

# AFGHANISTAN

## Protect Afghan civilians and refugees

*"My greatest wish is to be happy, to learn to read and write, to have warm shoes and eat as much as I want to. I want to return home."* Ahmad Hussein, 12 year old internally displaced Afghan child.<sup>1</sup>

In light of the military strikes launched by the United States of America (USA) and the United Kingdom (UK) against targets in Afghanistan, their forces and their Taleban opponents must ensure full respect for human rights and the rules and principles governing international armed conflicts.

During the 22 years of war in Afghanistan, all parties to the conflict have unlawfully killed civilians. Amnesty International has repeatedly called on all armed groups to respect international humanitarian law. Again, the organization reiterates its call for all forces engaging in armed conflict in Afghanistan to abide by these rules, which are designed to protect—to the maximum extent possible—civilian lives and objects.

All states neighbouring Afghanistan should immediately open their borders and provide protection and humanitarian assistance to Afghan refugees with the support of the international community.

The commitments expressed by several countries to provide protection and assistance to Afghans who are displaced or otherwise in need of urgent help are welcome. However, Amnesty International calls on the international community at large to intensify efforts to respond to the humanitarian emergency inside Afghanistan and in the neighbouring countries, which together already host the largest refugee population in the world.

### A. Protection of Civilians

#### **International humanitarian law:**

There are clear rules on the conduct of hostilities that are designed to protect civilian lives to the maximum extent possible. The Geneva Conventions of 1949 and Protocol I Additional to the Geneva Conventions of 1949, relating to the Protection of Victims of International Armed Conflict (Protocol I) prohibit any direct attacks on civilians or civilian objects. Protocol I also includes prohibitions on certain types of attacks which, while aimed at a military target, have an indiscriminate or disproportionate impact on civilians. The principal provisions on the protection of civilians codified in Protocol I reflect customary international law regarding international armed conflict and are thus binding on all states.

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<sup>1</sup> As quoted by Akbar Borissov, "Russia sends aid to starving refugees on Afghan-Tajik border", Agence France Presse, 10 February 2001.

©AP/Tim Johnston

Civilians dig for bodies in the wreckage of a house hit by bomb Sunday, November 26, 1995 in Kalai Fatullah area of central Kabul, Afghanistan. Rebel jets bombed the Afghan capital killing 39 people and wounding 140 others.

### **The situation in Afghanistan:**

During the past 22 years of war, civilians have been unlawfully killed in both deliberate and indiscriminate attacks. Amnesty International has received reports of mass killing of civilians, often from particular ethnic groups, following the capture by an armed group of a particular city, town, village, or locality.

Warring factions have also shown a disregard for civilian life in the methods they employ. Civilians have been killed when homes, schools, and other civilian buildings have been bombed and shelled by the warring parties. For example, between 1992 and 1995, more than 25,000 civilians in Kabul were killed. Many died in apparent deliberate or indiscriminate attacks. In Afghanistan between March 1998 and December 2000, the International Committee of the Red Cross recorded 2,812 mine and unexploded ordnance casualties, of whom half were children.

These abuses have been perpetrated by armed groups with impunity. Amnesty International has not received any information about instances in which soldiers or commanders have been held accountable for such acts. The international community has similarly failed to halt the abuses and take any effective steps to bring the perpetrators of these abuses in Afghanistan to justice.

Within the context of the US and UK military strikes against Afghanistan, participating states and armed groups must remember that the lives and safety of civilians must be the paramount consideration in any military action. The air campaign conducted against the Federal Republic of Yugoslavia by the North Atlantic Treaty Organization (NATO) demonstrates that such campaigns can result in unlawful killings of civilians. In its investigation of the conduct of Operation Allied Force, Amnesty International found instances in which NATO forces violated the laws of war leading to cases of unlawful killing of civilians. NATO did not always meet its legal obligations in selecting targets and in choosing means and methods of attack. If NATO forces had fully adhered to the laws of war during Operation Allied Force, civilian deaths could have been significantly reduced.

Groups at particular risk, such as women and ethnic minorities, must not be subject to further abuses. Captured combatants must be treated as prisoners of war in accordance with the Third Geneva Convention.

