



# **EU+ Local Strategy for Human Right Defenders in Afghanistan 2014**



## Introduction to the strategy

Human rights defenders are those individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence.

The activities of human rights defenders include: documentation of violations; seeking remedies for victims of such violations through the provision of legal, psychological, medical or other support; developing and discussing new human rights ideas and principles and advocating their acceptance; promotion and education on human rights; and combating cultures of impunity, which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms.

This local strategy for Afghanistan is based on the European Union Guidelines on Human Rights Defenders<sup>1</sup>, and the EUSR workshop on human rights defenders held in Kabul on 1-2 October 2014.

The EU+ Local Strategy on Human Rights Defenders in Afghanistan 2014, which should be evaluated and if necessary revised by the end of 2015, is agreed upon by the EU and its Member States and Canada, Norway and Switzerland.

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<sup>1</sup> [http://eeas.europa.eu/human\\_rights/guidelines/defenders/docs/16332-re02\\_08\\_en.pdf](http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf)

# 1. Situation of Human Right Defenders

## 1.1. Legislation in Afghanistan

Afghanistan has ratified all the major human rights conventions and its reservations and declarations to the conventions concern mainly the complaints procedures. Human rights, including the equality of men and women, are enshrined in the chapter two of the Afghan Constitution (2004), both at a national level and with reference to the international treaties ratified by the Afghan government. As a member of the United Nations Afghanistan should observe the UN Declaration on human rights defenders which was adopted by consensus by the UN General Assembly.<sup>2</sup>

Afghanistan lacks at present any legislative or otherwise codified measures, which offer specific protection for the human rights defenders (HRDs). Article 58 of the Constitution gives, however, the mandate to the Afghan Independent Human Rights Commission (AIHRC) to monitor, foster and protect human rights at national level. It also establishes complaint mechanism at the AIHRC, useable by each individual for violation of personal human rights. Violations of HRD's rights are, according to the binding and non-binding UN mechanisms, violations of human rights *per se*. Therefore, the AIHRC is competent in receiving and dealing with complaints related to HRDs. There are other existing legislations, mainly concerning freedom of expression and freedom of association and of peaceful assembly, which may have an impact on the HRDs.

In addition, the Law on Non-Governmental Organisations governs the modalities of the work of NGOs in Afghanistan and their relation with the Afghan government. The law requires national NGOs to register with the Ministry of Economy and the international NGOs to register with the Ministry of Foreign Affairs, but apart from a registration fee it does not pose major impediments to the work of NGOs, however, there is a draft proposal to change the NGO law, which might change this situation.

## 1.2. Enabling environment of the community of human rights defenders in Afghanistan

The continuing conflict in many parts of the country means difficult access and continuous risks to the HRDs. Especially in the South and the East of Afghanistan the freedom of movement is restricted, and the space for HRDs is shrinking. HRDs not only face threats from government entities, but also from armed opposition groups, Taliban and warlords. The impediments arising from the political and cultural reality of the country make the work of the HRDs a truly difficult and often dangerous challenge all over Afghanistan, where the theoretical legal protection is of limited help.

HRDs suffer violations and abuses of the right to life, to freedom from torture and other cruel, inhuman or degrading treatment or punishment, to liberty and security of person, to

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<sup>2</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144, [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.res.53.144.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.res.53.144.en)

freedom of expression and association, and to privacy and family life, as well as gender-specific violations. However, more subtle and often diffuse forms of violence also occur, like denial of medical care, education for the children, loss of housing, land or citizenship, or other types of social disqualification.

In the current conservative and insecure environment, women HRDs<sup>3</sup> are in a particularly difficult situation: they are not only targeted for the work they do, but also for who they are and for challenging social and religious patriarchal norms, which may result in stigmatization, isolation and various forms of threats.

There is little awareness of human rights among the people, and in a society where different variations of customary and religious law are the most common framework for justice, human rights are often seen as an alien, Western or non-Islamic concept. In this context, HRDs, including the AIHRC, face harassment and threats. The justice system is weak, and there is lack of knowledge of the Constitution and laws and of their correct interpretation, especially in many rural areas. Currently, most of the threat cases against HRDs are handled by the AIHRC, though it is enjoying only a limited protection by the Afghan government and its commissioners are also regularly threatened. Police, prosecutors and courts fail to take threats against HRDs seriously, with few investigations and even fewer prosecutions and convictions for those threatening or attacking HRDs. Women HRDs attempting to report violations are stigmatised or even blamed for causing the violations themselves.

