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**Human Rights Council**

**Fifty-seventh session**

9 September–9 October 2024

Agenda item 2

**Annual report of the United Nations High Commissioner**

**for Human Rights and reports of the Office of the**

**High Commissioner and the Secretary-General**

 The human rights situation in Afghanistan

 Report of the Office of the United Nations High Commissioner for Human Rights[[1]](#footnote-2)\*

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| *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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 I. Introduction

1. The present report is prepared pursuant to Human Rights Council resolution 54/1, requesting the Office of the 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. This report was prepared by the Office of the High Commissioner for Human Rights in cooperation with the Human Rights Service of the United Nations Assistance Mission in Afghanistan (UNAMA). The report was shared the Permanent Mission of the Islamic Republic 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 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 *de facto* Ministry of Foreign Affairs’ Directorate of Human Rights and International Women’s Affairs. UNAMA has published seven public reports[[2]](#footnote-3) based on its human rights monitoring since the last report of the Office of the High Commissioner[[3]](#footnote-4). 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 until 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 international community.

 II. The 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, due to the *de facto* authorities continued ban on girls’ education beyond grade six. Women’s freedom of movement is restricted by requirements to be accompanied by a *mahram* (male 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 freedoms of opinion and expression and have faced punishment. Taken together, this web of controls inflicted on women and girls and their agency, in furtherance of policy of the *de facto* authorities, is widespread and systematic, and constitutes a form of systematic gender persecution.

7. Following the Taliban’s takeover of Afghanistan in August 2021, the *de facto* authorities ordered the majority of 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 “standardise” the salaries of women civil servants hired by the former administration to 5,000 Afghanis (approximately 70 USD) 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.[[4]](#footnote-5) Some, however, were subjected to further punishments and ill-treatment.

9. Though women and girls in Afghanistan have long been subject 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[[5]](#footnote-6). 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 are responsible for handling such complaints. Many survivors reportedly prefer to seek redress through traditional dispute resolution mechanisms due to fear of the *de facto* authorities. Traditional mechanisms often put women at a disadvantage, with settlements usually reflecting mainly interests of the families and male perpetrators rather than female victims. The *de facto* police, courts and departments of justice appear to prioritise 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. The 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 seen measures of increased exports, appreciation in the value of Afghani currency, and decreasing 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 2023 Socio-Economic Outlook prepared by UNDP showed that 84 percent of the population were below the national poverty line, and this rose to 90 per cent in terms of food poverty exacerbated by inflation of food prices. The report found that more than three quarters of the Afghan population were borrowing money to buy food and spend whatever remained (if anything) on essential healthcare and tertiary basic needs.[[6]](#footnote-7)

11. This extremely precarious situation is compounded by ongoing humanitarian crises, which also disproportionately impacted 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. Afghanistan’s topography, the effects of climate change and socioeconomic vulnerability combined to increase the deadly impact of natural disasters, while the country has little infrastructure or resources to prepare for, and respond to, such events.

12. In 2024, it is estimated that 23.7 million people will require humanitarian assistance, yet, as of 15 May, the Afghanistan Humanitarian Needs and Response Plan for 2024 had received only 16.2 percent of the required USD3.06 billion in funding.[[7]](#footnote-8) The exclusion of women and girls from education and employment opportunities has also negatively impacted the economy.[[8]](#footnote-9) 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 on women’s access to humanitarian assistance and the ability of humanitarian organisations 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 the “Islamic State of Iraq and the Levant – Khorasan Province” group (ISIL-KP), using improvised explosive devices (IED), targeted the Shi’a community. On 13 October 2023, in Pul-e-Khumri, a suicide IED in a Shi’a Mosque killed at least 20 people (19 men, 1 boy) and wounded at least 31 others (ages and genders unknown). On 7 November 2023, an IED attack against a commuter bus in Dasht-e Barchi area of Kabul killed at least 11 men and wounded at least 21 other people (19 men, 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 Giro district of Ghazni province, a group of children found a leftover artillery shell, which detonated, killing nine children from two families (five girls, four boys).

 D. Targeting of members of specific groups

 1. Former government officials and ANDSF

16. The *de facto* authorities reiterated their commitment to a “general amnesty”[[9]](#footnote-10) for former government officials and former members of the Afghan National Defence and Security Forces (ANDSF) of the Islamic Republic of Afghanistan. On 31 December 2023, the *de facto* Ministry of Defence held a press conference stating that the *de facto* security and defence forces were fully committed to the general amnesty.[[10]](#footnote-11) It 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 documented extrajudicial killings, arbitrary arrests and detentions, torture and ill-treatment of, and verbal threats against, former government officials and former ANDSF members by members of the *de facto* authorities. Killings of such individuals by unknown perpetrators also have been documented.[[11]](#footnote-12) 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 arrest and detention, torture and ill-treatment, of individuals accused of affiliation with armed groups, primarily ISIL-KP and the National Resistance Front (NRF).

