



Afghanistan ten years on: Slow progress and failed promises



An Afghan girl displaced from the conflict from Badghis province western Afghanistan, Herat IDP camp, June 2011, © Amnesty International

1. Legal Respect for Human Rights

PROGRESS

Good record of drafting of national laws and adoption of international human rights standards, including:

- 2004 Constitution guarantees equality among citizens and ensures freedom of expression and association;
- Law on Elimination of Violence Against Women approved by the President and Ministers Council in 2009;
- Convention for the Elimination of Discrimination against Women signed in 2003;
- The International Criminal Court's Rome Statute signed in 2003.

Parliament has enacted several laws that seem to violate international human rights laws, including:

- The 2007, National Stability, General Amnesty and Reconciliation bill (or Amnesty law) that attempts to shield those accused of war crimes and crimes against humanity;
- The 2009 Shi'a Personal Status Law adopted as law several cultural practices discriminatory against women.

2. Human Security

REGRESSION

The impact of conflict on civilians has grown steadily since 2001. As a result, Amnesty International has called on the International Criminal Court to begin the formal process of investigating war crimes and crimes against humanity in Afghanistan.

- Civilian casualties for the early years of the current conflict were not officially documented but a 2002 Guardian report estimated civilian casualties at between 1,300 and 8,000 deaths. Most recent figures by the UN documented at least 1,462 civilians killed by the conflict in the first six months of 2011, which is 28 percent increase compare to the same period last year. Insurgent groups were found responsible for 80 percent of civilian casualties, while international and government forces were responsible for 14 percent.
- Casualties caused by ISAF forces have dropped almost 50 percent after a July 2009 changes in tactics, from 828 civilian deaths caused by ISAF and Afghan government operations in 2008 to 440 in 2010 according to UNAMA annual reports, however aerial attacks and night raids continue to take scores of civilian lives, fuelling local resentments.
- Western, and particularly US, Special Forces continue to operate without transparent rules of engagement and without accountability to Afghans for civilian deaths and injuries and destruction to property.
- The US and Afghan governments continue to rely on poorly trained and undisciplined local militias that frequently engage in human rights abuses to assist in intelligence and military operations.
- Areas heavily affected by the insurgency suffer from serious insecurity, which significantly hinders access to health care, education, and markets.

3. Justice and Policing

PROGRESS/STAGNATION

The Afghan government has made some progress in strengthening the rule of law and delivery of justice by drafting and promulgating new laws and legal procedures; the training of several hundred judges and prosecutors; introducing representation of defendants by defence lawyers; and the creation of a national bar association.

But judicial and security sectors still lack the personnel, infrastructure, training and political will to respect, protect and promote human rights. Most Afghans, and in particular women, have difficulty accessing the formal judiciary courts and legal assistance, and instead, in some 80 percent of disputes, have to rely on informal tribal councils, which abuse fair trial rights and are often discriminatory against women.

- The Taleban and other insurgent groups have used this “justice deficit” to criticize the government and impose their own harsh rules.
- The Afghan National Police, which has some 126,000 personnel today, is poorly paid and trained and notorious for corrupt and abusive practices. Illiteracy, drug abuse and desertion are rampant among its ranks (nearly 20,000 police left the force in 2010).
- The emphasis on building up the numbers of recruits has undermined the quality of recruitment and training programmes, making for a police force that is weak in law enforcement and delivering basic security. In parts of the country the police are seen as a greater source of insecurity than the Taleban, undermining the authority and legitimacy of the central government.
- Arbitrary arrest and detention by the police and other official security agencies, as well as private militias working with Afghan and international security forces, are widespread. The National Directorate of Security (NDS), the intelligence service, continues to arbitrarily arrest and detain suspects without allowing access to defense lawyers, families, courts or other outside bodies. The NDS faces credible allegations of torturing detainees and operating secret detention facilities. NATO suspended transferring detainees to Afghan forces in 2011 after a UN report documented systematic mistreatment of detainees.
- US forces continue to arbitrarily detain Afghans and some foreign nationals without clear legal authority and without adequate legal process. Around 900 detainees remain in detention at the US detention facility in Parwan (outside the site of the former large detention facility at the air force base at Bagram airport) without facing a proper trial in “security internment” of indefinite length. Some have been detained for several years.

