



28 Afghan human rights, women's rights and civil society organisations and networks publish today an open letter to Ms. Navi Pillay, UN Human Rights Commissioner and draw her attention to serious human rights violations and offer detailed recommendations to the Government of Afghanistan and the International Criminal Court.

Open letter to Ms Navi Pillay, UN Human Rights Commissioner

25 September 2013
Kabul, Afghanistan

Dear Ms Pillay,

Your effective presence in Kabul last week was a great opportunity for us, human rights and women's rights organisations and networks. You offered your observations and concerns in your press conference on 17 September 2013. Not only do we agree with you, we are happy that you have endorsed our views.

The prospect of the withdrawal of international forces by the end of 2014, combined with the release of the Taliban leaders from prison and their increasing presence in important positions necessitate urgent measures to guarantee and perpetuate the significant institutional and democratic achievements since 2001, to ensure that Afghanistan shall not return to extensive and systematic violation of human rights and shall not become a safe haven for terrorism again. The hasty reconciliation with the Taliban without paying necessary attention to human rights, which the Afghanistan government and the international community are currently pursuing, shall be unsustainable and is doomed to fail. This approach will lead to eradication of truth and justice-seeking efforts, perpetuation of impunity and further human rights violations. Such reconciliation shall not establish the foundations for a lasting peace.

In the past few years, numerous national and international key actors have distinguished between peace-building and negotiations with the Taliban, women's rights, human rights and transitional justice as separate and unrelated issues. They have established numerous unrelated institutions and claimed that the aforementioned processes are separable and have no impact on one another. Nevertheless, experience of post-conflict countries has proved that reconciliation without paying attention to truth and justice seeking shall lead only to rehabilitation of perpetrators of serious violations of human rights and ignoring rights of the victims.

We wish to draw your attention in particular to the following pressing issues:

1. The increase in the number of civilian casualties as a result of the growing terrorist operations and general insecurity means a systematic violation of human rights. The government of

Afghanistan and its supporters must take effective measures to confront the insurgents and have a clear stand on non-negotiable red lines. Without any clear signs of the Taleban's intention to respect rights of women, rights of victims and respect for justice, it is not possible to make peace with people who cause death and injury to the citizens of Afghanistan. The main actors are also sending worrying messages: Unconditional pardon for and release of Taleban prisoners in Afghanistan and Pakistan that has recently included key Taleban leaders (e.g. Mulla Abdul Ghani, No. 2 in the Taleban leadership hierarchy), can only reinforce the culture of impunity and pose a threat to a sustainable peace in Afghanistan.

In this regard, we are eagerly waiting for the independent recommendations of the UN Human Rights Council on the situation of human rights in Afghanistan and its assistance to the government to enhance the rule of law. UN Human Rights Council is responsible for preventing the violation of human rights.

2. A list of about 5,000 victims of the 1978-1979 period was recently published by 8 Sobh, a national daily newspaper. The initiative was a consolation for thousands of relatives of the victims who, despite the elapse of several decades, did not know what had befallen their beloved. Thus, the need for uncovering the truth and implementing justice has been underlined once again.

The government of Afghanistan should

Enshrine in its immediate agenda the revival and realisation of the Action Plan for Justice, Peace and Reconciliation, which was included among its tasks with its own approval in several national and international documents.

3. Violence against women, failure of the Parliament to approve the Law for Elimination of Violence against Women (which is in force by a Presidential Decree), the widespread illiteracy of 90% of women and their lack of access to education and health illustrate the acute conditions of women in Afghanistan.

The government of Afghanistan should:

- Annul all discriminatory laws against women, in particular the Marriage Law, the discriminatory provisions of the Penal Law and the Property Law, the discriminatory traditional laws and the Law of Personal Status of the Shiite;
- Take measures to put an end resort to mobile informal courts and guarantee women's full and effective access to the formal justice system;
- Enhance the implementation of the Law for Elimination of Violence against Women, in coordination with the Prosecutor-General's Office throughout the country;
- Continue to improve women's access to social rights, e.g. health and education, and combat illiteracy among women nationwide;
- Always extensively consult and cooperate with women, civil society organisations and the AIHRC to draft government reports to the UN committees, in particular the Committee for Elimination of Discrimination against Women (CEDAW), to implement their concluding observations and the recommendations of the Special Rapporteur on violence against women.

