Afghanistan

The "Ten-Dollar Talib" and Women's Rights

Afghan Women and the Risks of Reintegration and Reconciliation

HUMAN RIGHTS WATCH

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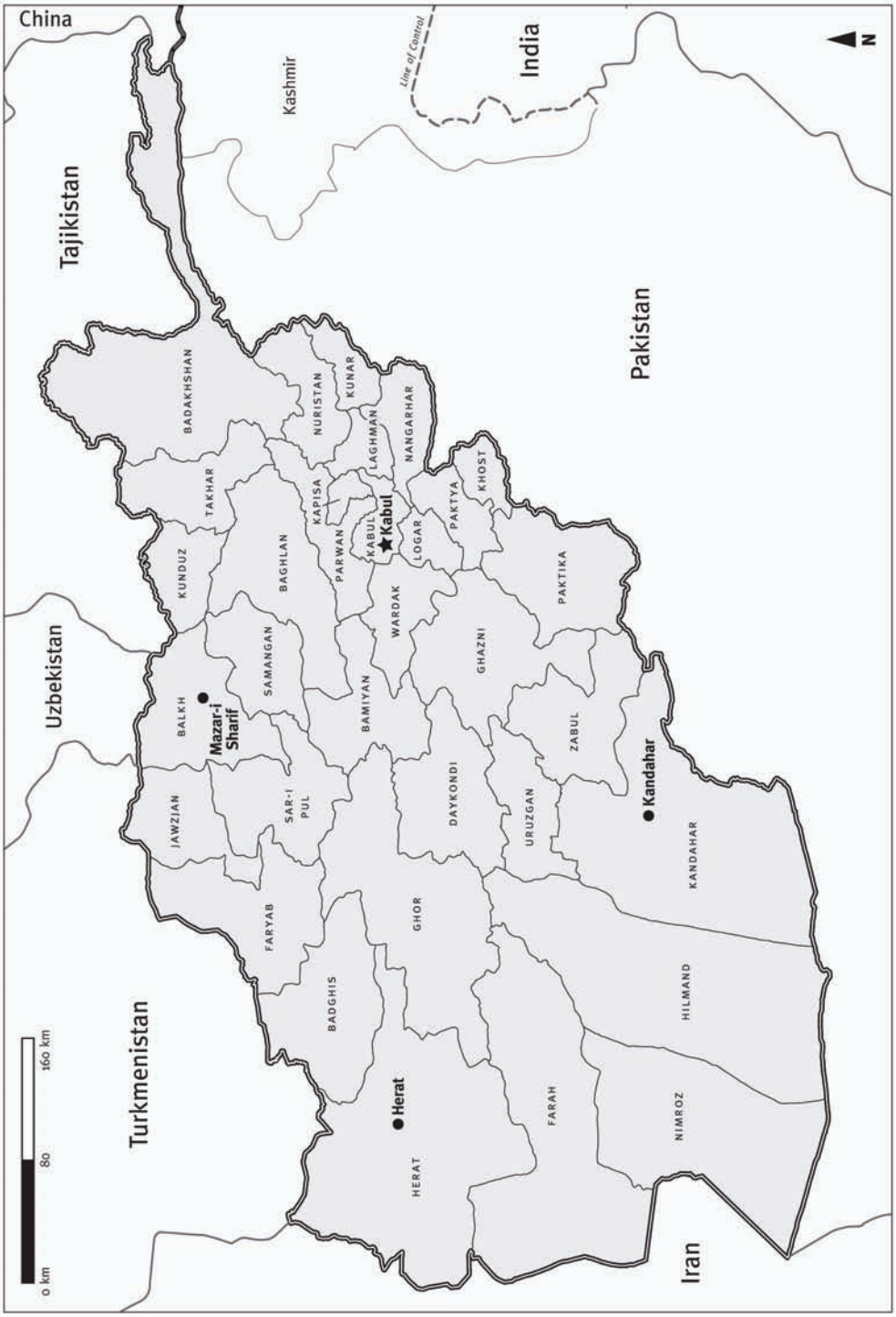
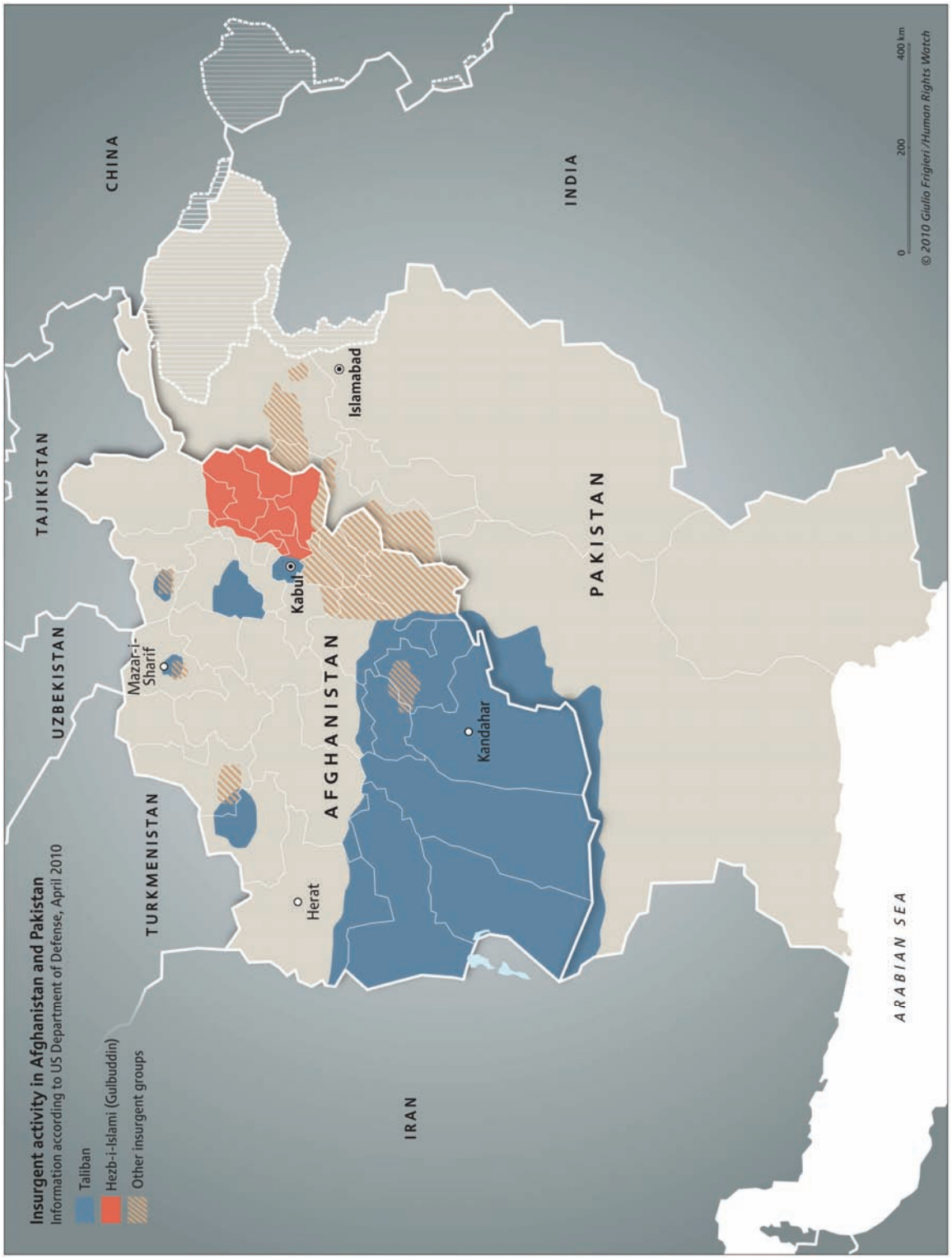


Afghanistan. © 2010 John Emerson/Human Rights Watch



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SUMMARY

We are still under the Taliban and our lives are limited to our house walls… We cannot work. We cannot go out to visit our relatives without our husbands. My daughters cannot go to school… because we were threatened, they left school. What hopes and wishes of leading a normal and peaceful life can I have?

Fatima N., central province, February 18, 2010

I call upon you again that is my brother, my dear, Talib jan *(dear), this is your land. Come back! I will blame myself if it is my mistake in some way, but if it is your mistake, I will not blame you.*

President Hamid Karzai, June 2, 2010[1]

Who suffers first from the war? It is the Afghan women. It is the Afghan women who lose their houses, who lose their husbands who bring the food home. That's why women don't oppose reintegration and reconciliation, because if that will bring peace then why not? But if the government is going to do reintegration and reconciliation overnight… then of course things will get worse for Afghan women.

Samira Hamidi, Executive Director, Afghan Women's Network, Kabul, February 14, 2010

THE "TEN-DOLLAR TALIB" AND WOMEN'S RIGHTS

For Afghan women these are anxious times, caught between war and the prospect of a foreboding peace. Women and girls are paying a heavy price in the conflict areas of Afghanistan: killed and wounded by insurgents and airstrikes; local codes of honor violated by intrusive "night raids" by international soldiers; their movement sharply hindered by insecurity; and for many the loss of their families' breadwinners. Insurgents regularly deny Afghan girls the right to education via attacks on schools and threats against teachers or students. They deny women the right to pursue their own livelihoods, attacking or threatening women working outside of the home.

Afghan women want an end to the conflict. But as the prospect of negotiations with the Taliban draws closer, many women fear that they may also pay a heavy price for peace. Reconciliation with the Taliban, a group synonymous with misogynous policies and the violent repression of women, raises serious concerns about the possible erosion of recently gained rights and freedoms. The prospect of deals with Hezb-i-Islami (Gulbuddin), which is also known for its repressive attitudes towards women, involves similar concerns. Attempts by some promoting negotiations to redefine the insurgency as primarily "non-ideological," which ignores the experiences of women living in Taliban-controlled areas, have exacerbated these anxieties.

Nine years after the military overthrow of the Taliban government, the government of Afghanistan under President Hamid Karzai is promoting negotiations with the Taliban leaders and other insurgent factions. Facing a conflict with no end in sight, an Afghan public increasingly disaffected by thousands of civilian casualties, and pressure for an exit strategy from troop-contributing countries, the government and its international allies increasingly agree on the need for a negotiated settlement. The Afghan government won support at the international conference on Afghanistan in London (the "London Conference") in January 2010 for the reintegration into society of opposition fighters through internationally funded programs. In June 2010 the Afghan government staged a Consultative Peace Jirga (assembly), which gave it a modest mandate to begin reconciliation efforts (the jirga was boycotted by some opposition politicians and by the Taliban). In July 2010 the Kabul Conference will continue the themes of the London Conference, including more detailed commitments by donors to support programs to reintegrate combatants.

This report describes continuing abuses of women's rights by the Taliban and Hezb-i-Islami (Gulbuddin) in areas under their control over the past several years. It also highlights the concerns of Afghan women about possible deals with the Taliban and other insurgent groups under the rubric of "reintegration" (programs to encourage lower-level fighters to stop fighting) and "reconciliation" (peace negotiations with insurgent commanders) and offers recommendations on what such initiatives should include to protect women's rights.

For this report, Human Rights Watch interviewed a selection of working women and women in public life living in areas that the insurgents effectively controlled or where they have a significant presence to illustrate the current nature of the insurgency. Women and girls in many of these areas have found that some of the oppression of Taliban rule from 1996 to 2001 has returned. While these tend to be areas already socially and religiously conservative, the narratives of the women interviewed show how severely insurgent factions impact their lives. After the fall of the Taliban, many found that basic rights long repressed had been restored. They resumed their jobs, sent their daughters to school, voted, and some even went into local politics. Since the resurgence of Taliban and other militant groups took root, from 2005-2006 onwards, women's rights came quickly under attack again.

Many of the women we spoke to had received threatening phone calls and letters. Some had to take their daughters out of school. Many have felt forced to stop work and reduce their movements.

For instance, Asma A. taught in a girls school in a southern province, until she received a threatening letter from the Taliban, which stated:

We warn you to leave your job as a teacher as soon as possible otherwise we will cut the heads off your children and shall set fire to your daughter.

Freshta S. from a south eastern province, told us:

In my village the Taliban distributed 'night letters' [letters with threats or warnings] and warned that women cannot go out and work. If they go to work then they will be killed. This scared me and my family, and since then I have spent all my days at home.

Violent attacks by the Taliban against women, particularly those who work, are commonplace. For example, on April 13, 2010, an unidentified assailant shot a young aid worker, Hossai, in Kandahar, who died from her wounds. In the weeks preceding her death she had received threatening phone calls from someone saying he was with the Taliban, warning her to leave her job. Days later, another woman working with an international nongovernmental organization received a letter telling her that her name was on the same list, and she would be killed next unless she stopped working with "infidels." While men associated with the government are also subject to Taliban attack, women face additional risks.

In the last several years several prominent women in Afghan public life have been murdered, including provincial councilor and peace activist Sitara Achakzai, senior police commander Malalai Kakar, outspoken journalist Zakia Zaki, and women's affairs director Safia Amajan. Their killers have not been brought to justice. This impunity emboldens those responsible and greatly adds to the risks and fears faced by activist women.

Women who speak up for their rights, including female members of Parliament, regularly come under threat. These threats may be greater for those who articulate their fears about the political reemergence of the Taliban, whose leaders are accustomed to threatening and killing those who criticize or oppose them. Some fear that violence and threats directed

against women are likely to increase should Taliban or other insurgent commanders hostile to women's rights be brought into government. According to one leading women's rights activist:

I think it will mean loss of life for women, not just more pressure. Once the Taliban come to power they will find ways to assert their position and their ways of thinking on the people. For them, activists like us are the biggest problem, we shouldn't be here-for them we are the problem.

All of the women interviewed for this report supported a negotiated end to the conflict. But they also expressed the view that if the Taliban gain a share of national power or formally govern whole districts or provinces as part of a peace agreement, the consequences for women's rights could be dire.

Afghan women assert their rights in what is already a deeply hostile political environment. Any assessment of women's rights, and indeed the prospects for long-term peace and reconciliation needs to be made in the context of the very traditional and often misogynistic male leadership that dominates Afghan politics. The Afghan government, often with the tacit approval of key foreign governments and inter-governmental bodies, has empowered current and former warlords, providing official positions to some and effective immunity from prosecution for serious crimes to the rest. Backroom deals with abusive commanders have created powerful factions in the government and Parliament that are opposed to many of the rights and freedoms that women now enjoy. As one activist told us, "We women don't have guns and poppies and we are not warlords, therefore we are not in the decision-making processes."

Concerns that the outcome of reintegration and reconciliation might adversely affect women stem partly from a lack of confidence that the Afghan government will actively protect women's rights. The Karzai government has a track record of sacrificing rights to appease hard line religious factions for political expediency, such as when President Karzai signed the discriminatory Shia Personal Status Law (which denied numerous rights of Shia women, including child custody and freedom of movement), in March 2009 and provided presidential pardons for two convicted gang rapists.

The government has given little reassurance to women who are concerned about the risks of reintegration and reconciliation. In April 2010, the Minister of Economy, Abdul Hadi Arghandiwal, a prominent Hezb-i-Islami leader, reportedly told a gathering of women leaders discussing reconciliation that women would have to sacrifice their interests for the sake of peace.

For the most part, government officials offer the weak promise that only those who are not connected to al Qaeda, renounce violence, and agree to abide by the Afghan constitution will be allowed to reintegrate or join the reconciliation process. Article 22 of the constitution enshrines the equality of men and women. However, the constitution is not a sufficient guarantee as it is routinely ignored and violated, and there are very limited legal avenues for redress. Passage of the Shia Personal Status Law, which on its face violates women's constitutional rights to equality, was a stark example of this. Said one activist, "[The Constitution] doesn't reassure me. The Taliban don't respect the constitution… The Taliban operate on an ideology and their ideology is against women's rights."

It is essential that the Afghan government commit to prioritizing the protection of women's human rights in any negotiations, including the rights to education, work, health care, access to justice, and participation in political life. These represent "non-negotiables" that should be agreed to by anyone who seeks reconciliation with the government.

The full participation of women leaders at the negotiating table will help to ensure that these rights are not traded away. Indeed, one of the best guarantees against the erosion of women's rights is the inclusion of women at all levels of government and a high level of participation in reintegration and reconciliation plans. Through strenuous advocacy efforts, women activists substantially increased their levels of representation–initially promised less than 10 percent, women eventually accounted for 20 percent of the June 2010 Consultative Peace Jirga. Several prominent women's rights activists felt that they were deliberately excluded from the jirga, and female delegates were still underrepresented in leadership levels, including the appointment of only one woman out of 28 committee heads of that assembly. One woman participant told Human Rights Watch: "It was difficult to sit face to face with some of these very fundamentalist people, warlords, religious scholars, and talk about women's rights. But there were 10 or 12 of us women in each of the committees, so we did, and we are still here. This was a big change."[2] President Karzai and several other senior (male) politicians spoke of the need for women's inclusion.

However, the final resolution gave no guarantees that women will be included in significant numbers and at decision-making levels in the implementing bodies for either reintegration or reconciliation, such as the High Level Peace Council or the Joint Secretariat for Peace, Reconciliation and Reintegration Programs. Nor do women have much representation in the government departments and ministries where the most significant decisions are being made. Unless this imbalance is addressed, the risk of their rights being sold short is very real.

Despite promises from Afghanistan's international supporters to promote women's rights, there is reason to fear that they, too, may be prepared to sacrifice women's rights in the search for an exit strategy from Afghanistan. While US Secretary of State Hillary Clinton has been applauded by some women's rights activists for consistently highlighting the situation of Afghan women, President Barack Obama's failure to mention women's rights in his December 2009 policy speech on Afghanistan sent a worrying signal to Afghan women.

Domestic audiences in countries including the United States, Canada and United Kingdom whose troops have suffered considerable casualties during many years of fighting may not easily accept the shift from talk of defeating the Taliban to endorsing reconciliation with the Taliban leadership. In order to sweeten this bitter pill, military and civilian officials from these governments are now keen to stress what is portrayed as the non-ideological nature of the insurgency. Reintegrating the so-called "ten-dollar Taliban," those "moderate," "pragmatic," or "non-ideologically motivated" foot soldiers who fight for money or other economic benefit rather than religious or ideological reasons, dominates the discussion. Said the head of the International Security Assistance Forces' reintegration unit, Lt. General Graeme Lamb: "Who are these Taliban? They are local people, the vast majority are guns for hire, not fighting for some ideological reason."

While poverty and local grievances do help fuel the insurgency, this perspective tends to downplay or disregard the long history of discrimination, abuse and atrocity by the Taliban, and women's continuing suffering at the hands of insurgent groups.

The Afghan government is already undermined by the entrenched power of former warlords and gangster oligarchs. This situation reflects years of deal making made in the name of stability and security for which both the government and its international supporters bear responsibility. Reconciliation with the Taliban and other insurgent groups may sadly follow the same pattern of short-term thinking at the expense of women's rights.

In January 2010 it emerged that the Afghan government had brought into force an amnesty law providing immunity from prosecution to combatants who agree to join the reconciliation process. The law violates Afghanistan's obligations under international law to prosecute all those responsible for war crimes, crimes against humanity, and other serious human rights abuses, including sexual crimes of war. This applies to perpetrators of atrocities on all sides, including Taliban and other insurgent leaders. While it is appropriate to grant amnesties to individuals who merely participated in an armed conflict, those who committed serious violations of international law should not be granted amnesty from criminal prosecution as part of the reconciliation process.

