

"Reconstructing Afghanistan: Freedom In Crisis": Panel III: The U.S. Role in Promoting Human Rights in Afghanistan

January 29, 2003 CHAIRPERSON GAER: Ladies and gentlemen, our third panel is entitled "The United States' Role in Promoting Human Rights in Afghanistan." Our panelists include Minister Karimi, again, Mr. Maroofi, Ms. Baha and Mr. Hamidi. In addition, we have Ambassador Wendy Chamberlin, Ambassador Karl Inderfurth, Ambassador Peter Tomsen, and Marin Strmecki, and it will be moderated by two of our Commissioners, like the earlier panels today. Before introducing them, I want to tell you this panel will run until 5:15 sharp. I want to take this opportunity at this point to thank all of the people and institutions who have helped make this forum possible. First of all, Joseph Crapa, our talented new Executive Director, and the devoted staff of the U.S. Commission on International Religious Freedom; Secondly, our partner in this endeavor, The George Washington University Law School, and particularly Susan Karamanian, the law school's Associate Dean for International and Comparative Legal Studies, and George Washington University Professor Quadir Amiryar, who is also a member of the Judicial Reform Commission of Afghanistan; The U.S. Department of State and the American embassy in Kabul for helping to facilitate the presence of our guests and their visas; Belquis Ahmadi from the International Human Rights Law Group; and the Jacob Blaustein Institute for the Advancement of Human Rights. Thank you all. Our last panelist, the Honorable Lorne Craner, has now joined us for the last panel. The two members of the Commission who will be moderating this panel are our Vice Chair, Dean Michael Young, and Commissioner Shirin Tahir-Kheli, who is a professor at the Johns Hopkins School of Advanced International Studies.

COMMISSIONER YOUNG: Let me start with a word or two of introduction, if I may. First, let me say that we have an extraordinarily rich range of views represented both on that side of the room and this side of the room. We have, in addition to Minister Karimi, we have, representatives from each of the other Commissions, the Judicial Commission, the Human Rights Commission, et cetera, on this side of the room. So we have, on both sides of the room, panelists with extraordinary information inside the topic that we've been talking about all day. Shirin and I have conferred or conspired on this panel and have decided that we are going to run it a little bit more like a graduate seminar, rather than a traditional panel. And so we have forbid set speeches, we will forbid answers longer than two minutes, and hope that we can really tease out some of the tensions and issues that have been emerging over the past number of hours that we have been together and really try to identify, both areas of success, areas of remaining challenge, and most importantly, what do interlocutors on both sides think might be done to overcome some of these challenges that we're facing. So I think this is going to be just slightly different than some of the others. This is my school. I can do it any way I want. [Laughter.]

COMMISSIONER YOUNG: And this is the way we want professors to teach. So this is what we're going to do. But let me turn it to Commissioner Tahir-Kheli for a moment to set the scene a little bit. She will also be brief--

COMMISSIONER TAHIR-KHELI: Well, I'm not in your school. [Laughter.]

COMMISSIONER TAHIR-KHELI: Actually, the reason for--it's not strictly correct to say that we conspired to make it [inaudible] or not [inaudible] other people in this room who don't [inaudible], and certainly nobody needs that. But we felt that the issues have been really highlighted quite extensively in the course of the day, and that there was this rich resource of opinions and experience in the room, and we wanted to draw more people out, rather than the sort of standard format of speeches. The interesting questions and the important questions, which also have bearing on the work of our Commission, is a question of both the will, as well as the capacity inside Afghanistan for creating the right future in which human rights and tolerance are the norm, and somehow institutionalize, keeping in mind, of course, we all recognize the culture and the other differences that exist, but where are we and how do we go further? So that's really the background for why we thought we'd change the format a little bit.

COMMISSIONER YOUNG: And by graduate seminar course, I mean, as I always mean in graduate seminars, the students are always much smarter than the professors, so we will learn from them today. But let me start by sort of raising what seemed to me to have emerged through much of the day to the deeply interrelated issues. One issue really has to do with the extent to which notions of human rights, rule of law, and so forth, will be built in today into the political and legal infrastructure of the country as it moves forward. And we've heard a number of statements to the effect that it will and then some questions relating to what that precisely means. There seems to be kind of a malleability to some of those notions of human rights that at least some have expressed discomfort with, while others have said are essential to be adequately sensitive to the history and the culture of Afghanistan. But, underlying that is a question that I think came out quite a bit in the past panel, particularly, which is citizen participation. It may be true, if you ask the average Afghan citizen, "Do you want a Lockean form of democracy with a representative government," they would say, "We really want seeds to plant in the field that will grow." But if you would ask them a slightly different question, and in fact they have asked this question, and this is precisely the answer you get, "What would you like your world to look like?" It has a remarkable degree of resonance with what we consider fundamental human rights. They would like to be able to participate in selecting their leaders. They would like to be able to choose their occupation. They'd like their children educated without interference. There's sort of a remarkable resonance with some of those issues. To what extent is citizen participation going to be possible? And this relates to a theme that we have sidled up to so far, but not really addressed in a sort of strong way, which is: What is the role of the warlord and what are we doing about it? To what extent are they consistent with a process that really truly allows citizen participation in the process of political and constitutional formation. To what extent are they inconsistent, and if they're inconsistent, what do we intend to do about it? That's sort of one set of questions. Now, the interrelated set of questions that I keep hearing really have to do with the role of the United States. We heard eloquent articulation today from Andrew Natsios about the very constructive role of the United States in opening schools, in helping with emergency food aid, as well as ensuring the likelihood of a long-term continuity of food supply domestically, the building of roads and infrastructure, and so forth. We heard nary a

