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## Center for Strategic & Regional Studies

# Weekly analysis:

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## Prisoners Release and Challenges to Bringing Justice



### Introduction

Hundreds of prisoners have been released from various prisons of the country in compliance with a presidential decree issued on 22<sup>nd</sup> Anniversary of Mujahideen Victory Day, falling on April 28<sup>th</sup> each year.

As per the decree five to ten thousand prisoners will be released from central and provincial jails from which around 500 prisoners from central and hundred others from provincial jails have been released.

Meanwhile, Amnesty International (AI) in their latest report about torture in confinement facilities around the world states that various types of torture and ill-treatment exists in Afghan prisons.

How is the condition of Afghan prisons? What are the challenges and problems facing implementation of justice? The Weekly Analysis Board of CSRS has analyzed this issue as following:

### Afghan Prisoners Condition Inside and Outside the Country

International organizations usually report about worse conditions of Afghan prisons. AI has reviewed the conditions of jails in 141 countries, and stated that prisoners in Afghanistan are facing various types of torture.

Besides, national organizations also declared the conditions of prisons in Afghanistan as worse and along with other security observers stated about existence of tortures in the prisons.

Afghanistan's Independent Commission for Overseeing the Implementation of Constitution (ICOIC) also considered the conditions of the prisons and said in some cases even the decree of the president has not been implemented.

After reports on worse situation of the prisoners were released, President Hamid Karzai appointed a delegation to investigate the cases of tortures and ill-treatment, assassination threats and sexual abuse in the prisons; but measures taken were not efficient. While the human right activists have always criticized government for their silence on prisoners' condition, there haven't been any measures to improve it and standardize prisons in the past decade.

However, some prisoners through their continuous strikes tried to draw attention of authorities to their problems but apparently the problems still exist.

On the other hand a number of Afghan jails have become immorality centers; reports on the sexual abuses and other immoral activities in prisons have been released several times. In 2011 for instance a report was released that the women prisoners of Ghazni prison are being sexually abused. According to women prisoners in this prison officials of the prison tried several times to sexually abuse them.

The foreign troops in last 13 years had several secret prisons in the capital and provinces, where the prisoners faced brutal tortures and ill-treatment. Recently the Afghan government followed this case and finally closed some of the secret prisons in southern Kandahar and Helmand provinces.

On the other hand the prisoners outside of the country are also in worse condition. Around 5000 Afghans are imprisoned in Iran; hundreds of them are being hanged without fair trials and basic rights to hiring lawyers for self-defense. Afghan government has reacted very weakly to Iran's illegal prosecution of Afghan prisoners and did not even summon Iranian Ambassador as protest.

Afghan government must protect rights of the Afghan nationals not only in Iran but across the world and take serious measures against unfair collective hanging of Afghans in Iran.

### **Presidential Decree and Challenges to Bringing Justice**

Problems and widespread corruption in Afghan government agencies especially in judiciary caused innocent people being imprisoned for months and years without any documents against them, while criminals are freed in return for money and other deals.

The killers and mafias who are connected with high level officials have never been prosecuted. Warlord Hakim Shujai despite killing hundreds of innocent people in southern Uruzgan province and an arrest warrant against him was invited as guest to Arg.

Corruption in judiciary has caused majority of the prisoners not benefiting from pardon decrees in some cases.

It is clear that among the prisoners who are being released in accordance with the presidential decree some real criminals are also released because of the widespread corruption, while these criminals should have been tried, but due to the weakness and widespread corruption in the government institutions they are not punished in months and years. The government should be held responsible for imprisoning suspects for months and years while the constitution has only allowed few hours to keep suspect before officially being convicted.

Judicial commutation is common around the world. The President has the right to pardon prisoners or lessen their punishment within a particular limit. People are not against it, but they want the rules and justice to be implemented; but the criminals who commit killing, hijacking and violations are not trialed in last years and after a shortly being confined they are released, but the innocent people have spent months and years in the prisons without any trial.

The fundamental problem is the connection of criminals to high level government officials, though the government is aware of this, but does not take steps toward implementation of justice. This has resulted increase in crimes in major cities and social disorder, worst security and political instability.

The government does not yet have a comprehensive strategy for imprisonment and detaining. Foreign troops by pursuing their own strategy and plan are building prisons across the country; they want to make the nation weak by detaining citizens under different labels. Afghanistan government not having resources to fund National Security Forces is keeping around twenty-thousand prisoners across the country not having proper documents and facilities to put them on trial. Given the serious problems in prisons all over the country, weakness and corruption in judiciary and lack of implementation of justice require serious review in judicial system.

