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We want to live as humans. It is our right to live like humans because we are human just like men.

— Woman in Herat,
September 11, 2002

An Afghan woman passes by troops under the command of Ismail Khan in Herat, western Afghanistan, November 20, 2001. Many women and girls in Afghanistan expected to enjoy greater rights and freedoms when the Taliban fell. The government of Ismail Khan has dashed those hopes.
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“We Want to Live As Humans”: Repression of Women and Girls in Western Afghanistan

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AFGHANISTAN

“WE WANT TO LIVE AS HUMANS”: Repression of Women and Girls in Western Afghanistan

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GLOSSARY

Amniat: “Security,” used to refer to the Afghan intelligence service, *Amniat-e Mille* (“National Security”). There is an independent Amniat service in Herat province.

Burqa and Chadori: Terms used interchangeably in many parts of Afghanistan to describe a head-to-toe garment worn by women that completely covers the body and face, allowing vision through a mesh screen. In Herat, many use only the term “burqa” to describe this garment, and the term “chadori” to describe a floor-length cloth that is wrapped around the head and body and held under the chin, with the face exposed.

Hijab: Generally, dress for women that conforms to Islamic standards, varying among countries and cultures; usually includes covering the hair and obscuring the shape of the body.

Lakh: Afghans count larger sums in terms of lakhs, with one lakh equaling 100,000 old afghanis, or Afs. Old afghanis traded at various levels through 2002: U.S.\$1 bought 27,000 to 51,000 Afs. (Newly valued afghanis were released in October 2002: one new afghani is worth 1,000 old afghanis.)

Loya Jirga: In this report, “loya jirga” refers to the emergency meeting of delegates convened in Kabul in mid-June 2002 to appoint the Afghan Transitional Administration. Loya jirga is a Pashto phrase meaning “grand council,” and is a traditional Afghan mechanism in which leaders meet to choose new kings, adopt constitutions, and decide important political matters and disputes.

Mahram: A close male relative (husband, brother, father, or son) who is allowed to see a woman without full hijab.

Mujahidin: Literally, “those who struggle.” In Afghanistan, this refers specifically to the forces that fought the successive Soviet-backed regimes, although the former mujahidin parties, including Ismail Khan's, continue to use it with reference to themselves.

Shura: “Council.” The shuras mentioned in this report include both governmental and nongovernmental bodies.

ISAF: International Security Assistance Force, the international peacekeeping force currently stationed in Kabul.

The recovery of Afghanistan must entail a restoration of the rights of Afghan women. . . . The rights of women in Afghanistan will not be negotiable.

—U.S. Secretary of State Colin Powell, November 18, 2001

Only the doors to the schools are open. Everything else is restricted.

—Woman in Herat, September 16, 2002

In all of Herat we don't have more than ten women working in government offices. . . . At present, women lack the right to do business, they have problems in getting married, and want to go to school and not to cover themselves with burqa or chadori. There have been some changes since the Taliban, but they are all symbolic, not deeply rooted. The pressure on women has deepened. I cannot tell you specific things because women are not present everywhere, but I am telling you they were dismissed from office after the loya jirga. What women's rights mean in our society is to go from primary school to university. This is all their rights.

—Herat resident, September 13, 2002

The leadership here is very bad for us. It is not much different than the Taliban.

—Woman in Herat, September 16, 2002

I. SUMMARY

When the Taliban were driven from power in late 2001, many Afghan women were hopeful. The Taliban—never popular in Afghanistan’s cities and ultimately despised by almost all Afghans—had been especially hated and resented by Afghan women. The Taliban’s collapse and a new promise of peace and legitimate governance gave hope that Afghan women and girls would soon enjoy greater rights and freedoms. Around the world, international actors promised improvements in the lives of Afghanistan’s long-suffering women and girls, who had borne some of the worst abuses of the Taliban regime and the effects of twenty-three years of war.

Women in Afghanistan have long struggled to claim full rights and freedoms, and under the Taliban, their position was undoubtedly worse than at any other time in recent history. Yet, one year after the Taliban’s fall, women and girls in Afghanistan still face severe restrictions and violations of their human rights, for in many areas Taliban officials have been replaced by warlords, police officers, and local officials with similar attitudes toward women. In some parts of the country, the same officials who administered the anti-women policies of the Taliban remain in their positions. This has meant the reimposition of extremely repressive social codes that typically have a devastating impact on women. Such restrictions severely undermine the most fundamental rights of women and girls in many areas of Afghanistan, including threatening their physical security.

The central Afghan government is not yet in a position to protect the human rights of women and girls, especially outside of the capital, Kabul. International actors understood that in the short term their assistance would be vital. The international community’s inability to fulfill its commitments toward women in Afghanistan threatens the promise of the post-Taliban era. And many women now are disillusioned about the reconstruction and peace processes set in motion by the Taliban’s fall and the Bonn Agreement of December 2001.¹

An area of special concern for women’s rights is the province of Herat in the west of Afghanistan, which has a liberal literary and cultural tradition and a history of educating girls. But under the rule of the local governor, Ismail Khan, women’s and girls’ freedom of expression, association, movement, and rights to equality, work, education, and bodily integrity steadily deteriorated throughout 2002.² While conditions are undoubtedly better than under the Taliban—girls and women have better access to education and are not beaten by authorities in the streets—many Taliban-era restrictions remain in place. As this report demonstrates, virtually every aspect of women and girls’ lives is still policed in Herat.

For women and girls in Herat, every decision of every day presents dangers or challenges from Ismail Khan’s government: where they can go, how they can get there, whom they can go with, and how they can dress. A Herati woman has little access to the public sphere, from employment to civic organizations or other forums where she can participate in public debate. In order to leave her home and reach what forums are available—such as school, work (in one of the few jobs open to women), a government-controlled civic organization, or simply to go to the market—she must overcome significant hurdles in the journey, traveling in a way that she will not be harassed, arrested, and taken off to the hospital to be subjected to an abusive “chastity” examination. Once she arrives at her destination, she must conform her speech, behavior, and appearance to Ismail Khan’s restrictions and edicts, which she has no way to challenge. When she returns home, she can expect no protection against

¹ Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, Bonn, Germany, December 5, 2001. This agreement was signed by representatives of anti-Taliban forces and several other Afghan political parties and groups.

² On November 5, 2002, Human Rights Watch released a fifty-one page report: “All Our Hopes Are Crushed: Violence and Repression in Western Afghanistan” describing the human rights abuses committed by the administration of Herat provincial governor, Ismail Khan. The report shows that Ismail Khan is operating an independent mini-state in which there is no political freedom, no freedom of speech, and a pattern of physical abuse and torture at the hands of local police and army forces. Human Rights Watch, “All Our Hopes Are Crushed: Violence and Repression in Western Afghanistan,” *A Human Rights Watch Short Report*, vol. 14, no. 7(c), November 5, 2002, <http://hrw.org/reports/2002/afghan3/>.

violent or abusive family members—indeed, as in most parts of the country, fleeing from her home may result in her arrest and prosecution. Nor does she have any way to contest male family members' decisions about whom she will marry or whether she can attend school or work. She is effectively marginalized—politically, economically, and socially.

Many women and girls in Herat expressed to Human Rights Watch a strong desire to participate in the country's civil and political life, to be able to speak freely, both publicly and privately. They want to participate in the political discourse and have a voice in governmental decisions—especially those that affect them. As it stands, Ismail Khan is not allowing women *or* men to take part in most decision-making processes, but this repression is falling doubly hard on women, who face both the general political repression of Ismail Khan's regime and his particular repression of women. Very few forums are open to women in Herat, and those that are open are heavily censored by Ismail Khan. Ismail Khan and his agents—almost all men—decide what rules govern women and girls' lives.

Many rules are aimed at keeping the sexes segregated, which affects women and girls differently than men by excluding women and girls from bodies where decisions are made, from civic and cultural activities, from work, and from equal education. The consequences of breaking these rules are also different for women and girls than for men. Women and girls who have challenged these policies have been publicly and privately castigated by government officials and called “un-Islamic,” a serious charge in a climate of returning fundamentalism. They have also been prohibited from speaking publicly or to journalists about women's rights, and fired from their jobs or threatened with being fired. Women's participation in the reconstruction effort is severely constrained, leaving little hope for their broader political participation in the future.

Women and girls enjoy little freedom of movement in Herat. Unlike under the Taliban, women and girls can leave their homes during the day without being accompanied by a close male relative (*mahram*). However, they may not walk or ride in a car alone with a man who is not a close relative, even a taxi driver. A police task force now patrols Herat city, arresting men and women who are seen together and suspected of being unrelated or unmarried. Men are taken to jail; women and girls are taken to a hospital to undergo forced medical examinations to determine whether they have recently had sexual intercourse. When they leave their homes, women and older girls must wear a burqa or chadori, which impedes their ability to walk and see; if they go without it, they may be harassed and threatened by the police as well as private individuals. Unlike in neighboring Iran, women are not permitted to drive cars, and they do not ride bicycles. (Even if these acts were permitted, they would be impossible wearing a burqa.) A public transportation system hardly exists, and where it does it is inadequate, leaving women and girls with few ways to get to school, work, or the market, or to seek medical care.

The Herat government discriminates against women in the right to work. Few jobs are open to women and those that are come with significant limitations from the government. Ismail Khan has pressured women not to work with international nongovernmental organizations (NGOs) or for the United Nations, although these agencies need women to administer many of their emergency aid and reconstruction programs. Women are also prohibited entirely from riding in cars with foreign men or from meeting alone with them. At least one Herati woman has been arrested and detained for her contact with foreign men during the course of her work with an international organization. At the same time, almost no women have been invited to work in the Herat government. Ismail Khan has urged women instead to work at home or as girls' teachers. Government officials harass and threaten those who step outside of these narrow boundaries.

Ismail Khan's Disregard for Human Rights

Ismail Khan has responded to criticism of his human rights record—generally and about women's rights in particular—by denying any violations and claiming that Afghans have different human rights “values.”³ In public

³ See “Western Afghan governor slates Human Rights Watch report,” BBC Monitoring Central Asia, text of report by Iranian Radio (Mashad), November 9, 2002; “Afghan Herat governor launches campaign against immorality,” BBC Monitoring

speeches and interviews with media, Ismail Khan often points to humanitarian and development needs, criticizing those who complain about human rights as indifferent to concerns about Afghans' day-to-day survival, whether they are safe from crime and have enough food.⁴ But there is no reason why development and reconstruction cannot be carried out at the same time that basic human rights are protected and respected. This is the responsibility of Ismail Khan and every other leader, in Afghanistan or any other country.

Moreover, as Afghan women and NGO officials rightly point out, development and reconstruction cannot properly proceed without adequate participation of women—especially in staffing local government, NGOs, and U.N. offices. Humanitarian and development assistance programs depend on women to determine what aid is needed, to ensure that it reaches women and children, and to administer programs that target women—for instance, programs for mothers and widows. But Ismail Khan has made it clear that he opposes women working for NGOs and the U.N., and he has made no meaningful efforts to promote female participation in government (or, for that matter, any independent participation).

Ismail Khan engages in recurrent double-talk about women—lauding the fact that women can go to school while telling them they should not use their education by working for foreign organizations or participating in the public debate about their rights. Women cannot take advantage of reconstruction, development, or education unless they are free to make choices about their employment and participation in civil society. In Ismail Khan's Herat, this is impossible.

Effect on Refugee Repatriation

Extensive discrimination against women and girls may have discouraged some refugees from returning home. Many women in Herat who had recently returned from Iran and Pakistan told Human Rights Watch of the basic freedoms they gave up when they returned, including driving, discussing politics in the university, playing sports and music, and going without burqa or chadori. Some women told Human Rights Watch that they decided to return from Iran at least in part based on information that restrictions on women in Herat had eased. For example, a seamstress in Herat who returned around April 2002 told Human Rights Watch: "I heard that the situation for women in Herat had completely changed and women could go outside and work. When I heard this I decided that it was better for me to [leave Iran and] come to my country and so my child could study."⁵ But women continue to face broad restrictions on where they can work in Herat.

In October 2002, Shah Mohammad, who was returning to Herat from Iran with his wife and two young daughters, told a journalist, "We came here hoping things will change. These ideas of forcing women to wear burqas, for example, are nonsense. We are good Muslims and Islam exists in our hearts."⁶ His wife, Taiba, added, "Showing an open face is fine. If we have to wear these things we'll just go back to Iran."⁷

Women and Girls' Rights in Afghanistan Generally

Ismail Khan's abuses of women and girls' rights are particularly severe. According to a U.N. official working with women's groups throughout the country, "Herat is the worst province for women in Afghanistan."⁸ And although the situation in Herat city is bad, conditions in rural areas of the province are likely worse.

Service, text of recorded speech broadcast by Herat television on November 12, 2002; "Afghan Herat governor opens mosque," BBC Monitoring South Asia, text of report on Herat television, November 15, 2002.

⁴ Ibid.

⁵ Human Rights Watch interview with W.Z., Herat, September 17, 2002. The names of persons interviewed by Human Rights Watch for this report have been disguised with initials not derived from their real names for their security.

⁶ "Fatima is a 10-year-old Afghan girl on her own in the world," Reuters, October 4, 2002.

⁷ Ibid.

⁸ Human Rights Watch interview with U.N. official, Kabul, September 9, 2002.

U.N. and NGO officials report that while the situation in Herat is particularly bad, it is not unique, and that restrictions on women and girls are again increasing all over Afghanistan. Over the last twelve months, Human Rights Watch has itself documented serious human rights abuses against women and girls by warlords all over Afghanistan.

In Kabul, a reconfigured Vice and Virtue Squad (renamed “Islamic Teaching”) is now operating. A team of some ninety women under the Ministry of Religious Affairs harasses women in Kabul’s streets for “un-Islamic behavior,” such as wearing makeup, and, in some instances, follows them home to castigate their parents or spouses. Women have reported being harassed and threatened by unidentified men for discarding particular aspects of the Taliban-mandated dress code.⁹ In October 2002 a woman told Human Rights Watch how she and her brother were stopped by police in Kabul, briefly detained, and accused of being lovers.¹⁰

Outside of Kabul, women and girls have faced serious threats to their physical safety, including sexual violence. In the north, three rival forces have committed abuses against Pashtun civilians, including raping entire households and girls as young as fourteen.¹¹ In the south during the loya jirga process in May and June, local commanders threatened women candidates and allowed their troops to harass women and girls in areas under their control.¹² During the loya jirga meeting itself, warlords from across the country monitored and threatened women delegates.¹³ Also in May and June around the northern city of Mazar-e Sharif, factional rivalry between local commanders contributed to targeted attacks on women aid workers and rapes of women and children in displacement camps that had become militarized.¹⁴ The very threat of this type of violence denies them the opportunity to exercise their basic human rights and to participate fully in the rebuilding of their country.¹⁵

Even the much lauded restoration of the right to education is under attack. Schools for girls have been attacked with rockets or set on fire in at least five provinces: Kandahar, Sar-e Pol, Zabul, Logar, and Wardak. Local forces have done little to prevent these attacks.¹⁶

In some areas, troops under the control of current government officials—members of the Jamiat-e Islami party who are loyal to General Mohammed Fahim (the defense minister) or the former president of Afghanistan, Burhanuddin Rabbani—have been enforcing Taliban-era “moral” restrictions, for instance, forbidding families from playing music at weddings and from dancing, and in some cases arresting and beating musicians.¹⁷ As in

⁹ See Human Rights Watch, “Taking Cover: Women in Post-Taliban Afghanistan,” *briefing paper*, May 9, 2002, <http://hrw.org/backgrounder/wrd/afghan-women-2k2.htm>.

¹⁰ Human Rights Watch interview with S.K.L., Kabul, October 19, 2002.

¹¹ See Human Rights Watch, “Paying for the Taliban’s Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan,” *A Human Rights Watch Short Report*, col. 14, no. 2(c), April 2002, <http://hrw.org/reports/2002/afghan2/>.

¹² See Human Rights Watch, “Afghanistan: Return of the Warlords,” *briefing paper*, June 2002, <http://hrw.org/backgrounder/asia/afghanistan/warlords.htm>

¹³ See Human Rights Watch, “Afghanistan: Loya Jirga Off To Shaky Start,” *press release*, June 13, 2002, <http://hrw.org/press/2002/06/jirga061202.htm>.

¹⁴ See Human Rights Watch, “Afghanistan: Rise in Factional Fighting Threatens Fragile Peace,” *press release*, May 7, 2002, <http://hrw.org/press/2002/05/afghan0507.htm>; Human Rights Watch, “Afghanistan: Escalating Attacks on Aid Workers and Civilians,” *press release*, June 27, 2002, <http://hrw.org/press/2002/06/afghan0627.htm>.

¹⁵ See Human Rights Watch, “Taking Cover.”

¹⁶ Institute for War and Peace Reporting, “Afghanistan: Girls’ schools hit by arson attacks,” November 23, 2002. According to this report: “Most followed written threats posted in towns and villages in these regions, ordering residents not to send their girls to school. Threats were also posted in Kunar, Helmand and Laghman provinces in October.” Ibid. U.N. and Afghan government officials suspect that fundamentalist groups are responsible for the threats and attacks—but not necessarily former Taliban troops. Human Rights Watch interview with I.S.K., Kabul, November 3, 2002; Human Rights Watch interview with U.N. staff, Kabul, November 18, 2002.

¹⁷ One musician from Kabul told Human Rights Watch about how he was arrested by Jamiat troops in a village north of Kabul for playing music at a wedding. He and two other hired musicians were taken to a prison, soaked with water, beaten

Herat, commanders in northern Afghanistan have pressured women not to work for foreign organizations.¹⁸ This type of social repression, enforced in some places by government troops, is a source of fear for many women, both because of what is happening now and for what it may signify for the future if restrictions on women and girls continue to increase.

Lack of Attention by International Actors to Human Rights in Afghanistan

In previous reports in 2002, Human Rights Watch has criticized the United States, other nations involved in Afghanistan, and the U.N. mission for not making human rights a high enough priority in the country, especially outside of Kabul city. While recent moves by the U.S. and U.N. mission suggest a new concern with human rights and security issues, this criticism for the most part still holds.

