

ADVANCE QUESTIONS TO AFGHANISTAN

CANADA

- On April 4, 2009, the President of Afghanistan committed to undertake a review of the Shia Personal Status Law to address concerns about certain provisions that violate Afghanistan's international human rights obligations. Can the Government of Afghanistan provide an update as to the status of this review?
- The right to freedom of opinion and expression, including freedom of the press, are critical elements of a level playing field as Afghanistan moves towards its elections period. In this regard, can the Government of Afghanistan provide an update as to the status of its new Media Law and advise Afghans and the international community as to when it anticipates passage of the law?

CZECH REPUBLIC

- Does the Government of Afghanistan intend to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment?
- Many international human rights obligations of Afghanistan have yet to be incorporated into existing domestic laws or translated into new laws. What is the strategy of the Government of Afghanistan in this regard?
- What is the strategy of the Government of Afghanistan in further incorporating the former militiamen into its society including the armed forces? Has the Government looked into some of the best practices employed in this regard elsewhere?
- One of the most widespread failures of the existing Afghan institutional system is persisting corruption on all levels of governance. What special measures the Government of Afghanistan intends to apply in order to eradicate this phenomenon?

GERMANY

- UPR-Documentations of the UN and NGO Stakeholders state serious concerns regarding the Afghan justice system, respectively serious deficiencies in the due process.
Germany would be grateful if the Government of Afghanistan in its oral presentation in the working group could inform how it deals with these difficulties.

NORWAY

- Article 22 of the Afghan Constitution sets out that “The citizens of Afghanistan – whether man or woman – have equal rights and duties before the law.” Norway is especially concerned about the recent developments regarding discriminatory legislation against Afghan women. We would like to know how the Government

of Afghanistan will ensure that domestic legal reforms incorporate international standards and conventions especially with regard to women's rights and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)?

- Norway is concerned about the lack of freedom of expression as recently highlighted in the joint declaration by EU Heads of Mission and the Norwegian Government. Although Article 34 of the Afghan Constitution sets out that "Freedom of expression is inviolable", over the last year we have witnessed cases involving high profile journalists where this principle has not been respected. How will the Government of Afghanistan ensure basic safeguards and protection for Afghan journalists? And when will the mass media law passed by the Parliament in September last year enter into force?
- What steps will be taken to ensure that the provisions of Article 130 of the Constitution regarding Hanafi jurisprudence do not conflict with the principle of freedom of expression enshrined in Article 34 of the Constitution?
- We hope to see Afghanistan join the growing community of states around the world that have opted to abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights. Recognising the shortcomings of its criminal justice system, what plans does the Government of Afghanistan have to review the use of the death penalty?
- Whilst acknowledging that torture takes place in Afghan detention centres, the national report does not mention any concrete measures to combat torture (ref. 4.1. para 17). What measures has the Government of Afghanistan taken to abolish torture? And how will you ensure greater transparency and better access to National Directorate of Security facilities?
- Norway welcomes the mention of the *Action Plan on Peace, Justice and Reconciliation* in the national report (ref 6.2, para 43). How will the Government of Afghanistan prioritise and implement the various activities described in the Action Plan?
- Norway supports a continued role for the Afghan Independent Human Rights Commission (AIHRC) in monitoring, promoting and protecting human rights with the support of the international community. As pointed out by the International Coordination Committee of National Human Rights Institutions, the Government of Afghanistan should allocate a minimum amount in the national budget to ensure that the AIHRC is sustainable and complies with the Paris Principles. Could you please provide an update on when the allocated funding is expected to be disbursed to the AIHRC?
- With the support of the international community, the Government of Afghanistan should ensure the prompt establishment of the Human Rights Unit in the Ministry of Justice (ref.4.1. para 12). While we are aware that the Human Rights Unit has not yet been established, we nevertheless would like to get a clearer picture of how you will ensure that the Unit becomes sustainable and gains the necessary

political support? Further, how will Afghan civil society be involved in the Human Rights Unit's coordination efforts?

- The national report indicates that 100 government and civil society focal points have been trained to build professional capacity with regard to national reporting on human rights conventions (ref. 5.2. para 31). How will long-term capacity-building in the Human Rights Treaty Reporting Unit in the Ministry of Foreign Affairs be ensured?

