HUMAN RIGHTS WATCH

“Stop Reporting or We’ll Kill Your Family”

Threats to Media Freedom in Afghanistan

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Summary

> Two nights after my article was published I was going home from work, when several men on motorcycles approached me and … started beating me up, hitting my face and hands with their pistol butts.… I was able to identify who was involved in my beating, but unfortunately the police and the local government … did nothing to help me. I got [more] threats from these people, who said, "This is going to cost you, might even cost you your life, if you do not leave Mazar."
>
> —Journalist Mukhtar Wafayee from Mazar-i-Sharif, November 2014

The phenomenal growth of the media in Afghanistan has been one of the most significant achievements of the post-2001 reconstruction effort. From few print and virtually no broadcast outlets in 2001, Afghanistan now boasts hundreds of newspapers, television and radio stations, and web-based media outlets. The new media increasingly play a role in public life in Afghanistan, including facilitating debate and shaping public opinion during the 2014 presidential elections.

But with most foreign military forces having withdrawn from Afghanistan, and a substantial decline in foreign donor assistance to the country, the freedom that spurred the media's growth is in peril. Afghan journalists told Human Rights Watch that freedom of the press may be in a "downward spiral," with increasing intimidation and violence from both state and non-state actors, lack of government protection, and waning international support. Most important, the government's failure to uphold press freedom and to adequately investigate and prosecute threats and attacks against media workers has, they fear, emboldened those who wish to silence them.

Afghan journalists face threats from all sides: government officials exploiting weak legal protections to intimidate reporters and editors to compel them not to cover controversial topics; the Taliban and other insurgent groups using threats and violence to compel reporting they consider favorable; and police and justice officials letting threats, assaults, and even murders go uninvestigated and unprosecuted. Most of the threats come from individuals acting on behalf of powerful government officials or influential local actors, including militia leaders and so-called warlords.

Violent attacks on journalists that go uninvestigated and unpunished reflect wider impunity and failure to establish the rule of law in Afghanistan. Afghan journalists often respond to the dangers with self-censorship. Many steer clear of reporting on sensitive issues—including corruption, land grabbing, violence against women, and human rights abuses—as a means to minimize safety risks.

Kabul-based editors often avoid assigning stories that could put their reporters at significant risk. Editors and journalists told Human Rights Watch that self-censorship has become a survival mechanism for them. Those outside of the country's main cities are especially vulnerable to reprisals from powerful individuals and groups because they are more exposed: they lack the protection provided by a larger Afghan media and international presence. The cultural and social conservatism of the provinces also contributes to the difficulty of reporting on controversial issues outside of the capital.

The Taliban and other insurgent groups remain a potent source of intimidation and violence against journalists and media outlets. When the insurgency first emerged in 2002, journalists were among its early targets because the insurgents treated journalists as extensions of the Afghan government or Western military forces. However, in recent years, the Taliban and other insurgent groups have used the media as a propaganda platform, and actively court the press in their campaign against the government, including by pressuring reporters to cover their statements or not write articles deemed critical, sometimes with threats of violence.

Female journalists in Afghanistan face particularly formidable challenges. In addition to the dangers facing all journalists, they must contend with social and cultural restrictions arising from being Afghan women in the workplace, which limit their mobility in urban as well as rural areas, and increase their vulnerability to sexual violence. These factors not only encourage self-censorship but also discourage many women from pursuing journalism careers.

Lack of effective complaints mechanisms and government failures to comply with media laws and regulations remains a substantial hurdle to media freedoms. Afghanistan's 2009 Mass Media Law provides no explicit protection for journalists. At present, government officials are under no legal obligation to provide information to the public, and have little understanding of the role of the press. International human rights law, notably article 19 of the International Covenant on Civil and Political Rights, both upholds the rights to freedom of expression and the media, and places limits on those freedoms. Legal restrictions may

be imposed to protect the rights and reputations of others, namely through civil defamation laws, so long as the penalties are proportionate to the harm caused. Editors should be held responsible for what they publish—but by their readers, communities, employers, and independent journalist associations—not by the government.

While the 2009 Mass Media Law includes provisions for an improved complaints process via a Mass Media Commission, staffed by persons with journalistic qualifications, and a High Media Council to which the commission should report, neither of these bodies was functioning by the start of 2015. Instead, a Media Violations Investigation Commission, focused mainly on complaints by officials against journalists, continues to function, furthering censorship rather than media freedom. Powerful individuals even routinely bypass the media violations commission and go directly to the Attorney General's Office seeking criminal investigations against journalists whose stories they do not like.

The Ministry for Information and Culture, for its part, has served largely as a cudgel to intimidate the press, with the minister insisting on "apologies" from journalists when they write stories critical of the government or of powerful interests who enjoy government protection. The Information and Culture Ministry routinely turns a blind eye to officials who threaten, intimidate, or even physically attack members of the press.

Provisions in the Mass Media Law that restrict news, editorials, and entertainment for cultural or "moral" reasons continue to play a role in restricting freedom of expression. Journalists and media companies also remain vulnerable to charges under Afghanistan's broadly worded and ambiguous blasphemy law for reports that religious authorities deem to be against Islam.

Afghanistan's Constitution and international law guarantee freedom of expression, including for the media. The fragile gains in media freedom since 2001 are sustainable only if the government, with the long-term support of donor governments, takes urgent measures to end the threats, intimidation, and violence against Afghan journalists and media organizations. Leadership is critical. To ensure that Afghanistan's burgeoning media sector continues to develop and is not selectively silenced, the new administration of President Ghani and Chief Executive Officer Abdullah should publicly reiterate their support for media freedom and press government institutions to take decisive steps against those seeking to undermine it.

Key Recommendations

To the Afghan Government

- Publicly condemn all attacks on journalists and media organizations.
- Publicly direct the Ministry of Interior to promptly, vigorously, and appropriately investigate all attacks on journalists, and ensure that any officials, police officers, security forces, or other actors found responsible for obstructing, abusing, or assaulting journalists are disciplined or prosecuted.
- Direct the Attorney General's Office to order prompt, impartial, and thorough investigations into all attacks on journalists and media organizations and bring prosecutions as appropriate.
- Fully implement the Access to Information Law and the 2009 Mass Media Law, particularly provisions of the latter that would disband the Media Violations Investigation Commission and replace it with a Mass Media Commission. The commission should be developed in consultation with Afghan journalists, media organizations, and media monitoring groups, with sufficient guarantees and safeguards to protect its independence.

To the United States, the European Union and Member States, and Other Donor Countries

- Urge the Afghan government to take immediate action to protect journalists and media organizations, including by rigorously investigating and prosecuting threats and attacks on journalists and by fully implementing the Access to Information Law and the 2009 Mass Media Law, particularly provisions of the latter calling for establishment of a Mass Media Commission and a High Media Council.
- Include training on respect for freedom of expression and the media in police training courses.
- Provide long-term institutional support to assist independent news media organizations to become self-sustaining.

To the Taliban and Other Insurgent Groups

- Cease all attacks against civilians, including members of the media, media institutions or facilities, both Afghan and foreign;
- Cease any and all abductions, detentions and threats against members of the media.
- Publicly condemn groups or members of insurgent groups who attack the media.

Methodology

This report is based largely on Human Rights Watch interviews with 31 journalists, editors, publishers, and media directors between August and November 2014. We conducted most of the interviews in person in Afghanistan but five were by telephone. We also interviewed Afghan government officials—including then-Minister of Information and Culture Sayed Makhdoom Raheen, civil society activists, and representatives of international organizations.

Interviews were conducted in English, Dari, or Pashto, sometimes through an interpreter. Human Rights Watch informed those interviewed of the interview's purpose and the kinds of issues that would be covered. They were informed that they could discontinue the interview at any time or decline to answer any specific question. No incentives were offered or provided to the interviewees.

Human Rights Watch wrote to the ministers of information and interior, as well as the attorney general on December 19, 2014 to inform the government of our research findings and request feedback.

As noted, we have used pseudonyms for many of the journalists referred to in this report to protect their identity and to prevent possible retaliation. Real names have been used in cases where the incidents described have already appeared in the media.

Human Rights Watch also reviewed a range of published material, including media and other reports and statements, postings on Facebook and other Internet sites, and video clips relating to specific attacks on journalists. The report also draws on academic research, relevant reports, and articles published in Afghanistan and international media.

I. Afghanistan's Modern Media: A Short History

Historically, Afghanistan's media outlets have been small, targeted to urban elites, and always under the heavy thumb of those in power. The country's first serious newspaper that operated with some degree of independence, *Saraj-ul-Akhbar* (Lamp of the News) began regular publication in 1911.[1] Other newspapers were launched in the ensuing years, and state-run radio broadcasts began in 1925.[2]

Afghanistan's 1964 Constitution was the first to explicitly recognize freedom of the press.[3] Through the 1960s and 1970s the press expanded. However, when former prime minister Daud Khan overthrew King Zahir Shah in 1973, he imposed severe restrictions on the media, closing down 19 newspapers.[4] After the Marxist-Leninist People's Democratic Party of Afghanistan launched a coup in April 1978, igniting a civil war that precipitated the 1979 Soviet invasion, all media came under the control of the state.[5] When the Taliban took control of Kabul in 1996, they banned television as un-Islamic, and established Radio Sharia as their administration's official broadcast medium.[6] The Taliban maintained the operation of some dozen state-owned newspapers throughout the country, but there was no independent press.[7] There were few international correspondents based in Afghanistan until after 2001.[8]

From 2002, foreign donors, particularly the United States, supported the development of open, diverse media in Afghanistan.[9] The country's low literacy rate (20 percent in 2001),

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[1] "Policy Briefing: The media of Afghanistan: The challenges of transition," *BBC Media Action*, March 2012, http://downloads.bbc.co.uk/mediaaction/policybriefing/bbc_media_action_afghanistan_is_in_transition.pdf (accessed September 15, 2014).

[2] Makhfi Azizi, "History of Media in Afghanistan," http://www.mtholyoke.edu/~azizi22m/classweb/afgmedia/index.html (accessed November 14, 2014).

[3] The Constitution of Afghanistan, 1964, http://www.afghan-web.com/history/const/const1964.html (accessed November 14, 2014), Makhfi Azizi, "History of Media in Afghanistan," http://www.mtholyoke.edu/~azizi22m/classweb/afgmedia/index.html (accessed November 14, 2014).

[4] Amin Tarzi, "Afghanistan: The Brief History of Media Freedom," *Radio free Europe, Radio Liberty*, April 28, 2006, http://www.rferl.org/content/article/1068023.html (accessed November 14, 2014).

[5] Ibid.

[6] Human Rights Watch interview with Kate Clark, former Kabul bureau chief for the BBC, November 4, 2014.

[7] Masood Farivar, "CPJ Press briefings: Afghanistan: journalism under the Taliban," Committee to Protect Journalists, 1999, https://cpj.org/reports/1999/12/taliban15dec99.php (accessed November 14, 2014).

[8] The BBC has had the longest continual presence, interrupted only when the Taliban expelled BBC Bureau Chief Kate Clark in March 2001; the BBC re-established a presence in Kabul in January 2002.

