

PREFACE – ONE YEAR ON

It has been nearly a year since the last regions of Afghanistan were seized by the Taliban. As much as this day was feared by millions, many hopes were also raised regarding this final takeover. Hopes that a “Taliban 2.0” would somehow be more concerned about their legitimacy and thus more receptive to popular demands, more representative in terms of ethnic and cultural plurality, more interested in international recognition and thus readier to consider international demands and laws, and more concerned about the sheer survival of the Afghan people regarding the ongoing humanitarian catastrophe that has been unfolding for several years. These hopes have been crushed and life in Afghanistan has fundamentally changed for the worse. However, the experiences of deportees in the years leading up to the Government’s collapse in August 2021, as detailed in the following study, in many regards serve as a precursor to the experiences that the country as a whole has had since the Government fell.

HOPE NO. 1: END TO CIVIL-WAR AND RECONCILIATION

A major hope had been that the Taliban would attempt some kind of reconciliation and actual peace-making in order to secure their power and spare the country from further war-related, partisan violence.

However, not only have the Taliban been unsuccessful in subduing the attacks of the Islamic State Khorasan Province (ISKP) and thus are failing to protect among others the Shia, Sikh and Sufi minorities from even more widespread and frequent attacks.¹ Additionally, there is still a looming threat that the increasing mobilisation of former Government-affiliated war parties in several parts of the country might lead to renewed outbreaks of larger-scale fighting.

Also, the “amnesty”, as it was declared on the 17th of August 2022 and reaffirmed since,² has proven to be as void as the amnesty the Taliban declared at their last takeover of Kabul in 1996.³ While the fighting has largely subsided, the civil-war frontlines thus persist and the war continues - albeit in a one-sided manner - through the well-established civil war means of persecution,⁴ which is directed against all those who are perceived to be “enemies”. This group not only entails those who have been actively fighting against the takeover, or politicians and government employees. It also includes those who actively resisted demands by the Taliban in the past. It includes actual or potential critics, such as journalists, human rights and civil society activists, demonstrators, as well as many local elders, religious authorities and jurists.⁵ It includes those who are seen to represent a different social and cultural order than that prescribed by the Taliban – they may be modern artists or traditional musicians, academics, people that have or create tattoos, or identify with the LGBTI community, athletes, or anyone working for causes or exhibiting behaviour perceived to be “western” by

1 UN General Assembly Security Council 28.01.2022: 5, UNAMA July 2022: 10ff, Spiegel Online 19.06.2022

2 Cf. Sirat 17.08.2021, Koelbl 08.07.2022

3 Cf. The Irish Times 28.09.1996

HRW documented, that the proclaimed amnesty was even used as a trap: “The Taliban leadership has directed members of surrendering ANSF units to register with them to receive a letter guaranteeing their safety. [...] However, the Taliban have used these screenings to detain and summarily execute or forcibly disappear individuals within days of their registration, leaving their bodies for their relatives or communities to find.” (HRW 30.11.2021)

4 See for instance UNAMA: “Targeted killings by Anti-Government Elements were the third leading cause of civilian casualties, responsible for 14 per cent of all civilian casualties during the first six months of 2021, with similar numbers to those observed during the same period in 2020.” (July 2021: 3)

5 The line between persecution and prosecution is regularly blurred. Commenting on arrests of peaceful demonstrators, Taliban spokesman Sabihullah Mudschahid claimed the right to “imprison dissidents and law-breaker”. (Ruttig 14.02.2022)

the Taliban. As the following study shows, deportees have since long made the experience that even slight deviations in terms of attitude or behaviour were considered “westernised” and persecuted on political grounds – declared to be an “infidel” on grounds of being “westernised” and accused of being a western “spy” in consequence. Being an “infidel” and a “spy” have been and continue to be interchangeable accusations and interlinked grounds of persecution. These allegations and subsequent persecution may also be extended to those deemed to be associated with such “enemies” through current or historical familial, financial or merely friendship ties. The experiences by deportees again preclude how low-scale such an affiliation may be to trigger persecution – having fled to Europe or having European friends or just a message in English on one’s phone thus suffices in order to be labelled a “spy” and “infidel”. These “enemies”, their families and presumed supporters have to fear being arrested, kidnapped, imprisoned, kept in incommunicado detention, exiled, tortured, and even killed, suffering enforced disappearance, watching their daughters being forcibly divorced or married and their sons forced into recruitment.⁶ These threats and attacks drive them into hiding, not only dashing their professional careers and aspirations, but also excluding them from a chance to work and thus survive, while simultaneously fearing that their homes may be looted and property confiscated or destroyed.

