



**VISIT BY HIGH COMMISSIONER FOR HUMAN RIGHTS, LOUISE ARBOUR TO
AFGHANISTAN, 15-21 NOVEMBER 2007**

I am very pleased to have had this opportunity to visit Afghanistan, and in particular to spend time in Khost and Mazar-i-Sharif. I am very grateful to President Karzai and the Government of Afghanistan for inviting me to visit the country for a second time.

I was pleased to meet with the President, many government ministers, the Chief Justice, Speaker of the Parliament and other parliamentarians, commanders of ISAF and representatives of the diplomatic community. I was also pleased to spend time with the Afghanistan Independent Human Rights Commission, whose work I very much admire and support, as well as a wide range of human rights defenders and civil society activists.

Without doubt there have been positive achievements since my last visit in 2005, not least the flourishing media we see represented here today. The top issue on everyone's agenda, however, has been security. Some seem to think that human rights are a luxury that can be enjoyed only after security is ensured. But the major sources of insecurity in the country stem from human rights violations or the failure to effectively address the violations of the past. Some also regard human rights as counter to local religious and cultural traditions and a Western imposition. But I have found Afghans from all walks of life claiming their rights to food, shelter, education, livelihood, health, justice and physical security. And the creation of new institutions to protect human rights is not an attack on traditional systems but should complement and build upon their strengths.

During my discussions I have focussed on two principal themes: the protection of civilians and transitional justice. Even before making this visit, I was concerned by the high rates of **civilian casualties** resulting from both insurgent activities and international military operations. In Khost I heard accounts of the deliberate targeting of civilians, including teachers and humanitarian workers, by Anti-Government Elements. These tactics are in breach of the most fundamental principles of international humanitarian law and those responsible should be held to account for such crimes.

At the same time, civilian casualties resulting from ISAF and other international military operations reached alarming levels in the course of this year. These not only breach international law, but are eroding support among the Afghan community for the Government and international military presence, as well as public support in contributing states for continued engagement in Afghanistan.

I am reassured that there has been a sober realisation by ISAF commanders of this concern and a willingness to address the issue in a constructive way. This will mean ensuring that preventive measures and safeguards to protect civilians are at the forefront of operational decisions. It also means that when civilian casualties occur, ISAF needs to be more responsive and accessible to families in ensuring redress. This should include a systematised and consistent approach to compensation which ideally could be administered by a competent third party backed by a trust fund which would help to bridge the distance between individual and communal victims and those who bear responsibility for such actions.

On the issue of **detention**, including the transfer of detainees by international forces to their Afghan counterparts, I have shared my concerns regarding the treatment of detainees with the Government, ISAF and representatives of contributing states. Transfers to the National Security Directorate (NDS) are particularly problematic, given that it is not a regular criminal

law enforcement body and operates on the basis of a secret decree. I urged the President to ensure greater transparency, access to, and accountability for this institution, starting with publication of the decree on which its powers are based.

Two years since my last visit, I am very disappointed at the lack of progress in implementing the commitments made by the Government and supported by the international community under the Action Plan for Peace, Reconciliation and Justice in Afghanistan. Unfortunately, the **transitional justice agenda** has been reduced in many people's minds to the prosecution of individuals alleged to be responsible for past crimes, some of whom continue to hold high positions. But transitional justice is a multi-faceted process which focuses on the needs of the victims – for truth, for compensation, for rehabilitation – as well as on the punishment of the perpetrators. While there should be no walking away from the commitment to ensure individual criminal accountability, there needs to be a recommitment on the part of the Government and its international supporters, to advance the broader dimensions of the transitional justice agenda. Ultimately, however, efforts to build the rule of law and reform the justice sector will not succeed as long as impunity at the highest levels remains unaddressed.

I have also been struck by the degree to which progress on **women's rights** has in many ways stalled, despite the initial promise of the post-Talebani era. Women continue to suffer disproportionately from many human rights deficiencies. In Khost, for instance, I saw the vulnerable position in which widows and daughters are left when their husbands, fathers and breadwinners are killed by Anti-Government Elements or international forces. While 28 per cent of seats in parliament are reserved for women, they are strikingly absent from other branches of Government, most dramatically from the courts. In a country with a 13 per cent female literacy rate, considerable investment must be made to promote gender equality.

The deepening sense of insecurity and preoccupation with criminality has also led to some regressive steps, particularly the recent resumption of executions. In my discussion with the President, I raised my deep concern with the **death penalty**. As a party to the International Covenant on Civil and Political Rights, Afghanistan is bound not to apply the death penalty unless the highest standards of due process have been respected in each case. Just last week, at a committee of the UN General Assembly, a majority of states voted in favour of a resolution calling for a worldwide moratorium on the death penalty. I hope Afghanistan, as a new democracy committed to human rights, will remain within the emerging international consensus on this issue and put a halt to future executions.

As we prepare to celebrate the 60th anniversary of the Universal Declaration of Human Rights, I hope that Afghan political and community leaders, together with their international supporters and partners, will continue to affirm human rights as the central goal of Afghanistan's path to security and development.