

April 17, 2003: Afghanistan: Draft Constitution Could Codify Repression

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WASHINGTON - The United States Commission on International Religious Freedom (USCIRF) has written President Bush raising its concerns that the constitution currently being drafted in Afghanistan may codify repression, rather than secure freedom, and thereby undermine the support of the American people for reconstruction efforts in Afghanistan. "This opportunity to establish a strong foundation for lasting peace and justice in Afghanistan is rapidly slipping away and is in danger of being lost altogether," said USCIRF Chair Felice Gaer. "There is no clear evidence that the United States has been sufficiently involved in the constitution-drafting process to ensure that universal human rights are guaranteed," continued Gaer. The Commission is urging the United States to use its considerable influence with the Afghan authorities to ensure that guarantees of universal human rights, including freedom of religion, are fully ensured in the new constitution in accordance with Afghanistan's own international commitments. The text of the letter follows: Dear Mr. President: While our nation's attention is understandably focused on Iraq, the U.S. Commission on International Religious Freedom believes we must continue to establish a strong foundation for lasting peace and justice in Afghanistan. Our country has an historic opportunity to help the Afghan people establish in their constitution guarantees for human rights, including religious freedom. This opportunity is rapidly slipping away and is in danger of being lost altogether. Mr. President, you have said that the United States, by toppling the repressive Taliban regime, was bringing freedom to Afghanistan. You have rightly recognized that our nation wishes to be remembered not by its conquests but by the free constitutions our country has left with former enemies. A constitution that codifies repression, rather than securing freedom, may well undermine the support of the American people for reconstruction efforts in Afghanistan. In our February 24, 2003 letter to you, this Commission pointed to troubling signs in the human rights situation in Afghanistan, including abuses against women and girls, torture and other human rights abuses committed by official agencies with apparent impunity, and public statements by the Afghan Chief Justice reminiscent of the Taliban period, including charging political opponents with blasphemy. Outside of Kabul, what passes for justice all too often appears to be arbitrary decisions dispensed by ill-educated mullahs or dictated by powerful local leaders. A constitutional drafting committee recently completed a preliminary draft of the new constitution. A period of public consultation will begin shortly. Many Afghan reformers and others have expressed concerns that their newly won freedoms may be circumscribed, rather than protected and promoted, in the new constitution. There is no clear evidence that the United States has been sufficiently involved in the constitution-drafting process to ensure that universal human rights are guaranteed. Through a contractor, U.S. assistance has concentrated on providing technical and logistical support for the drafting committee and assistance in the public consultation process. The U.S. government should use its considerable influence with the Afghan authorities to ensure that guarantees of freedom and universal human rights, including freedom of religion, are fully ensured in the new constitution in accordance with Afghanistan's own international commitments, including to: affirm Afghanistan's commitment to democratic principles and the rule of law; make specific reference to Afghanistan's adherence to the provisions of the Universal Declaration of Human Rights and compliance with the international human rights conventions to which Afghanistan is a party; guarantee religious freedom for all Afghans and for foreign visitors and residents in full accordance with international standards; guarantee that equal rights under the law are ensured for all persons, without discrimination, including for women and members of religious or ethnic minorities; guarantee that no law or other government action violates internationally recognized human rights; exclude the use of accusations of blasphemy, "offending Islam," or similar accusations to stifle public debate or the right to freedom of expression; specify that non-Muslims are not subject to Islamic law; and prohibit punishments such as flogging, amputation of limbs, and death by stoning. Mr. President, you have repeatedly emphasized our country's commitment to upholding human rights, including religious freedom, around the world. These rights are now at stake in Afghanistan. What we do now will have an impact, for good or ill, on future generations of the brave and long-suffering Afghan people. Thank you for your careful consideration of the Commission's views on U.S. policy toward Afghanistan. Respectfully, Felice D. Gaer Chair

Felice D. Gaer, Chair

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