Just as prior to the takeover, the most powerful tool to gain information on the relevant intimate knowledge about people’s past, as well as their relationships, is to make use of the fact, that this knowledge exists in the social realm anyhow.⁷ What has changed, however, is that the Taliban’s effectiveness to gain this information, trace people’s whereabouts and exercise persecution has strengthened by the Taliban’s new position of power. The large amount of data they secured in the wake of the takeover (including biometric systems and employee databases), and the ability to identify and pursue people in broad daylight by conducting door-to-door searches, establishing checkpoints and surveilling critical infrastructure (such as hospitals and banks), as well as the threatening and interrogation of neighbours and relatives allows the Taliban a much tighter and more effective control of the population. This threat is escalated by the persistent practice that supporters and family members are threatened by persecution too, which makes it increasingly difficult to find hiding places for those who are targeted - just as deportees have long had problems finding shelter due to the threat their presence would pose for hosts and landlords. Further, the Taliban leadership seems unable or unwilling to end revenge-seeking by individual Taliban,⁸ which adds an additional layer of threat even to those whom the Taliban leadership might want to stay in the country and return to their jobs.

In addition to this personalised persecution there are, again, examples of collective persecution and punishment against members of communities known for their long-lasting resistance – not exclusively, but most prominently the Hazara⁹ and the Panjshiri people. Means of this include among others, arbitrary arrests, extrajudicial killings, forced displacement, expropriation of property and land grabbing, and the blockade of

6 Cf. UNAMA July 2022, New York Times 12.04.2022, HRW 30.11.2021 and 07.07.2022, New York Times 12.04.2022. On the practice of exiling opponents cf. Reuter 13.05.2022.

7 Van Bijlert 01.09.2021: “What is clear from detailed reports we have received is that many of the people in hiding are doing so because of specific, targeted, personalised threats. Several have commented on the depth of knowledge and level of detail that the teams searching for them had, often referencing events, relationships and responsibilities that lay years in the past. This seems to suggest that, through a combination of horizontal and vertical ties, the movement, or individuals within the movement, can employ highly localised knowledge across the country.”

8 Ibid: “A senior security official, for instance, told AAN from his home in Kabul: “[...] I don’t know what the leadership will decide. They have not been in touch with me,” he said. “But I fear the ordinary people. So many fighters came to Kabul from all provinces. There are so many personal enmities, after I’ve served as a commander for many years. We all feel the danger, especially those who served in different provinces. We don’t fear the leadership. We fear the ordinary people [the rank and file fighters].”

9 Apart from anti-Shia sentiments among many Taliban, the assurance of no religious persecution and even attendances by Taliban leaders of Shia rituals by high-ranking Taliban does not serve as a proof or guarantee of protection against political persecution. As Kate Clark noted on Twitter (@KateClark66, 17.08.2021): “Happened last time too: Taliban didn’t ban Ashura commemorations, although they were indoor only. Several Taliban attended, including Mawlawi Kabir – then commander of the eastern zone.”

humanitarian help.¹⁰ It also entails harassment at checkpoints and unprovoked interrogations, which in turn pose the further threat of one's past to be uncovered, and exacerbates the threats for women from ethnic, religious or linguistic minorities.¹¹

HOPE NO. 2: RESPECT FOR FUNDAMENTAL RIGHTS, POPULAR DEMANDS AND DIVERSITY

In light of the Taliban's experience of extreme unpopularity during their first rule and their current wish for international recognition, one of the major hopes by the international community towards a renewed nation-wide Taliban regime had been some consideration for fundamental rights, as well as Afghanistan's ethnic, religious and cultural plurality. This has been an unlikely hope all along, given the experience in areas that had been under their control before the fall of Kabul. In these areas human rights organisations documented an increase in restrictions and a disregard for fundamental rights, also those called for at the local level, as soon as the Taliban consolidated their control in an area.¹² The same development can now be seen nationwide with regard to popular demands for fundamental rights and the degree of exclusion of non-Pashtuns and women from positions of power. Instead, the tendency has been to rely on the most loyal, ideologically extreme appointees, "many of whom are on the sanctions list pursuant to Security Council resolution 1988 (2011)".¹³

