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Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC, Afghanistan Human Rights Organization (AHRO), People's Action for Change Organization (PAC.o) and Civil Society and Human Rights Network (CSHRN)

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 170 countries throughout the world.
- 1.2 Afghanistan Human Rights Organization (AHRO) is a non-aligned, non-governmental, non-political, independent and humanitarian organisation founded in May 1997 to promote and protect the human rights of citizens of Afghanistan; raise awareness of human rights violations; and promote improved human rights situations in Afghanistan in accordance with the Universal Declaration of Human Rights as well as the rule of law and good governance.¹
- 1.3 People’s Action for Change Organization (PAC.o) was established in 2012. PAC.o focuses on capacity building, promoting the rights of women and children, ensuring livelihood options to end hunger and food insecurity, organising young people for inclusive governance and peacebuilding, and responding to calamities and conflicts through humanitarian assistance.
- 1.4 Civil Society and Human Rights Network CSHRN is an umbrella for CSOs that work for human rights, democracy, respect for the rule of law and for a state committed to a culture of human rights. CSHRN was established in August 2004 through the collaboration of 28 human rights CSOs in Kabul city.
- 1.5 In this document, CIVICUS, AHRO, PAC.o and CSHRN – hereafter referred to as the four partners - examine the compliance of the Government of Afghanistan with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Afghanistan’s fulfilment of the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in 2014. To this end, we assess Afghanistan’s implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.6 During the 2nd UPR cycle, the Government of Afghanistan received four recommendations relating to civil society space. All four recommendations were accepted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the

¹ AHRO is legally registered with the Ministry of Justice, and is a member of Afghan NGOs Coordination Bureau (ANCB), Legal Aid Provider Committee (LAPC) Afghanistan Legal Aid and Advocates Network (ALAAN), parliament’s Advocacy Working Group, the Civil Society Advisory Board of the Interior Ministry, Civilian Casualties Working group, Afghanistan Working Group on Conflict-Related Detentions (AWGCRD) and a leader of the Afghanistan Food Sovereignty Network (AFSN).

Government of Afghanistan has failed to fully implement two of these recommendations and has only partially implemented two others. While the government has introduced some positive amendments to laws related to civil society in recent years, and has also enacted an Access to Information Law since the last review, CSOs and HRDs in Afghanistan still face serious risks in carrying out their work.

- 1.7** Recognising that the continuing actions of violent non-state actors including the Taliban have largely contributed to this failure, the four partners nevertheless call on the government of Afghanistan to do more to ensure the protection of CSOs, HRDs, protesters and journalists.
- 1.8** Civic space in Afghanistan is rated as ‘repressed’ by the CIVICUS Monitor, indicating heavy constraints in civil society’s fundamental freedoms.² The four partners are deeply concerned by continued insecurity in Afghanistan, which has resulted in the closure of space for civil society, including through targeted attacks on humanitarian workers, protesters and journalists. The four partners are further alarmed by the continuing levels of violence against women and the desperate situation faced by women HRDs (WHRDs) in Afghanistan, who face a heightened level of persecution because of their gender and their human rights activism.
- 1.9** In Sections B to E below, the four partners examine Afghanistan’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedoms of association, peaceful assembly and expression, and the protection of HRDs. We also make a number of recommendations to address the concerns listed.

2. Freedom of association

- 2.1** Article 35 of the Constitution of Afghanistan states that in order “to attain moral and material goals, the citizens of Afghanistan shall have the right to form associations in accordance with provisions of the law.”³ Moreover, Article 22 of the International Covenant on Civil and Political Rights (ICCPR), which Afghanistan ratified in 1983, also guarantees the freedom of association.⁴ However, despite these strong protections on paper, implementation of these commitments in practice remains

² CIVICUS Monitor: Afghanistan, <https://monitor.civicus.org/country/afghanistan>. Rating correct as of 15 June 2018.

³ English translation of the Constitution of Afghanistan 2004, sourced at The Constitute Project, https://www.constituteproject.org/constitution/Afghanistan_2004?lang=en.