The United States and other nations involved in Afghanistan have so far resisted repeated calls from the Afghan government, the U.N. mission, and numerous NGOs to expand the International Security Assistance Force (ISAF), the U.N.-mandated peacekeeping force for Afghanistan, outside of Kabul. The recent decision by the United States and United Kingdom (U.K.) to deploy additional troops outside of Kabul to work on security and disarmament issues, and the offer of the government of Japan to assist with monitoring of disarmament, are welcome signs. But much more needs to be done to increase human rights protections and decrease the stranglehold on power enjoyed by the warlords who rule most parts of Afghanistan.¹⁹ As of December 2002, the U.S. and coalition military forces in Afghanistan are continuing to pursue a strategy of entrusting general security and policing to local forces with terrible records on women's rights. No governments involved in Afghanistan have offered adequate resources for expanded peacekeeping or police training throughout the country, despite the fact that most Afghans and diplomatic officials admit that these steps are a necessary precursor to reconstruction efforts and protection of human rights, and that the human rights situation in most parts of the country is deplorable. There is a self-reinforcing obstructiveness about the issue: many European nations, asked about peacekeeping, condition their agreement to expanding ISAF on the U.S. setting aside its resistance to provide necessary logistical and intelligence backup; meanwhile, the U.S. claims it will offer the requisite assistance to other nations, if they would only offer troops.

The United Nations Assistance Mission to Afghanistan (UNAMA) has not placed sufficient emphasis on human rights monitoring and protection. Some expansions to monitoring and protection staff have been made: there are now one international and two Afghan staff devoted to human rights in each of the U.N. regional offices. However, the presence remains inadequate: UNAMA does not have the capacity to conduct large-scale investigations or deploy monitoring staff to many areas. Human Rights Watch believes that UNAMA's role in human rights monitoring, investigation, and protection must be significantly expanded.

Many Afghans, in Herat and elsewhere, expected the international community to stand up to warlords like Ismail Khan as they had stood up to the Taliban. Many are angry and disillusioned with the United States (U.S.), the United Nations (U.N.), and the international presence in Afghanistan generally.

The Afghan Human Rights Commission, which is mandated to monitor human rights conditions and investigate abuses, is not receiving sufficient political and moral support from the international community, including the U.N., to effectively investigate or monitor human rights conditions. The commission is also suffering from serious staffing problems. Commission members' fear of political violence directly affects its work (at least two members of the commission have been threatened with violence, including the commission's leader, Sima Samar). Other Commission members are not adequately trained to oversee or carry out human rights

with cables, and left overnight in their cell in freezing temperatures. Human Rights Watch interview with A.S.N., Kabul, October 16, 2002.

¹⁸ Human Rights Watch interview with U.N. official, Kabul, September 30, 2002.

¹⁹ See, e.g. Human Rights Watch, "Afghanistan's Bonn Agreement One Year Later: A Catalog of Missed Opportunities," *briefing paper*, December 5, 2002.

investigations. The Commission has not carried out general monitoring of human rights conditions, and has not conducted any major investigations outside of Kabul where its capacity is especially weak. International agencies and nations involved in Afghanistan have to do more to give the commission confidence.

Recommendations sections immediately following and toward the end of the report set out in more detail how the process of promoting human rights, including rights for women and girls, can be put back on track.

* * * * *

This report is based on more than 120 interviews conducted in Herat city and Kabul between September and November 2002. Names and identifying details of many of those interviewed cannot be printed here because of concerns for their security. After Human Rights Watch visited Herat in September 2002, Ismail Khan ordered his security forces to identify and interrogate people who spoke with us.²⁰ We have also received reports that Ismail Khan's forces have threatened women whom they believe spoke with us²¹—an indication of the level of intimidation and repression in western Afghanistan.

In this report, the words “girl” and “boy” refer to anyone under the age of eighteen.²²

²⁰ Human Rights Watch telephone interview with G.Z.K., Herat, November 22, 2002.

²¹ Human Rights Watch telephone interview with G.Z.K., Herat, November 23, 2002; Human Rights Watch telephone interview with Herat resident, December 12, 2002.

²² Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (entered into force September 2, 1990, ratified by Afghanistan March 28, 1994), art. 1.

II. MAIN RECOMMENDATIONS TO AFGHAN AUTHORITIES

To Ismail Khan, the government of Herat, and all local and regional governors and leaders of Afghanistan

- Immediately repeal all decrees and end all government policies that violate the human rights of women and girls, in particular, rights to freedom of expression, freedom of association, and freedom of movement; and rights to equal treatment, work, education, sexual autonomy, and bodily integrity, including freedom from cruel, inhuman, or degrading treatment.
- Order all government officials, police, and military troops to stop harassing, questioning, or arbitrarily arresting women and men for activity protected under international human rights law, including behavior deemed “un-Islamic.” Women and girls should not be questioned or harassed on the street or in their homes about their dress or about with whom they associate.
- Issue an order explicitly prohibiting forced medical examinations, at the instigation of police or any other person, of women and girls to determine sexual activity. Repeal all edicts, orders, or laws allowing their imposition.
- Ensure that private acts of violence and discrimination against women and girls are investigated, prosecuted, and punished appropriately.

To President Hamid Karzai and the Afghan Transitional Administration

- President Karzai should publicly announce through radio, print, and other media the government’s support of women and girls’ right to equality in all aspects of their public and private lives, including explicitly their rights to freedom of expression, association, and movement; and rights to work, education, sexual autonomy, and bodily integrity, including freedom from cruel, inhuman, or degrading treatment.
- President Karzai and the Afghan Transitional Administration should use all available legal, political, and economic mechanisms to stop regional leaders, including Ismail Khan, from abusing the rights of women and girls or implementing laws or practices that violate international human rights law. Regional and local leaders who endorse or tolerate human rights abuses—including the repression of women and girls as detailed in this report—must be penalized in an effective and appropriate manner. Possible sanctions include withholding of non-vital governmental assistance and reconstruction assistance, loss of government honors or privileges in Kabul, or demotions and firing.
- President Karzai should require Ismail Khan to take action to end human rights abuses in the areas of Afghanistan under his control, including abuses against women and girls, and if he fails to do so, dismiss Ismail Khan as governor of Herat. President Karzai and the Afghan Transitional Administration should make all possible efforts to ensure that Ismail Khan is held accountable for violations of human rights committed by forces under his control.
- The Afghan Transitional Administration should work with all donor bodies to ensure that reconstruction funds do not directly benefit (financially or politically) regional leaders like Ismail Khan who are committing human rights abuses or implementing repressive measures against women and girls.
- President Karzai should order an executive delegation to Herat to investigate the allegations of human rights abuses contained in this and previous Human Rights Watch reports, and request that the United Nations Assistance Mission to Afghanistan (UNAMA) assist. All witnesses and sources from whom testimony is gathered should be given contact information for independent Kabul government officials and UNAMA, be put on a “persons at risk” list, and be contacted regularly to ensure their ongoing safety.

- The Afghan Transitional Administration should promulgate legislation specifically prohibiting gender-based discrimination.

Additional recommendations to the Afghan Transitional Administration, as well as a comprehensive set of recommendations to the international community are in section V, below.

III. BACKGROUND

Under the Taliban, life for Afghan women and girls was a living nightmare.²³ The Taliban totally eradicated women from the public sphere and stripped them of power in the private sphere. Taliban decrees prohibited women from working outside the home and traveling in public without a *mahram* (husband or close male relative), and the requirement of the burqa was strictly enforced.²⁴ Women and girls risked being beaten on the streets of most major cities for showing any part of their bodies, even by accident, for wearing the wrong kind of shoes or socks, or for making too much noise walking. Women were barred from university and almost all girls schools were closed. One human rights group described the Taliban's restriction on women's rights as "one of the most deliberate forms of discrimination against women in recent history."²⁵

Many Afghans—women and men—considered the Taliban's reactionary codes to be anachronistic and cruel. Afghanistan has a diverse cultural, ethnic, and religious makeup, in which both women and men hold a variety of views on women's rights.²⁶ The Taliban's interpretations of Islamic law were foreign to much of Afghanistan's people, especially those in urban areas.²⁷ By imposing a monolithic and unified set of social standards on the whole country, they alienated huge sectors of the population. Refugee returns during Taliban rule slowed significantly in many places, and even reversed. Some of the Taliban leadership skirted the rules, allowing local governments leeway on some issues and sending their own daughters to schools in Pakistan or Iran. Late in the 1990s, some of the finer points of the Taliban's many decrees were abandoned or were not enforced: female health workers were allowed to resume work in some cities, and in some areas schools were reopened. And in many rural areas, women continued to work and travel outside without the burqa or a mahram. In some areas, girls even went to school.²⁸ But until its demise in late 2001, the Taliban strictly enforcing most of its restrictions.

When Taliban rule ended, many people within and outside of Afghanistan considered its collapse to be a "liberation" for Afghan women and girls, and for the population at large. There was much hope that Afghan women would soon enjoy increased freedoms and rights, denied to them under the Taliban.

No one expected the situation to change overnight. The rights of Afghan women and girls have been a contentious issue in Afghan politics and society for most of the last hundred years, while, for the most part, Afghan women themselves have been sidelined from public discussions and decision making about their rights and role in society.²⁹ Women's rights have been used to polarize political and ideological conflicts, and reforms directed at women have often led to political instability. During the twentieth century, limited attempts by Afghanistan's male leaders to impose social reforms affecting women's rights contributed to political tensions and even revolutions. In 1929, King Amanullah's government fell soon after he tried to impose strict new social

²³ For a general analysis of life for Afghan women and girls under the Taliban, see Human Rights Watch, "Afghanistan: Humanity Denied," *A Human Rights Watch Report*, Vol. 13, No. 5 (C), October 2001, <http://www.hrw.org/reports/2001/afghan3/>.

²⁴ *Ibid.*, p. 6; see also Ahmed Rashid, *Taliban: Militant Islam, Oil & Fundamentalism in Central Asia* (New Haven: Yale University Press, 2000), pp. 105-116.

²⁵ Physicians for Human Rights, *Women's Health and Human Rights in Afghanistan: A Population-Based Assessment* (Boston: Physicians for Human Rights, 2001), p. 10.

²⁶ See Rashid, *Taliban*, p. 110.

²⁷ *Ibid.*, pp. 105-116.

²⁸ See Report of the Special Rapporteur on Violence Against Women Radhika Coomaraswamy, "Mission to Pakistan and Afghanistan," U.N. Doc. E/CN.4/2000/68/Add.4, submitted March 13, 2000, pp. 4-11.

²⁹ Report of the Secretary General, "Discrimination against women and girls in Afghanistan," U.N. Doc. E/CN.6/2002/5, January 28, 2002, para. 61.

reforms, including the abolition of purdah (separation and veiling of women) and establishment of coeducation.³⁰ Thirty years later, in 1959, then-Prime Minister Mohammad Daoud alienated religious conservatives with his attempt to abolish purdah and force new social reforms.³¹ (After he took power in a coup in 1973, he continued some of his attempts at reform.) In the late 1970s, when Soviet-backed communist leaders pushed new reforms including forced coeducation and the elimination of the “bride-price,” these sent male rural leaders into open revolt, contributing to the Soviet Union’s decision to invade Afghanistan in 1979.³² (Much of the rhetoric of the opposition to the Soviet occupation—the “jihad”—was couched in terms of “protecting” women from communist forces bent on destroying their purity and their Islamic values.³³)

In the 1990s, women’s rights in Afghanistan remained a divisive issue. When Afghanistan’s formerly Soviet-backed government collapsed in 1992 and the government of the Islamic State of Afghanistan (a loose coalition of mujahidin parties) was installed in Kabul, decrees were announced instructing women to observe hijab—covering of the head, arms, and legs.³⁴ Local commanders in other cities announced similar decrees. Most of the urban female workforce continued at their workplaces but felt increasingly vulnerable to violence and attacks on their autonomy linked to political instability.³⁵ Women in rural areas and returning refugees also faced restrictions. The Taliban took power in most of the country by 1996, introducing their notoriously repressive policies toward women.

During the 1970s and 1980s, and during communist times especially, increasing numbers of urban women worked in government and business and attended school and university.³⁶ Some women and girls who fled to other countries (for Heratis this was often Iran) also enjoyed better access to education. While these trends were not mirrored in rural areas and among some sectors of society, they help explain why many Afghan women have expectations for greater freedom in the future.

As this report documents, although Taliban-era codes are no longer officially enforced against Afghan women (or men), in many areas women and girls in Afghanistan still suffer serious ongoing restrictions on their rights and freedoms. Women are still being marginalized and discriminated against in Afghan society and politics, and women also remain sidelined in the central government: only two cabinet ministers are women, one as minister of women’s affairs and the other at the head of the Ministry of Health—policy areas in which female employment is less controversial. Women are also underrepresented in international development programs: Afghan men dominate the staff of most development offices—both U.N. and nongovernmental—a problem that existed well before the Taliban. And the general security situation for women is extremely poor.

³⁰ See Louis Dupree, *Afghanistan* (Princeton, N.J.: Princeton University Press, 1980), p. 452; Foreign Area Studies, *Afghanistan: A Country Study*, Richard F. Nyrop and Donald M. Seeking, eds, 1986, p. 121.

³¹ See Dupree, *Afghanistan*, p. 560.

³² See Foreign Area Studies, *Afghanistan: A Country Study*, p. 121.

³³ See Library of Congress, “Gender Roles,” *Afghanistan: A Country Study*, Peter R. Blood, ed., 1997.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Physicians for Human Rights, *The Taliban’s War on Women: A Health and Human Rights Crisis in Afghanistan* (Boston: Physicians for Human Rights, 1998), p. 30.

Herat as an Area of Concern

We are very afraid. It is difficult for us to say things against the government because it will create problems for us. . . . We are under pressure from the [Herat] government, and we can't say anything against it. During the first period of Ismail Khan [1992-1995], I stayed at home and couldn't work, but I talked freely. Now I can't say the wrong things because I want to struggle in society. I want things to be like before and be able to say things freely.

—Woman in Herat, September 11, 2002³⁷

Now we are under the control of someone who looks at women darkly—this is the situation for women in Herat.

—Herati student, September 11, 2002³⁸

In the second half of 2002, women's and girls' rights rapidly deteriorated in the province of Herat, which is under the control of the former mujahidin commander Ismail Khan.³⁹ Herat, located in the northwest corner of Afghanistan, on roads linking Afghanistan to Iran and Turkmenistan, has a long history as one of the more open societies in Afghanistan, in which both men and women highly valued and pursued literature, poetry, painting, and intellectualism.⁴⁰ As this report details, many of the women and girls of Herat are chafing under Ismail Khan's rule, surprised at the restrictions he has imposed and angry at the fact that life has remained so repressed, even with the Taliban gone.

Ismail Khan has had a major role in Herat's history for most of the last twenty-five years. In 1978, when the communist government took power, Ismail Khan (as an army captain) led one of the largest uprisings against the new government. Later, forces under his command set up a rebel base from which they fought a guerilla war against the Soviet and Afghan communist forces throughout the 1980s.⁴¹

Ismail Khan came to power in Herat in 1992 as the formerly Soviet-backed government in Kabul collapsed. He set up a leadership shura (council) and took steps toward rebuilding the city. Little interested in the petty rivalries between mujahidin parties in Kabul, he sought to create an independent mini-state in the west of Afghanistan, supported in part by Iran. During his rule, he implemented a more conservative social order, abolishing many of the gender-oriented reforms implemented by the communist government and urging women to wear conservative hijab. He also created religious police to monitor his restrictions. Some women told Human Rights Watch that it was during this period that they, reluctantly, put on the burqa for the first time.

By 1995, Ismail Khan's government was in trouble. The local population considered his troops to be undisciplined and his administration corrupt. Local leaders were angered by his nepotism, and businesses were unhappy with the exorbitant customs duties and taxes imposed on goods passing into and through the city.⁴²

The emerging Taliban movement took advantage of Ismail Khan's unpopularity and weaknesses, attacking Herat in 1995 and capturing it in September of that year. (They took Kabul the next year.) Ismail Khan fled to Iran. With aid from the Iranian government, his forces soon regrouped to fight the Taliban. But in 1997, fighting in Faryab province, Ismail Khan was betrayed by an ethnic Uzbek commander and taken into Taliban custody.

³⁷ Human Rights Watch interview with F.M., Herat, September 11, 2002.

³⁸ Human Rights Watch interview with P.L., Herat, September 11, 2002.

³⁹ For more about the history of Herat and Ismail Khan, see Human Rights Watch's November 2002 report "All Our Hopes are Crushed: Violence and Repression in Western Afghanistan," <http://hrw.org/reports/2002/afghan3/>.

⁴⁰ See Christina Lamb, *The Sewing Circles of Herat: A Personal Voyage through Afghanistan* (New York: Harper Collins, November 2002); see also Rashid, *Taliban*, pp. 110-112.

⁴¹ See Rashid, *Taliban*, p. 37.

⁴² *Ibid.*, p. 39.

