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**Submission by:** Front Line; the International Foundation for the Protection of Human Rights Defenders (Front Line has Special Consultative Status with the Economic and Social Council of the United Nations)

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## Introduction

The following submission has been prepared based on information received from independent human rights defenders in Afghanistan, as well as the visit of Front Line Deputy Director Andrew Anderson to Kabul in September 2007, with a follow up visit in June 2008, to discuss the threats faced by human rights defenders and their protection needs. Andrew Anderson met with Afghan human rights defenders, the Afghan Independent Human Rights Commission, as well as with United Nations and EU officials. In June 2008 Front Line conducted a security and protection training for human rights defenders which had been identified as a need by Afghan HRDs in view of the threats that they continuously face. Front Line is an international NGO based in Ireland with Special Consultative Status with the Economic and Social Council of the United Nations. We have particular expertise on the issue of the security and protection of human rights defenders and we work to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

Front Line is extremely concerned by the ongoing acts of repression against human rights defenders (HRDs) in Afghanistan. Human rights defenders in Afghanistan are subjected to threats, intimidation, harassment, surveillance, arbitrary detentions, forced disappearances and killings. HRDs working in the area of women's rights and transitional justice as well as independent journalists face particular risks as a result of their work. International aid workers have also faced threats, attacks and, in some cases, even killings. The perpetrators are both state and non-state actors. Threats against human rights defenders are perceived to come from different parts: the Taliban; the warlords, including some who are still in Parliament; the military or the National Security Directorate (NSD), Afghanistan's intelligence service; conservative social groups, including members of extended families/clans; members of an increasingly weak Government who are searching for ways to maintain control and; occasionally from international forces operating in the country.

The continuing lack of security and ensuing instability in much of the country impacts negatively on the ability of human rights defenders to carry out their work. The rule of law continues to be weak and there is little confidence in either the police, or, the judicial system which is perceived to lack independence and to be susceptible to intimidation from armed groups. This has led to a general climate of impunity for violations against human rights defenders, many of whom are reluctant to report the threats and intimidation they suffer. In many remote areas there are no government structures in place or any kind of government activity and, as a result, no protection for HRDs under national law. The introduction of an Amnesty Bill in February 2007 which absolves the government of responsibility for bringing suspected perpetrators of past human rights violations and crimes under international law to justice further contributed to the climate of impunity as well

as the difficult environment for HRDs working in the area of transitional justice.

Afghanistan is one of the most extreme environments in which human rights defenders are working. The deteriorating security situation and the context of impunity have a direct impact on the security of human rights defenders.

### **Women Human Rights Defenders (WHRDS)**

Women human rights defenders and organizations and individuals promoting the rights of women are constant targets for threats and intimidation. According to the 2006 report on the situation of human rights defenders of the UN SRSG on HRDs; "Women [in Afghanistan] who organize politically or who are involved in any kind of criticism against local rulers often face threats and violence. In addition there have been reports of cases of election officials who were registering women voters and because of this were intimidated or even killed by armed groups. The Special Representative notes that the Special Rapporteur on Violence Against Women stated after her official visit to Afghanistan in July 2005 that "the multiplicity of normative systems in Afghanistan favours the power structures intent on oppressing women in the private sphere and in public life, facilitates their impunity, and presents a significant obstacle for women and defenders of women's rights".

Afghan women seeking to peacefully defend their own rights or the rights of others have been the targets of harassment, intimidation and attacks. They work in a climate of vicious threats and frequent public denigration. They face death threats, abductions, members of their family are threatened and often their moral character is put into question through public slander. In a country where it is easy to damage the image of the women human rights defenders, defamation campaigns are often used to discredit them among other HRDs and the larger Afghan population. Women human rights defenders are not only threatened by the Afghan security services and the Taliban, but also by their own families or clan members. The organisations which are able to work in the rural areas mostly do so in careful negotiation with local community elders and religious leaders.

In general, WHRDs do not feel that they can go to the police to report such threats, as the Afghan police are perceived to be corrupt and dangerous. Some women chose to report those threats to the Afghan Independent Human Rights Commission or to representatives of the international community in the hope that they would be able to exert some pressure on the authorities.

