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Second general election and its legitimacy

The people of Afghanistan went to the polls for the fourth time, since 2001, on 17th September 2010 in the second General Election.



A total of 2,500 candidates stood for election to 249 seats, of which 25% are reserved for women. Figures of the Independent Election Commission (IEC) indicated that there were about 12 million eligible voters in Afghanistan. The UN had stated that a turnout figure of 5-7 million would be regarded as a great success. Mr. Fazl Ahmad Manawi, head of the IEC, said afterwards that 3.6 million had voted. The Afghanistan Analysts Network commented on this announcement as follows: “Even the actual numbers don’t represent a turnout figure. They just tell us how many ballots have been used; they don’t tell us how many people went out to vote.”

According to the IEC, 5,800 polling stations had been organised in 34 provinces, but 1,019 of them were closed for security reasons. The national security authorities had deployed 280,000 security forces and 15,000 international forces were to cooperate with them on the Election Day.

A number of national and international organisations expressed doubts about the transparency of elections. The International Federation for Human Rights (FIDH), based in Paris, stated in its press release: “There are major challenges ahead of the 2010 election.” FIDH said the challenges included absence of a proper population census, large number of fake voting cards, lack of transparency in elections, and closure of polling stations.

The Afghanistan Women’s 50% Campaign said in its statement that threats to lives of women, and economic and political problems of women in comparison with men were the major challenges, while 50% of voters are women. The US-based Human Rights Watch said most threats were directed at women, a number of whom had received threatening phone calls. HRW also said that the security situation was fragile. The BBC reported: „While the Taliban have threatened to target all election workers and others somehow involved in the election, HRW has stated: Anybody who orders such attacks shall be accountable as war criminals under the international law.“...

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A decade of international presence in Afghanistan Results and prospect

The 64th Goftegu public debate of Armanshahr Foundation was entitled “A decade of international presence in Afghanistan: Results and prospect” marking the start of 10th year of international presence. The meeting, in the fifth year of the public debates, took place on the premises of the Culture and Civil Society Foundation in Kabul on 21 October 2010. More than 400 people attended and Armanshahr Foundation offered its books for free as before. Three speakers addressed the meeting: Mr. Davood Moradian, head of the Strategic Studies Centre of the Ministry of Foreign Affairs, Mr. Abdolkabir Ranjbar, outgoing MP, and Mr. Latif Pedarm, president of the National Congress of Afghanistan and a newly elected MP.

The first speaker Mr. Moradian began by assessing the record sheet of the international community and prospect of its relationship with Afghanistan. He argued that an in-depth assessment required examination of three issues: 1) The direct and organic relationship of the current decade with the events prior to 11 September; 2) Dependence of Afghanistan’s issues on the conditions and developments of the past nine years in the region and the world; 3) The different approaches of Europeans and Americans to Afghanistan.

He asked: What is the fundamental problem of Afghanistan? And his answer was: Failure to create and maintain a powerful and legitimate modern state despite 250 years background of governance. “Thirty years of war and violence brought no other achievement prior to 2001 except the bankruptcy of the mafia state. We had a bankrupt state the failures of which could be characterised by illiteracy, concentration of population in the rural areas and day-wage economy. We failed to create a nation state. Our society has not entered the modern era. Interference of our neighbours, mafia society and terrorism are all signs of failure, which may be described by describing despotism and colonialism – an interconnected triangle: ethic-centred political despotism, foreign interference or colonialism and religious despotism.” ... *Continued on page 7*



Workshop on “Universal Jurisdiction”

The 63rd Goftegu public debate (5th Year) of Armanshahr Foundation was organised as a workshop on “Universal Jurisdiction” at the Armanshahr offices on Tuesday, 19th October 2010. About 20 civil society and human rights activists, students of law and politics, and journalists took part in the half-day workshop. Khalil Rostamkhani, a colleague and consultant of Armanshahr Foundation, introduced Universal Jurisdiction in detail and his speech was followed by questions and answers and a lively discussion.

The title of the speech was “Universal Jurisdiction, introduction to mechanisms, experiences” and ways of prosecuting perpetrators of human rights violations. A number of international cases, where Universal Jurisdiction has been employed, were also outlined and explained. Excerpts of the speech are as follows:

What is Universal Jurisdiction?

There are three types of jurisdiction. “Territorial jurisdiction” concerns the prosecution of a crime in the country where it is committed.

“Personal jurisdiction” concerns jurisdiction of the courts of the nationality of a perpetrator or a victim.

“Universal Jurisdiction” allows the invoking of international law to prosecute perpetrators of serious...

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Election Law is not compatible with our conditions

Interview with Najib Fahim, professor of Kabul University, on the 2nd General Election
Interviewer: Jawad Darwazian

Question: Did you take part in voting?

Answer: As a teacher who calls on the people to practise their rights, I must be the first to practise my right.

Q: How do you view the participation of citizens; did they vote consciously and actively?

A: No doubt the second General Election was a good opportunity for the citizens to practise democracy and politics. However, the turnout was low. The general perception was that voting would not affect our fate. There was a negative impression from the previous election and security fears. Turnout differed in various areas, but mostly believe that it was never above 30 per cent.

Q: Are there flaws in the Election Law and the election procedure?

A: Rather than paying attention to our own experience, we seek to copy others. Regardless of which country we have copied the Election Law from, it is not compatible with our conditions. The institutions provided for in the law are unable to function properly. For instance, the Elections Complaints Commission does not have the capacity to investigate properly the alleged 4,000 complaints and take appropriate decisions. There is also the perception that its makeup makes it a governmental commission not an independent commission that has the people's trust. To win the people's trust after the very serious accusations during the presidential election, there should have been major changes in the commission. That did not take place with a few exceptions including the head of the ECC.

The head of the ECC is an efficient person, but a director is one individual in an organisation. If the organisation is inefficient and has gone through infringements and fraud without being made accountable, its members would try to draw the director with them. Staffers of the ECC perpetrated serious faults during the election; they even colluded with some of the candidates and engaged in fraud, occasionally in an organised manner. The reports about more than 4,000 complaints and annulment of the votes in more than 420 polling stations are the outcome of those infringements. ... *Continued on page 12*

CEDAW and conditions of women in Afghanistan

A long time has passed since the Universal Declaration of Human Rights was issued. As the UDHR does not contain specific provisions to protect women, the UN established a commission on the status of women in 1946. Subsequently, the UN ratified various conventions and treaties to protect women's rights, until finally the Convention for Elimination of All Forms of Discrimination against Women (CEDAW) was elaborated in the 1970s and adopted by the UN General Assembly in December 1979. It came into force in September 1981.

As of October 2010, 186 states have ratified it. Six UN member states have not signed or ratified CEDAW, i.e. Iran, Somali and the Sudan, and three small Pacific Island nations (Nauru, Palau, Tonga). The US has not ratified it to this date, even though it signed it in 1980. Niue (another Pacific island), and the Vatican City have not signed it either.

Islamic states have all, barring Iran, Somali and the Sudan, ratified CEDAW, but they have taken reservations to Articles 9 (Nationality), 15 (equality of rights for men and women), and 16 (marriage and family relations).

Many states, including some European states such as Austria, Belgium, France, Italy Germany, Spain, Switzerland, and the UK have also taken reservations to CEDAW. France, Israel, Malta, Monaco, Republic of Korea, Switzerland, and the UK have taken reservations to Article 16. Switzerland and the UK have also taken reservation to Article 15. The text of CEDAW may be accessed at: <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>. On the same website, there is a list of state parties to CEDAW, with the full details of all reservations, at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#23.

Afghanistan & CEDAW: Afghanistan signed CEDAW in 1980 and ratified it without any reservations in March 2003. This confronts the country with a dilemma. On one hand, the provisions of the Convention require full equality of men and women and any infringements in law and practice may be followed by censure and sanctions in the future. On the other hand, there are certain laws and practices that have to be examined, e.g. the Constitution, or repealed to avoid ... *Continued on page 10*

Simorgh on the peak of peace

“Simorgh on the peak of peace” was the title of the 61st Goftegu public debate – a bridge between the elite and the citizens – of Armanshahr Foundation. The meeting, marking the International Day of Peace, was organised at the French Cultural Centre on 22nd September 2010. About 400 students, cultural, civil society and human rights activists attended.

The programme started with a short film of Armanshahr Foundation's past public debates. It was followed by a poetry recital play, where Rooholamin Amini, Habibeh Sadeghi, Aman Puyamak, Beheshteh Shahin, Farahnaz Forutan, Seyed Jawad Darwazian, and Zabihollah Yousefi took part.

“Simorgh on the peak of peace” is a story based on the Conference of the Birds by Fariduddin Attar of Nayshabur. It tells the story of a group of birds who set out on a journey to Mount Qaaf to find their Simorgh [Si=30; morgh=bird; hence Simorgh=30 birds]. The story has been told for centuries. The birds travelled a difficult journey and paid a high price to find their leader Simorgh; they did, not on Mount Qaaf, but within themselves.

