



OPEN LETTER TO DELEGATES OF THE INTERNATIONAL CONFERENCE ON AFGHANISTAN, KABUL, 20 JULY 2010

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"Afghan women have the most to gain from peace and the most to lose from any form of reconciliation compromising women's human rights. There cannot be national security without women's security, there can be no peace when women's lives are fraught with violence, when our children can't go to schools, when we cannot step on the streets for fear of acid attacks." Mary Akrami, Director of the Afghan Women Skills Development Centre, January 2010.

HUMAN RIGHTS MUST BE GUARANTEED DURING RECONCILIATION TALKS WITH THE TALEBAN AND OTHER ARMED GROUPS

As plans for reconciliation and reintegration of armed groups, including the Taleban and Hezb-i-Islami, become consolidated at the International Conference on Afghanistan in Kabul on 20 July, Amnesty International calls on delegates to ensure that human rights are guaranteed and embedded in all reconciliation processes with the Taleban and other armed groups.

Afghan civil society groups, in particular women's groups, have loudly voiced their demand that any peace talks, or "reconciliation", must not become euphemisms for bartering away the human rights of another generation of Afghans. Policymakers have to show that they will not sacrifice the well-being of the Afghan people at the altar of political and military expediency.

In the official communiqué, participants at the London Conference on Afghanistan in January 2010 welcomed the plans of the Government of Afghanistan *"to offer an honourable place in society to those willing to renounce violence, participate in the free and open society and respect the principles that are enshrined in the Afghan constitution, cut ties with Al-Qaeda and other terrorist groups, and pursue their political goals peacefully."* The Participants also welcomed the Afghan government's *"commitment to reinvigorate Afghan-led reintegration efforts by developing and implementing an effective, inclusive, transparent and sustainable national Peace and Reintegration Programme"*.

The resolution adopted at the conclusion of the National Consultative Peace Jirga held in 24 June 2010, noted the *"People of Afghanistan demand a just peace which can guarantee the rights of all citizens, including women and children. For the purpose of social justice, the Jirga urges that laws be applied equally on all citizens of the country."*

A draft copy of the Afghanistan Peace and Reintegration Programme noted as part of its key principles that: The Peace and Reintegration Programme must be *"consistent with the Afghan Constitution"* and that *"The rights of individuals including protection for the rights of women and minorities, as enshrined and articulated by the Afghan Constitution, will not be infringed upon by the reintegration program."*

Diplomatic efforts to resolve the conflict are a positive step forward and declarations to protect human rights as part of any peace process are welcome but Amnesty International emphasises that



the rights of the Afghan people must never under any circumstances be negotiated away. Amnesty International believes that that peace without justice or human rights is not real peace and could ultimately lead to further conflict and that the route to real and lasting security and is through the promotion of human rights and rule of law.

Amnesty International's research in neighbouring Pakistan has established that 'peace deals' with the Taliban and other insurgent groups, when they have excluded verifiable benchmarks of respect for human rights, have led to increased human rights violations in areas under Taliban control and a significant escalation in conflict and insecurity.

In this context, delegates to the conference must commit to, and in practice ensure, that human rights are not subject to negotiation, beyond the issue of how to best respect, protect and fulfil human rights, including women's rights, in full accordance with international law and standards.

It is vital therefore that not only human rights are embedded into any reconciliation strategy but that a robust monitoring mechanism is applied to ensure that human rights are not violated during or after the reconciliation process.

In order to ensure that human rights—and especially, women's rights—are protected and promoted within the reconciliation and reintegration plan, Amnesty International calls on the Afghan and international delegates to the conference to implement in policy and practice the following three steps:

1. PROTECT HUMAN RIGHTS, INCLUDING WOMEN'S RIGHTS, DURING NEGOTIATIONS

The Afghan government and its international partners pledged to advance human rights, including women's rights, following the 2001 international intervention to oust the Taliban regime. Since the fall of the Taliban there have been some advances in respect for women's rights and gender equality, including the establishment of the Ministry for Women's Affairs, a Constitution that grants women equal legal status to men, improved access to education and representation of women in parliament.

