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To all
Permanent Representatives
Members on the Security Council

**AMNESTY
INTERNATIONAL**



8 October 2013

Amnesty International recommendations on the situation in Afghanistan

Dear Ambassador,

As the Security Council sets out to adopt a successor to resolution 2069 (2012) on the situation in Afghanistan and renew the mandate of the International Security Assistance Force (ISAF), we urge you to prioritise the protection of civilians and the promotion of human rights of Afghan women, men and children.

The Government of Afghanistan and its allies must sustain and build on the modest human rights gains of the past 12 years. As the transfer of full security responsibility from ISAF forces to Afghan authorities enters its final stage, it is essential that all necessary safeguards are in place for the effective protection of human rights beyond 2014.

The Council reaffirmed in resolution 2069 (2012) that: “sustainable progress on security, governance, human rights, rule of law, and development as well as the cross cutting issues of counter-narcotics, anti-corruption and accountability are mutually reinforcing”. We therefore urge the Council to ensure that the following human rights recommendations are at the heart of the Council’s deliberations and actions on Afghanistan, and that these issues are implemented by the Afghan authorities with adequate support from UN member states (see Annex for details):

- Prevention of and accountability for civilian casualties.
- Ending arbitrary detention and the use of torture.
- Protection of women and their participation in decision-making processes.
- Prevention and mitigation of forced displacement of civilians.
- Independent human rights monitoring.

We urge the Council to prioritise these issues, including during any upcoming visit to Afghanistan. We stand ready to provide any further information you may require.

Yours sincerely,

José Luis Díaz
Head of Office and Representative at the United Nations

Amnesty International recommendations to the UN Security Council on the situation in Afghanistan and the mandate renewal of the NATO-led International Security Assistance Force

1. Prevention of and accountability for civilian casualties

- International forces, as well as the Afghan National Security Forces (ANSF), are accountable under international law for their actions. According to the United Nations Assistance Mission in Afghanistan (UNAMA), the incidence of civilian casualties increased to more than 1,319 killed and 2,533 injured in the first half of 2013. Of these figures, 9% were caused by the Afghan National Army, US and ISAF and other pro-government forces, and a further 12% were caused by engagements between such forces and anti-government elements (see report by the Secretary General, 6 September 2013, UN Doc. S/2013/535). Pro-government forces have repeatedly underlined their commitment to protect civilians, and Amnesty International recognizes that ISAF and US forces have made efforts to limit civilian casualties, including through new tactical directives and operational guidance. To achieve further necessary reductions in civilian casualties, however, international forces must take greater caution in carrying out airstrikes and night raids on civilian residences, operations that tend to be particularly hazardous for civilians.
- The Council should urge ISAF and US forces to improve their record of accountability and reparations to civilian victims of military operations carried out by their forces. The Council should ensure such forces undertake effective, thorough and transparent investigations into all allegations of civilian casualties resulting from their military operations, and ensure that there is no legacy of unresolved claims after 2014.
- The Council should ensure that US and NATO/ISAF security agreements with the Afghan government do not grant immunity from criminal prosecution to individuals involved in crimes under international law, including torture and war crimes.
- The Council should call on ISAF to ensure that its Civilian Casualties Mitigation Team (CCMT) is fully staffed and resourced, and to expand the CCMT's mandate to cover all international military forces operating in Afghanistan, including intelligence agencies and private contractors.
- The Council should urge that assistance be given to the Afghan government to create an independent mechanism to impartially monitor and investigate civilian casualties, and the destruction of civilian objects, attributed to the Afghan National Security Forces (ANSF), and to ensure timely and effective remedies when international humanitarian law violations occur.

2. Ending arbitrary detention and the use of torture

- In view of the serious deficiencies remaining in Afghanistan's detention system, including facilities run by the Afghan National Police, the intelligence service, the National Directorate of Security (see SG report S/2013/535 and as documented by Amnesty International, other human rights groups, UNAMA and the ad hoc fact-finding Commission established in January 2013 by President Karzai), Amnesty International urges the Council to ensure that transfers of detainees from ISAF custody to Afghan authorities do not take place where they face a real risk of torture or other ill-treatment. No state should rely on "diplomatic assurances" or Memorandums of Understanding for concluding that a person may be transferred to the Afghan authorities without risk of torture or other ill-treatment. Any "confessions" which may have been obtained under torture or other ill-treatment must be disregarded.
- In her visit to Afghanistan last month, the UN High Commissioner for Human Rights expressed concern at the apparent lack of any successful prosecution of a state employee for torture. All allegations of torture or other ill-treatment, whether in Afghan or ISAF/US custody, must be

promptly, thoroughly, effectively, impartially, and independently investigated in accordance with international standards. Those responsible should be prosecuted in fair trials, without recourse to the death penalty. The Council in resolution 2069 (2012) stressed the importance of further progress in ending impunity and strengthening judicial institutions and reform of the prison sector. The Council should therefore require updated information on progress made by the Afghan and international security forces to reform detention policy and practice.

