. It is not clear how many cases were under investigation at the time of the Taliban takeover in August 2021.

41. The Agreement for Bringing Peace to Afghanistan between the United States of America and the Taliban, signed in Doha on 29 February 2020, included provisions for an intra-Afghan dialogue and negotiations, but no specific provisions on justice or accountability. No steps were taken to advance justice and accountability until the time of the takeover in August 2021. Following the Taliban takeover of the country in August 2021, the de facto authorities issued a “general amnesty” for former government officials and former members of the Afghan National Defence and Security Forces. While there has been no written clarification regarding the scope of the amnesty issued by the de facto authorities, their public comments to date suggest that the “general amnesty” refers to a broad guarantee of protection for former government officials and Afghan National Defence and Security

<sup>40</sup> See ReliefWeb, “Top UN human rights official in Afghanistan calls for repeal of amnesty law”, 25 March 2010.

<sup>41</sup> Article 3 (3) states: “the provisions set forth in clauses (1) and (2) of this article shall not affect the claims of individuals against individuals based upon *Haq-ul-labd* (rights of people) and criminal offences in respect of individual crimes”.

<sup>42</sup> In its reports, UNAMA found that many conflict-related detainees interviewed had experienced torture and ill-treatment during arrest and interrogation in numerous detention facilities run by the National Directorate of Security and the Afghan National Police and that accountability for torture or ill-treatment was limited; see, for example, UNAMA and OHCHR, *Update on the Treatment of Conflict-Related Detainees in Afghan Custody: Accountability and Implementation of Presidential Decree 129* (2015).

<sup>43</sup> In 2016, the International Criminal Court noted, in assessing torture and ill-treatment committed by Afghan Government forces as war crimes, that the former Government had prosecuted only two National Directorate of Security officials (in relation to one incident) and no Afghan National Police officials for this conduct (Office of the Prosecutor of the International Criminal Court, *Report on Preliminary Examination Activities 2016*, para. 217 (2016)).

<sup>44</sup> See UNAMA and OHCHR, *Update on the Treatment of Conflict-Related Detainees in Afghan Custody*.

<sup>45</sup> See para. 48 of the present report.

Forces members. However, as noted above, there have been numerous violations of this amnesty and a failure to ensure accountability for perpetrators by the de facto authorities.

### C. Domestic accountability processes and current mechanisms under the de facto authorities

42. The report of OHCHR to the Human Rights Council at its fifty-fourth session<sup>46</sup> contained an analysis of the weaknesses in institutional protection of human rights and accountability for human rights violations and abuses under the de facto authorities. In the report, OHCHR highlighted changes introduced by the de facto authorities that had generated ambiguities in relation to the domestic legal framework, as well as inconsistent practices within the de facto justice system. The Taliban leader has issued a series of decrees on the conduct of de facto security and penitentiary institutions that prohibit torture or ill-treatment of persons, abuses and “punishments” of the population, and violations of the general amnesty announced for former government personnel. The Taliban leader and senior de facto officials have periodically issued ad hoc public statements recalling, and exhorting adherence to, the Taliban leader’s instructions and those prohibitions.

43. The authorities have established internal and external entities tasked with accountability functions, but they are difficult to evaluate in practice. For example, the de facto Ministry of the Interior, the General Directorate of Intelligence and the Office of Prison Administration each have internal directorates tasked with oversight of the conduct of their personnel, which conduct investigations and refer established allegations to their respective leaderships for action.<sup>47</sup>

44. In principle, victims can register complaints against personnel of any de facto authority with the de facto Ministry of the Propagation of Virtue and Prevention of Vice, which initiates a three-step process: mediation between the parties, then referral to the concerned de facto authority for investigation and response, followed (where resolution is not possible) by referral to the de facto military courts for adjudication.<sup>48</sup> On 13 April 2024, the de facto Ministry reported receiving and addressing 6,800 complaints in the previous year, with most complaints being related to land disputes, occupation of homes and improper conduct of some de facto personnel,<sup>49</sup> but did not provide information on decisions taken or remedies.

45. Military courts, which were integrated in the de facto Supreme Court structure in May 2022, have jurisdiction to investigate and adjudicate complaints against de facto security authorities, applying sharia law.<sup>50</sup> The de facto Supreme Court has issued only sporadic announcements on some verdicts,<sup>51</sup> and neither the de facto military courts nor the de facto Supreme Court publish judgments or outcomes, even for cases involving de facto security personnel. This raises concerns regarding the independence of the de facto judiciary, the lack of transparency and the effectiveness of remedies, including whether perpetrators of human rights violations and abuses were in fact held duly accountable.