Reconciliation need not and should not follow the pattern long practiced in Afghanistan of co-opting factions by placing them above the law: justice and accountability need to at the core of the reconciliation process, including prosecutions of those responsible for serious crimes and stronger vetting of candidates for elected office and political appointments. Impunity underlies many of the worst rights abuses that women and girls face, from the high rates of gender-based violence to attacks on women in public life. Few perpetrators of abuses against women and girls are ever prosecuted: to welcome those perpetrators into the government or grant them amnesty only entrenches impunity. It also risks hardening an already hostile political environment for women. If women are present at the negotiating table, and on the bodies that implement reintegration and reconciliation programs, they stand a chance of being able to protect their rights.

The government of Afghanistan is under enormous pressure from all sides. The main troop-contributing nations are also under immense domestic pressure to bring their forces home. These pressures should not result in the Afghan people being short-changed in hasty and careless deals that will only result in a rented calm. It will take visionary leadership from both the government and its supporters to ensure that any reintegration and reconciliation process results in a just and inclusive peace that protects the rights of all Afghans, including women and girls.

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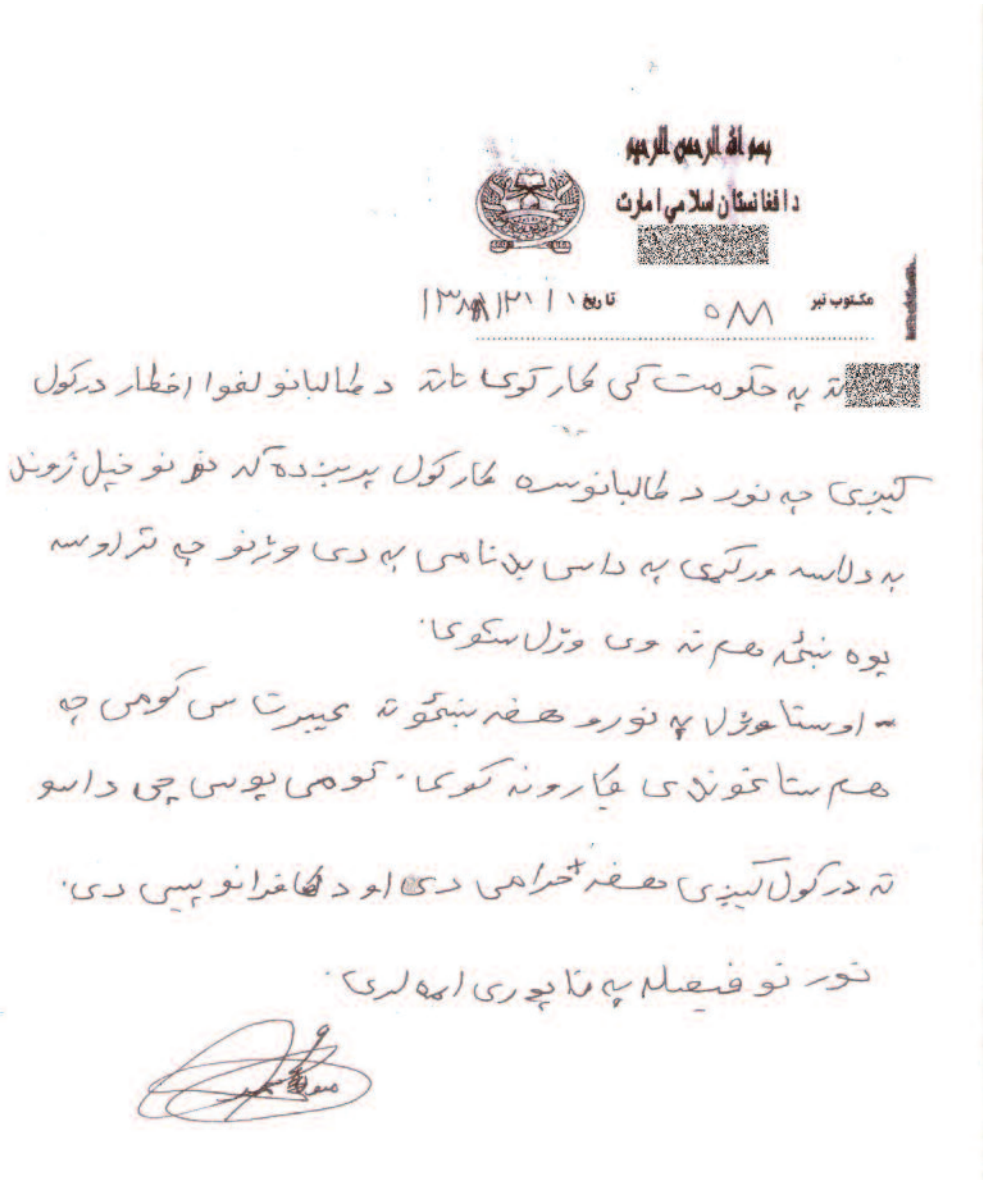
[1] Speech by President Hamid Karzai broadcast on Afghanistan National Television, June 2, 2010 (translation provided by email to Human Rights Watch from diplomat in Kabul, June 11, 2010).

[2] Human Rights Watch telephone interview with women's rights activist, June 10, 2010.

NIGHT LETTERS

Threats received by women living in areas where the Taliban are strong, translated from Pashto.

(Identifying elements have been omitted for security reasons).



بسم الله الرحمن الرحيم

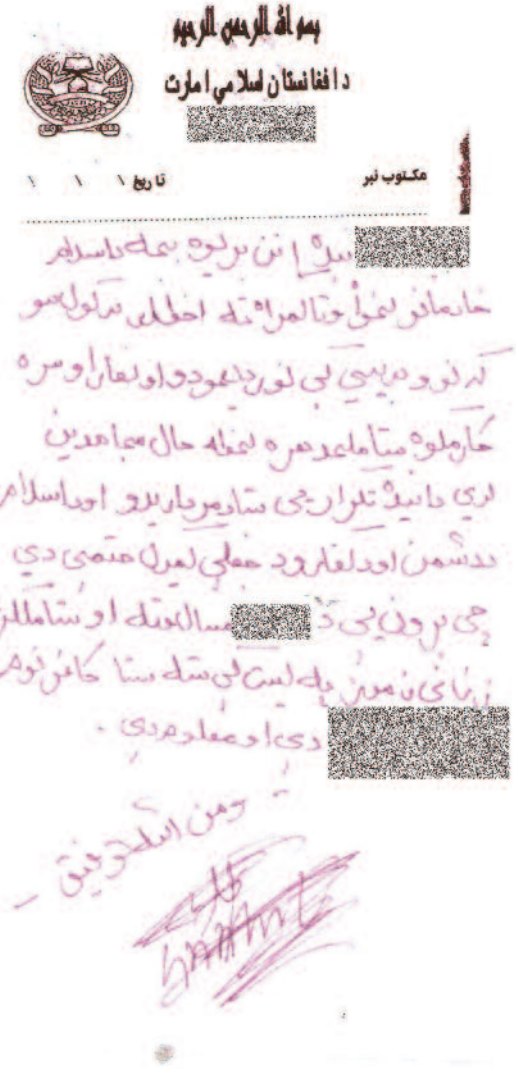
د افغانستان اسلامي امارت

[redacted]

مکتوب نمبر ۵۸ تاریخ ۱۳۸۸/۲/۱

[redacted] ته په حکومت کې کار کوې تا ته د طالبانو لغوا اخطار درکول
کیږي چه نور د طالبانو سره کار کول پرېږده که نو نو خپل ژوند
به دلاسه ورکړې په داسې بدنامۍ به دې وژنو چه تر اوسه
پوه ښځه هم ته دې وژل نشوې.
او ستا وژل به نور هغه ښځو ته عبرت سې کومې چه
هم ستا غوندې کار ونه کوې. کومې پیسې چې داسې
ته درکول کیږي هغه حرامې دي او د کافرانو پیسې دي.
نور نو فیصله به ته پخپله کړې.

[Name], you are working with the government. We Taliban warn you to stop working for the government otherwise we will take your life away. We will kill you in such a harsh way that no woman has so far been killed in that manner. This will be a good lesson for those women like you who are working. The money you receive is *haram* (forbidden under Islam) and coming from the infidels. The choice is now with you.



بسم الله الرحمن الرحيم

د افغانستان اسلامي امارت

[redacted]

مکتوب نمبر

تاریخ / /

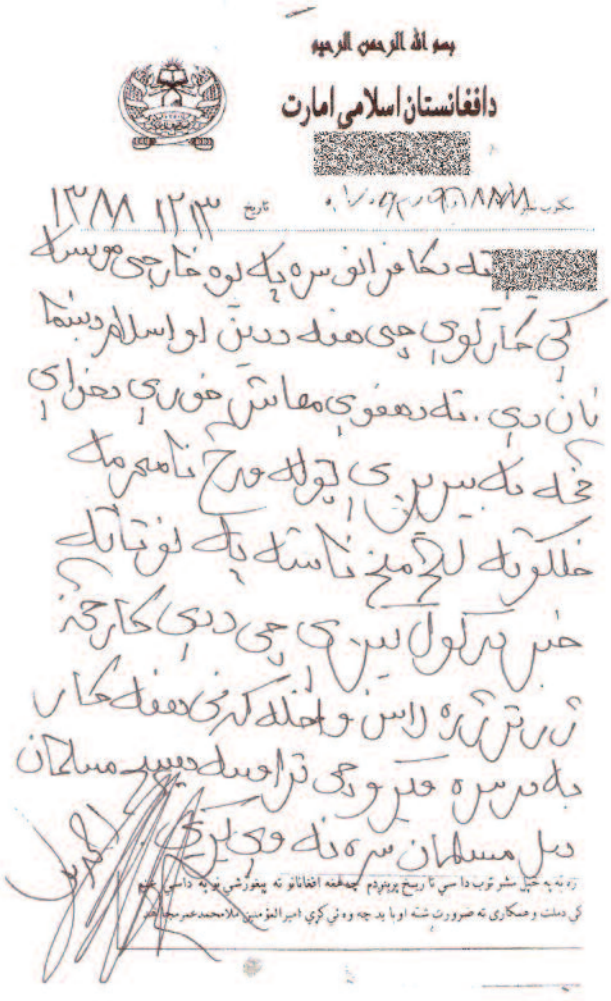
[redacted] سبا

[redacted]

We warn you today on behalf of the Servants of Islam to stop working with infidels. We always know when you are working. If you continue, you will be regarded as enemy of Islam and will be killed.

As we have killed Hossai yesterday whose name was in our list, your name and other women's names are also on our list.

NIGHT LETTERS



بسم الله الرحمن الرحیم

دافغانستان اسلامی امارت

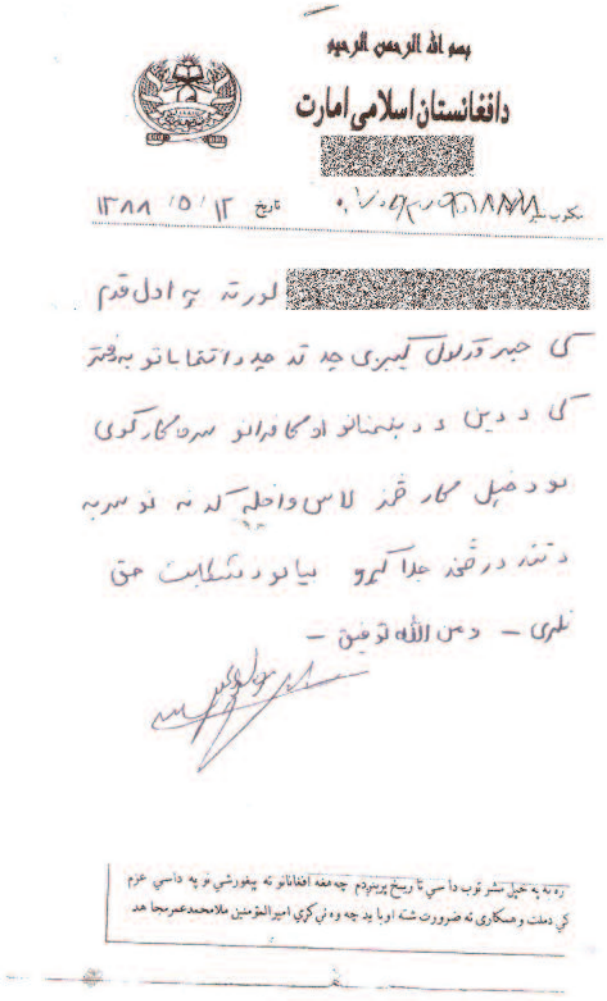
[redacted]

تاریخ ۱۳۸۸ ۱۲ ۱۳

[redacted] تا که کافر انو سره یا له نوه خارجی موسسه
کی کار لری چی هغه د دین او اسلام دښمن
ان دی. ته د هغوی معاش خوری د هغوی
ځه یا بس دی له تول مرج نامحرم
خلکو ته لاس مه ښاسته یا له تو تا تل
خبر ترکول بس دی چی دبی کار څه
ته تر شره راس و اخلاله که نی هغه کار
به در سره مکرر وی تر اوسه دیسی مسلمان
دل مسلمان سره نه وی کړی

زه به خیل شر توب دا سی تا ریښ پرېږدم چه هغه افغانانو ته پیغورشی تو به داسی خبره
کی دملت وصکاری ته ضرورت شته او یا بد چه وه نی کړی امیرالمؤمنین ملا محمد عمر مجاهد

[Name removed] you are working with a foreign organization which is the enemy of religion and Islam. You receive a salary from them. You should be fearful of God. Every day, you shake hands with strangers without covering your face. We, herewith, inform you to stop doing this otherwise we will take such action against you that a Muslim has not yet done to another Muslim.



بسم الله الرحمن الرحیم

دافغانستان اسلامی امارت

[redacted]

تاریخ ۱۳۸۸/۵/۱۲

[redacted] لورته به ادل قدم

کی خبر ورکول کیږی چه ته چه د اتفاقاتو به وخت

کی د دین د دښمنانو او کافرانو سره کار کوی

نو د خپل کار څخه لاس واخلې که نه نو سر به

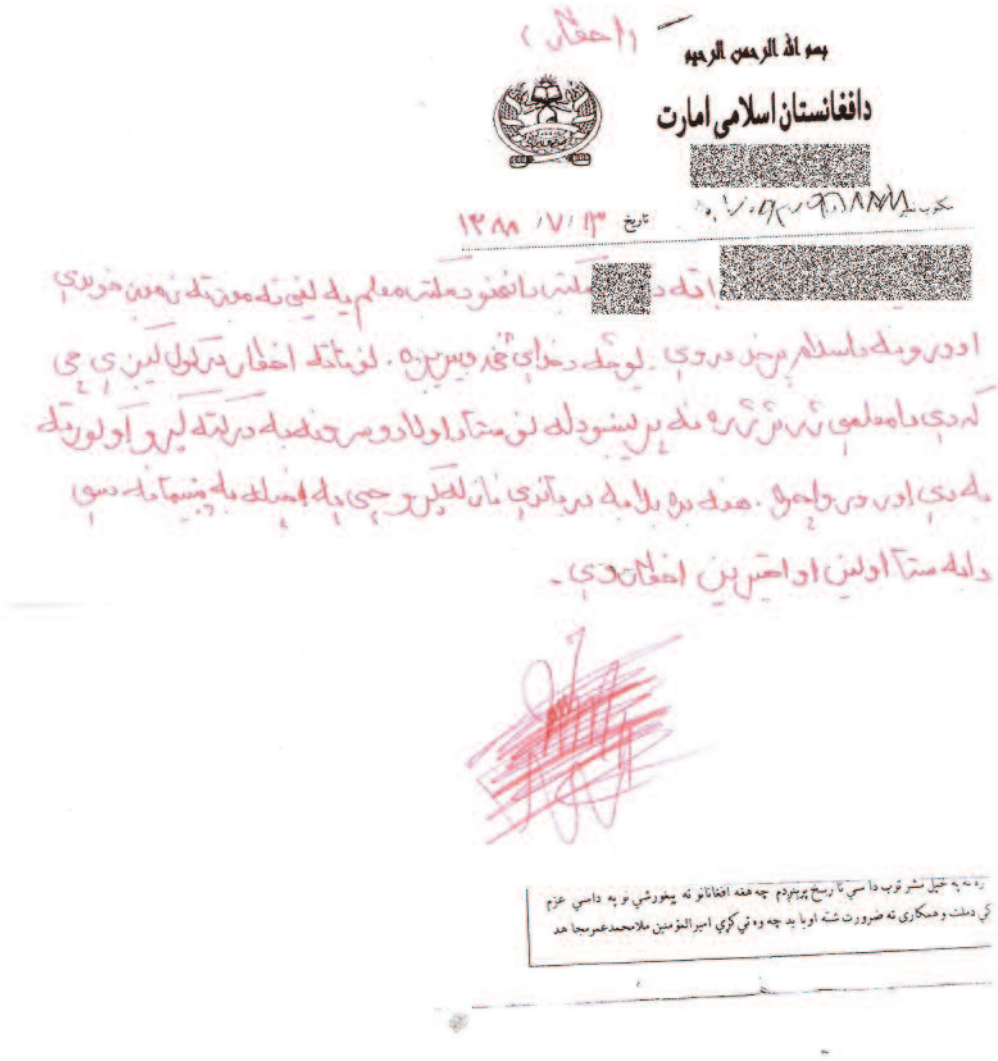
دتنه د څنډ جدا کړو بیا نو د شکایت حق

نلری — د من الله توفیق —

زه به په خپل مشر توب دا سې تاریخ پرېږدم چه مغه افغانانو نه پیغورشي تو په داسې عزم
کې دملت وصکاری نه ضرورت شته اوبا ید چه وه ني کړي امیرالمؤمنین ملامحمدعمرمجاهد

We would like to inform you [name removed] that you work with [place of work removed], the enemies of religion and infidels. You should leave your job otherwise we will cut your head off your body. You will have no right to complain then.

NIGHT LETTERS



بسم الله الرحمن الرحیم

دافغانستان اسلامی امارت

[redacted]

تاریخ ۱۳۸۸/۷/۱۳

You [name removed] teaching at [name removed] School which is a girl's school. You should be afraid of God. We warn you to leave your job as a teacher as soon as possible otherwise we will cut the heads off your children and will set light to your daughter. We will create a situation that you will regret.

This is the first and last warning.

د افغانستان اسلامي امارت

[redacted]

تاریخ ۱۴/ [illegible]

[redacted]

کوی، نه د دولت او موسسا نو سره
همکاری، تاته د طالبانو لخوا اختار
درکول کیږی چه د انکار پریږده که
نه نو د طالبانو محکمه به داسی
حکم درباندی صادرکی چه هغه به
ستا او ستا د فامیل ګډ ورنامی
سبب وګرځی او ته به هم خپل
ژوند ولاسه ورکړی.

[redacted]

امضاء

لمنځ اصلاح دیسدن ده جهاد اصلاح دعالم

[Name removed], you are working with [place of work removed]. You are warned by Taliban to stop working with them otherwise the Taliban's court shall make a decision about you which will have severe consequences for you and your family. You will lose your life.

