

Afghanistan

Open letter to His Excellency Sibghatullah Mojaddedi on the occasion of the 15 November 2006 visit to the Meshrano Jirga by military and civil leaders of the International Security Assistance Force (ISAF)

Your Excellency,

I am writing to you in your capacity as Speaker of the Meshrano Jirga in order to introduce the work of Amnesty International to the members of the Meshrano Jirga and to bring to your attention some of the organisation's human rights concerns in Afghanistan

Amnesty International believes that public officials, including members of Afghanistan's parliament, have a duty to promote respect for human dignity and a culture in which the human rights of all are respected.

Through this open letter, I therefore seek to remind you and your fellow parliamentarians of Afghanistan's international human rights obligations, and to urge you to send a clear message to the Government of Afghanistan that these human rights standards must be upheld.

I also call on the Meshrano Jirga to take effective steps to assess whether these standards are, in practice, respected by those responsible for administering justice in Afghanistan.

This letter, summarises a number of Amnesty International's human rights concerns in Afghanistan for the purposes of the visit to the Meshrano Jirga by senior International Security Assistance Force (ISAF) leaders on 15 November. It focuses on concerns related to the right to redress and reparation of civilians adversely affected by the conduct of security operations against armed groups opposed to the government and its international partners.

What is Amnesty International?

Amnesty International, an independent, non-governmental organization with almost two million members and supporters worldwide, has a vision of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. In pursuit of this vision, we undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of promoting all human rights, which are indivisible and interdependent.

The organisation does not support or oppose the views of the victims whose rights it seeks to protect; rather we are concerned solely with the impartial protection and promotion of human rights laws and practices. AI's members form a global community of human rights defenders whose principles include international solidarity, effective action for the individual victim, the universality and indivisibility of human rights, impartiality and independence and democracy and mutual respect.

Human rights concerns in Afghanistan

As Your Excellency and members of the Meshrano Jirga may be aware, Afghanistan has agreed to fulfil a range of international human rights commitments. It is a state party to the International the International Covenant on Civil and Political Rights (ICCPR), the Covenant on Economic, Social and Cultural Rights (ICESCR) and other treaties, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

Amnesty International has a raised a number of human rights concerns relating to Afghanistan, including in respect to violations carried out by armed groups, poor governance and delivery of justice, attacks on human rights defenders, failure to effectively address past human rights violations and the inability of Afghan women to lead their lives free from fear of violence.

As a critical part of continuing efforts to address these concerns, Amnesty International calls upon members of the Meshrano Jirga to become familiar with the standards set out in the above international agreements, and their incorporation into public administration systems to ensure that human rights are enjoyed in the daily life of all citizens.

I believe that the implementation of the standards set out in these treaties will help contribute to the development of an environment in which the rule of law is respected, and which provides greater security to the people of Afghanistan.

The conflict between international forces and insurgents

I would like to take this opportunity to address the question of human rights violations that may be occurring as a result of the conflict between the international forces supporting the government of Afghanistan and insurgents.

As Your Excellency is no doubt aware, the military forces that came to Afghanistan in 2001 and in subsequent years did so on the authorisation of the United Nations Security Council in order to provide security and restore law and order in Afghanistan.

Members of the Meshrano Jirga may be aware that individual ISAF forces have sought to mitigate the effect of injury, death and damage to property by providing monetary compensation to the aggrieved and by providing other forms of relief to help in the short term. Acknowledging that it cannot replace the lives lost, ISAF will reportedly provide more than eight million US dollars to the development of the Panjwayi, Zhari and Speran Ghar districts.

However, Amnesty International remains concerned that these efforts fail to meet human rights standards which Afghanistan is legally obliged to uphold and secure. In particular, Article 3a of the ICCPR provides for 'an effective remedy' for all those whose rights or freedoms have been found to be violated.

Afghanistan is required to ensure a prompt, effective, independent and impartial investigation for all alleged human rights violations, which should endeavour to verify the facts concerning the violation and their public disclosure, where such disclosure does not cause further unnecessary harm or threaten the safety of the victim, witnesses or others. Similarly, the government of Afghanistan must have the power both to award reparation and be able to enforce it.

Any reparation should restore the victim as far as possible to the original situation before the violation occurred, that is, it should provide restitution, such as return to residence, restoration of employment and property. Accordingly, it should include:

- proportional compensation for economically assessable damage, such as:
 - physical and mental harm, pain, suffering and emotional distress;
 - lost opportunities, including employment, education and social benefits;
 - material damage and loss of earnings, including loss of earning potential;
 - harm to reputation or dignity;
 - costs required for legal or expert assistance, medical services, psychological or social services.

The remedy should provide for rehabilitation and satisfaction, that is, an official declaration restoring the dignity and reputation of the victim; apology and public acknowledgements of the facts and acceptance of responsibility; a cessation of continuing violations and guarantees of non-repetition and prevention of such occurrences in the future.

Amnesty International urges the Meshrano Jirga to work with the Wolesi Jirga, the government and the member states of ISAF in order to create a legal mechanism in accordance with Article 3b of the ICCPR so that those who have suffered in the course of ISAF's operations may have their claims investigated and, if so determined, remedied in full. AI believes that the open examination of all such incidents will help ensure that they do not occur in the future and will thereby contribute to building security and the extension of the rule of law.

To this end, Amnesty International also urges the Meshrano Jirga to urge ISAF's leaders to facilitate the creation of a formal compensation programme.

Amnesty International believes by implementing such measures, in accordance with its human rights commitments, Afghanistan will also be working to promote the security of its nation and its people.

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