



Day of the Endangered Lawyer: 24 January 2023

13th edition - Afghanistan

The Day of the Endangered Lawyer is commemorated every year on 24 January.

This date refers to the Atocha Massacre: on 24 January 1977, four lawyers and their employee were killed in their office in Madrid, Spain, because of their work. The perpetrators were affiliated to far-right parties and organisations.

In previous editions, the Day of the Endangered Lawyer focused on the situation of lawyers in Azerbaijan, China, Egypt, Honduras, Iran, the Philippines, Spain¹ (Basque Country), Turkey (twice), Pakistan and Colombia (twice).

The aim of the Day of the Endangered Lawyer is to raise awareness of the dangers faced by lawyers in the exercise of their profession and to initiate or continue discussions at national and international level on how to ensure their protection.

This year, the Day of the Endangered Lawyer is dedicated to Afghanistan.

After the fall of the Taliban regime in November 2001, various programmes were implemented to increase staffing levels and to rebuild, reform and modernise courts and the judicial system.

The Afghan Independent Bar Association (“AIBA”), established in 2008, has established itself as an independent institution which promotes human rights, the independence of the judiciary, the rule of law and democratic values. Since its creation and despite cultural, social and economic constraints, AIBA was able to promote the role of women lawyers and was also active in defending the rights of victims in cases of violence against women.

Even then, lawyers were already facing difficulties while practising their profession², but the fall of the Afghan government in August 2021 made their situation much worse. The country's entire judicial system collapsed. The Shariah principles have now been applied and most of the directives issued by the Taliban constitute limitations to fundamental rights. In addition, about 2,000 judges have been dismissed by the new regime and replaced by individuals from religious institutions.

On 23 November 2021, the Taliban stormed the AIBA headquarters in Kabul, giving them access to the personal and professional data of approximately 2,500 lawyers. The Taliban also took control of the

¹ The CCBE, The French-speaking Bar of Brussels, the Human Rights Institute of the Brussels Bar and UIA-IROL did not support the Day of the Endangered Lawyer in 2013 when it focused on Spain/the Basque Country. Signing this petition does not change their position on this issue.

² The new judicial system was not accepted by all and lawyers could receive threats from various people involved in their case (sometimes even from their clients).



AIBA bank accounts and funds. Since then, the AIBA has been forced to cease operations in Afghanistan and has been placed under the control of the Taliban Ministry of Justice.

Judges and prosecutors who worked in the Afghan justice system before August 2021, as well as Afghan lawyers, are at risk of retaliation from the Taliban, as well as from the thousands of convicted criminals who were released when the Taliban opened the country's prisons. Taliban members hold their former lawyers, judges or prosecutors responsible for their convictions. In addition, they have targeted lawyers, especially women, who have defended victims of the Taliban. Lawyers have also been persecuted by the new regime because of their past efforts to protect the rule of law, ensure access to justice for their fellow citizens (especially women), and defend their human rights.

According to the AIBA, 7 of its members have been killed since its dissolution and 146 lawyers have been arrested or investigated. Many of their colleagues have been forced to flee the country or go into hiding with their families in an attempt to escape the Taliban.

From now on, only lawyers recognised by the Taliban are allowed to appear in court. Those who have been active in the field of human rights, or who have had dealings with international organisations, are therefore no longer allowed to practise. Furthermore, to date, the Taliban have only granted licences to men³. As a result, the vast majority of lawyers who were registered with the AIBA have been banned from practising their profession and have no plans for the future.

Women are particularly targeted, jeopardising their daily survival. Women's rights, including those of women lawyers and judges, are being progressively eroded, leaving them in an untenable situation.

Since August 2021, thousands of Afghans have been evacuated from Afghanistan and resettled in other countries. However, bar associations and other national and international organisations continue to receive frequent desperate calls from Afghan lawyers who remain stranded in Afghanistan or in neighbouring countries and who express urgent and real fear of persecution and imminent risk to their lives because of their previous professional activities.