 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 PenPath NGO 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 co-ordinate and seek approval from the *de facto* authorities prior to publishing a report. In September 2023, three media workers of a radio station in Daikundi were arrested, and the radio station was suspended for several months. Two of them were released without charges, but one of them was later sentenced to one year imprisonment (later released on 6 April 2024) for producing reports perceived as critical of the provincial *de facto* authorities.[[12]](#footnote-13) In April 2024, the operation of two television stations was suspended for alleged failure to comply with journalistic standards.[[13]](#footnote-14) The targeting and detention of workers from Afghan media outlets now based abroad, such as Afghanistan International, Amu TV and Etilat-i Roz, have also been observed.

 F. Treatment of detainees

22. On 20 September 2023, UNAMA published a report on the treatment of detainees in the custody of the *de facto* Ministry of Interior (MoI), the *de facto* General Directorate of Intelligence (GDI) and the *de facto* Office of Prison Administration (OPA)[[14]](#footnote-15). From 1 January 2022 to 31 July 2023, UNAMA documented over 1,600 violations from the time of arrest until release from detention, principally attributable to the *de facto* MoI and *de facto* GDI. Approximately 50 per cent of those violations concerned torture or other forms of ill-treatment, predominantly during questioning of detainees. The report also found systematic violations of detainees’ rights to access lawyers, their families, doctors and judges, as well as arbitrary and prolonged detention. Although the report findings were rejected by *de facto* spokespersons,[[15]](#footnote-16) the *de facto* OPA 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 stated in a press conference that the torture of detainees and their prolonged detention without a court order were absolutely prohibited, claiming that “dozens” 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,[[16]](#footnote-17) 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* Appeal Court judges to visit prisons, engage with detainees and review case files to address prolonged arbitrary detention. The *de facto* Ministry of Justice periodically announced 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 Ghazni city, two men were publicly executed in the Ali Baba Football Stadium;[[17]](#footnote-18) and on 26 February, in Shirbirgan city, one man was publicly executed in the Jawzjan Football Stadium.[[18]](#footnote-19) 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 *qisās* (death penalty) order. 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 photographing the event. In both Ghazni and Jawzjan, local *de facto* officials and hundreds of local residents attended the executions.

25. The *de facto* authorities continued to implement judicially-ordered corporal punishments[[19]](#footnote-20) 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*,[[20]](#footnote-21) 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 Zaranj city, Nimroz province, 25 men were publicly lashed at the Central Sports Stadium.[[21]](#footnote-22) Women, and in some instances children, have also been subject to judicially-ordered corporal punishments. On 14 February 2024 in Bamyan city, the *de facto* authorities lashed 13 people (seven men, five women and one girl) convicted of separate incidents of alleged adultery, illicit relations and running away from home.[[22]](#footnote-23) 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, due to 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 through a decree of the Taliban leader, defining 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 states that threats against a complainant could result in court proceedings. Additionally, 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.[[23]](#footnote-24)

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. On 9 July 2024, UNAMA/OHCHR published a [report](https://unama.unmissions.org/human-rights-monitoring-and-reporting-0)[[24]](#footnote-25) which found that the policies devised and implemented by this *de facto* Ministry have negatively impacted the enjoyment of human rights in various aspects of life, again with disproportionate impacts on women. For example, provincial *de facto* departments 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.[[25]](#footnote-26) 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 UN agencies, including UNCHR, IOM, UNICEF and OHCHR, and appeals to Pakistan to continue its protection of all vulnerable Afghans.[[26]](#footnote-27)

29. From 15 September 2023 to 1 June 2024, IOM and UNHCR recorded more than 610,751 arrivals from Pakistan.[[27]](#footnote-28) Numbers increased from less than 200 per day in early October 2023 to a peak of more than 25,000 per day by early November 2023.[[28]](#footnote-29) 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 percent of arrivals).[[29]](#footnote-30) 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 Iran also increased: according to UNHCR data, 631,000 Afghans were deported in 2023.[[30]](#footnote-31)

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 percent of those returning from Pakistan in 2023 were women or girls.[[31]](#footnote-32) Women and girls are particularly disadvantaged and marginalised, given the *de facto* authorities’ policies on education and employment.[[32]](#footnote-33) 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 parlous economic situation.[[33]](#footnote-34) An estimated three out of four recent returnee households in rural areas lack adequate housing.[[34]](#footnote-35)

 III. Stocktaking of accountability options and processes

31. Resolution 54/1 requested OHCHR to provide a stocktaking of accountability options and processes for human rights violations and abuses in Afghanistan. Accountability for past and current crimes in Afghanistan requires a multi-layered and multi-dimensional approach. Given the complex history of more than 40 years of conflict and international interventions, the scope and range of violations have affected generations of Afghanistan’s people from all communities and have implicated multiple actors, at different stages of the conflict. The following discussion focuses on accountability efforts and options since international military intervention in the country in 2001[[35]](#footnote-36) that ended 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 and associated instruments of international humanitarian law, international human rights conventions,[[36]](#footnote-37) 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 crime of aggression.[[37]](#footnote-38) Those crimes are not subject to any statute of limitations.[[38]](#footnote-39) The Afghan Penal Code, which entered into force in February 2018, incorporates Afghanistan’s substantive treaty obligations under the Rome Statute, and included war crimes, crimes against humanity, genocide and aggression, as well as command responsibility as a mode of liability.