“Simorgh on the peak of peace” was one episode in the run-up to the Simorgh Literary Peace Prize, which has been under way for over a year. About 1,000 works have been collected from Persian-speaking countries; works with the theme of peace, hatred for war, violence and savagery. The play was based on some of the works sent to the Festival's secretariat. The actors were signing... *Continued on page 7*

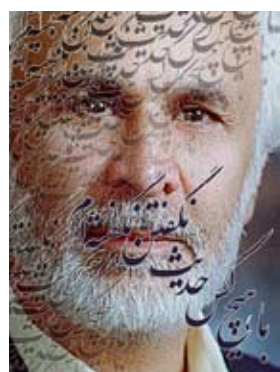


Commemoration of Tabesh

The recent passing away of Master Sa'adat Moluk Tabesh was a sad occurrence for the literary community in Afghanistan. Armanshahr Foundation's 62nd Goftegu public meeting was allocated to the memory of Master Tabesh. The event was organised in cooperation with Fadaei Herawi Publishing House and Information and Culture Director of Herat, at the historical Howse Chaharsou in Herat on Sunday 17 October 2010.

Tabesh was a familiar name to the literary people in Afghanistan. He wrote more than 50 books on literature, mysticism, politics and social issues and was deemed as one of the forerunners of poetry in Afghanistan. Having actively opposed the Soviet invasion of Afghanistan and lived in Iran for many years, he returned home to Herat in the final years of his life. His regular meetings on poetry and Mowlana were among the best literary circles in Herat.

The meeting, as noted in the invitation letter, was not intended for shedding tears, but to pay tribute to a master who spent a lifetime on teaching, research and writing without concentrating on his private interests. A number of poets recited their poems and those of Tabesh and occasionally reminisced about him.



Among them were: Baratali Fadaei Herawi, Mohammad Zahir Rostami, Assadollah Yousefi, Ramin Arabnejad, Abdolvasse Zahir Haydarzadeh, Fariba Haydari, Roya Sharifi, Ali Shah Hakimi, Baha'eddin Baha-Taymouri, Farideh Rahmani, Elahe Sahel, and Nezameddin Shokuhi. Master Jawad Tabesh, the classical singer, brought the meeting to a deserving conclusion by singing a sonnet from the late master.

Over 200 cultural and literary activists, and academics as well as representatives of the Herat state TV and Mihan TV attended the meeting.

A critique of 1st Parliament

The following report summarises the topics that were raised during the 10 "Face to Face" meetings organised by Armanshahr Foundation on the eve of the September 2010 general election. More than 45 candidates, including some MPs of the first parliament, from Kabul and Herat provinces and nearly 2,000 citizens took part in the meetings, which aimed to generate direct discussion and dialogue between the candidates and the citizens. The aim here is to share views and questions of the citizens asked to the future MPs.

When the Taliban regime collapsed in Afghanistan and the transitional government was established, everybody spoke aloud about the arrival of a democratic system. The two basic pillars of a democratic system, the Executive and the Legislature, are normally elected by the people and this had doubly excited the people. They were gradually entering the stage to decide their future.



Today, the people of Afghanistan have experienced two presidential and two parliamentary elections. It is another question and requires a different article to see if the people were really decisive. The important point here is to answer another question: What are the basic demands and questions of the people to the MPs? Did the people receive deserving answers on the performance of the MPs in the first parliament?

We do not aim to talk about ... *Continued on page 13*

Book Review

Mujahedin, Islam and politics

Afghanistan, war and politics, Mohammad Hossein Papoli Yazdi, 250 pages, 1993.

An Iranian prolific writer, Mohammad Hossein Papoli Yazdi, has compiled this book with articles from the French Afghanologist, Olivier Roy, Eqtedar Hossein Sadiqi, the editor himself as well as others. In his introduction, the editor points out the reason for unfamiliarity of his compatriots with the neighbouring Afghanistan that shares the same language and culture as follows: "Unfortunately, other publishers have not been active in this field and have paid little attention to Afghanistan's culture, history and land."

In his articles, Olivier Roy has examined the civil wars, Soviet invasion, political elite, the taking shape of the Democratic People's Party and its foundations and the reasons for the Soviet debacle in Afghanistan. Other articles concern Afghan refugees, the paramilitary groups and migration of Afghan people. Even though the writer has, to use his words, made efforts to compile a book based on credible sources, the book has not been published in Afghanistan to this date and only a limited number of copies are available from book vendors.



Afghanistan, from holy war to civil war, Olivier Roy, translated by Ali Alemi Kermani, Erfan Publishing House, 172 pages, 2003.

One may disagree with some of the views of Mr. Roy, but he does raise a series of questions, which we have been asking for several hundred years, and attempts to answer them. In his book, he has discussed various issues in Afghanistan concerning the war, Islamic fundamentalism, mujahedin and political Islam, social changes etc. The most central theme in his book, however, is political Islam and tribalism.

He is of the opinion: "Some of the political revolutionary movements in countries such as Egypt, Iran, Afghanistan and Algeria appear to be identical and have employed political Islam. In all disbelief, Islam as the most prominent ideology has taken over the political movements in the Muslim states of the Third World in the 1980s... An analysis of Afghanistan today illustrates that two types of social structures are taking shape: the prototype of tribalism and prototype of active and dynamic ethnic identity."

He says: "I have presented Afghanistan from the viewpoint of a social scientist and the events as they have occurred without consulting a specific source that would place the human being in the framework of a prejudged theory."

His studies are the result of 18 months of endeavours and life among the mujahedin in the years 1980-1988.

Contemporary Afghanistan and the challenge of political structure

Dr. Mohammad Wahid Binesh, Strategic Studies and Research Centre of Afghanistan, 2010, 259 pages. The book is concerned with such topics as theoretical foundations,

tribal structure, traditional political systems, modern political structure, the development of modern state, vulnerability of modern state, return of the Taliban oppressive emirate, return to hereditary monarchical government, modern absolutist monarchy, republicanism and the republican system, people's democratic republic and political Islam.

The writer takes a sociological approach to discuss historical developments and obstacles to development, incompatibility of the traditional and modern thoughts and seeking the roots of traditions, tribalism in particular.

In the first chapter, the writer ... *Continued on page 12*

From illiteracy to war, from war to illiteracy

To mark the International Literacy Day, Armanshahr Foundation organised a seminar under the heading, "From illiteracy to war, from war to illiteracy" in Kabul on 5th September 2010, jointly with the Afghan National Association for Adult Education and the Office of Deputy Education Minister for Literacy.

Attended by a number of the elites, university professors, students and citizens, two major questions were tackled at the seminar: 1) Why are there so many illiterates in Afghanistan? 2) Why is the anti-illiteracy campaign not a top priority of the government?



The rate of literacy is very low in Afghanistan in comparison with other countries. There are no official figures, but unofficial figures put the number of illiterates at around 10 million with five million children deprived of school. Deputy Education Minister for Literacy Mr. Hosseini said only 26% of the people at the ages of 15-45 were literate in Afghanistan, with only 12% of women being literate in that age group. Girls constitute only 37% of the eight million school students and many of them do not manage to finish their education owing to regional problems.

Unlike many countries in the region, there has not been a plan to combat illiteracy in Afghanistan, ... *Continued on page 6*

Afghanistan

Fair and transparent elections, an essential step towards democracy

International Federation for Human Rights (FIDH)
Press release

Paris, 15 September 2010 - The International Federation for Human Rights (FIDH) expresses its grave concern regarding the conditions under which the General Election will take place in Afghanistan, especially the volatile context of insecurity, impunity and corruption, which raises serious questions about the legitimacy of the future Parliament.

The second parliamentary elections in Afghanistan are scheduled for 18th September 2010. More than 2,500 candidates are standing for election to 249 seats in 34 provinces, with a minimum of 25% of the seats reserved for women.

In the past nine years, three elections have been held in Afghanistan: two presidential elections in 2004 and 2009 and the first general election in 2005. All of them had serious deficits including the failure to investigate the accusations of past human rights violations by a number of the candidates, the failure to respond to citizens' complaints, widespread rigging, and a gradual fall in the rate of popular participation. In particular, in all the previous elections, many men voted in place of their entire family and their community members. Many voters cast multiple votes as a result of the low quality ink used to mark their fingers in polling stations. Election observers and officials did not maintain their neutrality.

FIDH notes with concern that the General Election 2010 also faces major challenges:

- There has not been a proper population census in the country yet. Therefore, the exact number of the electorate is not known.
- Many people allegedly have more than one voting card. Latest reports indicate that a large number of fake voting cards have been printed in Pakistan and sent to Afghanistan.
- Failure of the authorities to report the reasons for disqualification of a number of candidates has reinforced the lack of transparency in the election procedure.

According to the Election Commission, 938 of the total 6,835 polling stations nationwide have been ... *Continued on page 14*

Open letter to President of Afghanistan

21st August 2010

H.E. President of Afghanistan,

The last decade in the history of our country, despite all the shortcomings, was full of hope for the women of Afghanistan. In the first few years of the decade, we witnessed positive developments toward freedom of women from yokes of captivity, fanaticism and fundamentalism. These hopes opened a new page in history for women and we may dare say that the newly founded democratic government of Afghanistan became a bastion of ideals of gender equality and justice for women who were tired of the rule of fanaticism and misogyny. Those developments revived the lost dignity of Afghanistan on the international level. Alas, those hopes and achievements have been subjected to disruption and regression in recent years leading to human catastrophes such as assassinations, stoning and gender discrimination.

