

Afghanistan conference

The Human Rights Situation after August 2021



Foreword

DRC Danish Refugee Council arranged a conference on the human rights situation in Afghanistan in Copenhagen on 28 November 2022. This report is based on the conference.

Since August 2021 there have been significant obstacles to the gathering of comprehensive information concerning the human rights situation in Afghanistan. Yet accurate and updated country of origin information on the situation in Afghanistan is needed by both asylum authorities, lawyers and human rights organization working with refugees and asylum seekers. On this background DRC Asylum Department in Copenhagen invited four experts to speak on specific aspects of the human right situation in Afghanistan after the Taliban take over in August 2021.

The four experts invited were: Mr. Richard Bennett, UN Special Rapporteur on the situation of human rights in Afghanistan; Mr. Thomas Ruttig, analyst with and co-founder of the Afghanistan Analysts Network; Mr. Ehsan Qaane, also analyst with the Afghanistan Analysts Network and Dr. Liza Schuster, reader from Sociology at the Department of Sociology at City, University of London.

This conference report has been drafted by DRC staff based on the speaker's presentations, discussions at the conference, and audio recordings of the main content of the conference and does not purport to reflect the entire proceedings. The content of the conference has been adapted for readability and usability within this report. Variations in style, terminology, spellings, and choice of language for different terms used by different speakers may appear as a result.

Each speaker has had the opportunity to correct, delete and add to the reworked transcripts of their presentation as well as their answers to questions from the audience.

The speakers have given their consent to be quoted publicly from this report. Information provided by an external speaker in this report should be cited under the name of the speaker and the context in which it was delivered: Name of speaker, Report of DRC's Afghanistan Conference 28 November 2022.

Any opinions expressed in this document are the sole responsibility of the individual speakers.

DRC Danish Refugee Council sincerely thanks the four speakers for relevant, interesting, and enlightening presentations, and the participants for good questions and a lively debate.

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The general human rights situation in Afghanistan – by Mr. Richard Bennett

Mr. Richard Bennett was appointed Special Rapporteur on the situation of human rights in Afghanistan on 1 April 2022 and officially assumed duties on 1 May 2022. Mr. Bennett has a long career working in Afghanistan in different capacities including as the Chief of the Human Rights Service with the United Nations Assistance Mission in Afghanistan (UNAMA). He has also worked in other fragile or conflict-affected countries such as Nepal, Sierra Leone, South Sudan, and Timor Leste. Since May 2021, Mr. Bennett has conducted several visits to Afghanistan and published a report on the human rights situation in Afghanistan in September 2022¹. In October, the Human Rights Council strengthened and extended the mandate for another year.

I am honoured to be invited by the Danish Refugee Council today and to join this very distinguished panel. My role today is to set the scene for the others to go a bit deeper into certain issues.

I appreciated the introduction, where DRC's Secretary General Charlotte Slente among other things talked about how Afghanistan has been impacted by decades of war. I think often many underestimate the damage that has been done to the country, to its people, and to its social fabric by more than four decades of continuous conflicts.

And when Charlotte Slente spoke about the explosive remnants of war in a physical sense, how these blow people up physically, I transferred it in my mind to a metaphor, that in fact the explosive remnants of war are also in the people's minds and hearts, and they explode in a different way. It is vital that we also acknowledge the trauma and the damage and the need for justice and accountability that continues in Afghanistan. Otherwise, these metaphorical remnants will eventually transform themselves into physical ones.

The mandate of the special rapporteur on human rights in Afghanistan

I will start by introducing my mandate. My mandate is on the country situation, and it was established in October 2021 after the collapse of the Republic [The Islamic Republic of Afghanistan /the government prior to August 2021], when the Human Rights Council decided to appoint a special rapporteur.

¹ <https://www.ohchr.org/en/documents/country-reports/ahrc516-situation-human-rights-afghanistan-report-special-rapporteur>

This mandate is a little different. Where most special rapporteurs do not have staff, in the case of Afghanistan, the Human Rights Council voted in favour of having a reasonable number of resources, and a staff of four persons were allocated.

This mandate is a mix of a special rapporteur and something like the mandate of a fact-finding mission.

My functions are to assess and report on the developing human rights situation in Afghanistan, and to seek, receive, examine and act on information on human rights violations from all stakeholders. I also have a responsibility to document and preserve information on human rights violations.²

There is also an assistance role, where my team and I are assisting and advising the civil society when requested and assisting with the implementation of the international human rights treaties that have been ratified by Afghanistan. Afghanistan has ratified seven core treaties.

I am also requested to fulfil my role through a gender-integrated, child and survival-centred approach³.

Since the Taliban take over in August 2021, I have visited Afghanistan twice; in May and October 2022 where I stayed 11-12 days each time. I managed to get out of Kabul; first time to Kandahar and Mazar E- Sharif, and the second time to Panjshir and Bamyan.

I was able to meet at senior levels with the Taliban de facto authorities. I met two of the deputy prime ministers, the acting foreign minister several times and various other ministers. When I went to the provinces, I was able to meet with the governors and other officials. I appreciate that the Taliban leadership recognizes the significance of my mandate in this way.

I will submit another report to the Human Rights Council in March next year and after that I have been requested by the Council to submit a joint report on the situation of women and girls together with the UN working group on discrimination against women and girls in June.

General human rights situation post-August 2021

I want to underline that a number of the human rights concerns that exist today in Afghanistan, predate the Taliban takeover of August 2021. In fact, there were many concerns about human rights even during the twenty years of the Republic, and these have been reported by NGOs like

² United Nations General Assembly (UNGA), res 48/1 (07 October 2021), A/HRC/RES/48/1, operative para.12.

³ UNGA, res 52/20 (11 October 2022), A/HRC/RES/51/20, operative para. 20.

Amnesty International and Human Rights Watch, and also by the United Nations [UN] during that period.

Having said that, in my view, there has been a significant deterioration in the overall human rights situation since the Taliban take over in August 2021. The rights of women and girls have been severely curtailed. I will come back to this in a moment. There has continuously been an environment of non-inclusion, there is very little inclusiveness in the Taliban government and very little space for minorities and marginalised groups. The Taliban will say, and it is true, that they have a number of Tajiks in relatively senior positions. However, there are a very few Hazaras in any position in the Taliban administration. But generally, it is not an inclusive regime, and the great majority of the Taliban de facto administration are of Pashtun origin.

There continue to be many attacks particularly on Hazaras, and also on Sikhs, Hindus, Sufis, and side-lining of other groups like Uzbeks and Turkmen. It is important to note that the situation of minorities and marginalised groups is of serious concern from a human rights perspective.

I also observe the closing of space for civil society and the media to operate. Freedoms of expression, of association and assembly and movement are fundamental freedoms and they have been narrowed under the Taliban. There is no space for civil society, for women and human rights defenders and other activists. And there is almost no tolerance for expression of different views in public – it is not only active dissent that is not tolerated but also just different views are not accepted.

The humanitarian crisis has gotten worse, and this winter will be a grim and challenging period. It was similar last winter, but then the Afghans had some savings or resources to sell in order to feed their families. But this winter those resources do not exist anymore, or they exist much less. I think issues of poverty, hunger and malnutrition are extremely worrying.

Conflict-related human rights violations continue. The Taliban will say that there is security in the country, however the security is very fragile. There are armed resistance groups, particularly in the north, especially centred around Panjshir, but also around other provinces as Badakhshan, Takhar and Baghlan. There is also the significant presence of Islamic State Khorestan Province [ISKP] in Afghanistan.

We are increasingly concerned about children's rights; children being recruited into military roles and child labour are among the issues. Early marriage, child marriage and the selling of daughters for economic reasons are also a great concern. Also forced marriages to Taliban fighters is reported.

The Taliban does not recognize the age of 18 to be the threshold for childhood. They reject that on Islamic grounds. Generally, puberty, which is usually much younger than 18, is the age where it is considered that boys are ready to fight, and a girl is ready to be married.

When the Taliban took over, they also changed the judicial system. All of the judges, more than 2000 (of which more than 200 were women) were laid off and replaced by mullahs who have received madrassa education but probably not formal legal training. Many of them appear to have been appointed due to their association with the Taliban movement rather than any previous experience with legal matters, even in Sharia. Access to justice and fair trials is very challenging.

Two weeks ago, the Taliban supreme leader Sheikh Habitullah issued an edict, requiring the implementation of what is known as “Hudud⁴ and Qisas⁵” punishments and in the last month we have begun to see people, both women and men, being sentenced to corporal punishment and flogged in public places.

I fear we might see cutting of hands and capital punishment in public soon⁶. Generally, there appears to be a trend in this direction - going back the situation that pertained in the 1990s.

There are significant reports of torture, extra-judicial killings, enforced disappearances, arbitrary detention and arrest, and cruel and inhuman treatment of prisoners. The cruel and inhuman treatment seems to take place either in the prisons of the intelligence, or in unofficial, that is illegal places of detention. In the official established prisons run by the Office of Prison Administration, (I visited three of them) the prison management gives the appearance of trying to follow the guidance that was issued by Taliban supreme leader [Sheikh Habitullah], which in the treatment of prisoners seems relatively close to international standards.

However, there are a lot of reports of torture, which appears to take place soon after arrest and detention, and not necessarily in prisons but at other locations.

Taliban rule and governance

When the Taliban took over there was a collapse of oversight and accountability structures in the executive, legislative and judicial pillars of the state. The parliament was dissolved as was the

⁴ Huddud crimes are known as claims against God and are punishable by a pre-established or mandatory punishment that has been laid down in the sharia for a specific act. There are six Huddud offences: Zina (adultery and fornication), Riddah (apostasy), Hirabah (waging war against God and society), Sariqa (theft), shrub al-khamr (drinking alcohol), and Qadhif (slander/defamation). The punishments include the death penalty, stoning and lashing.

⁵ Qisas (retribution in kind) follows the principle of “an eye for an eye” and covers murder or serious cases of intentional bodily harm.

⁶ Mr. Richard Bennett informed in an e-mail of 15 December: “*In fact, it has now started with a public execution in Farah on 7 December.*”

electoral commission and the Constitution of 2004 was set aside. And, as mentioned already, the judiciary was transformed. After some months, the national human rights commission was also abolished. There are restrictions on the freedom of press. The Ministry of Women's Affairs was abolished, and its premises were ironically replaced by the Ministry for Propagation of Virtue and the Prevention of Vice.

The transition by the Taliban from being an insurgency to being a government is still ongoing.

One of the things I noticed when I had meetings with acting ministers of the *de facto* administration is that they were accompanied by officials or civil servants. Many of these officials had also worked for the Republic and had stayed in their jobs. Maybe they did not have much choice, maybe some were comfortable, some said they were less comfortable, but they could not leave and at least they had a job. It is interesting because they tried to do something.

I remember a meeting with one Minister, who is rather conservative and religious, where we discussed the presence of women in the justice system. He acknowledged that women were needed in the health, education and security systems. But he did not find it necessary to have women in the justice system. According to the Minister of Justice there was a need and reasons for women to be doctors but there was no need for women to be lawyers, judges, or prosecutors. From other meetings, I gauged that not all Taliban officials were so hard-line, and this could be a sign of a little space to work in.