mention of some of these other issues we've been talking about, nor did we hear that out of the White House representations. So there is some concern in that regard. Related to that is perhaps the largest concern, which is we have a diplomatic presence on the ground. We know from time-to-time that the diplomatic presence has been very clear with some of the warlords, telling them the things they're doing are inappropriate and inconsistent with the kind of reconstruction that we're looking for, on the one hand. On the other hand, in very short order, American military commanders are actually working hand-in-hand with these same warlords to ensure a certain kind of peace and security. My children believe they live in a world of inconsistent messages all of the time, and I'm always giving my children inconsistent messages, and I can probably afford to do that. The question is whether the United States can afford to send inconsistent messages where there is--what is the coordination going on between our political arm, our aid arm, and our military arm? What are we doing about that in terms of maximizing the effectiveness of the resources we're deploying to leave behind a country that is truly capable of economic development and political self-determination? And those are the two kinds of things that I think we see coming out today. So, Shirin, are we ready to start some questions? So we have Lorne Craner with us. Secretary Craner, let me start with you. What are you doing to coordinate U.S. resources? SECRETARY CRANER: Let me answer what my AID and my White House colleague talked about, and that is to add what I think are the most relevant portions for this session, which is that we are working on the human rights framework through trying to bring about what we think are the building blocks for human rights, and that is a functioning judicial system and a functional constitution, understanding, as you noted in the beginning, that there are Afghan traditions that need to be taken into account. One thing I have learned in all of the years I have practiced democracy building and human rights is that it is not possible for the United States, or any other country, to walk into a nation and build it; that you can help people within the country who want to build a nation that we would recognize as democratic and that respects human rights, but it is impossible for us to construct it out of nothing. So what we are doing is trying to help those within the country who want to see the kind of nation that we have all talked about, understanding that it will not be a perfect reflection of the United States or Great Britain or Australia, and that it will take into account local traditions and customs. COMMISSIONER YOUNG: Can I ask you to elaborate a little on the one part of that that we've heard a lot of discussion on, which is there seems to be a robust presence in which you're doing something in Kabul, but what are you doing about the warlords? SECRETARY CRANER: Out in the countryside, we've increasingly begun to deploy teams of soldiers with political advisers, basically, to help bring a little bit more semblance of normalcy to places outside of the capital, but also to be able to begin to bring resources, both international and national, to the towns and cities outside of Kabul so that they begin to feel some kind of relationship with the center and, at the same time, so that they begin to realize that not all of the power rests with the local governor or the local warlord, that there is, in fact, a center, and there is an international community that is interested in their welfare. COMMISSIONER YOUNG: Secretary Chamberlin, let me challenge Secretary Craner a little bit in the following way, and see if you'll answer, which is, in fact, they pulled AID workers out of some cities because of problems that have happened. How do you coordinate your aid with the military? What is going on to--I mean, is everybody just withdrawing when the AID workers aren't protected or what kind of coordination goes on, both in terms of deployment of your resources, protection of AID workers, as well as ensuring that people on the ground actually have a chance to take advantage of the aid you're providing, and participate in the kinds of things that Secretary Craner talked about? AMBASSADOR CHAMBERLIN: To tell you the truth, I think Lorne has already answered that question when he sketched these provincial regional teams. Lorne mentioned that there was political officer participation in these military teams that will be going out to the provinces. There are also AID officers on each one of those teams. We have just recruited five additional officers to go, with the thought of participating in those teams. So we will be deploying with the military for security. Let me make a point here, and that is delivering assistance programs throughout an entire country is not always easy in any circumstance. It is next to impossible when there's no stability in the regional outlying areas. There are really three conditions, perhaps more, but let me just put forth three because I know you like short answers. Stability, so that our AID workers are not in danger themselves of losing their lives or other kinds of endangerment, which is not uncommon in Afghanistan; Secondly, the political will of the central government. We are working very hard. The Bonn process and our support for that Bonn process certainly underscores our recognition that that's an important precondition for effective assistance in a country; And, third, sufficient budget. I'd like to say, and you all can nail me to the wall for this, but I'd like to say that in all three areas we have some problems, but we're struggling with those problems, and we'll continue to. I think we are making progress, it's incremental, it's step-by-step. My boss was here this morning, and I'm sure he was eloquent, because he always is, and passionate about what he's doing and outlined what we have set out to do and have done already in Afghanistan, in terms of delivering assistance. We recognize we have a tremendous job left to do, particularly in the areas that this forum is addressing. This is our third phase, the third phase after we've done the immediate humanitarian delivery, and then the transitional types of assistance, and now we're getting to the hard part, and Lorne and I work very closely on this third, and hard part, phase of what we're doing. It's harder because of the deficiencies in these three conditions that I've just outlined. So getting back to your question, how are we getting AID officers and AID programs out to the outlying areas where, as you point out, warlords have power? With a very comfortable lash-up with the U.S. military, and I'm not uncomfortable with this at all. I think there's a synergy there, and it may even be a model in other countries where we're having additional problems in that way. COMMISSIONER TAHIR-KHELLI: Going back to the presentation by Mr. Natsios and other comments from the morning and early afternoon, we certainly don't minimize the importance of having the right road, because without it there are all kinds of other issues. We celebrate the fact that not only are young male kids going off to school, but so are the girls. So that is not a detracting issue, but it is very important, as the U.S. has the onus for recreating Afghanistan, which it has inherited, taken on, and is part of, that we not lose the war, even as we win the battles. It has been said, and I think both Neamat Nojumi and Sima Wali talked about the importance of how things are not going right in questions of women's issues, in questions of human rights and democracy issues. And with that in

