UNITED STATES COMMISSION ON

INTERNATIONAL RELIGIOUS FREEDOM

AND

THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

RECONSTRUCTING AFGHANISTAN:

FREEDOM IN CRISIS

Wednesday, January 29, 2003

9:09 a.m.

Washington, D.C.

A G E N D A

A G E N D A [Cont'd.]

Members of the Afghan delegation will join the various panels:

H.E. Abdul Rahim Karimi, Minister of Justice
H.E. Mahbuba Hoquqmal, Minister of State for Women's Affairs
Dr. Mohammad Qasim Hashimzai, Director, Secretariat of the Judicial Reform Commission
Bahauddin Baha, Chairman, Judicial Reform Comm.
Dr. Quadir Amiryar, Judicial Reform Commission
Hanagama Anwari, National Human Rights Commission
Mohammad Farid Hamidi, National Human Rights Comm.
Dr. Musa M. Maroofi, Constitutional Drafting Cmte.
Prof. Abdul Aziz, Dean, Faculty of Sharia Law, Kabul University
Prof. Gul Rahman Qazi, Chairman, Faculty of Law and Political Science, Kabul University
Fatima Gailani, Advocate for women's rights and social development

U.S. Commission on International Religious Freedom, Commissioners in Attendance:

Felice Gaer [Chair], Director, Jacob Blaustein Institute for Human Rights
Michael Young [Vice-Chair], Dean, George Washington University Law School
Firuz Kazemzadeh, Professor Emeritus, Yale Univ.
Richard Land, President, Ethics and Religious Liberty Commission, Southern Baptist Convention
Leila Nadya Sadat, Professor, Washington University School of Law
Nina Shea, Director, Center for Religious Freedom, Freedom House
Shirin Tahir-Kheli, Professor, School of Advanced International Studies, Johns Hopkins University
John Hanford, Ambassador-at-Large for Religious Freedom, U.S. Department of State
Joseph Crapa, Executive Director, United States Commission on International Religious Freedom

P R O C E E D I N G S

CHAIRPERSON GAER: Good morning, ladies and gentlemen. Thank you all for coming here today, this morning. My name is Felice Gaer, and I'm the Chair of the United States Commission on International Religious Freedom. I'd like to welcome you all formally to the Commission's forum entitled, “Reconstructing Afghanistan: Freedom in Crisis.”

This forum was organized by the Commission, which is a body unique in the United States, indeed, unique in the world. It is an American government agency, established by Congress as an independent agency to monitor the status of religious freedom around the world and to make recommendations to the President and the Congress in an effort to ensure the promotion of religious freedom attains a key role in American foreign policy, including its human rights policy.

I am joined here today by six of my fellow Commissioners, each of whom has had a direct role in shaping the forum we are conducting today. You may be able to see their signs, but I'm going to ask them to raise their hand as I introduce each of them. Dean Michael Young, Dr. Firuz Kazemzadeh, Dr. Richard Land, Professor Leila Sadat, Nina Shea, Esquire, and Ambassador Shirin Tahir-Kheli.

For more information about each of the Commissioners, and indeed the Commission itself, I refer you to your information packets.

In bringing you this forum, the Commission worked closely together with George Washington University Law School, to which we extend particularly warm appreciation.

We have invited and are joined here this morning by a senior-level delegation from Afghanistan, led by the Minister of Justice, Mr. Abdul Rahim Karimi, who will help us by sharing their firsthand knowledge, and experience and views.

We have also invited senior officials from the present United States administration and the Congress, as well as many other experts, to participate in the panel discussions at this important event.

On behalf of the Commission, we welcome you, and now let me give the floor to the co-host of the forum, Dean Michael Young, who is also the Vice-Chair of the United States Commission on International Religious Freedom.

Thank you.

DEAN YOUNG: Good morning, ladies and gentlemen. It is a pleasure to welcome you to this forum regarding Afghanistan, on behalf of The George Washington University Law School. I have two hats in this event today, both as a member of the Commission, as well as Dean of the George Washington University Law School.

With respect to the Commission, this is an opportunity for us to both hear firsthand about the state of affairs in Afghanistan, as well as to think together with you, in a collaborative way, about what steps may be taken to help that country, as well as what kinds of advice, assistance, the United States, in particular, can provide.

We have the opportunity of not only having a large number of very senior Afghans from their government, but we will be joined by senior officials from the United States government as well, and it will give us a chance to talk together about ways in which we can advance these concerns that all of us on the Commission feel so essential and critical to true nation building.

For George Washington University Law School, this is also a bit of a return to our roots. This is not well known around the country, but in the 1960s and '70s, George Washington University Law School actually sponsored a program for lawyers from Afghanistan, where they would come and train in issues relating to constitutional development, administrative law, corporate and commercial law, and a whole range of subjects.

And over the course of a number of years, during which we ran that program, we had literally dozens of attorneys from Afghanistan, and we are delighted and honored to say, at least some of them have been able to return to Afghanistan and work on the constitutional development in that country. And so, for us, we feel it's a great privilege to come full circle, as it were, to be able to renew our engagement with this great country, to renew our engagement with the people of Afghanistan, and to do this in a way that allows us to talk about a principle we consider most important, the rule of law, as well as meld that with the work of the Commission relating to human rights.

So it's a great privilege to be able to co-sponsor this conference, and on behalf of George Washington University Law School, we warmly welcome you.

I also want to extend thanks to the staff of The George Washington University Law School, particularly Associate Dean Susan Karamanian, who has been so effective in helping set up all of the logistics and physical facilities for this.

Now, it's my great privilege to introduce an ex-officio member of our Commission, Ambassador John Hanford, who serves currently as the Ambassador for Religious Affairs in the U.S. Department of State, has done so during the administration of the current President Bush, but long before that, also an extremely active participant in these affairs, as he worked for many years on Capitol Hill, with the same passion and commitment to these issues that he now demonstrates in his current position.

Ambassador Hanford?

AMBASSADOR HANFORD: Good morning and welcome. Please pardon my voice. I'm going to try not to sneeze on the first two rows down here.

Though we are only at the beginning of our labors today, I find the very fact that this forum is being convened, a fact which would have been inconceivable just two years ago, to be a sign of tremendous encouragement.

My staff and I over at the State Department greatly appreciate the good work and sound thinking that the Commission and the George Washington University Law School have put into today's forum. I especially want to commend the Commission staff, which has shown great dedication in designing and organizing the events today. This is just the sort of creative labor that independent bodies like the Commission so often excel at, and by its fruits, we are all enriched.

As mentioned a moment ago, while I serve as an ex-officio member of the Commission, my day job at the Commission is that of representing our government's commitment to religious freedom as a core element of U.S. foreign policy. We do this because the American people revere religious liberty, but we also do it because we view religious freedom as the birthright of every human being and as the cornerstone of human dignity. This is why we advocate for every person, without respect to ethnicity, nationality or religion, and this is also why so many international covenants and instruments guarantee religious freedom.

America's Presidents, from our first, to our current leader, have also affirmed this as a principle of our people and as a policy of our government. Over 200 years ago, President George Washington, for whom this university is named, said, “I beg you will be persuaded that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny and every species of religious persecution.”

And in the words of President Bush, “Religious freedom is the first freedom of the human soul, the right to speak the words that God places in our mouths. We must stand for that freedom in our country. We must speak for that freedom in the world.”

Perhaps even more to the point of today's conference, we promote religious freedom because it is the cornerstone of democracy and of social stability. It is

our view that no country, Afghanistan included, can move successfully toward a stable democracy without a firm commitment to religious freedom. Indeed, a government that denies this fundamental right has rejected the very premise of democracy; that is, that governments are constituted to serve people, not the other way around.

It is no surprise that religion-based terrorism flourishes where religious intolerance is widespread. By the same token, where governments protect and citizens value religious freedom, extremism finds no warrant.

I know that many of us here are tremendously heartened at the prospects of Afghanistan today. Last year, the State Department listed seven regimes as the most severe violators of religious liberty around the world. Afghanistan, arguably, led that unfortunate list. This year, Afghanistan moves off that list and, instead, our hope is that we will see now Afghanistan moving rapidly toward a new noble list, one comprising those nations of the world that protect freedom and promote justice.

Just as the presence of severe violations of religious freedom anticipated the Taliban's many other depredations in the late 1990s, I know many of us hope that a new serious respect for religious freedom will anticipate many other blessings in the new Afghanistan.

Just as the eyes of the world looked with pain on Afghanistan under the Taliban, I believe the eyes of the world now look with hope toward Afghanistan and toward the ongoing work of many of you in this room today.

Finally, let me say that, while it took just a short walk for me to be a part of this meeting this morning, I want to acknowledge and pay tribute to those of you who took a much more arduous journey to be here today, not just in thousands of miles, but in pain, sacrifice, perseverance against great opposition and through great trial.

I want to honor those of you who work on the front lines for Afghanistan's future, though I know the greater honor will come to you from the millions of Afghan

citizens who come to know a better life through your labors. It's a privilege for us to be with you and working with you today, and please be assured of our encouragement, our support and our prayers as you undertake this noble task.

Thank you.

CHAIRPERSON GAER: It's also my pleasure to introduce, for welcoming remarks, a gentleman who has provided a huge amount of assistance to the organizers of the panel and has worked closely with the Commissioners to ensure that our guests are here, are briefed and are anxious to participate, and that is His Excellency Ishaq Shahryar, the Ambassador of Afghanistan to the United States.

Mr. Shahryar?

AMBASSADOR SHAHRYAR: Thank you very much. Good morning. Distinguished panelists, Your Excellency Minister Karimi, and distinguished delegates from Afghanistan, I welcome you all here, and ladies and gentlemen.

It is a great privilege to be here with you today in such honored company and to discuss a subject of such significance as religious freedom. In business, I was always advised never to speak of religion or politics with your customers, and now in diplomacy, I am called upon to speak of nothing else, but to do so diplomatically.

Where we are meeting today, in the capital of the great Nation of the United States of America, demonstrates how a nation, with affirmament of freedom of religion, can strive and become great. America was created with religious tolerance as its primary base and has practiced that and benefited from it for more than 250 years.

Afghanistan had a similar proud history of numerous religious co-existence in its 4,000-year history; that is, until the recent 25-year interruption. During that tragic time for Afghanistan, the world witnessed the devastating results of repression and tyranny, first, of the former Soviet Union and then of the notorious Taliban, both equally destructive to Afghanistan and their people.

It is not surprising to note that the first thing accomplished by both governments in order to crush the spirit of the invaded was to take away the freedom to practice their religion. It is perhaps wrong to say that the spirit of the Afghan people was ever crushed. Dampened, perhaps by the scourge of the relentless tyranny of a generation, but never crushed, because that could never happen to the true spirit and love of God of the courageous and resilient Afghan people.

It is the greatest of ironies that the most profound love of all, the love of God, can be distorted in the zealotry, hatred and violence. The three great religions of the world--Islam, Christianity and Judaism--have the same standard, the same higher being to whom humanity owes its creation. It is devotion in its allegiance. It was the great Muslim poet, Rumi, who said that if you took something of each of the most revered figures of the great religions, from Mohammad, from Abraham, from Moses and from Jesus, and put them together, you would have created a perfect person.

In fact, there is a tremendous similarity, a synergy, with the three religions of the world. Each of them does not begin with the teaching of evil. Each of them begins with the same instruction, those of goodness, love, kindness and brotherhood. Again, it was Rumi who said that when he went to a mosque, to a church, and then to a synagogue, he saw the same God.

Religion is never evil. It is the evil individual who, as President Bush so wisely said, would hijack religion and distort its beliefs for his or her own personal goals. No religion teaches evil. It is the evil individual seeking power who imparts a twisted version of religious beliefs to the unsuspecting. All religion seeks to provide a means for a man to love and worship a being greater than themselves, and that means through the good - not the malevolent, misguided actions of some.

While the rest have spent centuries studying and acquiring great knowledge of Christianity and Judaism, there remains here a tragic amount of misunderstanding and a fundamental lack of knowledge of the true faith of Islam.

As a Muslim, as a diplomat, and as an Afghan, I am continually surprised to observe puzzled looks on the faces of so many intelligent, well-educated Westerners when I speak about the great tolerance and love of the religion of Islam.

The central principles of Islam are balance and compassion in all walks of life. Islam constantly points to the interlinking of everything, the unity of the universe. Though each individual is responsible for his or her own action, the Koran emphasizes that we must walk softly on the earth and that we are here for a short while only. It is this sense of impairments that creates not only humility, but the knowledge that we must leave behind things better than we found them.

The Koran tells us to look at the stars in wonder and to acquire knowledge and wonder. Islam places enormous emphasis on knowledge. It is an individual's duty to use his or her own God-given reason to make life the best it can be for themselves and their dependents, and throughout history, ordinary Muslims have cherished an expectation and the benefits such knowledge has produced.

They appreciate the control that knowledge gives them over their destiny, the connections it allows them to form with people different from themselves, and the insight it gives them into their faith and the limits it places on those who exercise power.

In the Muslim world, if the scholar is silent, it is not only knowledge that is lost, it is the pursuit of knowledge, part of God's will that is also lost. This is why the Afghan government, under the leadership of President Karzai, is working tirelessly to restore this true Islam on the people of Afghanistan, a faith that always promotes the rights of women and children, that protects human rights and that ensures religious

tolerance. God willing, with your help and with the assistance of the international community, we can achieve this goal.

Thank you.

[Applause.]

CHAIRPERSON GAER: Thank you very much.

I've been asked to offer some opening remarks on behalf of the United States Commission on International Religious Freedom.

We are all aware of the dramatic changes that have taken place in Afghanistan since September 11, 2001. The Taliban movement has been forced from power. It was a brutal regime that abused the most basic human rights of all Afghans: men, women, and children, Muslims of every persuasion, and members of the country's dwindling non-Muslim communities.

The Taliban and their terrorist collaborators have been replaced by a new Afghan administration, some of whose most important officials have joined us today. This current Afghan government, although properly termed “transitional,” has been selected by a loya jirga whose members were broadly representative of the Afghan people. This government has also received the support and recognition of the international community, including the U.S. government. In accordance with the December 2001 Bonn Agreement, and under the leadership of President Hamid Karzai, Afghan officials are now preparing a new Afghan constitution.

With these developments, Afghanistan is now poised to begin a new chapter in its long and sometimes tragic history. The Taliban rejected the rich Afghan heritage, a heritage enriched by people of diverse cultures and faiths. This rejection was demonstrated not least by their destruction of many of Afghanistan’s cultural treasures, most notably the magnificent statutes of Buddha at Bamiyan. The Taliban also rejected the rich diversity of the Islamic faith and Afghanistan’s own tradition of tolerance by forcing conformity of belief and imposing a harsh religious practice that particularly targeted and restricted the lives and rights of Afghan women.

Today, there is an opportunity for a new beginning, a new era in which Afghans can enjoy the blessings of peace and freedom so long denied by war and repression.

Those of you who are joining us today are at the center of an international effort to bring to Afghanistan security, freedom, justice, the rule of law, and the foundations of a representative government that respects democratic rule and human rights. Among us this morning are experts from government agencies, foundations, non-governmental organizations, and educational institutions who can contribute - and in some cases, already are contributing - to this effort in substantial and specific ways. We extend a warm welcome to specialists on such issues as religious freedom, human rights, Islamic law, judicial reform, and the rule of law.

We have come together today to discuss a top priority issue that is central to the reconstruction of the new, free Afghanistan: how the protection of human rights, including religious freedom, can be incorporated into Afghanistan's new constitution, judicial system, and its laws; how tolerance can be instilled in a society that has known enmity and war for the past 30 years; and what the United States can do to assist Afghanistan in this potentially historic transformation.

Much has been said about the past misdeeds of the Taliban. Regrettably, the need for human rights protections in Afghanistan remains of grave concern even today. The Commissioners of the United States Commission on International Religious Freedom, an independent government agency advising the Administration and the Congress, are concerned by reports of continued human rights abuses. These have included:

-- torture and other maltreatment of prisoners, including reports of incidents resulting in mass deaths, about which there have been no credible investigations;

-- abuses against women and girls, sometimes with the apparently active support of the police and the courts, and continuing use of charges of blasphemy, even against one of Afghanistan's leading human rights officials - which was later found baseless;

-- mistreatment of returning refugees and internally displaced persons, including reports of forced repatriation; and

-- the establishment and re-emergence of official agencies that require that Afghans follow specific religious practices and, in some cases, that use coercive measure against those who do not conform.

Mindful of these and other troubling developments, the Commissioners have made several recommendations to the U.S. government.

First, the United States should play a lead role in support of expanding the international security presence beyond Kabul. This is absolutely essential to safeguard the process of political reconstruction and protect the human rights of all Afghans.

Second, the American government should vigorously and publicly support efforts to strengthen adherence to the rule of law and the protection of religious freedom and other human rights in Afghanistan's new constitution and political and judicial institutions.

Third, the Commission has recommended that the United States government appoint a high-ranking official to serve in Kabul, at the American Embassy, with the sole responsibility to promote, coordinate, monitor, and report on the implementation of international standards of

human rights, including religious freedom, particularly in connection with the reconstruction and recovery programs and the establishment of the new constitution, judiciary, and legal system.

Fourth, the United States government should promote a culture of tolerance and democracy in Afghanistan through the support of programs of public education, broadcasting, and educational and cultural exchanges.

Human rights, including religious freedom, are essential to the reconstruction of Afghanistan as they are to the war against terrorism. Some may argue that food, jobs, and "stability" are higher priorities. We at the Commission believe, however, that human rights, including religious freedom, are core concerns. A future Afghanistan that respects human rights, including freedom of thought, conscience, religion and belief, will become a more stable, responsible member of the international community and will be less likely to become a haven for terrorists or the cause for renewed regional instability and conflict. Governments that respect their citizens' rights are more likely to live in peace with their own people and with other nations. The Universal Declaration of Human Rights begins by reminding us that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

Human rights are guaranteed in international treaties to which Afghanistan is already a party, notably the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Encouraging Afghanistan to honor these commitments - fully, freely, and fiercely – is part of welcoming Afghanistan back into the international community.

Although international assistance is vitally important, we must never lose sight of the fact that the ultimate responsibility to ensure rights rests with the Afghan people themselves. If Afghans are not able to create a civil and just society that guarantees human rights, including religious freedom, then their history will continue to be a tragic one. Repression, intolerance, and injustice will again sow the seeds of radicalism. Afghanistan, the region, and international security will once again be at the mercy of warlords, extremists, and terrorists. The question before us today is how the United States can assist the Afghans in preventing that painfully familiar outcome and instead help them create a government that will bring them into the community of nations.

President Bush stated last evening that "freedom is the future of every nation." We believe Afghans share that longing as much as any people do. But freedom does not come by wishing for it. It requires conviction, hard work, and constant follow-up. The U.S. Commission on International Religious Freedom has convened this Forum to explore who can do what and when - to advance the protection of human rights in Afghanistan.

Before we begin our deliberations, let me say a few words about the format of today's Forum. At two points in the day, you will hear from distinguished speakers: immediately following these words of introduction and just after lunch. During each of the three panels, the participants will not give prepared remarks as such; instead they will respond to questions posed by the Commissioners. In this way, we hope to provoke lively and frank interaction among the panelists. Regrettably, there will be only very limited time during discussions for questions from the audience.

We have entitled this Forum “Freedom in Crisis” because we have seen that opportunities have been missed. We do not want Afghanistan to slip back to the shockingly abusive practices of the past. The Commission convened this Forum to ensure that someone - ideally, a high level U.S. official in Kabul - is watching this situation, someone is speaking out, someone is advising the U.S. government and the international community with a clear human rights lens. On the weekend news shows, a senior U.S. government official commented on how well things are going in Afghanistan, pointing to it as an example of positive outcomes of regime change. Last night, President Bush said, “As we and our coalition partners are doing in Afghanistan, we will bring to the Iraqi people food and medicines and supplies - and freedom.” The Commission is concerned, however, that there has been inadequate attention to the actual direction of events in Afghanistan and inadequate support of freedom. This Forum is designed to focus precisely on that.

Now, I would like to introduce our keynote speaker, Mr. Zalmay Khalilzad. Mr. Khalilzad serves as the Special Presidential Envoy for Afghanistan and the Special Assistant to the President and Senior Director for Southwest Asia and Islamic Strategy Initiatives at the National Security Council.

On December 2nd, 2002, he was appointed by the President to also serve as the Special Ambassador and Envoy for Free Iraqis.

Prior to his White House appointment, Dr. Khalilzad held the Corporate Chair for International Security at the Rand Corporation. He was a member of the Board of Directors of the United States Institute of Peace and also headed the defense team for the Bush-Cheney transition and served as counselor to Secretary of Defense Rumsfeld.

In addition, Dr. Khalilzad has held a number of other positions, including serving as Assistant Deputy under Secretary of Defense for Policy Planning, Associate Professor at the University of California at San Diego, and Special Adviser to the Under Secretary of State for Political Affairs.

He is a senior Administration official who is here today to present us with a view of the administration's position with regard to the current situation in Afghanistan.

Welcome, Dr. Khalilzad.

[Applause.]

AMBASSADOR KHALILZAD: Thank you very much. It's a great pleasure and honor for me to be here and to see such a distinguished group of Americans and Afghans.

I would like to commend the United States Commission on International Religious Freedom and The George Washington University Law School for organizing this conference and to thank Felice Gaer, Chair of the Commission, Dean Michael Young of the law school, Ambassador at Large for Religious Freedom John Hanford, and my friend Ishaq Shahryar, the Ambassador of Afghanistan to the United States.

I also would like to welcome the many distinguished Afghan friends that I see who have traveled here from Afghanistan. It's good to see all of you here.

Over the past year and a half, we, and the Afghan people, have seen great changes, some great accomplishments, but continue to face great challenges. One challenge that we face today is reflected in one of the titles that I hold, Ambassador at Large for Free Iraqis.