The Taliban are not monolithic. They have some very tense internal dynamics. We should not always think of Taliban as being the same. There are different views among the leadership, but these may not emerge publicly very frequently. Anyone who claims that they fully understand exactly how the leadership of the Taliban operates, is probably mistaken in my view. It is an extremely secretive, murky, opaque organisation. It was in the nineties, and it is not different now.

On the international side the Taliban say they accept international conventions that have been ratified by the state of Afghanistan, but always with the caveat '*provided they are not in conflict with the Islamic sharia*'.

Marginalised groups

While there seems to be no official definition, a UN report defines marginalised groups as: "A *form of acute and persistent disadvantage rooted in underlying social structures.*"⁷

Some of the groups which I would say are marginalised are, women and girls, certain religious and ethnic communities, persons with disabilities, LGBTIQ+, human rights defenders and

⁷ Based on the EFA Global Monitoring Report: Reaching the marginalized.

journalists, particularly women, and security and other personnel of the former government. Any critics of the Taliban regime could be seen as marginalised and are very much at risk.

In all cities I visited, I primarily spent time meeting the civil society. I visited schools, mosques, and hospitals, for example. There still is an active civil society in all the cities I have visited. These people also made the point, *'don't forget us'*, that we in the international community should not only listen to the diaspora, but also to those who continue to live in Afghanistan.

Women and girls

For girls, the secondary schools are officially closed but there are still some girls' schools operating in around 12 provinces. There are also some online courses taking place or courses in people's homes. It is less known that, at universities young women now have restricted faculty-choice. They cannot choose for example engineering. Even journalism is in some places regarded as not suitable for women.

Access to livelihoods have been curtailed, particularly in public service. There are still women working in the public sector, but much less than before. There is a lack of public inclusivity and access to public life for women.

There is a shrinking civic space for women. While not many women found wearing a scarf to be an issue, the Mahram policy [male chaperone who must be a close family member] was raised a lot by the women I met as being extremely restrictive. The Mahram policy restricts movement and deprives women of agency. If a woman violates the Mahram and Hijab policy it is her male relative who will be punished for the woman's behaviour, which objectifies the woman and there are signs that it results in control by male relatives and an increased risk of violence.

There is a reported surge in child marriage and child labour; an increase in violence against women and girls, domestic violence, strain on mental health and well-being, clamp down on protests and protestors, closure of parks and gyms.

Last Friday, together with some of my special procedures colleagues, I issued a statement saying that the situation of women in Afghanistan may amount to gender persecution, which is a crime against humanity⁸. It has never been litigated in the International Criminal Court, but there is a new draft policy on this issue which has mentioned the Taliban in Afghanistan. It will probably be launched in The Hague next week⁹.

⁸ The statement from the special rapporteurs: [Afghanistan: Latest Taliban treatment of women and girls may be crime against humanity, say UN experts | OHCHR](#)

⁹ <https://www.icc-cpi.int/news/policy-crime-gender-persecution>

Humanitarian crisis

I see a number of issues around the humanitarian crisis which is linked to an ongoing economic and financial crisis. Food security and access to livelihoods are precarious at best, there is widespread poverty and malnutrition. The health care system is under enormous stress.

I was surprised in how many of the meetings in Afghanistan, where the concern was raised by Afghans that the aid is not reaching those most in need. Some of it was due to deliberate diversion by Taliban towards their own communities and supporters, which is also included in my report. Examples were that people with disabilities, elderly people and women headed households were not placed at the front of the line where they should be. Worryingly, there were claims that some ethnic and religious communities are being discriminated against by Taliban.¹⁰

Any room for optimism?

On the positive side, I was able to visit the country and I was allowed freedom of movement. I was able to meet with whom I wanted, and I even went to three prisons and several hospitals. There is still some kind of willingness to engage in dialogue. As I have mentioned already, the *de facto* authority claims to respect international human rights treaties ratified by Afghanistan, as long as they are not in conflict with Sharia.

In the Ministry of the Foreign Affairs, they have re-established the human rights and women's international affairs unit. I met the director several times. I asked if he had women staff, and he said he had two, who work from home.

Focal points on human rights have also been re-established in some other ministries and this is perhaps something to work with. It seemed that the prison administration is trying to do the right thing and they appeared to be relatively professional in their approach.

According to UNESCO, there is now more respect for the Kushan period - the Buddhist period – than last time Taliban was in power. UNESCO and other agencies are able to continue to rehabilitate Buddhist monuments without being stopped by the Taliban.

Conclusion

In conclusion, Afghanistan continues to suffer a human rights, a humanitarian and a political crisis.

¹⁰ UN Special Rapporteur: Situation of human rights in Afghanistan, 9 September 2022. [OHCHR | A/HRC/51/6: Situation of human rights in Afghanistan - Report of the Special Rapporteur on the situation of human rights in Afghanistan](#)

The situation for women and girls is the most egregious in any country, possibly amounting to the crime of gender persecution.

There is not much sign of a reformed Taliban or a Taliban 2.0, instead there is an apparent trend of regression back to the situation during the regime from 1996-2001.

Marginalised communities continue to be systematically targeted and Hazaras are particularly adversely affected.

The international community must recognise its own role and responsibility in the situation that has unfolded in Afghanistan. There should be accountability for human rights violations committed by *all parties* involved in the conflict. I do not agree with those who say we should just have accountability for the time since August 2021 and for the Taliban and Islamic State. That is not consistent with human rights approaches.

It is important to ensure and support the safe passage of Afghans seeking to leave the country or currently applying for refugee status abroad.

It is important to facilitate asylum applications and comply with the UNHRC “non-return advisory” for Afghanistan at this time.

Thank you very much.

QUESTIONS AND ANSWERS

Question: Are there any special features for those persons from marginalised groups who still manage to work for the de facto government? Do they have a special connection or history with the Taliban or is it by coincidence that they work there?

Answer (Richard Bennett): No, I think they are more disposed towards the Taliban, and it is not by coincidence. For instance, in Bamyan both chief of the police and the head of Vice and Virtue are both Tajik. They have historically been sympathetic to the Taliban. In Bamyan, 90 percent of the population are Hazara. But there are almost no Hazara in their administration. However, there are Tajik as well as Pashtuns in the administration.

Question: In the asylum procedure the question of a woman’s network is seen as very important. If she has a male network, she will not be granted asylum, unless for other

reasons. The different restrictions on the individual woman are not in itself enough to be granted asylum when she has a male network. What would be the counter argument on this from your perspective?

Answer (Richard Bennett): I will comment more generally. I have already said that we have seen various edicts from the Taliban on the rights on women and girls, that have become progressively more restrictive. I have mentioned the closure of public parks for women a few weeks ago, and the issue of Hijab and Mahram. From the supreme leader we have seen a strong recommendation that women and girls should stay at home and not leave unless necessary.

In case a woman violates this, her male relative will be punished. This removes the agency of an entire gender, and not just an individual. As mentioned, I have together with other colleagues raised the issue of gender persecution as a crime against humanity, however there is not any jurisprudence on this.

Women and girls, risk persecution if returned to Afghanistan – whether or not they are “protected” by a male relative. In itself, this issue of protection by a male relative is a reduction or a removal of the agency of the woman concerned and should in my view not be used as a reason to deny an asylum claim.

Question: Is it possible for a woman to be a Mahram for another woman?

Answer (Richard Bennett): I have not heard of a woman being a Mahram and I do not know if it is possible. I will not rule it out, but I have not heard of it. There are local differences often related to the influence of local commanders. Probably, that is why some secondary girl-schools remain open in some districts and provinces and not in others.

Question: What do you know about how Afghans who have been working with foreign embassies at lower level, e.g., a gardener? How are they treated by the local society or by local Taliban members. Is it safe for them?

Answer (Richard Bennett): I cannot answer that in a holistic way. It might be a case-by-case situation.

There might be a lot of factors involved, and maybe a gardener is actually at risk. I know drivers have been at risk. I can give you an example of a driver at the Human Rights Commission who was among the first arrested and beaten up. It is often thought that the drivers have a lot of

information, firstly, because they knew where the boss had been going and who they had meetings with. Secondly, because they had been listening to conversations in the car, maybe on the phone.

Sometimes you think a gardener, or a driver will be ok, but maybe not. I think it is case by case.

Question: Can you elaborate on Taliban's contradiction between actions and political statements? Are they intentionally playing a double game, or could it just be that they are in a transition of learning how to be a government?

Answer (Richard Bennett): That is an important question. From myself and from other international missions I think the approach is '*We won't judge you on your words, we will judge you on your actions.*'

There does seem to be a large gap between the rhetoric and the reality. So, there is a need for fact checking.

Whether it is a double game or whether it is a transition to being a government, I am not sure. I noticed that experienced civil servants are still trying to hold things together. But at the same time, there have been many contradictory things said and done. Particularly, on the 23rd of March 2022, where there was an announcement that girls could return to secondary school, but the secondary schools were closed the same day. I think that was a pivotal moment where many people lost trust.

Another example was the 6th of August 2022 where a drone strike in Kabul killed the Al-Qaeda leader Zawahiri. This was another moment where people were doubting, whether there was a double game being played out.

Question: There was a rumour last week that 4600 Pansjirs and Tajiks have been tortured in Pul -E-Charkhi. Did you visit the prison?

Answer (Richard Bennett): Pul – E-Charkhi has 2000 prisoners and during the Republic it had 12.000 prisoners. I did visit the Pul – E -charkhi prison and I managed to move around in some of the cell blocks, as well as the kitchen and clinic, and talked to some of the prisoners. Maybe it was somehow stage managed. I did get to talk to the prisoners face to face. Not in private, there were other people listening. I cannot say that they were not being tortured. I know that UNAMA are

making more visits and the ICRC has a regular agreement with Afghanistan and they will be able to do thorough prison monitoring.

I cannot verify the claims of torture in the Pul -E- Charkhi prison.

Rule of the Taliban – by Mr. Thomas Ruttig

Mr. Thomas Ruttig¹¹ is a co-founder and was a co-director of the Afghanistan Analysts Network until 2021. He is an expert on Afghanistan's modern political history, democratic rights, and political parties and his contributions are particularly relevant in the context of this conference on the Taliban as a movement and de facto government. Mr. Ruttig graduated in Afghan Studies from Humboldt University, Berlin in 1985 and has had a long career working on and in Afghanistan on missions with the UN, the EU, and the German embassy, among others. Altogether, he has spent more than 13 years in Afghanistan and speaks both Pashto and Dari.

I am very happy to be part of this distinguished panel.

Taliban starting over

I am supposed to talk about the rules and structure and politics of Taliban, and also about the past to compare, because I had the honor to work under Taliban 1.0 as a member of the UN mission to Afghanistan, and it was quite interesting – particularly if you spoke the language. And indeed, we were all quite hopeful when they came back to power. Not *because* they came back to power, but *when* they came back to power in August 2021, it was not only what the spokesman Mujahed had said after they had arrived in Kabul, but also those many negotiations and talks which happened before the takeover: Talking about an amnesty and constructive cooperation with employees of the former government.

Taliban had actually sent signals indicating that they might have changed, that they were now more conscious – after 20 years of war and more exposed to the outside world – of what is necessary for Afghanistan.

We hoped and believed that maybe Taliban would let women be part of society and able to play a real role, as the previous regimes had at least opened up a little space for women in most spheres of society. But also, that Taliban would not take revenge on those people who have been in power before them.

