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AFGHANISTAN RESEARCH NETWORK

Afghanistan's Human Rights Ecosystem after the Taliban Takeover

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Afghanistan Research Network

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Contents

Key Takeaways

- The return of Taliban rule in Afghanistan has reversed the gains made in human rights over the previous two decades, triggering a human rights crisis that affects the whole range of fundamental rights and freedoms and every section of society.
- The ecosystem for protection and promotion of human rights in Afghanistan has collapsed and a different kind of ecosystem has emerged in its wake, focused primarily on protection and relocation of Afghan Human Rights Defenders (HRDs), which is yet to develop capacity to carry out core functions such as monitoring and documenting human rights abuses.
- Strengthening the ecosystem means expanding its scope and functions beyond protection of HRDs, which will require sustained investment of resources – financial, cultural, intellectual, political – by a diverse set of actors.
- Establishing a UN fact-finding and investigative mechanism for Afghanistan and strengthening the mandate of the Special Rapporteur is essential but not sufficient. Afghan civil society needs sufficient support and space to play its critical part in developing new ideas, approaches, and capabilities for monitoring and documenting human rights abuses in the current environment of Taliban-ruled Afghanistan.
- The number of Afghans with human rights experience and expertise who have been resettled in safe countries continues to grow, providing the most significant resource for strengthening Afghanistan's human rights ecosystem and broadening its focus and functions in the future.

Introduction

As the Taliban were seizing province after province in Afghanistan in late July 2021, several human rights activists and women leaders received emails inviting them to apply for a special policy to resettle Afghans who were integral to Canada's efforts in Afghanistan. A human rights advocate and woman leader from the Pashtun ethnic group – we will call her Mahnaz – received the invitation and registered her family for a biometric in the Canadian embassy in Kabul. Like many other Afghan women, however, she was hoping that nothing would happen anytime soon because she couldn't believe that the international community would allow the gains made over twenty years of efforts to be reversed overnight.

When the Taliban took Kabul, Mahnaz and her family went into hiding at a relative's house. A few days later she received a confirmation of her Canadian visa and the U.S. embassy approached her to go to Kabul airport. She spent three days at the East, North and South Gates but the crowds prevented her from getting into the airport and she took her family home. The next day someone from an international NGO contacted her with instructions to go to a meeting point where a bus was waiting to take them into the airport. After spending twenty hours on the bus, Mahnaz and her family were taken into the airport through the North Gate and boarded a chartered flight together with 120 other advocates and activists and their families.

On 28 August they arrived in Tirana, the first group of Afghan evacuees in Albania, and were provided with accommodation, food and basic necessities. Like others in the group, Mahnaz was relieved that her family was safe, but she was also mourning the loss of a nation and a dream for democratic Afghanistan. She contacted the Canadian embassy in Rome, managed to secure Canadian visas and after 45 days in Tirana, the family were resettled to Toronto. The first few weeks in Canada were very difficult as they started to rebuild their lives from scratch. Mahnaz was able to secure a three-month consultancy contract with an international organisation helping to resettle Afghan activists and advocates to safe countries and when her contract ended, she decided to continue doing this kind of work as a volunteer.

Back in Afghanistan, Mahnaz had been a children's rights activist, and worked for a human rights monitoring organization. She monitored the situation at schools, orphanages, children protection centres, juvenile rehabilitation centres, streets and bazaars to make sure the rights of children were respected in Kabul city and its suburb area. She also helped child victims of abuse to get access to justice through follow up of their cases in the courts. Mahnaz was involved in awareness raising programs on the rights of the child at the community level to encourage families to protect the rights and best interest of their children, particularly focusing on issues like child marriage, child labour, and children in armed conflict that have been critical in Afghanistan.

Now Mahnaz volunteers her time to advocate for admission of human rights defenders (HRDs) at high risk to countries that accept refugees, helps them with securing visa appointments, travel and accommodation in third countries, mostly Iran and Pakistan, and follows up on individual immigration cases of HRDs with a team of pro bono lawyers operating in more than a dozen countries. As a result of her efforts, more than 270 Afghans at high risk – staff of the Afghanistan Independent Human Rights Commission (AIHRC), human rights activists, and staff of local NGOs working on women's and children's rights, who have faced threats by the Taliban and have gone into hiding – have been resettled to Canada, Belgium, France, Germany and the United States.