46. In addition, the Taliban leader’s office reportedly receives referrals of serious cases. The de facto High Directorate of Supervision and Prosecution of Decrees and Edicts also monitors all de facto institutions for their compliance with the Taliban leader’s decrees, and has particular powers with respect to overseeing investigative activities of de facto security institutions and addressing complaints of torture. In accordance with a decree of February

<sup>46</sup> A/HRC/54/21.

<sup>47</sup> See UNAMA Human Rights Service, *The Treatment of Detainees in Afghanistan*.

<sup>48</sup> See UNAMA Human Rights Service, “Human rights situation in Afghanistan: October–December 2023 update”.

<sup>49</sup> See TOLONews, “Nearly 7,000 complaints filed with Vice Ministry in past year”, 13 April 2024.

<sup>50</sup> Decree on the jurisdiction of military courts, No. 19 (28 November 2021).

<sup>51</sup> Such as the verdict by the de facto military court in Herat on 29 February 2024 concerning the punishment of eight individuals, who were sentenced to five months imprisonment and 20 lashes each; see Supreme Court of Afghanistan (@SupremeCourt\_af), 29 February 2024, available at [https://x.com/SupremeCourt\\_af/status/1763085356012896534?s=20](https://x.com/SupremeCourt_af/status/1763085356012896534?s=20) (in Pashto)).

2024, the de facto High Directorate refers cases to the provincial military courts for adjudication.<sup>52</sup>

47. Despite these domestic accountability mechanisms, there is little transparency regarding the substantive outcomes of their processes and the degree to which they provide effective remedy to victims in cases of human rights violations and abuses.<sup>53</sup> The barriers to justice are even more daunting for women and girls, given the systematic discrimination they face and the exclusion of women from practising as lawyers or officials in the justice system.

#### **D. Accountability of international forces in Afghanistan**

48. From the United States-led international military intervention in 2001 to 2021, a coalition of international forces was deployed to Afghanistan in support of the Government and national security forces. These included contingents from multiple countries. Throughout this period, UNAMA documented violations of international human rights and humanitarian law committed by international forces in its regular reports on the protection of civilians in Afghanistan and advocated for measures to ensure accountability, provide redress to victims and prevent recurrence.<sup>54</sup> International forces operated under various status-of-forces agreements that established the rights and privileges of each country's international military personnel present in the country. Status-of-forces agreements, although country-specific, generally provided personnel serving with international forces immunity from the jurisdiction of domestic laws in Afghanistan, but obligated investigation by countries of violations by their international forces and, when confirmed, punishment of the perpetrators in accordance with the military justice system of the country concerned. There were also ex gratia compensation payments made to victims during this period.<sup>55</sup> These processes generally lacked full transparency and failed to adequately ensure accountability and redress in many cases. In November 2019, the former President of the United States pardoned three members of the United States military whom military courts had convicted for criminal acts in Afghanistan that amounted to war crimes.<sup>56</sup>

49. As new allegations and evidence emerged in the public domain,<sup>57</sup> some countries established independent inquiries into the conduct of their armed forces in Afghanistan. For example, in 2016, the Afghanistan Inquiry was commissioned under the Inspector-General of the Australian Defence Force to investigate possible breaches of the law of armed conflict by members of the Special Operations Task Group from 2005 to 2016.<sup>58</sup> The Inquiry found credible information of 23 incidents of alleged unlawful killing of 39 individuals, as well as significant breaches by members of the Special Operations Task Group, including unacceptable behaviour, the submission of false operational reporting and deliberate actions to misrepresent operations that had been undertaken. Subsequently, in 2023, a former Australian special forces soldier was charged with murder, following an investigation into

<sup>52</sup> Decree concerning referring cases of the High Directorate of Supervision and Prosecution of Decrees and Edicts to the military courts, No. 23 (5 February 2024).

<sup>53</sup> In 2019, UNAMA made the same finding; see UNAMA and OHCHR, "Treatment of conflict-related detainees in Afghanistan: preventing torture and ill-treatment under the Anti-Torture Law" (2019), pp. 30 and 31.

<sup>54</sup> See <https://unama.unmissions.org/protection-of-civilians-reports>.

