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UNITED STATES COMMISSION ON
INTERNATIONAL RELIGIOUS FREEDOM

REPORT ON
AFGHANISTAN

JUNE 2002



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June 2002

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM
Washington, DC, June 4, 2002

The PRESIDENT
The White House

DEAR MR. PRESIDENT: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Afghanistan, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

We would welcome the opportunity to discuss with you this Report, and the policy recommendations that it contains.

Sincerely,

MICHAEL K. YOUNG
Chair

Enclosure

LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM
Washington, DC, June 4, 2002

Hon. COLIN POWELL
Secretary of State
Department of State

DEAR MR. SECRETARY: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Afghanistan, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

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Washington, DC, June 4, 2002

Hon. DENNIS HASTERT
Speaker of the House
U.S. House of Representatives

DEAR MR. SPEAKER: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Afghanistan, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

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LETTER OF TRANSMITTAL

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM
Washington, DC, June 4, 2002

Hon. ROBERT C. BYRD
President Pro Tempore
U.S. Senate

DEAR MR. BYRD: On behalf of the United States Commission on International Religious Freedom, I am transmitting to you the Commission's Report on Afghanistan, prepared in compliance with section 202(a)(2) of the International Religious Freedom Act of 1998, 22 U.S.C. 6401 *et seq.*, P.L. 105-292, as amended by P.L. 106-55.

We would welcome the opportunity to discuss with you this Report, and the policy recommendations that it contains.

Sincerely,

MICHAEL K. YOUNG
Chair

Enclosure

Summary of Commission Recommendations on Afghanistan

The U.S. Commission on International Religious Freedom believes that religious tolerance and respect for human rights are essential to the security, recovery, and reconstruction of Afghanistan. A future Afghanistan that respects human rights, including freedom of thought, conscience, and religion, will become a more stable, responsible member of the international community and thus will be less likely to become a haven for international terrorists or the cause for regional instability and conflict. Security and protection of human rights go hand in hand. If the United States and the international community fail to help provide the security so urgently needed in Afghanistan today, the opportunity for building that future Afghanistan will be lost.

Recognizing that these goals will not be quickly or easily accomplished, the Commission recommends in the following report several concrete steps that the U.S. government must take now.

1. The U.S. government should actively support expanding the international security presence beyond Kabul. There is an urgent need to expand security in order to safeguard the process of political reconstruction in the country. Moreover, security is essential to protect religious freedom and other human rights for all Afghans both in the near term and into the future.

2. The U.S. government should be unequivocal in its opposition to ongoing human rights abuses in Afghanistan, using its influence not only with the national government but with local commanders, many of whom have received or are still receiving U.S. military support and advice.

3. U.S. assistance, particularly to the Afghan military and to law enforcement agencies, should be contingent upon compliance with human rights conditions included in current U.S. legislation, such as those in the Leahy Amendment and the Foreign Assistance Act.

U.S. recovery and reconstruction assistance to Afghan regional authorities should also be in accordance with relevant United Nations Security Council resolutions (e.g., Resolution 1401).

4. The U.S. government should strongly support efforts to establish and/or strengthen adherence to the rule of law and protection of religious freedom and other human rights in Afghanistan. Special attention should be paid to:

4.a. drafting a new constitution and new laws that guarantee international norms on freedom of religion and other human rights;

4.b. organizing effective law enforcement and criminal justice systems that respect and protect fundamental human rights;

4.c. creating effective indigenous institutions for monitoring, investigating, and obtaining redress for human rights abuses; in this regard, care should be taken to ensure that Afghanistan's new

national human rights commission meets international standards for such bodies; and

4.d. establishing a mechanism for accountability, with a view to bringing perpetrators of past and current human rights abuses to justice and promoting truth-telling and long-term reconciliation.

5. The U.S. government should promptly assign to our Embassy in Kabul and station in Afghanistan now a person whose sole responsibility is carrying out a mandate to promote religious freedom and other human rights, including by coordinating U.S. participation in relevant international initiatives.

This individual should also be tasked with monitoring and reporting publicly on human rights and religious freedom conditions, including compliance with United Nations Security Council Resolution 1401 guidelines that recovery and reconstruction assistance "ought to be provided ... where local authorities contribute to the maintenance of a secure environment and demonstrate respect for human rights."

6. The assignment of such an individual does not diminish the obligation of other U.S. mission personnel to promote human rights and to monitor compliance with international human rights standards.

7. The U.S. government should undertake and support efforts to nurture and develop a culture of democracy in Afghanistan. Special attention should be paid to:

7.a. public education and literacy programs for all Afghans, to be provided regardless of ethnicity, religion, gender, age, or other status, and including specific support for women teachers;

7.b. radio and other avenues of broadcasting and sharing information to provide objective news and other information to the Afghan people; and

7.c. educational and cultural exchanges, including specific support for women professionals, to introduce Afghans to the workings and benefits of free societies in which religious freedom and other human rights are respected.

8. In each of these areas, specific emphasis should be placed on encouraging religious tolerance and the protection of the equal right of all to religious freedom and other human rights.

AFGHANISTAN

A. Introduction

The Afghan people have suffered greatly from violations of all basic human rights, including freedom of religion. The Taliban movement imposed on the 90 percent of the country under its control an extreme and harsh interpretation of Islam that manifested itself, among other abuses, in the severe repression of religious freedom, including for Muslims, and of the human rights of Afghanistan's women and girls, including their equal right to freedom of religion and belief. (For further background on the religious freedom situation in Afghanistan under the Taliban, please see Section B.3. below.) Human rights abuses and restrictions on religious freedom in Afghanistan are not, however, unique to the Taliban and remain of grave concern in the post-Taliban era.

Since the terrorist attacks of September 11 in the United States, the Taliban regime and its terrorist collaborators have been replaced by a new Afghan interim government, and a process for selecting a permanent government has begun. That process is now at a crucial stage, with the Emergency Loya Jirga¹ scheduled to begin its work in mid-June. In addition to the continuing U.S.-led coalition military campaign, the United States is playing a leading role in the international program now underway for the recovery and reconstruction of the country.

The U.S. Commission on International Religious Freedom has for several years monitored and spoken out against egregious violations of religious freedom in Afghanistan. (For greater detail on the Commission's actions regarding Afghanistan, please see Section D below.) The Commission believes that the national recovery and political reconstruction being undertaken in post-Taliban Afghanistan afford an historic opportunity for the United States to promote the protection of religious freedom and other human rights, and thus help to break the cycle of violence and repression that have ravaged that country for so long.

Religious tolerance and respect for human rights are essential to the security, recovery, and reconstruction of Afghanistan. A future Afghanistan that respects human rights, including freedom of thought, conscience, and religion, will become a more stable, responsible member of the international community and thus will be less likely to become a haven for international terrorists or the cause for regional instability and conflict. Security and protection of human rights go hand in hand. If the United States and the international community fail to help provide the security so urgently needed in Afghanistan today, the opportunity for building that future Afghanistan will be lost.

