

AFGHANISTAN

Making human rights the agenda

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Chapter 1: Human rights – the essential agenda

Human rights have been ignored by those in power and those seeking power in Afghanistan for far too long. Human rights abuses both current and past underscore the need to remedy this situation in any future peace process. Human rights should not just be on the political agenda for Afghanistan – human rights must become *the* agenda.

This report sets out Amnesty International's human rights agenda for the future protection of human rights in Afghanistan. It argues that peace and security can never be ensured unless human rights guarantees are central to a political settlement. It calls for an immediate cessation of human rights abuses, and an end to impunity for past abuses. It calls for child soldiers to be demobilized, restrictions on arms supplies, international protection for refugees, and a vigorous program of human rights institution-building. Chapter 2 presents a brief summary of human rights abuses in Afghanistan since the late 1970s, which must be taken into account when building the future. Chapter 3 examines certain international aspects of the past and present conflicts in Afghanistan – arms supplies that have fuelled abuses, and efforts to address the past conflict. Chapter 4 contains Amnesty International's recommendations to promote a human rights agenda for Afghanistan, in an effort to make the promotion and protection of human rights the number one priority.

Over the past two decades, the people of Afghanistan have been subjected to grave human rights abuses perpetrated by their own governments, foreign forces and armed groups supported by foreign states, and other political organizations. Successive Afghan governments have failed to protect the rights of the Afghan people, who have been subjected to extreme brutality and deprivation. Although the UN tried to broker a peace process in 1992, the international community made no serious attempt to assist the Afghan people to establish a stable society based on respect for human rights.

Today, the attention of the world is focussed on Afghanistan, as the target of the US-led coalition's "war against terrorism", following the 11 September attacks in the USA. Air strikes and on-going internal conflict have affected thousands of civilians. The international community will commit a grave injustice against them if it does not put their human rights at the core of any process for establishing peace in Afghanistan.

There is as yet no indication of how long the military action will continue, but there are already discussions about the political future for Afghanistan after the conflict. It is essential that an agenda for human rights and social justice for all Afghans is developed on the basis of broad consultation and participation by the widest possible cross section of Afghan society. Solutions cannot be imposed from the outside and must be decided by the Afghan people. The UN has a substantive part to play in facilitating this process.

The UN Secretary-General has appointed Lakhdar Brahimi as his Special Representative, with overall responsibility for the UN's humanitarian and political efforts, to "manage peacemaking activities involving the warring parties and others concerned, with a view to facilitating the establishment of a fully representative multi-ethnic and broad-based government". The Special Representative has been given the responsibility to "advocate...the rights and protection of affected populations [and to...] ensure that the humanitarian and human rights dimensions of the evolving situation are central to political and security discussions." Amnesty International welcomes the fact that the UN Secretary-General has placed human rights at the centre of the Special Representative's mandate and hopes that this report can contribute towards ensuring that the political process is developed within a human rights framework.

There are many immediate and serious human rights and humanitarian concerns in Afghanistan. Amnesty International has called on all parties to the conflict to uphold the highest standards of human rights and international humanitarian law. It has called on all those involved to uphold and ensure respect for the human rights of the civilian population and internally displaced persons in Afghanistan, and to provide them with all necessary humanitarian assistance. The organization has also urged the states neighbouring Afghanistan to provide international protection to Afghan refugees, and has called on the international community to assist them in doing so.

The bombing campaign by the US-led coalition has also raised serious concerns about possible breaches of international humanitarian law. US officials have admitted that a number of civilian objects have been hit as a result of error, but it has not been possible to verify independently the circumstances surrounding attacks that have resulted in reported civilian deaths because of the limited access to Afghanistan for impartial observers. Amnesty International has called on the US military to strengthen measures to ensure that civilians are not killed as a result of their military action, to investigate thoroughly reports of such incidents and to make public their findings. The organization has also called for a moratorium on the use of cluster bombs.

The debate has already started about the future of Afghanistan once the military action is over, and specifically how the country will be governed in the future. The international community can begin to construct a human rights agenda for Afghanistan by putting human rights at the core of any process of transition and moves to establish peace in Afghanistan. Amnesty International believes that attention needs to be focussed urgently on incorporating human rights concerns into the political negotiations for the future of Afghanistan. The UN and its member states have a responsibility to assist the Afghan people in establishing a peaceful, stable society where there is full respect for human rights. Recent events show that promoting the rule of law and transparent, accountable systems of governance based on respect for human rights is the best way forward both for the people of Afghanistan and for international peace and stability.

A comprehensive plan should be developed, based on concrete guarantees and measures, to ensure human rights protection in Afghanistan. All countries that have influence on Afghan groups and interests in Afghanistan should be encouraged to play a positive role. Fundamental to the plan must be an undertaking by all parties to work for the long-term protection of the human rights of the Afghan population, without discrimination on the basis of gender, ethnicity or religion. Unless these guarantees are given and respected, violence is likely to continue. To be effective, the guarantees must not be simply promises on paper but must be backed up, on the one hand by effective verification mechanisms, and on the other, by substantive measures to end impunity and establish effective judicial and law enforcement institutions.

The protection of human rights, including the fundamental principle of non-discrimination on grounds of ethnic background, religion or gender, must be central to international and national efforts towards the negotiation of peace. Severe discrimination against women has been a particular concern in many Taleban controlled areas. Official edicts have severely restricted women in virtually all areas of life, including the rights to freedom of movement, expression, association and assembly, as well as the rights to education, health care and work.