⁴ For the latest ratification status, see the website of the United Nations Office of the High Commissioner for Human Rights, <http://indicators.ohchr.org>.

weak, resulting in a situation in which CSOs operating in Afghanistan are denied the full enjoyment of the freedom of association.⁵

- 2.2** Two main laws govern the operation of CSOs in Afghanistan. The first is the Law on Associations, which was originally enacted in 2013 and most recently amended in December 2017.⁶ This law applies to a variety of domestic associations including “communities, unions, councils, assemblies and organizations which are voluntarily established by a group of real or legal persons as non-profit, non-political entities, in accordance with this law.”⁷
- 2.3** A second law that regulates the civil society sector in Afghanistan is the Law on Non-governmental Organizations (NGO Law) 2005.⁸ Although amendments to this law are reported to be under consideration by the Ministry of Economy at the time of writing,⁹ the law as it currently stands also provides a generally enabling regulatory environment for domestic and international CSOs, including the many formally-registered development and humanitarian organisations operating in Afghanistan. Article 8(1) of the law however prohibits CSOs from becoming involved in “political activity,” a term which is not defined in the law.
- 2.4** Despite the generally enabling nature of these two overarching laws, subsidiary regulations mean that CSOs in Afghanistan are sometimes subjected to invasive supervisory oversight. Organisations are required to submit semi-annual and annual reports to the government, and failure to do so can lead to the dissolution of the organisation. According to the International Center for Not-for-Profit Law (ICNL), in March 2015 the authorities “terminated” 113 local and six international organisations because of a failure to submit reports.¹⁰
- 2.5** CSOs in Afghanistan are also subject to additional and burdensome bureaucratic obstacles provided for in the laws governing civil society. These include a requirement to seek approval prior to the commencement of any project from both the relevant line ministry and the Ministry of Economy.¹¹ There is also a requirement for CSOs to apply to extend their registration certificate, which is issued through the Law on Associations. The certificate lasts just three years and a fee must be paid in

⁵ For instance, Afghanistan has not reported on its implementation of commitments under the ICCPR since 1992, see here:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=45&DocTypeID=29

⁶ Officially gazette version of the amended Law on Associations, http://moj.gov.af/content/files/Pages/OfficialGazetteIndex_D-header.htm.

⁷ Article 2(1) of the Law on Associations, op. cit.

⁸ An English Translation of the 2005 NGO Law is provided by ICNL, www.icnl.org/research/library/files/Afghanistan/law-2005.pdf.

⁹ Council on Foundations, Afghanistan page, <https://www.cof.org/content/afghanistan>.

¹⁰ ICNL Civic Freedom Monitor, Afghanistan, <http://www.icnl.org/research/monitor/afghanistan.html>.

¹¹ Ibid.

order for it to be extended.¹² CSOs in Afghanistan also report that some line ministries pressurise CSOs to allocate a portion of their project budgets to cover the costs of government monitoring of those projects before an MoU can be signed with the ministry.

- 2.6** Aside from the regulatory difficulties encountered by civil society in Afghanistan, a lack of security remains the primary concern for CSOs operating in the country. In particular, Afghanistan is one of the world's most dangerous countries for humanitarian aid workers, who are under constant threat of kidnapping and attack, mostly by violent non-state actors.¹³
- 2.7** Despite a recent ceasefire¹⁴ between the Taliban and the Afghan military, the Taliban's use of violence in order to gain control of more territory and the ongoing armed conflict in the country has created significant risks for civil society groups in Afghanistan.
- 2.8** In addition, the group known as Islamic State (also sometimes referred to as Da'esh), Al Qaeda and members of other armed groups are active throughout Afghanistan and continue to threaten CSOs and their employees, impeding their activities. Such attacks, including those briefly described in the following paragraphs, have become much more common in recent years. The International NGO Safety Organisation recorded 4,861 such cases between January and April 2018.¹⁵ This figure is comprised of all incidents involving a CSO worker, including arrest, abduction, robberies, intimidation and improvised explosive devices. It includes both criminal and conflict-related incidents.
- 2.9** On 8 February 2017, six staff members of the International Committee of the Red Cross (ICRC) were attacked in the Jawzan province of Afghanistan.¹⁶ The team was delivering livestock materials in an area south of the town of Shibergan when their convoy was attacked by unidentified assailants. Six staff members were killed and two were abducted, only being released 7 months later in September 2017.¹⁷ The ICRC was temporarily forced to suspend operations immediately after the killings. On 11 September 2017, ICRC physiotherapist Lorena Enerbral Perez, who was working at

¹² Ibid.