KEY RECOMMENDATIONS

TO THE GOVERNMENT OF AFGHANISTAN:

- **Ensure that women are represented at decision-making levels in all national and regional discussions and decisions about reintegration, negotiation, and reconciliation, including the High Level Peace Council and the Joint Secretariat for Peace, Reconciliation and Reintegration Programs.**
- **Ensure that women are represented in the government's negotiations with insurgent groups.**
- **Ensure that all those who agree to a reconciliation process have made explicit their acceptance of the constitutional guarantees of equality for men and women, including the right to an education, the right to work, and the right to participate in political life.**
- **Repeal the amnesty law, and ensure that those against whom there are credible allegations of war crimes, crimes against humanity, and other serious human rights abuses are excluded from the reconciliation process.**
- **Ensure that background checks are carried out on all insurgent commanders considered for reintegration and reconciliation, and that political and bureaucratic positions at the district, provincial, or national level are not offered to those who have a track record of rights abuses, including against women.**

TO THE INTERNATIONAL MILITARY FORCES IN AFGHANISTAN:

- **Ensure that military assistance to reintegration efforts does not exacerbate impunity or corruption, and that any engagement with communities or individuals seeking reintegration or reconciliation involves adequate intelligence and background checks for serious allegations of human rights abuses including attacks on women and girls' education.**
- **Recognize that civilian casualties, night raids, and detention practices have helped fuel the insurgency, and fully investigate and hold accountable military personnel responsible for wrongful acts.**

TO THE UN AND INTERNATIONAL DONORS:

- **Provide oversight of the reintegration and reconciliation process so that it does not contravene UN Security Council Resolutions including Resolution 1325, which recognizes women's vital role in achieving peace and security, Resolutions 1820 and 1888 on the prevention and prosecution of sexual violence in armed conflict, and Resolution 1889 which seeks to promote the involvement of women during the post-conflict and reconstruction periods.**
- **Urge the inclusion of women leaders and activists in key decision-making and implementation bodies from village to national levels. Speak out publically about the need for reintegration and reconciliation efforts to ensure the protection of women's rights.**
- **Urge the government to repeal the amnesty law, refrain from endorsing government reconciliation with individuals against whom there are credible allegations of war crimes, crimes against humanity and other serious human rights abuses, and urge the government to investigate and prosecute these crimes.**

METHODOLOGY

This report is based on more than 90 interviews carried out in Afghanistan primarily between January and April 2010. The interviews with women living in districts largely controlled by insurgent groups were either carried out directly by Human Rights Watch researchers or by partners working in the area. The women interviewed were from four provinces in different regions: the south, east, southeast, and center. These interviewees were mostly women who are or had recently been in employment in these areas. Human Rights Watch researchers also carried out a wide range of interviews with women human rights defenders and activists in Kabul, as well as Afghan government officials, foreign military officials, diplomats, and analysts.

Many of the interviews were conducted in Dari or Pashto through the use of interpreters. Because many of the interviewees fear reprisals, we often use pseudonyms, particularly for women living in areas under insurgent control. In some cases other identifying information such as place names has been withheld to protect interviewees' privacy and safety. Some individuals working in official positions also requested anonymity. Many foreign diplomats and officials gave off-the-record interviews and are not named.

This report builds on Human Rights Watch's existing work on women's rights in Afghanistan, including our December 2009 report, "'We have the Promises of the World': Women's Rights in Afghanistan" (http://www.hrw.org/en/node/86805).

I. Background

Taliban Abuses Against Women and Girls 1996-2001

The Taliban's oppression of women in Afghanistan during their rule from 1996 through 2001 is well documented.[3] It included edicts restricting movement, the denial of the right to work, beatings and other physical abuse, arbitrary detention, and a near ban on post-pubescent girls' access to education. The impact of these edicts varied across the country, and enforcement was erratic and unpredictable, and most keenly felt by middle class women who had previously been working or going to university.

Restrictions on movement, dress, and work

According to Taliban edicts, women were not meant to be seen in public without a close male relative as a *mahram* (chaperone), and were instructed to cover completely their bodies and faces under a *chadori* or *burqa*.[4] There was a ban on women working outside the home, except in health care, where strict rules were devised to minimize interactions between sexes. The Taliban also enforced strict dress codes for men, including beard length and headdress, but men continued to work and to enjoy relative freedom of movement.

The change was most sharply felt in urban areas where women had previously enjoyed greatest freedoms. Prior to Taliban rule, women accounted for as many as 70 percent of teachers, and approximately 50 percent of civil servants.[5]

These restrictions were enforced by the Ministry for the Promotion of Virtue and the Prevention of Vice (*al-Amr bi al Ma'ruf wa al-Nahi 'an al-Munkar*), also known as the

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[3] Human Rights Watch, *Afghanistan - Humanity Denied*, vol. 13, no 5, October 2001, http://www.hrw.org/en/reports/2001/10/29/humanity-denied; Human Rights Watch, *Afghanistan - Massacre at Mazar-iSharif*, vol. 10, no. 7 (c), November 1, 1998, http://www.hrw.org/en/reports/1998/11/01/afghanistan-massacre-mazar-i-sharif, pp. 2-4; Human Rights Watch, *Massacres of Hazaras in Afghanistan*, vol. 13, no. 1 (c), February 2001, http://www.hrw.org/legacy/reports/2001/afghanistan/afghan101-03.htm#P126_15001; The Afghanistan Justice Project, "Casting Shadows: War Crimes and Crimes against Humanity: 1978-2001," 2005, http://www.afghanistanjusticeproject.org/warcrimesandcrimesagainsthumanity19782001.pdf (accessed June 10, 2010); "UN Mapping Report, 2005," unpublished document on file with Human Rights Watch. (This 296-page unpublished report documents violations of international human rights and humanitarian law committed by all parties to the Afghan conflicts between April 1978 and December 2001. The report is a compilation of existing reports from UN agencies, international and national human rights organizations, scholars and journalists.)

[4] Taliban decrees were not always enforced, so in some parts of the country women would continue to move around without a male relative. One interviewee told Human Rights Watch that in Kabul she could move around with only a young boy as her escort. However, she'd had to give up her law career.

[5] Final report on the situation of human rights in Afghanistan submitted by Mr. Choong-Hyun Paik, Special Rapporteur, in accordance with Commission on Human Rights resolution 1996/75, E/CN.4/1997/59, February 20, 1997, para. 71.

"religious police," which was modeled on a similar department in Saudi Arabia. Women accused of even minor infractions were sometimes subjected to public beatings, threats and imprisonment.[6] The religious police not only beat women publicly for, among other things, wearing socks that were not opaque enough, showing their wrists, hands, or ankles, or not being accompanied by a close male relative, but also for educating girls in home-based schools, working, and begging.

Beatings by the religious police were harsh, unpredictable and arbitrary, with no defense, and no appeal. In an interview with Human Rights Watch in 2001, Shokeria Ahmed, a widow, told us of a typical incident when she was shopping for fabric:

> I went to get some material for tailoring… I had to put up my *chadari* to compare the color because the shop was dark. The Taliban came and they beat both the shopkeeper and me. They beat us with a wire, made from rubber with a wooden handle and the rubber attached to the end of it. They said to me, 'Stupid, cover your face.'[7]

Even for those women who escaped such harsh treatment, or lived in areas with greater freedom, fear was pervasive. Khalinda Parveen, a 30-year-old mother of three who lived in Mazaar-i Sharif told Human Rights Watch that after the Taliban took over she rarely left her house: "I stayed home. I only went to the bazaar with a *chadari* [*burqa*] and came back fast. We were scared to look around. We heard that women were beaten for having their hand out or for having nail polish. People live in fear. If one is punished, everybody fears being the next."[8]

Some women were imprisoned as well as beaten for violations of Taliban edicts. In 2001 Human Rights Watch interviewed one doctor who reported having treated three women who had been detained in *Dar-al-Tadib*, a women's detention center in Kabul. One, the doctor reported, had been beaten on the head for begging, another had been detained for wearing a wide ankle *shalwar* (trousers), and the third for taking a taxi without a *mahram* (chaperone). The last of these was a twenty-five-year-old widow suffering from facial

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[6] Human Rights Watch, *Humanity Denied*, pp. 3, 6, 12-20; "UN mapping report, 2005," p. 271, paras. 9.97-9.99.

[7] Human Rights Watch interview with Shokeria Ahmed (pseudonym), Peshawar, Pakistan, September 6, 2001, cited in Human Rights Watch, *Humanity Denied*, p. 13.

[8] Human Rights Watch, *Humanity Denied,* p. 16; Human Rights Watch interview with Khalida Parveen, Quetta, Pakistan, September 3, 2001.

paralysis, who was worried that her deceased husband's family would not accept her back because the Taliban had detained her.[9]

The controls on women's mobility also impaired their access to medical treatment. Women were allowed to travel to hospitals but only with a male escort, which could cause difficulties, particularly in emergency situations such as childbirth. A decree requiring women patients to be treated only by women doctors was impractical given the shortage of female medical professionals. Irfan Ahmed, an NGO worker, described to Human Rights Watch the impact on women's access to health care in conservative rural areas such as Khost, Paktia and Zabul: "[T]here are very few female doctors, and in no way could they respond to the need of patients. Most women who get seriously ill have to go to the cities or to Pakistan. The roads are in poor condition and women die on the road. Each month, I hear about a case. In July, I saw a body of a woman who died giving birth on the road."[10]

Denial of girls' right to education

During the Taliban time the vast majority of girls did not receive an education, particularly those in urban areas and those over the age of eight. The UN estimated that only 3 percent of girls received some kind of primary education.[11] Some girls' education continued in secret, in other areas local Taliban leaders turned a blind eye to girls' schools.[12] Nikba Shah, a former teacher in the Lycee Ajani for girls, in Samangan province, worked secretly in a home school soon after the Taliban took over her area in 1998. She told Human Rights Watch:

> I was beaten on the way to school. Our papers were torn up. I had books and papers hidden under my arm. I dropped some, and when they fell, three Taliban started to beat me. They were Afghans and had black turbans. We had started to organize schools elsewhere. We were hiding materials under

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[9] Human Rights Watch, *Humanity Denied,* p. 14; Human Rights Watch interview with Amna Atmar, Pehsawar, Pakistan, August 31, 2001.

[10] Human Rights Watch, *Humanity Denied,* p. 16; Human Rights Watch interview with Irfan Ahmed, Peshawar, Pakistan, August 27, 2001. These restrictions exacerbated existing barriers to women's access to healthcare, including cultural barriers on movement in conservative areas, and shortage of female medical staff.

[11] UN Special Rapporteur of the Commission of Human Rights, "Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Report on the situation of human rights in Afghanistan submitted by Mr. Kamal Hossain, Special Rapporteur, in accordance with Commission resolution 1999/9," E/CN.4/2001/43, March 9, 2001, para. 46; Human Rights Watch interview with Anders Fange, Swedish Committee, Kabul, May 7, 2010. Fange was an education provider in Afghanistan in the 1990s, when he says that the majority of girls who were able to attend schools were in rural areas. Fange estimates that approximately 15,000 girls were receiving education nationally, with 11,000 of them in rural areas. However he had discerned in the summer of 2001 that this more relaxed approach to the rural areas was set to change.

[12] Human Rights Watch interview with Kate Clark, former BBC correspondent during the time of the Taliban, Kabul, March 2010, and email communication from Kate Clark to Human Rights Watch, June 2010.

> our *chadari* [*burqa*] and wore dirty cloths so that we did not attract attention. They realized because as soon as two or three women got together, they would become suspicious.[13]

Activist Arezo Qanih, who was in grade school in Kabul when the Taliban came to power, told Human Rights Watch:

> I was in class seven when the Taliban came to power. They announced that all girls' schools should be closed, and for two years after that I did not study. I used to sit at home, and my father and brother would buy me novels. I had a collection of around 300 novels… I remember those times well—there was always this underlying tension, this nervousness.[14]

Taliban leaders would sometimes attempt to justify restrictions on girls' education by saying that the ongoing civil war was an obstacle to their service provision, or that there were insufficient state resources to allow for girls' education. Particularly in the context of their grossly discriminatory treatment of women this justification seems flimsy, especially because as security came to areas like Kabul, their policies did not change.[15]

The Taliban's rise to power can be seen in part as a response to the bloodshed and chaos of the civil war, during which time women were subject to severe insecurity and violence, including the widespread use of rape as a weapon of war. The Taliban's ideology is placed firmly within the highly conservative continuum of Afghan culture and politics, bearing similarities to some of the dominant Mujahidin factions that were favored by the Pakistani intelligence services (and CIA and Saudi Arabia) during the Jihad against the Soviets of the 1980s, which continue to be so influential in government today. However, one of the distinguishing features of the Taliban was their attempt to shift social and religious control out of the hands of families or community religious leaders, and into the hands of the state, which became the primary means for enforcing their deeply conservative interpretation of Sharia (Islamic Law).

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[13] Human Rights Watch, *Humanity Denied*, p. 18; Human Rights Watch interview with Nikba Shah, Peshawar, Pakistan, September 6, 2001.

[14] Human Rights Watch interview with Arezo Qanih, Kabul, February 22, 2010.

[15] Human Rights Watch interview with Kate Clark, Kabul, March 6, 2010.

Hezb-i-Islami (Gulbuddin) abuses against women

Hezb-i-Islami, meaning "Islamic Party," played an active part in the conflict against the Soviet-backed government of the 1970s and '80s.[16] It was one of the primary recipients of US, Saudi Arabian and Pakistani military assistance throughout the 1980s and early 1990s. Hezb-i-Islami (Gulbuddin) is led by Gulbuddin Hekmatyar, who commands a far smaller group than the factions under Taliban command, but is believed to have direct or indirect ties to the officially registered political faction Hezb-i-Islami, which is very influential in the Afghan government.

Hekmatyar is widely regarded as having views on women not dissimilar from the Taliban.[17] One of his early political acts was reportedly to throw acid into the faces of unveiled women while at the University of Kabul in the early 1970s.[18] During the late 1980s and 1990s Hezb-i-Islami (Gulbuddin) was implicated in attacks on nongovernmental organizations that employed Afghan women to assist in relief work with Afghan refugees in Pakistan.[19]

In 1994 Hezb-i-Islami (Gulbuddin) issued decrees in areas under its control that bore similarities to later Taliban edicts, including restrictions on women's movement and dress.[20] A broadcast by Hezb-i-Islami's radio *Payyam-e Azadi* (Message of Freedom) in Pashto in December 1994 decreed: "All Muslim sisters have to wear Islamic attire. They have to refrain from randomly walking around."[21] Some people interviewed by Human Rights Watch suggested that Hezb-i-Islami (Gulbuddin) members are generally less hostile to women's rights than the Taliban, particularly with regard to women's right to an education. However, the enforcement of a strict ideology with regard to women's dress, freedom of movement, and gender segregation can result in similar restrictions on access to education, and the right to work. A senior government official also told Human Rights Watch that Hezb-i-Islami

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[16] Omid Marzban, "Gulbuddin Hekmatyar: From Holy Warrior to Wanted Terrorist," *Terrorism Monitor*, vol. 4, iss. 18, September 21, 2006, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=909 (accessed June 10,2010); Steve Coll, *Ghost Wars - The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001* (USA: Penguin Books, 2004), references including pp. 166, 119; Kenneth Katzman, "Afghanistan: Post-Taliban Governance, Security, and U.S. Policy," Congressional Research Service, http://www.fas.org/sgp/crs/row/RL30588.pdf (accessed June 23, 2010), pp. 10, 31.

[17] Interviews with analysts and parliamentarians, Kabul, May 2010, and Washington, DC, June 2010.

[18] Human Rights Watch interview with Hekmatyar classmate, Kabul, May 13, 2010; Steve Coll, *Ghost Wars - The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001*, p. 113; Ron Moreau and Sami Yusafzai, "America's new best friend," *Newsweek*, March 26 2010, http://www.newsweek.com/id/235556 (accessed June 10,2010).

[19] The Afghanistan Justice Project, "Casting Shadows: War Crimes and Crimes against Humanity: 1978-2001," p. 59.

[20] US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices - 1994: Afghanistan," February 1995, http://dosfan.lib.uic.edu/ERC/democracy/1994_hrp_report/94hrp_report_sasia/Afghanistan.html (accessed May 10, 2010).

[21] Thomas Ruttig, "Flash to the Past: Islamic Order à la Hekmatyar," Afghan Analysts Network, March 24 2010, http://aan-afghanistan.com/index.asp?id=708 (accessed June 8, 2010).

(Gulbuddin)was suspected of carrying out attacks on girls' education in some areas of the country.[22] (*See also* Attacks on Education).

Government failure to protect women's rights today

Following the fall of the Taliban, most Afghans hoped for peace and a legitimate government. Women and girls who had suffered such brutality during the Taliban era, and in the preceding decades of conflict, anticipated great improvements in their lives. Leaders all over the world promised help. Some of those improvements came quickly - girls began to return to schools in bigger numbers, women became more visible in public life, many returned to work.[23] In December 2001, a month after the fall of the Taliban, Dr. Sima Samar became the deputy prime minister and first minister of women's affairs in Afghanistan. The new constitution, passed in 2004, guaranteed women equal rights and a dramatic improvement in their political representation, with a quarter of seats in Parliament reserved for women.

However, even in these early years flaws were visible. From its inception, compromise weakened the fabric of the new state, with the elevation into government of former Mujahidin commanders and warlords, many of whom have attitudes to women that are reminiscent of the Taliban.[24] Their power has too often placed them and those they protect above the law. Dr. Samar was forced to resign from her position after just six months due to death threats against her.[25] More decisive action against the perpetrators of such threats might have set a different tone.

However, far from ensuring that the rights of women are respected, the current Afghan government has regularly sold them short. President Hamid Karzai has often pandered to conservative factions or political allies at women's expense. For instance, in May 2008 he pardoned two gang rapists who had served only two years of an 11-year prison sentence. The

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[22] Human Rights Watch interview with senior government official, Kabul, May 9, 2010.

[23] Human Rights Watch interview with Suraya Perlika, Director, All Afghan Women's Union, Kabul, February 16, 2010.

[24] Human Rights Watch, *Between Hope and Fear: Intimidation and Threats Against Women in Public Life in Afghanistan*, October 5, 2004, http://www.hrw.org/en/reports/2004/10/05/between-hope-and-fear, summary and pp. 2-3; Human Rights Watch, *"We Want to Live As Humans": Repression of Women and Girls in Western Afghanistan*, vol. 14, no. 11 (C), December 2002, http://www.hrw.org/en/reports/2002/12/17/we-want-live-humans, summary. The influence of Pakistan's intelligence service, the ISI, which was the main conduit of US aid to the Mujahidin groups, was influential in building up the most religious extremist groups during the Soviet occupation of Afghanistan in the 1980s, at the expense of other factions and political groups, including secularist, royalist and leftist factions. Steve Coll, *Ghost Wars - The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001*, p. 165.