Since the President asked me to take on that responsibility last month, I have heard from some that there are questions about whether the United States will forget Afghanistan if we move forward on Iraq. I can authoritatively tell you that this will not happen. Our commitment to the future of Afghanistan is unshakable. Iraq will not reduce that commitment.

As President Bush told President Karzai yesterday during a telephone conversation, and repeated it in the State of the Union last night, the United States is committed to the success of Afghanistan. In fact, I have a bit of news to report to you,

that President Karzai will be visiting Washington on the 27th of February for meetings with President Bush in order to reinforce that commitment that the United States has for success in Afghanistan; for, as we have said repeatedly, Afghanistan's success is our success. Afghanistan's failure would be, God forbid should it happen, we don't anticipate it, we will do all that we can, and we are confident that we will succeed in Afghanistan.

What brought us to Afghanistan, you all know, was the terror attack against the United States on September 11th. The war against terror continues. This war has many fronts. The domestic level protecting the United States from attacks is an important priority. Abroad, the struggle against those who continue to support terrorism or who threaten the world with weapons of mass destruction also continues.

This also means, the continuing war against terror, weakening extremist movements and strengthening moderate and democratic forces by promoting economic prosperity around the globe and promoting political freedom.

Building a new order in Afghanistan is one of those fronts. We know that building the economic, political and security institutions that Afghanistan needs will take time and will take resources. We will be with the people of Afghanistan for the time that it takes, and we will work with our allies and friends to continue to provide the resources necessary.

As the President has said, the United States is not a conqueror, but a liberator. This is a reflection of our American values, but American foreign policy must be based on American interests and anchored, at its core, on American values. Supporting the development of Afghanistan reflects those values and interests.

Our vision for the future of Afghanistan is a shared vision, a vision we share with the people of Afghanistan. It's a vision of an Afghanistan that is a state free of terrorism and terrorists, not a threat to itself or others; an Afghanistan that is a free

democratic society, where people enjoy the benefits of an increasingly prosperous market economy, a state that others point to as a model to aspire to, not a place to fear.

That is quite a vision for a place that was Afghanistan 14 months ago. Fourteen months ago, Afghanistan was a place that inspired fear, both abroad and at home. Afghans at home were afraid to do simple things, such as listen to music, to talk to their friends. Girls could not go publicly to school. Children in other countries were learning skills that moved them forward to new Information Age. Afghan children were learning little and falling behind.

Afghan women were perhaps the most oppressed in the world. Afghanistan was a place where those who preach hate and destruction were welcome, a place where terror lived and terrorist supporters ruled.

How far have we come during the past year? 2002, in my view, was a good year for Afghans. In Afghanistan, people now listen to music. Girls not only went back to school last March 22nd, but they are working feverishly to make up for lost time. A U.N. program for winter vacation catch-up studies has been flooded with girls, with the U.N. reporting that 15,000 girls are now registered for what started out as a program for 11,500 and more are signing up daily.

Throughout Afghanistan, when school reopened, planners were overwhelmed as over 3 million children came to school, over a million more than was forecasted. There is a hunger among Afghan children and their parents for learning. This makes me optimistic about the future of Afghanistan.

Afghans are seeking out information. Newspapers and radio stations are springing up around the country. Kabul's new press corps is learning fast to be an articulate part of political dialogue. I see it firsthand in tougher and tougher questions at my own press conferences when I visit Kabul.

Boundaries are being crossed, minds opened and past patterns changed. Not long ago a cartoonist was imprisoned by lower level officials for drawing a critical cartoon of President Karzai. When the president learned of this, he immediately had the man released, telling people that he was prepared for open political debate.

When a woman delegate to the Loya Jirga announced she would run for president, an unprecedented step in Afghanistan, her courage and determination were welcomed by many delegates. We saw in her determination to run for public office, a public rebuke of the oppression of women by the Taliban.

Of course, the legacies of the past will not be changed overnight, but we have seen great progress. Today, structures are being created, such as the Human Rights and Constitutional Commissions that will provide the framework for future progress.

The United States, through contributions of $1 million to the Human Rights Commission and $2.5 million to the operations of the Constitutional Commission, actively supports these new structures.

At the same time, our work and the work of the international community in building structures that allow the economy to begin to grow and that provide security are an inseparable part of the building of the structures that allow for the development of human rights. There is a mutually reinforcing relationship among these structures. Structures for economic progress and security help build and reinforce the structures that protect human rights.

Our experience here in the United States and what we have seen repeatedly throughout the world is that the secure foundation of protection for human rights is a key in turn to successful and sustainable development. A country's future depends on each individual's ability to realize their potential.

Now, the Afghans are working to develop a constitutional framework for the future. They face difficulties similar in some ways to those the United States faced in

1789. But over 20 years of suffering make the Afghans uniquely aware of the importance of human rights and the need to protect them in this new Constitution.

Our role is to support this process, to aid it, but to ensure that the choices made are Afghans' choices. As the President has said, it is also important for people to know we never seek to impose our culture and our form of government. We just want to live under those universal values, God-given values.

We believe in the demands of human dignity that apply in every culture, in every nation. Human beings should have the right to free speech. Women deserve respect and opportunity. All people deserve equal justice, religious tolerance. This is true in America, this is true in Afghanistan, these rights are true everywhere.

As the writers of the new Constitution proceed, and as the people of Afghanistan participate in the constitutional process, they will have to struggle with difficult issues, such as how to protect freedoms, how to define the scope and role of religion in political life, and how to ensure that a hijacked version of Islam, like the Taliban, does not come back to the fore again; how to balance the interests of the region and the need for a central government, and how to ensure women, ethnic, and religious minorities are protected.

These are issues which many countries have struggled with, but perhaps none while facing the magnitude of the challenges that Afghanistan faces. A constitution can set the foundation for great progress by creating a framework that enshrines basic universal values and individual rights. The United States Constitution reflected ideals that were particularly American, but also universal.

Our Constitution reflected our values, but also was informed by concepts of universal human rights and freedom developed by thinkers in England and France, going back to Rome, Greece and the Middle East.

Religious values are in the fabric of the United States. They were important to our Founding Fathers, as was the protection of those who practiced religion in different ways. Religious values are in the fabric of Afghanistan as well. Afghanistan has its own traditions, history and religious heritage.

Its 1964 Constitution was widely admired in the Islamic world, but 40 years of strife have reemphasized the need for a structure that can meet the needs of all Afghans. It is up to the Afghan people to develop their own distinctive political institutions, but the world and the United States have some lessons to offer, most importantly, the overriding importance of protecting fundamental human rights.

In Afghanistan, there are both Shiites and Sunnis, Ismaelis, and many important Sufi movements, those who adhere to the Jafari school, and the Hanafi school. While there have been conflicts, there has been much tolerance among Afghans. Afghans have been hospitable to other beliefs. Before the Taliban, Kabul was a place where Hindus and Sikhs freely practiced their religion.

Religious differences and seeking to gain advantage through policies can be a danger to society. The challenge for Afghanistan and Afghans is to find a path that allows for the development of civil society, freedom of expression, of religious practice and of political expression--a path that maximizes potential, human potential, and minimizes the possibility of new conflicts.

Afghanistan needs judiciary and security structures that are servants of the people, not their oppressors. Such structures will help protect against the forces that are still there that want to pull Afghanistan back. For the United States, our role is to provide the appropriate assistance to achieve our shared vision, but to be conscious that these must be Afghan decisions, arrived at and agreed to by the Afghans. Our war is against terrorism. Our objective is a lasting peace. Our commitment is evident in our support for

security, economic development and human rights. The United States' assistance this year for Afghanistan will reach over $800 million.

While our troops continue the struggle against terrorism, we are refocusing our military efforts on reconstruction. It's not just the United States that offers such support; the international community shares this vision and commitment and has provided important support. We look forward to all countries fulfilling the commitments made to Afghanistan's future.

The Loya Jirga process last year showed Afghans want rule by ballots, not bullets. Despite many flaws, the eagerness of Afghans to participate in governance was palpable. People hiked for days to participate in district and regional Jirgas, at meetings held in conditions ranging from broiling sun to cold and mud.

My Afghan friends in the audience can testify to the desire by ordinary Afghans to rise beyond the mistakes and tragedies of the past and to build a society where they and their children can be proud and peaceful participants. In the process, the Afghan people can count, as they move forward, on the firm commitment of the United States and the American people. That commitment is reflected through the interests of the Americans, as those represented here today.

We, and the international community, will help, but it is up to the Afghan people to build for themselves a constitution and society that they are proud of. That shows the world that Afghanistan is not the oppression of the Taliban, not a place where rights are deprived and the economy goes backward, but a country that's ready to take its place alongside others, where children have opportunities to build a future - a place where people prosper and rights flourish.

Thank you very much.

[Applause.]

CHAIRPERSON GAER: The Ambassador has offered to take a few questions, and one of our Commissioners will lead that off.

Commissioner Tahir-Kheli, please.

COMMISSIONER TAHIR-KHELI: Thank you very much. I think you have launched us very well this morning, giving us your rather unique perspective, as to the goals and expectations in this rather difficult journey that we have undertaken together.

I think that the commitment of the President and of the United States to Afghanistan's redevelopment is a very solid one and one that all of us don't question. By the same token, as we look at some of the issues that are the concern of this Commission, we look back to that history which you referred to in Afghanistan, which was a tolerant Afghanistan, with space for differences and divergences.

And recognizing the crucial nature of this commitment, I wonder if you would take a few minutes to at least illustratively tell us about sort of the new Afghanistan, with a concern for human rights and the rights of ethnic and religious minorities, what has really gone right and what are you really very proud of having accomplished in this very important period, and what, if anything, has gone wrong, knowing, of course, that the U.S. will take the credit and the blame.

AMBASSADOR KHALILZAD: Thank you very much, Shirin. It's good to see you.

Of course, the situation in Afghanistan, in the course of the past year, has been a situation in transition. By definition, transition is a mixed situation, where there are things of the past and things of the future that are present together. With regard to the things that I am most pleased, most proud of that we have accomplished in the course of the past year that points to the future, I could point to many things, but two, in particular, come to mind.

One was my own participation in the opening of the school year on March 22nd in Afghanistan. I was very much moved personally by participating in several schools and their opening by the enthusiasm of little girls and boys with the slogan that "we want to learn" and to see that the United States of America, given my own background, had participated in facilitating that day. I think March 22nd was a very good day for Afghans, and I was very proud of that day.

Similarly, I was very proud, and very pleased, to be there, as I was, during the Loya Jirga. Now, the Bonn Agreement that laid the foundation for the political progress that Afghanistan is on the path of was as a result of an agreement among four groups.

The Loya Jirga I think was more representative than Bonn, but it was a stage, and I was very pleased and proud to see that the Afghans had stuck to the time schedule. The interim authority did not extend itself. As we have seen in many other countries, once you are in power, you do not make commitments. One cause of the conflict in the '90s was over this rotation that did not take place in time.

And I was very pleased that, despite all of the problems that the Loya Jirga, the process had, and again because of the nature of the situation, which is a transitional situation, the Loya Jirga was held; a woman candidate that I referred to and a President was elected.

I think, certainly, the biggest success was getting rid of the Taliban as the ruling authority in Afghanistan, but there are, of course, problems to be sure. Again, I would have liked, personally, and I know some of my colleagues know this is a hobby horse of mine. I would have liked a much faster development on the economic front, on the building of the security institutions.

But while we can argue--and given that I'm an academic by background, I might always enjoy a good argument--that could things have been done somewhat faster

or slightly differently, but I think, fundamentally, I believe that we are on the right path, building security institutions, judicial institutions, economic progress in Afghanistan, both at the local level, rural development, reviving Afghanistan's agriculture, as well as other institutions necessary to make Afghanistan work for Afghans and stand on its own feet and to play a prudent transitional role in assisting ourselves with our forces and the forces of other countries.

As I said, this has been a good year, compared to the last previous 20 years or so in Afghanistan. I am, like many of my Afghan friends, impatient for more progress. We would like to see more progress at a more rapid pace. That's good. But let's not forget where we were only 14 months ago and how far we have come in this time period, and I am pleased very much myself with the distance that we have traveled, but I recognize that we have a long way to go.

CHAIRPERSON GAER: Thank you, Dr. Khalilzad.

AMBASSADOR KHALILZAD: Thank you very much. Thank you.

[Applause.]

CHAIRPERSON GAER: It's my pleasure to introduce the next speaker. Our next speaker is Mr. Andrew Natsios, who serves as Administrator of the United States Agency for International Development, USAID. President Bush appointed him Special Coordinator for International Disaster Assistance and Special Humanitarian Coordinator for the Sudan.

Mr. Natsios is formerly the Chairman and Chief Executive Officer of the Massachusetts Turnpike Authority. Before that, he was Secretary for Administration and Finance for the Commonwealth of Massachusetts. He also previously served at USAID as the first Director of the Office of Foreign Disaster Assistance and then as Assistant Administrator for the Bureau for Food and Humanitarian Assistance.

AID is so centrally involved in the reconstruction of Afghanistan that Mr. Natsios needs no further introduction. I thank him for joining us.

[Applause.]

ADMINISTRATOR NATSIOS: Thank you very much, Chairperson Gaer.

Though rich in history, and tradition and culture, Afghanistan has always been a poor country. The 22 years of violence and destruction that followed the Soviet invasion in 1979, however, reduced the country to unprecedented levels of poverty, hunger and desperation. In fact, on the human misery index, which is an index kept by UNDP--they don't call it that, but that's what it is--Afghanistan actually ranks as one of the three lowest countries in each of the indicators we use, and it's mainly the destruction that took place the last 22 years that has done that.

It is only since the United States, the Afghanistan opposition and our allies overthrew the Taliban in the fall of 2001 and in the beginning of 2002, that it has been possible to speak in terms of reconstruction. To expect that the country could be restored to status quo ante in a matter of months, ignores our experience of reconstruction experience in other post-war settings.

I have been working in this field for 12 years. I worked for an NGO for five years as well, and I've worked on 12 different reconstructions of 12 countries after civil wars, and there is always a conflict between people who want things done very quickly and those of us who know if you do it too quickly, you will make design mistakes that will come back to haunt you later on.

And so there's always a push immediately to do it, and whenever we do that, we make mistakes that we regret. So we have to be responsive to the political requirements. If President Karzai does not show progress, there are serious political problems; on the other hand, we want to make sure the work we do with the ministries in

Kabul, and the government, and the NGO community, and the U.N. and the World Banks, the different banks, are done properly so that a firm foundation is placed for the long-term reconstruction of the country.

Europe was not rebuilt in six months after World War II, and I have to tell you Kabul looked to me like pictures of Berlin in 1945, when I visited there twice in the last year.

The United States government has spent $580 million on humanitarian and reconstruction assistance for Afghanistan in the 12 months that followed September 11th. Of that, my agency was responsible for $350 million. In the four months since fiscal 2002 ended, which is to say since October 1st, AID has spent another $136 million, which means we've spent now over $700 million on Afghan's reconstruction, far and away more than any other bilateral aid agency in the world.

No one should doubt our commitment to the reconstruction of the country. The President said late last year we will stay the course to help that country develop. Last night he said, “In Afghanistan, we helped liberate an oppressed people, and we will continue helping them secure their country, rebuild their society and educate all of their children, boys and girls.”

In addition to our emergency assistance, AID is deeply involved in helping the Afghan people, through the central government, to rebuild their country. Our programs can be divided into the following categories:

One, humanitarian assistance and winterization; two, agriculture; three, infrastructure development; four, democracy governance and a free media, economic development and health and education.

While I will discuss these elements separately, it is important to note that they are all aimed at improving, one, people's lives. If there is not a tangible improvement in people's lives, there will be consequences politically for the country and

for the central government. So it is not enough to have head--we can have all of the headlines we want in the United States; we can talk about all of the money we have spent. If the average Afghan does not see an appreciable change in their living standard and how they live, then it will have political consequences.

Secondly, we want to strengthen the Karzai administration's and the central government's ability to provide services so that they can govern the country themselves over the long term without international assistance.

Ensuring, number three, that the horrors of the past 23 years are not repeated. I'd like to discuss a few of these programs.

First, in humanitarian assistance, we purchased $200 million of emergency food aid, most of it through WFP and the NGO community, for fiscal '02. Now, some people say that's too much. The reality is--and I have some expertise in famines; I've been through a number of them and written a couple of books on them--we were facing pre-famine conditions in the summer of 2001, before September 11th, as a result of three years of drought and economic collapse and gross mismanagement by the Taliban. I wouldn't even use the word “mismanagement,” a destruction of large parts of the country.

I went to the Shamali Plain--I have a deep interest in agriculture--it was a very, very rich truck-farming area, very prosperous area. It was completely destroyed. The irrigation ditches were blown up. The tunnels that led to the Hazarajat to bring water down were destroyed, deliberately, systematically.

I even saw mosques blown up. I had an elderly mullah in his seventies sit down in front of me--it was very sad--in the middle of the ruins of his mosque and cry because he said, “Taliban came into our village, and they blew up the mosque. They blew up the mosque because we did not share their view of Islam.”

In fact, three-quarters of all of the food that WFP distributed in Afghanistan was from the United States, and it did prevent a famine last winter. There's

been a dramatic decline in the amount of food aid needed for this winter, but all of the food aid was also in place before the winter started. Ninety percent of that food was in warehouses in the regional areas, in the villages, before the winter started, so we will not have a repetition of the frenzied pace of the relief effort last year.

We also used the food, though, to pay people's salaries. People don't know this. But the one consistent salary everybody received in the Afghanistan government was not a check, because that went off and on depending on whether money came in from the donors, but it was a voucher, stamped by the central government and AID, that said you can go to a depot, WFP, and as a civil servant and get paid.

Fifty thousand teachers got paid for six months almost exclusively from food aid as their salary. Many of them said we prefer that because the money doesn't buy different things at different times depending on prices. Food we have to eat no matter what happens. And so it was a consistent salary supplement that we provided earlier on.

Afghanistan has always been primarily an agricultural society - I might add a rich society, not just subsistence agriculture. They exported a lot of wonderful products. I have to tell you I saw some apples on the market in Kabul when I was there in January, and I said these must have been imported from Israel maybe or Europe or the United States. And they said, no, no, no, these are Afghan apples, and if we can only get the orchards back, we'll be exporting like we used to. So it's not just a matter of subsistence agriculture. A large part of the foreign, the income was from exporting agricultural goods, very high-value agricultural goods, and we want to remake that economy as it was before 1979.

We sent in an improved variety of seed, which we searched for over Central Asia with our agronomists working with the World Bank, and it produces 80 to 100 percent more wheat per hectare. The farmers I talked to were so ecstatic. They said

this is a miracle. I said it's not a miracle, it's just you didn't have this before. There has been an 800,000-ton increase in wheat production in one year.

If you ask me the most important thing, because the one thing everybody has to have to survive is food. If you don't produce food, you're in big trouble. The schools are second, but the first thing is food. There is a dramatic increase in food production in Afghanistan. Part of it was the weather improving from drought. But, secondly, not only us, but other donor governments bought this same wheat variety, which is drought resistant, requires less fertilizer and is much more productive and is now getting into the agricultural system and will be replicated now and become a very, very productive part of the site. We sent in 15,000 tons of fertilizer, 7,000 tons of this seed, and over three years AID hopes to replace 20-percent of the entire seed stock of the country with these improved varieties, which should bring back production above what it was in 1979. The country was self-sufficient in food in 1979.

I also should tell you there was a 400-percent increase in cotton production in the Helman Valley as a replacement for poppies, another one of our agricultural programs.

Afghanistan has always been a bridge between Central and South Asia. Of course, that's a benefit because it's very prosperous trade that goes on, but it's also a problem because every powerful country wants to control that nexus of transportation. That's why there was a battle for two centuries, or for more than that, over Afghanistan, because it's a central transportation link.

One of the most pressing needs, and one that Chairman Karzai insisted on, is to repair the road system, both for trade purposes, but also for revenue. It brings in customs duties. It is a trading culture. The Afghan people are extraordinarily well endowed by their culture and their traditions to be traders and business people, and to revive that economy is a central part of what we want to do.

The President, the Japanese and Saudis announced a $160-million program to rebuild the Kabul to Kandahar to Herat Road. I just got a report this morning. Our first contract piece of that road, south of Kabul, was to rebuild--we started this last fall in November--the first contract was 45 kilometers. We have now completed 32 kilometers, in terms of demining, engineering and grading. We had to stop it when the ground froze.

I ran the biggest construction project in American history for a year in Boston. I can tell you weather counts. Not only you can't grade easily when it freezes, but the second thing is you cannot put hot top down. You cannot put asphalt down because the emulsion doesn't work.

So we had to suspend all of those activities, and we moved all of our equipment down to Kandahar to work on the highway west of Kandahar because it's much warmer down there and the ground doesn't freeze, and so we've moved our activities. But that is moving along at about a half-a-kilometer a day. It's on schedule, and in three years the whole thing should be completed, depending on whether we get funding from other donors to complete their part of it. We're doing our part of it, and we're working very hard.

We're also working with the Afghan Ministry of Water and Power to restore the water supply to Kabul, Kunduz and Kandahar. We're rehabilitating 6,000 wells, springs and irrigation canals.

In terms of governance, we provided the support, very quietly, through AID, for the emergency Loya Jirga that selected the Karzai government. We do not publicize that a lot, but there are 60 AID officers who worked on the logistics, moving a couple of thousand people, and feeding them, and housing them, and providing the sound system, and the seats, and all of that for this thing. People don't think about that. It's a critical part of this. We worked with the U.N. and with the Ministry. Ashraf Ghani

actually supervised these people, but they are AID officers, and we spent about $6 million on that.

The economic development program also features the governance aspect of this. The Afghan central bank has just issued a new currency. They issued it. It was their project. But if you ask the Governor of the central bank who helped them do it, we provided the shredding machines to destroy the old currency, and the warlords' currency, and counting machines to count the new currency--you can't do it by hand, there's too much of it--and the security system to move the currency out to the regional banking centers, and then a public relations campaign, public information campaign, to explain to people how the currency works, because if they don't accept the currency, it's not a currency. It's very critical.