¹³ The Aid Worker Security Report, Aid Worker Security Database, 2017, p. 3, details 25 attacks on humanitarian aid workers in Afghanistan in 2016, the second highest number of any country in the world, <https://aidworkersecurity.org/reports>.

¹⁴ 'Afghanistan extends ceasefire with Taliban; UN urges both sides to work towards lasting peace', UN News, 16th June 2018, <https://news.un.org/en/story/2018/06/1012322>

¹⁵ International NGO Safety Organization, Afghanistan page, <https://www.ngosafety.org/country/afghanistan>.

¹⁶ 'Afghanistan: Six ICRC staff members killed and two unaccounted for in attack', ICRC, 8 February 2017, <https://www.icrc.org/en/document/afghanistan-six-icrc-staff-members-killed-and-two-unaccounted-attack>.

¹⁷ 'Afghanistan: Two abducted ICRC staff members released', ICRC, 5th September, 2017, <https://www.icrc.org/en/document/afghanistan-two-abducted-icrc-staff-members-released>

their rehabilitation centre in Mazar-i-Sharif, was shot by a young man who was being treated for polio.¹⁸

2.10 On 9 September 2017, a group of armed men murdered an Afghan man working for AREA, an Afghan de-mining CSO in Afghanistan's eastern province of Nangarhar.¹⁹ In August 2017, three Afghan aid workers employed by Catholic Relief Services were gunned down and killed near the capital city of Ghor province. Two other employees were wounded in the incident.²⁰

2.11 On the morning of 24 January 2018, four members of staff from the international CSO Save the Children were killed in a [suicide attack and siege](#) of their building in the city of Jalalabad by so-called Islamic State (Da'esh) militants.²¹ Four others were injured in the attack and needed to receive medical treatment. Some 46 people in the building, many of whom hid in a safe room, were rescued.

2.12 The Afghan government and other state actors have also been implicated in attacks on CSOs in Afghanistan since the last UPR review. In October 2015, for instance, US war planes bombed a hospital run by CSO Médecins Sans Frontières (MSF), killing 42 people, including 14 MSF staff.²² A US Military investigation found that the MSF facility had been attacked through “human error” which resulted in 211 shells being fired at the building over a period of 29 minutes before the mistake was realised.²³ Although the US military took responsibility for the bombing, there has been no investigation by the Afghan government.²⁴ Calls by MSF for the International Humanitarian Fact-Finding Commission (IHFCC), an independent body established by Additional Protocol I to the Geneva Conventions, to carry out an independent investigation were ignored as both the US and Afghanistan refused to give consent for the body to proceed.²⁵

¹⁸ ‘Why are Afghan militants targeting aid workers?’, Deutsche Welle, 18 September, 2017, <http://www.dw.com/en/why-are-afghan-militants-targeting-aid-workers/a-40558657>.

¹⁹ ‘UNMAS Afghanistan and DMAC Strongly Condemn Brutal Murder of an Afghan Deminer in Nangarhar’, Reliefweb, 12 September 2017, <https://reliefweb.int/report/afghanistan/unmas-afghanistan-and-dmac-strongly-condemn-brutal-murder-afghan-deminer>.

²⁰ ‘Three aid workers killed in Afghanistan: officials’, Reuters, 15 August 2017, <https://www.reuters.com/article/us-afghanistan-attack/three-aid-workers-killed-in-afghanistan-officials-idUSKCN1AV1DG>.

²¹ ‘Afghanistan Attack: Save the Children Suspends Programmes’, BBC, 24 January 2018, <https://www.bbc.com/news/world-asia-42808342>

²² ‘US strike on Afghan Kunduz clinic ‘killed 42’, MSF says’, BBC, 12 December, 2015, <https://www.bbc.com/news/world-asia-35082350>.

²³ ‘US strike on MSF hospital in Afghanistan was result of ‘human error’, says Pentagon’, The Independent, 25th November, 2015, <https://www.independent.co.uk/news/world/americas/us-strike-on-msf-hospital-in-afghanistan-was-result-of-human-error-says-pentagon-a6748401.html>

²⁴ Aid Worker Security Report, op. cit., p. 9.

