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Open Letter to His Excellency President Mr Mohammad Ashraf Ghani

2 December 2014

Kabul, Afghanistan; Paris, France

Your Excellency,

On the occasion of the London Conference on Afghanistan on 3 and 4 December 2014, where we trust that Afghanistan's human rights situation will be examined and decisions on continued funding and financial support from international donors will be taken based on your government's ability to commit to the improvement of the human rights situation for all people of Afghanistan, we take this opportunity to raise some issues of key concern to our organizations working on protecting and promoting human rights in Afghanistan.

Four decades of war in Afghanistan have led to increased insecurity, political instability, absence of the rule of law and the prevalence of violence and poverty. They have created the conditions for many forms of violence to grow, in particular discrimination and violence against women. Gross violations of women's rights over the past few decades, under various governments, have been serious obstacles to progress in Afghanistan, and we trust that your government will take this issue seriously and work to address its root causes.

We urge you to genuinely engage with Afghanistan's civil society and human rights defenders in this endeavour, as they are key allies in the struggle for a peaceful and just Afghanistan. In particular, we encourage you to consult with women's human rights activists and involve women in decision-making and policy development at all levels of government, in order to ensure that the policies and programmes implemented by your government promote equality and inclusion for all citizens.

We underline that combating violence and discrimination will require strong political will and long-term commitments. It will also require civil society to be engaged and active, with sufficient resources, support, and freedom to speak out for the rights of Afghanistan's people.

Our organizations are committed to supporting such developments in Afghanistan, and are ready to work closely with your government to achieve our shared objectives of development and peace in the country. We therefore wish to draw your attention to the following key human rights issues, and encourage the international community to support you in fulfilling the recommendations outlined below.

1. There are increasing reports of violence against women in Afghanistan, aggravated by the failure of the Parliament to pass the Law for Prohibition of Violence against Women (which is in force by a Presidential Decree), and impunity fuelled by the lack of access for women to the formal justice system.

In response, the government of Afghanistan should:

- repeal all discriminatory provisions within the civil laws of 1956 and the penal code, in particular laws concerning marriage and property, customary discriminatory laws, and the Shiite Personal Status Law;
- ensure that in the course of reviewing and amending the penal code, the Law for the Prohibition of Violence against Women shall not be incorporated within the general laws and shall be adopted as independent legislation;
- strengthen and guarantee, in coordination with the Supreme Court and the Office of Prosecutor General, the implementation of the Law for the Prohibition of Violence against Women;
- prioritize the passage of laws that protect the equality of men and women and would bring Afghanistan's legislation in line with the international conventions which it has ratified, in particular laws that ensure equal rights regarding marriage, divorce, custody, property and inheritance;
- take effective measures to put an end to the use of traditional mobile courts and the informal justice system; guarantee women's full and effective access to the formal justice system; and prosecute the perpetrators of violence against women;
- take effective measures to combat corruption within the judiciary and the resulting mistrust of the people in the justice system, particularly by holding corrupt officials

and judges publicly accountable, creating effective watch-dog mechanisms, and offering quality training for judges and officials;

- establish a mechanism to facilitate genuine consultation and cooperation with women, civil society organisations, and the Afghanistan Independent Human Rights Commission (AIHRC) in the drafting of government submissions to UN bodies such as the Committee on the Elimination of Discrimination against Women (CEDAW), and to ensure the effective implementation of the recommendations of relevant UN mechanisms such as the Special Rapporteur on Violence against Women;
- take effective measures to promote the respect of gender equality and the abolition of gender-based discrimination in society and culture, by issuing guidelines to all private and state media to broadcast educational programmes which promote gender equality;
- ratify the Optional Protocol of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and ensure that national legislation is in line with the CEDAW's provisions.

2. Discrimination and violence against women are exacerbated by widespread illiteracy which affects 90% of women in Afghanistan, lack of access to education at all levels, and lack of access to quality medical care, which also leads to high levels of maternal mortality.

In response, the government of Afghanistan should:

- in line with article 43 of Afghanistan's Constitution, which declares that “the state shall design and implement effective programmes to expand balanced education as well as to provide mandatory intermediate education throughout Afghanistan,” implement a national and extensive program to fight illiteracy, particularly among women and girls. This program should prioritize compulsory primary and secondary education; access for all citizens to schools, high schools, universities and dormitories; supporting families who enrol their daughters in school; seeking international aid for this purpose; and conducting an extensive public awareness-raising campaign about this issue;

- establish effective policies and incentives to ensure that schools, universities, and other training centres are accessible to women, and that employers are encouraged to hire qualified women for positions at all levels;
- ensure the implementation of article 52 of Afghanistan's Constitution, which declares that the state shall provide full access to physical and psychological healthcare for children and women throughout the country.

