



## **Recommendations:**

The undersigned organisations make the following recommendations:<sup>38</sup>

1. The *de facto* authorities in Afghanistan must comply with the United Nations Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from 27 August to 7 September 1990.<sup>39</sup>
2. The *de facto* authorities in Afghanistan must restore the independence and integrity of the country's justice system to its status as of 15 August 2021, including restoring the Afghanistan Independent Bar Association (“AIBA”) and, in particular, the AIBA's licencing authority, in accordance with, *inter alia*, the U.N. Basic Principles on the Role of Lawyers, including

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<sup>35</sup> Joint civil society statement: One year after the country's takeover by the Taliban – How did Europe welcome Afghans in need of protection? (51 civil society organisations, 9 Sept. 2022), [https://www.gcr.gr/media/k2/attachments/Joint\\_civil\\_society\\_statement\\_One\\_year\\_after\\_the\\_countrys\\_takeover\\_by\\_the\\_Taliban%E2%80%93How\\_did\\_Europe\\_welcome\\_Afghans\\_in\\_need\\_of\\_protection.pdf](https://www.gcr.gr/media/k2/attachments/Joint_civil_society_statement_One_year_after_the_countrys_takeover_by_the_Taliban%E2%80%93How_did_Europe_welcome_Afghans_in_need_of_protection.pdf).

<sup>36</sup> Living in Limbo: The Impact of Greece's Safe Third Country Policy on Afghan Asylum Seekers (Just Security, 10 Nov. 2021), <https://www.justsecurity.org/79134/living-in-limbo-the-impact-of-greeces-safe-third-country-policy-on-afghan-asylum-seekers/> and Greece deems Turkey “safe”, but refugees are not: The substantive examination of asylum applications is the only safe solution for refugees (ReliefWeb/U.N. Office for the Coordination of Humanitarian Affairs, 15 June 2021), <https://reliefweb.int/report/greece/greece-deems-turkey-safe-refugees-are-not-substantive-examination-asylum-applications>.

<sup>37</sup> “No One Asked Me Why I Left Afghanistan”: Pushbacks and Deportations of Afghans from Turkey (Human Rights Watch, 18 Nov. 2022), <https://www.hrw.org/report/2022/11/18/no-one-asked-me-why-i-left-afghanistan/pushbacks-and-deportations-afghans-turkey>; Joint Third Party Intervention of European Association of Lawyers for Democracy and World Human Rights (ELDHR), European Democratic Lawyers (EDL), Association of Lawyers for Freedom (ÖHD), and Progressive Lawyers' Association (ÇHD) before European Court of Human Rights (25 June 2022), [http://www.aeud.org/2022/07/before-the-european-court-of-human-rights/?fbclid=IwAR1Fa9E6W2Vp7v6Xgblg6A8L-fl6Iwu52ganP-H0nZpz4YxEeFaDoK65B5Y#\\_ftn69](http://www.aeud.org/2022/07/before-the-european-court-of-human-rights/?fbclid=IwAR1Fa9E6W2Vp7v6Xgblg6A8L-fl6Iwu52ganP-H0nZpz4YxEeFaDoK65B5Y#_ftn69); and Turkey: “Refugees from Afghanistan handed over to Taliban by force” (BIA News Desk, 19 April 2022), <https://m.bianet.org/english/migration/260665-turkey-refugees-from-afghanistan-handed-over-to-taliban-by-force>.

<sup>38</sup> Although these Demands and recommendations are framed in terms of Afghan lawyers, they apply with equal force to Afghan prosecutors and judges.

<sup>39</sup> United Nations Basic Principles on the Role of Lawyers (7 Sept. 1990), <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.



Principle 24, which provides that bar associations are entitled to “exercise [their] functions without external interference.”<sup>40</sup>

3. The *de facto* authorities in Afghanistan must restore the right of women to practice as lawyers in Afghanistan, in accordance with Principle 10 of the U.N. Basic Principles on the Role of Lawyers, which prohibits discrimination in licencing on the basis of, *inter alia*, sex.