Political negotiations must seek to bring an end to violations of human rights and humanitarian law, whether committed by the Taleban or by the various factions of the United Front (also known as the Northern Alliance). The Taleban are reported to have killed thousands of civilians in massacres and indiscriminate attacks. People have been imprisoned, including prisoners of conscience, without charge or trial, most of them members of ethnic minorities suspected of supporting the anti-Taleban alliance. There are

reports of the use of torture and ill-treatment during detention in areas controlled by the Taliban. United Front forces have also reportedly killed, imprisoned and abused civilians on the basis of their ethnic identity or affiliation with the Taliban. Torture, arbitrary detention and ill-treatment by United Front forces have also been reported, with victims including people suspected of collaborating with the Taliban. (For further details, see Chapter 2.)

Amnesty International appreciates the need for national reconciliation in societies which have experienced war and repression, but believes that condoning impunity as part of an international political settlement today will serve only to jeopardise human rights protection tomorrow. There can be no peace without justice. This can be seen in countries from Cambodia to Sierra Leone, Angola to Chile. Ignoring a past history of human rights abuses for reasons of political expediency has undermined political stability and human rights protection, even decades after the abuses occurred. The UN Secretary-General in his Report to the Security Council on the protection of civilians in armed conflict¹ has stated clearly that “the granting of amnesties to those who committed serious violations of international humanitarian and criminal law is not acceptable.” Efforts should begin now to establish who has been responsible for the abuses in Afghanistan and to hold them accountable, including those with command responsibility.

To Amnesty International's knowledge, there has never been any accountability for the serious human rights abuses committed in Afghanistan since the war began in 1978. No state has brought to justice Afghans within their jurisdiction suspected of serious human rights abuses. If the cycle of abuses is to be broken, there must be a concerted international effort to end impunity in the country.

Human rights abuses have been fuelled by the transfer of weapons to various groups in Afghanistan from the USA, western Europe, countries of the former Soviet Union, Pakistan, Saudi Arabia, Slovakia and Iran. The weapons supplied to armed groups have included anti-personnel land mines, which have taken a heavy toll on the civilian population, particularly children. Governments supplying arms or considering doing so should take all possible measures to ensure that they are not then used to commit human rights abuses. They should stop the transfer of arms if there are credible reports of serious human rights abuses or war crimes. In a post-conflict Afghanistan, these same governments

¹ Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict (S/2001/331) of 30 March 2001, paragraph 10.

must take the initiative to promote disarmament and demining. Unless the level of arms in the country is reduced, the likelihood of more violence and human rights violations will remain.

There are reports that many of the warring factions have used child soldiers. Despite Taliban denials, there continue to be reports of child recruitment, particularly in connection with *madrasas* (religious schools) in Pakistan. While many *madrasas* in Pakistan provide informal education to poor students, some *madrasas* recruit their students to fight in Afghanistan, often during holiday periods. There have also been reports of cross-border recruitment of children by the United Front forces. The international non-governmental Coalition to Stop the Use of Child Soldiers has raised concern that “the current military crisis could see unprecedented levels of child recruitment and mobilization.” International pressure should be put on all parties to stop the recruitment of children and special programs should be developed to demobilize and rehabilitate child soldiers.

The institutions required to promote and protect human rights do not exist in Afghanistan. The procedures of Taliban *Shari'a* (Islamic law) courts fall far short of international fair trial standards. These courts have regularly imposed the death penalty, flogging, amputation and other punishments amounting to cruel, inhuman or degrading punishment or torture. The absence of a culture for the respect of human rights has characterized not just the Taliban but also others who have held power in Kabul over the past 22 years, including many of those who now oppose the Taliban.

Given the history of Afghanistan, it will be a major challenge to build judicial and law enforcement institutions which conform to international human rights standards. It will be necessary to draw on international as well as national expertise to devise appropriate mechanisms which meet international standards while acknowledging local specificities.

A society which has suffered such severe human rights abuses over a long period of time will require strong and sustained international support, including political commitment and financial investment. It will be essential to engage the Afghan population and build their confidence in the future of Afghanistan. Rebuilding Afghan civil society will be important and non-governmental groups, including women's groups, should be encouraged to play a role in that process.

The international community should start the process of bringing peace and security to Afghanistan by actively promoting an agenda focussed on human rights. The tragic

results of past failure to ensure the rights of Afghans must be taken into account in building the future. The work must begin now to assist the Special Representative of the UN Secretary-General in carrying out his mandate “to ensure that the humanitarian and human rights dimensions ... are central to political and security discussions.”

Chapter 2: A brief summary of past human rights abuses in Afghanistan

1978-1989

On 27 April 1978 a Marxist-Leninist party, the People's Democratic Party of Afghanistan (PDPA), took power in a coup. President Mohammad Daoud Khan, who had himself seized power in 1973 in a coup against the former king, Mohammad Zahir Shah, was killed, along with his immediate family. The PDPA government, headed by President Noor Mohammad Taraki, attempted to suppress opposition to radical social and agrarian reforms through the use of repressive tactics that included the “disappearance” and summary execution of thousands of people. The government’s repressive measures sparked uprisings throughout the country, which were crushed, and drove refugees and armed opponents of the government across the borders into Pakistan and Iran.

On 16 September 1979, the then Prime Minister Hafizullah Amin ousted President Taraki, whose death was subsequently announced. The deteriorating security situation inside the country prompted the Soviet Union to airlift troops to Kabul on 24 December 1979. Three days later, President Amin was killed in a military coup in which Soviet armed forces were involved. He was replaced as President and as General Secretary of the PDPA by Babrak Karmal.

