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Press Release

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AFGHANISTAN: UN REPORT ON TORTURE IN DETENTION SHOWS SOME PROGRESS, CALLS FOR MORE EFFECTIVE MEASURES

KABUL, 25 February 2015 - A UN report released today on the torture and ill-treatment of conflict-related detainees in Government detention facilities shows some progress and welcomes the new administration's commitment to accelerate its efforts to fully eliminate the practice of torture and ill-treatment in detention facilities.

"The Government of Afghanistan's efforts to prevent torture and ill-treatment have shown some progress over the last two years," said the UN Secretary-General's Special Representative for Afghanistan and head of UNAMA, Nicholas Haysom. "More remains to be done, however, and I welcome the new administration's immediate attention to end these practices."

"In particular, UNAMA welcomes the incoming Government's commitment to implement a new national plan on elimination of torture," Mr. Haysom said. "We support – and can assist as requested – this comprehensive approach to eliminate torture and ill-treatment in Government of Afghanistan facilities."

Elements of the Government's proposed national plan on elimination of torture, include legislative reforms, ratification of the Optional Protocol to the Convention against Torture, remedy for victims of torture, education and capacity building programmes, discrediting torture in public culture, preventive measures, and continuous observation of implementation of the national plan.

The UN report released today is the third report on the treatment of conflict-related detainees in Afghan custody jointly released by UNAMA and the UN High Commissioner for Human Rights. Findings are based on interviews with 790 conflict-related detainees between February 2013 and December 2014 and with Afghan security, police and judicial officials, and analysis of documentary, medical and other information.

The report shows a 14 per cent decrease in the number of detainees tortured or ill-treated compared to the previous reporting period, with one-third of all detainees interviewed found to have endured ill-treatment or torture.

It highlights ill-treatment and torture during the arrest and interrogation phases in numerous facilities of the National Directorate of Security, the national police, the local police and the national army. Detainees – mainly alleged members of the Taliban and other anti-Government groups or individuals suspected of conflict-related crimes – were subjected to severe pain and suffering, aimed mainly at obtaining a confession or information. Sixteen methods of torture and ill-treatment were described including severe beatings with pipes, cables and sticks, suspension, electric shocks and near-asphyxiation.

The decrease is due to new Government policies and directives banning torture, increased inspection visits to detention facilities, focused training on alternative interrogation techniques and other measures by national and international actors following the issuance of Presidential Decree 129 in February 2013.

However the new UNAMA report shows a persistent lack of accountability with a single criminal prosecution for torture observed since 2010, despite numerous verified incidents raised with officials over the course of the observation period. The report notes that the National Directorate of Security and the Ministry of Interior internal accountability and oversight mechanisms remain inadequate, lacking independence, authority, transparency and capacity.

"UNAMA's finding that torture of conflict-related detainees persists in spite of Government efforts over 2013-14 to address it is a source of serious concern," said the UNAMA Human Rights Director, Georgette Gagnon. "Continuing impunity for the use of torture allows torture to continue. Accountability – particularly the prosecution of both those who perpetrate and administer torture, and those who order or condone it – is a key means of signalling political commitment at the highest levels to end it."

Torture is prohibited and criminalized under Afghanistan's Constitution and laws, and under international law.

Twenty out of 71 interviewed detainees reported having experienced torture or ill-treatment following their transfer to Afghan custody in 2013-14, including in Afghan facilities the International Security Assistance Force had certified as not using torture. International law requires all international forces in Afghanistan to monitor the treatment of detainees in operations they accompany for the duration of the accompanied operation to ensure detainees are not transferred to places of detention where there is a risk of torture, and to include efforts to prevent the use of torture and ill-treatment in their training, advisory and assistance tasks.

The report also highlights a number of credible reports of the existence of alternative or unofficial places of detention operated by Afghan authorities in several regions and calls on the Government to promptly identify and close all such places.