He spent the next two years in a Taliban prison, from which he escaped in 2000.⁴³ Meanwhile, Herat—a city of poets, musicians, and intellectuals—suffered under Taliban rule. Many Herat residents formed secret schools and literacy classes for girls and women, and went to extraordinary lengths to covertly disobey the Taliban restrictions.⁴⁴

When the U.S.-led coalition attacked Afghanistan in the wake of the September 11, 2001 attacks on the United States, Ismail Khan again returned to Afghanistan to rally troops in Ghor and Badghis provinces.⁴⁵ Coalition forces gave him substantial financial and military support—weapons, radios, satellite telephones, and cash.⁴⁶ He also received assistance from Iranian military sources.⁴⁷ In October and November 2001, his forces attacked Taliban positions between Mazar-e Sharif and Herat.⁴⁸ The Taliban fled the west of Afghanistan in early November, under intense coalition bombing.⁴⁹ Ismail Khan entered Herat on November 13, 2001, and soon took control of other western provinces.⁵⁰

As the Taliban retreated, many Heratis rejoiced, happy to no longer face Taliban restrictions and believing they were to enjoy newfound political freedoms. But Heratis' optimism was short-lived. Within weeks of taking power, it was clear to most residents of Herat that Ismail Khan and his forces were not interested in granting political freedoms or allowing women to participate in the city's civil and political life. Ismail Khan—who dubs himself the “Emir of Herat”—runs Herat with an iron fist: since taking power his forces have forcibly stopped political rallies and protests, arrested dissidents, intimidated and beaten opponents, and stifled independent media.⁵¹

Ismail Khan has demonstrated no real allegiance to the Kabul government and has repeatedly refused to allow officials appointed by President Karzai to take posts in Herat.⁵² Over the last year, Ismail Khan has attempted to create a cult of personality, using government-controlled television, radio, and newspapers to propagate an image of a kind and generous leader, “His Excellency the respected Emir Ismail Khan.”⁵³ He has also undertaken

⁴³ For more information on these events, see Michael Griffin, *Reaping the Whirlwind: The Taliban Movement in Afghanistan* (London: Pluto Press, 2001), pp. 45, 51, 243, 257.

⁴⁴ See Lamb, *The Sewing Circles of Herat*.

⁴⁵ “Powerful anti-Taliban commanders in north making advances,” AVN Military News Agency, October 12, 2001; Parisa Hafezi, “Afghan group says repulses Taliban in northwest,” Reuters, October 29, 2001.

⁴⁶ Human Rights Watch interview with L.H., observer familiar with anti-Taliban operations, Herat, September 11, 2002; Human Rights Watch interview with W.D.H., Herat, September 14, 2002; Human Rights Watch interview with senior United Nations Assistance Mission to Afghanistan (UNAMA) official, Kabul, September 24, 2002.

⁴⁷ Human Rights Watch interview with senior UNAMA official, Kabul, September 24, 2002; Human Rights Watch interview with A.L., Herat, September 11, 2002; Human Rights Watch interview with A.A., Herat, September 12, 2002.

⁴⁸ Susan Glasser and Molly Moore, “Rebel Forces Claim Key City of Herat, Seize Road to Kabul; Area's Former Ruler Returns in Victory Six Years After His Defeat by Taliban,” *Washington Post*, November 13, 2002.

⁴⁹ *Ibid.* See also Soraya Sarhaddi Nelson, “Ousting Taliban from Herat relatively easy,” *Chicago Tribune*, November 15, 2001.

⁵⁰ Ahmed Rashid, “The Lion returns to his old haunts,” *Daily Telegraph* (London), November 13, 2001. Ismail Khan's troops immediately occupied the police station, military compounds, and the headquarters of the Intelligence Service, or Amniat. Human Rights Watch interviews with K.M. and W.A., Herat, September 11, 2002; Human Rights Watch interview with H.S., Herat, September 12, 2002.

⁵¹ See Human Rights Watch, “All Our Hopes Are Crushed,” pp. 24-36, http://hrw.org/reports/2002/afghan3/herat1002-05.htm#P542_84552.

⁵² Human Rights Watch interview with M.Z.Z., Kabul, September 29, 2002; Human Rights Watch interview with L.H., Herat, September 11, 2002. Ismail Khan's son, Mir Wais Siddiq, is now serving as a member of President Karzai's cabinet, essentially as a representative of his father (he has no former governmental experience). After President Karzai was elected by the loya jirga to lead the Afghanistan Transitional Administration, he invited Ismail Khan himself to Kabul to serve as a member of his cabinet. This was presumably an effort to weaken his hold on power in Herat, but Ismail Khan refused to go.

⁵³ Human Rights Watch interview with L.H., Herat, September 11, 2002; Human Rights Watch telephone interview with Ahmed Rashid, Pakistan, July 22, 2002.

various reconstruction projects, rebuilding parks, roads, schools, and a library—projects that have improved Herat’s economy, living conditions, and overall appearance (he delegates few issues, dealing directly with even the most mundane matters, from the design of public parks to the approval of small businesses). Many foreign visitors and journalists have been charmed by “the Emir.”⁵⁴ High-level visiting dignitaries treat him like a head of state—for example, reviewing his troops at the airport.⁵⁵ The overall picture that emerges of Ismail Khan is of an autocratic leader set on creating an image of benevolence. But as time has gone on, the image has become increasingly difficult to sustain. Most Heratis are terrified of him: his past brutality toward the Soviets and Afghans who worked in the communist government is well known, as is recent violence against local political opponents, the routine torture of criminal detainees, and the arrest and humiliation of women and girls who violate his edicts.⁵⁶

Compared with the first time he ruled Herat, Ismail Khan embraces a more fundamentalist vision of Islam. He has announced restrictive social prohibitions and adopted retrogressive Taliban-era laws and policies.⁵⁷ For example, since July 2002, police forces under Ismail Khan have regularly arrested Heratis for “vice crimes” and, without conducting trials, have beaten them, shaved their heads, and blackened them with kohl, and then shown them on television to humiliate them and send a message to the public.⁵⁸ And, as this report documents, Ismail Khan is now enforcing many Taliban-era restrictions against women and has created religious police (including a youth police group) to monitor compliance.

⁵⁴ Ibid.

⁵⁵ See, e.g., Linda D. Kozaryn, “On the Edge with Rumsfeld in Afghanistan,” American Forces Press Service, April 29, 2002.

⁵⁶ See Human Rights Watch, “All Our Hopes Are Crushed,” section V, http://hrw.org/reports/2002/afghan3/herat1002-07.htm#P1061_165296.

⁵⁷ Human Rights Watch interview with W.D.H., Herat, September 14, 2002; Human Rights Watch interview with L.H., Herat, September 13, 2002; Human Rights Watch interview with senior UNAMA official, Kabul, September 24, 2002.

⁵⁸ Human Rights Watch interview with F.J., Herat, September 17, 2002.

IV. VIOLATIONS OF WOMEN'S AND GIRLS' HUMAN RIGHTS IN HERAT

Ismail Khan and his government control virtually all aspects of women's and girls' lives in Herat, on the street, in schools and workplaces, and even in their homes. By controlling the media, most civic organizations, most forms of employment that would be open to women, and education, Ismail Khan is able to dictate whether and how women and girls have access to these arenas. He has used this power to keep women and girls out of many forums, to suppress free speech and associations (especially related to women's rights), and to regulate women's and girls' dress and behavior. By restricting their freedom of movement, he has also made it much more difficult for women and girls to access the few areas, such as schools and some jobs (teaching and a few other government posts), that are left open to them.

Ismail Khan dictates women's and girls' behavior through announcements in public speeches, on Herat radio, television, and the only daily newspaper in Herat, *Ittifaq-e Islam*. His government officials—for example in the Department of Education, the Traffic Office, and the Department of Information and Culture—enforce restrictions on women and girls. In addition, police and teachers monitor women and girls' behavior and appearance. Reminiscent of the Taliban's Ministry for the Promotion of Virtue and the Prevention of Vice, Herat police can arrest men and women whom they deem to be behaving immorally, and have trained squads of adolescent school boys to spy on women and girls.⁵⁹ Around October 7, 2002, Ismail Khan met with the boys and reportedly “told them not only to work for safety but to monitor ‘Islamic values.’ . . . to work all over the city.”⁶⁰ He reportedly said:

My dear sons, your duty is not to limit yourselves to school. You have the right to ensure that the principles of Islam are observed in all parts of Herat city. You have the right to monitor whether people obey Islamic rules, whether it be inside school, outside school, or even in the national park. . . . Be inquisitive. . . . You have the right to do whatever you feel is appropriate to have Islamic rules met in society.⁶¹

A Herati explained to Human Rights Watch how the boys squads function:

So now, besides the criminal branch, we have these boys who go around and also monitor everywhere. They stop people and take action wherever and whenever there are people not acting in conformity with Islam. For example, they watch boys to make sure they don't fight with each other. . . . Already they are stopping people in the park. They stop men and women, and say, “Why are you talking with one another?” “What is your relationship with each other that you are walking together?” etc. At school they are monitoring to make sure that girls don't come without burqa or chadori.⁶²

Almost all women and girls in Herat city whom Human Rights Watch interviewed said that they wanted quality education and decent work, that they wanted to be able to move around freely without harassment and fear of arrest, and that they wanted to choose for themselves how to wear their hijab (as a headscarf, chadori, or burqa). Many said they wanted to be active in the public sphere and that they wanted to be able to speak freely about the government. Most of all, women and girls told us they wanted to participate in the decisions that affect them. As one Afghan woman explained, “We want to live as humans. This is our right to live like humans because we are

⁵⁹ Human Rights Watch telephone interview with G.Z.K., Herat, October 10, 2002. Ismail Khan employed similar religious police during his first rule from 1992 to 1995.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

human just like men.”⁶³ The government of Herat and Ismail Khan have an affirmative obligation to ensure these rights.

International law provides all individuals, male and female, with the rights to freedom of expression, association, and movement; to equality, work, and education; and to privacy, sexual autonomy, and bodily integrity, including freedom from cruel, inhuman, or degrading treatment. Essential to protecting these rights is the ability to participate in the conduct of public affairs. Afghanistan’s 1964 constitution, which under the 2001 Bonn Agreement is currently in effect until another constitution is approved, also guarantees a number of rights to Afghan citizens.⁶⁴

Ismail Khan’s government has denied women and girls the enjoyment of fundamental rights exercised by men and boys. Discrimination on the basis of sex is prohibited by the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC), to all of which Afghanistan is a party.⁶⁵ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Afghanistan has signed, defines discrimination against women as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.⁶⁶

CEDAW obliges states to “refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation”; and to “take all appropriate measures to eliminate discrimination against women.”⁶⁷ In addition, Afghanistan is a party to the Convention on the Political Rights of Women, which provides that: “Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.”⁶⁸

Afghanistan’s 1964 constitution provides in article 25: “The people of Afghanistan, without any discrimination or preference, have equal rights and obligations before the law.”

⁶³ Human Rights Watch interview with H.D., Herat, September 11, 2002.

⁶⁴ Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, Bonn, Germany, signed December 5, 2001.

⁶⁵ International Covenant on Civil and Political Rights (ICCPR), opened for signature December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976, and acceded to by Afghanistan January 24, 1983), art. 2(1); International Covenant on Economic, Social and Cultural Rights (ICESCR), opened for signature December 16, 1966, G.A. Res. 2200A(XXII) (entered into force January 3, 1976, and acceded to by Afghanistan January 24, 1983), art. 2(2); and Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/44/49 (entered into force September 2, 1990, and ratified by Afghanistan March 28, 1994), art. 2(1).

⁶⁶ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), G.A. Res. 34/180, U.N. Doc. A/34/46 (entered into force September 3, 1981, and signed by Afghanistan August 14, 1980), art. 1.

⁶⁷ *Ibid.*, art. 2. As a signatory but not a party to CEDAW, Afghanistan is obligated to refrain from acts that would defeat the treaty’s object and purpose. Vienna Convention on the Law of Treaties, signed May 23, 1969, 1155 U.N.T.S. 331 (entered into force January 27, 1980), art. 18.

⁶⁸ Convention on the Political Rights of Women, opened for signature and ratification December 20, 1952, G.A. Res. 640(VII) (entered into force July 7, 1954, and acceded to by Afghanistan November 16, 1966), art. 11.

Violations of Freedom of Movement and Associated Violations of the Right to Bodily Integrity

Women and girls' freedom of movement is severely restricted in Herat city and has become even more so in the second half of 2002. Women and girls who break the rules risk being harassed, threatened, arrested, or, as an extreme consequence, being forced to undergo a gynecological examination.

In order to leave their homes, women and girls face considerable hurdles. Unlike under the Taliban, during the day they can go out without being accompanied by a close male relative (*mahram*). However, they may not walk or ride in a car alone with a man or men to whom they are not closely related. Women cannot drive cars, and they do not ride bicycles. (Even if these acts were permitted, they would be impossible wearing a burqa.) Ismail Khan has prohibited Herati women and girls from riding in cars with foreign men at all.⁶⁹ The impact of these restrictions is heightened by the fact that in Herat, public transportation is inadequate or non-existent, leaving women and girls with almost no alternatives for moving around.

In addition, when they leave their homes, women and older girls must wear a burqa or chadori, which impedes their ability to walk; if they go without it, they may be harassed and threatened by police, other government officials, and private individuals from whom they cannot expect police protection.

Restrictions on freedom of movement significantly interfere with the ability to exercise a range of other human rights: to go to school, to work, or to the market to buy food and other goods, or to seek medical care. For example, a woman who attended Herat university explained, "It is difficult for girls to come on time [to Herat university] because there are no regular buses. Sometimes three or four will share a taxi. If they can't find a taxi, they don't attend."⁷⁰ (Since all taxi drivers are male, taking a taxi to the university alone would make her subject to arrest if the driver is not a relative—see below.)

In October 2002, the Herat Council of Scholars and Clerics, a new semi-governmental body, issued an edict entirely banning women from visiting Herat's public parks at night.⁷¹ A Herat resident confirmed:

Right now, it is very difficult for women. It is a rule: women cannot be seen after 4 or 5 o'clock in the evening. Before you could see women walking around and shopping until at least 8 o'clock in the evening. At the national park and the other Firqa park [to the north and northeast of the city], now it has been ordered that women should not come to the park, for pleasure or for excursion. Now you can see only men. And more than men, you can see soldiers who are keeping their eyes on the men to see what they do and who they talk with.⁷²

Another Herati woman told Human Rights Watch in November 2002 that she believed that women and girls cannot go out alone at all at night.⁷³

Article 12 of the ICCPR guarantees the freedom of movement. The Human Rights Committee, which interprets the provisions of the covenant, has specifically found that "measures preventing women from moving freely . . . by requiring them to have the consent or the escort of a male person constitute a violation of article 12."⁷⁴ The committee has also found that states must protect women, especially, from private as well as public interference with the freedom of movement, noting that "it is incompatible with article 12, paragraph 1, that the

⁶⁹ Communication to Human Rights Watch from UNAMA staff, August 31, 2002; Human Rights Watch interview with B.K., Herat, September 12, 2002; Human Rights Watch interview with K.I., Herat, September 17, 2002.

⁷⁰ Human Rights Watch interview with H.M., Kabul, September 30, 2002.

⁷¹ Mike Collett-White, "Emir of Herat' lords over the strategic Afghan west," Reuters, October 9, 2002.

⁷² Human Rights Watch telephone interview with G.Z.K., Herat, October 10, 2002.

⁷³ Communication to Human Rights Watch from Herati woman, November 10, 2002.

⁷⁴ *General Comment 27, Freedom of Movement*, U.N. Human Rights Committee, U.N. Doc. CCPR/C/21/Rev/1/Add/9 (November 2, 1999), para. 18.

right of a woman to move freely and to choose her residence be made subject, by law or practice, to the decision of another person, including a relative.”⁷⁵ Afghanistan’s 1964 constitution states that: “Every Afghan is entitled to travel within the territory of the state.”⁷⁶

Arbitrary Arrests and Abusive Gynecological Examinations

Women and girls caught walking with men on the street, riding with men in cars, and alone with men in private homes are arrested by police. Arrest can be followed by an abusive gynecological examination at Herat hospital to look for evidence of recent sexual intercourse. Heratis report that with increasing frequency, police are arresting both young girls and married women, males and females in private homes, women traveling alone in taxis with the driver, and boys and girls seen talking or walking together on the street.⁷⁷ Although police ostensibly target unrelated individuals, Human Rights Watch has received several reports of relatives being arrested as well.

This practice is official government policy, not unsanctioned acts of individual police: police are mandated to monitor relations between males and females, they process detainees at the police station, and they record the arrest and examination in an official document. According to a Herati familiar with the situation:

The Herat criminal branch has a subgroup devoted to following people around the city. They are concerned with monitoring their behavior, from the point of view of morality. They are arresting both males and females—they can even go into private houses. . . . They follow people who walk in the streets, follow them home. They are especially paying attention to girls and boys who talk with each other.⁷⁸

A woman confirmed, “Yes, this is true . . . women and girls can’t be alone in a car with men who are not family members. . . . [Y]oung girls [are] afraid of this situation to take taxi by themselves. . . . [I]f they want to go somewhere with *mahram* at night, it’s okay but if they want to go lonely [sic] they will be arrested by police.”⁷⁹

A doctor at Herat’s only hospital told Human Rights Watch that as of October 2002, police were taking about ten girls and women daily to the hospital for gynecological examinations to determine whether they had recently had sexual intercourse.⁸⁰ According to the doctor, the exams are conducted in the maternity ward “by a doctor with two female nurses present.”⁸¹ Another doctor confirmed that the examinations were being conducted, but disagreed about their frequency. “It is 100 percent true,” he said. “It is testing as to ‘has this woman had sexual intercourse in the last hour?’ . . . But the cases are limited—only one or two cases a day.”⁸²

Human Rights Watch was not able to learn whether any women have been prosecuted on the basis of these medical examinations. However, in Herat, as in Kabul and elsewhere in Afghanistan, women and girls are being

⁷⁵ Ibid., para. 6.

⁷⁶ Constitution of Afghanistan (1964), art. 26.

⁷⁷ Human Rights Watch telephone interview with G.Z.K., Herat, October 10, 2002; Human Rights Watch telephone interview with L.H., Herat, October 11, 2002; Human Rights Watch interview with G.D.A., Kabul, October 12, 2002.

⁷⁸ Human Rights Watch telephone interview with G.Z.K., Herat, October 10, 2002.

⁷⁹ Communication to Human Rights Watch from Herati woman, November 10, 2002.

⁸⁰ Human Rights Watch telephone interview with G.Z.K., Herat, October 10, 2002.

⁸¹ Ibid.