These hard won gains, however, could be seriously compromised if the Government of Afghanistan and its NATO/ISAF partners weaken their commitment to protect and promote women's rights in exchange for short-term military and political agreements with the Taliban and other insurgent groups.

Today in areas under their control, as when in government, the Taliban have severely curtailed the rights of girls and women, including the denial of education, employment, freedom of movement and political participation and representation. The Taliban and related insurgent groups in Afghanistan have shown little regard for human rights and the laws of war, deliberately targeting civilians, aid workers, and facilities like schools (particularly girls' schools). According to UN figures, the Taliban and other insurgent groups were responsible for two thirds of the more than 2,400 civilian casualties in Afghanistan last year, the bloodiest year yet since the fall of the Taliban.

Amnesty International calls on delegates to the International Conference on Afghanistan in Kabul to ensure that:

- **Human rights, including women's rights, must be guaranteed and monitored in all reconciliation strategies.** Both during any process of reconciliation and at its conclusion, all human rights, must be respected and protected, and abuses must be promptly and effectively dealt with. As first step, the Afghan government and insurgent groups must both



commit to Afghanistan's human rights obligations under international human rights law and domestic law;

- **A proportion of funding earmarked for the Reconciliation and Reintegration Programme is used to develop a mechanism to ensure the ongoing promotion and protection of human rights, including women's rights;**
- **Afghan women are meaningfully represented in the planning stages and during the reconciliation talks.** The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and relevant UN Security Council resolutions, in particular Resolution 1325 on women peace and security and related resolutions must be implemented in policy and practice. Gender parity should be sought in all negotiating teams, including at high-levels in decision-making bodies, and at the very least a 25 per cent quota for women should be set, consistent with constitutional guarantees for women's representation. The inclusion of women in the peace talks must be genuine and meaningful and their concerns fully reflected;
- **The rights of minorities are guaranteed during the reconciliation process.** Ensure that the reconciliation negotiations are inclusive of all ethnic and minority groups in Afghanistan and that the current constitutional guarantees for minorities are not undermined during all stages of the reconciliation process;
- **Any reconciliation process includes concrete verifiable benchmarks for the parties' conformity with their human rights obligations, for instance by documenting:** trends in the school attendance, especially of girls; trends in women's access to health care; trends in maternal mortality and infant health; ability of aid workers and civil society activists—in particular women's human rights defenders—to operate in areas under the respective control of the parties.

2. END IMPUNITY FOR SERIOUS HUMAN RIGHTS VIOLATIONS AND WAR CRIMES AND IMPROVE GOVERNANCE

Despite clear and repeated calls by Afghans for truth and accountability for the country's history of serious human rights abuses, only a handful of individuals have been prosecuted for serious violations of human rights and the laws of war during three decades of conflict ranging from the time of the Soviet invasion and subsequent Communist rule (1978-1989), through the civil war period (1989-1996) and the Taliban era (1996-2001).

Little headway has been made towards the December 2005 Action Plan on Peace, Justice and Reconciliation, which sought to promote national reconciliation and address past abuses. The Afghan government and its international supporters jointly committed in the 2006 Afghanistan Compact to implement the Action Plan, but have failed to implement many of its concrete proposals, primarily vetting human rights abusers and removing them from positions of power. On the contrary, the Afghan parliament sought to undermine the Action Plan by passing the "National Stability and Reconciliation" bill, aimed at providing immunity from prosecution to suspected war criminals.

Under this legislation, people who committed serious human rights violations and violations of the laws of war, including massacres, widespread enforced disappearances, and systematic use of torture, rape, public executions and other forms of ill-treatment would be immune to criminal prosecution if they pledge cooperation with the Afghan government. Taliban figures who agree to



cooperate with the Afghan government would also be immune to prosecution.

