

Afghanistan

2009 was another year marked by growing violence and insecurity, with the armed conflict continuing to spread. Insurgent attacks increased, killing greater numbers of civilians.

The second half of the year was dominated by presidential and provincial council elections in August 2009, which saw high levels of violence and intimidation, primarily by the Taliban and other insurgent groups. The elections were marred by widespread fraud and low turnout in conflict areas. A runoff was ordered between President Hamid Karzai and his main challenger, Abdullah Abdullah, but following the refusal by the Karzai-appointed electoral commission to accept anti-fraud measures for the second round his opponent withdrew, and Karzai was declared the winner.

The vulnerability of women's basic rights was demonstrated by the passing of the discriminatory Shia Personal Status Law by the Parliament, followed by President Karzai's signing of it into law.

Armed Conflict and Related Human Rights Abuses

The United Nations reported that approximately 2,021 civilians were killed by coalition, government, and insurgent forces in the first 10 months of 2009, an increase on 1,838 killed during the same period in 2008. Of these, 69 percent were attributed to "anti government elements," and 23 percent to international-led military forces. In 2008 the international-led military forces were responsible for more than one-third of civilian deaths. Reforms in United States and NATO operational guidelines appear to have resulted in a reduction in casualties of around 30 percent in the first 10 months of 2009, compared to the same period in 2008.

Civilian casualties caused by the Taliban and other insurgent groups continued to rise. Improvised explosive devices caused most deaths, with targeted killings and summary executions, including beheadings, adding to the death toll and levels of fear in communities. The Taliban continued to be involved in the forcible and voluntary recruitment of children to take part in fighting.

Civilian casualties from United States and NATO airstrikes continued, although the US and NATO belatedly took steps to decrease the number of deaths. Perceived excessive use of force and cultural insensitivity during “night raids” by international military forces into Afghan homes continued to be a significant concern. The US continued its extralegal detention practices at Bagram airbase, though changes in policy should bring modest improvements, such as regular review hearings for detainees.

Governance and Impunity

The absence of due process of law remains a fundamental failing of the Afghan legal system, as Afghans continue to face arbitrary detention, are frequently denied access to a lawyer, and are often denied the right to challenge the grounds of their detention before an impartial judge. Court proceedings are often marred by corruption and the abuse of power. There are persistent reports of torture and abuse against detainees being held by the National Directorate of Security, with human rights officials receiving only erratic access to detention facilities where abuses are believed to be taking place.

Kidnapping of Afghans for ransom is common, including NGO workers, and businessmen and their children. The most active areas are in the south, east, and central regions, where kidnappings significantly contribute to levels of insecurity, sharply curtailing movement for women and children in particular. Kidnappings are carried out by criminal gangs, and are also used by insurgent groups for money and leverage over prisoner releases. The police seem largely incapable or unwilling to tackle kidnappings or other abuses by powerful interests.

In many areas of the country local strongmen and former warlords continue to exert significant power over communities, using intimidation and violence to maintain their control. The Afghan government has continued to lose public legitimacy because of these abuses, widespread corruption, failure to improve living standards, and lack of progress in establishing the rule of law even in areas under its control. Afghans frequently cite police corruption as a problem, with internationally-funded police reform efforts showing limited impact. New measures for tackling corruption were announced in the post-election period, with the government under unprecedented levels of pressure to reform from international partners.

Human rights abusers continued to enjoy almost complete impunity. President Karzai attempted to secure his reelection in 2009 through a series of deals with former warlords from all the main ethnic factions. The choice of Mohammad Qasim Fahim as Karzai’s vice

presidential running mate was emblematic of this trend; Fahim has long been implicated in possible war crimes from the 1990s and is widely perceived by many Afghans to be connected to criminal gangs.

The government did little to implement the Action Plan for Peace, Reconciliation and Justice, a plan launched in 2005 for transitional justice in Afghanistan. Human rights groups continued to document war crimes, with growing numbers of civil society groups working with victims of war crimes.

Women's and Girls' Rights

The vulnerability of women's and girls' rights was demonstrated in February-March 2009 when the Parliament passed and the president signed the Shia Personal Status Law, which contained many articles offensive and dangerous to women. After a national and international outcry, and an unprecedented campaign by Afghan women's rights activists, the law was amended, but many articles remained that conflict with the Afghan constitution and international human rights standards. One provision grants child custody rights exclusively to fathers and grandfathers. Another forbids a wife from leaving her house without her husband's permission unless she has "reasonable legal reasons," which are unspecified.

