

## **Address to the 60<sup>th</sup> Session of the Convention Against Torture Geneva, Switzerland**

Good morning/afternoon. On behalf of the Government of the Islamic Republic of Afghanistan and my delegation I would like to extend our gratitude to the distinguished members of the committee for taking the time to review my country's report on our obligations under the Convention Against Torture and for providing us the opportunity to make these opening remarks. We are also grateful for the close and constructive cooperation we have with the office of the High Commissioner for Human Rights especially the unit embedded with United Nations Assistance Mission in Afghanistan (UNAMA).

**The country has signed the convention in 1987, but because of war and conflict failed to fully comply and report on the implementation of the convention until very recently.**

Let me begin by reiterating that the government of Afghanistan remains absolutely committed to the international declaration that "all human beings are born free and equal in dignity and rights". Protection the human rights of all, and preventing torture, is our national obligation under the constitution of our country. Indeed, torture, mistreatment, and lack of respect for human dignity remain wholly inconsistent with our Islamic teaching and values and so we are therefore most ardent in our determination to free our country from this scourge.

I am not here, however to paint a rosy picture. Our government and people carry the legacy of almost four decades of conflict and brutal regimes. The result of which, has led to the desensitization of repression and, too often, the adoption institutional cultures that lack an appropriate level of regard for human rights. Over the last 15 years we have struggled to change this legacy and re-orient our institutions. However, over just the past two years, the Afghan government has taken major steps to ensure we fulfil our commitments under the Afghan constitution and international human rights laws.

**Torture is a cruel and inhumane act, that our human kind and our civilization has come to ban it and don't allow it under any circumstances. This inhumane and cruel act of human**

being is forbidden by the Afghanistan constitution. Therefore, we join the great success of civilization in eliminating torture and express our well on elimination of torture. As the Article 2 of the convention states:

“2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”

With the advent, in 2014, of the first constitutionally-based, democratically-elected government in Afghanistan’s history, a significant shift in the relationship between the Afghan state and its citizens began. This shift is ongoing and the work is difficult. We are attempting to erase the legacy of Taliban rule, of soviet-communist rule, and also that of perpetual warfare and the chaos that accompanies it into the lives of innocent people. Most Afghans have been exposed to war and brutality from birth. They cannot remove it from their memory and so carry it with them into society even as war continues to be visited upon them by Taliban insurgents and terrorist groups who all seek to return Afghanistan to the dark ages. Such barbarism was illustrated only last week when the Taliban attacked unarmed soldiers who were at the mosque to perform their Friday prayers. Over 200 of them were killed and wounded. It is in this context that those of us who make up Afghanistan’s government, labor to bring about a new social contract for the Afghan citizen. A key element of this contract is that even in the most difficult of circumstances, we adhere to our constitutional and international human rights obligations, by providing even the most savage criminals and terrorists with the humane treatment required by law. We must demonstrate to our people that we are different from the terrorists we are fighting.

To fulfill our constitutional and international obligations under conventions, the Government of Afghanistan has embarked upon an aggressive social reform agenda, with the aim of creating effective and corruption-free state institutions that deliver unhindered services in the areas of human rights, rule of law, gender equality, and social welfare. We have signed the Global Call to Action, implemented UNSCR 1325 on women, peace, and security through a National Action Plan, and enacted and enforced a national Anti-Sexual Harassment Regulation to improve women’s access to justice, education, and healthcare,

including support for survivors of sexual and domestic violence. The Government of Afghanistan is also working to modernize the penal code, develop child protection legislation, and implement the law on the Elimination of Violence against Women. Similarly, the government has moved forcefully to combat the corruption that 90 percent of Afghans say they encounter in their daily lives. President Ghani established and personally leads the High Council on Governance, Justice, and Anti-Corruption. President Ghani also doubled the size of Afghanistan's Major Crimes Task Force – from 130 to 300 – and inaugurated, less than a year ago, the Anti-Corruption Justice Center.

I have spoken of these things so that you might better understand our challenges and therefore place our efforts – especially those related to the eradication of the use of torture and mistreatment against detainees in Afghanistan – into a local context.

Following the release of the 2015 UNAMA report, the Government of Afghanistan developed its *National Plan for the Elimination of Torture* under the leadership of the National Security Council and in cooperation with security, law enforcement and judicial organizations, and with the participation of national and international human rights organizations and civil society. The government's *National Plan for the Elimination of Torture* was aimed at more effective implementation of the United Nations Convention against Torture and included the introduction or amendment of human rights-related legislation, capacity building among key institutions, education and training within the security forces, and increased oversight over the treatment of detainees.

The intensification of Taliban attacks in 2016 slowed Government of Afghanistan progress in many areas of civil development – to include efforts associated with execution of the 2015 *National Plan on the Elimination of Torture*.

Article 2 par 1 says:

“Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”

In this spirit and with resolve, the GOIRA has adopted numerous laws and policies that effectively prevent torture and criminalize the act in accordance to the UNCAT. Torture is a crimes punishable by law in Afghanistan.

The law against torture, the national action plan on torture and the new draft of penal codes as well as the decree number 129 are the stark examples of the recent development in the country.

Nevertheless, we made some notable progress in key areas I'd like to share with you.