33. Following their takeover of Afghanistan, the *de facto* authorities in November 2021 initiated a review of laws passed under the Islamic Republic of Afghanistan to assess their compliance with *Shari’a* 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 *Shari’a* and that the laws of the previous government had been annulled.[[39]](#footnote-40) The *de facto* authorities currently apply their interpretations of *Shari’a* 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 national level

34. Following the Bonn Agreement of 2001[[40]](#footnote-41), 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 (AIHRC), 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,”[[41]](#footnote-42) that highlighted a strong demand among Afghans for justice and accountability.

36. The Call for Justice report led to the drafting of an “Action Plan for Peace, Reconciliation and Justice”[[42]](#footnote-43) by the President’s Office, the AIHRC and UNAMA, which was launched on 10 December 2006. The Action Plan identified a five-point, four-year process focused on truth-seeking, institutional reform and criminal accountability. This included truth-seeking), reparation measures and accountability mechanisms involving vetting procedures for public office and institutional reform. However, only limited parts of the plan were implemented.[[43]](#footnote-44)

37. In 2007, the National Assembly of the Islamic Republic of Afghanistan adopted the National Reconciliation, General Amnesty and General Stability Law[[44]](#footnote-45) that granted a general amnesty to all political factions and hostile parties who were involved in hostilities before December 2001, including for crimes under international law, and without temporal limitations. Then President Karzai signed the law in December 2008. The then High Commissioner for Human Rights expressed concern over the law, warning it would undermine the process towards securing long-term peace by hindering the re-establishment of the rule of law in Afghanistan.[[45]](#footnote-46) Following international pressure, a clause on rights of the people (victims) was finally included, leaving some scope for limited accountability.[[46]](#footnote-47)

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

39. Concerning accountability for torture and ill-treatment of conflict-related detainees by former Afghan national security and defence forces documented by UNAMA,[[47]](#footnote-48) 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 Attorney General's Office and the Anti-Torture Commission. Torture was also criminalized through adoption of the revised Penal Code (2018), and the Law on the Prohibition of Torture (2018), which also provided for redress for victims. Despite these measures, domestic efforts by the authorities on accountability through investigations and prosecution remained weak,[[48]](#footnote-49) with victims lacking any meaningful possibility of obtaining an effective judicial or administrative remedy for the violations they claimed, while prosecutions were rare[[49]](#footnote-50).

40. In February 2018, an “International Crimes Directorate” was established within the Attorney-General’s Office to investigate allegations of violations of international human rights law and gross international humanitarian law committed during the conflict which had been integrated in the newly adopted Penal Code. Given the Status of Forces Agreements at the time which precluded jurisdiction over crimes involving foreign forces,[[50]](#footnote-51) the Directorate focused on crimes by the ANDSF, including the police, and armed groups, including the Taliban and ISIS/ISIL. Following its establishment, it 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 signed between the United States and the Taliban in Doha on 29 February 2020 included provisions for an intra-Afghan dialogue and negotiations, but no specific provisions on justice or accountability. No relevant steps were taken until the time of the takeover in August 2021. Following the Taliban’s takeover of the country, the *de facto* authorities issued a “general amnesty” for former officials of the government of the Islamic Republic of Afghanistan and former members of the ANDSF. 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 ANDSF 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 *de facto* authorities

42. OHCHR’s report to the 54th session of the Human Rights Council[[51]](#footnote-52) analysed weaknesses in institutional protection of human rights and accountability for human rights violations and abuses under the *de facto* authorities. The report highlighted changes introduced by the *de facto* authorities which have 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 these prohibitions.

43. The *de facto* authorities have established internal and external entities tasked with accountability functions, but which are difficult to evaluate in practice. For example, *de facto* MOI, GDI and OPA each have internal directorates tasked with oversight of the conduct of their respective personnel, which conduct investigations and refer established allegations to their respective leadership for action.[[52]](#footnote-53)

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 their investigation and response, followed (where resolution is not possible) by referral the *de facto* military courts for adjudication.[[53]](#footnote-54) On 13 April 2024, the *de facto* Ministry reported receiving and addressing 6,800 complaints in the previous year, with most complaints related to land disputes and occupation of homes, and improper conduct of some *de facto* personnel,[[54]](#footnote-55) although there is no information on decisions taken and 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 *Shari’a* law.[[55]](#footnote-56) The *de facto* Supreme Court has issued only sporadic announcements on some verdicts,[[56]](#footnote-57) and neither the *de facto* military courts nor the *de facto* Supreme Court publish judgments or outcomes, including on cases involving *de facto* security personnel. This raises concerns regarding the independence of the *de facto* judiciary, the lack of transparency, and effectiveness of remedy, including whether perpetrators of human rights violations and abuses were in fact held duly accountable.