[25] "Afghanistan President Names New Women's Affairs Minister," *Ms. Magazine*, June 24, 2002, http://www.msmagazine.com/news/uswirestory.asp?id=6642 (accessed June 9, 2010).

victim's family says the release was the result of the political connections of the rapists, including one family's connections to the Office of the President.[26]

In February 2009, Parliament passed the Shia Personal Status Law, which the president signed. The law regulates the personal affairs of Shia Muslims, including divorce, inheritance, and minimum age of marriage. A number of provisions severely restrict women's basic freedoms, for instance, those preventing women from leaving their homes without permission from their husbands, or granting custody rights to fathers and grandfathers in the event of separation. The law was passed ahead of the 2009 presidential election, when Karzai was seeking the voting blocs of powerful hardline Shia leaders.[27]

Ideologically conservative factions dominate the Parliament, including the political faction of Hezb-i-Islami, and a significant number of former warlords and former insurgents. Parliament has often displayed hostility towards women's rights, issuing repeated calls for the Ministry of Women's Affairs to be dissolved and casting aspersions on safehouses for women and girls.[28] In 2008 a parliamentary committee drafted a bill that would introduce Taliban-style prohibitions, such as bans on women and men talking in the street and on shops selling revealing clothing.[29] In late 2009, after the enactment of the Shia Personal Status Law, conservative factions in Parliament attempted to weaken the Elimination of Violence Against Women (EVAW) law by revoking articles criminalizing child marriage and domestic violence, which were deemed to be in contradiction with Sharia.[30]

An argument is often made against women's rights defenders in Afghanistan that the Taliban or former Mujahidin leaders in government merely reflect a deeply conservative culture (thus the return of the Taliban to political mainstream is of little consequence). Many activists dispute this, arguing that since the 1980s there have been efforts to diminish or remove alternative power bases or political parties, and furthermore that religion is used as a tool by some in an underlying political struggle. One activist told Human Rights Watch: "It's not the

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[26] Human Rights Watch, *"We Have the Promises of the World": Women's Rights in Afghanistan*, ISBN 1-56432-574-1, December 2009, http://www.hrw.org/en/reports/2009/12/03/we-have-promises-world-0, p. 36.

[27] Human Rights Watch, *"We Have the Promises of the World,"* p. 3.

[28] Human Rights Watch interviews with women parliamentarians, 2008-2010. See also Kim Barker, "Afghanistan's efforts to boost women falter - Ministry created to right wrongs has upped awareness, but achieved little else," *Chicago Tribune*, January 16, 2007. The questioning of Palwasha Hassan, who was nominated as a Minister of Women's Affairs, included a question about safe houses being for "bad girls." Email communication from diplomats to Human Rights Watch, January 2010.

[29] Hamed Haidary, "T Shirts, pigeon flying make up and loud music may be banned," *Quqnoos*, April 15, 2008 and United States Department of State, "2008 Report on International Religious Freedom - Afghanistan," September 19, 2008, http://www.unhcr.org/refworld/docid/48d5cbf4c.html (accessed June 22, 2010).

[30] Human Rights Watch interviews with parliamentarians and diplomats, September-December 2009. At the time of writing the parliamentary review of the Elimination of Violence Against Women (EVAW) law had not concluded.

case that Afghan society doesn't accept women, in many parts of the country - even in rural parts - you see women are respected. But the conservatives rule our society, and impose Sharia on an illiterate society that doesn't know Sharia… We already have a kind of Taliban in government. Now they want to bring the *real* Taliban, so they will have everything."[31]

If high-level Taliban and Hezb-i-Islami (Gulbuddin) leaders are brought into the political mainstream, the pressure upon women in political life and the instances in which their rights are compromised will likely increase. These risks exist in both reintegration and reconciliation processes, since both are likely to involve Taliban and other insurgent commanders ending their fight in exchange for political participation and other inducements. Foreign policymakers developing strategies for reintegration and reconciliation need to understand this political context, particularly the experiences of women living today under de facto Taliban control. There may be many insurgent fighters who are not ideologically committed to an extremist interpretation of Islam or the subjugation of women. But many existing commanders at all levels are behaving today much as they did while the Taliban were first in power, less than ten years ago, repressing women's rights at will.

[31] Human Rights Watch interview with activist, June 2010.

II. Life Today for Women and Girls in Taliban-Controlled Areas

The accounts of women interviewed by Human Rights Watch show that their freedoms are reduced as the insurgency gains strength in their areas. These women all told Human Rights Watch that they had been happy to see the fall of the Taliban regime in 2001. Most had since taken up their former employment or new jobs, including as teachers, health workers, and civil servants. While many said they already faced considerable pressure and restrictions because Afghanistan is a conservative society, the restrictions increase dramatically when insurgent groups gain more power.[32]

The forces of the Taliban and Hezb-i-Islami (Gulbuddin) target women in a wide range of professions and at all levels, including low-level civil servants.[33] They have issued threats and carried out attacks on women who are provincial councilors, police officers, teachers, health workers, social workers and lawyers.[34] Men in jobs associated with the government are also attacked, but women in public life face additional threats–not only because they are more visible (as a smaller group), but also *because* they are women working outside the home, being seen in public, and mixing with men. Girls above primary school age are also subject to a disproportionately higher level of threat than boys.

Attacks and Threats Against Women Working Outside the Home

At present no organization has specifically researched and reported on attacks on women in conflict areas by anti-government elements. The following cases offer anecdotal evidence of

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[32] There is not a uniform pattern of abuse, but considerable variation in the restrictions on women imposed by different insurgent commanders and factions. For example, one education provider told Human Rights Watch that Hezb-i-Islami commanders are more likely to impose conditions for girls' access to education, such as *mahrams* (male chaperones), female teachers, and conservative Islamic dress, while some Taliban commanders have issued blanket bans on girls not to attend school past puberty. Another interviewee said that some Taliban commanders have been more responsive than others in responding to community complaints about bans on girls' education, with some modifying their restrictions on conditions about dress and segregation.

[33] This short report does not address the actions of the 'Haqqani network', a highly active insurgent network in the southeastern and eastern regions, with affiliations to both the Taliban and Al Qaida.

[34] See Human Rights Watch, *"We Have the Promises of the World"*; Afghanistan Independent Human Rights Commission, "Violence Against Women 2009," unpublished document on file with Human Rights Watch. These figures show that between January and December 2009 there have been at least 22 complaints of attacks against women in public life, preventing them from working (this figure comes only from women who chose to report attacks; many more likely did not). Human Rights Watch interviews with women from three central and eastern provinces, Afghanistan, January 15, February 14, and February 18, 2010.

the nature of threats, restrictions, and violence that women suffer living in areas where militant factions have gained some control.[35]

On April 13, 2010 a female aid worker, Hossai, age 22, was shot in Kandahar as she left the offices of her employer, a for-profit US development organization, DAI. She died the next day from her wounds.[36] In the weeks preceding her death someone saying he was with the Taliban had been calling her, warning her to leave her job. Hossai told relatives that she did not think the threats were real.[37]

Night Letters

A common means of intimidation and control of local communities by insurgents is the use of night letters–threatening letters usually hand-delivered or posted to a door or mosque by insurgent groups, often at night. Nadia N., who worked for an international NGO in a southern province, received the following night letter soon after the killing of Hossai:

> We would warn you today on behalf of the Servants of Islam to stop working with infidels. We always know when you are working. If you continue, you will be considered an enemy of Islam and will be killed. In the same way that yesterday we have killed Hossai, whose name was on our list, your name and other women's names are also our list.[38]

Nadia N. told Human Rights Watch that she believed that she was targeted because she was working "outside the home." She informed the local security services, but said she expected no protection. She resigned from her job, and has moved to another province.[39]

Many women, like Nadia N., above, told us of "night letters" they'd received–written threats that are sometimes addressed to communities, sometimes to individuals. Often letters refer to the gender of the recipient.[40] Fatima K. received this letter in February 2010:

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[35] For further anecdotal reporting, see UN Assistance Mission Afghanistan (UNAMA), "Silence is violence – End the Abuse of Women in Afghanistan," July 9, 2010, http://unama.unmissions.org/Portals/UNAMA/vaw-english.pdf (accessed June 19, 2010).

[36] "18-year-old Afghan woman slain in campaign of fear," AP, April 13, 2010, http://www.e-ariana.com/ariana/eariana.nsf/allDocs/48223EE35FE4D6BF872577040066811B?OpenDocument (accessed April 14, 2010).

[37] Email communication from journalist in Kandahar to Human Rights Watch, April 14, 2010 and April 18, 2010.

[38] Night letter to Nadia N. (pseudonym), copy obtained by Human Rights Watch on April 24, 2010.

[39] Human Rights Watch interview with Nadia N., April 24, 2010.

[40] Human Rights Watch interviews with recipients of letters, February and April 2010, and copies of letters on file. Some women interviewed said that they were too afraid to share the letters with Human Rights Watch.

> We Taliban warn you to stop working otherwise we will take your life away. We will kill you in such a harsh way that no woman has so far been killed in that manner. This will be a good lesson for those women like you who are working. The money you receive is *haram* [prohibited under Islam] and coming from the infidels. The choice is now with you. [41]

The following translation is of a night letter sent to a large number of homes in Kapisa province in late 2009[42]:

> To all those girls who live in Kohistan 1 district of Kapisa province and to those girls in particular who make telephone call to radio stations and introduce themselves and request songs. Hereafter, they are seriously warned that they should not call any local or international radios. If anyone does it again, particularly girls, they will face serious consequences: they will either be beheaded or acid will be thrown in their faces.
> From: The Islamic Brotherhood Group.[43]

Asma A., who was a teacher at a girls' school in a southern province, was sent a night letter with a Taliban insignia in October 2009 that forced her to leave her job. This is an excerpt:

> We warn you to leave your job as a teacher as soon as possible otherwise we will cut the heads off your children and we shall set fire to your daughter.[44]

Jamila W. was threatened in August 2009, when she was working with the local electoral commission, in a southern province. The letter she received was also signed with a Taliban insignia.

> …[Y]ou work with election office together with the enemies of religion and infidels. You should leave your job otherwise we will cut your head off your body. You will have no right to complain then.[45]

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[41] Night letter to Fatima K. (pseudonym), copy obtained by Human Rights Watch on April 21, 2010.

[42] One regional source informed Human Rights Watch in May 2010 that the letter had been sent to "hundreds" of homes, but it was not possible to verify this.

[43] Copy of night letter given to Human Rights Watch by officials in Kapisa province, February 2010. The Islamic Brotherhood (in Dari and Pashto "Ekhwanul Muslimin") is a name sometimes used by Hezb-i-Islami.

[44] Human Rights Watch interview with Asma A.(pseudonym), April 12, 2010, scan of letter on file with Human Rights Watch.

[45] Night letter to Jamila.W (pseudonym), copy obtained by Human Rights Watch in April 2010.

She told Human Rights Watch that she ignored the letter, but several days later her father was murdered. Since then she has been terrified. She resigned from her job, and has moved house.

Freshta S., a teacher in a southeastern province, was forced to leave her job because of Taliban threats. She told Human Rights Watch:

> The security situation deteriorated in the last three years… In my village the Taliban distributed 'night letters' and warned that women cannot go out and work. If they go to work then they will be killed. This scared me and my family and since then I have spent all my days at home.[46]

Similarly, Madiha M. was working as a teacher in an eastern province. More than a year ago she was forced by both night letters and community pressure to give up her job.

> I received a lot of threats. I got night letters to my house. And the community where I was living, they also did not want me to work. They also threatened us saying I should not go out and should not teach. So finally I left my job.[47]

Rahela Z., who was working as a civil servant in a southern province, received the following letter in mid 2009:

> You are working with government and organizations. You are warned by Taliban to stop working with them otherwise the Taliban's court shall make a decision about you, which would have severe consequences for you and your family. You will lose your life.[48]

Loss of Employment

Many of those who were forced by Taliban threats to give up their jobs said they found it hard to make ends meet. Hooriyah H. from an eastern province said,

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[46] Human Rights Watch interview with Freshta S. (pseudonym), teacher, eastern province, January 15, 2010.

[47] Human Rights Watch interviews with Madiha M. (pseudonym), central province, February 14, 2010.

[48] Human Rights Watch interview with Rahela Z. (pseudonym), April 20, 2010. Copy of letter obtained April 22, 2010.

> I was working with the [name of government program withheld] one-and-a-half years ago. But after the threats that the Taliban were giving to the people and me, I stopped working. They were distributing night letters and giving warnings to the community elders saying that women are not allowed to go out, questioning how the elders could allow women to work. I have to feed my children. My husband also does not have work. We are in a very difficult situation [financially].[49]

Talking about how challenging it is to work in her central province, Hiba H., a government employee, said, "It is a very unstable province with many districts under the control of the Taliban and they have their own rules and regulations. So it is very difficult to work in those areas." In 2009 Hiba received many complaints from women in the region about the Taliban distributing night letters warning them against leaving their houses. "The last case I heard was a couple of months ago where they have pasted these warnings on walls in different places," she said.

Mursal A., who used to work in a southeastern province, told Human Rights Watch that she had to give up a job she'd loved. She said the threats are compounded by impunity:

> I had to give up my job three years ago due to the threats of the anti-government forces. I was receiving threatening phone calls and night letters. They threatened that if I did not leave my job I would be killed…. In my provinces there are many security problems for women. Here women get killed but no one is held accountable.[50]

Latifiyah L. from a central province, said that after the fall of the Taliban in 2001 she "felt like she was released from a dark prison."[51] She trained in medicine and was keen to improve women's health in her village. "Unfortunately, my dream did not come true because of the security problems for women," she said. When many from her village in a central province began to receive night letters from the Taliban, she restricted her work movements. She said,

> The Taliban again became powerful, which frightens me. The Taliban are distributing night letters threatening girls and women not to work out of

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[49] Human Rights Watch interview with Hooriyah H. (pseudonym), central province, February 14, 2010.

[50] Human Rights Watch interview with Mursal A. (pseudonym), January 15, 2010.

[51] Human Rights Watch interview with Latfiyah L. (pseudonym), health worker, central province, February 18, 2010.

> homes. I don't know what the Taliban will do to women if they become more powerful. When I travel to the provincial capital, I try to go with my brother or father…I also make sure that I don't carry documents with myself that can prove that I am a social worker. If the Taliban find such documents they will definitely kill me.[52]

One of the reasons why working women are targeted appears to be the strict Taliban ideology that demands gender segregation and controls on women's movement that were such a feature of the Taliban era.

Mullah Abdul Salam Zaeef, one of the founding members of the Taliban and the Taliban's former ambassador to Pakistan, was detained by the United States at Guantanamo after the Taliban's fall, and is now resident in Kabul. In an interview with told Human Rights Watch in February 2010 he said that he still thinks it is inappropriate for men and women to mix. When asked about what changes he might anticipate for women's current freedoms were the Taliban to regain some political influence, he said:

> Mullah Abdul Salam Zaeef: [W]e should also think of the negative aspects of this freedom. Look at their corruption–the integrity of women is at risk now. In some NGOs–just go and see how they are treated and see how they are used. Go to the hotels where the women are employed and their rights are violated, and in private sectors where women are employed and they are misused. Go to Bagram and see how the American forces use the women there. This is corruption-so this aspect should also be considered–as well as the rights of women.
>
> *Interviewer: Moral corruption?*
>
> Mullah Abdul Salam Zaeef: Moral corruption.
>
> *Interviewer: Because they are working together with men?*
>
> Mullah Abdul Salam Zaeef: Yes. It is against Islam. If you put a young adult man and woman in one room for some time, of course there will be some interactions, which is against Islam. This is like a virus here and it will spread.[53]

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[52] Ibid.

[53] Human Rights Watch interview with Mullah Abdul Salam Zaeef, Kabul, February 16, 2010.

Attacks on Girls' Education

Girls' education has been subject to proportionally more violence than boys' education. This includes threats and attacks on female teachers and students, and targeted attacks on girls' schools, resulting in major disruption and denial of girls' right to education.[54]

In February 2010 a girls' school in a northern province received the following night letter:

> You were already informed by us to close the school and not mislead the pure and innocent girls under this non-Muslim government; however you did not pay attention and you are continuing to keep the school open. We want to remind you that we are going to implement what we are saying, and we do not want to discuss this. This is the last warning to close the school immediately and put a lock on its door. We should not see you in the province too. If you remain in the province, remember that you along with your family will be eliminated. Just wait for your death. It will be a good thing to accept our order. It depends on you.[55]

At the time of writing, the school remains open.

Since March 2009, night letters have been distributed in numerous villages in Kunduz province, ordering female teachers and girls to stop attending school. Unidentified armed men delivered the letters to girls' schools and local mosques. Most bore the Taliban insignia and were signed by the Taliban shadow governor. Although there are variations in orders from Taliban to different schools in the area, the common restriction is that girls should stop attending school past puberty (around fourth grade).[56] The requirement that girls can only be taught by female teachers causes additional problems in rural areas where there are chronic shortages of women teachers.

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[54] An analysis of UNICEF/Ministry of Education data by Care International suggested that in 2006 girls schools, which represented 19 percent of all schools, were subject to 40 percent of attacks. Care International, "Knowledge on Fire – Attacks on Education in Afghanistan," September 2009, http://www.care.org/newsroom/articles/2009/11/Knowledge_on_Fire_Report.pdf (accessed March 31, 2010), pp. 35-36.

[55] Copy of letter received by Human Rights Watch, May 11, 2010.

[56] Human Rights Watch telephone interview with diplomatic source, May 6 2010.

Prior to the wave of threats and letters, there were physical attacks on schools in the province. In 2008 and 2009 there were three arson attacks, one rocket attack, and an improvised explosive device (IED) planted at one school.[57]

In April 2010 more than one hundred girls and women teachers fell ill in Kunduz province, in northern Afghanistan. At the time of writing, forensic tests have not determined a possible cause of poisoning.[58] Abdul Moqim Halim, head of the Kunduz Education Department, told Human Rights Watch that the incident was an attack by "enemies of the people," a phrase used by the Afghan government to refer to insurgent groups. Kunduz parliamentarian Fatima Aziz said:

> The enemy is attempting through this kind of action to keep the young generation - particularly the girls - in the darkness, and deprive them from education. I hope families will not be threatened by this and continue to let their daughters go to schools.[59]

There have been similar attacks reported in other parts of the country. On May 4, 2010, 17 girls fell ill at Durkhani High School, in Kabul, and were taken to hospital. A spokesman for the Ministry of Education, Asef Nang, told reporters that "there are destructive elements who don't want girls to continue their education."[60] In April and May 2009, 90 girls fell ill at three schools in Kapisa province, including vomiting, dizziness and loss of consciousness.[61] There was no claim of responsibility by the Taliban or Hezb-i-Islami (Gulbuddin). It is not known what might have caused the symptoms.[62]

In November 2008 Taliban members threw acid in the faces of a group of five girls on their way to a school in Kandahar, leaving two girls badly disfigured.[63]

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[57] Documentation from diplomatic source obtained by Human Rights Watch, May 7, 2010.

[58] Human Rights Watch telephone interview with local diplomat, May 6, 2010.

[59] Human Rights Watch telephone interview with Fatima Aziz, April 26, 2010.

[60] "Female students at Durkhani high school in Kabul, Afghan capital, poisoned after attending their Tuesday classes," *Quqnoos*, May 4, 2010, http://www.liveleak.com/view?i=18e_1273001774 (accessed June 10, 2010).

[61] "Mass sickness hits Afghan schools," *The Guardian,* April 26, 2010, http://www.guardian.co.uk/world/afghanistan; "90 Afghan Schoolgirls Poisoned in 'Taliban Gas Attack'," Reuters, May 13 2009, http://www.alternet.org/rights/139996/90_afghan_schoolgirls_poisoned_in_"taliban_gas_attack"/ (accessed June 2, 2010).

[62] Human Rights Watch interviews with human rights officials. Some have speculated that hysteria is a possible explanation for the symptoms, though a senior government official interviewed disagreed.

[63] "Afghan girls scarred in acid attack," *Al Jazeera,* November 12, 2008, http://english.aljazeera.net/news/asia/2008/11/200811121112404763 86.html (accessed June 2, 2010); "Arrests after Afghan acid attack," BBC, November 25, 2008, http://news.bbc.co.uk/2/hi/7747621.stm.