Mr. President! The reports of stoning of two women in Badghis and Kunduz provinces have frightened and deprived of sleep all women and conscientious people of Afghanistan. Those events are reminders of the recurrence of the violence and inhuman acts of the dark-minded fundamentalists and have revived the shocking and bitter memories of the captivity under their rule.

Do these atrocities not frighten you as the official who has been given, with our vote, the responsibility to guard the Constitution and protect the lives and property of the people?

Mr. President! We women are more tired than ever of fundamentalism and religious radicalism, because, as history would testify, we have suffered most from them. We seek the rule of law more than anybody else, in particular just laws that would guarantee the human rights of women. Our hearts beat for peace and security more than anybody else, because war and insecurity would endanger and sacrifice our legitimate and human rights more than all.

Mr. President! We have fought for ... *Continued on page 14*



Statement of Women's 50% Campaign on Second
Parliamentary Election, 2010



Healthy & transparent elections, First step toward democracy in Afghanistan

The second parliamentary election in Afghanistan is scheduled for 18th September 2010. The procedure for holding the election and monitoring it as well as the riggings plunged Afghanistan in such a seriously dangerous situation that could spell immediate defeat for the endeavours of the international community, the people and the government of Afghanistan and send Afghanistan back on the course to a Taliban-era regression. The government and power holders were expected to learn from the past and make all their efforts to organise real, healthy and fair elections to avoid the loss of honour and legitimacy of the Nation's House.

Besides the major problems and challenges to real elections in Afghanistan, e.g. insecurity and the closure of nearly 1,000 polling stations for security-related reasons (of which the people have not been informed clearly), absence of accurate figures of the population, distribution of duplicate and forged cards, refusing to disclose the reasons for disqualification of many candidates, candidacy of suspects of human rights violations, failure to investigate complaints against violators of human rights... women candidates have been facing more serious challenges in comparison with the men in election campaigning.

Many women have faced threats to their lives. Their campaign members have been threatened and some of them killed. Extensive propaganda has been undertaken against them. They have been directly insulted and humiliated in the audio, visual and print media. Some of the women candidates have been omitted more easily than the men and without any reasons being provided. Women have been in an unequal position both economically and politically. In previous elections, many women voters faced life threats and many men even voted in place of women.

Those are all warnings indicating that there are serious obstacles ahead of women candidates and voters ... *Continued on page 15*

International conventions and covenants Afghanistan has ratified

No	Title	Date adopted at UN GA	Date signed	Date ratified
1	International Convention on the Elimination of all Forms of Racial Discrimination	21December 1965	14August 1980	5March 2003
2	International Covenant on Civil and Political Rights 1	16December 1966	Accession	24January 1983
3	International Covenant on Economic, Social and Cultural Rights	16December 1966	Accession	24January 1983
4	The Convention on the Elimination of All Forms of (Discrimination against Women (CEDAW	18December 1979	14August 1980	5March 2003
5	CONVENTION AGAINST TORTURE and Other Cruel, Inhuman or Degrading Treatment or Punishment	10December 1984	4February 1985	1April 1987
6	The Convention on the Rights of the Child	20November 1989	27September 1990	28March 1994
7	The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25May 2000	Accession	24September 2003
8	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25May 2000	Accession	19September 2003

Other human rights related instruments Afghanistan has ratified

No	Title	Date adopted at UN GA	Date signed	Date ratified
1	Convention on the Prevention and Punishment of the Crime of Genocide	New York, 19 December 1948		22March 1956
2	The Convention to Suppress the Slave Trade and Slavery ²	Geneva, 25 September 1926	August 1954 16	
3	The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	New York, 21 March 1950	Accession, 21 May 1985	
4	Rome Statute of International Criminal Court	17July 1998		10February 2003
5	United Nations Convention against Transnational Organized Crime & its Protocol against the Smuggling of Migrants by Land, Sea and Air & Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	15November 2000	14December 2000	24September 2000

1. ICCPR has two optional protocols which Afghanistan has not signed to this date.

2. This Convention was amended in 1955

From illiteracy to war...

with the exception of the reign of the People's Democratic Party. At times, there has even been a strong opposition to literacy. Addressing the issue of education in the eras of Zahir Shah and the People's Democratic Party, Mr. Shabrang pointed out: "Whereas the government of Zahir Shah was based on land ownership, and feudalism, the same approach was mirrored in social and cultural issues. There was no minimum programme or specific mechanism to eradicate illiteracy in that era. The only development was the establishment of an adult education course for overlords and landowners in the final years of his era. The king faced problems when illiterate overlords visited him. Therefore, he decided that they should become literate." Mr. Shabrang argued that the king consolidated the pillars of his government by keeping people in ignorance and away from participation in national political, economic and social issues. Indeed, it was after the taking of power by the People's Democratic Party that the government took a consolidated and planned approach to combating illiteracy. The first decree of the then president concerned the literacy in the entire country. It was precisely then that many people

resisted social reforms. Some people have blamed the problem on the extreme backwardness of the society and the government's haste for implementing social and economic reforms. However, the truth is that the people have always resisted plans from above, whether progressive or reactionary ones. Another example concerns the Taliban era when, in contrast to the era of the People's Democratic Party, the schools were closed to the people and the girls. Then the people established clandestine schools.

Under the Communist regime, the government established a Literacy Department at great cost and drew on the experience of the neighbouring and other countries to formulate a national literacy plan. The political developments and the events that engulfed the country in the crisis of prolonged wars not only halted the literacy campaign but led to collapse of the Communist regime.

In the subsequent eras, literacy and the campaign against illiteracy, and the issue of education as a whole did not constitute a priority for the Mujahedin or the Taliban. Examining the conditions of education in that period, Mr. Abdulsamad Moshtagh said ... *Continued on page 14*

A decade of international...

He divided the record of the international community into two periods: from end of 2001 to the beginning of 2006 and from 2006 to the present. "In the first period, the international community failed because it centred on combating terrorism and didn't have state building on its agenda. The London Conference of 2006 recognised the focus of the international community as state building and economic growth." Nevertheless, five golden years had been lost and the triangle of despotism, growing influence of Pakistan and Taliban and the increasing ethnic-favoured and language reactionary measures have come to the fore and shadow governments have taken shape.

In his opinion, Afghanistan joined the international community during the second period. A new chapter has started that should be devoid of past mistakes: "A census on goals and aims should be established, democratic foundations be strengthened and the government should gain its legitimacy. A joint accountability should be established between the government of Afghanistan, NGOs, citizens and the international community."

According to Mr. Moradian, one of the characteristics of the second period is evasion of responsibility and expecting others to assume responsibility. He advised ethic-centrism and moral reconstruction of the social, political and economic institutions that the war has destroyed and concluded: "Councils of elders are pre-modern forms for resolving crisis that cannot work."

The second speaker, Mr. Kabir Ranjbar, MP in the outgoing first parliament, said some people say Afghanistan is occupied and there is one question that everybody, the government, the people and the neighbours, asks: Will the international forces stay forever or will they leave?

In his opinion: "Afghanistan was chained by regressive forces, women had been omitted and half the society was paralysed. The 11th September event forged an international unanimity to intervene in Afghanistan and rescue us from a mediaeval system. They easily expelled the forces of international terrorism. The greatest mistake of the international forces was that they lacked a clear strategy. They gave a new life lease to certain forces in Afghanistan that had failed their test before. The Bonn Conference revived the perpetrators of massacres, war crimes and destruction of Kabul."

Speaking of his memories when he presided over the Academy of Sciences and the division of Kabul into several regions each under the command of one of the warring factions, he said: "It was under those circumstances when the Taliban arrived as saviours, but they inflicted new grievances on the people. Women were executed in the Kabul stadium and Afghanistan became a large prison. That was the reason why the people accepted the foreigners as a whole and did not offer any intellectual or physical resistance."

Mr. Ranjbar argued that foreign forces had revived the Taliban: "War and unrest under the present government that has assigned the governorship of the cities to the former oppressive apparatchiks who abused the property and honour of the people, has prepared the ground for the people's discontent. The country's wealth is plundered and the government is so weak that its orders are not obeyed even in Kabul. The depth of atrocities of the past nine years is hidden to us. In the absence of a just government, law and justice, the people go to the Taliban for justice. If we had an honest administration and could win the people over to the government, we would not need the jirgas and reconciliation."

"Less than two or three percent of the Taliban have ideology; the rest are fighters. Even if the Supreme Peace Council brings Mulla Omar and Hekmatyar to the negotiations table, it will not end the war, because all our problems are rooted in the failure to enforce the law. The people have been marginalised. Next year will be worse than the current year and two years later even worse."

What is the solution? His answer: "Building a system through creation of a strong central government, rule of law, provision of justice, eradication of administrative corruption on all levels, generation of expertise, undertaking deep administrative reforms and dedication to national interests."

The last speaker was Mr. Latif Pedram, president of the National Congress of Afghanistan and a newly elected MP. He first asked: Why did the good thinkers of our society have false expectations from the presence of international community and in particular the US in Afghanistan? His answer was: Absence of awareness and knowledge of the capitalist system and the neoliberal economy among the left including the Islamic and modern left in this country prompted them to have wrong expectations.

"Afghanistan was chained by regressive forces, women had been omitted and half the society was paralysed. The 11th September event forged an international unanimity to intervene in Afghanistan and rescue us from a mediaeval system. They easily expelled the forces of international terrorism. The greatest mistake of the international forces was that they lacked a clear strategy. They gave a new life lease to certain forces in Afghanistan that had failed their test before. The Bonn Conference revived the perpetrators of massacres, war crimes and destruction of Kabul."