mind, I wonder if I might ask, actually, Peter Tomsen and Mr. Strmecki to comment on what was just said by Lorne and Wendy Chamberlin. MR. STRMECKI: I guess my main comment would be that I think that the United States has not found a sure footing yet, politically, in Afghanistan. What I would argue is that there is, in fact, a very moderate and progressive political majority in Afghanistan and that a precondition for achieving the kind of constitution that respects universal rights, and particularly religious freedom, is that the political power of the moderate be commensurate with their numbers in Afghanistan. My primary evidence for that is that at the Loya Jirga, the overwhelming majority of the delegates wanted to select the former king as the head of state and then supported Hamid Karzai, and these were the most moderate options that were available to the delegates at that Loya Jirga. Therefore, the problem is that the distribution of power inside the Kabul government, particularly in the security ministries, is at odds with the distribution of political sentiment in Afghanistan. So when you have people who come from radical fundamentalist parties, like Defense Minister Fahim, or the Education Minister, Qanooni, and yet you have a moderate majority, there's something out of sync. And the problems that the Afghan central government has in expanding its authority is that it's currently not viewed as a trusted government by the majority of the Afghan people. I think that the United States has to put more emphasis in working with President Karzai to redistribute power in the Cabinet and then down through the ministries so that the moderate majority has power commensurate with its numbers, and I think that's a key issue that's been danced around a little bit today, but until we address it head on, I think we'll have tough sledding. AMBASSADOR TOMSEN: I would agree with everything Marin said--COMMISSIONER YOUNG: Ambassador Tomsen, before you start, can I just ask Mr. Strmecki to think about something--and then we'll let you talk--think about something, which is how. You've got two U.S. government groups here, you know a free state. AMBASSADOR TOMSEN: Again, I want to underscore what Marin said, especially at the beginning, that it seems the U.S. still hasn't found a secure footing on Afghan policy, both in a conceptual sense and in an implementation sense. We have been picking our way, and we've been making progress. I would say that the provincial reconstruction teams, this concept, is excellent. I was in Afghanistan in September and traveled around the country, and I was in the motorcade with Hamid Karzai when it got shot up, and so I, firsthand, faced the insecurity that Wendy was talking about. Nonetheless, this ISAF in Kabul, the personnel there spend about one-third of their time or maybe it should be better put one-third of the ISAF personnel at any one time are active, are doing their job. The rest of the time they're back at their base, and they make their presence known in Kabul. They've made a big contribution. But Afghans would, in my opinion, in my judgment, much prefer this provincial reconstruction team approach, where it's going to be AID, and then it's going to be ten or twelve teams, going up to 100 people, including Afghan security, Afghan officials as well, to make it Afghan, as well as foreign, to instill security, as well as reconstruction, in local areas around Afghanistan. And if I were the administration, I would forget about deployment of, this old idea of deploying ISAF to the certain three or four towns around Afghanistan and push ahead very strongly with this security reconstruction process, which, in my opinion, is the only way to go. I have been very critical of USAID for not getting out into the provinces, the 32 provinces, and implementing programs. This is an opportunity for AID--they've done it in Bosnia, and Kosovo, and East Timor--to establish a DAT team, a Disaster Assistance Team, and get out to start projects in the hinterlands. They should take advantage of it. They have resisted it so far. They prefer to sit in the embassy and do these gigantic mega projects, \$5-million, \$10-million, \$20-million projects, that a big firm in the United States is given the contract. Then it subcontracts out to little firms, and maybe in two or three years you'll have projects being implemented and only about 20 percent of the money will be implemented on the ground. I would also agree with Lorne that we're pushing on an open door in Afghanistan. You cannot get a more moderate, tolerant, democratic group in power than the group that's in power today, particularly represented by Hamid Karzai and others in his administration, the Justice Minister as an example. We should push as strongly as possible to exploit this as much as possible because we might not have much time. If things start going south in Afghanistan, and this group starts to lose control, we are going to be in deep kimchi. Let me just conclude by referring to Mr. Land's comment this morning. I'm very happy that he clarified his comment. I would also say that the Commission might want to look at some other countries, including Christian countries, which have anti-proselytizing laws on the books. I would mention Armenia, for instance. When I was in Armenia, we spent time getting Christians out of jail that were not of the Armenian Apostolic Church. Nepal, the only Hindu country in the world, has an anti-proselytizing law on the books, and of course Muslim countries do as well. It's also, I think, a big mistake to take this on frontally as--I'm sorry he's gone now. I wish he were here--as Mr. Land had suggested in his kind of inflammatory comments. We have to proceed with this administration in power in the gray area, realizing that this is cultural, as well as religious, that they see this aspect as their culture, as well as their religion, and they want to preserve it. COMMISSIONER YOUNG: Ambassador Tomsen, I might just tell you, I refer you to our Web site, and I think you'll find a number of countries you have been critical of--AMBASSADOR TOMSEN: That what? COMMISSIONER YOUNG: The numbers of countries of which we have been critical have been pretty broad-based. I don't think you will find that there has been a focus on Muslim countries in particular, but let me turn now to Mr. Strmecki and see if he has a concrete suggestion as to how. MR. STRMECKI: Well, really you have to form a partnership with those moderates who are currently in the Cabinet and in a position to change appointments, and that's principally Hamid Karzai. And if you sit down with him and say, we have to reform, for example, the Ministry of Interior. It's completely controlled below the level of Minister by one political group. There are many abuses of the police power in the Ministry of Interior, and I understand that there may be a new minister, at some point, in the Ministry of Interior. And when that takes place, there should be a dialogue between the United States, Hamid Karzai and that new minister about how the house will be cleaned up at the Ministry of Interior. Who has to be moved out? Who's been responsible for these abuses of the police power? And when it comes time to enforce those changes in personnel, the United States should be standing with Hamid Karzai. My perception is that people around Karzai don't believe that the United States has been engaged sufficiently in enabling Karzai to make those kind of changes, and I think that we shouldn't be hands-off when it comes to the shape of key institutions in Afghanistan, which are going to determine whether we can build a stable regime there in partnership with moderate Afghans or whether instability will

return to that country. Hamid Karzai, as president, has the power of reappointment, and he can dismiss people. And in central government ministries that's much easier to do than out in the provinces. And so beginning there, you can achieve something. Once you have a Ministry of Interior under better leadership, the provincial governors report through the Ministry of Interior, and you can start to work on the provinces over time, but there's a number of steps you could take, they're very concrete, and you could roll them out in months and in a year.