46. Additionally, 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, with particular powers for overseeing investigative activities of *de facto* security institutions and addressing complaints of torture. As per a decree of February 2024, the *de facto* High Directorate refers cases to the provincial military courts for adjudication.[[57]](#footnote-58)

47. Despite these domestic accountability mechanisms, there is little transparency as to the substantive outcomes of their respective processes and the degree to which they provide effective remedy to victims in cases of human rights violations and abuses[[58]](#footnote-59). The barriers to justice are even more daunting for women and girls, given the systemic discrimination they face and the exclusion of women from practicing as lawyers or officials in the justice system.

 D. Accountability of international forces in Afghanistan

48. From the US-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.[[59]](#footnote-60) International forces operated under various Status of Forces Agreements (SOFAs) that established the rights and privileges of each country’s international military personnel present in the country. SOFAs, although country specific, in general provided personnel serving with international forces immunity from the jurisdiction of domestic laws in Afghanistan, but obligated sending countries to investigate violations by their international forces and, where established, to punish them according to their military justice systems. There were also *ex gratia* compensation payments made to victims during this period.[[60]](#footnote-61) These processes generally lacked full transparency and failed adequately to ensure accountability and redress in many cases. In November 2019, the former President of the United States pardoned three members of the US military who military courts had convicted for criminal acts in Afghanistan that amounted to war crimes.[[61]](#footnote-62)

49. As new allegations and evidence emerged in the public domain,[[62]](#footnote-63) 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.[[63]](#footnote-64) 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 alleged war crimes in Afghanistan.[[64]](#footnote-65) The trial has yet to begin.[[65]](#footnote-66) In July 2024, the Defence Department set out a compensation plan for unlawful killings in Afghanistan.[[66]](#footnote-67)

50. On 15 December 2022, the Government of the United Kingdom established an independent statutory inquiry to investigate matters arising from the deployment of British Special Forces to Afghanistan between mid-2010 and mid-2013.[[67]](#footnote-68) That inquiry is ongoing.[[68]](#footnote-69) 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.[[69]](#footnote-70) The Netherlands is also conducting investigations of different aspects of its participation in Afghanistan.[[70]](#footnote-71)

 E. International Criminal Court investigation

51. In November 2017, the then Prosecutor of the International Criminal Court (ICC) 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.[[71]](#footnote-72) Following authorisation of 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’s takeover, the ICC Prosecutor, citing the lack of prospect of Afghan investigations continuing, requested authorization to resume the investigation. In a statement issued the same day, citing limited resources available to the Office of the Prosecutor, the Prosecutor indicated focus on alleged crimes by the Taliban and the Islamic State of Khorasan Province (ISKP), while deprioritizing alleged crimes by Afghan security forces and international personnel. In relation to the deprioritized aspects, the Prosecution committed to its evidence preservation responsibilities, and to promote accountability efforts within the framework of the principle of complementarity.[[72]](#footnote-73)

52. On 31 October 2022, the ICC’s Pre-Trial Chamber granted the Prosecutor’s request to authorize resumption of his investigation. On 4 April 2023, the Appeals Chamber clarified 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”.[[73]](#footnote-74) The investigation is continuing.

 F. International Court of Justice

53. Against the backdrop of increasing seizing of the International Court of Justice to address legal aspects of situations of serious human rights violations, stakeholders have raised the possibility that the International Court of Justice could also be requested to address relevant legal questions involving Afghanistan as State party to relevant human rights treaties, where jurisdiction is available. For example, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 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 Article 29 of the Statute. 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 currently with open cases in respect of extraterritorial conduct remains reportedly modest (13 States).[[74]](#footnote-75)

55. With respect to Afghanistan, cases under such principles have been brought on behalf of Afghan victims of crimes under international law in Germany, the Netherlands and the United Kingdom for violations or abuses committed prior to the Taliban’s rise to power in the 1990s.[[75]](#footnote-76) 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 has already established a mandate for a Special Rapporteur on Afghanistan since 2022, with the mandate to document and preserve information on human rights abuses and violations responsibility, again with additional resources including for investigation, information management and a database.[[76]](#footnote-77) 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 High Commissioner for Human Rights, also continues information-gathering, analysis and documentation of reports of serious human rights violations, including through its public reporting on human rights issues of concern.