3. Protection of women and their participation in decision-making processes

- The Council in resolution 2069 (2012) stressed the importance of the Afghan government and its allies implementing its resolutions on Women Peace and Security. Over the last year however, the situation for women has not improved, and in some respects has deteriorated. Reports of violence against women have risen, but possibly thanks to increased public awareness. Most women human rights defenders continue to be threatened however by state and/or non-state actors. Some have told Amnesty International they are beginning to self-censor, fearing increased reprisal as the international community disengages from Afghanistan. Women's Affairs officials in Laghman province, a woman member of Parliament, and a woman police officer in Helmand province, have been abducted or killed by armed groups. Meanwhile parliamentary developments, including revisions to the Criminal Procedure Code and discussions on the Elimination of Violence against Women law, threaten to undermine earlier efforts to increase the protection of women from violence (see SG report S/2013/535 and concluding observations by the Committee on the Elimination of all forms of Discrimination Against Women of July 2013, CEDAW/C/AFG/CO/1-2).
- The UN Committee on Elimination of Discrimination against Women has expressed concern that women's meaningful and effective participation in the peace and reconciliation process is being jeopardized (S/2013/535 and CEDAW/C/AFG/CO/1-2). Afghanistan has not yet adopted its National Action Plan to implement Security Council resolutions on Women Peace and Security. There are still only nine women in the 70-member High Peace Council, and women remain generally excluded from important decision-making processes, which could be exacerbated by plans for peace negotiations outside Afghanistan. The quotas for women in local elected bodies have been reduced and women's participation in the judiciary is grossly inadequate.
- The NATO Secretary-General notes also that ANSF gender integration has made little progress (see letter dated 13 September contained in S/2013/558). The Council should ensure that greater investment is made in international human rights and humanitarian law training, and gender-sensitivity training, for all relevant ANSF personnel, as well as on increasing the proportion of women playing an active role in the ANSF, in particular the Afghan National Police, ensuring their safety in the workplace.
- Amnesty International urges the Security Council to ensure that Afghan authorities, international forces, the UN and all donors increase their efforts to ensure that Afghan women are better protected from violence, and that Afghan women and their recommendations are included in all high-level discussions on the security situation in Afghanistan. The Council should also ensure that UN and NATO assessments of progress made in the transition of security responsibility to the national security forces include a gender analysis.

4. Prevention and mitigation of forced displacement of civilians

- The UN Secretary-General reports that increased ground engagements between parties to the conflict in Afghanistan have resulted in higher numbers of internally displaced persons in rural areas, many of which have little to no humanitarian access (see SG report S/2013/535). Over 584,000 Afghans are now internally displaced by conflict alone. The current drawdown of ISAF

and the accompanying uncertainty over the political, social, security and economic impact of the security transition are likely to trigger further displacement, particularly if security conditions do not improve in the short term.

- The Council must ensure that Afghan and international security forces use tactical directives, operating procedures and other guidance to troops to better prevent and mitigate forced displacement. All parties to the conflict must also respect humanitarian principles and promote safe, unimpeded and timely access for humanitarian actors to ensure unmet humanitarian needs of internally displaced persons are effectively addressed. In his quarterly reports to the Council, the NATO Secretary-General should include information on any progress made by pro-government forces to prevent and mitigate forced displacement.
- Amnesty International has welcomed the Afghan government's drafting of a national policy for Afghanistan's internally displaced persons and offered concrete recommendations for this policy. The organisation now urges the Council to ensure swift implementation of the policy, with adequate donor assistance, particularly before winter sets in.

5. Independent human rights monitoring

- Many Afghans fear that the upcoming elections, the granting of immunity from prosecution to war crimes suspects, and the withdrawal of international forces - without adequate security sector reform and the strengthening of judicial and human rights institutions - will result in decreased security for civilians and in particular for human rights defenders, especially in remote areas.
- The Council should ensure Afghan authorities strengthen the independence, protection and resourcing of the judiciary, the Afghanistan Independent Human Rights Commission (AIHRC) and other human rights defenders, so that they can carry out their important work impartially and credibly without fears of intimidation, reprisal or attack.
- The work of the AIHRC remains under threat despite Council resolutions 2069 (2012) and 2096 (2013) stressing the need for the Afghan Government to make further efforts to promote transparency and increase its accountability, and for "full cooperation with the AIHRC by all relevant actors and promoting their independence as well as of ensuring their safety". The AIHRC for example is still unable to publish its "conflict mapping" report, which analyses allegations of serious crimes and abuses committed by armed factions from 1978 to 2001. Furthermore, President Karzai's appointment in June 2013 of five new AIHRC members has prompted international outcry including from the UN High Commissioner for Human Rights. Some of the new members have no known human rights expertise and lack human rights integrity, and the appointments were made without adequate consultation with civil society, which is inconsistent with the 1993 Paris Principles on national human rights institutions. Amnesty International therefore urges the Council to ensure that the Afghan government adopts new measures to strengthen the independence of and support to the AIHRC, particularly before its status is reviewed in November by the International Coordinating Committee of National Human Rights Institutions.