COMMISSIONER YOUNG: Ambassador Inderfurth, reaction to any of the things that your four co-panelists have said so far? AMBASSADOR Inderfurth: A few reactions. I'm informed by an opportunity I had on Monday night. I will say that it was at Georgetown, not George Washington. There was a very good event for Ambassador Lakhdar Brahimi, who was in Washington at Georgetown to receive an award. He gave a speech there, and then I had the opportunity to join him for dinner with others afterwards. So I am informed by the remarks that he made, and I'd like to actually relay some of those in terms of what we've just heard. But before I do that, Dean Young, you asked the question about warlords and what are we doing about it. I want to tell a cautionary tale about how to deal with warlords, and particularly how the United States deals with warlords. When I was at the United Nations in the early 1990s and dealing with Somalia, we went after a warlord in Somalia by the name of General Adid. And when he felt that he was being marginalized by the international community as part of the solution to what was happening there, he struck back, first, by setting a trap for the Pakistani peacekeepers, killing 24. That set into motion those things that eventually led to what many of you have seen in the movie "Black Hawk Down," and the United States leaving and ultimately the U.N. leaving. Trying to inject ourselves to pick warlords, marginalize warlords, can be a very risky proposition, and I think that we had best rely on our Afghan friends to determine how best to approach the warlords and to include or exclude them from the process. Now, this relates to something that Ambassador Brahimi said, which his feeling was that the most important thing right now in Afghanistan is they need to make this a more inclusive process, that there needs to be more political space, and that fewer people should be left outside that want to destroy it. So taking that advice, I think that we should be looking for ways to try to open up the political space, to include those who would be cooperative, and to do what, indeed, and he did this several times--I think this is important also to make reference to--he kept going back to the Bonn Agreement. He called this the road map for the international community. And so as we're talking about how to approach these topics, we should touch base with the Bonn Agreement, including the very important statement at the very beginning of that which acknowledges the right of the people of Afghanistan to freely determine their own political future in accordance with the principles of Islam, democracy, pluralism and social justice. I don't think that we can go wrong if we keep our focus on those principles in guiding our discussion about the role of human rights or religious freedom or whatever we are discussing here. But I think right now the issue is to try to, working with the leaders there, to try to make this a more inclusive process and something. I won't take the time now, but I want to come back to this - what we can do, most importantly, is to provide greater security and stability in that country. This is where the United States has a very major role, and I actually both agree and disagree with what I've heard about that. I think that the provincial reconstruction teams that are going out is a very good idea, but I don't think it's an either/or. In other words, I think that we should also leave open the possibility of an expansion of ISAF beyond Kabul. It doesn't have to be either/or. These are not alternatives or substitutes. My own feeling is that when Ambassador Brahimi and others continue to say that this would be an important added component to security, that we ought to give it very serious thought, I wish we would do that.

COMMISSIONER TAHIR-KHELI: I wanted to ask Assistant Secretary Craner about the important aspects that he brought up, the revamping, the creating of a strong judicial system, the role of the Constitutional Commission, and if I might expand that a little bit, in terms of the national army and the national police that is coming into being with U.S. assistance and support, what elements of training, from the ground up, are built in that focus on the human rights issues, the tolerance issues for the different kinds of events that, you know, the U.S. has played a central role in? I disagree, to some extent, with what Ambassador Inderfurth said, that that one should not be careful, and Somalia certainly provides that lesson, but the role of the United States in the new Afghanistan, which is going to be, [inaudible], you talked about the 1964 Constitution [inaudible], and building on the traditions, upon traditions [inaudible]. It's a very different role than the U.S. in Somalia. From the top on down, we feel this is going to be taking a stand. This is not a situation of cutting and running, as I understand it. The stakes are much higher.

SECRETARY CRANER: I think that is the case, but I think it's important to remember that we want to be there for the long term. There have been other occasions when I think we would like to have been in Somalia over a longer term, and that was not possible maybe because we made some mistakes back then, and I think the point is maybe that we don't want to repeat them. But the point in Afghanistan is that, not unlike Somalia, there was not a whole lot there after a period of many, many years of war. It was not as if one could come in and pick up pieces that were left. There weren't many pieces left, and so in a sense you are starting with only the talents of the people, but with very, very few institutions. Now, the people obviously are highly educated and very talented and want many of the same things that we want, but the point is it's not going to be possible to see it, as we would like to see it, overnight, and it is going to be a very, very long-term commitment. What we are doing in terms of both the police and the army, in the case of the police, we are contributing about \$25 million, under the German effort, to educate the police, but what we have been able to do is to ensure that in the training of the police, as in the training of the military, that both rule of law and human rights are part of their training. So even though in some ways there's not yet a rule of law, the principles and the concepts are understood so that the new police and the army, such as it is, can begin to conduct itself more in accordance with the kind of treaties that Afghanistan has signed, international human rights treaties that Afghanistan has signed. But the point Ambassador Inderfurth made is very relevant. We want to treat this as a long-term effort. It's going to have to be a long-term effort, and I don't think we want to slip up between here and there.

COMMISSIONER YOUNG: I wonder if I could ask a question on this side of the table, if I may. We heard from two or three of our panelists on that side, that there is a large moderate political power in the country. It may well represent the majority of the people there. From that perspective, I think I would like to ask two questions, particularly of Dr. Maroofi and Mr. Baha as well. The questions are as follows: Number one, do

you think the commissions on which you serve are representative of that? Do you think the composition of those commissions has been such that it is representative of the views of the broad spectrum of Afghanistan? And, number two, do you think the assistance the United States has provided in terms of constitutional development and judicial reform has been adequate and appropriately targeted? Is there another kind of help you'd like, and, if so, what might it look like? Those are the two questions.

DR. MAROOFI: With regard to your first question, because of a lack of any study makes it very difficult. It's everybody's guess that there is a silent majority, there's a moderate majority, and the moderate majority may want this and might want that, but we don't have very concrete information about that. That also brings us to the U.S. assistance in this regard. I would like the U.S. to run some kind of opinion survey of the political opinion in Afghanistan. The Asia Foundation came to us in the beginning of our work and proposed that they could assist us in that regard. It took me a while to convince some other people that it was a very valuable assistance. It was looked upon like what does that mean? So I think we need that. There is a moderate majority, but in terms of political persuasions, we don't know what they want.

COMMISSIONER YOUNG: Will your Constitution be circulated, a draft of the Constitution circulated and then voted upon? What is the process for adoption?

DR. MAROOFI: Yes, the Constitution is supposed to be enlarged to a wider membership, maybe 30 members in March. It's not, again, very--not known to us whether this will be in March or later, but so I think that the Commission will be enlarged to 30 members, and then these 30 members will go to the people, to different provinces. And prior to my departure for the United States, we were briefed by our Secretariat that UNAMA and UNDP are very involved in that. They're trying to organize some groups so that, when we go to the provinces, we will have some assistance from them. That's the second way to seek public opinion on the Constitution. The third way that we have already benefited from is to get letters, messages from the Afghans outside and inside the country. We have assigned somebody to watch the Afghan press for any kind of proposal or criticism of the Constitution, and that's one source of telling us what the people want from us. The fourth one, and that's the final and the most important one, is the Loya Jirga. This Constitution, the draft, will be submitted to the Loya Jirga, and so the Loya Jirga will either accept it 100 percent, with some modification or reject it completely.

COMMISSIONER YOUNG: Mr. Baha?

MR. BAHA [Interpreted from Persian]: The Commission and [inaudible]--

COMMISSIONER YOUNG: Perhaps you could get a little closer to the microphone. I think the translation is just a little hard to hear. I'm sorry.

