



Justice must have the final say!

Mr. President, we heard you!

We have also been saying this for 10 years!

Statement of a group of justice and truth seekers in Afghanistan

24 July 2012

For the first time in the past 10 years, in the final months of his presidency, President Hamid Karzai of Afghanistan has referred to the need for the accountability of the Taliban and other armed groups for their crimes in a recent speech about peace with them. He said: "We want peace, but they [the Taliban and other armed groups opposed to the Government] must know that we remember all the murders and crimes they committed and shall not forget them. If they are from this land or from other lands, they must know that they will account for them one day."

Furthermore, in the opening session of the Women Judges Conference, the President said that the justice system and judicial organisations had important duties, and encouraged the prosecutors and judges to provide justice, because the people of Afghanistan have suffered great harm in this respect. He also reminded: "I hope that the opening today shall serve as a foundation to provide for justice, to achieve which the people of Afghanistan have long been waiting... The people of Afghanistan desire that their Government shall provide for justice and security and serve them after the withdrawal of foreign troops from this country."

Unmistakably, human rights and civil society groups in Afghanistan had been expecting to hear such remarks from the president a long time ago. If we consider the injustices in the past 10 years and even the past few months, we shall notice horrid incidents across the country that represent the totally inhuman behaviour of the authorities, official or unofficial power lords as well as the conflicting parties. They include an explosion at the wedding of

the daughter of a Member of Parliament that killed him and scores of other innocent people; 52 killings of women in the past four months; poisoning of water reservoirs in girls schools in various provinces, which put many children of this land in hospitals and clinics... On the other hand, suicide bombings, improvised explosive devices, kidnapping and threatening of journalists and civil society activists, killing women and young girls in parallel customary courts, acid throwing and assassinations have taken lives of thousands of innocent people including women, men, children, young and old people. The Government of Afghanistan and the international community do not have a right to show the slightest hesitation to bring to trial and punish the perpetrators of all these adverse incidents.

In 2005 the President committed himself to the "Plan of Action for Peace, Reconciliation and Justice" (known as the transitional justice plan) in order to punish human rights violators. However, under the present conditions, the commitment to transitional justice has been long forgotten, and hasty reconciliation, without seeking justice, has perpetuated the culture of impunity and formalised it. This hasty trend leads to more human rights violations. Experience of post-conflict countries has proven that reconciliation before seeking truth and expedience before seeking justice shall only rehabilitate perpetrators of gross human rights violations. A just and sustainable peace is not possible in the absence of the rule of law, transitional justice, and without putting an end to the culture of impunity.

The sudden change in the President's direction from expediency to quest for justice is considerable for civil society institutions, women's rights and human rights activists who seek more clarification, before the people are given vague hopes. These institutions and activists once again draw the attention of the Government and the media to following recommendations aimed at achieving justice. They have stated these recommendations time and again and the President's recent remarks are perhaps a follow-up to this persistence.

Ever since the issue of reconciliation with the Taliban and other terrorist groups came up on the part of the Government of Afghanistan and the international community, the justice seeking people of Afghanistan, representatives of civil society, social and human rights institutions, dedicated media, women's rights activists and intellectuals of this country have been most concerned about the neglect of justice and human rights. During the past few years, those concerns were repeatedly stated to the Government of Afghanistan, the international judicial bodies and the international community through various activities, conferences, demonstrations, symbolic civil actions, statements and the media. We, social activists, all unanimously believe that peace is not possible without justice and if it were to take place, our country would be thrown into a worse crisis that would threaten the country's existence in the future. We believe firmly that the violators of human rights and perpetrators of insecurity, assassinations, terror and suicide attacks must be accountable for their inhuman actions before law and society.

Mr. President! We as seekers of truth and justice, activists of the civil society, women's groups and organisations and representatives of victims, support your recent remarks about justice in the peace process and offer the following recommendations to you as the President of the Islamic Republic of Afghanistan, and the international community in order to plan to achieve the important goal of pervasive justice and combating impunity:

1. Establish a solid framework for transitional justice mechanisms in cooperation with the Afghanistan Independent Human Rights Commission, civil society and groups of victims. Complementary mechanisms may include establishment of truth seeking commissions; investigation of human rights violations and bringing to justice, putting on trial and punishing violators of human rights; rehabilitation of victims and providing them with redress as well as building memorials. As part of this commitment, you should take action to revive and implement the 2005 victim-centred Plan of Action for "Peace and Reconciliation".

2. Abolish the "General Amnesty and National Reconciliation Law", which is in contravention of the Constitution and international obligations of Afghanistan as well as sustainable peace. Investigate human rights violations in Afghanistan in cooperation with the Afghanistan Independent Human Rights Commission and bring the perpetrators to justice. Publish the AIHRC's Conflict Mapping Report on human rights violations during four decades of war, the publication of which has been blocked by the Government. Bring to justice perpetrators of human rights abuses including assassinations, torture, threats and attacks against human rights defenders, journalists and opposition political activists, acid throwing on women and girls and poisoning the children of this land in schools as well as sexual violence.

3. The Government of Afghanistan and the international community must prevent human rights violators from standing in elections and guarantee the independence of the Electoral Complaints Commission and the Elections Commission. Failure to do so can lead to catastrophe in this country.

4. Protecting the democratic achievements of this country and the Government of Afghanistan in every reconciliation process is essential to guarantee justice in this country. Those achievements have been attained at the price of the blood of thousands of children of this land. The Government of Afghanistan may not trade them in any negotiations or reconciliation and it must regard the Constitution and the independence of and separation of the three branches of the State as indispensable issues in all negotiations.

5. Invite the United Nations to investigate and document the crimes, as defined by international law, which the Taliban and other armed groups have committed. To fulfil justice, ask the United Nations to appoint a special rapporteur for human rights for Afghanistan; respond promptly to requests of UN Special Procedures to visit Afghanistan, and for information about specific cases or the general trend, such as the ones made by the Special Rapporteur on torture and the Special Rapporteur on extrajudicial executions.

6. Ask the UN Security Council to review Resolution 1988 on the Taliban in order to modify the delisting criteria so as to remove names of individuals suspected of being responsible for or complicit to international crimes only if they are not convicted of such crimes.

7. Ask the International Criminal Court to issue regular and detailed reports on the status of its work on Afghanistan. Whereas the national justice system has demonstrated its inability to investigate and prosecute perpetrators of international crimes, the ICC Prosecutor should investigate the crimes under ICC jurisdiction committed in Afghanistan since 2003, when the ICC's jurisdiction over Afghanistan came in force.

8. Ask the NATO member countries and the international community to take measures so that all day international and national military forces document the incidents causing harm to civilians and to provide compensation promptly and uniformly to all civilian victims, as recommended in the 2011 annual report of the United Nations High Commissioner for Human Rights.

Armanshahr Foundation; Afghan Civil Society Forum Organization; Afghanistan Human Rights and Democracy Organization; Human Rights Focus Organisation; Cooperation for Peace and Development; Cooperation Center for Afghanistan (CCA); Foundation of Solidarity for Justice; Human Rights Research and Advocacy Consortium; All Afghan Women Union; Women's Political Participation Committee; Women's 50% Campaign; Transitional Justice Coordination Group; Fadayi Herawi Publishing House; Sobhan Foundation; Neothinkers Cultural and Social Association; Radio Mojda, Nai Support for Open Media in Afghanistan