⁸² Human Rights Watch telephone interview with S.Q., Herat, October 16, 2002. Another source familiar with the situation confirmed that “the authorities, the criminal branch, with hospital doctors, have established a task force [*sitad*] for checking of women—whether the women has had sexual intercourse or not.” Human Rights Watch telephone interview with K.J.J., Herat, October 10, 2002.

jailed and prosecuted for sexual relations outside of marriage and for trying to leave their husbands, even when the marriages were forced or the husband is abusive.⁸³

Because of the extreme shame surrounding any allegations of sexual impropriety, it is difficult to collect information about this practice. For example, a Herati who has tried to document forced medical examinations told Human Rights Watch, “No one will talk to me. No one will tell me anything. Everyone is afraid. No one wants to speak about this with me.”⁸⁴ However, Human Rights Watch was able to collect information from a variety of independent sources: from relatives of examined girls and women, from witnesses at hospitals, from medical staff obligated to perform the exams, from government officials, and from others involved in the cases in various ways. Identifying details have been withheld from the following cases in order to protect the privacy of the women and girls involved.

In September 2002, a girl was arrested because she was seen talking with a man in front of her home. A man who was present when she was brought to the hospital described what he saw:

A car came and stopped in front of the maternity ward. There were two people from the criminal branch—one was a driver, the other was an officer from the criminal branch. He had a letter in his hand. And behind them in the back seat of the car was a girl. Almost eighteen years old—I don’t know. She was trying to cover her face with the chadori she had over her head, so that the people around her would not see her face and recognize her.

Then they took her out of the car and made her go inside the maternity unit. And the man from the criminal branch handed the official paper to the doctor on duty, whose name was Dr. [name omitted].

My mother saw everything in the clinic room. She told me that the girl was protesting and was not letting the doctors check her. So it took a long time, and finally she let them check her. And she was checked, and the paper was written officially by Dr. [name omitted], with the stamp of the hospital. The paper was given back to the man who brought the girl to the hospital. So this was what I saw with my own eyes.

Later, I understood that she had not done anything wrong, that was what the doctor said. I learned this later—I talked with the guy who brought her to the hospital. He had not arrested her—some other troops had, and he had been ordered to take her to the hospital. They said that she was talking to a strange guy in front of her house, and the police forces saw her and right at the moment arrested them—the guy and the girl.⁸⁵

In October 2002, criminal branch police arrested a girl and her cousin in the bazaar. Police brought the girl to the maternity ward where many people witnessed the event, which, according to one witness, was conducted with “so much noise and commotion that all the patients and their visitors (at least one hundred people) learned of the incident and were pointing out the poor girl to one another.”⁸⁶ Two doctors performed a “chastity examination” and determined that the girl was “perfectly healthy and untouched.”⁸⁷ Criminal branch police then filled out an

⁸³ See, e.g., Brian Murphy, “Strict Social Code Still Encircles Afghan Women in Post-Taliban Rule,” Associated Press, December 16, 2001 (describing prosecutions of women in Herat on “morals charges”).

⁸⁴ Human Rights Watch telephone interview with M.I., Herat, October 10, 2002.

⁸⁵ Human Rights Watch interview with G.D.A., Kabul, October 12, 2002.

⁸⁶ Communication to Human Rights Watch from eyewitness, October 27, 2002.

⁸⁷ Ibid.

“official report” recording the date and time of the examination and that the girl “was found to be healthy and chaste.”⁸⁸ Four doctors signed the report.⁸⁹

As already noted, the prohibition on women and girls riding alone in cars with men who are not close family members includes taxi drivers who, in Herat, are all male. According to the relative of a woman who was arrested and subjected to a forced medical examination: “It’s a ordinary thing in Herat—when a woman is alone with a driver in a car, then the police stop them and ask them questions—are they relatives, etc.?”⁹⁰

In August 2002 at a main intersection in Herat city, police forces stopped a twenty-year-old woman riding alone in a taxi. According to a person familiar with the case:

The taxi driver was, in fact, a relative of hers—a cousin. She had got into a taxi of her relative. And when the police forces asked them about their relatives (separately), what their names were, etc., they had problems telling the police the names of distant relatives. They were confused. They couldn’t say the same name, so the police became suspicious that they were not relatives and sent the girl to the hospital for the medical test.⁹¹

The taxi driver was taken to the police station.⁹² When Human Rights Watch asked what happened to the driver at the station, the person familiar with the case responded: “Well, you were in Herat, and you know that whoever enters into the criminal branch will not be released without a severe punishment.”⁹³ (Human Rights Watch documented in our previous report on Herat that the criminal branch of Herat’s police department routinely beats and tortures detainees.⁹⁴)

In September 2002, police from the criminal branch arrested a married woman carrying her infant because she was being driven by a man who was not her husband.⁹⁵ The woman was forcibly examined in the hospital and detained for three nights, during which time she was not allowed to feed her baby, who was not yet weaned.⁹⁶ She was not charged with a crime and was released only after several influential Heratis intervened.⁹⁷

Police have even arrested individuals in private homes. In early October 2002, police arrested a boy and a girl, who were relatives, in a family member’s home. According to a Herati familiar with the incident, police entered the home and found the boy and the girl together in one room, and other family members in another. The police questioned the pair and they responded, “We are relatives and we are talking. What is the problem?”⁹⁸ The police nevertheless arrested them and took them to the police station.⁹⁹ There the police obtained the document for the gynecological examination, and took the girl to the hospital to be examined.¹⁰⁰ At the police

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Human Rights Watch telephone interview with P.J.D, Herat, October 11, 2002.

⁹¹ Human Rights Watch telephone interview with L.H., Herat, October 11, 2002.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Human Rights Watch, “All Our Hopes Are Crushed,” pp. 36-45, http://hrw.org/reports/2002/afghan3/herat1002-06.htm#P844_133597.

⁹⁵ Human Rights Watch telephone interview with L.H., Herat, October 10, 2002.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Human Rights Watch telephone interview with G.Z.K., Herat, October 10, 2002.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

station, the boy reported, he was beaten, slapped, punched, and kicked.¹⁰¹ “They have insulted me, abused me, and said all sorts of bad intolerable words to me,” he reportedly said.¹⁰²

Ismail Khan not only enforces restrictions on women’s and girls’ freedom of movement with his own officials and the boys squads, he also encourages private citizens to do so as well. In November 2002, Ismail Khan announced on the radio and Herat television:

You must stop [unmarried] men and women who are together. . . . It is not only the business of the criminal branch and for Vice and Virtue—you must stop men and women who are unmarried from walking together on the street. According to Islam, you are obliged to beat them.¹⁰³

The ICCPR and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment protect individuals from cruel, inhuman, and degrading treatment; ensure the right to bodily integrity; and require states parties to protect these rights without discrimination of any kind.¹⁰⁴ Under the Afghan Constitution the “state has the duty to respect and protect the liberty and dignity of the individual. . . . Imposing punishment incompatible with human dignity is not permissible.”¹⁰⁵

The forced gynecological examinations described here constitute cruel, inhuman, and degrading treatment and are gross violations of bodily integrity. Conducted in a coercive setting, against women and girls’ will, and with no medical justification, the examinations are themselves a form of sexual abuse. They are degrading and intimidating, both as a physical violation and for the threatened consequence of prosecution and loss of family honor.¹⁰⁶ Regardless of the doctor’s findings, the mere act of performing the exam constitutes significant punishment, even more so when it is done in a way that attracts public attention as in the case described above. A person who witnessed a woman being forced to submit to an examination at Herat’s hospital explained, “I really felt pity for the poor girl who was so humiliated and her family who was also thoroughly humiliated.”¹⁰⁷

The Herat government is, in effect, policing women’s and girls’ sexuality. International human rights law increasingly recognizes a woman's right to sexual autonomy, including the right to be free from nonconsensual sexual relations, even within marriage, and the right to engage in consensual sexual relations without coercion or the threat of violence.¹⁰⁸

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Human Rights Watch telephone interview with Herati who heard the announcements, Herat, November 14, 2002.

¹⁰⁴ Article 5 of the Universal Declaration of Human Rights and article 7 of the ICCPR prohibit cruel, inhuman, or degrading treatment. Article 16 of the Torture Convention requires states parties to prevent cruel, inhuman or degrading treatment, or punishment when committed by or with the acquiescence of a public official. The convention further obliges states to take specific steps—education, monitoring, complaint procedures, investigations—to prevent such treatment. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, annex, 39, U.N. Doc. A/39/51 (entered into force June 26, 1987, and ratified by Afghanistan April 1, 1987).

¹⁰⁵ Constitution of Afghanistan (1964), art. 26. The constitution also prohibits torture.

¹⁰⁶ For information about Human Rights Watch’s work on abusive, state-sponsored medical examinations of women in other countries, see Human Rights Watch, “A Matter of Power: State Control of Women’s Virginitly in Turkey,” *A Human Rights Watch Short Report*, vol. 6, no. 7, June 1994, <http://www.hrw.org/reports/1994/turkey/>; and Human Rights Watch, “Turkey: Virginitly Tests Reinstated,” *press release*, July 25, 2001, <http://www.hrw.org/press/2001/07/turkey0724.htm>.

¹⁰⁷ Communication to Human Rights Watch from eyewitness, October 27, 2002.

¹⁰⁸ At the U.N. International Conference on Population and Development held in October 1994 in Cairo, Egypt, and the U.N. Fourth World Conference on Women held in September 1995 in Beijing, China, governments explicitly endorsed women’s reproductive and sexual autonomy. The Cairo conference concluded by adopting a program of action whereby countries pledged to promote the full participation and partnership of women and men in productive and reproductive life. See United Nations, *Gender Equality, Equity and Empowerment of Women* (New York: United Nations Publications, 1994), U.N. Doc. A/CONF.171/13, October 18, 1994. In the 1995 Beijing Declaration and Platform for Action, delegates from governments around the world recognized that “human rights of women include their right to have control over and decide freely and

Moreover, forced gynecological examinations solely to determine whether a woman or girl has had sexual intercourse redirects scarce resources from medically necessary procedures, particularly concerning maternal health care. A 2002 study by Physicians for Human Rights found that women and girls in Herat Province

have an extraordinarily high risk of dying during pregnancy and childbirth and the highest maternal mortality ratio in the world outside of Africa. . . . [P]renatal care, maternal health care facilities and trained health care personnel are virtually non-existent in the region and . . . violations of human rights contribute to preventable maternal deaths.¹⁰⁹

Fewer than 1 percent of women and girls in Herat give birth attended by a trained health care worker.¹¹⁰ According to the study, in Herat hospital “instrument sterilization consists only of boiling” and the hospital “has inadequate, outdated equipment and inadequate supplies of essential medicines and materials for surgical procedures.”¹¹¹ In this context the use of medical workers’ time, expertise, and equipment for forced gynecological examinations is unconscionable. In a situation where hundreds of thousands of Afghan women and girls are dying each year from lack of access to medical care—nationwide an estimated 87 percent of the estimated annual 515,000 maternal deaths are preventable¹¹²—the practice violates Herati women’s right of access to health care.¹¹³

Driving

Although most Herati women do not know how to drive, or do not have access to a car, those who do are still not permitted: the local government will not issue driver’s licenses to women, and Herat city police have arrested women for driving.¹¹⁴ Although many women and girls hoped that with the Taliban’s departure they would be permitted to drive, Ismail Khan’s government has made it clear that it will tolerate no attempts to challenge the policy. In September 2002, the director of Herat’s Traffic Office, Darhargarnal Hafizullah, told an Afghan man who came to ask about getting a license for his wife: “Right now women are not allowed to drive. Unfortunately in Herat city, we don’t have the licenses to issue for women. We have asked Kabul to send some.”¹¹⁵ He then cautioned, “I advise you as a friend, for many reasons, she should not drive right now.”¹¹⁶

responsibly on matters related to their sexuality, free of coercion, discrimination and violence.” *United Nations, Beijing Declaration and Platform for Action* (New York: United Nations Publications, 1995), U.N. Doc. A/CONF.177/20, October 17, 1995, adopted at the Fourth World Conference on Women held in Beijing, China, in September 1995, para. 96.

¹⁰⁹ Physicians for Human Rights, *Maternal Mortality in Herat Province, Afghanistan: The Need to Protect Women’s Rights*, 2002, p. 1. According to the study, factors contributing to the high maternal mortality rate include “access to and quality of health services, adequate food, shelter and clean water, and denial of personal freedoms such as freely entering into marriage, access to birth control methods and possibly control over the number and spacing of children.” *Ibid.* In Afghanistan as a whole, the maternal mortality rate was estimated to be 1,600 per 100,000 live births, one of the highest rates in the world. UNICEF, U.S. Centers for Disease Control and Prevention (CDC), and Afghan Ministry of Public Health, *Maternal Mortality in Afghanistan: Magnitude, Causes, Risk Factors and Preventability: Summary of Findings*, November 6, 2002, p. 4.

¹¹⁰ Of 4,486 women and girls surveyed in Herat province in March 2002, 0.83 percent reported births that were attended by a trained health care worker. *Ibid.*, p. 3.

¹¹¹ Physicians for Human Rights, *Maternal Mortality in Herat Province, Afghanistan*, p. 34.

¹¹² UNICEF, *Maternal Mortality in Afghanistan*, p. 5; and UNICEF and U.S. Centers for Disease Control and Prevention (CDC), “Afghanistan is among worst places on globe for women’s health, say UNICEF and CDC,” November 6, 2002, <http://www.unicef.org/newsline/02pr59afghanmm.htm> (retrieved November 15, 2002).

¹¹³ ICESCR, art. 12.

¹¹⁴ While some men would oppose the women and girls in their families driving, others in Herat would support it and have taught their female relatives to drive.

¹¹⁵ Human Rights Watch interview with V.P., Herat, September 21, 2002.

¹¹⁶ *Ibid.*

A woman who learned to drive in Iran told Human Rights Watch: “I cannot drive in Herat even though I know how. I love driving and I want to go everywhere by myself, but I can’t because the government doesn’t let us.”¹¹⁷

Women who have tried to get driver’s licenses have been rebuffed. Around late June 2002, a group of woman who knew how to drive applied to the Herat Traffic Office. As of September 2002, they had not been allowed to take the driver’s test, and a government official informed them that they would not be allowed to do so. One woman told Human Rights Watch:

I want to drive myself to work and drive myself wherever I want to go. This is one of my ambitions—to drive and become free. Fifteen ladies and I have learned how to drive, but Ismail Khan doesn’t allow us. We can’t get a driver’s license. A government official gave us the forms. We filled them out and turned them in about two months ago. But the government refuses to give us the driving test. A friend who works for the government told me that they are not ever going to give us the test. As far as I know, no ladies have taken the driving test....

Women are forbidden from driving either alone or with another person in the car. It is because the government doesn’t want women to take off the burqa. Who can drive with a burqa? I think the government won’t allow women to drive because if they allow it, then everybody will take off their burqas in order to drive.¹¹⁸

In July or August 2002, a professional woman who had obtained special permission to drive was stopped by police who took away her special license and tried to take her to the police station.¹¹⁹ A widow with a disabled child and elderly mother-in-law, she had no one to drive her to work or to do shopping, or to take her children to school. According to a witness, the woman was returning home in the late evening with her children when armed police forces stopped her in front of her house, asked her why she was driving, and confiscated her license. She was not wearing a burqa or chadori. A crowd gathered, her brother was notified, and he came to the scene and challenged the police. The police officers ordered them to go to the police station; the women went into her home and her brother went to the station. However, he was not able to persuade the police to return her license, and she stopped driving entirely.¹²⁰ Human Rights Watch did not interview this woman but confirmed these events from other sources.

This incident is well known in Herat, and women told Human Rights Watch that it specifically—and fear of their own arrest—has deterred them from challenging the government’s prohibition on women driving. For example, a woman with access to a car and whose family would support her told Human Rights Watch:

I wanted to start learning to drive, but as soon as I heard about the problems [of the women who was stopped by the police], I gave it up. There is no driving class [for women]. Some women know how to drive from Kabul, but they are not allowed. I think the only way I am going to drive is to go to another country.¹²¹

Another woman said:

¹¹⁷ Human Rights Watch interview with B.K., Herat, September 11, 2002.

¹¹⁸ Human Rights Watch interview with Z.F., Herat, September 16, 2002.

¹¹⁹ Human Rights Watch interview with D.A., Herat, September 16, 2002; Human interview with L.H., Herat, September 11, 2002; Human Rights Watch interview with H.D., Herat, September 11, 2002; Human Rights Watch interview with Z.F., Herat, September 16, 2002.

¹²⁰ Ibid.

¹²¹ Human Rights Watch interview with K.I., Herat, September 17, 2002.

Really, we are afraid to go in our own cars. If I as a woman go out driving in my own car, the government will punish me because they do not want women to drive. I heard about that woman who got arrested by the police. That made me afraid to drive because I was afraid that I would be the second one.¹²²

By comparison, even in Kabul, where there is no official prohibition on women driving, government officials have been reluctant to grant private organizations permission to hold driving classes for women, and armed men have stopped driving instructors and questioned them about their relation to the girls and women in the car.¹²³ An official in the Kabul government laughed when Human Rights Watch raised with her the issue of driving. “I am a [high-ranking government official] and even I haven’t dared to drive in Kabul since I got here five months ago,” she said. “And I drove for six years in Pakistan.”¹²⁴

Violations of Freedom of Expression and Association

We should be able to change the rules if we don’t agree with them.

—Teacher in Herat, September 2002¹²⁵

Women should be participating in policy, social, and cultural things and throughout the community and the government. But not that women are just there sitting and listening—they should be able to create things that they want and give their ideas to others. Their ideas are important. Men and women’s ideas are equal. Men should be respectful of women’s ideas. But I don’t know anyone who speaks her ideas freely now.

—Herat university student, September 2002¹²⁶

Many women and girls in Herat city expressed a strong desire to participate in their country’s civil and political life, and to be able to speak freely, both publicly and privately. They want to participate in the political discourse and have a voice in governmental decisions—especially those that affect them.

One of the most egregious aspects of the Taliban’s rule was its attempt to erase women’s participation in society. The situation has improved, but only slightly. As it stands, Ismail Khan is not allowing women *or* men to take part in most decision-making processes, but this repression is falling doubly hard on women, who face both the general political repression of Ismail Khan’s regime, and his targeted repression of women. Very few forums are open to women in Herat, and those that are open are effectively controlled by Ismail Khan. He and his agents—almost all men—decide what rules govern women’s and girls’ lives. Some rules are aimed at keeping the sexes separate. These affect women and girls differently than men because it is women and girls who are excluded from governing bodies where decisions are made, from civic and cultural activities, from work, and from equal education. Women and girls also face different consequences of breaking these rules than do men.