Although many Afghans had no chance to enjoy fundamental rights under the former Government, it does constitute a fundamental difference in daily life that the Taliban-regime defines itself as a totalitarian regime that actively fights any critical negotiation about such rights and rejects any international "interference" or law in rights-related matters. This includes the denial of any freedom of speech and press. Together with the dissolution of national human rights monitoring institutions and the obstruction of international monitoring this denial obviously also undermines the chance to document violations of rights, abuses of power, persecution, and other kinds of violence - both due to the fear of victims to testify and the practical constraints of journalists and researchers to investigate, document and report. Any quantitative account of victims of abuse is thus marked by an even higher percentage of unreported cases than so far.¹⁴

The Taliban's rejection and persecution of many traditional cultural practices¹⁵ – even the most popular, such as playing music at weddings and widely popular demands, such as the right of girls and women to work and access education,¹⁶ illustrate how ideological this fight against cultural diversity, as well as fundamental rights is. In sum, not one article of the Universal Declaration of Human Rights (1948) remains protected in practice.

10 Cf. UN-OHCHR 17.01.2022: "We are also extremely disturbed by the reports of extrajudicial killings and forced displacement of ethnic and religious minorities, such as the Hazara, which would suggest deliberate efforts to target, ban, and even eliminate them from the country."

UN General Assembly Security Council (28.01.2022: 8): "reports of forced evictions, mostly of minority groups, facilitated or tolerated by the de facto authorities", Cf. Amnesty International 21.09.2021, CNN 15.09.2021, Reuter/Schröder 06.10.2021, Amnesty International 16.06.2022, UNAMA July 2022:16f, RFE 13.05.2022

11 UN-OHCHR 17.01.2022

12 Cf. HRW 30.06.2020

13 UN General Assembly Security Council 28.01.2022: 2

14 Until recently foreign journalist were able to enter and travel the country relatively freely. But even this guarantee seems to have ended with the recent arrest of Lynne O'Donnell. (Scollon 27.07.2022), Cf. UNAMA July 2022: 3f.

15 Cf. Foschini 17.11.2021, Synovitz 13.10.2021

16 Cf. Kazemi/Clark 31.01.2022

This is most obvious regarding girls and women. As the UN Office of the High Commissioner for Human Rights quoted a group of UN human rights experts regarding the institutionalisation of large scale and systematic gender-based discrimination and violence against women and girls on 17th of January 2022, "Taken together, these policies constitute a collective punishment of women and girls, grounded on gender-based bias and harmful practices [...] We are concerned about the continuous and systematic efforts to exclude women from the social, economic, and political spheres across the country."¹⁷ More restrictions have been introduced since.¹⁸

But the deprivation of all fundamental human rights obviously also concerns men, who face the additional risk that they are not only held liable for their own conduct but also for that of women they are considered to be responsible for.

In addition, this development further emboldened and dangerously empowered those sections of society that were opposed to universal human rights, which they claim to be "western", all along. It is not new, that this societal opposition to fundamental rights leads to social exclusion and violence against those who claim and defend them – just as many deportees have experienced at the hands of relatives, neighbours and the public prior the Taliban takeover for having enjoyed these rights while in Europe. They now also endanger those who so far had been fairly protected by the relative power of economic success and the support of their immediate social networks.

HOPE NO. 3: END OF ABUSE OF POWER, ACCESS TO JUSTICE AND REDUCED CRIME RATE

Another hope that was held by many Afghans and international observers was for improved access to justice, less corruption and a reduced crime rate.

While access to justice is out of reach for all those who are targeted by persecution by the Taliban as they would have to identify themselves to the Taliban, it is also hampered by the fact, that hardly any laws have been announced yet, which leaves individual Taliban policemen and judges wide discretion in rule-making, policing and adjudicating. The resulting unpredictability is highly concerning given the lack of training and often extreme religious convictions held by many Taliban. It is even more concerning, as the executive and the judiciary resort to arbitrary arrests, incommunicado detention, excessive use of force, torture, and cruel, inhuman and degrading punishment, including publicly executed corporal punishment and executions.¹⁹