²⁵ ‘The Independent Humanitarian Fact-Finding Commission: Has the ‘Sleeping Beauty’ Awoken?’, Humanitarian Law and Policy, International Committee of the Red Cross, 9th January, 2018, <http://blogs.icrc.org/law-and-policy/2018/01/09/the-independent-humanitarian-fact-finding-commission-has-the-sleeping-beauty-awoken/>

2.13 On 18th February 2016, Afghan troops allegedly supported by international forces, raided a hospital in the Taliban-controlled town of Tangi Saydan, Wardak province, abducting and killing three people they suspected of being insurgents, including two patients and a fifteen-year-old boy.²⁶ The government hospital was funded by the NGO the Swedish Committee for Afghanistan, who condemned the raid – which also resulted in the beating and arrest of hospital staff – as a violation of international humanitarian law.²⁷ The UN subsequently accused the Afghan and US Militaries of responsibility for the attack. Despite the commencement of a number of investigations, nobody has been held to account for the attack.²⁸

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Afghanistan’s previous UPR examination, the government received two recommendations on the protection of HRDs, journalists and civil society representatives. The government committed to ensuring that “any physical and moral harm against journalists or human rights defenders is subjected to an investigation and that those responsible are duly prosecuted”²⁹ and to allowing “journalists, human rights defenders among all others to exercise the right to freedom of expression.”³⁰ The Government of Afghanistan accepted both of the recommendations. However, as examined in this section, conditions for HRDs in Afghanistan remain perilous. While the government itself is not directly responsible for most of the attacks, the state has failed to ensure adequate protection for HRDs.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection to HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, despite these protections, the government displays flagrant disregard for the rights of HRDs.

3.3 Human rights defenders in Afghanistan face constant threats to their life and security.³¹ In one attack in October 2015, two staff members of the Afghanistan

²⁶ ‘Hospital Raid by Afghan Forces Is Said to Kill at Least 3’, New York Times, 18th February, 2016, <https://www.nytimes.com/2016/02/19/world/asia/hospital-raid-afghan-forces-nato-wardak-province.html>

²⁷ ‘International troops supported the raid on the clinic of Swedish Committee for Afghanistan’, Swedish Committee for Afghanistan, 24th February 2018, <https://swedishcommittee.org/blog/international-troops-supported-raid-clinic-swedish-committee-afghanistan>

²⁸ ‘UN Accuses Afghan, US-led Forces of Executing 3 in Hospital Raid’, VOA News, 23rd February, 2016, <https://www.voanews.com/a/un-urges-afghan-warring-sides-to-respect-hospitals/3203312.html>

²⁹ Recommendation from Belgium, Report of the Working Group, 4 April 2014, A/HRC/26/4 at para. 136.77: <https://daccess-ods.un.org/TMP/4859863.51966858.html>.

³⁰ Recommendation from Maldives, Report of the Working Group, 4 April 2014, A/HRC/26/4 at para. 136.80: <https://daccess-ods.un.org/TMP/4859863.51966858.html>.

³¹ Amnesty International Annual Report 2017/2018, <https://www.amnesty.org/en/countries/asia-and-the-pacific/afghanistan/report-afghanistan>.

Independent Human Rights Commission (AIHRC) were killed when the minibus they were travelling in was hit by an improvised explosive device in Jalalabad.³² Six other AIHRC staff members were injured in the attack.

- 3.4** WHRDs, in particular, continue to face threats and intimidation from both state and non-state actors. Most cases are not reported to the police because of a lack of trust in the security agencies, which consistently fail to investigate and address these threats.³³ Some who have reported threats have been given no support or protection. A recent UN report also highlighted how, consequently, women in Afghanistan still play a limited role in public life.³⁴
- 3.5** The pervasive nature of threats against WHRDs is largely due to the hostile atmosphere towards women in many parts of Afghanistan, most visibly demonstrated by attacks perpetrated by the Taliban and other armed groups against women who do not adhere to a strict religious code.
- 3.6** An April 2015 Amnesty International report documented the widespread problem of attacks and threats faced by WHRDs, including police officers, doctors, lawyers, politicians and journalists in Afghanistan. The report details numerous instances of terrorist attacks, violent attacks, kidnapping, rape, intimidation and death threats perpetrated against WHRDs. Threats and attacks come from both government actors and non-state actors. The report also highlights a worrying culture of impunity for the perpetrators of these attacks.³⁵
- 3.7** In one example of an attack on a WHRD that was motivated by her political work, politician and prominent women's rights advocate Angeza Shinwari was killed in February 2015 when a bomb attached to her car exploded.³⁶ She was seriously wounded and died five days later. Her killing is one of many examples of attacks on WHRDs perpetrated by extremist groups in Afghanistan that are designed to deter women from speaking out publicly about women's rights violations.