In other words, the forces of protest that must have protested as in other historical eras - under the Soviet, under the mujahedin and when we hosted the Americans - were only excited and failed to refer to their historical memory. Fukuyama says: Democracy is either a system of government or a method, not a value. Theoreticians like Fukuyama and Hayek say they will resort to democracy to respond if the interests of liberalism or interests of capitalism so required; hence, they would not resort to democracy and human rights if their interests did not require it. This is what we experience with our flesh and skin. That is not the case only in Afghanistan. When the Sandinistas came to power in Nicaragua and held free and transparent elections, the Americans attacked them; around 50,000 were killed and 600,000 lost their homes. Chomsky says the best

intellectuals move to the position of defending the power or the government at times of crisis.

"Why did we expect the foreign forces led by the US to build a democratic society? Bombing, killings, despotism, violation of human rights are what you witness in Iraq, Palestine and Afghanistan. The international community is not here to build a democratic society, to eradicate poverty or the class differences. Capitalism does not have any other present but class differences."

According to the speaker, to answer the question about the record of international forces, we should ask what we have done. How far have the intellectuals protested the politics of this period? Why do our best left groups praise capitalism? Why do our best Islamic groups praise capitalism, colonialism and occupation? The Western intellectuals are also concerned. Chomsky asks: Does my government combat terrorism?! My country spearheads terrorism.

Mr. Pedram asked: Are you equal before the law in our cities? There is a rampant political and class inequality. Kabul has been divided between the rich and poor; the latter are not allowed to cross the neighbourhoods of the former. We expect the elite in Afghanistan to have a clear understanding of globalisation; we cannot set aside colonialism, occupation and globalisation when we consider Afghanistan. "We cannot build a country by a few imported vulgar TV programmes. We cannot evaluate the past 10 years if we do not know what we are facing at the heart of Afghanistan. A national government cannot be created against that backdrop. A patriotic government requires patriotic people."

In conclusion, speakers fielded questions from the audience.

Simorgh on the...

Alas!

Your silence

Finally persuaded "Buddha" to speak

He wrote in Russian in your throat:

"Tovarich"

And before writing

It stamped your mouth

"11th September"

Not everything was uttered so sadly. To tell of pain is not the only solution and the story was occasionally narrated:

"When they arrived at the court, the wing-broken birds were treated with humiliation by the court attendants; now love was flaring deep in them. They were then given a log of their journey."

There were also words to be cried out; words seeking ears to listen and go far:

"The breath leaving the warmth of the breast, grows into a dark cloud Standing before your eyes as though a wall

If that is your breath, what do you expect of friends?

My brave saviour! Old god-fearing man!

It is such a freezing cold...

I hail thee!

Hail me and open up!"

The seven actors recited various poems. The narrator narrated Attar's story. There was the Pheasant, who leads and advises the birds in the story. One other actor was a crazy general, as the symbol of militarism and despotism. Others were subjects who are trampled upon in large numbers in our world today. Or they were birds who were seeking a path to change their world, through finding the imaginary Simorgh. But Simorgh was not too imaginary, because they finally found it within themselves.

Finally, the pain and hardship of the journey was sweetened, because they found out that they have the power to build the world as they wish, if they wish. The young people who planned and implemented the programme wished to say: We can if we want.

Workshop on "Universal Jurisdiction"...

international crimes all over the world.

"Universal Jurisdiction" has existed in international law for a long time. In contemporary times, it was first noted in the Geneva Conventions of 1949. In recent years, however, it made the headlines when General Pinochet of Chile faced prosecution in Spain and Britain in 1998 and spent some time under house arrest.

"Universal Jurisdiction" ensures the prosecution of perpetrators by courts in different countries even if the crime in question was not committed in those countries or was not directly linked to that country.

"Universal Jurisdiction" is mostly used to prosecute serious international crimes, which are so heinous that they affect the whole international community, e.g. genocide, war crimes, torture, and enforced disappearances.

Significance of "Universal Jurisdiction"

Up to now, the human rights organisations and human rights defenders have been using the traditional methods of advocacy by issuing statements, organising demonstrations and similar activities to expose the crimes. Now "Universal Jurisdiction" could help them to take practical action. There are examples at hand, where "Universal Jurisdiction" has been employed to bring to trial perpetrators of crimes against human rights and sentence them to imprisonment.

Legal foundations for "Universal Jurisdiction"

Firstly, "Universal Jurisdiction" has been provided for in the Geneva Conventions, the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance. Afghanistan is a member of the first two conventions, but has not acceded to the third. Secondly, the Rome Statute (of the International Criminal Court) allows the court to prosecute several serious international crimes: genocide, crimes against humanity, war crimes and the crime of aggression. Afghanistan is a member state, but some countries such as the USA, Iran, China and Russia have not acceded to it yet. Thirdly, the United Nations Basic Principles and Guidelines on the right to a Remedy and Reparations for victims of gross violations of human rights and serious violations of international humanitarian law has called on all countries to enshrine the provisions of "Universal Jurisdiction" in their domestic law and to exercise them.

How can "Universal Jurisdiction" be exercised?

The Rome Statute emphasises that the perpetrators must be prosecuted through the national courts in the first place. Some countries however do not have an active judicial system, and it is not possible to prosecute the perpetrators there. On the other hand, the judicial systems in some countries are unable or unwilling to prosecute the perpetrators. In that case, the case should be taken to courts in other countries.

The third approach would be to go to the ICC. Under the Rome Statute, the ICC is complementary to the national criminal jurisdiction. Furthermore, the ICC has its own constraints. First, the crime should have been committed after 1st July 2002. The ICC cannot prosecute crimes committed before that date.

Second, the crime should have been committed on the territory of a member state or the perpetrator should be citizen of a member state.

The third approach would be for the United Nations Security Council to refer the prosecution of a crime to the ICC. There are certain problems with that approach. For instance, the US has previously opposed the ICC actively. Therefore, it is not readily possible to apply to the Security Council for prosecution of a crime through the ICC.

The fourth method would be through the ad hoc and special tribunals, e.g. the ad hoc tribunal for former Yugoslavia or Rwanda. These tribunals are established occasionally and under special circumstances.

Some examples of application of "Universal Jurisdiction"

The International Federation for Human Rights (FIDH) has provided support to victims in numerous cases, helping victims from countries

such as Argentina, Chile, Congo, Mauritania, Rwanda and others to lodge complaints with courts in France, Belgium, Germany and elsewhere. With the help of human rights lawyers, FIDH has established a legal action group to help the victims.

Exercise of "Universal Jurisdiction" has borne fruit in practice; a number of criminals have been convicted and imprisoned: Several from former Yugoslavia in Germany and Norway, criminals from Rwanda in Belgium, Argentinean perpetrators in Spain, and Mauritians in France. From Afghanistan, Hesamuddin Hesam (2005) and Habibullah Jalazoy (2007) were convicted for war crimes and went to prison in the Netherlands. Faryadi Sarwar Zardad was tried for torture and sent to prison in Britain in 2007.

Does "Universal Jurisdiction" target mostly Africans and Third World?

The ICC recently accused President Omar al-Bahsir of the Sudan of perpetration of war crimes and issued an arrest warrant for him. This and other cases have prompted the Africans in particular to take it against themselves. The examples of Yugoslavia and Chile, in contrast, illustrate that other perpetrators have also been targeted. It should be noted that most complaints are not lodged by governments. The international human rights organisations pursue the matter and they have not concentrated on Africa and the Third World alone.

The most important example to cite is the complaint filed by the FIDH

with the help of two of its member organisations against Donald Rumsfeld in 2007. Mr. Rumsfeld was scheduled to attend a political conference in Paris in October 2007. With advance knowledge of his visit, FIDH lodged a complaint in France and an arrest warrant was issued. Rumsfeld managed to escape only by hiding in the US Embassy. There are other current proceedings against him in Spain and Sweden and elsewhere.

A further example concerns Israel, a very close ally of the Western governments. With Israeli courts failing to investigate many complaints against crimes against human rights, international organisations lodged complaints in other countries with the help

of the Palestinian Centre for Human Rights. One was a complaint filed in Britain in 2005 against General Doron Almog for war crimes, when a British judge ordered his detention. With General Almog due to arrive in Britain, the Israeli ambassador contacted him and told him not to get off the airplane, because the British police were waiting to detain him at the airport. He had to return to Israel on the same plane.

Problems and challenges

• Where should "Universal Jurisdiction" be used to lodge a complaint? To answer this question, the laws of various countries should be studied carefully. For instance, a complaint concerning the crime of torture is easier to file in some countries, but in some other countries it is easier to lodge complaints concerning the crimes of enforced disappearance, crimes against humanity or war crimes.

• Official immunities: Under the statute of the International Court of Justice, heads of states and foreign ministers may not be prosecuted, because that would impede them from performing their duties. They may be prosecuted after leaving office. This provision is in contravention of the Statute of the International Criminal Court.

• Trade and political influence of governments create serious obstacles. For example, in 2004 a British court refused to admit a complaint against then Israeli defence minister. In 2003, a complaint against Tommy Franks, then US commander in Iraq, failed in Belgium, because then US Secretary of Defence Rumsfeld threatened to move the NATO headquarters from Belgium.