Any hope for justice is further hampered by the fact that international or sharia-based procedural rules of due process are rarely adhered to,²⁰ while rumours tend to suffice as proof of guilt by alleged law-breakers. The justice system thus continues to be highly susceptible to manipulation and lacks fundamental protections of due process. This confirms earlier experiences of deportees who were convicted for allegedly having committed crimes according to Sharia provisions during their stay in Europe without the chance to any defence. The announcement to continue the prosecution of Sharia-violating behaviour in Europe after one's

17 UN-OHCHR 17.01.2022

18 Cf. Amnesty International 2022: 16ff

19 UNAMA July 2022, Amnesty International 2022

20 Cf. HRW 29.10.2021, UNAMA July 2022

return is thus highly alarming.²¹ In a similar vein, UNAMA' Human Rights Service "has identified numerous incidences of cruel, inhumane and degrading punishments and extrajudicial killings carried out by the de facto authorities against individuals accused of 'moral crimes'."²²

Where rules exist, they regularly undermine indiscriminate access to justice. A prominent example would be the requirement for women to be accompanied in public by a male relative, which turns any public statement to "protect women" by prosecution of offenders into a farce. In practice, women fear punishment, imprisonment and torture if they flee domestic violence or other forms of abuse²³ and risk being forced into marriage with their abuser, if they dare to report sexual assault.²⁴ In other cases the proclaimed "protection of women" culminated in forced marriages to Taliban members as a condition for release from arbitrary detention.²⁵

Yet another danger lies in the wide-spread practice by the police to extort high sums even from destitute families by holding family members hostage. In order to save one's relatives from this abuse it still matters to know someone who may be able to negotiate a release and it still helps to be rich in order to be able to pay ransom or "bail", as ransoms are often termed.²⁶ As there are still no effective policies or interest in controlling locally ruling Taliban, complaints to higher ranking Taliban rather pose a risk of additional abuse than a chance to find justice.

Given this degree of dysfunctionality and abuse of power in the realm of justice as well as by the de facto police and armed forces in combination with the ever-increased poverty rate, it is little surprising that the level of criminality has risen in comparison to before August 2021.²⁷ The lack of protection however also extends to those who are victim of persecution by third parties. Not only do Taliban allow for violence enacted along lines of traditional customary law, they too fail to protect from persecution and revenge-seeking by ISKP and members of criminal gangs – many of whom the Taliban released from prison.

HOPE NO. 4: CONSIDERATION FOR HUMANITARIAN PLIGHT

Being excluded from any option to find work due to the risk of imprisonment and worse, necessarily escalates the humanitarian risks for those threatened by persecution. Given their depletion of reserves it becomes increasingly difficult to sustain one's living costs, let alone the financial burden of paying for hiding places and ransoms. Deportees have been facing this problem for a long time, given that any employment necessarily goes along with one's identification and thus provokes persecution.

However, while the economic plight of those facing persecution will hardly be a concern to the Taliban leadership, the hope had been that it would recognise its responsibility to do what would be in their power to mitigate the general humanitarian crisis. This crisis is to a large extent the consequence of the decades-long civil war, given the large-scale displacements, the war-related destruction of livelihoods and vital infrastructure, as well as the large number of people killed or permanently disabled. This had been

21 Nau 06.09.2021

22 UNAMA July 2022: 13, cf. Amnesty International 2022: 48ff

23 Amnesty International 2022: 48ff, Cf. ITV 08.05.2022

24 UNAMA July 2022: 17

25 Amnesty International 2022: 54

26 Cf. Amnesty International 2022: 53f

27 UN General Assembly Security Council 28.01.2022: 5, Danish Immigration Service 01.07.2022: 12f

exacerbated by natural disasters such as the severe drought of the recent years, flash floods and earthquakes, which have left much of the rural population unable to cope and forced many to give up their land and become internally displaced persons. While the vast majority of Afghans have thus already been living in extreme poverty since before the takeover by the Taliban, the halt of payment of Government employees, international sanctions, the freezing of the assets of the Afghan Central Bank, lack of cash within the country and weeks-long bank closures, inflation, interruption of remittances and even border closures at the time of harvest have pushed even most of the small but so far fairly affluent middle-class into destitution.²⁸ Some of this has been beyond the Taliban's control. Their decisions have, however, escalated the existing crisis by effectively excluding much of the educational elite as well as most women from the workforce, banning opium production and trade right before the harvest,²⁹ high expenditure in army and security personnel, and refusing most basic international demands that would likely allow more humanitarian funds to reach the country. Instead, they "have repeatedly stated their opposition to any conditionality to the aid provided to Afghanistan".³⁰ As the UN-Secretary General noted on 28th of January 2022, "An entire complex social and economic system is shutting down, in part because of the deficiencies in governance, the suspension of non-humanitarian aid flows and sanctions."³¹

