

Independent Expert on Human Rights in Afghanistan Press Conference

October 28, 2004

Good afternoon. This is a press conference discussion on the report that was presented today to the 3rd Committee, it is a report of the Independent Expert on Human Rights in Afghanistan, Professor M. Cherif Bassiouni. And I am here to give a press briefing on that report as well as to answer any questions, um, that may arise. Um, first, um the background. The Commission on Human Rights have called for the appointment of an independent expert for almost a year and a half and it took almost a year for the selection of an independent expert, the appointment was made after the approval of the Secretary-General in April of 2004, which, ah, left me very little time, ah between April and August to prepare the report which was discussed by the 3rd Committee today. However, insofar as I had been working in Afghanistan for approximately a year earlier in a different capacity, I had been responsible for supervising a program for the training of 450 Afghani judges, as a result of that I had quite a bit of knowledge of the country and some of the problems involved and had many contacts in the government and in the judiciary and this allowed me to in a sense, be able to produce the report that was submitted to the 3rd Committee today. I think what is important is to understand that the situation in Afghanistan has to be examined contextually. This is a country that has gone through extensive conflict for some twenty-three years. Foreign invasion, internal conflict, regime change. Um, the country was left devastated virtually, literally, a million and a half people died, ah seven million people became refugees in neighboring countries and elsewhere. The economy was shattered, um, as a result the problems of the country are many and it would be unrealistic to think that a new government would be able to effectuate all of these changes in a relatively short period of time. Um, the report I presented is, as I said it based on research and consultation for the period of my appointment and prior to that and it covered a variety of issues including past and present violations committed by state and non-state actors as a result of the war, as a result of the internal conflict and the continuation of the regime change situation there is a serious issue of security in Afghanistan. Um the government is of course trying to deal with it, the problem is um, as a result of the prior situation there is still a large number of armed individuals who are part of groups, um that are, whose allegiance is not to the central government, but whose allegiance is to what are

called war lords, local commanders, they have discovered the very lucrative cultivation of the poppy as a way of funding themselves and so the balance of power there is a very complex one. Um you have approximately 100,000 men who are armed and who are under the control of different personalities that are called war lords or local commanders, not under the control of the central government, the income for the cultivation of the poppy in 2004 is estimated at one billion, 300 million dollars. Contrast that with the Afghan national army which is about 10,000 soldiers, the entire government's budget is 500 million, of which the government only has the capacity of raising 200 million, here you have one group with a potential income of a billion three and another group with the capacity of only \$200 million and this extraordinary diversity and imbalance in the military power. That of course impacts significantly on questions on the rule of law and how the rule of law is going to be observed.

As a result of that the enforcement of the rule of law is more in the hands of local leaders than it is in the central government and it has created a series of secondary problems, so that its not only the opium cultivation, the war lords, the local commanders and the linkage between them, but it creates secondary forms of criminality, enhancing for example kidnapping of young children that are then smuggled in many cases out of the country to the carpet industry. We don't know what else there is in terms of secondary problems but we can see with respect to the refugees who come back to Afghanistan, another problem of they're being internally displaced once again because they come to areas which are controlled by other people who have the weapons, who have taken over their houses, who have taken over their fields, they have no other place to go. Many of them find themselves forced into the cultivation of the poppy which is a very labor intensive type of a crop um, and so in addition to having internally displaced persons who are former refugees you have the abuse of their rights in that they no longer have access to their properties, their houses, their lands, but who are also maybe forced into other illegal activities as well. So the issues of land disputes and housing disputes with respect to the seven million refugees is quite a serious one.

Another big challenge is of course the education. Education has to be totally reformed and the curriculum has to be revisited and the materials have to be revisited, I mean you still go to school

and the children learning math are saying one Kalashnikov plus one Kalashnikov makes how many Kalashnikovs? So, you know there is a better way of teaching one plus one makes two.

As I said in my report, there are a number of things that the government can do immediately. We are fortunate in that the government accepted the recommendation of this independent expert to free the prisoners of Shiberghan prison originally, who were transferred to Pol-e Charkhi. We are speaking of 849 persons who had been detained for almost 30 months, um, there is a lot more behind that story. Apparently, these were part of 4,000 detainees who had surrendered to the northern alliance and special forces working with them in, between September and November 2001. There are allegations that a number of them died being transported in metal containers of suffocation, there are others who apparently were killed in the course of what appears to be an uprising at Shiberghan Prison, but pictures of which I have seen show a whole field of people dead since no investigation has taken place its hard to tell whether these people were in fact resisting or were killed without having weapons at their side. So, there is a great deal to still be examined in terms of post conflict justice evaluation of the crimes committed during the prior conflict and certainly during the conflict for the regime change in the Taliban.

