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# HIMALAYAN AND CENTRAL ASIAN STUDIES

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(JOURNAL OF HIMALAYAN RESEARCH AND CULTURAL FOUNDATION)

NGO in Special Consultative Status with ECOSOC, United Nations

Vol. 8 Nos.2-3

April - September 2004

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Afghanistan and Central Asia: Differentiated Challenges and  
Priorities in the Twenty First Century

*Vijay Kapur*

Challenges to Democratization: Peace and Stability in Afghanistan

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Problems and Prospects of Constitutional Government  
in Afghanistan

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The United Nations Commission on Human Rights

(57<sup>th</sup> Session): A Report

*Sharad K. Soni*

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**Editor : K. WARIKOO**

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#### IN INDIA

Single Copy (Individual)	:	Rs.	150.00
Annual (Individual)	:	Rs.	400.00
Institutions	:	Rs.	500.00

#### & Libraries (Annual)

#### OVERSEAS (AIRMAIL)

Single Copy	:	US \$	15.00
		UK £	10.00
Annual (Individual)	:	US \$	30.00
		UK £	20.00
Institutions	:	US \$	50.00
& Libraries (Annual)		UK £	35.00

The publication of this journal (Vol.8, Nos.2-3, 2004) has been financially supported by the Indian Council of Historical Research. The responsibility for the facts stated or opinions expressed is entirely of the authors and not of the ICHR.

***Himalayan and Central Asian Studies* is indexed and abstracted in  
PAIS International (OCLC Public Affairs Information Service), USA**

*Subscriptions should be sent by crossed cheque or bank draft in favour of  
HIMALAYAN RESEARCH AND CULTURAL FOUNDATION,  
B-6/86, Safdarjung Enclave, New Delhi - 110029 (India)*

Printed and published by Prof. K. Warikoo on behalf of the Himalayan Research and Cultural Foundation, B-6/86, Safdarjung Enclave, New Delhi-110029. Printed at Print India, A-38/2, Mayapuri-I, New Delhi-64 and published at New Delhi.

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## *Editor's Page*

The Universal Declaration on Human Rights, International Covenant on Civil and Political Rights and other international instruments have established the linkage between democracy and human rights. The 1993 Vienna Declaration and Programme of Action reiterated that democracy, development and respect for human rights are inter-dependent. The strong institutions of democratic governance based on rule of law, on accountable and transparent executive and elected legislatures and an independent judiciary are the indicators of the health of a democracy. These benchmarks of a vibrant democracy were stressed in a seminar of experts organized by the Office of High Commissioner for Human Rights on 25-26 November 2002 at Geneva. The experts pointed out that between 1980 and 1990s, 81 countries claimed to have moved towards democracy, out of which only “47 are considered fully democratic” (See E/CN.4/2003/59 dated 27 January 2003). In this context, it is important to point out that some states which claim to be democratic, are only quasi-democratic states where the basic principles of free and fair elections, independent judiciary, equitable representation and equal distribution of wealth have been ignored by the regimes in power.

Terrorism constitutes a major threat to democracy, rule of law and administration of justice. Even though war against terror in Afghanistan was launched nearly three years ago, many basic freedoms- from insecurity, fear and poverty are yet to be achieved. The battle between the forces of democratization and those of destabilization in post-Taliban Afghanistan is still continuing. June 2004 Presidential and Parliamentary elections were thus deferred on the grounds that the security environment was not conducive for holding these elections as scheduled. However, the successful conduct of the Presidential elections in Afghanistan in October 2004 and election of Hamid Karzai as President, has been a welcome development.

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In the Indian State of Jammu and Kashmir, where terrorists have been seeking to thwart the election process, elections to the 14<sup>th</sup> Lok Sabha were successfully held in April-May 2004. In these Parliamentary elections, terrorists again targeted political leaders, workers and voters by hurling grenades at election rallies and polling booths in order to disrupt the smooth conduct of democratic process in Jammu and Kashmir. Notwithstanding these odds, the overall voter turnout in the State increased from 32.2 per cent in the 1999 parliamentary elections to 35.2 per cent this time. Besides, these elections witnessed the emergence of competitive politics in the State with all the four mainstream parties – National Conference, Congress, BJP and PDP locked in the contest. As such, by the successful holding of 2004 parliamentary polls, the people of Jammu and Kashmir have not only affirmed their faith in Indian nationhood and democracy, but have chosen their representatives to voice their aspirations in the Indian Parliament.

Similarly, elections to the Mongolian parliament (*Ulsyn Ikh-Khural*) were held in June 2004. Quite unexpectedly, the election threw up a hung parliament. Out of the total 76 seats, the ruling Mongolian People's Revolutionary Party (MPRP) could win only 37 seats, whereas the Mongolian Democratic Coalition (MDC) secured 35 seats. With the result, the two parties had but to join to form the 'grand coalition' government, which is a new experiment in governance in Mongolia.

It is against this background that this issue of *Himalayan and Central Asian Studies* is focussed on the problems and prospects of democratisation in Asia. Case studies of the election experiences in Afghanistan, Mongolia and the Indian State of Jammu and Kashmir are presented here.

**K. Warikoo**

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## **AFGHANISTAN AND CENTRAL ASIA: DIFFERENTIATED CHALLENGES AND PRIORITIES IN THE TWENTY FIRST CENTURY**

*Vijay Kapur*

A crucial dialogue in the recently released Indian movie 'Escape from the Taliban' vividly sums up the challenges facing the Afghanistan/Central Asian region in today's world. Based on a true story, the movie chronicles the odyssey of a Bengali woman from Kolkata in India as she negotiates the travails of post-marital resettlement in rural Afghanistan where tribal values dominate and influence both social norms and individual belief systems. Her constant efforts to mail a letter to her family in Kolkata are stymied because the location of the post office is unknown to any family member. Ultimately she is led by an elderly and sympathetic family member to the ruins of a brick structure which used to be the area's post office before its decimation in the civil war and chronic political instability which followed the ill fated Soviet invasion of December 1979. The key ingredient of a burgeoning civil society-free movement of information and ideas at the individual and institutional levels-has been missing from the infrastructure of Afghan society for more than two decades and is even now a patchy presence on the Afghan landscape despite the purported return of stability following the United Nations backed installation of the Hamid Karzai government in Kabul in December 2001. The tragedy of Afghanistan has been constant turbulence and conflict exacerbated by deep seated ethnic suspicions fuelled by outside actors seeking to further their own national and strategic interests within the polarized Afghan body politic.

These intrinsic truths outline the pivotal challenges facing this region, twelve years after the break up of the former Soviet Union in 1991 and fourteen years after the end of the Cold War in 1989. In this atmosphere of turbulence, the rights of citizens to the enjoyment of basic liberties or economic security remain elusive. The "Global War on

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Terror”, initiated after the tragic events of September 11, 2001 in New York City, has served to legitimise personality based democratic authoritarianism at the political level in the Central Asian Republics of Kyrgyzstan, Kazakhstan, Tajikistan, Turkmenistan and Uzbekistan who are now considered as ‘frontline states’ in this struggle. Afghan politics remains mired in the old ethnic rivalries with the influence and reach of the Karzai regime being limited at the best outside the Kabul region. The erstwhile monolithic and polyglot Soviet state had no framework for encouraging citizen participation or development of democratic institutions at any level of the political hierarchy. Hence its sudden demise *ipso facto* produced a political vacuum, which in the now newly independent Central Asian Republics provided a via media for the now extant Soviet era leadership to re-emerge with their own vision of ‘democratic autocracy’. The structural dimension of these states remained motivated by the same absence of citizen participation and institutional pluralism which had marked the former Soviet state thereby providing a fresh lease of life to authoritarian governance and oligarchic elitism now masquerading as the forerunners of deliberate incremental change. The fallout of the events of September 11, 2001 – with their focus on rooting out terror and *ipso facto* developing a proactive identity for an effective nation state – has reinforced the regimes in Central Asia, which are now considered as a major bulwark against the expansion of Islamic fundamentalism in the region. The resignation of Georgian President Eduard Shevardnadze – a pivotal American ally in the region – owing to street protests which he claimed were carefully choreographed from outside the region since he had outlived his usefulness as a compliant ally, will dull any incentive by existing Central Asian leaders to expand the outreach of democratic institutions and motivate citizen participation in governance at least in the foreseeable short term. The landscape in the Afghanistan/Central Asian region is replete with multiple political and economic challenges that will be discussed in the sections that follow.

## **CHALLENGES AND PRIORITIES**

The beginning of the twenty first century was heralded as the beginning of a sustained period of economic growth that would transcend geographic boundaries and make the fruits of such efforts available to all irrespective of global location. American President Ronald Reagan (1981-1989) had spoken about the ‘assault of the totalitarian forces who seek subversion and conflict around the globe to further their assault on the human spirit’ in his ‘Evil Empire’ speech of 1982. The ‘Evil Empire’, a reference to the former Soviet Union, was now history and it was felt that peace and prosperity had dawned. The establishment of the World Trade Organisation (WTO) in early 1996 after the end of tortuous negotiations between member states had raised hopes that the benefits of a globally connected economy would percolate into every nation state. Unfortunately the aftermath of the tragic events of September 11, 2001 changed these structural priorities because the world’s remaining superpower, the United States of America now sought to reassert its own overt influence on global geopolitical developments with a view to ensuring its own security. It is my contention that it was this policy imperative which motivated American President George W. Bush to contend in his *National Security Strategy Document* (September 2002) as follows:

We seek instead to create a balance of power that favours human freedom and conditions in which all nations and all societies can choose for themselves the rewards of political and economic liberty. We will extend the peace by encouraging free and open societies in every continent. And America will hold to account nations that are compromised by terror, including those who harbour terrorists because the allies of terror are the enemies of civilisation.

This document also institutionalised ‘unilateralism’ in preference to ‘collective security’ as an acceptable maxim in American foreign policy-dictum, which found its first application through the ongoing intervention in Iraq that began in late March 2003. The focus on the encouragement of ‘free and open societies’ found renewed resonance in a recent

speech by American President George W. Bush in Washington (November 2003) wherein he promoted the cause of democratic governance in the nations of the Middle East as a necessary foreign policy imperative. The constant evolution and refinement of this doctrine was in essence designed to promote the relevance of the post-September 11 American identity which placed emphasis on ideas of cultural and identity homogenisation at the micro individual nation state level while continuing to pay lip service to accepted tenets of tolerance and cultural heterogeneity at the macro level in institutional relations between nation states functioning as global actors. The potential for conflict in the usage of a paradigm, which seeks to legitimise the usage of contradictory variables as policy imperatives, is visible and apparent.

The challenges for the Russian Federation that evolved from the debris of the erstwhile Soviet Union were no less significant. The search for a new Russian identity had preoccupied Russian intellectuals and opinion makers since 1991, the first challenge being coexistence with the North Atlantic Treaty Organisation (NATO) as it sought to expand eastwards. The agreement with NATO through the Founding Act (1999) provided Russia a place at the table of functional NATO members but with no direct influence on decision-making or a veto on decisions. This perceived diminution in status was in itself difficult to accept for a nation like Russia, which was considered to be the successor state to the erstwhile Union of Soviet Socialist Republics (USSR). The economic meltdown in the new Russian state after 1991 was also a definitive blow to the self-esteem of the Russian Federation. A reflective article by Vadim Solovelev entitled *Washington Maintains the New World Order* (December 25, 1998) contended that “Washington would maintain the new world order and Moscow’s influence would be both limited and slight.” This assertion was particularly telling on a security establishment, which found itself suddenly irrelevant in the backdrop of NATO’s relentless eastward expansion and budgetary difficulties, which further eroded the operational effectiveness of the Russian military set up. America’s unilateral withdrawal from the Strategic Arms Limitation Treaty (SALT)

stocked more concerns in the Russian governmental set up, which felt that the United States was also questioning its perceived 'military primacy' in the Near Abroad a Russian euphemism for the newly independent nations comprising the Commonwealth of Independent States (CIS). The placement of American troop contingents in nations like Uzbekistan and Georgia in the aftermath of the events of September 11, ostensibly to pre-empt the forces promoting terror and instability, reinforced this feeling of vulnerability within the Russian political establishment. The only silver lining came in the Russian realisation that while they could not pre-empt such American moves in a unilateral manner they could ask for inclusion as equal partners in view of their proximity to the operational sectors concerned. American interest in oil and gas pipeline development extending through Armenia, Azerbaijan and Georgia among other nations to the Caspian Sea enabled Russia to demand its share in the shape of continued influence on developments in the region to the exclusion of American efforts at marginalisation. This proactive approach motivated the Russian establishment to further reinforce and expand their economic and military relationships with the new nation states in Central Asia as a counterpoise to growing American influence, a scenario which saw growth of Russian military contingents in Central Asian nations like Turkmenistan, Tajikistan and Kyrgyzstan. These troop placements were ostensibly to provide a bulwark against the movement of Islamic fundamentalist groupings into the region but also implicitly served to stabilise the 'democratic autarchies', which became the norm for what passed for effective governance in the region. My contention is that the challenges outlined and discussed in the following sections are just a sampling of the issues that continue to bedevil this region and serve as disincentives against the establishment of a modicum of long-term stability.

### *Survival as Nation States*

Rudyard Kipling coined the term 'great game' in the late nineteenth century to describe the Anglo-Russian rivalry for dominance in the Central Asian region. The usage of this buzzword in contemporary times

can be ascribed to the realisation among scholars that the changing dynamics of international politics have again invested this region with both added relevance and importance which to outsiders may sometimes appear misplaced and excessive in nature. Like the African continent, the Central Asian region has suffered the negative consequences of artificial geographical boundaries – a trend which first came forth in the Bolshevik proposal to establish five Soviet Republics in the Russian part of Central Asia (then called Turkestan) with avowedly unworkable boundaries. It is noteworthy that this proposal met with opposition from V. Barthold, the well-known scholar on Central Asia who contended that the region had no history of nationhood based on ethnicity and it would be an exercise replete with complications for the future. Despite his advice the division into five Republics as a part of the Soviet experience with decentralisation, but within the framework of a controlling central state apparatus, moved forward. It was never conceived by the then Soviet State that the Central Asian borders being redrawn by them for operational and administrative convenience in the 1920s would seven decades later become the borders of five independent nation states. The fact that these borders were never delimited or demarcated during the Soviet era has provided the seeds for conflict and distrust between the new state entities of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan over issues like water sharing and moving of migrant labour across borders, among others. The coexistence of the past has now been replaced with the equivalent of a ‘cold peace’ where the fragmentation of the area into five independent nations has posed massive challenges for cross border trade as well as movement of people in the region.

The situation in Afghanistan is not much better. Afghan nationhood can be traced back to the eighteenth century that saw the first emergence of an Afghan political identity. The fact that it was superimposed on a multi-ethnic tribal edifice provided its own distinct challenges, which continue to bedevil the survival of the Afghan state even today. Since tribal rivalries predominate within the Afghan setting

a breakdown of prominent tribal groupings would be both useful and instructive. These include:

- Afghans-47%
- Tajiks-26%
- Hazaras-12% (essentially of Mongol extraction)
- Uzbeks and Turcomans-8%
- Nuristanis and Balochs-7%

It is clear that the establishment of a political framework of governance over this grouping of tribes with their own distinctive history and traditions would require both diplomacy and force. The erstwhile ruling family of Afghanistan, the Mohammadzais- was able to achieve this through a policy of familial cooption with each individual tribal grouping. The overthrow of the monarchy in 1973 laid the seeds for the psychological disintegration of the Afghan nation state, a trend that was exacerbated through the Soviet occupation (1979-1989) and the after effects of the dogmatic and brutal rule by the Taliban (1996-2001). The arrival of Hamid Karzai, a representative of the Durrani tribe as President after the overthrow of the Taliban has raised hopes that the Afghan nation state will stabilise and survive. But this survival is dependent on the cooption or subjugation of the tribal warlords who hold sway in their zones of influence outside Kabul. Karzai's policy of reconciliation and/or appeasement offers the only possibility at this stage since the other alternative like fratricidal conflict will again submerge the Afghan region into a sea of mindless violence from which an early end appears improbable.

#### ***Growth of Fundamentalist and Extremist Forces***

Intellectual perceptions about the attitude of the Central Asian nations to the 'War on Terrorism' uniformly agree that Islamic fundamentalist values do not enjoy much prominence. This is attributed to the high level of literacy and the influence of moderate Islamic beliefs derived from the *Hanafi* school with its strong Sufi content. This school of Islamic thought is diametrically opposite to the conservative *Wahabi* school seen in Saudi Arabia as well as the medieval Taliban version of

Islam, which was influenced less by the Deobandi school and more by Afghan tribal practices. Hence the Central Asian Republics viewed Islamic radicalism, drug trafficking and terrorism as their major threats even prior to the tragedy of September 11. The belief that the instability in Afghanistan spilled over into their regions was widespread, especially during the period of Taliban dominance (1996-2001). Their inability to influence events in Afghanistan prior to the UN approved American intervention, even with Russian support, made them even more supportive of new American efforts to marginalize fundamentalist and extremist forces in the region. These moves to establish closer links with the United States certainly did not endear them to the increasingly nervous Russian establishment wary of the increasing American presence in their 'zone of influence'. The fact that this was motivated by efforts to marginalize Islamic fundamentalist and extremist forces provided the *locus standi* for the Russian establishment to keep its opposition muted at best. It is perhaps more than coincidental that the American as well as Central Asian response to Russian President Vladimir Putin's military offensive to restore Russian control in the breakaway Chechnya region, which was initiated in mid-2002, has been remarkably silent as well as ambiguously supportive. This reality underscores the realisation by the concerned state actors both regional and global that the removal of fundamentalist and extremist elements is essential for regional stability. The fact that the implementation of this policy imperative does little to promote ideals of democracy and pluralism, but instead strengthens the forces of authoritarian governance receives only a semblance of perfunctory criticism but is instead legitimised on grounds of real politik. The situation in Afghanistan, however, remains different in both conception and practice.

The history of Afghanistan provides little cause for comfort as far as the forces of extremism and fundamentalism are concerned. Afghan President Hamid Karzai is attempting to walk a tightrope between the semi-modern traditions of Afghan society and the expectations of the outside world. This contradiction is evident in the utilisation of the *Loya Jirga* akin to a Council of tribal elders as the device to provide

legitimacy to the UN brokered plan for Afghan governance and the later installation of the Hamid Karzai government. The *Loya Jirga* is at best a quasi-elected body of individuals, usually male, whose legitimacy is validated by historical precedent. True women have been given representation in the *Loya Jirga* constituted after the disappearance of the Taliban regime. But this representation remains ephemeral and limited at best. This situation poses its own set of difficult challenges at a time when a new Afghan constitution is being developed as a prelude to national elections planned for next year (2004). For example, defining the framework of the new Afghan state poses a difficult balancing act. With Islam being the religion of the majority, the draft calls Afghanistan an 'Islamic state'. But in deference to expectations from outside it also provides for 'freedom of religion'. The contradictions will become even more pronounced when the draft Constitution is adopted and becomes the basis for governance in Afghan society that at best remains rooted in tribal traditions and with little appreciation for democratic values and ideals. Hamid Karzai in a recent speech noted that the three main challenges for Afghanistan are: (i) Drug Trafficking, (ii) Regional Warlords and (iii) Presence of Terrorists and Remnants of the Taliban.

It is possible that the presence of terrorists and Taliban extremists can be removed through the concentrated use of force. But the marginalisation of regional warlords as well as the creation of an economic structure that obliterates dependence on drug trafficking is needed as an indispensable adjunct to rule by constitutional law in the new Afghan state. The chances of such a wide-ranging development within the Afghanistan of today remain bleak at best in the near future.

### ***The Arms Race in the Region***

The post 9/11 environment made the Central Asian region pivotal in the 'War on Terrorism'. Its proximity to the Islamic Republic of Iran as well as to the then Taliban ruled Afghanistan underscored its relevance as a major staging point for American forces involved in the 'War on Terror'. American policy makers understood the fact that the



region was nominally under Russian influence. But this variable was neutralised by assertions from the Kremlin through Russian President Putin that made fighting terrorism anywhere a global policy imperative. Within this framework it was normal that the five nations of the region would emerge as major players as staging areas and location points for this struggle. From a foreign policy perspective this scenario was even more useful since it diluted the importance of Pakistan as a staging area – a role it had played during the ill-fated Soviet occupation of Afghanistan between 1979-1989. This time, however, the framework was different since the Russian Federation and the United States were allies in the ‘War on Terrorism’. The implementation of this policy imperative required the active cooperation of the concerned Central Asian Republics and was utilised by individual nations like Uzbekistan and Kyrgyzstan to further add to their military potential through seeking for and obtaining additional military assistance.

The greatest beneficiary has possibly been Uzbekistan that is now home to a contingent of 1,500 American troops and also received an aid package of \$160 million from the United States in 2002. Similarly the Kyrgyz regime has received direct assistance from the United States to rebuild Manas airfield near the capital Bishkek. It is expected that an American staging base spread over 37 acres and housing a contingent of 3,000 American troops will be set up at this location. Turkmenistan has remained largely neutral but has agreed to provide over flight facilities. Tajikistan remains a major staging point for Russian troops in the region and Kazakhstan under President Nazarbayev has followed a ‘multi vector’ foreign policy seeking good relations with the major power players – Russia and United States, while also maintaining good relations with their neighbour China.

This environment of uncertainty has fuelled interest in rearmament among the Central Asian nations, a desire which has meant with reciprocal support through increased aid from the major power players in this ‘great game’ which is becoming even more complicated through the entry of regional hegemons like China and now India. The oft stated Indian interest in maintaining good relations with the Afghan regime of

Hamid Karzai is manifested in the generous aid being provided for Afghan reconstruction by the Indian Government. In addition Indian diplomatic representation extends throughout Afghanistan with an embassy in Kabul and three functional consulates in Herat, Kandahar and Mazar-e-Sharif with a fourth one on the anvil. The October 2003 visit of the former Indian Prime Minister Atal Behari Vajpayee to Tajikistan saw the first glimmer of manifesting Indian interest in a defence relationship through the reconstruction of an airfield near the Tajik capital Dushanbe. Indian interest in the Central Asian and Afghan region is oriented towards reducing the influx of *jihadi* recruits from Afghanistan through Pakistan into Kashmir. Hence Indian interest that is becoming a part of the 'great game' has manifested itself into a proactive policy of engagement and tangible economic and related assistance. This heightened interest by global and regional state actors has accentuated the conventional militarisation of the region at least in the short term.

### *The Politics of Oil and Natural Gas*

The fluid political situation in the Middle East, a scenario already fraught with turmoil owing to the Palestinian-Israeli confrontation and now exacerbated by the current American occupation of Iraq, has increased efforts to identify alternative sources of oil and natural gas among user nations. The available energy reserves in the Central Asian region offer a viable alternative with energy production poised to increase sharply after 2010. But the geographical location of the landlocked nations of Central Asia reduces the alternatives for transportation of oil and gas to reliance only on the pipeline route, which in turn offers three difficult choices:

- The Chinese route with its construction difficulties;
- The Iran route with its political problems;
- The India-Pakistan-Afghanistan route through to the Caspian Sea.

Despite geopolitical and security challenges the third option to the Caspian Sea demonstrates the maximum potential at present.

The Central Asian energy resources are mostly concentrated in the nation states adjoining the Caspian Sea – Azerbaijan, Kazakhstan and Turkmenistan. Statistics indicate that the Central Asian region accounts for only 2% of global oil reserves and 5% of proven gas reserves. However the potential for the availability of natural gas is much greater. Azerbaijan and Kazakhstan jointly account for around 92% of the region's reserves. The Republic of Turkmenistan possesses over 40% of the region's reserves of natural gas followed by Kazakhstan and Uzbekistan with 27% each. Kazakhstan thus possesses a substantial amount of the region's oil and natural gas reserves, which invests it with more than just symbolic relevance.

A reduced level of Russian support in the post-1991 period led to a temporary downturn in the oil and natural gas production. However, this trend has been reversed in the post-1995 period with accelerated Western investment in the oil and natural gas sector. The politics of oil and natural gas in the region has been tilted in favour of exploration in preference to territorial dominance by either the concerned regional or global state actors or the involved commercial interests. This scenario may change if the volatility of the political situation in the Middle East impacts on the long-term supply of either petroleum or natural gas. Current trends indicate that the region's visibility as an energy supplier at the global level will only grow incrementally after 2010. Even this will be dependent on the stabilisation of regional and geopolitical rivalries in the area making movement of energy via cross border pipelines a cost effective and secure process.

***Poor Socio-Economic Infrastructure and Employment Base***

The difficult terrain in the Central Asian/Afghanistan region has posed its own set of challenges for the development of a strong economic infrastructure base. The lack of political stability for the past two decades in Afghanistan has impacted on the delivery of basic services to a largely rural population base. The decline in education standards in the Afghan state was accelerated further during the Taliban rule, which made its own brand of Islamic puritanism the basis for

public and private living. The pre-Taliban periods had shown progress in moves towards women's empowerment through access to education opportunities. But this progress was further stunted in the post-1996 period and the present Karzai regime can only devote its fullest attention to improving the quality of life of the Afghan people after it hopefully acquires a semblance of greater stability and local legitimacy once the UN mandated elections slated for 2004 are concluded.

The Central Asian region inherited a better-developed social and infrastructure base from the former Soviet state. However, the lack of job growth was evident in the post-1991 period in as much as the job guarantees and support through subsidies from the former Soviet state disappeared. This in turn has adversely impacted on the standard of living in the Central Asian Republics in the first decade after independence in 1991. The United Nations *Index of Development of Human Potential* (1997) based on an integration of personal income, longevity and education in 174 countries ranked the nations of Central Asia as follows:

Kazakhstan	–	76 <sup>th</sup>
Uzbekistan	–	92 <sup>nd</sup>
Turkmenistan	–	96 <sup>th</sup>
Kyrgyzstan	–	97 <sup>th</sup>
Tajikistan	–	108 <sup>th</sup>

It is hoped that the decline in personal income will be reversed in an incremental manner in the current decade owing to greater outside investment in growth areas like oil and natural gas and implementation of individual state sponsored developmental initiatives in the spheres of industrial infrastructure. However, the socio-economic picture in the region remains bleak in the short term and also needs to be tackled effectively in order that it does not crystallise into organised economic discontent with its own ramifications in the present fluid regional environment.

## CONCLUSION

Immanuel Kant once wrote that “Give me matter and I will construct a world out of it”. The post 9/11 world has spawned its own set of institutional and logistic challenges for the concerned state actors wherein the framework of a proactive but democratic state has gained wider acceptability. The endemic political instability in Afghanistan as well as widely articulated concerns about the Central Asian region becoming a haven for extremist and disaffected elements has focused a significant degree of global attention on efforts at regional stabilisation and economic growth. It is my contention that the aspirations of the people of this region also need to be recognised and acted upon. The reliance on state actors as ‘agents of stabilisation’ is misplaced since the legitimacy of most of the regimes in the region is debatable at best. Geopolitical rivalry over dominance in preference to hegemony should not obscure the near invisible role of the citizenry as agents of political and social change in the region. This anomaly requires redress and it is my view that the enforcement of this philosophy into a coherent policy promoting democratic pluralism in preference to authoritarian governance will ultimately influence the region’s evolution into an area with stability or potential or accelerate its inevitable slide into an abyss of anarchy and constant upheaval. In the words of Swami Vivekananda: “Humanity travels from lower truth to higher truth, but never from error to truth.” A nation state can evolve but it will only achieve its logical potential with the full support of its citizenry. This deficiency has retarded political and socio-economic development in the Central Asian/Afghan region and needs to be redressed by concerned institutional actors, both regional and non-regional, before the area will achieve its fullest potential in the twenty first century.

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## CHALLENGES TO DEMOCRATIZATION: PEACE AND STABILITY IN AFGHANISTAN

*Apratim Mukarji*

An absorbing duel is being fought out between the forces of democratization and those of destabilization in the post-Taliban Afghanistan. While the world at large remains relatively inattentive to the goings-on in the south-west Asian country, much to its potential peril, the forces engaged in the desperate struggle are fully conscious of the consequences of their battle. Those opposing the democratization process may be credited with having won the first round following the deferment of the June 2004 Presidential and Parliamentary elections principally on the grounds that the security environment was not conducive to holding the elections on schedule. More significantly, this was the first instance when the players involved with the task of establishing a stable democracy faltered to keep pace with the provisions of the Bonn Agreement according to which “a fully representative government could be elected, not later than two years from the convening of the Emergency *Loya Jirga*.”<sup>1</sup> That date was June 2004; the elections were postponed till September 2004.

Donor apathy and, more specifically, the failure of the international community to fund the electoral process to the necessary extent also proved to be a significant factor in leading to the second postponement of the Presidential election from September to October 2004. Apart from the adverse security environment, the decision to defer the Parliamentary elections as late as the next spring, however, is also due, in its own way, in no small measure to the fact that the country lacks any reasonably recent census data to work out the basics of Parliamentary elections, such as, carving out electoral constituencies on the basis of population figures.<sup>2</sup>

Now that the announcement has been made that the Presidential election will be held on 9 October 2004, the going for the second

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round, so to speak, has been sounded by the pro-democracy players even though with considerable circumspection because the Joint Electoral Management Body has wisely decided to postpone the Parliamentary elections (which should have been held simultaneously with the Presidential election) further, till the second half of April 2005.<sup>3</sup>

The immediate challenge before the Afghan interim government led by President Hamid Karzai, the United Nations, the United States-led coalition and the European Union (whose soldiers in the North Atlantic Treaty Organization or NATO now comprise the International Security Assistance Force or ISAF, responsible for security in the capital, Kabul, and in pockets outside the capital), therefore, is to ensure that the 9th October election must be held reasonably, fairly and freely and with enough credibility to help establish the first democratically elected Head of State and Government in Afghanistan.<sup>4</sup>

While deciding to postpone further the parliamentary elections, the electoral body has publicly hoped that the breathing space thus being made available between now and the spring of 2005 would be sufficient to facilitate a more representative process of voter registration of the 10-million-strong eligible electorate and of demobilization, disarmament and rehabilitation of the private militias, presently estimated to be 60,000-strong (only 10,000 are said to have been demobilized till date; the Demobilization, Disarmament and Rehabilitation (DDR) Programme under the United Nations assistance Mission in Afghanistan has acknowledged that commanders of the private militias are not being adequately responsive. Soldiers who have been demobilized and disarmed have sometimes complained that they have not been rehabilitated as promised, especially in terms of monetary and civilian job benefits). As for earning adequate credibility for the Presidential election, there is acknowledgement in official circles that the inability of the government to extend its effective writ significantly outside the ambit of Kabul may act to impinge upon that particular aspect and that a wider acceptability of the outcome of the election would depend to a considerable extent on the attitude and actions of the warlords, private militias and the Taliban-Al Qaeda remnants.<sup>5</sup>



The threat to security in Afghanistan since the fall of the Taliban in December 2001 is principally perceived to have emanated from the increasingly bold terrorist attacks by remnants of the Taliban and Al Qaeda, aided by men under the leadership of the former *Mujahideen* and Prime Minister Gulbuddin Hekmatyar, active in the eastern and southern parts of the country close to the border with Pakistan. These elements have repeatedly vowed to disrupt the electoral process since the latter, according to them, is designed to perpetuate the “American puppet” Hamid Karzai in the seat of power. There have been systematic attacks, often fatal, on voter registration workers, international aid workers and registered voters themselves in order to scare both the Afghans and the international community from continuing with the electoral process. Approximately 300 electoral workers, registered voters, both foreign and indigenous aid workers and others have been killed. A rough break-up of the death toll would show that four electoral workers, two Britons and an Afghan connected with providing security for electoral workers, sixteen registered voters, eighteen foreign aid workers including five non-Afghans, and two local police chiefs were among those killed in terrorist attacks. Besides, five Afghans were killed in a bomb attack in Herat on 11 July 2004. President Karzai stated that the attack was “the work of Afghanistan’s enemies who are desperately trying to derail Afghanistan from the path of reconstruction, peace and democracy.” Further a US military statement said that on 16 July 2004, one Afghan employee of the US Agency for International Development (USAID) was killed and two others injured when a convoy was attacked by “unknown terrorists” about 10 kms. north of Qalat, capital of the Zabul province. Qalat and its adjoining areas have been witnessing increasing terrorism-related violence during the last three months in which over 250 civilians, rebels, US and Afghan troops and aid workers have been killed. Scattered areas of the southern and eastern Afghanistan are under a distinct shadow of fear, and the electoral process is at best limping along.

Describing the security environment in early June 2004, Human Rights Watch and Amnesty International warned that the stabilization

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efforts in Afghanistan could fail without a rapid increase of international security assistance. “There’s been too much double talk on Afghanistan,” Sam Zarifi, Deputy Director of the Asia division of the Human Rights Watch said. “It’s time for the United States and its NATO allies to honour their pledges to provide aid and ensure security in Afghanistan before things deteriorate even further.” “Unless a secure and stable environment is created,” said the Amnesty International, “the reconstruction of Afghanistan will be completely undermined.”<sup>6</sup>

The Afghan and major donor governments as well as international aid and human rights organizations are, however, emphasizing the equally strident security threat to the democratization process from the warlords and private militias who continue to rule over the countryside and in many cities and towns. Apart from the fact that the ISAF continues to be restricted to policing Kabul and Khost, and hopefully with the arrival of the promised 3, 500 additional NATO troops in the interim period before the Presidential election, will be expanded in the form of Provincial Reconstruction Teams to some relatively safe pockets in the provinces, the uncomfortable reality is that the Karzai regime’s writ continues to remain perilously restricted to a minuscule part of the country.

### **MILITIAS THE MAIN THREAT ?**

For reasons not yet fully explained, President Karzai identified the threat from the warlords and the private militias as the principal impediment to the democratization process. Speaking to *The New York Times*, he said that the private militias have become the greatest danger (greater than the Taliban insurgency) and that new action is required to disarm them. He added:

We tried to do it by persuasion. The stick has (now) to be used, definitely. The frustration that we have in this country is that progress has sometimes been stopped by private militias, life has been threatened by private militias, so it should not be tolerated. Without disarmament, the Afghan state will have really serious difficulties.