The compounded effect is devastating and while the death toll is rising³² the international community's financial commitments regarding humanitarian aid have not just been falling short of the demand from the outset, as only half of the needed funds were promised.³³ In effect, the outreach is further diminished by the rise in food and transportation costs triggered by the Russian war against Ukraine. As the ICRC reports, the price of wheat flour has increased by up to 68%, cooking oil by 55%, fertiliser by 107% and diesel by 93% since June 2021.³⁴

Chances to find people in the social realm who would be able and willing to support anyone other than their immediate dependents are extremely unlikely in light of the fact 95 per cent of the population do not have enough to eat.³⁵ What has been termed by António Guterres as the "world's largest humanitarian crisis" not just questions the access to food and water, shelter and protection from Afghanistan's extreme weather conditions, but also to medical support. For many this leaves little scope beyond the most extreme measures of survival – desperate parents selling their children into marriages or into forced labour in the hope they would at least be fed, people selling their organs, families investing their last assets or going into debts to brace for a highly dangerous and likely unsuccessful attempt to flee.³⁶

28 Cf. OCHA 11.01.2022, Worldbank 13.04.2022

29 Ruttig 05.04.2022

30 Shapour/Clark 31.03.2022

31 UN General Assembly Security Council 28.01.2022: 12

32 OCHA 11.01.2022: "Afghanistan now has the highest number of people in emergency food insecurity in the world – this is a terrifying 35 per cent increase from the same time last year. More than one in two children under-five is facing acute malnutrition and will be at risk of death if immediate action is not taken." On the consequently dying children cf. Spiegel Online 26.05.2022

33 The aid appeal that the UN launched in January 2022 was the largest ever. (UN News 11.01.2022)

„Bei einer Konferenz, mit der die UNO vorige Woche dafür 4,4 Milliarden Dollar einwerben wollte, kam nach offiziellen Angaben nur die Hälfte davon zusammen. Laut Experten ist nur die Hälfte davon neues Geld.“ (Ruttig 05.04.2022), Cf. Van Bijlert 23.05.2022

34 ICRC 13.07.2022

35 As of April 2022, according to UN estimates (UN News 25.04.2022). Cf. Van Bijlert 23.12.2021

36 Cf. Amnesty International 2022: 56ff

OUTLOOK

The prospects for people in Afghanistan are extremely bleak – no fundamental rights, the hope for survival for most restricted to highly insufficient humanitarian aid and the daily threat to fall victim to Taliban abuse of power or criminality.

Those who experience persecution coupled with exclusion from the labour market and the loss of social support, widely mirror the experiences of deportees from Europe before the Taliban takeover. Until then these groups exhibited fundamental differences. While many successful journalists, jurists, NGOs workers, army personnel, government employees, athletes, musicians, activists and so on had to flee before the Taliban takeover, many did take on the risk to remain and could do their jobs because they enjoyed relative social and economic security that came with being embedded in a social network that allowed for such a career. The loss of their respective jobs, as well as social and physical security and thus any possible protection against persecution leaves them with the same dangerous choice as deportees - hoping for a visa to European countries or fleeing without. Just as with deportees, chances of getting access to European visas are extremely slim and dependent on the intensive counselling and successful lobbying efforts by European NGOs, the financial means to survive the waiting periods, and considerable resources to procure the necessary identification documents, as well as the visa for neighbouring countries in order to access the respective embassies. And, just as with deportees, the phenomenon can be observed that even some of those who do have realistic chances to access such visas or even admission approvals decide to forgo this chance and flee illegally or without an onwards plan instead, as the risk to remain in Afghanistan is considered too high to allow for any delay in leaving.³⁷ A difference remains though, as deportees to my knowledge have so far been excluded from access to humanitarian visa in recognition of their persecution.

Many of the phenomena that shape daily life and particularly the circumstances of those facing persecution are not new, as the experiences of deportees prior to the Taliban's final takeover illustrate. However, the increase of the Taliban's power to control everyday life has changed Afghanistan drastically and robbed millions of the sheer ability to hope for any chance to improvement or mere survival.

37 Cf. Reuter 13.05.2022

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