Resistance by armed opposition groups, collectively known as the Mujahideen, expanded greatly in response to the Soviet invasion. Mujahideen forces based in Pakistan were supported principally by the USA, which provided sophisticated weaponry and other support through Pakistan’s Inter-Services Intelligence (ISI) agency. The Soviet armed forces fighting in support of the PDPA government grew to some 115,000 troops. In their efforts to crush the Mujahideen, the Afghan government and Soviet forces engaged in massive human rights violations, including widespread torture and executions. They also reportedly carried out indiscriminate aerial bombardments in the countryside. By 1989, the

UN High Commissioner for Refugees (UNHCR) reported that more than five and a half million Afghans were refugees.²

Thousands of political prisoners were detained throughout the period of Soviet occupation. Among these were prisoners of conscience held for advocating non-violent opposition to the government and peace negotiations, held without charge or convicted after unfair trials with no right to defence or right to appeal. Political prisoners were held in security police detention centres, paramilitary police headquarters, and sometimes Soviet military posts. They were accused of “counter-revolutionary” activities or sympathies and were routinely subjected to torture and ill-treatment during interrogation, including beatings, electric shocks, burning with cigarettes and sleep deprivation. More than 8,000 people were allegedly executed between 1980 and 1988 after unfair trials. Many thousands “disappeared”, especially between 1978 and 1979. Following a general amnesty declared in January 1987, thousands of political prisoners were released.

Anti-government groups also carried out torture and executions, including the alleged beheading of captured government and Soviet soldiers, and of civilians accused of supporting the government, after “trials” by these armed groups.

1989-1992

Some improvement in the human rights situation was noticeable between 1987 and early 1992, but gross human rights abuses continued to be committed by both sides to the conflict. The Geneva accords to settle the Afghan conflict were signed by the governments of Afghanistan, the Soviet Union, the USA and Pakistan and led to the withdrawal of all Soviet troops by February 1989. However, civil war continued as the Mujahideen pushed to overthrow the Afghan government led by President Najibullah.

The death penalty was still in use, and torture and ill-treatment of detainees continued in security police interrogation centres, in prisons and at military posts. In 1990 dozens of people were said to have been extrajudicially executed following a coup attempt against President Najibullah’s government, and hundreds arrested.

Mujahideen groups reportedly detained, ill-treated and killed people they suspected of links with the government or rival Mujahideen groups. Hundreds of prisoners

² UN High Commissioner for Refugees, *The State of the World’s Refugees: Fifty Years of Humanitarian Action*, 2000 (Oxford University Press), page 119.

were said to have been held by Mujahideen groups, many of them civilians abducted during fighting. Scores of captured government soldiers and civilians were killed. In Mujahideen-controlled areas, local Islamic courts handed out sentences of death.

Mujahideen groups were also reported to have carried out abductions of foreign aid workers, and prominent Afghan opposition figures living in Pakistan were reported to have been abducted and killed.

1992-1995

In March 1992 President Najibullah agreed to step down as part of a UN-brokered process to pave the way for a transitional coalition government. Before the plan could be implemented, disaffected militia forces that had been allied with the government entered into negotiations with northern non-Pushtun Mujahideen forces that included *Jamiat-e Islami*, *Hizb-e Wahdat*, and a primarily Uzbek militia force under General Abdul Rashid Dostum. On the night President Najibullah was to leave Kabul, these forces took control of the airport, preventing Najibullah from leaving the country. Najibullah took refuge in the UN compound in Kabul, where he remained for four years until he was captured and executed by the Taleban.

On 25 April 1992 the northern Mujahideen alliance took power in Kabul. Sebghatollah Mojaddedi became President of the Islamic State of Afghanistan for two months, followed by Borhanuddin Rabbani, head of *Jamiat-e Islami*. In December 1992, a council (*shura*) that was dominated by supporters of Borhanuddin Rabbani elected him as President for a two-year term, but he stayed in power until he was driven out of Kabul by the Taleban in 1996. Borhanuddin Rabbani remains the President of the Islamic State of Afghanistan, which continues to hold the Afghanistan seat at the UN.

The government of Borhanuddin Rabbani initiated changes to bring the legal and social systems into conformity with local interpretations of Islamic law. The Deputy Minister of Justice announced that punishments such as amputation of feet or hands, flogging and stoning to death would be introduced. Vigilante groups were reported to have carried out such punishments, apparently believing that they were acting according to official policies. While political prisoners detained by the previous government were released, Mujahideen groups imprisoned political opponents, including members of the previous government and members of rival factions, sometimes in secret detention centres. They reportedly tortured and killed many of their opponents in detention centres.

The Mujahideen alliance was riven by infighting; within months, the parties had begun to battle among themselves for control of Kabul. With no effective central government, lawlessness and fighting between rival armed groups spread across most of the country and the civilian population was subjected to widespread human rights abuses. Thousands of civilians were killed in the fighting, which reportedly included indiscriminate shelling of houses, hospitals and mosques, particularly in Kabul. Members of rival ethnic groups were frequently targeted by various armed groups. In 1994, hundreds of thousands of civilians were displaced. Throughout much of 1994, the forces of then Prime Minister Gulbuddin Hekmatyar and General Abdul Rashid Dostum enforced a food blockade around Kabul, keeping international food aid from reaching the population, many of whom were reportedly at risk of starvation.

Armed groups acting with total impunity reportedly carried out killings, arbitrary detention and torture (including rape) of unarmed civilians suspected of supporting rival groups or on ethnic grounds. Local warlords established their own administrations in areas under their control. In some areas, Islamic courts sentenced individuals to death after unfair trials; it was reported that those tried were in some cases not given the right to appeal or to seek clemency.