### **1.3. Assessment of the community of human rights defenders in Afghanistan**

The AIHRC is represented throughout the country with a number of offices. However, the AIHRC faces considerable constraints in movement and cannot access many of the areas where they are expected to monitor the human rights situation. In addition, at the forefront of the defence of human rights are several umbrella/network civil society organisations having regional/provincial offices as well.

The biggest networks include the Afghan Women Network (AWN), Civil Society and Human Rights Network (CSHRN), Afghan Civil Society Forum (ACSF) and the Human Rights Research and Advocacy Consortium (HRRAC) with more than 120 member organisations in total. Smaller organizations with specific focuses are also becoming more and more active. Moreover a number of international human rights and legal aid organisations work in the country. Some of the bigger organisations work in the provincial capitals. However, there are local organisations and individuals committed to the defence of human rights throughout the country.

All HRDs face considerable threats and constraints in movement in some regions and cannot access some of the areas where they are expected to monitor the human rights situation.

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<sup>3</sup> Women of all ages who engage in the promotion and protection of all human rights and fundamental freedoms and all people who engage in the defence of the rights of women and gender equality. (UN-GA Res 68/181).

## **2. EU action to protect Human Rights Defenders**

### **2.1. The EU+ Human Rights and Gender Working Group (HRGWG)**

The EU+ countries (EU Member States, Switzerland and Norway) have a strong human rights profile in Afghanistan. Most of the EU+, as well as EUSR/EUD, have dedicated staff on human rights: The Office of the EUSR has an Adviser on Human Rights and Rule of Law, who serves as the focal point for human rights, including for contacts with HRDs. The EU Delegation (EUD) has an expert developing and monitoring the EUD projects and programmes in the areas of human rights and gender and civil society. Most of the 18 EU+ missions in Afghanistan have persons responsible for human rights and participate in the regular EU+ Human Rights and Gender Working Group Meetings (HRGWG).

Chaired by the Office of the EUSR, the HRGWG meets bi-weekly to share information on current issues and human rights cases, and to devise EU+ action when needed. The WG consist of EUSR/EUD, EU Member States, EUPOL, and Australia, Canada, Japan, Norway, Switzerland, UNAMA, UN Women and United States. Besides the meeting, EU+ missions and the EUSR/EUD constantly share information at the working level. Human rights and related issues are also often on the agenda of Heads of Missions (HoMs) meetings and in EU+ representatives' meetings with the Afghan leadership.

### **2.2. Promotion of Human Rights**

The EU+ provides political and financial support to a number of organizations working in the field of human rights and the EU+ has been playing an important role for promoting human rights and supporting human rights organizations in Afghanistan. As the EU+ presences in Afghanistan are known to have a human rights profile, the missions regularly receive information about pressing human rights cases and issues from victims and from those in the Afghan society working to defend human rights.

Apart from monitoring high-profile human rights cases and key human rights issues, the EUSR/EUD make efforts to regularly re-contact individuals who have referred human rights cases to the EU+ and to follow developments that fall within the broad spectrum of human rights concerns that are of interest for the EU+. However, the cultural context needs to be taken into account here as well: information is often shared based on trust built by long-established personal relationships with EU+ personnel working in Afghanistan, rather than by the EU+ as an institution. It is therefore important to ensure handover and personal introductions of the incoming human rights officers to the key people to ensure continuity.

Besides the bi-weekly EU+ HRGWG meetings, where AIHRC is now a member, and where information on current cases and the situation of human rights defenders is shared, the EU will work on the establishment of an annual Human Rights dialogue between EU and the Afghan Government<sup>4</sup>.

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<sup>4</sup> FAC conclusions June 2014 and the European Union Strategy 2014-2016.

### **2.3. Emergency Actions**

Given the low capacity of governmental, security and justice sector institutions in Afghanistan, HRDs especially in the insecure areas do take risks when engaging in individual cases or challenging the government or local leaders on accounts of patterns of abuse. It is therefore in the area of “emergency action” that the EU+ strategy for the HRDs is most needed. Confrontation with the Afghan government should not be avoided over issues which directly impact on key human rights while efforts to promote democratic process suitable for the country and in line with its culture and traditions at the working level should also be supported by consistent high-level political support.