The story of Mahnaz is also the story of Afghanistan's human rights ecosystem before and after the Taliban takeover. The paper argues that the ecosystem for human rights promotion and protection that had developed in Afghanistan over the previous twenty years effectively collapsed in the summer of 2021. A different kind of ecosystem has emerged in its wake, mainly focused on resettlement and protection of Afghan HRDs, which is yet to develop capacity to carry out core functions such as monitoring and documenting human rights abuses in the new environment of Taliban-ruled Afghanistan. The argument is elaborated by tracking the shifts in ecosystem actors and focus, and ideas and practices, which are discussed in the next two sections. The final section draws on lessons from other contexts – Syria and the Balkans – to consider what might be done to expand and strengthen Afghanistan's human rights ecosystem.

The paper draws on the concept of 'civic ecosystems' as an analytical lens. Civic ecosystems are complex systems comprised of diverse and interdependent social actors held together by a set of shared civic values. They are self-organizing, informal patterns of social relations that emerge largely organically to tackle specific social problems. The core dimensions of civic ecosystems are diversity, interdependence, and civicness. They draw attention to the ways in which different kinds of actors, approaches, and theories of change within the ecosystem can complement and reinforce each other. The concept is useful in analyzing Afghanistan's human rights ecosystem because civic ecosystems are not sectorally and geographically bounded, making visible a range of human rights actors and approaches across multiple sectors and geographies. Data and evidence for this paper were gathered with a combination of desk research, exploratory conversations and communications with Afghan and international human rights actors, and participatory observation at online and offline consultations and discussions on human rights in Afghanistan. The data collected in conversations and consultations has been anonymized.

Actors and Focus

The return of Taliban rule in Afghanistan has reversed the human rights gains made over the previous two decades and triggered a crisis of the whole spectrum of fundamental rights and freedoms – civil and political as well as social, economic and cultural – that affects every section of society. The restrictions of women's and girl's rights and the closing of civic space – rights and freedoms of expression, association, and assembly – are particularly severe. A decline in conflict-related violence has reduced significantly the number of civilian casualties,[1] however the current pattern of gross human rights violations includes extrajudicial killings, arbitrary arrests and detentions, torture and inhuman or degrading treatment or punishment, and enforced disappearances.[2] The human rights crisis is compounded by what the UN calls the world's largest and most severe humanitarian crisis, with two-thirds of the population needing humanitarian and protection assistance and 20 million people facing acute hunger by March 2023.[3] The situation seems to continue to deteriorate, raising concerns that the Taliban have "normalized" the systematic violations of the rights of women and girls, some of which may amount to crimes against humanity.[4]

The human rights crisis is exacerbated by the collapse of Afghanistan's human rights ecosystem, which had emerged and evolved over the previous twenty years, and the deterioration of the broader environment since the return of the Taliban and withdrawal of international forces. The core components of the ecosystem have been either completely dismantled or severely disrupted. This includes collapse of the formal justice system and institutions such as the AIHRC and the Ministry of Women's Affairs (MOWA), dissolution or restriction of civil society organizations and media, and evacuation of thousands of activists, journalists, civil servants, and the staff of international organizations. According to the UN Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett,

> *Since the Taliban takeover, all checks and balances on the system of governance have been dismantled or silenced, including those integral to the monitoring and reporting on human rights. With the disbanding of the AIHRC, there is no longer an independent body systematically monitoring and documenting human rights issues, nor any centralized authority to raise human rights matters with the authorities. NGOs working on human rights have been impacted structurally by the Taliban's decrees and restrictions on women working, and financially due to the economic and banking crisis. Those that have been able to continue human rights monitoring and documentation despite these challenges, are limited in the scope and nature of the work they do due to the general climate of fear, restrictions on women and restrictions on freedom of expression and media activities.*[5]

The dissolution or disruption of the actors in the ecosystem – state and non-state, local and international – after the Taliban takeover has been accompanied by another human rights concern: the need to evacuate thousands of Afghans at high risk, many of whom played a key role in the ecosystem. As Mahnaz's story illustrates, by July 2021 a new kind of human rights ecosystem was starting to emerge as the old one was beginning to break down. Its origins are in the evacuation of more than 100,000 people from Kabul airport alone, and many more via other airports and land routes. United States and NATO forces and a number of countries played an important role in the evacuations but the overall effort was carried out by ordinary people and informal networks who wanted to help particular individuals and families: "A civic ecosystem emerged from the efforts of women and men in different parts of the world trying to get Afghan women to safety … academics and athletes helping to evacuate Afghan researchers at-risk and girls' sports teams, US veterans scrambling to secure safe exit for interpreters and colleagues in the Afghan armed forces, to name just a few."[6]

Over time, the new human rights ecosystem has evolved to focus mainly on resettlement and protection of HRDs and other advocates. The diversity of actors who carried out the evacuation effort in the summer of 2021 is no longer a feature of the ecosystem, although some of the people who were involved in the evacuations may be a potential constituency for future engagement around human rights issues in Afghanistan. The ecosystem has been internationalized with several new initiatives driven by international NGOs, such as the Afghanistan Human Rights Coordination Mechanism, which supports Afghan HRDs, civil society leaders, and women's rights and democracy advocates in and out of the country. It has also been transnationalized as the few Afghan organizations that have survived are now working from exile.