Conclusion

"Universal Jurisdiction" is a relatively new issue that has not been put to much practical test. In the wake of traditional methods of advocacy, however, it allows a practice of filing complaints with courts and achieving result. Nevertheless, all aspects of the issue should be examined thoroughly. The Palestinians have exercised that thoroughness quite well. Finally a number of sources were offered for further reading.

The International Federation for Human Rights (FIDH) has provided support to victims in numerous cases, helping victims from countries such as Argentina, Chile, Congo, Mauritania, Rwanda and others to lodge complaints with courts in France, Belgium, Germany and elsewhere. With the help of human rights lawyers, FIDH has established a legal action group to help the victims.

Second general election ...

Was there a healthy election atmosphere?

The election took place while the deputy interior minister for security had said only a few days earlier that from a total of 364 cities only nine were safe and 114 were facing serious security problems.

The major problems, which the people faced on the Election Day, included: insecurity; interference of the powerful figures; men voting in place of women; shortage of ballot papers in safe areas such as Badakhshan, Ghazni, and Bamiyan; using of government resources; using weapons and force to collect votes for certain candidates; absence of international monitoring of the election

procedure; and lack of facilities for candidates to monitor the polling stations. Media reports indicated that no less than 10 were killed and 16 injured on the Election Day. Twenty-eight staffers of the IEC were kidnapped in Badghis and 8 in Baghlan provinces prior to the elections. Some media reports stated that the figures were likely higher.

On the Election Day, the Taliban claimed they had organised 150 attacks nationwide. The ISAF forces reported 396 attacks. The National Democratic Institute, quoting the Independent Human Rights Commission, reported that the Taliban had distributed newsletters in some parts of the north-western provinces warning the people to vote for specific candidates. The report said: "The Taliban disrupt the elections and make threats on one hand. On the other hand, they are trying to enter the parliament through elections."

While the media had reported 281 complaints in the last presidential election, in the 2010 General Election about 4,000 complaints had been reported at the time of writing. Mr. Zia Rafat, spokesperson of the Election Complaints Commission (ECC) said 56% of the complaints seemed serious. He said there were three categories of complaints. The first could influence the results. The second, although important, would not change the results. The third were insignificant and would not be examined. The ECC statement did not provide examples for any of the three categories. The UNDP had provided the election budget to the amount of \$149 million.

Some experts regarded the elections as a "fiasco." They were of the opinion that the number of candidates represented an anarchy intended to divide the vote so that the ruling clique would win the majority of the seats. They maintained that the people came to distrust the elections as a result of extensive fraud.

Second parliament, challenges and doubts

1. Population census

The total population of Afghanistan is not known yet. Parliament has 249 seats. From each province a minimum of two MPs and a maximum of 32 would enter the parliament. One MP represents every 100,000 people. However, the population of each province is determined by estimation. There has never been a proper census under the supervision of international organisations and civil institutions in Afghanistan. Some people blame this situation on the tribal and ethnic beliefs of the ruling governments. They maintain that the government stress that the Pashtun people are in the majority, and does not wish to resolve the issue, because a census may end up to the detriment of the Pashtuns.

Citizens in some provinces complained of betrayal of their rights. They claimed that their population had been overestimated. Presidential and parliamentary elections without a proper census are meaningless. Gov-

ernment officials have usually blamed lack of budget and security problems for failing to conduct census. If that is the case, how would it be possible to hold elections in democratic and fair conditions?

2. Political parties in elections

The majority of candidates were independent. A candidate, who was a leading member of a political party, said he was running as an independent, because "parties are being re-registered and the majority of them have not been able to fulfil the registration procedure. Therefore, candidates have had to run as independents." After 2001, 112 political parties were registered with the Ministry of Justice. However, the Political Parties Law was amended last year and every party was required to provide

10,000 signatures in support of its registration.

Political parties are one of the most basic pillars of democracy. They may be in the opposition or even form a shadow government. The best way for their participation in power is through the parliament. Since the amendment of the Parties Law, only 10 parties have been able to register again.

On the other hand, a large portion of the votes is wasted because there is no system of proportional representation. The first parliament was criticised because it was non-partisan and this led to ease of political dealings, absence of clear-cut factions, lack of political will for legislation and chaos in important cases.

3. Border problems

Extensive fraud was noticed in various parts of the country during both the presidential election last year and the recent General Election. Some people believe it is unlikely that Afghanistan can hold transparent elections so long as it has not clarified all its borders. Lack of separation between citizens of Afghanistan and Pakistan may lead to widespread fraud as in the case of the voting cards printed in Pakistan and readily made available to the people in Afghanistan.

4. Unclear status of parliament in the political system

The relationship of parliament and the political system was one of the most controversial issues ever since the discussion started about the Constitution. A number of people were in favour of a parliamentary system with some of the elite promoting the idea of federalism as well. The Constitution was based on a presidential system under which the powers of parliament were restricted. The president heads all three branches of the state. Parliamentary legislation may be enacted only after ratification by the Senate and signature of the president.

Article 69 of the Constitution holds the president accountable to the MPs. The parliament may call the Grand Council (Loya Jirga) by a petition of one-third of its members that should be approved by two-thirds of MPs, and bring the president before a court. The

two deputy presidents, however, are not accountable to parliament, even though parliament may use its legislation powers to monitor the performance of ministers and other high-ranking officials of the executive.

There were numerous conflicts between the government and the parliament during the latter's first term. For example, Rangin Dadfar Spanta, then foreign minister, was impeached and lost a vote of confidence, but he stayed in office to the final days of President Karzai's first term of office and the parliament was rendered powerless.

The list of elected MPs published by the Independent Election Commission indicates that critics of the government, democrats in particular, men and women included, are in a weaker position in the second parliament as compared with the first parliament. Some experts believe that the second parliament will be worse than the first and mainly heed the government's commands.



CEDAW...

contravention of the CEDAW, for example the Law for the Personal Status of the Shiites. Below, we examine the conditions of women in Afghanistan to underline the government's tasks in relation to CEDAW.

A brief glance at CEDAW

CEDAW aims to achieve the equality of men and women in all spheres. The Introduction to the Convention maintains: "The establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women." And the preamble stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women".

The Convention has an Introduction and 30 Articles that concentrate on three areas.

1. Condemning all forms of discrimination against women. All forms of discrimination in the economic, cultural and political areas are rejected and adequate mechanisms are proposed to improve the life of women and to achieve equality (Articles 1 - 7).

2. Determining areas of discrimination, e.g. in the public sphere (politics, economy, employment, education etc.) and in the private sphere (family, nationality, children, marriage etc.). Governments are then required to take appropriate action for equality of men and women in those spheres (Articles 7 - 16).

3. Organisation and operation: Articles 17 - 30 deal with the organisation of the Convention and forming a Committee of 23 member states to monitor its implementation, and its operation.

Conditions of women in Afghanistan

Women in Afghanistan are still facing great challenges in the political, economic, security and human rights areas, despite the progress made since the fall of the Taliban in 2001. According to the UN Human Development Report published in February 2005, the gender development index is one of the lowest in the world for women of Afghanistan. The majority of women are faced with poverty, illiteracy, limited access to health care and wide-spread gender-related violations. Their education, work and marriage are decided through traditional ways. They do not have control over such issues and are generally under the control of their fathers, husbands and brothers.

Social conditions

Family relations in Afghanistan are based on patriarchy and women are regarded as the property of the husband's extended family. They have little possibility of involvement in decisions and regardless of their age, they are subordinate to men. They are regarded as the honour of the family. Hence, their contact with the outside and their relations with men are strictly limited. They are required to be virgins before marriage and early marriage is regarded as a remedy against loss of virginity. Any sexual relationship outside of marriage is considered as fornication or adultery and banned under the customary and basic laws. Families decide about marriage not the individuals concerned. The husband's family pay the wife's father a marriage portion, by which the woman's responsibility is transferred from one family to another. Brides may face ill treatment and violence in the new family, in particular if they are young. Men may take more than one wife. In most parts of the country, women are extremely restricted from going out. Without a man's protection, a woman may face many problems for obtaining housing and services.

Economic conditions

According to the World Bank: "Women's labour force participation rates

in Afghanistan are comparable to the rest of the region at 35.8% - lower than in Bangladesh (42.5%), Nepal (40.5%) and Sri Lanka (36.9%), but higher than in India (32.5%) and Pakistan (29.5%)⁹⁴. While gender disaggregated data are not available by sector of employment, the likelihood is that this relatively high level of female labour force participation is due to the needs of an agrarian and pastoral economy. Second, poverty drives women's employment in Afghanistan, as it does in other South Asian countries, and high poverty rates are no doubt responsible for high female labour force participation."

Nevertheless, the traditional role of women prevents them from equal participation in economic activities. A 2003 survey shows that 55% of women in the agricultural sector perform the minimum activities of a wage labourer, but in most cases they are not paid for it. Only a small number of women own land and livestock. Even if women get paid, they

receive half the wages of a man and occasionally less than children and very few of them have control over their earning. Most of the goods produced by women are exchanged in kind, because selling them for money will be deemed as shameful.

