

# **Annex**



Women for Justice, Kabul, Afghanistan  
Press Release

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### **International Criminal Court's Decision to reject Prosecutor's Request to Open Investigation**

Women for Justice Organisation (WJO) wishes to express its deepest concern and dismay over the International Criminal Court's recent decision to reject the Prosecutor's request to open an investigation into alleged crimes against humanity and war crimes committed in the Islamic Republic of Afghanistan. The decision, issued by Pre-Trial Chamber II under Article 15 of the Rome Statute, follows the submission of detailed information from the Prosecutor outlining alleged crimes against humanity committed by the Taliban, and war crimes, including torture, committed by Afghan forces, American forces, and the CIA.

The decision is particularly concerning because, as noted by the Office of the Prosecutor, it is clear that the Judges of Pre-Trial Chamber II are satisfied that there is both a reasonable basis to believe that crimes under the jurisdiction of the Court have been committed in Afghanistan, and that potential cases would be admissible before the Court. This entails a finding that the cases would both satisfy the principle of complementarity underlying the Court's design and meet the threshold of sufficient gravity. Referring in particular to the crimes allegedly committed by the Taliban, the Chamber highlighted the "devastating and unfinished systemic consequences on the life of innocent people of the brutal violence inflicted upon civilians...the gruesome public display of violence aimed at instilling fear and inspiring subjugation in the population as well as the recurrent targeting of women, even very young, and vulnerable civilians."

Despite these findings, and despite all the information collected and submitted by the Prosecutor over more than a decade of preliminary examination, the Chamber found that it was not in the "interests of justice" to pursue an investigation. It noted concerns about the availability of evidence, the ability to secure cooperation from relevant authorities, and the Court's limited resources, making the "prospects for a successful investigation and prosecution extremely limited."

As attorneys who represent women and girls in Afghanistan, we are regularly faced with accounts of systemic violence and human rights violations throughout the country, particularly sexual violence, abuse, and trauma. Many of the testimonies we receive rise to the level of crimes against humanity and relate directly to the information submitted by the Prosecutor during the period of preliminary examination. Further, the struggles that many of our clients face in telling their stories and navigating stigma and shame are a direct result of Afghanistan's tortured recent history, challenging security environment, and culture of impunity.

It is our firm belief that the only path towards progress for Afghanistan requires confronting its culture of impunity, no matter how difficult that path may appear. The Court's decision to shy away from the devastating and pervasive crimes committed in Afghanistan is a glaring stain on its record, and will only embolden those in a position of power to further shun institutions of international criminal justice. Most importantly, it is a devastating blow to our clients, and to victims across Afghanistan, who rely upon the Court to stand up to perpetrators of atrocity crimes, no matter how rich their resources and how powerful their positions. If the International Criminal Court's understanding of the "interests of justice" deviate so dramatically from the interests of victims, it is difficult to understand whom exactly it is aiming to serve.

To the extent that the Office of the Prosecutor is to consider appealing the Chamber's decision, Women for Justice Afghanistan will stand firmly behind that appeal.

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