Recognizing that these goals will not be quickly or easily accomplished, the Commission recommends in this report several concrete steps that the U.S. government must take now. These steps include:

- Taking a lead role with the international community in support of expanding the international security presence beyond Kabul in order to better safeguard the process of political reconstruction and protect the human rights of all Afghans;

- Supporting efforts to strengthen adherence to the rule of law and protection of religious freedom and other human rights through Afghanistan's new political and legal institutions, in particular its new constitution, laws, law enforcement and judicial systems, and a mechanism for accountability for past and current human rights violations;
- Assigning now to our Embassy in Kabul a person whose sole responsibility is carrying out a mandate to promote religious freedom and other human rights, including by coordinating U.S. participation in relevant international initiatives and by monitoring and reporting publicly human rights and religious freedom conditions; and
- Promoting a culture of tolerance and democracy in Afghanistan, through support of public education, broadcasting, and educational and cultural exchanges.

Those familiar with the historical background may wish to turn directly to Section C, which contains the Commission's recommendations for U.S. policy.

B. Background

1. Demographic Information

Afghanistan's population of approximately 25 million is more than 99 percent Muslim. (In addition, there are over 2.5 million Afghan refugees in neighboring countries, principally Pakistan and Iran.) Sunnis are the majority religious community, with about 85 percent of the population. Perhaps 15 percent of Afghans are Shia (some estimates are higher). Afghanistan's non-Muslims, almost all either Hindus or Sikhs, probably number only in the hundreds.² Small but ancient Jewish and Zoroastrian communities have essentially vanished during the last two decades. The largest ethnic groups are the Pashtuns, Tajiks, Hazaras, and Uzbeks.³ Historically, the Pashtuns, the ethnic group to which the former ruling dynasty belonged, have been politically dominant. Most of the leadership, and the main supporters, of the Taliban movement were also ethnic Pashtuns. In contrast, the anti-Taliban opposition drew heavily from the country's Tajik, Uzbek, and Hazara minorities.

2. Religious Freedom

Before the political upheavals that began in the 1970's, Afghanistan was a traditional Islamic society in which several religions and diverse strains of Islam were practiced. Although the constitution approved in 1964 declared Islam to be the state religion and specified that "religious rites performed by the state shall be according to the provisions of the Hanafi doctrine" (one of the four major schools of Sunni Islamic law and practice), non-Muslims were "free to perform their rituals within the limits determined by laws for public decency and public peace."⁴

In practice, however, the rule of law was weak and the vigorous protection of human rights, including religious freedom, was lacking. Since the 1970's, Afghanistan's prolonged

period of conflict has had negative implications for respect of all categories of human rights, including religious freedom. The monarchy was overthrown, and the 1964 Constitution abrogated, by a coup in 1973. The political turmoil that ensued is well known: a short-lived republic under a member of the royal family; an Afghan communist takeover followed by full-scale Soviet invasion and occupation; and Soviet withdrawal in the face of a fierce national resistance movement under the leadership of rival mujahideen commanders.⁵

The Taliban (i.e., "Islamic religious students") movement emerged during the struggle for power among former mujahideen commanders and drew support from younger Afghans, mostly of a rural background and from the Pashtun ethnic group, who had been educated in Islamic religious schools in Pakistan. By the end of 1998, the Taliban held approximately 90 percent of the country, restricting their opponents, loosely joined in a military/political coalition commonly referred to as the Northern Alliance, to a small section of the northeast.⁶

Under Taliban rule, religious freedom and other basic human rights were severely restricted for members of all religious communities. The Taliban sought to impose by force their own harsh interpretation of Islam on all Muslims in areas under their control.⁷ Lacking constitutional guarantees of basic rights, "justice" in Taliban-controlled areas was *ad hoc* and arbitrary. Taliban courts, employing an extreme interpretation of the Hanafi school of Sunni Islamic law, imposed punishments following summary trials, including public executions for murder, public amputations for theft, and stoning or lashing for adultery. Torture was a common practice.⁸

Restrictions were particularly severe on women and girls, who were denied most human rights, including their equal right to religious freedom.⁹ On a visit to Afghanistan in 1999, the UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, found that in Taliban-controlled areas "discrimination against women is officially sanctioned and pervades every aspect of the lives of women." She also noted reports that, during the conflict, women had been "subjected to a wide range of human rights abuses, including instances of rape, sexual assault, forced prostitution and forced marriage."¹⁰ Reversing earlier gains, the Taliban barred women from participation in government, higher education, and all other areas of Afghan public life.¹¹ Access to employment, health care, and medical treatment was severely restricted. Girls over the age of eight were banished from school. A stringent dress code was brutally enforced, beginning with girls as young as eight or nine. Women were beaten and punished if found in public unaccompanied by a male family member.¹² In addition to being subjected to these on-the-spot public beatings, women alleged to have violated laws against adultery and fornication were publicly lashed in front of large crowds.¹³ Although claiming to be acting to protect Afghan women, in fact the Taliban "cruelly reduced women and girls to poverty, poor health, and illiteracy."¹⁴

Adult male Muslims were forced to participate in the five-times daily prayers and to dress (and keep their beards) according to Taliban concepts of Islamic propriety. Conversion from Islam was punishable by death, as was atheism. Suspected converts from Islam to Christianity were subjected to torture.¹⁵

Discrimination against members of religious minorities was severe in Taliban-controlled areas, particularly toward Afghanistan's Shiite minority. The Taliban barred the outdoor

processions that are a traditional part of Shiite Ashura commemorations and reportedly converted some Shiite mosques to Sunni use. Because of a combination of political, religious, and ethnic differences, the predominantly Shiite Hazara were a particular target of Taliban repression and consequently suffered atrocities and massacres.¹⁶

Taliban authorities declared that non-Muslims should be identified, ostensibly to exempt them from the personal-appearance and prayer-attendance requirements imposed on Muslims. As male Sikhs are readily identifiable by their turbans, initial pronouncements from the Taliban suggested that male Hindus would be forced to wear a yellow cloth or badge to distinguish them from Muslims. In the face of international condemnation, Taliban authorities reportedly changed the requirement to an identification card to be carried rather than something to be worn. Unmoved by protests from the outside world, including from many other Muslim countries, the Taliban destroyed the great statues of Buddha at Bamiyan as "idols" prohibited by their strict interpretation of the traditional Islamic ban on worshipping images.