Two years ago, in July 2002, President Karzai, suffering the ignominy of stomaching a revolt by Paktia province Governor Bacha Khan, had burst out in an interview to the same newspaper:

I am mad, mad, mad about this. This proves our point that we must finish warlordism. A man that goes in and forces himself with the gun, it is just disgusting. To kill people in order to become governor--how can he do that ? There's no way we can agree with that, absolutely no way.

Interestingly, he also spoke candidly at the time of his government's limitations in restraining the warlords: "We must finish warlordism in Afghanistan. But we can't disrupt the existing situation right now because of the continuing fight we have against terrorism".

As for the threat from terrorist elements, President Karzai was clearly dismissive in his recent interview that he gave on 12 July 2004, asserting that the threat from the Taliban had been "exaggerated". *The New York Times* commented that the Afghan President's assessment represented a new ranking of the country's problems, with attacks by Taliban supporters and slow voter registration suddenly receding to a secondary position, to be replaced by worries about election intimidation by warlords and militias.

As long as no authoritative explanation of the so-called new ranking of threats to security in Afghanistan is made available, it would remain difficult to appreciate President Karzai's apparent dismissal of the threat posed by terrorist elements. One could perhaps seek a partial explanation in President Karzai's long-held belief that the relatively saner elements in the Taliban should be persuaded to join the political mainstream and that it would be worthwhile for the government to pursue this line, apart from the on-going military offensive by US-led coalition forces and the nascent Afghan national army. There is also unconfirmed allegation that several former senior Taliban ministers, presently in hiding in Pakistan, are regularly ferrying across into Afghanistan with their own escorts for clandestine negotiations with the government and the US ambassador Zalmay Khalilzad and with British diplomats in order to gain amnesty.<sup>7</sup>

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As part of the exercise to neutralize the warlords, President Karzai held a meeting (which later became controversial with conflicting claims made by the government and some of the participants) with some of the most powerful warlords, Gen, Abdul Rashid Dostum, Gen. Mohammad Atta, Governor Ismael Khan and Hazrat Ali. The meeting was followed by persistent rumours that the warlords had been offered senior positions in the government in lieu of their cooperation in the DDR programme in time to facilitate the October Presidential election, which were strongly refuted by the President. A senior government functionary, Gen. Shir Mohammed Karemi, head of the operations department of the Defence Ministry, was, however, on record hinting at such a compromise.<sup>8</sup>

The Afghan government and the US administration have apparently drawn important lessons from the aftermath of the fighting that took place on 21 March 2004 in Herat between Governor and warlord Ismael Khan's forces and the Defence Ministry's 4<sup>th</sup> Corps (a militia functioning under the Defence Ministry and receiving instructions from President Karzai through the Ministry but not, significantly, part of the Afghan National Army, the latter being wholly trained by and working with the US army). US Ambassador Khalilzad has been quoted as saying the fighting has shown that programmes aimed at strengthening the Central government's authority outside Kabul need to be implemented "more quickly."<sup>9</sup> "I don't think (the crisis in Herat) affects the strategic direction of this country," he said:

I think what it highlights is that we need to accelerate some things that need to be done here. Disarming and reintegrating militias is, in my view, the lesson that I take away from this as to what needs to be accelerated. And (the building of) national institutions, such as the Afghan National Army that you see responding to the situation (in Herat), need to be speeded up.<sup>10</sup>

Analyzing the encounter in Herat, President Karzai's spokesman Javed Ludin said the crisis had shown that security in the Afghan provinces could deteriorate further unless disarmament was expedited and started to produce results. Hinting that the Afghan army could set

up permanent bases in areas presently controlled by warlords, he said:

What (the Herat crisis) will mean in terms of the future (is that the central government's priority) will be to make sure that the security and safety of the people of Herat is not threatened and to do everything to get this objective done. We will think about the long-term implications of this particular event. This will certainly have implications for a number of programmes that the government is trying to implement, and the disarmament process is, of course, the most important one. In order to ensure that people--not only in Herat but also in the rest of the country--do not face a similar risk in the future, we will do everything that is necessary.<sup>11</sup>

There are reports that the government is planning to establish garrisons for the national army in or close to the cities of Herat, Kandahar, Mazar-e-Sharif and Gardez, drawing inferences from visits by teams of the national army and US army to potential sites for such bases. While 1,500 soldiers were despatched to Herat at the time of the fighting, the impression has since gained ground that this could be the beginning of establishing a military garrison in the city.<sup>12</sup>

The Transitional Authority of President Karzai soon followed up with the first execution in the post-Taliban period by carrying out the death sentence (three more death sentences are under the President's consideration) on a notorious *Mujahideen* commander, Abdullah Shah, in the third week of April 2004. Significantly, the decree ordering the execution warned that "it should be a lesson to other people that a person who commits a crime will be brought to justice." President Karzai indicated at the time that the three more death sentences he was considering concerned the man caught in January 2004 after laying a bomb in Kandahar city that ultimately killed 19 people, mostly children, and the two men convicted of killing a 29-year old French aid worker in Ghazni in 2003. Asserting that he had held out till the last the execution order for Shah, President Karzai said, "It is no longer possible for me to delay that, because really it is against a clear conscience. It is against justice to keep him there." Shah's execution,

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however, drew protests from human rights groups which contended that he was not given the opportunity to defend himself and that the execution was actually the outcome of a conspiracy by several powerful warlords who had thus removed an important witness to their crimes and which could have been held out against them in future.

### **MILITIAS AND THE DRUG MENACE**

One vital element in the plans and programmes for normalizing Afghanistan is, however, missing in the Transitional Authority's reinforced determination to discipline the warlords and private militias. Interestingly, this element is also ignored in the United Nations-sponsored DDR programme. Yet, the relationship between the opium poppy cultivation, the laboratories and factories where the drugs are produced, and the transportation of the narcotic drugs from Afghanistan to the Central Asian republics right up to the Russian Federation and the Afghan warlords-militias nexus is all too well-established to be simply ignored by the national and international authorities.

This is all the more surprising because even as recently as April 2004, the international community reiterated in the Berlin Declaration issued after the Berlin conference:

Opium poppy cultivation, drug production and trafficking pose a serious threat to the rule of law and development in Afghanistan as well as to the international security and, therefore, Afghanistan and the international community shall do everything-including the development of economic alternatives-to reduce and eventually eliminate this threat.

It should of course be noted that the Declaration speaks about an "eventual" elimination of the drug menace; this is certainly being realistic. What, however, needs to be explained is how the Transitional Administration, the UN, the NATO and other international players propose to neutralize the warlords and the militias without disrupting their intimate role in the illegal narcotics trade. A successful demobilization, disarmament and rehabilitation programme would mean neutralising the warlords and the militias, depriving the latter of their chief and unimaginably rewarding source of revenue and clout.

*The Way Ahead*, the work plan that the Afghan government presented at the Berlin conference also noted that “the government recognizes the growing threat posed by the opium poppy cultivation, drug production and drug trafficking in the country. It will seek to implement aggressively its National Drug Control strategy to ensure (that) its goals are met.” Concrete steps proposed to be taken included:

- Implementation of the government’s National Drug Control Strategy based on the provision of alternative livelihoods, strengthening of drug control institutions, eradication and interdiction, actions against drug trafficking and reduction of demand;
- Development of annual implementation strategies based on the action plans agreed at the International Counter-Narcotics Conference on Afghanistan in February 2004, paying particular attention to the need to sequence actions;
- Strengthening the capacity of the Afghan government to tackle drugs, including the Counter-Narcotics Directorate and the Counter-Narcotics Police of Afghanistan and ensure ministerial level policy coordination and implementation across all relevant ministries;
- Ensuring that counter-narcotics are mainstreamed within national development programmes as part of the effort to promote alternative livelihoods, and synchronize these programmes with law enforcement, interdiction, demand reduction and other drug control activities where appropriate.

Thus, neither the Afghan government nor the international community has been bold enough to declare that part of the efforts to neutralize the warlords and militias would be to strike at their extremely remunerative roles in carrying out illicit narcotic drug trafficking in all its manifestations. Yet, President Karzai told the Berlin Conference on 31 March 2004 that “the fight against drugs is actually the fight for Afghanistan. If we want to have Afghanistan, we must fight drugs.”

In harvesting or otherwise growing the opium poppy crop alone, as many as 1.7 million Afghans are said to be involved, with farmers

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earning as much as \$ 3,900 per year on an average from poppy sales. “This is almost ten times the salary of a teacher or policeman. At \$ 220 per hectare, wheat, the main alternative crop, yields a mere fraction of the potential profits of poppy cultivation,” says an Eurasia Insight report, “Afghanistan’s anti-poppy drive off to shaky start.” With entire villages depending on the income, Nangarhar provincial Governor Haji Din Mohammad said he has no choice but to proceed with caution. In early April, some 3,000 farmers took to the streets in the province’s Kama district to demonstrate against the destruction of their crops. “It is not easy to deal with these people,” said Mohammad, “we have nothing to offer in exchange for their cooperation. Everything rests on our credibility.”

Speaking the unvarnished truth during an early June 2004 visit to Afghanistan, the head of the United Nations Office on Drugs and Crime, Antonio Maria Costa said:

There is no easy way of solving Afghanistan’s opium problem. The opium economy will continue to grow as long as drug production and trafficking are conducted without (the) risk of retribution or the incentive to do something else. It is urgent to redress this risk-reward imbalance, making engagement in illicit activities legally and economically unattractive.

In 2003, Afghanistan’s poppy cultivation increased by six per cent to approximately 3, 600 tonnes, the highest yield in the world. At \$ 2.3 billion, the poppy trade makes up more than half of Afghanistan’s Gross Domestic Product. The poppy production has continued to soar during 2004. The International Monetary Fund has warned that narcotics production is dominating the Afghan economy. “A dangerous potential exists for Afghanistan to progressively slide into a ‘narco-state’ where all legitimate institutions become penetrated by the power and wealth of (drug) traffickers,” it said in September 2003.

### **THE IMPERATIVE OF STAYING THE COURSE**

The stakes in a successful implementation of the graded provisions of the Bonn Agreement are much more fundamental to the captivating



experiment being carried out to reconstruct the ruined and hitherto abandoned Afghanistan than the irritatingly facile media persistence of linking it to the November 2004 US presidential election. The international community and neighbours of Afghanistan are only too painfully conscious of unpredictable consequences of a failure of the democratization experiment. The plain truth is that no player involved in the exercise can afford to allow the experiment to fail. It is gratifying to note that the imperative to stay the course is adequately grasped by the major players, though the failings recorded during the period since the installation of the non-Taliban administration are at times liable to induce misgivings in the minds of observers.

The findings of what is being billed as the first ever comprehensive survey of public opinion in Afghanistan may bring mixed solace to the Karzai government and the international community. The survey, consisting of 804 in-depth interviews with Afghans in 29 out of the 32 provinces between 22 February and 13 March 2004, shows that while a majority of the respondents are optimistic about the country's future, in an interesting but unsurprising departure public attitudes in the southern and northwestern parts of the country are much more skeptical than elsewhere. Overall, 64 per cent of the survey's 804 respondents felt that the country was headed in the right direction while eleven per cent thought the opposite. Regional differences among the respondents clearly reflected the ground realities as residents of the northwest, incorporating the Herat, Badghis and Farah provinces, and the south, including the Pushtun-majority provinces of Paktia, Paktika, Khost, Kandahar, Zabul and Helmand, held demonstrably more pessimistic views than those in the other regions. Clearly, their pessimism emanated from the depredations of terrorists and warlords in their regions.<sup>13</sup>

Certain seeming aberrations in the conduct of the counter-terrorism campaign have given rise to such misgivings. The most prominent among these, which has attracted considerable criticism from international organizations, is the US military's policy to strengthen some of the warlords in the terrorism-affected provinces in order to effectively neutralize the Taliban-Al Qaeda-Hekmatyar forces.

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It is widely accepted that the US military has been exploited at times by unscrupulous warlords intent on securing arms and ammunition from the former, while exchanging unreliable intelligence about terrorists. Taking a holistic view, however, one would be inclined to suggest that such slips on the part of the US military are but natural considering the backdrop in which the cooperation of warlords, long used to every kind of criminal activity, is being courted. Accounts of the US military's forays against terrorists in the southern and eastern provinces sometimes provide instances when extensive searches (part of search-and-destroy missions launched simultaneously and separately over far-flung areas) have yielded a mixed fortune of arms and ammunition caches but not a single encounter with Taliban-Al Qaeda fighters. There are also instances when attempts were made by warlords and their men to pass off apparently fresh caches as those left behind by the Soviet occupation forces. The US military suspect that this is done by the otherwise cooperating warlords with the intention of grabbing the arms and ammunition for themselves. At other times, the US military and, ultimately the US government, have been hugely embarrassed by deliberate misinformation supplied by unscrupulous warlords in order to settle scores with rivals and the costly mistakes could be identified only after the dark deed was done. In a worse scenario, the US military and the nascent Afghan National Army have discovered that Taliban-Al Qaeda elements had infiltrated some of the militias run by warlords. These are again pitfalls, which cannot be avoided in time on every occasion, and one can only expect the US military to be learning their lessons fast. Even then, knowledgeable circles are skeptical that the US military would be able to protect themselves effectively against such deliberate treacheries.

Elsewhere, warlords appear to have become stronger than before in a unique manner. A sudden spurt in kidnappings of children (according to the Interior Ministry, 200 in the last 12 months; the United Nations Children's Fund puts the figure at 300 and reliable sources feel that the actual figure is much higher) across the country has served to jolt the government and the security forces, for clearly these incidents

which are happening with obvious impunity indicate not only the failure of the civil administration but also of the security establishment (dominated by the US military) in disciplining warlords. It has been established beyond doubt that local commanders with allegiance to warlords are involved in these kidnappings, committed with a view to sell the children in slave trade, sell their organs and subject them to sexual abuse. President Karzai recently promulgated a decree under which killers of kidnapped children would be sentenced to death. The Interior Ministry says that 150 kidnappers were arrested in three months. But international aid agencies, which have fair knowledge of the growing menace, feel that the government would not be bold enough to touch warlords and local commanders who are actually running the massive racket.

The enormous complexity of the overall situation in Afghanistan is exposed to a certain extent by these recent developments, emphasizing that all the major players need to devote far wider attention, resources and energy to meet the myriad challenges that are being encountered in the campaign to install democracy in the country. It is clearly not merely a question of somehow holding the promised Presidential election (and, on an indeterminate date, Parliamentary elections) on time and honour an international commitment.

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2. Camelia Entekhabi-Fard, "Afghanistan pushes back Presidential, Parliamentary Votes", *Eurasia Insight*, 7 July 2004.
3. The new electoral law, promulgated in Afghanistan, contains several unique innovations apparently aimed at achieving the optimum democratization of the polity. While the law provides for every Afghan 18-year-old and above the right to cast his or her vote and to seek votes as a candidate, it also promises that elections will be "free, general, secret and direct voting." A simple majority will win the presidency for a candidate. To be a Presidential candidate, however, a citizen must be backed by signatures of 10,000 eligible voters, must resign from his or her substantive government post 75 days before the election and must provide the names of two Vice-Presidential nominees.

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As for the parliamentary elections, deferred till the spring of 2005, the electoral law says that seats in the *Wolesi Jirga* (the lower house or the House of the People) will be apportioned based on the polls. Female candidates are guaranteed a certain number of spaces, and each province will be granted seats in proportion to its population. For the *Meshrano Jirga* (the upper house or the House of Elders), one-third of the members will be appointed by provincial councils, another one-third by district councils, and the rest by the President.

The Interior Ministry of the Transitional Authority of Afghanistan has followed suit by issuing a code of conduct aimed at the provincial governors and security commanders. The code forbids any exploitation of state resources to support or criticize political parties or individual candidates and warns against the use of weapons to intimidate voters and against harassment of journalists covering the elections.

4. William Maley, *The Afghanistan Wars* (Palgrave: MacMillan, 2002), pp.279-280. "The fourth challenge relates to the holding of free and fair elections within two years of the Emergency Loya Jirga," writes Maley. "An election is a very large-scale and complex logistical exercise, with many different elements (Maley and Saikal, *Political order in Post-Communist Afghanistan*, Boulder, CO ; Lynne Rienner). Meticulous planning is required, as well as highly trained staff and efficient mechanisms for securing preparation, storage, transportation and counting of ballot papers. It may also be necessary to protect voters against intimidation. Just to meet the deadlines in the Bonn Agreement, it is necessary to undertake a number of quite complex tasks at high speed (Fischer, Jeff, *Post-Conflict Peace Operations and Governance in Afghanistan : A Strategy for Peace and Political Intervention* (Washington DC: International Foundation for Election Systems, 2001)). The problems are so daunting that Marina Ottaway and Anatol Lieven have argued that the idea of a 'democratic government technocratically administering the country' is an 'impossible fantasy' and that aid should be provided 'directly to Afghanistan's regions' (Ottaway and Lieven, *Rebuilding Afghanistan : Fantasy versus Reality* (Washington DC), Policy Brief No.12, Carnegie Endowment for International Peace, 2002.)"
5. The question of earning credibility for the Presidential election should not, however, cloud one's intrinsic judgement of Afghanistan's progress from a stateless entity barely 36 months ago. The right perspective is provided by Dadfar Sepanta, Professor of Political Science at Aachen University, Germany, and an acknowledged specialist on Afghanistan who says that the new electoral law marks a crucial step in the country's political development. "The conditions and circumstances set for people's participation in an election of this magnitude is unprecedented in Afghanistan," he says. "In the past, elections were done based on government orders and after each election the conditions could change based on the inclination of that day's government." Quoted in Golnaz Esfandiari, "Afghanistan : New Election Law Paves Way for September Polls", [www.eurasianet.org](http://www.eurasianet.org), 30 May 2004.
6. Both the Amnesty International report and the Human Rights Watch statement were issued in early June 2004, on the eve of the 8-10 June G-8 summit held at

Sea Island, Georgia, USA. The Human Rights Watch statement noted that till then, donor countries were yet to supply most of the roughly \$100 million needed by the United Nations and the Afghan government to administer the election.

7. Safa Haeri, "Playing Politics, Afghan style", [www.atimes.com](http://www.atimes.com)
8. "Disarming of Militias Behind Schedule", *Afghan Recovery Report*, no.125, 8 July 2004, Institute for War and Peace Reporting, [www.iwpr.net](http://www.iwpr.net)
9. In the fighting Governor Ismael Khan's son and Afghanistan's Civil Aviation and Tourism Minister Mirwais Sadeq was killed. While the Foreign Ministry spokesman Omar Samad had earlier said that the Minister's death was a result of the fighting between his father's militia and the Defence Ministry militia, an official probe conducted by Interior Minister Ali Ahmad Jalali and Defence Minister Mohammad Qasim Fahim showed that the death was the result of a 'tragic event sparked by a small accident', without elaborating on the nature of the accident. Governor Khan's forces, however, maintained that Defence Ministry militia commander General Abdul Zahir Nayeبزadeh had attempted to assassinate the Governor, and, failing which, his son was killed.
10. Ambassador Khalilzad quoted in Ron Synovitz, "Afghanistan : Herat Fighting highlights need to Disarm Militias, Strengthen National Army", *Eurasia Insight*, [www.eurasianet.org](http://www.eurasianet.org), 27 March 2004.
11. *Ibid.*
12. In an interesting development, a faction of Gulbuddin Hekmatyar's *Hizb-e-Islami* is reported to have sought peace and a constructive role to play in the Hamid Karzai government. Jeffrey Donovan of *Eurasia Insight* reported in Afghanistan: As Kabul appeals to opponents, radical faction makes peace gesture (5 July 2004) that a breakaway faction of *Hizb-e-Islami* announced that it wanted peace and a constructive role in the government. "We hate violence and understand that it will not serve to rehabilitate Afghanistan," Khalid Farooqi, claiming to be the head of *Hizb-e-Islami*'s decision-making body though clearly not representing the entire radical Islamic group led by Hekmatyar, told a news conference in Kabul on 2 May 2004. "We believe that only peaceful discussions between Afghans can create national confidence and resolve problems." He was supported by another faction leader and a former mayor of Jalalabad, Abdul Gafar Karyab who said, "I don't think that *Hizb-e-Islami* supports terrorism. In our view, those who think they can solve Afghanistan's problems through military means are wrong. We don't think Afghanistan is an occupied country. We tell these people (opponents of the government) they should follow the peace process. We have also appealed to the government to invite these people to the peace process. We expect a new initiative of the government to convince all the others who want war, not just *Hizb-e-Islami*, to join the peace process." The two faction leaders also said that they had cut off all links with Hekmatyar during the last three years. It is this statement that seriously erodes any credibility that their statements could normally generate, for apparently any claim made by this faction cannot impact adequately on the policies of *Hizb-e-Islami*. However,

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observers tend to detect a trend, howsoever, faint at the moment of weariness creeping into those still holding out against joining the mainstream.

Earlier in March 2004, a far more credible transformation from military adventurism to political activity took place in Mazar-e-Sharif, the main northern city. In a graphic description of the change-over, *Armed Group turns to Politics*, Nahim Qadery, a reporter with the Institute for War and Peace Reporting, wrote, "Supporters of one of Afghanistan's most powerful armed factions gathered in a hotel in Mazar-e-Sharif in late March to discuss transforming itself from a military to a political party ahead of the September (since then, October) elections. As many as 2,000 people attended the first Youth Congress of *Junbesh-e-Mili-i-Islami-i-Afghanistan*, one of the two main armed factions in the north. In a statement read out by his spokesman, *Junbesh* leader General Abdul Rashid Dostum encouraged supporters to start a new political campaign and urged them to register to vote. For the moment, *Junbesh* loyalists say they are throwing their support behind (President) Karzai and concentrating on voter registration. But it seems likely that the faction, who controls the Eighth Military Corps in Mazar and retains thousands of soldiers and weapons, is remaking itself with an eye to fielding candidates in the future. In the meantime, its leaders are practicing the fine art of political spin. A recent issue of the *Junbesh* party newspaper carried an article by a top party official entitled *Junbesh-e-Mili-Islami-Afghanistan* is not a military faction any more, it is a political faction." The report mentioned that *Junbesh* subsidizes computer, art, science and language courses for young people in the provinces and runs courses for women in carpet-weaving and computers.

13. *Voter Education Planning Survey: Afghanistan 2004 National Elections*, conducted by the Afghan Media Resource Centre, Kabul, with technical assistance provided by AC Nielsen Org-Marg of India, and an analysis of the findings by Charney Research of the US, the results released by the Asia Foundation on 13 July 2004.

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## PROBLEMS AND PROSPECTS OF CONSTITUTIONAL GOVERNMENT IN AFGHANISTAN

*Uma Shankar*

The installation of a government in Kabul led by Hamid Karzai as per the provisions of US- brokered intra-Afghan Bonn Agreement in November 2001 was only a temporary arrangement. It was supposed to pave the way for the formation of a legitimate and constitutional government. As a sequel to the military defeat of the Taliban, the government of Hamid Karzai owes its existence to the military and political support of the United States. This paper examines the prospects of a constitutional government in Afghanistan with particular reference to the prospects of rebuilding of state in Afghanistan.

The weak foundations of state formation and its collapse have led to the unending civil wars that characterize the Afghan conflict. The weaknesses and problems of the Afghan state are of a structural rather than personal nature. The behaviour of the Taliban was not very different from that of the parties that opposed them. Since Afghanistan's problems are predominantly structural, no real improvement is possible. The total breakdown of its state institutions was fuelled by the involvement of external powers. It transformed the domestic conflict into a regional crisis, posing a grave threat to peace and security of South and Central Asia. The country without a state transformed itself into a breeding ground of arms, terrorism, smuggling, drugs, human rights' violations, mass poverty and religious fundamentalism. The problems emanating from Afghanistan can be solved by nothing less than rebuilding of its state. Here state building implies building institutions of Army, Police, bureaucracy, revenue collection system and a host of institutions for providing security and fulfilling common needs of all Afghan citizens. The government of the Afghan state should be capable to follow an independent foreign policy so that it does not allow the country to be a chessboard of power games or a proxy of any foreign power.

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All Afghan governments have had to face the dilemma of how to consolidate a state in a country with no system of production of goods and services by its citizens. Traditionally the Afghan state has been formed with the help of economic resources obtained from outside the borders of the state. Whenever the foreign economic and military support was withdrawn, the fragile Afghan social order collapsed and tended to fragment along ethnic and tribal lines. During the imperial era and cold war era, owing to its strategic importance, Afghanistan received a substantial amount of external economic and military aid. It helped its rulers in maintaining the semblance of state, superimposed over a tribal and ethnically heterogeneous society.

Political stability in Afghanistan has generally been linked with its foreign relations and its ability to maintain strategic equilibrium in the region. Over the last three decades too much tilt towards any foreign power at the cost of others has adversely affected its fragile socio-political order and invited overt and covert foreign interventions. In the post-Taliban era the near international consensus on the political stability in Afghanistan and commitment to its reconstruction has brightened the prospects for a constitutional government. The UN-sponsored Bonn Agreement and the establishment of a transitional authority under the Presidentship of Hamid Karzai by the *Loya Jirga* in June 2002 initiated the process of preparing the new Afghan Constitution. Significantly, political stability in Afghanistan is dependent on tribe, ethnicity, foreign relations and constitutional government. The balancing role in the maintenance of its stability lies with the constitutional government. The constitutional government, however, will have to lead the Afghans towards a modern state in which it must ensure a harmonious relations with its tribal social structures as well as divergent ethnic groups and maintain evenly balanced relations with all concerned foreign powers.

As such the new Constitution will have to bring in organic harmony among all the four pillars of Afghanistan's stability. It will have to provide not only a legitimate political power to the government but also address the fundamental questions of state-tribe and inter-ethnic



relations. In other words, the Constitution will have to establish a legal and institutional framework of the civil/political society besides providing durable and widely acceptable principles of relationship between civil and non-civil society with their well defined jurisdictions. In Afghanistan's case the zone of the non-civil society (tribe and ethnicity) has been much larger than that of the civil society. Hence, the durability of the new Constitution will depend upon its due recognition of tribal/community norms and traditions and their congruence with the constitutional government at the centre. The primary aim of the proposed Constitution should be to provide institutional arrangement for political stability in Afghanistan as well as to move towards its peaceful gradual transformation into a self-dependent modern state.

The challenge to the formation of a new Constitution for war-torn country of Afghanistan is a formidable one. A Constitution has the task to provide a suitable form of government that ensures an institutional and legal framework of realistic sharing of power and maintenance of political stability. Besides political stability, domestic peace and tranquility, national independence and sovereignty and end of all foreign interferences, a Constitution has to ensure equal citizenship rights and initiate a process of socio-economic development of all citizens. Constitution making, in fact, is an act of political and social engineering of a country. This paper aims at providing a blueprint for the proposed Constitution. The blueprint is based upon the historical analysis of the constitutional development in Afghanistan as discussed in the following paragraphs and the lessons to be drawn from its past tragedies and achievements.

Constitution, constitutional government and rule of law are the foundation of modern liberal democratic states. Constitution as the basis of legitimate political power is regarded as the bedrock of stability in modern territorial state-societies. The dilemma before Afghanistan is that although it is not a modern society in any sense, it has somehow acquired the status of territorial statehood since 1747. This statehood, however, was in no way the result of indigenous socio-economic transformation. It was rather the consequence of strategic rivalry and

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the necessity for a buffer zone between the Mughal and the Saffavid empires in the 18th century and the British and the Russian empires in the 19<sup>th</sup> century. The deep rooted traditional tribal communities, ethnic plurality, religious orthodoxy, pastoral and primitive agricultural economy, variety of customary laws and warlordism have influenced the character of constitutional movement in Afghanistan since the days of King Amanullah in early 1920s.

Among all these factors, state-tribe relations and inter-ethnic relations have throughout remained the most perplexed questions defying any workable solution. The key to political stability in Afghanistan will be the institutional arrangement of national consensus on these twin questions. This consensus can be arrived at through a political process in which all successive regimes have miserably failed. The Afghans experienced the longest spell of political stability during the reign of King Zahir Shah (1933-73), who pursued the policy of non-interference in tribal affairs while slowly moving towards a constitutional government and a liberal political order. The congruence between the informal structure of tribal society and the formal framework of constitutional government provided the essential basis of political stability for forty years. However, the monarch failed to provide a durable institutional arrangement for the management of state-tribe and their inter-ethnic relations. The collapse of the constitutional monarchy in a palace coup in 1973 marked the end of the quest for a working solution of the twin vexed questions. As a result, the country plunged into an era of political instability, anarchy, civil wars and foreign interferences.

The problem of social change has always baffled all its modernist rulers. Any ambitious program of social reforms and modernization resulted to social upheaval. King Amanullah , President Hafizullah Amin and Dr. Najibuillah had to pay a very price for their zeal for reforms. They lost political power unceremoniously amid resistance posed by conservative and reactionary elements. King Zahir Shah reigned for forty years and maintained social equilibrium and political stability largely because he obtained the allegiance of the tribes in exchange for

the tacit guarantee of non-interference in tribal affairs. His policies virtually resulted in freezing political, economic and social development although his lukewarm constitutional reforms on the model of parliamentary system brought in certain changes in the superstructure.

The nature and character of constitutional movement and prospects for constitution making in Afghanistan can better be understood by locating it within the context of Afghanistan's tribal traditions, power politics, political culture and political economy. To begin with, Constitutions were announced in 1923, 1963, 1987 and 1990. The longest spell of constitutional government (1963-1973) was experienced during the regime of monarch Zahir Shah. While Constitutions of 1923 and 1963 provided for a constitutional monarchy, Constitutions of 1987 and 1990 provided for a republic. The national *Loya Jirga* further affirmed them. None of these Constitutions were the result of any indigenous movement. Instead, they were the result of power politics and bold initiatives by the rulers for consolidation of their dwindling power base. constitutional reforms were pursued not with any commitment to principle of constitutionalism rather they were used as instruments for consolidation of their power and to meet the challenge from political adversaries. With the loss of political power by different regimes their Constitutions were also buried.

### **CONSTITUTIONALISM IN AFGHANISTAN: HISTORICAL PERSPECTIVE**

Amanullah Khan was crowned as the Amir of Afghanistan after assassination of his father, Amir Habibullah in February 1919. Amanullah Khan was fiercely anti-British and wanted to annul the agreement which gave the British control over Afghanistan's foreign policy. The British resisted this move, and so began the Third Anglo-Afghan War (1919). After a brief struggle, the British were forced to negotiate and in the end surrendered their control over Afghanistan's foreign policy. Afterwards, Amanullah became a national hero, and was given the title of *Ghazi*. He then turned his attention to modernizing Afghanistan and simultaneously in 1926 changed his title from Amir to

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*Padshah* (King). But everyone in Afghanistan did not greet King Amanullah's modernization plans so warmly, and so he had to face opposition from many tribes. In the end, the tribal revolt against Amanullah Khan led him to abdicate his throne. He left Afghanistan and lived in exile in Italy and Switzerland until his death in 1960. He was buried in Jalalabad near his father's tomb.

For a decade since 1919 Amanullah ruled as monarch of the country. In his foreign policy, he was generally friendly to the then revolutionary Soviet Union and also opened up links with various European countries. At home while trying to take the country along the road of modernization, he attempted some liberal political and social reforms. He was an admirer of the Kemalist regime, then ruling Turkey and tried to carry out similar changes in Afghanistan as well. Many of his ideas were quite reasonable, such as the abolition of slavery and forced labour, introduction of various educational programs, as well as discouragement to the veil and seclusion of women. Some were absurd too, such as the demand that men had to wear European clothing and hats. Amanullah also attempted administrative reforms, such as a constitutional monarchy, a tax system, and a professional army besides seeking to extend the influence of central government to the outlying areas.

But his regime was soon faced with revolts by tribal chieftains and religious conservatives; even there was an intrigue by British imperialists. The main reason for the failure of Amanullah's reformist schemes was that there was no social base to carry it through in the face of reactionary opposition. There was no movement of the toilers to support democratic changes, no awakening of the peasants in the countryside, and the lack of economic development meant there was essentially no working class. Of course, a king would look not to a revolutionary movement, but perhaps to a liberal, monarchist bourgeoisie for support against the more backward elements. But the lack of economic development meant there was essentially no bourgeoisie either. As Vartan Gregorian comments:

Amanullah's reform program suffered from the same weaknesses that had characterized the much more limited programs of his predecessors. The tragic fact is that he undertook the enormous task of rapidly transforming Afghan society without a definite plan, without the necessary financial resources, and without the requisite technological skill and manpower. Moreover, it was impossible for him to modernize the country without transforming its socio-economic structure, and it was equally impossible to do so without sharply curtailing religious and tribal authority. But to retain the Afghan character of his kingdom and to secure the hereditary rule of his dynasty, he needed the support of the Afghan tribes, particularly the Durranis, and to give cohesion and homogeneity to the people of Afghanistan, he needed Islam as a religious and cultural bond.

Furthermore, Amanullah's timetable of reform was unrealistic given the weakness of his financial base. He opposed feudalism as a political force, but he had nothing to substitute for it and did not attack its economic base. In order to wage a successful campaign against the religious establishment and the reactionary tribal leaders, he needed powerful support. That support was forthcoming only when the political objectives of Afghan nationalism were involved; it could not be mustered for social reform that infringed upon the traditional values and institutions. The constant attacks on his social reforms effectively obscured the significance of his economic, educational and political programs which otherwise might have won him support. In the face of a tribal-feudal-religious-traditionalist coalition in opposition, he was unable to find the necessary support in a strong urban middle class or in an economically healthy peasant class.<sup>1</sup>

Commenting on Amanullah's legal-constitutional reforms, Leon B. Poullada says:

The formal legal instruments of reform, such as Constitutions and legal codes are not very effective means of bringing about political change unless the political culture is predisposed in their favor. The essentially informed structures of political power that characterize tribal society are not so predisposed. In such a situation short-term results of formal legal institutions are almost

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disappointing. Disenchantment with Parliaments is a common theme with most political reformers. A fairly good case can, however, be made that for longer term results, the ideals, social goals and standards implicit in most formal legal systems tend, over the years, to give the society a direction and orientation towards the rule of law which it might not otherwise spontaneously develop. This seems to have been the experience in Afghanistan where formal-legal system pioneered by Amanullah was a failure during his time but over the next forty years moved the country gradually but steadily in the direction of congruence between the informal structure of tribal society and the formal framework of constitutional government.<sup>2</sup>

King Amanullah was not a radical revolutionary, he was a nationalist with no consistent modernist philosophy. His policy of reforms provoked serious hostility from vested interests in the old tribal orders. Many powerful forces within King Amanullah's own regime secretly conspired with the British rulers in India. As a result, Amanullah had to abdicate the throne in 1929. The bandit leader of the uprising, Bacha-Saqa, seized power in Kabul. General Nadir Khan, who assumed the title of Nadir Shah, soon replaced Bacha-Saqa. The new King rolled back most of the reforms introduced by Amanullah. However, as the seeds of reform had already gone deep into the Afghan soil, the country's traditionalist society had a glimpse of modernist trends. It was King Zahir Shah who took up the cause of constitutional reforms in 1964 but was unable to take any major initiative for social and economic restructuring.

