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COMMISSION ON HUMAN RIGHTS
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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

Draft resolution submitted by the Chairperson

2002/... The situation of human rights in Afghanistan

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 for the protection of victims of war and the Additional Protocols thereto of 1977,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Geneva Convention relative to the Protection of Civilian Persons in

Time of War, of 12 August 1949, and International Labour Organization Conventions No. 100 on equal remuneration and No. 105 on the abolition of forced labour, and that it has signed the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling also all relevant resolutions of the General Assembly, as well as resolutions and presidential statements of the Security Council, decisions of the Economic and Social Council, its own resolutions and decisions and resolutions of the Commission on the Status of Women,

Recalling the resolution adopted by the Commission on the Status of Women on the situation of women and girls in Afghanistan,

Recalling Security Council resolutions 1296 (2000) of 19 April 2000 on the protection of civilians and 1379 (2001) of 20 November 2001 on children and armed conflict, and resolution 1325 (2000) of 31 October 2000 and the statement by the President of the Security Council of 31 October 2001 (S/PRST/2001/31) on women, peace and security,

Recalling also Security Council resolutions 1383 (2001) of 6 December 2001, 1386 (2001) of 20 December 2001 and 1401 of 28 March 2002,

Warmly welcoming the appointment by the Secretary-General of a special representative for Afghanistan and endorsing the approach outlined by the Special Representative of the Secretary-General to the Security Council at its 4414th meeting on 13 November 2001,

Warmly welcoming also the conclusion of the Bonn Agreement of 5 December 2001 on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions, which promotes national reconciliation, lasting peace and respect for human rights, and stressing the important role entrusted to the United Nations in this new framework,

Affirming the essential role of the United Nations in supporting the action of the Interim Authority, leading to the formation of a government, through the Loya Jirga, both of which:

(a) Should be gender-sensitive, broad-based, multi-ethnic, fully representative of all Afghans, and committed to peace and friendship with all countries, including its neighbours,

(b) Should respect the human rights of all Afghans, without distinction of any kind such as of gender, ethnicity or religion;

(c) Should facilitate the urgent delivery of humanitarian assistance and the voluntary and orderly return in safety and dignity of refugees and internally displaced persons, when the situation permits;

(d) Should respect Afghanistan's international obligations, including by cooperating fully in international efforts to combat illicit drug trafficking within and from Afghanistan,

Expressing grave concern:

(a) At recent reports of human rights abuses in some areas which still lack effective law enforcement mechanisms;

(b) At the severity of the humanitarian crisis still affecting the country,

Recognizing that the accountability of perpetrators, including their accomplices, for grave human rights violations and violations of international humanitarian law is one of the central elements of any effective remedy for victims of human rights violations and a key factor in ensuring a fair and equitable justice system and, ultimately, reconciliation and stability within a State,

Stressing the importance of ensuring the full and effective participation, and integration, of women in all decision-making processes regarding the future of Afghanistan, including, in particular, in all national bodies envisaged in the Bonn Agreement,

Stressing also the important contribution to the promotion and protection of human rights of an early start to the economic reconstruction and development process, and the need to ensure that it takes place in a coordinated and non-discriminatory manner,

1. *Welcomes* the interim report of the Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/2002/43) and the report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Afghanistan (E/CN.4/2002/68/Add. 4) and the conclusions and recommendations contained therein;

2. *Warmly welcomes* the report of the Secretary-General on the situation in Afghanistan, and its implications for international peace and security (A/56/875-S/2002/1278), in which a new structure is proposed for the United Nations Assistance Mission in Afghanistan;

3. *Also warmly welcomes* the important role assigned to the United Nations in Annex II to the Bonn Agreement, in particular that of investigating human rights violations and, where necessary, recommending corrective action, and of developing and implementing a programme of human rights education to promote understanding of and respect for human rights;

4. *Strongly encourages* the early establishment, with the assistance of the United Nations, of the independent human rights commission, foreseen in the Bonn Agreement;

5. *Invites* the relevant bodies of the United Nations, in particular the Office of the United Nations High Commissioner for Human Rights, within the framework of United Nations Assistance Mission in Afghanistan;

(a) To assist in the full implementation of the human rights provisions of the Bonn Agreement, including through the establishment of an active human rights component in Afghanistan;

(b) To develop a national strategy on human rights addressing, in particular, issues of accountability, transitional justice, a national programme for human rights education, women's rights - as emphasized at the National Human Rights Workshop held in Kabul on 9 March 2002 - and the rights of the child, and to consider establishing a national commission or ombudsperson for children;