4. The *de facto* authorities in Afghanistan must urgently address the increase in attacks on Afghan lawyers and guarantee their right to the free and independent exercise of their profession, particularly in accordance with Principle 16 of the U.N. Basic Principles on the Role of Lawyers, which charges that “[g]overnments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.”

5. The *de facto* authorities in Afghanistan must urgently protect the lives of Afghan lawyers and adopt and implement measures to guarantee their safety, security and freedom in accordance with Principle 17 of the U.N. Basic Principles on the Role of Lawyers, which states that “[w]here the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.”

6. The *de facto* authorities in Afghanistan must cease the stigmatisation of Afghan lawyers involved in sensitive cases, in accordance with the U.N. Basic Principles on the Role of Lawyers. In particular, Principle 18 provides that “[l]awyers shall not be identified with their clients or their clients’ causes”; and Principle 23 states, in relevant part, that “[l]awyers like other citizens are entitled to freedom of expression, belief, association and assembly,” including “the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights . . . , without suffering professional restrictions.”

7. The *de facto* authorities in Afghanistan must permit Afghan lawyers and their families to freely and safely leave the country, if they wish to do so.

8. The international community, in their diplomatic efforts toward the *de facto* authorities in Afghanistan, are urged to ensure the maintenance of a free and independent legal profession, in order to safeguard fundamental rights, including women’s rights, the independence and integrity of the administration of justice, and the rule of law.

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<sup>40</sup> See, e.g., Afghanistan: UN human rights experts warn of bleak future without massive turnaround (Office of the U.N. High Commissioner for Human Rights, 12 Aug. 2022) (calling on the *de facto* authorities to immediately reinstate bar associations), <https://www.ohchr.org/en/taxonomy/term/942>.



9. The European Union and its Member States, together with the United States and the international community as a whole, are urged to leverage their relations with the *de facto* authorities in Afghanistan to press them to accord to Afghan lawyers all rights and protections to which the lawyers are entitled, in accordance with the *de facto* authorities' international obligations.

9. The international community, including, *inter alia*, the European Union and its Member States, as well as the United States, is called upon to grant asylum to Afghan lawyers who are at risk in Afghanistan and who seek international protection.

10. The international community is urged to take all necessary measures to ensure that the lawyers at risk who remain in Afghanistan can safely leave the country.<sup>41</sup>

In particular:

- To immediately implement evacuation and resettlement programmes for Afghan lawyers remaining in Afghanistan or located in neighboring countries.<sup>42</sup>
- To ensure respect for the principle of non-refoulement at all times.
- To make humanitarian visas available to enable Afghan lawyers in need to access international protection legally and safely.
- To ensure that all States suspend deportations and summary returns of Afghan nationals to Afghanistan or third states.
- To ensure that all States thoroughly investigate allegations of ill-treatment of Afghan nationals, especially in the States' border regions and in removal centers in their territories.

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<sup>41</sup> See Interview: After Fleeing the Taliban, a Women's Rights Defender Mourns the Loss of Afghanistan, Urges Action to Save the Country's Lawyers (Jurist, 12 May 2022) (quoting Afghan lawyer's plea: "Advocates inside Afghanistan are under threat and their lives are in imminent danger. Help them leave Afghanistan."), <https://www.jurist.org/features/2022/05/12/interview-after-fleeing-the-taliban-a-womens-rights-defender-mourns-the-loss-of-afghanistan-urges-action-to-save-the-countrys-lawyers/>; Letter to U.S. Secretary of State Antony Blinken from ABA President Reginald M. Turner (American Bar Association, 23 Sept. 2021) (urging the U.S. government to continue to evacuate at-risk Afghan nationals and to prioritize Afghan lawyers and judges, especially women), [https://www.americanbar.org/content/dam/aba/administrative/government\\_affairs\\_office/aba-presidential-letter-re-afghan-judges-9-22-21.pdf](https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/aba-presidential-letter-re-afghan-judges-9-22-21.pdf).