<sup>55</sup> See Center for Civilians in Conflict, "Ex-gratia payments in Afghanistan: a case for standing policy for the US military" (2015).

<sup>56</sup> "Issuing several pardons, President Trump intervenes in proceedings of U.S. troops charged or convicted of acts amounting to war crimes", *American Journal of International Law*, vol. 114, No. 2 (April 2020), pp. 307–312.

<sup>57</sup> For example, the Four Corners investigations in Australia and a Panorama investigation in the United Kingdom (see BBC News, "SAS killings: how a scandal was uncovered", 12 July 2022).

<sup>58</sup> See <https://www.defence.gov.au/about/reviews-inquiries/afghanistan-inquiry>; and <https://www.defence.gov.au/sites/default/files/2021-10/IGADF-Afghanistan-Inquiry-Public-Release-Version.pdf>.

alleged war crimes in Afghanistan.<sup>59</sup> The trial has yet to begin.<sup>60</sup> In July 2024, the Defence Department of Australia set out a compensation plan for unlawful killings in Afghanistan.<sup>61</sup>

50. On 15 December 2022, the Government of the United Kingdom of Great Britain and Northern Ireland established an independent statutory inquiry to investigate matters arising from the deployment of British special forces to Afghanistan between mid-2010 and mid-2013.<sup>62</sup> That inquiry is ongoing.<sup>63</sup> New Zealand also conducted an inquiry into “Operation Burnham” in Baghlan Province in October 2010, which found the conduct of New Zealand personnel to have been professional, but that there had been miscalculations and a failure to protect detainees.<sup>64</sup> The Kingdom of the Netherlands is also conducting investigations of different aspects of its participation in Afghanistan.<sup>65</sup>

## E. International Criminal Court investigation

51. In November 2017, the then Prosecutor of the International Criminal Court submitted a request to the Pre-Trial Chamber for authorization to formally open an investigation into Afghanistan, believing that there was reasonable basis to believe that war crimes and crimes against humanity had been committed by all parties.<sup>66</sup> Following authorization for the Prosecutor to proceed by the Appeals Chamber on 5 March 2020, the Afghan authorities requested the Prosecutor on 26 March 2020 to defer the investigation, in view of the Government’s steps to hold those responsible to account at the domestic level according to the newly adopted 2018 Penal Code. On 27 September 2021, following the Taliban takeover, the Prosecutor, citing the unlikely prospect of Afghan investigations continuing, requested authorization to resume the investigation. In a statement issued the same day, citing the limited resources available to the Office of the Prosecutor, the Prosecutor indicated his intention to focus on alleged crimes by the Taliban and ISIL-K, while deprioritizing alleged crimes by Afghan security forces and international personnel. In relation to the deprioritized aspects, the Prosecutor said that his Office remained committed to its evidence preservation responsibilities, and that it would promote accountability efforts within the framework of the principle of complementarity.<sup>67</sup>

52. On 31 October 2022, the Pre-Trial Chamber granted the Prosecutor’s request to authorize resumption of his investigation. On 4 April 2023, the Appeals Chamber clarified that the Prosecutor’s investigation was “in relation to alleged crimes committed on the territory of Afghanistan in the period since 1 May 2003, as well as other alleged crimes that have a nexus to the armed conflict in Afghanistan and are sufficiently linked to the situation and were committed on the territory of other States parties in the period since 1 July 2002”.<sup>68</sup> The investigation is ongoing.

<sup>59</sup> See Simon Atkinson, “Australian former SAS soldier Oliver Schulz held over alleged war crime in Afghanistan”, BBC News, 20 March 2023.

<sup>60</sup> See Australia, Office of the Special Investigator, “Former Australian soldier charged with war crime”, 20 March 2023.

<sup>61</sup> See <https://www.legislation.gov.au/F2024L00903/latest/text>.

<sup>62</sup> See <https://www.iaa.independent-inquiry.uk/>.

<sup>63</sup> See <https://iaaweb-prod.s3.eu-west-2.amazonaws.com/Spring-2024-Newsletter-.pdf>.

<sup>64</sup> See <https://www.operationburnham.inquiry.govt.nz/>.

<sup>65</sup> See Murray Brewster, “The Dutch are putting the Afghanistan mission under a microscope – critics say Canada should do the same”, CBC News, 26 November 2021.