[9] According to a BBC report, "The USA has been by far the biggest player, funding major initiatives in television and radio.... [T]he British, the Danes, the Dutch, the French, the Germans, and the Italians have all made smaller but significant strategic

prompted donors to emphasize supporting the expansion of community radio stations as well as print media from 2002 to the present.[10] By 2014, there were 174 radio stations spread among all 34 provinces, and 80 television stations.[11] Afghanistan's official media licensing system imposes few formal restrictions on opening new media outlets.[12] At the same time, the unregulated nature of licensing procedures has abetted what the BBC described as "a lack of transparency about the ownership of TV or radio stations."[13]

While radio has continued to have the greatest reach beyond urban areas, since 2005 television has emerged as the most popular of the new media.[14] Early controversies over television content raised concerns about the degree of government control, particularly in the portrayal of women.[15] Investment in television by private companies encouraged a relaxing of restrictions on imported content, with Indian and Turkish programs the most popular. However, the controversy over what content may be deemed "un-Islamic" has continued: since 2011, TV stations have had to drop some Turkish programs because of objections by the Ministry of Information and Culture to their allegedly controversial subject matter.[16]

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interventions. The European Union was a substantial player in the early years. The Governments of Japan and India have each invested substantially in rebuilding the infrastructure of the state broadcaster, *RTA*, while the Turkish Government has supported the Uzbek media." "Policy Briefing: The media of Afghanistan: The challenges of transition," *BBC Media Action*, March 2012, http://downloads.bbc.co.uk/mediaaction/policybriefing/bbc_media_action_afghanistan_is_in_transition.pdf (accessed September 15, 2014).

[10] United States Institute of Peace Special Report, "Media and Conflict: Afghanistan as a Relative Success Story," June 2008, http://www.usip.org/sites/default/files/sr198.pdf (accessed September 22, 2014).

[11] BBC "Afghanistan profile: media," March 21, 2014, http://www.bbc.com/news/world-south-asia-12013942 (accessed September 22, 2014).

[12] In Kabul, this led to the establishment of so many radio stations that in 2013, the Afghan Telecommunications Authority (ATRA) ran out of radio licenses because all available frequencies had been taken. Freedom House, "Afghanistan: Freedom of the Press 2013," http://www.freedomhouse.org/report/freedom-press/2013/afghanistan#.VEco2rB4pcQ (accessed October 22, 2014).

[13] BBC Media Action, "Policy Briefing: The media of Afghanistan," March 2012, http://www.bbc.co.uk/mediaaction/publications-and-resources/policy/briefings/asia/afghanistan/policy-afghanistan (accessed December 21, 2014).

[14] Surveys carried out during the 2004-2013 period give a snapshot of the changes that have taken place in the post-Taliban years. A 2013 survey found that 84 percent of respondents used a radio to obtain news, 54 percent used television. A similar survey in 2004 showed that 72 percent of Afghans used a radio to obtain news, and only 36 percent used television for news and entertainment. Asia Foundation, "Voter Education Planning Survey: Afghanistan 2004 National Elections," 2004, http://asiafoundation.org/resources/pdfs/afghanvoteredo4.pdf (accessed October 22, 2014).

[15] For example, in 2004, the Supreme Court briefly stopped a television station from airing female singers. US Department of State, 2004 Country reports on Human Rights Practices: "Afghanistan," February 2005, http://www.state.gov/j/drl/rls/hrrpt/2004/41737.htm (accessed September 25, 2014).

[16] The Ministry for Information and Culture compelled Tolo TV to cancel its program, "Ifat," (Chastity) featuring a woman involved in multiple romances, in June 2013. In June 2011, Tolo was ordered to drop anther Turkish program, "Eshq-e Mamnu" (Forbidden Love). Wazhma Samandary, "A 'Jihad on the Media'? Afghan journalists face the storm in insecure legal

Afghanistan has had four mass media laws since 2002.[17] The Mass Media Law of January 2006 prohibited censorship but established a controversial Media Complaints Commission tasked with investigating violations of the Mass Media Law.[18] A revised Mass Media Law, enacted in 2009, provides the current legal and regulatory framework for the media. Article 45 of the law prohibits the publication of content "that goes against the principles and provisions of Islam … that is offensive to other religions, [or] that harms the moral wellbeing of individuals in society."[19] The ambiguity and restrictive nature of this provision has enabled multiple attempts by the government to censure media outlets for content deemed to be against Islam or the national interest.[20]

The 2009 Mass Media Law eliminated the controversial Media Complaints Commission and called for it to be replaced with a Mass Media Commission (MMC)[21] that would include a complaints process and complaints resolution mechanism for public grievances directed at the media and for media complaints about acts or omissions by government officials or agencies.[22] However, as of December 2014, the Ministry of Information and Culture had not established the Mass Media Commission due to differences with media watchdog and civil society groups on its membership.[23]

The 2009 Mass Media Law also calls for a High Media Council (HMC), which the government created in 2013. The HMC is tasked to formulate and approve the country's long-term media

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waters," *Afghanistan Analysts Network*, December 9, 2013, https://www.afghanistan-analysts.org/a-jihad-on-the-media-afghan-journalists-face-the-storm-in-insecure-legal-waters/ (accessed September 22, 2014).

[17] Freedom House, "Afghanistan: Freedom of the Press," https://freedomhouse.org/report/freedom-press/2012/afghanistan#.VGoJoDSUeSq (accessed November 17, 2014).

[18] Afghanistan Mass Media Law of 2006, arts. 4 and 42.

[19] Afghanistan Mass Media Law of 2009, art. 45.

[20] Examples of restrictions based on article 45 include the October 2012 complete banning of YouTube and Google websites after the release of an anti- Muslim video about the Prophet Muhammad made in the US. The ban on YouTube was eventually lifted in December 2012; Freedom House, "Afghanistan: Freedom of the Press 2013," http://www.freedomhouse.org/report/freedom-press/2013/afghanistan#.VEc02rB4pcQ (accessed October 22, 2014). In November 2012, the minister of information and culture warned the media that publishing reports about the widely anticipated economic downturn would hurt the morale of the civil servants and security forces. Abasin Zaheer, "Information Ministry trying to censor media: NAI," *Pajhwok Afghan News*, November 29, 2012, http://www.pajhwok.com/en/2012/11/29/information-ministry-trying-sensor-media-nai (accessed November 17, 2014).

[21] 2009 Mass Media Law, art. 42; Human Rights Watch interview with Sediqullah Tawhidi, executive director, NAI – Supporting Open Media in Afghanistan, Kabul, November 17, 2014.

[22] Human Rights Watch interview with Sediqullah Tawhidi, executive director, NAI – Supporting Open Media in Afghanistan, Kabul, November 17, 2014.

[23] Human Rights Watch Interview with Mohammad Saber Fahim, senior media watch reporter, NAI – Supporting Open Media in Afghanistan, Kabul, November 17, 2014.

policy, nominate the members and heads of the Mass Media Commission and the national commission on Radio and Television of Afghanistan (RTA), and formulate the RTA's budget.[24]

Domestic media monitoring groups have complained that contrary to provisions of the 2009 Mass Media Law, the former information and culture minister, Sayed Makhdoom Raheen, in power until November 30, 2014, failed to choose HMC members in consultation with journalist organizations and civil society groups.[25] Because of this lack of transparency in the selection of the HMC's members, groups have questioned the council's legitimacy.[26]

Soon after the 2009 Mass Media Law came into force, Raheen claimed he had an order from then-president Hamid Karzai and the Council of Ministers to re-establish and chair the Media Complaints Commission, which had been invalidated by the adoption of the 2009 Mass Media Law.[27] The actual order was never made public, and despite steady opposition from media monitoring groups, Raheen proceeded with the re-establishment of the commission, renamed the Media Violations Investigation Commission (MVIC).[28] In an attempt to formalize this controversial structure, the ministry drafted a new Mass Media Law in May 2012 that provided for the ministry to chair the MVIC, and empowered it to assess all alleged violations of the media law.[29] Many civil society and media groups opposed the law because it formalized a commission that would allow the government to censor the media.[30] These groups instead proposed that journalists choose the chair of the

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[24] 2009 Afghanistan Mass Media Law, art. 41. The MMC was to regulate the private sector while the RTA commission was to regulate the public sector with the aim of ultimately turning RTA into an independently regulated public broadcasting agency. BBC Media Action, "Policy Briefing: The media of Afghanistan," March 2012, http://www.bbc.co.uk/mediaaction/publications-and-resources/policy/briefings/asia/afghanistan/policy-afghanistan (accessed December 21, 2014).

[25] Human Rights Watch email correspondence with Najib Sharifi, director, Afghan Journalists Safety Committee, October 21, 2014.

[26] Ibid.

[27] Human Rights Watch interview with Sediqullah Tawhidi, executive director, Nai – Supporting Open Media in Afghanistan, Kabul, November 17, 2014; Human Rights Watch interview with Ahmad Quraishi, founder and director of Afghanistan Journalists Center, Kabul, November 17, 2014.

[28] Ibid.

[29] Ariana News, "Critics want Parliament to review decision on 'Mass Media Law,'" September 30, 2014, http://ariananews.af/regional/critics-want-parliament-to-review-decision-on-mass-media-law/ (accessed November 17, 2014). Complaints of unprofessionalism by the Afghan media are not unwarranted. Afghan editors and reporters told Human Rights Watch that Afghan journalists had insufficient awareness of journalistic ethics, particularly in terms of verifying facts prior to publication. BBC Media Action, "Policy Briefing: The media of Afghanistan: The challenges of transition," March 2012, http://downloads.bbc.co.uk/mediaaction/policybriefing/bbc_media_action_afghanistan_is_in_transition.pdf (accessed September 15, 2014).

[30] Ariana News, "Critics want Parliament to review decision on 'Mass Media Law,'" September 30, 2014, http://ariananews.af/regional/critics-want-parliament-to-review-decision-on-mass-media-law/ (accessed November 17,

Media Violations Investigation Commission to limit government influence on domestic media.[31] In June 2013 Raheen announced that he would abolish the commission, only to send a version of the Mass Media Law to parliament in July that included a provision incorporating the MVIC.[32]

In September 2013, the lower house of parliament approved the bill and authorized Raheen to head the MVIC.[33] That November, the upper house of parliament amended the law and removed the minister as chair of the MVIC.[34] President Karzai never signed this bill into law and, a year after it was approved by parliament, it has not been published in the official gazette. But the Media Violations Investigation Commission that Raheen established, ostensibly based on a dubious presidential order that was never made public, continues to function. Media monitoring groups have expressed concern that the MVIC routinely denies journalists and media companies a meaningful opportunity to defend themselves when complaints are made.[35]

Often, complaints against the media do not even make it to the MVIC but are directly referred to the Attorney General's Office for criminal investigation or prosecution.[36] In some cases the president has taken unilateral action without involving the MVIC or the Attorney General and with no adequate opportunity for the journalist to contest the allegations being made. For example, in August 2014 Karzai ordered a travel ban and then the expulsion of *New York Times* reporter Matt Rosenberg for publishing an article that "amounts to threat against the #Afghan constitution, national security & the stability of the country."[37]

2014); "Afghanistan: Draft Law Threatens Media Freedom," Human Rights Watch news release, July 2, 2012, http://www.hrw.org/news/2012/07/02/afghanistan-draft-law-threatens-media-freedom.