<sup>42</sup> See Interview: After Fleeing the Taliban, a Women's Rights Defender Mourns the Loss of Afghanistan, Urges Action to Save the Country's Lawyers (Jurist, 12 May 2022) (quoting Afghan lawyer's plea: "[A]ttorneys that have made it out of Afghanistan are often left to fester in refugee camps for far too long, which poses a threat to anyone's mental health. Help them get out of these refugee camps and into destination countries."), <https://www.jurist.org/features/2022/05/12/interview-after-fleeing-the-taliban-a-womens-rights-defender-mourns-the-loss-of-afghanistan-urges-action-to-save-the-countrys-lawyers/>.



- To halt “pushbacks” of Afghans from all States’ territories to third States, especially when the third States send the Afghans back to Afghanistan.

11. States, and, more generally, the international community, are urged to design and implement resettlement policies and programmes to allow Afghan lawyers to make the best possible use of their specialized legal training and experience from Afghanistan in their new employment.<sup>43</sup>

12. The United Nations and other international institutions – including, in particular, the U.N. High Commissioner for Human Rights, the U.N. Special Rapporteur on the situation of human rights in Afghanistan, the U.N. Special Rapporteur on the independence of judges and lawyers, the U.N. Special Rapporteur on the situation of human rights defenders, the U.N. Special Rapporteur on violence against women and girls, the U.N. Working Group on discrimination against women and girls, and the U.N. Secretary-General’s Personal Envoy on Afghanistan and Regional Issues – are asked to redouble their focus on the plight of Afghan lawyers and to press

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<sup>43</sup> See Interview: After Fleeing the Taliban, a Women’s Rights Defender Mourns the Loss of Afghanistan, Urges Action to Save the Country’s Lawyers (Jurist, 12 May 2022) (quoting Afghan lawyer’s plea: “Those attorneys who have . . . arrived in destination countries so often find themselves unemployed, and thus unable to provide for themselves and their families .....Help them find work.”), <https://www.jurist.org/features/2022/05/12/interview-after-fleeing-the-taliban-a-womens-rights-defender-mourns-the-loss-of-afghanistan-urges-action-to-save-the-countrys-lawyers/>.

Some bar associations and other organisations are already providing some such support for Afghan legal professionals. See, e.g., ABA project aims to help Afghan legal professionals establish themselves in the United States (ABA Journal, 23 Aug. 2022) (describing Afghan Resettlement Project Task Force’s pilot project, an American Bar Association programme designed to assist Afghan legal professionals in obtaining appropriate employment in the United States in a legal/justice sector setting, by providing, *inter alia*, training in English as a second language, scholarships to attend law school and for licencing exam preparation courses, as well as employment counseling and placement services and other similar support), <https://www.abajournal.com/web/article/aba-project-aims-to-provide-afghan-legal-professionals-with-tuition-and-expenses-for-llm-programs>.