Doubletalk or inability

¹¹ <https://www.afghanistan-analysts.org/en/about-aan/aan-team/>

Someone from the audience asked if it is double talk or just an inability to follow up in deeds on the words. I think it is a bit of both. I shall come to that a little bit later when I talk about the structure of Taliban.

But one thing is clear: the Taliban leadership was not able – or not willing – to stop acts of revenge in the first days and weeks after they took over Kabul and the rest of Afghanistan. There were so many people with old grievances and open accounts, so to say, from 20 years of violence, human rights violations and probably even war crimes, committed by those people whom we in the West supported in Afghanistan and even from our troops from time to time.

This situation was probably unstoppable, and we are just now starting to realize how big the scope of the destruction was. Destruction in the physical sense – but also in that mental sense, where the explosions are in the heads and minds. We must recognize what happened in the part of the population, who lived under the Taliban long before they came to Kabul. These people were bombed and droned and had to live under the threat of drones that circled over their heads for so many years. And we never recognized the sufferings of that part of Afghanistan to the extent necessary.

The West never knew much about the Taliban

We also have to realize that we have never known much about the Taliban at all, about their internal dealings and intentions. There were signals, of course, coming out, which you could try to interpret. Sometimes you could talk with Taliban. But there were always people in the Taliban, both in what we can call Taliban 1.0 and Taliban 2.0, who would never talk to you, when you are a Westerner. Some of them were pretty consistent while others actually changed their position, and this can be seen as a small sign of hope that change can actually happen. And that's why it is important also to remember *'Yes, they are not monolithic, they are also not static, they do not never change'* and change in Afghanistan always needs a lot of time. But I want to stress that: We didn't know much about Taliban, and we also did not know enough about Afghanistan.

But now under the new circumstances with the Taliban back in power, we know even less than we did before. Because of access, but also because of our own biases: Taliban is always black, the other side is always white. That's why I very much agree with Richard Bennett when he emphasized that human rights violations and possible war crimes also happened under the old regime. As I mentioned we need to remember those people living in the rural areas under the Taliban, whether they supported Taliban or not. They never really played any part in our equations, but we need to address these issues and we need to be very self-critical.

There was a conference on Afghanistan, organized by the German Presidency of the G7 in Berlin in November 2022, where the German minister of development came on stage and talked about the Taliban and *'how bad everything is'*. There was not a single word in the whole speech that even implied that, actually the Taliban are now in power because we failed in our politics in Afghanistan. No recognition that this was a smashing defeat – for our politics and for our values.

We need to talk about our own violations committed in Afghanistan. We must recognize that too often we do not honor our own values when we exercise power in foreign countries. And this has a racist component if you ask me.

The words and the deeds of Taliban

We need to distinguish between the words that the Taliban are saying and the deeds they are doing, and we need to recognize that in Afghanistan everything is possible at the same time. I have a couple of examples: While in some ministries Taliban asked the female workers to stay at home, still receiving a salary, in other ministries female workers are still expected to show up for work.

It is the same with girls' schools, although there was a ban for girls-schools beyond class 6, some schools are still open, because local Taliban leaders allow it, maybe because they have daughters themselves, we don't know. It also appears that that girls' schools in the private sector, in the NGO-sector, for instance the Swedish Committee has been running girls' schools or supporting girls' schools for ages, are still open without any disturbance.

We also need to remember that in most areas there were no girls' schools at all, not under class 6, and not beyond class 6. And a little positive thing in the horizon is that the Taliban has started building more schools for boys and for girls under class 6, also in provinces where, because of the war, there were no schools, over the last 20 years.

It is also worth mentioning that Taliban has signed an agreement with an NGO to renovate the old Jewish quarter in Herat. This is not something you will find in many Islamic countries. The Taliban are always good for a surprise – for bad ones, but sometimes also for a good one.

Old grudges and private conflicts

There was a question for Richard Bennett regarding what risk a gardener or a driver would face in Afghanistan. Richard already gave one factor to consider: That they might be sources of information and intelligence. But one must also remember that Afghanistan is a network society. With large networks of blood-relationships and other kinds of relationships – everyone knows

almost everyone. So, a risk can very well be related to something private or personal; Maybe your brother or a cousin once did something to someone in the village and 20 years later it comes up. And when someone who was not in power before, is now in power – they have the position and means hitting back. Such acts of revenge might be made to look like official policy, or they might be indeed official policy.

Exclusion of women and girls by law

In most of these cases, except for women and girls where it is systematic, I would say that it is still often individual circumstances, but the revenge can play out against a certain group (for example in the former defence/security forces). Obviously, there is also a gradual hierarchy of groups which are vulnerable or threatened. With women it's more general, and this is the one thing that really sticks out with the Taliban: They try to make the exclusion of women and girls systematic by law. I think that's not the case for media or even for human rights defenders.

But for women and girls it is getting very clear cut. But still, we need to remember that words and deeds are different. It's also worth recalling what we in UN during the first Taliban rule used to call: Implementation fatigue. This referred to Taliban having so many bans and restrictions that they could not implement them all at the same time and in all places. This can open niches and room to maneuver.

The situation has deteriorated very, very badly after Taliban took power. The system is not good when it comes to rights, but still, it is never as dark as it sometimes appears when you just listen to the media. I have been a journalist myself, so I should be careful what I say. There is also good journalism regarding Afghanistan, but sometimes we are presented with a very black and white picture. Many journalists do not have sufficient information, and the less they know about the country the easier it is to fall for rumors and propaganda, of all sides.

The Taliban were never gone

The Taliban has consolidated their power since their take over in Mid-August 2021 and re-established their Islamic Emirate. But there was actually never a declaration that the Islamic Emirate is back, because in their point of view – and we need to try to understand the Taliban viewpoints better – it was never gone; Taliban were in the mountains, they were the insurgency, but in 2001 there was an illegitimate intervention, and actually, the Islamic Emirate never stopped. They were just in hiding – in the mountains or in Pakistan.

I believe that this is also the explanation behind the continuity we see with the staff in the ministries and other institutions. Staff that have been kept from the last government. You have

people who have been working there under the monarchy, and for the communists, the Mujaheddin, Taliban 1.0, a pro-Western government, and now Taliban 2.0.

So, there is a form of tolerance for civil servants who need their bread. They cannot just go and do another job. They want to stay there. And there is also an understanding that the structures of the state of Afghanistan, which worked for 100 years, are good and worth keeping. That's also what the Taliban governmental structure shows. They only abolished those institutions they saw established under the influence of the West.

It is also worth remembering that many Taliban were not always Taliban. They are people. And for instance, the person who used to be the main negotiator for the Taliban in Qatar, he had studied at a military academy in India and speaks English well, and that's one of the reasons he's very prominent. Because not many people in the Taliban speak good English. In the 1990s, many former mujahedin who had opposed the Taliban's march to power, ultimately joined them not to be on the losing side.

Structure of the Taliban

Taliban structures are a dual system. There is a vertical dimension, and a horizontal dimension, and it's always there at the same time, influencing each other, very often creating tension amongst the diverse structures. Vertical, hierarchical, centralistic – that's the chain-of-command with the head of the Taliban, Amir al-Mu'minin the leader of the faithful, who is almost a one-man-decider about everything (since august 2021, Hebatullah Akhundzada) at the top. He can actually make decisions on anything and everything – if he wants to. And no one is able to overrule him. He can overrule anyone in the structure below him (as we saw on the secondary girls' schools). He is also there for life. There are no mechanisms of direct succession. In case a successor is needed, there is always a big discussion among the leadership and then someone is appointed for life again, in a kind of consensus.

The religious self-legitimization of the Amir is very difficult to dispute, and it keeps the Taliban movement together, because if you dispute it, you are seen as speaking against Islam. This is very power-related: who is in power defines how Islam/sharia are interpreted.

Under the Amir, there is the so-called Rahbari Shura, the Leadership Council, which is something like a cabinet, where the Leader of the Commission and other powerful members and commanders of the Taliban get together and discuss. The Amir does not seem to be a member of it but stands above it. He takes advice from the Shura but can also reject it. There are sources claiming that Hebatullah has dissolved the Rahbari Shura after the takeover of power in August 2021, but this is not confirmed.

You can find books and articles describing this Council, how many members it has and who has which function, but I never really believed that. I believe it's a more flexible structure, not with an absolutely fixed membership, and that people can bring new people to the Council, because that is also a reflection of the network society you see in Afghanistan.

So, then part of this hierarchical structure is that you have the Amir al-Mu'minin sitting in Kandahar, not in the real capital Kabul.

Then you have the Commissions which were the Taliban-Commissions during the Insurgency-time, and now became the Ministries - at least partly. And that's why you also have a cabinet which sits in Kabul, in the real capital, but the Amir and the Rahbari Shura in Kandahar are the ones who have the final decision-making power, and the Cabinet in Kabul is something like an executive branch.

It was rightly said; there was a pivotal moment in the spring when the girls' schools beyond class 6 were supposed to open. That was the first time where the Amir really exercised their power, to overrule something which the Cabinet in Kabul (or at least the relevant ministry) very clearly had decided. I think it surprised everybody when this happened, that the girls were sitting in school and there came a phone call from the Ministry saying '*No, you cannot, because our leader in Kandahar has decided otherwise.*' The power in Kandahar is very strong, but rarely exercised.

Then you have the horizontal level, so to say, which means that the Taliban is also a network of networks, which are locally rooted in the villages. During the war, Taliban organized local fronts, and in order to prevent internal frictions from happening, they would actually give people permission (or not) if they wanted to start a new front somewhere. So, after a while they regularized in order to prevent infights. One must remember that in many areas, also on sub-district level, there are different tribes. Two fronts can very well be competing for the same area, for the tax-collections etc., which might lead to trouble which then takes sub-ethnic dimensions. So, that was regulated but it was never regulated 100% and there was always friction.

This dimension reflects a very flat hierarchy at the same time as there is a strong nominal and religiously legitimized vertical hierarchy. It was a kind of a grass root movement that made people on the ground autonomous from their leadership. The leadership would give the local fronts autonomy as long as it would see the necessity to take a decision and also overrule the people on a lower level. But they would risk splits if they did it all the time, so they only do this very rarely.

Historically, there is a rivalry (competition for positions and power) between two large regional networks within the Taliban movement. The biggest are the Kandahari Taliban from southern

Afghanistan, the region the Taliban historically have emerged from. The Kandahari Taliban are numerically – by far – the largest group. Hebatullah belongs to that region. The second is known as the Haqqani-network, which is from the south-east, with a special relationship to Pakistan’s intelligence service ISI, and much smaller. Its leader, Serajuddin Haqqani, is one of the three deputy-leaders of the Taliban (the two other deputy leaders, Mulla Abdul Ghani aka Baradar and Mulla Muhammad Yaqub, son of late Taliban founder Mulla Omar, are Kandaharis.) According to some sources, it had largely expanded its influence during the insurgency years, possibly being more effective in fighting and/or more visible because it operated closer to Kabul. Currently, the Kandahari Taliban are pushing back and are consolidating and also extending their powers on the cost of the Haqqanis.