31 Human Rights Watch interview with Najib Sharifi, director, Afghan Journalists Safety Committee, November 17, 2014.

32 Saleha Sadat, "Raheen Pushes Media Complaints Commission, Meets Steady Opposition," *Tolo News*, October 18, 2013, http://www.tolonews.com/en/afghanistan/12299-raheen-pushes-media-complaints-commission-opposition-reemerges (accessed October 22, 2014).

33 Abaseen Zahir, "Minister to head social media commission," *Pajhwok News*, September 28, 2013, http://www.pajhwok.com/en/2013/09/28/minister-head-social-media-commission (accessed December 12, 2014).

34 Rafi Seddiqi, "Senate Rejects Lower House Amendment to Medi Law," *TOLO News*, November 5, 2013, http://www.tolonews.com/en/afghanistan/12495-senate-rejects-raheen-as-complaints-commission-chair (accessed November 17, 2014).

35 Nai-Supporting Open Media in Afghanistan, "Afghan Journalists Community is tired of the presence of illegal Media Violation Investigation Commission," February 24, 2013, http://nai.org.af/en/page/afghan-journalists-community-tired-presence-illegal-media-violation-investigation-commission (accessed October 22, 2014).

36 Human Rights Watch interview with Abdul Mujeeb Khalvatgar, managing director, Nai – Supporting Open Media in Afghanistan, Kabul, August 26, 2014.

37 Aimal Faizy, spokesperson to President Karzai, Twitter post, August 21, 2014, https://twitter.com/AimalFaizi/status/502440216842752000 (accessed November 17, 2014).

Afghan journalists and media advocacy groups have expressed hopes that the Access to Information Law, signed by President Ghani on November 24, 2014, will relax restrictions on obtaining information from public officials, and provide journalists legal protection against reprisals by government officials, powerful individuals, and armed groups for their investigative reporting on sensitive issues.[38]

The media in Afghanistan has grown to include media outlets controlled by warlords and powerful politicians who use television as well as radio and print media as a political platform. [39] For example, the *Kabul News TV* and *Ayna TV* stations are owned respectively by Karim Khorram, former minister of culture and chief of staff to former president Karzai, and Gen. Rashid Dostum, first vice president to President Ghani; the *Rah-e-Farda Radio & TV* network is owned by Second Deputy Chief Executive Officer Mohammad Mohaqeq; *Negah TV* station is owned by former vice-president Karim Khalili; and the *Mandegar Daily* newspaper is owned by Ahmad Wali Massoud, of the influential Massoud family, believed to be close to Chief Executive Officer Abdullah Abdullah. In Kabul and other urban areas, the commercial interests of a rising class of wealthy businessmen have come to dominate the media. Media groups have expressed fears that these two trends, combined with financial sustainability challenges,[40] could effectively impair the development of media not allied with either politically or financially powerful sectors of society.[41]

Though there are some successful commercial television channels, there is no independent and widely trusted national media capable of transcending or creating

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[38] Integrity Watch Afghanistan, "Approval of Access to Information Law is the biggest achievement towards transparency and accountability in Afghanistan," July 1, 2014, http://www.iwaweb.org/_news/news0010_approval_ati_law.html (accessed November 17, 2014). In June 2014, Afghanistan's lower house of parliament passed the law, which had languished in the legislative pipeline for several years. Abasin Zaheer, "Wolesi Jirga Approves Access to Information Law," *Pajhwok Afghan News*, June 30, 2014. http://www.pajhwok.com/en/2014/06/30/wolesi-jirga-approves-access-information-law (accessed November 17, 2014); The following month, the upper house passed an identical version of the law. Abasin Zaheer, "Senate OKs access to information law," *Pajhwok Afghan News*, July 22, 2014, http://www.pajhwok.com/en/2014/07/22/senate-oks-access-information-bill (accessed November 17, 2014).

[39] BBC Media Action, "Policy Briefing: The media of Afghanistan: The challenges of transition," March 2012, http://downloads.bbc.co.uk/mediaaction/policybriefing/bbc_media_action_afghanistan_is_in_transition.pdf (accessed September 15, 2014).

[40] Human Rights Watch interview with editor, media network based in Kabul, August 25, 2014.

[41] Ibid.

communication across the fracture points in Afghan society. Most media is either localized or seen as serving political, religious, or other agendas.[42]

The Afghan media demonstrated its growing influence via its coverage of the 2014 presidential election. Major television stations not only provided live coverage of news conferences and rallies, but actively persuaded the candidates to participate in televised debates.[43] However, as campaign rhetoric and accusations became increasingly vitriolic after the first round of presidential election voting in April 2014, the media was conscious that its coverage could play a role in fanning the flames.[44] According to the Afghan Journalists Safety Committee, an Afghan nongovernmental organization advocating for better protection for journalists, the polarized atmosphere in the lead-up to the 2014 presidential and provincial council elections created a partisan environment that made it difficult for the media to be, and be seen as, impartial.[45]

The number of foreign journalists in Afghanistan is declining in tandem with the withdrawal of the majority of foreign military forces. An Afghan journalist told Human Rights Watch that the downshift in foreign media presence in Afghanistan may hurt local media, as many of the most controversial stories are broken by the foreign media.

[42] BBC Media Action, "Policy Briefing: The media of Afghanistan: The challenges of transition," March 2012, http://downloads.bbc.co.uk/mediaaction/policybriefing/bbc_media_action_afghanistan_is_in_transition.pdf (accessed September 15, 2014).

[43] Human Rights Watch interview with director, media network based in Kabul, September 1, 2014.

[44] Human Rights Watch interview with journalists, Kabul, August 30, 2014.

[45] Ibid.

II. Violence and Intimidation by Officials, Security Forces, Warlords, and Militias

> "A member of the [Afghan Public] Protection Force[46] grabbed my phone and took me by the arm.... I showed him my press card, but he only asked, 'Why are you filming?' ... He said to me, 'We know how to deal with you—in an NDS jail even the ground will not hear you there.'"
>
> —Journalist in Kabul, August 2014

Journalists in Afghanistan who publish articles critical of the authorities and government practices often encounter censorship, harassment, and violence. The perpetrators of that abuse include government officials, police and other members of the Afghan national security forces (ANSF), and government-allied warlords and militias. The risks are particularly high outside of urban areas, where journalists have been threatened, detained, and attacked to deter them from reporting on such sensitive topics as corruption, land grabbing, and human rights.

Threats and violent attacks against journalists rose to a total of 68 incidents in the first six months of 2014 compared to 41 in the first six months of 2013.[47] Since the Afghan Journalists Safety Committee (AJSC) began documenting such abuses in 2012, government or pro-government forces have been responsible in 63 percent of the cases.[48] The organization Nai-Supporting Open Media, a member of Internews,[49] which monitors threats to freedom of expression in Afghanistan, has also published statistics showing that violence against journalists by government officials or political figures linked to the government has risen since 2002, with 2014 registering the highest number of threats and attacks in any year.[50]

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[46] The Afghan Public Protection Force was established in 2009 to replace private security firms in guarding international, government and NGO entities, sites and facilities in the country. Nathan Hodge, "Afghanistan to Disband Crucial Guard Force," *Wall Street Journal*, March 4, 2014, http://www.wsj.com/articles/SB10001424052702304585004579418730552246724 (accessed December 22, 2014).

[47] Afghan Journalists Safety Committee, "Six Month Report," 2013, https://cpj.org/blog/aug%2023%20Afghan%20Journalists%20Safety%20Committee%20Six-month%20report.pdf (accessed November 16, 2014).

[48] Ibid.

[49] Nai-Supporting Open Media in Afghanistan is a member of Internews International. http://nai.org.af/about-us/ (accessed December 18, 2014).

[50] Nai-Supporting Open Media, "Statistics of violations against journalists," 2013, http://nai.org.af/about-us/ (accessed December 22, 2014); "Statistics of violations against journalists," 2011,

The impunity from prosecution enjoyed by government officials, security force personnel, militia leaders, and other powerful individuals facilitates such violence. That impunity derives from their power to derail investigations into criminal offenses and protect themselves—or those acting on their behalf—from prosecution.

Kabul's huge contingent of foreign military personnel, foreign diplomats and representatives of nongovernmental development organizations has not protected journalists from violence carried out by powerful political figures. For example, on January 16, 2013, a Kabul-based newspaper investigated unlawful land seizures in and around Kabul city, and named government officials implicated in those abuses. One of the newspaper's editors involved told Human Rights Watch:

> Late on the afternoon that the story came out, a dark car with tinted windows came up to our building. There were armed men inside, and they told our guard they had come to see the editor-in-chief. They asked, "When does he come?" The guards told them, "There's no set time." … Then they asked the guard if he was armed, and they left. Now we have a security camera. Then, we didn't. The next day I went to MOI [the Ministry of Interior] and got police protection. They advised me to vary my routine, etc. After two months, another car came in the night. The gunmen inside ordered the guard to let them in or they would shoot. The police were just inside, so the guard called them, and as they came out they were loading their weapons. The men in the car heard that, and the car sped away. They have not returned.[51]

Despite the absence of specific threats in this incident, in the Afghanistan context such encounters are chilling. In Kabul, cars with tinted windows are overwhelmingly used by government ministers, government officials, or other powerful political figures and their

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http://nai.org.af/files/documents/Media%20Watch%20annul%20report-0%203may%202011-2012%20English%201.pdf (accessed December 22, 2014); At least 24 Afghan and foreign journalists have been killed in connection with their work in Afghanistan between January 2002 and December 2014. Committee to Protect Journalists, "26 Journalists Killed in Afghanistan since 1992/Motive Confirmed," https://cpj.org/killed/asia/afghanistan/ (accessed November 13, 2014). Given the difficulties of ascertaining motives behind some incidents of violence, the actual number is likely to be higher. The sole prosecution for the killing of a reporter in that same period was that of a police officer who shot two foreign journalists, killing one, near Khost in April 2014. "Afghan cop gets death sentence over AP photographer's killing," *Al-Jazeera*, July 23, 2014, http://america.aljazeera.com/articles/2014/7/23/death-sentence-giveninapphotographerskilling.html (accessed September 25, 2014).

[51] Human Rights Watch interview with editor of Kabul-based newspaper, August 27, 2014.

bodyguards. The timing of the first such visit in the incident above, immediately after publication of the story on unlawful land seizures, suggests a connection to the implicated officials. The editor said that after two months of no additional threats, he asked the police to withdraw their guard at the newspaper's offices. He said that the paper has also received other threats apparently linked to other stories, and while this has not changed their approach to investigative reporting, they must carefully weigh the risks of reporting.[52]

Members of Parliament (MPs) have also been implicated in threats to journalists. The head of a domestic news agency told Human Rights Watch about threats she received after her media outlet ran a story critical of two MPs whose bodyguards engaged in a gun battle inside a Kabul clinic:

> In 2012 … there were a lot of problems because these two MPs had a [gunfight] in a hospital—and we did a report on that.[53] The MPs asked the minister of culture to tell me to stop [reporting] this news. The minister called me—it was a Friday—and told me stop this news and I said to him, "I can't stop, we have evidence and everything." Two or three times they called me but I didn't stop the story. In the evening two gunmen came to my home and asked about me. It was Ramadan and my mother and I were at home. They knocked very [loudly] at the door. I came to open the door—I had no shawl and I didn't open the door. I just asked … from behind the closed door, "Who are you?" They said, "Is the head of [media organization] at home?" I said "No, she went shopping." He asked, "Who are you?" and I said, "I am her mother, if you have some message I can forward it to her." … It was very difficult, I saw from the hole in the door that one of them had a gun and the other was sitting at the car.… He said, "When is she coming?" I

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[52] Ibid.