Afghanistan more or less remained in turmoil until Zahir Shah became the king in 1933. From 1930s onwards, some capitalist development began to take place, giving rise to the growth of urban upper classes such as merchants, other categories of businessmen, and government officials. The country's first bank was set up and capitalist interests emerged in trade and small-scale industries. Most of the bourgeoisie were still quite small in terms of wealth and the size of their enterprises. Another development was the emergence of an intelligentsia. In the late 1940s, petty bourgeoisie, within the bounds of

a liberal bourgeois program, raised their voices for political reforms. Press censorship was lifted in 1951, which gave way to the publication of several newspapers. A student movement took place at Kabul University as well.

Zahir Shah reigned until he was removed in 1973. Although he was formally the King, the Afghan government was, for most of his rule, actually run by other figures from the royal family. For example, until 1953 the King's uncles ruled the country on his behalf, though the monarchy remained in alliance with traditional tribal chieftains and feudal landlords. Significantly, the Zahir Shah monarchy also established the dominance of the Pushtun nationality over other nationalities and tribes.

### **AFGHANISTAN'S BRIEF HONEYMOON WITH POLITICAL LIBERALISM**

In 1964, a new Constitution was introduced but at the cost of rising opposition against the so-called "new democracy". It introduced a kind of constitutional monarchy wherein the monarch was not responsible for the democratic transition of the country. Parliamentary elections were held with a limited franchise but political parties remained illegal. Despite restrictions on political activities, there had been widespread urban ferment, especially among the petty bourgeois intelligentsia and the students. And there were also workers' strikes in this period. Student demonstrations emerged as a regular feature and even an attempt was made to sit-in in the parliament. In 1969, there was a city-wide student strike in Kabul for almost one and half months. All this led to the Police crack down on student demonstrations, which became a common phenomenon.

With the promulgation of a new Press Law in 1965 that eased censorship, a number of newspapers were launched. They reflected various political trends that were emerging in the country. The political trends, which emerged, spanned the spectrum. Although the activists who led these trends and the non-government press belonged mainly to the intelligentsia, they reflected various class interests. At the same

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time there were conservative Islamic forces and Islamic fundamentalists, linked to fundamentalist trends abroad and receiving patronage from Saudi Arabia. They were virulently anti-Communist. They began to clamour louder against what they saw as a dangerous slide towards secularism and modernization. The fundamentalists organized not only public demonstrations but also committed such acts as acid-throwing on women who remained without veil.

The period also saw the emergence of various bourgeois liberal and reformist trends apart from left trends which influenced especially the students. The People's Democratic Party of Afghanistan (PDPA), a left nationalist party oriented in favour of Soviet revisionism was formed in 1965. Having a reformist program the PDPA focused its work on parliament. In 1973, a military coup proclaimed Afghanistan as a republic, forced the King out, and brought his cousin Daoud back into power with the tacit support of the leaders of the PDPA. Daoud had been the Prime Minister until 1963. He was also a member of the royal family and represented the dominant bourgeoisie in Afghanistan. Unlike the King and his cronies, Daoud and his supporters decided to rule in the name of a Republic.

However, the royal family of Nadir Shah succeeded to a significant extent in increasing the capability of the state by strengthening its institutions and the infrastructure of the country. As late as 1956, the country had 44,000 armed forces and 20,000 police force. But these forces were poorly equipped. By 1978, while the number of regular armed forces increased to more than 1,05,000, the police force reached up to 30,000 and was very well equipped. The conscription, which in the past, was erratic and caused rebellion, by 1978 became universal. In 1953, the size of the central bureaucracy was only about 10,000 but by 1978 it reached up to about 1,00,000.<sup>3</sup> As such, Afghanistan's regular army, police and bureaucracy increased significantly while the role of the tribal forces decreased. Overall, increased state capability and improvement in the country's infrastructure gave way to enhancing "the centre's ability for nation-building."<sup>4</sup>



The increased strength of army and bureaucracy were important socialization agents for inculcating the values of nationalism. Schools were another such agent. The number of elementary and high schools in the country increased significantly.<sup>5</sup> Unfortunately, the administrative machinery was not made as a vehicle of social change. The effects of these changes were paradoxical. These helped foster both the Afghan nationalism and ethnic nationalism especially among new leaders. Increased education made people from minority areas aware of the disparities between their population and the dominant groups.

### **THE CONSTITUTIONAL EXPERIMENT**

Politically, the experiment was the product of a broad “constitutional coalition” that could be more precisely defined as “the anti-Daoud coalition”. This coalition rose from both the domestic policy achievements and from one major foreign policy failure of Daoud Khan’s Prime Ministership. In domestic affairs, his policies had finally succeeded in altering the traditional balance of power between the government and the traditional forces in favor of the former. This concentration of power in Kabul was used to achieve genuine economic, administrative, and social reforms, albeit with little or no political expression allowed. In 1963, Daoud Khan was planning to institutionalize this new order through a new Constitution for a single-party authoritarian regime, with the king remaining as a figure head. In foreign affairs, however, Daoud Khan’s policy of confrontation with Pakistan over ‘Pushtunistan’ proved to be largely unsuccessful, simultaneously isolating Afghanistan from the West and increasing its dependence on the former Soviet Union.

The constitutional experiment aimed at balancing Daoud Khan’s achievements in consolidating centralized power by the creation of a parliamentary democracy. The major components of this constitutional coalition included the king and elements within the royal family, the educated elite, and the traditional elite. As long as all of them feared that Daoud Khan might regain power, they were able to work together to draft, ratify, and to hold elections under the new Constitution in

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1963-65. Once they lost fear of Daoud Khan's political ambitions, they began to fragment internally and ultimately drew apart from each other. The history of the constitutional experiment is thus a story of creation, triumph, fragmentation, and eventual disintegration of a coalition until its ultimate failure became evident in the re-emergence of power ten years later of the very same leader against whom the coalition had eventually been created.

Each of the coalition's components must share some of the blame for the failure of this constitutional experiment. Certain members of the royal family, particularly Sardar Abdul Wali did not, in fact, withdraw from the political life. The King was torn between a desire to allow the educated elite to run the government in a genuine parliamentary democracy and his fear that, if successful, this would lead to his losing the real political power that he had gained after having been a figurehead for thirty years. If the experiment failed, the divisions within the educated elite would lead the country into anarchy. The educated elite, with its number swollen each year by new unemployed and underemployed high school and university graduates, was fragmented by ideological and personal feuds as well as perpetual contest for political, economic and social goods in an environment of great scarcity. The members of the traditional elite of tribal leaders, landlords, and religious leaders used their control over the legislative branch to perpetuate their privileges. They now carried their age-old task of obstructing the power of government, but by means of prolonged debates, investigations, absenteeism, and bargaining with the government in Kabul instead of the more strenuous and, since Daoud Khan's modernization of the military, fruitless expedient of tribal rebellion.

In the context of Afghanistan's traditional political alternation between the extremes of tyranny and anarchy, the pendulum under the Constitution of 1964 swung steadily towards anarchy. The educated elite controlled the cabinet and bureaucracy, but it remained frustrated by its own divisions, by the traditional elites' domination of the legislature, and by the King's hesitation in allowing the formation of

political parties, even though this step had been clearly anticipated during the drafting of the Constitution. The traditional elite was not satisfied with mere obstructionism; it began to attack some of the fundamental reforms of the Afghan modernizers, such as the emancipation of women. Though the King, who was not considered to be a decisive leader by most Afghans, had to intervene periodically in the government functioning, he never intervened with enough decisiveness and consistency to provide effective political leadership for the system as a whole.

### **CONSTITUTIONAL REFORMS DURING PDPA REGIME**

The change of government on April 27, 1978 was a coup d'état as it was a forcible seizure of power more or less similar to that of 1973 coup. The 1973 coup destroyed the monarchy and established the Republican government in Afghanistan with Sardar Mohammad Daoud as its President. The 1973 coup, thus, marked the political change only as any progressive reform program for social and economic transformation did not follow it. On the other hand, the April (*Saur*) Revolution followed the establishment of the government of Democratic Republic of Afghanistan under the leadership of a revolutionary party, the Peoples' Democratic Party of Afghanistan (PDPA). Since April 1978 when a revolutionary modernizing and centralizing group of Khalqis took over the state apparatus, the Central government began to be weakened and the control of the Center over tribal and minority areas declined. The *Khalq* under Noor Mohammed Tarakki and Hafizullah Amin favored the establishment of a single party system based on revolutionary objectives with a centrally directed command economy under the dictatorship of the proletariat. While the Mohammedzais maintained status quo in social and economic structure, the Khalqis followed ambitious plans for a fundamental change in the country. The state apparatus, not even the Khalqis, were not strong enough, to have sufficient control of the state to carry out their revolutionary program. With the domestic crisis looming large and the PDPA regime being in imminent threat, the then Soviet leadership

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in its desperation and error of judgment resorted to full-scale military intervention and installed Barbak Karmal as a puppet regime in Kabul.

In the wake of military stalemate between the *Mujahideen* rebels and the Soviet forces, a dramatic change followed in the PDPA's policy under the leadership of President Najibullah. Since his regime adopted the policy of dialogue and compromise, the National Reconciliation Policy aimed at political settlement and integration of different segments of the population into a composite national identity. This Policy sought to consolidate the gains of the *Saur* Revolution in the spirit of democratic participation and accommodation. The most important initiative in this direction was the new Constitution adopted by the *Loya Jirga* on September 29, 1987.

Article 1 of the 1987 Constitution, which proclaimed Afghanistan as a Republic, declared Islam as the religion of Afghanistan. Keeping in view the radical reforms launched by the previous revolutionary PDPA regimes and *jihad* declared by the *Mujahideen*, this was a bold move towards reconciliation. However, the misuse of religion was forbidden. Article 5 provided for establishment of multi-party system by declaring "political pluralism as the basis of political system of the Republic of Afghanistan". It further said that a party formed in accordance with the provisions of the law could not be dissolved without a legal cause. This was considered to be a great advance upon the 1964 Constitution, which granted only the limited political freedom and the king could easily dissolve and ban political parties.

In order to achieve the objective of the cultural and political integration of the multi-national country, Article 13 of the Constitution declared:

The state shall follow the policy of all round growth, understanding and cooperation between all nationalities, clans and tribes of the country for ensuring political, economic, social and cultural equality and rapid growth and development of regions which are socially, economically and culturally backward. The state shall prepare the grounds for the creation of administrative units based on national characteristics.<sup>6</sup>

The Constitution expressed due concern for the historical traditions of the country by recognizing the *Loya Jirga* as the highest decision-making body at the center of the Afghan political system. It also recognized the family as constituting the basic unit of society. As a move towards the establishment of a modern nation-state the Constitution created a set of reciprocal rights and obligations for individual citizens so that people may find the realization of their identity with the nation-state. While making judiciary an independent component of the state, the Constitution said that the courts shall be independent in their judgments and shall submit only to the law. According to Article 112:

The judges shall apply the provisions of the Constitution and the laws of the Republic of Afghanistan in cases under their consideration. When no explicit provision exists in the law, the courts shall, following the provisions of the *Shariat* of Islam, render a decision that secures justice in the best possible way.

The 1987 Constitution, thus, sought to provide Afghans a modern nation-state based on rule of law, citizenship, a truly federal and plural polity rooted in the historical traditions of the country. Overall, the Constitution was termed as a document of national compromise that tried to forge unity among all tribes and ethnic groups through reconciliation and broad-based power sharing. In that sense the 1987 Constitution was considered to be a remarkable advance upon the Constitutions of 1924-1931, 1964-1976. Unfortunately, this document carried with it the stigma of Najibullah regime's illegitimacy as well. As such the Soviet Union-backed regime and its Constitution earned hatred of Afghans.

Even after withdrawal of the Soviet forces following the Geneva Accord (April 1989), Najibullah regime failed to remove its Communist and foreign tag. The external powers particularly the United States and Pakistan, in their obsession with the overthrow of Najibullah regime, paid no heed to this constitutional document that could have been the basis of stability in Afghanistan in the post-cold war era. With the fall of Najibullah, this document was thrown into the dustbin of history. While the earlier models of governance, i.e., Amanullah model, Zahir

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Shah model, Republican model of Mohammed Daoud and Communist model miserably collapsed, the National Reconciliation model of Najibullah was not even given a chance for trial.

### **PROSPECTS FOR CONSTITUTIONAL GOVERNMENT IN THE POST-TALIBAN ERA**

According to Noor Ali, the root causes of Afghanistan's predicament are:

- (a) Shattered Afghan national state;
- (b) Alienated Afghan national sovereignty;
- (c) Ravaged Afghan Economy; and
- (d) Annihilated Afghan traditional system of political power legitimacy.

Therefore, the mission of the Special Provisional Model for the Government of Afghanistan (Transitional Authority) would be fourfold:

- (a) Recreating Afghanistan's national statehood;
- (b) Recovering Afghanistan's national sovereignty;
- (c) Rebuilding Afghanistan's economy; and
- (d) Preparing the ground for the Afghan people for self-determination-at national and provincial levels-leading to the institution of a new system of legitimate political power in the country.<sup>7</sup>

The only remedy for the ailing Afghan political landscape lies in the empowering of its citizens to take part in shaping their political destiny. Mass participation is possible only if politics are institutionalized. The barrel of gun should leave its place to the rule of law and power should be given to people via democratic institutions in due time. According to Abdul Aziz Babakarkhail, the following issues need to be resolved in order to convert Afghanistan from a failed state to a functioning and mature one:<sup>8</sup>

- Legislative institutions
- Judicial institutions
- Administrative force
- Constitution
- Human rights
- National military force
- Election
- Freedom of the press.

Among all the above issues making of a Constitution for Afghanistan is of crucial importance. The establishment of a constitutional government in place of the present arrangement of transitional authority under Hamid Karzai will have to precede massive mobilization of Afghan people and a political dialogue. The constitutional government will have to start a process of rebuilding Afghan political institutions. The political stability will also require economic and social reconstruction. The inter-dependence of political, economic and social reconstruction in war-ravaged Afghanistan is based on such pattern that a negative movement in any one of the three generates an adverse impact in others, particularly in the economic area. However, the inter-dependence of this Afghan troika will be founded on the constitutional government, rule of law and power sharing among various ethnic and tribal groups.

The political, social and governmental environment of Afghanistan is presently a fragmentary array of institutions. These include national institutions (an interim/transitional authority); local institutions (e.g. village, clan, mosque); regional institutions (e.g. province, party/faction, tribal/ethnic group, domestic NGOs); and international institutions (e.g. UN political and humanitarian agencies, the World Bank, international NGOs and an International Security Assistance Force). Due to ongoing conflicts and lack of order among these institutions, various Afghan factions continue to compete for influence and resources while Afghan basic conditions evolve. There are no national institutions currently functioning in Afghanistan.

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Prior experience with national government has varied between two loose models. The first model is characterized by centralization, i.e., concentration of power into the hands of a narrow minority, and subjugation of opposition by force. This model was most evident in the reign of Amir Abdul Rehman Khan (1880-1901), the Soviet-backed PDPA government (1979-1992), and the Taliban (1996-2001). The second model is characterized by efforts to modernize the state apparatus while co-opting autonomous local authorities through patronage. This model was most evident in the reign of Amanullah (1920-29) and Zahir Shah (1933-73). A third model began to emerge in the brief period of political liberalization following the enactment of 1964 Constitution. This Constitution, for the first time in Afghanistan's history, envisioned a system of direct popular selection of representatives with the power to legislate and an independent judiciary. In the post-Taliban era the new Constitution should reestablish a political authority, wherein various institutions at all levels are fashioned into a semi-cohesive framework, with basic delineation of powers and non-violent dispute resolution mechanisms.<sup>9</sup>

The Bonn Agreement (November 2001) provided a skeletal outline for the re-establishment of a national political authority in Afghanistan. The Agreement envisioned the formation of an interim Authority for a period of six months consisting of three separate components: an Interim Administration, a Supreme Court, and a Special Independent Commission. The responsibility of Interim Administration included the administration of governmental functions, control of armed forces and the establishment of, among other bodies, judicial, civil service, and human rights commissions. On the other hand, the Special Independent Commission had been given charge of drawing and implementing the selection process for the *Loya Jirga*, which was to convene within six months to choose the Transitional Authority.

The Transitional Administration was to serve for eighteen months and was responsible for establishing a Constitution Commission. Until that time, the 1964 Constitution (excluding the King and the Parliament), Islamic Sharia, and subsequent laws not contrary to either



were to be the law of the land .Of the three initial bodies, only the composition of the Interim Administration was determined by Bonn. Thus the Interim Authority was imbued with two critical, concomitant tasks: (a) to fashion a new political environment in Afghanistan, within which the details of these arrangements can be negotiated and settled without violence, and (b) to oversee the initial phases of relief and reconstruction in a destroyed nation without solid political or administrative institutions.<sup>10</sup> In this context due regard needs to be paid to the experience of past transitions and then apply it to the specifics of Afghanistan.

**LOYA JIRGA 2002:  
A KEY STEP IN POLITICAL TRANSITION**

As per the provisions of the Bonn Agreement, local *shuras* were convened in each district to pick up representatives, who then met at the regional level to choose over 1,500 delegates to the *Loya Jirga*. In June 2002 after nine days of intense deliberations, the *Loya Jirga* set up the country's Transitional Government, a key step in shifting the war-ravaged nation to a constitutional Authority. Afghanistan's President-elect Hamid Karzai, who was formally sworn in, also announced the key posts of his cabinet. During his hour-long address to the *Loya Jirga*, Karzai named three Vice Presidents and 14 ministers, and raising hands from the delegates approved the proposal. Karzai stressed on education; reconstruction and security as being the Government's key priorities. Extending his thanks to numerous individuals for their support, Karzai expressed gratitude to the UN Secretary-General's Special Representative for Afghanistan, Lakhdar Brahimi, and proposed that he be given an Afghan passport as a token of thanks.

The Chairman of the *Loya Jirga*, Muhammad Qasimyar, congratulated the delegates for electing Karzai as head of the State and on the successful completion of the democratic process. An estimated 2000 people, including delegates, community leaders, friends of Afghanistan and UN staff, turned out for the *Loya Jirga*. The Grand

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Council fulfilled the main tasks assigned to it under the Bonn Agreement. The Agreement had called for the *Loya Jirga* to “decide on a Transitional Authority, including a broad-based transitional administration, to lead Afghanistan until such time as a fully representative government can be elected through free and fair elections”.

On the opening day of the session, Lakhdar Brahimi remarked that “in a country that has just emerged from three decades of brutal conflict and lawlessness, so many Afghans -though unarmed, powerless and often poor - had the courage to resist interference”. “The entire world has followed the suffering of the Afghan people over the past 23 years,” he said. “Their eyes are upon you today, but far more important is the fact that the eyes of your fellow Afghans are upon you.”<sup>11</sup>

### **THE NEW CONSTITUTION**

The drafting of a new Constitution, as called for by the Bonn Agreement, has been a critical task during the review period. The new Constitution provides a permanent foundation for re-establishing the rule of law in Afghanistan and defines a political order that allows for the aspirations of Afghans to be peacefully achieved.

The drafting process began with the inauguration in November 2002 of a constitutional Drafting Commission. In April 2003 the Drafting Commission submitted a preliminary draft Constitution to the constitutional Review Commission, appointed by presidential decree the same month. The Review Commission comprises 35 commissioners, including seven women, and represents the full professional, religious, ethnic and regional diversity of Afghanistan. Following a month-long awareness campaign, the Commission initiated public consultations in all 32 provinces of Afghanistan and in the Islamic Republic of Iran and Pakistan. An estimated 178,000 Afghans, 19 per cent of whom were women, participated in more than 556 meetings to discuss the draft. In addition, over 50,000 written surveys were submitted. The results of these consultations were then incorporated by the Review Commission into a final draft Constitution that was made public on 3 November 2003.

*Uma Shankar*

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The draft is being circulated nationwide prior to its submission to the constitutional *Loya Jirga* for ratification.

Some of the very significant goals to be realized by a Constitution are:

To provide a framework of government suited to specific conditions of a country,

To preserve rights and liberties of its citizens,

To preserve territorial integrity and national unity of the country,

To provide a framework of sharing of power among different groups and classes,

To promote socio-economic development of its people.

The most pressing need of Afghanistan today is to have a government that can provide safety and security to its people. In this respect the Constitution of Afghanistan as adopted by the National *Loya Jirga* on January 4, 2004 is a realistic and pragmatic move towards restoring peace, establishing a legitimate political authority and rebuilding state in Afghanistan. It provides procedure for functioning of a constitutional government as well as a framework for sharing of power. Political stability and maintenance of peace and order has been given greater value than citizenship rights and democratic devolution of power. It possesses a profound political realism despite the fact of US-sponsored Bonn process and Hamid Karzai acting as a stooge of the US Administration.

*Evaluating the New Constitution of Afghanistan*

Afghanistan's *Loya Jirga*, or grand tribal council, adopted a new Constitution following three weeks of vigorous debate. The 502-member *Loya Jirga* approved the Constitution on January 4, 2004. The new basic law, which provides for a directly elected president and bicameral legislature, paved the way for elections in 2004. The document seeks to blend democratic ideals into the country's traditionally Islamic fabric. It emphasizes the primacy of civil law in the

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country, which will now be officially known as the Islamic Republic of Afghanistan. At the same time, it stresses that the country's laws should not contravene the main tenets of Islam. Article 1 declares Afghanistan as an Islamic Republic, independent, unitary and indivisible state. Article 149 further declares that provisions of adherence to the provisions of sacred religion of Islam and the republican regime cannot be amended.

The constitutional *Loya Jirga* survived intense wrangling among conservatives, reformists and the country's various ethnic groups. A major source of debate was the issue of executive authority. The notion of a strong Afghan presidency faced stiff resistance. Although in the end, the Constitution granted the chief executive broad powers, some observers still question whether the President will have sufficient authority to dilute the power of warlords, who control many Afghan regions, and to counter the lure of radical Islam.

Until almost the very end, the result of the constitutional debate seemed in doubt. On December 30, the discussions appeared stalemated. Former president Burhanuddin Rabbani led roughly 100 of 502 delegates to boycott procedural votes, spurring the chairman to storm out of the meeting. The row ended with a last-minute compromise.

On January 4, Interim President Hamid Karzai, who is the front-runner to win the presidential vote held under the new constitutional guidelines, told delegates that he would learn to speak Uzbek and that the Constitution would grant language rights to Tajiks and other ethnic minorities who dominate northern portions of the country. These rights, and a declaration making Afghanistan an "Islamic republic," diluted complaints about Karzai's desire for a Constitution that featured centralized authority.

Interpreting Islamic principles could rekindle these complaints, especially since the document leaves room for relatively strict uses of doctrine in law. During the proceedings, some delegates worried that weaving religion into the Constitution would weaken it. "Islam should be separated from politics," said a delegate from an

Iranian refugee camp who asked for anonymity. “The delegates don’t know what’s going on in Iran. They made a few official trips to the country, met mostly the conservative faction, and now want to copy them.”

Rabbani dismissed concerns that Islamic law would undermine human rights. “Human rights [law] is not new,” he told EurasiaNet in December 2003. “Islam talked about it 1,400 years ago. We believe in human rights and such things should not worry foreigners, or make human rights activists think we are against it.” However, only in the absence of law or constitutional provisions with regard to any specific situation, Islamic principles would be applicable for the purposes of adjudication. According to Article 2, the religion of Afghanistan is Islam and followers of other religions are free to perform their religious rites within the provisions of law. constitutional recognition of dominant role of Islam in the political and judicial system does not in any way resemble the Taliban version of Islam. A moderate and tolerant Islam and that too in harmony with democratic and egalitarian ideals is the philosophy of the newly adopted Constitution. According to Article 35, the program and charter of a political party are not to be contrary to the provision of Islam.

The Constitution binds Afghanistan to international human rights laws, but stipulates that such laws cannot override Islamic principles. It also affirms women’s equal status and accords them 25 percent of seats in the lower house of the new bicameral parliament. Such provisions may end up clashing with conservative Islamic views. For the time being, however, the Constitution enjoys universal support. “We accept the rights of women as defined by the Koran,” said Abdul Rassul Sayyaf, who heads a conservative party called the Islamic Union of Afghanistan. Sayyaf has been an outspoken critic of Karzai in the past. The document also offers Karzai official authority over the nation’s defense establishment. This provision may dampen warlords’ claims to legitimacy.

The underlying principle behind this Constitution is the presidential system of government based on the separation of powers and checks

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and balances. Vesting enormous powers in the Presidency should ensure stability with a strong and centralized executive authority. The President is elected by receiving a majority of more than 50% of the votes cast through free, general, secret and direct voting. The procedure of direct election would ensure political domination of the Pushtun majority in the political process. Article 64 details the powers and duties of the President. However, in the exercise of most of his powers, the National Assembly and the Judiciary have imposed various restrictions. The President being the commander-in-chief of the Armed Forces, can declare war and ceasefire, send contingent of armed forces to the foreign country, and declare state of emergency but in all these functions he has to seek the approval of the National Assembly.

According to Article 71, the Government consists of Ministers who work under the chairmanship of the President. The President appoints the Ministers but they are to be approved by the National Assembly. The number and duties of the Ministers are to be regulated by law. The Ministers are responsible to the President and the *Wolesi Jirga*, the Lower House of the National Assembly. There is the principle of individual responsibility of the Ministers but there is no provision of collective responsibility. According to Article 92, the vote of no confidence against a Minister should be explicit, direct, and on the basis of well founded reasons, and the vote should be approved by a majority of all members of the *Wolesi Jirga*. The Presidency and the National Assembly has fixed tenures. It thus ensures the continuity of the government.

However, the Constitution does not allow the emergence of a dictatorial government. The Islamic character of the State, Constitution, laws, National Assembly and the Judiciary, limit the Powers of the President. The Fundamental Rights and Duties of Citizens in chapter II prohibit any kind of discrimination and privilege among citizens. Equality of rights and duties of all citizens before law, right to life, liberty, freedom of expression, right to form political parties, right to property, right to work, sanctity of the institution of family, equal opportunity for employment in state services on the basis of qualifications without any

discrimination are some of the rights granted to all Afghan citizens. However, these rights protect the individual only against the arbitrary exercise of power by the Executive. There is hardly any safeguard available to the individual against the legislative excesses as all these rights are subject to be regulated by law.

The Supreme Court has only limited power of judicial review with regard to law as enacted by the National Assembly. According to Article 121, the Supreme Court shall only by the request of the Government and / or the courts review the compatibility of laws, decrees, inter-state treaties, and international covenants with the Constitution. Thus, citizens have no right to seek judicial review against any law or decree in order to enforce their rights. This privilege to seek judicial review against any law is available only to the government. The Supreme Court shall have the authority to interpret the Constitution, laws and decrees. According to Article 130, “the courts in the cases under their consideration shall apply the provisions of this Constitution and other laws. Whenever no provision exists in the Constitution or the laws for a case under consideration, the court shall follow the provisions of the *Hanafi* jurisprudence.” The Constitution further enjoins upon the Government to implement the orders of the Judiciary. The provisions of the Constitution, thus, ensure a stable and strong executive but, at the same time, provide checks and balances in order to prevent the emergence of dictatorial and tyrannical regime. The Constitution cannot be called a charter of rights and liberties of citizens. It ensures a viable and functioning government badly needed for Afghans.

The present Constitution provides a viable framework of government. But it is weak in fulfilling other goals mentioned above. It is not capable to protect rights and liberties of citizens particularly when threatened by majoritarianism. In Afghanistan the Pushtun majority remains a fear for other ethnic minorities. There is virtually no check on the National Assembly and the Presidency when a single party or group dominates them. The provision of unitary form of government in fact legitimizes the domination of Pushtun majority. While majority must be given a greater say in governance and power distribution but in the

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interest of national unity and integrity it is essential to provide an institutional framework to give minorities a feeling of some kind of sharing of power. Unfortunately, the present Constitution is weak on this front. Various constitutional provisions are in the nature of declaration of intentions and ideals that should guide the functions of state and there is no provision of their implementation.

With respect to the status of women, the Constitution declares equality of men and women. Fifty percent of appointments to be made by the President for the membership of the *Mehsano Jirga* will be from among women. However, with regard to the status of women within the family, the sacred religion shall continue to be the guiding principle. According to Article 54, family is the fundamental unit of society and is protected by the state and it provides for elimination of traditions contrary to the provisions of Islam. Thus, all claims for equality of sexes are subordinated to the need for sanctity of family and Islamic principles. Concerns for stability and maintenance of conservative social fabrics and not modern principles of equality and liberty have received greater importance.<sup>12</sup>

Thus, the present Constitution fulfils only the first criterion of a good Constitution, i.e., to provide a framework of government suited to war-torn conditions of the country. If the elections are held this year and power transferred to the duly elected government, it would certainly be a big jump towards a constitutional government. Peaceful conduct of elections in which Afghans could take part without fear is a million-dollar question. Security structure inside Afghanistan is very terrible. In the absence of infrastructure, no constitutional government can be imagined. The process of economic recovery, domestic peace and state rebuilding-all depends upon the first step of establishing a constitutionally legitimate government in Kabul. The task of international community in assisting in its reconstruction through aid and other support can be facilitated only through a constitutionally legitimate government. It is in this respect that the formulation and adoption of a Constitution by the constitutional *Loya Jirga* assumes a great deal of significance.



constitutional scheme is suited to the immediate needs of Afghanistan. The Constitution is devoid of much idealism. It does not provide for a charter of liberty. It establishes a centralized administrative system based on separation of powers and checks and balances with the President as the key figure and center of power. Its unitary character does not provide a space for share of power by the ethnic and linguistic minorities. The so-called Fundamental Rights are dependent upon the will of the National Assembly as there is no constitutional safeguard to protect these rights. Islamic principles will define the limits and extent of enlargement of liberal space and civil society. Every care has been taken to ensure that Afghans are not made vulnerable to live without a government as they have been over the last decade. The Constitution may not satisfy the idealists and champions of human rights and liberties. But the Constitution has succeeded in addressing the most pressing need of Afghans, i.e., a government that may survive and pave the way for the rebuilding of state. In the absence of state there can be neither any rights nor liberties nor any devolution of power. The perennial questions and dilemma of state-tribe and inter-ethnic relations, the issues of relations between Islam and civil laws are to be settled by the laws to be framed by the National Assembly.

In the past the Afghan state tended to be so weak that it barely delivered anything in terms of social or public good, and the Taliban turned it into an impoverished state. Under the current circumstances, there is the possibility of reconstructing the state so that it becomes a model for the whole region: for example, combining the devolution of power while retaining sufficient authority at the center to fulfill its responsibility to provide public services.

The lingering security gap between Kabul and the provinces is the most daunting hindrance to reconstruction and political development. The international community's unwillingness to seriously address this gap could derail the whole enterprise. New initiatives such as the US Provisional Reconstruction Teams (PRTs) may have built-in shortcomings in this regard (since the aid workers may be perceived as part of the military force and, therefore, targeted by opposition

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groups), even as the PRTs demonstrate some renewed commitment by the United States. Efforts on the security front have to avoid the trap of being too little, too late.

Afghanistan finds itself caught in the cross currents of crisis and opportunity at this historical juncture. Whether the Afghan leadership will be able to grasp this opportunity will be determined in no small part by the policies of the international community. If the international community particularly the United States fails in its commitments to Afghanistan, all hopes of restoring peace and stability in civil strife-torn societies will be shattered.

Afghanistan now has a new Constitution, providing a model for not only the return of peace to the country, but for the start of an era of true reconstruction and resuscitation. Afghanistan is now only few steps away from having a permanent democratic government that would complete the process of the country's unity, establish the country's dilapidated administrative system and take up the difficult but the most necessary process of reconstruction not only of the infrastructure, but of the economy as a whole. Above all, it is now ready to tackle the most difficult and the most challenging issue of provision of security for the ordinary women and men in the country. The Constitution has explained the mandate of the government of Afghanistan and it is the task of whoever gets to lead that government to fulfill the national aspirations of the Afghans for a peaceful, secure and prosperous Afghanistan where men and women would work together to achieve the highest social goals for the current and future generations of Afghanistan and be called Afghans equal in status irrespective of their ethnic origin or linguistic root and equal in the eyes of the law.

### **OBSTACLES AND PROSPECTS**

The single most important obstacle in the way of constitutional government is the absence of state in Afghanistan. Lack of state infrastructures, warlordism, scarce revenue and economic resources, resurgence of Taliban and Pakistan's dubious role are some of the immediate obstacles. The central problem of Afghanistan is rebuilding

of its state. Unfortunately, state building in Afghanistan has historically remained linked with the strategic and power games being played in the region. Its fragile state system has never been able to cope with the strategic pressures. The present phase of state rebuilding in Afghanistan is taking place under the umbrella of unchallenged US hegemony. In the wake of Caspian Sea oil and gas resources, the importance of Afghanistan as an alternative route of supply line has brought it in the focus of US foreign policy. It is an unfortunate reality that the present US interests and prospects of peace, stability and constitutional government in Afghanistan are greatly linked. The present US interests badly need peace and stability in Afghanistan. The US interests guide the endeavor for replacement of the Transitional Administration by a duly elected constitutional government and that also holds the hope that unlike the past, the US will retain its short and long term commitment to Afghanistan. This in itself offers both the opportunities as well as challenges to its state building and a viable constitutional government. The opportunity is that there is an international (US) commitment to peace and stability in Afghanistan and the challenge is that the model of its state, Constitution and its foreign policies will remain under the shadow of the US interests.

