

## Background

Safeguarding human rights is especially difficult in a country like Afghanistan which has experienced contested political, social and military space, and a prevalence of poverty, for more than three decades. Human rights and, where necessary, the need to introduce them have been the key strands of the international discourse on rights in the country. Rights include the general rights to civil and political and economic, social and cultural rights, which include crucial rights relating to the right to life, freedom from torture, access to justice, and freedom of expression. Afghanistan has also committed to protect its people from discrimination, which includes gender equality as well as protection of particular groups such as people with disabilities, refugees, IDPs and detainees, children and women and girls. It is that last group which has received the most international attention and is the subject of a separate policy paper.<sup>1</sup>

The Afghan government has said that it is committed to 'improving the welfare and well-being of the people ..... through respect for human rights, particularly in relation to women and girls'<sup>2</sup> and is 'fully committed to supporting human rights and actions in relation to justice, security sector, children and rising violence against citizens'<sup>3</sup>.

In December 2014, the Afghan government and the international community mutually renewed their long-term commitments for the Transformation Decade, 2015 – 2024, including a respect for human rights<sup>4</sup>, in particular those of women and girls.

## Progress

Some progress was made during the life of the previous government and has continued under the present one. The Afghanistan Independent Human Rights Commission has played a crucial role in both assisting individuals facing rights violations and documenting and advocating on a policy level for respect for human rights. Unfortunately the commission has been undermined in recent years first by vacancies among the commissioners and then by appointments to the commission that have been widely criticized, including by the UN High Commissioner for Human Rights.

The development of Afghan civil society organizations, the majority working on some aspect of human rights, often with the support of international governments, including HMG, and international civil society, has been notable. Their staff members have shown tenacity and courage. The Director for human rights for UNAMA, Georgette Gagnon, said<sup>5</sup> that she was very encouraged that 'Civil society is vibrant; it is very human rights based and human rights friendly, and it is taking forward the human rights struggle here'.

A national unity government that has publicly announced its commitment to human rights is a good development and since it came to power, there have been some examples of actions taken which could be construed as progress in fulfilling this commitment. These include an increase in the number of women appointed to senior government positions.

A flash point on women's rights for the current government has been the case of Farkhunda. The public outcry (movingly supported by human rights actors, men and women) over her barbaric treatment and the failure of the police to prevent it, and the action taken by the government could be seen as an indication of greater awareness of the need to take action to stop violence against women. However given the lack of fair judicial process that followed, one result was the possible further traducing of the rights of others.

The most significant benefit may be the opportunity provided for debate about the issues and the resulting modifying of views previously held unquestioningly and unchallenged by some. The media in Afghanistan have played a significant role in bringing debate into the public arena, audibly and visibly conducted by women as well as men, and in struggling to retain freedom of expression. The Afghan government is 'fully committed to ensuring civil society autonomy and freedom of action'<sup>6</sup> recognising there is a 'visible and vocal civil society which has proven to be an important partner' and intending to 'further strengthen it through enhancing public oversight of government reforms'.

## Challenges

There are severe challenges in the struggle to improve human rights in Afghanistan and in holding the perpetrators of abuse to account.

**Mistrust:** Trust has been a casualty after more than three decades of war, displacement, the use of ethnicity to delineate and divide, and the involvement of non-Afghans in the country. It is not surprising that reliance on one's own kith and kin, whether *qaum* 'clan' or family, and the wariness towards and exclusion of the 'other' has become more likely.

**Negative perceptions of values 'imposed' by the West:** Partly because of the way 'awareness' about human rights was 'raised' they have been viewed by some in the past as a Western concept which is alien to Afghanistan and should be resisted. While the younger educated women and men of the population are more likely to take the view that human rights are important, and must be fought for, there is also a view that through employment and economic empowerment, which donors should help to provide, people will gradually be able to claim their rights. However to allow people to challenge violations of their rights, the judicial processes, which are weak, and in any case rarely rights based, will need to be improved.<sup>7</sup>

**Limited funding:** Donor governments and national and international civil society face challenges in advocating for human rights, in monitoring progress and in holding the Afghan Government to account as capacity is scarce and under-funded. The Afghan Government faces challenges relating to the poverty in the population (it is estimated 1/3 of the population is living in poverty)<sup>8</sup>, in being unable to meet its economic requirements without aid, at a time when the security situation is deteriorating and how the commitments it has made<sup>9</sup> can be fulfilled despite political and other pressures, including the undertakings given on human rights.

The need for a comprehensive approach for the estimated 5 million Afghan refugees and 1 million IDPs is stated by <sup>10</sup>the Afghan Government, with the proviso that Afghanistan cannot absorb more people into its cities. The existing conditions of IDPs, especially during times of extreme heat and cold, have been a matter of concern for NGOs as they have found it difficult to raise funds for programmes to assist them.