Taliban’s regulations

The re-takeover of power by Taliban last August led to a far-reaching revocation of human and civil rights, particularly for women and girls. Actually, there is really no other country in the world, where women and girls are so largely excluded from public life and where the exclusion is put into a system of regulations. Although this is not formal laws, but kinds of decrees, sometimes even ‘recommendations’ or guidelines. But we need to understand what lies behind when Taliban gives ‘recommendations’. We need to understand the Taliban’s logic; they believe *‘We have won that war, because we stand for a certain value system. Our victory has proven these values are right, so we are not listening to anyone else, and our job is to make that society right again. So, we appeal to you, really, cover your face if you are a woman, or don’t go to work if it is not necessary. Or you face the consequences.’* Then people often are warned two or three times, and then repercussions might happen.

With the Taliban, there is no publicly established legal framework, although they refer to sharia (and sharia only) and to the Hanafi fiqh¹². But sharia is not codified, written down and explained to the public (the Taliban seem to assume it is sufficient if their ulema¹³ know.) That leads to a situation that is very opaque and obscure, and no one really knows where red lines are, and when someone might cross such a line and face the consequences.

The Taliban-regime is the regime which, since 40 years in Afghanistan, has the best control over the entire territory of Afghanistan. UN calls them – and many others also – the de facto authorities. Some people don’t like it, because to them it sounds like half a recognition, which it isn’t from my point of view. But it’s important, because if they are de facto authorities, they are responsible for everything that’s happening under their control, whether they like it or not. That’s why I think it

¹² The oldest and one of the four traditional major Sunni schools of Islamic Law.

¹³ Guardians, transmitters, and interpreters of religious knowledge in Islam.

is very important to look at where and what the violations are, and what the Taliban have decreed or ‘recommended’ at some point or other. They bear the final responsibility for this.

Opposition to the Taliban

Taliban has a larger extent of control over the territories than anyone else before them, but that does not mean that they control the entire country all the time. There are still challenges, there is opposition. Mainly embodied by the women protests in Kabul. People sometimes say: *‘Where are the men? Are they not supporting the women?’*

I believe that some men in Afghanistan do in fact support the protests, but don’t go and protest publicly. A recent report by the Human Rights Watch¹⁴, quoted three women, who came out from a Taliban-prison, who said that *“When they put us in the room, they started torturing our men. We all heard them crying. It was a really bad situation; there was nothing we could do.”* We have heard other examples of men being taken kind of hostage, in situations where in the eyes of the Taliban, women misbehave, for example they are threatened with consequences when ‘their’ women violate the hijab regulations, like losing jobs and so on.

There is also armed opposition against the Taliban. There is the ‘old’ opposition which also fought against the prior government. This is the local chapter of Islamic State (ISKP) – or Daesh as the Afghans call it the Arabic acronym - a small group, which still continues to recover from defeats in 2019 and 2020 but continues to carry out terrorist attacks, particularly against minorities: Shia, Sikhs and Hindus but also against Taliban’s institutions and personnel. They use roadside mines and sometimes suicide attackers.

There are around a dozen other armed opposition groups, which recruit from segments of the former government forces, only have local/regional support, are not coordinated among themselves and do not receive any substantial foreign support. The most well-known is the Panjshir-based National Resistance Front. They use the same – sometimes terrorist – means as the Taliban or ISKP (roadside bombs, suicide attacks, ambushes), regularly in inhabited areas, not caring too much about civilian casualties. To me, it is mainly because people in Afghanistan are fed up with war after 40 years, that these groups will not be able to mobilize too many people and challenge Taliban rule.

The Taliban security apparatus

¹⁴ Human Rights Watch: Afghanistan, Women Protesters Detail Taliban Abuse. 20 October 2022: <https://www.hrw.org/news/2022/10/20/afghanistan-women-protesters-detail-taliban-abuse>

The repressions of the Taliban are carried out by a security apparatus which on the surface looks more or less the same, like what we had with the previous regime. There is the army, including some special forces (new with some units of suicide attackers). It seems to mainly consist of the Taliban's former guerrilla fighting units.

Then there are the police. Here it also seems that it is mainly composed of former Taliban guerrilla fighters. It is unclear whether there are former policemen who continue to serve, and if so, how many. We mainly hear about the Taliban intelligence service, which is now called the General Directorate of Intelligence, GDI, renamed from NDS (National Directorate for Security), doing a lot of harassment and arrests, likely being in the possession of 'lists' or data bases captured from former government institutions.

As I mentioned before many of the Taliban foot soldiers (regardless which 'security' force they belong to now) have open accounts for themselves or for relatives, killed, imprisoned, or tortured in the past, and they just go around and do what they want and take revenge on people. Also on prosecutors, who have been involved in putting people behind bars. We know that many of the verdicts given by the old judiciary apparatus against alleged terrorists were also based on torture, and not everyone who was called a Talib and was behind bars was really one. This includes the armed people at the checkpoints who appear to play according to their own rules, and even more so the further you get out of the cities.

The Ministry for the Propagation of Virtue and the Prevention of Vice (in short: Vice and Virtue) – many call it the morale police – is new and very important to be aware of. It is the Ministry of Vice and Virtue-staff who goes out - very often wearing white clothes, the color of Taliban - to urge people to behave according to Sharia, and if they don't comply after some warning, hand out punishments. This ministry has replaced the Ministry of Women's Affairs. The signal of the Taliban is that *'We don't need a separate ministry for women's affairs, we need a ministry, which deals with promoting virtue and fighting against vice, because women are doing so much vice by running around without sufficient cover'*. And cynically enough they placed this ministry in the women's ministry.

It is very important who controls the different parts of the security apparatus in the Taliban regime. The police were thought to be controlled by Sirajuddin Haqqani, the leader of the Haqqani network, who was appointed interior minister and by that commander of the Police. There is some Kandahari pushback now, i.e. Habitullah appointing allies as local police chiefs over Haqqani's head. The army is controlled by Mulla Yaqub who has been appointed minister of defense. It is unclear to me, at least, where the political loyalty (or affiliation) of GDI chief Maulawi Abdul Haq Wasiq lies.

Some people believe that conflicts between the Kandahari Taliban and the Haqqani network might become one of the major tensions and even breaking points within the Taliban. I would not go so far as to expect that the Taliban will break apart within the next months or year or so. I think that the consolidation of the Taliban is permanent, at least for the time to come and until there is a substantial change in the situation. The takeover of power in August 2021 is too precious an achievement for the entire Taliban leadership and might paper over internal conflict. There is basically no organized alternative.

Sharia under Taliban

At a large gathering of religious scholars in Kabul this summer, the Taliban announced that it had been decided that all opposition, armed or civilian, which is not based on sharia, like the women's protests, will be considered 'sedition' and even un-Islamic when not based on sharia. With this, they gave themselves legal permission to deal violently with any dissent, whenever they choose to do so. The Amir al-Mu'minin also announced that all laws not based on sharia will be abolished. This and other recent steps on the exclusion of women shows that the Taliban are pushing Afghanistan towards a theocracy.

When the Taliban say: '*Nothing but sharia*', what sharia do they mean? We have never really been able to find out on which written sources they base their actions. But recently I saw a reference from a strategic study institute in Singapore, where they pointed to a book written by Taliban's Chief Justice, called "The Emirate and its order". In this book there is apparently also a mentioning of an old document, a compilation of legal articles, compiled during the Ottoman Empire in Turkey, called the Majala, a compilation of rules, used by Taliban judges. But the exact meaning of Sharia for Taliban is basically a big mystery to us, and we need to realize this, and we need to try to understand it better. Here, Afghans need to be in the forefront.

Thank you very much.

QUESTIONS AND ANSWERS

Question: Which is the most important city Kandahar or Kabul?

Answer (Thomas Ruttig): Politically, under the Taliban, it's Kandahar because that's where the people sit who take the real final decisions. Although more on a practical level it's Kabul because that's where the cabinet is. But Kandahar has the power to annul any decision or law initiated or made in Kabul if they find that it to be in conflict with the sharia. (Of course, Kabul is still the official capital.)

Question: What is the level of dissent within the Taliban, regarding girls' access to education up to the 12th grade?

Answer (Thomas Ruttig): The Amir al-Mu'minin has stated that girls should not go to school after 6th grade, and everyone must obey their leader, that's the primary duty. But at the same time schools run by NGO's, through agreements with local Taliban authorities (sometimes tacit), have managed to keep girls' schools open up to 12th grade. This reflects the lack of central authorities. If you talk to the ministry of education or the provincial education directorates, they are very open and they are practically all saying that they're for girl's education up to 12th grade. This reflexes the lack of genuine central government and authorities in Afghanistan.¹⁵

Question: When the Taliban came to power, they announced that they would implement an Amnesty-policy for civil servants. Is there any update on how this is set in place?

Answer (Thomas Ruttig): I've never seen anything that even looks like a law which says: '*This is the Amnesty declaration*', or anything like that. It has been mentioned in talks with Western and Afghan interlocutors before august 2021, and it was reiterated by their spokesperson in that first press conference.

There were people, on an individual level and on a group level, going after people somehow linked to the old government. I see something like a hierarchy there. It often goes more against those groups who, in the eyes of the Taliban, have committed atrocities before: Special forces, local militias, the old intelligence service and others. But like most other things, you cannot really say that this is systematically – or not systematically – done in all provinces of Afghanistan. I don't really see that this kind of persecution has become stronger. I have seen reports that it has become more systematic.

We also know that the Taliban had taken over some of the data which had been compiled by the former intelligence service, including iris scans, and that there might be people in the Taliban intelligence service that go around according to lists, based on those data or otherwise. But of course, that's the nature of an intelligence service; they won't show you the lists, if they have them. So, it still could be random. And the scope of intimidation has been broad enough that everyone who has been linked to the former government including the families – because they go after the family members, if those they are after are not to be found – is large enough to scare

¹⁵ Thomas Ruttig informed in an e-mail of 27 December 2022: "*The Taliban decisions taken in December seem to close these niches.*"

everyone in Afghan society. I can imagine that there has been a thirst for revenge after they took over, which probably overruled what they had planned beforehand, including an amnesty. Or different parts of the Taliban had different ideas.

Question: Have you seen examples of members of civil society who have been granted amnesty, and in that case, how did it happen? Did they ask for amnesty, or did the Taliban start the procedure?

Answer (Thomas Ruttig): Of civil society, I don't know. All I've heard is about people from the former security services in a broader sense, and local administration, who were asked to come to the district or provincial office to resume work. In some cases, they had to sign some declarations that they won't do anything against the Taliban, and that they would respect sharia, and were not harmed. There were also reports of (temporary) arrests and disappearances.

The Taliban have a commission on the highest level, run by the Minister of Mines and Petroleum, I think, to persuade figures of the former government to return. Some former government ministers returned. Also, one of the first female mayors went back to Afghanistan, but I heard she's back outside again.

Comment (Liza Schuster): The female mayor is back in Germany.

The situation of marginalised groups including Hazaras – by Mr. Ehsan Qaane

Mr. Ehsan Qaane, has worked with the Afghanistan Analysts Network since 2012, covering political and legal subjects, and from 2017 to the end of 2020 served as the country director. Mr. Qaane is a member of, and adviser to, several human rights networks in Afghanistan, including the Civil Society and Human Rights Network and the Transitional Justice Coordination Group. He has published a vast amount of research on the conflict in Afghanistan, the International Criminal Court's engagement in Afghanistan, human rights, and international humanitarian law. Additionally, Mr. Qaane has worked for six months as a visiting professional at the International Criminal Court.