The establishment of a constitutional government in Afghanistan is indispensable to its stability and progress. The Transitional Authority of Hamid Karzai, the international community particularly the USA and the United Nations will have to work together for the sake of a stable political order and economic and social reconstruction in Afghanistan. A golden opportunity awaits the Afghans, as the international community seems to have realized the vital significance of peace and stability in Afghanistan for the success of global campaign against terror. In order to exert pressure on the Afghan elites, the international aid and assistance should be tied to its progress towards a constitutional government. The international community and the United Nations have an obligation to provide an environment wherein through an intra-Afghan dialogue and political process they can form a constitutional government that will be responsible to the Afghan people and not be subservient to

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any foreign power. The challenge of political stability in Afghanistan can be met by collective concerted efforts by the international community in which the USA may play a leading role. However, there is need for caution against unilateral approach to the Afghan dilemma. The international community is not willing to undertake the responsibility of nation making in Afghanistan but in the interest of peace and security it has an obligation of state building in Afghanistan. In this context it is important to differentiate between nation making and state building. Nation making involves social, cultural and economic transformation of a diverse group of peoples within a country in order to create new loyalty towards a common identity of nationhood. State building involves the task of creating modern infrastructures of sovereign power and political and administrative institutions of government, which can exercise the powers of state. A constitutional government shall be the first breakthrough in this task.

### ***Election process: Obstacles to People's Participation***

The Bonn Agreement called for elections to be held in June 2004 and for the United Nations to conduct a voter registration exercise prior to those elections. Given the long years of war and strife, which all but destroyed the State, the legal and institutional structure had to be created ex nihilo. Two bodies were formed to oversee the elections process – the Interim Election Commission, and the Joint Electoral Coordination Office (JECO). On July 26, 2003, the Afghan President issued a decree establishing the Interim Election Commission to register voters and implement other preliminary steps in preparation for the June 2004 elections. The Interim commission had six Afghan members, and would remain in operation until voter registration is complete. The six Commission members form part of the 11-member Joint Electoral Coordination Office (JECO), joined by five UN representatives from UNAMA (United Nations Assistance Mission in Afghanistan), UNOPS (United Nations Office for Project Services) and UNODP. Of the six Afghan members, two were women. This joint Afghan-United Nations commission was formed on July 26, 2003 to oversee all registration and preliminary electoral preparations. The Commission began working

with UNAMA to prepare for the initiation of the voter registration project. The Joint Electoral Management Body, also established on July 26, 2003 has been overseeing the voter registration process, including the issuance of regulations and guidelines, provisional registration of parties and final certification of the voter registry. The Joint Electoral Management Body is composed of the six interim electoral commissioners and five international electoral experts, including the head of the UNAMA Electoral Unit.

A \$9 million registration security project has also been designed and presented to donors, to support the training and deployment of Afghan police alongside registration teams. Officials in Kabul now indicate that presidential and parliamentary elections will be decoupled, with the presidential poll being pushed back until mid-October 2004 and the legislative vote coming as late as next spring. The reshuffle is fueling concern over whether the elections will achieve the goal of cementing Afghanistan's stabilization process. The presidential and parliamentary elections originally were scheduled to be held jointly in June, and were then postponed to mid-September 2004. After much uncertainty and behind-the-scenes wrangling, representatives of President Hamid Karzai's administration admitted that the country could not keep to the September timetable. The Presidential elections are now scheduled on October 9, 2004.

Afghanistan's security situation appears to be deteriorating by the day, as Karzai's administration struggles to contend with resurgent Islamic radical forces and recalcitrant warlords who are firmly entrenched in many of the country's provinces. A revival of drug cultivation in Afghan provinces is also undermining the central government's authority. The inability of the central government to extend its influence in recent months heightened concerns that the elections would not be free-and-fair outside of Kabul, with voters prone to intimidation by local warlords and/or remnants of the radical Taliban movement.

Chaotic conditions in the provinces weren't the only factor in forcing the second postponement. Representatives of the United Nations, which

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has been helping the Afghan government with logistics, admitted that a slow response by international donors left election preparations drastically under-funded. At the same time, according to the UN, about 5.5 million of the country's estimated 10 million potential voters had been actually registered at of the end of June. Election officials also lack accurate census data that would allow them to draw parliamentary districts. The Bush administration is reportedly anxious that at least the Afghan presidential election be held by October, thus allowing US President George W. Bush to claim a foreign policy achievement during his own effort to win re-election in early November 2004.

Pushing the elections back will doubtless alleviate some logistical problems, in particular the voter registration issue. However, some observers question whether the extra time will result in an improved security climate. Taliban attacks aimed at undermining voter confidence have been on the increase. Meanwhile, a drug-related dispute reportedly sparked a clash in northern Balkh province between militiamen loyal to warlord Ata Mohammad and local police. Both sides accused the other of involvement in narcotics trafficking. During the confrontation Ata's troops captured several government buildings and took roughly 100 police officers as prisoners.

Bolstering Afghan security was among the main topics of discussion at the NATO summit in Istanbul in late June 2004. Participants confirmed a decision to expand the NATO-led International Security and Assistance Force for Afghanistan (ISAF) from 6,500 to 10,000. The reinforcements would allow ISAF to keep expanding its operations beyond the capital Kabul, and to provide assistance in the on-going voter registration drive. In addition, the United States has created more so-called Provincial Reconstruction Teams (PRTs), which blend aid workers and soldiers, to promote stabilization outside of Kabul. US officials say they hope to have PRTs in every Afghan province by the end of 2004.

In August 2003 the United Nations and the Afghan Government presented to donors a budget of \$78 million for the conduct of the

voter registration project. This budget, which must be met by voluntary contributions, remains under-funded by more than 50 per cent. In December 2003, \$47 million had been either pledged or committed. Delays in funding added to a number of other logistical, cultural, geographical and political complexities. As a result, the initiation of the voter registration project was delayed from 15 October to 1 December, 2003. Security concerns following the placement of a car bomb outside the UNAMA electoral office in Kandahar in November 2003 forced a reduction in the number of teams that were to be deployed on 1 December.

Security is at the forefront of election concerns as a primary requirement for full participation. The security situation in many parts of the country is tenuous at best, and security concerns will particularly impact women. Security needs to be provided to protect Afghan and international election workers, to reduce intimidation, and to enhance legitimacy for the outcome of elections. Special steps must be taken to assist women seeking to vote, as cultural customs and security concerns may inhibit many women from leaving their homes to go to the polling stations.

Afghanistan has an estimated 10.5 million citizens aged over 18, who should be eligible to vote in the 2004 elections, although the criteria for eligibility have not yet been formally established. On August 14, 2003, representatives of the U.N. and the Afghan Electoral Commission signed the "Voter Registration Project" agreement to start up the voter registration process. The estimated US \$75.6 million cost of the project will be covered by a voluntary fund administered by UNDP( United Nations Development Programme). There has never been a voter registry in Afghanistan, and the process poses many daunting obstacles, further complicated by the fact that no census exists. Special measures will be required to register women, who in the past were excluded from the political process. Due to the constraints of traditional Afghan culture, this will require separate teams of men and women to register male and female voters -- the UN plans to field 305 registration teams of 12 Afghans each (6 men and 6 women). The plan

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calls for Afghans to receive a voter registration card that identifies them and their province of residence, though issues such as the difficulties of creating photo ID for fully veiled women are under still discussion.

USAID (US Agency for International Development) is funding an 18-month strategy to address the most pressing Democracy and Governance needs in Afghanistan, providing \$8.86 million to support elections assistance. As this will be Afghanistan's first election, extensive voter education will be required to inform the population about the importance of elections and the procedures for participating. The concept of voting to select representatives is new for Afghans, and particularly for women. Special programs will target women, educating them on the importance of voting and political participation. Other programs will train women candidates in running a campaign, and train political parties in mobilizing female membership.

The 2004 elections will be a watershed in the creation of democracy in Afghanistan, marking the first time ever that Afghans select their head of state through competitive elections. It will be a particularly important milestone for Afghan women, who will have an opportunity to vote and establish a political role for women in a representative government that respects international law and conventions.<sup>13</sup>

The UN says 8.7 million of the estimated 9.8 million eligible voters have signed up - 41% of them women. Security is still a problem but the high registration figures show Afghans' determination to vote despite the threat of violence. Afghanistan has seen mounting violence ahead of the October poll - which was twice postponed because of security concerns. Officials, aid workers and civilians have been attacked by suspected Taliban and local militiamen trying to influence the outcome of the vote.

The Taliban, who were ousted from power in 2001, have vowed to disrupt the electoral process. In their heartland, in the south and south-west, registration has been low. Response has been strongest in the north, west and centre of the country where regional leaders have



encouraged their supporters to sign up. This has led to some anomalies; for example, in the city of Mazar-e-Sharif where the number registered exceeded the projected number of people eligible to vote, suggesting either fraud or inaccurate estimates of voter strength. The UN admits its calculations of the overall electorate may be out by as much as a million people but officials say a dab of indelible ink on each voter's figure will limit fraud on polling day. The October vote is being seen as a landmark in efforts to build democracy in Afghanistan after years of war. Interim President Hamid Karzai is widely expected to defeat 22 other candidates to secure a five-year term. Parliamentary elections have been postponed until next year for security reasons.<sup>14</sup>

Given that social conditions will remain strained for the foreseeable future, the pessimistic mood may prove difficult to dispel. For example, a recent study prepared by the group Refugees International said the wheat harvest in 2004 is projected to be "less favorable" than that in the previous year, meaning "a need for increasing amounts of food aid." The report went on to say that persistent drought is posing a serious threat to Afghanistan's agricultural sector, which employs approximately 70 percent of the country's population. "The growing demand for water matched against its scarcity argues in favor of careful national policies for utilizing water wisely," the report said.<sup>15</sup>

## CONCLUSION

Afghan President Hamid Karzai is pressing ahead with efforts to consolidate his political authority ahead of presidential elections. Karzai appears to have been bolstered by reports that a voter registration drive has encountered surprising success in recent weeks. Karzai received an important boost after United Nations officials announced that roughly 90 percent of eligible voters have registered to cast ballots. Voter registration efforts got off to a slow start in the spring, but the pace picked up dramatically later. At present, according to a UN tally, about 8.7 million Afghans out of just under 10 million potential voters have signed up to participate in the presidential election.

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Karzai's decision to replace Gen. Mohammad Fahim as his running mate in the October 9, 2004 presidential election has shaken his support within one of Afghanistan's most influential constituencies – the *Mujahideen* commanders. Despite the fact that Fahim's replacement on the election ticket, Ahmad Zia Masood, is the brother of slain war hero Ahmad Shah Masood, many *Mujahideen* commanders appear inclined to support Karzai's chief rival for the presidency – Yunus Qanooni.

Some observers say Karzai's political shakeup, which was announced on July 26, has left Afghanistan vulnerable to renewed inter-ethnic strife during the presidential campaign. The diplomatic source indicated that Fahim's ouster has alienated the bulk of the country's Tajik community. Although Zia Masood is himself a Tajik, a majority of Tajik leaders appear to feel that Fahim, who had served simultaneously as Vice President and Defense Minister, was wronged. Fahim and many other influential Tajik leaders have already announced their support for the candidacy of Qanooni, who is also Tajik. One prominent Tajik leader who continues to support Karzai is Burhanuddin Rabbani who criticized Qanooni's last-minute decision to enter the presidential race. Rabbani suggested that Qanooni was un-electable because he would not be able to garner substantial support among Afghanistan's other ethnic groups.

Meanwhile, Afghanistan's chief clerical body, the General Council of Ulema, issued a religious decree on August 3 calling up on the country's population to shun the cultivation of poppies. "Poppy cultivation is the result of civil war, instability and lack of security. The Afghan General Council of Ulema emphasizes the need for stability and security throughout the country," the decree said. It went on to describe poppy cultivation as a "sinister phenomenon that brings disrepute" to Afghanistan. Since the US-led anti-terrorism offensive in late 2001, Afghanistan has reclaimed its standing as the world's leading source of opiates. The burgeoning drug trade poses one of the most serious threats to the country's stabilization process. The Grand Council's decree could help Karzai's administration reverse the existing trend of rising drug production.<sup>16</sup>

In the absence of success in the programme of “Disarmament, Demobilisation and Reintegration”, peaceful conduct of elections is a million dollar question. According to Barnett R. Rubin, “ In building institutions of governance after a conflict, it is important to carry out efforts in the right sequence. Elections before disarmament sparked renewed conflict in Angola and Cambodia, in the absence of legal institutions, strong and legitimate enough to enforce the outcome. Of course, a political and social process is not like a machine that one operates by pressing the right button in the right order... Most Afghans, however seem to hope for the maintenance of today’s fragile peace and stability, and the government’s caution reflects their concern.”<sup>17</sup>

The wide use of the concept and practice of civil society in Afghanistan could prepare the ground for autonomous and democratic participation of Afghans in the conduct of a significant part of their public affairs. Only with such participation they may expect to have a small and suitable state in the country. Otherwise the state will be too big and too costly for the Afghan people. Imitating the United States of America, Canada, or Germany to adopt a federal system of state in Afghanistan is absolutely irresponsible and whimsy. The people of Afghanistan cannot endure it because it will be unbearably heavy, inefficient and wasteful. A far better option would be a relatively small, centralized and democratically constituted unitary state combined with the decentralized civil society institutions. An alternative option will be managing a large part of Afghanistan’s public affairs autonomously, federally, productively, and financially self reliantly. The role of the civil society in the future of Afghanistan looks so crucial and vital that it deserves to be expressly an integral part of the economic reconstruction plan of the country. It justifies a special program of education for training the required promoters, lawyers, planners, managers, and administrators.

Afghanistan’s state-building process is entering a decisive phase. With the Bonn political process nearing its fruition in the enactment of the new Afghan Constitution and a new donor conference held at Berlin on April 1, 2004 the Afghan government and the international

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community have been presented a unique opportunity to place the country firmly on the road to peace and stability. The conclusion of nation-wide elections will pave the way for establishing a constitutional government at the center. But that would be only a beginning of the process of state building. A word of caution by Mark Sedra & Peter Middlebrook is worth mentioning here:

The paradigm of state building has an innate proclivity for advancing strong centralised forms of government. Accordingly a disproportionate amount of resources are spent on strengthening central institutions at the expense of provincial and local-level structures. This has the effect of undermining local authority before a strong central state has been able to assert itself. In countries such as Afghanistan, where local forms of authority have retained their legitimacy in many parts of the country, suspicion and even hostility towards central state institutions has emerged. Undermining local authority structures in pursuit of a strong central state is, in most cases, counter-productive. Equal support should be provided to national and sub-national levels of government and to both traditional and modern structures in order to encourage the growth of civil society. State-building processes must abandon their centralist tendencies in favour of a multi-layered, center-periphery approach that embraces traditional forms of authority.<sup>18</sup>

This does not obviate the need to build central state institutions, which at this early stage in the process are urgently required to serve as interlocutors with the international community and to coordinate reconstruction activities. Nevertheless, parallel processes should be initiated to nurture sub-national governance structures. In the long run, a greater degree of decentralization in the system may be most apt for diverse countries such as Afghanistan. A constitutional government at the center shall be a major breakthrough in the task of state building, which may be apt to Afghanistan's ethos and its traditions.

However, there seems to be no sign of the US interest in the challenging task of state building in Afghanistan. In the garb of War against Terror, the US is interested only in regime change in the failed /

failing states whom it calls rogue states and regards them as threat to its security. The regime change in Kabul and Baghdad has heralded the advent of a technique of control over regions of economic or strategic significance. The US Administration seems to believe in the efficacy of its coercive power and ability to manipulate the puppet regimes in the rogue states. The war of US-led international coalition against Taliban, UN sponsored Bonn Agreement on formation of Afghan government and international aid for its rebuilding aroused such hopes. But recourse to unilateralism on Iraq has signaled the increasing reliance on coercion, blackmail and regime change in US foreign policy. Hence the prospects of rebuilding of state or a stable constitutional government in Afghanistan are doubtful. The task of having constitutional government in Afghanistan in the absence of state institutions, may be used as pretext by the US for its indefinite presence.

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## THE AFGHAN PRESIDENTIAL ELECTION: LIGHT AT THE END OF THE TUNNEL?

*Ramtanu Maitra*

The October 9, 2004 Presidential election in Afghanistan has given a clear plurality in favour of interim President Hamid Karzai who will continue as Afghanistan's President for five years. Although the election was flawed, and its validity was contested by 15 of the 18 Presidential candidates, the carrot-and-stick policy of Washington prevailed in the end. The foreign poll panel's willingness to accept the election as valid seemed to tilt the scale, and Afghanistan now has its first elected President.

The October 9 poll was threatened by the promise of all-out violence by the Taliban and Al-Qaeda remnants. It was more so because at least 44 poll workers were killed by anti-Kabul forces in the run up to the elections, and hence the threat was considered to be serious. In addition, hundreds of bombs had gone off to scare the electorate in the last few months. On the Election Day itself, security forces prevented dozens of attacks with improvised bombs, arresting atleast 22 people.

"The fact that this election took place in an environment remarkably free of violence is an important and untold story," US Secretary of State Colin Powell told newsmen. Others drew even more positive conclusions. "The Afghan elections must therefore be seen as a serious blow to the Taliban, who have been forced on the defensive," Patrick Seale of *The Daily Star* of Lebanon claimed in an article published on October 18, 2004. He concluded that the Taliban can no longer be considered a rising power and their ambition to expel US forces and the NATO-supervised International Security Assistance Forces (ISAF) now seems unrealistic. Yet there is reason to believe that such definite and positive conclusions may be premature.

## VIOLENCE NOT OVER

Mullah Abdul Salim Rackitt, a Taliban commander from the eastern Afghan province of Nangarhar, told newsmen from Kandahar October 24, 2004 that while the poll was a blow to the Taliban, it does not mean that the Taliban is finished. Mullah Abdul Salim, incidentally, is ready to support the Karzai Presidency and has indicated that a number of other Taliban commanders would also support Karzai as President. This points to another reason as to why the Presidential election remained relatively peaceful and, at the same time, why the violence in Afghanistan may not be over.

According to the Strategic Forecasting LLC, a group that provides “inside” intelligence through its newsletter (*Stratfor*) for a price, US Ambassador to Afghanistan, Zalmay Khalilzad, who is very close to the inner neo-conservative circle around President Bush, had worked out a deal to obtain support from a faction of the Taliban to support Karzai, because, he, like most of the Taliban, is an ethnic Pushtun. *Stratfor* does not believe that the Taliban were incapable of action. There are reports that in eastern and southern Afghanistan, where Taliban militia are the strongest, the local residents -- many of them, like the bulk of the Taliban militants, Pushtuns -- actively worked to ensure a smooth election. Other reports indicate that while meeting with major candidates, Ambassador Khalilzad asked them to withdraw their protests against the “flawed” election.

Karzai needed all the Pushtun support he could get. The poll results indicate that he secured almost 90 per cent of the vote in the Pushtun-dominated southern and southeastern Afghanistan, while his rival and former Education Minister Younus Qanooni, a Panjshiri Tajik-Afghan, secured 96 per cent of Panjshiri-Tajik votes. There is no doubt that the Taliban, instead of busting up the polls, provided security for the polls. After the vote, Hamid Karzai indicated that he would accommodate Taliban leaders in the Cabinet. The election result has emphasized the ethnic division and it is evident that Afghanistan’s politics, new as well as the old, remains rooted in the volatile ethnic politics, with



each of the dominant ethnic groups--Pushtuns, Tajiks, Uzbeks, Hazaras--jockeying for position and influence in the post-election scene.

### **THE PAKISTAN FACTOR**

It is important to point out at the outset that the newly-elected President Hamid Karzai is expected to face challenges not only from the non-Pushtun ethnic groups, but also from those Pushtuns who are protected by Pakistan. These Pushtuns, the so-called "bad Taliban", are both anti-America and anti-Karzai. The old nemesis of Karzai, Gulbuddin Hekmatyar, a blue-eyed *Mujahideen* of the Americans during the 1980s, is now close to the "bad Taliban" crowd and, by extension, to a faction of the Pakistan ISI. It is almost a certainty that Hekmatyar would not allow Karzai an easy passage.

Among Americans only US Ambassador Zalmay Khalilzad, who is a good friend of President Karzai, has shown serious concern about the threat posed by Pakistan's dubious role vis-à-vis Afghanistan. Khalilzad has little choice but to endorse Washington's acknowledgment of the help rendered by President Musharraf in the Bush administration's war against terror. On the other hand, Amb. Khalilzad has on a number of occasions made clear that Pakistan was not adequately helping the Karzai administration and has not done enough to keep the Taliban on a leash.

Since last year, in particular, Khalilzad has kept up pressure on Pakistan, ostensibly to ensure the success of the presidential election. As a result, Pakistan made some serious efforts to hunt down the Taliban and Al-Qaeda remnants through full-fledged military operations in the Federally Administered Tribal Areas (FATA), particularly in South and North Waziristan. There is no question that Pakistan has not succeeded in eliminating or even showing a definite intention to eliminate, the Taliban, who worked for them in the 1990s and, Islamabad believes, will work for them again in the future. But, at the same time, to be on the right side of Washington, its paymaster and taskmaster, Islamabad has done just enough to see that the Presidential election in Afghanistan takes place.

Following the 9/11 terrorist attacks in the United States, no other terrorist was portrayed by the United States as more dangerous than Al-Qaeda leader Osama bin Laden. Within a month the United States invaded Afghanistan to “take out” the Taliban, Al-Qaeda and bin Laden, and the world lined up behind the new anti-terrorist messiahs from Washington, providing the necessary moral and vocal support. Why, then, did Washington not move further against the Taliban, who are still protected by Islamabad not decisively strengthen President Karzai?

### **TALIBAN AGAIN?**

President Karzai shared with Afghanistan analyst Ahmed Rashid earlier this year in Kabul his belief, like that of the average Afghan today, that the answer to that question lies in an understanding reached between the United States and Pakistan, during Musharraf’s June 2003 visit to Camp David, that Afghanistan could be, in effect, “sub-contracted” to Pakistan. Karzai told Rashid that Musharraf’s critical remarks about the Karzai regime during his visit to the United States in the summer of 2003 reminded him of the pre-9/11 days, when Pakistan was fully backing the Taliban and exercising ever-more-strident control over Afghanistan. Musharraf said, among other things, that the Afghan President does not have much control over Afghanistan beyond Kabul. But in his July 2003 interview with Rashid, Karzai clearly remarked that no matter what outsiders were planning or plotting, nobody should be under any illusion that Afghanistan will allow any other country to control it. Was Karzai overreacting? Most likely, he was not. He has seen the writing on the wall. It is arguable whether the Taliban’s return to power is inevitable, but there is little doubt that under the circumstances it is a very convenient option for the US.

To begin with, it was clear from the outset that the United States never really wanted to stay in Afghanistan for a very long period of time. It was basically considered a jumping-off point for the “big enchilada” the re-shaping of the Middle East politics and regimes. The Afghan reconstruction talk was mostly wishful thinking. For anyone familiar with

present-day Afghanistan –its security situation, the drug production and trafficking, its destroyed infrastructure, its rampant illiteracy and poverty--the idea of its reconstruction by foreigners within a short period of time is, at best a dream, or perhaps simply a hoax.

The American invasion of Afghanistan in the winter of 2001 took place in concert with the Northern Alliance – an anti-Taliban group composed of Tajiks, Uzbeks, Hazaras and other smaller ethnic groups. As such, the invasion alienated the Pushtun majority in Afghanistan as well as the Pakistani establishment. Now, after almost three years, during which Washington hunted for Al-Qaeda and Taliban remnants and wooed Pakistan with money, arms and verbal support to abandon the Taliban and give up harboring the anti-America Al-Qaeda remnants, the Bush administration has finally come to realize two facts of life: First, in order to bring the American GIs home, Kabul requires a Pushtun-backed government; and second, to maintain Pakistan as a friend in the long-term, it is not possible to impose an anti-Pakistan Northern Alliance-backed government next door in Kabul.

America's backing for the Northern Alliance has a further irony that points to its temporary nature. Look at the Northern Alliance allies. The best are Iran and Russia, the Bush administration's key contestants for supremacy in Central Asia. In the 1980s, the United States spent billions of dollars to get Afghanistan out of the Russian orbit. It is naive to believe that the Bush administration would hand over power to the Northern Alliance – a proxy power of Iran and Russia, Washington believes. It would be much better for Washington to sub-contract Afghanistan to Pakistan and keep the Russians at bay. Also, the Northern Alliance, and particularly the Shi'ites of the Hazara region of Afghanistan, is close to Iran. The Iranian port of Chahbahar is now linked to the city of Herat in central Afghanistan by road, and in the process Kandahar in southern Afghanistan is now linked to Iran in the southeast.

As the US operation in Afghanistan went on, some neo-conservatives close to the seat of power in Washington have been

screaming for Iranian blood. Even if the Bush administration is not quite willing right now to spill that blood, it is nonetheless a certainty that Washington will be more than eager to see that Iranian influence in Afghanistan kept on a very tight leash. If the Northern Alliance dominated Karzai government stays in power for long, Washington figures that Iran will most definitely enhance its influence. The Taliban do not want that, and they have sent a message to that effect by attacking the Shi'ites in Quetta with the full knowledge of the Pakistani authorities. Besides being anti-Russia, the Taliban are also anti-Shi'ite, or anti-Iran.

### **IRAN-INDIA OPTION**

Finally, there is the India factor. Although a minor factor, it does, however, come into play in calculating the pluses and minuses of the resurgent-Taliban option. The Bush administration wants closer relations with India -- not on New Delhi's terms, but on Washington's terms. Indian activity in Afghanistan has increased multifold since the Karzai government came to power in the winter of 2001. These developments are being eyed suspiciously by Islamabad. While Washington would not make a federal case out of it, it surely does not particularly like to see India forming a strategic alliance with Russia and Iran in Afghanistan. Washington would prefer to nip such an alliance in the bud, particularly if its ally, in this case Pakistan, feels the same way.

In the January 2003 issue of *Strategic Insight*, a publication of the Washington-based Center for Contemporary Conflict, Brigadier Feroz Hassan Khan, related to President Musharraf and formerly at the Wilson Center and now a fellow at the Monterey Institute of International Studies, observed:

In Iran, President Khatami is moving in tandem and cooperation with Pakistan in supporting the Karzai government as manifest in the recent visit to Pakistan. However, there are hardliners in Iran who would want to continue with the old game of supporting warlords and factions and consider Pakistan as rival vis-à-vis Afghanistan, and who are still suspicious of the Saudi role. Iran

is pitching its bid, by constructing a road from Chahbahar Port in the Persian Gulf through Iran's Balochistan area to link up eventually with Kandahar in the hope of "breaking the monopoly of Pakistan". Afghanistan is currently sustained primarily through the Karachi-Quetta/Peshawar routes - Bolan and Khyber passes respectively - which has provided Afghanistan with trade and transit with the outside world for centuries.

There is unanimity among observers that unless Afghanistan establishes law and order in general, the governance of the country could be tenuous. Prior to the October 9, 2004 Presidential election, it became evident that President Karzai's writ did not go beyond Kabul. His inner core of security is provided by the US State Department though private security agent is supplied by Dyn Corp. President Karzai held only one major election rally outside Kabul. An earlier attempt to hold a rally ended up with an assassination bid on Karzai's life by the militants.

### **BLOOMING POPPIES**

There is no reason to believe that Afghanistan's security can be established overnight. Last year, the country's opium production was about 3,970 tons. The figure this year is expected to exceed the record 4,600-ton production in the year 2000 during the Taliban rule. According to conservative estimates, the 2003 harvest of Afghan drugs brought drug-traffickers about \$30 billion in the European market. In Afghanistan, where the opiate is sold cheap, it fetched about \$2.5 billion. These are huge sums of money in a poor country. This amount, produced in cash, and hence mostly unaccounted for, provides the basis for warlordism. Warlords need recruits who, in turn, need to be clothed, fed and armed. The drug money provides the warlords the necessary liquidity. As a result, Afghan warlords are getting bigger and stronger. There are some who muster more than 20,000 militia members – far larger than the Afghan National Army (ANA), recruited and trained by the Americans, which numbers not more than 4,000 at the time of writing.

According to the estimate of the United Nations Office against Drugs and Crime (UNODC), more than 1.5 million Afghans are involved in drug business worth \$2.5 billion. Afghanistan, which supplies 75 per cent of the world's opium, has become a de facto narco-state, according to the IMF, that accounts for half of the country's Gross Domestic Product (GDP). Opium production has been officially prohibited for several months. Previously, Kabul compensated growers who destroyed their crops, which only incited them to produce more. Last year, it was decided that opium should be eradicated within ten years, i.e., by 10 per cent a year. Since then, output has expanded steadily.

"Dismantling the opium economy will be a long and complex process," Antonio Maria Costa, Executive Director of the UN Office on Drugs and Crime, said in the organization's latest report on narcotics production in Afghanistan. "It simply cannot be done by military and authoritarian means. That has been tried in the past and was unsustainable. It must be done with the instruments of democracy, the rule of law and development." Any crackdown is likely to most affect those already most disadvantaged, poor farmers who are also the most likely to turn against any authority that interferes with their ability to provide for their families.

What is most disturbing is the fact that the warlords are not only close to Kabul, but are pampered by the United States. In Kabul, majority of soldiers, police and militiamen are loyal to the ethnic Tajik movement, the *Jamiat-e-Islami*, or to *Ittihad-e-Islami*, a Pashtun militia that has been aligned with the *Jamiat* for over a decade. *Jamiat-e-Islami* was one of the main militias of the Northern Alliance that fought alongside American troops during the overthrow of the Taliban, and seized Kabul with US assistance. With tacit US support, the *Jamiat-e-Islami* intimidated the *Loya Jirga* or Grand Council in June 2002 to award its leaders the major political posts in the "interim government." Human Rights Watch, in its report issued in August 2003, denounced the *Loya Jirga* for entrenching "the dominance of military leaders both at the local level and in Kabul." It commented that

President Hamid Karzai has “little capacity to enforce his orders without the support of powerful military figures or the United States,” and “barely retains control over Kabul-based security and military forces.” Human Rights Watch indicted the Bush administration for this state of affairs, noting that US military forces “cooperate with (and strengthen) commanders in areas within and outside of Kabul.” Hazrat Ali, another warlord who has worked closely with the US military in post-invasion operations along the Pakistani border, exerts control over the city of Jalalabad to the east of Kabul, as well as the surrounding provinces of Laghman and Nangarhar.

### **AFGHAN NATIONAL ARMY**

Why can't the Afghan National Army (ANA) be built up to its required strength? Why are the warlords getting bigger? These questions have the same answer. Warlords who handle drugs are loaded with cash and they use the money not only to recruit militia, but they pay the militia much higher than Kabul can pay ANA recruits. Despite this evident disparity, the Afghan government still clings to the idea that it can build a centralized army of 70,000 and completely disarm the warlord forces -- which by some estimates number 700,000 fighters -- within a short span of time. The United States now estimates that the army will cost \$350 million a year to train, equip and operate, and that this training can be completed in two years. Both plans are highly optimistic. Moreover, without a concept for integrating, rather than instigating, the warlords and making the Afghan army truly representative, these plans risk backfire.

The failure to think realistically about Afghanistan's future could undermine the overall goals of the US in Central Asia and breed further instability in the region. After its initial military success, the Bush administration reverted to hunting the Taliban and Al-Qaeda remnants. This involved direct involvement in local politics and the social setup. At the same time, the basic reconstruction efforts were given virtually the go-by. As a result, almost three years since the invasion the local government is no closer to standing on its own two feet.

Afghanistan's security also depends upon the geopolitical interests of big powers and neighbouring powers in the region. For years to come, the most immediate security concern of Afghanistan will be Pakistan. Since the 1995 takeover by the Taliban militia, Pakistan has virtually controlled Afghanistan. For Pakistan, Afghanistan provided "strategic depth" in case India squeezed in its east.

The extension of Pakistan's control into Afghanistan was ignored by the United States and China. Russia, another major power, did not like the development, but had little capability to undo the damage. India and Iran, both unhappy over the development made a lot of noise, but things did not change much. The sheltering of anti-US Al-Qaeda and the events of 9/11 in particular changed the ground conditions rapidly. What happened between the winter of 2001 and October 9, 2004 in Afghanistan can broadly be described as the fallout of 9/11.

### **THE CALIPHATE JIHADIS**

With the advent of the invasion of Iraq by the United States in March 2003, Al-Qaeda leader Osama bin Laden, in hiding from the American hunters, urged the Arabs to leave Afghanistan and find bases from where they could hurt the United States. It is said that a large number of them went to Iraq. Some of them also went to South East Asia and perhaps to Bangladesh as well.

But the anti-Soviet *mujahideen* militia also consisted of non-Arabs such as the Chechens, Uzbeks, Tajiks, Turkmen, Uighur, Kyrgyz, Pakistani, Bangladeshi, among others. These jihadis did not go to Arabia because they have no real animosity toward the United States. They hate the Russians, and to a certain extent the Indians because the latter are friends of Russia. In addition, all these jihadis are either Sunni Muslims imbued with Wahabi form of orthodox Islam, or Sufis belonging to the Naqshbandiya or Al-Qadiriyya tariqas. Both Sufis and Wahabis are not only virulently anti-Russian but also anti-Shia, which translates into anti-Iran. The Taliban's defeat of most of the pro-Iran Northern Alliance in 1998 led to the killing of Iranian diplomats by the



Taliban in Mazar-e-Sharif. In other words, a large segment of the non-Arab jihadis are anti-Iran.

