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**STATEMENT**

Paris, February 4, 2021

**UIA-IROL Stands with the Afghan Legal Profession and Judiciary in Their Struggle for Independence**

UIA-IROL has been following closely the situation of lawyers and judges in Afghanistan and remains extremely concerned by the number of attacks on lawyers and judges. The most recent incidents include the murder of two Supreme Court Judges who were killed on their way to work. Supreme Court Judges Kadria Yasini and Zakia Herawi were assassinated by unidentified assailants who ambushed them and opened fire on their vehicles. Kabul's police force also confirmed that the drivers of the two murdered judges and a third judge were wounded in the attack.

We note that Taliban spokesperson Zabihullah Mujahid denied the group's involvement in the assassinations. However Afghan President Ashraf Ghani condemned the Taliban and other such groups in the wake of Sunday's assassinations, stressing that the ongoing violence against women and scholars, is an "attack on our honor and dignity," and can "jeopardize the efforts for lasting peace."

The judges' assassinations are among the most recent in a series of attacks against influential figures in Afghanistan, including the targeted killings of human rights-activists, a military prosecutor and journalists.

UIA-IROL recalls that in matters of administration of justice, the treaties protecting fundamental rights and freedoms could not be given full effect without the adoption of principles guaranteeing the independence of judges, prosecutors and lawyers.<sup>1</sup>

International law recognizes the unique role that judges, prosecutors, courts, and the justice system as a whole play in any democratic society. The U.N. Basic Principles on the Independence of the Judiciary states that judges are to be free to "decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter for any reason."<sup>2</sup> Furthermore,

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<sup>1</sup> See the Basic Principles on the Role of Lawyers, preamble : "(...)Whereas adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx#:~:text=En%20prot%C3%A9geant%20les%20droits%20de,la%20loi%20et%20aux%20normes> ; Basic Principles on the Independence of the Judiciary, preamble : "Whereas rules concerning the exercise of judicial office should aim at enabling judges to act in accordance with (the principles of the Bill of Human Rights), Whereas judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens (...) » , <https://www.ohchr.org/en/professionalinterest/pages/independencejudiciary.aspx> ; Guidelines on the Role of Prosecutors, preamble : "Whereas the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence and the right to a fair and public hearing by an independent and impartial tribunal (...)Whereas prosecutors play a crucial role in the administration of justice, and rules concerning the performance of their important responsibilities should promote their respect for and compliance with the above-mentioned principles, thus contributing to fair and equitable criminal justice and the effective protection of citizens against crime", <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx#:~:text=Les%20magistrats%20du%20parquet%20jouissent,des%20droits%20de%20l%27homme>

<sup>2</sup> <https://www.ohchr.org/en/professionalinterest/pages/independencejudiciary.aspx>

the Principles charge governments with ensuring that judges' independence and security are "adequately secured by law."<sup>3</sup>

The U.N. Basic Principles on the Role of Lawyers similarly established a number of principles recognizing the unique role of lawyers in defending the rule of law, notably by charging governments with ensuring that lawyers "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference," and instructing governments that where the security of lawyers is threatened as a result of discharging their functions[,] governments are to take all measures necessary to ensure that the lawyers' security is "adequately safeguarded."<sup>4</sup>

The U.N. Guidelines on the Role of Prosecutors emphasize these same fundamental guarantees, *i.e.*, that "prosecutors are able to perform their professional functions without intimidation, hindrance, harassment, improper interference [...]". Furthermore, the State has the duty to protect prosecutors and their families "when their personal safety is threatened as a result of the discharge of prosecutorial functions".<sup>5</sup>

UIA-IROL offers its strongest support to members of the judiciary who seek to maintain their independence in extremely difficult circumstances. We also applaud the efforts of the Afghanistan Independent Bar Association, as well as all members of the legal profession who struggle courageously to defend the rule of law. We notably support women judges and lawyers who are more particularly targeted and more often are victims of gender-based crimes, such as in the apparent case of Judges Kadria Yasini and Zakia Herawi.

UIA-IROL calls on all forces operating in Afghanistan to stop their attacks on the legal profession, members of the judiciary, specifically, and more generally, to halt targeting the civil population.

We further urge the Afghan Government to take all possible measures to ensure the security of judges, prosecutors and lawyers in order to allow them to carry out their professional duties without interference, intimidation or threats. The perpetrators of the attacks against them should be prosecuted and brought to justice.

UIA-IROL further calls on the United Nations Assistance Mission in Afghanistan (UNAMA) to fully implement its mandate as extended by [UN Security Council Resolution 2543 \(2020\)](#), notably to:

- Continue, with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), "to cooperate with and strengthen the capacity of the Government of Afghanistan, the Afghanistan Independent Human Rights Commission (AIHRC), and civil society in the protection and promotion of human rights, to cooperate also with the Government of Afghanistan and relevant international and local non-governmental organizations to monitor the situation of civilians, to coordinate efforts to ensure their protection, to monitor places of detention, and the treatment of those deprived of their liberty, to promote accountability, and advise, in close consultation with the Government of Afghanistan, stakeholders on the establishment and implementation of judicial and non-judicial processes to address the legacy of large-scale human rights violations and abuses as well as international crimes and to prevent their recurrence and to assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State party, in particular those regarding the full enjoyment by women of their human rights, including the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)";

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<sup>3</sup> *Id.*

<sup>4</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx#:~:text=En%20prot%C3%A9g%C3%A9ant%20les%20droits%20de%20la%20loi%20et%20aux%20normes>

<sup>5</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx#:~:text=Les%20magistrats%20du%20parquet%20jouissent,des%20droits%20de%20l%27homme>

- Support “the importance of gender equality and women’s and girls’ empowerment, education, human rights, and the full, safe, equal, effective and meaningful participation, engagement and leadership of women in all levels of decision-making, including in peace talks, overall peacebuilding strategies, at the national and subnational level”;
- Support “the efforts of the Government of Afghanistan in fulfilling its commitments to improve governance and the rule of law, including transitional justice as an essential component of the ongoing peace process, budget execution and the fight against corruption throughout the country”.

UIA-IROL also calls on the European Union, through its different projects and specific mechanisms for Afghanistan, to consolidate its long-term partnership with the country and maintain its engagement with the Afghan government to strengthen democratic institutions and to promote human rights, good governance and the rule of law.

### **More about the UIA-IROL**

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*The Institute for the Rule of Law of the International Association of Lawyers (UIA-IROL) promotes the Rule of Law and supports and defends, in particular, (1) lawyers, judges and human rights defenders who are harassed, threatened and/or persecuted in the exercise of their professions, (2) the independence of the legal and judicial professions, and (3) the UN Basic Principles on the Role of Lawyers, especially in defense of human rights.*

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