Thank you for the invitation. I'm happy to be here today. I have in different ways known and cooperated with the other speakers for many years and I have huge respect for them all.

Under the de facto Taliban government in Afghanistan there are many marginalised groups. Groups marginalized based on either their gender, their political belief, their religious belief, or their ethnicity.

Richard Bennett also mentioned the Hindus and the Sufis. The Sufis believe that Afghanistan is the original home of Sufism. I'm not going into that, but they have also suffered persecution and deadly attacks since Taliban came into power. Attacks have happened in both Kunduz and Kabul. Today you cannot just say 'the capital', you have to say Kabul, now people confuse Kabul with Kandahar as the de facto capital of the country.

However, among these marginalised groups, I have been asked today to talk about the situation of the Hazaras – one of the worst examples in the country today.

I chose to call the presentation: "*Hazaras of Afghanistan: A Long-Term Persecuted Community under Attack*". And I have chosen to focus on two major aspects: Mass murder and persecution. Central terms in the presentation will be 'systematic', 'historical', and 'widespread'. Systematic and historical was borrowed from Richard Bennett's September report¹⁶ as these terms describe the nature of persecution suffered by the Hazaras.

¹⁶ UN Special Rapporteur: Situation of human rights in Afghanistan. 9 September 2022. [OHCHR | A/HRC/51/6: Situation of human rights in Afghanistan - Report of the Special Rapporteur on the situation of human rights in Afghanistan](https://www.ohchr.org/en/press/media/doc/20220909)

When talking about mass murder I focus on the targeted attacks claimed by ISKP [Islamic State in Khorasan Province] – some remain unclaimed, but the patterns of the attacks indicate ISKP.

When talking about persecution I focus on the behavior of the Taliban towards the Hazaras; arbitrary evictions, collective punishment and deprivation of several fundamental rights including but not limited to cleansing from political leadership, top and middle management positions, judiciary, and security sector. And I argue that you could also consider the legal term ‘*Crimes against humanity*’ when looking at what is happening to the Hazaras.

These two aspects, mass murder and persecution, are interesting as lenses to look at the situation of the Hazaras. This is due to the nature of this conduct, which is systematic, widespread, and historical. It violates the very basic and essential rights of the affected community, including the right to live. It has been getting worse day by day since the Taliban takeover, and there is no sign that it will be stopped or controlled, at least not in the foreseeable future.

Other aspects are the economic and humanitarian situation, like other communities in Afghanistan, the Hazaras are also living in poverty. They are living mainly in the central part of the country where winter is long and there is not much land to farm, which make the life of Hazaras difficult.

For this presentation I have used several sources, including UN reports and NGO reports. A website, Hazara Genocide Archive has also been used. I am not involved in the website as such, but I have been consulted on how to collect documentation and information for this to be used before a court of law, possibly the ICC [International Criminal Court]. The ICC is looking into possible war crimes and crimes against humanity in Afghanistan since May 2003 but has been criticized for deprioritizing violations committed by US troops and Afghanistan security forces. On the website Hazaragenocide.com a list of incidents and victims can be found. Not all details are available on the website, but the organization can be contacted, and further information might be available upon request.

Mass murders committed by ISKP

Since the Taliban takeover in August 2021, at least, 18 attacks have targeted the Hazara community [see the text box below]. Most have been claimed by ISKP, but three, including the attack on the KAAJ Educational Centre on 30 September 2022, remain unclaimed. The attack on the educational centre killed 53, mainly students. 52 were girls. As the result of these attacks more than 300 have been killed and more than 500 wounded – huge numbers. Almost 800 people were

killed or wounded. These attacks have often not been covered sufficiently by the international media.

These attacks took place in Kabul, Kandahar, Mazar-e Sharif, Kunduz and Herat. These are the largest cities in the country with mixed populations, so almost wherever Hazaras have been living in a mixed population, they have been targeted. Therefore, I believe that based on international standards this can be considered widespread attacks against a community. And they are systematic.

Most attacks have been claimed by ISKP. After some attacks on mosques where hundreds were killed and even more wounded, ISKP issued a statement in October 2021 on their information sharing channels, where they claim that they are killing Shias, in their centres and in their homes; *"in every way from slaughtering their necks [and] scattering their limbs,"* as HRW quoted the statement.¹⁷ This shows the intention of ISKP, and it shows that there is an organisational policy behind the attacks, so the attacks are systematic against a community. It also means that these attacks could reach the level of crimes against humanity – as mentioned in the beginning of my presentation, this should also be considered to describe the situation of the Hazaras.

Attacks have happened in places that are protected by international law as civilian places; two educational centres, five mosques and eight public transportation vehicles and one playground. Attacks here are forbidden under international law. From these attacks we can identify two patterns; The first is the use of magnetic bombs and other explosives targeting public transportation, and the second is large scale complex attacks, incl. car bombs and suicide attacks targeting places of worship and educational centres and other places of gatherings, like a playground. As mentioned most are claimed by ISKP.

The following list of attacks shows dates and techniques used, places and number of casualties.

¹⁷ [Afghanistan: Surge in Islamic State Attacks on Shia | Human Rights Watch \(hrw.org\)](#).

List of attacks and casualties

1. **30-09-2022** [Kaaj Educational Center – suicide attack killed at least 53 and injured 100 +](#) - Unknown
2. **06-08-2022** [Bomb explosion in the Pol-e-Sokhta area of West Kabul. killed 13 civilians and injured 27 others.](#) (ISKP)
3. **05-08-2022** [Bomb explosion in the Sar-e-Karez area of West Kabul. killed 25 civilians and injured 30 others.](#) (ISKP)
4. **25-05-2022** [Three magnetic bombs exploded in a TownAce minibus in Mazar-i-Sharif. killed 09 civilians, and injured 15.](#) (ISKP)
5. **24-05-2022** [Magnetic bomb in a Toyota Town Ace killed 4 and injured 8 others in Naqqash area of Barchi, West Kabul](#) (unknown)
6. 13-05-2022 Kabul, Ayub Saber Mosque, explosion at the Mosque, 3-13 wounded, (unknown), journalists at the field while covering the incidents were arrested by the Taliban
7. **30-04-2022** Magnetic bomb blast in Toyota Coaster near Dehbori Squire killed 3 passengers (Unknown)
8. **28-04-2022** [Magnetic bomb blast in mini-bus in Mazar-e-Sharif – killed 11 civilians, and injured 13 –](#) (ISKP)
9. **21-04-2022** [Se-dokan quarter in city of Mazar-e-Sharif – 28 killed and dozens injured in bomb blast.](#) (ISKP)
10. **19-04-2022** [Abdurahim Shahid School – Killed 25 and injured tens other](#) (Unknown)
11. **01-04-2022** [Jibrail-e-herat – 6 killed and 25 injured in a bomb blast at a playground –](#) (ISKP)
12. **22-01-2022** [Haji Abbas-e-Herat – Bomb blast in local bus killed 7 and injured 10 other.](#) (ISKP)
13. 21-12-2021 Kandahar, Imam Ali Masque, Attack by knife, five wounded including the Imam, (unknown)
14. **17-11-2021** [Magnetic bomb blast in minibus in “Shahid” intersection in Zone 3 Kabul, killed 3 and injured 4.](#) (ISKP)
15. **17-11-2021** [Magnetic bomb blast in TownAce minibus in “Naqqash” area in Barchi, Zone 13 Kabul, killed 4 and injured 2 people.](#) (ISKP)
16. **13-11-2021** [Magnetic bomb-blast in a minibus in Mahtab-Qala Barchi, West Kabul, killed 4 civilians](#) (Unknown)
17. **15-10-2021** Suicide Attack, Kandahar, Fatimyah Masque, Shia, 30-63 deaths, 68-100 wounded, (ISKP) – issued declaration that they are killing Shias
18. **08-10-2021** [Kunduz – Explosion in Mosque in Sayedabad, Kunduz province – killed 68 –](#) (ISKP)-

Copied from Ehsan Qaane’s slideshow, as presented in the conference

The situation has gotten worse compared to before August 2021 when Taliban returned to power. This can be seen by a comparison of the first eight months of 2021 and 2022 respectively. Based on the used sources there were four attacks in the first eight months of 2021 with a total of 280 casualties, while in the same period in 2022, there were 10 attacks, a 200% increase, with a total number of casualties of 348. This shows that the situation has severely deteriorated for the community.

Comparison of January-August (2021 and 2022)

No	2021 Incidents	2021 Casualties	2022 Incidents	2022 Casualties
1	03-06-2021 PT, Kabul (ISKP)	11	06-08-2022 PT, Kabul (ISKP)	27
2	01-06-2021 PT, Kabul (unknown)	22	05-08-2022 Masque, Kabul (ISKP)	55
3	08-05-2021 School, Kabul (unknown)	232	25-05-2022 Three explosions PT, Mazar (ISKP)	24
4	14-03-2021 two explosions, Markets, Kabul	13	24-05-2022 PT, Kabul (unknown)	12
5			13-05-2022 Masque, Kabul (ISKP)	5
6			30-04-2022 PT, Kabul (ISKP)	3
7			21-04-2022 Mosque, Mazar (ISKP)	80
8			19-04-2022 School, Kabul (unknown)	90
9			01-04-2022, Herat Playground (ISKP)	31
10			22-01-2022 PT, Herat (ISKP)	120
Total	4	280	10	348

Copied from Ehsan Qaane's slideshow, as presented in the conference

Taliban protection

The Taliban is the de facto ruler in Afghanistan, that is the reality, and under international law they have the responsibility to offer protection to vulnerable communities. Even if Taliban has not been recognised as a legitimate government by the international community.

Taliban tries to assure that they have done this. In several media they have condemned attacks and stated their responsibility to protect the Shias. But in reality; where the Hazaras live there is not much security, no protection.

The few improvements which were build up during the Republic [The Islamic Republic of Afghanistan] have been destroyed by Taliban. One example is the measures implemented after ISKP attacks on Shia mosques, where the community in cooperation with the former government established self-defence mechanisms. Each mosque was protected by five persons who received a salary from the government. This system was abandoned by the Taliban. Not that this self-defence mechanism was enough - the communities had requested more protection from the former government.

Taliban also tries to downplay the ISKP and their attacks, since they want to look strong. They want to appear to have control over the entire territory, and as if ISKP is not a threat to them; to show both internationally and nationally that Taliban is the only power. So, there is not much public information about incidents, the casualties or about the reasons behind these attacks.

There have even been cases where Taliban arrested journalists at the scenes of incidents, who were there to cover the incidents. Taliban said to journalists, who were arrested and tortured; *'You need a special permission from the Ministry of Information'*. In reality, they just want to control the situation, not to let information on incidents be leaked to, or covered by, the media. Taliban have huge control over the media in general and in particular over the reporting on these kinds of incidents.

