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March 22, 2006

His Excellency Said Tayeb Jawad
Ambassador Extraordinary and Plenipotentiary of Afghanistan
Embassy of Afghanistan
2341 Wyoming Avenue, NW
Washington, DC 20008

Re: Criminal Trial of Abdul Rahman for Converting to Christianity

Dear Ambassador Said Tayeb Jawad:

I am writing on behalf of the American Center for Law and Justice and the European Centre for Law and Justice, public interest law firms specializing in litigation that protects the freedom of speech and religious conscience. We have defended religious liberty before numerous courts including the Supreme Court of the United States and the European Court of Human Rights, and I have presented oral arguments before the Supreme Court of the United States in several key religious freedom cases. We respectfully request that you take all measures within your power to ensure that the criminal charges brought against Abdul Rahman in Afghanistan for rejecting Islam and converting to Christianity are dropped.

We have followed with great interest the ongoing trial of Mr. Rahman, and we are deeply troubled at the possibility that he may face a death sentence for merely exercising the basic right enjoyed by all of mankind to choose one's own religion. Executing or imprisoning a person solely because of his religious beliefs violates the Afghan Constitution as well as international law and would set a dangerous precedent for future religious prosecution worldwide. Mr. Rahman's trial also threatens to unduly harm Afghanistan's reputation in the global community as an emerging democracy respectful of basic human rights. That is why we implore you to help ensure that Mr. Rahman is set free.

As you are likely aware, Abdul Rahman's case has gained international attention. Mr. Rahman is a 41 year old man who converted to Christianity 16 years ago while he was an aid worker in Pakistan. Mr. Rahman has been charged with abandoning Islam for Christianity, a crime punishable by death, and a Bible found with him when he was arrested is now evidence of his crime. He has confessed to having become a Christian during the early 1990s.

We are deeply disturbed by statements made by Prosecutor Abdul Wasi regarding Mr. Rahman's case. Mr. Wasi offered to drop the charges if Mr. Rahman converted back to Islam, but Rahman has stated "I believe in the Holy Spirit . . . I believe in Jesus Christ. And I am a Christian" and that he "would always remain one." Mr. Wasi has told the court, "[Rahman] is known as a microbe in society, and he should be cut off and removed from the rest of Muslim society and should be killed."

We are equally troubled by the statement of Judge Ansarullah Mawlavizada, who is presiding over the case, that, "[i]f he doesn't regret his conversion, the punishment will be enforced on him, and the punishment is death." Judge Mawlavizada has also said, "[t]he Attorney-General is emphasizing he should be hung [sic]." Rahman is currently in Pul-i-Charki jail and has no lawyer. One jail employee there told reporters, "[w]e will cut him into little pieces" as she made a cutting motion with her hands. If Mr. Rahman is convicted, his fate will ultimately be decided by the appellate courts and His Excellency President Hamid Karzai.

Mr. Rahman's trial has drawn attention and criticism from all corners of the globe, including the governments of the United States, Canada, Italy, and Germany. Members of the United States Congress and State Department have expressed their concern that the trial violates the freedom of religion. Canadian officials have urged the Afghan government to reconsider the situation, stating, "[w]e have worked . . . to ensure the human rights situation in Afghanistan gets due consideration and remains integral to the work of the international community." The Italian Foreign Ministry requested to speak with the Afghan ambassador and stated, "[i]f this news is confirmed, Italy will move at the highest level . . . to prevent something that would be incompatible with the defense of human rights and fundamental freedoms." German Foreign Minister Frank-Walter Steinmeier said he's watching the case with "great concern," and the German embassy in Kabul has contacted Afghan officials about the case.

The trial of Mr. Rahman for converting to another religion violates both the Afghan Constitution and international law. While the Afghan Constitution establishes Islam as the state religion and states that no law can be contrary to the tenets of Islam, Article 2 also provides that "Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law." This provision cannot be read to allow an Afghan who converts to another religion to be punished for doing so, as one is certainly not "free to exercise [his] faith and perform [his] religious rites" if he risks losing his life.