Although the Taliban have been defeated and their repressive and coercive policies have been denounced by many Afghans, religious intolerance and abuses of religious freedom continue. Furthermore, perpetrators of past abuses have not been brought to justice. Not only do Taliban remnants persist in some areas of Afghanistan, but significant numbers of former Taliban officials or supporters appear to be in the process of attaching themselves to the new power structures. Many elements of the victorious anti-Taliban forces also have past records of human rights abuse, including religious intolerance and restrictions on the human rights of women. The Islamic Republic of Iran, itself a particularly severe violator of religious freedom and designated by the U.S. government as a "country of particular concern" under the International Religious Freedom Act of 1998, has been active in seeking influence in post-Taliban Afghanistan, particularly in the western part of the country. There have been reports of the reemergence there of the office for the "Promotion of Virtue and the Prevention of Vice," which had enforced the Taliban's strict codes for dress and behavior through beatings, arbitrary arrests, ill treatment, and torture.¹⁷

3. Post-September 11 Developments

a. The Defeat of the Taliban Regime

The situation in Afghanistan changed dramatically following the September 11 terrorist attacks against the United States. U.S.-led military action in Afghanistan has overthrown the Taliban regime and completely altered Afghanistan's political landscape. America's role in bringing about those changes has raised Afghanistan to a major focus of U.S. foreign policy. The United States has moved from the pre-September 11 position of having almost no political influence on the regime that controlled 90 percent of Afghanistan to a position of major political, financial, and military influence and support for a new, and internationally recognized, Afghan government.

The perpetrators of the September 11 attacks were identified with Osama bin Laden and his al-Qaeda terrorist network. Since Osama bin Laden's arrival in Afghanistan in 1996, al-Qaeda and the Taliban regime had developed a mutually supportive relationship, in which the Taliban provided bin Laden and his adherents with a secure base, while bin Laden supplied

manpower, financial resources, and ideological backing to the Taliban regime in its repressive rule and its war against the Northern Alliance.¹⁸ Despite international pressure,¹⁹ intensified after September 11, the Taliban refused to surrender bin Laden and suffered the consequences.

With Afghanistan having been liberated from the tyranny imposed by the Taliban and al-Qaeda, U.S. spokesmen have proclaimed that one U.S. aim in Afghanistan is to see established a "broad-based" representative government that would serve the Afghan people and respect their human rights.²⁰ Even while the fighting was underway, the United States worked to bring such a government into being (see below). The United States also supported international efforts to ensure the success of the post-Taliban transition. A multinational, UN peacekeeping force, the International Security Assistance Force (ISAF), was authorized²¹ and deployed to provide security in Kabul for the Afghan Interim Administration inaugurated on December 22, 2001.

b. The Bonn Agreement: Blueprint for Political Reconstruction

On December 5, 2001, representatives of several major Afghan factions (excluding the Taliban) agreed on transitional political arrangements for Afghanistan. The Bonn Agreement²² established an Interim Authority (consisting of an executive Interim Administration, a Supreme Court, and a Special Independent Commission for the Convening of the Emergency Loya Jirga) to govern Afghanistan and to represent Afghanistan internationally until the Emergency Loya Jirga decides on a Transitional Authority "to lead Afghanistan until such time as a fully representative government can be elected through free and fair elections to be held no later than two years from the date of the convening of the Emergency Loya Jirga." The Emergency Loya Jirga is to be "convened within six months of the establishment of the Interim Authority," i.e., before June 22, 2002.²³

c. Recovery and Reconstruction

Pursuant to the Bonn Agreement, the Afghan Interim Administration was established under the Chairmanship of Hamid Karzai, whose active diplomacy has secured near universal international recognition for an interim government still struggling to establish its authority at home. Eliminating in one blow the repressive laws and regulations imposed by the Taliban, the Interim Administration canceled all decrees and ordinances instituted by previous administrations. The Karzai administration also established a new legal framework for print and broadcast media that includes principles of freedom of the press.²⁴ Other major accomplishments of the Interim Administration have included establishment of the Special Independent Commission for the Convening of the Emergency Loya Jirga, a selection process for Emergency Loya Jirga members,²⁵ and the return from exile of former King Zahir Shah to open the Loya Jirga.

The United States has also been supportive of the Interim Administration's efforts, publicly committing itself to Afghanistan's reconstruction while making such important gestures as re-opening the U.S. Embassy in Kabul, hosting Chairman Karzai in Washington, and welcoming the re-opening of Afghanistan's embassy here. At the same time, the United States has undertaken a massive relief effort, unprecedented in wartime, while military operations are still underway against al-Qaeda and Taliban remnants.

The United Nations has taken an active role in assisting Afghanistan's reconstruction and in coordinating international assistance efforts. UN activities in Afghanistan, previously hampered by the conflict and by Taliban restrictions, have been reinforced by a further commitment of manpower and resources under the leadership of the UN Secretary General's Special Representative for Afghanistan, Lakhdar Brahimi. UN Security Council Resolution 1401 of March 28, 2002, reorganized UN activities in Afghanistan, placing them under his "full authority" and establishing a new UN Assistance Mission in Afghanistan (UNAMA). This Resolution established human rights conditionality for recovery or reconstruction (although not humanitarian) assistance to Afghanistan (discussed further below).²⁶

On November 20, the United States and Japan co-hosted an Afghanistan donor-community meeting in Washington, D.C., at which a steering group, consisting of the United States, Japan, the European Union, and Saudi Arabia, was formed. The United States participated in further donor meetings in Brussels on December 20-21, 2001 and in Tokyo on January 21-22, 2002. Pledges of assistance made at Tokyo totaled \$1.8 billion for 2002 and more than \$4.5 billion over the next five years.²⁷ The United States pledged \$296.75 million.²⁸ Although reconstruction assistance could be a key element in stabilizing the security situation and developing support for Afghanistan's new institutions, such assistance, in contrast to humanitarian relief, has been slow in coming.²⁹

C. Commission Recommendations

Religious tolerance and respect for human rights are essential to the security, recovery and reconstruction of Afghanistan. Indeed, the United States must be vigilant that human rights, religious pluralism, and tolerance are restored to Afghanistan, so that the country does not return to the extreme intolerance, brutality, and repression that characterized Taliban rule. Given the devastated condition of Afghanistan's economy and society, as well as the country's current instability, the United States realistically must view this as a long-term project and one which will entail engaging Afghans from all sectors of society on the importance of human rights principles over an extended period. To increase the prospects for success, however, the United States must begin now. Promoting these concerns should not be postponed for a later phase of U.S. engagement, but must be a part of the planning and actions now underway.

The need for U.S. engagement is urgent because Afghanistan's political reconstruction is now in a crucial stage. Selection is nearly complete for members of the Emergency Loya Jirga. That body, on which Afghans have put so much of their hopes for peace, is scheduled to begin its work in mid-June. Lacking effective outside support, particularly regarding security, prospects for the success of the Loya Jirga process are far from certain, however.³⁰

According to government public statements, U.S. policy in Afghanistan is focused on three immediate policy objectives: eliminating the terrorist infrastructure in Afghanistan; responding to the humanitarian needs of the Afghan people, and thus promoting the "safe return and sustainable reintegration" of Afghan refugees and displaced persons; and counternarcotics.³¹ The Commission believes that promotion of basic human rights including religious freedom in Afghanistan is essential to attaining these U.S. policy goals and to ensuring long-term security in the country.