MR. BAHA [Interpreted from Persian]: The Judicial Commission, which has been formed in Afghanistan, according to Bonn Accord, in fact, involved in the reform of law and building institutions, legal institutions in the country. In fact, we're talking about the preservation of human rights. One of the major organs or one of the institutions that can preserve human rights is the judiciary and the legal institutions in the country. As a result of the 23-year-long war, the judicial system and the judicial organization received a severe blow. In the morning session, practically everybody said and noted that the judicial system in Afghanistan does not function properly, and they raised some certain complaints about that. One of the reasons is that those who were well-qualified and were able to do these things no longer exist on the scene. Some of them are died or disappeared, and at the moment there's a handful of people which are involved in the implementation of the law and to work up the law. This is a major problem, as far as the reform of the legal system is concerned. The major task of the Judicial Commission at the moment is to survey, a nationwide survey, and to find out the capacity and the capacity of the lawyers and all three judicial sectors, which is the Ministry of Justice, Prosecution Office, and the Supreme Court. Another major task is the legal training of the existing judges and law officers and those who are practicing law. So that's a major task where, in fact, we do need help in that respect to build that capacity in the country, so that the new judges and law officers can work and implement the law on human rights, in accordance with the international standards and also follow the main principles in our traditional law. In the Prosecution Office, we do not have well-trained prosecutors, and the Supreme Court we do not have well-qualified judges. We do not have bar association, even the foundation is not laid down, and no counsel for the defense or legal aid programs. We need massive things for the building up of our judicial system, and these are the people who will, in fact, implement the human rights. These are the people who can preserve them, who can supervise them. So to build up that capacity, we do need massive help. The Bonn Accord, in fact, has specified a certain period of time for the work of the Judicial Commission, which is limited. For that period, you've got to accomplish the job which is allotted to us, and without help, it's impossible. The building of the whole courts, practically all of them destroyed. In fact, perhaps you might wonder, we've got one room which in it operates three courts, while in the countryside, we have no place for the judge to sit and convene a session of the court. Of course, as far as capacity building is concerned, if you've got problem inside in the capital itself, you may imagine what will be the condition in the countryside. In fact, we sat and discussed the matter with the UNDP, and the budget which we do need, and the job which we are supposed to do it for 2003 is \$8.5 million. The money which is now promised to us is reaching \$4 million. In the Rome Conference, where we attended, and that was on the reform of judicial sector, some money was pledged over there. That was \$29 million, but that's a pledge. In fact, whether it's going to reach us to rebuild the judicial sector is another question. Perhaps you may know destroying things is very easy, but to rebuild it is difficult. The destruction which has gone on for more than 20 years, we cannot repair it in six months or a year. In the morning session, all of the speakers spoke about none of the vision of the human rights, none of the vision of the women's rights and nonexistence of a proper judicial system. They all complained about that. Well, the destruction of this [inaudible], we know that. It started from the time when the Russians invaded Afghanistan, destroyed by the Communists, and then more extensively destroyed by the time of Taliban, which now we are confronting to them. Perhaps it would not be just to think that within the 14 months of the transitional government, it should repair all of the destruction which was caused during the past 20 years.

COMMISSIONER YOUNG: Mr. Baha, I wonder if I could interrupt you and turn the question back to Secretary Craner and Secretary Chamberlin, and see from their perspective.

MR. BAHA [Interpreted from Persian]: Okay.

COMMISSIONER YOUNG: Lorne, I know you've had extraordinary [inaudible] in the area of, a very, very good working area in judicial reform and so forth, and, Secretary Chamberlin, I know you have as well. Can you describe to us what the U.S. is doing, what the international community is

doing and your evaluation of that. Then I'm going to ask my other panelists--

SECRETARY CRANER: Sure, on both counts, both in terms of the Judiciary Commission and the Constitutional Commission, with others, we are helping them. They are bringing together, both of those Commissions, a diverse group of Afghans, and the Judicial Commission, obviously, will report before the Constitutional Commission, which reports in about a year-and-a-half. In both, I think you're seeing some of the tendencies that we've described all day in both Commissions, both what is called the more moderate tendency and also the more conservative tendency within Afghan society. I also think that there is some pessimism with regard, certainly, to the judicial at this point. I don't think there is pessimism warranted about the end result yet. I think many of the issues that have been described earlier about where is Afghanistan going, is it going to become more conservative or more moderate, you're going to see it come out in the results of these two Commissions.

COMMISSIONER YOUNG: Could I ask both of you to sort of tell us, in light of that, what are we doing, concretely?

AMBASSADOR CHAMBERLIN: Yes. As I understood your original question to Mr. Baha, part of it was U.S. assistance levels adequate. No, they're not adequate, in my own personal view. We committed \$22 million in support of the Bonn process. That is providing some technical assistance and some help both to the Constitutional Commission, the Justice Commission, the Human Rights Commission. But you know the needs are astronomical. If you carry this to its logical extension, the support we're giving to the Constitutional Commission has got to be an Afghan effort. We do expect other international donors to contribute, but it's a very long, and very expensive, process. Simply drafting a constitution isn't expensive, but if you begin to consider what it costs to conduct a national election, what it costs to conduct a census, a voter registration campaign, the actual election itself, and then--you're bumping up against maybe \$100 million--and then if you add the cost of providing security, so there's no voter intimidation, we're facing an election in June 2004, you're really going to double that figure. Have we that much money in our budget, U.S. budget alone for this? No. Does the entire international committee have enough money in their budget for this? No. Does this mean we shouldn't do it? No. Can we solve all the problems? No. But the endeavor is an extremely important one, and we're certainly--Now, let me just add one other point not related to this last one, but when we worked with the international community in trying to fill these astronomical gaps in funding needs in Afghanistan, certain donors took the lead in different sectors. We have taken a lead in education, for example, in transportation, et cetera--five areas. The Italians have taken the lead in judicial reform. Perhaps this question should best be addressed to the Italians.

COMMISSIONER TAHIR-KHELI: I think that's true, but the fact is that if things don't work, I wonder if the Italians will get blamed. [Laughter.]

COMMISSIONER TAHIR-KHELI: So I think we can be explaining till kingdom come that it was the Italians and not us, and nobody would buy that.

AMBASSADOR CHAMBERLIN: I didn't mean to pass the buck, but I do want to say we are also not responsible for everything. I don't accept that.