## **B. Protection of Afghan Refugees and Internally Displaced Persons**

### **International standards concerning refugees:**

States have obligations under the principle of *non refoulement*, which prohibits states from returning anyone against their will to another country where they risk serious human rights abuses. This principle is a fundamental norm of customary international law which places obligations on all states, irrespective of their specific treaty obligations, and is also set out in Article 33 of the 1951 Convention relating to the Status of Refugees, to which Iran, Tajikistan, and Turkmenistan are states parties. The UNHCR intergovernmental Executive Committee (Excom) has stressed that in situations of large-scale influx, asylum seekers should be admitted to the state in which they first seek refuge, and that in all cases the fundamental principle of *non-refoulement*, including non-rejection at the frontier, must be scrupulously observed. The Excom has also stated that the principle of international solidarity is fundamental to the effective implementation of international protection of refugees, which is an obligation for all members of the international community.

All neighbouring countries should comply with their obligations under the principle of *non refoulement* and keep their borders open to refugees fleeing Afghanistan. However, particularly as these states have difficulties providing basic necessities for their own populations, they should not, simply because of their geographic location, have to bear a disproportionate share of the responsibility for providing protection and assistance to the refugees. The international community has a responsibility to provide emergency, financial and technical assistance to the neighbouring countries to assist them in fulfilling their obligation to provide protection to the refugees.

### **International standards concerning internally displaced persons:**

The UN Guiding Principles on Internal Displacement 1998<sup>2</sup> set out the main rights of the internally displaced -- that is, those who have been forced to flee their homes in order to avoid the effects of armed conflict, generalized violence, violations of human rights or other human-made disasters, but who have not crossed an international border. The Guiding Principles state that they should be observed by all authorities, groups and persons, irrespective of their legal status.

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An Afghan girl carries a large bag at a refugee settlement in Peshawar, Pakistan, 4 October 2001. Pakistan is home to over two million Afghan refugees.

One of the key human rights of internally displaced people is the right to freedom of movement. This includes the right to flee from areas where their lives, security or freedom are threatened

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<sup>2</sup> Guiding Principles on Internal Displacement: Report by Mr Francis M. Deng, Representative of the Secretary-General to the Commission on Human Rights (UN Doc. E/CN.4/1998/53/Add.2; February 1998)

(including, if necessary, the right to seek asylum in other countries) and the right not to be forcibly returned to such areas; the right not to be arbitrarily displaced from their homes (unless military reasons demand it for the security of civilians); and the right to return to their homes should they wish to do so.

Other key rights include the right to life, to dignity and physical, mental and moral integrity, to liberty and security of person, and protection against forced recruitment into any armed forces or groups as a result of their displacement.

The UN Guiding Principles call on all authorities concerned to grant and facilitate the free passage of humanitarian assistance, which shall be carried out in accordance with the principles of humanity and impartiality and without discrimination

Amnesty International calls on all authorities and international actors to respect and ensure respect for these rights of the displaced population in Afghanistan, and provide them with all necessary humanitarian assistance.

**International support for Afghan refugees:**

During the 22 years of civil war in Afghanistan, millions of Afghan men, women, and children have been displaced within Afghanistan and outside the country as refugees because they have fled gross human rights abuses and fighting between armed factions which have systematically disregarded international humanitarian law. Between the years 1979 and 1992, more than a fifth of Afghanistan's population - over six million people - were driven from the country in search of safety. Most of these refugees fled to neighbouring Pakistan and Iran; according to UN figures these numbers reached a peak in 1990 with 3,272,000 Afghan refugees in Pakistan and 2,940,000 in Iran. As of 10 September 2001, the United Nations High Commissioner for Refugees (UNHCR) estimated that 1.5 million Afghan refugees were living in Iran and 2 million Afghan refugees were living in Pakistan. Between the summer of 2000 and 10 September 2001, 956,000 people reportedly had been displaced within Afghanistan.

During the Soviet occupation of Afghanistan, between 1979 and 1989, members of the international community funnelled vast quantities of arms and ammunition to the different groups fighting for control of Afghanistan. After the Soviet withdrawal, international interest in the plight of Afghan refugees waned even as outside political and military support of various factions continued. Over the last few years, the United Nations Consolidated Appeal for Afghanistan, the UN inter-agency mechanism for coordinated fundraising supporting Afghan relief projects, has received far less funding from donor governments than it has required to maintain the necessary priority assistance programmes.