We have done this in many countries, and it was a great success. If you ask President Karzai, I think he will tell you that this is one of his great accomplishments. You can't have a growing economy without a stable, accepted currency, and they now have one in Afghanistan, in very short order, I might add.

In the health area, we vaccinated 4.25 million children against measles and treatment of 700,000 cases of malaria. We've provided health care services to two million people since last summer, 90 percent of them women and children. We've begun training 1,154 health-based workers who work for the Ministry of Health, and we've just completed the survey which is a template for the entire new national system, working with the Ministry of Health, to rebuild the entire primary health care system.

There are 2,034 clinics in the country. AID has made a commitment that we will rebuild half of those clinics, a thousand of them. It's going to be a massive undertaking over three years. Without that clinic system, we will not be able to drop the highest maternal mortality rate in the world and one of the highest child mortality rates.

We need a system to do that, and that's on schedule now, and the Europeans and the Japanese are going to put in the money for the rest of the clinics.

Through the University of Nebraska, we have printed over 10 million textbooks in Dari and Pashtu, and distributed them in time for the opening of school in March. This was temporary, but the Minister of Education liked the textbooks so much, he said print more of them, please. We're going to extend this another season, and I think we've printed another three or four million of them.

We have also refurbished schools. We just opened a school that we built with the civil affairs units. I'm a retired civil affairs officer in the military myself. It was a joint project in the Northern part of the country for girls, and it's a 3,000-girl high school. I can show you a picture--I should have brought them--of the old high school, which was in complete ruins, and the new high school where girls are going to school now.

We also rebuilt the teachers' college in Kabul that trains teachers for the schools. Because if you don't have teachers coming out of the schools, who is going to train the kids or educate the kids in schools?

That's just a brief review of some of the things. I could go on for a couple hours on this.

We are also working, though, on the new constitution. We are providing technical assistance to the Convention, the members of the Constitutional Convention, to work on this Constitution.

Now, Afghanistan is a conservative, Muslim country, and we have no right or intention to impose America on it. I want to be careful about this. There is a tendency in Washington, particularly for people in Washington who have never been to the developing world or to a country after a war, who say “we” are going to rebuild the country. We are not doing any rebuilding. We are helping people in other countries, in

this case Afghanistan, to rebuild their society. It's their country. It's not our country. We are not writing their constitution for them. We are giving them the options that many countries all over the world--because many countries have done the same thing. We have four years of experience in constitution writing within AID--we are giving them the options they can choose from and letting them make the decision themselves.

If it is not something that is Afghan owned, it will not last very long. I can just tell you we learned a long time ago, if you impose things on people, it will not last very long. We want something that is permanent as a respected constitutional base for the legal system in the country.

We strongly support--personally, I support it--but I have to tell you the people I have talked with in Afghanistan support very high human rights standards, including religious freedom, women's rights and the rule of law.

Now, I have to tell you the old Constitution that dates from I think it's 1964 also contains all of the universal principles of human rights because Afghanistan, prior to '79, was making substantial progress toward moving toward a constitutional monarchy, and that Constitution was part of that process. Unfortunately, it was interrupted by the Soviets in 1979.

The process of drafting the new constitution should be broadly inclusive, while the outcome should encourage national stability and give the Karzai administration the tools it needs to govern effectively. If properly drafted, the Constitution will strike a balance between traditional Afghan values and international human rights standards, and that's something that we will help them do, but they make their own decisions.

This is not an easy task. We have put aside $22 million in technical assistance to the Constitutional, Judicial and Human Rights Commission, the three commissions that the Bonn Agreement authorized, and I am pleased to note that members

of the three Commissions are with us today, as are the Minister of Justice and the Minister of State for Women's Affairs.

This assistance, the $22 million, will also be used to prepare for the national elections--in fact, it's the bulk of what these costs are--scheduled for 2004, June of 2004, which will enhance a free and independent media and build and strengthen national political parties.

Our goal is to help Afghanistan achieve what our Founding Fathers achieved in Philadelphia 215 years ago, a constitution that will enable the people of the country to live in peace with each other and with their neighbors, while building a stable and prosperous nation that the Afghan people so richly deserve.

I actually told our staff yesterday, I sent the new President--he wasn't President at the time--of East Timor a copy of one of my favorite Founding Fathers, James Madison, who kept a detailed account of the minutes of the Constitutional Convention of 1787. It's one of our greatest documents, little read. It has every speech everybody gave, and we came very close, within one or two votes, to having a plural executive, three Presidents, if you can imagine that.

So people should be a little humble in the United States about how close we came to having a dysfunctional constitution ourselves. I sent that book the him, and he said, now the President of East Timor, that they read it carefully to make sure they didn't make the mistakes that the United States were faced with in 1787, and I think we're going to send the Constitutional Convention a copy of Madison's notes for their convention as well.

Thank you very much.

[Applause.]

CHAIRPERSON GAER: Thank you very much, Dr. Natsios.

I'm very pleased to introduce Senator Chuck Hagel, who is now joining us. Chuck Hagel is the senior Senator from Nebraska, and he sits on five committees in the United States Senate--the Foreign Relations Committee; Banking, Housing and Urban Affairs; Energy and Natural Resources and Budget; and Aging.

Among his recent accomplishments is the successful passage of the Afghanistan Freedom Support Act, for which he was the Senate sponsor. The Afghan Freedom Support Act of 2002 was signed by President Bush on December 4, 2002. It authorizes $3.3 billion in economic development, humanitarian and security assistance in Afghanistan.

The bill affirms that assistance to Afghanistan should, among other things, and I quote, "Foster the growth of a pluralistic society that promotes and respects religious freedom," in schools, the Constitution, through civil society, military and police training, and in the justice sector.

Prior to his election to the Senate, Mr. Hagel was president of a privately owned investment-banking firm in Omaha, Nebraska. He is a Vietnam combat veteran, and former Deputy Administrator of the Veterans Administration. We are delighted to introduce Senator Chuck Hagel.

SENATOR HAGEL: Thank you very much.

Of course, Andrew has no future. He's leaving before my speech.

[Laughter.]

SENATOR HAGEL: It's kind of a dull group, isn't it. They don't get this. Especially because I was going to say nice things about Natsios, and it doesn't often happen for him in the job he has, and I just saw Zal leave on his way back to do important things for our country. That's a good starting point, after I thank you all for what you are doing, what you continue to do. We are grateful for your leadership and your efforts, and so many of you here in the audience who have committed yourselves

over the years to these great causes--causes far greater than your own self-interests, and we appreciate that.

My job as a policymaker is to contribute where I can and essentially stay out of your way and try to make your life a little easier by providing resources and some framework to work within.

I want to acknowledge the good work of Andrew Natsios and the AID people, some are here also, my friend Zal, who has had difficulty holding jobs.

[Laughter.]

SENATOR HAGEL: You know he changes portfolios annually. That actually is a pretty good sign that he's doing good work. The President has significant confidence in him, as we all do, and I want to acknowledge what he is doing and the people associated with him.

Now, we have dispensed with the pleasantries of the day, and we will get to work. You all have a busy schedule today, and I won't trespass on that schedule and drone on like Senators normally do, although that's part of our contract. Being a Senator, you can just say as much as you like, as much nonsense as you like, and you're never held accountable really. You don't have a real job.

But let me make a couple of comments about at least the framework in which we are trying to deal with some of these great challenges of our time. I thought the President's speech last night impressed upon all of us once again, including the world, the importance of human rights, of dignity, religious freedoms, the dynamics of who we are as a free people and the contributions free people have made and continue to make.

And as the President said it, I thought rather well, we are a country. Not only the United States has contributed and will continue to contribute to freedom, but we have a tradition, a history, a heritage, a legacy that we're very proud of in this country, and that is to enhance human dignity and liberty across the globe, and I think we have

been called upon to not only sustain that, but initiate that over the last 200 years of the history of our country. We're very proud of that because everything begins with the human being. The freedom, the respect, the dignity of what each human being should be accorded in the world, regardless of what you believe - and tolerance is a big part of that. And how do we do that? What is the best way to assure that not only that dignity comes, but we preserve it, and we enhance it?

Well, no perfect answers. I certainly am incapable of saying anything profound or giving you a perfect answer, but my 56 years of living, and I've seen a little bit, my reading of history and my paying attention occasionally tells me that it is democratic institutions that is our best hope to assure that human freedom.

That means that we put in place the fundamentals of democratic institutions where we can. We can't dominate. We don't wish to dominate. I don't believe--I am only speaking for this United States Senator--that the United States should go around the world and stamp out cookie-cutter mini U.S.A.s. That's up to the people of Afghanistan or wherever else we are attempting to assist. That's their role. They need to sort that out.

But where we can help, and much of what the bill that I sponsored is about, is to assist the people of Afghanistan in development of those democratic institutions. That, of course, includes many specific programs, starting with respect and tolerance for men and women. Boys and girls should have equal opportunity to attend schools - religious tolerance, all that encompasses freedom, and it is framed and structured within democratic institutions. That is why a number of us pushed hard last year to construct a piece of legislation that we thought would help do that.

When we talk of security and stability in the world, as the President did last night, I have been one who has believed for a long time, long before September 11th of 2001, that it is not just great military might that protects a nation or sustains liberty,

but it is also the humanitarian, it is the educational, it's the trade, the environmental, all the common dynamics of nations, of peoples, common denominators of what's most important in people's lives.

And the military component is important--of course, it's important. We have a significant military component in Afghanistan, the United States, as well as allies, and it is there to assist the Afghan people in assuring some sense of security and stability that the Afghan people can develop their own government, can develop their own educational institutions, develop their own army, develop their own police force and ensure, as much as we can--as much as we can--that the people of Afghanistan have a chance, have an opportunity to make a better life, and that's what the bill is about.

What Andrew Natsios talked about is a component of that. Obviously, market systems, economic opportunity are all part of that, jobs. They all fit together, and we must see it in the larger context of the big picture, not just one or two or three pieces, but all of it.

And, again, when we looked at constructing that legislation last year, we took into account all of those components. And those of you who are very familiar with this bill, and the Commissioners surely are, you will note, and I know Natsios talks about some of it, an economic component, a security component, a women's rights component, educational components. We have enterprise zone components, and that is as it should be, as it must be, in order to deal with all of the pieces that must come together in some sense of organization and commitment.

This is not easy. Those of you who are far more familiar with the challenges in Afghanistan than I understand this better than most of us. I see my friend Peter Tomsen here, who has made invaluable contributions to not just those of us on Capitol Hill and in the Administration, but to the people of Afghanistan, to the people of the world to try to better understand what are the challenges, and then what are the

solutions, how best we can use this great power that the United States possesses to assist the people of Afghanistan - and Peter Tomsen has done that remarkably well, as well as anybody I know of.

I might also say we take some pride in Nebraska for Tomsen, since he has served as an adjunct professor at the University of Nebraska in Omaha. He was smart before he came to us, but we've enhanced that intelligence since he's been out in the prairie, and as you probably know, he's writing a book and we're proud of him.

I am here really to thank you all for what you're doing and continue to do, let you know that we will continue to do more. We are committed, we must be committed. Afghanistan, among all of the other issues, among all of the other questions and tests, is the real first test case of how the civilized world is going to deal with terrorism, and it is bigger than just the threat of an isolated incident or two of terrorism.

We must get underneath causes of terrorism, and we must connect despair, and hopelessness, and poverty, and hunger with some of the outcome and consequences--radicalism, fundamentalism--and for my country that means anti-American attitudes.

We must shift our perspectives, we must reverse the optics and try to understand how the rest of the world sees us, as well as how we see the rest of the world. I think we are doing that. We have a long way to go. We need your help.

So, again, I thank you, and if I have any time left, I'd be glad to entertain a question or any advice.

CHAIRPERSON GAER: We have time for one short question.

SENATOR HAGEL: I'll keep my answers short. You were very generous not to say that, but I will--

CHAIRPERSON GAER: And we'd be happy to have one from the audience, if there's anybody who would like to ask.

There's a lady on the side, and they're bringing a microphone around. Would you just indicate your name and then your question.

ELISE LABBOTT: Elise Labbott from CNN. Thank you, Senator.

We see the fiscal reconstruction on track, but we talk to a lot of Afghans, and there seems to be a lot of political alienation, a lot of people feel they were left out of the Loya Jirga and that there's a lot of ethnic strife between various groups that's bubbling under the surface, and that this is really what threatens the long-term reconstruction of the country.

And if you wouldn't mind, with everything going on with Iraq right now, could you draw a parallel to the challenges that lie ahead for a post-Saddam Hussein Iraq and whether you see we can take any lessons from this.

Thank you.

SENATOR HAGEL: Well, I think your point is a good one, and it's instructive. Sure, there are parallels to Iraq, different situations, different dynamics, as there always are, and that's the tough part of foreign policy. There are no perfect answers. There are no exact solutions. Every situation is a little different. That's why America must be very wise, and steady, and cautious in how we exercise our power and how we work with our allies.

I have, as some of you may know, been a proponent of the United States staying within the boundaries of the United Nations' efforts in Iraq, working through the Security Council, through the inspections. It is the enhancement of America's relationships that will dictate the future for America. We can't go it alone, for a lot of reasons.

But to your point, and I respond with what I've just said to make somewhat of a point and to answer what you said, there's no question that, as I just said five minutes ago, that Iraq is the first real test case in how we are going to deal with

terrorism, and if we fail in--or Afghanistan--and if we fail in Afghanistan, if we let the people of Afghanistan down, it will reverberate out across the world in a very bad way, not just for the people of Central Asia and Afghanistan, but it will send a message clearly across the globe that you cannot count on America's word, you cannot count on our commitment, and you risk, at your peril, associating with the United States of America.

We talk in glowing, noble terms, but in fact we cannot sustain and fulfill our commitments. If that would be the case--I don't think it will be the case--we are there for the long term, and we must be there for the long term, as will be the case in Iraq, and that has been a part of the debate on Iraq. That is why one of the reasons I have said we need allies, we need friends. Whatever happens in Iraq, whatever the ultimate decision may be, we can't do it alone. Because once Saddam Hussein is gone, if he is gone, someone must govern.

I don't buy into any of this debate that says, well, if you just get rid of Saddam Hussein, it'll all change, everything will be better. The peace process in Israel goes through Baghdad, and all of the problems in the Middle East go through Baghdad. I don't agree with that, but a lot of people do think that's right.

The same in Afghanistan. There is no one component answer to any of this. So there are parallels that we can learn from, and adjust to, and deal with as we work our way through Afghanistan, with our friends, with our allies, that certainly I believe can be applicable to an ultimate resolution in Iraq to allow the people of Iraq to begin to enjoy at some point the same kinds of new opportunities, freedoms, that we are trying to help the Afghani people with.

That's a long-term commitment, and America must understand, if we're going to go around the world and make these noble pronouncements, that we are in for a long time. That's resources, that's leadership, that's money, that's men, and our word and our commitment.

That wasn't a very short answer, but it was a good question that needed, at least I thought, a longer answer, and I'm incapable of giving short answers.

So, Madam Chairman, without suffering your wrath here, I will get off the stage and allow you to do your thing.

Thank you very much.

[Applause.]

CHAIRPERSON GAER: I want to thank all of our featured speakers this morning. We are now turning to our first panel. The format, as I described, will be question-and-answer style, and I'd like to invite the participants on the first panel to come to the podium, and take your places in the horseshoe.

The first panel will be moderated by two of the Commissioners. The panel is entitled, “The Human Rights Challenge in Transitional Afghanistan.” The moderators will be Commissioners Shea and Sadat.

Commissioner Sadat is a leading expert in international comparative law and professor at the Washington University School of Law in St. Louis.

Commissioner Shea is an international human rights lawyer, who is the Director of the Center for Religious Freedom at Freedom House.

They will explain the format and introduce the speakers on this panel.

The panelists include Dr. Abdulaziz Sachedina, Dr. Frank Vogel, Mr. Robert Templer, and from our Afghan delegation, Her Excellency Mahbuba Hoquqmal, Dr. Quadir Amiryar, Dr. Musa Maroofi, Ms. Hanagama Anwari, Professor Gul Rahman Qazi, and Professor Abdul Aziz.

This panel will continue until 12:15, and I now turn over the Chair to Commissioners Shea and Sadat.

COMMISSIONER SADAT: Thank you so much, Felice.

It is my unpleasant duty, as one of the co-moderators of this panel, to make sure we run strictly on time. We have many wonderful and distinguished panelists with us today, and so I would ask all of the panelists to keep their remarks to one to two minutes.

As Commissioner Gaer has already explained, this is an interactive format, which means that Commissioner Shea and myself will be posing questions, which we will then turn over to the panelists. To the extent that panelists wish to respond to each other's remarks, please just signal either myself or Commissioner Shea, and we will make sure that you have the opportunity to do so.

Andrew Natsios has given us some very positive news about infrastructure, food and other developments in the reconstruction of Afghanistan, but as Special Envoy Khalilzad raised, there are some concerns still that remain with respect to the human rights situation there.

Indeed, our panel today is intended to raise some concerns about extremist trends in the current process of judicial reconstruction to expose some of the risks for human rights, including religious freedom, if those trends are to remain unchecked in the constitution writing and judicial reconstruction of Afghanistan and to offer some practical steps that can be taken to mitigate some of those trends.

This panel will discuss how Islamic law and human rights will co-exist in the new Afghanistan, and I think because Commissioner Gaer has already introduced our panelists, and you can read their biographies in your information materials, I will dispense with further introductions and turn to Commissioner Shea, who will set the scene, and then we'll proceed with the questions.

At exactly 12:05--am I correct?--we will stop the questions from us and the responses from the panelists, and we will turn to you, the audience, for any questions that you may have.

Thank you very much.

COMMISSIONER SHEA: Thank you, Commissioner Sadat.

U.S. policy is concerned with security in Afghanistan, with liberating Afghanistan from the Taliban, but it's also concerned with the economic reconstruction, and for our purposes today, the political reconstruction of a democratic political system and a legal system and government structures that ensure individual human rights that are universal, including religious freedom.

This is a period of great consequence for the future of freedom in Afghanistan. Over the next year, Afghans will be engaged in drafting and adopting a new constitution, a constitution which will set, establish the infrastructure and the foundation for either freedom or repression.

The legal transition that has taken place over the last year has given mixed signals for human rights. Certainly, we have rejoiced as girls have gone back to school. This is a great achievement, not only symbolically, but also substantively.

But we were also dismayed by a Supreme Court and Chief justice in Afghanistan that has attempted to restrict rights, restrict the rights of women, restrict free speech, and threatened, even on our own public radio station, NPR, threatened non-Muslims with beheading if they did not follow the rules of Islam, and has endorsed the harsh punishments of the Taliban.

Perhaps, most ominously, one Afghan was charged with blasphemy for allegingly criticizing the legal approach of the Chief Justice, and we have at times asked ourselves is this “Taliban lite” that's being reconstructed?

Freedom in Afghanistan is at a crossroads, and we will be exploring on this panel today some of the trends in the current process of judicial reconstruction and the risks for human rights and religious freedom during this constitutional drafting process.

Without further ado, we will turn now to the questions and the panelists.

COMMISSIONER SADAT: Thanks so much, Nina.

Right now, on my left, as you can see, we have our three panelists, and on my right we have members of the Afghan delegation who have come to join us.

The first question that we'd like to pose, perhaps, to Dr. Vogel, to Dr. Sachedina and to Robert Templer, and then with response from the Afghan delegation, goes to the issue of Islamic law and human rights.

The Bonn Agreement says that the new Afghan legal system will be based on Islamic principles, international standards, the rule of law, and Afghan legal traditions.

Vice President Shaharani used a recent, and very similar formulation, in speaking of the new constitution. Our question is how will these principles be balanced in Afghanistan, how will they be recognized and accommodated to each other, and how will Islamic law and international human rights, and particularly religious freedom, co-exist in the new Afghan legal system. Perhaps, Professor Sachedina, you could start, and Dr. Vogel, and then Robert Templer.

Thank you.

DR. SACHEDINA: Let me begin by saying that there is certainly a problem between what we call the insistence in the Islamic law that the freedom of religion has to be restricted in terms of its implication for the community. And in the long history of the law, there has been a lot of concern about how does one allow the freedom of religion to prosper as a principle of toleration and yet be able to maintain the identity of the community of the believers?

There is, in the Sharia, in the Islamic law, provision for other unitarians who could be accepted and who are tolerated within the system, the peoples of the book, and yet we do not find enough emphasis in the law, in the Islamic law, to treat even the peoples of the book as equal citizens. Rather, what we have is a tolerated minority that

has some kind of self-governing autonomous status and is able to function without being coerced by the majority, let's say, to accept the communal identification.

But what is I think most important to keep in mind is that, and these debates have been going on since 1947, when the Universal Declaration of Human Rights was being debated, and those are the issues about human nature, about the conscience, human conscience, and all of these things are part of the tradition.

What is I think important to keep in mind, and it is important to tell our Afghanistan delegation, is that there isn't a unanimity among the Muslim scholars of exactly how we are going to deal with these issues, and there is a need to do more homework.

I'll give you a good example here. When you look at the laws of blasphemy, and I have this book here in front of me, which is a comparative law. This is the Sharia that is accepted by four Muslim schools; Hanafi being the most dominant and in majority.

And when you look at the question of which are the Hudud crimes, those crimes against God, blasphemy is not listed by the Hanafis. Hanafis disagreed that blasphemy could not be punished by the state. The state should not be involved in deciding God-human relationships. Rather, the state should be concerned only with the violation of human rights within the jurisdiction of the human affairs and human relationships.

