

Written evidence submitted by Human Rights Watch (AFG0032)

UK Foreign Affairs Committee Inquiry into Government Policy on Afghanistan

Human Rights Watch welcomes the Foreign Affairs Committee's inquiry into the future of the UK government's policy on Afghanistan, including the implications of the Taliban gaining power and the human rights and humanitarian crises, and as well as the broader implications for UK foreign policy, including overseas aid.

Human Rights Watch is an independent non-governmental organisation that monitors and reports on compliance with international human rights law in more than 90 countries around the world. In this submission, we seek to provide evidence on the following topic:

- *What are the humanitarian and human rights implications of the Taliban takeover? How can the UK support those at risk – particularly women and girls – both in the immediate and longer term? What steps is the Government taking to do this?*

In summary, we ask the UK Government to take crucial steps to address the human rights and humanitarian crises in Afghanistan and to help protect Afghans at risk, including by:

1. Amending and expanding the Afghan Relocations and Assistance Policy (ARAP) scheme;
2. Immediately committing to a moratorium on all deportations and forced returns to Afghanistan, to third countries where the rights of Afghan asylum seekers would not be respected, and to any country where there is a risk of onward deportation to Afghanistan;
3. Upholding the rights of Afghans to leave Afghanistan and neighbouring countries and to seek and enjoy asylum in the UK;
4. Immediately withdrawing the Nationality and Borders Bill, and respecting the international obligation of *non-refoulement* and prohibition on collective expulsion;
5. Urging other states to make concrete commitments on the number of Afghans they will relocate and resettle;
6. Increasing resettlement numbers under the Afghanistan Citizens Resettlement Scheme (ACRS) and expanding complementary pathways;
7. Supporting negotiations with the Taliban authorities for safe passages out of Afghanistan, which could include safe corridors or orderly departure programs;
8. Increasing humanitarian assistance and other support to maintaining first asylum in neighbouring countries and pressing them to keep their borders open;
9. Sending women-led delegations to meet with the Taliban;
10. Ensuring that all UK policy on Afghanistan is informed by the views of Afghan women's rights experts within and outside the Foreign, Commonwealth and Development Office (FCDO), including through regular consultations with activists;
11. Pledging new support for agencies and non-governmental groups supporting life-saving aid, funding mechanisms continuing the salaries of essential workers where this is compatible with the FCDO's obligation not to engage in discriminatory practices, and developing a coordinated plan of action to resolve bank and liquidity issues;
12. Providing humanitarian assistance and support for essential medical care in accordance with humanitarian principles, including the provision of assistance based solely on need and without discrimination; and
13. Working with the international community at large to present a coordinated and unified position on how and in what ways they are willing to utilise diplomatic engagement with and the assistance they provide to the Taliban as a means of pushing the Taliban to adhere to international human rights law and to end the serious rights abuses it is committing.

Overview

1. Since the Taliban took control of Afghanistan in August 2021 following the US military withdrawal, Human Rights Watch and other organisations have documented and reported on the grave human rights abuses they have committed.
2. Taliban forces in several provinces across [Afghanistan](#) have carried out [summary executions](#) of government officials and security personnel even prior to the takeover and have searched for people who had worked with the former Afghan government or foreign governments and forces. They have raided the homes of journalists, activists, and human rights defenders, detained and assaulted journalists, and imposed [wide-ranging restrictions on media and free speech](#).
3. In addition, only small numbers of Afghans have been able to leave the country.
4. Taliban authorities have increasingly restricted the rights of women and girls. The Taliban have [restricted girls' education and women's ability to work](#), as they did previously in areas they controlled. They have dismantled the system to respond to gender-based violence, restricted women's access to health care, limited access to humanitarian assistance for women by restricting the ability of women aid workers to work, banned the Ministry of Women's Affairs, reinstated the Ministry of Vice and Virtue, used violence to curb women protesting for their rights, and banned women's and girls' sports.
5. Taliban officials have also targeted [journalists](#) for arbitrary detention and beatings, forcibly evicted Hazara Shia and some government employees from their land, and raised fears and risks for LGBT people by announcing they will not respect their rights.