In the face of a fresh exodus of approximately 80,000 refugees during the last few months of 2000, the borders of Pakistan and Tajikistan were effectively closed to fleeing Afghans. Tajikistan's closure of its border with Afghanistan created concerns for the safety of around

10,000 refugees fleeing fighting in Afghanistan who have been stranded on promontories on the border since November 2000 and are reported to lack adequate shelter, food, drinking water and access to aid workers. During this period, Iran also took measures to restrict the influx of new refugees.

When officials from these countries have discussed the decision to close their borders they have directly cited the failure of the international community to provide adequate assistance as a primary reason for their actions.

Amnesty International has expressed concern both about the failure of neighbouring states to provide protection to Afghan refugees and about the failure of the international community to provide adequate support to countries hosting this population.<sup>3</sup>

### **Displacement of Afghans since 11 September 2001:**

Initially, the threat of a US-led military strike on Afghanistan and increased Taleban repression caused hundreds of thousands of people to flee their homes, particularly in major cities. A quarter of the population of Kabul and half the population of the southern Afghan province of Kandahar, the headquarters of the Taleban, were said to have evacuated. Prior to the threat, large numbers of people were not fleeing these cities. The already large number of internally displaced persons was estimated to have grown to a total of 1.1 million, which the UNHCR predicted could rise to 2.2 million internally displaced persons by March 2002. While reports indicated that many of those who had left cities have been returning, the huge number of Afghans who were displaced prior to the events of 11 September remain displaced and in great need of assistance.

Reports have indicated that the Taleban have been preventing some refugees from leaving Afghanistan or from moving towards the borders. In one incident, the Taleban reportedly stopped 30 to 40 Afghan families from Herat on their way towards Iran and prevented the men in the families from continuing, saying that they had to join the Taleban forces and fight. It was reported that the women and children in these families turned back as well because they did not want to be separated from their male family members.

Following the most recent displacement of Afghans, Pakistan authorities have strengthened their efforts to prevent new Afghan refugees from entering Pakistan, citing security concerns and their inability to support additional refugees. On 18 September, Pakistan closed its border with

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<sup>3</sup> See Amnesty International, *Urgent Action: Forcible return of refugees*, 14 November 2000 (AI Index: ASA 33/16/00); Amnesty International, *Urgent Action: Forcible return of refugees*, 21 December 2000 (AI Index: ASA 33/18/00); Amnesty International, *Urgent Action: Forcible return of refugees*, 3 April 2001 (AI Index: ASA 33/007/2001); and Amnesty International, *Afghanistan: Mass movement of population risks human catastrophe*, 21 September 2001 (AI Index: ASA 11/010/2001).

Afghanistan, amid reports that the border closure may have in part been due to a US request; the authorities are reportedly allowing only vehicles with Afghan transit goods and Pakistani nationals to enter. It was reported that a group of over 20,000 displaced Afghans who had been waiting at the border with Pakistan near the city of Quetta, despite reported attempts by the Taliban to stop people from leaving Afghanistan, have either found alternative routes into Pakistan or have moved and dispersed into other areas of Afghanistan.

©Reuters/Zahid Hussein

Afghans stand near a razor wire fence recently erected by the Pakistani authorities to stop those with invalid documents at the Pak-Afghan border of Chaman, 130 km (81 miles) northeast of the Balochistan provincial capital of Quetta, September 20, 2001.

Despite prior indications that borders would be opened to fleeing refugees in the event of US-led strikes against Afghanistan, President Pervez Musharraf announced on 8 October that the border with Afghanistan would not be opened and that only the sick or infirm would be allowed to enter Pakistan. However, UNHCR is preparing for 1 million additional Afghan refugees in Pakistan.

UNHCR has reported that those crossing into Pakistan are mostly women and children and that refugees have said that men are either staying in Afghanistan or returning immediately after accompanying their families to look after livestock, crops, and property.

Tajikistan continues to keep its borders with Afghanistan closed. The UNHCR is preparing for an influx of approximately 50,000 Afghan refugees into Tajikistan, another 50,000 into Turkmenistan, and up to 10,000 in Uzbekistan. Uzbekistan and Turkmenistan have also effectively sealed their borders with Afghanistan.

