



Too many missed opportunities: Human rights in Afghanistan under the Karzai administration



Afghan schoolgirls in Kabul, 31 March 2014. AFP PHOTO/ROBERTO SCHMIDT

This scorecard presents an assessment of the human rights record of President Hamid Karzai's administration since he came to power in December 2001, following the ousting of the Taliban. Amnesty International has evaluated overall trends of progress and regression in the state of human rights under the Karzai administration. This evaluation is made against the human rights obligations of Afghanistan under international human rights law and standards, as well as the national constitution, laws and policies promoting human rights.

1. Women's human rights

PROGRESS / STAGNATION

There have been undeniable improvements for women and girls since the fall of the Taliban, much because of the tireless work of women's rights activists themselves. But there are still enormous challenges remaining for women's human rights, and worryingly the past five years have seen attempts to roll back many the limited gains made.

The good

- **Elimination of Violence against Women Law (EVAW)**
Passed in 2009 by presidential decree, the law criminalizes some 20 acts of violence against women and is one of the government's landmark human rights achievements. The government has established prosecution offices on EVAW, under the auspices of the Attorney General's office, in 10 provinces in the country to better handle cases submitted under the law.
- **Women's participation in public life**
The dynamic Afghan civil society features many prominent women's rights activists and organizations. They have done vital work to improve the lives of women and girls, ranging from providing access to health and education for women in local communities, to setting up shelters for those escaping domestic violence. Women are represented to varying degrees in the electoral process and parliament, and to a lesser extent in the cabinet.
- **Girls' access to education**
According to the Afghan Ministry of Education, the enrolment of pupils has risen from 900,000 in 2001, with few girls, to 10.5 million pupils, of whom 42 per cent (4.4 million) are girls. However, the vast majority of girls still leave school when they are between 12 and 14 years old, often due to family pressure, and only around one in ten university students is female.

The bad

- **Endemic violence persists**
Violence against women remains endemic. Thousands of women and girls continue to face domestic abuse, trafficking, so-called "honour" killings, forced and child marriages, and being traded to settle disputes. The Afghanistan Independent Human Rights Commission (AIHRC) documented 6,823 incidents of violence against women between October 2012 and September 2013, although the real number is likely to be much higher.
- **Discrimination still a fact of life**
Many of Afghanistan's commitments on improving women's rights exist on paper only in areas such as in legal protection, human rights, leadership and political participation. A National Action Plan for Women of Afghanistan (2008-2013) did contain strong recommendations on advancing gender equality in government institutions, but most are unfulfilled.

- **Modest gains under threat**

A new Criminal Procedure Code passed by both houses of the Afghan parliament in January 2014 introduced a provision prohibiting relatives of the accused from testifying in criminal cases, which if passed would have made prosecutions in cases of domestic violence less likely to succeed. President Karzai eventually rejected it following an international outcry.

In November 2013, Afghanistan's Ministry of Justice and the Ministerial Committee of Shari'a and Traditional Penalty and Investigating Crimes proposed at least 26 amendments to the country's Penal Code. The changes, if they had been approved, would have reinstated punishments dating back to the Taliban era, including public stoning to death or flogging of up to 100 lashes for "adultery", and amputation of hands and feet for theft and robbery.

In July 2013, the Afghan parliament approved a revised electoral law that reduced the percentage of provincial council seats reserved for women from 25 to 20 per cent.

- **EVAW an unfulfilled promise**

Implementation of the EVAW law has been slow, with prosecution for violence against women cases woefully low. Even the law itself is under threat – conservative MPs tried to weaken EVAW when the Women's Affairs Committee sought parliamentary approval of it in May 2013, however the decision was deferred. Concerns remain about the efficiency of the provincial prosecution offices, in particular in some parts of the country.

- **Women human rights defenders at risk**

Women's rights activists continue to carry out their important work under threats and considerable risk for their own safety. With security worsening, many are starting to self-censor, fearing the consequences of speaking out too strongly. Dozens of high-profile attacks and threats on women have taken place during Karzai's administration with little or no prosecution. For example, Hanifa Safi, the Director for Women's Affairs in Laghman, was shot dead in July 2012 – her successor Nadia Sidiqi was killed just six months later.

