

Public Statement

Afghanistan: “First execution since fall of Taliban”

Amnesty International today expressed shock at news of the first judicial execution known to have been carried out in Kabul since the fall of the Taliban. Abdullah Shah, a military commander from Paghman, was executed on approximately 19 April. Amnesty International urges President Karzai to declare a formal moratorium on executions in line with assurances given to Amnesty International in 2003.

Over the past year, Amnesty International has extensively documented the many failings of the criminal justice system in Afghanistan. The system is currently incapable of fulfilling even the most basic standards for fair trials as stressed by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, following her observance of Abdullah Shah’s trial proceedings.

Amnesty International fears that Abdullah Shah’s execution may have been an attempt by powerful political players to eliminate a key witness to human rights abuses. During his detention, Abdullah Shah reportedly revealed first hand evidence against several regional commanders currently in positions of power against whom no charges have been brought. They are among the scores of other Afghans implicated in serious crimes, including war crimes and crimes against humanity. The lack of a fair and independent mechanism to deal with such crimes means that most of the accused have not been brought to justice and remain in positions of power from which they continue to threaten the Afghan population. This is of particular concern in the context of upcoming elections due to be held in September 2004 when it is believed that several of these individuals will be standing for political office.

Background

Amnesty International wrote to President Karzai last September about Abdullah Shah’s case after Amnesty International delegates had witnessed some of the proceedings at his trial and found it to fall short of international fair trial standards in several ways. According to international standards, including the International Covenant on Civil and Political Rights (ICCPR), to which Afghanistan is state party, a person who faces charges punishable by death must be represented by counsel at all stages of the proceedings. However, Abdullah Shah had no defence at his trial. The right to a public hearing is another essential safeguard of the fairness and independence of the judicial process. However, Abdullah Shah’s case was heard in a “special court” that was not open to the general public. International standards also set out guidelines regarding those hearing the case and establish that the primary institutional guarantee of a fair trial is that decisions will be made by competent, independent and impartial tribunals established by law. In Abdullah Shah’s case, the chief judge in the initial trial was allegedly dismissed for accepting a bribe, and the second reportedly imposed the death penalty hastily under pressure from the Supreme Court.

Everyone accused of a criminal offence has the right to obtain the attendance of witnesses and to examine witnesses on their behalf during trial, as set out in the ICCPR. However, in Abdullah Shah’s case, although 23 written complaints formed the bulk of evidence against him, there was no chance for cross-examination.

International standards also set out that restraints must be removed when a detainee or prisoner appears before a judicial authority in order not to undermine the presumption of innocence. Abdullah Shah was wearing leg irons throughout his trial. Abdullah Shah also claimed in court that he was forced to sign a confession and that he was tortured in detention,

pointing to injuries from his leg irons, as well as injuries to his teeth and hand. Allegations that statements have been extracted through torture must be promptly and impartially examined by the competent authorities, including judges. However, to Amnesty International's knowledge, no investigation was undertaken.

In October 2002, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, following her observance of Abdullah Shah's trial proceedings, stated that; "[t]he lack of capacity in the domestic judicial system has time and again been pointed out and indeed been observed by me during a well-publicized trial. I am concerned that the safeguards and restrictions according to international standards for imposing capital punishment cannot be observed at this stage. I therefore urge that the punishment of death penalty be suspended and a moratorium on executions be implemented until such standards can be met." In 2003, the UN Commission on Human Rights called on the ATA to "declare a moratorium on the death penalty in the light of procedural and substantive flaws in the Afghan judicial system."

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