So, should we question the ability or the willingness of Taliban to protect the Hazara community, or maybe both? The Hazara community does not trust Taliban because of the history they have. Taliban is a 35-year-old movement in Afghanistan and even before 2001 there was a bloody history between the Hazara community and the Taliban. Many massacres were perpetrated by the Taliban, so there is a big mistrust, and the willingness to protect is questioned. And also, after 2001 there have been systematic abduction of Hazaras reported by UNAMA, I think more than 100 cases of abduction. Particularly the Hazara passengers who were travelling inside the country, crossing the territory controlled by Taliban.

Taliban - ISKP relations

Also, it should be mentioned that the Taliban and ISKP are not friends, they are enemies. There is an ongoing bloody conflict. From Taliban top-level it has been claimed that ISKP must be destroyed to the last person. Taliban consider them *Khawarej* – meaning that the person must be destroyed. According to reports Taliban either kill ISKP on the spot or put them in prison under very bad conditions.

Though as mentioned by Richard Bennett there is no hard evidence that prisoners are being tortured at Taliban prisons, but we can conclude from what we know from the media that Taliban don't mind using torture, there are many examples of this. Taliban are not cautious of well-behaving towards their opponents or political opponents. There are cases of journalists and civil society activists being beaten and tortured in public. Also, human rights reports describe how Taliban misbehave with detainees. Not sure with prisoners, but there is some evidence regarding detainees in the pre-trial stage having been tortured.

Mass murders committed by Taliban

However, mass murder is not limited to ISKP. Also, Taliban have committed mass murders against the Hazara community. Just three days ago in Daikundi, Taliban killed nine members of a Hazara family, including three children and a woman. According to Taliban they had joined the National Resistance Front, an armed group fighting against Taliban in Panjshir. This is a huge accusation for a small family far from Panjshir, in Daikundi, to be joining the National Resistance Front. But even if it was true, the massacre of an entire family including women and children is a violation of all human right standards. And it is not the only case. The same pattern was imposed on another Hazara family in Ghur province in June this year. A family of six or more members. Six were killed in their houses in cold blood. The same accusations were made against this family.

10 days after Taliban took power of Kabul, they killed 14 persons from the Hazara community. Two civilians and 12 former security personnel from the Republic were shot. This happened just after the amnesty declaration, which was to grant amnesty to former security personnel and other groups. This was reported by Amnesty International, who also reported about the above-mentioned incident in June this year.

In April this year there was also an incident of five Hazara coal miners, who were all killed on their way home. Taliban rejected their involvement, and the incident was probably not organizational, but according to witnesses it was local Taliban members performing the killings.

All these incidents were intentional. While the last incident did not seem organizational the other three incidents were confirmed by Taliban, and they appeared to be in line with the organizational policy and thus systematic in nature. I believe this could reach the level of crimes against humanity.

I did not have time to go through my entire presentation, but I believe it is time for questions. Thank you very much.

QUESTIONS AND ANSWERS

Question: Are the killings of Hazara covered by Afghan media?

Answer (Ehsan Qaane): There is reporting in Afghan media, but not much, and if reporting is done it is very general, so in order to know the details, who did the attack and who were the victims, you need to do your own research.

Question: How serious is the conflict between Taliban and ISKP?

Answer (Ehsan Qaane): The conflict between Taliban and ISKP is very serious. They fight and they kill and destroy each other – there are many examples of this. But at the same time, there are according to reports some links between individuals, and not the whole of Taliban are against the whole of ISKP or vice versa.

Taliban recently cleaned up their military units and more than 1000 persons were fired due to affiliation to ISKP. An ISKP leader used to work as a military commander of the Haqqani network, now he is a leader of ISKP. These organizations consist of networks built around individuals who each have their links. And according to some sources there are links also between the Haqqani network and ISKP.

Question: Are the Hazara mainly targeted due to their links to the international presence during the Republic?

Answer (Ehsan Qaane): The Hazara are targeted for a number of reasons.

First, because they are Shia, a minority religious group in Afghanistan. Most of the Shia community in Afghanistan are Hazara. Even 130 years ago they were systematically targeted due to their religious identity, when the King Abdul Rahman first attacked the Hazara community he accused them of not being pure Muslims, so they had to be killed.

Secondly, they are also targeted because they are believed not to originally being from Afghanistan. They are said to be Mongols, from the Genghiz Khan's soldiers. So, the hate for Genghiz Khan in Afghan culture affects the hate against Hazara.

Thirdly, they are Shias – again related to the religious identity - and not considered trustworthy because of the links to Iran, they are accused of spying for Iran. There were also examples of such accusations during the former government.

Lastly because the Hazaras worked for the former government and for democracy and human rights, they worked for other values than the Afghan values. This is also one of the negative narratives regarding the Hazara, but not the strongest one.

Comment (Liza Schuster): There is a lot of prejudice against the Hazara because they profited from education and took advantage of opportunities and they '*do not know their place*', they have '*taken places belonging to other ethnicities*'.

Additional comment (Richard Bennett): The Hazara strategy has been education over weapons. In a way it has backfired. The assumption seems to have been that education would lead to influence in society, and higher positions in government, and indeed it did for some years, especially during the Republic, but now it has also led to some hatred. There seems to be much hate speech online, perhaps due to envy among other things. This has added to the other factors.

Additional comment (Ehsan Qaane): Gulbuddin Hekmatyar warned in an Eid message: *“The day will come when the oppressed people of Afghanistan will rise to claim their usurped rights and then they [Hazaras] will not find refuge in any part of the country. Some of them will flee to Iran and Iran will treat them brutally and without mercy”*.¹⁸

Question: What is the situation in the rural areas where the Hazara are the majority, and there is a limited Taliban-presence?

Answer (Ehsan Qaane): The Hazaras mainly live in the rural areas in the central parts of the country, this is the original home of Hazaras; Bamiyan, Diakundi, some parts of Ghazni, Maidan Wardak, Sari Pul, Parwan, Ghur and Uruzgan. Right now, there are large numbers of cases filed by the Kuchis against the Hazara community. The Kuchi people are nomads and ethnic Pashtuns.

There is a long-standing land dispute between the Kuchis and the local Hazara villagers over the pastures in Hazarajat¹⁹. The Kuchis want to use the pastures in the summer. The conflict goes way back in time. 130 years ago, when the King fought the Hazara community, he promised the Kuchis land to support him. The root cause of the conflict started there. The conflict continued until 1979 when it was stopped by the communist government and the emerging Hazara Mujahedin. The Kuchis stopped coming to the Hazara pastures.

When Taliban came to power the first time the Kuchi people again claimed the land promised by the King and land they had bought, and they asked for compensations from the Hazaras due to their use of the land through decades. In 2001 when Taliban was defeated, the cases were halted, and Kuchis were again stopped from going to the Hazara pastures.

With the Taliban’s return to power there are again widespread legal cases between the Kuchis and Hazara locals, hugely influenced by the executive officials. Taliban has used their military power

¹⁸ BBC Report: 13 August 2013. Hekmatyar: Foreigners break up Afghanistan with support for minorities - BBC News English

¹⁹ Hazarajat is the traditional Hazaras’ land; currently constituting Bamiyan, Daikundi, partially Ghazni, Uruzgan, Ghor, Sar-e Pul, Parwan and Wardak.

to evict the Hazaras from the land claimed by the Kuchis. When evictions came to the attention of the international media, Taliban changed policy, but evictions are still ongoing. Evictions are still a risk. But right now, there are legal proceedings going on. And with the support of Taliban the Kuchis receive back land or compensation. There have also been clashes between the Kuchis and the Hazara locals, with losses on both sides, both human losses and animal losses, which led to criminal cases.

There are widespread and systematic processes in the rural areas by the Taliban, who will use any argument to push Hazaras out from the land and their homes that they built and owned for the last four decades. This has received limited media cover.

Question: What about the killings of Pashtuns in Kandahar and Tajiks in Panjshir?

Answer (Ehsan Qaane): When talking about Afghanistan, everyone is marginalized except the Taliban itself. Pashtuns tribal conflicts have been ongoing, and there were many rumors that the Chief of police in Kandahar General Abdul Raziq killed Taliban members of other tribes than his own. There have been many reports of torture, displacements, and detentions in the Pul – E - Charkhi Prison committed by the Taliban against the Panjshiris. I am aware of this, but today my presentation was to focus on the situation of the Hazara community.

A comment on minorities in Hazara areas (Thomas Ruttig): We have seen in Afghanistan before August 2021, in provinces where the Hazaras were in the majority, controlled by their parties, that they were persecuting their own minorities. In Bamyan it was the Tajiks. The Tajiks bazar was burned down by the Hazaras; it was a land conflict later blamed on the Taliban. When the New Zealand PRT financed electricity grid for the city of Bamyan, the Hazara rulers (or local supporters) made sure that the electricity lines only went to Hazara houses, bypassing the houses of Tadjiks. And there was more land grabbing.

This is not only about ethnicity. We also need to look at power or class (assuming that not all Hazaras support discriminating against minorities), or whatever we call it. The elites are the same on all sides and are not different when they are in a position of power.

Response to Thomas's comment (Ehsan Qaane): I wish to add another element. When the Hazaras are targeted by ISKP or by the Taliban, I'm referring to the group being targeted. Unfortunately, in Afghanistan it has been common, that any official who is an ethnic Hazara, or any group related to Hazara, or a commander with the Hazara background, if they do something wrong – all Hazaras are held responsible. This is very common. The consequences are that when

someone comes looking for that commander, they are not just looking for the commander but for the whole Hazara community. That's what can be called collective punishment; for the crime of a member of a community, they're targeting the whole community. The perspective is that the whole community is behind that wrongdoing.

Risk factors of returnees to Afghanistan focusing on westernization – by Dr. Liza Schuster

Dr. Liza Schuster²⁰ is a Reader in Sociology at the Department of Sociology at City, University of London. She has spent most of the past decade conducting fieldwork in Afghanistan where she was based at the Afghanistan Centre at Kabul University. She has studied the consequences of deportation for Afghans, their families, and communities. Together with Nassim Majidi (Founder/Executive Director at Samuel Hal), she has identified the risks to those forcibly returned to Afghanistan, including being targeted as a result of ‘Westernization’, and the stigma associated with deportation. Dr. Schuster prepares expert reports on Afghanistan for Immigration tribunals in the UK and across Europe and her work has been cited by national and European COI reports. On her most recent visit to Kabul, she was based in the Ministry of Refugees and Repatriations. This stay was cut short by the arrival of the Taliban, and she was evacuated on 18 August 2021. She remains in touch with friends and former colleagues who are still in Afghanistan.

I felt that I needed in this illustrious company, to justify my presence, to talk about, why I am here, and about some of the sources that I’ve used for today’s presentation.

Essentially, I want talk to you about who is at risk on return, what is the evidence for those risks, and what is the nature of the risks.

I’ve spent most of the decade between 2011 and 2021 in Kabul, conducting an ethnography, living alongside the families in the community. During that period, I have carried out a number of research projects. The first one was looking at the consequences of deportation for those deported, their families and their community.

And then more recently, between 2016 and 2018, we had a large project, with an amazing Afghan team. As part of the project, we recruited 18 families and over a period of 18 months, visited those families approximately every six weeks to talk with them about their plans, hopes and fears for the future. And as expected, migration regularly came up as part of the conversation.

The third part of the project was looking at the development of migration policy in Afghanistan, and in particular, the role of the EU in developing this policy, and as part of that, I was based inside

²⁰ <https://www.city.ac.uk/about/people/academics/liza-schuster>

the Ministry for Refugees and Repatriation. As a result, I was invited back last summer to work on preparing an action plan to implement a comprehensive migration policy.