COMMISSIONER TAHIR-KHELI: Well, unfortunately, we are. In the court of public opinion, we, I think, tend to be. But if I could ask a follow-up question of both Secretary Craner and Ambassador Chamberlin, are there elements of transparency built into this? We have been careful in stressing, and rightly so, I think, the whole concept of judicial reform and rule of law, et cetera, but Afghans themselves will need to be satisfied also that this was a fair process, and this allowed everybody to participate because they are the stakeholders, and that's what we want. So what elements of transparency are built into this?

SECRETARY CRANER: I don't think it's the case at all Afghans will be involved. Afghans will be involved during the process that was talked about by Dr. Maroofi, at the end of the process, when--but their delegates, their representatives are currently involved. I wanted to add one other thing while we're describing the time it's going to take and the money it's going to take for the Judicial and the Constitutional Commissions to form and present their results, don't forget that at the very same time there is work going on to advance human rights even absent that framework. There is a lot of money being spent by AID--and I'll let Wendy talk a little bit more about it--to get at some of the most egregious human rights problems that we described in the lead-up to the war, and some of the most egregious problems involved women, involved their lack of access to health care, their lack of access to education, et cetera, and we are aggressively trying to remedy those problems long before these commissions are going to report. We are also working to help get going the Human Rights Commission, Sima Samar's commission in Afghanistan, so that they can begin, as best they can at the moment, absent this larger framework, including security outside the capital, is that they can begin to get at these and other human rights problems. So it's not the case that Afghans are going to have to wait until there's a Judicial Commission or the Constitutional Commission reports a year-and-a-half from now to have their human rights protected. There is a large, and well-funded, and very highly--or of great concern to many, many countries' efforts in this area. Let me let Wendy talk on this for a second.

AMBASSADOR CHAMBERLIN: Yes, if I could add some specifics to that because you've called for it. Lorne is quite right. In our entire AID effort, the U.S. government's AID effort, we have taken an integrated approach. We have tried to integrate our human rights messages approach and targeting throughout the different sectors that we have undertaken. For example, we have taken the lead in the health sector. Altogether, to date, we have already obligated a half-a-billion-plus dollars in assistance to Afghanistan. We haven't been sitting on our hands. In the health sector alone, how have we integrated human rights messages in that? It's estimated by the UNDP, and I don't think this is a scientific statistic at all, but estimated on what it's like in countries under the type of stress that Afghanistan is under, the UNDP estimated that the population of women in Afghanistan may be as much as 55 to 70 percent of the population--imagine. Ninety percent of U.S. health aid goes to women. In our child-maternal health clinics, we've designed it so that we have targeted rural areas, rural clinics that favor women. Our education program also favors women, getting the girls back to school. Our projects that we have continued, actually had before, but continued for widows, the Widows' Bakery in three locations throughout the country, not just in Kabul, but in Harat, Mazar-e Sharif, as well, designed for women. We've tried an integrated approach.

COMMISSIONER YOUNG: Lorne, I'm going to cut you off. I know you have more great things to say, but I wanted to get the reaction of our three panelists to what the U.S. and the international community is doing with respect to constituting the aforementioned. Maybe we could start with Ambassador Inderfurth. Do you have thoughts on that?

AMBASSADOR Inderfurth: I think my two colleagues to the left would know what we're doing better than I, in terms of the actual

programs. I want to say that I do believe that 2003 is going to be a very critical year for Afghanistan. Making sure that the peace process is entrenched, constitutional reform, demobilization, reconstruction projects, this is going to be a critical year. I'm going to allude to something that was said during the 1992 presidential campaign, which was, "It's the economy, Stupid." That was the campaign mantra in that election. Right now, in my view, all of these things that we're talking about now, "It's security, Stupid." If security isn't provided, all of the efforts, in terms of the Human Rights Commission starting up, in terms of reconstruction, in terms of all of these other very important projects, which we want to see go forward, will not take place, and human rights will not be protected. Security and stability are the chief things that need to be provided right now so all of these other things can take place, and if that isn't done, then they can't take place. So I want to just come back to what I know the Commission has written about this in its report about the importance of security. We've got to do that, and I also believe that we need to put more money into this project. The Congress is fully behind the Administration and, indeed, pushing the Administration to go further and with more money. The Afghan Freedom Support Act was passed, signed by President Bush, doubling funding for these kinds of activities, including funding for the expansion of the ISAF, but that was an authorization, not an appropriation, and a key thing right now is whether or not the Administration is going to come forward and request, and push for, and get that additional money for Afghanistan. I trust that it will, but that will help the security situation, it will help funding these projects.

COMMISSIONER YOUNG: Ambassador Tomsen? AMBASSADOR TOMSEN: I would just like to weigh, and also for anybody in the room, like Mavis Leno said, to weigh in with Congress on appropriating the money which was authorized in the Afghan Freedom Support Act. There were also a number of other things in the Afghan Freedom Support Act I think which would assist in constitutional, judicial, and human rights reform. And meeting the massive resource gap, which has been discussed here, right now, the fiscal year '03 budget is scattered around the foreign affairs budget in about 12 different accounts-- narcotics, DEA, ESF, refugees--which can go up and down. There is not a unified line Afghan budget in the Foreign Service Act. Even today, with all of the commitments that we have in Afghanistan, we have our military personnel there, there's a lot riding on our success, we don't have an Afghan budget that has been requested by the Administration. So the Afghan Freedom Support Act mentions this. It also calls for a high-level coordinator for aid to Afghanistan. In my testimony, I recommended that an NIS coordinator-type individual be assigned for the NIS, somebody who would be above the aid-giving agencies in the U.S. government, such as AID itself, but also other agencies, to coordinate and make sure that emphases, like constitutional and judicial reform, are getting due regard. Finally, the President's budget is coming. It will be interesting to see if it includes the amounts called for in the Afghan Freedom Support Act and, number two, whether there is a unified budget. Going back to implementation in the provinces, the provincial reconstruction teams will have, as was mentioned, diplomats, U.S. diplomats, assigned to them who will be looking at human rights and democracy building. And when election time comes, indeed, and maybe a year before the elections, they should be at work assisting in information programs, with IFIS and others, to assist the election process. They could also assist in the Constitution and the human rights process, as human rights groups around the country begin to sound out local populations on what they wish, like what Mrs. Anwari mentioned. This should all feed back to the Ambassador and to the embassy. I, too, would like to join you in recommending a high-level official in our official establishment in Kabul who would assist the Ambassador in emphasizing that constitutional reform, judicial reform, and women's rights be given adequate attention in our AID program.