Many Afghan security and police officials interviewed appeared not to accept that torture is illegal and saw it as a proper tool to obtain valuable intelligence information. The report also observed the widespread practice of judicial authorities' overwhelming reliance on confessions from defendants as the basis for prosecutions.

"Torture is a very serious crime, for which there can be no justification. The international prohibition is absolute. We have seen many examples showing how its use undermines national security and proves counter-productive," said the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, who stressed that both the Afghan Constitution and the Criminal Procedure Code include due process guarantees to protect detainees from the use of torture and ill-treatment, including the prohibition of using evidence gained through torture.

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Additional information on the report

- The report is based on interviews with 790 conflict-related detainees held by the National Directorate of Security (NDS), Afghan National Police (ANP), Afghan Local Police (ALP) and Afghan National Army (ANA). A total of 221 visits were conducted to 128 detention facilities in 28 provinces between February 2013 and December 2014.
- UNAMA also conducted multiple interviews with Afghan security, police and judicial officials and numerous other interlocutors.
- UNAMA further undertook rigorous analysis, corroboration and examination of documentary, medical and other information obtained from a range of sources and interlocutors.
- UNAMA specifically observed implementation of Presidential Decree 129 (February 2013) which ordered NDS, the Ministry of Interior/ANP, Attorney General's Office (AGO), Supreme Court, and the Ministries of Justice and Public Health to take specific measures to address torture, ill-treatment and arbitrary detention in Afghan detention facilities.
- The UNAMA study found that 278 out of the 790 conflict-related detainees interviewed (35 per

cent) experienced torture or ill-treatment on arrest or in facilities of NDS, ANP, ALP and ANA over the observation period. Of the 105 child detainees under age 18 interviewed, 44 were found to have been subjected to torture or ill-treatment (42 per cent).

- The study found that 161 of 611 detainees interviewed (26 per cent) who had been held in 37 NDS facilities experienced torture or ill-treatment together with 93 of 302 detainees interviewed (31 per cent) who had been held in 41 detention facilities of the ANP and Afghan National Border Police. Twenty-two of 42 detainees interviewed (50 per cent) who had been in the custody of the ALP experienced torture or ill-treatment and 20 of 60 detainees interviewed (33 per cent) who had been held in several ANA facilities outside of Kabul.
- UNAMA interviewed 71 detainees who reported the involvement of international military forces or other foreign government agencies in their capture, arrest, detention or transfer to Afghan custody. Of these, 20 were found to have experienced torture or ill-treatment following transfer to Afghan custody either to facilities the International Security Assistance Force (ISAF) had certified as not using torture under its 2013-14 detention certification and inspection programme or to detention facilities not covered by the programme. The UNAMA report observes that ISAF's programme overall prevented international forces from transferring detainees to Afghan facilities where they faced a risk of torture. ISAF referred allegations of detainee abuse in Afghan custody it received to the NDS, Ministry of Interior and ANA for investigation.
- The incidence of torture and ill-treatment was observed solely within the samples of detainees UNAMA interviewed and locations visited on specific dates included in the samples over the 23-month observation period. The UNAMA report did not make observations about the wider use and incidence of torture and ill-treatment in facilities UNAMA did not visit or where UNAMA had no access.
- The UNAMA report offers 22 recommendations to the Government and international partners and urges the Government to implement outstanding recommendations from UNAMA's previous two reports. UNAMA reiterates its proposal to the Government to establish an independent oversight and accountability mechanism modeled on the national preventive mechanism on torture as described in the Optional Protocol to the Convention against Torture.

Government of Afghanistan Response to UNAMA 2015 Report

- UNAMA shared a draft of its report with the Government of Afghanistan. A detailed written response was provided through the Office of the National Security Council and is attached as an annex to the report.
- The response notes it is not official Government policy to use torture and ill-treat detainees to obtain information and confessions in detention facilities. It states that some incidents in UNAMA's report are not correct while some could be due to individual violations by justice and security officials. The response expresses an acknowledgment of problems and commitment to eliminating torture and ill-treatment at the highest level of Government. This includes development of a national plan on the elimination of torture.