Very few Afghan-led human rights organizations and initiatives have emerged in the past year and a half in the diaspora, despite the fact that the number of Afghans with human rights experience and expertise who have been resettled in safe countries has continued to grow. Most of them are currently unemployed, doing work unrelated to human rights often of a menial nature, or engaging in human rights and humanitarian activities as volunteers. They represent the most significant resource for strengthening Afghanistan's human rights ecosystem and broadening its focus and functions in the future. We return to this point in the final section of the paper.

Ideas and Practices

The abrupt shift in actors and focus of Afghanistan's human rights ecosystem in the past year and a half has been accompanied by a similar shift in ideas and practices. The Taliban takeover marked a rapture that challenged established ways of thinking about and 'doing' human rights in Afghanistan, completely transforming the environment for carrying out any kind of human rights work.

However, our research uncovered one important continuity, which has to do with the emphasis on accountability for human rights violations – both past and ongoing. The demand for accountability was a constant feature of the human rights ecosystem that emerged after the US-led intervention and the fall of the Taliban in the early 2000s and often provided a focal point for Afghan civil society.[7] The failure to meet this demand over a period of twenty years reflects the primacy of the war on terror over other international objectives in Afghanistan. In fact, impunity for human rights abuses became a mechanism for reproduction of the 'forever war' by enabling the pursuit of its goals and methods, for example by helping to repurpose and redeploy some of the state-building effort in the war effort.[8]

Our research brought out the extent to which accountability is, once again, a central demand of Afghan HRDs and civil society. Analysis of primary data and participatory observation at human rights consultations in the past year and a half highlights different approaches to accountability. Some Afghan groups and INGOs are very focused on criminal prosecutions. They are the ones most likely to collaborate with the Afghanistan investigation of the International Criminal Court (ICC) or to explore openings for prosecution at national courts based on universal jurisdiction. However, the majority of actors in the ecosystem appear to advocate for a truth-seeking process at the UN. That seems to be interpreted as establishing a UN fact-finding mission, commission of inquiry, investigative mechanism, or some combination thereof, as well as strengthening the mandate of the Special Rapporteur on Afghanistan. A UN mechanism is also seen as a potential catalyst for criminal prosecutions in the future.

Other actors, however, are more skeptical about what the UN and the international community may be willing or able to do for human rights in Afghanistan. They advocate an Afghan-led truth-telling process that is more reparative and restorative in character, with an eye on the future, among Afghans outside and inside the country. Indeed, there seems to be a demand for storytelling and self-reflection as a basis for knowledge production and social mobilization, for building a different kind of Afghan human rights culture and movement. We have also detected divergent approaches to engagement with the Taliban regime. Some actors in the ecosystem argue for adapting to the new realities in the country and if necessary, engaging with the de facto authorities, while others advocate for international pressure and coercive measures.

From an ecosystem perspective, there is inherent value in this diversity of ideas and positions on particular issues. The human rights crisis in Afghanistan is so deep, complex and multifaceted, it has to be tackled with a range of different approaches and theories of change. In civic ecosystems, what appear to be competing or conflicting ideas and practices are often complementary at the ecosystem level.[9] The challenge is that few of the ideas that can be detected in Afghanistan's human rights ecosystem are being pursued in practice.

The shift in practices has been driven by the need to prioritize the safety and security of HRDs as well as the reality of closing space for other types of human rights work since the Taliban takeover. The capacity for carrying out core ecosystem functions such as monitoring, documenting, and reporting on human rights issues has been lost with the dismantling of the main components of the ecosystem and the severe restrictions rolled out by the new regime in Kabul. Only the United Nations Assistance Mission to Afghanistan (UNAMA) appears to be able to access reliable information and data across most of the country. This has created expectations among Afghan civil society groups that UNAMA would provide a focal point and catalyst for other actors and activities in the ecosystem. However, many civil society actors we spoke with are concerned that the opposite might be happening. They complain that UNAMA is not cooperating with them and worry that it is trying to politicize human rights issues. Most Afghan NGOs in the diaspora and INGOs currently rely on short-term contractors, focal points or volunteers inside the country for information and data collection.