Since religion is a matter of conscience, is a matter of God-human relationship, therefore, it should be kept out of the state's control. So you can already see that further discussion and debate on the Hudud laws, for example, could reveal that there is no uniform acceptance of the tradition that has been handed down and has become even stifled in some ways in the long range of its own development.

So I can cite several opinions from the Hanafi scholars who refuse to control a human religious or spiritual destiny, and who refuse to give that right to any human institution. This is, I think, the crux of the problem in the UDHR. When you look at the religious freedom, that's where it springs from. Are human institutions capable of negotiating, for example, God-human relationship? And they are certainly not.

COMMISSIONER SADAT: Thank you so much.

Perhaps Professor Vogel?

DR. VOGEL: Thanks. I thought I would broaden out a little bit to all of the human rights I think may have been what you're after.

It's hard to give a two-minute summary.

COMMISSIONER SADAT: Well, you can take two and a half minutes.

DR. VOGEL: Okay, thank you.

There is, of course, well-known clashes between human rights and Islamic precepts, yet you will have many Muslims, and there would be some in this room who will assure you that between Islam and human rights today, in their understanding, there is no essential conflict and that all can be reconciled, that Afghanistan, for example, could be an exponent of all of the international human rights and at the same time be an Islamic state. You will probably hear that in the course of today's proceedings.

Yet, it's undeniable that if you look at the law as accepted until, say, 150 years ago, it's considered virtually almost canonical. The literal content of books like Abdul Aziz has here, there are dire conflicts.

One then has to look at a lot of nuance, and that is, I'm afraid, what I'll be suggesting repeatedly today. I don't deny, I definitely would believe that Islam will come to harmony, into harmony with human rights, but one has to exploit in the meantime in all troubled situations, and certainly in a traditional society, such as Afghanistan, a whole panoply of resources to bring them into conformity.

Dire principled statements, unbending sort of statements on either side, will lead unnecessarily to conflict. One should keep in a realm, so to speak, of fuzziness, of negotiation, of conciliation, of mutual tolerance, for that matter, as one works out the means by which this reconciliation happens in the short term, keeping in mind a short term, a mid term and a long term.

So, for example, there are a number of hot issues that you rightly identify, everyone will, as potential areas of conflict: women's issues, equality of women, minority rights, the Hudud penalties and some of their symbolic force; for example, the Hudud penalty on apostasy, which would be of concern here. Hudud penalties being only some of the criminal penalties. They are the ones that are particularly religiously sanctioned, that enjoy Koranic or, in some cases, the Hadif categorical support.

But there's a nuance immediately, in that Islamic law is definitive only about a few things, and those tend to be things firmly stated in the Koran and certain Hadif. Those tend to be particularly resistant to bending. But there are many other provisions, practically all provisions of Islamic law, in fact, are very much subject to debate, difference, continued interpretation. So that is just one nuance we'll be looking at.

I could probably go into more, but I think that's my basic drift. I think it's right to identify these as severe problems and particularly in a traditional place like Afghanistan, and then I would just urge that at this point we not be ourselves too categorical.

COMMISSIONER SADAT: Thank you very much. Of course, you'll have time later on to respond to others and to nuance your remarks further.

Perhaps Robert Templer, who I think has come all the way from Brussels to be with us today, if you could add your voice.

MR. TEMPLER: Well, I'm not, by any means, an expert on Islamic law, but I have, the organization I work for, International Crisis Group, has been doing considerable research recently on the situation in Afghanistan in the past year, and what we have seen is some fairly discomforting work that has been going on, some very discomforting developments anyway.

Minister Karimi has been working extremely hard, I believe, to promote the development of a legal system in Afghanistan that is reasonably open and reasonably tolerant and one that learns really from a whole variety of different sources within Afghanistan and outside Afghanistan, and indeed he has said in the past that there is nothing in Islam that stops Afghanistan learning from the experiences of other countries, and that is going to be key in the development of an open and tolerant legal system because there are other countries out there, countries like Malaysia and others, that do offer solutions to dealing with a great many of these problems. In certain ways, no country ever has a perfect system.

But, unfortunately, these developments of tolerance and openness in Afghanistan have also been matched in some ways by the emergence, as we heard, of a very traditionalist, even extreme Supreme Court, which in itself the actions have violated a whole array of provisions of the 1964 Constitution, which is the key law that is in force.

Some of these are quite startling. Shinwari, the Chief Justice, 80-something-years-old, no one is quite sure, and he is supposedly under the Constitution to be no more than 60, but he's also supposed to have an education in both Islamic and national laws in Afghanistan, which essentially means the secular law.

In fact, he has no education in secular law at all. He's appointed somewhere--up to December he'd appointed 139 Supreme Court Justices, by our count. There are supposed to be a Chief Justice and eight others, a total of nine, and the appointments are supposed to be approved, under the '64 Constitution, by the king, but

the way it should obviously be now would be by the President. It's uncertain whether any of them have been approved.

There are 36 of them that we know their educational standards, not one of them has sufficient education, even within Sharia law, let alone secular law. And yet what we started to see is not only an imposition of large numbers of judges who are really ill-equipped to be there, but the appointment of somewhere up to 6,000 officials around the country in the judicial system. So what is going on is really the creation of a judicial system that has not been sanctioned in any way by the Afghan people.

There's been much talk this morning of ownership, but the ownership here has not been of the Afghan people. It's been of a very narrow, very well-funded group, Ittihad-i-Islami, which is led by Abdul Rasul Sayyaf. Essentially, he has been able to dominate the development of the Supreme Court, a very key institution in the future development of the legal system in Afghanistan.

It's an extremely worrying development, and it's one that has not really received an awful lot of attention. The United Nations, for example, has sort of generally dismissed the issue. They're more concerned about simply maintaining the peace.

President Karzai has said some very good things on the judicial development. On the other hand, I don't believe he's paid enough attention to this particular issue, and a number of other countries have played various unhelpful roles in this, and it's a worrying development in the long term.

As we've already heard, there have been moves to restrict the education of girls. An edict came out that men should not be allowed to teach girls, which essentially is an excellent way of stopping any girls from being educated in Afghanistan because there are not that many women teachers out there. We're talking a country with a female literacy of maybe 13 percent.

So it's an extremely worrying development that this is going on, and it is not part of Afghan ownership. In some ways, it's part of a generalized neglect of legal developments in the country, although I hasten to add, Minister Karimi is not at all responsible for this. I think he's actually been battling against it, but hasn't received sufficient support and hasn't received sufficient backing from the international community or from other parts of the Afghan government.

COMMISSIONER SADAT: Thank you so much, Robert.

Perhaps members of our Afghanistan delegation. Yes?

DR. MAROOFI: How's my voice? I would just like to add some comments to this relationship between human rights and Islam as a religion in a Muslim country like Afghanistan and a few things to remember about Afghanistan.

Number one, it has moved much more to religiosity now than it was in 1964. So we are dealing with a conservative Muslim country that has suffered from war, and poverty and lack of education for more than 30 years.

The other thing, when I see these freedom of religions, I don't want the illusion to develop in your mind, and when you're talking about Afghanistan you're talking about a freedom of speech, freedom of religions, that you can just have any religion, and then as an Afghan, you say, well, as a Muslim say I want to convert into Christianity or Judaism tomorrow. Can you do that? No, that's against the law. That would be against the law. It will be not permissible by the provisions of the Constitution.

And then the freedom of speech as well. Can you say things in Afghanistan, in a Muslim country, that you can say here under the First Amendment? No, there are a lot of things that you cannot say.

Can you deny the existence of God in the United States and some other liberal democracies? Yes. Why can you say that? Because your speech is protected by

the First Amendment. Can you say that in Afghanistan, in Saudi Arabia, Pakistan? No, you can't.

Even though the Constitution does recognize the freedom of speech, which most of these constitutions do, you cannot do that. Why? Because there is another provision in the Constitution saying that you cannot say anything or do anything against the fundamental, the basics of Islam, which is the existence of God.

What does that mean in practical terms? It means that the freedom of speech, freedom of religion is relative in countries like Afghanistan and not absolute like in the liberal democracies. Once we recognize that concept, then we can feel at ease in understanding what we are dealing with. The same is true about human rights. There is so much focus on human rights in Afghanistan, and let me assure you that, as far as the Constitution Commission is concerned, we have reasonable focus on human rights and enshrining values related to human rights in the Constitution. However, there are some problems, and those problems really are a matter of concern to me, personally, a good deal. I'm thinking about it when I'm alone, and sometimes it's not so easy to convey my concern to other people. What is the individual rights? On the one hand, of course, we recognize the rights of the individual to be free, to have freedom of expression, to have a freedom of thought and pursuit of happiness. Can you do that in a country like Afghanistan? No.

Why not? Because there are certain things you're not allowed as an individual to enjoy regarding your individual rights. For example, you'd like to go to a casino and play for money. Can you do that in a Muslim country? Can you do that in Afghanistan? No. Even under the new Constitution, you can't do that. Can you drink in public? No. Can you do that in private? No.

If you drink in private alcoholic beverages, you are intoxicated and you go out, and you are caught by the police, does the police have a legitimate right to put you in jail for violating the law? Of course. Can you do that in a liberal democracy? No.

So if we reconcile our minds with the idea that in a Muslim country there, of course, will be human rights, but not absolute right, relative to the fundamentals of Islam on the one hand [and] to the social order -- parents carry a lot of authority in these countries. Husbands have so much authority you won't believe it. Can you change it by the Constitution? No. It may take a while. Of course, we have to work on that, and that's why we need the Human Rights Commission in Afghanistan and other human rights organizations to work on this.

Right now, even if the law recognizes the equality of women with regard to men, implementing will be impossible. There are ways I may talk about it should somebody ask me. These are the things that are going to be main challenges to human rights.

The court system is not responding to the principle of equality. So far nobody has been initiating a case on the basis of violation of human rights in a court. So the courts are usually dealing with criminal cases and civil cases, but not with human rights cases because we have never had this, and hopefully we will be able to introduce that.

So where are the human rights--

COMMISSIONER SADAT: Dr. Maroofi, I'm sorry to interrupt you, but we are on a tight schedule, and I've got a couple of others--

DR. MAROOFI: Sure. Thank you very much. Sure.

COMMISSIONER SADAT: I am so sorry.

I know Ms. Anwari wanted to respond, and I should say, because you don't have this in your program, that Dr. Maroofi is a member of the Constitutional

Drafting Committee for Afghanistan. I suspect some of our other panelists may wish to respond to some of the things he said.

Ms. Anwari is a member of the National Human Rights Commission for Afghanistan.

MS. ANWARI: Thank you very much.

Regarding the concern which was raised by our colleagues regarding the situation which is going on now in Afghanistan in terms of human rights, I would appreciate this concern, but I just want to make a very short comment on these concerns.

There is a difference between the individual's and the state policy or the thinking and feeling of people as individuals and people who think to improve the policy at the state level, at the government level.

The important thing is, for Afghanistan, is to make sure that all of the human rights issues or sensitive issues regarding the human rights is there in the Constitution, and the things which is happening now in Afghanistan, which was referred by Mr. Vogel and also my other colleague is right, but it is not like things which is there in the Constitution.

In terms of Islam religion, I'm thinking, and I'm very much sure, that in Islam, as a principle, like standards, there is not any controversial things with the human rights standards, but the thing that we need, and it is a challenging issue for today in Afghanistan and the Constitution in Afghanistan, is the right interpretation of Islamic standards and principles in the Constitution, which will make sure that we will have, in the future, people like professional Islamic scholars who will deal with the judicial system in Afghanistan.

This is one of the priorities that the Constitution Commission is taking care of that, and also the Human Rights Commission is advocating very much for that,

that we need a right and proper interpretation of Islamic rules and standards in the Constitution of Afghanistan.

Thank you.

[Applause.]

COMMISSIONER SADAT: Thank you very much.

Perhaps Commissioner Shea has a follow-up question, and then some of our panelists may want to respond.

COMMISSIONER SHEA: Well, I'm going to yield my time to my fellow Commissioners, and Ambassador Hanford, you may ask a question.

AMBASSADOR HANFORD: Thank you.

I had a follow-up question for Mr. Maroofi. Again, Mr. Maroofi, we're privileged to have you with us today, with your enormous responsibilities back in your country. We thank you for coming.

Afghanistan is home to such a wide range of Muslim believers from various ethnic backgrounds, as well as non-Muslims--Hindus, Sikhs, Jews and Christians. We have heard stories or rumors that a specified list of religions will be permitted to build houses of worship in Afghanistan, but that perhaps certain religions will not--Christians, for example.

I'm aware of a fascinating history of a church in Kabul at one point that was allowed at a certain point and then torn down by a later president.

And so I'm just curious to ask you which religions will be allowed to erect houses of worship and which will not?

DR. MAROOFI: Well, thank you for your kind remarks.

In Afghanistan, traditionally, we had Islam, the predominant religion, with different sects, and we had the Hindus, we had Sikhs, and we had the Jews. These religions have been there in Afghanistan, and there has been a population of almost

30,000 Jews prior to the Soviet occupation of Afghanistan. So because the Jews were Afghan citizens, they are entitled to return to Afghanistan because it's their country after all, as everybody else. The Hindus are already there, and so are the Sikhs. So it's my understanding that these four religions may be on the list.

My concern is that I don't, I would like the international community to understand this. Once the Constitution is passed, if it is very restrictive about the freedom of speech or religions, then you will have no choice to do anything about it.

I was listening to Ambassador Natsios' speech about a hands-off policy in Afghanistan while it's helping with regard to the Constitution and other laws, et cetera. That may be a good policy. It may also have some repercussions.

There are things I can talk frankly about them. There are things I would like to impose on your sophistication to read between the lines.

Thank you.

[Laughter.]

COMMISSIONER SADAT: Thank you. I'm sorry, we have a limited--

Perhaps, Dr. Aziz, did you want to or Dr. Amiryar?

DR. AZIZ: Although I graduated from The George Washington University Legal Training Program, but I didn't speak English about more than 25 years. I'm afraid that I will make some mistakes. I will talk in Persian.

[Following interpreted from Persian.]

DR. AZIZ: When we are talking about religion, we should understand that there's a difference between religion and sect, and there are different sects in Islam and religion is something else.

In Islam, there are freedom of religion and also freedom of sects. In Afghanistan, we see no difference between any sects, being Hanafi, Sufi or any other

sects. In my idea, non-Muslims also in Afghanistan have the full freedom of doing their religious duties.

There is a difference about Hudud, that before also was mentioned about it. They have given me two minutes, and I hope they give me another three minutes so I can give a little bit more.

COMMISSIONER SADAT: Perhaps we'll come back for another three minutes.

DR. AZIZ [Interpreted from Persian]: Yes. In my thinking, my school of thinking, there are two problems: One is the religion that you have selected, and you can keep it, and then if you want to leave that religion. In Islam, that's the problem--if you became Muslim and the you want to leave Muslim.

COMMISSIONER SADAT: Dr. Aziz, can we just hold just for one moment, so we can get Dr. Amiryar also--you want to finish? Okay, finish your thought and then--

DR. AMIRYAR: Because mine we will be slightly on different aspect of--

COMMISSIONER SADAT: Okay.

DR. AZIZ [Interpreted from Persian]: In Islamic society, there are all kinds of religions, and nobody is punishing anybody for their religion. It's just if you want to change from Islam to another religion, that's when it's punishable.

In Islam there is a big emphasis on education, education for the women and men, and there is no difference between educating men or women. Mohammad Salaam has said that if you want to learn Islam, you have to go to Aisha. Aisha was the wife of Mohammad.

THE INTERPRETER: He has more time or not?

COMMISSIONER SADAT: No, we'll come back. Dr. Aziz, he's the Dean of the Sharia Law faculty, and he could give us, I'm sure, a wonderful hour, actually, and we would all learn greatly from it, but I do want to turn to Dr. Amiryar, who is a member of the Judicial Reform Commission in Afghanistan and was extremely helpful to the Commission in planning this forum.

DR. AMIRYAR: Thank you. It's my pleasure.

I think the question is very much more complicated than what it appears, and if someone could be able to provide a rational and reasonable answer to these fundamental questions. For the past 1,400 years, actually, Islamic community is trying to find solution and rationale for these practical, as well as substantive, legal answers, and we are trying. It evolves, actually. The changes taken place since the Prophet Mohammed and since the Koran was bestowed upon the Muslim community.

The reform is taking place, but the reform is slow. The law in nature, it's in the nature of law that law is a most conservative subject. If you want to associate it with the human will, and human desire, and societal wishes and values, then we have to adjust that allocation and give it the time.

On the other hand, Afghanistan is not a new kid around the block as far as Islam is concerned. Afghanistan is a real progress nation. The Constitution of 1964 is a model. If Afghanistan would have been left to themselves and with minimum interference from outside, that was the ideal Afghanistan.

The Constitution of 1964 is a testimony and a witness to the national heritage values and desires of Afghanistan that it reflects the proper values and culture of Afghanistan. It has its own fundamental rights, a chapter dedicated to the rights and duties of man. That is still as valid as the Universal Declaration, as my colleague, Professor Aziz mentioned, as valid as Universal Declaration.

Apparently, that Constitution was drafted in 1964, and the two protocols associated to the Universal Declaration of Human Rights, the social and political, as several political, and the economic, and social and cultural ones were drafted in 1966. It was enforced almost another 10 years after.

But you see the Constitution of Afghanistan was far ahead even than the international community's willingness to draft their side of the values.

But what is happening now in Afghanistan, as my colleague, Mr. Maroofi, properly mentioned, it has been the interference of outsiders, and say, for example, the Wahabis. I mean, that's a stranger to Afghanistan. Afghanistan never been Wahabi. We have respect, we have all due respect for Wahabi. There's nothing wrong with them, but that's theirs. That's their interpretation.

And Afghanistan, as Professor Aziz and other colleagues mentioned, is a follower of [Hanafi] and Jafari, both of them are the most liberal ones. [Hanafi], of course, is known [?], and Jafari as well, because [?]jihad is open in Jafari. That's another virtue of that one.

So the two schools that are pretty dominant in Afghanistan, those are the most liberal schools--

PARTICIPANT: Hanafi.

DR. AMIRYAR: Hanafi, as well as Jafari, both of them.

COMMISSIONER SHEA: I'd like to follow up on that with Mr. Templer.

DR. AMIRYAR: May I finish before?

COMMISSIONER SHEA: Absolutely. Go ahead.

DR. AMIRYAR: With your permission.

COMMISSIONER SHEA: Yes.

DR. AMIRYAR: So coming back to the conclusion, in conclusion the human rights, the values of human rights, there is no difference, as my colleagues

mentioned. As far as values are concerned, they are all the same. It's affection, brotherhood, generosity, human dignity, integrity, gender equality.

Women, in Afghanistan, women has its own rights, and certainly these are imported values that came from outside, the most recent one. It's not the native culture of Afghanistan. So we don't see very much differences between the Universal Declaration of Human Rights and Islamic values if, and provided that it's applied and interpreted properly and with legitimate scholars. Because the interpretation of Islamic values is limited to the scholars' interpretation. It's not laymen's interpretation. There is a place for interpreters, and then there is Ishmael is open, and then there is jihad. There are institutions who can interpret legitimately, and they must be qualified.

None of the people who interpreted the law in Afghanistan for the last 10 years, and they are under the misguide of other means, the misinterpretation of jihad. That was not the case. Jihad was legitimate liberation of Afghanistan, but it was not solely limited to religion. It was liberation of the country from the occupation, and that was only a single aspect of Islam, not totality of it.

So the difference between human rights and Islam is not that much big. There are certain minute differences that has to be because Afghanistan is a signatory to the Universal Declaration, the two protocols, and the other instrumentalities of human rights. And now Afghanistan has an obligation, irrespective of the voices and desires of individuals, Afghanistan has an obligation and is obligated to comply with these treaties and agreements, and follow the standards, and those standards--because Islamic states are signatories to this one.

If this would be a conflict between human rights and Islam, how can the Islamic countries, including Saudis, sign with one reservation?

So whatever it is, there is some misunderstanding in interpretation and shortcomings in education. Once again, we are in an academic institution that our desire

was that to associate this meeting with George Washington because this an academic institution, and Afghanistan needs to promote their education and revive and rebuild their educational institutions, and that's the most important thing that we need to enhance human rights and equality in gender. It's not in Islam, it's lack of education.

Thank you.

COMMISSIONER SHEA: Thank you very much.

Mr. Templer, your group, the International Crisis Group, produced an important report on Afghanistan this week, and in it you've made the finding that some elements of extreme Sharia have crept into the legal system in Afghanistan during this transition period and, moreover, that most Afghans don't want to see this. Can you tell us how this has happened?

MR. TEMPLER: Well, as I said earlier, there have been efforts by one particular political group that's partial to the political process, to some degree; one of the Mujahideen groups that has come back into power as part of the Northern Alliance to dominate the Supreme Court and through that has been able to go through that position.

Whether Afghans actually want this or not is very hard to determine, but there are some things that I do think we need to be quite clear about, as Dr. Amiryar said. Wahabism is not something that's indigenous in any way to Afghanistan. Afghanistan had multiplicity of faiths, a range of cults, quite a diversity of Islam and quite a tolerance for the different diverse elements.

I mean, certainly, my experience in Kabul in the early '90s, when I lived there, was that people celebrate other's holidays and join in and were very tolerant, to a degree, to each other. There were also acts of extraordinary brutality and intolerance going on at the same time, but there is a measure of tolerance within them.

There is also a conservatism, but what concerns me is that conservatism may well be a response to chaos, poverty, misery and water, just as the Taliban were

welcomed in by many people across Afghanistan, because they did actually impose a measure of discipline from the appalling, degrading spectacle of what the various Mujahideen groups did between '92 and '96.

So what you have may be an Afghanistan where people are quite conservative, but that conservatism may not last forever. But if what happens is in this period a Constitution, and a body of law and the people who practice that law are entirely taken from the sort of conservative wing of Afghan life, if you like, then it's going to have long-lasting consequences, and it's going to raise very considerable tensions down the line, not least are the fact that pretty much everyone in Afghanistan is in a minority of one kind or another, a religious or an ethnic minority.