(c) To provide close coordination with the independent human rights commission foreseen in the Bonn Agreement;

6. *Commends* the steps already taken by the Interim Authority to promote and protect human rights, in order to guarantee, in particular, the rights of children, women and minorities, the rights to education, to employment and to freedom of religion and expression, the recent appointment of special commissions responsible for investigating the most recent human rights violations and abuses and the holding of the National Human Rights Workshop in Kabul, and urges the Interim Authority and its successors to continue efforts in this respect;

7. *Notes* with deep concern:

(a) Recent cases of arbitrary arrest and detention and of summary trials in some areas of the country;

(b) Recent abuses and violations of the human rights of women and girls, including rape and other forms of sexual violence, abductions and kidnappings, as well as forced marriage and trafficking;

(c) Reports of human rights abuses directed, in particular, against certain ethnic groups where they are a minority, in areas still lacking rule of law and its enforcement machinery;

8. *Calls upon* the Interim Authority, its successors and all Afghan groups, in application of the Bonn Agreement:

- (a) To respect fully all human rights and fundamental freedoms without discrimination of any kind, including gender, ethnicity or religion, in accordance with international law;
- (b) To adhere strictly to their obligations under human rights instruments and international humanitarian law, inter alia in relation to the treatment of prisoners;
- (c) To take all necessary measures for the demobilization and social reintegration of war-affected children;
- (d) To facilitate the provision of efficient and effective remedies to the victims of grave violations and abuses of human rights and of international humanitarian law and to bring the perpetrators to justice, in accordance with international standards;
- (e) To treat all suspects and convicted or detained persons in accordance with relevant international law and to refrain from arbitrary detention in violation of international law;
- (f) To facilitate the voluntary and orderly return and reintegration of Afghan refugees and internally displaced persons;

9. *Calls upon* the Interim Authority and its successors to initiate rapid demobilization and disarmament and to facilitate the reintegration of adults who have participated in or otherwise been affected by war into society and work;

10. *Welcomes* the Report of the Secretary-General to the Commission on the Status of Women on discrimination against women and girls in Afghanistan (E/CN.6/2002/5);

11. *Welcomes* the establishment of the Ministry of Women's Affairs and encourages the Interim Authority and its successors to provide the necessary support and resources to enable the Ministry to function effectively;

12. *Commends* the action already taken by the Interim Authority to ensure the reopening of schools for girls and the return of women to their jobs;

13. *Calls upon* the Interim Authority and its successors to give high priority to the ratification of the Convention on the Elimination of All Forms of Discrimination against Women and to respect fully the human rights and fundamental freedoms of women and girls in accordance with international human rights law, to bring to an end, without delay, all violations of the human rights of women and girls, and to take urgent measures to ensure:

(a) The repeal of any legislative and other measures in place that discriminate against women and girls and those that impede the realization of all their human rights and fundamental freedoms;

(b) The full, equal and effective participation of women in civil, cultural, economic, political and social life throughout the country at all levels;

(c) Respect for the equal right of women to work and their reintegration into employment in all segments and at all levels of Afghan society;

(d) The equal right of women and girls to education without discrimination, the reopening of schools throughout the country and the admission of women and girls to all levels of education;

(e) Respect for the equal right of women and girls to personal physical security, and that those responsible for physical attacks on women are brought to justice;

(f) Respect for the freedom of movement of women and girls;

(g) Respect for the effective and equal access of women and girls to the facilities necessary to protect their rights to achieve the highest attainable standard of physical and mental health;

14. *Appeals* to Member States, organizations and programmes of the United Nations system, specialized agencies and other international organizations:

(a) To ensure that all United Nations operations integrate a gender perspective, including in the selection of personnel for management, and that women will benefit equally with men from such programmes;

(b) To implement the recommendations of the inter-agency gender mission to Afghanistan under the leadership of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women and to provide specific programmes for all Afghan women and girls to address their special needs and promote their human rights;

(c) To support structures of civil society active in the field of human rights, in particular women's rights;

15. *Notes with appreciation* that the security situation in Kabul has greatly improved and the useful role played by the International Security Assistance Force to this end, while noting with concern that insecurity persists elsewhere in the country;

