

Annex F

(Public)

DECLARATION OF HORIA MOSADIQ

I, Horia Mosadiq, confirm and attest to the following,

1. I have more than 20 years' experience in human rights and journalism, focusing on human rights in Afghanistan. I am currently working with the Afghan Women's Network in Afghanistan mobilising women across the country to respond to ongoing peace negotiations in Afghanistan. I am also currently Chairperson of the Board of Directors for the [Safety and Risk Mitigation Organization](#), an organisation in Afghanistan with a stated mission to “empower, support and protect Afghan civil society, NGOs and human rights defenders in Afghanistan”.
2. I was recently the Executive Director of the [Conflict Analysis Network](#) (CAN), a research and advocacy organisation dedicated to preventing and ending human rights abuses in situations of protracted conflict and violence, and the Head of the Afghanistan Mission for [Geneva Call](#), a neutral and independent humanitarian organisation working to improve the protection of civilians in armed conflict.
3. Before that I worked for over nine years as Amnesty International's Afghanistan Researcher and, prior to that, for three years as the Director General for the Human Rights Research and Advocacy Consortium in Afghanistan. I have also been a Media Commissioner for the Afghanistan Elections Commission, Senior Advisor to the Afghanistan Independent Human Rights Commission, and a journalist in Kabul and Islamabad.
4. I have authored multiple research reports and scores of articles on human rights in Afghanistan, with a focus on women's rights, and have frequently been featured on high-profile media outlets including BBC World, CNN and Al Jazeera. Examples of my writings and interviews can be found at the following links:
 - A webinar with the Norwegian Human Rights Fund concerning the situation of human rights defenders and media workers in Afghanistan (15 March 2021), available at <https://www.facebook.com/watch/?v=258077939308105>.
 - Article with the Atlantic Council titled “What I dream for Afghanistan” (1 July 2020), available at <https://www.atlanticcouncil.org/blogs/southasiasource/what-i-dream-of-for-afghanistan/>.
 - Article with Al Jazeera titled “The Afghan ‘peace’ deal will not bring peace to the Afghan people” (3 September 2019), available at <https://www.aljazeera.com/opinions/2019/9/3/the-afghan-peace-deal-will-not-bring-peace-to-the-afghan-people>.
 - Interview with Al Jazeera (12 September 2019), available at <https://www.aljazeera.com/program/the-stream/2019/9/12/how-will-failed-us-taliban-talks-impact-afghanistans-future>.
 - Interview with Amnesty International (6 June 2016), available at <https://www.youtube.com/watch?v=NABjx2hnu8M>

- Interview with TRT World (31 May 2016), available at <https://www.youtube.com/watch?v=t-79c6cYiYY>.
 - Interview with the International Federal for Human Rights (24 March 2014), available at <https://www.fidh.org/en/region/asia/afghanistan/15008-horia-mosadiq-he-said-he-would-kill-me-if-he-ever-saw-me-going-to-school>.
5. My statement to the 18th session of the Assembly of State Parties, can be found here: [https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/GD.Transitional%20Justice%20Coordination%20Group%20\(Afghanistan\).3.12.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/GD.Transitional%20Justice%20Coordination%20Group%20(Afghanistan).3.12.pdf).
 6. In addition to being a human rights advocate and expert, I am also a survivor of human rights abuses. Several of my family members were tortured and disappeared during the communist chapter of the Afghan war. My home was destroyed in the 1990s in Kabul during the civil war chapter of the Afghan war. A rocket landed on my house and killed my 12-year-old brother right before my eyes. During the Taliban chapter of this never-ending nightmare that is the war in Afghanistan, I was brutally beaten by the Taliban and sustained a broken nose for daring to life my burqa (face, head and body covering). And today, I am in danger of targeted execution because of my advocacy for justice and accountability in Afghanistan.

Current state of peace and transitional justice in Afghanistan

7. The current state of peace and transitional justice in Afghanistan is bleak.
8. When the United States and Taliban signed their agreement last February, there was no talk or reference to justice and accountability.¹ To the contrary, the agreement required the release of 5,000 Taliban prisoners, of which at least 450 are suspected war criminals, some of whom appeared on various sanctions listings, including the U.S.'s sanction lists. Though the Afghan government was excluded from that original peace deal and peace deal process, it was required to release those prisoners by powerful foreign forces in Afghanistan.
9. In the last several days it has been reported that 6,000-7,000 more Taliban prisoners will be released by the Afghan government. Though the crimes of these prisoners are not articulated in the language of war crime abuses, and instead the Afghan government has coined the crimes as crimes against internal or external security or as terrorism, the reality is the same. These are the men who have maimed and murdered with impunity throughout this ongoing war.
10. A draft agreement between the Afghan government and the Taliban is equally without provisions on justice and accountability. A leaked copy of the March 2021 proposal by the U.S. government provides broad amnesty against any prosecution of crimes committed by Taliban or Government forces, noting "[s]ubject to Afghanistan's international legal obligations, members of the Parties, including their forces, will not be prosecuted for treason or other political crimes, as defined by the two Parties, during the tenure of the

¹ <https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf>.