First, we completed an extensive review of Afghanistan's laws and policies so as to identify and remove any legacy statutes that might impede the government from lifting its reservations to the Convention against Torture and signing the Optional Protocol Optional Protocol to the UN Convention against Torture. We completed this preparatory work over the course of last year. We are now proud to announce that, on April 9, 2017, Afghanistan's cabinet gave its approval to lifting the government's reservation to the Convention on Torture and for signing the Optional Protocol. As you know, this will open the door to enhanced cooperation between the Government of Afghanistan, the United Nations Office of the High Commissioner for Human Rights, and the larger international human rights community in the area of human rights and the prevention of torture – and greater transparency and accountability within Afghanistan's security and justice ministries resulting from our cooperation with the Subcommittee on Prevention.

Next, and in line with the obligation Afghanistan will assume under Part IV, Article 17 of the Optional Protocol, President Ghani has ordered the establishment of a *National Preventative Mechanism*. To this end, we have established a Human Rights Office within the Office of the National Security Council. Led by a Deputy National Security Advisor, the National Security Council's Human Rights Office will provide national-level oversight over, and coordinate the activities of, subordinate Human Rights Committees already established within the Ministry of Defense (MOD), Ministry of Interior (MOI), and National Directorate of Security (NDS).

The Human Rights Office is also responsible for the organization and execution of national inspections at every step of the detainee pathway. These inspections will include

representatives from the ONSC Human Rights Office and the Attorney General's office; and will be accomplished in coordination with the UNHRC Committee against Torture's Subcommittee on Prevention, and with the welcome participation of UNAMA, the Afghanistan Independent Human Rights Commission (AIHRC), and other relevant international and national human rights organizations to reinforce and complement inspections carried out under the auspices of the Optional Protocol.

The GoIRA has provided budget and support to the AIHRC to monitor detention centers. Further and in this regard, the GORIA has endorsed an MOU that was signed between the AIHRC ombudsman office and the MoI, MoD and NDS. In addition, the AIHRC is allowed to monitor and verify cases of allegations of tortures.

The AIHRC and UNAMA have a full role to monitor the detention and rights of people deprived of liberty. This mechanism has helped that many of cases of violations of rights be verified and investigated. The national mechanism for human rights is a very important tool to protect and promote human rights of people deprived of liberty.

I have set up a special unit within my office that will closely monitor the interrogation process by Attorneys so that it can serve both as a preventive mechanism as well as investigating abuses to ensure such cases are investigated and subject to due judicial procedure in a timely and effective manner.

The GORIA is committed to even prosecute those who commit torture from the anti-government side. In this regard, we have made progress and those who commit torture will be not immune before our legal system.

While progress to full implementation of the national action plan has been slow at times, we are fully committed to ensure the action plan is fully implemented. I will highlight some notable areas of progress we have made with the plan:

- We have implementation Presidential Decree 129 on the Elimination of Torture.

- The Afghan Penal Code has been amended to ensure proper definition of the term “torture”, and to ensure torture is explicitly prohibited at each stage of the criminal justice system. The bill will be presented to the parliament soon.
- We are in the process of amending the Criminal Procedure Code to prevent extended periods of detention during investigations.
- We are establishing a legal process for Victims of Torture to seek recourse – providing a legal and procedural pathway for victims to obtain compensation from the government.
- We have made improvements toward the application of free trials. We have a strong legal framework on supporting individual rights for fair trial. In this regard, we have progress toward adding to number of defense attorney and legal aid program.
- We are developing education and capacity building programs to improve essential skills on the detainee pathway. The Government of Afghanistan is incorporating Human Rights and Law of Armed Conflict principles into institutional and organizational training at all levels of the Afghan National Army, Afghan National Police, and National Directorate for Security. A particular focus is initial entry training for soldiers and police given that the overwhelming majority of the abuse alleged in the UNAMA report occurred at or near the point of arrest and prior to the detainee being processed into a formal detention facility.

In addition, the Government of Afghanistan is establishing Army and Police Mobile Training Teams to conduct annual Human Rights, Law of War and Law of Armed Conflict education and training for ANDSF organizations in remote areas.

The GoIRA has invested training our police forces, our NDS and other officials including judges and prosecutors on issue of torture and fair trails. These trainings were conducted by the AIHRC and many other institutions operating in the country.

The execution of human rights training will be documented and tracked by the ONSC Human Rights Office and shared with UNAMA and members of the international human rights community on a semi-annual basis.

- Lastly, the Government of Afghanistan will implement human rights and torture awareness programs to discredit the use of torture in Afghan society. This includes: Programs to ensure Afghanistan's public culture recognizes the damage caused to society by the employment of torture; Developing alternative methods of investigation by increasing the capacity of police to collect and preserve evidence so as to reduce the reliance upon confessions and the incentive that reliance creates to commit torture; and harmonization of national and international human rights organization's education and advocacy programs with those of the government.

In moving forward with our partners, and accepting our shortcomings, we will embrace the valued counsel offered and seek to build upon the significant progress we have achieved despite the best efforts of our enemies. We will reflect on the recommendations presented within this report, and will refine our National Plan accordingly. In doing so however we will not be hasty, rather we will be deliberate in the amendment of the Plan and subsequently our laws.

Finally, let me assure you that there will be no impunity for those who have engaged in acts of torture.

Thank you distinguished members of the committee for your time, I and my delegation look forward to engaging in a constructive and progressive dialogue and to address any specific questions you may have.