U.S. leadership is indispensable in promoting the development in Afghanistan of a political system that respects the basic human rights of all, including religious minorities, ethnic minorities, and women, and practices religious tolerance. Other potentially influential external actors, such as Iran and Saudi Arabia, which are themselves severe violators of international human rights and religious freedom standards, will read U.S. passivity as acquiescence in the reemergence of intolerance and repressive practices. The role of these two countries in Afghanistan's reconstruction and recovery is of serious concern and merits the closest scrutiny.

In the reconstruction of Afghanistan, the United States should place a high priority on establishing sustainable foundations for achieving democracy, freedom, pluralism, and tolerance. In order to do so, the U.S. government should do the following:

- 1. The U.S. government should actively support expanding the international security presence beyond Kabul. There is an urgent need to expand security in order to safeguard the process of political reconstruction in the country. Moreover, security is essential to protect religious freedom and other human rights for all Afghans both in the near term and into the future.**
- 2. The U.S. government should be unequivocal in its opposition to ongoing human rights abuses in Afghanistan, using its influence not only with the national government but with local commanders, many of whom have received or are still receiving U.S. military support and advice.**
- 3. U.S. assistance, particularly to the Afghan military and to law enforcement agencies, should be contingent upon compliance with human rights conditions included in current U.S. legislation, such as those in the Leahy Amendment and the Foreign Assistance Act.**

U.S. recovery and reconstruction assistance to Afghan regional authorities should also be in accordance with relevant United Nations Security Council resolutions (e.g., Resolution 1401³²).

Security is essential to protecting human rights in Afghanistan. Security is also essential to protect the political process that the United Nations and the international community are trying to foster. The preparations underway for the Emergency Loya Jirga make security particularly important now. According to UN Secretary General Kofi Annan's report to the Security Council, which the U.S. government acknowledged in voting for Resolution 1401:

Security is and will remain the essential requirement for the protection of the peace process. Consequently, the Afghans are unanimous in considering security as their first and most important need. This view is reflected by Chairman Karzai, who has repeatedly called for the expansion of the International Security Assistance Force to other parts of the country. Afghans and most close observers of the Afghan political scene are confident that such a geographic expansion to a number of major urban centers would significantly minimize the likelihood of large-scale hostilities erupting again between existing armed factions.³³

The United States should work with the international community to ensure that there is a greater security presence throughout Afghanistan to protect the safety and human rights of all Afghans and the political process that is essential for long-term national reconciliation. The U.S. government should actively support an expanded international security presence even if it does not commit significant numbers of its own forces.

With the exception of Kabul, where the International Security Assistance Force (ISAF) is stationed, the security situation is precarious. Security for much of the country remains in the hands of armed factions under powerful regional leaders, with varying degrees of loyalty to the Interim Administration. There are pockets of Taliban and al-Qaeda resistance. Clashes have occurred between rival Afghan political and military factions. The situation is perilous for all Afghans but especially for vulnerable segments of the community: women, children, religious and ethnic minorities, internally displaced persons, and returning refugees.³⁴

Efforts to field an effective national army and a police force are only beginning, with extensive help required from the United Nations and international donors.³⁵ The formation and operation of Afghanistan's security institutions should be guided by human rights principles, and the United States, along with the United Nations and other international donors, should formulate and coordinate their security assistance accordingly.

In addition, the U.S. government must be unequivocal in its opposition to ongoing human rights abuses in Afghanistan. Current human rights conditions on U.S. assistance, such as those in the Leahy Amendment and the Foreign Assistance Act, should be maintained.³⁶ The UN Security Council has directed that recovery and reconstruction assistance to Afghanistan be provided where local authorities "contribute to the maintenance of a secure environment and demonstrate respect for human rights."³⁷ The United States should work with the UN Assistance Mission in Afghanistan to assure that this provision is effectively implemented.

4. The U.S. government should strongly support efforts to establish and/or strengthen adherence to the rule of law and protection of religious freedom and other human rights in Afghanistan. Special attention should be paid to:

4.a. drafting a new constitution and new laws that guarantee international norms on freedom of religion and other human rights;

4.b. organizing effective law enforcement and criminal justice systems that respect and protect fundamental human rights;

4.c. creating effective indigenous institutions for monitoring, investigating, and obtaining redress for human rights abuses; in this regard, care should be taken to ensure that Afghanistan's new national human rights commission meets international standards for such bodies; and

4.d. establishing a mechanism for accountability, with a view to bringing perpetrators of past and current human rights abuses to justice and promoting truth-telling and long-term reconciliation.

As part of its engagement in Afghanistan's recovery and reconstruction, the U.S. government should take an active role in promoting adherence to the rule of law and protection of religious freedom and other human rights by Afghanistan's new political institutions. Although it may not be possible for these goals to be fully realized in the short term, the initial formation of Afghanistan's new constitution, as well as its legal and judicial systems, will lay the foundation for the future. Core elements of this foundation should be the rule of law and principles of human rights as set forth in the Universal Declaration of Human Rights and human rights treaties to which Afghanistan is already a party.³⁸

The United States should provide technical assistance to the process of constitution-drafting and law reform, as well as use all points of influence to encourage the adoption of laws and practices that conform to international standards. Special attention should be paid to constitutional provisions protecting the right to freedom of religion, alongside other human rights, and prohibiting discrimination on the basis of religion or belief, as well as new laws that set forth the rights, privileges, and obligations of religious communities and their institutions.

Afghanistan has been, and will continue to be, an Islamic state. Although the establishment of a state religion, by itself, is not incompatible with international norms of religious freedom, it should not result in any impairment of civil and political rights or in any discrimination against adherents of other religions or non-believers.³⁹ There also should be no coercion that would impair the "freedom to have or to adopt a religion or belief."⁴⁰ It will be important to ensure that the new constitution and laws do not incorporate such discriminatory measures, particularly regarding the rights of women and non-Muslims. The right of freedom of religion and belief of members of minority Muslim groups, as well as individual non-conformists, must also be fully respected.