## Corrupt Officials' Failed Efforts to Tackle Corruption



### Introduction:

The dispute between lower house of parliament, Wolesi Jirga and the Kabul mayor Mr. Muhammad Yunus Nawandish has reached Attorney General's Office (AGO), after initial investigations attorney general Mohammad Ishaq Aliko in a press conference revealed that the dispute between the mayor and MPs is motivated by private interests and said that they had personal illegal requests from the mayor.

What is the motive behind accusations on Kabul mayor? Whether the Wolesi Jirga members are pursuing national or private interest? To what extent are the accusations true? Why the criticism raises only when the interests of officials are threatened? CSRS' Weekly Analysis Board has analyzed this issue as following:

### Promises Made by Kabul Mayor versus his Achievements

First, let's go back and take a look at the promises made by Kabul mayor in the first days of his duty and see to which extent he fulfilled them?

When Muhammad Yunus Nawandish was appointed as Mayor of Kabul by the President of the Islamic Republic of Afghanistan in January, 2010, in his first meeting with media he promised that he would change the look of Kabul city. It was largely expected that the Kabul city look will be changed in coming two or three years. But five years after his appointment the situation of Kabul city deteriorates. Despite of huge amount of assistance and budget spent through Kabul municipality fundamental and efficient changes cannot be noticed. The limited numbers of

roads and streets which are built or reconstructed are neither standard nor quality, as we see after heavy raining the general traffic roads are full of water.

Proper canalization and potable water systems does not exist which have created several problems for the citizens. Where did the 100 million US dollars provided by World Bank and the Japanese donor agency, JICA go? Their output cannot be seen in the city.

The widespread corruption that has hit Kabul administration exists on same scale in Kabul municipality as well. Kabul mayor is not exempted from the list of corrupt officials; he is also engaged in various types of corruptions. On the other hand this is also an illegitimate action that he knew about the corruption of the MPs but since they were not threatening his own position he was silent and now when they threatened his position he raised his voice against the corruption of MPs which tells that he is afraid of his corruption being leaked by MPs.

### **Motives behind the Dispute between MPs and Kabul Mayor**

The mayor has failed in his work and there are claims about his corruption, but on the other hand the position of the MPs has also raised some questions, that whether the MPs are that much committed to struggle for the interests of the nation that they strike and other measures, or they have their own interests.

The impact of the parliament and the representation of the nation became known for almost every Afghan from the works of these houses. The interpellation of cabinet ministers showed that it was for personal interests and was misuse of power and authority by the lower house of parliament.

For instance, last year the Finance Minister, Hazrat Omar Zakhilwal in an interpellation announced the list of MPs who had made illegal requests from him. There are several cases of this kind between MPs and governmental authorities but they not publicized. Most of the corruptive actions of the MPs are known to the general public but there is not a preventive force.

This time too, they do not care about bad situation of Kabul city. The MPs who raised voice against Kabul mayor have personal dispute with the mayor over land-grabbing and various other corruption cases and have files in AGO.

## **Anticorruption Efforts by Corrupt Officials Paves Way for it**

The Attorney General directly mentioned names of the Wolesi Jirgi speaker and head of the Communication and Transportation commission, who had illegal requests from the municipality.

Qais Hassan, head of Communication and Transportation commission of Wolesi Jirga, after being elected as MP, has officially bought 60 hectares of urban land from Kabul municipality with registered under his brother's name and built Mirwais town on it. After officially receiving the 60 hectares he grabbed 140 hectares of government land illegally, for which he has a file in AGO and was placed on exit control list last year. He is now raising voice against Nawandish calling him corrupt while he himself is amongst the most corrupt MPs. MPs accusations of government officials corruption will not bear any fruit even if they are true because of their own involvement.

The judicial system is also corrupt as the other institutions and often makes compromise which make then incapable of fair trials. They have become an integral part of corruption. While the trials and pursuing of corruption cases have become blame games and create problems instead of solving them.

The truth is that none of the government agencies think about serving the nation rather they are engaged in corruption, land-grabbing mafias, embezzlement, smuggling and a wide range of other illegal activities while no government official or agency exists that might prevent them.

Anticorruption efforts by corrupt officials and representatives has led to corruption in the whole system and created trend of blame games for personal interests, which give high officials hope that if their illegal involvements are revealed they will have a way out of it.