Amnesty International calls on delegates to the International Conference on Afghanistan in Kabul to work with the Afghan government to ensure:

- Immediate implementation of the 2005 Action Plan for Peace, Justice and Reconciliation, in particular its provision for a truth-seeking mechanism to document past human rights in Afghanistan, while ensuring that such a mechanism operates alongside rather than substitutes any judicial proceedings. Its recommended activities should be fully implemented within an agreed time-frame;
- Repeal of the National Stability and Reconciliation bill (also known as the Amnesty bill);
- Support for the Special Advisory Board to the President for Senior Appointments to bar those suspected of having committed war crimes, crimes against humanity or serious human rights abuses from holding senior government posts.

3. MONITOR FORMER COMBATANTS AND UPHOLD THE RULE OF LAW

Since 2001, several programs have attempted to reconcile and reintegrate Taleban and other members of anti-government groups who agree to lay down their arms and support the Afghan government's rebuilding efforts. As the Afghan government and international community discuss initiating another such program, they should clarify whether other programs have been effective.

The Afghanistan National Independent Peace and Reconciliation Commission was established by Presidential decree in May 2005. Under the program, former combatants pledge to live peacefully and according to the laws of the Afghan Constitution. They are then offered a safe conduct letter. The Commission claims to have reconciled more than 7000 insurgents including former Taleban members. The commission also claims to have reconciled and assisted in the release of almost 800 prisoners including Afghans who had been held at the US detention facility at Guantanamo Bay in Cuba.

The Disarmament, Demobilisation, and Reintegration (DDR) program ran from 2003 – 2006 and claims to have disarmed more than 63,000 and reintegrated more than 53,000 former combatants. However the DDR process did not have a way of verifying that they individuals taking part in the process were actually former combatants. Additionally, the DDR process lacked a long-term plan to monitor the conduct of the former combatants. Amnesty International's research suggests that many former combatants who took part in the DDR process eventually rejoined the insurgency.

The on going Disbandment of Illegal Armed Groups program (DIAG) aims to disarm and disband illegal armed groups, collect weapons, and deliver development projects to communities in order to provide employment opportunities. The program claims to have disbanded close to 700 illegal armed groups since 2005 but it is estimated that 2000-3000 illegal armed groups still exist in the country.

However as numerous reports and reviews of these programs have stated, all of the programs have suffered from weak management, insufficient resources, and a lack of capacity to monitor the activities of the former combatants. The programs have lacked national and international resolve and have been largely ineffective.

Furthermore, measures to combat terrorism must be carried out in accordance with international



human rights law and standards. In this context, Amnesty International calls on the Afghan government to ensure transparency and due process in determining the innocence or guilt of any detainees held on suspicion of taking part in the insurgency or engaging in criminal activity.

Arbitrary arrest and detention by the police and other official security agencies, as well as private militias working with Afghan and international security forces, are widespread. By arbitrarily detaining people or holding people in secret detention the Afghan government is not only violating their rights but failing in its duty to charge and try those suspected of involvement in attacks on civilians.

In addition, it is believed that more than 800 detainees are being arbitrarily detained, without charge or trial, at the new US-run detention facility in Bagram and other US military facilities outside the protection of international human rights laws and domestic laws. Some have been detained for several years and denied their due process rights, including access to lawyers and habeas corpus review.

Several measures should be adopted now to improve respect for the rule of law.

Amnesty International calls on delegates to the International Conference on Afghanistan in Kabul to work with the Afghan government to ensure:

- An end to the widespread practice of arbitrary detention, particularly by the NDS, and that all detainees are lawfully held, are promptly charged or released, and do not suffer torture or other ill-treatment;
- All detainees suspected of violations of international human rights law or the laws of war must be brought to justice in fair trials, without recourse to the death penalty.
- An end to all arbitrary detention on Afghan soil by foreign forces.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Zarifi', written over a horizontal line.

Sam Zarifi
Asia-Pacific Director
Amnesty International