- **Moral crimes**

Women continue to be detained and prosecuted for "moral crimes" not recognized in the criminal code, such as "home escape" or "adultery", under the informal justice system that is still influential across much of the country. Many of these women are simply trying to flee abusive marriages.

- **Women's participation in peace and reconciliation processes**

Only nine women have been appointed to the High Peace Council – the body tasked with negotiating with the Taliban and other armed groups – and even these women are effectively excluded from decision-making.

2. Accountability for civilian casualties

REGRESSION

Thousands of civilians have suffered due to targeted and indiscriminate attacks during the conflict. Although armed opposition groups like the Taliban have been behind the vast majority of attacks, national and international security forces are still responsible for a portion of civilian deaths and injuries. There has been virtually no accountability for these incidents, and international troops look set to leave Afghanistan without having put in place a mechanism that can investigate civilian casualties perpetrated by the Afghan forces.

In 2013 alone, the UN Assistance Mission in Afghanistan (UNAMA) documented 8,615 civilian casualties (2,959 civilian deaths and 5,656 injured) – 74 percent of them caused by anti-government elements, and 11 percent by Afghan and international troops. This marked a seven percent increase in deaths, a 17 percent increase in people injured, and a 14 percent increase in total civilian casualties compared to the previous year. 2013 also saw the highest recorded number of deaths and injuries of women and children from conflict-related violence since 2009.

The bad

- **Widespread violations by pro-government forces**

Afghan security personnel and international forces continue to cause civilian deaths and casualties, mainly through airstrikes. Reports of torture and other ill-treatment in Afghan-led detention facilities are still rife.

- **Impunity**

There is still no effective mechanism to monitor, investigate and report publicly on civilian deaths and injuries or destruction of civilian buildings by the Afghan security forces. Prosecution of suspected perpetrators of human rights violations is rare, and many continue to walk free. Such mechanisms must be established before the scheduled withdrawal of international troops by the end of 2014.

3. Protecting the internally displaced

PROGRESS

Many of Afghanistan's more than 600,000 internally displaced people (IDPs) live in desperate conditions, and their numbers have swelled as the conflict has intensified. The drawdown of international combat forces this year, and the accompanying uncertainty around security, is likely to trigger further displacement. With international aid money also drying up, Afghanistan's IDPs face an increasingly uncertain future. The National Policy on Internal Displacement passed earlier this year is a major achievement that could go a long way towards improving the lives of Afghanistan's internally displaced, but it has to be given the necessary resources and urgency it deserves.

The good

- **Passing a new IDP policy**

The National Policy on Internal Displacement approved by President Karzai in February 2014 is a landmark achievement which, if implemented properly, will go a long way towards providing protection and much-needed aid to Afghanistan's displaced. The policy had been several years in the making, and contains many innovative measures that could dramatically improve the lives of displaced Afghans, including particular provisions for groups like women, the elderly and children. This includes helping IDPs integrate within new communities and protecting them against forced evictions from their new homes. The policy crucially also recognizes IDPs as defined under international law, which should result in hundreds of thousands more having access to much-needed assistance.

The bad

- **Unacceptable levels of internal displacement**

Today there are more than 600,000 internally displaced in Afghanistan, largely as a result of the conflict, a number that has almost doubled since 2009 as insecurity has increased. Many live on the margins in cramped makeshift dwellings, with meagre access to affordable food, water, health and education.

- **IDPs long neglected**

Despite the dismal levels of protracted displacement, IDPs have for too long been ignored by the government. Rights to adequate housing, food, water and sanitation, health, education and other human rights have not been fulfilled. Authorities have often effectively discouraged humanitarian organizations from providing any assistance that suggests a degree of permanence for IDP settlements. Over the past two winters there have been more than 100 confirmed IDP deaths in Kabul, mostly children, from sickness or the cold temperatures.

Displaced families live under the constant threat of forced eviction. Some communities have been able to meet with government officials and obtain promises that they can remain where they are. In other cases, however, families must rush to move their belongings before bulldozers level their shelters.

4. Accountability for past human rights violations

REGRESSION

The Karzai government has only made a token effort to secure accountability for crimes of the past. Former warlords and military commanders accused of serious human rights violations and war crimes not only continue to walk free, but some even occupy high positions in government and parliament. The Afghanistan Independent Human Rights Commission (AIHRC) has been consistently undermined, often because of its work on transitional justice.