The Bonn Agreement envisaged the establishment of "an independent Human Rights Commission"⁴¹ and "a Judicial Commission to rebuild the domestic justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions."⁴² The process of establishing the Human Rights Commission is still in its early stages. In order to make the independent Human Rights Commission operational and effective as soon as possible, the U.S. government, among other things, should work closely with the United Nations, the Interim Administration and its successors, and Afghan human rights organizations and other interested individuals. Care should be taken to ensure that Afghanistan's new national Human Rights Commission meets international standards for such bodies as laid out in the Paris Principles (including a broad mandate, independence, adequate funding, and a representative character).⁴³

Experience worldwide also attests to the importance of local non-governmental organizations (NGO's) that monitor abuses or engage in legal advocacy to protect basic human rights, including freedom of religion and belief. The U.S. government should encourage the new Afghan authorities to welcome the development of such indigenous organizations as well as to permit access by international human rights groups.

The Judicial Commission provided for in the Bonn Agreement will be the focal point for reconstituting Afghanistan's legal and judicial systems. The current recovery and reconstruction effort provides an opportunity to adopt basic rule of law, due process guarantees, and human

rights principles into the new framework. The United States should vigorously support such efforts. Adoption of these principles at the formative stage of the Judicial Commission can provide a foundation for greater protections in the future. The U.S. government can and should assist this process by supporting human rights and other professional training, including practical training, for lawyers, prosecutors, and judges. Such training should include an understanding of international standards on the right to freedom of religion.

The experiences of other countries that have emerged from oppressive rule suggest that Afghanistan will need to establish a means for accounting for the severe human rights abuses of the past – including the killing of civilians, torture, and rape – before reconciliation can occur. Failure to do so may lead to an atmosphere of impunity for further abuses. Afghan Interim Administration Chairman Karzai endorsed the concept of a truth commission during the March 2002 visit to Kabul by the UN High Commissioner for Human Rights.⁴⁴ The United States should encourage the Afghan authorities to establish such a commission and to empower it to gather information on human rights abuses as well as to develop mechanisms for securing justice for victims and survivors. The U.S. government, by providing technical and other assistance, should work with the Interim and Transitional Administrations to develop an effective mechanism of accountability. Even in the absence of such a commission, the United States should cooperate with, and provide technical support for, efforts by the United Nations and Afghan authorities to investigate evidence of past abuses, including forensic examination of the reported mass graves of victims.

In order to promote respect for the new constitutional guarantees and laws, known human rights abusers and perpetrators of war crimes must be excluded from the new Afghan administration, the judicial system, and the security forces.

5. The U.S. government should promptly assign to our Embassy in Kabul and station in Afghanistan now a person whose sole responsibility is carrying out a mandate to promote religious freedom and other human rights, including by coordinating U.S. participation in relevant international initiatives.

This individual should also be tasked with monitoring and reporting publicly on human rights and religious freedom conditions, including compliance with United Nations Security Council Resolution 1401 guidelines that recovery and reconstruction assistance “ought to be provided ... where local authorities contribute to the maintenance of a secure environment and demonstrate respect for human rights.”⁴⁵

6. The assignment of such an individual does not diminish the obligation of other U.S. mission personnel to promote human rights and to monitor compliance with international human rights standards.

The United States must act now to ensure that basic principles of human rights, including religious freedom, are incorporated during this formative period of Afghanistan’s national recovery and reconstruction. There are continuing reports of human rights abuses throughout the country. National security structures are being created and units are being trained. Training

should have a human rights dimension. As discussed above, Afghan institutions specifically dealing with human rights are now being constituted, as are the legal and judicial systems. Freedom of religion and belief cannot take root in Afghanistan in the absence of respect for other human rights.

The new government of Afghanistan is about to move into its next major phase, as the Emergency Loya Jirga, which will choose the Transitional Authority, will begin meeting in mid-June. Recovery and reconstruction efforts by international donors are proceeding, albeit slowly. Promoting rule of law and human rights should be an important component of such assistance. Moreover, the UN Security Council has stressed that recovery and reconstruction assistance should be provided where local authorities demonstrate respect for human rights. The United States should play an integral role in all of these efforts.

Therefore, the Commission recommends that a specific individual from the U.S. government be assigned to carry out a mandate to promote religious freedom and other human rights in Afghanistan as his or her sole responsibility. Advancing religious freedom and other human rights should be an important dimension of the work of all U.S. officials concerned with Afghanistan, whether they are working in the security, political, economic, cultural, or development sectors. Nevertheless, it is precisely because of the added value that results from an early integration of human rights into operational recovery programs that a specific individual should integrate human rights into all policies in Afghanistan and coordinate the human rights efforts of other U.S. officials and other relevant international and national programs. The Commission is prepared to send a representative to Afghanistan to perform these functions.

Moreover, this representative in the field should be operating in Kabul now. Given the rapid pace of developments in Afghanistan, coordinating and monitoring U.S. human rights efforts can be more effectively accomplished in-country than from Washington. Stationed at the U.S. Embassy in Kabul, this official could play an active role in convening regular discussions among international parties aimed at a better field response to the problems of intolerance, abuse, and disrespect for human rights, as well as implementing policies to promote religious tolerance and human rights. In addition, this individual could monitor and contribute to many of the initiatives to promote rule of law, religious freedom, other human rights, and a culture of democracy in Afghanistan.

This individual should also work to prevent any discrimination on grounds of religion, ethnicity, or gender in the distribution of humanitarian relief assistance as well as in longer-term development projects. Religiously-affiliated relief and aid organizations have provided valuable assistance to Afghanistan in the past. Some were forced to suspend their operations toward the end of Taliban rule. Religiously-affiliated organizations should be permitted to provide relief without discrimination and with protection for the religious freedom of UN, U.S., or other international aid staff.

7. The U.S. government should undertake and support efforts to nurture and develop a culture of democracy in Afghanistan. Special attention should be paid to:

7.a. public education and literacy programs for all Afghans, to be provided regardless of ethnicity, religion, gender, age, or other status, and including specific support for women teachers;

7.b. radio and other avenues of broadcasting and sharing information to provide objective news and other information to the Afghan people; and

7.c. educational and cultural exchanges, including specific support for women professionals, to introduce Afghans to the workings and benefits of free societies in which religious freedom and other human rights are respected.

8. In each of these areas, specific emphasis should be placed on encouraging religious tolerance and the protection of the equal right of all to religious freedom and other human rights.

Education has been identified as a priority by the Interim Administration and the international donor community. Education is crucial to Afghanistan's long-term prospects for successful reconstruction and development. Over the long term, it is also a powerful tool to encourage religious tolerance and respect for human rights among all Afghans. The Commission therefore believes that the United States, in close cooperation with the United Nations and other major donors, should support public education and literacy efforts, to be available to all Afghans regardless of ethnicity, religion, gender, age, or other status, and should encourage the development of non-sectarian curricula that promote religious tolerance and respect for human rights and pluralism. U.S. assistance should be designed to discourage narrowly sectarian educational institutions that foster the sort of intolerance and fanaticism associated with the Taliban. As part of the effort for educational reconstruction, the United States should encourage Afghanistan to make maximum use of women as teachers, thus providing the rights to employment and empowerment that were denied women under Taliban rule.