 IV. Conclusions and recommendations

57. The human rights situation in Afghanistan continues to deteriorate, in particular regarding the ongoing, systemic persecution of women and girls on account of their gender. The vast majority of the population remains trapped in poverty and food insecurity, 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 continues to be applied, in public, as well as corporal punishment, 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 on 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 to ensure 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 future.

59. Given this complexity, 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.

60. *Firstly*, a comprehensive approach should encompass all the different periods of the conflict and responsibilities of all parties and perpetrators. *Secondly*, accountability efforts must be multi-dimensional, pursued through a variety of different but complementary tracks, rather than limited to a single process or mechanism. These should encompass the full range of available mechanisms, before both international and national mechanisms, including proceedings in both civilian and military courts of concerned States, as well as the exercise of appropriate forms of universal or extraterritorial jurisdiction in third States, consistent with international law. To the extent capable of meeting international standards, domestic processes in contemporary Afghanistan also have a role to play. *Third*, accountability efforts should not be limited to criminal justice interventions, but apply the full array of transitional justice elements, including truth-seeking, justice, reparation and guarantees of non-recurrence, including memorialisation. *Fourth*, accountability efforts must be victim-centred, aimed at making a tangible impact for victims, and be developed, as far as possible, through broad and inclusive consultation with and meaningful participation of victims. *Fifth*, particularly in the current context, accountability processes 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. *Sixth*, existing mechanisms need to be strengthened, including the capacity of OHCHR in collecting, preserving and analysing evidence of crimes in a way that could be used to facilitate future accountability and transitional justice processes.

61. Delivering accountability to perpetrators of gross human rights violations and abuses and serious violations of international humanitarian law through all available processes is an essential pillar needed for long-term sustainable peace, development and reconciliation in Afghanistan. It is necessary for reestablishing the rule of law, strengthening the institutional protection of human rights and preventing the continued recurrence of grave violations and abuses. It is also necessary for rebuilding trust among the full range of members of Afghan society, and their 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

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

63. 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

64. 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.