The good

- **Small steps towards accountability for government officials**

A panel was established in 2009 to advise the president on the human rights background of prospective senior political appointments. Although a positive step that at least saw the government acknowledging the issue of past crimes, the panel has been a disappointment. It has not emerged as a credible vetting mechanism to prevent individuals facing credible allegations of human rights abuses or war crimes from holding public office.

- **The Rome Statute**

The Afghan government ratified the Rome Statute in 2003, the treaty that established the International Criminal Court (ICC). A preliminary report by the ICC prosecutor's office in 2013 found that "war crimes and crimes against humanity were and continue to be committed in Afghanistan" – the Court is now examining whether the Afghan government is taking the necessary steps to investigate and prosecute these crimes.

The bad

- **Impunity rife across the board**

Many of those strongly implicated in past human rights abuses and war crimes – warlords, commanders or others – hold high government positions, or are even among the candidates for this year's presidential elections. Very few individuals have been held to account for the past abuses. A 2005 action plan, approved by the government and international donors, to address past human rights violations and promote national reconciliation, expired in 2009 and was not renewed.

- **Amnesty Bill**

The National Reconciliation, General Amnesty and National Stability Law – known as the Amnesty Bill – was passed in 2007 and granted immunity from criminal prosecution to people involved in serious human rights violations and war crimes over the past 30 years. This also extended to members of the Taliban and other armed groups who pledged to cooperate with the Afghan government.

- **Undermining the Afghanistan Independent Human Rights Commission**

The AIHRC has been consistently undermined by the government. In December 2012, the government removed three human rights commissioners following their role in completing a conflict mapping report which documented human rights violations in Afghanistan between 1978 and 2001. The report, which is thought to implicate many high-level government officials, has yet to be published. In June, 2013 the government appointed five new commissioners, most with questionable human rights records, after inadequate consultation with civil society.

5. Freedom of expression

PROGRESS / STAGNATION

The right to freedom of expression – guaranteed in the Afghan constitution - has, by and large, been respected by the government, although recent moves to strengthen government control of the media sector are worrying. Most Afghans are able to express their opinions and views freely through mass media, peaceful assemblies and demonstrations, as well as through their ever-growing social media presence. The vibrant and steadily improving media community is playing an increasingly important role in holding Afghan leaders to account. But many journalists still live in fear of violence and harassment – from armed groups or government officials – and the level of self-censorship on controversial topics is thought to be high.

The good

- **A vibrant media**

Afghanistan's media is often held up as one of the post-2001 success stories. Relaxed licensing laws have allowed hundreds of media outlets to spring up, many of them providing critical and quality reporting, especially in the larger cities where journalists do not face the same threats and harassment as in the provinces. Social media is growing fast in Afghanistan, and has been used as a tool to document human rights abuses.

The bad

- **Attacks on journalists**

Reporting in Afghanistan is still dangerous. In areas controlled by the Taliban, journalists face severe restrictions on reporting and some have been subjected to threats and attacks. But state actors have also been guilty of intimidation, interference and attacks on media workers, angered by their independent reporting. Many Afghan journalists say they still self-censor, in particular when reporting on alleged human rights violations by high-ranking government officials.

- **Government attempts to tighten control of media**

A draft Mass Media Law, tabled in 2012, proposes greater government control over the media. It envisages the creation of a 15-member High Media Council, headed by the Minister of Information and Culture and comprising other government officials, which would have broad powers to control print and broadcast media. The bill, which provoked an outcry from media outlets and watchdogs, is still being debated in parliament.

6. The death penalty

STAGNATION

Although executions are no longer the regular fact of life they were under the Taliban regime, Afghanistan continues the application the death penalty – the ultimate cruel, inhuman and degrading punishment. Serious questions around the fairness and efficacy of the Afghan justice system make continued executions all the more alarming.

The good

- **Karzai orders review of death row cases**

Recognizing the shortcomings of the Afghan justice system, President Karzai in October 2010 ordered a review of all cases of persons on death row, although executions have nonetheless continued since.

The bad

- **Afghanistan still executes**

Despite serious fair trial concerns, Afghanistan continues the application of the death penalty. Under Karzai's administration, Amnesty International has reported at least 51 executions. There are currently approximately 300 prisoners on death row.