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Afghanistan: No impunity for war criminals

Amnesty International calls on Afghan President Hamid Karzai and the Afghan Parliament to immediately suspend controversial legislation that will give immunity from prosecution for serious violations of human rights, including war crimes and crimes against humanity committed, in the past 30 years.

The legislation, the “National Stability and Reconciliation” bill, was passed by both houses of the Afghan Parliament in early 2007 and published in the official Gazette in November 2008 but, unusually, it was not publicly divulged until January 2010.

Amnesty International and other human rights organizations, including the Afghanistan Independent Human Rights Commission (AIHRC), believe that this law is an attempt to provide legal cover for ongoing impunity for perpetrators of human rights violations, including the Taleban.

“The backers of this ‘Impunity Bill’ should note that they cannot simply legislate away the history of gross human rights violations and war crimes committed in Afghanistan over the past three decades. Nor can they silence the consistent demands of the Afghan people for justice and accountability,” said Sam Zarifi, Amnesty International’s Asia-Pacific director.

“There are real doubts about the legal validity of this ‘Impunity Bill’, as no national legislation can immunize perpetrators of international crimes. Furthermore, President Karzai never signed this bill, and it was only divulged to the public almost two years after Parliament voted on it.”

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.

“The record of the past eight years has been crystal clear: attempts to accommodate human rights abusers have only led to a deterioration of security and an erosion of the government’s legitimacy. Many of the people facing accusations of human rights abuses in the past are now in prominent government posts, facing new charges of engaging in human rights violations,” Sam Zarifi said.

Under the provisions of this legislation, Taleban figures who agree to cooperate with the Afghan government would also be immune to prosecution. The Afghan government and its international supporters identified reconciliation with the Taleban as a priority during the London conference in January 2010.

“Short term expediency in the form of reconciliation with the Taleban should not trump the rights of the Afghan people, and in particular Afghan women and girls, who have suffered greatly under the Taleban’s

repressive strictures. The Taleban have had a record of terrible human rights abuses, both when they ruled Afghanistan, and now in the areas they control. They should be held to account for their actions, not be granted official impunity,” Sam Zarifi said.

“The Afghan people have time and again signalled that they want a government that protects and provides their human rights and that imposes the rule of law. This legislation is simply an effort to pervert the course of justice under the faulty guise of providing security.”