16. *Strongly condemns:*

(a) The past widespread violations and abuses of human rights and international humanitarian law in Afghanistan, by the Taliban and others, including the right to life, liberty and security of person, freedom from torture and from other forms of cruel, inhuman or degrading treatment or punishment, freedom of opinion, expression, religion, association and movement, and the recruitment and use of children in hostilities, contrary to international standards;

(b) The civilian massacres involving reprisal killings and summary executions following, in recent years, the taking and retaking of particular areas by warring parties;

(c) The killings of foreign correspondents which have occurred in Afghanistan since November 2001;

(d) The past gross violations of the human rights of women and girls, including all forms of discrimination against them;

(e) The attacks on, and the killings of, United Nations personnel and other humanitarian personnel in territories of Afghanistan;

(f) The killings of Iranian diplomats and the correspondents of the Islamic Republic News Agency by the Taliban in 1998;

17. *Warmly welcomes* the intention of the Interim Authority to establish a “Truth Commission” in order to investigate human rights violations and atrocities that have been committed in Afghanistan and calls upon the international community, as appropriate, and all Afghan groups to cooperate with it with a view to bringing those responsible, wherever they may be, to justice;

18. *Notes* with deep concern the existence of millions of Afghan refugees, and that despite the accelerating return of many, there is evidence of a new outflow of refugees from certain ethnic groups, where they are a minority, fleeing reprisals;

19. *Recognizes* the huge burden shouldered by neighbouring countries, especially the Islamic Republic of Iran and Pakistan, appreciates the efforts undertaken in these host countries to ease the plight of Afghan refugees and encourages them to continue cooperating with the Office of the United Nations High Commissioner for Refugees towards this end;

20. *Calls upon* the Office of the United Nations High Commissioner for Refugees to continue to provide protection and assistance to refugees and to continue implementing its plan

for the voluntary and orderly repatriation of refugees, and also appeals to the international community to provide additional assistance for a durable solution to this problem;

21. *Underlines* the importance of the fulfilment of obligations under international law, including human rights law, with regard to refugees and asylum-seekers;

22. *Expresses* its concern at the still large number of internally displaced persons in Afghanistan and their situation, and encourages continued coordinated efforts to meet their protection and assistance needs in Afghanistan;

23. *Urges* all States to respect the sovereignty, independence, territorial integrity and national unity of Afghanistan, to refrain from interfering in its internal affairs and to end any support for armed groups in Afghanistan from any quarter;

24. *Urges* the Interim Authority, its successors and all Afghan groups, to ensure the safety, security and free movement of all diplomatic personnel, United Nations and associated personnel, as well as of the personnel of humanitarian and non-governmental organizations, and their safe and unimpeded access to all affected populations, and to guarantee the access of all Afghans to aid deliveries, education and health facilities without discrimination of any kind, including discrimination on the grounds of gender, ethnicity or religion;

25. *Urges* the Interim Authority, its successors and all Afghan groups to cooperate with the United Nations and with the international community in order to defend the cultural heritage of Afghanistan by safeguarding its historic, cultural and religious sites in order to preserve them for future generations;

26. *Notes with appreciation* the activities carried out by the United Nations system, international and non-governmental organizations and the International Committee of the Red Cross throughout the territory of Afghanistan;

27. *Calls upon* the Interim Authority, its successors and all Afghan groups to cooperate fully with the Special Rapporteur on the situation of human rights in Afghanistan and all other special rapporteurs who request invitations to visit Afghanistan, and to facilitate their access to all sectors of society and to all parts of the country;

28. *Requests* the Secretary-General:

(a) To give all necessary assistance to the Special Rapporteur;

(b) To ensure the integration of a human rights capacity in the context of United Nations activities in Afghanistan, in consultation with the United Nations High Commissioner for Human Rights, and to ensure that the promotion and protection of human

rights will be central to the purposes and functions of United Nations Assistance Mission in Afghanistan, and that the Mission is fully equipped to implement effectively its human rights responsibilities under the terms of the Bonn Agreement;

(c) To include a child protection adviser in the Mission;

29. *Invites* the Special Rapporteur to provide updates, as appropriate, of his reports on the situation of human rights in Afghanistan to the General Assembly and the Commission on Human Rights;

30. *Decides*:

(a) To extend the mandate of the Special Rapporteur for one year and requests the Special Rapporteur to report on the situation of human rights in Afghanistan to the General Assembly at its fifty-seventh session and to the Commission on Human Rights at its fifty-ninth session and to provide updates, as appropriate;

(b) To continue its consideration of the situation of human rights in Afghanistan at its fifty-ninth session.