There are great differences in regard to the type of work of women and their share of the economic activities in different parts of the country. In the south, women mostly stay at home, but they play a greater role in the north, north-east and the west. Nevertheless, in most cases, the men control the money earned by women and marketing of women's produce. Studies in 2003 showed the following rates of women's participation in various activities: 6.2% in the harvest; 11.9 other work on the farm; 9.3% needlework; 13% handicraft; 17.8% weaving and knitting; 20.8% sewing; 11.7% housework; 9.1% collecting wood. There are nevertheless gross regional differences. In the south, only 13.7% of women are engaged in paid work, but the corresponding rate is 90.2% in the north and 80.9% in the north-east.

Poverty and destitution has led to an increase in women's work in the agricultural sector, because most families are unable to pay for such work. The World Bank and AREU studies show that women and children mostly have the task of caring for and maintaining the livestock and women

handle the sick livestock.

AREU studies show that ownership of land and livestock by women has increased their power of decision making and they can mostly control the earning from selling livestock products in the village.

In the urban areas, women are employed outside the home in small numbers. Prevalence of traditions, low level of literacy and skills, limited opportunities, and lack of child care facilities are the reasons for those limitations. Information provided by the Central Statistics Department show that 21% of all civil servants were women in 2003. In the urban areas, women are engaged in hand sewing and washing. Rents are high in Kabul beyond the level many people can afford. Nearly 50,000 widows face problems of employment and social services and mostly have to beg. Poor women at low-paid jobs such as domestic servants are subject to sexual exploitation.

A series of promising results show that women are gaining a higher share of the economy. For instance, according to a 2002 survey of the markets in Mazar Sharif, Puli Khumri, Bamiyan, Herat and Kandahar showed that women produced more than men in the services and unofficial products sectors, including beauty salons, sewing and carpet weaving, mostly working from their homes.

International organisations, e.g. the ILO, UNDP, WHO and UNIFEM as well as the domestic NGOs have run projects to raise women's skills and help them enter the labour market.

Education

The rate of literacy among the women is currently reported to be 21%. It is estimated that 86% of women in the 15-49 age group are illiterate; the corresponding rate for men is 57%. The school... *Continued on page 11*

"Women's labour force participation rates in Afghanistan are comparable to the rest of the region at 35.8% - lower than in Bangladesh (42.5%), Nepal (40.5%) and Sri Lanka (36.9%), but higher than in India (32.5%) and Pakistan (29.5%)⁹⁴. While gender disaggregated data are not available by sector of employment, the likelihood is that this relatively high level of female labour force participation is due to the needs of an agrarian and pastoral economy. Second, poverty drives women's employment in Afghanistan, as it does in other South Asian countries, and high poverty rates are no doubt responsible for high female labour force participation."

attendance has been on constant increase since 2002, but the rate of attendance of girls in school is the lowest worldwide. Less than 10% of girls attend high school. Lack of enough schools, with a wide gap between the cities and the rural areas; adequate number of women teachers, poverty that affects girls more because families value their sons more than their daughters, are some of the problems besetting education. Insecurity is another concern, as the armed insurgents target girls' schools. Traditions that keep women at home may be the biggest obstacles facing women in seeking education; women's task is seen as getting married and being good housewives. In most cases, girls go to primary school and as soon as reaching the age of puberty, parents take them out and marry them off. Social and family pressures prevent girls from continuing to higher education.

Violence against women

Violence against women is prevalent in the public and private spheres. Studies show that forced and early marriages, violence within the family, rape, abduction, forced fornication, premeditated honour killings of women are the major forms of violence committed against women. Psychological violence against women includes denial of food and other basic necessities, suspension of relations with the husband, preventing contact between mother and children, physical threats, verbal insults and death threats. In 82% of the cases of violence against women, perpetrators were family members, followed by neighbourhood people (9%), government (1.7%) and anonymous (7.3%).

After her visit to Afghanistan in July 2005, Yakin Ertürk, UN Special Rapporteur on Violence against Women, listed a number of reasons for the extensive and heavy-handed violence against women in the country:

„The current trends in violence against women in Afghanistan cannot be solely reduced to culture and tradition without consideration of the conflict and post-conflict situation. Four factors underlie women's vulnerability and the perpetuation of violence today: the traditional patriarchal gender order; the erosion of protective social mechanisms; the lack of the rule of law; and poverty and insecurity in the country. Reports of domestic violence, rape, trafficking, among others, are said to have escalated with the war and post-war conflicts. Prevailing power blocks tend to legitimize much of the transgression of women's rights, by referring to the sharia. The diverse and contradictory interpretations in this regard undermine the establishment of any universal code of conduct.“ (E/CN.4/2006/61/Add.5, February 2006, Para 20)

Forced marriage has been listed in all documents as the most widespread discrimination against women in Afghanistan and as the root of many types of violence targeting women. AIHRC estimates that 60 - 80% of all marriages are forced. UNICEF estimates that 57% of girls get married before the age of 16. Some girls get married as young as 6 years old. Many are engaged when they are still children without having any knowledge. Young girls and children forced to marry are mostly victims of family violence, sexual exploitation of their husbands and other men in the family and even women of the husband's family.

Forced marriage of young girls causes them to flee home and possible imprisonment if they come in contact with the judiciary. Otherwise, they may be killed by men of the family to protect the family's honour.

Honour-related crimes are still treated with impunity. Forty-seven such cases were recorded in 2005, and 45 in 2006. Estimates of the number of cases not reported exceed 5,000 cases.

There are a large number of self-immolation cases every year and the rate of suicide is on the rise. In 2005, 119 self-immolation cases were reported and the corresponding figure for 2006 was 98. The figures of reported suicide attempts were 29 in 2005 and 103 in 2006. Reported suicide figures were 39 in 2005 and 14 in 2006. Over a hundred young women in Herat province reportedly have set themselves on fire, and dozens more in Badakhshan province jumped into the Kokcha River and drowned themselves to escape arranged marriages. Furthermore,

the governor of Herat and high-level government officials reportedly condemned women who committed self-immolation to avoid forced marriages as those who dishonor traditions. A fact-finding mission conducted by the government in March 2004, however, concluded that while they could not assess the exact extent of the suicides, "forced marriages, lack of education and unacceptable customs are the main reasons for the suicides."

Polygamy is restricted under the Islamic sharia by certain conditions, which have been upheld in the Civil Code. Nevertheless, in practice men take more wives without fulfilling those conditions and that increases women's vulnerability to violence.

A number of reports have documented the case of young women forced into prostitution.

The extent of rape is not known, because rape and sexual abuses are prohibited and it is not possible to collect the related information in most parts of the country. Nevertheless, research conducted by Amnesty International show that local armed groups still engage in rape on an extensive level; the courts and the police are unable and unwilling to bring the perpetrators to justice. Victims of rape told Amnesty International that insecurity, possession of power and weapons by local armed groups were reasons for continued rapes.

Rape and sexual abuse are seldom reported by women to avoid disgrace and danger. In most cases, the government has been unable to provide justice to victims owing to inefficient mechanisms, unfair investigations and the perception that violence in the family is a private issue and the rape victim is to blame for fornication. In most cases, victims are targeted during investigations and occasionally imprisoned.

On the whole not much has been done to implement CEDAW in Afghanistan. In interview for this article, Dr. Soraya Sobhrang, commissioner of the Afghanistan Independent Human Rights Commission for protection of women's rights, commented as follows:

- "The government of Afghanistan has not carried out any activity worth mentioning to implement CEDAW. Their activities in respect of women may be listed as follows: occupation of 25% of the seats in parliament that may guarantee their political participation to some extent, appointment of three female ministers some of whom have not won vote of confidence from parliament yet, enrolment of girls in schools, and preparing a law to eliminate violence against women. Activity is lacking in other areas such as health, employment, legislation, civil and political rights, social services, discrimination and violence; the government is required to take action."



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Election Law...

The ECC says about 56% of the infringements are of the kind that can change the results. I do not deem the ECC to be qualified to investigate the fraud.

Q: How legitimate is the election, when the population figures are not known?

A: That is one of the fundamental questions facing all elections in Afghanistan. Unfortunately, all our borders are open. About 2,000 kilometres of borders in the east and the south are open; the same is the case in the west (even though stable) and we do not have control over them.



The traffic of millions of people between Afghanistan and Pakistan illustrates this problem. We have some control only in the north. There were confirmed reports of several million fake voting cards on the eve of the election. Lack of

a census, unclear identity of citizens, lack of control over their traffic, unstable borders etc would surely affect the health of elections.

Q: MPs have complained of non-partisanship of parliament and absence of strong parties in the parliament. In the course of the recent election, all political parties were practically dissolved. What impact would that have on the political system?

A: A great impact. The votes were very dispersed in the previous parliament. Dispersion in voting and unorganised views would make it difficult to take decisions. The same negative experience has now been repeated. I don't think the new parliament will be any better than the previous one.

I don't know why the international community has been negligent of the issue. Even though they have been investing billions of dollars, they have never attempted to promote and support the establishment of several strong political parties.

Q: Some of the foreign institutions announced in early years that they would help the political parties. Subsequently, 120 political parties were registered. Why did they not help a few strong parties from among so many parties to come forward?

A: The international community is suffering from some confusion in this case, just as in many other cases. They thought that if they supported and activated the political parties, the remnants of the jihadi parties would grow.

Q: In previous decades, they simultaneously helped seven political parties. Were they confused then?