³² 'UN condemns attack on human rights workers in Afghanistan that killed two, injured six', UN News, 26 October 2015, <https://news.un.org/en/story/2015/10/513732-un-condemns-attack-human-rights-workers-afghanistan-killed-two-injured-six>.

³³ Frontline Defenders, Afghanistan Country Page, accessed 3rd July 2017, <https://www.frontlinedefenders.org/en/location/afghanistan>

³⁴ 'Human Rights Remain Elusive for Afghans: UN', Tolo News, 28th March, 2018, <https://www.tolonews.com/afghanistan/human-rights-remain-elusive-afghans-un>

³⁵ 'Afghanistan: Their lives on the line: Women human rights defenders under attack in Afghanistan', Amnesty International, 7 April 2015, <https://www.amnesty.org/en/documents/asa11/1279/2015/en>.

³⁶ 'Afghan officials' tributes to Afghan female politician', BBC, 16 February, 2015, <https://www.bbc.com/news/world-asia-31489949>.

4. Freedom of expression, independence of the media and access to information

- 4.1** Under the 2nd UPR cycle, the government received two recommendations relating to the freedom of expression and access to information. By accepting these recommendations, the government pledged to “ensure that no governmental entity endorses the restriction of freedom of expression in any way whatsoever”³⁷ and to “ensure that media regulations conform to Afghanistan’s international human rights obligations, and ensure prompt and effective investigations of threats, attacks and killings of journalists.”³⁸ However, as discussed below, the situation faced by journalists in Afghanistan remains fraught with danger.
- 4.2** Article 19 of the ICCPR guarantees the right to the freedom of expression and opinion. Article 3 of the Constitution of Afghanistan states that “freedom of expression shall be inviolable.”³⁹ However, in policy and practice, people in Afghanistan come nowhere near to being able to enjoy this freedom properly. Due to the pervasive impact of extremist ideologies and ongoing conflict in many parts of the country, those working in a media sector, which has expanded significantly in the last 15 years, still face some of the gravest risks for journalists anywhere in the world.
- 4.3** Afghanistan has a Mass Media Law (2009) and an Access to Information Law (2014) that provide a solid basis for Afghan citizens’ rights to be upheld to express and share views freely and access information. However, there are some unwarranted restrictions associated with these laws, particularly in terms of any content which is deemed contrary to the principles of Islam. Access to information is also sometimes impeded on national security grounds.
- 4.4** According to the Afghan Journalists Safety Committee (AJSC), 2017 was one of the most dangerous years for journalists and media workers in Afghanistan’s history.⁴⁰ The organisation recorded a total of 169 cases of violence and threats against journalists and media workers, with at least 20 cases of killings, compared to 13 killings in 2016.⁴¹ Female journalists were the target in at least 12 incidents. At least 51 per cent of cases of violence and threats were perpetrated by armed groups, with the so-called Islamic State (Da’esh) and the Taliban responsible for all the killings. Government workers were responsible for 34 per cent of violence and threats against journalists. A similar pattern continued in 2018.⁴²

³⁷ Recommendation from Belgium, Report of the Working Group, 4 April 2014, A/HRC/26/4 at para. 136.78: <https://daccess-ods.un.org/TMP/4859863.51966858.html>.

³⁸ Recommendation from Lithuania, Report of the Working Group, 4 April 2014, A/HRC/26/4 at para. 136.79: <https://daccess-ods.un.org/TMP/4859863.51966858.html>.

³⁹ English translation of the Constitution of Afghanistan, op. cit.

⁴⁰ Six Month Report Jul-Dec 2017, Afghan Journalists Safety Committee (AJSC), <http://ajsc.af/six-month-report-jul-dec-2017>.

⁴¹ Six Month Report Jul-Dec 2016, AJSC, <http://ajsc.af/wp-content/uploads/2017/01/eng-report.pdf>.

⁴² ‘Afghan journalists injured in two attacks, driver killed’, Reporters Without Borders, 23 January, 2018, <https://rsf.org/en/news/afghan-journalists-injured-two-attacks-driver-killed>.