[53] The gunfight took place on July 23, 2012. The fight started at 5:30 p.m. and went on all night, and involved PK machine guns and AK-47 assault rifles, which resulted in the injury of a health worker and damage to the clinic. "Two members of the Wolesi Jirga reject firefight among/between their men, " *Pajhwok News*, July 29, 2012, : http://www.pajhwok.com/dr/2012/07/29/%D8%AF%D9%88%D8%B9%D8%B6%D9%88-%D9%88%D9%84%D8%B3%D9%89-%D8%AC%D8%B1%DA%AF%D9%87-%D8%AF%D8%B1%DA%AF%D9%8A%D8%B1%D9%89-%D8%A8%D9%8A%D9%86-%D8%A7%D9%81%D8%B1%D8%A7%D8%AF-%D8%AE%D9%88%D8%AF-%D8%AF%D8%B1-%D9%8A%DA%A9-%DA%A9%D9%84%D9%8A%D9%86%D9%8A%DA%A9-%D8%B1%D8%A7-%D8%B1%D8%AF-%DA%A9%D8%B1%D8%AF%D9%86%D8%AF-0 (accessed December 22, 2014).

> said, "I don't know." … The person decided to go and went to the car and after, they left our house. After that I contacted many people—the Ministry of Interior … My friends called me and said, "Don't do the interviews anymore, because these people are dangerous. I said I don't care if they are dangerous, I did my job, nothing else." [54]

She told Human Rights Watch that "ministers, MPs, warlords, jihadi leaders don't follow legal ways. They are supposed to go to the Ministry of Information and Culture if they have a complaint [against the media]. But they don't."[55]

Heightened Dangers Faced by Journalists Based in the Provinces

The threat of violence against journalists is worse in the provinces, where journalists are fewer and more exposed—due to the absence of the relative protection afforded by a larger Afghan and foreign media cohort.

Human Rights Watch research indicates that in the provinces, acts of physical violence against journalists are more likely. In one such case on May 4, 2014, a newspaper reporter investigating university corruption outside of Kabul was threatened by a university official who had strong local political ties. The official allegedly told the reporter, "I can easily kill you here—don't do this report." [56] The newspaper published the story, and the reporter's editor told Human Rights Watch, "These things happen quite a lot, but it doesn't stop us."[57]

Media outlets in Kabul told Human Rights Watch that they use Kabul-based reporters to cover controversial stories in the provinces to shield local journalists from potential risks. Journalists operating outside major provincial city centers are particularly vulnerable. A news agency director told Human Rights Watch that he believed officials and security forces outside of the capital were generally less-constrained in targeting journalists for violence and intimidation: "In Kabul, the government of Afghanistan knows the rules and

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54 Human Rights Watch interview with editor, media network based in Kabul, September 1, 2014.
55 Ibid.
56 Human Rights Watch interview with editor, media network based in Kabul, August 25, 2014.
57 Ibid.

also knows the power of the media—and so is more careful. Warlords and insurgents cannot operate with total freedom in Kabul. In the provinces the situation is dangerous."[58]

On March 10, 2014, unidentified assailants severely beat freelance investigative journalist Mukhtar Wafayee in the northern city of Mazar-e Sharif, apparently because he had published a story questioning the credentials of a candidate running for office in provincial council elections. Wafayee sustained injuries to his face and head and was hospitalized following the incident.

He told Human Rights Watch:

> We had received admonitions from the local government not to publish anything negative about the elections. But fortunately not only did the media community in the north encourage people to participate, but we also fulfilled our duty in covering some of the more questionable parts of the process.
>
> In this process I was able to do some investigative reporting … and I was able to obtain documents that showed that one of the provincial council candidates had used fake educational documents to become a candidate and I reported on it.
>
> Two nights after the publication of this I was going home from my workplace, when several men on motorcycles approached me and after a very short Q&A session about my report, started beating me up, hitting my face and hands with their rifle butts. I fell unconscious and fell on the ground and when I came to, there was no one around to help me. [But] after 30 minutes of walking I was able to get myself to a police station.…
>
> Soon after I was discharged from the hospital I was able to identify who was involved in my beating. But unfortunately the police and the local government … did nothing to actually help me in this process. I got [more] threats from these people who said, "This is going to cost you, might even

[58] Human Rights Watch interview with head of news agency based in Kabul, August 26, 2014.

> cost you your life, if you do not leave Mazar." … Because of the support I received from media organizations and other organizations, and my commitment to this work, I didn't leave Mazar and I am still here. [59]

Wafayee has continued his work as a journalist in Mazar. No action has been taken against his assailants.

In another incident, on July 26, 2013, the bodyguards of the provincial governor of Parwan severely beat Nasratullah Iqbal, the Parwan-based journalist for Bokhdi News Agency, after he used his Facebook account to publicly criticize a book written by [the governor]. Iqbal had also earlier accused the governor of corruption.[60] He told Human Rights Watch:

> When I did not remove my critique from Facebook, the governor asked me to meet him at a restaurant in Kabul. This was about 6:30 p.m. The governor was there, smoking a water pipe. He asked, "Why do you do these things? I will kill you." … I said I have this right. But then his men started beating me. They used their fists and a bottle. We were in a cubicle—they had closed the restaurant door. They had me on the ground, the beating went on for about five minutes. Then they poured alcohol on me took my car keys and left. [61]

Police arrived at the restaurant shortly after, but arrested Iqbal rather than go after his assailants. Iqbal said the police took him to the office of the Criminal Investigation Department where they beat him again. They then took him to a small room where they told Iqbal to put his thumbprint on a blank piece paper. He refused. Because he smelled of the alcohol that his assailants had poured on him in the restaurant, the police accused Iqbal of being drunk. They took a blood test that registered negative for alcohol. He said that while he was at the police station a call came in, and the police told him they had been ordered to bring him to Parwan province. By then the incident had attracted Afghan media attention:

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[59] Human Rights Watch interview with Mukhtar Wafayee, Kabul, November 2, 2014.

[60] According to the Afghanistan Analysts Network, on his Facebook page, Nasrullah Iqbal had "indicated that he found Mr. Salangi's praise of Afghan leaders, particularly of some jihadi leaders as heroes, one-sided and recommended he refrain from publishing it, so that he did not 'add another blot to his record.' But Iqbal had also reported on corruption in Parwan recently." Wazhma Samandary, "A 'Jihad on the Media'? Afghan journalists face the storm in insecure legal waters," *Afghanistan Analysts Network,* 9 December 2013, https://www.afghanistan-analysts.org/a-jihad-on-the-media-afghan-journalists-face-the-storm-in-insecure-legal-waters/ (accessed September 24, 2014).

[61] Human Rights Watch interview with Nasratullah Iqbal, in Kabul, September 1, 2014.

> Then they were nice to me. They untied my wrists and took me to the office and gave me water. They brought me my clothes. When we came out, all civil society was there—this was 10 or 11 at night. It was all over social media. Then they took me to the Parwan NDS chief's house. The police told me, "The governor is going to apologize—let's put it behind us."[62]

After the incident, photographs of Iqbal's bloodied face circulated on social media. The governor denied the allegations against him, and neither he nor his men were ever prosecuted.[63] Iqbal required medical attention at a hospital for injuries to his torso and neck from the beating. He traveled to India to seek treatment and was told that his broken nose healed in the wrong position and will need to be reset; he continues to experience some pain as a result.[64] After the incident, Iqbal left his job at Bokhdi out of fear that his life was still in danger.[65] He remains concerned that despite the new government's promises with respect to freedom of the press, any effort on his part to pursue justice might achieve nothing.[66]

A member of parliament and his gunmen threatened and beat a journalist who covered the second round of the presidential election on June 14 in Nangarhar province. The journalist provided Human Rights Watch with a detailed account of what happened:

> Commanders affiliated with MP Hazrat Ali[67] and his sons in Dare Noor told me, "Don't report the issues," even though there were many issues. It was so bad that nobody could display their [election] observer cards if they supported Ghani. In the Amla Bazar Mosque polling station, the voting was not secret. Everyone could see whom everyone else voted for. I photographed this but they beat me, expelled me from the polling center, and took me to the compound of Mumtaz, whose sister is married to MP

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62 Human Rights Watch interview with Nasratullah Iqbal, in Kabul, September 1, 2014.

63 Ghanizada, "Afghan governor condemned for beating journalist in Kabul," *Khaama Press*, July 27, 2013, http://www.khaama.com/afghan-governor-condemned-for-beating-journalist-in-kabul-2279 (accessed November 14, 2014).

64 Interview with Nasratullah. Iqbal by telephone, November 15, 2014.

65 Samandary, "A 'Jihad on the Media'?" December 9, 2013.

66 Interview with Nasratullah Iqbal by telephone, November 15, 2014.

67 Hazrat Ali is one of the most powerful commanders in eastern Afghanistan, and is implicated in numerous human rights violations. Human Rights Watch, *Afghanistan--Killing You is a Very Easy Thing For Us*, July 29, 2003, http://www.hrw.org/reports/2003/07/28/killing-you-very-easy-thing-us.

> Hazrat Ali. They took my camera, even though I showed them my journalist ID card.… Thirty minutes after being beaten and expelled from polling center, I did a live update on Kilid Radio about the incident.
>
> A week later, the magazine published a story on the incident, erroneously naming commander [name withheld], who then sent his sub-commander [name withheld], who told my father, "You guys are communists. You're messing up with the lions here." To soothe [the commander] and tell him that the magazine made a mistake, I went to his house on Eid [a Muslim holiday]. There were many people at his house. In their presence, he abused me and threatened me. He said, "Brigadiers and generals suck my [genitals]. You are but a poor man. You are very insignificant. I beat up prosecutors and military officials. Imagine what I can do to you." I still receive calls from anonymous Pashayee-speaking men who threaten me. Now I alternate my route every day. But I'm afraid that they might pay money to my colleagues or office driver to harm me. If nothing else, they can break my limbs. Incidents like this have happened to others in the past. [68]

Relations between provincial officials and the press vary, depending on how the officials understand and use the media. Journalists in Khost told Human Rights Watch that government officials in nearby Paktiya province are open to meeting the press, but some are very hostile toward reporters who criticize their administration.[69] In October 2013, a Zhwandoon TV reporter reported on a protest by ethnic Tajik and Ahmadzai elders against the provincial government. [70] He told Human Rights Watch:

> Together with other journalists, I had gone to the governor's compound to get his statement. The governor told me in the presence of everyone: "Why have you reported on this? You've falsely reported the facts. You have no right to report it. I will imprison you. Your life is nothing to me." It's been 12 or 13 months since the threats and I am afraid even when I go home. I don't

[68] Human Rights Watch interview by phone with journalist in Kabul, August 31, 2014.