1. \* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information. [↑](#footnote-ref-2)
2. See [HUMAN RIGHTS MONITORING AND REPORTING | UNAMA (unmissions.org)](https://unama.unmissions.org/human-rights-monitoring-and-reporting-0). [↑](#footnote-ref-3)
3. A/HRC/54/21. [↑](#footnote-ref-4)
4. See press statement: [UNAMA deeply concerned over detentions of Afghan women and girls | UNAMA (unmissions.org)](https://unama.unmissions.org/unama-deeply-concerned-over-detentions-afghan-women-and-girls-0); and UNAMA, Human Rights Update:, p. 3: <https://unama.unmissions.org/sites/default/files/english_hr_update_22jan_2024.pdf>. [↑](#footnote-ref-5)
5. See: [The Handling of Complaints of GBVAWG English 141223 (unmissions.org)](https://unama.unmissions.org/sites/default/files/the_handling_of_complaints_of_gbvawg_english_141223.pdf). [↑](#footnote-ref-6)
6. 18 April 2023, <https://www.undp.org/afghanistan/publications/afghanistan-socio-economic-outlook-2023>. [↑](#footnote-ref-7)
7. A/78/914-S/2024/469, para 3. [↑](#footnote-ref-8)
8. See footnote 2. [↑](#footnote-ref-9)
9. UNAMA:<https://unama.unmissions.org/barrier-securing-peace-hr-violations-against-former-government-officials-former-armed-force-members>. [↑](#footnote-ref-10)
10. Comments by *de facto* Minister of Defence, 31 December 2023: <https://www.youtube.com/watch?v=xzX_sZTk0Gg>. [↑](#footnote-ref-11)
11. See UNAMA, page. 5, paragraph 2: <https://unama.unmissions.org/sites/default/files/english_hr_update_22jan_2024.pdf>. [↑](#footnote-ref-12)
12. See:: <https://ajso.org/events/1881/>. [↑](#footnote-ref-13)
13. See:<https://afjc.media/english/index.php/events/press-release/afjc-condemns-taliban-s-suspension-of-tv-stations-calls-for-immediate-reversal>. [↑](#footnote-ref-14)
14. See [unama\_report\_-\_eng\_-\_treatment\_of\_detainees\_sept\_23.pdf | UNAMA (unmissions.org)](https://unama.unmissions.org/file/unamareport-eng-treatmentofdetaineessept23pdf). [↑](#footnote-ref-15)
15. See <https://x.com/Zabehulah_M33/status/1704503324668498155?s=20> and <https://x.com/moiafghanistan/status/1704861393743430044?s=20> (in Pashto). [↑](#footnote-ref-16)
16. UNAMA, Human Rights Update, footnote 23, and <https://x.com/moiafghanistan/status/1741398560900251912?s=20> (in Pashto). Available at: <https://unama.unmissions.org/sites/default/files/english_hr_update_22jan_2024.pdf>. [↑](#footnote-ref-17)
17. See: [Supreme Court Of Afghanistan (ستره محکمه ) on X: "The Supreme court of Islamic Emirate of Afghanistan sentenced two murderers on retaliation punishment (Qisas) in Ghazni Province https://t.co/6ZB7Zaglmr" / X](file:///%5C%5Cfshq.ad.ohchr.org%5Credirected%24%5Cewalker%5CDesktop%5CAP%20Section%5CAfghanistan%5CSupreme%20Court%20Of%20Afghanistan%20%28%D8%B3%D8%AA%D8%B1%D9%87%20%D9%85%D8%AD%DA%A9%D9%85%D9%87%20%29%20on%20X%3A%20%22The%20Supreme%20court%20of%20Islamic%20Emirate%20of%20Afghanistan%20sentenced%20two%20murderers%20on%20retaliation%20punishment%20%28Qisas%29%20in%20Ghazni%20Province%20https%3A%5Ct.co%5C6ZB7Zaglmr%22%20%5C%20X). [↑](#footnote-ref-18)
18. See: <https://x.com/SupremeCourt_af/status/1762025353373983231>. [↑](#footnote-ref-19)
19. See UNAMA Human Rights, Brief on corporal punishment and the death penalty [hr\_brief\_on\_cpdp\_03052023-\_english.pdf](file:///C%3A%5CUsers%5Cewalker%5CDownloads%5Chr_brief_on_cpdp_03052023-_english.pdf). [↑](#footnote-ref-20)
20. *Zina* is an Arabic term used to describe the prohibition under Sharia law of sexual intercourse outside of marriage. [↑](#footnote-ref-21)
21. <https://supremecourt.gov.af/ps/node/2624>. [↑](#footnote-ref-22)
22. <https://supremecourt.gov.af/ps/e>. [↑](#footnote-ref-23)
23. For copy of the draft law and manual, see <https://mopvpe.gov.af/dr/media/16> and <https://mopvpe.gov.af/ps/%D9%84%D9%88%D8%A7%DB%8C%D8%AD>. [↑](#footnote-ref-24)
24. UNAMA OHCHR report on Moral Oversight in Afghanistan: [moral\_oversight\_report\_english\_final.pdf (unmissions.org)](https://unama.unmissions.org/sites/default/files/moral_oversight_report_english_final.pdf). [↑](#footnote-ref-25)
25. See <https://twitter.com/MOPVPE1/status/1738801869202293029> (Dari). [↑](#footnote-ref-26)
26. UNHCR, IOM 7 October 2023: <https://www.unhcr.org/asia/news/press-releases/unhcr-and-iom-urge-pakistan-maintain-protection-space-afghans-need-safety>, 3 November 2023: [UNHCR, IOM and UNICEF call for protection of children and families seeking safety in Pakistan – UNHCR Pakistan](https://www.unhcr.org/pk/18737-unhcr-iom-and-unicef-call-for-protection-of-children-and-families-seeking-safety-in-pakistan.html). 15 November 2023, OHCHR, [Türk alarmed by reports of human rights abuses against Afghans forced to leave Pakistan | OHCHR](https://www.ohchr.org/en/press-releases/2023/11/turk-alarmed-reports-human-rights-abuses-against-afghans-forced-leave#:~:text=GENEVA%20%2815%20November%202023%29%20%E2%80%93%20UN%20Human%20Rights,destruction%20of%20property%20and%20personal%20belongings%2C%20and%20extortion.).https://www.ohchr.org/en/press-releases/2023/11/turk-alarmed-reports-human-rights-abuses-against-afghans-forced-leave https://www.ohchr.org/en/press-releases/2023/11/turk-alarmed-reports human-rights-abuses-against- afghans-forced-leave [↑](#footnote-ref-27)
