

AFGHANISTAN

Flagrant abuse of the right to life and dignity

1. Introduction

In recent months, at least five men convicted of sodomy by Taleban *Shari'a* courts have been placed next to standing walls by Taleban officials and then buried under the rubble as the walls were toppled upon them. At least four alleged murderers have been executed in public by the family members of the murdered persons. At least five men have had their hands amputated on allegation of theft, and at least one man and one woman have been flogged by Taleban officials on allegation of adultery.

Amnesty International takes no position with respect to the cultural, political or religious values which underlie judicial or legal systems. However, it opposes all executions as they constitute the ultimate form of cruel, inhuman or degrading punishment in violation of the most fundamental right of every human being: the right to life. It considers that judicial amputation as well as other forms of corporal punishment and torture violate the most elementary standards of humane treatment. The prohibition of mutilation, cruel treatment and torture is part of customary international law and is recognized in Common Article 3 of the Geneva Conventions which is binding on all parties in Afghanistan.

Amnesty International urges Taleban authorities to forbid the imposition of the death penalty, amputations and other forms of cruel, inhuman or degrading punishments by the *Shari'a* courts in areas under their control.

Amnesty International is gravely concerned about reports that dozens of other prisoners are currently awaiting execution, or amputation of their hands.

2. Taleban *Shari'a* courts

Verdicts for these punishments have been passed by Taleban's *Shari'a* courts which reportedly lack the minimum requirements for a fair trial. Judges in these courts, many of whom are virtually untrained in law, reportedly base their judgements on a mixture of their personal understanding of Islamic law and the prevalent Pashtun code of honour. Amnesty International has received reports that such courts often decide a dozen different cases of alleged criminal activity a day, in sessions which may take only a few minutes.

There are reportedly no provisions for defendants to be assisted by a legal counsel, the presumption of innocence is dispensed with and verdicts are final, with no mechanism for appropriate judicial appeal. It has been frequently reported that testimonies and statements of convicts accepting their sentences before they are carried out have been extracted under torture. Some convictions appear to have been based solely on the allegations of the complainants. However, the Taleban officials have denied this.

3. Execution by felling walls on the victims

Three Afghan men, Fazalur Rehman, Ahmad Shah and Abdul Qahir were convicted earlier this year by a Taliban *Shari'a* court of committing sodomy with young boys. On 25 February 1998, a stone wall was felled on them by a battle tank before thousands of spectators at Kotal Morcha north of city of Kandahar. They were seriously injured but did not die immediately. The Taliban leader, Mullah Mohammad Omar who had reportedly gone to witness the execution ordered that they remain buried for half an hour saying their lives would be spared if they survived. As the men were still alive at the end of their ordeal, he ordered that they should be taken to the city's hospital. Two of them died the next day. The third survived but it is not known if he is still in hospital.

Agence France Presse quotes the Taliban's daily newspaper, *Anis*, as reporting that the three men from the Sangin area in Helmand province, some 100 kilometres northwest of Kandahar, "who had committed the obscene act of buggery were publicly put under a wall after a verdict of the *Shari'a* court and the *Shari'a* punishment was thus applied to them. His eminence the Amirol Momenin [Mollah Mohammad Omar] attended the function to give *Shari'a* punishment to the three buggerers in Dasht-e Sufi area of Kandahar."

On 22 March 1998, two men, Abdul Sami, 18, and Bismillah, 22 - both residents of Herat province - were placed under a wall of dried mud which was bulldozed upon them. They had been detained four months earlier accused of sodomy and sentenced by a Taliban *Shari'a* court to death by crushing a wall upon them. The news of the execution was carried by the Taliban-controlled Radio Voice of *Shari'a* :

"*Shari'a* prescribed punishment (*Shar'i Had*) has been administered to two sodomites, [in] Herat Province. Bakhtar Information Agency informed us [two men] who had been arrested by security officials on charges of committing sodomy, were publicly punished for their deeds in the city of Herat today. The cases of the accused were investigated by the public prosecution office of Herat Province where the accused confessed to their crimes without duress or torture. Following the completion of the investigation the cases were sent for judicial decision by primary, appeal and discernment (*Mahkama-e Tamiz*) courts which passed their verdicts. Having received the assent of His Eminence Amirol Momenin, the judicial decision was administered at a stadium in the city of Herat today."ⁱ

4. Other public executions

On 11 January 1998, the Taleban radio, *Voice of Shari'a*, announced that a man who had earlier attacked an Afghan military commander, Mullah Naqibullah, and his companions had been sentenced to death by a *Shari'a* court and subsequently executed. The method of execution was not announced neither was any news about the fate of another man who had reportedly been arrested in relation to the same case. The radio report said:

“A member of [a] band, which had recently attacked esteemed Mola Naqibollah .. and his companions, was [captured] by the nation's security forces. .. As a result of [this attack] esteemed Mollah Naqibollah was injured and four of his companions were martyred. Of the assassins, [Fazl Mohammad, son of Gol Mohammad], was captured by the nation's security forces. After the investigation of the case .. and on the orders of the nation's law courts and .. of His Eminence Amirol Momenin, he was publicly executed [under Qesas] in the Arghandab District of Kandahar Province, today, and thus the court of law's sentence on him was carried out. ..”¹

On 10 February 1998, the Taleban reportedly hanged a man accused of exploding one of their military planes in Kabul and paraded his body strung off a crane's hook throughout the city. On 13 March, over 30,000 spectators made up of men and boys aged five and upwards, were told through loudspeakers to gather at Kabul's national stadium to watch the father and brother of a murdered man shoot Bahram Khan, an alleged murderer who had been sentenced to death by a Taleban *Shari'a* court. In line with the *Shari'a* law which provides the family with the choice to kill a murderer or accept a blood money and waive the execution, a Taleban official asked if Bahram could be pardoned. But the father said he would not forgive him and wanted him to be killed. The killing was carried out by the victim's brother who picked up a machine gun and shot the man twice. According to the Taleban radio, *Voice of Shari'a*:

¹ Source: *Radio Voice of Shari'a*, Kabul, in Pashto 1330 gmt 11 Jan 98, *BBC Monitoring Service*

“The occasion of applying *Shari’a* law to a murderer in Kabul Stadium today was attended by a number of high ranking officials of the Islamic Emirate of Afghanistan and thousands of Kabul people. First some verses from the Koran were recited .. Deputy Court Martial .. Mawlawi Sayd Abdul Rahman Agha .. in turn spoke about the implementation of Allah's order on Allah's earth to criminals in order that other criminals should take an example from it. .. Subsequently Esteemed Abdul Nasir Nastier, an official of radio television introduced the criminal and read out the court martial's decision. After reading out the court martial's decision Bahram Khan, son of Mohsin Khan, citizen of Bagrami district of Kabul Province, who had killed Asadullah, son of Neck Mohammad on the night of 28th-29th of Sonbola [19th-20th September] this year .. was executed before thousands of Kabul people.”²

On 30 March, hundreds of people watched an elderly Afghan using a dagger killing an alleged murderer at the southwestern town of Spinboldak close to the Pakistan border. Mahmood, the alleged murderer, was reportedly arrested about a year ago accused of murdering a young man named Jalil. He was sentenced to death by a Taleban *Shari’a* court and the order for the execution of the sentence was given by the Taleban leader, Mullah Mohammad Omar. According to reports in the Pakistani newspapers, a Taleban official asked if Jalil's father was willing to forgive Mahmood. When he refused, the Taleban official gave him a large knife and the man slit Mahmood's throat amid chants of religious slogans. Some spectators were reported to have fallen unconscious after seeing the event.

5. Amputations

On 20 February 1998, the right hand of an alleged thief was amputated at a football ground in Kabul in front of thousands of residents who had gathered there after the Taleban radio had issued 'invitations' for people to view the amputation. Taleban radio claimed that he had confessed to having stolen the goods, but journalists were not allowed to talk to the victim to access the validity of this claim.

Agence France Presse reported that a team of three doctors brought the 22-year-old accused thief Hamiddullah in an ambulance to the football ground. He was given an anaesthetic and put on the ground where the doctors severed his right hand from the wrist.

² Source : *Radio Voice of Shari’a*, Kabul, in Pashto 1500 gmt 13 March 1998, *BBC Monitoring Service*

“Hundreds of Taleban guards had surrounded the Afghan doctors and the accused was not allowed to speak to reporters before the sentence, awarded by a military court, was implemented. He uttered some words which were not audible to the shocked onlookers. Hamidullah .. was accused of stealing goods worth 313 dollars from a shop in Kabul city recently. ‘He had admitted his crime four times in the course of interrogation and the judge passed the verdict,’ the [Taleban] radio said. Witnesses said he was rushed back to a hospital in the waiting ambulance. The medical staff accompanying the doctors also took away the severed part of the accused's hand, they said. .. Witnesses said the surgeon took some five minutes to chop off the thief's hand in front of a big crowd. Senior Taleban officials including Minister of Information Mulla Amir Khan Muttaqi and Minister of Interior, Mullah Khairulla Khairkhwa were also present. "We have not invited the public for a picnic here. We have gathered them to see the implementation of the orders of the Islamic *Shari'a* and to learn a lesson," a senior Taleban official told the crowd.”³

On 27 February, three Afghan doctors from the Ministry of Public Health surgically removed the right hands of two men, Hamidullah from Paktiya province and Habibullah from Kapisa province in front of an estimated 20,000 spectators at the Kabul Sports Stadium. The men were alleged to have stolen goods worth 19 million afghanis (\$500) from a Kabul shop. A Taleban official said they had confessed their offence without any pressure but as in previous cases, this claim has not been confirmed by independent sources. The doctors who had reportedly covered their faces, carried out the amputation after the prisoners were given an anaesthetic, became unconscious and lay on the ground. They cut off the two men's right hands from the wrist with a sharp lance. According to a Reuter report, a Taleban fighter carried one amputated hand around and said: “Anyone committing theft or adultery will face such punishment. Look at this, it is the hand of one of the thieves.”