So the protection of minorities and a tolerance of minorities is going to be essential in terms of any peace-building process there, in terms of getting everybody on board and getting everybody to work together. But I'm concerned that what's going on at the moment is essentially, to a degree, a hijacking with no real accountability and certainly very little in the way of a democratic process towards a much more conservative interpretation of Islam and of law than Afghans would necessarily choose if there were sort of open mechanisms for them to choose that at the moment.

COMMISSIONER SHEA: Thank you.

A couple of the Commissioners have some questions. I'm going to turn to Commissioner Tahir-Kheli and then Commissioner Gaer.

COMMISSIONER TAHIR-KHELI: Thank you.

I am, indeed, sorry that we lost some of our morning speakers, particularly Mr. Khalilzad, who I think it would be interesting to have him react to some of the questions that have come up. But given that this transition period, the U.S. has a very large role to play and understanding the importance of issues of human rights and religious tolerance for the United States, I wanted to ask some of the guests who are here

from Afghanistan how one resolves this tension between sort of American interest in new Afghanistan, which nurtures tolerance and respect, along with the kinds of issues that, at the practical level, Mr. Templer has talked about the predominance of one group or another in the constitutional process, which has unleashed some of these trends which run up against some of the American values and interests in Afghanistan.

For a start, I wondered if I might ask Ms. Anwari if she might sort of look at this tension and sort of offer some insights as to how it might be resolved because I think it's a very critical time, and you have some very precious insights for us.

Thank you.

DR. MAROOFI: Can I respond to that, please?

COMMISSIONER TAHIR-KHELI: I was just asking--

COMMISSIONER SHEA: Ms. Anwari is going to--

COMMISSIONER TAHIR-KHELI: --at the outset, and then, please, anybody else.

MS. ANWARI: Thank you very much for your question.

In regard of, one of the challenges that we have when we are developing or drafting the new Constitution and the other is how we will implement this Constitution, which I think would be in the second panel that we will see practical problems towards implementation of the Constitution in Afghanistan.

In terms of challenges that we have, like the interests of one nation themselves of having a proper Islamic country, which will be respectful to all international treaties and all international obligations that Afghanistan has, one of the concerns and one of the suggestions from the Human Rights Commission--National Human Rights Commission--in Afghanistan to the Constitution Commission was that in the new Constitution for Afghanistan, we need to make sure that all articles in the Constitution is not against the standards of Islamic principles, first; the international

treaties which Afghanistan is a party; and the Universal Declarations, which is like Afghanistan, as a part of the United Nations, they are obligated to all of the Universal Declaration.

There are lots of practical steps that need to be taken in order to remove this challenge or overcome this challenge.

As our colleagues mentioned before, in Afghanistan, we are facing the lack of awareness and education to Islamic values, as well as different options of being a Muslim country, and this is one of the things that we were very much concerned about, and we are looking for international support as well on how we can provide for one nation and people with different positive options of being a Muslim country, proper Muslim country.

I think all solutions that we want to look for Afghanistan, we will find it inside the Islamic principles and values. This is very much in concert and agree with the Universal Declaration. But for that purpose, one of the suggestions, which came from the lessons which was learned in Afghanistan through years of war, is to put a clear differentiation or put a clarification among Islamic practices, political actions or activities, and using the military forces.

These three parts or these three things in Afghanistan has been like misused forever, for years and years. People were using like religion, feeling of admonition, they just misuse this feeling towards their own political or personal interests, and this is why one of the challenges in the new Constitution is for our colleagues and for our nation, how we can put a clear clarification and differentiation among Islamic practices or beliefs and political actions in Afghanistan.

Thank you.

COMMISSIONER SHEA: Commissioner Gaer?

CHAIRPERSON GAER: I have to admit I was startled by the comments that were made this morning on this panel to the effect that human rights are relative, to the effect that national law will determine what the rights are and for whom, to the effect that the standards that prevail in so-called liberal democratic societies are not the standards that shall, will or can prevail in Afghanistan.

That is a concept very fundamentally at odds with the concept of universal human rights and the provisions not only of the Declaration, but of the International Covenant on Civil and Political Rights to which Afghanistan is a party.

The Universal Declaration and the Civil Political Covenants say that everyone has rights, and those rights--and "everyone" of course means everyone--and that those rights are rights to speech, rights to association, rights to thought, conscience, religion, rights to be free from torture, rights to be free from attacks, rights to privacy. It does not say these rights can be relative, nor that they can be restricted only to some religions, whether traditional or otherwise, or to some, one sex or the other.

The 1964 Constitution, in Articles 25 to 34, the Afghan Constitution, identifies such rights. It also uses the words "everyone." It also indicates that these rights apply, and it does say that these rights must be prescribed by law, but law is meant to guarantee the rights and put a base below which you cannot go below and which guarantees rights, not restrict or rescind rights from people.

The international community has reviewed the Constitution and reports of Afghanistan in the past. It will continue to do so in the future, as you are signatories and ratifiers of these instruments. The purpose is to see that the rights are guaranteed, not to see that they are restricted. I am shocked by the discussion so far in the sense that what I heard about were restrictions and not about guarantees, about ways of empowering people, about ways of giving people their rights, of respecting their dignity and their

humanity in every form. Those are the purposes of universal human rights, and they are things that every person strives for.

Now, in that context, I wanted to pose a question, on the one hand to Dr. Vogel, and on the other hand to Minister Hoquqmal.

If you look through a human rights lens, and you look at the 1964 Constitution--which I must say I am sure is what Senator Hagel was looking at, and I'm sure that other Administration officials have been looking at--both the Constitution and the universal instruments--if you look at the 1964 Constitution, what changes do you think could be made to that document to improve the protection of religious freedom and other human rights in Afghanistan? And what would you point to as issues that need to be identified?

Dr. Vogel?

DR. VOGEL: My inclination actually is to again go back to short term, middle term, long term. Let me start by saying that I think it is possible, it is possible perhaps even in the midterm, even when this Constitution is issued, for the human rights to be all enshrined in a form that you would find acceptable. I think there are gaps in the '64 Constitution. I haven't studied those rights provisions before in the last few days, but the example of equal treatment of women I think is--

AUDIENCE PARTICIPANT: Please speak up.

DR. VOGEL: I think the mike is not--

AUDIENCE PARTICIPANT: Move closer please to the microphone.

DR. VOGEL: I think equal treatment of women is deficient, also the religious freedom provisions are not there. I think those could be important. My concern is how that is advocated and how eventually the Afghan institutions that are seeking to bring about these reforms understand them, formulate them and eventually sell them to their own people, and how they engage their people in the meantime.

So, in the short term, I see a lot of problems of how you present these things, how you describe them, how you align them with Islamic ideas. Because if they aren't aligned, to some degree, with the more liberal traditions of Islam and the more tolerant traditions of Islam that are prevalent or were prevalent in Afghanistan, it will be very for you in the short term to persuade.

It won't perhaps be hard for you to persuade these Commissions, but it will be hard perhaps at the Loya Jirga stage or at the later stages when there are perhaps spoilers who will exploit these things and bring down the whole operation.

So I disagree, actually, quite a bit with Mr. Templer about the significance of, say, the Chief Justice. I don't think this is a minority phenomenon. I don't think it is simply the expression of a political party. I think behind him stands centuries of tradition in Afghanistan that needs to be understood.

I'm not saying you need to concede to him any point, but I think ultimately you have to reach some degree of understanding with him. For example, I had an interview with him where he did his usual thing, where he said, "I'm going to apply all of this Hudud, I'm going to apply apostasy, I'm going to apply all of these things. No, I'm going to insist that they're in the law."

Then, he said to me, sort of sotto voce at the end, "You know, but in Afghanistan, we never apply these things." So that actually leads to sort of a realm of sort of flexibility.

Actually, I very much wanted to convey to you sort of there are three sort of, programmatically, there are sort of three or four ways in which one can take advantage of flexibility in the Islamic system, and they don't always meet the eye. Those could be used, in the short term, in the medium term, to get where I think everyone in this room wants to go.

They can also be used to help sell that venture and to eventually make these thoroughly acceptable to the Afghan people, but I think there can't be a simple assertion that these rights are essential, that we're going to insist on them, that the Afghans must swallow them down whether they like them or not, and I think the Chief Justice should be kept in mind as someone whom ultimately one has to, to a degree, persuade.

So just to give you, briefly, kind of programmatically the variations that you will hear from Muslims and Afghans as they try to explain to you where the flexibility lies, where human rights could, for example, become part and parcel of the Afghan legal system.

One dimension is the simple degree of rigor with which Islamic law is interpreted, the actual interpretations given to the Koran and the Sunna. Those can either be harsh or liberal, and many people will tell you, oh, there's this position of this Hanafi or this Maliki that agrees with you, but, of course, there are many positions that don't, so you are in a bit of a cacophony of views at that point.

There are also more specific and literal views that will often be endorsed by the more traditional minded, and then there are much more general aspirational goals. For example, we can talk about specific human rights or we can talk, as Mr. Amiryar did just now of human dignity.

Rights can be, positions can be more legalistic or they can be moralistic, and in the moral realm, in the ethical realm, you'll find great resources in Islam for the reception of human rights.

Rights can be obligatory or rules can be made obligatory or compulsory or they can be left to the ethical and individual realms. If there is, for example, you know, the state fails to apply certain rules, that leaves the realm for relative freedoms.

Then, there's a second dimension of potential flexibility, and that is the degree of, the insistence on uniformity of the interpretation or monopolization of the interpretation. Muslims have vastly differed amongst themselves throughout the ages, and there is an ethic of toleration of those differences, of respect for those differences. This is not at all foreign to the Afghani, Afghan culture, and could be invoked once again.

One of the, one of the sins of the Taliban was to insist on a narrow interpretation of Islam and enforce it as if there were no other view.

A third dimension is the degree to which the law is positivized; in other words, made enforceable and made the responsibility of the state to compulsorily enforce.

Many, in the past, not many Islamic rules were compulsorily enforced with the rigor that they're found in the books. This was simply because there was a certain divide between the state and the body of Islamic law. The state undertook to apply those rules it could or felt like, and it didn't apply the laws found by the scholars and set out in perfect rigor in the books.

So there is often a divide, and there has been traditionally in Afghanistan a divide between the state and the religion. Now, that may sound foreign to our preconception of Islam, but this is known as the Siyasa Shar`iyya theory of government, and it was well-known in Afghanistan until recently. In fact, it survives in Afghanistan longer than it does in most places.

So, to invoke these sorts of flexibilities is to enter into a realm where there would be a degree or pragmatism, of give and take, particularly if you see the state as not the enforcer of a legalistic, rigoristic, uniform Islamic law. If you backed off of all of those and freed the state from that responsibility, it is still an Islamic state, but it is not an enforcer.

In that realm of pragmatism, in which the state would then inhabit, there is also something known as necessity and compulsion of the state as a whole, compulsion arising from the international order, arising potentially from treaties that have been signed by Afghanistan. This could enable the state to accept human rights norms, even excusing them to those who are against them, as compulsory a necessity the state faces and cannot escape.

So these are some of the points I'd like to put before us that we should learn to keep in mind, learn to, learn the vocabulary they occupy so that we will be able to display a bit more facility in Afghanistan.

Now, to go back to the '64 Constitution, it represents, in many respects, a great success. It achieves, to a large degree, a kind of, a sort of safe haven within these realms of interpretation, at least as of '64. I don't think it's adequate for today. I think it has to be brought up-to-date, but I think the spirit that went into '64, of achieving a sort of a realm for the state to uphold what we call secular values, and you could easily call it Islamic values, should be brought up to the present, but I think the '64 Constitution deserves respect.

COMMISSIONER SHEA: Thank you very much.

DR. MAROOFI: Excuse me. Can I add something? Because there is a--

COMMISSIONER SHEA: Maybe Minister Hoquqmal, who hasn't an opportunity to speak.

DR. MAROOFI: But I have to clarify something.

MINISTER HOQUQMAL [Interpreted from Persian]: I would like to speak about the women's rights in Afghanistan. Of course, about the religious right has been spoken a lot, so I want to talk about the women's rights in Afghanistan.

Afghanistan is a multi-cultural nation with different tribes, built around different tribes. And the problem of women's rights in Afghanistan is not just about 23

years of the war. It has had historic grounds. Unfortunately, in Afghanistan tradition, there is some old tradition that they are not Islamic or with law, but they were gotten first in Afghanistan, they have been in Afghanistan for a long time.

In 1921, when the first Constitution of Afghanistan was in force, there was written that all Afghan citizens, women and men, have the same rights. In 1964, also, it was written that men and women have equal rights, but in practical, we don't see that. In 1964, and 10 years after that, was the time of democracy in Afghanistan. I was a student at that point, but I remember that the women, for the first time, was involved in that Constitution and, for the first time, women got the political rights.

After that, the women became more powerful and became involved in all government. We had women as Ministers, we had women in politics, and we had women even in law. Even law was very difficult for women to get involved, traditionally. And we had some women judges. The law gave women the rights, but in practical, the woman doesn't have that right.

In Afghanistan, the biggest problem is security right now because there is no security and also there are some foreign interference that doesn't let the human rights or the women's rights progress as we want it, and they want to go back to the past.

Security is the most important point right now in Afghanistan. If security comes to Afghanistan, we could solve a lot of our problems, probably, but still we have to remember that we are a traditional Islamic society, and we would like our Constitutions and laws to be part of it, and we could solve a lot of these problems if we have security and the laws of like 1964 with concerning today's requirement.

There are some negative traditions in Afghanistan, but they are not Islamic or not within the law, and if we became a secure and powerful country, we could get rid of those.

We'd like the government of Afghanistan to give us the promise about the women's rights, and there should be some cooperation between different sects of Afghan government, the three powers.

COMMISSIONER SADAT: Thank you so much, Minister.

I think, Mr. Maroofi, you had a point you wanted to make, and then Dr. Qazi, perhaps.

DR. MAROOFI: Unfortunately, maybe I'm not diplomatic. I'm just a lawyer talking to speak my mind, and at this point, I can't be diplomatic. I don't want to be diplomatic. This is not the time for diplomacy.

[Laughter.]

DR. MAROOFI: The dangers in the Constitution, when you enshrine certain values, you have to really very clearly think of its consequences. So that's why my statement has been, I think, misinterpreted on both sides, the left and the right.

On the one hand, when you have, we, in this Constitution, in 1964--by the way, before I say anything else--the 1964 Constitution has been considered the most democratic, liberal Constitution in the history of Afghanistan. Let me inform you that this Constitution will be 100 times more democratic and liberal than the 1964. That's for your knowledge.

[Applause.]

DR. MAROOFI: The human rights concern is the most important concern, as far as this country is concerned, and particularly as far as I'm concerned. My blood pressure goes up every day when I fight for them, word-for-word, common-for-comma, and period-for-period, but a big list of human rights which are reconcilable, which have no problem in Afghanistan and have in any other country. For example, right to education, right to property, right of traveling, right of marriage, right to work, right to write a book, right to do this, this. There's a big list.

However, as I see it, and I insist this should be discussed further, there are certain areas where you cannot have absolute right, not that I believe in that.

For example, in the 1964 Constitution, it says freedom of speech is a fundamental right. We say that's an absolute right in the next, at least I propose that, but when we come back to the religion, can you say something that will contradict fundamentals of Islam? No. Where does that leave you? That means you either believe in relativism or like the 1964 Constitution, Afghanistan is a Muslim country, nothing should be said against the fundamentals of Islam, but that's the 1964 Constitution.

Then, the government goes forward and establishes a factory producing wine. Was violating the Constitution? Of course it was. The fact that it was not implemented, the Constitution was not implemented, doesn't justify the fact that the Constitution, you know, has not been violated. That factory should not have been established because the Constitution says you cannot do anything against that which contradicts the fundamentals of Islam.

So then the second option is to deal with hypocrisy. So you recognize a principle in your Constitution and other laws, then you, as a government or an individual, start drinking, which are against the fundamentals of Islam. You cannot have it both ways.

Now, for a jurist, this is a problem. This has been done. It's practical. Yes, you can be flexible, but I mean talking in strict jurisdictional terms, in terms of jurisprudence, you can't do that. So in the Constitution you have to have it one way. You can't have it both ways.

So that's why I said my understanding is that, in countries like Afghanistan, in Muslim countries, there is a third way; that is to say, okay, you will recognize the freedom of speech, but in a relative way. Now, if you don't like that term,

you want absolute freedom of speech, then you have another problem. Then, you first have to separate the state and the church. Then, you will have no problem.

That's what the liberal democracies have done. That's what Turkey has done. It's the only Muslim country that has done that. The other Muslim countries that you see, they are involved in hypocrisy. They pass laws which do not mean anything in practice. That's what we call liberal Islamic regimes. There are no liberal Islamic regimes. You are either a Muslim country or you're not a Muslim. If you are a Muslim country, then you must abide by the law that you pass.

Now, I have now problem in saying, no, we will not pass these laws. Fine. But once you do it, if you are serious, if you want to be a law-abiding state and a law-abiding society, then you must go by the law that you have passed, but that's my main concern, and that is a gray area, and we can reconcile it. But let me assure you that, yes, this is a problem.

I'm going to write a book about it. I'm right now working on it. I mean, the absolutism and the relativism in the Muslim democracies. Thank you. That was clarification.

COMMISSIONER SADAT: Thank you so much, Mr. Maroofi.

I have one follow-up point, and then I think Commissioner Land had something he wanted to ask, and then Professor Qazi could respond, since he hasn't had an opportunity to speak, before we turn back to the left-hand side.

It seemed to me when I was understanding, and perhaps I misunderstood Professor Vogel's remarks, but I think he was suggesting that there could be a space in which human rights could flourish in a liberal sense, if you had an Islamic state, but the state wasn't itself the enforcer of Islam; is that correct? And if that was true, I don't see any difficulty in reconciling the need for universal human rights with the existence of an

Islamic state. So I think perhaps we have a difference of view on the panel as to whether those things can coexist or not.

My follow-up question was perhaps for Mr. Qazi and also coming back to Mr. Maroofi. Women are seriously underrepresented in the Judicial Commission and the Constitutional Drafting Committee, and so I have some concerns, based on what Minister Hoquqmal noted, as to whether or not women's rights are going to be sufficiently addressed in those instruments.

I know I've given you a lot to think about. Commissioner Land, I think will have another question, but perhaps we could come to those issues one more time, and we'll start with Professor Qazi.

PROFESSOR QAZI [Interpreted from Persian]: Before I will answer question, I would like to [inaudible].

This is about the worries and concerns our friends have about the situation in Afghan for now and future. My example is that I see a lot of Afghans here that have come from very far-away places. They are all worried about the future of the country, and they want to reconstruct the country, and they would like the world to help them.

I think this is a very good message for our friends of the world, and also for us Afghans, that Afghans want to be with the world. And Afghans, with the rest of the world, like the rest of the world, would like to have all the rights of human beings.

If we like to speak about Islam, let's talk about the history of Islam, but if you want to talk about Afghanistan, let's talk about the history of Afghanistan. If we talk about Islam, Islamists believe in four books, and if they don't believe in one of those books, they are not Muslim.

If we are talking about Afghanistan, we talk about a century of democracy in Afghanistan, how Afghans were starting to develop and be part of the human society.

You know that there was this war was brought on, and of course the wars always destroy and take everything with it.

And for Afghanistan now, after all Afghanistan have been through with the wars and everything, with this short time, Afghanistan has taken a lot of positive steps.

Let me give an example of us being here, Afghans being here and participating in this conference is a very positive step that Afghans want to be part of humanity.

I will now answer the question. You are talking about how many men or women are in the Commission. I think the biggest Commission should be that even bodies and even minds will be there. It doesn't matter if they are women or men. And we are hoping that the new future people will be selected on their qualifications and ability and by law.

There is a Commission by the name of Civil--

THE INTERPRETER: What is Commission?

COMMISSIONER SADAT: Civil Service Commission.

PROFESSOR QAZI [Interpreted from Persian]: --that their job will be to see that all of the laws will be implemented.

COMMISSIONER SADAT: Thank you so much, and I know that Professor Qazi actually is on the Civil Service Commission, actually.

I think, given the time, Richard Land is going to make a short statement about some of the issues that have been raised, and then Commissioner Gaer will give us instructions as to where lunch will be.

I'm afraid, given our time constraints, we're going to have to continue the conversation informally over lunch. I know we've had a great deal to think about, and there will be time for questions, I have been assured, this afternoon.

But now I will turn, I guess, the last word over to Commissioner Land.

COMMISSIONER LAND: I think that we have raised a very fundamental issue that has to be discussed and I suspect will overshadow the rest of our time together when we're talking about means and other issues, and that is the one that was raised about a very basic right that the human rights community believes is a universal right in Islamic countries, in Buddhist countries, in any country.

Article 18 of the Universal Declaration of Human Rights says, “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, in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

And I wonder if we might be able to resolve some of the tension between--to me, this is not a relative right. I think to the human rights community, this is not a relative right. It's a universal right. That's why it's called universal, not relative.

As Senator Hagel said, we're not out to make little cookie-cutter Americans. We're not saying, and the Universal Declaration of Human Rights is not saying, that everyone has to adopt the American system of a secular state, a separation of church and state. As much as I personally would recommend it to you, you don't have to do that.

If you want to have a country that is an Islamic country, where Islam predominates, and where you give official sanction and favoritism to Islam over other religions, and you choose to have Islam taught in the schools as part of the subject matter, that is your business. But to then say that a person cannot have freedom of conscience, I believe that Afghans have freedom of conscience to change their religion if they choose to do so without coercion from the state.

And speaking very undiplomatically and very forthrightly, if that is not recognized in the Afghan Constitution, it's going to be very, very difficult, if not impossible, to sustain the level of commitment that you heard this morning from our government officials because the American people will not have it.

