

ACBAR



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اداره هماهنگی کمکهای بشری و انکشافی برای افغانها دافغانانو لپاره د بشری او پرمختیایی مرستو د همغږی اداره

## Agency Coordinating Body for Afghan Relief and Development

### Open Letter to the Joint Coordination and Monitoring Board

**Dear Government Colleagues and International Donor Representatives,**

On Monday 22 July the Joint Coordination and Monitoring Board (JCMB) meeting will be held in Kabul to review progress on commitments made at the Geneva Conference on Afghanistan by the National Unity Government and the international donor community.

Non-Government Organisations (NGOs) are committed to provide assistance as long as the Afghan people are in need. Increasingly the provision of services by NGOs is impeded by bureaucratic restraints, logistical challenges and most troublingly, direct attacks by both the Government and Non-Government armed actors. This has to stop. We urgently request the Government to ensure protection of civilians, aid workers and civilian facilities in Afghanistan and more rigorous accountability mechanisms for violations of the International Humanitarian Law and International Human Rights Law. We also urge the Government to ensure that there is an enabling environment for NGOs to operate more effectively in order to serve those in need.

#### **A. Protection of civilians and aid workers**

ACBAR and its international and national NGO members are deeply concerned about the continued violence against civilians, especially against health care and education facilities and their personnel.

In addition to record high civilian casualties last year<sup>1</sup> and an increase in civilians killed or injured during airstrikes and search operations attributed to the Afghan National Security Forces and International Military Forces<sup>2</sup>, we have witnessed a stark deterioration of respect for the neutrality of humanitarian assistance. The recent attack on a clinic of the Swedish Committee for Afghanistan (SCA) in Wardak province in the night between 8-9 July has seriously disturbed the aid community in Afghanistan. This is just one of several attacks on NGOs by pro-Government forces in the last months, with those NGOs providing medical services disproportionately targeted. The rights of wounded and sick people, including combatants who have been rendered incapacitated or have laid down their arms, must be respected in all circumstances<sup>3</sup>. Personnel engaging in medical tasks must, under international law, be protected and unimpeded in their provision of health care. These attacks severely undermine Afghanistan's obligations to these international commitments and could constitute violations of international law.

Increasing attacks and military use of public institutions, including hospitals and schools<sup>4</sup>, also undermines the development gains made by Afghanistan in the last decade. An estimated 3 million people<sup>4</sup> have been directly or indirectly denied medical services as a result of attacks on health care facilities in 2018 and 2019. Similarly UNICEF reports that in 2018, 718 schools were closed due to insecurity, including those directly attacked or used by armed groups on all sides of the conflict which has denied education to 325,000 boys and girls. The continued use of schools by the ANSF also has a disproportionate effect on girls' education as families are reluctant to send their girls to school in such conditions.

<sup>1</sup> UN Annual Report on Protection of Civilians in Armed Conflict, 2018.

<sup>2</sup> UN First Quarterly Report on Protection of Civilians in Armed Conflict, 2019.

<sup>3</sup> Respecting and Protecting Health Care in Armed Conflicts and in Situations Not Covered by International Humanitarian Law – ICRC.

<sup>4</sup> WHO - UNOCHA Health Cluster data 11 July 2019.

All parties to the armed conflict must respect international humanitarian law and take all necessary measures to protect civilians. In addition, all parties should respect the neutrality of humanitarian actors and allow aid workers to safely access civilian populations affected by the conflict.

#### **Recommendations:**

1. Both the Government of Afghanistan and International Donors should commit at the JCMB to ensure adherence of international humanitarian law and guarantee that health care centres, educational establishments and NGO offices are respected and protected. Progress should be monitored in line with other commitments made at the GCA.
2. The Government should take concrete steps to end impunity for violations of International Humanitarian Law and International Human Rights Law by ensuring systematic investigations by an independent professional body and justice to be provided by courts and the administration.
3. The Government should develop a national policy and accountability framework to ensure the continued delivery of adequate health care and humanitarian assistance in situations of armed conflict as stated in Security Council Resolution 2286.
4. The Government and International Donors should operationalize the Oslo Safe Schools Declaration in Afghanistan by setting a clear roadmap for implementation. As a starting point, both Ministry of Interior and Ministry of Defense should evacuate their military personnel from schools, in line with the National Unity Government's commitments.

#### **B. Enabling environment for civil society**

We remind all participants at the JCMB that NGOs have played a unique role for over 30 years in delivering services to the Afghan people in health, education, agriculture, livelihoods and humanitarian needs and in working directly with local communities. We also believe that the Government's commitments to the Afghanistan Sustainable Development Goals, Paris Climate Agreement, Sendai Framework for Disaster Risk Reduction, as well as UN Conventions on the Rights of People with Disabilities, the Rights of the Child, the Elimination of All Forms of Discrimination against Women and other international obligations, can only be achieved if there is real focus on coordination and partnership across all sectors of society and on national and provincial levels to implement action plans. This is difficult in a country in conflict but efforts should continue. Besides active hostilities and logistical challenges, bureaucratic impediments often constrain and slow down our work unnecessarily.

#### **We therefore have the following recommendations:**

1. The Government should accelerate the process of ratifying the revised NGO Law to have a clear and transparent cooperation between NGOs and the Government, as mentioned in GMAF indicator 24.1. The Ministry of Economy should develop a guideline for implementation of the revised law for Government staff in all line Ministries.
2. The Government is urged to fully cooperate with NGOs in the implementation of emergency humanitarian projects and prevent bureaucratic constraints that delay assistance. NGOs need only to provide project documentation to the relevant authorities after implementation of the project, as stated in Article 23.2 of the NGO Law.
3. Implement the recommendations produced by the Joint Working Group of Ministry of Economy, Ministry of Finance and NGO coordination bodies to review tax and reporting issues for NGOs, as mentioned in GMAF indicator 24.2, and develop a standard operating procedure for Memorandum of Understandings and reporting requirements for national level ministries and their provincial directorates.

We thank you in advance for considering our recommendations during the JCMB meeting of 2019.

Yours sincerely,

Mr. Bashir Khaliqi,

Chairperson of ACBAR<sup>5</sup>

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<sup>5</sup>ACBAR, the Agency Coordinating Body for Afghan Relief and Development, is an independent body bringing together 154 national and international NGOs working in Afghanistan and abiding by the humanitarian principles of independence, neutrality, impartiality and humanity and the NGO Code of Conduct. <http://www.acbar.org/>