1995 to 2001

Widespread infighting among the various armed groups saw the emergence of the Taliban in late 1994. Disaffected Mujahideen joined forces with Mullah Muhammad Omar, a former fighter with the Khalis faction of *Hezb-e Islami*, to disarm local warlords around Kandahar. The group included former students who had studied in *madrasas* run by Pakistani religious parties for Afghan refugees in Pakistan, fighters from other Mujahideen factions, and non-Afghan fighters from Arab states, North Africa and elsewhere.

By the end of 1994, the Taliban had taken control of at least seven of Afghanistan's 30 provinces. With substantial military support from Pakistan, the Taliban's military campaign progressed quickly throughout 1995. The Taliban took control of Herat in 1995 and captured Kabul in 1996. During this time, Amnesty International received reports that Taliban forces were committing serious human rights abuses in many of the areas where they controlled populations and territory.

Who are the Taliban?

The Taliban emerged in 1994 as a group that coalesced around Mullah Muhammad Omar to disarm local warlords in Kandahar province. The group included former members of

different factions who were disillusioned with the widespread insecurity and the failure of the Mujahideen who had overthrown the government in 1992 to establish an Islamic state. Because most of the core group had been trained in *madrasas* run by religious parties in Pakistan, they called themselves taleban, which means students. These Taleban were joined by other fighters from different factions, including foreign fighters from Saudi Arabia, North Africa and elsewhere. Many former Communists were integrated in the Taleban ranks. Combatants of the Taleban and of *al-qa'ida* appear to be part of the same military force, as there has been a degree of structural integration.

The Taleban are predominantly ethnic Pushtuns; their core leadership is from Kandahar province. In April 1996, Mullah Muhammad Omar was elected by a congregation of Muslim clergymen as the *amir-ul momineen* and in October 1997 Afghanistan was renamed the Islamic Emirate of Afghanistan. From their southern power-base, the Taleban took control of large parts of the country between 1994 and 1996, when they captured Kabul. By October 2001, the Taleban were reported to control over 90 per cent of Afghanistan, although large pockets of central Afghanistan as well as the northeast were under the control of the United Front. Pakistan, which has provided the Taleban with considerable military assistance, is the only country that currently recognizes the Taleban's Islamic Emirate of Afghanistan as the government of Afghanistan. Saudi Arabia and the UAE withdrew recognition following the 11 September 2001 attacks in the USA.

The war continued, with the groups opposing the Taleban aligned as the United Islamic Front for the Salvation of Afghanistan (United Front). Following further Taleban advances in the north in 1998, particularly the capture of Mazar-e Sharif in August 1998, the United Front was pushed to the northeast of Afghanistan. During this period, the Taleban was responsible for serious violations of international humanitarian law, reported to include direct attacks against civilians and civilian objects, indiscriminate bombings, reprisal killings of civilians, summary executions of prisoners, and torture including rape. The United Front forces also committed serious abuses, including summary executions.

Who are the anti-Taleban alliance?

The National Islamic United Front for the Salvation of Afghanistan (United Front) includes many of the parties that formerly belonged to a coalition called the Northern Alliance; the United Front is still commonly referred to as the Northern Alliance. The leadership of the United Front is predominantly non-Pushtun; it is composed of ethnic Uzbeks, Tajiks and Hazaras. As of October 2001, factions allied with the United Front controlled territory in

northern and central Afghanistan. The United Front includes commanders who fought against Soviet and Afghan government forces before 1992, and those who held positions of power in the various governments and armed opposition groups that controlled territory and population during the civil war that followed. The alliance combines groups that have previously fought one another.

The United Front supports the government of the Islamic State of Afghanistan, headed by Borhanuddin Rabbani, which was formed in 1992 and continues to hold the Afghanistan seat at the UN.

While the membership of the United Front changes over time, the following groups are thought to be currently members of the alliance:

- *Jamiat-e Islami* (Society of Islam) – one of the first Sunni Islamic parties, it was established in the 1970s. The leadership is predominantly Tajik. Prominent figures in *Jamiat-e Islami* include President Borhanuddin Rabbani and Ismael Khan, the former Governor of Herat. Ahmad Shah Masood, who was assassinated on 9 September 2001, was the military commander of the United Front, Defence Minister of the ISA and also headed a group called the *Shura-e Nezar Shomal* (Supervisory Council of the North).
- *Hezb-e Wahdat Islami* (Party of Islamic Unity) – formed from eight Shi'a parties in anticipation of the collapse of the pro-communist government. *Hezb-e Wahdat Islami*, which is currently led by Muhammad Karim Khalili, is primarily supported by members of the Hazara ethnic community.
- *Jonbesh-e Melli Islami* (National Islamic Movement) – a predominantly northern, Uzbek group led by General Abdul Rashid Dostum, who formerly led a powerful militia under President Najibullah.
- *Harekat-e Islami* (Islamic Movement) – a Shi'a party led by Sheikh Asif Mohseni.
- *Ittehad-e Islami* (Islamic Alliance) – a Sunni, Pashtun group led by Abdul Rasool Sayyaf.