27. <https://pakistan.iom.int/sites/g/files/tmzbdl1121/files/documents/2024-06/unhcr-iom-flash-update-21_v1.pdf>. [↑](#footnote-ref-28)
28. Border Consortium, *Emergency Border Operations (10-23 March 2024)*, 1 April 2024: <https://reliefweb.int/attachments/6fdcdb36-6fb4-4651-8d12-c7bcb4cfbaff/border-consortium-emergency-border-operations-10-23-march-2024_0.pdf>. IOM, *DTM Flow Monitoring of Afghan Returnees – Bi-Weekly Report (16 - 30 November 2023)*, 6 December 2023: <https://dtm.iom.int/reports/flow-monitoring-afghan-returnees-bi-weekly-report-16-30-november-2023>. [↑](#footnote-ref-29)
29. UNHCR, IOM, *UNHCR-IOM* *Flash update #8, )*, 6 December 2023: <https://pakistan.iom.int/sites/g/files/tmzbdl1121/files/documents/2023-12/unhcr-iom-flash-update-8-pakistan.pdf>. [↑](#footnote-ref-30)
30. Ibid. [↑](#footnote-ref-31)
31. UNHCR,28 May 2024: <https://dataviz.unhcr.org/products/gotm/2024-05-28/forced-returns-to-afghanistan.html>. [↑](#footnote-ref-32)
32. OHCHR15 November 2023: <https://www.ohchr.org/en/press-releases/2023/11/turk-alarmed-reports-human-rights-abuses-against-afghans-forced-leave>. [↑](#footnote-ref-33)
33. Ibid. [↑](#footnote-ref-34)
34. See footnote 35. [↑](#footnote-ref-35)
35. UNAMA’s original mandate, in UN Security Council Resolution 1401 (March 2002) was to support the implementation of Bonn Agreement. [↑](#footnote-ref-36)
36. See the ratification status of Afghanistan by human rights treaty at <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN>. [↑](#footnote-ref-37)
37. [Rome Statute of the | International Criminal Court (icc-cpi.int)](https://www.icc-cpi.int/publication/rome-statute-international-criminal-court) Article 6 (genocide), 7 (crimes against humanity), 8 (war crimes), 8bis (crime of aggression). [↑](#footnote-ref-38)
38. Ibid. Article 29 Rome Statute — Non-applicability of statute of limitations. [↑](#footnote-ref-39)
39. 12 April 2024: [Islamic Emirate Leader Ratifies Seven New Laws | TOLOnews](https://tolonews.com/afghanistan-188271). [↑](#footnote-ref-40)
40. See S/2001/1154. [↑](#footnote-ref-41)
41. AIHRC, ‘A Call for Justice - A National Consultation on past Human Rights Violations in Afghanistan” (25 January 2005): <https://www.refworld.org/reference/confdoc/aihrc/2005/en/58500>. [↑](#footnote-ref-42)
42. See: Action Plan of the Government of the Islamic Republic of Afghanistan [Microsoft Word - Document1 (aihrc.org.af)](https://www.aihrc.org.af/media/files/Reports/Thematic%20reports/Action_Pln_Gov_Af.pdf). [↑](#footnote-ref-43)
43. Gossman and Kouvo: Tell Us How This Ends <http://www.afghanistan-analysts.org/wp-content/uploads/2013/06/2013-06_AAN_TransitionalJustice2.pdf>. [↑](#footnote-ref-44)
44. National Reconciliation, General Amnesty, and National Stability Law Official Gazette published 2 December 2008. [↑](#footnote-ref-45)
45. See: <https://www.ohchr.org/en/statements/2009/10/high-commissioner-human-rights-concludes-visit-afghanistan>. [↑](#footnote-ref-46)
46. Article 3 states: the provisions set forth in clause (1) and (2) of this article shall not affect the claims of individuals against individuals based up on Haq-ul-labd (rights of people) and criminal offences in respect of individual crimes. [↑](#footnote-ref-47)
47. UNAMA reports on detainee treatment found many conflict-related detainees interviewed had experienced torture and ill-treatment during arrest and interrogation in numerous detention facilities run by the NDS and ANP, with limited accountability for torture or ill-treatment: [UNAMA\_OHCHR\_Detention\_Report\_Feb2015.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/AF/UNAMA_OHCHR_Detention_Report_Feb2015.pdf). [↑](#footnote-ref-48)
48. In 2016, the International Criminal Court (ICC) also noted, in assessing torture and ill-treatment committed by Afghan Government forces as war crimes, that former “Government has prosecuted only two NDS officials (in relation to one incident), and no ANP officials, for this conduct.” 2017 UNAMA Report, p.61, citing the Report on Preliminary Examination Activities 2016, Office of the Prosecutor, ICC (14 November 2016). See [treatment\_of\_conflict-related\_detainees\_24\_april\_2017.pdf (unmissions.org)](https://unama.unmissions.org/sites/default/files/treatment_of_conflict-related_detainees_24_april_2017.pdf). [↑](#footnote-ref-49)