The EU+ therefore needs to be prepared to use swiftly all the tools at its disposal, ranging from quiet diplomacy at highest levels, via demarches to the Afghan authorities, to public actions such as trial monitoring and press releases, taking into account the particularities of each individual case and the consent of the individual HRD. In this regard, the EU+ missions in Afghanistan should agree upon a flexible mechanism of decision-making for action in urgent situations.

Moreover, the EU+ missions should have agreed or at least shared policies for action when a HRD faces a situation of imminent threat to his or her life. To this end, all EU+ missions should maintain a list of organisations to which the HRDs can be referred to, establish guidelines on giving practical support to the relocation of the HRDs in such situations – both inside and outside Afghanistan, and ultimately share information on policies or guidelines on granting asylum when needed.

## **3. Action Plan for promoting and protecting HRDs and their activities in Afghanistan**

On 1-2 October 2014 the EUSR's Office held a workshop on Human Rights Defenders with participation of local Afghan HRDs and representatives from EU+ Embassies as well as UN Women. The purpose of the workshop was to develop a coordinated strategy of support for HRDs, rooted in a local analysis of the challenges facing HRDs in Afghanistan, so that EU+ collaborate effectively regarding practical action e.g. urgent response, resources, monitoring/documentation, advocacy, funding, aid, security.

### **3.1. EU+ Strategy on Human Rights Defenders**

The EU+ Strategy on Human Rights Defenders in Afghanistan have been revised with a networking approach. The strategy was approved by Heads of Missions on 16 and 20 November 2014 and publicised on Human rights Day 10 December 2014. The strategy will be translated into Dari and Pashto. The local strategy for Afghanistan should be evaluated and if necessary revised by the end of 2015.

### 3.2. Protection mechanism

*Raise Awareness:* Raise awareness through publishing translated versions of the strategy as well as through advocacy with GIROA. Establish regular meetings with HRDs and have individual meetings with HRDs in EU+ Embassies. Invite HRDs to functions and host Bi-monthly meetings with HRDs at the EUSR/EUD with guests from Parliament, GIROA and the International Community in order to raise awareness of the work and conditions of the HRDs as well as monitoring the situation of HRDs and discussing action the EU+ could take.

*Advocacy for Presidential Decree on protection of HRD:* Advocate and provide technical assistance for the design and implementation of a national legal instrument embedding the UN Declaration and EU principles for protection of HRDs.

*Overview of Afghan human rights organisations and focal points in province:*

Compile a list of human rights organizations, and cross-check them with local networks and international ones. European Union is in the process of funding a new program with regard to support to HRDs, including establishing safe houses so all 34 provinces are covered. While doing this, ensure a constant confidentiality of the data. The focal points – who are part of an Afghan NGO – may disseminate information to HRDs, identify and monitor cases and forward information to the Afghan HRD network and EU+, as well as provide assistance to HRDs in acute danger.

*Visa for protection out of country:* As a last resort, facilitate, where appropriate, visa issuance and/or shelter for HRDs in accordance with national and EU Legislation and guidelines. To this end, the EU+ and Member States should agree on a process for providing swift assistance, including the issuing visas for HRDs under threat. “Just in case” long term visas for well-known human rights activists should also be issued, where appropriate and in accordance with EU+ national legislation, as the possibility to leave immediately if needed allows them to carry out their work longer.

*Protection for HRDs at risk:* Contact to GIROA (central, provincial or district) on individual cases, and conduct trial monitoring in prominent HR cases and cases involving HRDs, Visit HRDs in detention/prison and publish press statements + FB/Tweet. Explore the possibilities of establishing an Afghan run 24/7 Hotline for HRDs at risk and in need of a safe house or in need of legal aid, medical aid or other advice.

*Emergency Funding:* The emergency fund for human rights defenders at risk managed under the EIDHR allows the Commission to give direct small grants of up to 10.000 euro per grant to Human Rights Defenders (HRD), who is in need of urgent support. This urgent support may for instance cover the fees for legal representation of defenders, cover medical expenses, or pay for evacuation of a HRD to another country. Requests to use the small grants mechanism or emergency facility for HRDs should be addressed to EUD, Kabul or to the EIDHR team [europaaid-eidhr@ec.europa.eu](mailto:europaaid-eidhr@ec.europa.eu) with information about the particular case to assist: name of the defender(s), background on the case(s), amount of grant requested, and for what purpose. The information received will be dealt with in confidentiality. An overview of available emergency funding among EU+ countries should be established.