Peace Government in order to promote national reconciliation.”² The notion of “political crimes” is obviously vague and has no corollary under international law.

11. The Afghan government has prepared a draft peace agreement that has been subsumed within the framework of the U.S. offer that proposed an interim government to replace President Ashraf Ghani’s administration in a bid to open the door for the Taliban and other political stakeholders to come together and discuss the country’s future. An immediate cease-fire was also part of the Afghan government’s proposal.
12. Details of these agreements, however, are still hidden from the public eye, as they are contained in classified annexes. Nonetheless, none of the leaked language of the agreement contain affirmative requirements on justice and accountability.
13. At the same time the Taliban appear to have removed themselves from the process, particularly with the U.S. government committing to a withdrawal of all forces by 11 September 2021, and not the originally negotiated 1 May 2021 withdrawal timeline. The Taliban has announced that it was withdrawing its participation from the conference with the Afghan government in Istanbul slated for 16 April aimed at reaching a political agreement between the country and the Taliban militants.

Targeted attacks on civilians by non-state actors

14. Since the Appeals Chamber authorized the Prosecution’s investigation into crimes committed in Afghanistan in March 2020, the wave of targeted attacks on civilians by non-state actors have significantly increased, particularly against civil rights leaders and journalists, and without accountability. As the security situation continued to deteriorate in 2020, particularly after the talks between the Afghan government and the U.S. government began, the number of civilian attacks increased, including deliberate attacks against civilian and civilian objects. In 2020 my team and I documented more than 100 threats against civil society members. The majority were deliberately targeted and killed either by being shot or by having magnetic bombs attached to the bottom of their cars.
15. The year 2020 saw a significant increase in targeted attacks against Afghan human rights defenders, women’s rights defenders, and other members of civil society in Afghanistan. All of these victims deserve to be named and recognised, below are only a few:



Mr. Yusuf Rashid, Executive Director of Free and Fair Elections Foundation of Afghanistan (FEFA) in Kabul, was targeted and killed along with his driver by unidentified gunmen in Kabul on 23 December 2020 on his way to his office.

² <https://www.csis.org/analysis/afghanistan-another-peace-end-all-peace>.



Ms. Freshta Kohistani, who was a known women rights defender and head of Women Movement of Kapisa, was killed along with her youngest brother in Hesa awal-e-Kapisa on 24 December 2020 by unidentified gunmen. Ms. Kohistani organized social gatherings and advocated for women rights. As the weather grew cold in November 2020, she distributed winter clothes for orphans in Kapisa and Panjshir provinces. It was when she was in a village gathering information about needy people that she and her brother were killed.



Ms, Fatima Khalil, a 24-year-old donor liaison officer, and Mr. Ahmad Jawed Folad, a driver, and both staff members of the Afghanistan Independent Human Rights Commission, were killed in Kabul on 27 June 2020 when an improvised explosive device that had been attached to the bottom of their car detonated while en route to their office.



Mr. Esmatullah Salam, a civil society activist and Head of Local Council in Andar District of Ghazni Province, was killed on 1 August 2020. Mr. Salam was travelling to visit his relatives during the second day of Eid in Khwezeyo village in Andar District of Ghazni Province. The Taliban stopped his car, kidnapped him and his body was recovered a day later in Wahghez District with severe signs of torture.



Mr. Ibrahim Ebrat, a local civil society activist was killed in Qalat city of Zabul province on 28 May 2020. Mr. Ebrat who was representing the Afghanistan Civil Society Joint Working Group in Zabul province was attacked by two men riding on a motorbike on 20 May while returning from Ramadan prayers. He was shot in the head and taken to a hospital in Kandahar and later transferred to a hospital in Kabul to receive more intensive medical care. He was in critical condition for a week before he died of his injuries a week later.



Ms. Malalai Maiwand, a 26-year-old reporter at Enikas Radio and TV in Nangarhar, was gunned down on 10 December 2020, along with her driver, in an attack claimed by the Islamic State. Ms. Maiwand was not the first of her family to be targeted. Five years previous, her mother, also an activist, was killed by unknown gunmen.



On 2 March 2021, three of Ms. Maiwand's colleagues, female journalists in their 20s, Mursal Wahidi, Sadia Sadat and Shahnaz Roafi, were also targeted and killed by the Islamic State in broad daylight in the city of Jalalabad in Nangarhar province as they were walking home from work. Nobody was arrested and no investigation was carried out in these attacks.