[69] Human Rights Watch interviews with journalists in Kabul, August 28 and September 2, 2014.

[70] The governor had allegedly ensured his son's employment in a road-building project. Human Rights Watch interview with journalist in Kabul, November 16, 2014.

> stay home on Fridays because they know I will be home on the weekend and can kill me.[71]

A reporter in Ghazni told Human Rights Watch that government officials, elements of the security forces, or other powerful individuals were often careful to distance themselves from any threats they direct at journalists. "If [reporters] write something they don't like, they don't call … themselves, their supporters do."[72]

In Balkh province, under the control of Governor Atta Mohammed Noor, journalists told Human Rights Watch that they avoid reporting on anything critical of the government out of fear of reprisal.[73] A journalist based in Mazar-e Sharif, the Balkh provincial capital, told Human Rights Watch that the press avoids critical reporting on any provincial institutions.[74] A reporter in Mazar-e Sharif who had published a report about prostitution in the city received a call from the governor's office and was asked, "You know you are writing this against [Gov.] Atta?"[75]

In some cases, as officials become aware of a journalist's inquiries, they have sought to shut them down through intimidation. Some journalists investigating sensitive subjects said they have received threatening phone calls from unidentified callers before publication or broadcast of their report demanding that they immediately cease their investigations. In other cases, journalists said they received threatening phone calls or text messages after publication of their reports. Those calls and texts warned journalists not to pursue such reporting again. A journalist with one of the Kabul-based TV networks told Human Rights Watch about such an incident in November 2012:

> I covered a suicide attack outside [a prominent politician]'s house. A police cordon had been established, but the politician's bodyguards beat up a policeman because he was blocking their way. I did a report about this saying in that in the presence of 100,000 [international] troops this [kind of violence by powerful individuals] can happen. What will happen when they

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71 Human Rights Watch interview with journalist in Kabul, November 16, 2014.

72 Human Rights Watch interview with journalist in Kabul, September 2, 2014.

73 Human Rights Watch phone interview with journalist from Mazar, September 11, 2014.

74 Human Rights Watch interview with journalist in Kabul, September 2, 2014.

75 Human Rights Watch interview with journalist from Mazar by phone, November 14, 2014.

> leave? My family was worried—we received threatening phone calls. They were using abusive language." [76]

A journalist who has worked in Kandahar for many years told Human Rights Watch that the source of violence against journalists there has changed. From about 2005 to 2011, journalists in Kandahar were subject to routine threats from the Taliban, but since about 2012, threats from the Taliban represent less of a problem for the press than intimidation by pro-government forces. [77] A journalist working in Kandahar told Human Rights Watch that he and his colleagues fear possible reprisals from the police or provincial government officials, and so avoid reporting anything critical about the government or security forces. He noted that only the foreign media can do that in relative safety.[78]

The June 2014 detention in Kandahar of journalist Khalid Hadi illustrates the extent to which government officials in Afghanistan abuse their authority. On April 26, 2011, Hadi, an Afghan-American and editor for the news website Benawa.com, published a blog that implicated the provincial government in corruption. The consequences of that reporting became clear when he returned to Kandahar in June 2014. He provided a detailed account of what happened to Human Rights Watch:

> I covered the Election Day and I met many people at different polling stations in Kandahar city…. I had planned to go to Kabul on a Kam Air flight; my flight was at about 11 a.m. and I got to the airport at about 8:30. While I was walking to the airport terminal, an NDS official asked me, "Are you Khalid Hadi?" I said yes and he said, "We want to speak you for a while." They told me, "The governor sent a letter ordering us to arrest Khalid Hadi, so this is our obligation to take you to Kandahar NDS directorate." They

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[76] Human Rights Watch interview with TV reporter, Kabul, August 28, 2014.

[77] Human Rights Watch interview with journalist in Kabul, September 1, 2014.

[78] Human Rights Watch interview with journalist in Kabul, September 1, 2014. Foreign journalists have an easier time than local ones, but they can still face threats, including expulsion, for their writing. On August 19, 2014, Gen. Sayed Noorullah Sadat, general director of crimes against external and internal security, summoned New York Times correspondent Matthew Rosenberg and asked him to identify anonymous government sources cited in an article published on August 18 on the presidential election impasse. Rosenberg was then expelled from Afghanistan, and only returned after Pres. Ghani rescinded the expulsion order in October 2014. Rod Nordland, *Afghan Officials Interrogate a Times Correspondent,* August 19, 2014, http://www.nytimes.com/2014/08/20/world/asia/afghan-officials-interrogate-matthew-rosenberg.html?_r=0 (accessed December 22, 2014); Rod Nordland, *Calling Article 'Divisive,' Afghanistan Orders Expulsion of Times Correspondent*, August 20, 2014, http://www.nytimes.com/2014/08/21/world/asia/afghanistan-orders-expulsion-of-new-york-times-correspondent.html (accessed 17 November 2014).

took me to NDS number 82 [a special investigative branch of NDS] and asked me, "Why you are writing wrong articles against [the governor]?" After that, the NDS director asked me to speak with governor on the phone, and I spoke with [the governor] and I asked him why he had me arrested. And the governor asked me to meet him in his office the next day….

[When] I met with [the governor], he told me, "You are dog and the son of a donkey!" I said, "Please not to speak badly, you are a professor and the governor of Kandahar and you know you are sitting in a high-ranking government chair. This is bad for you, not for me." The governor used bad words against me for an hour while I was with him, and then he asked me to give him a guarantee not to write [such] articles again. He said, "When you give me a guarantee and confess in front of the TV cameras that you did wrong in the past and will not do it again in the future, and you promise not to write articles like you did … then I will release you."

I said, "This is my job to write the truth and the articles that I wrote were all based on documents, I mean I have the documents that [show what] you did and … if you want to keep me in your custody for 10 years I will not change my mind because I am not guilty."

I added, "If you want to drive a case with me in the court, first you have to resign from your post according to the rules and I am ready to go to the court and continue the investigation." Besides [the governor], his deputy and the provincial Kandahar cultural department director [were there]—those two were arguing with me as well in the governor's office at that time.

For two days I was in custody, the first day in NDS directorate…. They were telling me you don't have any case with us and your issue doesn't belong to us because it is media case and it belongs to the Information and Culture Ministry, and we opened a case file for you because we can't reject the order of [the governor].

> The governor showed me many papers that I wrote about his corruption. I defended my articles and told him that everyone knows what you did, and … the information I got from the people who are working in Kandahar government and some of them are active ministers. The governor asked me to tell the names who gave me information for articles but I refused. [79]

Hadi has a US passport, and the US Embassy in Kabul was in contact with him by phone three times during his detention. That intervention, together with pressure from a number of powerful Afghan political figures, was likely instrumental in securing Hadi's release after two days.[80]

Violence and Intimidation by Police and Afghan National Security Forces

Police and other Afghan National Security Forces (ANSF) are among those who have used threats, intimidation, and violence to prevent or discourage reporters from covering news events. Media coverage of security incidents—such as suicide attacks by insurgents—is considered particularly sensitive by local security forces, and journalists who attempt such coverage risk abuse by police and other security forces.

The authorities need to take into account valid security and privacy considerations when providing information to journalists in a particular instance. However, journalists told Human Rights Watch that government officials routinely decline to provide any information about security incidents. They said officials frequently become physically and verbally abusive if journalists ask for an official statement about an attack or other security incident.[81] And because the Taliban have used video footage to publicize their attacks,[82] police have threatened journalists who try to film the aftermath of bombings.[83] In some cases, police have seized journalists' cameras and phones to prevent them from filming or taking

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[79] Human Rights Watch email interview with Khalid Hadi, November 16, 2014.

[80] Human Rights Watch interview with Kandahar based journalist who interviewed Hadi, June 20, 2014.

[81] Human Rights Watch interviews in Kabul with journalists based in the provinces, August 25-September 2, 2014. See also Saifullah Maftoon, "Journalists boycott Ghazni governor's office," *Pajhwok Afghan News*, September 9, 2013, http://www.pajhwok.com/en/2013/09/09/journalists-boycott-ghazni-governor%E2%80%99s-office (accessed November 16, 2014).

[82] Emma Graham-Harrison, "Afghanistan's Taliban embrace the power of video propaganda," *The Guardian*, June 4, 2014, http://www.theguardian.com/world/2014/jun/04/afghanistan-taliban-video-propaganda-bowe-bergdahl (accessed 15 November 2014).

[83] Human Rights Watch interview with journalist in Kabul, August 31, 2014.

photographs of the aftermath of security incidents.[84] In other cases, police and other security forces have physically attacked journalists and detained or threatened them with detention and torture, simply because they were attempting to report on such attacks.[85]

An Afghan journalist who attempted to report on a suicide attack in Kabul in August 2014 told Human Rights Watch of the risks such reporting entails:

> I was in the office when there was an attack on Darulaman Road. The site was cordoned off [by police], and I was talking to eyewitnesses and taking some photos and short video for our live stream with my iPhone. Then a member of the [Afghan Public] Protection Force took me over to a [Toyota] Hilux vehicle. This [vehicle] usually means NDS. The commander was there, and he also asked, "Why are you filming the scene?" I showed him my [press] card and tried to explain again. He swore at me, and kept [verbally] abusing me for five minutes, and then ordered me handcuffed. I pushed away and they grabbed me and handcuffed me, then hooded me. We walked for about a minute and they said "We will take you to NDS jails and we will torture you."[86]

After about half an hour, the security forces removed the hood and returned the reporter to the NDS commander, who resumed the interrogation. He asked for the reporter's national ID and the password for his mobile phone. He looked at the reporter's emails and asked whom the reporter had been communicating with about the attack. Finally, he ordered his men to remove the reporter's handcuffs. After saying, "We will hand you over to the Americans," he released the reporter. The reporter later learned that the NDS detained him because the Taliban use videos of the aftermath of suicide attacks for their own propaganda.[87]

Local reporters working in areas affected by the insurgency told Human Rights Watch that it is difficult for them even to obtain statements from government officials about either security or policy matters.[88] In cases in which officials do release such statements, they frequently prohibit journalists from using the statements in their reporting. A reporter who

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[84] Human Rights Watch interviews in Kabul with journalists based in the provinces, August 25-September 2, 2014.

[85] Human Rights Watch interview with journalist in Kabul, August 31, 2014.

[86] Human Rights Watch interview with journalist in Kabul, August 31, 2014.

[87] Human Rights Watch interview with journalist in Kabul, August 30, 2014.