*HRD Database:* A HRD Database should be established and up-dated frequently. It should be considered, if the list in the database should be cross checked with local HRD networks.

### **3.3. Communication/Networking**

*EU Contact:* Contact details of EU focal point for HRDs are: Michael D. Pedersen, phone +93 (0) 790 489 941, mail: [michael.pedersen@ext.eeas.europa.eu](mailto:michael.pedersen@ext.eeas.europa.eu), which is posted on the EUD website, <http://eeas.europa.eu/delegations/afghanistan/>. The name and contact details of the EU focal point for HRDs will be kept updated.

*Networking and Outreach:* First Bi-Monthly Meeting will be held on 15 December 2014, and will include outreach to HRDs at provincial and local levels. The network should be utilized to establish HRD focal points in all provinces.

*Early warning:* Assess the possibility of developing early warning systems, especially at sub-national level, which also should be the basis for information sharing on HR-cases.

### **3.4. Capacity building**

*Training of HRDs:* Allow HRDs to make use of EU+ facilities to hold human rights training programmes or similar activities. Include security training of HRDs in EU+ funded human rights projects.

### **3.5. UN Special Rapporteur on human rights defenders.**

Advocate with the Afghan Government (MoFA) for a standing invitation for a country visit of the UN Special Rapporteur on human rights defenders.

## Annex 1

### Overview of EU+ Objectives, Actions and Implementation plan

| Objective   | Action   | Responsible            | When         |
|---|--|------------------------|--------------|
| 1. Revise the EU+ HRDs Strategy for Afghanistan     | Workshop on HRDs   | EUSR's Office          | 1-2/10-2014  |
|   | Drafting, consulting, approval and publicising                   | EUSR's Office          | Oct/Nov 2014 |
|   | Publishing on Human Rights Day (translated into Dari and Pashto) | EUSR's Office          | 10/12-2014   |
| 2. Protection mechanism                             | Awareness raising  | EU+ HRGWG              | Continuously |
|   | Advocacy for Presidential Decree on HRDs                         | EU+ HRGWG              | Continuously |
|   | Invite HRDs to functions   | EU+ HRGWG              | Continuously |
|   | Ad-Hoc Meetings with HRDs  | EU+ HRGWG              | Continuously |
|   | Explore possibilities of a 24/7 Hotline                          | ALL                    | Feb 2015     |
|   | Mapping of existing Safe Houses                                  | ALL                    | Apr 2015     |
|   | Establish Safe Houses (so all 34 provinces are covered)          | EUD/COSPE              | End 2015     |
|   | Contact to GIRoA on individual cases                             | EUSR's Office          | Continuously |
|   | Trial Monitoring   | EU+ HRGWG              | Continuously |
|   | Visits to HRDs in detention                                      | EU+ HRGWG              | Continuously |
|   | Press Statements + FB/Tweet                                      | EU+ HRGWG              | Continuously |
|   | Emergency Visa   | EU+                    | Continuously |
|   | Long Term Visa ("just in case")                                  | EU+                    | Continuously |
|   | Emergency Funding  | EU+ HRGWG              | Feb 2015     |
|   | HRD Database to be established and up-dated frequently           | EUSR/EUD               | Jun 2015     |
| 3. Communication/Networking                         | Contact details of EU focal point for HRDs on website            | EUSR's Office          | done         |
|   | First Bi-Monthly Meeting   | EU+ HRGWG              | 15/12-2014   |
|   | Identify HR focal points at EU+ Embassies                        | EU+ HRGWG              | asap         |
|   | HRD focal points in all provinces                                | ALL                    | End 2015     |
|   | Mapping European Organisations to link with HRDs                 | EU+ HRGWG              | Mar 2015     |
| 4. Capacity Building                                | Mapping of funding opportunities                                 | EU+ HRGWG              | Jan 2015     |
|   | Civil Society Roadmap  | EUD                    | Feb 2015     |
|   | Basic Security Training for HRDs                                 | EUD and Afghan HRD CSO | Jun 2015     |
|   | Allow HRDs to use EU+ meeting facilities for training            | EUSR/EUD               | Continuously |
| 5. UN Special Rapporteur on human rights defenders. | Advocacy for a standing invitation for a country visit           | EU+ HRGWG              | Continuously |