

United Nation Working Group on Minorities
Sub-Commission on the Promotion and Protection of Human Rights
Commission on Human Rights.
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Thank you Mr.Chairman.

I am S.A.Abdali . I represent Shea Muslim and I am the Secretary General of the Afghan Professional Alliance for Minority Rights which was established in April 2001 in exile in Quetta city in Pakistan when Taliban created a government based on cruelty, terror, genocide and other brutal violations of Human Rights

APAMR is the member of Asian network for the ICC(ANICC)|

After the events of September 11 which resulted in the collapse of the Taliban regime, the Bon agreement was reached and finally caused the establishment of an interim government and then transitional government.

Afghan society has many minority communities which are distinguished by their own ethnic, linguistic or religious identify that differs from that of the majority .Hindu, Shea, Ismaeelia, Ozbek and Turkman, are some of the famous different minorities.

The interim government after the Bon agreement, excluded intentionally the minority candidate from the Commission of Judicial Reforms. The APAMR organisation with the encouragement of 27 NGOs ,civil society organisations, and with cooperation of UN agencies ,and country donors, obliged the goverment to include the representative of minorities into this Commission and obviously it is not either the beginning nor the end of history. The Shea minority , Hindus and the Sikh minority amongst other minorities still suffer a lot of problems and deprivation of basic rights.

Dear Chairman

Here I want to bring to the attention of the Working Group on Minorities the violation of human rights and minority rights in the recent past and the bad situation of minorities at the moment.

In 1992 when the communist regime was brought down, the Mujahedin came to power, the Rabbani regime started to fight against the Shea minority and wanted to remove them from the political structure of Afghanistan. His regime never recognized Shea as an official religion in Afghanistan, and with the assistance of his famous commander Masoud he destroyed the half of Kabul where almost all the Shea minority live. Hindu and Sikh minorities left their homes due to war and destruction of their houses and temples.

The Taliban not only stopped them from professing and practicing their religion, they ordered them to wear a yellow dress (Hindus for example), to change the name of their mosque (Shea minority in Mazar-e-Sharif), and ordered officials not to give the Shea minority jobs in government structure. More serious violations including brutal crimes against minorities, massacres and burning of their houses and farms was carried out with the intention to destroy and eliminate their generation (in the central highland of Afghanistan). This is a violation of the Genocide Convention.

Many minorities especially the Shea minority and Ozbek minority left Afghanistan and became refugees in Pakistan or in Iran when the last time the Taliban occupied Mazar-e-Sharif in 1998. Pakistani Police together with Quabaili Pashtoos, which had a tight linguistic relation with the Taliban, started financing cross boarder selling and smuggling of Hazara Shea minority and Ozbek minority, in order to allow them to cross the border into Pakistan. This practice is going on more or less until today. We (APAMR) submitted our

protest to Ms Ogata, the former High Commissioner of the UNHCR when she visited Afghan refugee camps and Quetta city in Balochistan at that time. Just before her visit to Pakistan, the Taliban killed many Shea minority in Kand Pusht, the place which is situated between Ghazni province and Kandahar, the region which was always under the control of the Taliban. The Iranian government closed its consulate to the Shea minority new refugees who fled from oppression under the Taliban regime.

After 11 September, closely and suddenly two powerful persons Mulaomar and Osama Bin Laden also have been removed from power and the Bon agreement drew the future political system of Afghanistan. Based on the Bon Agreement, first in December 2001 the Interim Administration was established, and then in June 2002 the emergency Loya Jirga set-up the Afghan Islamic Traditional Government.

Dear Chairman:

Afghanistan has a very appropriate experiences of signature and ratification of international treaties supporting Human Rights. Afghanistan is a party to at least 7 international human rights instruments including the UN Declaration on Minority Rights, but has failed in regard to its obligations of implementation of those vows and responsibilities. Based on this bad behaviour a lot of things came up against the prediction of the above Bon agreement.

Item 2 section 1 of the Bon agreement is talking about free and fair elections, but the election which took place was under the control of warlords and former Mujahidin commanders.

Item 2 section 5 predicated that the emergency Loya Jirga shall act in accordance with basic principals and provisions contained in international instruments on human rights and international humanitarian law to which Afghanistan is a party. Now the question is that if the composition of that Loya Jirga consisted of warlords and commanders who are very famous for violation the human rights, how can we believe in their guarantees of human rights including minority rights.

Contrary to item 2 section 2 of the Bon Agreement, the interim government or transitional government has never been able to establish with the help of Judicial Commission a democratic justice system. As the head of this judicial commission unofficially mentioned to us, the current judicial system of Afghanistan is the worst system which is deeply corrupted and when the president selects some new judges the state department rarely agrees with the mentioned commission suggestions. Here if we are talking about the judicial system we want to clarify the legal problems of returnee minorities who are obliged to pay a lot of money as a bribe or to wait even over a year to reoccupy their property although there is special presidential decree which has no practical value.

The army warlords or commanders even are not ready to respect the final order of the court, and no one has the power to implement the decision of the courts.

As you know the Afghan government signed and ratified the Rome Statute on the International Criminal Court, but no one who committed war crimes before the ratification of this Statute can be punished. No one has been referred to that international court. Obviously a most important issue to be remembered is that the victims of such crimes are often minorities.

Dear Chairman

There are may present issues relating to minorities in Afghanistan and it is not possible to explain all minorities problems in this limited period. However some example are useful.

In Hilmand province:

- The governor to the province demolished Hindu minority shops in the centre of provinces and the governor allocated some lands for the Muslims whose shops were demolished but refused to allocate lands for Hindus.

- As a policy, people leasing their houses to the Hindus were pressurized by the governor to expel the Hindus from their houses.

In Kabul city:

- Some of returnee Hindu minority are not able to get back their houses from powerful commanders, which is a violation of article 40 of the new constitution.
- The returnee Hindu minority are left to live inside temples
- Their children don't have facilities to go to Muslim schools, due to discrimination in violation of the provisions under the Convention on the Rights of the Child.
- They don't have a special place to burn their dead, which is contrary to item 2 article of UN declaration on Minority Rights .
- They have not receive sufficient assistance to rebuild their houses, temples or schools.
- They are not exempted from paying electricity taxation in temples ,which is opposite item 2 article 4 UN declaration on Minority Rights.

In Kabul:

- As we mentioned previously the Shea minority are living in destroyed parts of Kabul and they suffer a lot from the lack of shelter (amusingly each family receive a maximum of 200 dollar for reconstruction of houses but the cost of reconstructing a small house is 5000 dollar), potable water, electricity and health clinics, although hundreds and hundreds of national and international NGOs are active in Kabul.
- The returnee Shea Minority has legal property rights issues and faces a lot of problem during the judicial procedures. Many forged title deeds were made during the Taliban regime against this minority.
- The policy of impunity is taking place by the government and instead of punishment of famous commanders of the Taliban or other warlords, they are accepted to be the important elements of Transitional Islamic Government.
- There is a discrimination in employment procurement procedures for minorities especially educated persons, contrary to article 22 of the new Afghan constitution .

Recommendations:

The Transitional Islamic Government of Afghanistan should ensure:

- Punishment of all commanders or warlords who committed war crimes based on article 1 CPPCG, Afghan penal code and the Rome Statute of the ICC.
- bringing practical facilities for minorities to perform their religious ceremonies based on article 2 of the new constitution and creating a peaceful, fair and equitable life to all minorities based on article 6 the new constriction.
- Evacuation of commanders from the houses and other properties belonging to minorities, which should be returned to their owners, based on article 40 of the new constitution.

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