COMMISSIONER YOUNG: Thank you very much. Mr. Strmecki, one minute. MR. STRMECKI: I'll just address an issue that others haven't brought up, instead of focusing just on the constitutional issue. There's a political campaign going on in Afghanistan today, and it's going to run for the next 18 months or so, but really only one side has the tremendous amount of resources. So if you look at some of the radical Islamist groups-- Rabinis, Sayyafs--they have an immense amount of money, some of it from overseas, some of it money that they saved from the 1980s, when they were showered with resources during the anti-Soviet war. I think that the United States should aim to level the playing field so that the moderate groups have sufficient mobilization and organizational resources so that their perspectives have a fair hearing in the electoral contest. If Iran was not supplying money, if Russia was not supplying money, if Pakistan wasn't making contacts with certain political groups in Afghanistan, maybe you'd say it's best to be hands off, but it's not the case. Some of the worst groups in Afghanistan, in terms of human rights and religious freedom issues, are getting the lion's share of foreign resources, and the United States should aim to find ways to level the playing field. Organizations like IRI, NDI, NED can play a tremendously important role in that function. [Applause.]

COMMISSIONER YOUNG: Minister Karimi, if I may ask you, in a very specific way, what kinds of assistance would be useful in this building of the constitutional and the legal infrastructure, not just money, but specifically could be done that would be helpful to you? MINISTER KARIMI [Interpreted from Persian]: As far as assistance to Afghanistan is concerned, Ambassador Tomsen referred to it. We need a strong group to supervise the assistance which comes to Afghanistan. On one issue of the Council of Ministers it was wasted, the issue of how much the U.N. spent in Afghanistan from that [inaudible] million dollars, which was raised to \$600 million they will spend, and \$300 million is spent by the NGOs, and another \$90 million-- [Simultaneous conversation.] MINISTER KARIMI [Interpreted from Persian]: Yes, to the Government of Afghanistan. If that's true, that is a major catastrophe. But until we or the international community does collect weapons from the hands of the people, no reform can take place in Afghanistan, no reform whatever in the area of that progress. The collection of weapons during the different periods of time, in fact, has its own connotations. The conditions which is prevalent in Afghanistan and the way it is understood, that should be kept in mind. We've got no intelligence there as such, you know, to where the wisdom [inaudible] and then distributed among the society, to expand it so that people can learn from that. In the past, some of the people relied on the left and some later on relied on the right. Now the time is to realize the impact on the Afghan society. The intelligentsia in Afghanistan have no knowledge, not crafted themselves. While the intelligentsia crafted themselves, then they would not go on the right or on the left, they would just consider the interests of their own country. The economic assistance to Afghanistan will not be enough. In some places, of course, political assistance, social assistance, and in some areas as well the need arises that

their weapons should be taken from those people by force and some other areas they may be required to encourage them to hand over their weapons. We have got armed groups over there, some of them can understand, can hand over their weapons quite easily. Some of them are so bad the name which is given is worse than that. [Simultaneous conversation.] COMMISSIONER YOUNG: I'm going to have to ask you to conclude because we've only got five minutes left. MINISTER KARIMI [Interpreted from Persian]: As far as the administration of Afghanistan is concerned, those people who are in the intelligencia, who are living abroad, and those moderate people inside, they should be all joined together so that these people can bring a group that can work for our country. If we rely on one side, then the production will be extremists like Taliban or maybe the other side will do something else, but the moderate and those who are intelligent should join together and run the country. The last point, which is making the fact that, in fact, the Minister of Justice has produced all of these laws, drafted them and then passing it over the hierarchy or levels which is required. Those are the political parties' law, the social organizations' law, so the election for the municipality, the political parties, I said, foreign investment law, and press law, those are all the laws, including some other laws that are all, in fact, seen in view of the principles and norms of the international laws, and those laws are embodied in these laws which we drafted. COMMISSIONER YOUNG: Thank you very much. That's extremely informative. We have two-and-a-half minutes left. I have a question from Commissioner Shea, a question from Commissioner Gaer, and a second intervention by Commissioner Sadat. COMMISSIONER SHEA: Yes, I would like to ask a question about the constitutional drafting process. There are just a few countries in the world today that are under extreme Sharia rule. There was the Taliban, of course, but there remains Iran, Saudi Arabia, Northern Sudan, and a few states in Northern Nigeria. In these places, human rights across-the-board are denied; that is, the human rights are qualified by Sharia, and those who hold power are the ones who pronounce what is Sharia. So it's a sort of circular problem. It's very difficult to reform or repeal these systems with peaceful means, as we're seeing in Iran today. Is there a danger that the Constitution, the new Constitution will establish such an extreme Sharia state, one where human rights are qualified by Sharia or make permanent the Shinwari legal approach? And, if so, how do we minimize this risk? COMMISSIONER YOUNG: I hate to say, but we need a one-minute answer. DR. MAROOFI: I can assure you this Constitution is going to be very democratic. My only concern was, when it comes to the relationship between the First Amendment, in terms of American Constitution, the Establishment Clause. So that was the only concern. This Constitution is going to be much, much more democratic than the 1964 Constitution. However, I would just like to seek your assistance on two things; because you all talk about human rights, and I'm not so much concerned because I know we have enshrined so many guarantees in the present Constitution that there will be no problem whatsoever with regards to the rights of women, rights of minorities, freedom of expression, et cetera. Two things that I would like to--and I'm a little bit concerned about that, that is, indirectly concerned with human rights, and there is very little focus on that, even people don't forget to mention them, and that's the ending the state's monopoly with regard to investment in natural resources and educational institutions. Traditionally, state has had almost 100-percent monopoly, and that's not good for a democracy, that's not good for human rights. Thank you. COMMISSIONER YOUNG: Thank you very much. COMMISSIONER TAHIR-KHELI: I actually will wait. Did you have very substantial comments before that you want to make, Commissioner Sadat? COMMISSIONER SADAT: At any time. COMMISSIONER TAHIR-KHELI: Because I really just want to thank-- COMMISSIONER YOUNG: We'll let you thank in the end. COMMISSIONER TAHIR-KHELI: That's why I think that I'll wait. COMMISSIONER SADAT: Well, I guess I'm going to do a pre-thank thank, and then perhaps a clarification. I have been very enlightened and very appreciative of all of the conversations today. I hear that I think Ambassador Inderfurth noted that 2003 is likely to be a time of extraordinary achievement, but many challenges for Afghanistan, and I thank our Afghanistan friends for coming and talking to us about this. I am delighted to hear Ambassador Chamberlin say we need more money because I think we do need more money. And I just, my clarification, I promised this would be 25 seconds, we have a diversity of views on the Commission, and Commissioner Land has his view. I don't think he meant to suggest the United States shouldn't have a commitment long term to Afghanistan. I think that this Commission certainly has a commitment to Afghanistan and to the promotion of human rights and religious freedom. I can't, obviously, speak for him, but as he noted, we have a diversity of views, and I think I would speak--well, I won't speak for my fellow Commissioners--but at least my view is the United States needs to invest a lot of money in Afghanistan, and we all have a stake in what happens. So I will end here. AMBASSADOR TOMSEN: Could I just follow up on, related to what you said, that what I said earlier, what I was seeking to do was show that there's countries like Nepal which have USAID programs for 30/40 years, and Armenia, which gets \$100 million a year, and they have anti-proselytizing laws. So if you say they're going to lose their programs, unless you do something about it in the long term, it doesn't stand up to the test of history. COMMISSIONER YOUNG: Ambassador Inderfurth? AMBASSADOR INDERFURTH: I'll take 30 seconds. I'm actually surprised I was allowed in this room because I brought with me two land mines, Russian land mines, and one of those most insidious land mines, butterfly land mines, which were dropped in Afghanistan. Children would pick these up, and they would die or be severely injured. I don't know, in looking at this U.S. role in promoting human rights, I do believe that every time somebody is a land-mine victim, their human rights have been violated, and I hope that that view that human rights leads to the removal of land mines, with Afghanistan at the most peace it has seen in a long time, the international community, the United States-- [Applause.] AMBASSADOR INDERFURTH: --that this would be included. COMMISSIONER SADAT: They're not live, are they? AMBASSADOR INDERFURTH: No, these are not live. COMMISSIONER YOUNG: We'll have to [inaudible] why the U.S. is one of the only countries not enjoined by the Convention-- SECRETARY CRANER: Let me just-- AMBASSADOR INDERFURTH: Afghanistan has signed, by the way. SECRETARY CRANER: Let me just mention I had occasion to talk about this issue the other night, the U.S. has spent three-quarters of a billion dollars over the last 10 years to remove hundreds of thousands of land mines, including for the last couple of years in Afghanistan, and we're very proud to continue that work. Thank you. AMBASSADOR INDERFURTH: That's great. COMMISSIONER YOUNG: Let me conclude, before I turn it back over to our Chair, just echoing the thanks that others have given as well, and we'll let