Ismail Khan and his government have almost complete control of public speech—in the press, civic associations, the university, and the workplace. Human Rights Watch’s November 2002 report, “All Our Hopes are Crushed,” documented that Ismail Khan and his government since taking power have not allowed the formation of independent media or associations, tightly controlling the activities of the few organizations and media that exist.¹²⁷ Ismail Khan has restricted speech about his government, about his troops, and about any

¹²² Human Rights Watch interview Z.F., Herat, September 16, 2002.

¹²³ Human Rights Watch interview with NGO director, Kabul, September 29, 2002.

¹²⁴ Human Rights Watch interview with Kabul government official, Kabul, September 26, 2002.

¹²⁵ Human Rights Watch interview with F.M., Herat, September 17, 2002.

¹²⁶ Human Rights Watch interview with M.M., Herat, September 12, 2002.

¹²⁷ See Human Rights Watch, “All Our Hopes Are Crushed,” pp. 24-36, http://hrw.org/reports/2002/afghan3/herat1002-05.htm#P542_84552.

other topics he chooses—especially women’s rights. Women along with men were harassed and intimidated for participating in the loya jirga process in May and June 2002.¹²⁸ Members of the few civic organizations, such as the Professional Shura, have been intimidated to censor all criticism of the government from their speech and writings.¹²⁹ Women who have challenged these policies have been publicly and privately castigated by government officials and been called “un-Islamic,” a serious charge in the increasingly fundamentalist climate. They have also been prohibited from speaking publicly or to journalists about women’s rights, and fired from their jobs or threatened with being fired. “We are very afraid,” one woman said on the condition of anonymity.¹³⁰ “It is difficult for us to say things about or against the government because it will create problems for us. . . . We are under pressure from the [Herat] government, and we can’t say anything against it.”¹³¹

This section focuses on intimidation and repression targeted specifically at women and girls and activities around women’s rights.

Freedom of Association and Speech About Women’s Rights

Ismail Khan’s government has barred or severely restricted women and girls from participating in many forums: it has denied them permission to form organizations, kept them out of most government positions, pressured them not to work for foreign organizations, and punished speech about women’s rights. In the few areas where the government has allowed women to participate, it has been under strict limitations on what they can say, where they can say it, and how they can appear when they speak. “I can’t say the wrong things because I want to struggle in society,” said a woman who feared being excluded from all forums if she criticized the Herat government.¹³²

Ismail Khan has been particularly hostile to women and girls’ organizations with some capacity to address even vaguely political issues, as opposed to strictly humanitarian organizations (such as those that teach literacy and handicrafts). Within these organizations, Ismail Khan and his agents have especially targeted speech about women’s rights. Symbolically, in March 2002, Ismail Khan cancelled a celebration of International Women’s Day, to which five hundred guests were invited, the day before the event was scheduled to take place.¹³³

The Women’s Shura

At the time of writing, the only women’s organization in Herat permitted to be involved in any substantive political and social issues was the Herat Women’s Shura (council), which was established in August 2002.¹³⁴ (There are a few other women’s groups involved in humanitarian and development work.¹³⁵) Shura members told

¹²⁸ Ibid., section “Control of Female Loya Jirga Delegates and Candidates,” p. 22, http://hrw.org/reports/2002/afghan3/herat1002-04.htm#P382_57333.

¹²⁹ About one-third of the members of Herat’s Professional Shura are women. The Professional Shura was created in the first months of 2002, when several doctors, lawyers, professors, and teachers began to meet and organize. Ismail Khan has targeted the Professional Shura of Herat and its members, both men and women, apparently perceiving them to be a threat to his rule. In June 2002, his agents detained for two days and beat the shura’s head, Mohammad Rafiq Shahir, and subjected him to a mock execution. In late September Ismail Khan forcibly prevented the shura from meeting by ordering it to cancel a meeting and then sending troops to stop it. See Human Rights Watch, “All Our Hopes are Crushed,” pp. 21-22, 31, http://hrw.org/reports/2002/afghan3/herat1002-04.htm#P382_57333; http://hrw.org/reports/2002/afghan3/herat1002-05.htm#P684_107680.

¹³⁰ Human Rights Watch interview with F.M., Herat, September 11, 2002.

¹³¹ Ibid.

¹³² Ibid.

¹³³ John Donnelly, “Self-Styled Emir Lords It Over Herat’s Poor,” *Boston Globe*, May 20, 2002, p. A7.

¹³⁴ For further information about the Herat Women’s Shura, see Human Rights Watch, “All Our Hopes Are Crushed,” pp. 33-34, http://hrw.org/reports/2002/afghan3/herat1002-05.htm#P684_107680.

¹³⁵ For example, the Women’s Association was established around July 2002 in order to teach courses to girls. As of late August 2002, they were still struggling to be officially registered with the Herat government, a precondition for being

Human Rights Watch that Ismail Khan initially opposed its formation. However, perhaps because of intense international interest in women's issues in Afghanistan, he eventually granted permission. He has since handpicked the leadership, controlled the subjects the shura can address, and attempted to make the shura operate in the most traditional manner possible. Many of Herat's professional women as well as students were eager for a forum to address issues related to women and girls, and participated in the shura's initial meetings. But despite some dedicated members who have elected to remain in the shura with the hope of using it to create more political space for women, the group is not independent of the government and has little prospect of fulfilling its original aims.

A woman who chose not to join the shura explained: "Ismail Khan didn't want a Women's Shura to exist, but when [he allowed it], he selected the head of it himself. After he had selected the head, we couldn't give our ideas freely."¹³⁶ Even those who have chosen to participate in the Women's Shura concede that it is controlled by Ismail Khan. "The president was appointed by the government," one member told Human Rights Watch.¹³⁷ "It's not private, it's under the government's control. Some person from the government attends each meeting," said another member.¹³⁸ Other members confirmed that Ismail Khan or his officials attend and monitor the shura's meetings.¹³⁹

At the shura's first meeting, Ismail Khan personally defined what the organization's mission should be. Herat television reported: "The general Emir of the southwest zone during a speech clarified the role of the Shura's women in the rehabilitation of the country, the rehabilitation of deprived women, and solving family problems, then listened to the opinions and suggestions of women and gave clear answers to their questions."¹⁴⁰

Although it might be expected that the Women's Shura would address issues of women's rights, Ismail Khan's handpicked leadership has shut down this kind of speech, especially where it has included criticism of his government's policy. For example, at one meeting, a participant disagreed with Ismail Khan's assertion that Afghan women enjoy many rights compared with women elsewhere in the world.¹⁴¹ The shura's leaders chastised her for contradicting Ismail Khan and said that she "shouldn't talk because he is the leader and everything he says is right."¹⁴² In another example, after another shura member spoke with a journalist about women's rights and the Women's Shura, the head of the shura ordered her not to speak with journalists.¹⁴³ Human Rights Watch also interviewed a woman who said that she was not invited to join the Women's Shura because of her political participation in the Professional Shura.¹⁴⁴

The retaliation women and girls have experienced for speaking about women's rights has had a chilling effect and caused both women and men to censor themselves. For example, the Women's Shura decided to discuss the issue of self-immolation—where women in forced and abusive marriages are reportedly committing suicide by dousing themselves with cooking fuel and setting themselves on fire.¹⁴⁵ Ismail Khan participated in the meeting

considered for participation in development and capacity building projects. Communication to Human Rights Watch from UNAMA staff, August 31, 2002.

¹³⁶ Human Rights Watch interview with S.R., Herat, September 12, 2002.

¹³⁷ Human Rights Watch interview with V.S., Herat, September 14, 2002.

¹³⁸ Human Rights Watch interview with P.L., Herat, September 11, 2002.

¹³⁹ Human Rights Watch group interview with shura members, Herat, September 11, 2002.

¹⁴⁰ "Women's council re-established in west Afghan city," BBC Monitoring South Asia transcript of report on Herat T.V., 17:00 GMT, August 30, 2002.

¹⁴¹ Human Rights Watch interview with shura member, Herat, September 11, 2002.

¹⁴² Ibid.

¹⁴³ Human Rights Watch interview with shura member, Herat, September 11, 2002.

¹⁴⁴ Human Rights Watch interview with Z.F., Herat, September 16, 2002.

¹⁴⁵ From February to June 2002, officials at Herat hospital recorded twenty-eight incidents in which women and girls supposedly committed suicide by burning themselves. Only three have survived. Human Rights Watch interview with medical staff, Herat, September 15, 2002.

and, according to a woman who was present, “He said that these kinds of girls are not brave and don’t have the capacity to struggle against problems in their families. They are not good women.”¹⁴⁶ Some women disagreed, believing that the government should protect women and girls in abusive, forced marriages, but were afraid to speak publicly. “I can’t say things freely, and I can’t say the truth,” one participant explained.¹⁴⁷ Others who were trying to address the problem of self-immolation said that they were not able to say publicly that the government should do anything about the forced and abusive marriages, such as provide legal protection, but instead were forced to follow the government position that it is the girls and women’s fault, who thus must be urged not to commit suicide.¹⁴⁸

A woman who was verbally chastised and told not to speak again by Ismail Khan’s representatives in August or September 2002 for speaking publicly about restrictions on women said to Human Rights Watch:

Should I say lies? I should say the truth because I want my country to progress and develop. . . . I feel bad because I am very angry. Why shouldn’t we say the truth and also say about what has happened? . . . I am afraid. Maybe in the future I won’t say anything about women’s rights. The first time they chastised me but it may be worse the second time because they control ideas.¹⁴⁹

As a consequence, some have chosen not to participate or have dropped out. The participant who disagreed openly with Ismail Khan said:

My speech made him mad. . . . It’s better that I don’t participate in the future in such a meeting because I can’t control myself when I am speaking. I get emotional and I say everything and after that it creates many problems.¹⁵⁰

According to a former member:

I and most of the others left because the shura was under Ismail Khan’s control, and I didn’t want to obey his ideas. The women were not independent. It was better to leave and just stay at home. . . . I said to myself, “It’s better to leave because my ideas are completely different from the government and from the Women’s Shura.”¹⁵¹

A university student explained her frustration: “There is no individual group or women’s association except the Women’s Shura established by Ismail Khan. I don’t participate in it—I don’t like to go to Ismail Khan and talk about these things.”¹⁵² Another student explained: “I am not part of the Women’s Shura because that shura is entirely dependent on the government and is close to the government and the government’s policy, and nobody can say anything that they feel.”¹⁵³ When asked if the Women’s Shura could represent their interests, a group of students who had attended some meetings said, “No. Maybe in the future we will participate and give ideas, but not now.”¹⁵⁴

Following the publication of Human Rights Watch’s first report on Herat in November 2002, documenting political intimidation and violence and the denial of freedom of expression, the Women’s Shura issued a

¹⁴⁶ Human Rights Watch interview with woman who attended the shura meeting, Herat, September 11, 2002.

¹⁴⁷ Ibid.

¹⁴⁸ Human Rights Watch interview with A.H., Herat, September 15, 2002.

¹⁴⁹ Human Rights Watch interview with F.M., Herat, September 11 and 17, 2002.

¹⁵⁰ Human Rights Watch interview with H.D., Herat, September 11, 2002.

¹⁵¹ Human Rights Watch interview with F.M., Herat, September 17, 2002.

¹⁵² Human Rights Watch interview with M.M., Herat, September 12, 2002.

¹⁵³ Human Rights Watch interview with S.R., Herat, September 12, 2002.

¹⁵⁴ Human Rights Watch interview with students, Herat, September 11, 2002.

statement that: “We, the women of Herat, sternly reject the claim of Human Rights Watch. All men and women have legal rights and freedom in Herat, which has been the pioneer in rehabilitation, education and social activities since the mujahidin first won victory.”¹⁵⁵

The Herat Literary Society

Herat’s literary society was founded under the Taliban, in secret, as a forum for artists, writers, and poets to continue exchanging their work, even as the Taliban attempted to eradicate most artistic and literary traditions in Herat. This underground effort was linked with other efforts in Herat to operate secret schools for women and girls. After the Taliban’s fall, the society surfaced publicly and no longer hid the fact that some of its members were female.¹⁵⁶

However, since returning to power, Ismail Khan and his officials have limited women’s and girls’ participation and have sought to control the content of the society’s work. About a month after Ismail Khan came back into power, the society held a large meeting at a hotel in Herat. A participant described what happened:

More than one hundred women participated in a meeting where they read their own poems. When the meeting ended, Faiq, the head of Information and Culture, said to us that henceforth women should not participate more than men in the meetings. He said that the number of women should be limited to a handful and that they should sit at the back. These were Ismail Khan’s indirect orders through the head of Information and Culture and the head of the Library. They said that for moral reasons, men and women should not be together—that it was against Shari’a.¹⁵⁷

At approximately the same time, a group of girls petitioned Ismail Khan for permission to form a girls’ section of the literary society. Ismail Khan refused.¹⁵⁸ Then a group of boys and girls attempted to form a youth section of the society. One of the members said that:

The youth wanted to have their own association inside the society, but independent from it. It was going to be both male and female, and meet once a week. After the first meeting, Faiq informed Ismail Khan, who [then] strongly told the head of the association that men and women should not meet together in a separate group. If we would like to meet, it should be in the board’s presence. The director told us, “Ismail Khan will create trouble for all of us so you cannot meet in this way.” This was two or three months after the Taliban left. The board told us harshly to end our meetings. They were harsh because they were afraid.¹⁵⁹

As with the Women’s Shura, the government has pressured the literary society to avoid the subject of women’s rights. In July or August 2002, there was a meeting of literary society members and officials from the Ministry of Social Affairs. Ismail Khan’s son was also there. At the meeting, a literary society member read an article she had written about women’s rights. According to a person who was present, the member said that, “Men and women are the same, and their rights are the same, and women should go out and find jobs and live in society. There is no difference between women and men, and women should find jobs in the highest posts.”¹⁶⁰ Government officials responded by accusing her of being un-Islamic, a serious charge which implicates her honor and could potentially result in her being ostracized. Then, after the meeting, officials pressured the literary

¹⁵⁵ “Afghan women staunchly defend Herat’s human rights record,” BBC Monitoring Service transcript of Herat T.V., 16:30 GMT, November 14, 2002.

¹⁵⁶ For more on the history of the Herat literary society under the Taliban, see Lamb, *The Sewing Circles of Herat*.

¹⁵⁷ Human Rights Watch interview with J.A., Kabul, September 24, 2002.

¹⁵⁸ Human Rights Watch interview with petitioner, Herat, September 12, 2002.

¹⁵⁹ Human Rights Watch interview with J.A., Kabul, September 24, 2002.

¹⁶⁰ Human Rights Watch interview with S.R., Herat, September, 12, 2002.

association to censure further discussion of women's rights, and the speaker was told not to write articles of this type in the future.¹⁶¹ The witness told Human Rights Watch:

[T]he head director of the literary association—he himself was under pressure from the government—pressured [the female members] not to do this again because it would create many problems and maybe they would close the literary association. After that we couldn't read our articles because most were about women. The [Herat] government wants us to prepare articles about mujahidin freedom but we don't have any articles about this.¹⁶²

As a result of pressure from Ismail Khan's government, various members, both male and female, who took grave risks to participate in the literary society during the Taliban period told Human Rights Watch that since the *loya jirga* they had stopped participating. Some have gone to Kabul or other places seeking greater freedom and safety. Others found their hopes after the Taliban's fall unfulfilled and were simply too discouraged to continue. In September 2002 the long-time head of the society resigned.¹⁶³ The new head told members:

It is better that women do not come to the literary association. . . . If any girl or women who was formerly member of the literary association by chance has any problems or difficulties or issues to discuss about writing and editing, the other girls should go to their houses and solve their problem there; therefore there is no good reason for girls to come to the literary association.¹⁶⁴

Speech in the Workplace

Women also reported that they could not speak freely at work and, especially, could not criticize the government. Women teachers at all grade levels employed by Herat's department of education told Human Rights Watch that they are afraid to challenge government policies related to their work, for example, that they observe very strict hijab and avoid contact with foreigners. One teacher told Human Rights Watch:

One day right after the schools opened, a group of NGOs came to the school, and after the meeting finished, a teacher talked with a foreign man. [Government officials] called her and said, "What did you say against the government? Why did you talk privately? Did you complain about the situation in Herat?" They pressured her, and after that the government said to all schools that no one can talk with foreigners privately.¹⁶⁵

With very few jobs open to them, women are especially afraid to risk their jobs by challenging the education department's policies. One teacher explained why she does not speak freely:

The Emir here [Ismail Khan] has control, and it would be really easy for him to fire me, to replace me. I fear this as well. . . . If I speak freely, I will face the same situation as [name omitted] because she was speaking against the government and it cost her her position. . . . If we speak freely then we will face the same situation as [name omitted] and get fired.¹⁶⁶

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Human Rights Watch interview with A.H., literary society member, Herat, September 15, 2002.

¹⁶⁴ Human Rights Watch telephone interview with literary society member, Herat, December 12, 2002.

¹⁶⁵ Human Rights Watch interview with R.N., Herat, September 17, 2002.

¹⁶⁶ Human Rights Watch interview with V.S., Herat, September 14, 2002.

The Herat department of education did, in fact, fire a school administrator who refused to stop classes for students to attend a military parade.¹⁶⁷ Aziza Sayi, the deputy of female education in the department of education, also chastised the administrator, saying she “was not an Islamic woman.”¹⁶⁸

Women working for international NGOs also said that they are under government scrutiny and have been warned by Ismail Khan how to behave (see below): “You cannot say the reality—you have to be so diplomatic. You have to wear a mask. It’s difficult. You are pretending to be someone else.”¹⁶⁹

Speech in the University

The Herat government and the conservative university chancellor appointed by Ismail Khan tightly control speech in Herat’s university, especially that of female students. Rather than the university being an environment in which ideas are exchanged and debated, women told Human Rights Watch that they could not write or speak freely about women’s rights in their classes, that the chancellor had punished students who spoke publicly about women’s rights, and that professors are afraid to discuss politics as it is expressly forbidden. (See below.)