16. These Afghans who lost their lives stood for what they believed and wanted to bring a change to the lives of their fellow Afghans. They fought for basic human rights for Afghans, and they paid with their own lives.
17. To date in many of these incidents no investigation or arrests were made in connection with these killings despite promises by the Afghan government to do so. Ten days before Ms. Kohistani was killed, she posted a comment on Facebook stating that she was under serious threat, that she had reported those threats to the Ministry of Interior and National Security Directorate (NDS), but that the authorities had done nothing to investigate the threats or to provide her any protection. She even called on the first Vice-President to do something about her security threats and provide her protection. Nothing was done, and less than two weeks later she was murdered.
18. During the Covid-19 crisis the risk to human rights defenders became even more pronounced. They live with their families and the knowledge that they are now mostly at those homes has exposed them (and their families) to the prospects of increased attacks.
19. A February 2021 report from the United Nations Mission to Afghanistan records a total of 65 human rights defenders and media professionals killed in the period from 1 January 2018 to 31 January 2021, 32 from the human rights sector and 33 from the media. Of these,

11 (five human rights defenders and six media) were killed in just the four-month period from 1 October 2020 until 31 January 2021.³

20. The risks to human rights defenders are not just from the Taliban. Human rights defenders are also targeted by the Islamic State and other terrorist organizations operating in Afghanistan. In addition, human rights defenders are threatened and harassed by local government officials in Afghanistan.
21. A recent UNAMA report notes that from 1 January and 31 March 2021, 1,783 civilian casualties (573 killed and 1,210 injured) were documented, a 29% increase compared with the first quarter of 2020; as well as increases in both women (up 37%) and child casualties (up 23%). UNAMA documented a 38% increase in civilian casualties in the six months after the start of the Afghanistan Peace Negotiations in September 2020 in comparison to the same period a year earlier, demonstrating that the current talks have not resulted in reducing the scale of harm to civilians.⁴
22. The impact of these killings on Afghan society is tremendous. Many human rights defenders and journalists are exercising self-censorship in their work, quitting their jobs, and leaving their homes and communities with hopes that doing so will improve their (and their family's) safety. Many, including high profile personalities, have fled the country.
23. The Afghan government launched a Joint Commission for the Protection of Human Rights Defenders in December 2020, but the government has failed to properly investigate the attacks against members of civil society including human rights defenders and women's rights defenders. At the same time no other protective measures have been taken by the government to assist the human rights community. In a series of meetings with security officials in the Ministry of Interior and National Security Directorate, human rights defenders, myself included, were encouraged to buy pistols and weapons from the black market. That is not a solution to the protection of human rights defenders. That is not justice and accountability.

Instability of the government

24. We don't know what the prospects of the Afghan government will be after the withdrawal of U.S. troops - civil war, joint government. Several different disaster scenarios are possible.
25. Around 32% of Afghanistan's 407 districts are in the Afghan government's hands or undetermined, the Taliban control some 19%, and the rest of the country is contested. This is according to Long War Journal (LWJ), a project run by the Foundation for Defense of Democracies, a Washington-based think tank.⁵ LWJ incorporates district-level data

³ <https://unama.unmissions.org/killing-human-rights-defenders-and-media-professionals-afghanistan-%E2%80%93-new-un-report>.

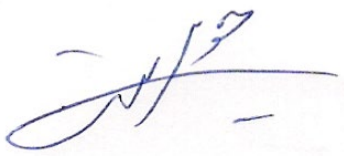
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https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_1st_quarter_2021_2.pdf.

⁵ <https://www.longwarjournal.org/mapping-taliban-control-in-afghanistan>.

provided by the Special Investigator General for Afghanistan Reconstruction, which is based on assessments by Resolute Support, NATO's command in Afghanistan. This means that the Afghan government has no control over the majority of the country.

26. The Afghan judiciary remains highly corrupt and unstable. High-level Afghan politicians and foreign actors (including states like the U.S.) intervene regularly in the judiciary.
27. Afghanistan has become a highly vulnerable state. It is subject to both internal pressure from Afghan politicians, and external pressure from donor countries. These realities dim any prospect of accountability.
28. Simply put, the on-the-ground reality in Afghanistan has worsened as the International Criminal Court stands on the sidelines despite affirmatively telling Afghans and the world that it was opening an investigation into war crimes in Afghanistan in order to meet its mandate of focusing on the most egregious of war crimes with the goal of contributing to cessation of such crimes and to bring an end to impunity. Unfortunately, the Court has contributed to the impunity by the failure of the Court's organs to deliver on the Court's rulings and commands.



HORIA MOSADIQ

Signed this 17th day of April 2021
At Istanbul, Turkey