Shirin thank you as well, but we do very much appreciate your participation in this. I think it has been enormously educational, and we are deeply grateful. We know how far you traveled. We hope that this is simply one more step in an expansion and deepening of the dialogue between our country and your country on ways in which we can move together towards directions that have been articulated today. I also want to thank my colleagues on the right as well. All of you came and spoke, and spoke candidly. I'm not sure any of you expected quite this format, but I'm grateful for your amusement and tolerance of it. But I think a great deal of it was extraordinary information. Let me just conclude, at least my last thought, also with the sense that one thing that seems to be continuing to come out of all of our discussions today is a need for coordination between the United States and Afghanistan, between and among the United States and the other international participants. I very much liked the idea of a large, of more overview of the deployment of our aid and some supervision of that. We, as Commissioners, have strongly urged that there also be a senior-level person reporting directly to the Ambassador, coordinating the way in which the different parts of our engagement in Afghanistan coordinate and work towards the advancement of establishing the rule of law and human rights, and so forth, and I hear that in every corner, the need for that. I would note, at least as a Commissioner, that the degree of coordination and engagement sounds to me even much more important than I think I may have thought even when we made the recommendation. Shirin? COMMISSIONER TAHIR-KHELI: Just to echo the other thanks. It really has been, I think, an extraordinary day certainly for myself, and I know a little bit about that part of the world, but nonetheless a learning experience, both from colleagues in the Administration, those from previous administrations, and also from the [inaudible] who came along with [inaudible]. I think this is an interactive process. I hope you [inaudible] the discussions. We supported the same kinds of issues, and certainly as we work as a Commission, I think we will have to come back to many of these sort of as we go through this. The issues that have come up today are very important ones for the people of Afghanistan, but [inaudible]. It's a natural one for us to remain in touch. So thank you all. COMMISSIONER YOUNG: Thank you. I will now turn the podium back to our Chair. CHAIRPERSON GAER: It's my job simply to thank you all for coming and to encourage you to leave the room before 5:30. [Laughter.] CHAIRPERSON GAER: Thank you all for coming, but to particularly thank our Afghan guests who are just on the first day of a two-week visit. They will be engaging with the U.S. Institute of Peace discussing these issues over the next two weeks. We hope that they will have benefited from today. We have benefited from your presence, and thank you so much. MR. BAHA [Interpreted from Persian]: One of the issues which was raised today, it was [inaudible] discussed various issues and separate agendas. Well, I think that the world is giving nowadays very [inaudible] speeches, in other words, the issues are, in fact, becoming proof that [inaudible]. In fact, and that we join together democracy, and human rights and development, join together. We cannot, in fact, talk about development over one country. We are talking about the Judicial Commission or perhaps maybe the Constitutional Commission build their own [inaudible], but we have got to build the institutions as well. The institutions are very important for the carrying out of the decisions which they make. We've got a press[?] law in the country. Perhaps there might be more advanced press[?] law that's got all of the values in it, but it cannot be implemented because there is no one over there to supervise the implementation of it or to see whether it's properly implemented or not. I think we suggested that all of the assistance should be directed on that point, that democracy, development and human rights should go together. As far as the assistance of the U.S. to Afghanistan is concerned, we are given many examples from Kosovo and other post-conflict societies. If you think of Kosovo, in fact, \$800 was spent or were allocated from each person, but in Afghanistan that amount is some \$63 per person. COMMISSIONER YOUNG: I'm sorry. I really have to interrupt because I have a class coming in here, but thank you very much. MR. BAHA [Interpreted from Persian]: Thank you. [Applause.] [Whereupon, at 5:28 p.m., the proceedings were adjourned.]