4. Elimination of Violence against Women

PROGRESS/STAGNATION

Improvements in security and removal of restrictive Taleban-era practices led to advances in respect for women's rights and gender equality, including the establishment of the Ministry for Women's Affairs, a Constitution that grants women equal status to men, improved access to education and representation of women in parliament. But, Afghan women and girls continue to face endemic domestic violence, trafficking, forced marriages, including child marriages, and being traded in settlement of disputes. The police, the courts and other justice sector officials seldom address women's complaints of abuses, including beatings, rape and other sexual violence.

- Women who sought to flee abusive marriages have often been detained and prosecuted for alleged offences such as "home escape" or "moral" crimes that are not provided for in the Penal Code and are at variance with international human rights law. The handful of existing women's shelters have come under sustained political pressure intended to restrict their activity.
- In areas controlled by the government, women have greater access to education, health care, and work opportunities.
- There have been advances in the formal presence of women in government institutions. Women fill 9 percent of total decision making and policy positions within the Afghan government departments and ministries.
- Afghanistan's Constitution guarantees a quarter of parliament seats for women, and in recent elections, women garnered more seats than granted under the quota.
- In year 2007 the Afghan government approved the National Action Plan for Women of Afghanistan, to promote gender mainstreaming in all Afghan government departments and ministries.
- Law on Elimination of Violence Against Women approved by the President and Ministers Council in 2009.

But serious problems remain in terms of women's access to justice and equality under the law.

- The Shi'a Personal Status Law of 2009 formalized discriminatory social norms towards Shi'a women.
- Afghanistan's Civil Code sets the legal age of marriage at 16 for girls (18 for boys). According to UNIFEM and Afghanistan Independent Human Rights Commission (AIHRC) 56 percent of all marriages in Afghanistan are child marriages.
- In 2010 alone the Ministry of Women Affairs documented 6,765 cases of violence against women countrywide.
- The police frequently fail to investigate or press charges against perpetrators of violence against women and few are ever prosecuted.
- Women are insufficiently represented among the police force and judiciary, with only 119 women judges appointed in 2010 out of 1,577 according to the International Crisis Group.

In areas heavily affected by insurgent groups, women face significant discrimination in terms of access to education, health care, and economic and cultural opportunities. There have been a number of high profile incidents of stoning or physical disfigurement of women accused of violations of the repressive social codes imposed by the Taleban and other insurgent groups. In addition, Afghan women with public roles have faced increasing attacks over the past two years, particularly in areas under Taleban control or influence.

5. “Peace and Reconciliation” with Human Rights

REGRESSION

Insufficient efforts have been made to ensure that human rights are protected during the course of political negotiations to achieve a ceasefire and potential power sharing agreement with the Taleban and other insurgent groups.

- In particular, the Afghan government and its international allies have failed to implement in policy and practice UN Security Council Resolutions 1325 to ensure that women are meaningfully and adequately represented during all stages of the negotiations between the government and the Taleban and other armed groups.
- The “Peace Consultative Jirga” held in June 2010, brought 1700 people from around Afghanistan ostensibly to represent Afghan society, but only 320 seats were allocated to women (increased from the initial 20 seats after sharp criticism from Afghan and international civil society groups).
- A 70 member High Council for Peace was established by President Karzai in October 2010, but only nine women have been appointed to the Council to date.

6. Freedom of Expression and Freedom of Opinion

PROGRESS/STAGNATION

In government controlled areas, Afghan journalists and media have attained some level of freedom of expression despite threats and attacks from both state and non-state actors.

- Government institutions - in particular the NDS - and the Ulema Council (council of religious scholars) have attempted to restrict freedom of opinion and expression. Criminal proceedings have been initiated against individuals for peacefully exercising their freedom of expression and information; but the Afghan government has failed to fully investigate and prosecute all those responsible for attacks on journalists, human rights defenders and others exercising their right to freedom of expression.
- In addition to the risks faced by journalists working in conflict areas, journalists working in Afghanistan have been targeted for politically motivated attacks and criminal kidnapping. The Afghan Nai media watchdog has documented 266 cases of violence against journalists over the last decade.
- In areas heavily affected by the Taleban and other insurgent groups, journalists face severe restrictions in reporting, and are frequently subjected to physical attacks.