4. Despite considerable mobilisation of women in elections, the new Election Law has reduced women's seats in provincial councils from 25% to 20%, even though women had operated very

successfully in those councils and offered valuable service to the people. The Law has also eliminated women's quota in the District Councils. The serial and systematic kidnapping and killings of women who are active in social and political fields, lack of executive power of the Ministry of Women's Affairs, which the government and its partners have given the greatest responsibility, the failure to achieve the targets of the National Action Plan for the Women of Afghanistan (NAPWA) and Afghanistan National Development Strategy (ANDS) – which have been formulated with a spirit of equality for women and total elimination of sexual discrimination – have sounded the alarm for women's rights and achievements.

The government of Afghanistan should:

- Ensure women's equal and effective (and not just symbolic) participation in all stages of the peace talks, based on UN Security Council Resolution 1325 on women, peace and security;
- Guarantee that the minimum 25% quota of seats in Parliament allocated to women will not be modified in electoral law, and ensure that the same quota is returned to women in Provincial Council elections;
- Appoint women to key positions in the government, the judiciary and other decision making bodies; and
- Prosecute perpetrators and instigators of the killings and kidnapping of women.

5. The Afghanistan Independent Human Rights Commission should lead all peace-building processes and guarantee realisation of human rights in the country. However, it has been marginalised and its access to international mechanisms has been restricted.

The government of Afghanistan should:

- Appoint professionally and morally competent and qualified persons to strengthen the AIHRC and guarantee its independence;
- Ensure the AIHRC's participation in all peace and reconciliation-related processes; and
- Publish immediately the full text of AIHRC's 'Conflict Mapping Report' on violations of human rights in Afghanistan during the war.

6. The justice system's mechanisms have displayed their inability and unwillingness to open serious investigations and prosecute perpetrators of international crimes.

The ICC's Office of the Prosecutor should:

- Publish regularly its detailed reports on its preliminary analysis of Afghanistan and its activities concerning the principle of complementarity of the court;
- Open investigations into the crimes committed in Afghanistan since 2003 and respond to victims' need for redress.

We thank you, Ms. Navi Pillay, for your consideration and look forward to the pursuit of these indicators for an efficient and human rights oriented development of Afghanistan, we wish you success in the important task you have.

Sincerely yours,

Armanshahr Foundation/OPENASIA, Transitional Justice Coordination Group, Cooperation Center for Afghanistan, 8 Sobh Daily, Afghanistan Watch, Afghanistan Cooperation for Peace and Development, Simorgh Peace Prize, Nai Supporting Afghanistan Open Media, National Movement of Afghanistan's Youth Human Rights and Democracy Organization, Civil Society & Human Rights Organization, Roya Film House, Herat Civil Society Institutions Network, 1st International Women's Film Festival-Herat, Afghanistan Pen, Tahminah Organization, Afghan Civil Society Forum Organization, Subhan Foundation, Negah-e Zan Magazine, Development and Support of Afghan Women and Children Organization, Kandahar Women's network, Empowerment Center for Women, All Afghan Women Union, Merman Women's Radio, Khadija Kubra Women Association for Culture, Nawandish Social and Cultural Foundation, Fadai Heravi Publishing House, Support to Afghanistan Civil Society Organization, Supported by the International Federation for Human Right (FIDH).

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CC

- His Excellency President Hamed Karzai
- Ms. Sima Samar, Afghanistan Independent Human Rights Commission
- Ms. Hossn Banu Ghazanfar, Minister of Women's Affairs
- Mr. Abdul Rahoof Ibrahimi, Speaker of Parliament
- Mr. Salahuddin Rabbani, High Council of Peace
- Ms. Fatou Bensouda, Office of Prosecutor, International Criminal Court
- Mr. Ján Kubiš , 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