Women human rights defenders are frustrated that the Government has not moved forward with the implementation of the protection of the rule of law and the rights supposedly guaranteed to them in the Constitution.

Recommendation 19 on the Convention on the Elimination of Discrimination Against Women, to which Afghanistan became a state party in 2003, makes clear that the Convention prohibits gender-based violence which impairs or nullifies 'the right to equal protection according to humanitarian norms in time of international or internal armed conflict'.

The UN Declaration on the Elimination of Violence Against Women calls on states to 'exercise due diligence to prevent, investigate and in accordance with national legislation, punish acts of violence against women' irrespective of who perpetrated such acts'.

- The **Afghan Women's Skills Development Centre (AWSDC)** conducts advocacy and capacity building on women's rights and also run a shelter for women victims of violence. The nature of their work brings regular death threats from families and community leaders who want the women the Centre supports to be returned to them. According to AWSDC Director Mary Akrami, many of those making threats have powerful connections with warlords in the Parliament. She has smuggled women away from armed groups and faced the hatred of those who have labeled her un-Islamic or have claimed that the women's shelter is a centre of prostitution. On 14 July 2008, **Mary Akrami** went to the office of the Attorney General, Abdul Jabbar Sabit, to accompany a woman who had been summoned

there to a meeting. The woman had been referred to the AWSDC after seeking advice from the Ministry of Women's Affairs (MoWA) when she left her husband. The Attorney General reportedly raised his voice at the woman and ordered her to return to her husband immediately, before accusing Mary Akrami and the AWSDC of supporting prostitutes and insisting that its members must pay the penalty. He then ordered that both women be detained. Mary Akrami was detained for three hours before being released. No official reason was given for her detention.

- On 25 September 2006, **Safiye Ahmed-jan**, head of the Kandahar regional Department of Women's Affairs (DoWA) was shot dead by gunmen on a motorcycle on her way to her office in Kandahar. Safiye Ahmed-jan was known for her action in favour of women's rights in Afghanistan, in particular the right to education. Individuals associated with the Islamic party *Hezb-e Eslami* were arrested in connection with her death. Other DoWA heads in other provinces also faced threats and intimidation.

## The media and freedom of expression

While the media, in particular radio and print but also the Internet, have been revived since the fall of the Taliban, severe restrictions on freedom of expression remain in place and journalists are subjected to threats and arbitrary detentions, and in some cases even killings. Afghanistan's Constitution, provides for the right to freedom of expression: Article 34 states "Freedom of expression shall be inviolable. Every Afghan shall have the right to express thoughts through speech, writing, illustrations as well as other means in accordance with provisions of this constitution. Every Afghan shall have the right, according to provisions of law, to print and publish on subjects without prior submission to state authorities. Directives related to the press, radio and television as well as publications and other mass media shall be regulated by law."

Afghan journalists are unable to carry out their work safely. Journalists fear reprisals and the media will often not cover sensitive issues (self-censorship).

- On 22 January 2008, journalist **Sayed Perwiz Kambakhsh** was sentenced to death in a trial in Mazar-I Sharif. The trial was held behind closed doors and the defendant did not have a lawyer present at the hearing. Sayed Perwiz Kambakhsh was arrested on 27 October 2007, after downloading and distributing an article relating to the role of women in Islamic societies that was considered offensive to Islam. It was established that he is not the author of the article in question. Judicial procedure in Afghanistan allows for three appeals before the sentence is final. Hafizullah Khaliqyar, the deputy attorney of Balkh province, threatened to arrest any reporters who protested against the sentence during that period. Abdul Salam Quazizadeh, the presiding judge of a Kabul appeal court, upheld his conviction on 21 October but commuted the death sentence to 20 years in prison.

Front Line believes that the sentencing of Sayed Perwiz Kambakhsh was related to his human rights activities as well as those of his brother, Sayed Yaqub Ibrahimi, a well-known journalist with the Institute of War and Peace Reporting. Sayed Yaqub Ibrahimi has written reports detailing corrupt practices on the part of government officials and local warlords. At the time of Sayed Perwiz Kambakhsh's arrest, Sayed Yaqub Ibrahimi's office was sealed and his home searched by the National Directorate of Security (NDS). He had been the subject of death threats and intimidation in the past and the arrest and sentencing of Sayed Perwiz Kambakhsh may have been an attempt to dissuade his brother Sayed Yaqub Ibrahimi and other journalists from reporting on political affairs in Afghanistan. Although no longer under the sentence of death Sayed Perwiz Kambakhsh remains in detention solely on account of disseminating articles relating to human rights.