A number of the women interviewed by Human Rights Watch living in Taliban-controlled areas also reported restrictions on their daughters' education. Freshta S. said in January 2010 that she was forced to take her girls out of school in her eastern province:

> I cannot send my daughters to school because the girls' schools are banned by the Taliban. We have received several threatening messages from the Taliban through public announcements in the mosques and night letters from the address of the Islamic Emirate of Afghanistan against girls' education. For a mother like me, it is a real misery that my daughters cannot go to school and we are not able to do anything.[64]

Girls and their families are not only frightened by incidents that take place in their districts, but are affected by attacks in other parts of the country, such as the November 2008 acid attack noted above, and a 2007 attack in which unidentified gunmen killed two schoolgirls and wounded six others in Logar province.[65] Fahima R., an eighth grade teacher in Kapisa province told Human Rights Watch, "Every time a girls' school in Kandahar or anywhere in the country is burned, I notice fewer girls in my classroom. I know parents fear that something will happen to their girls on their way to school."[66]

Elaha M., who herself was threatened with night letters and forced to leave her job as a women *shura* (village council) member, said, "Only my younger daughters can go to school. If the security becomes worse then I cannot even send them to school."[67]

Some women, like Suraya S., said that the Taliban are compelling parents to restrict girls' education to madrassas (Islamic schools), rather than government schools.

> My daughters are not allowed to go to school. The Taliban said that if girls want to be educated, they should go to madrassas. My daughters are now small but what about their future?[68]

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[64] Human Rights Watch interview with Freshta S. (pseudonym), January 15, 2010.

[65] Dexter Filkins, "Afghan Girls, Scarred by Acid, Defy Terror, Embracing School," *New York Times*, January 13, 2009, http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html (accessed June 1, 2010); "Gunmen kill Afghan school girls," BBC News, June 12, 2007, http://news.bbc.co.uk/2/hi/south_asia/6744931.stm (accessed March 31, 2010).

[66] Human Rights Watch interview with Fahima R. (pseudonym), teacher, Kapisa province, April 23, 2008.

[67] Human Rights Watch interview with Elaha M. (pseudonym), government employed, central province, February 18, 2010. (The level of attack and restriction is generally higher for girls who have reached puberty, which is the age at which religious and cultural barriers start to be enforced, including ideas about segregation and restricted movement of women.)

[68] Human Rights Watch interview with Suraya S., eastern province, January 15, 2010.

An interview conducted on behalf of Human Rights Watch with Mullah Abdullah, who described himself as a "spiritual leader of the Taliban in Ghazni province", explained why the Taliban targeted girls schools: "We are opposed to un-Islamic educations for women. We close those schools that teach adultery, nudity and un-Islamic behavior."[69]

Silencing Women in Politics

> What does that sacrifice mean? If it means I have to wear a burqa, and in exchange the whole country is at peace, we have bread, and power?... For women I think it will be more than miserable. I don't think we will really get to the level of having stability and security–we will just lose. Every women activist who has raised her voice in the last 10 years fears they will kill us. I don't know how otherwise they will treat us, how they will deal with the existence of the women activists in society.
> –Women's rights activist[70]

Women who are active in political life–including parliamentarians and provincial councilors–face attacks and intimidation. This has profound ramifications not only for the safety of women who continue political work, but for their ability to continue to defend the rights of all Afghan women and girls. It can also deter the next generation of women leaders.

On March 6, 2010, unidentified gunmen attacked parliamentarian Fawzia Kufi, the second time she has escaped an assassination attempt.[71] On April 5, 2010, Provincial Councilor Neda Pyani was seriously injured in a drive-by shooting in Pul-e Khumri, Baghlan province.[72]

The government has barely mustered a response even when very high-profile women are killed, attracting much media attention. It has never brought to justice the killers of several prominent women in public life, including Sitara Achakzai, Malalai Kakar, Zakia Zaki and Safia Amajan.[73] The fact that these assassinations go unpunished increases the threat against women and compounds their fear. Although male politicians have also been

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[69] Interview conducted for Human Rights Watch by Afghan journalist, March 2009.

[70] Human Rights Watch telephone interview with activist, April 8, 2010.

[71] Human Rights Watch phone communication with Fawzia Kufi MP, March 6, 2010. Reported on Tolo TV, March 6, 2010, http://quqnoos.com/index.php?option=com_content&task=view&id=4065&Itemid=45.

[72] "Baghlan Provincial Council member attacked," *Pajhwok,* April 6, 2010, http://www.pajhwok.com/viewstory.asp?lng=eng&id=92245 (accessed April 7, 2010).

[73] Human Rights Watch, *"We Have the Promises of the World,"* pp. 17-20.

attacked, every attack on a high-profile woman has a multiplier effect on other women in the same profession or region.[74]

Beyond physical attacks against women politicians, women face constant verbal abuse and threats from their male counterparts while working. Nuhaa N., an official involved in discussions about the Elimination of Violence Against Women (EVAW) law, described how male parliamentarians hurled insults at a woman parliamentarian who was defending the law. Nuhaa said,

> She was arguing passionately for EVAW law. Some MPs said she was un-Islamic and called her a prostitute. She retorted asking them whether they would call their mothers or sisters prostitutes, to which one of the MPs said, 'They don't work outside the house and are not prostitutes.'[75]

This pressure threatens to increase if extremely misogynist Taliban and Hezb-i-Islami (Gulbuddin) members are brought into the political mainstream. Many of the women interviewed support reintegration and reconciliation, but also expressed concerns that threats and intimidation would only worsen after reconciliation. Said one activist: "We have concerns, of course. We face too much pressure now. What would they do if they were back to silence us?"[76]

The government's failure to take attacks and threats against women seriously greatly increases the threat that women face, by creating a permissive culture for those who seek to silence and sideline women.[77] Without a strong platform in government and society from which to lobby for their rights, women's advancement in Afghanistan will grind to a halt. Their protection becomes all the more pressing if women are entering an era that will become even more hostile to their rights–which reintegration and reconciliation may create.

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[74] For more on these attacks, and their ramifications, see *"We Have the Promises of the World,"* pp. 17-20.

[75] Human Rights Watch interview with Nuhaa N. (pseudonym), senior government officer involved in discussions around EVAW law, Kabul, February 16, 2010.

[76] Human Rights Watch interview with activist, Kabul, February 23, 2010.

[77] After years of sustained advocacy there are new legal protections available in the Elimination of Violence Against Women (EVAW) law, issued by decree in July 2009, including a new committee in the Office of the Attorney General mandated to monitor and investigate violence against women. However, these legal protections will offer little change without effective enforcement, including investigations and prosecutions of perpetrators of threats and attacks on women.

III. Reintegration, Reconciliation, and Rights

> I once again call on the Taliban and other opponents who are fighting against their homeland to stop fighting and stop the destruction, and return to their homeland.[78]
> –President Hamid Karzai, address to Parliament, February 20, 2010

> I don't think talks are possible because of our past experience. During the Taliban regime, women couldn't go out, they couldn't go work, and they had no schools. The Taliban would rather see a woman die in the streets than go to a restaurant to get food if men were there - these are the kinds of people we are talking about.[79]
> –Female parliamentarian (anonymous)

Background: From Targets to Talks

According to the Afghan government, reintegration generally refers to programs to encourage low- to mid-level fighters to stop fighting. Reconciliation refers to negotiations with high-level insurgent commanders, from both the Taliban and Hezb-i-Islami (Gulbuddin).[80]

Afghan leaders have called publicly for reconciliation with Taliban and Hezb-i-Islami (Gulbuddin) leaders since 2001, with both the Afghan government and representatives of inter-governmental organizations holding meetings with insurgent leaders for several

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[78] Abubakar Siddique, "Peace With Taliban Remains Elusive" *Radio Free Europe Radio Liberty,* February 26, 2010, http://www.rferl.org/content/Peace_With_Taliban_Remains_Elusive/1969579.html (accessed March 26, 2010).

[79] Human Rights Watch interview with woman parliamentarian, Kabul, February 16, 2010.

[80] The Afghan government describes two processes in its published summary of the Afghanistan Peace and Reintegration Program:

a) Peace and Reintegration at tactical and operational level: There are various layers that need to be reintegrated. Different layers will require different packages and approaches to meet their needs successfully. At the tactical level the reintegration effort focuses on foot soldiers, group, and local leaders who form the bulk of the insurgency, and;
b) Strategic reconciliation level: Efforts at the Strategic level focus on the leadership. This is a complex and highly sensitive issue that needs a broad approach. The package for these levels may include: addressing the problem of sanctuaries, measures for outreach and removal from the UN sanction list, ensuring the severance of links with Al-Qaida, securing political accommodation, or potential exile in a third country.

"The Afghanistan Peace and Reconciliation Program – Summary Program Outline," document obtained by Human Rights Watch from Afghan government official, February 2010, Kabul, also available at http://www.scribd.com/doc/27707151/Afghanistan-London-Conference-Document-28-Jan-2010 (accessed March 25 2010), p. 17.

years.[81] However, until recently, one of the most influential foreign players, the United States, was reluctant to endorse such meetings or overtures. By late 2008, the United States had shifted to a policy of welcoming Afghan efforts at reconciliation.[82] In December 2009, at a speech to the West Point military academy, President Obama stated: "We will support efforts by the Afghan government to open the door to those Taliban who abandon violence and respect the human rights of their fellow citizens."[83] There has been no suggestion to date however, that the United States might open its own direct negotiations with the Taliban.[84] US Secretary of State Hillary Clinton has expressed some reservations:

> [W]e have urged caution and real standards that are expected to be met by anyone who is engaged in these conversations, so that whatever process there is can actually further the stability and peace of Afghanistan, not undermine it.[85]

The United States has supported reintegration, although not necessarily as part of a political reconciliation strategy. The CIA director, Leon E. Panetta, has said that he has seen "no evidence" that the main insurgent groups are interested in reconciliation, and that this will remain the case unless the groups believe that the United States "is going to win."[86] The

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[81] On Afghan government calls for reconciliation see Michael Semple, "Reconciliation in Afghanistan," United States Institute for Peace, 2009, p. 53. There has been low- and mid-level contact between the Afghan government and individuals associated with the Taliban and Hezb-i-Islami since 2001. International officials have had contact with insurgents for years, which was exposed in December 2007 when EU official Michael Semple and UN official Mervyn Patterson were expelled from Afghanistan, ostensibly for having had talks with Taliban leaders that had not been sanctioned by the government, although the expulsion was likely political. (Michael Semple had been in close contact with senior government figures about his work.) The former UN special representative in Afghanistan, Kai Eide, confirmed before leaving his post in March 2010 that he had held meetings with Taliban representatives.

[82] In October 2008 US Defense Secretary Robert Gates stated that, "There has to be ultimately, and I'll underscore ultimately, reconciliation as part of a political outcome to this… That's ultimately the exit strategy for all of us." "Pentagon sees reconciliation with Taliban, not Qaeda," Reuters, October 9, 2008, http://www.reuters.com/article/idUSTRE4987PH20081009 (accessed June 10, 2010).

[83] Transcript of President Barack Obama's Speech to the West Point Military Academy, provided by the White House, published by PBS, http://www.pbs.org/newshour/bb/asia/july-dec09/obamaspeech_12-01.html.

[84] Analyst Ahmed Rashid speaking at United States Institute for Peace event, Washington DC, April 13, 2010, http://www.usip.org/newsroom/webcasts (accessed April 13, 2010).

[85] David Gollust, "US Cautious on Afghan Outreach to Taliban," *VOA*, November 23, 2009, http://www1.voanews.com/english/news/usa/US-Cautious-on-Afghan-Outreach-to-Taliban-71877342.html (accessed March 26 2010).

[86] "[W]e really have not seen any firm intelligence that there's a real interest among the Taliban, the militant allies of Al Qaida, Al Qaida itself, the Haqqanis, TTP [Tehrik-i-Taliban Pakistan], other militant groups. We have seen no evidence that they are truly interested in reconciliation, where they would surrender their arms, where they would denounce Al Qaida, where they would really try to become part of that society. We've seen no evidence of that and very frankly, my view is that with regards to reconciliation, unless they're convinced that the United States is going to win and that they're going to be defeated, I think it's very difficult to proceed with a reconciliation that's going to be meaningful." See transcript of interview with CIA Director Leon Panetta: Jake Tapper, "This Week," ABC News, June 27, 2010, http://abcnews.go.com/ThisWeek/week-transcript-panetta/story?id=11025299 (accessed June 29, 2010).

former commander of US and NATO Forces in Afghanistan, Gen. Stanley McChrystal, expressed the view that he considers reintegration a "normal component of counterinsurgency warfare," through which "insurgents will have three choices: fight, flee, or reintegrate."[87] However, some analysts interviewed question whether meaningful reintegration can take place without the agreement of the high levels of the insurgent factions. The attitude of the Pakistani government towards reconciliation is crucial. It seems clear that Pakistan would want a central role in any deals, though signals so far are mixed.[88]

The Taliban has mostly sent negative signals about reconciliation.[89] On March 24, 2010, the Afghan government confirmed that it had received a delegation from Gulbuddin Hekmatyar's Hezb-i-Islami (Gulbuddin), but Hekmatyar himself, who is on the UN's sanction list and the US list of Specially Designated Terrorist Entities, did not take part in the talks.[90] In June 2010 it was reported that Sirajuddin Haqqani, leader of the Haqqani network, had met with President Karzai in Kabul.[91] Karzai denied that the meeting took place.[92]

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[87] "Commander's Initial Assessment," sent by General Stanley McChrystal to Secretary of Defense Robert Gates, August 30, 2009, document released by *The Washington Post*, September 21, 2009, http://media.washingtonpost.com/wp-srv/politics/documents/Assessment_Redacted_092109.pdf (accessed May 1, 2010), pp. 2-13.

[88] Pakistan signaled in early 2010 that it would want to be included in negotiations with insurgents. In February 2010 the Pakistanis arrested Mullah Abdul Ghani Baradar, who was the top military commander of the Afghan Taliban. At the time it was reported that his arrest was viewed as a setback to reconciliation by the Afghan president. It was reported in June that the head of the Pakistan army, General Ashfaq Parvez Kayani has held a series of meetings with President Hamid Karzai, and has reportedly offered to broker deals. Jane Perlez, Eric Schmitt and Carlotta Gall, "Pakistan is Said to Pursue Foothold in Afghanistan," *The New York Times*, June 24, 2010, http://www.nytimes.com/2010/06/25/world/asia/25islamabad.html?scp=1&sq=haqqani&st=cse (accessed June 29, 2010).

[89] There are numerous examples, including: "Statement of the Leadership Council of the Islamic Emirate of Afghanistan regarding the London Conference," *Voice of Jihad website,* January 28, 2010, http://alemarah.info/english/index.php?option=com_content&view=article&id=1132:statement-of-the-leadership-council-of-the-islamic-emirate-of-afghanistan-regarding-the-london-conference&catid=5:statement-&Itemid=22 (accessed March 26, 2010); Mullah Baradar, a senior Taliban leader, sent a similar message in response to reintegration proposals in President Obama's speech in December 2009, http://alemarah.info/english/index.php?option=com_content&view=article&id=359:remarks-of-esteemed-mullah-brader-akhund-made-to-media-about-obamas-new-strategy&catid=5:statement-&Itemid=22 (accessed March 26, 2010).

[90] The United Nations added Hekmatyar to a sanctions list (known as the Consolidated List) mandated by Security Council Resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities, http://www.un.org/sc/committees/1267/NSQIH8803E.shtml (accessed March 24 2010). Hekmatyar was added to the US Specially Designated Global Terrorists list by the US Treasury Office of Foreign Asset Control in 2003, http://www.ustreas.gov/offices/enforcement/ofac/programs/terror/terror.pdf (accessed March 24, 2010).

[91] "Karzai 'holds talks' with Haqqani," *Al Jazeera,* June 28, 2010, http://english.aljazeera.net/news/asia/2010/06/20106277582708497.html (accessed June 28, 2010). The Haqqani network was named after the former Mujahidin commander Jalaluddin Haqqani, and is now run by his son, Sirajuddin Haqqani, who is described on the UN's sanction list (Ibid.) as a "major operational commander in the eastern and southeastern regions," http://www.un.org/sc/committees/1267/consolidatedlist.htm (accessed June 29, 2010). The Haqqani network has claimed responsibility for or involvement in some of the major attacks in Afghanistan in recent years in Kabul and on US and NATO military bases.

[92] Ibid.

At present significant progress with reconciliation seems remote, while reintegration programs could happen quite quickly. The Consultative Peace Jirga led to some immediate action by the government, most notably the formation of a commission to review all security detainees. Those who are being held in "legal limbo" without sufficient evidence will be released.[93] At the time of writing no women are included in the committee determining prisoner release.

The Rise of the "Ten-Dollar Talib"

The experience of many women living under de facto Taliban control belies the claim that is frequently made by US and NATO officials and diplomats in Afghanistan that the insurgency is largely "non-ideological." References are made to the "ten-dollar Taliban," and the "moderate Taliban," and suggest that reintegration efforts in particular will only seek to involve the "foot soldiers," or Taliban beneath command level.[94] Lt. Gen. Graeme Lamb, ISAF Force Reintegration Cell, said: "Who are these Taliban? They are local people, the vast majority are guns for hire, not fighting for some ideological reason."[95] US and NATO forces and key western donors have increasingly promoted the idea of the "ten-dollar Talib," perhaps in part to make reintegration more palatable to their domestic audiences, who had until recent times been told that the Taliban were an enemy to be defeated.[96]

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[93] Kate Clark, "Reviewing prisoners after the peace jirga," Afghan Analysts Network, June 15, 2010, http://aan-afghanistan.com/index.asp?id=828 (accessed June 22, 2010); Sayed Salahuddin, "Taliban suspects released after Afghan jirga deal," Reuters, June 21, 2010, http://www.alertnet.org/thenews/newsdesk/SGE65K092.htm (accessed June 22, 2010)

[94] US Special Representative to Afghanistan and Pakistan Richard Holbrooke: "The overwhelming majority of these people are not ideological supporters of Mullah Omar [the fugitive Taleban leader] and al-Qaeda… Based on interviews with prisoners, returnees, experts, there must be at least 70 per cent of these people who are not fighting for anything to do with those causes." Sam Coates and James Boone, "Taleban fighters to be "bought off" with $500m," *The Times,* January 28, 2010, http://www.timesonline.co.uk/tol/news/world/afghanistan/article7005445.ece (accessed April 10, 2010). Holbrooke told reporters in Kabul in January 2010: "There are a lot of people out there fighting for the Taliban who have no ideological commitment to the principles, values or political movement led by Mullah Omar… This is the majority of people fighting with the Taliban. And there is no vehicle for them to come in from the cold right now." Alex Rodriguez and Julian E. Barnes, "Afghanistan, Allies to launch new effort to reintegrate Taliban into society," *Los Angeles Times*, January 31, 2010, http://www.stripes.com/news/afghanistan-allies-to-launch-new-effort-to-reintegrate-taliban-into-society-1.98544. David Miliband, former British Foreign Secretary, "People are drawn into the insurgency for different reasons, primarily pragmatic rather than ideological. So there are the foot soldiers whom the Taliban pay $10 a day – more than a local policeman." Speech on Afghanistan at NATO headquarters in Belgium on July 27, 2009 and published by Council on Foreign Relations, http://www.cfr.org/publication/19909/milibands_speech_on_afghanistan_july_2009.html (accessed June 10,2010).