- 4.5** A similar picture is outlined by separate monitoring by another CSO, Nai, which advocates for open media in Afghanistan. According to its report, 21 reporters were killed in the line of duty, including documenting armed conflict, in 2017 while 23 reporters were wounded and 21 others physically assaulted.⁴³ Nai has further documented that in 2017 the Government of Afghanistan and those working in it were responsible for 62 cases of violence against reporters, while terror groups were responsible for 42 cases of violence and armed groups were responsible for 26 cases.
- 4.6** One of the most horrific and violent attacks on journalism occurred on 30 April 2018, when nine journalists were among at least 25 people killed in twin bombings in Kabul.⁴⁴ Journalists covering a bomb blast during the morning rush hour were standing in a group near the site of the explosion when a suicide bomber struck with a second bomb, killing seven people outright and wounding several, two of whom later died.⁴⁵ The bomber appeared to have deliberately targeted journalists, presenting a press card to police before joining the group standing near the first blast site. Islamic State (Da'esh) issued an online statement that claimed responsibility for the attacks.⁴⁶ In a separate attack on the same day in Afghanistan's eastern province of Khost, which borders Pakistan, unidentified gunmen shot dead Ahmad Shah, a BBC Pashto journalist.⁴⁷
- 4.7** These attacks illustrate that the state is failing in its duty to uphold the right to the freedom of expression and to protect journalists while they are carrying out their work.
- 4.8** Of additional concern are growing concerns over attempts by the state to interfere with freedom of expression on the internet and over social media.⁴⁸ In one instance in September 2015, when the Facebook page of Afghanistan's most popular satirist, Kabul Taxi, was shut down. While the journalist operating the site did not have direct

⁴³ 'Report: 21 Journalists Killed in Afghanistan in 2017', Voice of America News, 3 January, 2018, <https://www.voanews.com/a/report-21-journalists-killed-in-afghanistan-2017/4191693.html>.

⁴⁴ 'Afghanistan: the 10 journalists who died in deadly day for media', The Guardian, 30 April, 2018: <https://www.theguardian.com/media/2018/apr/30/afghanistan-the-10-journalists-who-died-in-deadly-day-for-media>.

⁴⁵ 'UPDATE 1-Deadliest day for Afghan journalists; 10 killed in two attacks', Reuters, 30 April 2018: <https://uk.reuters.com/article/afghanistan-blast-media/update-1-deadliest-day-for-afghan-journalists-10-killed-in-two-attacks-idUKL3N1S74Z3>.

⁴⁶ 'Twin bombings in Afghanistan kill 25, including 9 reporters', Associated Press, 30 April 2018, <https://www.apnews.com/d80de03712f3400ab31b5d28ef3ec3ab/Double-Kabul-suicide-bombing-kills-25,-including-journalists>.

⁴⁷ 'BBC reporter Ahmad Shah killed in Afghanistan attack', BBC, 30 April 2018, <https://www.bbc.com/news/world-asia-43953322>.

⁴⁸ 'Amid criticism, Afghan officials attempt to shut down popular social media sites', Digital Trends, 5th November, 2017, <https://www.digitaltrends.com/social-media/afghanistan-blocks-social-media-whatsapp-telegram/>

proof of state involvement, there was evidence Afghanistan National Directorate of Security (NDS) had interrogated at least six journalists they suspected of operating the page. The operator of the site told the Washington Post that the site had been blocked shortly after it had mocked Hanif Atmar, President Ghani's national security adviser.⁴⁹

5. Freedom of peaceful assembly

- 5.1** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 36 of Afghanistan's Constitution provides that "the people of Afghanistan shall have the right to gather and hold unarmed demonstrations, in accordance with the law, for attaining legitimate and peaceful purposes."⁵⁰ However, in practice and policy the right to gather in public for the purposes of a protest or demonstration is impeded through a combination of regulatory and security restrictions.
- 5.2** Although the right to peaceful protest is guaranteed in law, it only applies to Afghan citizens.⁵¹ The Law on Gatherings, Strikes and Demonstrations requires notification only 24 hours in advance of a event and express permission from the authorities is not required.⁵²
- 5.3** On 15 January 2018, Afghan lawmakers dismissed a controversial law on public gatherings, strikes and demonstrations, arguing that it contravened the Constitution and democratic values.⁵³ When the draft law was leaked in July 2017, it caused a strong reaction from civil society, who believed it would seriously restrict the right to peaceful assembly, including by enhancing the authority of the police to prevent or halt demonstrations or strikes.⁵⁴
- 5.4** Although citizens can exercise their right to peaceful protests, in some cases, police use excessive force and arrests, or protests may be infiltrated by armed groups who turn protests violent.⁵⁵ In 2015, a suicide bombing killed at least 20 people during an anti-corruption protest in Khost province.⁵⁶