They will not allow their money to be used to subsidy the denial of that basic right, the right that Pope John Paul II, who is not an American, said is “the right, without which all other rights are meaningless”, and that is the right to freedom of conscience in the area of religion.

CHAIRPERSON GAER: Well, Commissioner Shea just wanted to wrap up for a second as well.

COMMISSIONER SHEA: Well, I think this was a very interesting panel that set out some of the right questions for the rest of the day. If I could just briefly summarize, I think that this panel has agreed that, despite some positive steps, that universal individual human rights are being denied in some categories and that this is attributable to a number of factors that have been identified by some of the panelists, perhaps the foreign hard-line influence, perhaps the traditional culture in much of Afghanistan or to the security situation of Afghanistan.

We discussed this morning how best to ensure that human rights are realized in the short, medium or long term; that there may be a number of approaches:

One, finding flexibility within Islam and freeing the state from the responsibility of enforcement;

Another is to perhaps make human rights relative, that is, some are more enforceable and acceptable than others, maybe social rights, more acceptable than, less so--or less so are the civil and political rights. There's a tension here, and with the recognition that it would be hypocrisy for the Constitution to deny rights, but simply to resolve that by not enforcing the harsher provisions of the Constitution.

So we have much to learn from the rest of the day and the further panels will get deeper into some of the questions.

DR. SACHEDINA: May I? I won't be here in the afternoon, and I really need to make one final point, to bring to bear on the experience which we have, and I think there are two issues.

Sister Anwari has brought up a very important issue. We are dealing with the cultural legitimacy of human rights in the Islamic World, and there's a larger issue that we need to really tackle very seriously.

And the other important issue is the battle between culture and religion within the Afghan society, now how that is going to play out, and resolving the issues that are very important. It's not only the right to freedom of religion, it's the women's right that I'm more concerned about.

The women are not given that right, not because it's Islamic or Sharia tradition, but there is a strong cultural tradition that interferes with the human rights document, and therefore it's extremely important to tackle honestly the culture of Afghanistan which is both tribal, and it is male chauvinist country, and then guarantee some of the issues that we want to see the spirit transmitted in the Constitution, including the freedom to believe and the freedom of conscience.

If we are talking about the outside influence, which is the influence of Saudi Arabia in the Islamic World, then we are denying women the existence of conscience. Then we really need to come out in the spirit of the Koran to speak about that, and that should be enshrined.

And I agree with Mr. Maroofi that, yes, there is this battle going on how exactly should we implement the human rights values, but I think it's extremely important to find a cultural legitimacy for the universal rights in Afghanistan first, and that's where the dynamics between religion and culture should play out itself.

Thank you very much.

[Applause.]

CHAIRPERSON GAER: I particularly want to thank all of the panelists who participated in this discussion. We have not turned to the audience, but we will do that in the afternoon. This has been quite an exchange.

I also want to thank our Commissioners who served as moderators. There is more to come after lunch. We have a brief break for lunch.

The luncheon will conclude at 1:15, and we will be back for the afternoon session in another room, which is The George Washington University Moot Courtroom, which is right near the luncheon. We will begin promptly at 1:30 this afternoon.

Thank you all. We will continue after lunch. Thank you.

[Whereupon, at 12:25 p.m., the proceedings were adjourned to reconvene at 1:30 p.m. the same day.]

A F T E R N O O N S E S S I O N

1:41 p.m.

COMMISSIONER YOUNG: We do have some microphones and some stage microphones brought down so people can hear each other, but we are delighted to welcome you here for the afternoon session. We do wish the break had been longer because, as in all conferences, we sense that among the most useful interchanges actually occur on a more informal basis.

So we will have later in the afternoon a break, which our moderators will rigorously enforce, to give you another chance to continue the conversations that you began over lunch, but we will get started at this point.

I want to thank, again, all of our panelists and participants from this morning. I thought it was enormously profitable and informative in a variety of different ways, ways in which I think we will try to explore more fully this afternoon.

Now, we will have the opportunity over the next few minutes of hearing from three different speakers, and let me start with the first, whom we are absolutely delighted and honored to have with us today.

We have His Excellency, the Minister of Justice, Mr. Karimi, who is with us heading the delegation from Afghanistan. He has had a distinguished legal career outlined in your materials, and I won't repeat that other than to say that it is a great opportunity for us to have him with us today and invite him to speak to the group at this point.

[Applause.]

MINISTER KARIMI [Interpreted from Persian]: In the name of God, the merciful, compassionate, first of all, I would like to express thanks for the Religious Freedom Commission which has prepared and convened such an occasion. We are satisfied from what has been said and the way the discussions went ahead.

On behalf of the Cabinet of Afghanistan, I would like to express thanks for the assistance which is extended to us from the United States and other members of the international community.

This time is short. I would like to go into detail and talk about political matters. There are certain aspects which has been discussed this morning. I would refer to them and make certain points.

I would like to say, until we make or establish principles, we cannot talk about other matters which is relevant to that principles. In other words, principles are more important than subsidiary things. There is no difference or, another word, there is no contradiction between religion and science. Obviously, there is some problem, there is some differences, and we got to the understanding of the religion and understanding of science.

The understanding of religion is not the religion itself. In understanding the religion, there can be mistakes and misunderstandings. When we analyze religion, there is a possibility of mistake, and it is a possibility of understanding it correctly. So, in that regard, it will be consistent, and in that way, we can channel out and thorough understanding of matters.

When we talk about understanding in regard to education, in regard to the religion, we can talk about three aspects of it. To understand religion from inside of it, from outside of it--not three things--from outside and from inside the understanding of religion.

The problem with understanding of religion in the Middle Ages, when they got to the religion, was that they wanted to know or they knew or they let the people to know the internal matters of religion. They won't allow the people to know the outside of it, external aspect of it.

At that time, in Europe, when the people started wanting to understand the religion, the Catholic society would not accept that. Because of this, what happened, the result of it, was that the religion, as a whole, was thrown out. And then, of course, there was the science of the religion, a type of [inaudible] occurred, which in fact they tried to understand religion through scientific, through analysis of what is going on, without the interference of the priests and the rest.

As far as religion is concerned, anyway we've got no problem. Understanding it there is a problem. Some people, obviously, they interpret things so rigidly and so restrictively that this causes problem. But if you go out of it and broadly interpret that, then there will be no problem in that.

If we understand religion scientifically, then a gate will be opened for the understanding of science, technology, and there is room for it, to utilize that and benefit from it. Some people may wonder when we're talking about understanding of religion internally, core of it, and then from external. Perhaps we can refer the matter to the source of Islam, at that time when Mohammed the Prophet, which he mentioned a verse on that one, referred to it and said that the morality, and morality is something which is, in fact, relevant to religion.

If morality is observed, that will strengthen the religion on the other side. The person who was, in fact, a leading force on that one, which, in fact, we call Imam [?] Soli[?], who was in the Eastern society a noble person which adhered to that approach. He was a philosopher, and he knew, and then from that he used, and he understood, the modern science and for the understanding of religion, he used the modern science.

It's very difficult to say now in our society that we are not going to reflect and the Constitution. The time is short. I would like to make it brief. There are two aspects of the religion. One is the rules, which cannot be changed, but there are the rules also in our religion, they are flexible, and they are changeable.

Also, there's some principles which are, of course, rigid, perhaps solid, but on the other side there are matters or ways or approaches that religion on subsidiary matters or maybe perhaps some principles can be changed. The religion which was introduced by the Taliban, that was a religion anti-human, anti-freedom, and very rigid, but the true religion is not like that.

If we lose science or knowledge from our hand, wherever he finds it, a Muslim can get it and make use of it. The Koran inside divides the society or human society in two sections; one of society where there's peace, where there's knowledge, science, and the other side of it--a society which lives in peace, the other society where there's always crisis, disturbance and ways and techniques of annoying human beings.

One of the dictums of Islam or the principles are dual societies which lives in peace and dictates to Muslims to go and cooperate with them, and make an assistance with them and be partners with them.

At this time, in this period, when we are working towards internationalism, and obviously there are societies, countries who helped us in beating the terrorism and helped us to stabilize our country, and at that time we do need to seek assistance from them and seek help from them, you know, for the furtherance of the ideals, and goals, and obviously to promote our ambitions.

As the Minister of Justice, as the representative of the Cabinet of Afghanistan, I would like to say that the time of Taliban is gone. After this, there will be a democratic society, and that society will have laws which, in fact, consider all the values of the international societies; in other words, all of the standards and norms of the international society, and meanwhile it will consider the main principle of the Islamic religion as well.

God willing, Afghanistan will soon find its way for a society where law applies, where legality applies, and the freedom of expression prevails, and the human

rights are preserved, and the rights of women are guaranteed. We'll go ahead in that way, and in that approach we'll gain that.

In fact, if one thinks within one day we can transform the traditional society to a civil society, that may be too much, but time will show us that we are going, we are applying ourselves, we are, in fact, directing ourselves to approach that fast.

In Europe, of course, the people came, like Descartes, Montesquieu, and those other people, to help the people, help their society to let them pass those traditional societies and go to the civil society, and they are now in that stage and that standard.

I will end my speech by saying that at the beginning, the name of Medina, where Mohammed lived and preached, the name of it was Yathrib, and then it was changed its name to Medina, where law prevailed, where dignity of human beings was observed and kept. So we are going to, with the help of our people, we are going to lead our society to that direction to be like this.

Thank you very much.

[Applause.]

COMMISSIONER YOUNG: Mr. Minister, thank you very much for your very insightful and helpful remarks. We appreciate your presence a great deal at this conference.

Before I introduce our next two speakers, I wonder if I could get those who actually have coats on chairs, we actually have people standing in the back, and I realize the coats enjoy the chairs, but the people might more. So if you have a coat on a chair, remove it and allow people to sit down, we would appreciate it very much.

Thank you.

It's a great honor to introduce Judge Tunheim, who is District Court judge from Minnesota and has been such since 1995, after a very distinguished and successful legal career preceding that.

We asked Judge Tunheim, in particular, to come because he has extensive experience, of course, not only as an American judge, with all that that implies with respect to judicial independence and interpretation of constitutions, but for today's purposes, also, a very important background in terms of working with other countries as they have been developing their legal systems--in particular, Hungary, Kazakhstan, Macedonia and other places that he has visited and engaged in this work.

So we've invited him to come today and to share his insights with us, and we very much appreciate his taking time out of a very busy schedule to join us.

Judge Tunheim?

[Applause.]

JUDGE TUNHEIM: Thank you, Dean Young. It's great to be here at George Washington University Law School, a wonderful school. I want to talk to you a little bit today, primarily about our work in Kosovo, which I think bears some similarities to the situation in Afghanistan. There surely are differences as well, but in recent times it probably comes as close as any experience can to what is going on in Afghanistan now, and maybe there are some lessons to be learned.

I want to emphasize first my firm belief that a primary component of the rule of law in any jurisdiction is an independent judiciary, a judiciary that's accountable to the constitution and to international agreements, which have the effect of a constitution.

Without an effective system of rule of law, crimes cannot be fairly prosecuted, human rights violations cannot be redressed, and property disputes simply can't be resolved - and that's the foundation of investment in a market economy.

I'm going to give you the one-minute recap on the situation in Kosovo to bring us up to date. Many of you recall Kosovo, the Serbian province, which the

situation resulted in an urgent need to rebuild, almost from ground zero, the judiciary and the rule of law.

After Serb minorities complained of discrimination, Kosovo's Albanian and Muslim people lost their substantial autonomy in 1989, and they were dissolved. The Albanian Parliament was dissolved. Albanians were dismissed from all government jobs, including the firing of all ethnic Albanian judges, education, publications, cultural activities, and indeed use of the Albanian language was suppressed.

And the police and the Yugoslav Army were used to enforce the Serbian decrees, which of course engendered a response by the Albanians, who organized a sophisticated parallel government and organized military opposition to the Serb-run government.

Clashes grew worse as the decade drew on in the '90s, and by 1998 clashes between the Serb military and police units and the Kosovar Liberation Army were frequent, suppression became brutal and indiscriminate, massacres of Kosovar citizens were discovered and the increasing urgency led to a peace deal, which the Serbs refused to sign.

And then, amid increasing reports of the killings of Kosovars, NATO commenced an air campaign which brought the world into the situation. Nearly a million Kosovars fled the country and a half-million more were displaced within Kosovo.

Finally, in June of 1999, Yugoslav military forces were withdrawn, and the United Nations authorized the Secretary General to establish an international civilian administration in Kosovo, and NATO KFOR troops moved in to reestablish security, and therein lies the situation. What to do about a judicial system.

Refugees were streaming back into Kosovo, returning to a ravaged landscape. Sixty to seventy percent of the housing was badly damaged or destroyed,

much of the infrastructure was badly damaged. Many of the ethnic Serbs had fled to Serbia. The ones who remained were engaged in ethnic clashes with the Albanians.

The United Nations first established an emergency judicial system, with appointments of some judges and prosecutors and some of the courts and the Organization for Security and Cooperation in Europe moved in to begin plans for training of judges and monitoring court proceedings.

But the problem was the system literally ground to a halt over a dispute over what the applicable law should be. The U.N.'s first decree was that the law in March of 1989 would remain in effect, and the Albanian leaders, including judges, refused to apply that law because it had been discriminatorily applied against them in the 1990s.

Therein, followed a relatively debilitating period of uncertainty and dissension, until December, when the U.N. agreed that the law would be as it was in March of 1989, when the Albanians were removed from the system, to be applied, of course, consistent now with international human rights standards.

That cleared the path for Albanian judges to go to work, but exactly what the law was in 1989 was not clear because there really were no code books that remained from that era. The security situation was problematic, confinement institutions and facilities had been destroyed, and the international military forces and the international police corps had different priorities and spoke different languages.

Large numbers of judges were soon appointed, but there were no courthouses or code books, few arrests, and no one really knew what to do. There, I was asked, along with a group from the State Department and the Justice Department, to examine what was going on in Kosovo and to come up with an assessment of what was necessary to really jump-start the rule of law in this situation that I've just described for

you. So we spent most of a month in early 2000 visiting every court and thoroughly assessing the situation.

There were a lot of immediate problems, and some of these problems I think mirror problems in Afghanistan. First, the applicable law, which I mentioned. Uncertainty made it impossible to figure out what the substantive law was in the province of Kosovo. So how can a judge make a decision without knowing what the law was?

The 1989 law needed to be researched and modified, upon comparison to comply with international human rights standards. Judges, frankly, needed copies of the laws, and jurisdictional disputes between the courts had to be resolved.

The process was started to write modern criminal procedure laws and criminal codes, but that process takes some time, but it was a very slow and ineffective system for drafting laws, with the United Nations being in the middle of the approval process.

I have often thought that, at that time, what Kosovo really needed was a prewritten criminal and civil code, fully consistent with recognized international standards, with trainers who were ready to teach the judges how to apply the codes. This would be an interim set of laws that would be consistent with the international agreements and to be put in place on a temporary basis until a Kosovar parliament could be elected and new laws developed for the province.

In the meantime, my advice to the judges was to do your best, but do something. You simply can't sit and wait for the perfect code to be written. Criminals needed to be fairly prosecuted, instead of released, laws needed to be enforced. The paralysis was really crippling.

Training. Judges and prosecutors had no training, not only on applicable law, but also no training on international human rights standards, which the U.N. pledged to apply. The new judges were woefully inept and either inexperienced or hopelessly out

of date. Those who had experience had been judges only in the old Yugoslav system under the Communist dictatorship.

We did start a Judicial Training Institute that was designed to train judges on the substantive law, but also on international standards, on independence, on ethics, on practical judging skills and on case management. And despite a fine facility, not a lot of progress has been made yet in training judges in Kosovo, after three- and-a-half years.

Court facilities. All courthouses were significantly damaged or occupied by international administrators. So what we did was detail all of the work that needed to be done--literally, an engineer crawling in the basements of the courthouses.

You can't run a court system without supplies. In the end, we put together a Quick Start Program that was funded by the State Department, which brought everything that was necessary to run a courthouse. It really turned out to be an amazingly successful and well-organized, quickly organized program to enable the courts to start working--computers, metal detectors, typewriters, everything that you need, down to pens and paper.

Trial monitoring and assessment is another topic that's very important for accountability purposes and for due process purposes. And to make sure that human rights are being respected, there needs to be an effective system of trial monitoring and assessment.

The OSCE was, at first, very ineffective with this in Kosovo, but over time their work has improved. Monitors observe high-profile trials and statistics are published, and transparency is the key.

Court security. Security was a key issue in Kosovo, as it is in Afghanistan, as we have heard today. Judicial independence is really impossible in a society that's permeated by ethnic, and political and even religious conflict. Both personal safety and the safety of sensitive evidence and files needed to be assured. More

guards were assigned, metal detectors were installed. The security is still a big concern in a society where organized crime is present.

Coordination with the police is also important. It is especially difficult in Kosovo because the police who are there were international police from countries all around the world. None of them spoke Albanian. Can you imagine the coordination problems with the judges and prosecutors when there was a language barrier and a different language every time a person was arrested.

The big success story in Kosovo is the development of the police academy, which the State Department has largely funded. It has trained hundreds upon hundreds of new police members for Kosovo, both Serb and Albanian alike, working together, and it's been a great success.

Case management was another area we addressed with new computer systems to replace the old files that were stolen or destroyed. Confinement systems are very important. The large penitentiary in Kosovo had been destroyed by the bombing, and therefore jails needed to be rebuilt and staffed. It was especially critical to develop separate jail facilities and detention facilities for the women inmates and for juvenile detainees.

Defense lawyers. Kosovo suffered from a huge shortage of defense lawyers who were qualified. Back in early 2000, there were as few as about a dozen private lawyers practicing in Kosovo. So the establishment of a bar examination, defense lawyer training and legal training was especially important, as was the development of a tradition of aggressive defense of accused criminals. Attitudes needed to be changed.

Kosovo provided many special human rights concerns. In particular, ethnic bias was, and is, open and quite prevalent. The military forces there dealt with the issue by segregation, which was not really the right solution, but it was quick, and easy, and convenient at the time.

The ideal in Kosovo is a society where all of the ethnic groups--Albanian, Serbs, Turks, Roma, and everyone--can live together peacefully, and obviously a lot of time will be necessary to heal those wounds, and our goal was to make sure that there was a foundation in place for all sectors touching the judiciary for a multi-ethnic society.

Appointment of Serb judges and prosecutors was key. Quite a number were appointed, but nearly all refused to serve because of the security concerns. The pressure remains for Serb appointments and some progress has been made.

It's still very difficult for Serb defendants to get fair trials and sometimes difficult to even prosecute notorious Albanian defendants. Some war crimes have yet to be prosecuted, especially against Albanian defendants. Organized crime and corruption provides significant prosecution problems and judges' salaries are far too low.

At first, a War and Ethnic Crimes Court was proposed in a secure facility. The U.S. opposed that. It was abandoned, and the replacement was international judges--local judges from other participating countries who would come in to take the difficult cases. This is not a great solution, but it has resulted in fair trials for ethnic minorities, and it's a system that should be phased out soon.

There's a lot of other checklist areas that one needs to look at in developing the judiciary, but in closing I want to just give you a fairly critical observation about the development of the rule of law anywhere, and that is the key to have an independent judiciary.

A judiciary that's not independent or free from political or personal influence is not going to be the foundation for a free, and open, and prosperous society. That means structural independence. Are judges appointed on the basis of skills and experience? Are they paid well enough to resist bribes and resist influence? Are their terms of office long enough so that they need not fear the result of an unpopular decision?

Can they be removed for political reasons? These are important questions to answer if the rule of law is to take root.

It also means a different kind of independence, and this is based more on my experience throughout the Eastern Europe and Central Asia. Many of those countries have very structurally strong systems. They have constitutions that are strong. Judges can't be unfairly removed.

But judges in many of those countries do not have the training, the experience, the knowledge and the understanding to be independent judges. It takes maturity, it takes courage, it takes willpower and the easy decision is not always the best decision. So please bear that in mind as well. An independent judiciary is really a key.

There's many pieces to the puzzle that is the rule of law and the development of the rule of law. We still have problems here in the United States, and we've been working at it for more than 200 years. But remember that when there is a void in the development of the rule of law, where there's a fundamental dispute that lingers for a long period of time without resolution, where there are holes in the system, bad things happen, and it's inevitable.

When the criminal justice system cannot effectively prosecute crimes, organized crime and corruption will step right into place. When there's no agreement on what the law is, then a politician or even a judge can impose his own views; and when judges are not trained in international human rights standards, human rights abuses can flourish; and when there's no effective defense counsel, then the rights of everyone can easily be abused by the police.

The foundation to the rule of law has many, many blocks, and all of them need to be addressed. I've touched on just some of them from my experience in Kosovo and elsewhere. I'm going to conclude my remarks so that we can hopefully get us back on time schedule.

Is there time for questions now or should that be later? Later. Okay. Fine. Thank you.

[Applause.]

COMMISSIONER YOUNG: Judge Tunheim, thank you very much. An enormous repository of very valuable information about the task on which everyone is embarked here. Thank you.

I'm now delighted to introduce Mavis Leno, who is the chair of the Feminist Majority's Campaign for Afghan Women and Girls, a role she assumed in 1997, just shortly after the worst of the oppression of women was begun by the Taliban. We're delighted to have her with us to help us focus a bit on the issue that was raised in a number of different ways and a number of times this morning.

Thank you.

[Applause.]

MS. LENO: Well, we've come a long way. There are a lot of faces in this audience that I've been seeing for years now, and we've come a long way from the first time we all met, as far as Afghanistan is concerned, but obviously the job is only halfway completed. And this is actually a critical juncture because there will now be a perception amongst many people that everything is taken care of because the Taliban are gone, as though they had evaporated into thin air.

The Taliban are not gone, we all know that and other people who have a similar view, though they may name themselves differently, and they will continue to try and reinsert themselves into positions of power, and some of them have already succeeded.