Safe passage and international protection for fleeing Afghans

6. Human Rights Watch welcomes the government's introduction of the [ARAP](#) and [ACRS](#) schemes.
7. However, we are very concerned that the ARAP scheme remains too restrictive in its scope and criteria, that the yet-to-open ACRS does not go far enough in meeting the needs of vulnerable Afghan citizens requiring resettlement, and that those still in Afghanistan face difficulty in accessing the schemes and leaving Afghanistan safely.
8. First, we urge the UK Government to immediately **amend the ARAP and expand it to include all who were employed by the UK** in Afghanistan whether or not they held 'exposed meaningful enabling roles', and their families. The distinction currently made in the ARAP between locally engaged staff (LES) who served in exposed enabling roles and other LES who worked for the UK in Afghanistan is redundant in the current context. LES who served in non-outward facing roles, such as administrative and services jobs (i.e. clerical, cleaning, [cooking](#), maintenance, logistics), will more often than not be publicly known to have worked for the UK in Afghanistan and this, like those in outward facing roles, places them at high risk.
9. Second, we urge the UK Government to **expand the ARAP to include any Afghans, and their families, who worked with or alongside the UK or UK-based organisations** in Afghanistan, including those employed or hired directly and indirectly (beyond linguistic contractors), and those who worked on UK government-supported projects, or who would otherwise be perceived as being associated with the UK, including those who worked for the British Council, UK-based non-governmental organisations (NGOs), and [British-based media](#) (many of whom did hold outward facing roles). The UK's scheme is narrower than others, with the US Government operating a [special Priority 2 program](#) for Afghans who worked for a US funded program or a US based non-profit or media organisation.
10. The expansion should include those who worked as contractors for the UK in Afghanistan, including those providing services to and delivering projects on behalf of the UK Government.

Such [persons](#) are likely to be [identifiable](#) as having worked for the UK regardless of whether this was as an employee, contractor, or for the British Council. Accordingly, their life is likely to be at [high and imminent risk](#). The UK should also **expand ARAP to those who worked, with encouragement from the UK, in high-profile roles** that now put them at risk, such as women in the army and police.

11. It is noted that those contracted to provide linguistic services in support of the UK Armed Forces are now eligible for relocation under Category 2 and that the UK will consider individual cases for relocation on a case-by-case basis, including people employed via contractors under Category 4. However, this case-by case approach does not provide the urgent and broad protection needed by the abovementioned persons who worked for the UK or others who would be perceived as being associated with the UK. The potential for contractors beyond interpreters to benefit from the scheme also remains unclear. In addition, there is a lack of clarity regarding how Afghan LES already settled in the UK can apply for the relocation of their family members who are at-risk and vulnerable because of the LES' previous employment.
12. Third, we **urge the UK Government to borrow from the exclusion criteria for refugee protection set out in Article 1F the 1951 Refugee Convention and relevant UK law** that implements this provision, and urgently amend the ARAP so that the only LES that are explicitly excluded from benefiting from the ARAP are those who have committed a crime against peace, a war crime, a crime against humanity, or another serious non-political crime. We are very concerned that the ARAP exclusion provision is currently drawn too widely and that there is no transparency with respect to how the criteria is being applied nor the examination of appeals and whether persons can appeal beyond cases concerning the presentation of new evidence. In a [letter](#) of 3 August 2021, the Home Secretary and Defence Secretary explained that LES who were dismissed from employment by the UK in Afghanistan are excluded from relocation if their dismissal was (1) based on serious security concerns at the time, (2) for activities that would be criminal offences in the UK, or (3) activities or offences which either had or could have had 'serious consequences'. There is no definition of what constitutes 'serious consequences' nor how it is determined whether such consequences 'could have' occurred. Given the consequences of excluding LES who worked for the UK Government from ARAP, we urge the Government **to urgently narrow the exclusion provisions in line with the abovementioned suggestion and provide for due process and transparency with respect to any such rejections and decisions.**
13. On returns, Human Rights Watch is concerned that the UK Government has yet to commit to a moratorium on all deportations and forced returns to Afghanistan. While Home Office policy specifies that the Government has suspended enforced returns to Afghanistan, new [guidance](#) states that deporting asylum seekers back to Afghanistan represents, in general, no "real risk of harm".
14. Given the uncertain situation in Afghanistan and Taliban violations of the rights of women and girls and peaceful critics, the UK should **immediately commit to a formal moratorium on deportations and forced returns to Afghanistan**, as we have seen in several [European Union](#) countries, and **on returns to third countries** where the rights of Afghan asylum seekers would not be respected. The UK should also commit to not deporting Afghans **to any country where there is a risk of onward deportation to Afghanistan.**
15. On the rights of Afghans, the ARAP and ACRS should be strictly understood as not affecting their **continued right to leave Afghanistan and neighbouring states by other means, and to seek and enjoy asylum in the UK.** As part of a [multi-dimensional policy response](#) to support Afghan asylum seekers and refugees, the Government should also automatically **review all**