3. Despite the bravery and dedication demonstrated by women who have stood for local elections and worked successfully in Provincial Councils, the new Election Law has reduced the number of seats reserved for women in the Provincial Councils from 25% to 20%. Moreover, there is no quota established for the number of women to be elected to District Councils. This lack of protection for the representation of women in government, in addition to the systematic kidnapping and killing of women who are active in social and political fields, the lack of executive power of the Ministry of Women's Affairs, and the failure to achieve the targets of the National Action Plan for the Women of Afghanistan (NAPWA) and the Afghanistan National Development Strategy (ANDS), indicate a worrying lack of support for women's participation in governance.

In response, the government of Afghanistan should:

- broaden the mandate and resources of the Ministry of Women's Affairs to include the authority to develop and implement policies in all fields, such as ensuring responding to the social and educational need of women in Afghanistan, and promoting the establishment and respect for quotas of women in parliamentary and other elections;
- prosecute perpetrators and instigators of the killings and kidnapping of women working in the government, and social, political and economic areas;
- ensure the full implementation of the National Action Plan for the Women of Afghanistan (NAPWA) and the Afghanistan National Development Strategy (ANDS).

4. The withdrawal of international forces from Afghanistan and the reduction of international aid have resulted in the expansion of the Taliban’s operations to the previously relatively secure areas in the northern parts of the country, and a rise in the number of civilian casualties as a consequence of the increase in terrorist attacks and general insecurity. Women and children are often the main victims of these insurgent attacks against civilians. The Taliban continue to target civilians, refuse to respect the rights of women as enshrined in Afghanistan’s Constitution, and the rights of victims of crimes to justice.

In response, the government of Afghanistan should:

- refuse to engage in negotiations with any armed groups that do not respect the conditions set forth in the Bonn Agreements, notably the respect for women’s rights and gender equality as outlined in Afghanistan’s Constitution;
- ensure the equal and effective (and not just symbolic) participation of women in all stages of the peace talks, based on UN Security Council Resolution 1325 on women, peace and security;
- ensure the capacity of the Afghanistan Independent Human Rights Commission (AIHRC) to genuinely participate in all peace-building processes, by guaranteeing the independence of the AIHRC, ensuring its access to international mechanisms, and appointing it with professionally and morally competent and qualified persons;
- make the AIHRC’s “Conflict Mapping Report” publicly available, and conduct consultations with local civil society on how to address the issues outlined in the report.

5. Perpetuating impunity, failure to establish accountability for the atrocities of the past and present, and indifference to the demands of millions of victims of violence for justice have resulted in a continuous cycle of violence and generalized mistrust in any reconciliation and peace initiatives in Afghanistan. The experience of several reconciliation efforts between top government officials and certain armed groups in the country in the past few decades have demonstrated the harmful consequences of short-sighted “peace before justice” approaches. The growing insecurity in the country and

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flagrant rejection on the part of armed groups of the most basic human rights enshrined in Afghanistan's Constitution clearly indicate that enduring peace shall only be achieved with the abolition of impunity and respect for the rule of law.

In response, the government of Afghanistan should:

- immediately repeal the General Amnesty Law;
- ensure that any persons credibly accused of gross human rights violations or war crimes are not appointed to any position in the government, and are tried before a competent tribunal;
- implement the recommendations put forth during the UN's Universal Periodic Review of Afghanistan in January 2014 on the conditions of human rights in Afghanistan and the strengthening of the rule of law;
- bring Afghanistan's national legislation in line with the Rome Statute;
- dedicate sufficient resources from the national budget and immediately implement activities aimed at the realisation of the Action Plan for Justice, Peace and Reconciliation;
- ensure the respect and protection of the victims of war, half of whom are women, including by reviving the transitional justice programme and reparations plans for victims, and ensuring victims' access to justice, remedies, and reparations.

We urge you to consider these important issues as you form your government and appoint ministers and other officials. We also trust that the international community will join our organizations and Afghanistan's civil society in insisting that the protection and promotion of human rights for the women and men of Afghanistan is the number one priority of the new government of Afghanistan. Our organizations remain at your disposal to support your efforts in this regard.

Sincerely yours,

FIDH - International Federation for Human Rights

Armanshahr Foundation/OPENASIA (FIDH Member in Afghanistan)

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- Mr Abdullah Abdullah, Chief Executive Officer of Afghanistan
- Ms Husn Banu Ghazanfar, Minister of Women's Affairs
- Mr Abdul Rauf Ibrahimi, Speaker of Parliament
- Mr Salahuddin Rabbani, Head of the High Council of Peace
- Ms Sima Samar, Chair of the Afghanistan Independent Human Rights Commission
- Mr Nicholas Haysom, UN Special Representative for Afghanistan and Head of the United Nations Assistance Mission in Afghanistan (UNAMA)
- Ms Georgette Gagnon, Director of UNAMA's Human Rights Unit