And there is a great deal to be said about the colonialist and racist attitudes of many in Europe towards Afghan institutions and Afghans themselves, and this notion that policy should be made by those who pay the piper, rather than those who have to live with the consequences. I've also worked on a number of publications, two with Dr. Nassim Majidi²¹, which looked at precisely those consequences.

We explored the issue of stigma because we became very aware that there was huge stigma around deportation, unless you were deported from Iran or Pakistan. To a large extent, that was because deportation from Iran or Pakistan was part of the everyday experience, '*it was to be expected*'.

Deportation from Europe carried much more weight, and involved much greater cost, not just to the individual but to the family. In most cases, the move had been financed by the whole family, often by selling the family's assets or through borrowing. And that then entailed huge problems if somebody was deported. I have published together with Nassim that work, and some of the more recent research.

I've also written expert reports for lawyers representing asylum seekers. And although that's not strictly speaking my research, nonetheless it necessitated a huge amount of research and investigation, and I learned a great deal in the process of developing that.

I have been reluctant recently to write expert reports, largely because I haven't been in Afghanistan since August 2021, and I felt very uncomfortable commenting without having experienced the new regime directly.

But when I was invited by DRC to come and speak, I felt compelled to do some work on this, because, increasingly, I'm being asked by lawyers to write expert reports for Afghans who have had their asylum claims rejected on the basis of, and I quote, '*The war is over, Afghanistan is now safe, you can go home*'. It felt imperative to address this misconception.

Return to Afghanistan

So, are people being returned?

²¹ Schuster, Liza & Majidi, Nassim. (2015). *Deportation Stigma and Re-migration*. Journal of Ethnic and Migration Studies. 41. 10.1080/1369183X.2014.957174. And: Schuster, Liza & Majidi, Nassim. (2013). *What Happens Post-Deportation? The Experience of Deported Afghans*. Migration Studies. 1. 221-240. 10.1093/migration/mns011.

It seems that there have been no returns so far from Europe, although the number of people vulnerable to removal following rejection of their claims is growing.

Most of those who are returned to Afghanistan, are being returned from within the region. Turkey reported deporting 44,768 Afghans by air to Kabul in the first eight months of 2022, a 150 percent increase over the first eight months of 2021²². I would guess this number is now closer to 60.000, because people are being returned fairly rapidly. This does not include the 238,448 ‘irregular migrants’, most of them Afghans, pushed back at the border and prevented from claiming asylum²³.

We think there was around 65.000 people who had been deported from Iran in the first eight months of 2022²⁴, but there are lots of people being returned - it’s a bit of a revolving door. And that’s true from Pakistan as well, where official deportations are very low for 2022 (approx. 500). However, treatment of Afghans in these countries and the challenges of surviving have forced some to return²⁵. This makes it very difficult to count, because we don’t know how many people are leaving, returned, leave again, and are returned again.

For the qualitative research that I was doing in 2012 to 2015, 80% of the people forcibly removed from Europe said that they were planning to leave again, which was broadly in line with the IOM RLS report²⁶ that interviewed Afghan migrants who had returned from Turkey or the EU between January 2018 and July 2021. Of the 74 people who had been returned from Europe, 56 said they would be unable to remain in Afghanistan and that they would try to leave again as soon as possible.

What we don’t have here [in the RLS report], and what I would find really interesting, is more information on who these people are. I would like to know what their ethnicity is. To the best of my knowledge, ethnicity plays a huge role in the experience you have had, if you have been returned to Afghanistan in the last 15 months. So, I would like to know their ethnicity, I’d like to know their age, their previous occupation etc.

The situation for returnees in Afghanistan

²² Human rights Watch, *Turkey pushes Afghans back at Iran border*. November 18, 2022

<https://www.hrw.org/news/2022/11/18/turkey-pushes-afghans-back-iran-border>

²³ According to Turkey’s Interior Ministry, see HRW, previous footnote.

²⁴ Compiled from IOM snapshot data.

²⁵ Comment from Dr. Schuster: This is based on discussions with Afghans in my networks about the movements of their family members who fled Afghanistan but who are being forced to return to Kabul where they may still have a house or family with whom they can stay.

²⁶ Displacement Tracking Matrix, DTM Afghanistan: Returnee Longitudinal Survey (RLS) Round 8, 31 October 2022

<https://dtm.iom.int/reports/afghanistan-%E2%80%94-rls-snapshot-report-round-8-october-2022>

My focus today is not just those who left after 2021. I'm also interested in those who left before 2021, because these are often the ones at most risk of being returned, as well as those who are having their asylum claims rejected since August 2021.

When people leave and apply for asylum, they can suffer persecution when they return to Afghanistan, some as a result of suspicions that are raised about the extent to which they have been '*contaminated*' by their experience in Europe.

Living in the community, I saw people coming back. I would see how, when somebody arrived back, very often they would hide the fact that they had come back involuntarily because of assumptions that if you had been deported, it must have been because you had committed a crime, or you were particularly stupid or you were unlucky, and bad luck is contagious, so that's also not a good thing.

There was an assumption that you must have committed a crime, because '*look at your cousin, they went, they had no problem, now they've got a nice job and a nice home. You have failed. And not only have you failed, you have incurred a huge debt for the family, which we have no way of paying back, but on top of that, you must have done something bad to have been deported*'.

But I would also see all the neighbors come by, over the course of two to three days. People would arrive and ask questions about your time in the West. People would be scrutinizing the behavior of those who had left, looking for indications that they had been changed by their experience.

I would also hear the gossip going around about, '*I saw his social media-profile*', '*do you think he was drinking alcohol?*', '*did he have a girlfriend?*', '*did he go to the mosque?*'. Assumptions are made around how time in the West impacted the returned person. We also know that these are also some of the considerations that shape the decisions around whether or not to leave. While leaving Afghanistan was seen as an opportunity for greater freedom, especially for women, for many people when making the decision, they were weighing up the risk of losing one's culture. And that was perceived as a real loss and danger.

For those who left before 2021, they would still be at great risk if they are returned to Afghanistan. If we turn to those who left after 2021, that assessment holds but in addition, their flight after the government fell, is taken by the Taliban to be proof of disloyalty.

Those who left are very often seen as traitors, especially if they were evacuated as a result of having worked with international NGO's or having worked with the government or in different ministries. It's also true if they worked for the security forces, human rights organizations, or for the media. So, you have the normal risks, plus these new risks.

I'm not saying at this point, that all who left are equally at risk.

Some of those who choose to go back are able to return. I'm not saying that nobody is going back to Afghanistan. People are going back. People go back for business reasons or to visit family, and it's possible.

However, I'm arguing that those who are forced to go back are much more at risk than those who go back voluntarily.

To clarify, when talking about going back voluntarily, I only refer to the situations where a person who returns has the possibility of returning to their country of residence with a visa or a residence permit. In other words where return was freely chosen and not imposed. Not included in this group, are people whose asylum cases were rejected and for whom the choice was being coerced onto a plane or cooperating in their deportation. The difference is clear on arrival at the airport. One group comes bringing suitcases full of presents, while the other often comes with their belongings in plastic bags and nowhere to go. And also, the many questions on arrival by family, neighbors and friends will eventually reveal whether the return was in fact involuntary²⁷.

As I've said, people are going back voluntarily, but what's happening is that those who are being forced back, and some of those who are going back voluntarily are questioned on arrival about why they left, and why they have been sent back. Some have been asked, including those returning from Iran and from Turkey or further afield; *'Are you spying for Iran etc.?'.*

I do know of people who fled in or after August 2021, who returned because their families have negotiated their return and promised that this journalist, or this official, won't write anything against the Taliban, won't speak against the Taliban. And in some cases, have paid money as a guarantee that their family members will behave.

Groups at risk

We've heard from Richard Bennett and Thomas Ruttig about the minorities and the marginalized groups that are at risk.

The people at risk are those who have rejected Taliban-norms. Those who are LGBT+. Those who are, or are believed to be, apostates. And that's relevant because the Taliban are scrutinizing social media profiles. We know that, and we've seen people who have been accused of moral corruption because of what has been on their social media profiles. Also at risk are musicians, artists and academics.

²⁷ This section has been added and approved in the editing process of the report, after Dr. Schuster in a break was asked to clarify this definition.

There's been a lot of talk today of employees and supporters of the previous government, and UNAMA have information about detailed killings, arrests, and torture of a number of former government officials.

We've also heard talk today about the Commission that has been set up to encourage officials to return. Ariana news announced in May, that there would be an amnesty for officials. Part of this was a recognition that, there weren't enough people who were able to do the basic administrative work necessary to run a ministry, so they were to be welcomed back.

There are still people in the ministries, who were there from the previous regime, and there are a number of reasons for that. One reason is that they're useful. They're useful to the regime at the moment. In some cases, as has been said by the other speakers, it's because they are quite happy to switch allegiance to the Taliban, or because they've never actually had much problem with the Taliban. But there are others who are remaining, because they have no other way to feed their families, and because there is a large number of people dependent on them.

However, in the presidential palace, and in certain other ministries, Hazara have been cleansed from those roles. There is some Tajik presence, but those who remain have been humiliated and harassed, and warned that they are there on sufferance, and as soon as they can be gotten rid of, they will be.

After I left Afghanistan, I was in regular contact with one of my colleagues from the Ministry for Refugees and Repatriation. About a week or 10 days after I left, he was contacted at home and told to get back into the ministry. When he went in, he was interrogated about what had been going on in the Ministry, what his role was, who else were working there, had they left, when had they left etc. He was Hazara. He was used until he could be replaced. Luckily for him, he managed to get out in March 2022, even though it was difficult.

So, for some people there is no alternative. And even though they feel very uneasy, uncomfortable, and afraid, they choose to stay, because they have no other way of supporting their family, and that's the whole extended family.

Members of the security forces and the militia are also being targeted. There were many people in the security forces that were outside Afghanistan or left since August 2021. If they are returned, they would definitely be at risk.

Multiplying factors increasing risk

What I want to underline, is that risks overlap. There is a multiplier effect. If you belong to more than one of the aforementioned groups, your risk is considerably increased.

So, if for example you are Hazara and an ex-member of the government. If you are both Hazara and a journalist. If you are Hazara and you were working for an NGO. Then you are much more at risk, and it is much harder for you to survive in Afghanistan.

I'm not saying that Pashtun are not at risk – they are, depending on a number of the above factors - but the risk is different.

The Taliban's position on those who leave

I want to say something too about the emphasis the Taliban have placed on those who are leaving Afghanistan.

The Taliban have made a number of pronouncements seeking to prevent people from leaving. They have also banned people smuggling, although of course, there are still ways of getting around that, and as has been mentioned earlier, this is applied differently in different locations. But essentially, the attitude is, that people should stay and contribute their skills and knowledge to the country.

There are also some individual Talibs who have made speeches²⁸, saying that you should not be leaving. That it's a sin, *gonah*, to leave, that those who leave are sinners. They shouldn't be described as *muhajir*, because *muhajir* is a term for those who had to flee for religious reasons, and anybody who describe someone who leaves as *muhajir*, are themselves sinners.

