

URGENT ACTION

AFGHAN PRESIDENT MUST STOP EXECUTIONS

Six men, including five convicted in a rape case, face execution in Afghanistan after an unfair trial. The men are due to be executed on 8 October.

On the night of 22 August 2014 a group of armed gang members dressed in police uniforms stopped cars travelling from a wedding on a road between Paghman and Qargha areas, in the vicinity of Kabul. The gang members reportedly tied up men travelling in the cars and then kidnapped and gang-raped at least four women. They also stole their valuables. One of the women reportedly died as a result of her injuries.

On 29 August, seven of 10 suspected perpetrators were arrested on suspicion of rape, armed robbery and kidnapping. On 6 September, five of them were convicted and sentenced to death by the primary court. These were upheld by the appeals court on 15 September, which sentenced the other two to 20 years in prison. On 24 September the Supreme Court endorsed the death sentences, which were subsequently approved by then President Karzai on 27 September, in one of his final acts as president.

Several aspects of the trial hearings in the primary court and appeals court appear to have violated the right of defendants to a fair trial. At least one of the seven rape suspects claimed to have been tortured by police officers into confessing to the crime. These claims have not been investigated, and were not mentioned by the judge in the appeals hearing, nor assessed by the Supreme Court. During court proceedings, former President Karzai urged the Supreme Court to hand down death sentences, undermining the defendants' rights to a presumption of innocence.

The five were originally sentenced to death for armed robbery, kidnapping and "zina" (sex outside marriage). The latter charge addresses rape in a completely flawed manner – not as a crime against the bodily integrity of the woman, but as a crime of "morality" and a crime against marriage. But the appeals court apparently convicted them of rape, a crime for which they were neither previously charged nor convicted, and could therefore not be prepared to defend themselves against.

Please write immediately in English, Dari, Pashto or your own language:

- Calling on the new Afghan President to commute these and all other outstanding death sentences, and to impose an immediate moratorium on all executions, as a first step towards abolition of the death penalty;
- Urging him to order a thorough and impartial review of the proceedings and the evidence against the defendants and expressing concern that court proceedings in Afghanistan fall far below international standards of fairness;
- Calling on the President to ensure that reports of torture by police is independently and thoroughly investigated, and if verified, perpetrators are brought to justice and all statements obtained by torture withdrawn as evidence in any subsequent proceedings;
- Calling on him to ensure justice for the rape survivors and that they receive all necessary medical, psychological and other support and are protected from reprisals.

PLEASE SEND APPEALS BEFORE 12 OCTOBER TO:

The President

President Ashraf Ghani Ahmadzai
Gul Khana Palace, Presidential Palace,
Kabul, Afghanistan

Fax: +93 (0)202 141 135

Email: pressoffice.sec@arg.gov.af

Salutation: Your Excellency

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

The penal code provision of “zina” (sex outside marriage) is itself a violation of human rights, in particular the right to privacy, as it criminalizes consensual sexual relations between adults. By originally charging the men with “zina”, the authorities continued a pattern of addressing rape in a completely flawed manner – not as a crime against the dignity, autonomy and bodily integrity of the woman, but as a crime of “morality” and a crime against marriage, thereby objectifying women instead of treating them as rights-holders.

Despite serious due process and fair trial concerns in Afghanistan, expressed by the UN, legal experts, Amnesty International and other human rights groups, the Supreme Court of Afghanistan has upheld death sentences, and a number of executions have been approved by former President Karzai since the international intervention began in 2001. In October 2010, former President Karzai, acknowledging Afghanistan’s fallible justice system, ordered the judiciary to review all death row cases; however, some 18 individuals were executed between June 2009 and May 2013.

The Afghan authorities have upheld the death sentences despite the UN General Assembly’s adoption of resolution 62/149 (18 December 2007) calling for a worldwide moratorium on the use of the death penalty. The resolution was adopted by an overwhelming majority of 104 UN member states and at a time when a total of 135 countries have abolished the death penalty in law or practice.

Amnesty International welcomes the acknowledgment by President Ghani in his inaugural speech of deep flaws in Afghanistan’s legislation, law enforcement system and judiciary, and his commitment to addressing and tackling gender-based violence against women. Amnesty International considers rape an appalling crime and is campaigning against sexual and other violence against women worldwide. However, the organization also opposes the death penalty in all circumstances and for all crimes, considering it to be a violation of the right to life and the ultimate cruel, inhuman and degrading punishment. The death penalty is a symptom of a culture of violence, and not a solution to it. It has not been shown to have any greater deterrent effect than other punishments, and is known to have been carried out on the innocent.

Name: names not known
Gender m/f: male

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