So it is extremely critical for women in Afghanistan to have the most legal support for their rights which is possible. Many, many people here have spoken about

the fact that some of the limitation that women experience in Afghanistan stems from cultural tradition.

Well, we didn't have a culture where women were allowed to do anything they wanted either. There are hardly any countries on the face of this earth that originally had cultures where women had very much say so on what was going on, but we got it for ourselves. And, believe me, I have known enough Afghan women now to know that if they have a vote and a legal voice in their government, things will move forward at a pace that will just surprise everybody.

It's their job from there because, as an American and as a person who's not a Muslim, I wouldn't have any idea what specific things Afghan women would like to have and how they would like to obtain them. That is entirely the job of these women, and as I say, I know they're well up to it. But what we can help with is encouraging the perpetuation of all of the rights that were given to women in the 1964 Constitution and those new rights and protections that may be necessarily added as the new Constitution is written, but I do think it's significant that women were given equal rights in a Constitution in Afghanistan in 1964, when women in Switzerland could not vote, but women in Afghanistan could. It probably wasn't very heavily implemented at that time, but what people write in the Constitution, as certainly every American in this room dearly loves our Constitution, what we write in a Constitution is our best hopes for our society, and I think it's very significant that all the way back in 1964, when feminism certainly wasn't on the march in this country, that one of the best hopes that the Afghans had for their country was that women would stand shoulder-to-shoulder some day, and, as the Chinese people say, hold up their share of the sky.

Now, before any of that can have any real effect in the actual world, we have to make sure that the government that currently is in Afghanistan survives, we have to make sure that the country has a chance to rebuild itself, we have to make sure that

they have enough time to rebuild an Army, a judicial system, a police system of their own, and it's just not possible to do that overnight.

And while this country, and this government, are surrounded with chaotic fringe groups, and as several people mentioned earlier on in the day, with outsiders that want to meddle--I'm not saying the Saudis, but I'm not, not saying the Saudis--

[Laughter.]

MS. LENO: At any rate, with all of that going on, the United States has got to commit itself very, very heavily to providing defense for the current government and financing for the rebuilding of the country and of course for humanitarian aid, and if anybody knows how to get rain, that would be useful too.

My organization, the Feminist Majority, was heavily involved in the Afghan Freedom Support Act, which has now been signed into law. It's a wonderful act. It covers everything that probably anyone in this room thinks is needed to make everything work out well in Afghanistan, but we've got to get funding for it. We're working very hard on that. The people that were involved in passing this bill are working very hard on that. Anybody in this audience that has any pull anywhere at all should be working hard on that too.

The money has to come from somewhere, and everybody we talk to thinks it's a wonderful idea, and the money should come from somewhere, just not from them. So we have to make sure that that is attended to.

In that act, the Women's Ministry and the Human Rights Commission do receive funding. We want to make sure that that is direct funding to them, not filtered through anybody else, but in the hands of the women that are running these organizations, and we feel that direct funding to Afghan-led institutions is the most effective way to go, and I think it's a place where America is lagging behind.

There's been a lot of talk about, well, it's accountability problems, but my understanding is that the current government has gone very far out of their way to create lots of ways by which they can provide accountability, and I think that this is another thing that anybody here who has the ability to apply pressure on the government should address.

We still asked for explicit inclusion of women's rights and human rights in the Constitution and throughout the judiciary, and we would very much like a strong representation of women in the judiciary and the Parliament. We would also like, the Human Rights Commission has called for the establishment and operation of an independent radio station to increase women's rights and human rights awareness throughout the country. This seems like an imminently doable thing.

I would look long and hard at the people who wouldn't want this to happen because people that don't want other people to have information are worth a second look, and I strongly urge that this be implemented as soon as possible because I don't think it would be very expensive or difficult to do at all.

The other key element, of course, we know that Afghanistan has lost almost all of its infrastructure. We just can't go fast enough to help rebuild that. We have to get funding for this bill, get the goods over there, get going because I know this country has wonderful resources. They have all of the capacity to be totally self-supporting in a very successful way, and they just need some roads and bridges so that they can get where they're going to and bring the goods back again. And we really have to have more peacekeepers on the ground, vastly more peacekeepers--

[Applause.]

MS. LENO: --or if there was any other solution that is as good and as comprehensive, but so far a lot of governmental plans, which I take is very well-intentioned, are just insufficient. We understand there's a current proposal for eight mini

bases with 60 personnel each. This is not going to take care of the kind of druglords and mad men that have little fiefdoms all over this country, which have thrived probably in part because of the lack of infrastructure. Undoubtedly, as roads are rebuilt and so forth, it will be easier to wiggle these guys out of their little kingdoms and send them on their way. They could go to Saudi Arabia.

[Laughter.]

MS. LENO: I really think that we owe it to this new government to give it the greatest, most overwhelming chance to succeed imaginable. We've passed the bill that would provide these things. All we have to do is fund it, put our money where our mouth is. I will say that the attitude throughout the whole government right now seems to be 100-percent acknowledgement that we have to help the Afghan people make a success of this, that we have to be seen to follow through on what we have initiated or helped to initiate, and we certainly should be seen to be builders, not just dismantlers of situations.

So I feel that everybody is on the same page, as far as what they want. It's just a matter of how much money they will be willing to cough up to make it a reality. So this is what I know from this point, and I will also say, when a society is stable, it becomes very easy for women to utilize the rights that their government grants them. Women cannot come out of their house and go to schools if there are violent and crazy people able to get them off the streets unpunished, if there are violent and crazy people burning down their schools before they can go to them, and this has been happening all over Afghanistan.

So one key ingredient in giving women back their human and civil rights is to give the country back a society in which people can have human and civil rights without being kidnapped, murdered, abused, imprisoned, et cetera, and also that in

societies where women participate equally, those societies tend to be both prosperous and stable. Everybody wins when women win.

Thank you.

[Applause.]

CHAIRPERSON GAER: I would like to invite the panelists for the second panel to come to the front table. The moderators of this panel on implementing human rights protections are Commissioner Richard Land and Commissioner Firuz Kazemzadeh.

The panelists include Neamat Nojumi, Gay McDougall, Ian Martin, Sima Wali, Dr. Mohammad Qasim Hashimzai, Mohammad Farid Hamidi, Fatima Gailani, and Minister Karimi is also joining this panel.

The panel will run until--we've had a slight change in our time--the panel will run until 3:45.

COMMISSIONER LAND: Before we start Panel Two, I've been asked by several people during the lunch break to make a clarification, which I'm happy to do. I was asked, evidently some of the press got the impression that a statement that I made at the end of the first panel, somehow I was speaking for the Administration. Now, I don't know how that could be since I'm not part of the Administration.

The Commission is appointed by, three by the President, two by the Democratic leadership in the Senate, and two by the Democratic leadership in the House, and one Republican--by the Republican leadership in each house. So it's always a five-to-four Commission. It's a bipartisan Commission.

I happen to have been appointed by President Bush, but I can assure you I'm not speaking for the Administration. I wish I were. I'm actually speaking to the Administration, and I was making a statement which, you know, somebody asked me if I

was talking about conditionality. I wasn't using that term. I wouldn't make it as crass as that.

I was making a prediction, and the prediction is, is that it will be very difficult, in a representative democracy like the United States, for the American government to keep a long-term, massive commitment to rebuild Afghanistan if basic freedom of conscience is not recognized in that country, if all Afghans don't have basic freedom of conscience - including the right to change their religion - because the Congressmen will be under such duress from their constituencies that they will not be able to sustain it. And that was more of a prediction than it was a suggestion, and that's just one American voter's opinion.

Panel number two is to deal with implementing human rights protections. The purpose of this panel is to determine how to meet the challenge of implementing human rights protections in a highly decentralized Afghanistan, much of which is under the control of warlords, rather than the central government.

And what this panel will attempt to discuss are approaches to neutralizing the warlords, providing effective security throughout the country, strengthening Afghanistan's National Human Rights Commission, and assuring that women have the knowledge and training to assert their rights, and Commissioner Kazemzadeh is going to introduce the panel.

COMMISSIONER KAZEMZADEH: I am not a lawyer and don't have a booming voice.

[Laughter.]

COMMISSIONER KAZEMZADEH: I hope you can all hear me.

First of all, a little clarification. A note was passed to me to the effect that Mr. Farid Hamidi from the Human Rights Commission is in the third panel, not the second one. And on the second panel we have Ms. Hanagama Anwari.

Now, we have heard this morning, and many of us were impressed once again by the enormous complexity of the situation in Afghanistan. Simplifications are always easy and always dangerous.

We talk about human rights, but human rights aren't worth much unless they are implemented, and it is the implementation of these human rights that concerns us now on the second panel.

We have a distinguished panel. Their names have already been read to us. Let me repeat, we have here Mr. Neamat Nojumi, who is identified on my list as a former anti-Soviet Mujahid, who fought, it says, "alongside, but not for, several of the warlords who are in power today." He has been a United States AID Afghanistan food security contractor and has written on religious freedom in Afghanistan.

We have Ms. Gay McDougall, who is the Executive Director of the International Human Rights Law Group. We have Mr. Ian Martin, Vice President of the International Center for Transitional Justice and the former Secretary General of Amnesty International, an organization known to all of you, very much concerned with all manners of human rights.

We have Ms. Sima Wali, President of Refugee Women in Development, an organization that originally dealt only with refugees and internally displaced persons, but recently broadened its scope to cover disadvantaged women and children throughout Afghanistan.

We have Dr. Mohammad Qasim Hashimzai, who is the Director of the Secretariat of the Judicial Reform Commission. He was, until recently, Deputy Minister of Justice.

We have with us, and he has already been introduced and spoke to us, His Excellency Abdul Rahim Karimi, the Minister of Justice.

And we have with us Ms. Hanagama Anwari, on the Human Rights Commission in Afghanistan.

I want to welcome all of you, once again. Dr. Land, you'll ask the first question.

COMMISSIONER LAND: Well, it's impossible, as we've heard from some--I'm not a lawyer either, but I do have a booming voice, so I trust you can hear me.

[Laughter.]

COMMISSIONER LAND: It is impossible to protect human rights without physical protection from those who would abuse them. Until the Afghan government can protect its citizens, which may be a way in the future, it will have to rely on the international community to help provide the security.

The Commission has recommended the expansion of the ISAF beyond Kabul as a way of doing this. The U.S. is, instead, sending mixed military civilian provincial reconstruction teams to major centers outside the capital. This may or may not be effective.

The independent National Human Rights Commission has been assigned by the Bonn Agreement to investigate and monitor human rights abuses, development of indigenous capacity for protecting human rights, and especially champion the rights of women and girls in Afghan society. However, the Commission has been seen as a threat by the transitional administration, rather than a means to perfect it, and we need to see how we can strengthen it in its important work.

I'd like to start with a question for, first, for Mr. Nojumi, since you've known several warlords up close.

[Laughter.]

COMMISSIONER LAND: The warlords, to outside observers, seem firmly entrenched, both in the transitional central government and its governors or

effective rulers of many of the provinces outside the capital. Do you believe that this is an acceptable situation? How can human rights be protected in the areas they control? And when do you think we will see genuinely representative government throughout Afghanistan?

MR. NOJUMI: I treat it as a multi-level question, but I'll try to be as short as possible.

First of all, I would like to thank the Commission for putting this magnificent gathering together and very welcome for the Afghan friends and officials who came faraway here to express their opinion and share their vision with the international community.

Let's start with the point that the international human rights systems is a legitimate system which has been expected around the world in almost all countries. But as far as Afghanistan is concerned, there is a conceptual gap between the international human rights system and what's going on in Afghanistan.

If we go back to the history of the international human rights system, we may notice the Universal Declaration, the Universal Human Rights Declaration, being initially formed over 60 years ago in New York at Eleanor Roosevelt's apartment.

The purpose of putting that together was to protect citizens from the state. Traditionally, in Afghanistan, we have always had a weak state, by state I mean weak government and institution. In this regard, the concept generally is a Western concept. It doesn't really apply that much from this perspective in Afghanistan. It doesn't mean that the component or the basic or the mandates of the Declaration is not valid, it's absolutely valid, and we all know the legitimacy of it.

But when we apply that to Afghanistan, in Afghanistan, we have two types of constitution; one is unwritten constitution, which has been practiced for many, many years and is still practicing in a variety of different parts of the Afghan society, and the

other is the Constitution being formed and written in Kabul, which one way or the other was not really influential in the daily lives of ordinary Afghans around the country.

I had the opportunity to go to Afghanistan last year and cover studies in 15 provinces. I had the opportunity to go and talk to a variety of different levels and segments of Afghan society, and people who we call them "warlords," and those of the official government, and women, and I was recruiting women, both sexes, women and men into the workshops I was putting together and training them and sending them back for the program we had.

In this regard, I would like to ask and encourage the Afghan officials, and all of those who support Afghanistan, to adopt a new look at the Afghan tradition which has been accepted, practiced by the Afghan people.

For instance, at this moment, all of the financial contracts, agreements, has been done or have been done without the interfering of the government, the central government. The majority of Afghans who are married, do not have a certificate from the government. People are picking issues, according to their customs, their social contracts, in a way that helps them to manage their life.

In this case, I would like to, and I believe that the only way that we can really issue the importance or the improvements of human rights in Afghanistan is to find new ways, be a little more creative. Afghanistan is different than many other countries. We cannot find a model and pick that model and impose in Afghanistan.

For that purpose, I think the best way is to develop a process which can be based on double track. In one track, we put our emphasis, and effort, and resources to the governmental institutions. On the other side, on the second track, we give people a chance. Let Afghan community to have their rights like they had before. For many years, Afghan community enjoyed some sort of autonomy, and they approached a matter of social--especially individual and communal rights according to what they agreed on.

As far as the individual rights and human rights is concerned, in the past, and currently, the Afghan citizens in the urban centers generally use the government resources as a last resort. They try everything else. Assuming there is spousal abuse in a family, they go to the local mosque or local elders or the prominent individuals in the community. If that thing couldn't be solved, then they go to the government.

The same thing in the rural areas. People, there are limits for each person to go individually to the government. For instance, they have to go through hierarchical social ladders to go through their local jirga, and the local jirga is influenced, one way or the other, by the malik, in the past, or landlord, and now by people who we call the warlords. In this regard, the double-track process is the only way that we can really have a new look on addressing the justice and the improvement of human rights in Afghanistan.

COMMISSIONER LAND: Mr. Nojumi, thank you. I appreciate that. Our time schedule has been even further compressed by the events of the day, so we do need to try to keep our answers as succinct as we can.

Ian Martin, what are some of the current obstacles to the effective protection of human rights in Afghanistan, particularly in the areas that are not under the control of the transitional government?

MR. MARTIN: First, I'd like to make clear that I have no claim to be an expert on Afghanistan; that one thing Afghanistan shares with a lot of other countries is the terrible problem of facing a major legacy of human rights abuse in the past, as well as the challenge of providing human rights protection in the present.

Our organization, the International Center for Transitional Justice, exists to try to enable people, in devising their own approaches, in their own context, which must always be different from one country to another, at least the benefit from the experience of other countries, and in that context, we are trying to be of what assistance

we can to the Afghan Independent Human Rights Commission, which has been given the mandate to consider transitional justice questions, as well as current human rights education and protection, and in that context I, and colleagues, were in Kabul in December.

The first obstacle, and it's been said, but probably didn't figure enough in our discussions this morning, is security, and I'm glad that you referred to your own recommendation as Commissioners, quite rightly, on expanding the institutional security presence beyond Kabul, and I was surprised that representatives of the administration didn't address that recommendation of your own Commission, because however unrealistic it may seem that anything is going to be done in that direction, it has to be repeated that in failing to provide security out of Kabul, the international community is very seriously letting down the Transitional Administration, all of those fighting for human rights in Afghanistan, and indeed its very own efforts in reconstructing Afghanistan.

That is not going to be answered by the joint reconstruction teams that you referred to, and there was a brief reference this morning to them, which will send small groups of civil military teams into the provinces. They have no security mandate, and it is even possible that they could further undermine the need for the central government and civilian authority to establish itself locally by strengthening the nexus between the coalition military and local military commanders, local warlords. So that is the first thing that has to be said.

The second thing that should be said, I think, is that the international community is not playing as strong a role in current human rights protection as it ought to be.

My own work before my present role was largely in the efforts of the international community, particularly the United Nations, to provide on-the-ground

human rights protection in a number of conflict and post-conflict situations, and that is, in particular, the responsibility of UNAMA in Afghanistan. Eventually, of course, it is the responsibility of the Afghan Independent Human Rights Commission.

But however much one believes that effort should be Afghan owned and Afghan led, human rights protection in a situation of acute insecurity is one where the international community has to take a strong responsibility, and I believe that the extent to which that is being fulfilled by particularly the United Nations on the ground needs to be reexamined. And the extent to which the United States is using, not its State Department voice on human rights issues, but its Pentagon voice in its dealings with individual commanders on the ground is, in fact, a strong voice for human rights protection.

And then, thirdly, and briefly, at this stage, our particular involvements, as I said, relates to how one looks at past abuses. Of course, unless there's some security, unless there's some possibility of current human rights protection, what can be done about the past is limited, but it, too, should not be overlooked in this situation. It would be premature, of course, to think that with the justice system in the condition that has been discussed, there could be prosecutions now for past human rights abuses.

I believe it was a sound decision to ask the Afghan Human Rights Commission to consult broadly throughout Afghanistan and gradually develop a transitional justice strategy, but there is an international responsibility there too.

Asma Jahangir, the UN Special Rapporteur on Extra Judicial, Summary or Arbitrary Executions, has recommended that there should be an independent international commission of inquiry, not to begin extensive investigations, but at least to begin to map out what is the legacy of the past and then to discuss with the Afghan Independent Human Rights Commission how it should be addressed.

I believe that is a sound recommendation. I believe it is one that would rightly give a signal that even if accountability cannot be immediate, it is at least, in prospect, and that that would be an important signal to those who have abused human rights in the past and remain in the position to do so today.

Thank you.

COMMISSIONER KAZEMZADEH: I have a multi-layered question for Ms. Wali and Ms. McDougall.

The question is what is the potential of the Human Rights Commission to advance human rights protection throughout Afghanistan, and what may be hampering its development and activities, and then, of course, what can the U.S., the U.N., and other members of the international community do to strengthen its capacity to carry out its mandate under the Bonn Agreement? For both of you ladies.

MS. McDOUGALL: Shall I just--

MS. WALI: Go ahead.

MS. McDOUGALL: I guess, well, first of all, I'd just start by echoing Ian Martin's comments that I'm not an expert on Afghanistan. My organization is there on the ground, has an office working with civil society organizations, as we have done in many countries around the world, helping to strengthen their role in these critical processes of constitution-making and human rights enforcement.

So not as an expert, and I would turn the microphone over to the experts, especially Commissioner Anwari. I would say this much about the Commission: if you look at the constituent document, which at this point is the presidential decree, it gives a range of authority and independence to the Human Rights Commission that is quite significant. It's been drafted in accordance with the U.N. principles on the status of independent national institutions, it gives a range of independence, immunity from civil

and criminal prosecution, removal by external authorities, and very importantly, I think, budgetary independence.

It's got subpoena power, it can initiate inquiries, investigations, summon witnesses, all of the tools that it would need to be extremely effective over the near term, mid term and long term because I think that all of these powers are not going to be quite useful immediately to the Commission, and perhaps the most important thing on its agenda right now is establishing itself, educating a population about the importance of the universally recognized human rights guarantees, and those instruments, international instruments, that the government, in fact, has ratified in the past--the importance of the equality of women in a society, et cetera.

But I would quickly say that I think that there are a couple of things that must be essential for guaranteeing its effectiveness in the near and mid term. First of all, of course, the security situation, there is no good approach to investigating abuses or to educating a population if you can't get out of your own major capital, and I think Ian Martin has spoken about the security gap.

Secondly, this is a, if you will, transitional authority, that the Commission is operating under now. I think that it is critically important that these powers that it has now, this autonomy, this independence, gets it entrenched in the Constitution as it is drafted and adopted over the upcoming year, and that, as well, the Constitution give a strong base of guarantees of rights that are, as someone said earlier, a statement of the values and aspirations of the Afghan people, and this is a strong statement of national commitment to the work that the Human Rights Commission will be charged with doing.

I think it is important work that the Commission will be undertaking to see that the Constitution-making process is owned by the people of Afghanistan, the civil society. We will offer our assistance in every way possible in that process.

Just briefly, let me just say that I think that what is very important, from the U.S. government, is to see much more recognition of a commitment, over the long term, to building the human infrastructure of Afghanistan, the justice structure of Afghanistan, building mechanisms that will assure the ownership of these institutions by the people. It's not a short-term process building sustainable institutions. I don't think it can be jump-started, but I think that what we need to do is to show that we're with this process over the long term and that we're willing to put significant resources into it and into guaranteeing, as the Bonn Agreement made clear in several provisions, the importance of the participation of women in all aspects of these institutions.

MS. WALI: I'd like to echo some of what Gay McDougall was saying. I think this is where we need long-term international support and from the U.N., both financial and moral, to basically strengthen the individual and the collective capacities of the Commission and the Commissioners, particularly with regards to women. Because if that message is not very clear, I think you will lose another major opportunity in the developing, tolerant and democratic Afghanistan.

It is imperative that we also promote human rights education and gender equity issues. That language must be strongly protected and safeguarded in the Constitution. What my concern is that there seems to be very little debate in developing the Constitution and the Constitution language. There is a lack of public debate, and if you're talking about an Afghan society that has changed demographically as a result of 23 years of war, we're talking about 60-percent women. However, when you look at those ratios, very few women are represented, and unfortunately the women we have in the current political commissions lack the capacity, and so therefore we need to upgrade their own capacity and to render support to them. They need to get a commitment from the international community to protect them.