Since the collapse of the Taliban following the US-led invasion in the winter of 2001, most of this anti-Russia, anti-India and anti-Iran jihadis have come under the umbrella of the Pakistani ISI and a section of the Pakistan army. Washington is fully aware of them and so is Beijing. In fact, Beijing had requested Islamabad not to harbour the anti-Beijing Uighurs. As a result, reports indicate that Pakistan has moved some 5,000 of these jihadis up north into Central Asia. Many of the Uzbeks, Kyrgyz, and Tajiks are involved in spreading militant Islam in their respective countries. They consider the leaders of their respective countries to be old Soviet hands, and therefore, anti-Islam. These jihadis are working hand-in-glove with the *Hizb-ut-Tahrir*, a group of Islamic proselytizers headquartered in London, pushing for establishment of a Caliphate in the mold of the *Khalifa-e-Rashidin* that took over control of the faith following the demise of Prophet Muhammad.

These Central Asian jihadis are supported by the Chechens, who are eager not only to “liberate” Chechnya through violence, but are also ready to help the Central Asians, and even the Uighurs, to “liberate” their respective countries. While the goal of these jihadis is not easy to achieve, what makes them dangerous, and to a large extent effective, is the tacit support they receive from a number of nations. Pakistan and Saudi Arabia back these jihadis, while the United States perceives them a nuisance for the Russians and the Central Asians, but not to the Americans.

In the coming days, Afghan President Hamid Karzai will have to move forward cautiously making friends in the region. The key difficulty for Karzai will be increasing pressure on his eastern and southern borders from Pakistan. While Islamabad will not openly advocate a policy that would be harmful to him, it is almost a certainty that Pakistan will put in less than maximum efforts to make things work in Afghanistan. Moreover, a secular Karzai will be strongly challenged in

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Riyadh. Saudi Arabian zealots will continue to push Wahabism and support all Islamic forces who promote the Caliphate. President Karzai is aware that the Caliphate that the Islamic zealots are preaching, and organizing the militants around, subsumes Afghanistan. It is also likely that support for his own efforts from Washington and Europe, will remain limited to organizing financial help and loans. Beyond that, the West will do little to ensure the emergence of a stable and growing nation.

**SECURITY INDICATORS: SIZE OF AFGHAN ARMY**

<b>Month/Year</b>	<b>Trained forces</b>	<b>Force on duty</b>
July 2002	390	N/A
August 2002	1,200	N/A
November 2002	1,000	N/A
January 2003	1,800	N/A
September 2003	7,000	N/A
January 2004	9,000	4,500
March 2004	N/A	5,700
April 2004	N/A	7,500
June 2004	N/A	10,000
July 2004	13,000	N/A
August 2004	N/A	14,000
September 2004	15,000	15,000
October 2004	N/A	15,000
Goal	70,000	70,000

Source: Brookings Institute

**NUMBER OF AFGHAN MILITIA FORCES**

<b>Period</b>	<b>Time Number of Afghan militia forces</b>
Pre-war levels	90,000 (and 100,000 reserves)
September 2004	87,000

**NOTE:** (1) It is estimated that 40,000 soldiers are needed to provide security in the country. See "Passing the Hat Round for the Rebuilders," *The Economist*, April 3, 2004.

(2) NATO officials estimate that the desertion rate among soldiers in the Afghan army was 22% in 2003. See Tim McGirk and Michael Ware, "Remember Afghanistan," *TimeMagazine*, March 8, 2004.

**AFGHAN MILITIA FORCES DISARMED  
SINCE APRIL 2004**

<b>Month/Year</b>	<b>Afghan militia forces disarmed (cumulative)</b>
September 2004	13,000
October 2004	18,000

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## PARLIAMENTARY ELECTIONS (2004): JAMMU AND KASHMIR

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The advent of summer witnessed the successful conclusion of parliamentary elections in the State of Jammu and Kashmir in April-May 2004, notwithstanding the sporadic militant attacks on elections rallies and political leaders. The *Lashkar-e-Toiba* asked the voters to support the election boycott campaign led by Syed Ali Geelani. An *Al-Umar* commander, codenamed Khalid Jawaid warned the people not to participate in the elections. Over 29 people were killed (with 23 in Kashmir valley and 6 in Jammu) and 281 were injured (197 in the valley and 84 in Jammu), in the course of militant attacks during the elections. Eleven persons were killed and 56 injured on 8 April 2004 when grenades were hurled into the crowd at an election rally by the ruling PDP in Uri, 100 kms. north of Srinagar.<sup>1</sup> In another such attack militants hurled grenades at a Congress rally in Doda district killing one person and injuring 32 others.<sup>2</sup> Militants chopped off ears of two village elders in remote and hilly village in Udhampur district, after kidnapping and beating them severely, as a warning to people against voting in the elections.<sup>3</sup>

Undeterred by such threats and violence by terrorists and calls for boycott by the All Party Hurriyat Conference, Syed Ali Shah Geelani and other pro-Pakistan militant outfits, people came out in considerable numbers to elect their representatives from the six parliamentary constituencies in the State for the 14<sup>th</sup> Lok Sabha. The APHC's decision to boycott the Lok Sabha elections came in for criticism in public and media circles. The *Indian Express* rightly analysed the situation in its editorial: "The Hurriyat's decision would appear to independent observers as an indication of either a total lack of confidence in the ability of its leaders to face the democratic test of seeking the people's mandate, or a gross lack of willingness to be part

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of the democratic process through which lies the greatest opportunity to assess the true wishes of the people they claim to represent and to promote their interests. One possible explanation is that they have succumbed to pressures from the separatist and militant groups, who obviously don't wish to risk the ballot while they rely on the bullet.... By demonstrating its opposition to the democratic process, the Hurriyat reinforces the perception that it seeks power for whatever purposes without facing the litmus test of letting the people decide which leaders should represent them, and which policies they should follow.”<sup>4</sup>

Encouraged by the acclaim earned for its role in ensuring free and fair Assembly elections in 2002, the Election Commission of India, which visited the State from 1-3 April 2004, made elaborate arrangements. This time about 36,000 State government employees were deployed as Presiding/Polling Officers, unlike in the last Assembly elections when polling staff was brought from outside the J&K. Polling was held to the six parliamentary constituencies in the State in four phases, staggering of poll dates being done in such a way that adequate number of staff and security personnel remained available during the polls. Baramulla and Jammu went to the polls on 20 April 2004, whereas elections were held in Srinagar on 26 April, in Anantnag on 5 May and in Udhampur and Ladakh on 10 May 2004. As the polling results showed, 22,39,342 votes were polled out of a total electorate of 63,68,115 making a total average of about 35.2 per cent thus showing an increase of 3 per cent over the voter turnout in 1999 Parliamentary elections. This turnout is fairly comparable with the average turnout in other States of India. As regards the Srinagar and Baramulla constituencies, the voter turnout was considerably higher than in the 1999 Lok Sabha elections. The positive experience of having free and fair polls to the State Assembly in 2002, did persuade the people in the valley to come out and participate in the Lok Sabha elections.

Since the three regions in Jammu and Kashmir State – Jammu, Kashmir and Ladakh, have different ethnic and religious configurations besides having divergent political aspirations, the elections were influenced by these factors. In areas dominated by Shia, Gujjar and

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Pahari communities, though all being Muslims, witnessed heavy turnout due to the enthusiastic participation by these communities in the polls. For instance Uri segment of the Baramulla constituency, which has around 64,000 voters, recorded a high turnout. Similarly, people in Gurez (home to the Dardic group of Muslims), Zadibal and Budgam (where the majority of Shia Muslims live) voted in larger numbers. In Jammu and Udhampur constituencies, where Hindus are in majority, BJP failed to win any seat. BJP's loss was also ascribed to the lack of enthusiasm among its traditional voters who were disillusioned with Vajpayee led NDA government's lack of resolve and consistency in its policies regarding terrorism, Pakistan and Kashmir. In the Kashmir valley, People's Democratic Party (PDP) carved its niche emerging as a credible alternative to the National Conference (NC) by playing up the Kashmiri card. At the same time, the young and dynamic Omar Abdullah succeeded in consolidating his influence both in his party and in the valley. In Ladakh, the main contest was between the Ladakhi autonomists and the NC in which the former succeeded. The good track record of the Leh Autonomous Hill Development Council (LAHDC) in the local socio-economic development came in handy to Thubstan Chewang, the Chief Executive of Leh Autonomous Hill Development Council, to score his victory over his main NC rival Ghulam Hassan Khan.

An interesting feature of this election was that the coalition partners of Jammu and Kashmir Government were pitted against each other in these parliamentary elections. CPI(M), one of the coalition partners having two members in the legislature, fielded the sitting MLA and State Secretary of CPI(M), Mohd. Yousuf Tarigami against the ruling PDP Chief, Mehbooba Mufti from Anantnag parliamentary constituency. Tarigami polled 18,466 votes, i.e., 12.29 per cent of the total votes polled in Anantnag coming third after PDP (49.55%) and NC (23.63%). *Hizbul Mujahideen* cadres were reported to have been working against the CPI(M) candidate. Anti-election posters were put up over the walls in Kulgam, Wachi, Shopian, Pulwama and Damal Hanzpora in south Kashmir areas where the CPI(M) has a support

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base. In Baramulla constituency the Congress and PDP – the two main partners in the coalition, locked horns. With the result, the NC candidate Abdul Rashid Shaheen triumphed over his main PDP rival Nizam-ud-Din Bhat by a margin of less than ten thousand votes. The Congress candidate, Ghulam Rasool Kar came third securing 62,316 votes, i.e., 18.61 per cent of the votes polled in Baramulla. However, in Srinagar and Anantnag, the Congress supported its coalition partner PDP in lieu of latter's support to Congress in Udhampur and Jammu constituencies.

As the final results were declared, Congress won both the Lok Sabha seats from Jammu and Udhampur constituencies defeating the BJP candidates. NC won two from Srinagar and Baramulla and the PDP won the lone Anantnag seat. Ladakh seat was won by Congress supported independent candidate. It was after a gap of three Lok Sabha elections that the Congress wrested the Udhampur seat from BJP. Young Congress leader Choudhary Lal Singh defeated the veteran BJP leader and former Union Minister Chaman Lal Gupta by a margin of over 47,000 votes. Chaman Lal Gupta had won the Udhampur seat in previous three Lok Sabha elections of 1996, 1998 and 1999 securing 37.58%, 48.67% and 49.01% votes respectively. This time Gupta could secure only 31.85% votes as against 39.61% polled by the Congress candidate Lal Singh. In Jammu constituency the Congress candidate Madan Lal Sharma garnered 3,19,994 votes as against 3,02,426 votes secured by Dr. Nirmal Singh of BJP. Late Vaid Vishnu Dutt of BJP had held the Jammu seat twice in 1998 and 1999 securing 43.26% and 43.46% votes respectively. This time BJP's share fell to 36.81% whereas that of Congress went up from 18.97% in 1999 to 38.94%.

In Kashmir valley, National Conference retained its bases in Srinagar and Baramulla constituencies, while as President of the ruling PDP, Mehbooba Mufti made her debut from Anantnag. NC President, Omar Abdullah secured 98,422 votes as against 75,263 votes garnered by his PDP rival Ghulam Nabi Lone. Omar Abdullah had earlier won the Srinagar constituency both in 1998 and 1999 Lok Sabha elections. In the north Kashmir constituency of Baramulla, NC's sitting Lok

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Sabha member Abdur Rashid Shaheen polled 1,27,653 defeating his PDP rival Nizam-ud-Din Bhat by about 10,000 votes. The Congress candidate Ghulam Rasool Kar, who played a key role in the PDP nominee's defeat, bagged 62,316 votes to clinch the third position. The ruling PDP won only one seat though it contested 3 seats in Kashmir valley. The party President, Mehbooba Mufti won from the south Kashmir constituency of Anantnag with an impressive margin of 38,738 votes. She polled 74,436 votes against the NC candidate Dr. Mehboob Beg's 35,498. The CPI(M) candidate Mohammed Yusuf Tarigami stood third with 18,466 votes. In Ladakh, Thubstan Chewang, Chief Executive of the Leh Autonomous Hill Development Council won comfortably securing 66,839 (51.84%) votes defeating NC's sitting Lok Sabha member Ghulam Hassan Khan with a margin of over 25,000 votes. Hassan Khan polled 41,126 votes, whereas an independent candidate Wazir Ali bagged 19,233 votes.

The 2004 Lok Sabha elections thus witnessed increased participation by the people and a four cornered contest among the four main political parties – Congress, BJP, National Conference and PDP. All these mainstream political parties registered their presence in the elections. Though the BJP did not win any seat, it polled 23 per cent of the overall vote, with Congress improving its position by securing over 25 per cent.<sup>5</sup> National Conference polled over 22 per cent as against the PDP's share of 11.9 per cent. Thus Congress gained due to its alliance with the PDP. This election marked the emergence of competitive politics in Jammu and Kashmir, which augurs well for strengthening democracy in the State. By the successful holding of Parliamentary polls the people of Jammu and Kashmir have affirmed their faith in Indian nationhood and democracy.

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**TABLE I**

S.N.	Parliamentary Constituency	Total Electorate	Valid votes Polled	Contesting Candidates	Polling %age
1	Baramulla	9,40,998	3,34,770	6	35.65
2	Srinagar	10,53,734	1,95,678	13	18.57
3	Anantnag	9,98,905	1,50,219	14	15.04
4	Ladakh	1,75,678	1,28,931	4	73.52
5	Udhampur	13,48,721	60,807	20	45.09
6	Jammu	18,49,989	8,21,670	26	44.49

**TABLE II**

**Lok Sabha Election Results (2004)**

Name of Candidate(s)	Party	Votes Polled	Percentage
<b>1. Baramulla Constituency</b>			
Abdul Rashid Shaheen	NC	1,27,653	38.13
Nizamuddin Bhat	JKPDP	1,17,758	35.18
Ghulam Rasool Kar	INC	62,316	18.61
Mir Khursheed Abbasi	Ind.	10,569	3.16
Mohammad Akbar	BJP	9,003	2.69
Syed Mohd. Rafiq Shah	JKNPP	7,471	2.23
	<b>Total</b>	<b>3,34,770</b>	<b>100.00</b>
<b>2. Srinagar Constituency</b>			
Omar Abdullah	NC	98,422	50.3
Ghulam Nabi Lone	JKPDP	75,263	38.46
Nazir Ahmad Khan	Ind.	6,873	3.51
Iftekhhar Sadiq	BJP	3,154	1.61
Mushtaq Shamim	Ind.	2,549	1.3
Peer Ali Shah	JKAL	1,519	0.78
Krishan Kumar	Ind.	1,327	0.68
Bansi Lal	BSP	1,282	0.66

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Darakshan Andrabi	SDP	1,265	0.65
Abdul Rashid Lone	Ind.	1,148	0.59
Bashir Ahmad	JKNPP	1,084	0.55
Mehbooba	Ind.	956	0.49
Mohammad Yusuf Wani	AIFB	836	0.43
	<b>Total</b>	<b>1,95,678</b>	<b>100.00</b>
<b>3. Anantnag Constituency</b>			
Ms. Mehbooba Mufti	JKPDP	74,436	49.55
Dr. Mehboob Beg	NC	35,498	23.63
Mohammad Yusuf Tarigami	CPM	18,466	12.29
Sofi Mohd. Yusuf	BJP	4,836	3.22
Imtiyaz Ahmad Rather	Ind.	2,827	1.88
Abdul Majid Naikoo	Ind.	2,760	1.84
Mohd. Maqbool Dar	Ind.	2,691	1.79
Sanjay Saraf	LJNSP	1,595	1.06
Ghulam Rasool	Ind.	1,586	1.06
Hamidullah Rasool	AIFB	1,504	1
Gh. Mohiuddin Dar	Ind.	1,278	0.85
Mohd. Yusuf Qureshi	RLD	1,115	0.74
Gh. Mohd. Tantary	SAP	864	0.58
Ramesh Kumar Bhat	Ind.	763	0.51
	<b>Total</b>	<b>1,50,219</b>	<b>100.00</b>
<b>4. Ladakh Constituency</b>			
Thupstan Chhewang	Ind.	66,839	51.84
Hassan Khan	NC	41,126	31.9
Wazir Mohd. Ali	Ind.	18,117	14.05
Sonam Paljor	BJP	2,849	2.21
	<b>Total</b>	<b>1,28,931</b>	<b>100.00</b>
<b>5. Udhampur Constituency</b>			
Ch. Lal Singh	JNC	2,40,872	39.61
Chaman Lal Gupta	BJP	1,93,697	31.85
Khalid Najib Suhrawardy	NC	69,971	11.51

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Bhim Singh	JKNPP	49,869	8.2
Jia Lal Vrma	BSP	18,974	3.12
Amar Nath	IJP	5,031	0.83
Ranbir Singh	Ind.	3,968	0.65
Kuldeep Kumar	SJP(R)	3,288	0.54
Jatinder Singh	Ind.	3,288	0.54
Puran Chand	RPI	2,579	0.42
Suran Chand	Ind.	2,349	0.39
Kesari Shashi Kumar	Ind.	2,179	0.36
Bashir Ahmed Shaikh	SAP	2,122	0.35
Dev Raj	Ind.	1,858	0.31
Rajinder Kumar	Ind.	1,620	0.27
Sudesh Kumar Sharma	Ind.	1,499	0.25
Surjit Singh Sitara	SPI	1,391	0.23
Kaloo Chowdhry	AIFB	1,371	0.23
Surinder Singh	SP	1,222	0.2
Sanju Gupta	Ind.	926	0.15
	<b>Total</b>	<b>6,08,074</b>	<b>100.00</b>
<b>6. Jammu Constituency</b>			
Madan Lal Sharma	INC	3,19,994	38.94
Dr. Nirmal Singh	BJP	3,02,426	36.81
Surjit Singh Slathia	NC	1,20,397	14.65
Tirath Kumar	BSP	29,498	3.59
S. Kuldeep Singh	JKNPP	9,195	1.12
Pankaj Kohli	SP	4,661	0.57
Shahzad Khan	Ind.	3,803	0.46
Ramesh Chander Sharma	Ind.	3,315	0.4
Sharaz Ahmad	Ind.	2,956	0.36
Yudhvir Singh	Ind.	2,300	0.28
Balbir Singh	Ind.	2,060	0.25
Om Prakash Malhotra	Ind.	1,902	0.23
Rajan Padri	AIFB	1,746	0.21

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Charanjit Singh Bali	Ind.	1,707	0.21
Satish Poonchi	Ind.	1,656	0.2
Subhash Chander Langer	SPI	1,650	0.2
Sudesh Puri	SAP	1,620	0.2
Qari Zahir Abbas bhatti	JP(S)	1,616	0.2
Mushtaq Ahmed	Ind.	1,491	0.18
Sanjeev Kumar Manmotra	LJNSP	1,485	0.18
Subash Sharma	Ind.	1,298	0.16
Ch. Mohd. Iqbal	Ind.	1,193	0.15
Gurdeep Singh Bijral	Ind.	1,039	0.13
Jasbir Singh	Ind.	1,010	0.12
Lochan Singh	Ind.	871	0.11
Shukeel Kumar Gupta	Ind.	781	0.1
	<b>Total</b>	<b>8,21,670</b>	<b>100.00</b>

**TABLE III**  
**J & K PARLIAMENTARY ELECTIONS (1977-2004)**  
**(Winning Candidates)**

<b>1 - BARAMULLA Parliamentary Constituency</b>								
<b>Year</b>	<b>Votes Polled</b>	<b>Voter Turnout (% age)</b>	<b>Winner</b>			<b>Runner-up</b>		
			<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>	<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>
1977	2,58,510	56.97	Abdul Ahad	59.5	NC	Syed Alishah Geelani	40.5	Ind.
1980	2,73,950	56.02	Khawaja Mubarak Shah	67.57	NC	Muzaffar Hussain Beg	28.48	Ind.
1984	3,48,960	61.09	Saif - Ud- Din Soz	69.69	NC	Mohi - Ud - Din - Wani	27.93	Ind.
1989	38,240	5.48	Saif Ud Din Soze	93.79	NC	Sheikh Ad. Rahman	1.92	Ind.
1996	3,28,690	46.65	Gh. Rasool Kar	36.09	INC	Gh. Nabi Mir	14.83	Ind.
1998	3,19,590	41.94	Professor Saifuddin Soz	43.21	NC	Muzaffar Hussain Baig	30.69	Ind.
1999	2,12,180	27.79	Abdul Rashid Shaheen	43.94	NC	Muzaffar Hussain Baig	25.1	Ind.
2004	3,35,440	35.65	Abdul Rashid Shaheen	38.13	NC	Nizam-Uddin Bhat	35.18	JKPDP

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<b>2-SRINAGAR Parliamentary Constituency</b>									
<b>Year</b>	<b>Votes Polled</b>	<b>Voter Turnout (% age)</b>	<b>Winner</b>			<b>Runner-up</b>			
			<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>	<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>	
1977	3,19,300	69.12	Akbar Jahan Begam	67.73	NC	Maulvi I.H. Ansari	28.19	Ind.	
1984	4,70,870	73.51	Abdul Rashid Kabuli	81.08	NC	Muzaffer Ahmed Shah	17.88	Ind.	
1996	3,21,930	40.94	Ghulam Mohammad Mir	18.63	INC	Farooq Ahmad Anderabi	18.1	JD	
1998	2,56,490	30.06	Omar Abdullah	59.68	NC	Aga Syed Mahdi	30.45	INC	
1999	1,01,930	11.93	Omar Abdullah	57.27	NC	Mebooba Mufti	19.26	Ind.	
2004	1,95,680	18.57	Omar Abdullah	50.3	NC	Ghulam Nabi Lone	38.46	JKPDP	
<b>3-ANANTNAG Parliamentary Constituency</b>									
<b>Year</b>	<b>Votes Polled</b>	<b>Voter Turnout (% age)</b>	<b>Winner</b>			<b>Runner-up</b>			
			<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>	<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>	
1977	2,63,110	55.83	Mohd. Shafi Qureshi	32.07	INC	Ab. Razak Mir	28.72	Ind.	
1980	3,07,000	60.06	Gh. Rasool Kochak	60.47	NC	Ali Mohd. Naik	32.11	Ind.	
1984	4,28,550	70.08	Akbar Jahan Begum	58.51	NC	Peer Hussan-ud-din	38.6	INC	
1989	37,380	5.07	P.L.Handoo	97.69	NC	Abdul Rashid Khan	0.5	Ind.	

1996	3,83,860	50.2	Mohamad Maqbool	32.76	JD	Taj Mohi-ud-din	16.53	INC
1998	2,26,600	28.15	Mufti Mohammad Sayeed	55.91	INC	Mohd. Yusuf Teng	31.77	NC
1999	1,15,240	14.32	Ali Mohd Naik	37.66	NC	Mufti Mohamad Syeed	24.55	Ind.
2004	1,50,220	15.04	Mehbooba Mufti	49.55	JKPDP	Dr. Mehboob Beg	23.63	NC
<b>4 - LADAKH Parliamentary Constituency</b>								
Year	Votes Polled	Voter Turnout (% age)	Winner			Runner-up		
			Candidate Name	% age	Party	Candidate Name	% age	Party
1977	45,580	70.44	Parvati Devi	53.32	INC	Mohd. Ali alias Ali Kargil	46.68	Ind.
1980	48,000	61.83	Phuntsog Namgyal	44.47	Ind.	Kacho Habib Ullah Khan	31.22	NC
1984	61,260	68.29	Phuntsog Namgyal	55.59	INC	Qamar Ali	42.17	NC
1989	87,860	86.36	Mohd. Hassan	52.65	Ind.	Phuntsog Namgyal	47.35	INC
1996	1,06,350	80.93	Phuntsog Namgyal	52.1	INC	Qamar Ali Akhoo	42.43	Ind.
1998	1,05,270	73.36	Syed Hussain	59.94	NC	Phuntsog Namgyal	30.61	INC
1999	1,17,670	81.88	Hassan Khan	45.04	NC	Thupstan Chhewang	43.24	INC
2004	1,29,230	73.52	Thupstan Chhewang	51.84	Ind.	Hassan Khan	31.9	NC

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<b>5 - UDHAMPUR Parliamentary Constituency</b>				<b>Winner</b>			<b>Runner-up</b>		
				<b>Year</b>	<b>Votes Polled</b>	<b>Voter Turnout (% age)</b>	<b>Candidate Name</b>	<b>%age</b>	<b>Party</b>
1977	2,37,360	47.03	Karan Singh	56.69	INC	Om Parkash Saraf	31.03	BLD	
1980	3,38,970	58.57	Karan Singh	53.38	INC(U)	Devi Das Thakur	36.64	NC	
1984	3,72,080	55.1	Girdhari Lal Dogra	56.98	INC	Bhim Singh	26.24	JPP	
1989	3,19,330	39.45	Dharam Paul	40.66	INC	Abdul Rehman	30.81	JD	
1996	4,59,460	53.29	Chaman Lal Gupta	37.58	BJP	Janak Raj Gupta	21.74	INC	
1998	5,22,900	51.45	Chaman Lal Gupta	48.67	BJP	Rajinder Singh Chib	32.88	NC	
1999	4,03,210	39.65	Chaman Lal Gupta	49.01	BJP	Jagjwan Lal	19.23	NC	
2004	6,08,080	45.09	Ch. Lal Singh	39.61	INC	Chaman Lal Gupta	31.85	BJP	



## 6 - JAMMU Parliamentary Constituency

Year	Votes Polled	Voter Turnout (% age)	Winner			Runner-up		
			Candidate Name	%age	Party	Candidate Name	%age	Party
1977	3,55,660	59.18	Thakur Baldev Singh	44.6	Ind.	Balraj Puri	36.5	NC
1980	4,10,070	59.31	Girdhari Lal Dogra	62.46	INC(I)	Thakur Baldev Singh	28.88	JNP
1984	5,76,390	71	Janak Raj Gupta	46.51	INC	Shabir Ahmed Salaria	25.24	NC
1989	5,84,080	56.89	Janak Rai Gupta	41.82	INC	Rajinder Singh Chib	38.03	JD
1996	5,81,310	48.18	Mangat Ram Sharma	34.24	INC	Vaid Vishno Dutt	26	BJP
1998	7,89,530	54.72	Vaid Vishno Dutt	43.26	BJP	Janak Raj Gupta	26.81	NC
1999	6,76,710	46.77	Vishno Datt	43.46	BJP	Rajinder Singh Chib	22.13	NC
2004	8,23,080	44.49	Madan Lal Sharma	38.94	INC	Dr. Nirmal Singh	36.81	BJP

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## DEMOCRACY AT WORK: PARLIAMENTARY ELECTIONS IN MONGOLIA

*Sharad K. Soni*

Mongolia, which was known as the first Communist state in Asia and the second in the world prior to the collapse of the Soviet Union, has also the distinction of becoming first such state to have discarded one-party rule in the post-cold war period. After 75 years of Communist dispensation Mongolian People's Revolutionary Party (MPRP) lost its rule all over the country for the first time in the 1996 parliamentary elections, paving the way for the democrats to take over. However, the Mongolian people reposed faith in the reformed MPRP and voted its candidates to power in the 2000 parliamentary elections, but the ruling former Communists once again suffered big losses in the June 2004 parliamentary elections. It appears that a country like Mongolia which has a young but vigorous political culture stands out as a unique case where voters at regular intervals do not hesitate in throwing out the ruling party and replacing it with the opposition in the ultimate exercise of democracy. Obviously, it points to the evolution of a new democratic civilian society, the role of which remains vital in deciding the political future of the country.

### TRANSITION TO DEMOCRACY

Until 1990, the system of government in Mongolia was based on the Soviet model, and the Communist Party – the MPRP was the only party which was officially permitted to function. During seven decades of its rule there was no significant unrest in the country until December 1989. The onset of *glasnost* and *perestroika* in the former Soviet Union and the ensuing process of reforms and restructuring in the Soviet domestic and foreign policy has had a direct bearing and inevitable impact over Mongolia. It was in 1987 that Mongolia began to diversify itself as Soviets became less inclined to provide economic support to Mongolia and even withdrew subsidies. But at the same time, ties, with

the United States and further improvements in its relations with China provided Mongolia fair opportunities for “new options and greater chances to stand on its own.”<sup>1</sup> Dependence and dominance as the two fundamental features that characterised the bilateral ties between Mongolia and the Soviet Union for long, were now no more visible, resulting in a bitter blow to the Mongolian economy.<sup>2</sup> The process of Soviet-style reforms and restructuring through *Il tod* and *Orchilan baigalalt* and the democracy movement in Eastern Europe were mirrored in Mongolia. As such there was a dramatic shift towards reform which began in the winter of 1989-90 when the first organized opposition group, the Mongolian Democratic Union (MDU), appeared on Mongolia’s political scene in December 1989. Between December 1989 and March 1990 there was a great upsurge in public political activity, as a series of peaceful demonstrations were held in Ulaanbaatar, demanding faster political and economic reforms. The emergence of further opposition groups, together with escalating public demonstrations (involving as many as 20,000 people), led to a crisis of confidence within the MPRP itself.<sup>3</sup> Following the dialogue initiated between MPRP officials and representatives of the MDU amid street protests in the capital Ulaanbaatar, the entire Politburo of the MPRP resigned in March 1990, and a new leadership took over the party’s reign.

Though the countrywide democratic movement started bringing aggressive reforms in the country’s political and economic spheres, it essentially contained “a nationalistic motivation rather than a democratic one.”<sup>4</sup> It soon turned out to be a struggle against Communism, which was held responsible for ruining the country. The dominant factor in this struggle was not only to bring radical changes but also to correct the mistakes committed by the Communists in the past.<sup>5</sup> In May 1990, the Constitution was amended by deleting reference to the MPRP’s role as the “guiding force” in the country, legalizing the new ‘informal’ parties through official registration, creating a standing legislative body called the State Little Hural, elected by proportional representation of parties, and establishing the office of the President. Besides, a new electoral

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law was approved and the date of the next general election to be held in July 1990 was announced.

The first multi-party elections for a People's Great Hural were held on 29 July 1990 in which the MPRP won 85% of the seats. The People's Great Hural first met on 3 September 1990 and elected a President from the MPRP, Vice President from the SDP (Social Democrats), Prime Minister from the MPRP, and 50 members to the *Baga Hural* (Little Hural). The Vice President was also the Chairman of the Little Hural. In November 1991, the People's Great Hural began discussion on a new Constitution. The new Constitution, the fourth one since 1921, was finally adopted on 13 January 1992 replacing the 1960 Constitution, which brought considerable changes in Mongolia's political system.<sup>6</sup> Key elements in the new Constitution emphasised the "establishment of democracy" contrary to the previous Constitutions, which had stressed "building the State through socialism." As such the traditional Leninist ideology was abandoned. The most notable change made in this Constitution was the replacement of the two-chamber Parliament (bicameral) known as the *Great and Little Hurals* with that of a single chamber (unicameral) which came to be known as the *Ulsyn Ikh Khural* or *State Great Hural* (SGH) comprising 76 Deputies. It was for the first time that a multi-ownership economy was introduced by this Constitution, which would go with the mainstream of the world economy and conform to the special conditions of the country.<sup>7</sup> In order to distance itself from its Communist past, the country's name was also changed from "Mongolian People's Republic" to "Mongolia" and the Communist gold star was removed from the national flag under the new Constitution which entered into force on 12 February 1992.<sup>8</sup>

According to the 1992 Constitution, the President became more powerful who would be elected by popular vote rather than by the legislature as before. The President is the head of State, Commander-in-Chief of the Armed Forces, and head of the National Security Council. A national majority popularly elects him for a 4-year term which is, however, limited to two terms. The Constitution empowers the President to propose a Prime Minister, call for the government's

dissolution, initiate legislation, veto all or parts of legislation, and issue decrees, which become effective with the Prime Minister's signature.<sup>9</sup> In the absence, incapacity, or resignation of the President, the SGH Chairman exercises Presidential power until a newly elected President takes over his office. In June 1993, while running as the candidate of the democratic opposition, incumbent Punsalmaagiyn Ochirbat came out victorious in the first popular Presidential election.

The Prime Minister serves as head of the government and has a 4-year term. The President nominates him, who is to be confirmed by the SGH. The Prime Minister forms a cabinet, subject to the approval by the SGH. The Constitution also stipulates that dissolution of the government occurs upon the Prime Minister's resignation, simultaneous resignation of half the cabinet, or after an SGH vote for dissolution. However, as the supreme government organ, the SGH is empowered to enact and amend laws, determine domestic and foreign policy, ratify international agreements, and declare a state of emergency. Besides, the SGH meets bi-annually and its members elect a Chairman and Vice Chairman both of them serving 4-year terms. The Members of Parliament (SGH) are popularly elected by district constituencies for 4-year terms.

Significantly, while multi-party democracy is still in its embryonic stage in Mongolia, there has been no lack of interest in forming political parties. Over the years, particularly since the end of single-party rule, numerous parties and groups have been organized and reorganized or renamed in the process of democratization. However, there remained a few political parties with major influence and stable membership.<sup>10</sup> The MPRP now claims to have rejected the principles of Marx and Lenin, which they did by amending its manifesto at its 21<sup>st</sup> Party Congress held in 1991. Needless to say, Parliamentary elections have been playing an important role in "the consolidation of political parties and redefining their national agendas."<sup>11</sup> The first multi-party legislative elections were held in July 1990. After a new Constitution became effective, a second multi-party election was held in June 1992, the third in July 2000 and the fourth is just over in June 2004 itself.

### **PREVIOUS ELECTIONS**

For voting purposes, today Mongolia has been demarcated into 76 constituencies which fall under 21 *aimags* or provinces and one municipality. At the first multi-party general election held in July 1990 and subsequent re-elections, a total of 430 deputies were elected to serve a five-year term, including 357 from the MPRP, 16 from the Mongolian Democratic Party (MDP, the political wing of the MDU), nine from the Mongolian Revolutionary Youth League, six from the Mongolian National Progress Party (MNPP), four from the Mongolian Social-Democratic Party (MSDP) and 39 without party affiliation.<sup>12</sup> Under the Constitutional amendments adopted in May 1990, the People's Great Hural was required to convene at least four times in the five years of its term.

However, soon after the adoption of the 1992 Constitution, a second multi-party election was held on 30 June 1992 in accordance with the new law to elect members to the SGH. A total of 293 candidates contested for 76 seats from 26 multi-constituencies, comprising of 18 *aimags* (provinces), the towns of Darhan and Erdenet, and six constituencies in the capital Ulaanbaatar. The allocation of seats in different constituencies was based on the size of the local electorate, which ranged from two to four seats. In all there were 82 candidates in the electoral fray on the MPRP ticket, while 51 candidates belonged to an alliance of the MDP, the MNPP and the United Party (UP), in addition to 30 other candidates who contested as candidates of the MSDP. Some smaller parties with fewer candidates also participated.