Moreover, despite calls from many in the international community, some states have implemented practices preventing Afghans from coming to Europe and limiting the protection of Afghan asylum seekers. Afghan asylum seekers, including lawyers and their families, are subjected to border violence, "refoulement", and denial of individualised international protection needs. The most significant example is Greece, which has designated Turkey as a safe third country for all Afghans seeking protection in the EU, while Turkey has increased deportations of Afghans to Afghanistan.

³ While women represented 25% of AIBA members.



RECOMMENDATIONS:

In view of the significant dangers faced by Afghan lawyers, we make the following requests and recommendations:

1. The "de facto" authorities in Afghanistan must comply with the UN Basic Principles on the Role of Lawyers.
2. The "de facto" authorities in Afghanistan must restore the independence and integrity of the country's judicial system, including by restoring the Afghan Independent Bar Association ("AIBA").
3. The "de facto" authorities in Afghanistan must restore the right of women to practice as lawyers in Afghanistan.
4. The "de facto" authorities in Afghanistan must urgently take steps to prevent attacks on Afghan lawyers and to guarantee their right to the free and independent exercise of their profession.
5. The "de facto" authorities in Afghanistan must urgently protect the lives of Afghan lawyers and adopt and implement measures to ensure their safety and freedom.
6. The "de facto" authorities in Afghanistan must stop stigmatising Afghan lawyers involved in sensitive cases.
7. The "de facto" authorities in Afghanistan must allow Afghan lawyers and their families to leave the country freely and safely if they wish.
8. The international community, in its diplomatic efforts towards the "de facto" authorities in Afghanistan, is called upon to ensure the upholding 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.
9. The European Union and its Member States, as well as the United States of America and the international community as a whole, are urged to put pressure on the "de facto" authorities in Afghanistan to grant Afghan lawyers all the rights and protections to which they are entitled, in accordance with international obligations.
10. The international community, including, inter alia, the European Union and its Member States, as well as the United States of America, is called upon to grant asylum to Afghan lawyers who are at risk in Afghanistan and who seek international protection.
11. The international community is called upon to take all necessary measures to ensure that the remaining lawyers at risk in Afghanistan can leave the country safely.



In particular by:

- Immediately implementing evacuation and resettlement plans for Afghan lawyers who remain in Afghanistan or are in neighbouring countries.
- Ensuring compliance with the principle of non-refoulement at all times.
- Making visas available to enable Afghan lawyers in need to access international protection legally and safely.
- Ensuring that all states suspend deportations and summary returns of Afghan nationals to Afghanistan or third states.
- Ensuring that all states thoroughly investigate allegations of ill-treatment of Afghan nationals, in particular in states' border areas and in removal centres within their territory.

12. States and the wider international community, are urged to design and implement resettlement policies and programmes to enable Afghan lawyers to make the best use of their specialist legal training and experience gained in Afghanistan in their new jobs.

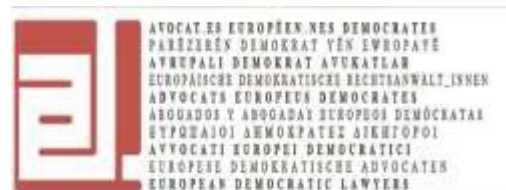
13. The United Nations and other international institutions are urged to pay extra attention to the plight of Afghan lawyers and to press the "de facto" authorities to comply with the UN Basic Principles on the Role of Lawyers and all applicable legal standards.

14. States and the wider international community, including the AIBA's fellow bar associations and bars and law societies around the world, are called upon to design and implement creative and positive measures to support the continued existence of the Afghan Independent Bar Association (AIBA), including its operations in exile.

15. Bars and law societies around the world are invited to closely monitor and report on the situation of Afghan lawyers and to take all possible measures to support those in need, wherever they are.

16. International journalists and media are encouraged to investigate and report on the situation of Afghan lawyers, to put pressure on the de facto authorities, and to bring to the attention of the public worldwide the vital role that Afghan lawyers have played and the serious risks they now face.

FOUNDATION



Foundation Day of the Endangered Lawyer European Democratic Lawyers



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



European Young Bar Association

Giuristi Democratici AIGD



International Association of People's Lawyers

International Bar Association's Human Rights Institute



The New York City Bar Association

European Criminal Bar Association



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