Other provisions of the Afghan Constitution protect religious liberty and expression. For example, Article 34 of the Constitution provides: "Freedom of expression is inviolable. Every Afghan has the right to express his thought through speech, writing, or illustration or other means, by observing the provisions stated in this Constitution." Article 24 of the Constitution also recognizes that:

Liberty is the natural right of human beings. This right has no limits unless affecting the rights of others or public interests, which are regulated by law. Liberty and dignity of human beings are inviolable. The state has the duty to respect and protect the liberty and dignity of human beings.

Importantly, Article 7 of the Afghan Constitution states: “The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.” The Preamble to the Constitution also states that Afghanistan “observe[s] the United Nations Charter and respect[s] the Universal Declaration of Human Rights.” Article 18 of the Universal Declaration of Human Rights—part of the Afghan Constitution due to Article 7—applies directly to Mr. Rahman’s case. It provides:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 18 is consistent with the Declaration’s Preamble which provides that “the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.” Article 7 of the Afghan Constitution ensures that Abdul Rahman and others like him enjoy “the right to freedom of thought, conscience and religion . . . [which] includes freedom to change his religion or belief.” There could be no clearer violation of Article 7 and the Universal Declaration of Human Rights than the criminal trial and punishment of a person for exercising his right to change his religion. Mr. Rahman cannot be forced to choose between his life and his faith without violating domestic and international law.

Furthermore, Afghanistan has ratified the International Covenant on Civil and Political Rights. Article 18 states:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The State Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 18 protects Mr. Rahman’s “freedom to have or to adopt a religion or belief of his choice” because of Article 7 of the Afghan Constitution. The criminal trial and threat of possible execution he has been subjected to surely constitutes “coercion which would impair his freedom to have or to adopt a religion or belief of his choice.” If Mr. Rahman may lawfully be executed for converting to Christianity, Article 18 of the International Covenant on Civil and Political Rights will become meaningless.

The United Nations Charter also dictates that Mr. Rahman must be set free. Article 1 of the Charter states that the purposes of the United Nations include “[t]o achieve international cooperation . . . promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.” Similarly, Article 55 of the Charter provides:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

There is no more fundamental freedom than the right to life, as Article 3 of the Universal Declaration of Human Rights provides “[e]veryone has the right to life, liberty and security of person.” Mr. Rahman’s trial violates a core purpose of the United Nations because it denies him “fundamental freedoms” due to his religion and frustrates the goal of fostering “friendly relations among nations based on respect for the principle of equal rights.”

The United Nations General Assembly voiced its concern for the protection of religious freedom when it enacted the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Preamble states that “religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed.” Article 1 of the Declaration provides that “[e]veryone shall have the right to freedom of thought, conscience and religion [which] shall include freedom to have a religion or whatever belief of his choice. . . .” It also states that “[n]o one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.” Article 6 adds in relevant part:

[T]he right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- (a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- (c) To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief.

Furthermore, Afghanistan recently reaffirmed its intention before the international community to comply with international law, including provisions dealing with human rights. The *Afghanistan Compact*, a product of the recent London Conference on Afghanistan, provides:

The Afghan Government and the international community reaffirm their commitment to the protection and promotion of rights provided for in the Afghan constitution and under applicable international law, including the international human rights covenants and other instruments to which Afghanistan is party.

Mr. Rahman's situation provides a perfect opportunity for the Afghan government to demonstrate to the world its commitment to the promotion of basic human rights and international law.

We again respectfully urge that you use the esteem and authority that accompanies your office to ensure that Mr. Rahman is released and that the freedom of religious conscience will be protected in Afghanistan. The stakes are enormous; the international reputation of Afghanistan, the protection of religious freedom worldwide, and an innocent human life all lie in the balance.

Copies of this letter have also been forwarded to His Excellency President Hamid Karzai of Afghanistan, The Honorable President George W. Bush of the United States of America, Secretary of State Condoleezza Rice of the United States of America, and Members of the United States Congress.

Yours Respectfully and Sincerely,

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Chief Counsel

**AMERICAN CENTER
FOR LAW & JUSTICE**