

Ref: TIGO IOR 30/2010.001
AI Index: IOR 30/002/2010

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15 November 2010

**AMNESTY
INTERNATIONAL**



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Dear Secretary General

AFGHANISTAN: THREE CONCRETE STEPS TO IMPROVE HUMAN RIGHTS FOR THE AFGHAN PEOPLE

We are writing to you ahead of the NATO Summit between 19-20 November to urge you to convey Amnesty International's concern about the deteriorating human rights and security situation in Afghanistan and to provide key recommendations that would improve the security and well-being of the Afghan people.

Nine years after the international community helped bring President Hamid Karzai to power, Afghans face increasing insecurity, erosion of the rule of law and human rights protections, poor governance and endemic corruption. As you are no doubt aware, protecting the human rights of the Afghan people was often propounded as a justification for the October 2001 international intervention in Afghanistan to oust the Taleban regime from power. The Afghan government and its international supporters, most of which are NATO members, committed to a number of benchmarks for improving respect for the rights of the Afghan people in the 2006 Afghanistan Compact, which identified improving governance, rule of law and human rights as major pillars of development for Afghanistan's future. These commitments seem to have been discarded without fanfare, but the need for improving the human rights situation in Afghanistan is even more urgent now.

In this context, Amnesty International has outlined below three concrete measures you can take to improve governance, uphold the rule of law and human rights which would enhance security and stability – all of which can be implemented immediately to improve the prospects for the Afghanistan's future.

1. Improve the accountability of international and Afghan military and security forces

In view of the US government's deployment of 30,000 extra troops in Afghanistan Amnesty International urges you to do more to provide accountability and remedy for violations of international humanitarian and human rights law. The current lack of accountability fuels and fosters resentment among Afghans that international forces are above the law and unaccountable for their actions.

Amnesty International welcomed the move in March 2010 by the former Commander of US forces and the NATO International Security Assistance Force, General Stanley McChrystal, to bring most US Special Operations forces under the same chain of command as regular US and NATO forces for the first time. However, those forces that remain outside the regular chain of command, such as the US Army's Delta Force and the Navy Seals, civilian contractors, intelligence agencies as well as special operations units from other countries, must also be held accountable for their actions and also be governed by the rule of law.

Amnesty International has welcomed the creation of the NATO Civilian Casualties Tracking Cell (CCTC) to investigate claims of civilian casualties but is concerned that the unit continues to lack sufficient investigative resources and authority to carry out its mandate credibly. Additionally, CCTC's mandate should be expanded to cover "other government agencies" (a euphemism referring to the numerous intelligence agencies and Special Forces units operating in Afghanistan) and private contractors.

In June 2010 the North Atlantic Council also adopted non-binding guidelines on civilian compensation for all troop-contributing nations in Afghanistan. Amnesty International welcomed these guidelines and urges COMISAF to formalize the changes and issue a tactical directive describing the importance of properly addressing civilian harm when it occurs and offering practical, detailed procedures for: recording casualties, receiving claims, conducting investigations and offering amends in the form of compensation, apologies and other dignifying gestures. Additionally, as US and NATO forces begin the handover of security to the Afghan security forces, Amnesty International urges you to encourage the Afghan government to develop a similar investigation and amends system for civilian casualties.

2. No arbitrary detention or transfers to torture:

The increase in the scope of fighting in Afghanistan as a result of the troop surge may lead to a rise in the number of persons detained. Without an immediate improvement in the procedures for arresting, detaining, and trying detainees, it is likely that there will be an escalation in the violations of international human rights and humanitarian law obligations with respect to detainees. Amnesty International recommends that you adopt the following concrete measures to improve respect for the rule of law:

- The US government should immediately grant all detainees held by US, whether in Bagram, Guantánamo Bay or any other US detention facility, access to legal counsel, relatives, doctors, and to consular representatives, without delay and regularly thereafter. In the absence of an effectively functioning independent and impartial judicial system in Afghanistan, Bagram detainees must have access to US courts to be able to challenge the lawfulness of their detention. Currently, US forces continue to detain around 900 Afghans without clear legal authority and without adequate legal process.
- The USA and other NATO member countries must retain responsibility for the custody of the people your forces 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).
- US/NATO forces should urge the Afghan government to 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.
- US/NATO forces should seek mechanisms to ensure fair trials without undue delay for those in detention, including the option of mixed tribunals to try those apprehended in counter-insurgency operations by either Afghan or international forces.

3. Guarantee human rights protections during reconciliation talks with the Taliban

The London Conference on Afghanistan which took place on 28 January 2009 marked the formal pledge by the Afghan government to develop and implement a national Peace and Reintegration Programme to reintegrate what it calls moderate elements of the Taliban into Afghan society.

Afghan civil society groups, in particular women's groups, have raised serious questions about the prospect for human rights in Afghanistan if the Taliban are invited to join the political process. The Taliban have had a terrible record for human rights abuses both in government and as insurgents. 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.

We call on you to ensure that human rights, including women's rights, are not traded away or compromised during any political process, including reconciliation talks with the Taleban in Afghanistan and that, in line with the demands of UN Security Council Resolution 1325 on Women, Peace and Security, Afghan women are meaningfully represented in the planning stages and during the reconciliation talks.

As Afghanistan's international partners seek to increase Afghan engagement in their development and reconstruction and to follow through on pledges made at previous conferences, the implementation of each of the above steps would serve to achieve objectives and improve the dire human rights situation in Afghanistan. It would also signal that the interests of the Afghan people are the focus of their government and the international community.

We would welcome further discussion of these issues and are happy to provide any further information that would be useful to you in improving governance, human rights and rule of law in Afghanistan.

Yours sincerely

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Amnesty International