

## STATEMENT

UPR Pre-Session on Afghanistan

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I am Marzia Babakarkhail, a former family court judge, and I am delivering this statement on behalf of the Law Society of England and Wales.

This statement addresses: (i) the collapse of the legal system, (ii) the laws and regulations undermining the independence of the legal profession, and (iii) the systemic persecution of legal professionals.

### **(i) Collapse of the Legal System**

Since the Taliban took control in 2021, the existing legal system has been dismantled. The courts suffer from a lack of defined legal standards, rights protections, and due process.

The Taliban dismissed all judges and appointed Taliban members educated in religious schools. Muftis, elders with over twenty years of religious education, act as direct advisors to judges, including by undertaking investigations, and recommending findings. No women judges were retained, and none have been appointed.

### **(ii) Laws and Regulations Undermining the Independence of the Legal Profession**

The Taliban's Ministry of Justice abolished the Afghanistan Independent Bar Association, which oversaw the licensing and regulation of lawyers. Subsequently, more than fifty armed Taliban members stormed the AIBA's offices.

Male lawyers are required to renew their licenses with the MoJ through an oral examination testing religious knowledge. Many current lawyers only possess basic religious school knowledge. Lawyers previously active in the fields of human rights or criminal law, or with international organisations have been denied a license.

Women are excluded from taking their qualifying examinations or renewing their licenses.

States should make the following recommendations:

1. Restore the Afghanistan Independent Bar Association and its licensing authority.
2. Amend legislation and regulation such that admission to the legal profession follows due process with objective and transparent criteria.
3. Restore the right of women to practise as lawyers.

### **(iii) Systemic Persecution of Legal Professionals**

Lawyers, prosecutors, and judges, especially women, have become targets of the Taliban and the prisoners freed by the Taliban. Legal professionals have faced death threats, physical harassment, attacks, summary executions and enforced disappearances. Many have been forced to flee the country or go into hiding with their families.

Since August 2021, it is reported that 7 lawyers have been killed and 146 have been arrested or investigated, and 30 prosecutors have been killed and 11 injured in attacks.

Female legal professionals also face increasing violence from family members, forced marriages and being unable to afford living necessities.

States should make the following recommendations:

4. Ensure that lawyers are able to freely and independently exercise their profession.
5. Protect the lives of legal professionals and adopt and implement measures to guarantee their safety.
6. Ensure that reprisals against legal professionals are investigated through a transparent and independent process, with appropriate accountability for perpetrators.

Thank you.