A: In the past, Pakistan was influential in Afghanistan politics and pursued its own interests. That was also the case with Iran, which invested in Shiite parties. Pakistan invested in Sunni parties. They both deemed their interests in dispersion and plurality of parties and never desired unity to arise from that plurality.

Q: Women have a quota of 25% in parliament; 400 women candidates stood in election, which means one in seven would be elected. But from 2,100 men, one in 11 would be elected. Considering that some former power-mongers are reported to have invested on women candidates, how effectively can women participate in politics?

A: Positive discrimination is justifiable to some extent but not beyond it. That discrimination should have been in force for a temporary period. After that, there should be no quotas and women should campaign freely and, we hope, win more share. We shouldn't limit their share to 25%. But political support could be used for the interests of the supporters, who would use women as political tools.

Women did gain their status in the previous parliament and it was a rather positive experience. The positive discrimination is still enforced, but it will not be much effective in the future.

Q: There was less international monitoring in this General Election than the previous elections. Why?

A: Whatever the reason, it was not justifiable. It is quite appropriate to monitor the elections. It was inadequate monitoring in the past, for instance in the presidential election. The domestic monitoring mecha-

nisms were not strengthened and were even weakened. Weak monitoring has prepared the ground for extensive fraud. With the falling interest in Afghanistan, their interest in election results is also waning.

Q: Afghanistan is said to have a population of 30 million, 12 million of whom are eligible to vote. Of the three million votes, a large portion has been annulled. How legitimate will such a parliament be?

A: Unfortunately, it is the international support that legitimises the political trends in our country. Some authorities expressed their optimism the day after the election, praised the people's courage, lauded the Election Commission's work and the Commission forecast a turnout in excess of 40 per cent. The support of the international community for the final result of the election is one element of legitimacy. However, the second element, i.e. the people's vote, trust and participation, is open to serious doubt.

Q: What are the lessons for future elections?

A: We have to review all the election mechanisms and the Election Law as well as the weaknesses, management problems etc. The election campaigning and the large number of candidates is a serious problem. You have surely heard that some candidates spent several million dollars on their campaign; there is no candidate who has spent less than 50,000 dollars. This can throw into question the parliament's legitimacy. There are some people who have purchased votes, 5,000 Afghani per vote. That will also question the election's health.

Q: What are the deficiencies of the Election Law that have to be reviewed? What are the serious challenges?

A: There is the question of unbridled election campaigning and predicting monitoring mechanisms, which have not been provided for in the law. The financial sources of the candidates should be clarified. This has to be foreseen in the law.

There is a two-month interval between the publication of the initial results and the final results. This has to be reduced. That is not the case anywhere in the world.

The role of parties should be reviewed in the Election Law. That will motivate the people to form parties and support them; thus, the ground will be prepared for party-based elections.

Q: There are two interpretations of the number of candidates. One deems it as a form of anarchy. The other deems it as a chance for promoting participation. What is your opinion?

A: This large number is unjustifiable, because it deprives the people of the chance to know them. When you see a book with 560 names in it in the capital, how can you choose the best among 560 people? That is unjustifiable. I agree that it is anarchy.

Mujahedin, Islam...

introduces the reasons for political disorder in the orient (despotism, theories of Western thinkers on oriental despotism including those of Marx, Wittfogel, Hegel and the new theories of political structure) and opts for the "Structuration Theory" of Anthony Giddens, the British sociologist.

He writes: "Human agents have used structures as an instrument of domination in the past and the likewise structures have dominated the agents." The social structure of tribalism has remained unchanged throughout the centuries and has consolidated the despotic systems. The writer refers to the Constitutional movement as a "sparkle of hope", which could have changed that structure, but didn't because it took inspiration from external Constitutional movements.

According to Mr. Binesh, "The conflict between the old and the new, between tradition and modernity, in Afghanistan in the wake of the Constitutional movement was formal; and it caused a century of confrontation, in the last century. The traditionalists viewed modernism as a cancerous tumour and insisted on uprooting it. The modernists viewed the traditions and the pertaining values as cause of backwardness and disorder and insisted on eradicating them.

In other words, the writer believes the wars of the past century in Afghanistan were between the two traditionalist and modernist factions, which we notice again as a conflict between the pro-West and anti-West factions today.

In his opinion, both sides are in the wrong. The writer offers "self-awareness" as a solution to the problem. It is possible to correct the two extremist viewpoints prevailing in the society, traditionalism and modernism, which stir crisis and disorder, through confidence building and rationalism and prepare the society for accepting appropriate beliefs.

A critique of Parliament...

the newness of parliament in Afghanistan and reduction of standards of democracy to war conditions in Afghanistan. They do have an impact, but we aim to ask a few simple questions: Do we need much practice to walk toward the most basic rights of the people? How many parliaments should we experience to learn that freedom, national sovereignty, equality and justice are foundations of a democratic popular system?

1. Evaluation of parliament's performance in the three fields of legislation, monitoring and representation

Many participants believed the parliament had been weak in monitoring and representation and blamed it on such factors as the lack of familiarity of MPs with principles and duties arising from representation, government's lack of cooperation with parliament in regard to monitoring and ethnic and tribal behaviours. A number of participating MPs deemed the parliament to have been one of the most prolific parliaments in the region, but most laws indeed concerned administrative legislation or rules of procedures. Besides, certain controversial laws, e.g. the Amnesty Law and the Law for Personal Status of the Shiites

were passed by the parliament; many citizens believed those laws to be unjust and undemocratic and considered them to be reasons for inefficiency of the parliament.

2. Lack of clarity about basic lines of national interests

This topic was mainly raised by younger candidates and citizens. They argued that the parliament had been unable to define and formulate the national interests, both on the domestic and foreign diplomacy levels, in the past five years owing to ethnicity-centred trends. Thus, parliament had functioned in favour of ethnic interests and not national interests. Instead of contemplating the macro interests of the country, parliament became a ground for conflict between the legislature and the government, where they missed the possibility of a constructive interaction and, at best, tried to win ministerial portfolios for different ethnic groups.

3. Transitional justice

This was one of the most heated and controversial topics during the meetings. Many participants were of the belief that dealing with transitional justice was one of the principles of transition to democracy. They asked: How would it be possible to leave the ruins of 30 years of war behind and not deal with the wounds? How would it be possible to build a future without recognising the past? They asked the MPs of the first parliament: How could the parliament pass a law that would offer forgiveness for the blood of no less than two million people without asking a single question? Why do the government and the parliament, as representatives of the people, make it more difficult and indeed impossible for the people to achieve their rights rather than facilitate access to justice for them? The most important answers, in particular provided by the participating MPs who were seeking re-election, were as follows:

- The government has no political will to fulfil transitional justice.
- The Amnesty Law was approved as a result of in-fighting in parliament and political deals between the groups.
- It is not possible to take any practical action so long as ethnic-sensitive issues have not been recognised. The human rights violation suspects are still heroes of their ethnic communities.
- Transitional justice does not concern only 30 years of war. Many people and ethnic communities have been victims in this country for more than 300 years.
- The government has a responsibility to prepare the ground for fulfilment of transitional justice based on the detailed report of the Afghanistan Independent Human Rights Commission, "Voice of the People for Justice", in which more than 70% of the interviewees demanded justice.
- The government is promoting a culture of impunity through the passage of laws such as the Amnesty Law and failure to prosecute the crimes of the past

4. Presence of foreign forces and American prisons in Afghanistan

Ninety percent of the participants of meetings deemed the presence of foreign forces in Afghanistan, sanctioned by a resolution of the UN Security Council, to be a violation of national sovereignty and independence. Although many of them believed that the presence of those forces had

brought about the present fragile security, the arbitrary and independent performance of those forces was focus of strong criticism. Their failure to coordinate with the government of Afghanistan and its forces in many military operations and their lack of accountability for the killing of civilians, the unknown length of their presence, expansion of insecurity despite their presence, and rumours about their secret talks with armed opposition groups were some of the topics discussed at length. A number of the candidates were of the opinion that the military expedition and presence of international military forces in Afghanistan had not taken place with the permission of the government; hence, we could not expect coordination from them now. Some others believed that those forces must respect the national sovereignty of Afghanistan and the government must persuade them to coordinate their military operations with its forces.

5. Talks with the Taliban

For many citizens, the talk of negotiations with the Taliban, which the government has been raising for the past two years, is a sign of the government's weakness in dealing with them. Although all candidates and citizens regarded peace to be one of their goals and wishes, they did not think the government's approach to it was clear, transparent or efficient. In their opinion, it is not possible to

resolve a problem of this magnitude and significance by holding a Peace Council of ethnic elders, local power wielders, representatives of provincial councils and parliament. The first two groups do not represent the people. The third and fourth groups have been elected by the people with a specific mandate for their duties and responsibilities.

Two maximum and minimum solutions were proposed for this purpose:

1) A referendum should be held to ask for people's opinion on talks with the Taliban and the armed opposition groups; 2) The government should present negotiations and negotiations strategies plans to the parliament and have them discussed.

6. Conditions of women in society and their presence in parliament

Women's rights were discussed very little. Neither the issue existed in the programme of many candidates, nor did the citizens ask major relevant questions. One of the candidates argued that the positive discrimination in favour of women and their 25% quota in parliament was an achievement for them. Some others believed, however, that the women's presence in parliament had not been efficient and had not influenced women's general conditions; it had mainly been misused by the government and the international community. The women MPs had not been able to stop passage of misogynist laws, nor had they made any proposals or offered any plans to have fair and equality-based law passed. A number of female parliamentary candidates, who were MPs in the outgoing parliament, blamed the failure of women to deal with women's rights on the strongly patriarchal, unequal conditions in parliament, where

ethnic and lingual interests prevailed.

