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Afghanistan: The Tokyo Mutual Accountability Framework and the Long Hard Road to Justice

Amnesty International urges senior officials meeting on 3 July in Kabul to review progress towards achieving the goals of the Tokyo Mutual Accountability Framework (Tokyo Framework)¹ to take immediate remedial action to improve access to justice for all in Afghanistan.

In July 2012, Afghanistan and the international community agreed under the Tokyo Framework to “[i]mprove access to justice for all, in particular women, by ensuring that the Constitution and other fundamental laws are enforced expeditiously, fairly and transparently; [and] ensure that women can fully enjoy their economic, social, civil, political and cultural rights”

Old and new developments in Afghanistan reveal not only a failure by the Government of Afghanistan and its donor partners to achieve this goal, but also a recent back-tracking on commitments made.

Transitional Justice

Amnesty International remains deeply concerned that the 2005 Peace, Reconciliation and Justice Action Plan, approved by the government and its donors in 2006, to address past human rights violations and promote national reconciliation, was not fully implemented before its expiry in 2009. While some action points contained in the Plan were met, including the establishment of a panel to advise the President on senior political appointments, the panel has not emerged as a credible vetting mechanism to prevent unsuitable individuals from holding public office. The spirit and aims of the Action Plan were further undermined by the promulgation in 2009 of the National Reconciliation, General Amnesty and National Stability law, which grants immunity from criminal prosecution to people involved in serious human rights violations and war crimes over the past 30 years and to members of the Taliban and other armed groups who pledge to cooperate with the Afghan government.

Amnesty International urges all meeting participants at the Tokyo Framework review in Kabul to ensure that any individual, regardless of current rank, who may have perpetrated crimes under international law are not granted amnesties. Rather, they must be brought promptly to justice, in proceedings that meet international standards of fairness and without recourse to the death penalty.

¹ Tokyo Mutual Accountability Framework, agreed by the Afghan Government and the International Community at the Tokyo Conference on Afghanistan, July 2012
http://www.mofa.go.jp/region/middle_e/afghanistan/tokyo_conference_2012/tokyo_declaration_en2.html accessed 2 July 2013

Human Rights Monitoring

The Tokyo Framework agrees to “allow the Afghanistan Independent Human Rights Commission and civil society organizations to perform their appropriate functions”. The current expertise, independence, and effectiveness of the Afghan Independent Human Rights Commission (AIHRC) however is a serious concern that Tokyo Framework review participants must urgently resolve. The important work of the AIHRC was seriously undermined in December 2011 when President Karzai decided not to renew the terms of three commissioners. The AIHRC had recently completed a “conflict mapping” report analysing allegations of serious crimes and abuses committed by armed factions from 1978 to 2001. The report remains unpublished. Most recently the appointment in June 2013 of five new AIHRC members, some with no known human rights expertise, has rightly been challenged by national human rights defenders and the UN High Commissioner for Human Rights. The appointments were also made after inadequate consultation with civil society despite this requirement by under the 1993 Paris Principles on national human rights institutions.

Senior officials at the Tokyo review meeting must take urgent action, in line with UN Security Council resolution 2096 (2013), to ensure full cooperation with the AIHRC by all relevant actors and promotion of their independence as well as of ensuring their safety.²

Fulfilling the Rights of Women and Girls

The Tokyo Framework committed to “demonstrated implementation, with civil society engagement, of both the Elimination of Violence Against Women Law (EVAW), including through services to victims as well as law enforcement, and the implementation of the National Action Plan for Women (NAPWA)”. However the fragile legislative and policy gains for women’s and girls’ human rights in Afghanistan are now under threat. Challenges to the implementation of the NAPWA and the EVAW law include a lack of knowledge of the law and lack of political will on the part of law enforcement officials. Furthermore, in March 2012 President Karzai undermined the Declaration of the Essential Rights of Afghan Women, which he signed in January 2002, as well as the Convention on Elimination of All Forms of Discrimination Against Women to which Afghanistan is a State Party, by endorsing an Ulema Council (Council of Religious Scholars) code of conduct, which stipulates that women should only travel with a male guardian and not mix with men in the workplace or educational institutions. In recent months there have also been efforts made by some parliamentarians to weaken the EVAW Law, prompting an outcry among many defenders of women human rights.

Across the country, women and girls continue to face endemic domestic violence, trafficking, so-called “honour” killings, forced and child marriages, and being traded to settle disputes. Attacks on schools and on female students also continue. The AIHRC documented more than 4,000 cases of violence against women from 21 March to 21 October 2012, although the true number is likely to be far higher.

As regards implementation of women’s political rights, their participation in peace and reconciliation processes remains marginal to date. Only nine women have been

² Operative paragraph 42, UN Security Council Resolution 2096 (2013), adopted 19 March 2013, http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2096%282013%29

appointed to the High Peace Council – the body tasked with negotiating with the Taliban and other armed groups – and even these women have been sidelined in key peace negotiations, contrary to UN Security Council resolutions on Women, Peace and Security.

And finally, at the Tokyo Conference in July 2012, Afghanistan's international donor partners pledged \$16 billion in civilian aid. The donors must bridge the funding gap between what they promised and what they have delivered, especially to ensure access to justice for all.