THE NETHERLANDS

- The National Report does not mention the planned establishment of the Human Rights Unit within the Ministry of Justice. How does the government of Afghanistan envision the role of the Human Rights Unit and when is it expected to start functioning?
- The Netherlands appreciates the establishment of the Afghanistan Independent Human Rights Commission (AIHRC). How does the government envision the role of the AIHRC and how does the role of AIHRC relate to that of the executive, legislative and judicial powers in Afghanistan?
- In the National Report the government comments that the process of transitional justice has not been followed due to unsuitable conditions in the country. The Netherlands is concerned about this development since the AIHRC reported that over 70% of the population attaches high importance to transitional justice in Afghanistan. What will the government do in order to overcome the difficulties surrounding transitional justice and to further implement the *'Action Plan for Peace, Reconciliation and Justice'*?
- The Netherlands is concerned about the lack of media diversity and freedom of expression as recently expressed in the declaration by EU HoMs and Norway in Afghanistan. What actions will the government undertake to safeguard the right to freedom of expression, more specifically what will be done to prevent the arrest and imprisonment of individuals exercising their right to freedom of expression? When will the government adopt legislation to protect media diversity?
- The Netherlands is concerned about recent developments in Afghanistan concerning the adoption of legislation which is discriminatory towards women. The Netherlands would like to know what mechanisms exist in Afghanistan to ensure the protection of women's rights in legislation. Are relevant women's rights organisations, including the Ministry for Women's Rights, effectively and structurally involved in the legislative process when it concerns women's rights?

SWEDEN

- Afghanistan is party to all major international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women. Article 22 of the Constitution of Afghanistan stipulates “discrimination and favouritism of any kind is prohibited. Afghan citizens – men and women alike – have equal rights and responsibilities” and the article prohibits “any kind of discrimination and privilege”. The Constitution clearly establishes the duty of the State to protect women against violence, to respect their rights and to take positive steps to promote equality in practice. In her report on Afghanistan in 2008, however, the United Nations High Commissioner for Human Rights expressed, however her concern about the high levels of violence against women and girls. Credible reports confirm that women in Afghanistan still confront widespread discrimination, significant barriers to working outside the home, and restrictions on their mobility. Most recently, concerns have been raised regarding a new Shi’te Personal Status Law which contains provisions about women’s rights. According to available information, the law includes several provisions which are very problematic from a human rights perspective and seriously restrict the human rights of women in Afghanistan.

- Could the Government of Afghanistan elaborate on the measures it is taking to ensure that women can fully enjoy full respect for their human rights; what steps is the Government taking to combat discrimination and violence against women?

- In 2007, civil society organizations have registered 53 cases of violence against journalists by the Afghan Government and Taliban insurgents. Sweden is aware that many of these cases of violence against journalists are committed by insurgent groups. However, credible reports from 2008 also show the persistence of increasing restrictions on freedom of expression and the increase of religious intolerance. Reports show that dozens of journalists were detained during 2008, some held without charge for days, weeks, or months.

- What measures is the Government of Afghanistan taking to ensure the freedom of expression according to its international obligations as well as the Constitution of Afghanistan?

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

- Could you please elaborate further on the role civil society in Afghanistan played in the preparation of your national report for this process?
- Could you please tell us what steps Afghanistan is taking to ensure respect for freedom of expression, and in that regard, when it intends to enact the mass media law, which was passed by a two-thirds majority in the National Assembly in September 2008?

- What steps is Afghanistan taking to reduce the amount of time spent in prison by those awaiting trial and to ensure that those acquitted at trial are subsequently released?
- Could you please elaborate on the existence of a national human rights institution in Afghanistan, if it is in full compliance with the Paris Principles and, in particular, when the Government of Afghanistan intends to honour its pledge to part-fund it?
- What steps is Afghanistan taking to ensure that those prisoners on death row have received, and those facing capital charges are granted, a fair trial in accordance with international law and standards, and would the Afghan government consider commuting all death sentences until such time as the judicial system has been reformed to such an extent it can assure trials are fair?
- What steps is Afghanistan taking to recognise the suffering of victims as a key part of the implementation of the Action Plan for Peace, Reconciliation and Justice?
- Could you please inform us what steps the Afghan Government is taking to provide protection for women at risk of violence, in particular how many shelters are there in Afghanistan for women at risk of violence and forced marriage, and what steps Afghanistan is taking to ensure that these female victims are able to re-integrate into society?