7. Religious and ethnic minorities

Marginalisation of the Hindu minority from the social, cultural and political spheres, in particular since the incumbency of the provisional governments, was annoying to them. This is how one Hindu candidate expressed his discontent: In my opinion, one who erases us from the page with an eraser is the same as the one who kills us.

Other topics and issues that were raised during the meetings included: the need to recognise ethnic and lingual-sensitive issues, absence of pervasive political parties, killing of civilians, parliament's performance in regard to vote of confidence for the proposed ministers and government building.

Along with all those issues, citizens and candidates were expected to discuss also ways and plans for combating illiteracy, the low quality of educational system, the need to conduct an accurate population census, reform or annulment of discriminatory laws, parliament's inattentiveness to women and humiliation of women MPs in the House, the Personal Status law etc. Unfortunately, those topics were either not on the priorities of the participants or there was not enough time to raise them.

To conclude, each of the above issues surely requires contemplation, thinking, root-finding, presentation of specific plans and projects. However, the citizens of Afghanistan seem to have identified properly the fundamental problems of their society.



Fair and transparent ...

closed down for security reasons, according to the officials. However, some of those stations are located at secure and no-war zones.

FIDH calls upon the Government of Afghanistan to ensure a healthy, transparent and fair electoral process and guarantee the security of all candidates, especially female candidates, who have faced continuous threats and intimidation during the electoral process. In addition, the Election Commission and the Election Complaints Commission have a responsibility to investigate any reports or complaints on disturbances caused by some of the candidates and local chiefs in the election procedure, and take legal measures while informing the public accordingly. Furthermore, candidates must be given the opportunity to fully monitor the vote counting.

FIDH draws the attention of all parties and stakeholders to the attacks of the armed opposition groups against the candidates, their supporters and the Election Commission officials. These attacks illustrate the serious opposition of the Taliban groups to the Constitution, the rule of law and the people of Afghanistan. FIDH notes that as long as they have not laid down their arms and joined the political process, negotiations with them remain questionable.

FIDH calls upon the international community, in particular the UN bodies and UNAMA, as well as donors of Afghanistan to closely monitor and contribute to the holding of transparent and fair elections in Afghanistan. "The role of the international community is more than crucial. Efforts to establish complete transparency and to hold healthy elections are the first step, but more is needed in order to promote democracy in Afghanistan and guarantee the rule of law. The authorities should combat corruption, bring to justice the war criminals as soon as possible and provide access to justice for victims of gross violations of human rights. Impunity must not prevail in Afghanistan, as it will seriously compromise the foundations of peace and democracy," said Souhayr Belhassen, FIDH President.

From illiteracy to war...

dominance of politics over other spheres, militarisation of the society and the allocation of economic resources to military affairs, insecurity and interruptions (with schools being opened one day and closed the next day), absence of a strategic management and cultural underdevelopment were factors that undermined education.

In his opinion, Afghanistan faced a quantitative and qualitative decline of education under the Mujahedin: Quantitatively, the greatest harm was inflicted on the universities, schools and other educational centres. Qualitatively, education reached a dead-end in content and ethics.

The peak of this crisis came under the Taliban. They struck the final blows at the frail body of education. Their first measure was to officially deprive by legislation half the people of the right to education. Mr. Moshtagh outlined the characteristics of the educational system under the Taliban as follows: 1) Lack of integrity. 2) Gender-based discrimination. Article 2 of the Taliban's Education Law stipulated: "Education is the equal right of all citizens of Afghanistan." However, Article 3 of the same law excluded the women. 3) Theologising the education in Afghanistan. 4) Anti-modernism in education had existed under the Mujahedin as well, but the Taliban brought full religious features to prevail in education. 5) Gender, ethnic and religious-based discrimination. 6) Revival of religious radicalism.

The overall goal of the Taliban in the field of education was to create an intellectual u-turn within the new generation so that it would not be concerned with intellectualism and modernism and handle everything fanatically.

In summing up the answers to the first question, the major reasons for backwardness of Afghanistan in the fields of literacy and education during the last century were: 1) Inattentiveness of various governments to education; 2) War and internal crises; 3) People's resistance to government-directed social reforms (from above); 4) Prevalence of ideology in education under the Mujahedin and the Taliban.

To eradicate illiteracy and improve the conditions of education, the speakers made the following suggestions: 1) Formulation of a national plan to combat illiteracy; 2) Extensive investment by the government and the donor countries in particular for the education of girls; 3) Popular mobilisation to prioritise education; 4) Reform the laws and compulsory education to the end of high school; 5) Creating cultural grounds; 6) Reforming educational quotas based on the culture of respect for human rights, citizenship rights, elimination of ethnic discrimination etc.

In conclusion, the participants asked the government to give top priority to the campaign against illiteracy and to make comprehensive plans for it through allocation of adequate budget.

We have always...

Peace Council in its early days have caused concern for the people and doubts among the women regarding the sense of responsibility of the Council and its dedication to the Constitution and the people's vote.

To guard the achievements of the past decade and to defend the rights and interests of the war-hit and suffering people, we feel obliged once more to raise the people's voice and to state the following issues and demands:

- In the absence of the elected and trusted representatives of the people, the Council mainly consists of the people who were perpetrators of war, insecurity and violation of human rights in our county and they are not in a capacity to mediate in and resolve conflicts;
- The presence of independent personalities, defenders of civil rights and worthy representatives of the people on the Council is remarkably weak and symbolic;
- Under the Constitution, initiatives such as the Peace Council may play only an advisory role and cannot function as institutions parallel to the National Parliament.
- There has been talk of giving political and economic concessions and "anything the Taliban demand" in the first discussions of the Council. The patriotic men and women of Afghanistan demand to know the content of this "anything". They demand implementation of justice and strongly condemn the lack of transparency in the process and giving concessions without directly engaging with the people;
- Women revived the lost honour of Afghanistan on the international level through their extensive political participation. The three branches of the state have a duty to safeguard the rights and achievements of the women and not deal with them.

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Open letter to ...

many years for the establishment and continuation of a democratic government in Afghanistan and we have paid a heavy price for it. In elections during the past decade, countless number of women walked many kilometers to reach the ballot boxes. Many women have been killed for their activities and their fight for equality. You and the ruling establishment of Afghanistan as the elected representatives of the people have a duty today to guard the people's rights. Not only must you do your utmost to provide the people with security, peace and welfare, but you must be accountable for events that question the rule of law and the three branches of power.

We still consider the Constitution as the symbol of our demands and ideals for realisation of justice and ask you to:

1. Take more serious measures to provide security nationwide and prevent the recurrence of such horrendous and inhuman actions;
2. Prevent the recognition of unwritten laws that question the legitimacy of the Constitution and the international obligations of the government of Afghanistan and promote traditional justice, the first victim of which is human rights of women;
3. With a view to three cases of stoning during your five years in office, make women's human rights the foundation of every negotiation and agreement with the armed opposition groups and the Taliban in particular;
4. Prevent the empowering of institutions parallel to Constitutional institutions;
5. Identify and prosecute the perpetrators and commanders of the recent atrocities.

We are waiting for your response and your firm and prompt action in this regard.

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Healthy & transparent..

during the elections. Creating hurdles against women voters and rigging the votes and the continued media propaganda against women by misogynist media may well disturb the procedure of a healthy and fair election and question its legitimacy.

In the final countdown before the election, there is not enough time to undertake fundamental reforms in the election procedure. Nevertheless, the Afghanistan Women's 50% Campaign deems it necessary to draw the attention of the government of Afghanistan and the international community to the following points to ensure that transparent and legitimate election take place:

1. The government of Afghanistan must do its best to hold a healthy, transparent and fair election and seriously counter any action against women candidates on the part of the local power holders, media, armed opposition and others.
2. The government of Afghanistan has a responsibility to protect the lives of voters and candidates throughout the country and to prevent any insecurity that would question the process of election and its results.
3. Serious deficiencies in the process of administration and organisation of the elections are causes of the crisis of legitimacy facing the government of Afghanistan and facilitate the criminal actions of the armed op-

position;

4. The Election Commission and the Election Complaints Commission have a responsibility to investigate the reports on disturbances and complaints of the candidates against wrongdoings in the election procedure, to take legal measures and to inform the public accordingly.

5. The government must take a serious attitude toward insulting media programmes that have been on the rise on the eve of the election and investigate women's complaints against those media as soon as possible.

6. The international community, the UN bodies and UNAMA in particular as well as the international supporters of the government of Afghanistan that initially justified their presence in this country in the name of saving and liberating the women of Afghanistan, must do their utmost for the holding of transparent and fair elections in Afghanistan and to avoid double standards. True elections are necessary for the establishment of democracy all over the world and Afghanistan is no exception. Therefore, efforts to establish complete transparency and to hold healthy elections are the first step needed to fulfill people's demands.

7. National and international observers monitoring the polling stations are required to inform the international community and the people of Afghanistan of the result of their observations and assessments and seek the prosecution of offenders.

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