⁴⁹ 'Mysterious shutdown of Afghan satirist's Facebook page reignited free speech debate', The Washington Post, 3rd September, 2015, https://www.washingtonpost.com/news/worldviews/wp/2015/09/03/mysterious-shutdown-of-afghan-satirists-facebook-page-reignites-free-speech-debate/?noredirect=on&utm_term=.abfedc50f92e

⁵⁰ English translation of the Constitution of Afghanistan, op. cit.

⁵¹ ICNL, Civic Freedom Monitor, op. cit.

⁵² Ibid.

⁵³ 'MPs Scrap Ghani's Decree On Protests, Strikes', Tolo News, 15 January 2018, <https://www.tolonews.com/index.php/afghanistan/mps-scrap-ghani%E2%80%99s-decree-protests-strikes>.

⁵⁴ Amnesty International Annual Report 2017/2018, op. cit.

⁵⁵ 'Upholding the Right to Protest in Afghanistan', Institute for War and Peace Reporting, 13 April 2015, <http://www.refworld.org/docid/552e08a74.html>.

⁵⁶ 'Afghanistan Suicide Bombing Kills At Least 20 During Anti-Corruption Protest', International Business Times, 2 April 2015, <http://www.ibtimes.com/afghanistan-suicide-bombing-kills-least-20-during-anti-corruption-protest-1867522>.

- 5.5** The authorities have yet to make public the findings of an investigation⁵⁷ into a crackdown by security forces on a protest held on 2 June 2017 in central Kabul, which left seven people dead.⁵⁸ The protest to oppose deteriorating security conditions had been organised by civil society groups, political activists and relatives of victims of a devastating 31 May 2017 truck bomb attack. There were reports that a minority of protesters used violence, including throwing stones at the police.
- 5.6** On 23 June 2016, a suicide bombing during a protest in Kabul killed 80 people and injured more than 200.⁵⁹ The protest was staged by the Hazara community over a proposed new power line that bypasses the provinces where they live. The bombing was perpetrated by Islamic State (Da'esh). This was the worst bombing in Kabul since 2001, highlighting a worrying decline in respect for civic space, mainly due to the actions of proscribed terrorist organisations.

6. Recommendations to the Government of Afghanistan

The four partners call on the Government of Afghanistan to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

6.1 Regarding the freedom of association

- Devote the necessary resources to the protection of CSOs, particularly humanitarian CSOs working in areas of Afghanistan where there are active armed conflicts.
- Undertake thorough and independent investigations into all attacks against humanitarian aid workers, including into the 2015 attack by US forces on the MSF Hospital in Kunduz and the 2016 raid on the SCA-supported hospital in

⁵⁷ 'Afghanistan Events of 2017', Human Rights Watch, <https://www.hrw.org/world-report/2018/country-chapters/afghanistan>.

⁵⁸ 'Afghanistan: Security forces open fire on protesters voicing anger over Kabul blast', Amnesty International, 2 June 2017, <https://www.amnesty.org/en/latest/news/2017/06/afghanistan-security-forces-open-fire-on-protesters-voicing-anger-over-kabul-blast>.

⁵⁹ 'Afghanistan mourns protest blast victims', Al Jazeera, 23 July 2016, <https://www.aljazeera.com/news/2016/07/deadly-blast-kills-10-kabul-protest-160723105351090.html>.

Wardak province. This investigation should also investigate whether there was any collusion between Afghan security forces and US forces in the commission of this attack.

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the right to association.
- Reduce the bureaucratic burden placed on CSOs, particularly on small, local organisations, including by removing or reducing registration fees, relaxing the frequency of reporting required and the two-tier approval process required for initial registration of new projects.
- End unwarranted raids on civil society groups and unjustifiable disruptions to legitimate events and activities organised by CSOs.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, and in particular those of WHRDs.