Humanitarian crisis

Heavy fighting in late 2000 and 2001 exacerbated the already severe humanitarian crisis caused by a prolonged drought throughout much of the country. Between the summer of 2000 and 10 September 2001, nearly one million people had reportedly joined the ranks

of those already internally displaced within Afghanistan; many were uprooted because of the drought.³

Through early 2001, humanitarian organizations were struggling to meet the needs of the displaced; deaths from exposure, malnutrition and disease particularly among children and the elderly, were reported throughout the year. After 11 September, the anticipated US response further increased the number of internally displaced to an estimated total of 1.1 million. The World Food Programme estimates the vulnerable population inside Afghanistan in desperate need of aid to be six million people.⁴

At the start of 2001, according to UNHCR estimates, 1.5 million Afghan refugees were living in Iran and two million Afghan refugees were living in Pakistan.⁵ Pakistan, Iran and Tajikistan had put in place measures to stop or restrict new Afghan refugees in late 2000, and had taken steps to press refugees to return. Following the 11 September events, the threat of a mass influx of refugees led Iran and Pakistan to close their borders with Afghanistan, while Tajikistan maintained the closure of its border with Afghanistan. Nevertheless, UNHCR has been preparing for a projected influx of additional Afghan refugees into the neighbouring countries: one million in Pakistan, 400,000 in Iran, 50,000 in Tajikistan, 50,000 in Turkmenistan, and up to 10,000 in Uzbekistan.⁶

In mid-October 2001, it was reported that several thousand refugees had reached Pakistan despite the closure of the main border-post.

Abuses by the Taleban

Thousands of civilians have reportedly been killed in massacres, and possibly hundreds in indiscriminate attacks by Taleban forces. In one of the largest massacres of the war, in the

³ UNHCR, "Afghan Refugee Statistics," 10 September 2001.

⁴ World Food Programme, "WFP Afghan Emergency Operation: Regional Overview," 16 October 2001.

⁵ UNHCR, "Afghan Refugee Statistics," 10 September 2001.

⁶ UNHCR Emergency Updates, *Afghanistan Humanitarian Update No. 10*, 29 September 2001, <http://www.unhcr.org/> (downloaded 6 October 2001).

days after the Taleban took the northern city of Mazar-e Sharif in August 1998, Taleban guards are reported to have systematically killed thousands of ethnic Hazara civilians in their homes or on the streets. Some groups were reportedly executed in locations between Mazar-e Sharif and Hairatan. Many civilians, including women, children and the elderly were killed in bombardments while trying to flee the city.⁷

The Taleban have reportedly forcibly displaced civilian populations from the Shomali plains (in 1999), Bamiyan (in 1999), and Takhar province (in 2000).

Thousands of prisoners, many of them prisoners of conscience, have been held without charge or trial, most of them members of ethnic minority groups held by the Taleban on suspicion of supporting the anti-Taleban alliance. There are reports of the use of torture during detention in areas controlled by the Taleban. In August 1998, more than 100 people who were held as prisoners reportedly suffocated to death inside metal containers while being transferred from Mazar-e Sharif to Shebarghan.

The Taleban have promulgated official edicts that severely restrict women in virtually all areas of life, including the rights to freedom of movement, expression, association and assembly, as well as the rights to education, health care and work. The edicts are not always enforced in rural areas; primary schools for girls have functioned in many Taleban-controlled areas outside large urban centres. However, in rural areas local cultural practices have long restricted women's rights. The Taleban edicts are generally enforced in urban areas, strictly limiting women's movement and activities. Discriminatory regulations are enforced through cruel, inhuman or degrading punishment. Strict restriction of access to education, work and health care have had disastrous consequences, particularly for urban, educated Afghan women in areas under Taleban control.⁸

The procedures of Taleban *Shari'a* courts fall short of international standards of fair trial. Defendants do not have the right to have a lawyer, there is no presumption of innocence, and there are few opportunities for appeal. These courts have regularly

⁷ See Amnesty International, *Afghanistan: Thousands of civilians killed following Taleban takeover of Mazar-e Sharif*, 3 September 1998 (AI Index: ASA 11/07/98).

⁸ See Amnesty International, *Afghanistan: Grave abuses in the name of religion*, November 1996 (AI Index: ASA 11/12/96); Amnesty International, *Women in Afghanistan: The violations continue*, June 1997 (AI Index: ASA 11/05/97); and Amnesty International, *Women in Afghanistan: Pawns in men's power struggles* (AI Index: ASA 11/11/99).

imposed floggings and amputations and other punishments amounting to cruel, inhuman or degrading punishment or torture for offences such as theft, drinking alcohol or pre-marital sexual intercourse.⁹ Crimes that carry the death penalty include murder, working with the opposition, sodomy, and adultery. Methods of execution include shooting, hanging, slitting the throat, and stoning. During 2000, at least 15 people were executed in public, including one woman who was stoned to death.¹⁰ In January 2001, the Taleban issued an edict declaring that any Muslim converting to another faith or promoting another religion would face the death penalty.¹¹

In June 2001, the Taleban announced that Hindus living in areas under their control would be required to wear distinctive clothing or other markers, which would put them at risk of discrimination and persecution.¹² Amnesty International's understanding is that this measure has not been enforced.

To Amnesty International's knowledge the Taleban have taken no action systematically to bring perpetrators of serious human rights abuses to justice.

⁹ See Amnesty International, *Afghanistan: Cruel, inhuman or degrading treatment or punishment*, November 1999 (AI Index: ASA 11/15/99).

¹⁰ See Amnesty International, *Amnesty International Report 2001*, (AI Index: POL 10/001/2001), page 26.

¹¹ See for example IRIN News Briefs, "Afghanistan: Taliban declares death to converts," 9 January 2001; "Afghan head orders death for religious conversion", Reuters, 8 January 2001; "Apostate to face death in Afghanistan," *Frontier Post* (Peshawar, Pakistan), 9 January 2001; "Decree on religion irreversible," *Frontier Post* (Peshawar, Pakistan), 17 January 2001.

¹² See for example *Radio Voice of Shariah*, Kabul, in Pashto 1500 GMT 23 May 2001 as reported by BBC Monitoring Service, "Afghan Taleban set tags for 'infidels' to avoid 'difficulties'," 23 May 2001; "Taliban seeking 'fatwa' to enforce dress code for non-Muslims", *Agence France Presse*, 21 May 2001.