rejected asylum claims of Afghans in the UK, **release all Afghans who are detained in immigration removal centres**, and ensure new arrivals (whether they arrived through the ARAP/ACRS schemes or not) are **afforded dignified reception facilities, psychosocial support, and the right to work**.

16. The UK's Nationality and Borders Bill, which has been [described by leading barristers](#) as "the biggest legal assault on international refugee law ever seen in the UK", would negate the protections owed to Afghan asylum seekers and refugees, serving to criminalise and penalise Afghans who travel irregularly. The UK Government **should immediately withdraw the Bill and reaffirm the Government's commitment to upholding its international and domestic legal obligations towards asylum seekers and refugees**.
17. In reaffirming this commitment, the UK should **respect the international obligation of non-refoulement and the prohibition on collective expulsion**, and not be engaging in any practices that directly or indirectly deport or expel asylum seekers back to Afghanistan or undermine access to asylum in the UK, including pushbacks, collective expulsions, and rejections at the border.
18. The UK should also be **urging other states, including EU states, to make concrete commitments** on the number of Afghans they will relocate and resettle in line with the notion of collective and shared responsibility.
19. The UK should also consider **increasing the numbers it has committed to accepting under the ACRS**, and urgently open the scheme. Additionally, the Government should **expand complementary pathways to facilitate safe and orderly migration for Afghans**, including special programs developed for Afghans, private and community sponsorship, family reunification, visiting scholar, student, artist, humanitarian and other professional work visas.
20. Relatedly, the UK Government should use whatever influence they have with the Taliban authorities to allow Afghans to exercise their basic human right to leave the country. The UK should continue to develop avenues to support dual Afghan-British nationals or those otherwise seeking protection abroad **to leave Afghanistan safely, such as by negotiating safe corridors out of the country or orderly departure programs**, with the cooperation of Afghanistan's governing authorities, international organisations and neighbouring countries.
21. The UK's announcement of £30 million of humanitarian aid to Afghanistan's neighbouring countries to which the majority of Afghans are fleeing is greatly welcomed. We urge you to **increase such assistance**, and continue to press neighbouring countries, notably Iran and Pakistan, **to keep their borders open** to Afghans seeking asylum while allowing long-staying Afghan refugees to renew their status and remain until they can safely and voluntarily repatriate.

Women and girls

22. Human Rights Watch is particularly concerned about the [array of Taliban policies](#) violating the rights of women and girls in Afghanistan. Since the takeover, the Taliban have fired women journalists from state media, fired all women from leadership posts in the civil service, announced restrictions allowing only boys to attend schools from grade 6 and above, restricted the freedom of movement of women and girls in ways that cuts off their access to education, and banned coeducation, which will, for practical reasons, obstruct many girls and women from receiving an education.
23. The authorities have also banned women's sports, dismantled the system to protect women and girls from gender-based violence, abolished the Ministry of Women's Affairs and re-established the Ministry for Propagation of Virtue and Prevention of Vice. They have made it

more difficult for women and girls to access health care through measures such as requiring women to be escorted to medical appointments by a male family member, banning women from seeing male healthcare providers, and banning female healthcare workers from working overnight shifts.