A total of 1,037,392 voters (95.6% of the electorate) participated in the elections, although 62,738 ballots were declared invalid.<sup>13</sup> A simple majority elects candidates only after they obtain the support of at least 50% of the electorate in their respective constituency. The MPRP candidates did fairly well and received altogether 1,719,887 votes (about 57%), while the candidates of other parties (excluding independents) achieved a combined total of 1,205,350 votes (40%), of which the MDP-MNPP-UP alliance won 521,883 votes and the

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MSDP 304,548.<sup>14</sup> Although the outcome of the election was disproportionate, the MPRP won a landslide victory with 70 seats while the remaining seats went to the democratic parties with the MDP-MNPP-UP Alliance winning four and the MSDP and independent one each. Obviously, the government was formed by the MPRP under Prime Minister Puntsagiyn Jasray, who had been a Deputy Chairman of the Council of Ministers and a candidate member of the MPRP Politburo at the end of the Communist period.

A few months after the election, the MDP, the MNPP, the UP and the Mongolian Renewal Party merged together in October 1992 to form a new party called the Mongolian National Democratic Party (MNDP). Another political party, the Mongolian United Heritage (conservative) Party (MUHP) came into existence in 1993 by the amalgamation of the United Herdsmen's and Farmers' Party, the United Private Owners' Party, the Capitalist Party and the Independence Party. In 1994, yet another new political formation, the Mongolian Democratic Renewal Party came into being.<sup>15</sup>

In early 1996, amendments to the Election law increased the number of constituencies from 24 to 76, making them all single-seat constituencies, while preserving the majority vote system. It was stipulated that a candidate was to be declared elected on receiving just 25% of the votes in his constituency. This paved the way for forming an election coalition called the Democratic Coalition, which received support from the Mongolian Green Party and the Believers' (Buddhist) Democratic Party. The third general election held on 30 June 1996 registered resounding victory by the Democratic Alliance, which confounded most observers by winning 50 of the 76 seats in the SGH. A total of 1,057,182 voters (92.15% of the electorate) participated in the elections. Although official nation-wide totals were not published, it was calculated on the basis of constituency returns that the Democratic Coalition polled 469,586 votes (46.67%) and the MPRP 408,977 (40.64%), while other parties and independents received 127,684 votes (12.69%).<sup>16</sup>

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In the 1996 Parliamentary elections, the main contestants were MPRP and Democratic Coalition. Each and every seat was contested by the candidates from the ruling MPRP. The Democratic Coalition of the Mongolian National Democratic Party (MNDP) and the Mongolian Social Democratic Party (MSDP) also fielded 76 candidates, but the nominations of only 74 candidates were found to be valid. This meant, they would automatically lose two seats. The “Democratic State Coalition” of the Mongolian Democratic Renaissance Party (MDRP) and the Mongolian People’s Party (MPP) had 42 candidates in the election fray. Among the 60 independent candidates who initially got registered their names for contesting elections, the candidatures of only 38 were finally accepted.

The main battle-ground of the poll was the capital Ulaanbaatar, where a total of 113 candidates from 20 parliamentary constituencies tried their luck. During the electioneering political observers cautiously predicted that the ruling MPRP would retain its majority in Parliament, rather than repeat their landslide victory of 1992, when they had won 70 of 76 seats. The reason behind this clean sweep in 1992 elections was that the Communist leaders of the MPRP were popular and well-known figures, and that helped greatly in their campaigns. They even promised to meet serious challenges Mongolia was facing after the advent of democracy in 1990. But they failed to fulfill their promises and Mongolia reeled under inflation and unemployment. This time too observers expected the voting to be held on the basis of personalities of individual candidates rather than the political parties to which they belonged. However, after final results of the polling were declared, Mongolia’s Democratic Coalition emerged triumphant by winning 50 seats as against six in the previous legislature. That is why from the side of voters, it was “purely a proportional election”.

Since most of the supporters of Democratic Coalition were in big towns they did fairly well in these places, For example, nearly one third of Mongolia’s population resides in the capital city of Ulaanbaatar where the Democrats got landslide victory by winning seventeen out of twenty seats. In the eastern *aimags* too, the Democrats emerged



victorious in the election fray. However, MPRP's bastion is strong in western *aimag*, particularly in rural areas. Votes from western *aimags* are very popular due to the conservatism of native population. The results of the elections have shown that in western *aimags* of Khovd, Uvs, Bayan Ölgii and Govi-Altai, all candidates of Democratic Coalition were routed by the MPRP candidates who won all the 11 seats in these *aimags*. The western *aimags* are also important from election point of view as the area is inhabited by various ethnic groups such as - Kazakhs, Durved and Uriankhai. In Mongolia there exist about 20 different ethnic groups. Among them Buryats' support to Democrats, has remained unflinched. The reasons are not too far to seek. Buryats were in fact the most repressed ethnic group under Communist regime. That is why in areas inhabited by the eastern *aimags* (Dornod and Khentii) Democratic Coalition was catapulted to victory in the 1996 elections in the same way as they were in 1992 elections.

With 50 confirmed seats the Democrats were able to hold 475,267 votes (66.6%) of the total seats in Parliament as against 408,977 votes for the MPRP which won only 25 seats thereby constituting about 32 per cent of total seats.<sup>17</sup> By and large, almost all the seats in Parliament were won either by the Democrats or the MPRP except for one seat which was won by O. Dashbalbar of the Mongolian United Heritage Party (MUHP). Though the outcome of the polls revealed a considerable set back for the Communist leaders, the most unpredictable aspect of the result was the defeat of all independent candidates in elections and thus the Mongolian parliament remained unrepresented by independents. The unexpected results of 1996 elections indeed marked the first major change of political power in Mongolia in its almost 75 years of history. With all this sudden change there was an obvious sense of excitement among the young people in the government who wished to move the country and its people ahead with a number of ambitious plans at hand. The first session of the newly-elected SGH opened in mid-July 1996 amidst confusion, the Democratic Alliance being somewhat inexperienced, and the MPRP,

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now in opposition, deeply dissatisfied and determined to extract every possible political concession from the victors. However, during the next four years the ruling Democratic Coalition had to face stiff resistance from the MPRP in its efforts to promote privatization and the development of a market economy in the face of industrial stagnation, increasing poverty and unemployment. Besides, the Democratic Coalition's four years in power had been "characterized by revolving-door governments (four in four years), political infighting within the Coalition itself, a corruption scandal, and an attitude among Coalition members that often seemed to put personal political ambition over Coalition or national interests."<sup>18</sup> While the Coalition tried to do everything it could to run the government, the MPRP did everything it could to help them "self-destruct." Interestingly, the MPRP, which never had to worry about democratic procedures in its past, learned quickly as to how to use principles of parliamentary procedures and Constitutional law to obstruct the Coalition's reform agenda.<sup>19</sup>

In July 2000 parliamentary elections, a total of 1,027,985 voters (82.43% of the electorate) cast their ballots, which finally resulted in the pendulum of power swing back again to the MPRP. Surprisingly, they won 72 of 76 seats (95%) in the Parliament, creating another one-party government, similar in numbers to that in 1992. But the magnitude of victory surprised not only the voters but the leaders of the MPRP as well. The new Democratic Coalition and Social Democrats had to satisfy themselves with 13% and 9% of the votes respectively but without winning a single seat. Rest of the four seats were shared one each by the MNDP, Mongolian Democratic New Socialist Party (MDNSP), Civil Courage Party (CCP) also called Civil Will Party and an independent. Overall the result was so unbelievable that many in the political circles thought that the election law needed to be reformed so that the number of seats held by different parties in the Parliament could more closely reflect the popular vote besides leading to more meaningful debate of the government's legislative agenda.<sup>20</sup>

Although concerns were raised over uncertainties as to which direction the new MPRP government will go in the next four years, the

year 2001 saw the MPRP consolidating its political power and demonstrating its resolve to keep market economy reforms on track.<sup>21</sup> On the other side, after their defeat the two main democratic parties, the National Democrats and Social Democrats joined hands together to form a single Democratic Party. However, the strong presence of the MPRP in Mongolia's political arena was also felt when the incumbent President N. Bagabandi easily won the 2001 presidential election for his second term. Bagabandi's re-election demonstrated the continued weakness within the opposition Democrats despite the fact that the latter had united themselves into a single party. Until the next election held in June 2004, the MPRP tried to convince not only the West and the international donor community but also the people as a whole about its resolve to keep economic and political reforms in Mongolia on track. But the final outcome of the 2004 elections has revealed that the people exercised their franchise against the ruling MPRP. Voter turnout was over 75 per cent, which was remarkable considering the fact that a sizeable number of Mongolian voters live in remote areas far from polling stations and had to travel by horse, camel, or four-wheelers to cast their ballots.

### **2004 ELECTIONS**

As the June 27, 2004 Parliamentary elections approached, the ruling MPRP appeared to be winning another term in the government. There was no obvious challenger, either within the MPRP or in opposition parties to the Prime Minister, Nambaryn Enkhbayar, who continued to be viewed as the most able politician. During the election campaign, the MPRP raised the issue of rising economic growth during its four-year term in office in order to woo the voters but at the same time, it had to deal with questions about the persistence of poverty. On the other side, the opposition parties too appeared to be sure to increase their tally of seats from four in the previous election. The main opposition parties including the Democratic Party (DP), the Mongolian Democratic New Socialist Party (MDNSP) and the Civil Courage Republican Party (CCRP) contested the election together as the Motherland Democratic Coalition (MDC). They highlighted welfare

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issues during their election campaigns. However, experts believed that differences within the opposition would hamper their attempts to offer a viable alternative to the MPRP.<sup>22</sup> At least 11 parties were in the election fray, including a new party known as the National Women's United Party (NWUP).

In anticipation of the 2004 Parliamentary and Presidential elections, IRI conducted the fourth Mongolia Voter Survey during April 2004.<sup>23</sup> The purpose of the survey was to assist political parties to develop and refine their party platforms besides preparing campaign messages that could reflect the concerns of the Mongolian people. It may be noted that since 1992, IRI has worked with several political parties in Mongolia and until 1996, it trained the Mongolian National Democratic Party (MNDP) as well as Mongolian Social Democratic Party (MSDP) on grassroot organization work, infrastructure development and message design. The survey was conducted by the Fabrizio McLaughlin & Associates, an international survey and consulting firm based in Alexandria, Virginia and a sample of 1,800 Mongolian voters was taken for the said purpose. The voters were surveyed about issues such as satisfaction levels with the current government, current leaders, latest political developments and the economy. The key findings of the survey included the following:

### ***Satisfaction with quality of life and government***

In all, 74% of the Mongolian voters said that in general, Mongolia was heading in the right direction, while 9% indicated that the country was on the wrong track. The respondents indicated that they had a high rate of satisfaction for the direction in which the country was moving under the leadership of the Mongolian People's Revolutionary Party (MPRP). While 63% remained satisfied with the MPRP government's performance, 32% responded negatively. When the respondents were asked how they evaluated their quality of life, 23% indicated it was totally good, 28% felt it was totally bad and 49% stated that their life was not good, not bad. And when they were given a list of 14 solutions and were asked to select the most and the next most important solution

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the government can use to improve life, 47% of the respondents wanted more job creation, 34% wanted increased wages and pensions and 19% wanted the government to check rising prices.

### ***Mongolian Economy and Corruption***

During the survey, when the respondents were asked to evaluate the state of the national economy as of April 2004, 35% of them indicated that it was totally good, 26% indicated that it was totally bad, and 37% indicated that it was not good or bad. In another question, when they were asked if the Mongolian economy was getting better or worse, 40% of the respondents indicated it was staying the same, 38% responded that it was getting better, and 17% indicated that it was getting worse. When asked to choose one issue that could be changed to improve Mongolia's economic situation, 17% of the respondents chose corruption, 16% chose alcoholism and there was three-way tie between business regulations, taxes and foreign investment at 13%. The next question considered by the voters dealt with corruption. They were asked as to which approach they considered to be the best approach to fight corruption. While 39% of the respondents agreed - "Improve the social welfare and salaries of state officials to make corruption less tempting," 38% felt - "Tighten and strictly enforce the legal penalties for officials involved with corruption," and 13% wanted to "Make current government practices illegal such as government hiring based on political connections."

### ***Selection of Political Parties***

Questions dealing with this aspect were considered to be the most significant topic of the survey. They were asked if the elections were to be held in April 2004, which party would be their choice. 48% of the overall respondents surveyed favoured the MPRP, while 38% the Motherland-Democracy Coalition (MDC). On the extent of satisfaction with the current government and President, the respondents indicated that in the 2004 parliamentary elections 38% of voters in the countryside would vote for the Democratic Coalition, apart from 38% in Ulaanbaatar alone who would vote for a democratic coalition.

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However, 49% of respondents who were residents of Ulaanbaatar as well as 44% of voters in the countryside indicated that they would vote for the MPRP.

So the survey concluded that if the election would have been held in April 2004, at the regional level, MPRP had the highest numbers of support in Bulgan at 70%, Khovd at 59% and Zavkhan at 56%. On the other side, the MDC had the largest number of support in Dundgovi at 55%, Dornod at 50% and Arkhangai at 49%. Overall, 44% of voters in Ulaanbaatar were in favour of the MPRP, while 38% favoured the Democratic Coalition as the ruling party of the country. When asked to select the most important criteria used when voting for a Member of Parliament, 36% gave their verdict on the basis of "How honest you think the candidate is," 25% chose "Personality and reputation of the candidate," 18% favoured "Party membership of the candidate," 16% indicated "The candidate's level of education," and 2% considered "The candidate's wealth."

However, despite the fact that in the electoral battle, the MPRP used all its efforts to win over voters, it was unable to muster sufficient votes needed to form the government. The institutional and technical advantages the party enjoyed did not help much. Soon after the voting it became clear that the former Communists suffered a major setback, despite the advantage of incumbency and support from state media.<sup>24</sup> While talking to *Radio Free Europe/Radio Liberty* about the reason for the MPRP's loss, Indra Borkhondoin, Deputy Editor of the *Mongol Messenger* newspaper, said that "voters' biggest concern was the economy, and the Democrats managed to convince voters that the former Communists had failed in their policies."<sup>25</sup> She said that the Democrats succeeded in convincing the people that during MPRP's rule the standard of living did not improve, and that the number of poor people increased all over the country. Besides, some economic reforms were also halted during the previous government rule and, therefore, rate of Mongolia's economic growth too slowed down. On the contrary, it was Democrats' generous social welfare promises made during the election campaign that appeared to have won over many voters.

When the initial results of the election gave both the MPRP and the MDC 36 seats each in the Parliament, the MPRP supporters responded to it by accusing the MDC of electoral malpractices. On its part the Election Commission upheld a number of complaints over the conduct of the election, leading to a snap by-election on July 17, 2004. It benefited to adjust the tied preliminary result to give the hitherto ruling MPRP 37 seats and the opposition MDC 35 seats, but as neither had the minimum required 39 seats to form a government, the political impasse continued for quite some time. As the situation led to a hung parliament, it was suggested that it would be illegal for a government to be formed that relied on the support of the three independent members of parliament, and therefore, the only way out was a coalition government.<sup>26</sup> Otherwise, there was no option but to hold another election which was not conducive considering the economic health of the country. This finally led to the formation of a grand coalition government of the MPRP and the MDC under Prime Minister Tsakhiagiyn Elbegdorj of the Democratic Party.

To conclude, on the basis of the results of 2004 elections, the MPRP needs to look into its debacle and study the causes of their defeat because most of the previous members of Parliament belonged to its own party. It now appears that the MPRP will have to do better in running the coalition government with the democrats so that its image among the people could be strengthened. On the other side, the Democrats who have swept through enough seats to form the coalition government, will have to do the same, otherwise ultimately it is the voters' power which is crucial in deciding the fate of the political leaders and the parties. The leader of the democrats, T. Elbegdorj, who is now the Prime Minister of the country, may well be the person best able to cooperate with all political forces. It is also likely that the greater level of debate in the Parliament in the coming days would inevitably slow down the pace of legislation due to MDC's greater representation. As the Economist Intelligence Unit believes, "the policy formation will remain pragmatic owing to Mongolia's continuing dependence on external aid."<sup>27</sup> However, in current political scenario, the role of SGH

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(Parliament) remains supreme so far as Mongolia's overall internal and external development is concerned.

**Table 1**  
**Seats won by Major Parties in Parliamentary Elections**  
**(1992-2004)**

<b>Year</b>	<b>Total No. of Seats</b>	<b>Party</b>	<b>Seats Won</b>
1992	76	MPRP	70
		MDP- MNPP- UP Alliance	4
		MSDP	1
		Independent	1
1996	76	Democratic Coalition	50
		MPRP	25
		MUHP	1
2000	76	MPRP	72
		MNDP	1
		MDNSP	1
		CCP	1
		Independent	1
2004	76	MPRP	37
		MDC	35
		Independent	3
		MRP	1

Source: General Election Commission of Mongolia, *Compiled results of the State Great Khural Elections, 1992, 1996, 2000* at <http://www.gec.gov.mn>; Alan J. K. Sanders, *Historical Dictionary of Mongolia* (Lanham, Maryland and Oxford: The Scarecrow Press, Inc., 2003), second edition, pp.xlvii-lii and "Mongolia", *Country Report August 2004* (London: The Economist Intelligence Unit limited, 2004), p.30.



**Table 2**  
**Members of Mongolian Parliament Elected in 2004**  
**Elections**

<b>S.No.</b>	<b>Constituency</b>	<b>Winning Candidate</b>	<b>Party</b>
1.	Arkhangai	Radnaasümbereliin Gonchigdorj	MDDP
2.	Arkhangai	Nyamjawyn Batbayar	MDDP
3.	Arkhangai	Sambuugiin Lambaa	MDDP
4.	Bayan-Ölgii	Auketain Murat	MDDP
5.	Bayan-Ölgii	Agiparyn Bakei	MDDP
6.	Bayan-Ölgii	Kadyryn Sairaan	MDDP
7.	Bayankhongor	Gombojawyn Zandanshatar	MPRP
8.	Bayankhongor	Tserengiin Jargal	MDNSP
9.	Bayankhongor	Khaltmaagiin Battulga	MDNSP
10.	Bulgan	Chojamtsyn Radnaa	MPRP
11.	Bulgan	Tsegmediin Tsengel	MPRP
12.	Govi-Altai	Tüwdengiin Ochirkhüü	MPRP
13.	Govi-Altai	Ayuurzany Tsanjid	MPRP
14.	Govi-Sumber	Luwsangiin Odonchimed	MPRP
15.	Dornogovi	Tserenkhüügiin Sharawdorj	MPRP
16.	Dornod	Dorjiin Odbayar	MPRP
17.	Dornod	Mönkhchuluuny Zorigt	MDCCRP
18.	Dornod	Jamyandorjiin Batkhuyag	MDDP
19.	Dundgovi	Radnaabazaryn Raash	MPRP
20.	Dundgovi	Janlawyn Narantsatsralt	MD
21.	Zavkhan	Choinzongiin Sodnomtseren	MD
22.	Zavkhan	Danzandarjaagiin Tuyaa	MPRP
23.	Zavkhan	Yadamsurengiin Sanjmyataw	Ind., DP

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24	Övөрkhангай	Zandaakhüüгийн Enkhbold	MD
25	Öвөрkhангай	Gawaагийн Batkhуu	MD
26	Öвөрkhангай	Danzангийн Lundeеjantsan	MPRP
27	Öвөрkhангай	Ragchaагийн Badamdandin	MD
28	Öмнөгovi	Dashdembereliin Bat -Erdene	MDDP
29	Öмнөгovi	Tsewelmaагийн Bayarsaikhan	MD
30	Sүkhbaatar	Chulltemiin Ulaan	MPRP
31	Sүkhbaatar	Rentsengiin Bud	MPRP
32	Selenge	Sangajawyn Bayartsogt	MD
33	Selenge	Regjubuugiin Nyamsüren	MPRP
34	Selenge	Erdeniin Bat-Üül	MD
35	Tuv	Doltsongiin Dondog	MPRP
36	Tuv	Sunduin Batbold	MPRP
37	Tuv	Tsendiin Sukhbaatar	MPRP
38	Tuv	Nyamaагийн Enkhbold	MPRP
39	Uvs	Tsendiin Nyamdorj	MPRP
40	Uvs	Baataryn Erdenesüren	MPRP
41	Uvs	Chilkhaajawyn Awdai	MPRP
42	Khovd	Tserendashiin Damiran	MPRP
43	Khovd	Lkhanaasürenгийн Purewdorj	MPRP
44	Khovd	Damdingiin Demberel	MPRP
45	Khuvsgul	Lamjawyn Gundalai	MD
46	Khuvsgul	Onomoogiin Enkhsaikhan	MDDP
47	Khuvsgul	Mendsaikhany Enkhsaikhan	MD
48	Khuvsgul	Badarchiin Erdenebat	MD
49	Khentii	Dashjamtsyn Arwin	MPRP
50	Khentii	Badmaanyambuugiin Bat-Erdene	MPRP

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51	Khentii	Ukhnaagiin Khürelsükh	MPRP
52	Darkhan-Uul	Lüimediin Gansükh	MDDP
53	Darkhan-Uul	Mishigiin Sonompil	MDDP
54	Darkhan-Uul	Bataagiin Tserenbaljir	MDNSP
55	Orkhon	Durzeegiin Odkhüü	Ind., DP
56	Orkhon	Gorchinsurengiin Adyaa	MPRP
57	Ulaanbaatar (Bayanzürkh District)	Togsjargalyn Gandi	MPRP
58	Ulaanbaatar (Bayanzürkh)	Dawaajawyn Gankhuyag	MD
59	Ulaanbaatar (Bayanzürkh)	Jugderdemidiin Gurragchaa	MPRP
60.	Ulaanbaatar (Baganuur and Nalaikh Districts)	Sainbuyangiin Otgonbayar	M-MNDSP
61.	Ulaanbaatar (Khan-Uul District)	Nadmidyn Bayartsaikhan	MPRP
62.	Ulaanbaatar (Khan-Uul District)	Doloonjingiin Idewkhten	MPRP
63.	Ulaanbaatar (Khan-Uul District)	Büdeegiin Monkhtuyaa	MDDP
64.	Ulaanbaatar (Bayangol District)	Renchinnyamyn Amarjargal	Ind., DP
65.	Ulaanbaatar (Bayangol District)	Nambaryn Enkhbayar	MPRP
66.	Ulaanbaatar (Bayangol District)	Batyn Batbaatar	MD
67.	Ulaanbaatar (Songinokhairkhan District)	Tünjingiin Badamjunai	MPRP
68.	Ulaanbaatar (Songinokhairkhan District)	Dendewiin Terbishdagwa	MPRP

## PARLIAMENTARY ELECTIONS IN MONGOLIA

69.	Ulaanbaatar (Songinokhairkhan District)	Sanjaasürengiin Oyuun	MD
70.	Ulaanbaatar (Songinokhairkhan District)	Bazarsadyn Jargalsaikhan	MRP
71.	Ulaanbaatar (Chingeltei District)	Batjargalyn Batbayar	MD
72.	Ulaanbaatar (Chingeltei District)	Rawjikhyn Erdenebüren	M-MNDSP
73.	Ulaanbaatar (Chingeltei District)	Tsogtyn Bataa	M-MNDSP
74.	Ulaanbaatar (Sükhbaatar District)	Tsendiin Mönkh-Orgil	MPRP
75.	Ulaanbaatar (Sükhbaatar District)	Sukhbaataryn Batbold	MPRP
76.	Ulaanbaatar (Sükhbaatar District)	Luwsannyamyn Gantömör	MD

Source: Andrew Shimunek (ed.), *Mongol Survey* (Bloomington, Indiana), issue 14, Summer-Fall 2004, pp.20-21.

Abbreviations: DP - Democratic Party; MD - Motherland Democracy; MDDP - Motherland Democracy alliance of the Democratic Party; M-MNDSP - Motherland-Mongolian New Democratic Socialist Party; MDCCRP - Motherland Democracy and Civil Courage Republican Party; MPRP - Mongolian People's Revolutionary Party; MDNSP - Mongolian Democratic New Socialist Party; MRP - Mongolian Republican Party

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## THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS (57<sup>TH</sup> SESSION): A REPORT

*Sharad K. Soni*

The 57<sup>th</sup> session of the UN Commission on Human Rights (UNCHR) was held from March 19, 2001 to April 27, 2001 at the Palais des Nations in Geneva, Switzerland to review and discuss the state of human rights and fundamental freedoms all over the world. The Commission, which was created in 1946 by the Economic and Social Council and is made up of 53 Member States, is the United Nations' principal human rights organ. It not only carries out studies, prepares recommendations and elaborates draft international instruments on human rights, but also looks into allegations of human rights violations. Besides, it provides a positive atmosphere for the coordination of human rights activities in the United Nations system. As in previous years, the six-week long session witnessed a series of meetings, during which issues ranging from situations in specific countries to the rights of indigenous peoples, problems of racism and challenges of development were discussed.

The first two weeks of the 57<sup>th</sup> session of the UNCHR witnessed participation by the UN Secretary General Kofi Annan as well as several dignitaries at ministerial level as guests of honour. Among Heads of State who attended this session included the President of France, Jacques Chirac; the President of the Swiss Confederation, Moritz Leuenberger; and the President of the Democratic Republic of the Congo, Joseph Kabila. Among the heads of the international organizations, the new High Commissioner for Refugees, Ruud Lubbers also took the floor.

Leandro Despouy of Argentina was elected Chairman this year who replaced Shambhu Ram Simkhada of Nepal. Najat Al-Hajjaji of the Libyan Arab Jamahiriya, Anda Filip of Romania, and Alvaro de Mendonca e Moura of Portugal were chosen as Vice-Chairpersons and

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Imtiaz Hussain of Pakistan was elected as Rapporteur. In his address the outgoing Chairperson Shambhu Ram Simkhada of Nepal drew attention to the passing from the 20<sup>th</sup> to the 21<sup>st</sup> century. He noted that while developments in science and technology had created tremendous opportunities for positive transformation, many continued to live in destitution and persecution, suffering from extreme poverty, conflict and violence, disease and ignorance. "Poverty eradication and peace building would depend on the development of a new paradigm of thinking and that the growing role of non-state actors would be important", he added. Emphasising that the Commission must move beyond "bashing others", Simkhada advocated the creation of an internationally agreed institutional arrangement to monitor and report on the situation of human rights worldwide on the basis of internationally agreed upon norms and standards which might lead to greater moral obligation for introspection and self appraisal. Stressing upon the need to emphasise rights with responsibility, Simkhada stressed the need for building capacity and strengthening institutions, being vital components of the global human rights agenda.

The newly elected Chairman, Leandro Despouy in his opening remarks emphasised the importance of tackling widespread poverty, social exclusion, and the lack of basic health and education around the world. He stated that cooperation in the protection and promotion of human rights was essential for ending the neglect or violations of civil and political rights and the continuing scourge of discrimination based on race, sex, and religion. He called upon representatives of States, NGOs, and international organisations to play an even more active role in the protection and promotion of human rights. "Transparency, tolerance, respect, cooperation and consensus were necessary to further the promotion of human rights," he added.

In his address to the Commission on March 30, 2001, the UN Secretary General, Kofi Annan stated that racism and intolerance plagued all countries – scarring societies, marring work for peace. "Some discrimination was all-too familiar. Women were targeted for rape during war, for exploitation at work and for abuse at home.

Immigrants were attacked, and their customs were mocked. School textbooks often ignored the contributions, or even the existence, of indigenous peoples. State spending frequently neglected the needs of minorities. Mass media were sometimes used to spread false and ugly stereotypes. Politicians – democrats as well as dictators – used race-based appeals to seek and maintain power”, he highlighted. He reiterated that a document for the World Conference was needed that looked unflinchingly at everybody, and at the flaws in the societies that had been built. “What was needed was a forward-looking document that acknowledged and built on the past, but did not get lost there; what was needed was a document that all people could recognize as their own; what was needed was a document that inspired all people, not just governments, to do their part”, he stressed. “The work to achieve active tolerance would take years, if not generations; living together in harmony was the fundamental human project”, he added.

Various issues deliberated at the 57<sup>th</sup> session of the UNCHR included the Right of Peoples to Self-determination and its Application to Peoples under Colonial or Alien domination or Foreign occupation; Racism, Racial Discrimination, Xenophobia and all forms of Discrimination; the Right to Development; Question of the violation of human rights and fundamental freedom in any part of the world; Economic, Social and Cultural Rights; Civil and Political Rights including the question of Torture and Detention, Disappearance and Summary Executions, Freedom of Expression, Religious Intolerance; Violence against Women; Rights of the Child; Human Rights of Migrant Workers; Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities; Mass Exoduses and Displaced Persons; Contemporary Forms of Slavery; Rights of the Indigenous People; Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; Status of the International Covenants on Human Rights; the question of Human Rights Education; the question of Human Rights and the Environment etc. Besides, this session provided an opportunity for the members of the Commission to discuss the annual report of the United Nations High Commissioner for Human



Rights (E/CN.4/2001/6) introduced by Mary Robinson herself and considered the follow-up to the 1993 World Conference on Human Rights held in Vienna.

### **The Right of Peoples to Self-determination**

Under this item the Commission had before it a note by the High Commissioner on Human Rights (E/CN.4/2001/18) containing summaries of the papers presented by the Special Rapporteur, Enrique Bernales Ballesteros, and other Experts on mercenary activity. The report reviewed international, regional and national legislation relating to the phenomenon of mercenaries and measures to implement existing legislation. It also highlighted the relevance of the international definition of mercenary activity as well as traditional and current forms of mercenary activities. The report recommended that “the United Nations reaffirm its condemnation of mercenary activity and associated crimes, whether by States, organizations, groups or individuals.” Besides, it also called upon the United Nations to recognize new kinds of mercenaries, which require additional action and measures apart from recommending, inter alia, a systematic and comprehensive review of the legal definition of mercenary. Later on, Enrique Bernales Ballesteros, Special Rapporteur on the use of mercenaries, said that mercenary activities could never be justified and that the Special Rapporteur should be given a broader mandate as serious legal problems arose in international law while dealing with mercenaries. “The entry into force of the convention against mercenary activities would occur when one more country ratified it”, he added.

Expressing his country’s hope to see the establishment of a universal alliance to combat racism, Louis Michel, Deputy Prime Minister and Minister for Foreign Affairs of Belgium said that Belgium was particularly concerned about the condition of women around the world. He said that their rights continued to be seriously violated in many regions, particularly in Afghanistan where numerous restrictions were imposed on Afghan women. He called upon the international community to work together against racism, xenophobia, anti-Semitism,

Islamophobia and other cases of “rejection of the other”. “Such forms of intolerance constituted threats to democracy and to the values of equality, human dignity, social cohesion and the principle that every individual had the right to participate in society”, he added.

Igor Rogov, Minister of Justice of Kazakhstan, said that in 1991, Kazakhstan had adopted a law on State independence that recognized the rights of individuals as recognized under international law. “Since then, Kazakhstan had pursued thorough political and economic transformations and had maintained its multinational society. Kazakhstan desired to create and maintain a democratic legal state, the highest value of which was the human rights of mankind”, he added.

Josep Pique, Minister for Foreign Affairs of Spain, said his country attached great importance to the upcoming World Conference against Racism. He expressed his dismay over the situation in Afghanistan under the Taliban regime, particularly the clampdown on internationally recognized human rights. “The matter of impunity for human rights violations, there and elsewhere, had to be addressed more effectively by the international community,” he asserted. “Cultural excuses could no longer serve as justification for the violation of women’s human rights.” He said that Spain also joined the rest of the European Union in calling for an end to use of the death penalty.

Tofiq Musayev, the representative of Azerbaijan said that although the right to self-determination was a fundamental human right and played an important role in the realization of other human rights and freedoms, it had nevertheless been misused as the basis for an alleged right to secession or for the justification of territorial expansionism under the pretext of care for relative ethnic groups in other States, especially multi-ethnic ones. He stated that external encouragement and support in this regard was disturbing to the international legal order as the respect for territorial integrity was a basic feature of the contemporary international legal order with the accompanying principles of non-aggression and non-interference. He asserted that the right to self-determination was not incorporated into international instruments with

a view to encouraging secessionist movements or foreign interference and aggression. Pointing out that the Committee on the Elimination of Racial Discrimination in its general recommendation XXI (48) noted that international law had not recognized a right unilaterally to declare secession from a State, he said that “minorities only exercised the right to self-determination together with the rest of the population of a State, as a part of its population.”

Ramesh Kumar Joshi of the Afro-Asian People’s Solidarity Organization said that democracy, whose basic premise was equality for all, presented the best political ideology since the right to determine and achieve one’s destiny, articulated by one’s race, history and culture, among other differences, was the essence of humanity. But, he said, unfortunately, men in uniform dominated by one linguistic group had repeatedly interrupted the democratic experience of Pakistan, created with high hopes. “The people of the Seraiki nation, along with other ethnic and linguistic minorities, continued to be denied their basic rights by their pseudo-colonial masters, the Punjabis of Pakistan”, he said “The Seraiki traditions and heritage had nothing in common with the Punjabis; those who wished to articulate their aspirations were called traitors and silenced and that the Seraiki were not terrorists and perhaps that was why their voices were not heard.” He stressed that the peaceful demand of their rights was due to their belief that it was incumbent upon the world community to ensure the right of self-determination to all the communities the world over.

Mumtaz Khan of the International Institute for Peace stated that there was no consensus on any single definition of the right to self-determination, in spite of its long history as a philosophical idea. Though all nations theoretically upheld the right to self-determination, their practices were contrary to their claims. He said that Pakistan had invaded, instead of liberated Kashmir and forced the rulers of Kashmir to seek assistance from India. “The future of Kashmir was being decided, not by the right to self-determination, but instead in the name of religion by Pakistan,” he said. “Those who had destroyed the Buddhas in Afghanistan were actively engaged in India-held Kashmir

to Talebanize and destroy the secular identity of Kashmir.” “The struggle for self-determination in Kashmir today had become a war of hatred whose religious zealots fought Hindus, not for the liberation of Kashmir”, he added.