Abuses by groups within the United Front

United Front forces have reportedly killed, imprisoned and abused civilians on the basis of their ethnic identity or affiliation with the Taleban.¹³

Over 20 mass graves were discovered in 1997 near the city of Shebarghan in the northern province of Jowzjan. The exact number of those buried in the graves could not be established, but most reports put the number at more than 2,000. The dead are believed to include Taleban soldiers taken prisoner and then killed in May-June 1997 by the forces of General Abdul Malik, a commander with *Jonbesh-e Melli Islami* who turned against General Dostum to assist the Taleban, and then switched sides once they had entered Mazar-e Sharif. *Hezb-e Wahdat* forces also reportedly took part in the killings.¹⁴

Other executions have been carried out by United Front forces. For example, in December 2000, six prisoners were executed in the area controlled by the United Front. They were arrested on 4 December, hours after Abdullah Jan Wahedi, a United Front commander and governor of Laghman Province, was shot dead in an ambush. The prisoners were executed by forces under the command of Ahmad Shah Masood within 40 hours of their arrest.¹⁵ In July 2000, it was reported that a spokesman for the United Front had announced that non-Afghan volunteers captured while fighting alongside the Taleban would be court-martialled as spies and possibly executed.

Torture by United Front forces has also been reported. The body of Hemayatollah Hamed Akhundzada, one of the prisoners executed by the United Front administration of Ahmad Shah Masood on 6 December 2000, reportedly bore visible marks of torture. While regaining control of the Bamiyan area in April and May 1999, United Front forces severely beat newly settled people from the Pushtun ethnic group. Fighters from the *Hezb-e Wahdat* group briefly gained control of Yakaolang district in April 1999. They

¹³ See Amnesty International, *Afghanistan: The human rights of minorities*, November 1999 (AI Index: ASA 11/14/99), page 6; and Human Rights Watch, *Afghanistan: Crisis of Impunity, The Role of Pakistan, Russia, and Iran in Fueling the Civil War*, July 2001, page 21.

¹⁴ See Amnesty International, *Afghanistan: Reports of mass graves of Taleban militia*, November 1997 (AI Index: ASA 11/11/1997).

¹⁵ See Amnesty International, *Afghanistan: Executions in Panjshir*, February 2001 (AI Index: ASA 11/004/2001).

reportedly beat people suspected of collaborating with the Taleban, arbitrarily detained dozens of civilians, and ill-treated their relatives.

To Amnesty International's knowledge, the United Front has taken no action systematically to bring perpetrators of serious human rights abuses to justice.

Chapter 3: International issues

Arms transfers fuel abuses by the warring factions

The transfer of weapons to armed groups in Afghanistan has fuelled massive human rights abuses. Soviet forces heavily armed Afghan government forces in the 1980s and left behind an arsenal of weaponry. During the 1980s and 1990s, arms and related supplies were sent to various armed groups in Afghanistan from the USA and some of its West European allies, as well as the former Soviet Union, Pakistan, Saudi Arabia, Slovakia and Iran.¹⁶

None of the countries that have supplied arms and ammunition to armed groups in Afghanistan are known to have ever taken steps to curb weapons supplies to forces who have perpetrated human rights abuses.

The types of weapons supplied to armed groups include anti-personnel landmines, which have been used by all parties to the conflict in Afghanistan for decades. Soviet forces also left minefields. The deadly legacy of this practice continues to plague civilians. According to the International Committee of the Red Cross (ICRC), from March 1998 to December 2000, there were 2,812 mine and unexploded ordnance casualties in Afghanistan, half of whom were children.¹⁷

Since 1994, the main supplies of arms and related items to the Taleban have come from official stocks in Pakistan or from Chinese and other sales through private dealers

¹⁶ See Amnesty International, *Afghanistan: International responsibility for human rights disaster*, November 1995 (AI Index: ASA 11/09/95), page 1; and Amnesty International, *Amnesty International's position on arms transfers and military aid to Afghanistan*, 12 October 2001 (AI Index: ACT 30/033/2001).

¹⁷ International Committee of the Red Cross, "Afghanistan: Concern about growing mine threat," 4 October 2001 (ICRC News 01/39).

based in Pakistan. Supplies to the United Front have reportedly been sent from Iran and the Russian Federation via the Central Asian states, especially Tajikistan, as well as from Slovakia, although the Central Asian states have denied their involvement. In October 2001 Amnesty International called for an end to transfers of arms or security equipment and training to all warring parties in Afghanistan that contribute to gross human rights abuses committed by their armed combatants.¹⁸ Amnesty International expressed concern about proposed arms transfers to the United Front from the USA, Iran, and other states, including Russia, which reportedly planned to deliver up to US\$45 million worth of arms without any human rights conditions. The organization stated that the supply of arms and related equipment and expertise to the United Front failed to take account of serious violations of human rights and humanitarian law by those forces.

International efforts to address the past conflict

The UN and other international actors have made various attempts to find a peaceful solution to the conflict in Afghanistan, although none so far has been successful.

The UN Special Mission to Afghanistan (UNAMA) was established by the UN General Assembly in December 1993 to seek the views of a broad spectrum of Afghanistan's political leadership on how the UN could assist the country to bring about national rapprochement and reconstruction.¹⁹

The "Six-Plus-Two" group consists of the six neighbouring states of Afghanistan (Iran, Pakistan, Tajikistan, Uzbekistan, China and Turkmenistan) plus the USA and Russia. It was established under UN auspices in 1997, with the intention of promoting a peaceful settlement to the conflict. The group has continued to meet since then, and in July 1999 agreed the Tashkent Declaration, a formal statement of its aims. However, several of the Six-Plus-Two group's members, putting their own political and strategic interests first, have continued to provide overt or covert assistance to the warring parties, frustrating progress towards a peaceful settlement.