**Delays in transitioning to the new Afghan Government:** There are varying degrees of knowledge and experience in the relevant Afghan Ministries, and Ministers have only recently been appointed and will take time to understand their brief and take on other staff. One of the Afghan Government's commitments is the development of a Citizen's Charter which will 'set the threshold of core services' to be provided to all communities 'at the same time improving accountability to citizens' and 'not disproportionately victimizing women, poor and socially marginalized groups' and will 'address gender inequities' by empowering women in a variety of ways. The need for actions in relation to justice, the security sector, children, and the rising violence against civilians' are specified<sup>11</sup>. Although "Realizing Self Reliance" talks of the 'diversity of post conflict vulnerability' unfortunately conflict has increased since it was published.<sup>12</sup>

Other groups have specific needs which are not being (fully) met: those with disabilities, street and working children and human rights defenders.

#### **BAAG's Recommendations to the UK Government:**

**Welcome the commitments made by the Afghan Government** to respect human rights, to continue to stress the importance of observing the Conventions signed and ratified, and to work to ensure that the rights of the population of Afghanistan are realized, with the protection of human rights remaining a core principle at the Senior Officials and subsequent meetings.

**Work in collaboration with and supportive of Afghan civil society** in developing its capacity to hold the Afghan Government, and others, to account for their actions, policies and programmes and to ensure the independent monitoring of the government's action.

**Support existing and new mechanisms for protecting human rights** (and the men and women defenders of them) by consistently urging the Afghan government to undertake legislative reform, establish and strengthen procedures to investigate civilian complaints against the ANSF and those of detainees and prisoners, and strengthen the independence and technical capacity of the AIHRC.

**Urge the Afghan Government to preserve freedom of expression** and ensure the protection of journalists and media organizations by implementing the Access to Information Law and the 2009 Mass Media Law and holding police accountable for their duty to protect journalists.<sup>13</sup>

**Implement the EU and national strategies for protecting human rights defenders** in collaboration with national and international partners.

**Promote children's rights** by calling for laws and processes which are in keeping with the international convention on the rights of the child, including providing education across the country, protecting of children from abuses associated with conflict, preventing child marriage, and assisting children in emergency situations.

**Promote the rights of women** including by ensuring their full involvement in every aspects of the peace process, their appointment to senior positions locally and nationally, and the provision of citizenship identity cards, and access to safe houses across the country.

**Provide funding and technical support** for the promotion of human rights as necessary.

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<sup>1</sup> See BAAG Policy Position Paper on Women's Rights.

<sup>2</sup> The Government of Afghanistan (2014) *Realizing Self Reliance – Commitments to Reforms and Renewed Partnership*, page 18, para. 33  
[http://mfa.gov.af/Content/files/Realizing%20Self%20Reliance%20-%2025%20November%202014\(1\).pdf](http://mfa.gov.af/Content/files/Realizing%20Self%20Reliance%20-%2025%20November%202014(1).pdf)

<sup>3</sup> Ibid.

<sup>4</sup> The Government of Afghanistan and the United Kingdom (2014) *Communiqué: The London Conference on Afghanistan*  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/383205/The-London-Conference-on-Afghanistan-Communique.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/383205/The-London-Conference-on-Afghanistan-Communique.pdf)

<sup>5</sup> On leaving her post after 5 years in Afghanistan, 2.6.15

<sup>6</sup> The Government of Afghanistan (2014) *Realizing Self Reliance – Commitments to Reforms and Renewed Partnership*, page 21, para. 34

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[http://mfa.gov.af/Content/files/Realizing%20Self%20Reliance%20-%2025%20November%202014\(1\).pdf](http://mfa.gov.af/Content/files/Realizing%20Self%20Reliance%20-%2025%20November%202014(1).pdf)

<sup>7</sup> See BAAG Policy Position paper on Good Governance.

<sup>8</sup> World Food Organization (2015) *Afghanistan Overview*  
<https://www.wfp.org/countries/afghanistan/overview>

<sup>9</sup> Ibid, page 18, para. 33

<sup>10</sup> Ibid, page 20, para. 33

<sup>11</sup> The Government of Afghanistan (2014) *Realizing Self Reliance – Commitments to Reforms and Renewed Partnership*  
[http://mfa.gov.af/Content/files/Realizing%20Self%20Reliance%20-%2025%20November%202014\(1\).pdf](http://mfa.gov.af/Content/files/Realizing%20Self%20Reliance%20-%2025%20November%202014(1).pdf)

<sup>12</sup> Loss of civilian life reached unprecedented levels in 2014 and continues to increase. Most recently, 100 civilians were either injured or killed in 2 days alone. UNAMA (2015) *Press Statement – UN envoy Nicholas Haysom condemns attack targeting Baghlan civilians.*  
<http://unama.unmissions.org/Default.aspx?tabid=12254&ctl=Details&mid=15756&ItemID=38871&language=en-US>

<sup>13</sup> See BAAG Policy Position paper on Good Governance, recommendation on Right to Information Law.