- In June 2007, two prominent women journalists were murdered following a series of threats that had been made against them. On 1 June, **Shokiba Sanga Amaaj**, who worked as a reporter and presenter for the Pashtu-language private television channel *Shamshad TV*, was killed at her home. On 6 June, **Zakia Zaki**, founder of one of the first community radio stations run entirely by women in Afghanistan, radio *Sada-e-Sulh* (Peace radio) in Jabul

Seraj district of Parwan province and who was known to be vocal against warlords, was also murdered at her home.

- In 2007, **Kamran Mir Hazar**, editor of the Kabul Press website <http://kabulpress.org>, which has exposed government corruption and war crimes, was arbitrarily detained twice and interrogated by the National Directorate of Security (NDS). He was released on both occasions following protests by Afghan journalists. He had to live inside the Kabul office of *Internews*, an international media development organisation before being forced to flee the country. While held, Hazar was kept handcuffed and was questioned about the articles and interviews he posts online. He was threatened with being arrested again if he criticised the government in his articles or published any reports on corruption.

### **Threats against aid workers**

Following the removal of the Taleban regime in 2001 aid workers in Afghanistan, particularly those with connections to Christianity, have increasingly become targets for attack, kidnappings and killings. According to reports approximately 29 aid workers have been killed so far in 2008, 26 in 2007 and 21 in 2006.

The greater insecurity across Afghanistan as a result of the conflict means that aid workers and agencies have been required to travel to rural parts of the country in order to deliver aid. Road travel has become increasingly dangerous and security measures to safeguard humanitarian workers from militant groups are not sufficient.

- On 13 August 2008, **Dr Jacqueline Kirk, Nicole Dial and Shirley Case**, together with their driver **Mohammad Aimal**, were attacked and killed as they returned to Kabul from Paktya in Afghanistan in their clearly marked **International Red Cross** (IRC) vehicle. The humanitarian aid workers had been meeting with local communities over a two-day period to discuss an IRC project that aids children with disabilities. A fifth passenger in the vehicle, **Zabiullah**, was severely wounded and taken to Kabul hospital where he was treated for his injuries. The Taleban claimed responsibility for the attack.

### **International community**

Although Afghan human rights defenders speak of the positive impact of the international community in terms of creating some space to work for human rights and women's rights, they are also often critical of the coordination and effectiveness of much of the international assistance. There is considerable frustration at the huge sums which are perceived to be wasted, whether it is through the corruption of the local authorities, the huge profits made by non-Afghan contractors or the high salaries of international staff. There is a local perception that the international community is not applying enough pressure on the Government to implement the rule of law and guarantee protection.

It is clear that maintaining and developing the space for Afghan civil society to operate independently will be crucial to building peace and sustainable progress. Unfortunately the Afghan Government has not been consistently supporting this, notwithstanding the efforts of some individuals, and the role of the international community has been viewed as mixed. As Afghan human rights defenders continue their work, in spite of the frequent threats they face, they call for better support and protection.

### **Front Line calls upon the UN to urge the authorities in Afghanistan to prioritise the protection of human rights defenders and in doing so to:**

1. Release all human rights defenders who remain in prison as a result of their legitimate activities in the defence of human rights;
2. To conduct an independent investigation into the source of threats and attacks on human rights defenders, and all forms of intimidation and harassment directed towards all those

- human rights defenders mentioned in this report with the specific aim of identifying those responsible, publishing the results and bringing those responsible to justice;
3. Confirm their commitment to protect the rights of women and girls in Afghanistan in accordance with international human rights law and standards;
  4. Guarantee the rights of journalists and media workers as per the Constitution of Afghanistan;
  5. Take concrete steps to publicly condemn attacks and campaigns against human rights defenders, giving recognition and importance to their legitimate activities defending the rights of others;
  6. Ensure that all human rights defenders in Afghanistan are free to carry out their human rights activities free from persecution.

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