[88] Human Rights Watch interview with journalists in Kabul, August 29, 2014.

frequently covers fighting among anti-Taliban commanders in Kunduz told Human Rights Watch that local media were told by the authorities to blame the fighting on the Taliban.[89] Journalists would do so out of fear of reprisals by militia commanders if they did not.[90]

Government officials particularly discourage reporting that might reflect negatively on the security forces, and the Afghan National Army in particular.[91] A journalist in Paktiya province told Human Rights Watch that the security forces "want positive news about security. If not then they threaten us."[92] Another journalist said that, "In Nangarhar, the police said they need more troops, but then asked us not to quote them."[93] The police did not want their superiors to perceive the police as criticizing them for inadequate resources. A reporter in Khost told Human Rights Watch that the NDS frequently warn journalists not to include government statements about the security situation in their reports: "The ANSF tell us 'Don't use [in your stories] what I said about security.'"[94]

If reporters do report on security matters, they risk reprisals. In a meeting with Human Rights Watch, Paktika-based journalists described an attack by insurgents on an Afghan Local Police checkpoint near the provincial capital, Sharana, in September or October 2013 that killed two police officers and injured several others. The police chief who spoke with the reporters recounted some details of the attack, but the reporters could not persuade the provincial government to give them a written statement. One of the journalists described what happened when they subsequently published what the police had told them about the attack:

> [My story] gave the police chief's version of the report that day. The governor sent the CID [Criminal Investigation Department] chief to take me to the police station where I was held overnight. They kept asking me, "Why did you publish this?"[95]

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[89] Human Rights Watch interview with journalist in Kabul, September 4, 2014.
[90] Human Rights Watch interview with journalist in Kabul, September 4, 2014.
[91] Human Rights Watch interview with journalist in Kabul, August 31, 2014.
[92] Human Rights Watch interview with journalist in Kabul, August 26, 2014.
[93] Human Rights Watch interview with director of media company, Kabul, August 26, 2014.
[94] Human Rights Watch interview with journalist in Kabul, August 26, 2014.
[95] Human Rights Watch interview with journalist in Kabul, August 26, 2014.

Other Afghan media subsequently broke the story of the journalist's detention, and the Afghan Journalists Safety Committee complained to the Provincial Director for Information and Culture, who said that the governor should have taken his complaint to his ministry rather than seeking out the relevant journalist.[96] The reporter said that police released him the next day, but cautioned him not to publish uncleared police statements again.[97] A prominent newspaper editor in Kabul told Human Rights Watch that the government's relationship with the media involves "no recognition of [the] public's right to know."[98]

The Role of the Attorney General's Office and the Ministry of Information and Culture

The Ministry of Information and Culture and the Attorney General's Office, rather than rigorously defending journalists' rights, have acted in ways that heighten their vulnerability to harassment and threats.

The Mass Media Law of 2006 established the Media Violation Investigation Commission (MVIC), empowering it to investigate complaints against the press and forward those that warrant legal action to the Attorney General's Office. Despite that authority, the MVIC in many instances sends cases to the Attorney General "without prior investigation,"[99] meaning the complaint against the journalist is accepted at face value.

In other cases, MVIC responds to complaints from officials about critical coverage by pressuring journalists to apologize. If members of parliament or other government officials file complaints against journalists with MVIC, the commission, whose legal status is ambiguous and has been repudiated by journalists, has the power to summon journalists to appear before it to address such complaints. In a meeting with Human Rights Watch on September 2, 2014, then-Minister of Information and Culture Sayed Makhdoom Raheen stated that one of his main responsibilities in such cases was to ensure that journalists apologized to the relevant government officials and agencies.[100] He described this

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[96] Human Rights Watch interview with journalist in Kabul, August 26, 2014.

[97] Human Rights Watch interview with journalist in Kabul, August 26, 2014.

[98] Human Rights Watch interview with editor in Kabul, August 28, 2014.

[99] Wazhma Samandary, "A 'Jihad on the Media'? Afghan journalists face the storm in insecure legal waters," *Afghanistan Analysts Network*, December 9, 2013, https://www.afghanistan-analysts.org/a-jihad-on-the-media-afghan-journalists-face-the-storm-in-insecure-legal-waters/ (accessed September 30, 2014).

[100] Human Rights Watch interview with then Minister for information and Culture, Sayed Makhdum Rahim, September 2, 2014.

approach as "a correction, not a punishment. I haven't sent any journalists to jail. No media has been stopped.... They don't know the border between criticizing and insulting.... I ask [the officials] to forgive on behalf of this apology. From our side they [the journalists] feel very free. I tell them—they are very young—be careful."[101]

This form of intimidation has contributed to a tendency toward self-censorship among the Afghan press on controversial topics that might provoke the ire of members of parliament and other government officials.

The 2009 Mass Media Law calls for replacement of the MVIC with a Mass Media Commission (MMC). As of December 2014, the MMC had not been established and the MVIC was continuing to function. Nai-Supporting Open Media, an Afghan journalists' advocacy organization, has called for the MVIC to be abolished and replaced with the Mass Media Commission as provided in the 2009 Mass Media Law.[102] The Afghan Analysts Network has echoed that call. [103] Afghan journalists interviewed by AAN believe the MVIC to be "biased against the media" [104] because it tends to support government officials against the media, and does not look into complaints by the media.

If the MVIC forwards a complaint against a journalist to the Attorney General's Office for legal action, the charges generally include ambiguous infractions such as "disturbing the social order," [105] or writing reports that are "against the national interest."[106] According to the Afghan Journalists Safety Committee, President Karzai had promised to dismiss all pending cases against the media but failed to do so before he left office on September 29, 2014. [107] As of December 2014, President Ghani had not ordered the dismissal of any cases.

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[101] Ibid.

[102] Nai-Supporting Open Media, "Afghan Journalists Community is tired of the presence of illegal Media Violation Investigation Commission," February 24, 2013, http://nai.org.af/en/page/afghan-journalists-community-tired-presence-illegal-media-violation-investigation-commission (accessed October 22, 2014).

[103] Wazhma Samandary, A 'Jihad on the Media'?, December 9, 2013.

[104] Wazhma Samandary, A 'Jihad on the Media'?, December 9, 2013.

[105] Wazhma Samandary, A 'Jihad on the Media'?, December 9, 2013.

[106] Human Rights Watch interview with director of media corporation, Kabul, September 2, 2014.

[107] President Karzai ordered the closure of such files but this order has not been put into action yet. Afghan Journalists Safety Committee, "Media Support Groups Secure Commitment of Presidential Candidates in Support of Media and Freedom of Expression," September 8, 2014, http://ajsc.af/index.php/2013-12-29-09-48-02/item/85-media-support-groups-secure-commitment-of-presidential-candidates-in-support-of-media-and-freedom-of-expression (accessed September 15, 2014).

The media's capacity to publicly embarrass government officials in Afghanistan has given it some power to defend itself against harassment of this kind. Parwiz Kawa, the editor-in-chief of *Hasht-e Subh*, told Human Rights Watch about his experience with the Attorney General's Office after publishing a story on corruption:

> There was a case brought against us after my newspaper published an investigative report on corruption in the mining industry on March 30, 2013. The Minister for Mining complained and I was called in to the AGO. When I came out [of the Attorney General's Office], it was big news. Tolo [TV] had it.[108] Then the Attorney General called me to apologize, and said, "If anyone else calls you about it, let me know."[109]

In this case, media exposure and pressure from journalists' associations apparently induced a change of tack by the Attorney General, who promised to drop any further action against the newspaper, although the editor did not know whether he actually did so.[110]

Another news agency editor told Human Rights Watch that she has been called to the MVIC and the Attorney General's Office multiple times to answer complaints from government officials about stories her reporters have covered. In one instance, several members of parliament demanded that she come to the Attorney General's Office and apologize for a report on a gunfight between the bodyguards of two MPs that erupted in a clinic in Kabul on July 23, 2012.[111] After the broadcast, she was summoned to the Attorney General's Office.

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108 Tolo has the largest television audience in Afghanistan. Frud Bezhan, "Afghan Media Group Looks Beyond 2014 With Expansion In Mind," *Radio Free Europe Radio Liberty*, http://www.rferl.org/content/afghanistan-moby-media-expansion/25371228.html (accessed December 22, 2014).

109 Human Rights Watch interview with editor, media network based in Kabul, August 25, 2014; The story was published in Hasht-e Subh [8 am], on March 31, 2013. "Hasht-e-Subh's Findings: Afghanistan's Minerals are Plundered," http://8am.af/1392/01/11/8-am-report-afghanistan-mines (accessed November 17, 2014).

110 The Afghan Journalists Center, an organization promoting freedom of expression in Afghanistan, condemned the attorney general's action as a violation of the media law. "Afghanistan Journalist Center condemns the action of attorney's office for calling the heads of 8 Sobh Newspaper," *Afghanistan Journalist Center*, April 30, 2013, http://afjc.af/english/index.php/af-media-news/central-provinces/kabul/393-afghanistan-journalist-center-condemns-the-action-of-attorneys-office-for-calling-the-heads-of-8-sobh-newspaper.html, (accessed November 16, 2014).

111 According to the Dari-language online news platform *Pajhwok News*, the bodyguards were employed by MPs Mujahid and Tarakhel. A gunfight broke out after one of the Tarakhel bodyguards went to the private Lajaward Clinic in Pul-e-Charkhi Bazar seeking medical treatment. The bodyguard sought to jump the queue, and threatened clinic officials when they urged him to wait in line. As the bodyguard "sought to use his gun against [a] health worker, Mujahid's bodyguard intervened in support of the health workers and, with the arrival of tens of armed men from Tarakhel, they started fighting." The fighting began around 5:30 p.m. and went on all night. The gunmen used PK machine guns and AK-47s assault rifles, which resulted in the injury of a health worker and damage to the clinic. "Two members of the

She told Human Rights Watch:

> I got a letter from the Ministry—they asked me by very tough language, "You should come"… to this [Media Violations Investigation] Commission, and I went there, and … the minister was there with the two MPs. I went very well equipped with all the evidence, film, pictures and the [audio] of the firing—they fired around 2000 bullets. And I went with all these documents and also the interview with the Kabul Police in which they accepted that this [gunfight] happened between two MPs. I had a very tough time during one hour.… Always they asked me many times to apologize. I said, "Never, never." … The Minister one time said, "OK, if she does not want to apologize, I will apologize instead of her." And I said, "No, [Minister] please you apologize … for yourself, not [for] me. Because I did nothing wrong. I am a journalist, I did very professional work, and I have everything, evidence, voice, picture—everything I have, and that is why I can't apologize.… This is the fourth time you have asked me to come to this Commission, and three times you apologized to me because always I was right, on the basis of professionalism. Now also I am sure that this time again you will apologize [to] me but I don't want that you apologize to me, but please give me five minutes. And I played these things which I have, I played [the video of the broadcast] on my computer and all of them saw that.… I thought the Minister would stand by [our] side … our expectation was that he would [take] my side, my reporter's side. But the reality was that he supported the MPs.[112]

In the end, no case was filed against the editor, as the police stood by their report accusing the MPs of maintaining bodyguards far in excess of the number allowed by law.[113] However, no legal action was taken against them. [114]

Wolesi Jirga reject firefight among/between their men," *Pajhwok News*, July 27, 2012, http://www.pajhwok.com/dr/2012/07/29/%D8%AF%D9%88%D8%B9%D8%B6%D9%88-%D9%88%D9%84%D8%B3%D9%89-%D8%AC%D8%B1%DA%AF%D9%87-%D8%AF%D8%B1%DA%AF%D9%8A%D8%B1%D9%89-%D8%A8%D9%8A%D9%86-%D8%A7%D9%81%D8%B1%D8%A7%D8%AF-%D8%AE%D9%88%D8%AF-%D8%AF%D8%B1-%D9%8A%DA%A9-%DA%A9%D9%84%D9%8A%D9%86%D9%8A%DA%A9-%D8%B1%D8%A7-%D8%B1%D8%AF-%DA%A9%D8%B1%D8%AF%D9%86%D8%AF-0 (accessed November 17, 2014).