The United States has played a key role in international efforts to begin the task of rebuilding Afghanistan's educational system after a generation of war. In a January 28, 2002 joint statement by President Bush and Chairman Karzai, the U.S. government committed itself to "print and distribute nearly 10 million textbooks in Dari and Pashtu, focused on math, reading and science" for Afghan schools, and to train 4,000 teachers, "at least half of whom are women."⁴⁶ The U.S. Agency for International Development (USAID) has provided millions of textbooks for Afghanistan's 2001 school year.⁴⁷ According to media reports, the response to the internationally supported "Back to School" program was overwhelming, reflecting considerable pent-up demand, including from girls denied educational opportunities under the Taliban.⁴⁸

Future U.S. support for the rebuilding of public education in Afghanistan should include curriculum development, teacher training, and other educational programs that advance religious tolerance, in Afghanistan and in Afghan refugee camps, in Pakistan and elsewhere, to the extent permitted by host governments. Such training should draw from the tolerant strains in Afghanistan's own rich cultural heritage as well as from Islam's positive teachings regarding tolerance. Textbooks, curricula, and training materials must be carefully reviewed by

representatives of the donor, including outside experts, to ensure that the materials actively promote tolerance and not discrimination, violence, and other human rights abuses.

The need for adequate review is illustrated by the textbooks provided by the United States to Afghanistan in the early 1980's that included images and text glorifying weapons, violence, and intolerance.⁴⁹ President Bush has said that U.S.-funded textbooks for Afghanistan "will teach tolerance and respect for human dignity, instead of indoctrinating students with fanaticism and bigotry."⁵⁰ The U.S. government must ensure that these textbooks indeed meet the high standards the President has correctly articulated.

Radio is the principal source of information from the outside world for most Afghans. International broadcasting can provide an effective channel to bring the message of tolerance and respect for human rights to the Afghan people, whether inside Afghanistan, in neighboring countries, or in the Afghan diaspora. The Commission welcomes the establishment by the United States of Radio Free Afghanistan, which began limited broadcasting in Dari and Pashtu on January 30, 2002, in conjunction with Radio Free Europe/Radio Liberty. U.S.-sponsored broadcasting to the Afghan people, whether by Radio Free Afghanistan, the Voice of America, or U.S. military psychological-operations broadcasts, should convey a clear and consistent message on the importance of the components of religious freedom. Broadcast programming should use respected Afghan religious and cultural figures, including singers and poets, to expose and criticize violations of freedom of thought, conscience, and religion and to present messages on the importance of religious tolerance. Such programming, sponsored by the U.S. government, should also be placed on Afghanistan's own radio and television stations.

To encourage the dissemination of these messages, the United States should expand the laudable initiative undertaken by USAID to distribute radios in Afghanistan with the aim of ensuring that each village has at least one radio for communal listening.⁵¹

The U.S. government operates a range of exchange programs to introduce potential leaders and opinion-molders to American institutions and society. Such exchanges are crucial to exposing Afghan politicians, educators, legal experts, professionals, entrepreneurs, civil servants, judicial and security personnel, and community activists – including women in all of these fields – to the workings and benefits of democratic societies in which religious freedom and other human rights are respected. Although the benefits of these types of exchanges may not be realized immediately, they are potentially one of the most effective long-term ways of promoting freedom, and an understanding of its benefits, to the Afghan people.

D. Commission Actions

The Commission has long viewed with concern the religious freedom situation in Afghanistan and has communicated its views to the Congress and in letters to and meetings with senior Administration officials. In July 2001, the Commission hosted an invitation-only discussion on religious freedom in Afghanistan, bringing together a select group of experts and NGO representatives. In July 2000 and August 2001, the Commission urged re-designation of the Taliban regime as a "particularly severe violator" of religious freedom in accordance with the International Religious Freedom Act of 1998 (IRFA). The Secretary of State so designated the Taliban in 1999 and 2000. On October 30, 2001, the Commission wrote Secretary Powell,

urging the Administration "to promote ... the idea of a future Afghan political system that practices religious tolerance and respects the basic human rights of all, including religious minorities and women." In subsequent meetings with Ambassador Richard Haass, U.S. Coordinator for the Future of Afghanistan, Secretary of State Colin Powell, and National Security Advisor Condoleezza Rice, the Commission made several specific recommendations on U.S. policy in Afghanistan, congruent with those detailed in this report.

¹ A *loya jirga* is a traditional Afghan assembly of notables.

² U.S. Department of State, *Annual Report on International Religious Freedom 2001*, "Afghanistan," October 26, 2001 (<http://www.state.gov/g/drl/rls/irf/2001/5533.htm>, accessed May 30, 2002).

³ U.S. Department of State, *Background Note: Afghanistan*, October 2001 (<http://www.state.gov/r/pa/ei/bgn/5380.htm>, accessed October 26, 2001); Central Intelligence Agency, *The World Factbook 2001* (<http://www.odci.gov/cia/publications/factbooks/geos/af.html>, accessed July 27, 2001); International Finance Corporation, *World Bank Country Profile for Afghanistan*, June 2001 (<http://www.ifc.org/camena/afghan.htm>, accessed June 7, 2001).

⁴ English language translation of "The Constitution of Afghanistan 1963 (sic)," (<http://www.afghan-web.com/history/const/const1963.html>, accessed January 14, 2002); Jurist: The Legal Education Network, "Afghanistan: Constitution, Government and Legislation" (<http://jurist.law.pitt.edu/world/afghanistan.htm>, accessed January 14, 2002); Online Center for Afghan Studies, "Afghan Constitutions" (http://web.archive.org/web/20020603232859/http://www.afghan-politics.../constitutions_main.htm, accessed January 14, 2002). Although the Constitution of 1964 was abrogated following the 1973 coup that overthrew the monarchy, representatives of various Afghan factions meeting in Bonn in November-December 2001 to establish transition arrangements for governing Afghanistan after the fall of the Taliban declared the Constitution of 1964 to be part of the "legal framework" to be applied on "an interim basis until the adoption of a new constitution."

⁵ *Background Note: Afghanistan* (Internet).

⁶ Ibid., Ahmed Rashid, *Taliban: Militant Islam, Oil & Fundamentalism in Central Asia* (2000), 17-79. Taliban success on the battlefield was not matched with international recognition. Only three governments, Pakistan, Saudi Arabia, and the United Arab Emirates, established full diplomatic relations with the Taliban regime.

⁷ Kofi Annan, *Report of the Secretary-General: The situation in Afghanistan and its implications for international peace and security*, UN Doc. A/55/1028-S/2001/789, August 17, 2001. Banned activities included chess, kite flying, television viewing, and Internet access. Banned items included neckties, nail polish, chess boards, musical instruments, tapes, playing cards, and products containing human hair.