[95] "Taliban militants 'can be turned'," BBC News, September 17, 2009, http://news.bbc.co.uk/1/hi/world/south_asia/8261442.stm (accessed March 26 2010).

[96] Many of those interviewed questioned whether attempts to separate the foot soldiers is possible without acceptance from higher levels of the insurgency, so the ideological nature of the foot soldier is of less relevance than the nature of the leadership, at mid and high levels. Human Rights Watch interviews with analysts in Kabul, London, Boston and Washington, DC, 2009-2010.

There are many reasons why insurgents fight. But whether foot soldiers fight for financial, political or religious reasons should not be confused with how they might behave once they assume control of an area. No women activists are claiming that the Taliban fight in order to repress women, but it is still a feature of their rule in areas under their de facto control, as the experiences of women in this report illustrate. Taliban commanders commonly attempt to impose an extreme interpretation of Islam, including restrictions upon women that are reminiscent of Taliban times. Should these same commanders be granted political power in a reintegration or reconciliation process, without restrictions and without the involvement of women, the result is likely to be the denial of the rights of women and girls.

The Swat Valley Deal

The recent experience in Pakistan of a deal with the Pakistani Taliban was dismal. On April 13, 2009, President Asif Ali Zardari signed an ordinance imposing Sharia in the Swat Valley and adjoining areas as part of a deal with the Pakistani Taliban. This effectively empowered the Taliban to impose its authority in the areas, which it did through summary executions, including beheadings, of state officials and political opponents, public whippings, and large-scale intimidation of the population. There were particular abuses of the rights of women and girls. In April 2009 a mobile telephone video emerged of the public flogging of a woman by the Taliban in Swat. The two-minute video showed a veiled, screaming woman face down on the ground as two men held her arms and feet and a third man whipped her repeatedly. Girls' schools were shut down; women were not allowed to leave their homes unless escorted by male family members.

Responding to domestic and international outrage, on May 7 the government reversed course and declared an end to the deal, vowing to "eliminate" the Taliban. The ensuing military operation triggered a massive displacement crisis as some two million civilians fled the fighting to adjoining districts.[97]

Ensuring Women's Participation

The women leaders and activists who spoke to Human Rights Watch all expressed support for the Afghan government's renewed call for a peaceful resolution to the conflict. However, they have a range of concerns that apply to both reintegration and reconciliation plans: lack of women's representation, particularly on higher level decision-making bodies, a lack of

[97] Human Rights Watch, *World Report 2010* (New York: Human Rights Watch, 2010), Pakistan Chapter, http://www.hrw.org/en/node/87399; "Pakistan, SWAT deal grave threat to rights," Human Rights Watch news release, April 15, 2009, http://www.hrw.org/en/news/2009/04/15/pakistan-swat-deal-grave-threat-rights.

transparency, the absence of explicit guarantees of their constitutional freedoms, the risk of deal-making rather than reconciliation, the failure to take sufficient action on governance and security sector reforms, a lack of trust that the government is committed to protecting women's rights, and the failure to make progress on justice and impunity before pushing for reintegration and reconciliation.

Women activists have engaged in determined advocacy to secure fair representation in proposed reintegration and reconciliation plans and programs, but there have been setbacks as well as gains. For example, the January 2010 London Conference all but excluded women participants. As the Afghan Women's Network observed: "Afghan women were provided no official designation to feed into decisions nor negotiate conclusions. In an event that spanned an entire day and included more than 70 countries, only a single Afghan woman was included to speak as part of the official agenda, co-presenting the concerns of Afghan civil society."[98]

Women activists were successful in increasing their representation at the June 2010 Consultative Peace Jirga, where the final number of women was over 330 out of an estimated 1600 participants, just over 20 percent.[99] Several prominent women activists argued that they had been deliberately excluded from the jirga because they were too outspoken about women's rights prior to the assembly.[100] Najla Ayubi said: "I was the only one out of 200 people helping to organize the jirga. I criticized them for this on TV, and I also said on TV that women's rights should not be compromised for peace. That's why they removed my name from the list of delegates."[101] Others complained that the process of selection was opaque, and the final list of delegates was not made public. The jirga broke into 28 committees, with approximately 20 percent women's representation on each. Only one woman acted as a committee chair, and very few women were given the chance to speak.[102]

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[98] Afghan Women's Network, "Reaction from Afghan Women Civil Society Leaders to the Communiqué of the London Conference on Afghanistan, Statement," January 29, 2010, http://www.unifem.org/news_events/story_detail.php?StoryID=1019 (accessed March 31, 2010).

[99] Human Rights Watch telephone interviews with Orzala Ashraf Nemat, activist and participant, June 8, 2010, with Mary Akrami, activist and participant, June 10, 2010, and with Mahbouba Seraj, activist and parliamentary candidate, June 9, 2010. See also Wazhma Frogh, blogger and activist, "Peace Jirga Blog 10: The Afghan Peace Jirga – where peace means politics," June 7, 2010, http://wazhmafrogh.blogspot.com/.

[100] Human Rights Watch interview with Najla Ayubi, women's rights activist, Washington, DC, June 23, 2010, as well as telephone and email communication from women's rights activists in Kabul to Human Rights Watch, June 22, 2010.

[101] Human Rights Watch interview with Najla Ayubi, Washington, DC, June 23, 2010.

[102] Telephone and email communication from women delegates to the jirga to Human Rights Watch, June 1-10, 2010.

While some women complained that there was limited space for them to address the plenary of the jirga, several women participants said that they were pleased with their ability to voice their opinions in the committee stages. "This was a very valuable experience and contribution of women in the history of Afghanistan," said activist and participant Mary Akrami.[103] Mahbouba Seraj, a women's rights defender and parliamentary candidate told Human Rights Watch said that women activists should be proud: "You compare this to the Emergency Loya Jirga in 2002 where the atmosphere was horrible for women.[104] There were very few women and they were treated like lepers by the men. The peace jirga was really different–the presence of women was not a big issue. Obviously there's still lots of work to do, but this was an achievement."[105]

The overall impact of the jirga, however, should not be overstated. In terms of concrete guarantees that women's rights will be protected, the final declaration notes only that: "The Afghan people demand a just peace which can guarantee the rights of its all citizens including women and children. For the purpose of social justice, the Jirga urges that laws be applied equally on all citizens of the country."[106] Despite having reasonable representation, some women felt that it had not translated into concrete commitments on key issues.[107]

Many analysts and politicians discount the jirga's impact, arguing that it was too tightly managed by the President to be a genuine forum for discussion, it had no representatives of insurgent factions, and was boycotted by several prominent opposition figures. The limited power of the jirga was clearly stated by the government. As Mohommed Masoom Stanekzai, who is in charge of reintegration efforts for the Afghan government, told Human Rights Watch, "It won't be a decision-making body, it's only consultative."[108]

Precisely because key decisions will not be made in consultative forums like the Consultative Peace Jirga, women should have fair representation on the bodies that will be

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[103] Human Rights Watch telephone interview with Mary Akrami, Afghan Women's Network, June 1, 2010.

[104] The Emergency Loya Jirga was a gathering of approximately the same size as the Consultative Peace Jirga. It was held in Kabul in June 2002. It confirmed Hamid Karzai as head of State and agreed the structure and composition of the Transitional Administration, which governed Afghanistan until elections in 2004. United Nations Assistance Mission in Afghanistan (UNAMA), "Procedures for Afghanistan's Emergency Loya Jirga," April 1, 2002, http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/729c2e3eb768688c85256b8e00546598 (accessed June 23, 2010)

[105] Human Rights Watch telephone interview with Mahbouba Seraj, activist and parliamentary candidate, June 9, 2010.

[106] "The Resolution Adopted at the Conclusion of the National Consultative Peace Jirga," Islamic Republic of Afghanistan, Office of the President, June 2-4 2010, http://president.gov.af/Contents/88/Documents/1834/resolution_English.htm, art. 8. Translation by the Afghan government.

[107] Telephone and email communication from women's rights defenders to Human Rights Watch, June 12, 22, and 23, 2010.

[108] Human Rights Watch interview with Mohammad Masoom Stanekzai, Kabul, March 3, 2010.

making decisions, implementing programs, and conducting negotiations. These include the High Level Peace Council (which will lead negotiations) and the Joint Secretariat for Peace, Reconciliation and Reintegration Programs, as well as the implementing ministries and directorates.[109] At the time of writing women interviewed for this report did not feel like those guarantees had yet been given. Hasina Safi, the executive director of the Afghan Women's Educational Centers, said that the government's poor track record on inclusion means oversight is needed to ensure meaningful representation, rather than tokenism:

> There should be monitoring to see if women have actually been included for decision-making purposes. Sometimes they circulate data saying 10 percent women in the ministries are women. But when you see the data, women will only be hired as cleaners, or helpers… We want women in decision-making positions.[110]

Ensuring that women leaders are included and can meaningfully participate at all levels in reintegration and reconciliation is one of the best safeguards against the rights of women and girls being sold short in the name of peace.

Weakness of Constitutional Guarantees for Women's Rights in Reconciliation and Reintegration

Afghan government officials are increasingly being called on to explain how women's rights will be protected during any reconciliation or negotiation process. Frequently they offer assurances that those who reconcile would have to accept the principles enshrined in the constitution.[111] For example, in April 2010, Stanekzai, in charge of reintegration programs for the government, circulated a short summary of the government's reintegration plans, which made the following commitment:

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[109] At the time of writing the High Level Peace Council had not been appointed. Women's rights activists told Human Rights Watch that the Joint Secretariat was effectively functioning, though not officially announced, and that no women had been included.

[110] Human Rights Watch interview with Hasina Safi, Executive Director, AWEC, Kabul, February 17, 2010.

[111] The communiqué of the London Conference notes the need for reconciliation to respect the principles enshrined in the constitution. Afghan Leadership, Regional Cooperation, International Partnership, London Conference Communiqué, http://afghanistan.hmg.gov.uk/en/conference/communique/ (accessed March 31, 2010), para. 13.

> The rights of individuals including protection for the rights of women and minorities, as enshrined and articulated by the Afghan Constitution, will not be infringed upon by the reintegration program.[112]

Primarily this refers to article 22 of the constitution, which states that any kind of discrimination is forbidden, and that men and women are equal before the law. Also relevant is article 43, which guarantees the right of education for all Afghans, and article 44, which specifies the duty of the state to provide a balanced education to women. Article 83 concerns women's participation in Parliament.[113] For some women, particularly those like Orzala Ashraf Nemat, who fought hard to see women's rights embedded into the constitution, these are important guarantees. She told Human Rights Watch:

> When I talk about the constitution, freedom of expression and women's rights are part of our constitution. We have articles that discuss freedom of speech, and we have article 22 that asks for equal rights for women and men, so they are all included. So women's rights are not going to be one of those negotiable principles.[114]

Others fear the constitutional protections for women's rights will be insufficient, since the constitution has not guaranteed their rights in the past. Wazhma Frogh, a leading activist, stated:

> It's a good statement–but President Karzai himself has done many things against the Afghan constitution. There have been hundreds of things–including illegal things–that were against the constitution. What was the result? Nothing happened. So I think he's used to manipulating it and giving excuses. He knows himself how many times he's crossed the constitution.[115]

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[112] Afghanistan Peace and Reconciliation Commission, "Peace and Reconciliation Executive Summary," April 26 2010, document circulated among national and international stakeholders, and on file with Human Rights Watch.

[113] The Afghan Constitution of 2004 states in article 22: "Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law." Article 83, on political rights for women, states that at least two women shall be elected to the Wolesi Jirga (lower house) per province (of which there are 34, which results in 68 MPs, which is around one quarter of the total). Article 43 guarantees the right of education for all Afghans. Article 44 specifies the duty of the state to provide a balanced education to women.

[114] Human Rights Watch interview with Orzala Ashraf Nemat, Kabul, February 17, 2010.

[115] Human Rights Watch telephone interview with Wazhma Frogh, April 8, 2010.

Activists also point out the contradictions in the constitutional protections of women's rights–while article 22 guarantees the equality of men and women, article 3 of the constitution states that no law shall contradict Sharia.[116] Some women have expressed concern is that article 3 can render all provisions protecting women subject to hardline interpretations of Sharia. Said one activist:

> The Taliban are the movement of Sharia. So they will say yes we accept it… and this is our version of Sharia. In fact they won't even say this is our version - they will just say this is Sharia, the only version.[117]

Some insurgent groups consider the constitution, which they see as superfluous to Sharia, as a barrier to reconciliation.[118] As a result, some Afghan and international officials say they would be reluctant to make adherence to the constitution a requirement for reconciliation and reintegration.[119] One diplomatic source suggested that insisting on respect for the constitution should not be called for because it would be a "deal-breaker" for the Taliban.[120] Another diplomatic source told Human Rights Watch this tension was evident in the wording of the article on reconciliation in the London communiqué.[121] The final statement stopped short of requiring reconciling insurgents to sign up to the constitution itself, instead demanding that they "respect the *principles that are enshrined in* the Afghan constitution" [emphasis added].[122]

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[116] Article 3 states that "No law shall contravene the tenets and provisions of the holy religion of Islam in Afghanistan."

[117] Human Rights Watch telephone interview with activist, April 2010.

[118] A statement on the *Al Emarah* ("The Emirate") a Taliban website, rejected the government's reconciliation offers: "They [the government] put forward conditions, which are tantamount to escalating the war rather than ending it. For example, they want Mujahideen to lay down arms, *accept the constitution* and renounce violence. None can name this reconciliation" [emphasis added]. *Al Emarah* website blocked at time of writing, extract also found at http://www.scribd.com/doc/26490653/Can-We-Call-This-Reconciliation (accessed June 21, 2010). "Taliban reject Karzai reconciliation offer," Reuters, February 6 2010, http://www.alertnet.org/thenews/newsdesk/SGE615034.htm (accessed April 9, 2010). The *Times of London* conducted an interview with someone it describes as a senior member of the Taliban *shura* that commands operations in Helmand and Kandahar (the Quetta Shura): "All the mujaheddin seek is to expel the foreigners, these invaders, from our country and then to repair the country's constitution. We are not interested in running the country as long as these things are achieved." Stephen Grey, "Taliban's supreme leader signals willingness to talk peace," *The Times,* April 18, 2010, http://www.timesonline.co.uk/tol/news/world/afghanistan/article7100889.ece (accessed June 10, 2010).

[119] Human Rights Watch interviews with diplomats, Kabul, February 2010.

[120] Humam Rights Watch interview with diplomat, Kabul, February 2010.

[121] Human Rights Watch interview with diplomat, London, January 29, 2010.

[122] Afghan Leadership, Regional Cooperation, International Partnership, London Conference Communiqué, http://afghanistan.hmg.gov.uk/en/conference/communique/ (accessed March 31, 2010), para. 13.

In a more conservative post-reconciliation political environment, the constitution could be amended to the detriment of women's rights in a *loya jirga,* or grand assembly of regional and tribal chiefs. Shagol Rezaee MP said:

> The Afghan government is not clear enough on conditionality–the constitution is not enough. Karzai does not talk specifically about women's rights or human rights. So it's not enough. They can hold a jirga and amend the constitution. There is no guarantee that the constitution would be protected if a loya jirga is imposed.[123]

Indeed, comments from the Minister of Economy, Abdul Hadi Arghandiwal, the newly appointed Hezb-i-Islami political faction leader, seem to confirm Rezaee's concerns. On April 4, 2010, he reportedly told a gathering of women leaders discussing reconciliation that women would have to sacrifice their interests for the sake of peace.[124] When a delegation of Hezb-i-Islami (Gulbuddin) representatives met with the government to discuss reconciliation, rewriting the constitution was specified as a task for a new parliament.[125]

Additional Guarantees Needed to Protect Women's Rights

Rather than rely on a general appeal to constitutional protections, many women argue that the government needs to articulate more explicit guarantees. Samira Hamidi, executive director of the Afghan Women's Network, told Human Rights Watch:

> More specific reassurances [are needed], like access to education for Afghan women, access to work, freedom of movement. Now women are free. They can go anywhere they want. They can go to doctor, they can go for shopping... Freedom to travel - I can travel always alone now, I obtain a visa and I go for official trips… I'm sure with inclusion of Taliban and with no specific commitment for Afghan women it will be very difficult… Women should be able to carry on their activities–civil society or parliament or political affairs.[126]

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[123] Human Rights Watch interview with Shagol Rezaee MP, Kabul, February 11, 2010.

[124] Telephone and email communication from activists to Human Rights Watch, April 2010. The speech was not recorded.

[125] Thomas Ruttig, "Gulbuddin ante portas - again (Updated)," Afghan Analysts Network, March 22, 2010, http://aan-afghanistan.com/index.asp?id=706 (accessed June 10, 2010).

[126] Human Rights Watch interview with Samira Hamidi, Executive Director, Afghan Women's Network, Kabul, February 14, 2010.

At the time of writing the government had taken the first step towards creating a constitutional oversight body, with five out of six Presidential appointments accepted by Parliament on June 1, 2010.[127] This body could play an important role in ensuring that the governments' reintegration and reconciliation programs do not contradict constitutional guarantees of women's rights.

In their representations to the Afghan government, women leaders have suggested that the reintegration and reconciliation process should incorporate orientation and training on civil liberties and women's rights so that former insurgents understand women's constitutional guarantees.[128] They have also made clear that full implementation of the National Action Plan for Women of Afghanistan and the Elimination of Violence Against Women law would offer additional protections that might guard against potentially negative impacts of reconciliation and reintegration.[129]

No Peace Without Justice

A flawed negotiation process that legitimizes ex-combatants without providing lasting peace and security is an outcome that many female interviewees feared. Many argued that for the government to bring about a credible and effective reconciliation process, it would first need to improve its standing with the people on issues of governance, justice and corruption, since impunity and injustice was such an important driver of the insurgency. Although there have been statements from the government acknowledging the need for more progress in governance and accountability, this has not yet translated into meaningful reforms.[130]

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[127] "President Appoints Constitutional Oversight Body," *Wakht News Agency,* June 1, 2010, http://www.wakht.com/news/013225.php (accessed June 20, 2010).

[128] Email communication from Afghan Women's Network members to Human Rights Watch, including copy of April 2010 advocacy document now on file with Human Rights Watch. The document highlights constitutional articles 22 and 83 (see above), and the Elimination of Violence Against Women law, which was passed by presidential decree in July 2009. For more on the law see Human Rights Watch, *"We Have the Promises of the World,"* section IV ("Sexual Violence").

[129] Human Rights Watch interviews with women's rights activists, February to June 2010, Kabul and London. The National Action Plan for Women of Afghanistan is 10-year plan of action by the Government of Afghanistan to implement its commitments to furthering women's equality. These commitments are provided under the Afghan Constitution as well as international treaties such as the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). NAPWA can be accessed here: http://www.ands.gov.af/ands/Provincial_Consultations/details.asp?id=22.

[130] In his speech to the consultative jirga, President Karzai acknowledged that government officials had "misbehaved, either for personal benefit or due to ignorance." The final resolution of the Consultative Peace Jirga also observed that widespread malfeasance by government officials has helped fuel the insurgency: "The government with public support should take every necessary step to deliver good governance, make sure appointments are made on the basis of merits, and fight administrative and moral corruption as well as illegal property possession at national and provincial level. This is the key in boosting public confidence to the government and for a successful peace process." "The Resolution Adopted at the Conclusion of the National Consultative Peace Jirga," June 2-4, 2010, http://president.gov.af/Contents/88/Documents/1834/resolution_English.htm, art. 8. Translation by the Afghan government.