¹⁸ Amnesty International has published detailed recommendations to governments on the issue of military transfers to parties to the conflict in Afghanistan. See Amnesty International, *Amnesty International's position on arms transfers and military aid to Afghanistan*, 12 October 2001 (AI Index: ACT 30/033/2001).

¹⁹ UN General Assembly resolution 48/208, December 1993.

In December 1999, the UN General Assembly passed a resolution which supported the Secretary-General's intention to:

*"redouble[ing] the efforts of the UNSMA to achieve a durable and equitable political settlement by facilitating an immediate and durable cease-fire and the resumption of a dialogue between the Afghan parties, by instituting a negotiating process leading to the formation of a broad-based, multi-ethnic and fully representative government of national unity and by continuing to work closely with all countries that are willing to help find a peaceful solution to the Afghan conflict, in particular with members of the 'six-plus-two' group, while continuing to monitor closely and encouraging the various peace initiatives of non-warring Afghan parties and personalities."*²⁰

Concerned about reports that the Taleban were providing "sanctuary and training for international terrorists and their organizations", the UN Security Council (taking binding action under Chapter VII of the UN Charter) in October 1999 imposed a freeze of funds and other financial resources owned by the Taleban. It demanded that Osama bin Laden, indicted by the USA in connection with the bombing of US embassies in Kenya and Tanzania in 1998 (and accused by the USA of responsibility for the 11 September 2001 attacks), be handed over to "appropriate authorities".²¹ In December 2000, the UN Security Council decided that the Taleban had failed to respond to its demands, and that this failure constituted a threat to international peace and security. It decided to act again under Chapter VII of the UN Charter to impose further sanctions consisting of an arms embargo and a prohibition of all military assistance to the Taleban.²² The Taleban reacted by threatening to close down UNSMA offices in Afghanistan. Currently, all their offices are closed except their office in Faizabad, which is run by local UNSMA staff.

²⁰ UN General Assembly resolution 54/189A, December 1999, paragraph 13.

²¹ UN Security Council Resolution 1267 (1999), 15 October 1999: "*Demands that the Taleban turn over Osama bin Laden without further delay to appropriate authorities in a country where he has been indicted, or to appropriate authorities in a country where he will be returned to such a country, or to appropriate authorities in a country where he will be arrested and effectively brought to justice.*"

²² UN Security Council Resolution 1333 (2000), 19 December 2000.

The UN Secretary-General has appointed successive special envoys. He has also raised the dire human rights situation in the country in his recent reports to the Security Council and the General Assembly. In his 19 April 2001 report he commented that the situation of women and girls in Afghanistan “remains unacceptable” and that the right to asylum and due process for Afghans who cross international borders “is not being respected”. In that report, the Secretary-General summarized reports of an alleged massacre of civilians by Taleban forces in January 2001 – later providing further details in his 17 August 2001 report – and concluded:

*“Given a well-established pattern of repeated and systematic violations that perpetuate the prevailing climate of impunity, concerted action is needed to hold to account all those responsible for war crimes, breaches of international humanitarian law and gross violations of human rights”.*²³

Following the 11 September 2001 attacks, the UN Secretary-General emphasized on 8 October 2001 that:

*“It is also vital that the international community now work harder than ever to encourage a political settlement to the conflict in Afghanistan. The UN is actively engaged in promoting the creation of a fully representative, multi-ethnic and broad-based Afghan Government.”*²⁴

Underlining that resolve, the Secretary-General reappointed Lakhdar Brahimi, who had served as Special Representative from 1997 to 1999, as his Special Representative for Afghanistan. Lakhdar Brahimi has been given overall responsibility for the UN’s humanitarian and political efforts and will develop plans for the rehabilitation of Afghanistan, working closely with the Secretary-General’s Personal Representative, Mr. Francesc Vandrell, and UNSMA. Lakhdar Brahimi has a mandate to “manage peacemaking activities involving the warring parties and others concerned, with a view to facilitating the establishment of a fully representative multi-ethnic and broad-based government.” Amnesty International is glad to see that the Special Representative for Afghanistan also has a specific human rights mandate which has been given a central place

²³ A/55/907 and S/2001/384 at paragraph 52.

²⁴ Statement by UN Secretary-General Kofi Annan, "To defeat terrorism, we need a sustained effort and broad strategy that unite all nations," 8 October 2001.

in his mission: “The Special Representative will advocate...the rights and protection of affected populations [and...] ensure that the humanitarian and human rights dimensions of the evolving situation are central to political and security discussions.”²⁵

Chapter 4: Amnesty International’s recommendations to promote a human rights agenda

Making human rights *the* agenda

1. Human rights must be central to the negotiation of any settlement to the conflict in Afghanistan. Any political settlement should contain explicit guarantees from the parties on immediate ending of serious abuses, including extrajudicial killings, torture and arbitrary detention. Specific protection should be sought against retaliation and discrimination against ethnic and religious groups.
2. The parties to any political settlement should undertake to end systematic discrimination against women and to ensure full respect for their fundamental human rights, including their rights to freedom of movement, expression, association, education, employment and health.
3. A political settlement must be based on broad consultation and participation by the widest possible cross section of Afghan society. The aim of negotiations should be to help create institutions of governance committed to and capable of effectively protecting human rights. Particular emphasis should be placed on adherence to the fundamental principle of non-discrimination, so as to ensure the full protection and meaningful participation of women and all religious and ethnic groups.
4. Measures for the effective protection and verification of human rights should be incorporated into any settlement of the conflict. International human rights field monitors should be deployed throughout Afghanistan as soon as possible. The monitors should include experts on women’s rights. Impartial human rights monitoring would assist in protecting human rights as well as building confidence in the process towards peace. Pending their deployment in Afghanistan, the monitors could be placed in neighbouring countries to collect and analyse information to

²⁵ Terms of reference for the Special Representative for Afghanistan, 3 October 2001, A/56/432 and S/2001/934.

assess the prevailing human rights situation in Afghanistan, to publicly report on their findings and to inform the peace making process in Afghanistan.