A more positive legislative development was the success of Afghan women's rights activists in getting a law on the Elimination of Violence Against Women passed. Although there are serious flaws in the legislation, it creates the crime of rape in Afghan law for the first time. Violence against women and girls remains endemic, with prevention or justice for victims obstructed by cultural barriers as well as bias and misogyny among many security officials and judges.

Many of the women who campaigned against the Shia law came under threats and pressure.

Attacks on Education

As part of their campaign of terrorizing the civilian population, the Taliban and other insurgent groups continued to target schools, in particular girls' schools. According to the Ministry of Education, in the first five months of the Afghan year 1387 (April-August 2009), 102 schools were attacked using explosives or arson, and 105 students and teachers were killed by insurgent attacks. Three girls' schools in the central region were attacked with chemicals (thought to be pesticide or insecticide) in April and May 2009, which the Ministry of Education says injured 196 girls.

Human Rights Defenders and Independent Journalists

Freedom of expression for those who criticize government officials or powerful local figures remains limited. Threats, violence, and intimidation are regularly used to silence opposition politicians, critical journalists, and civil society activists. Women all over the country mourned the murder in April 2009 of Sitara Achakzai, an outspoken human rights defender and local councilor in Kandahar. No one was charged with her murder. The killing of a high-profile figure like Achakzai created widespread fear among women and human rights defenders in the southern region.

In September, 23-year-old student Sayed Parviz Kambakhsh was released early after spending 20 months in prison on blasphemy charges (he was accused of downloading, doctoring, and distributing an article among friends), after a trial and appeal process that did not respect Afghan law or meet international standards. He had originally been sentenced to death, commuted to 20 years' imprisonment.

The Afghan Independent Human Rights Commission continued to be an active and outspoken human rights organization. It came under increasing pressure from the government in 2009 to curtail its activities, including the threat of legal action against one of the commissioners by the Attorney General's Office. The move was strongly resisted by the commission.

The blossoming of an independent media sector was once seen as a rare success of the post-Taliban government. But the increasingly authoritarian government has repressed critical journalism, leading to widespread self-censorship. In the days before the elections of 2009, the government attempted to overtly censor the media by issuing a ban on the reporting of election-related violence. Dozens of journalists were beaten or detained in 2009 by security officials, and some were held without charge for days, weeks, or months.

Insurgent groups used murder, arson, kidnapping, and intimidation to try to stop reporting they see as unsympathetic. In September 2009 the Taliban in Kunduz province kidnapped an Afghan and a British journalist, leading to a rescue operation in which the Afghan, Sultan Munadi, was killed.

Key International Actors

The United States continued to be the key external actor and donor. It maintained enormous influence over the government of President Karzai through its financial and military support, including the deployment of as many as 68,000 troops, with additional US troops expected

in 2010. The United States announced an international “civilian uplift” to implement its strategy in Afghanistan. President Obama repeatedly stressed the importance of a stable Afghanistan to the security of the United States, but rarely discussed the importance of human rights protections for Afghans.

The US military continued to operate in Afghanistan without an adequate legal framework, such as a status-of-forces agreement, and continued to detain hundreds of Afghans without adequate legal process. Evolving plans to reform US detention practices in Afghanistan were welcome but fell short of international standards.

By many estimates, Afghanistan continued to receive significantly less per capita donor assistance than other post-conflict countries (estimated to be less than US\$80 per person per year for reconstruction over the past six years, as compared to approximately US\$250 for the people of Bosnia and Timor-Leste).

The credibility of the United Nations in Afghanistan was tarnished in the post-electoral fallout by the very public discord between the deputy head of mission, Peter Galbraith, and the special representative for Afghanistan, Kai Eide, over how to respond to the fraud allegations. Galbraith was sacked after accusing Eide of downplaying levels of fraud. In general the UN mission remains understaffed, with the human rights and rule of law offices well below capacity. On October 28, 2009, an attack on a guesthouse where many UN election staff were staying killed five UN staff and three Afghans, and resulted in 600 international UN staff being relocated or removed from Afghanistan.