Many women activists said reforms to improve governance and accountability would be key to any peace. According to activist Wazhma Frogh:

> [I]t is the politics of governance, the problem of bad governance that has pushed many people into the Taliban and militancy–the government knows that–they too have said it. They know that this is part of the reason the people are joining the insurgency. So when we know this–we have to deal with governance first.[131]

Shinkai Karokhail MP said:

> There are so many things that need to be fixed before we go for this reintegration and reconciliation… If the government is too weak, if the people don't support the government, if the people don't trust the government, then bringing these people back to the system will cause more problems. These people will just exploit a weak government, and they will be taking powers or resources or changing the laws, so there will be more problems rather than bringing peace and stability.[132]

Parliamentarian Fawzia Kufi asserted that government reform should take place before embarking on reintegration and reconciliation:

> The alternative [to reintegration and reconciliation now] is that the government finally starts to deliver good governance. Some are fighting with the Taliban because of warlords and bad governors. So some men or groups join the Taliban because they've got no alternative. I don't believe that the Taliban are getting stronger; I believe that the government is getting weaker.[133]

Freshta. S, from a southeastern province, told us that for durable peace, the government needs to address the needs of the population:

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[131] Human Rights Watch telephone interview with Wazhma Frogh, April 8, 2010.

[132] Human Rights Watch interview with Shinkai Karokhail MP, Kabul, February 16, 2010.

[133] Human Rights Watch interview with Fawzia Kufi MP, Kabul, February 13, 2010.

> The Afghan government and the international community should work to together in an honest way to improve the lives of Afghan people. They should work to establish a permanent peace in Afghanistan, facilitate education for children and create jobs for those people who would like to contribute rebuilding Afghanistan.

Naureen N. recounted her experience in 2004-2005, saying that she personally raised people's problems to the local government and central government, president's office, sectoral ministries, the international forces, the UN mission in Afghanisan "and nobody responded." She said that neglect of people's needs coupled with high civilian casualties, had increased support for the insurgency:

> The provincial reconstruction teams [international civil-military teams] also did not respond to people… They also started to kill civilians, searched their homes, and pulled out men even when they were with their wives. That is why people have gotten distanced from the government. That is why it is a golden opportunity for the insurgents to mobilize people to make use of this situation–they grow in number–if there was one [insurgent], they became two, then become ten, then a hundred.[134]

The government's strategy paper contains some recognition of the need for grievance resolution to be part of the reintegration process. It envisages local *shuras*, led by governors and district governors, addressing people's concerns.[135] There is some precedent for government-led community outreach with a stabilization agenda, in particular the Afghan Social Outreach Program (ASOP) which created or reinvigorated district-level *shuras* to participate in a range of security and development initiatives.[136] Some analysts and officials say that the initiative was undermined as a result of politicization by the Afghan

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[134] Human Rights Watch interview with Naureen. N (pseudonym), Kabul, February 18, 2009.

[135] "Grievance resolution. In many cases, communities, victims of the conflict or demobilized combatant groups will bring forward legitimate local grievances which need to be resolved as a condition of successful peace and reintegration. The grievances may involve crimes, local corruption, and tribal and family disputes over land and other resources which have caused the conflict. Provincial and District Governors will oversee the establishment of *shuras* to resolve the grievances. Civil society groups funded by the program will support the process, assisting communities to select their representatives and ensure participation of victims. Government and civil society groups should ensure that unconstitutional practices, such as, most serious cases of crime claimed by the victims will be referred to the formal justice system." Afghanistan Peace and Reconciliation Commission, "Peace and Reconciliation Executive Summary," p. 23.

[136] ASOP was mostly funded by USAID, and implanted by the Afghan government through the Independent Directorate of Local Government (IDLG), a directorate that reports directly to the President.

government.[137] The current status of the ASOP initiative is unclear.[138] It remains to be seen whether the Afghan government has the will or the capability to offer more neutral implementation at the district and village level. Such initiatives must avoid perceptions of unfairness and corruption, since patronage and alienation are widely regarded to be among the drivers of the insurgency.

The enduring climate of impunity in Afghanistan underpins many of the abuses that women suffer, including high levels of violence against women, and the severe limitations on their access to justice, political office and influence. If reintegration and reconciliation allows individuals known for serious human rights abuses and abuses against women to enter the government without any process of accountability, the situation for women and girls can be expected to deteriorate.

Risks of Rewarding Abusive Insurgents with Political Office

Positions in the local administration are likely to be used as an incentive to reintegrate insurgents, despite the threat it may pose for the protection of human rights. The lack of adequate vetting procedures to guard against known human rights abusers being integrated into the government increases the likelihood that perpetrators of serious abuses will avoid being held to account. Existing vetting for both political appointments and elected office are weak, and has not excluded those against whom there are credible allegations of human rights abuses and corruption. When it comes to deals with former insurgents, what little protections currently exist may become expendable for political expediency.

Offering positions of power has been used as an incentive before, notably in Musa Qala district of Helmand province, when in January 2008 a former Taliban commander, Mullah Abdul Salam, was "reintegrated" and made district governor.[139] One source told Human Rights Watch that the government offered him the district governorship, as well as the right to choose the district police chief, as part of the package to persuade him to switch sides, despite Salam having a reputation for being a "typical tribal warlord."[140]

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[137] Human Rights Watch interviews with analysts and several international officials involved in ASOP, 2008-2010, Kabul. See also a critique of ASOP in "Caught in the Conflict - A briefing paper by eleven NGOs operating in Afghanistan for the NATO Heads of State and Government Summit, April 3-4, 2009," http://www.oxfam.org.uk/resources/policy/conflict_disasters/downloads/bp_caught_in_conflict_afghanistan.pdf (accessed June 10, 2010), p. 6.

[138] Human Rights Watch interview with government official, who described ASOP as "not dead, but sleeping," Kabul, February 17, 2009.

[139] At the time of writing we had little access to information about the human rights impact of the appointment.

[140] Human Rights Watch interview with diplomat, Kabul, June 2008. Human Rights Watch interview with diplomat, Kabul, May 2010.

Stanekzai told Human Rights Watch:

> They will demand it [jobs in the administration]. But we will have to look at not just giving jobs to anyone–we will look at their qualifications. Like anyone else in government, they will go through a process. They should also go through the same process if they want an elected position.[141]

However, existing vetting mechanisms remain extremely weak, despite the increased pressure on the government to institute reform. The government has created numerous bodies intended to improve this, including the Special Advisory Board on Senior Appointments, Anti-Corruption Tribunal, Major Crimes Task Force, and High Office of Oversight. While these bodies have the potential to increase Afghans' confidence in government, as yet they have not tackled the height and depths of abuse of power. Corrupt or predatory officials tend to be at best "moved on" rather than removed and held accountable.[142] Recent appointments of governors, police chiefs and district police chiefs against whom there are credible allegations of human rights abuses illustrate the weakness of current vetting procedures.[143] The additional political pressure for results, particularly with regard to reintegration, will make it more likely that these weak procedures are avoided.

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[141] Human Rights Watch interview with Mohammad Masoom Stanekzai, Kabul, March 3, 2010.

[142] Human Rights Watch interviews with government officials, international officials and analysts, 2007-2010.

[143] There are few recent examples of reintegration that be evaluated in terms of their impact on women's rights (though the wider impact of impunity stemming from the absence of vetting or accountability is clear). Mohammed Masoom Stanekzai told Human Rights Watch that there had been some candidates for reintegration in Herat (primarily a Tajik criminal/insurgent faction rather than Taliban or Hezb-i-Islami (Gulbuddin)), but that the government had not been able to provide them with reintegration programs yet. In the early years of the new government there were some successful attempts to bring individual Taliban commanders and politicians into government, several of whom are now in Parliament. Women parliamentarians interviewed say tend to vote against women's rights, but do not constitute a powerful block (less powerful than former Hezb-i-Islami commanders for example, many of whom are politically integrated). Previous attempts at reintegration under the near-defunct "Afghanistan National Independent Peace and Reconciliation Commission" (generally known as the PTS, the abbreviation of the Dari name, the *Programme Tahkim Sulh*) are not well regarded. The PTS claims that through its efforts 7,106 insurgents have joined the peace process. See the Peace and Reconciliation Commission website, http://www.pts.af/index.php?page=en_Accomplishments. Former Taliban minister Mauwlawi Arsallah Rahmani told Human Rights Watch during a February 10, 2010 interview in Kabul that "They claim that they have brought 7,000 Taliban to join the peace process. But I don't see them, where are they?" Many experts confirm these doubts, for instance Michael Semple in "Reconciliation in Afghanistan," p. 55: "Consistent anecdotal evidence indicates that the great majority of those passing through the PTS system have not recently been involved in conflict, which for all intents and purposes makes their laying down of arms meaningless. A perusal of the PTS records indicates that almost no previously known insurgents have participated in the program."

Reconciliation and the Amnesty Law

> It [the amnesty law] was collecting dust for nearly three years. But now that the president wants to talk to the Taliban - for his own interests, and for his friends' interests - he makes it law.
>
> - Fawzia Kufi MP[144]

The concerns about impunity and reconciliation need to be considered in view of the promulgation of Afghanistan's National Reconciliation, General Amnesty, and National Stability Law (hereafter referred to as the "amnesty law"), which came to light in January 2010.[145] The handling of the law raises serious questions about the Karzai government's commitment to safeguarding rights, and women's rights in particular, during the reconciliation and reintegration process.

Parliament passed the National Stability and Reconciliation Law in 2007, backed by a coalition of powerful warlords. The President, under pressure from various sides including Afghan human rights defenders and the United Nations, promised that he would not sign the law.[146] Most human rights defenders assumed that this meant the law had been thwarted.[147]

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[144] Human Rights Watch interview with Fawzia Kufi MP, Kabul, February 13, 2010.

[145] National Reconciliation, General Amnesty, and National Stability Law, Islamic Republic of Afghanistan, *Office of State Minister for Parliamentary Affairs, General Directorate of Administrative Affairs*, no. 44., dated 16/2/1386 (May 6, 2007), in the President's Letter to the Minister of Justice, to publish the resolution in the official gazette no. 14712, dated 09/09/1387 (November 29, 2008).

[146] Human Rights Watch interviews with Dr. Sima Samar, Chair, AIHRC, Kabul, February 8, 2010, and Nader Nadery, Commissioner, AIHRC, Kabul, March 4, 2010. Dr. Samar said that Karzai promised that he would not sign the law. In May 2009 Afghan representatives at the 2009 United Nations Universal Periodic Review were questioned about the legal status of the Afghanistan's National Reconciliation, General Amnesty, and National Stability Law. They told the Human Rights Council: "Although the National Assembly approved the National Reconciliation Bill, the president did not sign the bill." United Nations, General Assembly, Human Rights Council Working Group on the Universal Periodic Review 5th Session, Geneva, 4-15 May 2009, "National Report submitted in Accordance with Paragraph 15 (A) of Annex to Human Rights Council Res 5/1," http://ap.ohchr.org/documents/alldocs.aspx?doc_id=14920, para. 43.

[147] The constitution does not require the President's signature. Article 59 of the Afghan constitution states, "In case the President rejects what the National Assembly has approved, the President shall send it back, within fifteen days from the date it was presented, to the House of People mentioning the reasons for rejection, and, with expiration of the period or if the House of People re-approves it with two thirds of all the votes, the draft shall be considered endorsed and enforceable." The President did make amendments to the National Stability and Reconciliation law, which were then approved by Parliament. However, the Afghanistan Independent Human Rights Commission told Human Rights Watch that Parliament was not in quorum when it approved the President's amendments, so the law is not enforceable. There was no constitutional court functioning at the time of writing to resolve such disputes (though appointments to a new "Constitutional Oversight Committee" were made in May 2010). Legislative procedure outlined in the constitution is often ignored or contested (for example the Mass Media law was not gazetted for one year after being passed by Parliament, which many journalists interviewed by Human Rights Watch regarded as a deliberate and political delay by the Ministry of Information and Culture and the President).

However, they discovered in December 2009 that the law had been published unannounced in the official gazette, bringing it into effect.[148]

The Amnesty Law states that all those who were engaged in armed conflict before the formation of Afghanistan's Interim Administration in December 2001 shall "enjoy all their legal rights and shall not be prosecuted."[149] It also says that those engaged in current hostilities will be granted immunity if they agree to reconciliation with the government, effectively providing amnesty for future crimes. The law thus provides immunity from prosecution for members of the Taliban and other insurgent groups, as well as pro-government warlords, who have committed war crimes.

Defenders of the Amnesty Law note that it allows individuals to bring criminal claims against perpetrators: a provision states that the law "shall not repudiate the victim's right, and criminal claims of persons against persons in respect of individual offenses."[150] While international law encourages states at the end of hostilities to provide the broadest possible amnesties to those who participated in an internal armed conflict, such amnesties are not to apply to persons implicated in war crimes.[151] However, international law places a duty on states to investigate and prosecute crimes against humanity, war crimes and other serious human rights violations, such as extrajudicial killings, rape and other sexual violence, torture, enforced disappearances, and attacks on civilian objects such as schools.[152] Such obligations cannot be transferred to individuals. In practice, individuals have severely limited access to the justice system in Afghanistan, as the state court system is barely

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[148] Human Rights Watch interviews with Emily Winterbottom, Afghanistan Research and Evaluation Unit (AREU), Kabul, March 10, 2010. There is some confusion about when the law was gazetted. The date on the law says December 2008, though it did not appear on the Ministry of Justice website until December 2009, and was not distributed to the usual recipients of newly gazetted laws until January 2010. See also Afghanistan Research and Evaluation Unit (AREU), "The State of Transitional Justice in Afghanistan Actors, Approaches and Challenges," http://areu.org.af/index.php?option=com_docman&Itemid=26&task=doc_download&gid=760 (accessed June 10, 2010), p. 9.

[149] "Resolution of National Assembly on National Reconciliation and General Amnesty to the President No. 44, Date: 16/02/1386," art. 3.3, on file with Human Rights Watch.

[150] Ibid.

[151] See International Committee of the Red Cross, *Customary International Humanitarian Law* (Cambridge: Cambridge Univ. Press, 2005), rule 159.

[152] See Ibid., rule 158, citing the grave breaches provisions of the Geneva Conventions of 1949; Genocide Convention, art. VI; Convention against Torture, art. 7. See also UN Commission on Human Rights, "Impunity," Resolution 2004/72, E/CN.4/RES/2004/72 ("*Reaffirming* the duty of all States to put an end to impunity and to prosecute, in accordance with their obligations under international law, those responsible for all violations of human rights and international humanitarian law that constitute crimes … *Convinced* that impunity for violations of human rights and international humanitarian law that constitute crimes encourages such violations and is a fundamental obstacle to the observance and full implementation of human rights and international humanitarian law … ."). See also Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes against Humanity, adopted December 3, 1973, G.A. Res. 3074, 28 UN GAOR Supp. (No.30) at 78, U.N. Doc. A/9030/(1973) ("War crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment.").

functioning in much of the country, corruption is rampant, and there is no witness protection system. For women victims of sexual violence there are extreme cultural barriers to taking individual claims against (often very senior) commanders responsible for sexual violence during conflict.

Human Rights Watch has called for the Amnesty Law to be repealed, and for those who have committed crimes against humanity, war crimes and other serious human rights violations to be excluded from amnesties.[153] The Transitional Justice Coordination Group, a group of 24 Afghan civil society organizations working for transitional justice, also called on the government to repeal the law and restart the Action Plan for Peace, Reconciliation and Justice.[154] The group stated:

> Accountability, not amnesia, for past and present crimes is a prerequisite for genuine reconciliation and peace in Afghanistan. All Afghans will suffer as a result of implementation of this law, which undermines justice and the rule of law.[155]

The UN's then-senior human rights official in Afghanistan, Nora Niland, said that the High Commissioner for Human Rights had asked for the law to be repealed.[156] And the Canadian Foreign Minister, Lawrence Cannon, publically raised concerns about the Amnesty Law and called on the government to pursue the goals laid out in the Action Plan for Peace, Reconciliation and Justice. [157]

However, the major international players in Afghanistan, including the US, the European Union, and the UK, have not publically criticized the Amnesty Law. Several diplomats told

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[153] "Afghanistan: Repeal Amnesty Law," Human Rights Watch news release, March 20, 2010, http://www.hrw.org/en/news/2010/03/10/afghanistan-repeal-amnesty-law.

[154] The Action Plan for Peace, Reconciliation and Justice was launched by the government of Afghanistan in 2006, though little has been done to further its goals, which are: 1) acknowledgment of the suffering of the Afghan people; 2) ensuring credible and accountable state institutions; 3) truth-seeking and documentation; 4) promotion of reconciliation and national unity; and 5) establishment of effective and reasonable accountability mechanisms.

[155] Press conference comments and statement released at a press conference by the Transitional Justice Coordination Group, attended by Human Rights Watch, Kabul, March 10, 2010.

[156] "Top UN human rights official in Afghanistan calls for repeal of amnesty law," UN News Centre, March 25, 2010, http://www.un.org/apps/news/story.asp?NewsID=34198 (accessed June 10, 2010).

[157] Email communication from Canadian Foreign Ministry officials to Human Rights Watch, March 2010. The concerns were raised at a special parliamentary commission on Afghanistan in March 2010.

Human Rights Watch that the US and other governments had put pressure on them not to speak out against the law, arguing that it was necessary for reconciliation.[158]

The UN Special Representative to the Secretary General, Staffan de Mistura, said in June 2010 that reconciliation should take place before transitional justice, and that in the absence of criminal convictions no one can be excluded.

> Peace needs to be made by everyone with everyone. Those who accept to be inside the tent and that accept the Constitution. One day, I am sure there will be a moment when Afghans having reached peace will be able to go through this type of transitional justice process that many countries have gone through. But the priority today is to go towards peace, otherwise we will see ongoing war which a non-option.[159]

Many of the women interviewed by Human Rights Watch said that the Amnesty Law–and the weakness of the international response–sent the wrong signal about the prospects of a just reconciliation. "It looks like they are preparing the ground for more criminals to come, by giving them an amnesty," said Shagol Rezaee MP.[160]

Reconciliation and War Criminals

Senior leaders within the Taliban and Hezb-i-Islami (Gulbuddin) have been implicated directly or as a matter of command responsibility for war crimes and serious human rights abuses, including mass killings, summary executions, torture and other ill-treatment, indiscriminate attacks on civilians, discrimination against women and minority groups, abductions and arbitrary detention, and unlawful attacks on schools, as documented in several major studies.[161] Although some commanders named in existing documentation of

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[158] Human Rights Watch interviews with diplomats in Kabul, February, March and May 2010. One source also stated that British and French diplomats had also cautioned other embassies in Kabul against speaking out against the law. Email communication from diplomat to Human Rights Watch, March 2010.

[159] UNAMA press conference with the United Nations Special Representative of Secretary-General for Afghanistan, Staffan de Mistura, June 12, 2010, http://www.reliefweb.int/rw/rwb.nsf/db900sid/AZHU-86CN55 (accessed June 14, 2010).

[160] Human Rights Watch interview with Shagol Rezaee, Kabul, February 11, 2010.