And most importantly, the issue of warlords, I mean we have to hear talk about the duplicity of the war against terrorism being braved in Afghanistan and the fact that the nation is being built, while at the same time we have very powerful warlords that are representative in the government and are holding major positions of power. So how can you balance that? How can the Human Rights Commissioners basically address those issues?

We need to talk about the balance while we are creating an Afghanistan. What is lacking is the debate and the discourse of creating a very strong balance between the powerful political institutions and the independent sector, the NGOs. We need to create bridges and a balance between those two institutions. We need to do that in order to help create a mind-set, and here I must add a caveat that, unfortunately, the Taliban mentality still reigns. We need to be able to promote human rights education, to protect the witnesses that come forward and protect the Commissioners who are courageous enough to come forward and address the major and flagrant violations of human rights.

So, in order to create a tolerant Afghan society, you need to create a discourse between the Afghan people and the powerful political institutions. There is very little now of that happening.

COMMISSIONER LAND: Thank you.

If I could ask as a follow-up Ms. Gailani or Ms. Anwari, would either of you like to comment on this question?

MS. GAILANI: Yes. Actually, it's very important how we protect human rights, which I don't separate from women's rights and democracy. The three, for me, come together.

For me, it has two aspects: What we can do inside Afghanistan and what the donor countries can do. I believe that initially we should start by not giving even a slight space for double standards and sacrificing democracy, women's rights, and human

rights the way it was done during jihad, during our fight against Soviet Union, that everyone was so preoccupied and so busy thinking how the fight of two superpowers and Cold War should be won, so there wasn't even a slight question of what will happen to women's rights, what will happen to democracy, and the more hard-line, the more extremist you were, the more help you would get. So that should be totally out of question, out of scene.

As Sima Wali said, I agree with her, that still there are those people existing not only in Afghanistan, but within the government.

The other thing is that we should stop comparing today's Afghanistan with the time of Taliban because anything will look good compared with Taliban.

[Laughter.]

[Applause.]

MS. GAILANI: We should look forward and have an Afghanistan which will look good at any standard, and we have the capacity. We can do that.

I believe that we, on our part, we should take things seriously. We should emphasize, even if there is some danger, as Mr. Nojumi said, we have to take this danger now. If we fought a superpower, and we prevailed, we should do that now for democracy and human rights and women's rights.

On the other hand, the donors should tie very, very hard tie, these principles of human rights, women's rights, and democracy with every single aid which comes to Afghanistan.

[Applause.]

MS. GAILANI: I think it can be done. Yes, constitutions did exist only in Kabul, but we saw, during democracy, that slowly it did trickle inside villages and outside Kabul too.

When we talk about strong government, for me, a strong government is not a government which has lots of weapons and is capable of lots of killing and all of that. For me, a strong government is which has the support of people, which has the people who can believe in it. I believe that if we have a good Constitution, a Constitution on the paper, and then we have next to it a government that people can believe in it and can look up into the leadership, look up into the ministers and capable people in it, I have no doubt that it will trickle through the whole society.

Thank you.

MS. ANWARI: Thank you. I would just add some comments, if you allow me, on the presentations that were given, in terms of the National Human Rights Commission perspective.

The first discussion was regarding the security and the position of the central government of Afghanistan for expanding the security out of the Kabul, which is very much clear that we need lots of support from ISAF, international security and peacekeeping forces.

But the thing that we would like to emphasize is the mechanism of the security expansion, which the ISAF expansion, of course, it is a good thing to expand, but we need to look at that much more carefully. What sort of mechanism ISAF would take and would have a specific objective and a specific period of time, what will be the achievement of ISAF in Afghanistan? Which the first one is to collect all of the weapons, and demobilize or demilitarize the country.

The second thing, regarding the security and expansion of the authority of the central government out of Kabul, is to end the power of the people who we call them warlords. For that, one of the recommendations that we want to put forward is that the new Constitution in Afghanistan should just end all the political parties which was for during this 23 years of war in Afghanistan. Under the new Constitution, there should be

clear criteria and conditions for forming a political party, because the reason, which is very much clear, that using the means of political activity, and as I said in the morning, using the religious feeling and moral feeling of Afghan community was the cause of all of this destruction in Afghanistan, in many ways.

My second comment is regarding the women's situation and women's rights in Afghanistan under the new Constitution and the reconstruction process in Afghanistan; that special attention should be paid to the women's situation in a specific period of time. Because maybe for next five or ten years in Afghanistan, we will need specific terms, articles, orders regarding ensuring women's rights in the Constitution and all of the legal system of Afghanistan.

Because, as an example, I want to just share with you that, in the Constitution, they are called citizens. In the broader means or explanation or definition, it means men and women. But, unfortunately, in Afghanistan, when you call citizens, there are primary citizens and secondary citizens in the minds and thoughts of the people. To avoid this kind of interpretation of citizens, we need a clear definition of citizenship in the Constitution of Afghanistan. I am again emphasizing that it will be a requirement for a specific period of time.

Equally, it is very much important to have the equal participation, to make sure that equal participation of women in all of the political actions at the country level is there. For that, we need specific conditions in the Constitution, specific, like based on the population of women in Afghanistan. We need to consider their rule and participation in the whole process that is going on.

The third comment is regarding the warlord or the transitional justice in Afghanistan. One is the violations which has happened in the past in Afghanistan, which is very much difficult now today, in the situation that we are now in Afghanistan, to address all of these violations. Because of lack of the security, lack of the empowerment,

and lack of the awareness of the people themselves, it is very difficult to address all of these violations, but it doesn't mean that we should stop looking into all of these violations. Because if we are not addressing the violations which has happened in the past, then today we have, again, all of these violations which was in this 23 years of war. Now we are facing it again, and in the future, we will have it again.

That is why specific attention to be paid. But for this attention, in my view, and in the Commission's view, the rule of community, Afghan community, Afghan nation is very much important. Equally, it is important, the international way of thinking and feeling, but the Afghan nation, themselves, should decide how they want to deal with the violations which was happening in this 23 years of war.

I would just finish for now.

COMMISSIONER LAND: Commissioner Gaer had a question she wanted to address.

CHAIRPERSON GAER: I want to ask the panelists about some dangerous signs, in terms of human rights in Afghanistan right now. We spoke earlier today about deaths, about security problems, about a lack of credible investigations on a variety of levels.

We understand that even on issues related to women and education, there are now persons distributing notes saying don't send your girl children to school; that mullahs are preaching and saying don't send the girls to school; that jobs outside the home are being discouraged; that despite the defeat of the Taliban, there are restrictions in different areas on dress and in movement by women; there is harassment, rather than protection, taking place; and a recent report by Human Rights Watch says that women are sometimes even pulled off the streets for gynecological examinations—especially if they're discovered in the company of an unrelated male.

These are troubling reports, to say the least. My question is simple: who is there to help and who is there to listen?

I'd like to ask this of all of our panelists, but particularly our guests from Afghanistan: have any of the international NGOs that are present, the U.N. that's present or any of the agents of the Afghan government helped to provide you any kind of protections? Is anybody in the United States Embassy paying attention to human rights issues on a regular basis and providing any assistance on any of these problems?

If you want this to be done by foreigners at all, then that's another question. My underlying question is something that Thomas Jefferson is reported to have said, when he was writing the Declaration of Independence, and felt very lonely, “Is anybody there, and does anybody care?”

MS. GAILANI: Yes, they do care. For the last nine months that I have been living back--I move back to Afghanistan--I hear that from all sorts of people, from the Europeans, from Americans, and with several meetings that I had with the President, he is very concerned, and he continuously does ask people what should be done.

The remedy I have maybe does not sound that popular today. I strongly believe that most of these things we can fight with Islam because now those people that we have been just talking about, those people that they are looking for slight excuse just to trigger the trouble, and start a chaotic situation, they would like a foreigner to do such a thing. They would like foreign soldiers to go and say, “Why do you bother this girl,” and all of that.

I think it should be done by the government, and I think government should recruit young, educated Muslim jurists and Muslim experts who do exist in our society. I know quite a few of them. And they can support any legal support for women, in this case, because all of these things that you said they are absolutely totally against

Islam. Actually, they're not supposed to be done, and Islam could protect these women from that.

For example, if a man in a village, when in the constitution education becomes compulsory, so how could you make a man in a village to send a girl? If you say because America says so or the Western society says so, they will not listen, but if you go and open Koran and say that, look, it is written here, and you are going against the first order of God, I'm sure that man will have a second thought.

This question that Ms. Leno said about the radio, it is so important. People are listening to radio all the time that they are awake. They just listen to the radio. I have become addicted to radio.

[Laughter.]

MS. GAILANI: So people listen to radio. If we could put these messages into dramas and things that men and women get attached with, these days easily they get attached with things. So it is very important to have.

The other thing I was discussing a few days ago in Kabul with the Minister, that we don't have any place where women could go if they have a problem, and they are imprisoned or they have a legal problem, there isn't any place that they can go. We don't have proper lawyers to protect them or give them legal aid. So it is very important that we have an independent legal body there that is really for women to be protected.

MS. WALI: May I add one point?

COMMISSIONER LAND: Yes, please.

MS. WALI: I think one issue that we need to address is the fact that, is the issue of the power of the warlords and the foreign intervention, which was not--I was in Bonn, and I was a signatory to the peace agreements. Unfortunately, that issue was not addressed adequately. Well, it was not addressed at all in the Bonn Agreements.

It's not really a question of pouring in aid because irrespective of the small amount of aid that the U.S. puts in, the drug culture and the power of the warlords actually far supersedes the aid that is given to Afghanistan.

So if you're talking about really creating an Afghanistan, in which the people, where the peace dividend is transferred to the people, we need to disarm, demobilize and to make sure that the foreign intervention and the power of the warlords is eradicated.

This is why we're talking about two issues--the expansion of the security forces, other than Kabul, to bolster the central government, and most importantly, when you're dealing with people who have regressive, and throughout the process of the war, have been influenced by neighboring countries and by extremist Islamic principles, I mean, according to them, that we need to make sure that the people of Afghanistan, women in particular, are educated in understanding their own rights within the Islamic framework.

And I work with NGOs in the field with women and men who support them. These are Afghan women. I just came from Afghanistan, and across the board, they're all asking for education within the Islamic context as to how to understand human rights and women's rights within the Islamic context so that they can argue with the powers that be.

And again the issue of the drug economy must be addressed if we are to talk about an Afghanistan where women and men feel that they are free enough to create a tolerant and a democratic Afghan society.

And, unfortunately, my last point is that there is not enough support and inclusion of moderate-minded Afghans and tolerant-minded Afghans in positions of power. We're talking about a very, in addition to that, we're talking about the very highly

professional and committed Afghan men and women in the diaspora, and, unfortunately, those linkages have not been made.

COMMISSIONER KAZEMZADEH: Who can and how can they break the power of the warlords, Mr. Nojumi?

MR. NOJUMI: It seems I am the only expert dealing with warlords--

[Laughter.]

MR. NOJUMI: --and I hope my suggestion helps a little bit in the process.

During my years serving the Afghan resistance in the '80s, one thing that I have really discovered was the power of the people, the power of the local communities. In Afghanistan, traditionally, in the whole history of the Afghan government, as an institution, we have seen failures of the government again, and again, and again. And it was the Afghan people, the local community; they were the ones who came to help in the time of crisis, during the British invasion, during the Soviet invasion and after.

Traditionally, in Afghan society, we have a safety network. That safety network is comprised or led by very experienced leadership who really understood the nuts and bolts of the local community, and they could communicate with people. Unfortunately, because of the war, because of the influence of warlords, we have lost that generation of leadership.

And in addition to that, a massive displacement of refugees and for several times people have been pushed, people back and forth into their community, and they have lost their local resources to establish their civil society back and protect themselves.

What I have said at the beginning, the double-track process, in one track, the government's responsibility is to be accountable to its citizens, working through the Constitution, and of course we have, in the previous session, we have talked about the 1964 Constitution, but there have been a lot of changes in Afghanistan in all aspects. Of course, that has to be elevated to the current legal needs of the Afghan society.

And the general framework of the Constitution is still not really defined. Is this Constitution separate, the branches of the government or not? As far as the judicial system is concerned, in my personal opinion, the judicial system currently doesn't have a direction. They need to ask, generally and honestly, the professionals who can help them. By professional, I don't mean those that have a degree from some universities, also seek those who have expertise in the Afghan tradition.

Another point which I would like to really emphasize on this, again, on the notion of Afghan tradition. There are so many notions that I can make a big list that has no problem with international human rights and no problem with the Universal Declaration of Human Rights, which I have briefly presented in a paper that I provided for the Commission today.

There is a list of it, and we have to adopt the Afghan traditional notions that provide valuable experience and provide the popular language. We need to combine that within the national human rights system in Afghanistan, and make human rights system as a general, as an indigenous, as a national one, not something that's been imported, as Ms. Gailani mentioned and other friends, from abroad, in order to achieve all of this, and especially at the time that we are really suffering from the confusion and uncertainty in Afghanistan.

For instance, as I said, there are customs being practiced in the country that really the government doesn't have the power at this moment to interfere, and neither or nor the local traditions.

For instance, in Harat, last year, 100 girls committed suicide just running away from forced marriages. They set them on fire, according to reports from the Harat hospital. At the same time, the level of depression is so high in every level, and the facilities are not there.

In order to really address this, we need to have gradual approach for this. One, as I said, working through the government, launching a massive campaign of providing information, by training the judicial system, the law enforcement and enforcing or including human rights quotas into the educational system of the country.

Second, we need to support, we need to understand the role of the Human Rights Commission, Independent Human Rights Commission in Afghanistan. It has a vital role on other NGOs and organizations that are working in the field.

Thirdly, we need to understand the role of the international donors, as mentioned. I suggest that the State Department has to come out with an official, as the U.S. Commission for International Religious Freedom has suggested, to have an official in Afghanistan, in Kabul, to monitor, cooperate with the Human Rights Commission and other NGOs. The whole importance of human rights has to be bound with the U.S. policy in order to, in respect to the current government and the future government, as far as the U.S. assistance is concerned.

COMMISSIONER KAZEMZADEH: We are running out of time. I'm sorry.

MR. NOJUMI: I'm done. Thank you.

COMMISSIONER SHEA: Can I follow up, though? I'd like to ask both Mr. Nojumi and Ms. Wali your views about the religious police. That's something that the government can take control of.

How can religious freedom exist with religious police that, as we see them act in Iran and Saudi Arabia, enforce judgments on the spot, no due process whatsoever? This is the religious beliefs and practices enforced by an arm of the state. I understand, Mr. Nojumi, that you've had a run-in with them, personally, but is this a problem for women as well? Can you just shed briefly, very briefly, shed a little light on what is going on there, and is the American government funding it?

MR. NOJUMI: The division that we call it religious police has been funded by the current government. Traditionally, it was not part of the traditional government system in Afghanistan. It is the product of the post-government, post-Soviet government in Afghanistan, and which was funded generally by the Council of Sheik originally under the Taliban from Saudi Arabia.

Currently, they claim that they are a part of the, they are working with the Justice Department, but on the street, I have noticed that they are not really following what the Justice Department suggests. They are on the street, and there is not really a clear definition of their role. If there is a civilian police, why those people are outside? If they are mullahs, they should be in the mosque.

COMMISSIONER SHEA: Ms. Wali, should they be around? Is there a role for them in this society?

MS. WALI: As Mr. Nojumi noted, this was a tradition that was created during the time of the Taliban. I mean, across the board, when you talk with Afghan men and women, as I have had with my team throughout the process of the war, they are saying that we don't have this tradition. They are totally opposed to the idea of this kind of police. It's a notion that was carried on from extreme fundamentalist Islamic societies which did not have a tradition in the Afghan society.

This is where a closer monitoring of the international community and the U.N. is required. When you have a government that the current government is not strong enough and it needs support to strengthen itself, one of the ways it appeases the very strong fanatics and the extremists who are in the current government is to appease them by creating, sort of reverting back to some of the practices during the time of the Taliban.

So this is where, as I said, aid must be made conditional on the principle that it promotes women's rights, democracy, peace, freedom, as we signed in Bonn, and we have to create a broad-based, multi-ethnic, and gender-sensitive government, and

human rights is a major component of the Bonn Agreement. If the international community lets that lapse, we will have lost a very major opportunity here.

COMMISSIONER KAZEMZADEH: My Chairperson reminds me that we have only 10 minutes left and that we should let the audience ask a few questions. I see several hands.

[Laughter.]

COMMISSIONER LAND: Ask them to identify themselves.

DR. SHORISH: [Off microphone.] I am Dr. Shorish. I am with Women's Alliance for Peace and Human Rights in Afghanistan. I am [inaudible], and I have been learning about Islam and women's human rights for 25 years. So I've been very frustrated because you cannot voice what you think.

First of all, on education, on Islam and women's rights and human rights, I hold accountable the government of Muslim countries because they purposely--I'm not talking just about Afghanistan, the entire Muslim world--they purposely control religious knowledge and deny it to the masses. And the mullahs, who work for them, interpreted the Koran the way they wanted it to be.

So, therefore, the person or Muslims--I have been saying this to our government, the United States, to get the allies to educate their people on their rights in Islam, as well as United Nations, and international law, as well as share the wealth, and give them freedom and democracy. Unless that is done, we cannot get anywhere in the Muslim world, particularly regarding human rights.

COMMISSIONER KAZEMZADEH: The question?

DR. SHORISH: No, comments.

COMMISSIONER KAZEMZADEH: We would like a question.

DR. SHORISH: No, please.

[Laughter.]

DR. SHORISH: Well, I'll ask a question.

[Laughter.]

DR. SHORISH: Regarding Islam and other religions, I mean, I didn't understand why a lot of people tried to explain in Islam anybody can practice their religion and Islam, supposedly, in Islamic world or in Islamic society. However--because Koran says there is no compulsion of religion. Therefore, you could be Christian, Jews, Buddhists, whatever religion--however, you cannot impose, you cannot go, in other words, a Muslim will get upset if the person who does not want to convert to another religion is put in a position and [inaudible]; in other words, there were a lot of groups, Christian groups, that went inside Afghanistan and told the people, you know, give them food and in the process converted them.

So that is not right because I don't want to be converted to a religion, and I don't want to convert you to a religion. There has to be mutual respect for all religions all over the world. So that is one of the things that I want--

Also, other question is to--

COMMISSIONER KAZEMZADEH: Excuse me.

DR. SHORISH: Professor Nojumi, please--

COMMISSIONER KAZEMZADEH: No.

DR. SHORISH: What did you mean by--

COMMISSIONER KAZEMZADEH: Zieba, you have to obey the rules of the proceedings. I'm sorry. We can ask only one more question, please.

MS. O'NEILL: I'm Rosemary O'Neill from the Women's Office of the State Department, and I would like to ask the Commissioner from the Human Rights Commission what the Commission has been occupied with the last few months, what they have been doing to organize themselves.

And, secondly, I would like to ask, with regards to the Constitution, will the Commissioners let the draft Constitution out to the public for discussion?

MS. ANWARI: Thank you for the question, but I will be very short because of the time.

And the activities that we have done in the Human Rights Commission in the last few months, one of the positive things is the establishment of satellite offices of the Human Rights Commission out of Kabul City, and four other provinces of the country, which will enable us to be more representative of Afghanistan out of the Kabul City and also observe and monitor the situation, in terms of violation of human rights or the practicing of the human rights.

The other major activity that we are taking care of is the networking and ongoing consultations with the Constitution Drafting Commission and with the Judicial Commission to ensure that all of the standards and principles of human rights is there.

Based on that, we organized lots of consultations, workshops, and meetings with different groups of people, men and women, in Kabul to collect ideas, comments, and recommendations of the people and transfer it to the Commission for the Constitution Drafting.

These are the two like major activities that we are doing now, and also the ongoing investigation in terms of violations that was happening and the human rights abuses and all of these things. There is a recording of all of these violations, and the complaints which has been coming to the Commission has been recorded and transferred to the relevant departments.

There are much more activities, but I'm afraid that the time will be short, and these are the major ones.

COMMISSIONER KAZEMZADEH: Thank you very much.

We have a request here from the Commissioners to ask, and this will be the concluding question, Mr. Martin and Ms. McDougall, whether you have any other comments on this whole issue of implementation with which we started, actually?

MR. MARTIN: Just to pick up from where Ms. Anwari left off, the Commission, obviously, in their circumstances in, has only been able to develop its work slowly, partly perhaps because of funding problems.

But the most reasonable expectations one can have of the ability of the Commission to become an effective investigative body, providing human rights protection, active in human rights education, acting on women's rights, in the context, must be a gradual one, and therefore the international community cannot stand behind the Human Rights Commission.

Of course, it must stand behind it in terms of giving it every support, but not in terms of saying that the only responsibility of the international community is to support the Human Rights Commission. The international community is strongly present on the ground, the United States is out in the provinces, it has a great deal of human rights information regarding current abuses. That information must be used by the United Nations, even more so by the United States in the most powerful relationship that it has with the current abusers of human rights to send a message of their accountability that is not at present being sent.

MS. McDOUGALL: Well, my closing comment would come back to the question that was not answered, and that is whether or not the draft of the Constitution would be public. My understanding is that it will in March, but there would be a substantial draft at that time.

But my closing comment is I think that the linchpin here, the critical issue is the degree to which the people of Afghanistan own this process and not seeing it as coming to them, even benevolently coming to them, but really that it grows out of their

experiences and their interests and their desires, and I think that that makes it imperative that the Constitution be discussed very broadly throughout civil society and that that is an effort that is supported in as many ways as possible and that, in fact, the conclusions of those discussions actually gets, in some way, folded back into the process so that there is a sense of input and participation that is meaningful and real.

COMMISSIONER KAZEMZADEH: Thank you.

Well, let me just thank all of the panelists for their contributions. This was most enlightening, and we are looking forward to our next panel.

Thank you.

[Applause.]

[Recess from 3:42 p.m. to 3:56 p.m.]

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, representives 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-KHELI: 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, not 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.]