According to the Special Rapporteur,

> *Almost all human rights monitors inside Afghanistan are working covertly, sometimes in partnership with others living in the diaspora. Access to places of detention where people are extremely vulnerable is severely limited. Only international organizations such as the ICRC and UNAMA have any chance of detention monitoring which was formerly a substantial part of the AIHRC's work.*[10]

There is also evidence that in the prevailing climate of repression and fear, victims and witnesses of human rights abuses are becoming more reluctant to speak up and provide information and evidence due to safety and security concerns. In this environment, social media have become a major source for various actors in the ecosystem carrying out human rights monitoring and reporting. But as the Special Rapporteur points out, the nature and volume of the information available on social media create a host of other challenges: "Propaganda and disinformation is rife and verification is time consuming."[11]

The active components of the ecosystem focused on HRDs are not able to fill the gaps in monitoring, documenting and reporting, even though they are aware of many cases of human rights violations. A representative of a leading INGO operating in the protection space told us that they used to monitor and document human rights abuses against HRDs but in the past year and a half, their work has been limited to evacuation and relocation activities. They receive around 600 complaints about human rights abuses every month but have not been able to document any of them because of difficulties accessing reliable information, security threats, and the high demand for protection.

In other words, the growing repression and restrictions imposed by the Taliban are limiting the ability of individual actors in the ecosystem to adapt their practices and preventing the ecosystem as a whole from performing core functions.

Strengthening and Expanding the Ecosystem

Strengthening civic ecosystems is about strengthening their core dimensions. It involves sustained, targeted efforts to enhance diversity, leverage interdependence, and reinforce civicness in the ecosystem. The aim is to create the conditions for unlocking the full potential of existing forms of complementarity between the range of different actors, approaches, and theories of change within the ecosystem, and to enable new forms of complementarity to emerge and take root.[12]

Strengthening Afghanistan's human rights ecosystem has to start from expanding its scope and functions beyond the current focus on protection of HRDs. This means filling critical gaps in the ecosystem by building new components and capacities for carrying out robust human rights monitoring, documenting, and reporting, in the challenging new environment of Taliban-ruled Afghanistan.

Expanding the scope and functions of the ecosystem requires social innovation and sustained investment, but it also requires a shift in thinking and adopting a different approach. In the past year and a half, the emphasis of international efforts to address the human rights crisis in Afghanistan has been on consultation and coordination of Afghan and international actors. Adopting an ecosystem approach requires shifting the emphasis to complementarity. In other words, expanding the scope and functions of the ecosystem in order to foster complementarities between an expanded range of actors, approaches, and theories of change.

There are lessons from other contexts that can be helpful in thinking about what that might mean in Afghanistan, and what it may look like in practice. In the Balkans and Syria, human rights ecosystems have been effective when complementarity has been fostered at two levels. Firstly, complementarity between monitoring the human rights situation and documenting human rights violations. And secondly, complementarity between the approaches, roles and efforts of civil society and international actors. In both regions, fostering complementarity has also been critical for opening up pathways to accountability. In the Balkans, accountability processes have generated, in turn, extensive archives and records that are currently repurposed and redeployed in other human rights struggles.

During the wars in Bosnia, Croatia and Kosovo in the 1990s, monitoring and documenting human rights violations emerged early on as priorities both for civil society and for international actors. Civil society groups in the former Yugoslavia focused on documentation because they had seen how the politicization of atrocities from the Second World War – in particular, the manipulation of facts and figures – in the late 1980s and early 1990s triggered a 'verbal civil war' that paved the way for the actual war.[13] International actors carried out systematic monitoring and collected information and evidence with instruments such as the UN Commission of Experts Established Pursuant to Security Council Resolution 780 (1992) to Investigate Violations of International Humanitarian Law in the Former Yugoslavia (1993–1994) and the commission's Special Rapporteur on Gathering and Analysis of the Facts (1992–1993), chaired by Cherif Bassiouni. The documentation and evidence assembled by civil society and international actors played an important role in the creation of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 1993, and subsequently supported prosecutions at the ICTY and national courts. The archives and records of the ICTY and the civil society documentation are now used by human rights activists in the region for a range of other purposes, such as pushing back on historical revisionism and creating memory for the future.[14]