[161] Human Rights Watch, *Blood Stained Hands - Past Atrocities in Kabul and Afghanistan's Legacy of Impunity,* ISBN 1-56432-334-X, July 2005, http://www.hrw.org/en/reports/2005/07/06/blood-stained-hands-0; Human Rights Watch, *Afghanistan - Massacre at Mazar-iSharif,* pp. 2-3; The Afghanistan Justice Project, "Casting Shadows: War Crimes and Crimes against Humanity: 1978-2001"; "UN Mapping Report, 2005."

war crimes are now dead, such as Mullah Dadullah, others are alive and still part of the insurgency.[162]

Human Rights Watch interviews with Afghan and foreign government officials indicate a great reluctance to exclude from the reconciliation process those insurgent leaders who have committed war crimes. One Afghan government official told Human Rights Watch that any transitional justice requirements would come after a peace and reconciliation process:

> It needs to be a process for all–it was not only one group that did these things–Communist, Mujahidin. In each phase of this country's history there were atrocities… when we have the real authority to implement the law, that is the time that these things can be dealt with. Until then we don't have the strong government required to manage this.[163]

International diplomats offered little indication that the exclusion of war criminals was a priority, or even a possibility. One senior US official said that excluding war criminals would be unlikely "since there are plenty who are just as bad in government."[164] A UK official said that drawing red lines prior to talks would be a "deal breaker."[165] Some US officials suggested that discussions about red lines were premature since reconciliation is "not happening yet."[166] Other US officials have stated that no policy decision had been made at the time of writing.[167]

Contrary to the views of those officials, many of the women interviewed by Human Rights Watch felt that some kind of transitional justice process should be a necessary component of reconciliation. "Otherwise, how will people gain confidence in the government?" said Suraya Perlika, director of the All Afghan Women's Union. "You can remove the names from the [black] list but you cannot remove them from people's minds."[168]

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[162] For example, Mullah Baradar, a senior Taliban official, is cited in The Afghanistan Justice Project, "Casting Shadows: War Crimes and Crimes against Humanity: 1978-2001," pp. 124 and 128.

[163] Human Rights Watch interview with Afghan government official, Kabul, March 3, 2010.

[164] Human Rights Watch interview with a senior US official. This view was also reflected in Human Rights Watch interviews with US officials from the Department of State and Department of Defense, Kabul and Washington, DC, February 2010.

[165] Human Rights Watch interview with senior Afghan government official, Kabul, March 2010, and interviews with US and UK officials, Kabul, February and March 2010.

[166] Human Rights Watch interviews with US officials at the US Embassy, Kabul, February 2010, with US officials in Washington, DC, February 2010.

[167] Human Rights Watch interviews with US officials, Washington, DC, March and June, 2010.

[168] Human Rights Watch interview with Suraya Perlika, Director, All Afghan Women's Union, Kabul, February 16, 2010.

Others felt that even if criminal justice was not possible, some form of accountability or truth-seeking process was necessary for a lasting peace. According to one activist:

> Mullah Omar was the head of the state when massacres happened. We need to know what made those massacres happen. Hekmatyar the same way, and many others who are part of the actual system today, were involved directly in destroying Kabul. The destruction of Kabul from 1992-96 is comparable with Second World War destruction. Who did it - some creatures from Mars? Of course not, it was these groups and we need acknowledgement. We need these people to come and say 'Yes, we have destroyed the palace, we have destroyed these cities, yes we have killed people. These people were not killed by Russians or Americans or anyone else, they were killed by us because we were so thirsty for power.' That acknowledgement should come back to the people of Afghanistan and only then can there be the possibility of reconciliation in our minds.[169]

Some women expressed concern that while exclusion might be an obstacle to peace, a truth commission would not. Said Frogh:

> I worry about talk of excluding people from peace. Today we are suffering from the results of the exclusion of the Bonn process.[170] We wouldn't have the Taliban insurgency if it wasn't for those exclusions… We need to rethink transitional justice, to help peace, to allow people to speak. That will give more hope. The crimes committed by the Taliban and by international troops–and in other decades - we might not prosecute them but we have to have a place where people can bring their grievances.[171]

Parliamentarian Shinkai Karokhail said that reconciliation should take place after reforms to strengthen vetting for political appointments and elections:

> If we bring them [the insurgents] in it should be under different conditions. The presence of these warlords today is already a headache, especially for

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[169] Human Rights Watch interview with activist, Kabul, February 17, 2010.

[170] The Bonn Agreement was signed on December 5, 2001 by representatives of several different anti-Taliban factions and political groups: http://unama.unmissions.org/Portals/UNAMA/Documents/Bonn-agreement.pdf. It established a roadmap and timetable for establishing peace and security, reconstructing the country, reestablishing some key institutions, military demobilization and integration, international peacekeeping, and human rights monitoring.

[171] Human Rights Watch telephone interview with Wazhma Frogh, April 8, 2010.

> women. They should be excluded from power. If the government is not in a position to bring them to justice, they should at least exclude them from government. The election law needs a strong condition that militants or people with strong affiliation with militants and militia are not allowed in.[172]

Some analysts and politicians agree that the Bonn process that began in 2001 marginalized some southern Pashtun tribes associated with the Taliban, which later contributed to the Taliban insurgency (though others argue that the tribal dimension to the insurgency is overstated).[173] The exclusion of those implicated in war crimes and crimes against humanity, however, does not have to mean political marginalization of entire tribes or groups. Addressing perceptions of exclusion and unfairness in local government should be part of a holistic approach to reconciliation - one that addresses legitimate grievances about marginalization but also makes progress reforming justice and accountability mechanisms. If the government wants to avoid the charge of unfairly singling out Taliban and Hezb-i-Islami (Gulbuddin) for vetting, it should take action on long overdue vetting and accountability reforms for the past war crimes and other abuses by those in government. This might also avert the potential for a backlash against potential deals with the Taliban. Several significant figures from the main non-Pashtun ethnic groups–Tajik, Hazara and Uzbek, have already expressed their hostility towards deals with the Taliban.[174]

Human Rights Watch urges the government to repeal the Amnesty Law, recommit itself to the Action Plan on Peace Justice and Reconciliation, and strengthen vetting mechanisms for advancement to public office. Far from being an obstacle to peace, accountability mechanisms conducted in an impartial and transparent manner can help overcome some of the grievances that fuel the insurgency. Extending such processes to the international military forces that have consistently failed to hold themselves accountable for abuses against the civilian population is crucial.[175] However, this would require less haste and more

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[172] Human Rights Watch interview with Shinkai Karokhail MP, Kabul, February 16, 2010.

[173] David Miliband, Former British Foreign Secretary, "How to end the war in Afghanistan," *New York Review of Books*, April 1, 2010, http://www.nybooks.com/articles/archives/2010/apr/05/how-to-end-the-war-in-afghanistan/?pagination=false; "UN Security Council Report, Profile: Afghanistan," November 7, 2006, http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2232713/ (accessed June 8,2010); Jonathan Goodhand and Mark Sedra, "Bargains for Peace – Aid, Conditionalities and Reconstruction in Afghanistan," Netherlands Institute of International Relations, http://www.clingendael.nl/publications/2006/20060800_cru_goodhand_sedra.pdf (accessed June 8 2010), p. 7; Ahmed Rashid, "Inside the Pakistan-Taliban Relationship: Six Questions for Ahmed Rashid, Author of *Descent Into Chaos," Harpers' Magazine*, July 30, 2008, http://harpers.org/archive/2008/07/hbc-90003347 (accessed June 8, 2010).

[174] Dexter Filkins, "Overture to Taliban Jolts Afghan Minorities," *New York Times*, June 26, 2010, http://www.nytimes.com/2010/06/27/world/asia/27afghan.html?src=twt&twt=nytimesworld (accessed June 29, 2010).

[175] For examples of abuses by US and ISAF forces see: Human Rights Watch, *Troops in Contact – Airstrikes and Civilian Deaths in Afghanistan,* ISBN 1-56432-362-5, September 8, 2008, http://www.hrw.org/en/reports/2008/09/08/troops-contact-0; Letter from Human Rights Watch to US Defense Secretary Robert Gates, "Airstrikes in Azizabad," January 15, 2008,

visionary leadership from the Afghan government and its international supporters to recognize that accountability as well as reconciliation offers a path towards durable peace and greater respect for basic rights.

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http://www.hrw.org/en/news/2009/01/14/letter-secretary-defense-robert-gates-us-airstrikes-azizabad-afghanistan; "Afghanistan: US should Act to End Bombing Tragedies," Human Rights Watch news release, May 14, 2009, http://www.hrw.org/en/news/2009/05/14/afghanistan-us-should-act-end-bombing-tragedies.

IV. Recommendations

Human Rights Watch supports the document from Afghan women civil society leaders, "Reactions to the Final Outcome Communiqué of The London Conference," issued on January 29, 2010. It includes the following recommendations:

- Women should be consulted by and represented on all authorities developing the national peace and reintegration program.
- The proposed Peace and Reintegration Trust Fund to finance the Afghan-led peace and reintegration programs should ensure that a proportion of the financial incentives to communities to support reintegration be used to support women's empowerment and development and the protection of their human rights through rigorous monitoring and redress.
- The government of Afghanistan's commitment to continue development of a national security strategy should be consistent with UN Security Council resolutions that address women's rights and conflict (including SCR 1325, which recognizes women's vital role in achieving peace and security, 1820 and 1888 on the prevention and prosecution of sexual violence in armed conflict, and 1889 which seeks to promote the involvement of women during the post-conflict and reconstruction periods).
- A National Action Plan on Women's Peace and Security should be integrated as a core element of the national security policy, and a quota of women's representation in all peace and security deliberations be established.[176]

Reintegration and Reconciliation

Human Rights Watch calls on the government of Afghanistan to:

- Ensure that all those who agree to the reconciliation process have made explicit their acceptance of the constitutional guarantees of equality for men and women, including the right to an education, the right to work, and the right to participate in political life.
- Mandate the Constitutional Oversight Committee (appointed but not yet operational) to ensure that reintegration and reconciliation do not breach the constitutional guarantees of women's rights.

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[176] "Reactions to the Final Outcome Communiqué of The London Conference," January 29, 2010, http://peacewithjustice4afghanistan.blogspot.com/2010/02/kabul-press-conference-reactions-from.html.

- Ensure that the reconciliation process includes all elements of society, including women, and ethnic and religious minorities.
- Commit to a timeline for advancing the Action Plan for Peace, Reconciliation, and Justice in advance of or in tandem with a reconciliation process.
- Ensure that the High Level Peace Council and the Joint Secretariat for Peace, Reintegration and Reconciliation Programs have a specific mandate to consider the impact of reintegration and reconciliation upon the rights of women and girls.
- Ensure that background checks are carried out on insurgent commanders to be considered for reintegration and reconciliation, and that political and bureaucratic positions at the district, provincial, or national level are not offered to those who have a track record of rights abuses, including attacks on schools and threats or attacks against women. Reintegrated or reconciling ex-combatants should also be subject to vetting procedures for government positions.
- Include in reintegration and rehabilitation of former insurgents, appropriate training on women's rights enshrined in the Afghan constitution, Afghan law (such as the Elimination of Violence Against Women law), and international human rights law.

Women's Representation

Human Rights Watch calls on the government of Afghanistan to:

- Ensure that women are represented on the High Level Peace Council and the Joint Secretariat on Peace, Reintegration and Reconciliation Programs, and that women are represented and able to play an effective role in any negotiations by the government with insurgent factions.
- Ensure that women are represented at decision-making levels in all national and regional discussions and decisions about reintegration and reconciliation. Ensure that women are chosen in a transparent way, and that their representation is acceptable to women activists and politicians, in order to avoid tokenistic representation by government loyalists. The Afghan Women's Network, the Ministry of Women's Affairs, and women parliamentarians should select or approve women's representation.
- Ensure that women are represented on village and district councils that will play a key role in reintegration plans.
- Take immediate steps to ensure that women are better represented in all government ministries and bodies, including those ministries involved in reintegration and reconciliation, such as the Demobilization and Reintegration Commission, the Independent Directorate of Local Government, the Ministry of Interior, the Office of the Presidency, the Ministry of Defense, the National Security Directorate, and the Ministry of Agriculture.

Human Rights Watch calls on the international military forces in Afghanistan to:

- Provide assistance for government background checks and vetting of those to be included in reintegration and reconciliation programs, and offer verification of background checks where intelligence is available, particularly regarding those being considered for political office.
- Recognize that civilian casualties, night raids and detention practices have helped fuel the insurgency, continue efforts to reduce unnecessary deaths, and fully investigate and hold accountable military personnel responsible for wrongful acts.
- Ensure that international military assistance to reintegration efforts does not exacerbate impunity or corruption, and that any engagement with communities or individuals seeking reintegration or reconciliation involves adequate intelligence and background checks for serious allegations of human rights abuses including attacks on women and girls' education.
- Ensure that women's security is a key consideration for the international military in all its reintegration and reconciliation efforts, including funding that is separate from the Peace and Reintegration Trust Fund, such as the Commanders' Emergency Response Program.

Human Rights Watch calls on the UN and international donors to:

- Provide oversight of the reintegration and reconciliation process so that it does not contravene UN Security Council Resolutions including Resolution 1325, which recognizes women's vital role in achieving peace and security, Resolutions 1820 and 1888 on the prevention and prosecution of sexual violence in armed conflict, and Resolution 1889 which seeks to promote the involvement of women during the post-conflict and reconstruction periods.
- Make women's meaningful participation in relevant decision-making bodies a precondition for funding reintegration programs, and ensure that reintegration funds benefit families and communities, including women, rather than individual ex-combatants.
- Include in the mandate of the oversight body the monitoring of ex-combatants being considered for reintegration and reconciliation, particularly those who are being considered for government office. Monitor detainee releases associated with the reintegration and reconciliation process to ensure that the release of detainees is not subject to political interference.
- Urge the Afghan government to repeal the Amnesty Law and to refrain from financially supporting or publically endorsing any reconciliation process that does not exclude

individuals against whom there are credible allegations of war crimes, crimes against humanity and other serious human rights abuses.

Attacks on Women in Public Life

Human Rights Watch calls on the government of Afghanistan to:

- Publicly condemn all attacks against women in public life.
- Ensure that sufficient security is provided for women in public life who are under threat, and that government security is provided to individuals on the basis of need rather than status or favor. Consider an oversight mechanism to ensure that security provision is needs based.
- Give priority to investigations into assassinations and other attacks on women in public life, ensure all reported attacks are recorded, prosecute the perpetrators, and identify preventive measures.
- Ensure that women are appointed to key political roles, including as ministers and deputy ministers.

Attacks on Girls' Access to Education

Human Rights Watch calls on the government of Afghanistan to:

- Publicly condemn all attacks against schools.
- Investigate all attacks on education and prosecute those responsible.
- Ensure that the Ministry of Education, the Ministry of Interior, the Office of the Attorney General and the Ministry of Justice share information on perpetrators of attacks on schools, and that this information is also shared with the High Level Peace Council, the Joint Secretariat on Peace, Reintegration and Reconciliation Programs, and with the committee reviewing security detainees (created in June 2010).
- Any outreach to insurgent factions should demand the immediate cessation of intimidation of female students, women teachers, and attacks on schools.
- Prioritize recruiting and training of women teachers and provision of sufficient girls' classes and schools. Consult with communities (including those communities who are being targeted for reintegration and reconciliation) on how to improve girls' access to school, including demands for more women teachers, transport assistance for girls, and segregated schooling. (*See also* our December 2009 report, "'We have the Promises of the World': Women's Rights in Afghanistan" (http://www.hrw.org/en/node/86805)).

Transitional Justice

Human Rights Watch calls on the government of Afghanistan to:

- Recognize that a lasting peace will have to address underlying grievances, including addressing past crimes. Consider the use of forums such as the Consultative Peace Jirga to start a national discussion on healing the wounds of the decades of war, how to bring justice for victims of rights abuses, and how to provide protection to vulnerable communities.
- Repeal the Amnesty Law, and ensure that those against whom there are credible allegations of war crimes, crimes against humanity, and other serious human rights abuses are excluded from the reconciliation process.
- Commit to a timeline for advancing the Action Plan for Peace, Reconciliation and Justice in advance of or in tandem with a reconciliation process.
- Strengthen existing vetting and complaints mechanisms for elections as well as political, bureaucratic, and judicial appointments so that individuals against whom there are credible allegations of war crimes, crimes against humanity, and other serious human rights abuses from all existing and former armed factions are excluded from public office.
- Build transparent and credible dispute resolution and accountability mechanisms into the reintegration and reconciliation process, including measures to address grievances against government officials. Ensure that the government officials implementing these accountability mechanisms are not themselves subject to complaints from the local communities.

Governance Reform

Human Rights Watch calls on the government of Afghanistan to:

- In order to address some of the underlying causes of the insurgency, and to improve the prospects of building a lasting peace, take significant steps to increase the pace of governance reform to better protect the rights and fundamental freedoms of the population.
- Ensure the independent and impartial vetting under Afghan law of all candidates for political office, senior security and civil service positions, in order to exclude individuals against whom there are credible allegations of human rights abuses, links to armed groups or criminal activities. This will involve strengthening the Senior Appointments Advisory Committee and the Independent Administrative Reform and Civil Service Commission (IARCSC), creating a body to vet judicial appointments, and strengthening electoral vetting to include checks for credible allegations of human

rights abuses. These steps will also make the vetting of ex-combatants less vulnerable to charges of unfairness.

- Ensure that newly created and strengthened accountability bodies transparently investigate allegations of human rights abuses and corruption against officials at all levels in the government and security services, and that those found responsible are removed from office and appropriately prosecuted.

Human Rights Watch calls on the UN and international donors to:

- Ensure that the Afghan government makes significant progress on governance reforms, to address underlying grievances and dissatisfaction with the government, and improve the prospects for a lasting peace. Where possible make aid, including the Peace and Reintegration Trust Fund, conditional on demonstrable improvements in justice and accountability.

Acknowledgments

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The "Ten-Dollar Talib" and Women's Rights

Afghan Women and the Risks of Reintegration and Reconciliation

Threatening phone calls and letters left in the night warning women to stop work or be killed. Girls' schools and their teachers and students targeted for attack. Assassinations of women politicians and activists. These are some of the realities of life for women and girls in Afghanistan in areas where the Taliban and other insurgent groups are strong. In interviews with Human Rights Watch, Afghan women from four conflict-affected provinces, as well as key women leaders, expressed their perspectives on the ongoing conflict, its resolution, and the implications for women's human rights.

All of those we interviewed want peace, but many fear that women may pay a heavy price if hasty deals are struck. As plans progress to reintegrate opposition fighters and negotiate and eventually reconcile with insurgent groups, these concerns intensify. Some policy makers are beginning to recast the Taliban and other groups as primarily "ten-dollar Talibs"–people motivated by money rather than ideology. This report shows that regardless of what motivates individual fighters, in many Taliban-controlled areas the abuses against women and girls are widespread and often severe.

The "Ten-Dollar Talib" and Women's Rights assesses recent experiences and developments affecting women in Afghanistan and makes recommendations to help ensure that women's rights are respected during any reintegration and reconciliation process. The rights of women to work, to get an education, and to engage in political life should be explicitly safeguarded. Mechanisms can be put in place so that those with a history of serious abuses against women and girls can be excluded from power. And women leaders must be fully involved in the decision-making processes since they are themselves the best guarantors of their rights.

Twenty percent of the delegates at the Consultative Peace Jirga (assembly) in June 2010 were women, including parliamentarian Shinkai Karokhail (pictured), but many felt that they had limited opportunities to voice their concerns.

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