[112] Human Rights Watch interview with editors at the Kilid Group, September 1, 2014.

[113] Human Rights Watch interview with editors at the Kilid Group, September 1, 2014.

[114] Human Rights Watch interview with editors at the Kilid Group, September 1, 2014.

Dangers Faced By Female Journalists

Female journalists in Afghanistan face particularly formidable challenges. Along with the threats, intimidation, and violence faced by all journalists, female reporters are impeded by social and cultural restrictions that may lead to them being targeted not only for coverage that angers powerful people, but also simply for being women. The mere act of appearing on television can be particularly controversial for a woman in Afghanistan.[115]

Threats often limit female journalists' ability to travel in the rural countryside, or even restrict their mobility in urban areas. In addition to the threats they face investigating stories, they also often must contend with sexual harassment and discrimination from colleagues within their media organizations.

According to the Afghan Journalists Safety Committee, "three female journalists have been killed [since 2010] … and dozens have been intimidated to stop working. The lack of interest and will of the government to identify the culprits has cast a destructive and disappointing shadow on the remaining female media workers."[116]

A female reporter who has reported on political issues, election violence, and women's rights told Human Rights Watch that she is one of only a few female television reporters around the country. She described an encounter she had after she covered a story about members of parliament who had been absent over an extended period during a time when the parliament needed a quorum for a vote on an anti-money-laundering bill. She was challenged by MPs who accused her of being a "wild woman who should not behave this way," and said she was "putting her future in danger," and "demeaning people who had social standing."[117] Earlier she had written about a woman's shelter in Parwan, which prompted a reaction from powerful local figures, including Haji Almas, a militia commander implicated in serious abuses.[118] She was again accused of being a "wild woman" who was "supporting people who are immoral."[119]

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[115] Emma Graham-Harrison, "Kabul attack on female actors leaves survivors facing more 'punishment'," *The Guardian*, September 6, 2012, http://www.theguardian.com/world/2012/sep/06/afghanistan-attack-female-actors (accessed December 18, 2014).

[116] Afghan Journalists Safety Committee, "Why Women are Underrepresented in the Afghan Media" Weblog, December 28, 2013, http://ajsc.af/index.php/2013-12-29-09-48-02/item/39-why-women-are-underrepresented-in-the-afghan-media-written-by-nazira-babori (accessed November 16, 2014).

[117] Human Rights Watch interview with television journalist in Kabul, August 29, 2014.

[118] Haji Almas, a member of Abdul Rasul Sayyaf's Ittihad militia, is accused of human rights violations and war crimes. See Human Rights Watch, *Bloodstained Hands: Past Atrocities in Kabul and Afghanistan's Legacy of Impunity*, July 7, 2005,

A female news agency director told Human Rights Watch that "when a female journalist goes around to do her work she is looked at suspiciously—questions are raised about her character—'What is she doing with photos?', 'Why is she going into government offices?'—and she is always seen as inferior to her male counterparts."[120] Female journalists are also vulnerable to sexual harassment and abuse in the workplace, which most may not report for fear of losing their jobs.

The owner of a female-managed radio station in a southern province described threats she received from the Taliban before the first round of the presidential elections on April 5, 2014:

> We had placed "suggestion boxes" for listeners across the city, and the first letters from the Taliban were dropped in those. The Taliban said they had received "reports" of wrongdoing about the radio station. Then male staff members began receiving calls from the Taliban. My father also got calls. I told him to tell them I'm ready to close down the radio station if they are able to give at least one good reason. Ten to twelve days later, the Taliban called my father and apologized, saying they had received "wrong reports" about wrongdoing by the radio station.… Running a media organization with female employees is extremely difficult because the slightest perceived moral transgression can create very big problems.[121]

While opportunities for Afghan women in journalism have expanded considerably since 2001, when there were virtually no female journalists, by the end of 2014 women still constituted only a small percentage of full-time journalists, editors, and directors in the Afghan media. Among other things, this small number of female journalists and the intimidation they face limits coverage in the media of issues affecting Afghan women.

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http://www.hrw.org/reports/2005/afghanistan0605/5.htm. Shelters for women fleeing violence are a particularly controversial issue in Afghanistan and have been at times targeted through the media by conservatives opposed to their existence. Maria Abi-Habib, "TV Host Targets Afghan Women's Shelters," *Wall Street Journal*, August 3, 2010, http://online.wsj.com/articles/SB10001424052748704875004575374984291866528 (accessed December 18, 2014).

[119] Human Rights Watch interview with television journalist in Kabul, August 29, 2014.

[120] Human Rights Watch interview with the head of a news agency in Kabul, August 29, 2014.

[121] Human Rights Watch interview by phone with owner of a female-managed radio station in a southern province, September 30, 2014.

III. Self-Censorship

Violence, impunity, and lack of legal and institutional safeguards for the media have fueled fear, self-censorship, and attrition among Afghanistan's media professionals. Journalists told Human Rights Watch that they do not attempt to cover issues that pose too great a risk to their security. Issues like corruption, drug-trafficking, and land-grabbing frequently implicate powerful political figures who operate within or outside the government and who have exacted reprisals against the media for unfavorable reporting. A senior newspaper editor told Human Rights Watch:

> We see our job as needing to pressure the government to reform. Some issues we are careful about. We could criticize President Karzai, yes. But [Marshall] Fahim, no.[122] Or people in his camp. We censor ourselves for the security of our staff. These people don't file a complaint—they might kill us.[123]

Ambiguities in the Mass Media Law over what constitutes "disturbing social order," and confusion over whether the provisions of the latest laws actually supersede previous laws, have also encouraged journalists to avoid potentially controversial topics. [124]

For journalists covering the insurgency, there is a tacit agreement among many that with Afghan security forces sustaining heavy casualties, they should avoid publishing reports that cast the security forces in an unfavorable light because it is believed to have a negative impact on troop and national morale.[125]

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122 Marshall Mohammad Qasim Fahim, who died in 2014, was one of President Karzai's vice-presidents and a senior figure in the *mujahidin* faction Shura-e Nazar. He was one of the most notorious warlords in the country, widely believed responsible for torture, extrajudicial executions and other abuses during the civil war, and involvement in drug trafficking and other criminal activities after 2002. Jon Boone, "Afghan president Hamid Karzai picks ex-warlord as election running mate," *The Guardian*, May 4, 2009, http://www.theguardian.com/world/2009/may/04/afghanistan-president-hamid-karzai-election, (accessed November 17, 2014); Human Rights Watch, *Blood-Stained Hands: Past Atrocities in Kabul and Afghanistan's Legacy of Impunity*, July 7, 2005, http://www.hrw.org/sites/default/files/reports/afghanistan0605.pdf.

123 Human Rights Watch interview with editor, media network based in Kabul, August 25, 2014.

124 "[B]ecause there have been four media laws approved since March 2002, many journalists are unsure of which media law is under effect and thus often practice self-censorship of content in an effort to avoid violating cultural norms or offending local sensitivities." Freedom House, "Freedom of the Press: Afghanistan," https://freedomhouse.org/report/freedom-press/2011/afghanistan#.VGoAGPnF_9t (accessed November 17, 2014).

125 Human Rights Watch interview with TV editor in Kabul, August 24, 2014.

On March 23, 2014, following an attack on the Serena Hotel in Kabul in which Taliban militants killed eight civilians, including Agence France-Presse (AFP) journalist Sardar Ahmad, his wife, and two of their children, Kabul's press corps agreed to boycott coverage of Taliban attacks for a 15-day period from March 21.[126] This included the weeks just before the first round of the 2014 presidential election, which the Taliban had vowed to disrupt through violence. The effect of the boycott was that there was little coverage of a surge of violent attacks, particularly on the election day, April 5, 2014.[127]

[126] Lee Ferran, "Afghan Journalists Boycott Taliban Coverage After Kabul Hotel Attack Kills Reporter, Children," March 21, 2014, http://abcnews.go.com/Blotter/afghan-journalists-boycott-taliban-coverage-kabul-hotel-attack/story?id=23005119 (accessed November 17, 2014).

[127] International Crisis Group, Afghanistan's Political Transition, October 16, 2014, http://www.crisisgroup.org/en/regions/asia/south-asia/afghanistan.aspx (accessed November 17, 2014).

IV. Violence and Intimidation by Insurgents

> [The journalist] had reported on fighting between Hezb-i Islami and the Taliban. A Taliban commander threatened him, saying, "Stop all your reporting or we'll kill your family." So he is quitting.
> —News agency head, Kabul, August 2014

The Taliban and other insurgent groups have had an evolving relationship with the media. From 2002 until 2008, the Taliban had an exclusively hostile approach to the media, and regularly carried out kidnappings and other attacks on the press. [128] Since then, the Taliban have sought to establish an official relationship with the press, sending out regular statements and communicating directly with the press to attempt to influence news coverage. At the same time, the Taliban and other insurgent groups have threatened journalists to compel them to cover their version of news events and to refrain from reporting government statements.[129]

During the first seven or so years after the Taliban government was overthrown, the insurgents treated journalists largely as spokespersons for the new Afghan government or for Western forces, and considered them enemies. On September 4, 2006, Mullah Dadullah, a Taliban military commander with a history of war crimes,[130] threatened to kill journalists who published news statements issued by North Atlantic Treaty Organization (NATO) forces in Afghanistan. Dadullah sought to justify that order, stating: "We have an Islamic right to kill such reporters."[131] In 2007, the Taliban killed three journalists, including Ajmal Naqshbandi, who had been kidnapped along with Italian journalist Daniele Mastrogiacomo. Mastrogiacomo was released, reportedly after a

[128] In such communiques, the Taliban refer to themselves as either the Islamic Emirate of Afghanistan, the name they took when they were in power between 1996 and 2001, or as the *mujahedin*, the term used by Afghan forces who fought the Soviet occupation in the 1980s.

[129] Insurgent groups fighting the government besides the Taliban are the Haqqani network and other insurgent groups who have split away from the Taliban, such as Feday-e-Mahaz,

[130] Mullah Dadullah is accused of war crimes in 1998 and 1999 during the Taliban's offensives in northern Afghanistan. See Human Rights Watch, *The Human Cost: The Consequences of Insurgent Attacks in Afghanistan*, April 2007, http://www.hrw.org/reports/2007/afghanistan0407/afghanistan0407webwcover.pdf (accessed October 20, 2014).