Control of Women’s Images on Television

Women and girls are rarely shown on Herat television (controlled by Ismail Khan’s government), and women explained to Human Rights Watch that they cannot be employed by the station or work as journalists.¹⁷⁰ When women and older girls are shown, it is under the condition that they wear complete, conservative hijab with no hair showing; if they do not comply, they are excluded from the broadcast. For example, in late August or early September, the station broadcast a public meeting of the Women’s Shura. According to a participant:

Ismail Khan participated in the meeting last week. At this meeting, the director of the shura was speaking and her hair appeared in front of her scarf. The T.V. cameraman refused to show her picture because her hair was showing. He was the station’s head director, and if a women’s hair showed it would look badly for him. This lady’s hair was respectful. . . . This is the problem the government has with women.¹⁷¹

Similarly, a shura member reported, “Whenever we have a party or meeting, the director of the T.V. station will say, ‘Hurry up and put on your chadori and cover your hair because it creates problems for us!’”¹⁷² Another person present at the meeting confirmed: “The cameraman went around saying ‘You should cover your hair.’ It was not comfortable to read or speak [in this environment].”¹⁷³

Around the same time, the station’s director imposed similar restrictions on secondary school girls. According to a teacher:

Last week Zohair Shah [the head of Herat television] came to the school to do a T.V. program. He wanted to interview students and told them that they should put their hair under a scarf and keep hijab completely. Two students didn’t want to do the interview with him under those

¹⁶⁷ Human Rights Watch group interview with teachers, Herat, September 11, 2002. A U.N. official also confirmed this incident. Communication to Human Rights Watch from UNAMA staff, August 31, 2002.

¹⁶⁸ Ibid.

¹⁶⁹ Human Rights Watch interview with Afghan woman working for a foreign organization, Herat, September 17, 2002.

¹⁷⁰ Human Rights Watch interviews with students, Herat, September 11, 2002; Human Rights Watch interview with B.K., Herat, September 12, 2002; Human Rights Watch interview with S.N., Herat, September 14, 2002; Human Rights Watch interview with M.M., Herat, September 12, 2002.

¹⁷¹ Human Rights Watch interview with Z.Z., Herat, September 11, 2002.

¹⁷² Human Rights Watch interview with M.M., Herat, September 14, 2002.

¹⁷³ Human Rights Watch interview with H.D., Herat, September 11, 2002.

conditions. They said, “Why do you tell us that we can’t show any of our hair?” So they didn’t do any interviews with him. But after that we had to obey his commands.¹⁷⁴

In the second half of 2002, when women appeared in films and other foreign programs not wearing complete hijab, Herat television began substituting a blank screen or an image of flowers for as long as the woman appeared in the picture.

The right to freedom of expression is set out in article 19 of the ICCPR: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kind. . . .”¹⁷⁵ As stated in the convention, the right includes both verbal and non-verbal expression. The right to freedom of association is set out in article 22 of the ICCPR. States may restrict expression and association for reasons including national security, public order or morals, but only to the extent provided by law and as strictly necessary.¹⁷⁶ Even then, as the Human Rights Committee, the international body responsible for interpreting the obligations of the ICCPR, has made clear: “when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself.”¹⁷⁷

Afghanistan’s 1964 constitution also provides for the rights to freedom of expression and association. Article 31 protects the freedom of expression:

Freedom of thought and expression is inviolable. Every Afghan has the right to express his thoughts in speech, in writing, in pictures, and by other means, in accordance with the provisions of the law.

Article 32 protects the freedoms of assembly and association:

Afghan citizens have the right to assemble unarmed, without prior permission of the state, for the achievement of legitimate and peaceful purposes, in accordance with the provisions of the law. Afghan citizens have the right to establish, in accordance with the provisions of the law, associations for the realization of material or spiritual purposes.

Policing of Women’s Dress

Burqa sales are good and have improved. They are better now than earlier in the year. . . . They’re better than this time last year. . . . Women are going out more and need more burqas, especially school girls.

—Herati shop owner, September 2002¹⁷⁸

Almost all women and older girls in Herat city, when they go outside, wear a burqa, a floor length garment which entirely covers the face and body. The wearer sees through a small screen in front of the eyes but has no peripheral vision.¹⁷⁹ Unlike during the Taliban, some women wear the front panel rolled up away from the face, and a few instead wear a floor-length cloth, which in Herat is called chadori, held under the chin, which also entirely covers the head and body but leaves the face exposed. Human Rights Watch researchers neither saw any women or older girls in Herat on the street without burqa or chadori nor interviewed any who said they would go

¹⁷⁴ Human Rights Watch interview with F.M., Herat, September 17, 2002.

¹⁷⁵ ICCPR, art. 19(2). See also Convention on the Rights of the Child, art. 13.

¹⁷⁶ ICCPR, art. 19(3).

¹⁷⁷ *General Comment 10, Freedom of Expression*, U.N. Human Rights Committee, 19th sess., (June 29, 1983), para. 4.

¹⁷⁸ Human Rights Watch interview with male burqa shop owner, Herat, September 19, 2002.

¹⁷⁹ Elsewhere in Afghanistan, this garment is called “chadori.” Human Rights Watch spoke with girls as young as seven who were wearing burqas, although it is not the norm for girls this young to wear them.

out without either of the coverings. The wearing of burqa or chadori is imposed by police, employers, and school administrators, as well as by some families and private individuals in the street. Women themselves may also elect to wear it; however, many told Human Rights Watch that their decision was motivated by the fear of harassment or even violence rather than meaningful choice.

Although in interviews with Human Rights Watch many Herati women ranked removing the burqa or chadori below the freedom to work, to organize, or to speak freely, almost all consistently expressed a strong desire to remove the garment, or to decide freely whether to wear it. In contrast, most women and girls told Human Rights Watch that if they were able to choose freely, they would still chose to wear hijab that generally consists of loose, long sleeve clothing that obscures the shape of the body and completely covers the arms and legs, and a headscarf of some sort. According to one woman:

I have great hope that all women will take off the burqa. . . . I want to go outside with Islamic hijab [which she explained meant a headscarf and long-sleeve clothing completely covering the body] because I am Islamic, but it is better for women to go outside without chadori and burqa. . .

During the Taliban I was the last woman to put on the burqa. I did not want to go outside with it. But one day my husband said it was better to wear it when I went outside because I might get punished in the street. Now I wear it.

Why not chadori? Because I don't want to exchange my burqa for a chadori. I want to go out with just Islamic dress. I don't want to trade my burqa for a chadori.¹⁸⁰

Similarly, another woman told Human Rights Watch:

The burqa is difficult and uncomfortable. If it were possible to go out just with clothes (and headscarf) this would be better than chadori and burqa. Now it's not possible for women in Herat to take off the burqa and chadori because we've worn it for a long time—since about twenty-five years ago because our country was at war and the communist government and mujahidin created problems so we cannot take it off.¹⁸¹

The hijab that most women and girls told Human Rights Watch they would chose to wear is akin to that worn by many Iranian women and places far fewer constraints on mobility than the burqa and chadori, which impede women's ability to live and work outside the home. Indeed, many Heratis have lived in Iran, which borders the province. Women and girls who returned to Herat from Iran after the Taliban fell and who were not accustomed to wearing the burqa expressed particular frustration: "I hate the burqa," a twenty-one-year-old woman stated. "It's hot because there is no hole for breathing. You can't see and you can fall down."¹⁸²

Although many women and girls might, if given a free choice, choose to wear the burqa or chadori, they are not free to make this choice in Herat.¹⁸³ Certainly for some women the primary enforcer of the burqa or chadori is the family and concern for their physical safety and reputations. A university student told Human Rights Watch, "I personally have no problems with taking off the burqa, but my family says it is better to keep it on until the situation of the government and Herat becomes better."¹⁸⁴ Another woman said, "If we felt secure in Herat,

¹⁸⁰ Human Rights Watch interview with Z.F., Herat, September 16, 2002.

¹⁸¹ Human Rights Watch interview with S.S., Herat, September 13, 2002.

¹⁸² Human Rights Watch interview with B.K., Herat, September 12, 2002.

¹⁸³ Human Rights Watch has opposed government bans on religious attire, including headscarves, as a violation of the right to freedom of expression and religion. See Human Rights Watch, "Uzbekistan: Class Dismissed: Discriminatory Expulsions of Muslim Students," *A Human Rights Watch Report*, vol. 11, no. 12 (D), October 1999. <http://www.hrw.org/reports/1999/uzbekistan/>.

¹⁸⁴ Human Rights Watch interview with M.M., Herat, September 12, 2002.

we would take off our burqa. I thought that when Zahir Shah [Afghanistan's former monarch, who has a symbolic role in the Afghan Transitional Administration] was coming to Afghanistan that I would be able to burn my burqa. But right now we don't feel secure enough to take it off."¹⁸⁵

However, other women told Human Rights Watch that they would choose themselves to go out without burqa or chadori, and that their families would support their choice, were it not for the government's mandate. For example, one woman said:

Right now it is impossible for me to go out with just Islamic dress. I have permission from my family to go with just these clothes, but I am afraid of the government because the government is against me and would oppose my doing this. Because I am a professional woman, the government is paying attention to me so I can't go out in just my Islamic clothes.¹⁸⁶

Another women explained: "In my mind it's better that the government make an announcement about the burqa because most women are ready to take it off, but they are afraid of the government. . . . Most want to change, to take off the burqa, but really we are afraid of the government."¹⁸⁷

Ismail Khan's government requires girls and women to wear the garment, and creates a climate which effectively sanctions harassment and violence by police and private individuals against women who would dare to go without it. Ismail Khan communicates the message that women should be completely covered through his public speeches and through the media, which as explained above, he controls. According to one woman, "During the loya jirga, Sima Samar [former minister of women's affairs and now head of the Afghan Human Rights Commission] said that it depends on yourself—if you want to take off the burqa you are free to do so. But women in Herat don't obey the Kabul government—they obey Ismail Khan, the head of Herat."¹⁸⁸

In his public speeches, Ismail Khan personally instructs women to be completely covered, which Heratis interpret to mean wearing burqa or chadori.¹⁸⁹ For example, as discussed below, when Ismail Khan twice called all local women working for international NGOs and the U.N. to a meeting he told them how to dress and behave. A woman who attended reported: "He said, 'Keep your hijab and be far from foreign men.'"¹⁹⁰

Ismail Khan's government also uses Herat television, the local radio station, and the only daily newspaper, *Ittifaq-e Islam*, to communicate orders about how women should dress and behave. For example, on October 5, 2002, the evening program was interrupted with the following announcement: "It is now declared to all Herat people that we strongly suggest that women do not put on colorful or vulgar clothes."¹⁹¹ Three nights later the announcement was repeated. In the second broadcast, the orders were attributed to "the Shura of Scholars and Clergy" [*Olama va Rohanion*], a new semi-governmental group.¹⁹² In August, a front page article in *Ittifaq-e Islam* argued that other problems should be addressed before women's rights in Afghanistan and urged women to

¹⁸⁵ Human Rights Watch interview with F.M., Herat, September 17, 2002.

¹⁸⁶ Human Rights Watch interview with Z.F., Herat, September 16, 2002.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ See, e.g., "Afghan governor stresses education and cooperation in Friday prayers," BBC Monitoring Service transcript of Herat T.V., 16:30 GMT, October 25, 2002; "Afghan governor condemns foreign influence in mosque speech," BBC Monitoring Service transcript of Herat T.V., 16:30 GMT, September 21, 2002.

¹⁹⁰ Human Rights Watch interview with attendee of Ismail Khan's meetings for Afghan women staff of international NGOs, Herat, September 12, 2002.

¹⁹¹ Human Rights Watch telephone interview with G.Z.K., October 10, 2002; Human Rights Watch telephone interview with L.H., October 10, 2002.

¹⁹² Ibid.

cover themselves completely, stay separate from all men outside of their immediate families, and not appear in pictures.¹⁹³

Instructions of this type carry weight: Herati women told Human Rights Watch that they learn how to modify their dress and behavior to avoid problems with the government through government-controlled local radio, television broadcasts, and *Ittifaq-e Islam*.¹⁹⁴ “[We know] from the T.V. and radio. By the persons closest to Ismail Khan, including women, and the commanders. They spread out their orders to others.”¹⁹⁵ Another woman explained, “Sometimes things are said on the radio or T.V. about women—that women shouldn’t work in foreign organizations.”¹⁹⁶ A Herati man told Human Rights Watch:

It’s true—the television announced that, “Women should obey hijab.” Only the hands, face, but not hair, not feet—meaning either the burqa or chadori. Women should not come out of their houses if they are not dressed properly. Women should not go to the park. They should not wear fancy clothes. It was broadcast on the television. They must wear either the burqa or the chadori.¹⁹⁷

Based on these types of messages, a group of four professional women demonstrated to Human Rights Watch how they thought the government wanted them to be dressed indoors, even in private meetings, by roughly wrapping their headscarves low over their foreheads and tight around their necks and pulling their long sleeves down over their wrists. (All four were already dressed in long dresses or skirts with pants underneath, loose, long-sleeve shirts, and headscarves.) Another woman commented on the messages about women in the media: “Last week an article ran on the front page of *Ittifaq-e Islam*. A man wrote the article about everything that women should do [cover themselves completely, stay separate from unrelated men, etc.] When I read it I felt angry.”¹⁹⁸ She later added, “Of course, there are lots of articles [in *Ittifaq-e Islam*] that are disgusting for women. Lots of them.”¹⁹⁹

Government officials, including Herat’s education department, administrators of government schools, and the police, enforce Ismail Khan’s dress code for women—in the street, in the workplaces, in schools, and on television. Women and girls’ access to these spheres, and their freedom of movement and expression, ability to work and study, and ability to participate in political decisions, are conditioned on their compliance. Although we did not interview any Herati woman or girl harassed by police solely for being on the street uncovered (indeed, every woman and older girl was covered), women and girls told us that they perceived this as a threat: for example, some believed that one reason police stopped and harassed the woman who was driving (in the well-known case described above) was because she was not wearing burqa or chadori. In addition, in September 2002 in a Herat city park, police mistook a Human Rights Watch researcher for an Afghan and aggressively questioned her driver about her attire. (The researcher was not wearing a burqa or chadori but was dressed in dark shalwar kameez and wrapped to the waist in a large scarf that completely covered her hair.) When the police officer determined that the researcher was a foreigner, he ordered the driver to leave the area.

¹⁹³ “Reply to Respected Hadi Ghafari: Women’s Pictures are Illegal According to Islam Sharia,” *Ittifaq-e Islam*, vol. 53, August 11, 2002, p. 4.

¹⁹⁴ Human Rights Watch group interview with four women, Herat, September 11, 2002; and Human Rights Watch interview with two women, Herat, September 12, 2002.

¹⁹⁵ Human Rights Watch group interview with Herati women, Herat, September 11, 2002.

¹⁹⁶ Human Rights Watch interview with B.K., Herat, September 12, 2002.

¹⁹⁷ Human Rights Watch telephone interview with L.H., October 10, 2002.

¹⁹⁸ Human Rights Watch interview with V.S., Herat, September 12, 2002.

¹⁹⁹ Human Rights Watch interview with V.S., Herat, September 14, 2002.

Ismail Khan has given the newly formed boys squads “the right to stop women from ‘behaving against Islam’—to stop women from singing, dancing, or wearing fancy clothes.”²⁰⁰ Private individuals also harass women who would go without a burqa or chadori. A teacher described the following incident from earlier in 2002 when women were more hopeful that the Taliban-era restrictions would be lifted:

Some students came back from Iran and were studying in my class. They asked me for advice about whether they had to wear the chadori or burqa, and I said it doesn’t make a difference. They went without it for one or two weeks, then a strange woman in a burqa approached them in the street and threatened them. . . . They were afraid and put on chadori after that.²⁰¹

In July 2002 an unidentified man with a long beard and a two-way radio, possibly indicating that he was in Herat’s police or military forces, stopped a UNAMA vehicle with two female staff inside.²⁰² The man verbally threatened the driver and a female local staff member, who had lifted her burqa over her face but had kept her head covered, and told her to cover her face immediately.²⁰³

Herat’s education department promulgates a strict dress code for women school teachers that is enforced both by the department and school administrators. A teacher explained:

The department of education sends notes to each school saying that teachers must wear no makeup, must keep hijab, and must follow all the rules and regulations. I didn’t actually see the note—the education department sent the notes to the school office, and the head director and supervisor told the teachers what it said.²⁰⁴

Another teacher said, “The government is always sending notes to the school to the teachers to keep our hijab. We are already wearing it, so why have notes all the time? I don’t like to wear dark and long dresses but what else should we do?”²⁰⁵

Government officials have castigated teachers who have failed to follow the policy and have insisted that they change their behavior. One teacher told Human Rights Watch:

About two months ago there was a teacher who was showing a small part of her hair in front of her students. The head of the Herat department of education was visiting and said to her, “Why is your hair showing? You are not a teacher!” and scolded her in front of her students. It was very shameful to scold her in front of her students. A teacher is not a child.²⁰⁶

Aziza Sayi, the deputy of female education in the Department of Education, has personally ordered teachers to wear a burqa or chadori. For example, around June 2002 a teacher tried to go around without her chadori, but Aziza Sayi ordered her to put it back on.²⁰⁷ Another teacher confirmed this:

Many times this has happened. For example, some Americans came from the U.S. and had a gathering and we [teachers] were invited. When we were going there inside the bus, Aziza Sayi ordered us to lower our burqas (which some of us were wearing up [she motions to show it with

²⁰⁰ Human Rights Watch telephone interview with M.I., Herat, October 10, 2002.

²⁰¹ Human Rights Watch interview with V.S., Herat, September 14, 2002.

²⁰² Communication to Human Rights Watch from UNAMA staff, August 31, 2002.

²⁰³ Ibid.

²⁰⁴ Human Rights Watch interview with W.J., Herat, September 17, 2002.