⁸ U.S. Department of State, *2001 Country Reports on Human Rights Practices*, "Afghanistan," March 4, 2002 (<http://www.state.gov/g/drl/rls/hrrpt/2001/sa/8222.htm>, accessed March 5, 2002); *2001 Report on International Religious Freedom* (Internet).

⁹ Taliban oppression of women has been extensively documented; see particularly Radhika Coomaraswamy, *Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)*, United Nations Commission on Human Rights, UN Doc. E/CN.4/2001/73, January 23, 2001; Radhika Coomaraswamy, *Mission to Pakistan and Afghanistan (1-13 September 1999)*, *Report of the Special Rapporteur on violence against women, its causes and consequences*, United Nations Commission on Human Rights, E/CN.4/2000/68/Add.4, March 13, 2000; Kofi Annan, *Report of the Secretary-General on the situation of women and girls in Afghanistan*, United Nations Commission on Human Rights, E/CN.4/Sub.2/2000/18, July 21, 2000; Kamal Hossain, *Report on the situation of human rights in Afghanistan*, United Nations Commission on Human Rights, UN Doc. E/CN.4/2000/33, January 10, 2000; Bureau of Democracy, Human Rights and Labor, U.S. Department of State, *The Taliban's War Against Women*, November 2001; Bureau of Democracy, Human Rights and Labor, U.S. Department of State, *Report on the Taliban's War Against Women*, November 17, 2001 (<http://www.state.gov/g/drl/rls/6186pf.htm>, accessed April 19, 2002); Physicians for Human Rights, *The Taliban's War on Women: A Health and Human Rights Crisis in Afghanistan*, 1999 (http://www.phrusa.org/research/health_effects/exec.html, accessed May 28, 2002) and *Women's Health and Human Rights in Afghanistan: A Population-Based Assessment*, 2001 (http://www.phrusa.org/campaigns/afghanistan/Afghan_report.html, accessed May 28, 2002); Human Rights Watch, *Humanity Denied: Systematic Violations of Women's Rights in Afghanistan*, October 2001 (<http://www.hrw.org/reports/afghan3/afgwr1001.pdf>, accessed October 29, 2001).

¹⁰ *Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)* (Internet).

¹¹ *Report on the Taliban's War Against Women* (Internet), "It is estimated that by the early 1990's, 70% of schoolteachers, 50% of government workers, and 40% of doctors in Kabul were women."

¹² *Report on the Taliban's War Against Women*, 6-8.

¹³ Kofi Annan, *Report of the Secretary-General on the situation of women and girls in Afghanistan* (Internet). Many women accused of sexual misconduct were actually rape victims, as four male Muslim witnesses were required to sustain a rape accusation.

¹⁴ *Report on the Taliban's War Against Women* (Internet).

¹⁵ Kevin Sullivan, "A Body and Spirit Broken by the Taliban: Falsely Charged as a Christian, Afghan Suffered Ruthless Torture," *The Washington Post*, January 5, 2002. The conversion issue was given worldwide publicity by the arrest in August 2001 and subsequent detention and trial of expatriate and local staff of the non-governmental aid organization Shelter Now.

¹⁶ Human Rights Watch, *Massacres of Hazaras in Afghanistan*, February 19, 2001 (<http://www.hrw.org/reports/2001/afghanistan/>, accessed March 4, 2002); Dexter Filkins, "Mass Graves Reportedly Tied to Last Days of Taliban Rule," *The New York Times*, April 8, 2002; Elina Fuhrman, "Mass Graves Reported in Afghanistan," *CNN.com*, April 7, 2002 (<http://www.cnn.com/2002/WORLD/asiapcf/central/04/07/gen.afghan.graves/>, accessed May 30, 2002).

¹⁷ Amy Waldman, "Courtied by U.S. and Iran, an Afghan's Influence Rises," *The New York Times*, April 3, 2002.

¹⁸ U.S. Department of State, *Patterns of Global Terrorism 2001* (<http://www.state.gov/s/ct/rls/pgtrpt/2001/pdf/>, accessed May 23, 2002). See particularly the description of al-Qaeda, pp. 105-106, and Appendix G "The US Military Campaign in Afghanistan."

¹⁹ This pressure included UN sanctions: United Nations Security Council Resolutions 1267, UN Doc. S/RES/1267 (1999), October 15, 1999, and 1333, UN Doc. S/RES/1333 (2000), December 19, 2000. For further background see Kofi Annan, *Report of the Secretary-General: The situation in Afghanistan and its implications for international peace and security*, UN Doc. A/55/633-S/2001/1106, November 20, 2000.

²⁰ U.S. Department of State Daily Press Briefing, October 22, 2001 (<http://www.state.gov/r/pa/prs/dpb/2001/5491.htm>, accessed October 23, 2001); U.S. Department of State, *Testimony Before the Senate Committee on Foreign Relations: Ambassador Richard N. Haass, Director, Office of the Policy Planning Staff, and U.S. Coordinator for the Future of Afghanistan*, December 6, 2001 (<http://www.state.gov/s/p/rem/6757.htm>, accessed December 12, 2001).

²¹ United Nations Security Council Resolution 1386, UN Doc. S/RES/1386 (2001), December 20, 2001. The mandate of the International Security Assistance Force was extended for a further six months beyond June 20, 2002 by Security Council Resolution 1413, UN Doc. S/RES/1413 (2002), May 23, 2002.

²² Formally known as the "Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions."

²³ Article I, Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions, December 5, 2001 (<http://www.uno.de/frieden/afghanistan/talks/agreement.htm>, accessed January 18, 2002).

²⁴ Kofi Annan, *Report of the Secretary-General: The situation in Afghanistan and its implications for international peace and security*, UN Doc. A/56/875-S/2002/278, March 18, 2002.

²⁵ UN Assistance Mission in Afghanistan, *Procedures for Afghanistan's Emergency Loya Jirga*, April 1, 2002

(<http://www.reliefweb.int/w/rwb.nsf.vID/729C2E3EB768688C85256B8E00546598?Opendocument>, accessed May 30, 2002).

²⁶ United Nations Security Council Resolution 1401, March 28, 2002, UN Doc. S/RES/1401 (2002): "The Security Council...

3. Stresses that the provision of focused recovery and reconstruction assistance can greatly assist in the implementation of the Bonn Agreement and, to this end, urges bilateral and multilateral donors, in particular through the Afghanistan Support Group and the Implementation Group, to coordinate very closely with the Special Representative of the Secretary-General, the Afghan Interim Administration and its successors;

4. Stresses also, in the context of paragraph 3 above, that while humanitarian assistance should be provided wherever there is a need, recovery or reconstruction assistance ought to be provided, through the Afghan Interim Administration and its successors, and implemented effectively, where local authorities contribute to the maintenance of a secure environment and demonstrate respect for human rights...."