### **Racism, Racial Discrimination, Xenophobia and all forms of Discrimination**

Under this agenda item the Commission considered a report of the Secretary General submitted pursuant to Commission resolution 2000/14 on Racism, Racial discrimination, Xenophobia and all Forms of Discrimination (E/CN.4/2001/20) which reviewed the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and coordination of activities; the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the international convention on the elimination of all forms of racial discrimination; and the preparatory activities undertaken for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa. There was also a report submitted by Maurice Glele-Ahanhanzo, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/2001/21), which reviewed among other things the activities of the Special Rapporteur as well. Since Mr. Maurice Glele-Ahanhanzo was unable to attend the Commission himself, his report was read out in which he called on all those attending the World Conference against Racism to reflect on “why the differences of others were so unbearable”. There was also a report (E/CN.4/2001/22) submitted by the International Labour Office (ILO) which contained a general update on ILO activities to eliminate discrimination in employment and occupation on a number of grounds, including those of race, colour, national extraction and social origin.

As this agenda item was opened for discussion, the Commission was addressed by A. Abdullah, Minister for Foreign Affairs of Afghanistan. He said that like other religions and other cultures, Islam

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sometimes fell prey to extremist and fanatical movements, which distorted its image. "The primary responsibility for unceasingly combating and denouncing these fanatics and extremists lies with the Muslim people and governments", he said. "Today, the Afghan people are suffering the most barbaric, inhuman and ignominious form of fanaticism. The Taliban was the most inhuman manifestation of this totalitarian fanaticism." Expressing regret that one Muslim country-Pakistan was obstinately continuing to support the Taliban by every possible means including sending soldiers and war materials, he said that "this suicidal policy deprived Pakistan of any right to speak in the name of Islam and tolerant Muslims." He called upon the international community as a whole to undertake its responsibilities because the defence of human rights could not consist merely by declarations of principles, rather the large-scale and systematic violations of human rights being committed demanded appropriate measures. He also regretted that the sanctions imposed on the Taliban by the United Nations Security Council took no account of the violations of human rights, and in particular, the imposition of sexual apartheid, of which Afghan women were victims, committed by the Taliban. According to him, the solution which would bring an end to the suffering endured by the people of Afghanistan could only be a political one. "The foundations on which peace would rest must be solid and that peace could only be based on the rule of law, democracy, respect for the universal values of human rights and the participation of all the groups, which made up the nation", he stressed. "The first step could be the convening a Grand representative Assembly to take necessary emergency measures", he added. "But until Pakistan ceases to interfere in the internal affairs of Afghanistan, the objective of peace seemed difficult to attain."

A number of member states and non-governmental organisations (NGOs) spoke during the debate on this agenda item. Several speakers were of the opinion that the upcoming World Conference against Racism would offer the opportunities to intensify the fight against racism and xenophobia. Highlighting the resurgence of racism in different forms,

particularly in the developed world, they also underlined the need to fight the phenomenon of racism, which was mainly directed against foreigners.

M. A. Hassan of the International Institute for Peace said that to understand the character of racism and intolerance, one had only to study the 1971 attacks by the Pakistani military against the people of Bangladesh, who were fighting for democracy, civil rights, and the right to choose their own leader. Describing the indiscriminate killing, rape, and arson that had happened at that time as a deliberate genocide, he said that “the basis was anti-religious hatred.” He said that the Pakistani perpetrators had always looked upon Hindus in Bangladesh as the enemy and regarded Bengalis as an inferior race. Highlighting that in the 1971 war, the Pakistani troops killed 3 million Bengalis just because of their religion, he called upon the Commission to enlighten everyone about the menace of racism and racial discrimination and develop the will and determination to try the Pakistani war criminals to set an example for justice.

Prof. Riyaz Punjabi of the **Himalayan Research and Cultural Foundation** said that although the approaching World Conference against Racism underlined the efforts underway to combat the menace of xenophobia and all forms of discrimination, it still remained to be seen how the values of democracy could be promoted without the negative consequences of the mechanisms of electoral, representative democracy in the developing and underdeveloped corners of the world. “In many of these societies, the electoral mechanism with its emphasis on the politics of numbers created an ever-expanding basis for mass-mobilisation by harping on primordial loyalties” he said. “In many cases, States had supported discriminating policies of the majority with attendant lack of capacity to promote general good and greatest happiness of the greatest number.” He added that all this induced intolerance in neighbouring groups, leading to an unending spiral of xenophobic reactions from human collectivities that had shared the same geographic spaces for ages.

Tahir Masood of the International Human Rights Association of American Minorities said that no prescription for combating racism could be made without taking stock of the past practices, their manifestations and after-effects. He urged the international community to ensure that the perpetrators of racial discrimination and exploitation were held accountable and that the victims were provided with adequate compensation.

### **Right to Development**

Before opening up a general debate on this agenda item, the Commission had before it a report of the Secretary General on the right to development (E/CN.4/2001/24). The report contained the replies received from the governments of Burkina Faso, Cuba, the Czech Republic, India, Iraq and Kuwait as well as the reply received from UNESCO concerning the implementation of the various provisions of Commission on Human Rights resolution 2000/5. There was also a report by the High Commissioner on Human Rights on the right to development. The report addressed the issues of poverty alleviation, health, education, food, gender mainstreaming, racial discrimination, indigenous people, migrants and trafficked people, structural adjustment policies and debt, corporate responsibility, good governance, conflict prevention and resolution and new initiatives by the Office of the High Commissioner.

During discussion on this agenda item, several countries emphasised the need to improve access of developing countries to world markets, besides recommending that the international community should accord high priority to resolving the issue of foreign debt. They also stressed that in any agenda for the implementation of the right to development, national action should be complemented by international action. Several speakers called for reduction of foreign debt burdens, a fairer set of rules for the international system, and greater international aid to allow developing nations to improve health and educational system so that their population could climb up the cycle of poverty.

Arjun Sengupta, the Independent Expert on the right to development, said that there had been a lot of progress in the

movement to realise the right to development. He drew attention to the content of the right to development. “Development was a process and that it was not a one-time affair”, he said. “If one step was violated, then the right to development itself was violated.”

Wang Shijie, the representative of China said that although globalisation had brought new opportunities to mankind, its benefits for the people of various countries were far from even, with the gap between the rich and poor widening every farther. He said that the imbalance of development had become more serious in the world, and the developing countries were confronted with special difficulties in dealing with globalisation. Pointing to the increase in the number of least-developed countries from 36 to 48, he said that in view of the growing interdependence among countries, the realization of the right to development not only bore on the enjoyment of human rights in the developing countries, but also had far-reaching consequences for international peace and prosperity. “If nothing was done to narrow the gap between the North and the South, poverty would eventually undermine the overall order of human society”, he stressed. “The international community should pay due attention to that issue and take practical action.”

Sharat Sabharwal, the representative of India said that developing countries remained starved of resources needed for development and there was a need to assess the impact of international economic issues on States, such as macro-economic decision-making, poverty, debt burdens, international trade, and the functioning of international financial institutions. He felt that there was a good basis for future work and that the mandate of the group and that of the independent expert should be extended.

Samina Kabir of the European Union of Public Relations, said that the right to development might have some meaning in most other countries but not in Afghanistan, where not only had the past been destroyed but the future, as long as the Taliban remained in power, was completely bleak. People who were deprived of their basic rights could



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not speak about the right to development. Pointing to the recent destruction of the Bamiyan Buddhas in Afghanistan, she described the incident as a criminal act committed by the Taliban. "In Kabul, over 80 per cent of the people were unemployed and most Government offices were non-functional", she said. "The Taliban were religious students trained in Pakistan and that the Taliban regime had fully deprived Afghan women of their rights and the concept of democracy had been eradicated from the country."

Mumtaz Khan of International Institute for Peace said even though the people of Kashmir lived in a region of considerable poverty, there was some hope that the international community would pay attention to it since it carried a heavy burden for supporting the least privileged regions. He said that when there was talk about the fruits of globalisation and the need to bridge the digital divide, there was an essential need to carefully scrutinize presence of infrastructure facilities, government policies and popular institutions capable of alleviating poverty. "After Kashmir was divided, some dummy administrative institutions were established, but the people of Gilgit Baltistan were completely deprived of their fundamental rights", he said. "This region did not have any representative institutions, or even the presence of non-governmental organizations engaged in any development activity." He added that eighty-five per cent of the Gilgit Baltistan population was illiterate and that for a population of 2 million, there was no university, no medical college and no engineering institutions.

### **Question of the Violation of Human Rights and Fundamental Freedoms in any part of the World**

Like previous sessions, this agenda item remained one of the most contentious items discussion. The Commission had before it a series of documents including a report of the High Commissioner for Human Rights on the situation in the Republic of Chechnya of the Russian Federation (E/CN.4/2001/36). According to the report, there were continued allegations of human rights violations in Chechnya. It called for determined efforts to prevent unexplained disappearances and

killings, to combat corruption, abuses and harassment at checkpoints. The report recommended that an independent, wide-ranging inquiry be launched to address human rights concerns. The report also took note of continued human rights violations carried out by Chechen fighters against federal and local authorities and against civilians continue. The situation regarding the economic, social and cultural rights of the Chechen people and in the region remains a matter of serious concern. There has not been any significant return of displaced persons and humanitarian agencies continue to be severely restricted in their activities, primarily because of security reasons, the report contends.

Mary Robinson, United Nations High Commissioner for Human Rights, presenting her report (E/CN.4/2001/39) on the situation in the Chechen republic of the Russian Federation, said that during the last year she had maintained contact with the Government of the Russian Federation on the issues raised in the Commission's resolution on Chechnya. The Russian Government had said that it was focusing its efforts on ensuring peaceful life in Chechnya. To that end, troops had been withdrawn and a civilian administration was being established. The Government was aware of existing problems and was endeavouring to restore respect for human right in Chechnya. The High Commissioner expressed concerned about the problem of impunity, and also the economic, social and cultural rights of the people of Chechnya. The humanitarian situation in the region remained very serious. Although the Russian authorities had allocated considerable funds to address these problems, the plight of ordinary people remained very difficult.

During debate on this agenda item several member countries spoke before the Commission. A number of NGOs organisations raised allegations of human rights abuses in numerous countries and regions. Among the themes mentioned repeatedly were that international economic embargoes and sanctions amounted to human rights violations of the populations of the targeted countries; that more had to be done to realise freedom of religion around the world; and that more attention had to be paid to violations of the rights of minorities.

Oleg Malguinov of the Russian Federation said that Russia had demonstrated unprecedented openness and readiness for a dialogue with regard to the situation in the Chechen Republic of the Russian Federation. Russia felt that the report presented today did not fully take into consideration the significant positive efforts made by the Government. It was important that the local authorities and the population play a more active role in implementing concrete measures aimed at normalizing the situation in the Chechen Republic. This was applicable to the social and economic sphere, as well as to the activities of the law-enforcement and judicial bodies. It was precisely these issues that were discussed during a meeting between the President of the Russian Federation, Mr. Putin, and the Head of the Administration of the Chechen Republic, Mr. Kadyrov. Moreover, the rebels were continuing their terrorist activities in order to spread fear among the local population and to impede the gradual return of the Republic to normal life.

M.A. Hassan of International Institute for Peace, said perhaps the greatest death, violence and exodus that experienced in the last century involved the Jewish minorities living in Europe. And perhaps, next to it, the greatest violence to humanity occurred in Bangladesh in 1971. There had been systematic genocide, wanton killing, rape, looting and arson carried out by Pakistani perpetrators. The perpetrators used to consider the Hindus among the Bengalis to be as Jews had been to the Nazis – scum and vermin. They had tried to annihilate all Hindus from the soil. In 1971, the Pakistani military junta and its collaborators had systematically exterminated Bengalis, both Muslim and Hindu, just because of their religion and race. There were also mass rapes of women in Bangladesh in 1971. They had undergone sexual slavery and extreme physical and psychological trauma. Because these human rights violations had not been properly addressed, the country had been submerged in lawlessness. Common people felt that their right to justice and truth had been denied.

Samina Kabir of European Union of Public Relations said doubtless anyone could be aware of what was going on in Afghanistan,

and what women there were going through. Afghanistan continued to be the land of the most tragic and the most shameful humanitarian disaster. It was a country where savage rulers did not consider women to be human beings, a country which had been torn into pieces, where music, film, cinema, sports and other recreational activities had been banned for all, including children. It was a country where many fathers and mothers were selling their sons and daughters because they could not feed them. Many women had been forced into beggary and prostitution because they had two options – either death from hunger or to go to those painful occupations. It was a country which had been economically, politically, socially and culturally destroyed first by Russian-backed parties, and then by fundamentalist gangs such as the Taliban. It was impossible to portray a realistic picture of Afghanistan in any concrete form. Perhaps no depiction in words or in pictures could convey the grief, the pain, the despair and the humiliation of the Afghan people, especially the women. But unfortunately, for some reason, the domination of the fundamentalists as the root cause of all Afghan ills after the overthrow of the Soviet-puppet regime in 1992 had always been carefully circumvented. The realization of the simple fact that only with the elimination of fundamentalism as a military and political factor could there be any meaningful talk of peace, security, human rights, women's rights, democracy, progress and civilization in Afghanistan seemed difficult for governments and world bodies to comprehend.

Yadollah Mohammadi Tehrani of Organization for Defending Victims for Violence said that in Afghanistan deplorable violations against the Shia Muslims amounted to regrettable discrimination and ill treatment. The destruction of the Buddha statues in the country deserved special attention from the Commission.

Abdelouahed Belkeziz, Secretary General of the Organization of the Islamic Conference (OIC) said that as the world today stood on the threshold of the twenty-first century, planet earth was still the scene of many injustices and acts of oppression and hegemony which affected millions of people. Wars and starvation, ethnic cleansing and the

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displacement of people from their homes and cities, the coercive massive exodus of civilians, and other catastrophes still plagued many of the peoples of the globe. The ever-increasing gap separating the rich countries from the poorer ones was expanding day in day out so that the rich were getting richer and the poor poorer. Capital flow is still going from the poor countries of the South towards the richer countries of the North while the brain and competence drain continued in the same direction. All of this went on whilst globalisation continued unrelenting under the banner of the survival of the fittest, thus inflicting great damage on the efforts of the developing countries for development and progress.

Savitri Kunadi of India said that selectivity resulting from politicisation and pressures generated by condemnation and spotlighting had served essentially to bring acrimony and confrontation to the Commission. While on the one hand democracy, development and full respect for human rights and freedoms were important, it was equally necessary to be vigilant to the threats that democracy continued to face even at the onset of the twenty-first century. Military dictatorship, exports of terror, mistaking authoritarianism for efficiency, obscurantist distortions of religious values, camouflaging disguised wars against other States as freedom movements could only serve to prevent full and peaceful enjoyment of human rights by people around the globe. Speaking about Afghanistan, the Representative said that the situation in that country threatened the stability of the entire region. The Taliban had sought to rule Afghanistan without the participation or consent of the people and had taken the territories under their control to medieval backwardness. The situation of women and girls continued to be pitiable. The Taliban edict ordering the destruction of all statues and non-Islamic shrines in Afghanistan, the subsequent destruction of the Bamiyan Buddha statues and the deliberate ongoing destruction of other relics and monuments had shocked the conscience of the entire mankind and constituted an appalling act of cultural vandalism.

Petra de Leeuw of South Asia Human Rights Documentation Centre said Bangladesh had signed a declaration on "Tolerance and

Diversity” during the Millennium Session of the General Assembly, but its report six months later to the Committee against Racial Discrimination told a different story; the report described Bangladesh as a “post racial discriminatory society” and further stated that the categorical distinctions of “race or ‘ethnic origin’ per se had ceased to exist for the Bangladeshi people”. Such statements indicated a stubborn refusal to acknowledge the existence of diversity within the country and, by implications, racism. According to the 1991 census, minorities constituted a significant 12 per cent of Bangladesh’s population and included Hindus, Buddhists, Christians and Animists. Local and international human rights associations had documented cases of discrimination based on ethnic and religious orientation. There were, among other things, land disputes between Bengalis and non-Bengalis; a slow progress of implementation of the 1997 Chittagong Hill Tracts peace accord; slow processing of indigenous peoples’ land claims; and a Vested Property Act which discriminated in particular against Hindu religious minorities. Bangladesh needed to bring its domestic legislation into line with its international human rights obligations.

Maria Teresa Baiges Artis of International Federation of Women Lawyers said there were massive violations of the rights of women in Afghanistan. Some Western countries, including France and the United States, had instigated talks and diplomatic contracts with the Afghan Government, which was in contravention of Security Council resolution 1333. It appeared that the Afghan women were not going to get much attention from the international community. The Commission should extend the mandate of the Special Rapporteur on Afghanistan, should pressure Governments not to normalize relations with the Taliban until the Taliban ceased such reprehensible activities, and should consider the possibility of declaring an arms embargo as a way of furthering peace in the country.

Nathalie Prouvez of International Commission of Jurists welcomed the endeavours of the Russian Government to build and promote democracy in the Russian Federation and to improve further the authority and the effectiveness of its judicial system.

Masooma R. Ali of Afro-Asian People's Solidarity Organisation said the past decade had seen the mushrooming of violent, fanatical and extremely repressive armed groups who, in the name of *jihād*, were spreading their tentacles across the world. Much had been said already about the terrorism inflicted by such groups in Jammu and Kashmir, in Kenya and Tanzania. But what happened when a nation, seeking to further its own ambitions, subverted the tenets of religion to violent ends? The Taliban, the *Harkat ul Mujahideen*, the *Lashkar-e-Toiba*, the *Harkat-ul-Jehad-e-Islami* and the cadres that supported Osama bin Laden shared a common ideology that was inculcated in the religious seminaries that dotted the landscape of Pakistan.

Gianfranco Rossi of International Association for Religious Freedom wanted more attention to be paid to violations of the right to freedom, thought, and religion. Religious symbols and icons also deserved protection; that had not been the case in the destruction of statues by the Taliban in Afghanistan or in the absurd transformations carried out in that part of Cyprus occupied by the Turks, where Orthodox churches had been turned into stables for animals.

Imanuel Yousaf of Franciscans International said the situation of human rights in Pakistan was very serious at all levels of society. There were more and more examples of curtailment of freedom of expression and of speech. Political leadership and martial law regimes used Islam to legitimise their rule to the disadvantage of religious minorities. In recent years, this had led to ethnic and sectarian violence among Muslims and the imposition of discriminatory and repressive laws against religious minorities. While it was recognized that the new structure of local government reserved seats specifically for women, minority women were not eligible for those seats.

### **Economic, Social and Cultural Rights**

Before discussing this agenda item, the Commission had before it a report (E/CN.4/2001/49) of the Secretary General pursuant to Commission resolution 2000/9 which reviewed the status of a proposal for a draft optional protocol to the International Covenant of Economic,

Social and Cultural Rights; support for the work of the Committee on Economic, Social and Cultural Rights; general comments and days of general discussion on such rights; the right to education; and the right to adequate housing. There was also a report (E/CN.4/2001/51) of the Special Rapporteur, Miloon Kothari, on adequate housing as a component of the right to adequate standard of living. The report, concluded said that housing and living conditions across the world are deteriorating and that concrete policy recommendations to respond to the problem should be aimed at alleviating an enormous shortfall in the global realization of the right to adequate housing.

There was also a report (E/CN.4/2001/52) of the Special Rapporteur on the right to education, Katarina Tomasevski, which stated that education is increasingly defined as the key to development, and the right to education as the key to the enjoyment of other human rights. He stated that realization of the right to education requires close cooperation between educators and educationalists as well as economists and human rights lawyers so as to make the mainstreaming of human rights education strategies at all levels effectively.

Another report by Special Rapporteur Fatma-Zohra Ouhachi-Vesely on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/2001/55), concluded that there has been an increase in exports of dangerous products and wastes from industrialized countries to the Third World via “recycling programmes” which enable producers to circumvent the ban imposed by the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. The report noted that the transfer of “dirty” industrial operations from OECD Member States to non-Member States has apparently increased; that products which are either banned or strictly regulated in industrialized countries continue to be produced and exported to developing countries; that the most alarming cases involve the intensive and uncontrolled use of chemicals, toxic agricultural products and persistent organic pollutants; that traffickers in wastes resort to fraudulent practices and even corruption; and that a



combination of legal, economic and political factors is contributing to the emergence, development and intractability of the problem.

There was also a report by Fantu Cheru, Independent Expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights (E/CN.4/2001/56) which indicated, among other things, that the most critical problem relating to the Heavily Indebted Poor Countries (HIPC) initiative is its financing. The lack of sufficient resources to fund the initiative has become a growing concern to the World Bank and the IMF, the two institutions that preside over the HIPC process. Further, the report underlines that the HIPC initiative did not address debts that were owed by HIPC to non-Paris Club creditors. Thus, the actual debt situation of the HIPC initiative as it stands is inadequate. The report recommended, inter alia, that creditor Governments and institutions revisit the whole issue.

Several speakers highlighted issues ranging from the negative effects of globalisation on economic, social and cultural rights in developing countries to the effect of foreign debt on the implementation of these rights and the need for support from the international community to order to ensure them. They expressed concern over issues related to debt relief for poor nations, rural land reform, and greater efforts to reduce extreme poverty. A number of delegates contended that the forces of economic globalisation were having negative impact on poor people and nations and that trans-national corporations should be more accountable for the effects of their activities on developing countries.

Sarat Sabharwal, the representatives of India said grinding poverty as well as marginalisation of individuals and societies continued unchecked. It was only in recent years that economic, social and cultural rights had started receiving some attention. Although India's Constitution preceded the adoption of the International Covenant, it was deeply influenced by the Universal Declaration of Human Rights. India agreed with the Special Rapporteur on the right to education that

education was the key to development and the right to education was the key to the enjoyment of many other human rights. Delivering a landmark judgment in 1993, the Indian Supreme Court had ruled that citizens of the country had a fundamental right to education, and further ruled that every child of India had a right to free education until the age of 14.

Prof. Riyaz Punjabi of the **Himalayan Research and Cultural Foundation** said that ever since the adoption of the International Covenant on Economic, Social and Cultural Rights, there had been a marked rise in conditions inimical to upholding the rights that promoted human dignity and respect for cultural diversity. It needed to be recognized that the biggest challenge in realizing the socio-cultural rights emanated from attempts to homogenize societies on the basis of religion or on the basis of specific sectarian interpretations. The situation became complex when States became party in the process of cultural homogenisation. It was urgent to look into the contents of education in different parts of the world. There was documentary evidence that “education” in some South Asian states not only undermined the ethos of diverse ethno-cultural groups but also promoted xenophobia, gender bias and cultural apartheid.

Khalid Mahmood Qureshi of Afro-Asian People’s Solidarity Organisation, drew attention to economic and social conditions prevailing in many developing countries such as Pakistan, Bangladesh, Indonesia, Sudan, Ethiopia, Afghanistan and others which acted as major obstacles to the realization of the economic, social and cultural rights. Economic development was a key to social development. The economies of those countries were in such bad health that it was difficult to believe that they could afford to devote adequate amounts of financial resources for social development. Due to the widening gap between rich and poor, in Pakistan diverse forms of economic, social and cultural inequalities persisted, giving the lie to the Government claim of fulfilling the human rights agenda as globally accepted.

Paul Beersmans of International Movement for Fraternal Union among Races and Peoples, said that the economic, social and cultural

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rights of people of Jammu and Kashmir had not been respected. Their country was divided in three parts, and they had not found peaceful solution to their problem. Jammu and Kashmir was a multi-religious society where Muslims, Hindus, Christians, Sikhs, Buddhists and other religious groups had lived in perfect harmony for centuries. They had established a composite culture called “Kashmiriyat”, a liberal, tolerant and secular tradition of Sufism. But more than ten years of bloodshed and violence had proved that the gun only brought destruction, not freedom.

Pierre Porret of Association of World Citizens said that so far globalisation had proven most beneficial to transnational corporations and the richest countries. In Afghanistan, women no longer had the right to education and were forced to live in seclusion. Rich families who gave their daughters private classes risked having them beaten by the mullahs if they were found out. The Taliban was destroying the culture of Afghanistan and the world.

### **Civil and Political Rights**

Issues discussed under this agenda item included the questions of torture and detention; disappearances and summary executions; freedom of expression; independence of the judiciary and administration of justice; religious intolerance; states of emergency; and conscientious objections to military service. Before beginning a general debate on this item, the Commission took up a report (E/CN.4/2001/66) of the Special Rapporteur on Torture, Nigel Rodley, which reviewed cases brought before him in 98 countries. The Special Rapporteur concluded that he was encouraged by enhanced recognition of the problem of impunity as a reason for the continuance of the practice of torture; that speedy establishment of the International Criminal Court in conjunction with appropriate national laws should mean all obstacles to impunity can be removed; that independent entities are essential for investigating and prosecuting crimes committed by those responsible for law enforcement that interrogations should only take place at official centres and that secret places of detention should be abolished by law; and that all

complaints should result in inquiries and that complaints determined to be well-founded should result in compensation for victims or their relatives.

Another report (E/CN.4/2001/67) was presented to the Commission by Chairperson-Rapporteur Elizabeth Odio Benito of the working group on the draft optional protocol to the Convention against Torture. There was also a report (E/CN.4/2001/68) of the working group on enforced or involuntary disappearances, which noted that since its establishment in 1980, the group has transmitted more than 49,500 cases to Governments and that although some 3,500 cases have been clarified, around 46,000 are still outstanding; that new cases continue to be reported from as many as 29 countries; that it is crucial for countries having large backlogs of outstanding cases to make consistent and effective efforts to identify the fates and whereabouts of the disappeared persons; that full implementation of the relevant Declaration is crucial for the prevention and termination of such human rights violations; and that impunity is one of the main causes – probably the root cause – of enforced disappearances and at the same time one of the major obstacles to clarifying past cases.

Presenting the report (E/CN.4/2001/14) of the Working Group on arbitrary detention, Kapil Sibal Chairman-Rapporteur said that during the year 2000, the Working Group had continued to develop its follow-up procedure and had sought to engage in continuous dialogue with those countries visited by the Group, and to which it had recommended changes in domestic legislation governing detention. The Group considered the acceptance, transparency and cooperation in the context of requests for country visits was the surest way to further the cause of human rights, mutual respect and understanding between member States and United Nations human rights mechanisms.

The report (E/CN.4/2001/9) on extrajudicial, summary or arbitrary executions was presented by the Special Rapporteur, Asma Jahangir herself. She described the situation as grim. There was little cause for optimism, as past situations of armed conflict and political violence persisted. The worst forms of violations were committed in

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internal conflicts between Government forces and militant groups or civilians. Firm measures must be taken to end impunity. Too many Governments continued to condone or even justify extrajudicial killings by their security forces. Over the last year, thousands of unarmed civilians, including many women and children, had been killed in conflict situations. She said that in Afghanistan in recent months hundreds of people had been killed by Taliban forces. In Honduras, Guatemala and Nicaragua, street children were murdered or disappeared with impunity. The majority of these acts were attributed to private vigilante groups or off-duty police and military personnel.

Abid Hussain, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, introduced his report (E/CN.4/2001/64). He had examined the situation in sixty countries. He said that with more than 1,700 allegations received this year, it was clear that too many women and men continued to suffer intimidation, harassment, arbitrary detention and physical harm as a result of the exercise of their right to freedom of opinion and expression. While noting with satisfaction a growing tide in favour of human rights, he also expressed regret there are innumerable cases of great violations of rights to free expression.

Introducing his report on religious intolerance, Abdelfattah Amor said that over the past year he had received 85 communications concerning 52 states, which highlighted the vulnerability of minorities, especially to discriminatory and intolerant national policies and legislation. He said that minorities fell also victim to non-State bodies, especially religious communities, extremists organisations and the media. He also appealed to Iran and Afghanistan as well as the international community to take measures to protect religious sites and monuments, in particular those, which were the common heritage of human kind.

During the debate on this agenda item several country delegations spoke about national efforts to promote civil and political rights, while numerous NGOs alleged violations of those rights around the world,

including transgressions concerning freedom of expression, freedom of religion and incidents of torture. On the issue of torture, several country delegations expressed their support for the Working Group on an optional protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The issue of forced disappearances was also raised by some Government speakers who pledged to investigate all such cases.

Nabin Bahadur Shrestha of Nepal said being a least-developed country, Nepal was today facing an enormous challenge in maintaining its best efforts for strengthening the democratic system and promoting economic development of the country at the same time protecting the rights and interests of its citizens. As acknowledged in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, the problem of the Nepal Communist Party was posing a threat to the very survival of democracy in the country. The Party had created an obstruction to the full enjoyment of the rights guaranteed by the Constitution. So far, 1,593 people, including many civilians, political activists and other members of civil society had been killed by this Party. The Government of Nepal had given a high priority to the resolving the problems created by the Party. It continued to make efforts to find a political solution by means of negotiation and had called upon the Party to come to the negotiating table within the constitutional process by renouncing terrorist activities. While noting the concern expressed by the Special Rapporteur on the situation of human rights in Nepal, it was the position of the Government that every effort would be made to improve the protection and promotion of human rights in the country.

Lars Ronnas of Sweden speaking on behalf of the European Union and the countries associated with it, said that countless human beings continued to fall victim to violations of human rights despite the adoption by many countries of the relevant international humanitarian instruments. There was an urgent need to ensure the implementation of the existing standards set to protect civil and political rights of all persons without distinction of any kind. With regard to the right to life, the EU regretted that the Governments of Algeria, Bahrain, India,

Israel, Cote d'Ivoire, Pakistan, the Russian Federation, Sierra Leone and Uganda had failed to respond to outstanding requests by the Special Rapporteur on extrajudicial executions to visit their countries.

Jean-Daniel Vigny of Switzerland said that certain groups such as human rights defenders, political activists, journalists or members of different minorities had continued to be subjected to extrajudicial, summary and arbitrary executions. In this regard, Switzerland expressed its grave concern at the excessive use of force by the Indonesian police and army in their police operations in different regions, notably Irian Jaya and Aceh. Switzerland also expressed its serious concern at the culture of impunity which was deeply rooted in Colombia. Thousands of persons had disappeared in recent years in many countries. Enforced disappearances constituted a grave violation of numerous human rights and an international crime, according to the Rome Statute of the International Criminal Tribunal. Freedom of religion continued to be violated in some countries, notably in Afghanistan by the Taliban, China, Viet Nam, and Saudi Arabia. In some cases, the authorities failed in their duties, allowing a negative climate to develop which resulted in serious violations, for example, in Cote d'Ivoire, Nigeria, Indonesia or Sudan. In the Israeli-Palestinian context, the end of 2000 saw unprecedented scenes of desecration of holy sites.

Anne Anderson of Ireland said her Government thanked the Special Rapporteur on the independence of judges and lawyers. In his report, he had once again addressed the murder in Belfast of Patrick Finucane, a highly respected defence lawyer. Ireland shared the concerns of the Special Rapporteur in relation to this murder, including his assessment that only a judicial inquiry could comprehensively address and examine all the circumstances surrounding this case and get to the truth in relation to it. Concerning the case of the murder of Rosemary Nelson, Ireland welcomed the Special Rapporteur's call for a commission on inquiry into the murder. The practices of the Taliban in Afghanistan were particularly reprehensible. And in Iran, despite certain improvements, concerns remained in relation to persecution of the Baha'I community.

Firdous Syed of the European Union of Public Relations, said that in the context of the ongoing conflict in the Indian part of Kashmir, essentially it was the denial of freedom of opinion and expression that was hindering the enjoyment of the benefits of democracy. It was this difficulty which stood in the way of Kashmir's return to normalcy and restoration of peace. The militants in Kashmir, externally armed and indoctrinated and now extensively supported by the mercenaries drawn from many foreign countries, wanted to stifle the voice of the Kashmiris, who were asking questions about the type of faith these people wanted to impose on the unsuspecting population in the valley. The elected Government in the Indian State of Jammu and Kashmir was providing all opportunities of legitimate dissent and opposition. It had never stifled the voice of opposition nor denied freedom of expression. It had never imposed curbs on the media, print or electronic. Scores of vernacular and English dailies were being published by the State. But on the other hand, the armed men were always trying to track down anybody and everybody encouraging freedom of expression and opinion. Media representatives had been gunned down; editors had been gunned down. Even newscasters had been threatened and intimidated or even kidnapped. Any paper questioning their illegal and unauthorized activities that resulted in the violation of human rights was being threatened and asked to shut down. In many cases, proprietors were forced to shut down their papers for quite some time. The militant leadership refused to come to the debating table and discuss issues. Their response to the moves of the Government for the restoration of peace in Kashmir was always dubious and unacceptable.

A. Gopinathan of India said that despite the categorical assertions by the international community to refrain from organising, instigating, assisting or participating in terrorist acts in territories of other States, acts of terrorism, including State-sponsored terrorism, had continued. Those were accompanied by the misleading propaganda of the State and non-State actors who sought to conceal their self-serving violent agendas behind lofty principles such as "self-determination" and "freedom struggle". "The pernicious nature of that propaganda was



clear from the fact that a country in India's region, that had for years exported terror to all parts of the world, was now showing the audacity to attempt the elevation of its terrorists to the level of great world leaders." India urge those indulging in pro-terrorism propaganda to desist from insulting such leaders. India had been the victim of some of the most brutal manifestations of terrorism aided and abetted from across the border. A neighbouring country, that had all along nurtured territorial ambitions on the Indian State of Jammu and Kashmir, was waging a proxy war against India. That proxy war had elements such as operation of training camps for terrorists in territories under the control of that country, supply of sophisticated weapons and explosives to them, among other things. India's repeated unilateral gestures to restore peace and calm in the Indian State of Jammu and Kashmir had been responded to by heightened terrorist violence, particularly against civilians.

Yadollah Mohammadi Tehrani of Organisation of Defending Victims of Violence, said the terrifying and worrisome serial killings with a focus on Iranian writers and intellectuals were strongly condemned. Terrorism was a flagrant violation of human rights and had always been condemned by many States and organisations. He asked the Commission to pay attention to the violations of the civil and political rights of Shia Muslims in Afghanistan, including Hazaras and Tajik Shia, by the Taliban which had mounted to such a regrettable level.