Something similar happened in the Syrian war, which is considered the most documented conflict in history. Human rights monitoring and gathering information and evidence became focal points for Syrian civil society inside the country and in the diaspora from the start of the conflict. A number of international actors have also been involved in monitoring and documenting human rights violations in Syria, including the UN Commission of Inquiry on the Syrian Arab Republic (COI), the Organization for the Prohibition of Chemical Weapons (OWPC), and the Commission for International Justice and Accountability (CIJA). In 2016, after several attempts to create a Special Tribunal for Syria and refer Syria to the ICC had failed, the UN General Assembly established the International, Impartial and Independent Mechanism (IIIM) to assist with the investigation and prosecution of international crimes committed in Syria. The IIIM has become a de facto repository for information and evidence collected by international actors and Syrian civil society, and a catalyst for universal jurisdiction prosecutions.[15] In fact, Syria is considered a model of what one analyst calls the 'hardwiring' of accountability for mass atrocities, which emerges from the interactions of civil society groups, UN fact-finding and investigative mechanisms, and specialized national units that exercise universal jurisdiction over atrocity crimes.[16]

One takeaway from the Syrian and Balkan examples is that expanding and strengthening Afghanistan's human rights ecosystem will require sustained investment of financial as well as cultural, intellectual, political and other resources by a diverse set of actors in order to build up the components of the ecosystem for human rights monitoring, documenting and reporting. The first step is raising awareness that evidence and information gathering, verification, and fact finding are essential elements of any effort to monitor and document human rights violations. It is crucial for the actors in the ecosystem to understand the purpose of collecting data and the importance of verifying and archiving it properly, and to appreciate the role of accurate and accessible data in advocating for justice and accountability.

Another takeaway is that establishing a UN fact-finding and investigative mechanism for Afghanistan and strengthening the mandate of the Special Rapporteur, which many Afghan HRDs demand, is in fact critical. But it is not enough. Afghan civil society has to play its part and innovate by developing new ideas, approaches, and capabilities for monitoring and documenting human rights abuses in the current environment. That will require funding and technical assistance but the key resource is readily available – the growing number of Afghans in the diaspora with extensive human rights knowledge and expertise, deep contextual understanding, and active networks inside the country.

In practical terms, that would mean Afghans taking the lead to discuss and identify the different types of actors who can help expand and strengthen the ecosystem – activists, journalists, lawyers, civil servants, judges, victims etc. – and to consider their ecosystem roles and contributions. The goal of this kind of engagement is to make the civil society component of the ecosystem visible – who is already involved and who should be involved, who is doing what and how – and identify the gaps and openings, and to start thinking about the pathways to complementarity within civil society itself.

A final takeaway is that international actors who are concerned about the deepening human rights crisis in Afghanistan need to move beyond consultation and coordination activities to consider their own distinctive roles and contributions for expanding and strengthening the human rights ecosystem and fostering complementarity. [1]

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[1] For the definition and dimensions of civic ecosystems, see Civic Ecosystems Initiative <https://civicecosystems.org/#civic-ecosystems> (All URLs last accessed 20 March 2023). The concept of civic ecosystems and its practical implications are elaborated in Iavor Rangelov and Marika Theros, 'Civic Ecosystems and Social Innovation' (2023), Global Policy (forthcoming).

[2] Between 15 August 2021 and 15 June 2022, UNAMA documented 2,106 civilian casualties (700 killed, 1,406 wounded), which predominantly occurred as a result of improvised explosive devices, attacks attributed to ISIL-KP and unexploded ordnance, whereas between 1 January and 14 August 2021, it recoded 7,400 civilian casualties (2,091 killed, 5,309 wounded). In that period UNAMA recorded 160 extrajudicial killings, although the number of unreported cases is considered significant. See UNAMA Report on Human Rights in Afghanistan 15 August 2021-15 June 2022 (20 July 2022) <https://unama.unmissions.org/un-releases-report-human-rights-afghanistan-taliban-takeover>

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[6] Email Communication from Richard Bennett, UN Special Rapporteur on Afghanistan, to Razia Sayad (10 February 2023).

[7] Rangelov and Theros (n 1), 2.

[8] See e.g., AIHRC, A Call for Justice: A National Consultation on Past Human Rights Violations in Afghanistan (2005) and Afghanistan Justice Project, Casting Shadows: War Crimes and Crimes against Humanity 1978-2001 (2005). A 1,000-page Conflict Mapping Report of the AIHRC, which remains unpublished, documents the violations of International Humanitarian Law in Afghanistan between 1978 and 2001.

[9] Iavor Rangelov and Marika Theros, 'Political Functions of Impunity in the War on Terror: Evidence from Afghanistan' (2019) 18 *Journal of Human Rights* 403.

[10] Rangelov and Theros (n 1).

[11] UN Special Rapporteur on Afghanistan (n 6).

[12] Ibid.

[13] Rangelov and Theros (n 1).

[14] Robert Hayden, 'Recounting the Dead: The Rediscovery and Redefinition of Wartime Massacres in Late- and Post-Communist Yugoslavia' in Rubie Watson (ed), *Memory, History, and Opposition under State Socialism* (School of American Research Press 1994).

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