²⁰⁵ Human Rights Watch interview with R.N., Herat, September 17, 2002.

²⁰⁶ Human Rights Watch interview with F.H., Herat, September 17, 2002.

²⁰⁷ Human Rights Watch interview with V.S., Herat, September 14, 2002.

the front rolled up away from the face]. When we reached the foreigners and she saw that they would see, she said, “O.K.” and let us raise them again.²⁰⁸

Teachers told Human Rights Watch that they could be fired for violating the dress code.²⁰⁹ When we asked if they had been told this explicitly, a teacher responded “Yes. It depends on the Herat education department, not the ministry in Kabul because the Herat government doesn’t obey the capital.”²¹⁰

Girl students must also follow a dress code. Younger girls must wear large scarves;²¹¹ older girls and women must wear a burqa or chadori. Even in the all-female classrooms, students are supposed to keep their heads covered. According to a primary school teacher: “Even small girls have to put on a scarf to be in school. They are studying in tents, and it is too hot to wear a scarf but they have to. My office and my [primary] school tell me that the students should put on their scarves.”²¹² The police-trained boys squads also “are monitoring to make sure that girls don’t come without burqa or chadori.”²¹³

Girls who do not follow the dress codes may be beaten. One student told Human Rights Watch that shortly after the Taliban fell and girls returned to school, she said to her class that they should take off their burqas.²¹⁴

One classmate went and told the head director that I said this. The head of the school threatened to hit me with a stick. He said, “If you wear just a large scarf, I will hit you with a stick.” He stood in the door of the school and showed us the stick, and he did hit one girl. So the next day all the girls had to put on the burqas again because we were afraid of the director.²¹⁵

A teacher reported that in June or July 2002 another school’s head director hit two ten-year-old girls with sticks in front of the other students because they were not wearing headscarves.²¹⁶

University staff also regulates women’s dress. The head of the university has prescribed how women should dress, which one woman described to Human Rights Watch as follows: “Girls have to come with hijab, and the scarf should not be too thin but thick. They should wear shoes with quiet heels that don’t make a sound. For example, yours [thick rubber soles] are good; mine [hard, narrow heels] are bad.”²¹⁷ Faculty members also enforce these dress codes.

Laws or official policies that require women to wear burqas or chadori violate a number of fundamental rights protected under international law. By applying only to women, the burqa requirement is discriminatory, in violation of articles 3 and 26 of the ICCPR. It is also an arbitrary infringement on the right to privacy under article 17 of the ICCPR, which “protects the special, individual qualities of human existence, a person’s manner of appearance, [and] his or her identity.”²¹⁸ The burqa’s restrictive nature also implicates the rights to freedom of expression, movement, and association.

²⁰⁸ Human Rights Watch interview with F.M., Herat, September 14, 2002.

²⁰⁹ Human Rights Watch interview with a group of teachers and school administrators, Herat, September 17, 2002.

²¹⁰ Human Rights Watch interview with a teacher, Herat, September 17, 2002.

²¹¹ Human Rights Watch interview with nine- and ten-year-old girls, Herat, September 17, 2002; Human Rights Watch interview with primary school teacher, Herat, September 17, 2002.

²¹² Human Rights Watch interview with N.P., Herat, September 17, 2002.

²¹³ Human Rights Watch telephone interview with G.Z.K., October 10, 2002.

²¹⁴ Human Rights Watch interview with S.N., Herat, September 14, 2002.

²¹⁵ Ibid.

²¹⁶ Human Rights Watch interview with F.M., Herat, September 17, 2002.

²¹⁷ Human Rights Watch interview with H.M., Kabul, September 30, 2002.

²¹⁸ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Arlington, V.A.: N.P. Engel, 1993), p. 294.

Discrimination in the Right to Work

Ismail Khan's social restrictions, his refusal to appoint women to key government posts, his public statements on women's role in society, and the overall repressiveness of his government, have the cumulative effect of convincing most women and girls that they are restricted from public employment opportunities, outside of teaching. Although jobs in the government and in foreign organizations might otherwise be expected to be open to women, Ismail Khan has appointed only one woman to a high-level government post and pressured women not to work for international NGOs and the U.N.

Women who can find work are subject to severe restrictions on their speech, dress, and behavior. Because women and girls have so few opportunities for employment compared with men, threats to their jobs carry even greater weight. While economic development in Herat would increase the number of available jobs generally, it will not improve women's access to them as long as Ismail Khan's government continues to impose barriers to women working. Similarly, while cultural attitudes play a role in restricting opportunities for women, these do not excuse additional burdens imposed by the government.

Women and girls in Herat city cited access to work as one of their top priorities in interviews with Human Rights Watch. A seamstress explained: "We need jobs that will increase women's abilities and allow us to work more in society ... But I can't get a job because I don't have any friends or relatives in the government. I hope that someday all women can find jobs easily and not just those who are close to the government."²¹⁹ According to one woman: "Ismail Khan is always saying, 'I have given women rights,' but these are not rights for women because we can't play on the field or work on T.V. programs. He just gives us the right to go to school but not other things—not for work."²²⁰ Another woman explained, "In Herat we are just allowed to study in school. The rights of women in Herat are that we can learn in the school, not that we can work because it doesn't look good. Our rights are limited to studying in school, not more."²²¹

The series of conditions imposed by Ismail Khan's officials on women's ability to work includes that they cover themselves completely, stay separated from unrelated men, and do not criticize the government. For example, as explained above, teachers must follow strict dress codes and avoid all contact with foreigners. Afghan women working for international NGOs and the U.N., as well as teachers, told Human Rights Watch that they were afraid to criticize the local government in any way, to shake hands with men, or to be seen having any contact at all with foreign men.²²² Around October 8, 2002, an announcement was made on Herat television that: "All the governmental offices should be separated by gender. This should be obeyed in all offices—private, semi-official, government, and nongovernmental offices."²²³ The orders were attributed to "the Shura of Scholars and Clergy" [*Olama va Rohanion*], a new semi-governmental group.²²⁴

Since the *loya jirga*, Ismail Khan has especially increased pressure on Afghan women not to work for international NGOs or the U.N. Other than teaching, these organizations offer some of the few jobs available for women, and women who work in them are not infrequently their families' sole supporters. In addition, Afghan women staff are absolutely necessary for humanitarian organizations to have access and provide aid to women.²²⁵

²¹⁹ Human Rights Watch interview with W.Z., Herat, September 17, 2002.

²²⁰ Human Rights Watch interview with H.D., Herat, September 11, 2002.

²²¹ Human Rights Watch interview with student, Herat, September 11, 2002.

²²² Human Rights Watch interview with K.I., Herat, September 17, 2002; Human Rights Watch interview with NGO employee, Herat, September 12, 2002.

²²³ Human Rights Watch telephone interview with G.Z.K., October 10, 2002; Human Rights Watch telephone interview with L.H., October 10, 2002.

²²⁴ Ibid.

²²⁵ Human Rights Watch interview with UNAMA staff, Herat, September 16, 2002.

Around July and August 2002, Ismail Khan banned Afghan women and girls from riding in cars with foreign men at all, which makes the work of international NGOs and the U.N. more difficult.²²⁶ He also called all female Afghan staff of these organizations to attend two meetings. According to a woman who was present at the meeting:

Ismail Khan said to all NGO national women staff, “If you want to work for foreign organizations, be very demure, and do this and that, and be completely hijab. You must never go to the guesthouse of the foreigners.”

One girl did something wrong in an NGO, and he called us and said, “Why do you do these bad things with the foreign organizations?” even though it was one person who did the bad things. . . . One lady was working with men and wearing a t-shirt and trousers without a long shirt and only a small scarf. She was not covered. He heard she didn’t have perfect Islamic hijab. She was talking and joking with men, and he said it was not good for an Afghan lady to do this. He said, “Keep your hijab and be far from foreign men.” . . .

He said: “This is the rule and regulation in Herat and you should follow it. It is not good that you are working with foreigners. You are Islamic girls and you shouldn’t work with foreigners. If you want, I will pay you.”

I said in my heart I would never do this because I want to know about everything. I don’t want to stay at home and obey your orders. I am young and I want to increase my abilities. I am a human like everyone else. What is the difference between me and Americans and Europeans? You are not my father. I am young and I decide for myself.

But I cannot say this out loud. . . .

It was bad for women. I felt like we didn’t have any rights. I became very angry and I couldn’t sleep that night.²²⁷

In August 2002, Ismail Khan in a speech to the police, army, and intelligence forces repeated this message.²²⁸ According to a man who attended the meeting, Khan told them: “If you are men and have courage, you will not allow your wife and daughters to work in foreigners’ offices. If it’s for the money, I will double what they pay, but don’t let them work with foreigners.” He also said, “If the foreign organizations pay \$100, I will double it.”²²⁹

Around the same time, Ismail Khan’s government sent forms to national staff of NGOs and the U.N. asking for personal information, including name, age, date and place of birth, and education.²³⁰ The accompanying instructions directed the employees to fill out the forms and return them to the Herat government. The U.N. and the NGOs decided not to have their staff fill out the forms.²³¹

²²⁶ Communication to Human Rights Watch from UNAMA staff, August 31, 2002; Human Rights Watch interview with K.I., Herat, September 17, 2002; and Human Rights Watch interview with B.K., Herat, September 12, 2002.

²²⁷ Human Rights Watch interview with woman who attended the meetings, Herat, September 11 and 12, 2002.

²²⁸ Human Rights Watch interview with L.H., Herat, September 13, 2002.

²²⁹ Ibid.

²³⁰ Human Rights Watch interview with UNAMA staff, Herat, September 16, 2002; Human Rights Watch interview with U.N. staff, Herat, September 19, 2002.

²³¹ Ibid.

Herat police have also harassed Afghan women working for international organizations.²³² For example, police have targeted women seen shaking hands and, in some instances, speaking with foreign men.²³³

Although Ismail Khan has not actually prohibited women from working for international NGOs and the U.N., the pressure he has placed on them that he has not placed on men—his exhortations that they not work there, his appeals to their family members, and his accusations of moral impropriety—make it much more difficult for women to accept and hold onto these jobs.

In the Herat government, women hold very few positions. There is only one woman in a high level post in Herat, Aziza Sayi, who is a deputy in the department of education, in charge of female education. According to one Herati woman, “Women cannot hold positions in government because the power of weapons is greater than any other power and we don’t have this power.”²³⁴ Many women told Human Rights Watch that government jobs went to relatives and friends of Ismail Khan and his commanders, not to “common people.”²³⁵

Essentially, Ismail Khan has sanctioned little work for women outside of their homes other than teaching. That he makes it more difficult for them to access work that might otherwise be open to them, for example by the restrictions on women and girls’ freedom of movement, has even greater impact because so many other professions are closed to women in Herat. Human Rights Watch interviewed university students who despaired of ever working as lawyers, journalists, or engineers:

I am not optimistic. I want to be useful to our country and I want to be a successful journalist. But it is impossible for a girl to be a journalist. I know women who studied journalism, but they are teaching because they can’t actually work as journalists. . . . Women are shown on radio or T.V. but they don’t say the news or work on a movie. There are just short reports about women, not by them.²³⁶

Another said, “There are no women working as journalists now. Sometimes I am afraid. I think that when I graduate I will be unemployed.”²³⁷

A university professor noted: “I don’t know of any women working as lawyers in Herat. They can work in the university, and in offices they can be clerks. So they can work. There are no limitations to their working.”²³⁸ Similarly, a professional women said:

When women finish in the law faculty, they can’t become lawyers, only teachers. It’s the same for engineering. They study in the engineering faculty, and when they finish they work as a clerk or a math teacher in a high school or the university. I just know one woman who actually works as an engineer and she works inside a government office.²³⁹

The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Afghanistan is a party, establishes a right to work and to be free from discrimination in the enjoyment of this right.²⁴⁰ In addition,

²³² Human Rights Watch interview with F.M., Herat, September 17, 2002; Human Rights Watch telephone interview with M.I., Herat, October 10, 2002

²³³ Ibid.

²³⁴ Human Rights Watch interview with K.I., Herat, September 17, 2002.

²³⁵ Human Rights Watch interview with S.R., Herat, September 11, 2002; Human Rights Watch interview with F.M., Herat, September 11, 2002; Human Rights Watch interview with S.S., Herat, September 13, 2002.

²³⁶ Human Rights Watch interview with university student, Herat, September 14, 2002.

²³⁷ Human Rights Watch interview with B.K., Herat, September 12, 2002.

²³⁸ Human Rights Watch interview with university professor, Herat, September 17, 2002.

²³⁹ Human Rights Watch interview with A.R.L., Herat, September 15, 2002.

²⁴⁰ ICESCR, art. 6. See also CEDAW, art.11.

the International Labour Organization (ILO), in Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, to which Afghanistan is a party, proscribes conduct, practices, or laws that have the “effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.”²⁴¹ The ILO Committee of Experts (COE), a panel created to provide authoritative readings of ILO conventions and recommendations, has stated that indirect discrimination within the meaning of Convention No. 111 includes that which is based on “archaic and stereotyped concepts with regard to the respective roles of men and women . . . which differ according to country, culture and customs, [and] are at the origin of types of discrimination based on sex.”²⁴² Convention No. 111 allows only a “distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof.”²⁴³ The COE has urged that such exceptions be interpreted strictly to avoid “undue limitation of the protection which the Convention [111] is intended to provide.”²⁴⁴

Afghanistan’s 1964 constitution provides:

Work is the right and precept of every Afghan who has the capability to do it. . . . The citizens of Afghanistan are admitted to the service of the state on the basis of their qualifications and in accordance with the provisions of the law. Work and trade may be freely chosen, within the conditions determined by the law.²⁴⁵

Discrimination in the Right to Education

Girls and women have gone back to school in Herat in large numbers. Indeed, many women and girls point to education as the most significant change in Herat from the Taliban’s rule. When we asked a university student how things had changed from the Taliban’s rule, she replied: “There are no difference. Well one difference that girls come out and study. Otherwise there is no difference.... The only change in the situation is that girls can go to school.”²⁴⁶ “Only the doors to the schools are open,” another woman told us. “Everything else is restricted.”²⁴⁷ And a Herati man noted, “What women’s rights mean in our society is to go from primary school to university. This is all their rights.”²⁴⁸

While increased school enrollment is extremely positive, girl students still face restrictions not imposed on boys. Studying in separate girls schools, girls must follow strict dress codes as described above, enforced by school administrators and in some cases by the squads of boys trained by police; restrictions on their freedom of movement also hurt their ability to reach the schools. In addition, girls are not allowed to study music or play sports. A male music teacher explained, “Women don’t take music classes. Like most things, no one announced it but people know.”²⁴⁹ Girls who had studied music and played sports in Iran told Human Rights Watch that they missed these activities in Herat.²⁵⁰

²⁴¹ ILO Convention No.111 concerning Discrimination in Respect to Employment and Occupation, adopted June 25, 1958, 362 U.N.T.S. 31 (entered into force June 15, 1960, and ratified by Afghanistan October 1, 1969), art. 1(1).

²⁴² International Labour Conference, *Equality in Employment and Occupation, General Survey of the Committee of Experts on the Application of Conventions and Recommendations*, 75th sess. 1988, Report III (Part 4B) (Geneva: International Labour Office, 1996), para. 38.

²⁴³ ILO Convention No.111, art. 1(2).

²⁴⁴ International Labour Conference, *Equality in Employment and Occupation*, p.138.

²⁴⁵ Constitution of Afghanistan (1964), art. 37.

²⁴⁶ Human Rights Watch interview with M.M., Herat, September 12, 2002.

²⁴⁷ Human Rights Watch interview with K.I., Herat, September 17, 2002.

²⁴⁸ Human Rights Watch interview with L.H., Herat, September 13, 2002.

²⁴⁹ Human Rights Watch interview with music teacher, Herat, September 13, 2002.

²⁵⁰ Human Rights Watch interview with B.K., Herat, September 12, 2002.

Teachers and administrators at two primary schools and one secondary school confirmed that their students were not allowed to play sports; according to a school supervisor, the Herat government had prohibited it.²⁵¹

Every school has one hour for sports, but girls don't play football or volleyball—they have to sit because Ismail Khan says it is bad for girls to play sports. . . . The students are really interested in doing sports, but they aren't allowed to do anything. They are eager to have a music class—to do something happy—but they can't. There are no sports, no music.²⁵²

Ismail Khan has explicitly condemned girls playing sports. A teacher explained: “Last week Ismail Khan talked about three girls who went to Europe for sports [martial arts]. He said at a funeral speech last week that it was bad for our situation, bad that three girls went to Europe for sport, that he is very worried that he has heard that the government sent three girls.”²⁵³

Discrimination in employment, described above, diminishes girls' incentives to pursue education: although Ismail Khan claims to have given girls the right to education, he does not allow them to use it. According to an official in the Ministry of Higher Education, speaking both about Herat and elsewhere in Afghanistan: “Now, most girls don't try to go to faculties where there is no chance of work. Before, there were many girls studying to be civil engineers and there were government jobs available.”²⁵⁴ Denying women and girls the opportunity to use their studies in effect makes a mockery of the right to education. “These things, these attitudes, mean that for the few women who have an education at the university—it is useless. If this is the situation, they cannot get a job in governmental offices.”²⁵⁵

Herat University

Although women and girls are now, in small numbers, studying in Herat University, the discrimination they face there greatly constrains their participation and exemplifies the long catalogue of restrictions in Herat that combine to create an environment where their speech, behavior, and appearance are controlled and where the free exchange of ideas, central to a university education, is very limited. A woman who transferred from Herat to Kabul University in mid-2002 explained:

When I was studying in Herat University, all the lecturers and even the chancellor had very fundamentalist views. The effect was that the space for women was very closed, not at all open. . . . Have you been inside the Herat university? There was a small building with small rooms for girls to study in. It was a completely closed environment—there are no means for anything to happen there. We can't even call it a university.²⁵⁶

One person responsible for the closed environment is Herat University's dean, Abdurrauf Mukhlis, the former head of Ismail Khan's religious police in the early 1990s. Ismail Khan appointed Mukhlis over the objections of the Ministry of Higher Education in Kabul, which tried, unsuccessfully to convince Ismail Khan to hold faculty elections for the post of dean, in accordance with ministry policy.²⁵⁷ Students were not happy with Mukhlis' appointment. As the former head of the religious police, Mukhlis hardly had the kind of background that would encourage free thinking or women's participation on campus. “You can imagine what he imposes,” a student told

²⁵¹ Human Rights Watch interview with group of teachers and school administrators, Herat, September 17, 2002.