²⁷ Annan, *Report of the Secretary General: The situation in Afghanistan and its implications for international peace and security*, March 18, 2002.

²⁸ The White House, Office of the Press Secretary, *Fact Sheet: U.S. Programs to Assist the People of Afghanistan*, January 28, 2002 (<http://whitehouse.gov/news/releases/2002/01/print/20020128-9.html>, accessed February 20, 2002). Other reported pledges included: Japan, up to \$500 million over 2.5 years; the European Union, approximately \$500 million in 2002; Iran, \$560 million over 5 years; the United Kingdom, \$288 million over 5 years; Germany, \$362 million over 4 years; Saudi Arabia, \$220 million over 3 years.

²⁹ International Crisis Group, *Afghanistan Briefing: The Loya Jirga: One Small Step Forward?*, May 16, 2002 (<http://www.crisisweb.org/projects/showreport.cfm?reportid=655>, accessed May 16, 2002).

³⁰ For an expanded discussion of the political importance of the Emergency Loya Jirga, see International Crisis Group, *Afghanistan Briefing* (Internet).

³¹ U.S. Department of State, *Joint Statement by U.S.-Russia Working Group on Afghanistan*, February 8, 2002 (<http://www.state.gov/r/pa/prs/ps/2002/7917pd.htm>, accessed March 1, 2002); Richard Haass, Director of Policy Planning and U.S. Coordinator for the Future of Afghanistan, and Ambassador James Dobbins, U.S. Special Representative to the Afghan Opposition, U.S. Department of State, "Press Briefing on Afghanistan," December 7, 2001 (<http://www.state.gov/p/sa/rls/rm/6723.htm>, accessed December 10, 2001).

³² For the relevant portions of which, see Note 26.

³³ Annan, *The situation in Afghanistan and its implications for international peace and security*, March 18, 2002, paragraph 126.

³⁴ Ibid., especially paragraphs 45-52; Human Rights Watch, *Anti-Pashtun Violence in Northern Afghanistan: Recent Testimonies*, March 6, 2002 (<http://www.hrw.org/press/2002/03/pashtuntestimony.htm>, accessed March 20, 2002) and *Afghanistan: Paying for the Taliban's Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan*, April 2002 (<http://www.hrw.org/reports/2002/afghan2/afghan0402.pdf>, accessed April 9, 2002).

³⁵ The United States has taken a lead role in the initial training of units of the Afghan national army. International assistance to create and train a national police force has been led by Germany.

³⁶ Leahy Amendment language is contained in successive foreign operations and Department of Defense appropriations acts. For example, Section 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, Public Law 107-115, reads as follows:

None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice; Provided, that nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights....

Foreign Assistance Act provisions are found in 22 U.S.C. 2304, 22 U.S.C. 2151n, and 22 U.S.C. 2199. Similar conditionality is found in Section 701 of the International Financial Institutions Act, 22 U.S.C. 262d, part of which was added by Section 422 of IRFA.

³⁷ A fuller quotation of the relevant portions of UN Security Council Resolution 1401 (2002) is found in Note 26.

³⁸ These include the International Covenant on Civil and Political Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Political Rights of Women (1953), and the Convention on the Prevention and Punishment of the Crime of Genocide (1948).

³⁹ United Nations Human Rights Committee General Comment No. 22 (48), July 20, 1993, found in Tad Stahnke and J. Paul Martin, ed., *Religion and Human Rights: Basic Documents* (1998), 92-95.

⁴⁰ International Covenant on Civil and Political Rights (1966), Article 18(2).

⁴¹ Article III.C.6, Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions, December 5, 2001, which reads in full:

The Interim Administration shall, with the assistance of the United Nations, establish an independent Human Rights Commission, whose responsibilities will include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions. The Interim Administration may, with the assistance of the United Nations, also establish any other commissions to review matters not covered in this agreement.

⁴² Article II.2, Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions, December 5, 2001, which reads in full:

The judicial power of Afghanistan shall be independent and shall be vested in a Supreme Court of Afghanistan, and such other courts as may be established by the Interim Administration. The Interim Administration shall establish, with the assistance of the United Nations, a Judicial Commission to rebuild the domestic justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions.

⁴³ Principles Relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights, found in the Annex to *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*, Office of the High Commissioner for Human Rights (<http://www.unhchr.ch/html/menu6/2/fs19.htm>, accessed May 23, 2002).

⁴⁴ United Nations Press Release, "Commission on Human Rights Opens Fifty-Eighth Session," United Nations Commission on Human Rights, March 18, 2002 (<http://www.unhchr.ch/huricane/hurricane.nsf/view01/B3B7BFF5E2390862C1256B800052A822?opendocument>, accessed March 19, 2002).

⁴⁵ A fuller quotation of the relevant portions of UN Security Council Resolution 1401 (2002) is found in Note 26.

⁴⁶ The White House, "Joint Statement by President George W. Bush and Chairman Hamid Karzai on a New Partnership Between the United States and Afghanistan," (<http://www.whitehouse.gov/news/releases/2002/01/20020128-8.html>, accessed January 28, 2002).

⁴⁷ March 23 was the starting date in winter-vacation areas; the academic year begins September 1 in summer-vacation areas.

⁴⁸ Moving accounts of the reopening of the school year contained in media reporting, including notably Pamela Constable, "Afghan Pupils Thrilled to Go Back to School," *The Washington Post*, March 24, 2002; Ilene R. Prusher, "A deluge of girls, books, in Afghan schools," *The Christian Science Monitor*, March 26, 2002. For USAID and UNICEF efforts to provide textbooks and teaching materials see Joe Stephens and David B. Ottaway, "From U.S., the

ABC's of Jihad; Violent Soviet-era Textbooks Complicate Afghan Education Efforts," *The Washington Post*, March 23, 2002, and UNICEF News Note, "First supplies distributed to Kabul schools as 'Back to School' campaign picks up speed," March 19, 2002 (<http://www.unicef.org/media/newsnotes/02nn06afghanschool.htm>, accessed March 19, 2002).

⁴⁹ Stephens and Ottaway, "From U.S., The ABC's of Jihad"; Craig Davis, "'A' Is for Allah, 'J' Is for Jihad," *World Policy Journal*, Spring 2002.

⁵⁰ International Information Programs, U.S. Department of State, "Bush Marks Opening of Afghanistan Schools in Radio Address: U.S. providing textbooks and school supplies," March 16, 2002 (<http://www.usinfo.state.gov/usa/islam/s031602.htm>, accessed April 11, 2002).

⁵¹ Andrew S. Natsios, Administrator for the U.S. Agency for International Development, *Special Press Briefing on Humanitarian Assistance to Afghanistan*, January 3, 2002 (<http://www.state.gov/p/sa/rls/rm/7027.htm>, accessed January 4, 2002).