24. In 2020, Human Rights Watch [reported](#) that in areas then under Taliban control, access to education for girls varied by district and province, with only a few areas allowing education for girls past primary school. Taliban officials claimed that the differences in access to education between districts and provinces were due to security issues and varying levels of acceptance of girls' education within the communities themselves. However, individual commanders, shadow provincial governors and district officials, many of whom had their own views on education, largely determined education policies in the areas under their control. Even when local Taliban policy permitted girls and women to study, in some areas there were efforts to discourage attendance, for example stipulating that girls could only attend if all staff were female.
25. The UK Government should work with other countries and donors in a **coordinated way to push for the protection of the rights of women and girls**, making it clear to the Taliban that such violations undermine Taliban efforts for international recognition and the development of normal diplomatic relations, including links to the global financial system and development assistance.
26. In the midst of this grave crisis for women and girls, the UK should not be sending [all-male foreign delegations](#) to meet with the Taliban as the UK appears to have done in October 2021. **Efforts to find "common ground" with the Taliban should be undertaken by women-led delegations.**

Humanitarian assistance and essential services

27. The country's economic system and health and education sectors are nearing collapse. Millions of Afghans are now facing [severe economic stress and hunger](#) as a result of an international freeze on Afghanistan's international accounts, the collapse of the banking sector, widespread lost income, cash shortages and rising costs for food and other essential items. Donors have halted most [international aid](#) to Afghanistan's governmental agencies and institutions, while humanitarian aid and other assistance provided by United Nations agencies and NGOs—which cannot cover more than a fraction of Afghanistan's needs—have been severely curtailed due to security concerns, staff evacuations, closures and legal uncertainties.
28. We are concerned that the UK's [doubling](#) to £286 million of humanitarian and development aid to Afghanistan still [falls short](#) of the £292 million that the UK provided to Afghanistan in 2019 when there was less need.
29. We urge the UK Government to **pledge new support for agencies and non-governmental groups** inside and outside of Afghanistan that assist with refugee resettlement and otherwise promote and address humanitarian and human rights needs, including for women, children, internally displaced people and others, as well as education, health care and other essential needs. The participation of Afghan civil society groups in discussions on assistance and resettlement is vital. There is also an urgent need for the UK to lend its **support to mechanisms focused on continuing salaries for essential workers** (such as health and social care staff, key public services staff, and those involved in the provision of food and other essential goods), **where doing so does not support discriminatory policies** such as the current closure of most girls' secondary schools, and develop a coordinated plan of action to resolve **bank and liquidity issues.**

30. **Humanitarian assistance should be increased and provided in accordance with humanitarian principles**, in particular ensuring that the principle of impartiality, which requires the provision of aid based on need and without discrimination, is respected. Donors should provide support and assistance where it is equitably distributed to women and men, girls and boys, on the basis of need, not gender, and where the Taliban allows independent monitoring to ensure that services benefit all Afghans. Critically, women humanitarian workers should be allowed to perform their jobs unimpeded, without mahram requirements, limitations to certain sectors, or gender segregation at work.
31. **Support for essential medical care**, which largely represents the only kind of medical care available in Afghanistan, should be made available based on the right of everyone to health, without discrimination. Support for medical care should **ensure that women and girls have equal access to health care as men and boys**. In addition, the UK should **push the Taliban to end rights violations that make it harder for women and girls to access health care**, including requiring a mahram when women seek health care, permitting women to see only female healthcare workers, restricting the ability of women healthcare workers to work at night, and obstructing potential female healthcare workers from joining the health sector by blocking access to education for women and girls.
32. The UK Government and international community at large **should seek to develop a coordinated and unified position** on how and in what ways they are willing to utilise diplomatic engagement with and the assistance they provide to the Taliban as a means of pushing the Taliban to adhere to international human rights law and to end the serious rights abuses it is committing.

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