



Vereniging Afghaanse Juristen in Europa

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War Crimes and Crimes against Humanity in Kunduz

Recently, as a result of the aggravated undeclared war and conspiracies by Pakistan, and the collapse of the state rule in Kunduz, another bloody page has been added to the tragedy of Afghanistan.

The human tragedy that took place in Kunduz and which still continues to exist, includes various forms of the most shocking crimes resulting in a national calamity. It, once again, displayed to the world the filthy, inhuman and anti-Islamic faces of the international evil doers, including DAISH and Taliban as the most villainous murderers of the man, who strive to shove back Afghanistan to the Stone Age.

The crimes committed in Kunduz fall in the category of war crimes and crimes against humanity, which can be summed up as following:

- Slaughter of innocent civilians, political assassinations, killing of prisoners, violating the honor of people, plundering the public property, and destruction of public and private buildings.
- Toppling the government administration with the help of the internal conspiracies, facilitating the jailbreak of more than 700 prisoners, including Taliban terrorists and other dangerous criminals, employing the irresponsible gunmen, militia and *Arbaki* fighters and prison escapees and fugitives to commit those crimes.
- Bombardment of the hospital of the Doctors without Borders against all the accepted principles of the international law was still another unfortunate incident that has added to the grievances of the already mournful people of ours.

All the afore mentioned crimes can be described and categorized as war crimes and crimes against humanity in accordance with international law and principles.

These crimes have been elucidated by the four Geneva Contentions (12 August 1949), according to which:

“War crimes include grave breaches of human rights in armed conflicts and crimes against humanity, torture or inhuman treatment, massacre, political assassinations and willfully causing serious injury to the body or morality of human beings.”

There are instruments of International Law, from the Hague Convention to the statutes of the courts of Nuremburg and Tokyo, and in the last decade of the past century in Rwanda, former Yugoslavia, and the Statute of the International Criminal Court that can be used as the bases for the argument.

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For the first time during the decades-long war in Afghanistan, a hospital with the international nature (the location of which already existed in their registration) was willfully targeted by a planned air strike. Even the warnings by staff of the hospital, which were directly relayed to them, were ignored.

While admitting the commission of crime, the American side desperately strives to justify the crime (the remarks of Gen. Campbell, the chief commander of American forces about the gathering of Taliban in the hospital and the request by the Afghan side, can be nothing but a justification worse than the crime itself).

Article (48) of the Geneva Convention that provides for the distinction between civilian and military targets, and likewise, the articles (7) and (8) of the Statute of the International Criminal Court which indicate the four occasions (refraining from targeting peacekeeping forces, humanitarian aid agencies, defenseless vulnerable persons, and civilians), the seven principles of the International Red Cross in similar circumstances assign the legal and moral commitment to the military forces of America, and hence, the perpetration of the war crime by the servicemen of that country is brighter than the sun.

In all the afore-mentioned occasions, a legal liability can be assigned to persons or states. Unfortunately, however, the implementation of justice and bringing the criminals to justice and court is a difficult task, because:

In internal dimension: a weak government and an inefficient judiciary, the ethnic and factional nature of the law enforcement organs, and ...

In external dimension: a paralyzed foreign ministry and a chaotic foreign policy are the main causes of the failure of the current weak government to refer the evidences of the Pakistani invasion, the war crime of the American military men, and the crimes of the multinational villainous elements to the UN General Assembly, the International Criminal Court and other concerned international authorities.

The American government rejected the membership of the International Criminal Court, and furthermore, the servicemen of that country have been granted the privilege of judicial immunity by the security and strategic accords of that country with Afghanistan.

On the basis of its professional commitment, and with a view to defending the mourning people of Afghanistan, the Afghan Lawyers' Association in Europe is determined to spare no possible effort for unmasking the faces of the perpetrators of the afore mentioned criminal acts, and come up with the following points aimed at reviewing those circumstances, and the possible prosecution of those who committed war crimes and crimes against humanity:

- Formation of a fact-finding body under the UN auspices to review the accusations against the American military men, and the participation of the officers of the ISI and the international villains such as Taliban, DAISH and local gangsters;
- Identification of the perpetrators and their introduction to the judicial authorities;
- Demand for indemnification and its strict pursuance as a main agenda point;
- A strict demand on the part of the UN for the non-recurrence of the perpetration of the these crimes;

In the current pitiful situation, while Afghanistan is subjected to invasion and an aggravated non-declared war by Pakistan and a stormy influx of the horrible monsters of "Islamic" radicalism, the painful fate of the country is determined by the regional and international geo-political rivalries, but the state continues to be incapable of exercising its national sovereignty.

The Afghan Lawyers' Association in Europe sincerely calls upon the civil society, the patriotic social, political and cultural entities, champions of human rights, media and social networks to consider the defense of the blood stained body of the motherland and the mourning people of Afghanistan as their

national cause irrespective of their ethnic, regional ... differences, and to act to this end with unity and a spirit of serving the people and the country.

With regards,

Executive Board,
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