6.2 Regarding the protection of human rights defenders

- Ensure that civil society members, journalists and HRDs are provided with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks on and harassment and intimidation against them and bring the perpetrators of such offences to justice.
- Recognise the specific situation of WHRDs in Afghanistan, including the heightened risk of sexual assault, threats and harassment that they face, implement measures that are specifically tailored to increase protection for them and bring the perpetrators of attacks against WHRDs to justice.
- Publicly condemn instances of harassment and intimidation of CSOs, civil society activists and HRDs.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists in accordance with Council resolution 27.31 of the Human Rights Council.

6.3 Regarding the freedom of expression, independence of the media and access to information

- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards.
- Ensure that journalists and writers may work freely and without fear of retribution from state and non-state actors for expressing critical opinions or covering topics that the government may find sensitive.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from violent attack, persecution, intimidation and harassment.
- Implement legislative measures regarding access to information and establish mechanisms to facilitate public access in line with best practices.
- Refrain from censoring the media and ensure that adequate protections are put in place which prevent state and non-state groups from exercising pressure over the media which results in censorship.
- Government officials, and especially those occupying the highest public offices, should refrain from insulting or carrying out smear campaigns targeted at journalists and human rights defenders.
- Refrain from censoring social and conventional media and ensure that the freedom of expression is safeguarded in all forms, including in the arts.

6.4 Regarding the freedom of peaceful assembly

Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.

- Ensure that proposals to tighten laws on the freedom of peaceful assembly, which were defeated earlier in 2018, are not brought back under a new name or a different process.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces, including while monitoring

protests and demonstrations. In particular, the government should make public the findings of an investigation into a crackdown by security forces on the protest held on 2 June 2017 in central Kabul that left seven people dead.

- Review and, if necessary, update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch formal investigations of such instances and bring the perpetrators to justice.
- Provide recourse for judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.
- Refrain from threats and interference connected with peaceful assemblies conducted by opposition political groups and ensure that the right to freedom of peaceful assembly is extended, without discrimination, to all groups in Afghanistan.

6.5 Regarding access to UN Special Procedures mandate holders

- Extend standing invitations for visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the rights to privacy and 7) Working Group on Arbitrary Detention.

6.6 Regarding state engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Ensure the meaningful participation of CSOs in the UPR process before finalising and submitting the national report.

- Systematically consult with civil society on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.
- Submit its long-overdue state report on the implementation of the ICCPR and ensure meaningful civil society consultation in the preparation of that report.

Annex 1. UPR of Afghanistan (2nd Cycle - 26th session) - Thematic list of recommendations pertaining to civic space

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<i>Right or area: Freedom of Expression (some recommendations also pertain to Freedom of Association, Freedom of Peaceful Assembly)</i>			
<p>Ensure that any physical and moral harm against journalists or human rights defenders is subjected to an investigation and that those responsible are duly prosecuted (Belgium)</p> <p>Source of position: A/HRC/26/4 Para 136.77</p>	Accepted	<p>Civil society</p> <p>Freedom of association and peaceful assembly</p> <p>Freedom of opinion and expression</p> <p>Human Rights Defenders</p>	<p>Status: Not implemented</p> <p>Source: See paragraphs 3.3 – 3.7, 4.4 – 4.7.</p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>Ensure that no governmental entity endorses the restriction of freedom of expression in any way whatsoever (Belgium)</p> <p>Source of position: A/HRC/26/4 Para 136.78</p>	Accepted	<p>Freedom of opinion and expression</p> <p>International instruments</p>	<p>Status: Partially implemented</p> <p>Source: see paragraphs 4.3 – 4.7.</p>
<p>Ensure that no government entities restrict the right to freedom of expression and that media regulations conform to Afghanistan’s international human rights obligations, and ensure prompt and effective investigations of threats, attacks and killings of journalists in order to prevent them and to bring those responsible to justice (Lithuania)</p> <p>Source of position: A/HRC/26/4 Para 136.79</p>	Accepted	<p>Freedom of association and peaceful assembly</p> <p>Freedom of opinion and expression</p>	<p>Status: Partially implemented</p> <p>Source: see paragraphs 4.3 – 4.7.</p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>Allow journalists, human rights defenders among all others to exercise the right to freedom of expression (Maldives)</p> <p>Source of position:</p> <p>A/HRC/26/4 Para 136.80</p>	Accepted	Freedom of the press	<p>Status: Partially implemented.</p> <p>Source: see paragraphs 3.3 – 3.7, 4.4 – 4.7.</p>