49. See 2015 UNAMA/OHCHR – [unama.unmissions.org/sites/default/files/unama\_detention\_report\_2015\_revised.pdf](https://unama.unmissions.org/sites/default/files/unama_detention_report_2015_revised.pdf). [↑](#footnote-ref-50)
50. See paragraph 49. [↑](#footnote-ref-51)
51. A/HRC/54/21. [↑](#footnote-ref-52)
52. UNAMA, September 2023: [https://unama.unmissions.org/sites/default/files/unama\_report\_-\_eng\_-\_treatment\_of\_detainees\_sept\_23\_0.pdf](https:///unama.unmissions.org/sites/default/files/unama_report_-_eng_-_treatment_of_detainees_sept_23_0.pdf). [↑](#footnote-ref-53)
53. See UNAMA, Human Rights Update , citing Decree regarding enforcement of Law on Complaints Hearing, 8 November 2023, No. 242: <https://unama.unmissions.org/sites/default/files/english_hr_update_22jan_2024.pdf>; and <https://mopvpe.gov.af/dr/media/16>. [↑](#footnote-ref-54)
54. See <https://tolonews.com/afghanistan-188282>. [↑](#footnote-ref-55)
55. Decree on Determining the Jurisdiction of Military Courts Affairs, 28 November 2021, No. 19. [↑](#footnote-ref-56)
56. Such as the verdict by Herat’s *de facto* military court on 29 February 2024 concerning the punishment of eight individuals, who were sentenced to five months imprisonment and 20 lashes. each:<https://x.com/SupremeCourt_af/status/1763085356012896534?s=20>. [↑](#footnote-ref-57)
57. Decree concerning referring cases of the High Directorate of Supervision and Prosecution of Decrees and Edicts to the military courts, 5 February 2024, No. 23. [↑](#footnote-ref-58)
58. In 2019, UNAMA made the same finding,, pages 30 and 31: [afghanistan\_report\_on\_the\_treatment\_of\_conflict-related\_detainees\_-\_17\_april\_2019.pdf (unmissions.org)](https://unama.unmissions.org/sites/default/files/afghanistan_-_report_on_the_treatment_of_conflict-related_detainees_-_17_april_2019.pdf). [↑](#footnote-ref-59)
59. See <https://unama.unmissions.org/protection-of-civilians-reports>. [↑](#footnote-ref-60)
60. See: <https://civiliansinconflict.org/wp-content/uploads/2017/08/CIVIC_Exgratia_payments_2015_Brief.pdf>. [↑](#footnote-ref-61)
61. American Journal of International Law, Volume 114, Issue 2, April 2020 pp. 307–312. [↑](#footnote-ref-62)
62. For example, Four Corners investigations in Australia and a Panorama investigation in the UK: [SAS killings: How a scandal was uncovered (bbc.com)](https://www.bbc.com/news/uk-62083197). [↑](#footnote-ref-63)
63. Available at: [Afghanistan Inquiry | About | Defence](https://www.defence.gov.au/about/reviews-inquiries/afghanistan-inquiry) [IGADF-Afghanistan-Inquiry-Public-Release-Version.pdf (defence.gov.au)](https://www.defence.gov.au/sites/default/files/2021-10/IGADF-Afghanistan-Inquiry-Public-Release-Version.pdf). [↑](#footnote-ref-64)
64. Australian former SAS soldier held over alleged war crime in Afghanistan <https://www.bbc.com/news/world-australia-65010345>. [↑](#footnote-ref-65)
65. See: [Former Australian soldier charged with war crime | Office of the Special Investigator (osi.gov.au)](https://www.osi.gov.au/news-resources/former-australian-soldier-charged-war-crime). [↑](#footnote-ref-66)
66. <https://www.legislation.gov.au/F2024L00903/latest/text>. [↑](#footnote-ref-67)
67. See: [Independent Inquiry relating to Afghanistan (iia.independent-inquiry.uk)](https://www.iia.independent-inquiry.uk/). [↑](#footnote-ref-68)
68. See update: [Spring 2024 Newsletter (iiaweb-prod.s3.eu-west-2.amazonaws.com)](https://iiaweb-prod.s3.eu-west-2.amazonaws.com/Spring-2024-Newsletter-.pdf). [↑](#footnote-ref-69)
69. <https://www.operationburnham.inquiry.govt.nz/>. [↑](#footnote-ref-70)
70. See: [The Dutch are putting the Afghanistan mission under a microscope — critics say Canada should do the same | CBC News](https://www.cbc.ca/news/politics/afghanistan-netherlands-canada-review-1.6263997). [↑](#footnote-ref-71)
71. See ICC, Prosecutor’s Request for authorization of an investigation pursuant to Article 15, 20 November 2017, ICC-02/17-7-Conf-Exp, paras. 269, 272, paras. 276-289. In a process mandated by the Pre-Trial Chamber, 699 victim representations were transmitted to the PTC. [↑](#footnote-ref-72)
72. 27 September 2021, ICC Prosecutor Statement. <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-khan-qc-following-application>. [↑](#footnote-ref-73)
73. 04 April 2023 Appeals Chamber Decision: https://www.icc-cpi.int/court-record/icc-02/17-218. [↑](#footnote-ref-74)
74. 15 April 2024, UJAR 2024: <https://www.fidh.org/en/issues/international-justice/universal-jurisdiction/ujar-2024-an-uneven-expansion-of-universal-jurisdiction>. [↑](#footnote-ref-75)
75. Gossman and Kouvo: Tell Us How This Ends, page 41. [↑](#footnote-ref-76)
76. A/HRC/48/1, 7 October 2021, established the Special Rapporteur’s mandate A previous mandate was terminated in 2005. [↑](#footnote-ref-77)