²⁵² Human Rights Watch interview with H.D., Herat, September 11, 2002.

²⁵³ Human Rights Watch interview with F.M., Herat, September 11, 2002.

²⁵⁴ Human Rights Watch interview with official in the Ministry of Higher Education, Kabul, September 22, 2002.

²⁵⁵ Human Rights Watch telephone interview with S.R., Herat, December 12, 2002.

²⁵⁶ Human Rights Watch interview with H.M., Kabul, September 30, 2002.

²⁵⁷ Human Rights Watch interview with N.N., Kabul, September 22, 2002.

Human Rights Watch.²⁵⁸ Students and professors reported that they fear discussing anything political, that interaction between boys and girls is suspect, and that women's behavior is tightly regulated.

Unlike in the universities in Mazar-e Sharif and Kabul, male and female students study separately, on Ismail Khan's order, over the objection of the Ministry of Higher Education in Kabul.²⁵⁹ An official in the Kabul ministry explained:

When boys and girls study together, it represents a symbolic change in civil rights because the university and faculty are symbols of institutions for civil rights. When they study separately it means that they do not have good civil rights, and it doesn't prepare women to work in an environment where there are men. Financially its good for them to study together because it is more efficient to teach everyone all together.²⁶⁰

In all of Afghanistan's universities, women and girls still do not enjoy access equal with men. When Human Rights Watch asked an official at the Ministry of Higher Education what would happen if only one girl were interested in a particular class, he responded:

In that case, she has to change her subject because it is not appropriate for one girl to be in a class with so many boys. We have faced this situation twice. Four months ago in Kabul and one month ago in Herat there were situations where one girl wanted to study in an engineering class. We convinced them to change their subjects and to go to a different faculty, to medicine.²⁶¹

Women studying in the university also told Human Rights Watch that while male students had been allowed to study abroad in official exchange programs, female students had not, even to Iran.²⁶² One woman explained: "Boys from Herat have gone. This is really wrong. And one of the countries is Iran, which is an Islamic country, but it was still not allowed."²⁶³

The Herat University administration imposes a restrictive dress code for women that, as explained above, is promulgated by the dean. A student told Human Rights Watch that soon after the first semester began in March 2002:

The teacher was giving a lecture and suddenly he stopped and told my classmate: "Look at your shoes with high heels. They make noise. You should be ashamed!" My classmate studied all week long and was a good student. She was so deeply ashamed that she couldn't write even a word after that. We all felt sorry for her, and it took a long time for her to feel better.²⁶⁴

Although the exchange of ideas is at the core of what constitutes a university, speech at Herat's university is tightly controlled by the local government. Political speech in Herat University is expressly forbidden, and students and teachers report that they fear retaliation if they criticize the government or the university itself, or even discuss current government policy.²⁶⁵ For example a number of university students said that while they

²⁵⁸ Human Rights Watch interview with H.M., Kabul, September 30, 2002.

²⁵⁹ Human Rights Watch interview with Ministry of Higher Education official, Kabul, September 22, 2002.

²⁶⁰ Ibid.

²⁶¹ Ibid.

²⁶² Human Rights Watch interview with S.N., Herat, September 14, 2002; Human Rights Watch interview with B.K., Herat, September 14, 2002.

²⁶³ Human Rights Watch interview with S.N., Herat, September 14, 2002.

²⁶⁴ Human Rights Watch interview with H.M., Kabul, September 30, 2002.

²⁶⁵ For more information about the prohibition on political speech in Herat University, see Human Rights Watch, "All Our Hopes Are Crushed," pp. 34-35, http://hrw.org/reports/2002/afghan3/herat1002-05.htm#P684_107680.

disliked studying in a segregated environment, they are afraid to voice any complaints about it.²⁶⁶ One student related the following incident to Human Rights Watch:

A student told a journalist that we want to be in the same class with boys because it would be useful for us. The head of the university castigated her and said, "Why are you telling this to a journalist?" And it was an Afghan journalist from Kabul! She said, "Afghanistan is one government and so why is the situation completely different in Herat? In Kabul, the girls and the boys study together."

When she gave her ideas, this created problems. The head of the university said, "This is the last time that you will talk about these things to journalists."

If she did it again, maybe she wouldn't be allowed to study. She told me all of this.²⁶⁷

Human Rights Watch was not able to interview the student who was castigated.

Another student told Human Rights Watch that she censors what she writes for her classes:

If I want to say something, for example, about the education department or the university, I know that they would probably kick me out of the university, and if they didn't do this, they would fail me on the exams. At first they come and say you are free to say everything, but when someone tells her ideas, the head of the university calls her and says, "Why did you say this?"²⁶⁸

The woman who left Herat University and transferred to Kabul University because she found the environment stifling said that just as under the first period of Ismail Khan's rule, female students in particular are discouraged from speaking out.²⁶⁹ Another student noted: "If a girl says something she thinks in the university, the teachers (who are men) will say 'yes' but their behavior to her conveys that it is ridiculous."²⁷⁰

The right to education is set forth in the ICESCR, the Convention on the Rights of the Child, and CEDAW.²⁷¹ Recognizing that different states have different levels of resources, international law does not mandate exactly what kind of education must be provided, beyond certain minimum standards: primary education must be "compulsory and available free to all," and secondary education must be "available and accessible to every child."²⁷² Accordingly, the right to education is considered a "progressive right": by becoming party to the international agreements, a state agrees "to take steps . . . to the maximum of its available resources" to the full realization of the right to education.²⁷³ Although the right to education is a right of progressive implementation,

²⁶⁶ Human Rights Watch interview with B.K., Herat, September 12, 2002; Human Rights Watch interview with M.M., Herat, September 12, 2002; Human Rights Watch interview with S.N., Herat, September 14, 2002; and Human Rights Watch interview with H.M., Kabul, September 30, 2002.

²⁶⁷ Human Rights Watch interview with B.K., Herat, September 12, 2002.

²⁶⁸ Human Rights Watch interview with M.M., Herat, September 12, 2002.

²⁶⁹ Human Rights Watch interview with H.M., Kabul, September 30, 2002.

²⁷⁰ Human Rights Watch interview with M.M., Herat, September 12, 2002.

²⁷¹ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc A/810 at 71 (1948), art. 26; ICESCR, art. 13; Convention on the Rights of the Child, art. 28, CEDAW, art. 10.

²⁷² Convention on the Rights of the Child, art. 28.

²⁷³ ICESCR, art. 2(1). *See also* Convention on the Rights of the Child, art. 28. But *see General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, 21st sess., (December 8, 1999) para. 44: "The realization of the right to education over time, that is 'progressively,' should not be interpreted as depriving States parties' obligations of all meaningful content. Progressive realization means that States parties have a specific and continuing obligation 'to move as expeditiously and effectively as possible' towards the full realization of article 13"; and *General Comment 3, The Nature of States Parties Obligations*, Committee on Economic, Social and Cultural Rights, 5th sess., (December 14, 1990), para. 2.

the prohibition on discrimination is not. The Committee on Economic, Social and Cultural Rights, which interprets the ICESCR, has stated: “The prohibition against discrimination enshrined in article 2(2) of the [ICESCR] is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”²⁷⁴ Thus, regardless of its resources, the state must provide education “on the basis of equal opportunity,” “without discrimination of any kind irrespective of the child’s race, colour, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status.”²⁷⁵

While international law permits the maintenance of separate educational systems or institutions for girls and boys, these must “offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study.”²⁷⁶ However, in a post-conflict society where resources are extraordinarily scarce, maintaining a segregated system necessarily uses additional resources that might otherwise have gone to improve the education of both boys and girls.

Afghanistan’s 1964 constitution provides that: “Education is the right of every Afghan and shall be provided free of charge by the state and citizens of Afghanistan.”²⁷⁷

“Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.”

²⁷⁴ *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 31. The Committee on Economic, Social and Cultural Rights interprets the ICESCR. *See also, General Comment 11, Plans of Action for Primary Education, Committee on Economic, Social and Cultural Rights*, 20th sess., U.N. Doc. E/C.12/1999/4 (May 10, 1999), para. 10; and *General Comment 3, The Nature of States Parties Obligations, Committee on Economic, Social and Cultural Rights*, para. 2 (stating that the obligation to guarantee the exercise of rights in the International Covenant on Economic, Social and Cultural Rights without discrimination is “of immediate effect”).

²⁷⁵ Convention on the Rights of the Child, arts. 28(1), 2(1). *See also* ICESCR, arts. 2, 13; CEDAW, art. 10. The Committee has interpreted the prohibition on discrimination and the right to education in article 2(2) and 13 of the ICESCR in accord with the Convention against Discrimination in Education, adopted December 14, 1960, General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), 429 UNTS 93 (entered into force May 22, 1962), and the relevant provisions of CEDAW. *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 31.

²⁷⁶ The Committee on Economic Social and Cultural Rights, interpreting article 13 of the ICESCR on the right to education, has found that certain separate educational systems or institutions for groups, under the circumstances defined in the Convention Against Discrimination in Education, do not constitute a breach of the Covenant. *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 33 and note 16.

²⁷⁷ Constitution of Afghanistan (1964), art. 34.

V. ADDITIONAL RECOMMENDATIONS TO AFGHAN AUTHORITIES, AND RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

Further recommendations to President Hamid Karzai and the Afghan Transitional Administration (see also above)

- In coordination and consultation with UNAMA, the Afghan Transitional Administration should take immediate steps to restructure and strengthen the Afghan Human Rights Commission so that it can more effectively investigate human rights conditions in Herat and throughout Afghanistan, including issues pertaining to women's rights.
- The Afghan Transitional Administration should reaffirm its request to all relevant nations for expansion of the International Security Assistance Force (ISAF) to other areas in Afghanistan outside of Kabul, including Herat. The Administration should request ISAF forces to lend assistance to the Afghan Human Rights Commission in its work, and help protect other at-risk persons.
- The Afghan Transitional Administration should work with the Ministry of Women's Affairs to accelerate efforts to open offices in Herat and other areas outside of Kabul.
- The Afghan Transitional Administration should ratify both the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Afghanistan signed in 1980, and the Convention Against Discrimination in Education (CDE), both of which set proper criteria and standards on women's and girls' rights.

To the United Nations

- UNAMA should use all available means to pressure regional leaders to repeal restrictions specifically targeted at women and girls, especially restrictions on their freedom of expression, association, and movement; and rights to equality, work, education, sexual autonomy, and bodily integrity, including freedom from cruel, inhuman, or degrading treatment.
- UNAMA should continue and expand efforts to facilitate Afghan women and girls speaking and advocating on their own behalf. In this respect, helping to strengthen the role of the Ministry of Women's Affairs (especially in areas outside of Kabul) is critical. UNAMA officials should also work with UNICEF, UNIFEM, U.N.-Habitat, and relevant NGOs to protect and support women and girls in Herat and other areas in Afghanistan who seek to organize civic groups and associations.
- UNAMA should expand human rights monitoring in Afghanistan, with special emphasis on areas outside of Kabul. A greater number of monitors must be put on the ground, and with more resources. UNAMA should publicly raise human rights problems with regional leaders and publish detailed reports of violations. UNAMA officials should continue helping the Afghan Transitional Authority to investigate allegations of human rights abuses, including those contained in this and previous Human Rights Watch reports, and to protect witnesses and sources.
- UNAMA should continue to make efforts to ensure that reconstruction funds under its control do not directly benefit (financially or politically) regional leaders who are committing human rights abuses, including implementing repressive measures against women and girls.
- The U.N. secretary-general and the special representative of the secretary-general should continue to urge relevant U.N. member states to expand ISAF.

- The United Nations Commission on Human Rights special rapporteur on violence against women and the special rapporteur on human rights in Afghanistan should visit areas of the country where women and girls are being subjected to restrictions and serious human rights abuses.

To the United States, the European Union, and other nations involved in Afghanistan

- The United States, European Union (E.U.), and other states with established relationships in western Afghanistan should use their influence through political, military, and diplomatic representatives to pressure Ismail Khan to immediately take the necessary steps to improve the human rights situation for women and girls in the Herat region. These governments should adopt appropriate measures to influence regional leaders across Afghanistan to repeal decrees and policies targeted specifically at women and girls, especially restrictions on their freedom of expression, association, and movement; and on their rights to equality, work, education, sexual autonomy, and bodily integrity, including freedom from cruel, inhuman, or degrading treatment. Focus should be put on facilitating efforts by Afghan women and girls to speak and advocate on their own behalf.
- The United States should halt all military and other direct assistance to Ismail Khan and all other regional leaders in Afghanistan operating independently of the central government. If military assistance is to be provided to Afghanistan, it should only be channeled through the central government for the creation of the national army. The U.S. Congress should conduct an immediate investigation of the role of U.S. military and non-military assistance to Afghanistan in strengthening warlords who are known to be engaging in human rights abuses, including abuses against women and girls.
- Donor governments should provide additional assistance, including support and protection, to the Afghan Ministry of Women's Affairs and Afghan Human Rights Commission to enable them to open offices in regional centers like Herat. Donors should also seek to strengthen independent women's groups in Herat and elsewhere in Afghanistan.
- Officials from the United States and other countries should work with U.N. agencies and NGOs to improve protection for women and girls, and to end threats, intimidation, and other barriers to effective organization of women and girls' groups.
- Relevant officials should work with the Afghan government and all donor bodies to ensure that reconstruction funds do not directly benefit (financially or politically) regional leaders like Ismail Khan who are committing human rights abuses or implementing repressive and discriminatory measures against women and girls. E.U. and European Commission (E.C.) officials must also ensure that their projects comply with existing E.U. and E.C. human rights conditionality requirements.
- All nations involved in Afghanistan's reconstruction, especially those on the U.N. Security Council and Germany and the Netherlands, who will soon assume leadership of ISAF, should take part in immediate high-level consultations about expanding ISAF to areas in Afghanistan outside of Kabul, including Herat. The United States, which has voiced willingness to provide logistical support, intelligence, and other resources, should provide those resources.

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Human Rights Watch
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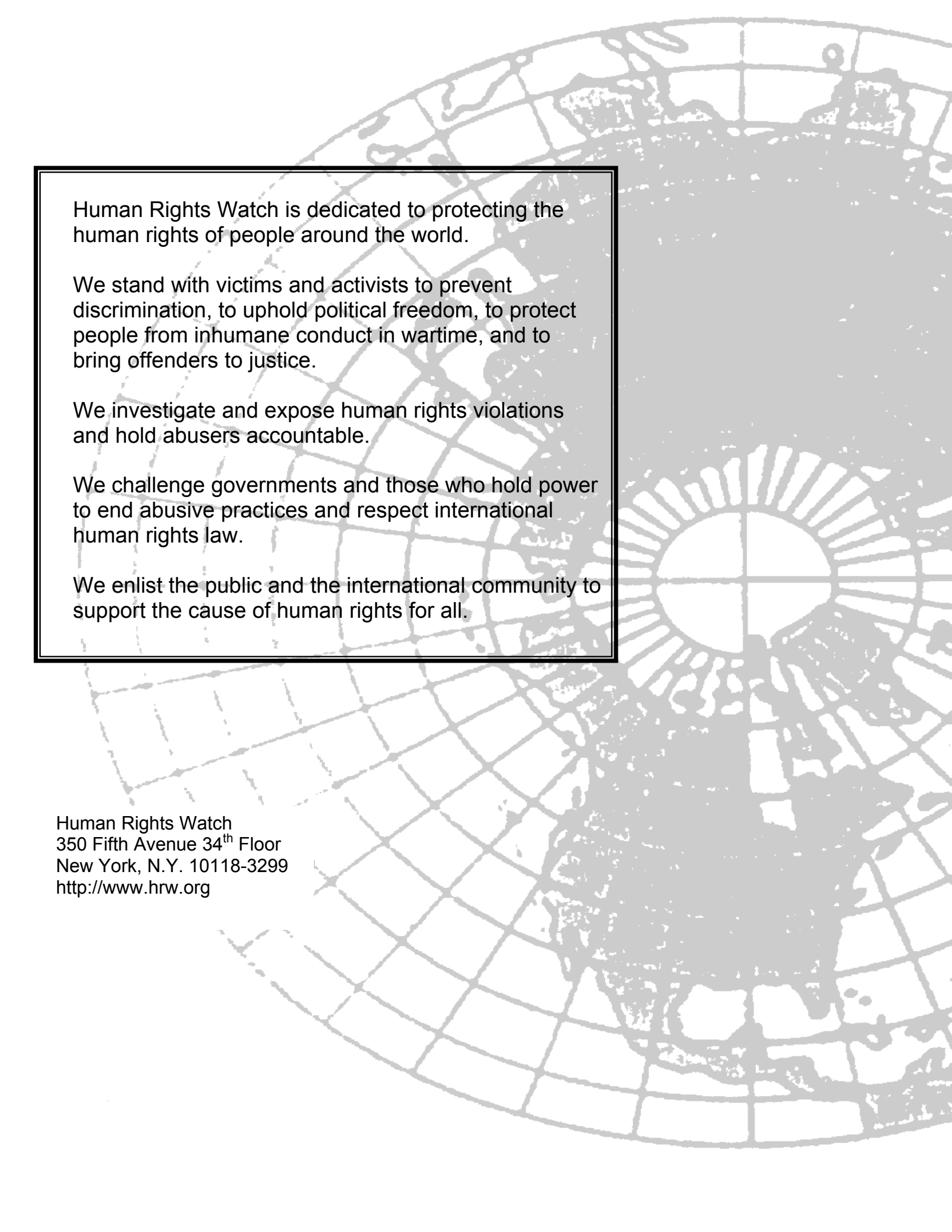
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