On 15 September, Iran closed its borders to new Afghan refugees. On 26 September, the state-owned newspaper *Iran* reported that 248 Afghans who had fled from Afghanistan because of fears of a US-led attack on the country had been arrested and returned to Afghanistan. UNHCR is preparing for an influx of up to 400,000 new Afghan refugees in Iran.

### **Humanitarian situation:**

The large displacement of Afghans between late 2000 and mid 2001 was accompanied by a lack of resources of humanitarian organizations and outbreaks of disease that killed many, particularly children and the elderly. For example, during the last week of January 2001, it was reported that 480 internally displaced Afghans in a camp outside Herat, including 220 children, froze to death due to a lack of shelter and blankets. In May 2001, the UN reported that 25 children had died in an Afghan refugee camp in Pakistan due to heat stroke.

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A severely malnourished Afghan child, Gul Baz, 2, is comforted by his father in a hospital in Peshawar September 27, 2001. Baz weighs only 5.3 kilograms, the weight of a normal five-month-old baby. Baz's family is among the thousands of refugees that have crossed into Pakistan in the past few weeks.

Threat of a military attack and restrictions imposed by the Taleban on humanitarian activity, including detention of aid workers, has forced UN and other aid agencies in Afghanistan to withdraw their international staff. The pullout has come at a time when Afghanistan is facing a deepening humanitarian crisis. The ongoing civil war and continuing drought had reportedly left between 5.5 and 6 million people in desperate need of aid, and the deteriorating situation and severe disruption in food distribution is likely to further increase this vulnerable population to 7.5 million, of which 70 percent are reportedly women and children. With such a large number of people suddenly deprived of humanitarian assistance from the aid agencies, UN agencies have warned that starvation may occur in parts of Afghanistan.

In spite of security and logistical difficulties, limited deliveries of aid into Afghanistan were resumed between 29 September and 8 October, when the World Food Program (WFP) once again suspended its food convoys into Afghanistan. During this period, the WFP reported that it was able to deliver an average of 500 tonnes of aid per day. In addition, Oxfam and UNICEF were able to deliver food and non-food aid, including blankets and basic health kits.

The amount of aid reaching the country is far less than the 52,000 tonnes per month that the WFP estimates it will take to feed the 6 million Afghans at highest risk, and falls short of pre-crisis deliveries, which amounted to 5,000 tonnes per week. Aid agencies were particularly concerned about the situation in the hardest hit northern provinces of Balkh and Faryab where it was estimated that 400,000 people were expected to have run out of food supplies during the week of 5 October. One challenge is the delivery of food before the onset of winter, which usually occurs around mid-November. The WFP are planning to airdrop food to some 100,000 families in the mountainous central highlands region, who risk becoming cut off once winter sets in. However, the Taleban had closed the airspace under their control and WFP has been attempting to negotiate with them for air corridors to be opened so that airdrops can be made by the organization.

Relief agencies indicate that women and children remain particularly at risk during the current crisis. The United Nations Children's Fund (UNICEF) reports that one in every two children is malnourished and that one in four Afghan children die before the age of five from preventable causes. The child mortality rates within the camps for internally displaced is even higher with one in every three children dying before the age of five.

©Reuters/Jerry Lampen

A malnourished Afghan girl receives care in a Pakistan government hospital in Balochistan's province of Quetta, October 3, 2001. The United Nations has asked the world to help millions of Afghans facing starvation and threats of war. The girl had arrived from Afghanistan 14 days before the photo was taken.

UNICEF has also reported that one Afghan mother dies in childbirth approximately every 30 minutes. The UN Population Fund has expressed particular concern about the thousands of pregnant women among those who have been recently displaced who will be particularly affected by the lack of food, shelter, and medical care combined with unsanitary conditions, which have become even worse during the current crisis. On 25 September, UNHCR reported that, in at least two cases, pregnant women waiting on the Afghanistan-Pakistan border were permitted to enter Pakistan to give birth and were given medical treatment but were then subsequently sent back to Afghanistan.

Both under Taleban edicts and local cultural perceptions of acceptable women's behaviour, women without a male family member face difficulties in moving about in public often with the added burden of looking after large families. The flight of these families is likely to be particularly difficult.