Petra de Leeuw, of South Asia Human Rights Documentation Centre said Pakistan remained one of the most glaring examples of religious intolerance. The military regime in place had done little to protect the rights of non-Muslim minorities. With the continuation of blasphemy laws and the Hudood Ordinances, Governmental and legal structures had elevated Sunni Islam over all other religious beliefs while sanctioning discrimination against non-Muslims and Shiite Muslims. Crimes against religious minorities such as Christians, Hindus, Ahmadis and Shiite Muslims persisted while Sunni Muslim perpetrators faced little or no consequences. Religious minorities were deprived of equal

access to justice. Women had particularly suffered under the Hudood Ordinances, as they were frequently charged for sexual misconduct such as adultery.

Ahmar Musti Khan of the World Federation of Trade Unions, said it was regrettable that the terrible plight of the people of Balochistan, the illegally annexed southwestern province of Pakistan, had not received attention from various mechanisms of the Commission. “As if the butchery and savagery of the past bloody military operations were not enough, many of the political activists in Balochistan had been arrested and tortured”, he pointed out. Two had been detained without trial for many months and tortured – Nazi style – in torture camps. In this holocaust, State terrorism was in full swing in Balochistan, with the much-dreaded security forces killing innocent people for raising their voices against the injustice caused to them, personally and collectively. The Pakistani Coast Guards, civil armed forces and federally-controlled militias had made life for the common people miserable by committing excesses against them on a daily basis. The Commission was requested to give directions to concerned Working Groups to investigate the political and economic deprivation of the people of Balochistan.

Sadia Mir of Liberation expressed concern over the situation in The Chittagong Hill Tracts, Bangladesh and the Peace Agreement of 1997 still remained to be implemented. The result of that was the continued abuse of human rights, and the increase in cases of torture and illegal detention of innocent men, women and children.

Mohammad Anwar of the World Federation of Democratic Youth, said that the Pakistani army had unleashed unprecedented restrictions and selective stifling of the activities of pro-democracy political parties. The Government’s human rights record remained poor and numerous serious abuses had been recorded. The army, state, intelligence agencies, para-military rangers, Frontier Constabulary, police and state patronised and harboured terrorist groups and committed numerous extra judicial killings arbitrary arrests, torture in custody and custodial deaths. Every government in Pakistan had believed in personal

vendettas instead of reforming the country and every ruler had used unbridled power and corruption to protract his or her rule.

Sultan Shahin of the **Himalayan Research and Cultural Foundation**, said the discussion of religious intolerance came at perhaps its worst and most repulsive manifestation in recent times. The 2,000-year-old statues of the Lord Buddha, colossal images carved into the Hindukush mountains in Afghanistan, and hundreds of other precious artifacts that symbolized the country's glorious heritage, were lost to the world forever. These had survived the depredations of the vandals of the past. But in this day and age, when it was thought that the world was more civilized, this precious human heritage had been destroyed by the Taliban while the world watched helplessly in horror. What made this deed even more pernicious was that it was done in the name of religion and by people who claimed to be religious. Indeed, they claimed they were performing their religious duty. That brought into disrepute not only Islam, the religion they claimed to espouse, but the concept of religion itself, and hence it constituted an affront to all religious people of the world. The Taliban were the product of thousands of religious seminaries run in various parts of Pakistan. Shahin felt that it was primarily the duty of Muslims to see that Islam continued to play the role of a blessing for humankind that it was meant to be.

A. Hasan of the International Institute for Peace, said that there was a rise in extrajudicial killings, torture, violence and denial of justice in Bangladesh. Violence against women and children was also increasing. In the year 2000, 800 women were killed due to torture. There were 186 cases of acid burns and 70 cases of death in safe custody. In addition, the use of explosives against political and business opponents was quite common in the country. Each year, the number of bomb victims was increasing. Not only were women unsafe in Bangladesh, but common people who were away from power and politics were vulnerable to threats of violence and bodily harm.

### **Integration of the Human rights of Women and the Gender Perspective**

Under this agenda item, the Commission had before it several documents including a report (E/CN.4/2001/73) of Radhika Coomaraswamy, Special Rapporteur on violence against women, which recommended that the United Nations take immediate steps to ensure that the representation of women is increased in all institutions and at all levels of decision-making; that a Gender Unit be created and senior gender advisers be appointed within the Department for Peacekeeping Operations, as well as senior gender advisers and child-protection advisers to all field missions; that more women be appointed as special representatives to conflict areas; that steps be taken to mainstream a gender perspective into all UN activities, most urgently in those areas affecting the physical security of women and girls, including in field operations, peacekeeping, and in military and police forces; that a clear mandate be established for all peacekeeping missions to prevent, monitor and report on violence against women and girls; that uniform procedures and disciplinary measures be elaborated for peacekeeping personnel who violate international standards, in particular those related to violence against women and girls; that special ad hoc tribunals to try peacekeepers for war crimes and crimes against humanity be considered in areas where peacekeepers operate; that the UN take steps to ensure that peacekeeping personnel who commit abuses against women and girls are held accountable; and that the wartime experiences and post-conflict needs of women and girls be fully taken into account in the formulation of repatriation and resettlement plans, as well as demobilization, rehabilitation, reintegration and post-conflict reconstruction programmes. The Special Rapporteur called upon the national Governments is that States must ensure the safety of camps for refugees and internally displaced persons, especially against infiltration by armed groups, and must adopt effective measures to guarantee the particular security concerns of women and children.

An addendum to the report (Add.1) reviews communications of the Special Rapporteur with seventeen Governments. A second

addendum (Add.2) summarizes a mission of the Special Rapporteur to Bangladesh, Nepal and India from 28 October to 15 November 2000 on the issue of trafficking in women and girls. It called upon the international community must continue to play a proactive role in preventing trafficking in the South Asia region. It recommended that the Nepalese effort at prevention should be replicated in other countries of the region; that Governments of the region should each have a national plan of action to combat trafficking; that legislation to combat trafficking should be considered but only if it complies with international human rights standards and does not violate the rights of women; and that Governments should refrain from enacting regulations and orders that restrict the free movement of women under the guise of fighting trafficking.

There was also a report (E/CN.4/2001/72) of the Secretary General on traffic in women and girls which concluded, among other things, that such trafficking for forced and exploitative labour, including for sexual exploitation, is one of the most egregious violations of human rights now confronted by the United Nations; that the problem is widespread and growing; that it is rooted in the social and economic conditions from which the victims come; that it is facilitated by practices that discriminate against women; and that the human-rights community has a special responsibility to ensure that the trafficking issue is not simply reduced to a problem of migration, a problem of order, or a problem of organised crime.

Another report (E/CN.4/2001/71) of the Secretary General on integrating the human rights of women throughout the United Nations system recommended that all Governments should ratify, without reservations, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Child; that the obligations of State to prevent and redress violations of women's rights need to be further clarified; and that recommendations of a 1995 expert group meeting on development of guidelines for integration of gender perspectives into human rights activities and programmes had been implemented to some extent, but that many of the recommendations are still relevant.

During debate several country delegations decried the prevalence of violence in all its forms, including domestic violence, against women. Sweden, on behalf of the European Union, urged the Governments to exercise due diligence to prevent, investigate and punish acts of violence against women. Gender discrimination was another issue raised by a number of speakers. Norway said that while the principle of non-discrimination was a widely accepted norm, some aspects of it had proved easier to implement than others. “Women experienced multiple discrimination all too often, and the intersectionality of gender-based and other forms of discrimination should be taken into account in the efforts to eradicate this serious problem.” Echoing similar sentiments, Canada said that women’s inequality was further compounded by their race; ethnic, immigrant and indigenous status; sexual orientation; and age.

While making a link between poverty and women’s rights, several speakers described national efforts to promote and protect the rights of women. China said the impoverishment of women was becoming increasingly prominent and poverty constituted a major obstacle to the realization of women’s rights. Indonesia said that poverty and ignorance were the root causes of racism, gender discrimination and violence against women, and that it had taken several measures to address these problems. And concerning trafficking of girls and women, Vietnam said Governments should take appropriate measures to address poverty, unemployment and social discrimination which were among the root causes leading to the trafficking in women and girls. Russian Federation added that it was wrong to lay the blame for the increasing scale of trafficking of women simply at the door of the countries from where they came and that responsibility should equally be placed on the receiving country.

A number of NGOs condemned ongoing violations of the rights of women, mentioning repeatedly such abuses as wartime rape and sexual slavery, trafficking in women and girls, harmful traditional practices such as female genital mutilation, and widespread discrimination that left women and girls vulnerable to poverty, exclusion and disease.

The United Nations Population Fund said that 500,000 maternal deaths occurred each year, mostly in developing countries; that only 53 per cent of all births were professionally attended; that trafficking in women and children for sexual purposes was on the increase; that millions of young women were at risk of female genital mutilation and were likely to be HIV/AIDS positive; and that two-thirds of the world's illiterates and poorest inhabitants were women and girls.

Responding to the Special Rapporteur's call for conceptual clarity in regard to the definition of trafficking, Savitri Kunadi of India stated that the issue of definition and conceptual clarity was being referred by the Government of India, together with the views of the Special Rapporteur, to the National Commission for Women, a statutory body, which was currently engaged in an exercise to suggest suitable amendments to the Prevention of Immoral Trafficking Act. India shared the concerns of the Special Rapporteur with regard to the low conviction rates for traffickers in India. The Government had already taken up the matter with States and had urged them to place greater emphasis on prosecution of traffickers. States had also been asked to report on cases registered under the Act in a prescribed form. There was need to create further awareness on the issue in the Indian police force, to change the mind set from registering cases against trafficked victims to prosecuting traffickers. A sensitization programme in that regard was being taken up in 2001 with assistance from the United Nations Children's Fund (UNICEF).

Nabin Bahadur Shrestha of Nepal said the problem of trafficking in girls and women in Nepal was one of the main concerns of the Government, which was committed to undertaking a series of measures nationally and regionally with the cooperation of all relevant sectors to combat the phenomenon. The 1990 constitution of Nepal prohibited trafficking in human beings, slavery, serfdom and forced labour in any form. Besides Constitutional provisions, many legal initiatives had been taken against trafficking, including the setting up of special tribunals to try the offence of trafficking. Nepal was a party to all major international human rights treaties including the Convention on the

Elimination of Discrimination against Women. The Government realized that poverty, widespread underdevelopment, illiteracy and lack of employment opportunities were the major cause of this problem. As such, the Government had been making efforts to ensure women more access to political, economic and social development fields, and to streamline and strengthen the institutional arrangements for women's development. The Government had also been operating a technical assistance project with the Office of the High Commissioner for Human Rights. Furthermore, there were many NGOs in Nepal which were actively engaged in addressing the problem of trafficking.

Joanna Weschler of Human Rights Watch said her organization was concerned about the continuing failure of States to end impunity for so-called "honour" crimes. Honour crimes were acts of violence, usually murder, committed by male family members against female family members who were perceived to have brought dishonour upon the family. Women could be targeted by her family for a variety of reasons including refusing to enter into an arranged marriage, being the victim of sexual assault, seeking a divorce – even from an abusive husband – or committing adultery. Honour crimes were not specific to any religion, nor were they limited to any one region of the world. Human Rights Watch called upon the Commission to condemn all forms of violence against women and to uniformly reject all attempts by States to justify any acts of violence against women as legitimate or defensible.

David A Harris of the American Jewish Committee, expressed profound concern about the indescribably oppressive conditions endured by women living under Taliban rule in Afghanistan. It was clear that the Taliban were perpetrating unprecedented, systematic and widespread discrimination against women. The Taliban edicts enforced on the lives of Afghan women denied them their most fundamental human rights. Forced to wear a "burqua", a loose veil to ensure that the body was covered from head to toe with only a small cloth screen for vision, the women faced harsh and archaic punishment, such as public flogging, if they were seen to be wavering from the dress code. That physical restriction was symbolic of the attempt to destroy the individual identity of women.



Ravinder Kaul of the **Himalayan Research and Cultural Foundation** said the problem of violence against women in parts of South and Central Asia was particularly accentuated by the dictates of religious extremists who coerced the women to wear veils and denied them the basic rights to education, employment and freedom of expression. The Special Rapporteur on Violence against Women had reported that the Taliban in Afghanistan had taken the denial of human rights of women to new lows, laying down rule after rule denying women their basic human rights. He also drew attention to the forced marriages by which unmarried women were abducted, raped by and then forced to become the brides of members of the armed opposition in Jammu and Kashmir. Violence against women had been systematic and persistent during the past decade of terrorism by Islamist extremist in Kashmir. In a land where violence against women was once unheard of and rape was a rarity, these crimes had been increasing. The inhuman atrocities that womenfolk were being subjected to in Kashmir had become more gruesome in recent years. The terrorists there had also indulged in the practice of forcibly marrying the women who caught their fancy. Those who resisted met a gory end. An elderly woman who rebuffed the advances of some terrorists towards her two daughters was killed by the terrorists last August. There was an urgent need for taking stringent punitive measures at national levels against non-State actors responsible for violence against women.

Samina Kabir of the World Federation of Trade Unions hoped that all possible support would be extended to all those fighting for the cause of the Afghan women. While violence against certain segments of society, like ethnic and religious minorities, was rampant in Afghanistan, a striking aspect of Taliban rule was the distress that women had faced since the coming of the fundamentalists to power in 1992. The Taliban had deprived the women of Afghanistan from engaging in any productive activities to benefit Afghan society and economy. The combined capabilities and talents of the Afghan women had been placed in cold storage as a result of some twisted interpretation of the religion. The country could not evolve into a

humane society when half of the population was in chains, devoid of the most basic rights and freedoms and having no say in the country's governance.

Anne Ikpeme of International Human Rights Law Group said extreme violations of women's rights in Afghanistan continued to be committed by all the warring factions. In a recent reported case, the Taliban police had ordered an Afghan woman in Kabul to either cut one of her fingers off herself or be ready to have her right hand cut off by Taliban authorities as punishment for committing the crime of pointing with her finger to explain to a shopkeeper what particular item she wanted to buy from his shop. The woman decided to cut her own finger in order to save her hand.

Sadia Mir of Liberation said a culture of violence against women was one that denied the equal rights of women with men and legitimized the use of violence as a tool of oppression that resulted in unimaginable acts of brutality. The perpetrators of such violence were often agents of the State and armed groups, but also could be members of a woman's own family or community. These people acted with an increasing sense of impunity and were responsible for rape and torture, enslavement and trafficking, displacement and gender-based discrimination against grandmothers, mothers, sisters, daughters cousins.

### **Rights of the Child**

The Commission on Human Rights heard the report (E/CN.4/2001/76) from Olara A. Otunnu, the Special Rapporteur of the Secretary General for Children and Armed Conflict. The report stressed upon the need to address impunity and bring to justice those responsible for violations of the rights of children in conflict situations. It highlighted situations in which children are unacceptably involved, including in Sierra Leone and northern Uganda; and described the Special Rapporteur's continued efforts to ensure the inclusion of child protection in United Nations peacekeeping operations and to strengthen such measures already in place. The report stressed upon the need to

*Sharad K. Soni*

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address impunity and bring to justice those responsible for violations of the rights of children in conflict situations, besides describing the Special Rapporteur's continued efforts to ensure the inclusion of child protection in United Nations peacekeeping operations and to strengthen such measures already in place. Mr. Otunnu said that there was still a gap between the commitments made by parties to armed conflict and the ugly reality that children faced in times of war. He urged the international community to pay attention to areas of particular vulnerability among war-affected children. These included the special needs of girls; internally displaced children; the provision of education of war-affected children; the rapid spread of HIV/AIDS in the corridors of armed conflict; the impact of sanctions on children; and the liberation of abducted children.

There was also a report of Ofelia Calcetas-Santos, Special Rapporteur on the sale of the children, child prostitution and child pornography (E/CN.4/2001/78), which reviewed activities carried out in the year 2000, summarized international developments relating to the sale of children, child prostitution and child pornography; reviewed the involvement of the private sector in such activities; and outlined situations in nine specific countries and regions. Another report of the Secretary General (A/55/163-S/2000/712) on children and armed conflict, stated that children have increasingly been victimized as both the targets and perpetrators of violence; that almost half the world's 21 million refugees are children, while another 13 million are displaced within the borders of their own countries; and that the number of children under the age of 18 who have been coerced or induced into taking up arms as child soldiers is generally thought to be in the range of 300,000. The report reviewed efforts to protect children in the midst of conflict, measures to ensure access to humanitarian assistance, and undertakings to curb the flow of small arms. Besides, there was a note by the Secretary General (A/55/442) on protection of children affected by armed conflict, which reviewed activities and the initiatives undertaken in the past year by the Security Council, regional organizations, and the UN system; describes activities to place war-

affected children high on the international political agenda; and outlines future efforts and attempts to build a movement for the protection of children affected by conflict.

Marta Santos Pais of United Nations Children's Fund (UNICEF), said that in previous years, UNICEF had highlighted major challenges which continued to compromise children's lives. It had also addressed the decisive role played by the Committee on the Rights of the Child, the Special Rapporteur on the Sale of children and the Special Rapporteur of the Secretary General for children and armed conflict. Those and many other actors continued to promote the cause of children around the world.

Tim de Meyer of the International Labour Office (ILO), said the Worst Forms of Child Labour Convention had become by far the most rapidly ratified Convention in ILO's 82-year history. Currently 71 out of the 175 ILO member State had ratified the Convention. Moreover the total number of countries that had ratified ILO's Minimum Age Convention now stood at 105. In less than a decade, the ILO's International Programme on the Elimination of Child Labour had evolved from a technical-cooperation programme with one donor and six participating countries into a global alliance of 99 participating countries and contributing organizations. With an estimated 250 million children engaged in economic activity worldwide, half of them full-time, and at least a quarter of them victims of the worst forms of child labour, child labour had far-reaching consequences for both individual childhoods and national development in the world.

Umesh Palwankar of the International Committee of the Red Cross said that a year ago the international community had expressed joy at the commitment of States to improving the situation of children affected by armed conflicts. The Optional Protocol to the Convention related to the rights of children in armed conflict had been adopted. The number of States ratifying it had been encouraging. The international community had demonstrated its will to arrive at the Special Session of the General Assembly in September 2001 with concrete propositions

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and achievements aimed at the respect of those rights. The Federation was committed to working closely with the International Committee of the Red Cross to seek ways of providing assistance to children who were deprived of the right to grow up in an atmosphere of peace and love.

Savitri Kunadi of India said millions of children around the globe remained deprived of their basic rights for various reasons but primarily because of widespread poverty. The Indian Constitution provided a framework for protection, development and welfare of children. The adoption of the National Policy in 1974 had been a landmark development. A National Children's Fund was created to provide financial assistance to voluntary organizations for undertaking innovative child-welfare programmes. A separate Department of Women and Child Development was set up in 1985. This Department formulated the National Plan of Action for Children in 1992 covering priority areas such as health, nutrition, education and water. India believed that children must not be recruited for warfare. However, this was not the case with non-state actors who recruited children, often forcibly because they were malleable and strangers to danger and therefore convenient instruments for mindless violence. Regrettably, the phenomenon of schools and seminaries being misused to instill in young and impressionable minds the negative passions of hatred and intolerance continued in the region. These youngsters were then sent to Afghanistan and elsewhere as cannon fodder and to carry out terrorist outrages.

Humayun Tandar of Afghanistan said his country had been at war for 20 years. Afghan children were subjected to dramatic conditions in the territory under the control of the Taliban militia and foreign mercenaries. Of utmost concern were the conditions imposed on girls and orphans since the Taliban had banned women from working and young girls from studying. Less than two months ago, children were beaten and imprisoned because their hair styles resembled that of the actor Leonardo Di Caprio in the film Titanic. This was the daily lot of children under the yoke of the Taliban. The small number of children,

boys only, who attended school were taught hate, intolerance and violence. Girls did not have the right to exist. They were not entitled to health care or education. The religious police of the Taliban had recently cut off the finger of a young girl because she had used nail polish. The involvement of children in war in Afghanistan was another matter that called for special attention. These children studied in so-called religious schools in Pakistan. In these schools, children were indoctrinated and taught that the highest compensation was death on the battlefield. Children from these schools went to make war in Afghanistan.

It was during the debate on this agenda item that Prof. K. Warikoo, the Secretary General of the **Himalayan Research and Cultural Foundation** drew attention of the Commission to the plight of children “Children throughout the world are being subjected to violence that results in physical injury, psychological trauma and even death. Rape and other forms of sexual abuse, to which children, in particular girls are being subjected, are still sickeningly commonplace in many parts of the world.” According to an ILO estimate, “in developing countries alone there are about 250 million children aged between 5 and 14 who are forced to work on paltry wages.” He urged the world community and NGOs to achieve the target set by the Nations in the Convention on the Rights of Child, in order to bring about improvement in the condition of the children worldwide.

Prof. Warikoo explained the work done by the Himalayan Research and Cultural Foundation on the issues relating to problems of children in general and child labour in particular. He referred in particular to the case study of Child Labour in Bhadohi-Mirzapur carpet belt and Ferozabad glass industry belt and another study on the Situational Analysis of Education for Street and Working Children in India, the problem of deprivation of basic education faced by millions of children in the age group of 5 to 14 has been addressed. Both studies found that there has been a significant drop of about 20 per cent in the proportion of children deprived of schooling during the past decade (1991-2000).

Prof. Warikoo highlighted the atrocities suffered by the children in the Indian state of Jammu and Kashmir at the hands of terrorists during the past decade. “Children are being used as gun-runners by the terrorists for avoiding detection by security agencies. Young girls are being subjected to rape and other forms of physical violence. Schools have been the main target of the terrorists who want to deny the children of Kashmir the benefits of modern scientific and secular education. They want the children to go to Madrasas where religious fanaticism alone would be taught. The girl students are the worst sufferers and their dropout rate from schools during these past twelve years has been high.” “Similarly, the plight of children belonging to the minority Kashmiri Hindu Community, which was forced to migrate from Kashmir in and after 1989, is far worse. Compelled to live in tents in the hot and humid environs of Jammu and other areas they are deprived of educational opportunities and are also suffering from lack of health care and post traumatic stress disorder due to terror and fear psychosis created by the terrorists.”

The six weeks long Session of UN Commission on Human Rights concluded on 27 April 2001 after having serious discussions and debates on various human rights issues and adopting a number of resolutions. In the concluding session the US delegation member George Moose described the Commission as “the beacon of hope for those who suffer the pain, indignity and sorrow of the lack of respect for their fundamental human rights.”

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**DYNAMICS OF POLITICS IN KASHMIR FROM ANCIENT  
TO MODERN TIMES**

by D.N. Dhar

Kanishka Publishers & Distributors, New Delhi, 2001.

From time to time, historians and political commentators have provided insights into the chequered and turbulent history of Kashmir. In spite of variations in themes and interpretations there is considerable unanimity that Kashmir with the exception of the early ancient period lacked political and social stability for centuries. This had disastrous consequences. In the absence of entrenched indigenous ruling class or elite of any consequences, Kashmir could not develop its productive capabilities, strength and resilience to survive as a viable entity. The situation encouraged rampageous adventurers to descend on the valley to pillage and oppress the people.

The history of Kashmir, however, underwent a qualitative transformation after the arrival of British imperialism on the scene. Once the British were firmly saddled in India, Kashmir attracted their attention for its geo-strategic and political situation. The Dogra dynastic rule established in 1846 through diabolical methods gave birth to the erstwhile princely state of J&K. The dynastic rule was in effect a surrogate for British suzerainty over Kashmir.

This overall politico-historical mapping constitutes the background of the author's attempt to delineate the contours of the dynamics of political changes in Kashmir from ancient to modern times. The exercise has been done in the framework of dialectical relationship between forces that acted and counter-acted to impact political processes. The point of departure that distinguishes the book from other interpretations is the decisive role that the author assigns to land management and the role played by the land holding classes during the ancient and medieval periods in influencing the course of politico historical changes. Land, being the only productive asset available, became a source of competition between the central authorities and landholding sections of



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society. The tension and conflict that ensued from the contradictory motivations often led to the erosion of the central authorities. This, according to the author, caused the decline of the ancient era. He has pinned down the role of Damaras- an aggressive land holding class-as the main agents of the decline of the ancient regimes. However, the growth of the Damaras and powerful clout they attained warrants an in-depth analysis. The seemingly logical conclusions of the author based on compelling evidence have to be tempered by certain amount of caution against reductionist approach in interpreting the historical political changes.

One may in this context, recall the seminal contribution of Late Prof. Kosambi who, apart from the destructive role of the Damaras, also highlighted the significance of ecological factors, the constraints imposed by the land-locked nature of the valley on import and export trade and the conduciveness of the soil of Kashmir for saffron production, an expensive commodity, as contributing to the decline of the ancient era. This line of investigation calls for elaboration with modern tool of historiography to arrive at a holistic and organically linked interpretation of historical changes; although the author has made it clear in the preface to his work that his study is a micro study on a subaltern model.

However, medieval era was in substance no different from the ancient era in either the management of land, economy or political governance except that Mughals made Kashmir a part of their empire and introduced their well-developed administrative system. Landed interests according to the author, continued to hold sway and exercise power. But the “coming of Sikh rule (1819-46 A.D) to Kashmir in effect represented change over from rapacious Afghan Sirdars to crafty Sikh Nizams. Both were the models of colonial exploitation of the people of Kashmir.”

The author has succinctly summarized the tragedy of Kashmir in the ancient and medieval periods. He postulates that, “there appears to have been common sting guiding the course of political change

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throughout Kashmir's history. Land holding classes, right from the ancient times have been substantially playing a role of lending momentum to socio-political change in similar fashion at every eventful stage. Kings, except strong ones have stood only as passive spectators. With the passage of time, landed nobility blinded by their vested interests have been inviting foreign rulers to their own country least mindful of the grave implications. Foreign rulers used local landed interests for their colonial goals, which finally led to a clash between the two. But the landed nobility continued the game of playing one noble against the other joining hands with colonial masters who used them for their objectives" (p.28). This assessment of the author has contemporary relevance.

The other chapters of the book deal with the modern era in J&K. The author has provided an in-depth analysis of the various events and episodes that shaped political development in the state. The role of British imperialism to control Gilgit due to its strategic importance has been elaborated. The graduation of National Conference as a broad based nationalist platform for the emancipation of the people from the depredations of deprivation and abysmal poverty has been highlighted. The saga of the struggles and battles for freedom occupy prominent place in the book. The ideological orientation of the national movement was sufficiently influenced by the Turkish experiment under Kamal, the rise of the Red Shirt movement in NWFP, the Nehru philosophy of socio-economic development, crushing defeat inflicted by Red Army on the ferocious Nazis and above all the Bolshevik revolution of 1917. The pinnacle of people's urge for freedom was reached when the National Militia was organized in 1947 under the aegis of National Conference.

These were testing times. The rulers deserted the people leaving them defenseless. It is a landmark in the annals of the history of the state, that the National Conference leadership and cadres rose to the occasion and mobilised the people against raiders sent across by the Pakistan army to decimate the nationalist urges and forcibly annex the state. The people took to arms to defeat the enemy and asserted their right to determine their destiny.

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Inside the state, however, considerable headway was made in socio-economic development after 1947. The land reforms of the early 1950s got rid of a chief burden of history and unleashed productive energies latent in the rural economy. Coupled with this, the huge public sector outlays on the development of physical and social infrastructure imparted dynamism to the state economy. The indices available for the period demonstrate that the state's performance compares favorably with other states in the country.

The tragedy that has engulfed Kashmir since 1989-90 had human dimensions. Thousands have lost their lives and infrastructure stands badly bruised and battered. Above all a civilization's ambience nurtured by Kashmiris for thousand of years has been wounded. With the help of historical background, the author has in a detailed analysis shown how and why terrorism was introduced in Kashmir to stifle the voice of dissent in Kashmir.

The author has substantiated his thesis with meticulous documentation. With its lucid style, the work is a result of strenuous effort, which gives a fresh perspective and should be useful to future researchers in the field.

**M.L Misri**

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### **“GLOBALIZATION” AND THE INDIAN NATION STATE: JURISDICTION AND LOYALTIES IN FLUX**

by **B. Ramesh Babu**

South Asian Publishers, New Delhi, 2004, 206 pp., Price Rs.425.

After the end of the cold war globalization replaced the old international system. Friedman, columnist of the *New York Times*, believes that the present international system is built around a three-fold balance between the individual and the state, the state and the market forces, and between states. The states have not disappeared altogether but the international system based on state sovereignty is in a flux. The world has been moving towards greater integration. In the post-cold war phase nations accepted liberal capitalism as their economic order leading to acceleration of globalization. Market forces have now the capacity to bring down governments. Indonesia was pushed to the brink of collapse when foreign investors suddenly decided to withdraw their investments. Rich and affluent nations demand that developing countries should open their financial markets for investment. While this brings some hard needed fund to the developing world it makes them vulnerable to the decisions of the investors. The IMF provides assistance to economies in great distress. It, however, insists that the government pay to its creditors first rather than investing in the recovery of the economy. This serves the interests of the lending institutions that recklessly extended loans in their search for profit rather than helping the recovery of the economy of the country.

Revolution in information technology changed the equation between the individual and the state. The individual is now in a position to challenge the might of the state by using the new technologies. Nothing illustrates it more than Osama bin Laden's challenge to the international order. International community has reached a near consensus that states cannot violate human rights of their own citizens with impunity. They can no longer claim that they have unlimited rights over the lives of individuals living within their territories. Human rights are viewed as superior to the sovereignty of states. Therefore, it is now

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accepted that when gross violation of human rights are taking place the international community should intervene. However, the international community has not yet reached a consensus when and who should undertake such a humanitarian intervention. So far humanitarian intervention have been highly selective and have not been guided by humanitarian concern alone but by political and strategic interest of the dominant powers in the international system. In Rwanda hundreds of thousands were killed but no humanitarian intervention followed. Now every one, including Kofi Annan and the United States regret their indifference in the face of mass killings. The sovereignty of the state was earlier buttressed by the allegiance of its citizens. The loyalties of many of its citizens and organizations extend beyond the state. The multinational corporations in their pursuit of maximization of profits are not bound by loyalty to the state. Non-government organizations seeking to serve issues to which they are passionately devoted have no hesitation in joining similar organizations in the world.

The State is not only facing challenges from outside but also from within as well. Loyalties are shifting towards sub-national groups. Ethnic upsurge after the end of the cold war has changed the map of Europe and Asia. Yugoslavia after nearly seventy years of existence as one state is now split into five and even then demands for independence from the remaining units of former Federal Republic of Yugoslavia have not come to an end. Kosovo's future is yet to be decided and Montenegro aspires for independence. The Soviet Union has been split into as many as fourteen independent states and the struggle of Chechnya for independence from Russia is still on. The world is not moving in one direction alone. It is not fission but fusion which is simultaneously going on. The European Union is moving towards greater integration.

Professor Ramesh Babu's excellent monograph deals with this complex and rapidly changing world. He analyses in great detail the forces that are pushing the world towards greater integration. He points out that nations have in their own interest accepted far greater international regulations. We are living in a truly globalized world. However, he stresses at great length the down side of globalization.

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Undoubtedly, globalization has led to the economic growth but it has greatly increased the uneven distribution of income pushing the weaker sections of society to the margin. Surely, there is great discontent against globalization as Professor Stiglitz points out. The massive protest that began in Seattle has grown as the ill effects of globalization have become more pronounced. Can the process of globalization be reversed or the states should accept globalization as irreversible and adopt measures to reduce the misery of the people. The critics of globalization are divided on the issue. Babu underscores the stark reality that “there will always be winners and losers but the winners and losers will remain the same.” But the issue is how this can be changed rather than accepting this as inevitable.

The author believes that “India is unduly solicitous of the World Bank and IMF and their chief patron the United States.” The developing countries first mess up their economy by adopting wrong policies and when they approach the international financial institutions they have no option but to accept the conditions imposed by it. As Stiglitz argues, the IMF does not come up with country specific solutions but dictates conditions for assistance that more often worsen rather than ameliorate the economic crisis. Prof. Babu argues that the United States is pushing India into global market. India hopes to benefit from globalization. In the process where there are so many actors there is bound to be hard bargaining. And India should resist pressures. The author states that the United States is “able to escape the ill effects of globalization.” That does not appear to be the case. The US has been losing jobs. It is estimated that since the Bush Administration took office the US has lost as many as 300,000 jobs. It is due to these job losses that “outsourcing” has become a big issue in the US. The mounting trade deficit is also of great concern. Globalization is technology driven and, therefore, it is not possible to completely reverse it. The US will find it difficult to reverse outsourcing because competition forces corporations to reduce the cost and earn more profit. That is the logic of free trade.

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In this small book the author has enhanced our understanding of the complexities of today's world. While the countries are being ripped apart because the world has accepted that people cannot live in harmony if they belong to different ethnic groups. Each group should have a separate state for itself. But the process does not come to an end with the creation of another state. The solution lies as the author points out in accepting the wisdom of ancient Indian view regarding the world itself as one family.

There is a vast literature on the subject of globalization. This book keeps its focus on globalization as well as localization. It adds to our understanding of the complex reality of today's world. The readers would find the book interesting and informative. Several relevant documents have been included as appendices. This further enhances the value of the book.

**B. K. Shrivastava**

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**HIMALAYAN AND CENTRAL ASIAN STUDIES** is a quarterly Journal published by the Himalayan Research and Cultural Foundation, which is a non-governmental, non-profit research, cultural and development facilitative organisation. The Journal is devoted to the study of various issues pertaining to the Himalayan and trans-Himalayan region in South and Central Asia or parts thereof, connected with its environment, resources, history, art and culture, language and literature, demography, social structures, communication, tourism, regional development, governance, human rights, geopolitics etc.

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The objective is to make a scientific appraisal of the issues confronting the Himalayan and adjoining region in South and Central Asia or parts thereof, and to make specific policy oriented studies and need based recommendations as the means to promote the human, educational and economic advancement of the peoples of the region besides preserving and enriching their ethno-cultural, literary and historical heritage. Promotion of human rights, social justice, peace, harmony and national integration are the other key areas in which the Himalayan Research and Cultural Foundation has been active.

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