7. Access to Health and Maternal Mortality Health

PROGRESS/STAGNATION

In government controlled areas, the coverage of the health care system has increased.

- According to official figures, in 2001 only 9 percent of the Afghan population had access to Public Health services while by the end of the decade, at least some 65 percent of population had access to the health services.

Nevertheless, Afghanistan maternal mortality and under five infant mortality rates are among the highest in the world:

- According to the Afghan government, infant and maternal mortality rates have improved since 2001. The maternal mortality has reduced from 1,600 to 1,400 deaths per 100,000 live births but Afghanistan still has the second highest rate in the world. Infant mortality has improved from 257 to 161 deaths per 1,000 live births annually, though levels are still very high.
- Targeted attacks by insurgent groups and general insecurity seriously hamper aid workers including the medical staff in Afghanistan. Aid agencies have limited to no access to the areas under the control of the Taleban and other anti government groups and as a result millions of Afghans who depend on international aid and health assistances suffer from lack of access to the basic needs including health.

8. Access to Education

PROGRESS/STAGNATION

- Improved security and the removal of Taleban-era restrictions led to a massive increase in school enrolment, with some 7 million children in school, of whom around 2.5 million are girls compared to around 5,000 ten years ago. In 2001 only 900,000 children were enrolled in school.
- But these numbers have reached a plateau and rates of dropping out or absenteeism remain very high, particularly for girls (22 percent for girls, compared with 11 percent for boys). Advance into higher education remains difficult, particularly for girls. According to official data 19 percent of the all enrolled students are either temporarily or permanently absent from school. Oxfam reported in 2010 that 1.9 million girls are enrolled in grades 1 through 6, but only 122,480 in grades 10 through 12.
- Insecurity remains the main challenge and obstacles for access to education, particularly for girls. Insurgent groups, as well as some militias ostensibly allied with the government, have targeted schools, students, and teachers in violation of the laws of war. In the nine months leading up to December 2010 at least 74 schools in Afghanistan were destroyed or closed as a result of insurgent violence including rocket attacks, bombings, arson, and threats. Of these attacks, 26 were directed at girls' schools, 13 at boys' schools, and 35 at mixed schools.
- In areas heavily affected by the Taleban and other insurgent groups, access to education has diminished seriously, particularly for girls. Today around 500 schools remain closed, mainly in conflicted-affected southern provinces due to insecurity and attacks on formal education.

9. Displacement Inside and Outside Afghanistan

STAGNATION

As in 2001, Afghans today constitute one of the world's largest populations of people displaced from their homes. It is estimated that more than 3 million still live as refugees particularly in neighbouring Iran and Pakistan. The number of Afghan refugees registered by UNHCR in September 2001 was 3,600,000. After the fall of the Taliban UNHCR helped to repatriate more than 4.5 millions refugees back to Afghanistan, however the figure of total Afghan refugees for the past ten years remain almost unchanged with people returning and leaving again the country due to growing insecurity.

- Meanwhile, the number of Afghan asylum seekers in the industrialised countries, which had fallen to a low during the first half of the decade dropping to around 10,000 applications between 2004 and 2007 from around 55,000 in 2001, is rising again. Today, Afghans constitute the second highest number of asylum seekers with 24,800 asylum applications in 44 industrialised countries in 2010 making 7 percent of total asylum claims, according to UNHCR.
- In 2001, at least 1.1 million Afghans were internally displaced prior to the US-led military intervention as a result of continuing drought and armed conflict. Today, displacement inside the country has risen sharply. The UN Refugee Agency estimated nearly 450,000 people who have been displaced inside the country. Many of these people have gravitated to the bigger cities, in particular Kabul, Herat, and Mazar-e Sharif, where they face extremely poor living conditions with no or little access to portable water, health, adequate shelter and protection.