On 26 March, Radio *Shari'a* announced that the right hand of Mohammad Naim, an alleged thief, was amputated in the presence of thousands of people at the Sports Stadium in the western city of Herat. The radio claimed:

“He had stolen the property of one Abdollah. Following the accused's confession to his crime, in line with the decision of the Herat Province

³ *Agence France Presse*, 20 February 1998

appeal court and with the approval of His Eminence Amirol Momenin [supreme Taleban leader], the thief's right hand was chopped off..."⁴

On 5 April, three doctors in Kabul, with their faces covered, severed the right hand of Mohammad Yaqub - an Afghan man in his early 20s - at the joint from his arm after a Taleban *Shari'a* court convicted him of stealing a carpet and money from a house in Kabul four months earlier.

6. Floggings

On 27 February 1998, a woman was given 100 lashes for alleged adultery at the Kabul Sports Stadium in front of some 30,000 spectators. According to Reuters news agency, a Taleban speaker read out the verdict of a *Shari'a* court, saying that Sohaila, a single woman from Kabul, had confessed to adultery and would be flogged at the stadium.

⁴ Source: *Radio Voice of Shari'a*, 26 March 1998, *BBC Monitoring Service*

“Sohaila was brought to the stadium in a car accompanied by two other women wearing the all-enveloping Burqa veil. A Taleban fighter lashed Sohaila 100 times with a roughly one-metre whip as a speaker chanted Islamic slogans. ‘Thanks to the Taleban, the army of God, that we can protect the honour of people,’ the speaker said. ‘Thanks to God that we are followers of God not of the West,’ he said... ‘Certainly as a result of these punishments, the extent of crime will reduce in Kabul,’ said the Taleban governor in Kabul, Abdul Manan Niyazi. Sohaila walked away in no apparent pain or injury after the lashing that was administered relatively lightly. Taleban officials said that the man who had illegal sex with Sohaila had escaped arrest. ‘This was only to expose her and humiliate her in public and it gave no pain,’ Niyazi said of the flogging.”⁵

On 13 March 1998, a man convicted by a Taleban *Shari’a* court for having sex with a woman to whom he was not married was given 100 lashes in Kabul. The flogging was reportedly applied lightly with a leather strap. A Taleban official said through the loudspeaker at the scene of the flogging that the man got 100 lashes because he was unmarried. If he had been married, the punishment would have been death by stoning. Taleban radio, Voice of *Shari’a*, identified him as “Sayd Caesium, son of Imamuddin, who was accused of fornication, was sentenced to 100 lashes and the order of the court was applied to the adulterer.”

7. Conclusions and recommendations

The Taleban when confronted with the criticism that cruel, inhuman and degrading punishments violate international norms of humanitarian law, have been uncompromising in their response. Taleban officials in Herat were quoted by the Reuters news agency as saying: “The Islamic Emirate [of Afghanistan] will bow under no kind of influence in the implementation and enacting of *Shari’a* punishment and divine orders.”

Sayed Abdur Rahman, a Taleban official identified as the head of the *Shari’a* court in Kabul, was equally uncompromising about the rising number of amputations in recent months:

⁵ Reuters, 27 February 1998

"When we cut the hand of a thief, we have observed human rights... and if infidels criticise us, we say to them that the Koran .. is the guardian of all human beings. .. If these types of heavenly orders are not enforced, then corruption will increase."⁶

These practices give rise to fears for the lives and physical integrity of those currently detained in Taleban prisons on a variety of criminal charges. Mullah Manan Niazi, the governor of Kabul has reportedly said in late March that there were 25 unpunished cases of murder waiting for the death penalty and 12 cases of theft where the hands were going to be amputated.

Amnesty International is gravely concerned about these reports. It urges Taleban authorities to forbid the imposition of the death penalty, amputations and other forms of cruel, inhuman or degrading punishments by the *Shari'a* courts in areas they control. It further urges Taleban authorities to forbid the execution of any such sentences which may have already been imposed by these courts.

What you can do

- * Write to Taleban authorities at the Embassy of Afghanistan in Islamabad, Pakistan and express concern about the human rights abuses reported in this document.
- * Write to the diplomatic missions of Pakistan, Saudi Arabia and United Arab Emirates (the three countries that have recognized the Taleban as a government in Afghanistan) in your country, expressing concern about these human rights abuses, urging them to use their influence with the Taleban to ensure that such human rights abuses are not repeated.
- * Write to your own foreign ministry asking them to use what influence they have with the Taleban to stop these human rights abuses.
- * Seek support from relevant rights groups, institutions and personalities in your campaign against these human rights abuses.

⁶ *Reuters*, 5 April 1998.