[131] Committee to Protect Journalists, "Afghanistan 2006," http://cpj.org/asia/afghanistan/2006/ (accessed October 20, 2014).

ransom was paid, but Naqshbandi and their driver, Agha, were beheaded, apparently on Dadullah's orders.[132]

In the aftermath of Dadullah's death in a US airstrike in May 2007, and with growing Taliban awareness of the power of the media, the Taliban's approach shifted. While the Taliban continued to kidnap journalists, they also used other means to influence media reporting. On August 28, 2007, the Taliban kidnapped Mohammad Zahir Bahand, a reporter with Kabul radio station Salam Watandar, in the vicinity of the Puli-Surkh district of Wardak province. The Taliban released him after a few hours of questioning. A person who identified himself as a deputy of Zabiullah Mujahid, a Taliban spokesman, warned Bahand's manager that Salam Watandar "should strive for more balanced reporting," stating that the "Taliban were unhappy about reports on the [allegedly Taliban-ordered] torching of another Internews station" some 11 days earlier.[133]

Since then, the Taliban have increasingly identified the media as a potentially useful tool against the government, and so frequently court the media for that purpose. A journalist in Kabul told Human Rights Watch, "They know if they alienate journalists they lose the war. It is a war of perceptions."[134] In its 2012 policy briefing on the media in Afghanistan, the BBC's Media Action program noted that the Taliban, "notorious when in power for shutting down media and banning video tape, have embraced the web and run one of the most effective media strategies in the country."[135]

The Taliban try to influence news reporting by maintaining individual contact with journalists and editors. Journalists told Human Rights Watch that they regularly receive phone calls from spokesmen for the Taliban who criticize their articles for any perceived bias. The Taliban will also send cell phone text messages to comment on press coverage, often chiding reporters that they "should have included our points."[136] While criticism of media reporting is not in itself problematic, when it comes from an armed group with a history of killing journalists, the impact is necessarily magnified.

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[132] Committee to Protect Journalists, "Afghanistan 2007," http://cpj.org/asia/afghanistan/2007/ (accessed October 20, 2014).

[133] Ibid.

[134] Human Rights Watch interview with journalist, Kabul, August 29, 2014.

[135] BBC Media Action, "Policy Briefing:The media of Afghanistan: The challenges of transition," March 2012, http://downloads.bbc.co.uk/mediaaction/policybriefing/bbc_media_action_afghanistan_is_in_transition.pdf (accessed September 15, 2014).

[136] Human Rights Watch interview with journalist in Kabul, August 31, 2014.

A television news editor complained that repeating top stories on hourly news programs had incited Taliban anger. His station had used a government statement on the killing of a prominent Taliban commander—a story that ran hourly on the news bulletins that day. The Taliban accused the TV network of celebrating the killing, apparently unaware or unconcerned that the demands of the news cycle required such repetition. "You are so happy he's dead," the Taliban statement said. "Woe is you—be careful."[137] The television station made no change in its hour-update format in response to the Taliban warning.

An editor in Kabul described the difficulties his reporters had from the Taliban in Helmand province:

> In Sangin, we got a video of Pakistan's involvement in supporting the insurgents. There were two or three people, speaking a mix of Punjabi and English. When we published this, the Taliban sent us a message, "Why did you release that video?" They did not dispute that it showed their forces, but they said, "It shows our Baloch [Pakistani] *mujahedin.*" They said, "[You are] again doing propaganda. It is an attack on the independence of our jihad and independence of our *mujahidin*. This does not suit [you]."[138]

Other journalists told Human Rights Watch about threats they received from insurgent groups in response to news reporting:

- The Taliban summoned a journalist in Ghazni to a meeting in November 2012 in connection with his work. The reporter persuaded a number of elders to accompany him for security. The Taliban told him they had reports he was working with the police. He responded that he was not, and asked the elders accompanying him to vouch for him. Nothing further happened, although the meeting clearly served as a warning.[139]
- During the 2014 presidential election campaign, the Taliban threatened journalists for their perceived support of the electoral process.[140] One journalist told Human Rights Watch that the Taliban informed him they would arrange for a

[137] Ibid.

[138] Human Rights Watch interview with head of news agency based in Kabul, August 27, 2014.

[139] Human Rights Watch interview with reporter in Kabul, August 28, 2014.

[140] Human Rights Watch, "Afghanistan: Taliban Violence Threatens Election," March 15, 2014, http://www.hrw.org/news/2014/03/15/afghanistan-taliban-violence-threatens-election.

> suicide attack outside his house on the basis that he was broadcasting statements made by the Independent Election Commission.[141] He continued his work without further incident.

Other insurgent groups also pressure reporters to try to influence coverage of their activities. That pressure comes not only as threats, but also through ostensible appeals to journalistic "balance." A news agency editor described a message he received on May 21, 2014 from the insurgent group Fedayi-Mahaz, an insurgent group that emerged in 2012 that considers itself more radical than the Taliban and is opposed to peace talks:

> They wanted a statement published. They called and said, "You are obligated not to conceal the truth. If anything happens to you as a journalist, or to your office, it is not our responsibility, it is yours."[142]

He did not publish the threat, but noted that for many journalists the effect of such threat is that they either quit or self-censor. He told Human Rights Watch, "About 20 of my journalists in the last 11 years have quit their jobs due to threats and completely changed their field of work." [143]

[141] Human Rights Watch interview with journalist in Kabul, August 31, 2014.
[142] Human Rights Watch interview with head of news agency based in Kabul, August 27, 2014.
[143] Ibid.

V. Domestic and International Legal Protections for Afghan Journalists

Freedom of the media is a fundamental principle of international human rights law. The media plays a crucial role in exposing abuses of power, human rights violations, corporate malfeasance, and health and environmental crises, thus helping to ensure that the public is informed, that abuses are halted, that criminal perpetrators face justice, and that victims can seek redress. Core international instruments emphasize the importance of a free press, such as article 19 of the Universal Declaration of Human Rights,[144] and article 19 of the International Covenant on Civil and Political Rights,[145] which Afghanistan ratified in 1964.

The UN Human Rights Committee, which interprets the International Covenant on Civil and Political Rights, has stated that:

> A free and uncensored press or other media is of paramount importance in a democratic society and for the ensuring of freedom of opinion and expression and the enjoyment of other Covenant rights. The Covenant embraces a right to receive information on the part of the media as a basis on which they can carry out their function.[146]

The committee called on governments to "take particular care to foster an independent, diverse and vigorous media."[147] Regarding political reporting, "The free communication of information and ideas about public and political issues … is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."[148]

The 1978 UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion

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[144] Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

[145] International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

[146] Human Rights Committee, Draft General Comment No. 34, U.N. Doc. CCPR/C/GC/34/CRP.2 (2010), para.

[147] Ibid.

[148] Ibid.

of Human Rights and to Countering Racialism, Apartheid, and Incitement to War, sets out the rights and responsibilities of journalists and a free media.[149] Among other things, the Declaration calls for:

- a free flowing and better-balanced dissemination of information;
- public access to information, "enabling each individual to check the accuracy of facts and to appraise events objectively";
- journalists' freedom to report; protection for journalists "guaranteeing them the best conditions for the exercise of their profession";
- a free media as a tool in human rights education: "The mass media have an essential role to play in the education of young people in a spirit of peace, justice, freedom, mutual respect and understanding, in order to promote human rights, equality of rights as between all human beings and all nations, and economic and social progress."

International human rights law not only protects individuals from violations by state authorities, but places an obligation on governments to act with due diligence to prevent or appropriately punish violations of rights by private actors.

The UN Human Rights Committee has made clear that governments violate their obligations under the ICCPR not only when state actors are responsible for the abuse, but also when the government fails to take necessary steps to prevent violations caused by private persons. In its General Comment on state obligations, the Human Rights Committee stated that governments must "take appropriate measures or … exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities."[150]

The Constitution of the Islamic Republic of Afghanistan, adopted in 2004, encapsulates the importance that the international community ascribes to media freedom. Article 34 provides that "freedom of expression is inviolable ... [and] every Afghan has the right to

[149] Proclaimed by the General Conference of UNESCO at its 20th session in Paris, November 28, 1978.

[150] UN Human Rights Committee, General Comment 31, Nature of the General Legal Obligation imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 9.

express his thoughts through speech, writing, or illustration or other means." Additionally, directives related to the media "will be regulated by the law."[151]

All rights, including that of freedom of expression, are strengthened by article 7 of the constitution, which provides that the state is to "observe" international conventions to which Afghanistan is a party, as well as the Universal Declaration of Human Rights. These freedoms can be restricted under article 3, however, which sets out that in Afghanistan, "[n]o law shall contravene the tenets and provisions of the holy religion of Islam."

[151] Constitution of the Islamic Republic of Afghanistan, article 34, http://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf (accessed October 22, 2014).

VI. Recommendations

To the President and Chief Executive

- Publicly condemn all attacks on journalists and media organizations.
- Publicly direct the Ministry of Interior to promptly, vigorously, and appropriately investigate all attacks on journalists, and ensure that any officials, police officers, security forces, or other actors found responsible for obstructing, abusing, or assaulting journalists are disciplined or prosecuted.
- Direct the Attorney General's Office to order prompt, impartial, and thorough investigations into all attacks on journalists and media organizations and bring prosecutions as appropriate.
- Fully implement the Access to Information Law and the 2009 Mass Media Law, particularly provisions of the latter that would disband the Media Violations Investigation Commission and replace it with a Mass Media Commission. The commission should be developed in consultation with Afghan journalists, media organizations, and media monitoring groups, and should be staffed by persons with journalistic qualifications.

To the Afghan Parliament

- Amend or repeal existing laws that limit media freedom and the right to freedom of expression in violation of international law.

To the Minister of Information and Culture

- End the practice of summoning journalists to "apologize" for their reporting.
- Disband the Media Violations Investigation Committee.
- Work in consultation with journalists and media organizations to establish the Mass Media Commission as defined in the 2009 Mass Media Law.
- Create a mechanism within the ministry for journalists to report harassment, threats, and intimidation, and ensure that the mechanism is equipped to provide security to journalists whenever necessary.

- Launch a nationwide public education campaign on freedom of expression, including the role of the media.

To the Ministry of Interior

- Direct the police leadership to use all available supervisory and disciplinary mechanisms to ensure that the police fully respect the rights of journalists and media workers.
- Ensure that the police promptly investigate credible allegations of threats or violence against journalists and media organizations.
- Discipline as appropriate any police officer, regardless of rank, who is complicit in abuses against journalists or fails to adequately investigate alleged threats or violence against journalists.
- Ensure that journalists facing specific threats who seek protection are given it.

To the Office of the Attorney General

- Carry out effective, impartial, and transparent investigations into all attacks on journalists and media organizations. Appropriately prosecute those responsible, including members of the security forces, regardless of position or rank.
- Cease all criminal investigations and dismiss charges against journalists that have been brought in violation of the Mass Media Law.

To the United States, European Union and Member States, and Other Donor Countries

- Urge the Afghan government to take immediate action to protect journalists and media organizations, including by rigorously investigating and prosecuting threats and attacks on journalists and by fully implementing the Access to Information Law and the 2009 Mass Media Law, particularly provisions of the latter calling for establishment of a Mass Media Commission and a High Media Council.
- Include training on respect for freedom of expression and the media in police training courses.

- Provide long-term institutional support to assist independent news media organizations to become self-sustaining within a three- to five-year period.

To the Taliban and Other Insurgent Groups

- Cease all attacks against civilians, including members of the media, media institutions or facilities, both Afghan and foreign;
- Cease any and all abductions, detentions and threats against members of the media.
- Publicly condemn groups or members of insurgent groups who attack the media.

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