The questions the person in the video asks the people who want to go abroad; '*Do they have religion over there? Do they control their women and prevent them from sinning?*'. This is just one Taliban official. But the video was broadcast on a number of different television stations, which means that it can be used to justify attacking those who have left, but also those who are forced to come back against their will.

So how do I know about the current risks? I know it partly from some of the contacts that I have, who are still in Afghanistan, but also a number who stayed on, who found it difficult to leave, and who didn't leave until relatively recently.

For example, one of the people with whom I'm in touch, was based in *the Arg*, in the presidential palace. He noticed that the Taliban were taking the personnel files, and were going through them, checking what people did. When you applied for a job, as is the standard everywhere, you had to have references. So, they were going through the personnel files, noting who the reference was

²⁸ Dr. Liza Schuster displayed a video, uploaded to Facebook 21 November 2022 by Fahim Fetrat. <https://www.facebook.com/fetrat127/videos/2926976540943067>

from, and whether it was from someone of whom they disapproved, and this posed a risk to former employees.

And as for the question about the risk to the gardener and the driver. You don't need to be highly placed. Anybody can be at risk. Especially if you belong to one of those marginalized groups where there is a multiplier effect.

One person who left Kabul four months ago, and is now in Brazil, was asked to compile a list of all the employees in their Ministry and departments, and the date they left the country.

This business of lists, and the Taliban looking and compiling lists of people who are no longer in Afghanistan, applies to different sectors. For example, the head of Kateb University, Ali Ahmadi Sufi, who was also asked for a list of staff and students and the date they had left the country.

Media houses have been asked to provide lists of their employees, from senior journalists to security guards and their whereabouts, and social media is being combed. In November 2021, and I believe it's continuing, Gandhara media referred to the Taliban searching smartphones, looking at photos, videos and social media accounts.

And then we have the speech that we just heard.

We're also seeing the family members of those who have left being harassed by officials and neighbors. When they have left, Taliban officials can come in and say, okay, this person has gone, we're now taking the house. You have them taking homes, cars etc. and aggressively questioning family members about the whereabouts of those being sought.

In one case, the whole family had fled to Iran, but the person most at risk had managed to get to Europe. And it was decided that the only person who was safe to return and contest the confiscation of the house, was an elderly mother, who would go back from Iran, because everybody else was too vulnerable. But she was kicked out of the police station, the house was confiscated, and she returned to Iran.

Actors of persecution

Where's the risk coming from? Well clearly, it's coming from the Taliban. All the groups I've mentioned above are at risk from the Taliban. Especially during house-to-house searches.

The amnesty that was promised has not been respected. And the claims to protect some communities, including the Hazara and the Shia, these promises are made after every attack. They're also not substantiated, and we're not seeing that protection.

Again, Taliban is not a single monolithic block, and some individuals are more hostile than others.

In addition to the Taliban, there's also the Daesh, ISKP, who are targeting the Hazara, especially women, education centers and Shia mosques, so any Hazara being returned is going to be at risk from multiple sources.

I also want to talk about the risk from the community.

Much of Afghanistan is still very rural, and people who are going back to Afghanistan are, because of the humanitarian situation, which was also very bad before August 2021, forced to go back to their own villages, their own communities, because they can't survive in Kabul. There's no work.

And so, when they go back, that's when they're under huge scrutiny, and that's when those questions are posed; *'What exactly were you doing in Europe? How did you live in Europe? Who did you live with? Did you ever taste alcohol? Did you go with women? Did you pray every week?'*. And that's when the community asks those questions.

Another problem is the notion of payback and grudges which can be held for decades. And it only takes one small joking accusation about somebody having had a girlfriend or having had alcohol, and it can go like wildfire.

It doesn't have to be true. Sometimes, an accusation is enough to put somebody at risk. Sometimes the accusation is malicious, but sometimes not even that.

The situation for those returned

One of the arguments that is sometimes used in decisions that I have seen, is that the person can be returned because they will not be at greater risk than those who never left. That's not true.

They run exactly the same risk as everybody who remains - the same risk of persecution, harassment or not finding work etc. But in addition, there is suspicion and stigma around the fact that they left, and around that they were forced to return. They are stigmatized as being contaminated. And as far as many groups are concerned currently, people who are returned will be seen as traitors or even spies.

We also see that those who are forcibly returned, are less likely to have support and resources, and that's for multiple reasons. Partly it's because, right now, lots of families have left so those returned may not have the networks that are absolutely essential to survival.

But lots of families didn't leave because they didn't have the resources to do so. In this case, families do what they have done for generations, which is; they pool their resources, and send one person abroad, in the hopes that they will have money and be able to send money back or bring

more people out. But if that person is returned, they will have cost the family a huge amount of resources, and there will be resentment. And this can make it very difficult for them.

So, there are less resources, because those resources have been invested in a failed venture, but also because of the family thinking, you cost us, so you go and find a solution, because we can't.

The DTM (October 2022)²⁹ found that 96% of returnees cannot cover their basic needs, and 90% of those who were returned, received no humanitarian assistance. 35% had no personal income, and 59% were living on 57\$ per month or less. What's happening is that people are going into debt to survive. And I want to echo what Richard Bennett said: People are about as indebted as they can be. I don't think there is any slack in the community.

One of the concerns I have is that, yes children are being sold, but I'm wondering who has the money to pay for them? It's happening, but I don't understand that.

Of those who were returned, 44% are unemployed, and 40% are working for daily wages. But daily wages are not enough to survive. If you are working for daily wages, it means you get up at four o'clock in the morning, you go to a street corner, and there are hundreds of other people at that streetcorner, and you are jostling, hoping that whoever needs a day-laborer for the day, will pick you. And inevitably, the person who is going to get picked is the person who looks strongest, or who that employer already knows. If you are returned from abroad, and you have been abroad for a few years, you won't have that network.

Thomas Ruttig's point about Afghanistan being a network-society is hugely important. That's how you survive. If you left and went to Europe, and now you're being returned to Afghanistan, and you don't have a network, you will not survive. It's just not possible.

What's happening? There are door-to-door searches, there are beatings, arbitrary arrests and detention, there are disappearances, and there is a huge amount of theft or robbery.

Although the police force is apparently under control, everybody I'm speaking to at the moment is talking about crime, which is rife in all areas.

When I first started going to Dashte Barchi in 2011/2012, it was a completely safe area. I knew it was a safe area because there were no police. Already in 2016, there were armored vehicles on street corners, and checkpoints, and it had become much less safe. So, it has become incredibly risky.

²⁹ Displacement Tracking Matrix, DTM Afghanistan: Returnee Longitudinal Survey (RLS) Round 8, 31 October 2022
<https://dtm.iom.int/reports/afghanistan-%E2%80%94-rls-snapshot-report-round-8-october-2022>

And for those who are returned from Europe, there is also sometimes an assumption, that they've come back with money. Especially if they are denying the fact that they were deported. There's an assumption that somehow, they have access to resources, and that makes them vulnerable to theft and robbery.

Concluding remarks

I want to add some caveats here. I sound very certain of what I'm saying. But the difficulty in Afghanistan is, there is a huge amount of uncertainty, and different Talib interpret rules differently - on dress codes, on women's rights. That means it's really difficult to know what happens, or to calculate risk.

When doing expert reports for asylum seekers, I very often get to read the refusal letters, and I would see this calculation of what was the risk that someone would be killed if they were returned. That is so divorced from the reality of life there. Because what needs to be calculated is the fear.

The fear is what shapes life. It's fear that keeps women at home. It's fear that when your husband leaves for work, *'Is he going to come home? Am I going to see him tonight? When my kids go to school, am I sure they're going to come home?'*. Afghans live with fear. Fear has become normalized.

There is normal life amidst the fear, but the fear is still ever present. And that leads to desperation, and desperation also leads to denunciations; people will point the finger at other people, to deflect attention from themselves. And that's a real problem.

The judgements that I'm reading now are saying that Afghanistan is safe; that it's safe to return Afghans. But it isn't safe. Unless people choose of their own free will to return.

But violence continues, persecution continues, and the Taliban is both unable and unwilling to protect those who are returned.

QUESTIONS AND ANSWERS

Question: How can we as practicing lawyers persuade courts of the risks upon return?

Answer (Liza Schuster): When listening to previous speakers, I was thinking none of this is going to make any difference. It would have been interesting to hear from decision makers how they

justify the decisions that they're making. Because I believe that all the evidence that it is not safe to return people is there, and I find it incomprehensible that refuge is being denied.

Question: What would be your thoughts on families with children being forcibly returned? Would it be noticed if children spoke other languages amongst themselves?

Answer (Liza Schuster): At the moment, my assumption is that the main attempt will be to force back single men.

But when I first started looking in 2012 and 2013, I was in contact with families who had been returned from Norway. And there was definitely a problem, partly because the children had been hugely traumatized by the return and being taken out of school and were not coping at all. This was manifested physically in various forms of health problems.

They had gone to Norway when they were very small. And I remember especially the 6–7-year-olds, every time they were out on the street, they would speak to each other in Norwegian, and they would be speaking badly about Afghanistan and comparing everything around them negatively. Their parents couldn't send them to school because they were afraid the children would get beaten up for that reason.

I mean, I know some countries were unbelievably deporting families with children. But in more recent years, I would certainly hope that would not be the case.

Comment on the risk of Pashtun men (Richard Bennett): I wish to add a comment on the effective multiplier effect of marginalized groups, which Liza Schuster talked about. I fully agree with that. However, I would hate it if anyone went away thinking, well, if it's a Pashtun man, who doesn't fit those boxes, it's safe for him to be sent back. That's not the case.

It's been mentioned, by Thomas Ruttig and by Liza Schuster, that there are many other reasons to do with family-networks, to do with grudges and so on.

And the point on those allegedly killed in Kandahar, those were Pashtuns, because they were associated or perceived to be associated with General Raziq. And there were also a lot of bodies found in the canal in Nangarhar, Human Rights Watch reported on well over 100³⁰, maybe they were connected with IS, maybe not, it's not clear. There are many other risk-factors.

³⁰ <https://www.hrw.org/news/2022/07/07/afghanistan-taliban-execute-disappear-alleged-militants>

I'd also like to say, that just because someone is a national staff member of the UN, or an international NGO, it doesn't necessarily make them safe. Those people can also be at risk for the reasons Thomas Ruttig and Liza Schuster have raised. There may be historical reasons, connections, or ethnic reasons as well.

I was also looking at the very first statement I made, on my way out of my first visit to Afghanistan, in May 2022. I said, the policies of the de facto authorities, and their drive for absolute control, is having a cumulative effect on a wide range of human rights. It is creating a society ruled by fear, as stated by Liza Schuster. It's also ruled by surveillance.

I was in a meeting two weeks ago, where someone told me that in Kabul, their friend had been forced to buy a \$300 surveillance camera to set up outside on their own compound - their own house. After they installed it and that way kind of paid for their own surveillance, the Taliban came back a few days later, and required adjustments to be made, so that the camera could see the whole compound.

Comment (Thomas Ruttig): I want to add to that, of course, amongst human right activists, media, the families of the women protesters, there are many Pashtuns. So even for Pashtuns it could be multiple factors. And then there are all those intra-Pashtun conflicts with one tribe being (or been considered) on one side, and another tribe on another side.



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