### **Recommendations:**

- Amnesty International calls on all parties to the conflict in Afghanistan to publicly commit to uphold the highest standards of international humanitarian law.
- Amnesty International calls on all governments to fulfil their obligations to share responsibility for the protection and assistance of Afghan refugees including providing support to UN agencies and NGO's who are able to work to protect Afghan refugees and allowing Afghan refugees to be resettled to third countries in accordance with UNHCR criteria.
- Amnesty International urges states neighbouring Afghanistan to uphold their responsibilities under international law not to turn back or forcibly return refugees to Afghanistan where they would be at risk of serious human rights abuses. The governments of Pakistan and Uzbekistan are bound under customary international law, while Iran, Tajikistan, and Turkmenistan are bound as states parties to the 1951 Refugee Convention.
- Amnesty International calls on states neighbouring Afghanistan to keep their borders open to Afghan refugees.
- Amnesty International calls on states where Afghans seek asylum to permit Afghan asylum seekers to enter their countries and make their applications for asylum.

- Amnesty International urges all concerned governments to give those fleeing Afghanistan at the current time effective and durable protection.
- Amnesty International calls on all authorities and international actors to respect and ensure respect for the rights of the displaced population in Afghanistan in line with UN Guiding Principles on Internal Displacement 1998, and provide them with all necessary humanitarian assistance.

**Amnesty International reports on Afghanistan 1979-2001**

*Violations of human rights and fundamental freedoms in the Democratic Republic of Afghanistan*, September 1979 (AI Index: ASA 11/04/79)

*Afghanistan: Torture of political prisoners*, November 1986 (AI Index: ASA 11/04/86)

*Afghanistan: Unlawful killings and torture*, May 1988 (AI Index: ASA 11/02/88)

*Afghanistan: Reports of torture and long-term detention without trial*, March 1991 (AI Index: ASA 11/01/91)

*Afghanistan: Unfair trial by special tribunals*, August 1991 (AI Index: ASA 11/03/91)

*Afghanistan: New forms of cruel, inhuman or degrading punishment*, September 1992 (AI Index: ASA 11/02/92)

*Afghanistan: Political crisis and the refugees*, September 1993 (AI Index: ASA 11/01/93)

*Afghanistan: Incommunicado detention and "disappearance"*, April 1994 (AI Index: ASA 11/01/94)

*Afghanistan: The human rights crisis and the refugees*, February 1995 (AI Index: ASA 11/02/95)

*Afghanistan: Executions, amputations, and possible deliberate and arbitrary killings*, April 1995 (AI Index: ASA 11/05/95)

*Women in Afghanistan: A human rights catastrophe*, May 1995 (AI Index: ASA 11/03/95)

*Afghanistan: International responsibility for human rights disaster*, November 1995 (AI Index: ASA 11/09/95)

*Afghanistan: Grave abuses in the name of religion*, November 1996 (AI Index: ASA 11/12/96)

*Women in Afghanistan: The violations continue*, June 1997 (AI Index: ASA 11/05/97)

*Afghanistan: Continuing atrocities against civilians*, September 1997 (AI Index: ASA 11/09/97)

*Afghanistan: Reports of mass graves of Taleban militia*, November 1997 (AI Index: ASA 11/11/97)

*Afghanistan: Flagrant abuse of the right to life and dignity*, April 1998 (AI Index: ASA 11/03/98)

*Afghanistan: Detention and killing of political personalities*, March 1999 (AI Index: ASA 11/05/99)

*Women in Afghanistan: Pawns in men's power struggles* (AI Index ASA 11/11/99)

*Human Rights Defenders in Afghanistan: Civil society destroyed*, November 1999 (AI Index: ASA 11/12/99)

*Children Devastated by War: Afghanistan's lost generations*, November 1999 (AI Index: ASA 11/13/99)

*Afghanistan: The human rights of minorities*, November 1999 (AI Index: ASA 11/14/99)

*Afghanistan: Cruel, inhuman or degrading treatment or punishment*, November 1999 (AI Index: ASA 11/15/99)

*Refugees from Afghanistan: The world's largest single refugee group*, November 1999, (AI Index: ASA 11/16/99)

*Afghanistan: Executions in Panjshir*, February 2001 (AI Index: ASA 11/004/2001)