5. Those entrusted with positions of leadership in a post-conflict Afghanistan must be individuals with a genuine commitment to the protection and promotion of human rights for all. The past human rights record of such people should be taken as a measure of their integrity. Particular consideration should be given to including those who have been denied participation in the past because of systematic discrimination, such as women.

End impunity

6. No amnesties, pardons and similar measures should be granted that would prevent the emergence of the truth, a final judicial determination of guilt or non-guilt, and full reparations to victims and their families. Any political settlement must exclude the granting of pre-conviction amnesties for alleged perpetrators of serious human rights abuses and violations of international humanitarian law.
7. Perpetrators should be brought to justice regardless of rank or other status, in accordance with international fair trial standards, and without recourse to the death penalty or other cruel, inhuman or degrading punishment.
8. States should take steps to ensure that universal jurisdiction is exercised by their national courts for war crimes and other serious abuses of human rights committed in Afghanistan, in an effort to ensure that all perpetrators are brought to justice.

Military, security and police transfers

9. Governments transferring arms or considering transfers of arms or other military assistance to any of the armed groups engaged in armed conflict in Afghanistan must ensure through appropriate monitoring that these transfers are not then used to commit human rights abuses.²⁶

²⁶ See Amnesty International, *Amnesty International's position on arms transfers and military aid to Afghanistan*, 12 October 2001 (AI Index: ACT 30/033/2001).

10. Governments must immediately withhold all future supplies if credible reports are received of serious human rights abuses or war crimes committed by combatants to whom they have supplied arms or expertise, where those responsible are not brought to justice.
11. Disarmament and demining should be included as important components of a political settlement, and should be adequately resourced and supported by the international community.

Stop the use of child soldiers

12. All parties to the conflict must ensure that they do not recruit or deploy anyone under 18 years of age. Any person under 18 years of age who is currently a member of the armed forces of any of the parties to the conflict should be demobilized. Steps should be taken to ensure their safe return to their families and communities, and full reintegration into civilian life.
13. Priority and sufficient resources must be provided to develop programs for the demobilization and reintegration into civilian life of child soldiers in Afghanistan.

Protection of refugees and internally displaced persons

14. The voluntary return of refugees and internally displaced persons should be an important part of the process of national reconstruction. All those returning should receive adequate protection and assistance for their reintegration.
15. Repatriation of Afghan refugees should be voluntary and in accordance with the principles of international law. Voluntary repatriation must not violate or undermine the principle of non-*refoulement* (forcible return of a person to a country where they risk serious human rights abuse), and must be carried out in conditions of safety and dignity. Refugees should always be offered the opportunity for an individual assessment of their continued need for protection before being expected to return. Refugees should have access to independent, impartial and objective information about the human rights situation in Afghanistan.
16. During the course of their displacement and the process of return and reintegration or resettlement, internally displaced persons must be protected in accordance with

the 1998 UN Guiding Principles on internal displacement. All parties concerned should grant and facilitate the free passage of humanitarian assistance provided in accordance with the principles of humanity, neutrality and impartiality.

17. Pending the voluntary return of Afghan refugees, the countries of asylum should continue to provide them with international protection. Pakistan, Iran, Tajikistan, Turkmenistan and Uzbekistan should immediately open their borders to those in need of asylum, and the international community must assist host states in keeping with the principles of international solidarity and responsibility-sharing. Refugee camps should be located at a safe distance from the border and the civilian nature of the camps should be respected.
18. Screening of refugees in neighbouring countries should respect the principles of international refugee and human rights law.
19. The UN High Commissioner for Refugees (UNHCR) should be given full access to the refugees and returnees and allowed to carry out its mandate of international protection.
20. Particular attention should be given to groups with special protection needs, such as women, children and the elderly.

Human rights institution-building

21. The national reconstruction of Afghanistan must include the development of institutions for the promotion and protection of human rights, including law enforcement agencies trained in international standards and able to promote and protect human rights, and a judiciary capable of conducting fair trials. This task must be included at the outset of any program of institution-building in the country, as it is central to the effective protection of human rights.
22. An expert commission should be established to examine and advise on how to rebuild the criminal justice system in Afghanistan in line with international human rights standards. The commission could also advise on the mechanisms best suited to address past human rights abuses in Afghanistan, the abuses committed during the present conflict, as well as abuses taking place during the transition to a fully-fledged, functioning and fair judiciary.

23. The expert commission should be established without delay. It should be independent and impartial, and be provided with sufficient personnel and financial resources and include members with specific expertise in women's rights. International support for its work should be considered.
24. The UN and the international community must actively and strongly support the task of institution-building and reconstruction in Afghanistan, and ensure that human rights protection and verification are given a central place in the process of reconstruction. The UN human rights mechanisms should provide expert advice to the UN in carrying out this function.
25. The international community must make a serious, consistent and long-term commitment to help create the necessary mandate and provide the necessary resources to enable the UN to carry out its task effectively.