<sup>66</sup> International Criminal Court, Prosecutor’s request for authorization of an investigation pursuant to article 15, document ICC-02/17-7-Conf-Exp, paras. 269, 272 and 276–289. In a process mandated by the Pre-Trial Chamber, 699 victim representations were transmitted to the Chamber.

<sup>67</sup> See International Criminal Court, “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 2021.

<sup>68</sup> See <https://www.icc-cpi.int/court-record/icc-02/17-218>.

## **F. International Court of Justice**

53. Against the backdrop of the increase in instances in which the International Court of Justice is seized of cases involving the legal aspects of situations of serious human rights violations, stakeholders have raised the possibility that the Court could also be requested to address relevant legal questions involving Afghanistan as a State party to relevant human rights treaties, where jurisdiction is available. For example, article 29 of the Convention on the Elimination of All Forms of Discrimination against Women provides that any dispute between two or more States parties concerning the interpretation or application of the Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice in conformity with the statute of the Court. Should such a case be referred to the Court, the Court could also be requested to indicate provisional measures to be taken by Afghanistan in order to preserve and protect the rights of concerned persons or groups of persons, pending conclusion of the litigation.

## **G. Cases in third States involving Afghan nationals**

54. Extraterritorial or universal jurisdiction, where established, and depending on its form, enables a State to exercise criminal jurisdiction over certain crimes, such as war crimes, torture, crimes against humanity and genocide, consistent with international law, regardless of the location where they were committed or the nationalities of the perpetrator or victim. While many countries have incorporated provisions related to crimes under international law, the number of jurisdictions with open cases in respect of extraterritorial conduct reportedly remains modest at present (13 States).<sup>69</sup>

55. Under such principles, cases have been brought on behalf of Afghan victims of crimes under international law in Germany, the Kingdom of the Netherlands and the United Kingdom for violations or abuses committed prior to the Taliban's rise to power in the 1990s.<sup>70</sup> Wider and more consistent use of available jurisdiction in third States, consistent with international law, would be an important complement to existing accountability efforts.

## **H. Non-judicial accountability measures**

56. There are also non-judicial accountability measures that could be strengthened to provide redress for victims in Afghanistan. The Human Rights Council in its resolution 51/20, included in the mandate of the Special Rapporteur on the situation of human rights in Afghanistan the responsibility to document and preserve information on human rights abuses and violations, and requested OHCHR to provide the Special Rapporteur with the assistance and resources necessary for the effective fulfilment of the mandate.<sup>71</sup> Thematic special procedures mandates have also recorded and acted upon relevant cases from Afghanistan. Treaty bodies have undertaken reviews of Afghanistan under the human rights treaties to which it is a State party, and in some cases invoked urgent procedures and communications. The human rights component of UNAMA, pursuant to its specific mandate and the mandate of the United Nations High Commissioner for Human Rights, also continues its information-gathering, analysis and documentation of reports of serious human rights violations, including through its public reporting on human rights issues of concern.

<sup>69</sup> See TRIAL International, International Federation for Human Rights, Civitas Maxima, Center for Justice and Accountability, European Center for Constitutional and Human Rights and Redress Trust, *Universal Jurisdiction Annual Review 2024* (2024).

<sup>70</sup> Gossman and Kouvo, "Tell us how this ends", p. 41.

<sup>71</sup> The Human Rights Council established the mandate of the Special Rapporteur in 2021 in its resolution 48/1. A previous mandate was terminated in 2005.



## IV. Conclusions and recommendations

57. The human rights situation in Afghanistan continues to deteriorate, in particular regarding the ongoing, systematic persecution of women and girls on account of their gender. The vast majority of the population remains trapped in poverty and subject to food insecurity, and the situation is exacerbated by natural disasters and climate change. Human rights defenders and media workers continue to be arbitrarily arrested and detained for expressing opinions perceived as critical of the de facto authorities. The death penalty and corporal punishment continue to be applied, in public, in violation of international law. Attacks by armed groups against civilians continue.

58. Following four decades of conflict and widespread human rights violations and abuses and violations of international humanitarian law committed by multiple perpetrators, generations of Afghans have been denied truth, justice, reparation and guarantees of non-recurrence for gross violations of international human rights and serious violations of international humanitarian law. This has deeply entrenched impunity and the abuse of power under successive administrations. Afghanistan as a State remains bound by its obligations under international human rights and humanitarian law, including with respect to accountability for crimes and violations committed by its officials and on its territory up to the present time. States involved in past international military interventions in Afghanistan also bear responsibility ensuring accountability, justice, remedy and reparations for violations committed by their personnel in Afghanistan. The international community also has a prevention role in terms of ensuring the non-recurrence of violations in the future.

