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Afghanistan: Three concrete steps to improve conditions for Afghans

As representatives of the international community gather in The Hague to discuss the deteriorating situation in Afghanistan, Amnesty International outlined three concrete steps that can be taken immediately to improve the human rights of the Afghan people.

The organization said that while Washington's new rhetoric and strategy offer new potential for progress on human rights, the Afghan people deserve and demand performance, not promises, from their government and its international supporters, chief among them the United States of America.

Amnesty International has long pushed the international community to adopt benchmarks that focus on the well-being of the Afghan people, not just short-term military or political goals. In that light, Amnesty International recommends the following three steps, all of which can be implemented quickly.

1) Improve the accountability of international and Afghan military forces

In view of the US government's announcement of the deployment of up to 30,000 extra troops in Afghanistan, Amnesty International urges the international military forces to do more to provide accountability for violations of international humanitarian law and remedy for civilian casualties of military action, in order to ensure that the presence of more international troops does not lead to more harm to Afghan civilians.

There are currently military personnel from more than 40 countries operating in Afghanistan, most of them under the mandate of the International Security Assistance Force (ISAF), provided by NATO, and a smaller number as part of the counter-terrorism mandate of the US-led Operation Enduring Freedom. In addition to regular military forces in Afghanistan, there are numerous members of civilian intelligence agencies as well as private contractors and local militias conducting military operations.

A concerted effort is needed to clarify and harmonize mandates, rules of engagement, and the chains of command of these forces. All international forces must immediately adopt common rules of engagement that ensure full compliance with international humanitarian law, and improve coordination with Afghan national forces to ensure compliance with these rules.

Amnesty International welcomes the recent announcement that the ISAF will create a mechanism for investigating civilian casualties. But it is unclear whether this long-overdue mechanism will investigate the conduct of forces operating under the US-led Operation Enduring Freedom. All international and Afghan security forces should develop and implement a consistent, clear and credible mechanism for receiving complaints and investigating claims of civilian casualties or injuries resulting from its military operations. A coherent and systematic program of assisting those injured by Afghan and NATO/US forces and bringing to justice those suspected of violations of international humanitarian law should be developed and communicated to the Afghan people.

2) Improve respect for the rule of law by international and Afghan authorities

Ordinary Afghans have almost no recourse to the protection of the law from their own government's abuses, or those committed by international forces. The international effort to build Afghanistan's judiciary has been a notable failure of the past seven years. Making up for this failure will take time. A clear political commitment to judicial reform and the injection of the necessary resources must be a key priority for action by the Afghan government and the international community. In the meantime, several measures can be adopted now to improve respect for the rule of law. They include:

- The Afghan government should bolster accountability for its security forces – including misdeeds by the police and persecution of journalists and human rights defenders – and focus on protecting Afghans, especially women, who bear the brunt of insecurity throughout the country.
- The US government should immediately grant all detainees held at the US base in Bagram access to legal counsel, relatives, doctors, and to consular representatives, without delay and regularly thereafter, and grant all Bagram detainees access to US courts to be able to challenge the lawfulness of their detention. Currently, US forces continue to detain hundreds of Afghans without clear legal authority and without adequate legal process.
- International forces should retain responsibility for the custody of the people they capture, and not hand them over to the sole control of the Afghan authorities, until they no longer face the current risks of torture or other ill-treatment, particularly at the hands of the National Directorate of Security (NDS).
- The Afghan government should prohibit the NDS from detaining prisoners and allow independent human rights monitoring of all detainees, including by the Afghan Independent Human Rights Commission, with access to all places of detention and all detainees.
- The Afghan government and the international community should seek mechanisms to ensure fair trials for those in detention, including the option of mixed tribunals to try those apprehended in counter-insurgency operations by either Afghan or international forces.
- The Afghan government should immediately seek international assistance to help implement the 2005 Action Plan for Peace, Justice and Reconciliation, which foresees the establishment of “effective and reasonable accountability mechanisms in order to end impunity in Afghanistan and ensure that there will no amnesty for war crimes, crimes against humanity and other gross human rights violations”.

3) Vet candidates in upcoming elections to improve the government's legitimacy

With Presidential, parliamentary, and regional elections scheduled for the next year, it is essential that a proper vetting process be in place to keep out those who may have been involved in human rights abuses, especially leaders of armed groups and militias whose usurpation of the role of elected officials has done much to erode the Afghan people's trust in their government and its international supporters.

Since the inauguration of the Afghan National Assembly in 2004, thousands of complaints about these abuses have been received by the Complaint's Commission of the Afghan parliament. However only one member of Parliament has been suspended – in May 2007, Malalai Joya, an outspoken parliamentarian, was suspended for raising concerns about the presence in parliament of figures widely accused of being war criminals and human rights violators.

The Afghan government and its international supporters should immediately institute a fair and transparent process to vet candidates who are linked to armed groups and militias and against whom there have been credible allegations of involvement in human rights abuses.

Even as the Afghan government and international forces increasingly discuss the possibility of seeking political compromise with some members of the Taleban and other insurgent groups notorious for a long record of human rights abuses, the Afghan people demand to be protected from a return to the abusive policies of the Taleban and other armed groups.

Each such step would improve the dire human rights situation in Afghanistan and signal that the interests of the Afghan people are the focus of their government and the international community. These steps are not the full answer to the political and economic problems besetting the Afghan people. But if these steps are taken immediately, they will give the Afghan people something that is essential and in increasingly short supply: hope for the future.

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