However, the demand for such services far outstrips the available supply given the limited *pro bono* resources of bar associations and similar organisations. To be effective, states must make such support for Afghan legal professionals a state priority. See generally, e.g., Message from Chief Judge Janet DiFiore (New York State Courts, 28 March 2022) (announcing New York state courts’ establishment of innovative new program titled “Judges for Career Opportunities for Refugees” (“J-Corp”), which places Afghan legal professionals in full-time, paid “analyst” positions in New York state courts for a 12-month period), <https://www.nycourts.gov/whatsnew/pdf/Mar28-CJ-Message2022.pdf>; An Attorney Flees the Taliban and Finds Support in New York’s J-COR Program (New York State Bar Association, 23 Dec. 2022), <https://nysba.org/an-attorney-flees-the-taliban-and-finds-support-in-new-yorks-j-cor-program/>; Resolution In Support of Assisting the Resettlement of Afghanistan’s Women Judges and Other Vulnerable Justice System Refugees (U.S. Conference of Chief Justices, 3 Nov. 2021) (urging all U.S. state court systems “to cooperate and work closely with the United States Department of State, where possible, to identify employment opportunities [in the courts] for Afghan refugees who worked in their country’s justice system” and encouraging “the National Center for State Courts to create an Afghan Justice Sector Clearinghouse to facilitate the efforts of the United States to resettle . . . Afghan women judges and justice system refugees”), [https://ccj.ncsc.org/data/assets/pdf\\_file/0021/70446/CCJ-Resolution-1-Afghani-Women-Judges.pdf](https://ccj.ncsc.org/data/assets/pdf_file/0021/70446/CCJ-Resolution-1-Afghani-Women-Judges.pdf).



the *de facto* authorities to comply with the U.N. Basic Principles on the Role of Lawyers and all applicable legal standards.

13. States, and, more generally, the international community, including the AIBA's sister bar associations<sup>44</sup> and law societies of the world, are urged to design and implement creative, affirmative measures to support the continued existence of the Afghanistan Independent Bar Association, including its operations in exile.<sup>45</sup>

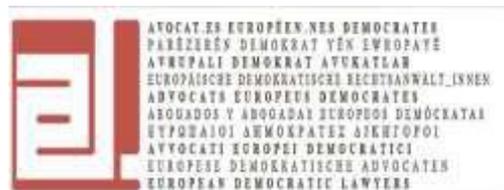
14. Bar associations and law societies around the globe are called upon to closely monitor and report on the situation of Afghan lawyers and to take all possible actions to support those who are in need, wherever they may be located.

15. Journalists and the international media are encouraged to investigate and report on the situation of Afghan lawyers, to bring pressure to bear on the *de facto* authorities and to focus public attention worldwide on the vital role that Afghan lawyers have played and the grave risks that they now face.

## FOUNDATION



Foundation Day of the Endangered Lawyer



European Democratic Lawyers

<sup>44</sup> For example, the Brussels Bar is offering its help to the AIBA in exile

<sup>45</sup> See Statement of the New York City Bar Association re: the Taliban Takeover of the Afghanistan Independent Bar Association (New York City Bar Association, 6 May 2022), n.30 & related text (and sources cited there), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/taliban-takeover-of-afghanistan-independent-bar-association>; Practicing Law under the Taliban's Afghanistan (Afghanistan Independent Bar Association ("AIBA"), 2022) (appeal for support by AIBA President Ruhullah Qarizada, referring to plans to "establish AIBA in exile in near future for the aim of sustaining activities, protection of AIBA independency, and to support those members [whose] life are under threats"), [https://www.nzbar.org.nz/sites/default/files/uploaded-content/website-content/afghanistan\\_-\\_some\\_good\\_news\\_and\\_an\\_appeal\\_by\\_the\\_president\\_of\\_the\\_afghanistan\\_independent\\_bar\\_association.pdf](https://www.nzbar.org.nz/sites/default/files/uploaded-content/website-content/afghanistan_-_some_good_news_and_an_appeal_by_the_president_of_the_afghanistan_independent_bar_association.pdf).



European Association of Lawyers Democracy & Human Rights

UIA-IROL (the Institute for the Rule of Law of the International Association of Lawyers)



Vereinigung Demokratischer Juristinnen und Juristen

Avocats Sans Frontières France



Ordine degli Avvocati di Venezia

Institut des droits de l'homme du Barreau de Paris



Barreau de Paris



International Association of Young Lawyers



Unione Delle Camere Penali Italiane

Lawyers for Lawyers



Judicial Reform Foundation

Rechtsanwaltskammer Berlin



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International Association of People's Lawyers

International Bar Association's Human Rights Institute



The New York City Bar Association

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