59. Given the complexity of the situation, a comprehensive approach is needed, taking into account the following general principles to guide continuing accountability efforts, in line with international law and international human rights standards:

(a) A comprehensive approach should encompass all the different periods of the conflict and the responsibilities of all parties and perpetrators:

(b) Accountability efforts must be multidimensional and pursued through a variety of different but complementary tracks, rather than limited to a single process or mechanism. They should use the full range of available mechanisms, before both international and national entities, including proceedings in civilian and military courts of concerned States and the exercise of appropriate forms of universal or extraterritorial jurisdiction in third States, consistent with international law. To the extent that they are capable of meeting international standards, domestic processes in contemporary Afghanistan also have a role to play.

(c) Accountability efforts should not be limited to criminal justice interventions, but should apply the full array of transitional justice elements, including truth-seeking, justice, reparation, guarantees of non-recurrence and memorialization;

(d) Accountability efforts must be victim-centred, aimed at having a tangible impact for victims and developed, as far as possible, through broad and inclusive consultation with and meaningful participation of victims;

(e) Accountability processes, particularly in the current context, need to be gender-responsive and address the lived experiences and needs of Afghan women and girls, as well as the intersectional discrimination faced by minority communities and other groups;

(f) Existing mechanisms need to be strengthened, including the capacity of OHCHR to collect, preserve and analyse evidence of crimes so that they may be used to facilitate future accountability and transitional justice processes.

60. Ensuring, through all available processes, that the perpetrators of gross human rights violations and abuses and serious violations of international humanitarian law are held accountable is an essential pillar required for the achievement of long-term sustainable peace, development and reconciliation in Afghanistan. It is necessary in order to re-establish the rule of law, strengthen the institutional protection of human rights and prevent the continued recurrence of grave violations and abuses. It is also necessary in order to rebuild trust among all members of Afghan society and confidence in the State. For Afghanistan to achieve

effective, lasting reconciliation, and for victims to achieve justice and redress, a holistic process is needed.

## **A. Recommendations to the de facto authorities**

61. OHCHR renews its calls on the de facto authorities to decisively change their approach to human rights, particularly those of women and girls, and reiterates its previous recommendations to take urgent and effective steps to fully comply with the obligations of Afghanistan under international human rights law.

62. OHCHR recommends that the de facto authorities:

(a) Take immediate legal, policy and practical measures to prevent gross human rights violations and serious violations of international humanitarian law, in particular extrajudicial killings, arbitrary arrests and detentions, and torture and ill-treatment, and ensure accountability through prompt, thorough, effective, independent, impartial and transparent investigations;

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

(c) Establish a complete moratorium on executions, with a view to the abolition of the death penalty, and end the application of corporal punishment;

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

(e) Permit resumption of the operation of a credible and independent national human rights institution, in line with the Paris Principles, with a mandate to support transitional justice initiatives and victim-centred redress;

(f) Consider the establishment of victim-centred transitional justice mechanisms within Afghanistan.

## **B. Recommendations to Member States**

63. OHCHR recommends that Member States:

(a) Bring to justice alleged perpetrators of gross human rights violations and serious violations of international humanitarian law and abuses, including crimes against humanity, by applying accepted principles of extraterritorial or universal jurisdiction;

(b) Ensure the independent investigation and prosecution before civilian and military courts, consistent with international standards, of all violations of international human rights and humanitarian law committed by their own personnel in Afghanistan;

(c) Support the ongoing investigation of the ICC Prosecutor into the situation in Afghanistan and provide all necessary cooperation to it;

(d) Support transitional justice initiatives within Afghan civil society as part of a broader peacebuilding and preventive agenda;

(e) Ensure the protection of Afghan victims and witnesses through resettlement, as appropriate, and other measures, ensuring protection against refoulement to Afghanistan of any person at real risk of serious human rights violations;

(f) Support initiatives through assistance programmes in Afghanistan to provide practical and material benefits to victims and their families;

(g) Provide support and platforms for victims and civil society representatives, particularly women and minority groups, to advocate for truth, justice, reparation and guarantees of non-recurrence.

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