Lastly, another aspect that my report raised is the fact that Afghanistan is a sovereign country, it has a government and it has Foreign Coalition Forces that are in the country. Um. The legal status of these Foreign Coalition Forces is not clearly established. There is no Status of Forces Agreement between the Coalition Forces and the government so it seems that these Coalition forces are working sort of entirely independent of the sovereignty of the government. We do know that they have detention facilities in Bagram, Kandahar and at least fourteen military bases which are outside the ability of the ICRC to inspect them and that no international inspection has been made of these facilities. We do hear allegations of people who have been tortured, abused or mistreated but in the absence of inspection it is going to be difficult to ascertain. As I indicated in my report, de facto, this independent expert has been prevented from gaining access by of number of bureaucratic shuffles such as you should apply here and apply there, and go here and go there and it was quite clear that the intention of providing access to these facilities has not been made. The report identifies a number of specific issues and the reason I focus on some of

these issues is because something can be done about them and I will give you two very simple examples.

Um, I have discovered to my utter surprise that there are only two prison facilities for women. Um. One is in Kabul and it houses forty women and the other is in Kandahar. I went to visit the prison in Kabul to my great surprise I found over a hundred children because the mothers who were confined there, the children were kicked out of the house by the father so the mothers had no place to take the children, so the mothers took the children to the prisons. So now you have an entire group of young kids who are going to grow up in a prison, but they are living in extremely cramped facilities. Now, as shocking as this may appear to you, nobody feeds these children. The mothers have to share their food rations with their children. Ah, and it is totally incomprehensible that nobody is paying attention to such a basic, obvious and easy to resolve human rights problem. Another matter which I discovered and I brought to the attention of President Karzhi and the government is that there are no prison for women in what is called “the districts” and there are no judges operating in the districts, other than tribal judges. The tribal judges decide on convicting women basically without any valid legal process. As I was able to find out, most of the women convicted by the tribal judges are either convicted because they are taking the blame for a male member of the family who committed the crime, husband, brother father, so that the male member of the family does not go to jail, she then goes to jail on his behalf. But of course, as she confesses and there is no legal process to ascertain the truth of it, she is then convicted, but there are no prison facilities. So where do they go? They are assigned for their prison term to go to the house of the tribal chief. The tribal chief literally uses these women as slaves, in every respect. The fathers do not want to take care of the children, the children are thrown away, the mother gets the children and begs the tribal chief to have her keep the children, so now she and the children really become the slaves of that household in which they are confined. Add to that that many of these so-called convictions are for social customs which are not in the criminal code, so that a husband can go and falsely accuse the wife of seeing or talking in a compromising position with a man so she goes, she is convicted, she goes to the tribal chief and that means that the tribal chief or anybody else in his household can go and abuse her, physically, sexually and so on. So, um another similar practice is when a family owes blood money to another family or owes debt to another family, they pay it off by giving a young girl in

marriage to that other family. So now imagine the situation of one family who feels that the death of one of their members is do to the other family and receives as equivalent to blood money compensation, this young twelve year old girl officially in marriage to one of their boys, but she is the girl whose being paid off. (16:37) And in my judgment she is nothing more than a slave. And I brought this up to the attention of President Karzai who agreed with me that it was deplorable, however, there is no law that prohibits it so I urged him and his government to pass a law to prohibit that as a first step. This is something that can be solved, I think this is something that the law should look into very seriously, very rapidly. That there should be a public campaign to educate the public in Afghanistan so these things do not continue to go on.

The same thing is for the kidnapping and trafficking of young children. This is a rampant practice, its off the radar screen of the police, the police does not even record these occurrences, it's something I brought to the attention of the government and urged them to sensitize the police and to make that a priority, to engage in a public education campaign on television and radio to inform the public of it. So my conclusion here, and be open to your question, there are two sets of issues, there is some broader, bigger issues that deal with the overall security, that deal with the drug lords, the drug trafficking, with establishing a banking system, all of which is important to create the proper climate for economic development and for establishing the rule of law. And there are a number of small issues which the government can tackle and deal with immediately and so I'll end there and open to your questions.

Q: You were mentioning about the enforced work of women who have to pay a debt and the tribal chief gets the service and the women or the young girl is given as compensation for the los of somebody else, you mentioned refugee children who are abducted and taken into the carpet business..

MCB: Yes.

Q: that sounds like enforced labor, which is a form of slavery...

MCB: Yes

Q: and you also say the forced cultivation of poppy, which is also a form of slavery. Do you call that by that name in your report?

MCB: Um, with respect to the women and the children, the answer is yes. With respect to those who are forced into working in the field, no, simply because I have not been able to get enough first hand data or information to find out if they have the ability to pull out of it, in other words they may be forced in the sense of coerced economic circumstances because they don't have anything else but the question is can they pull out. If they can't pull out then it's form of slavery, if they can pull out then it isn't. I hope to be able to do that in my second report.

Q: You mentioned that there are children who are with the mothers in prison camps. There are a lot of NGOs, or there are a few lets put it this way, and I am not going to mention any but, that have to do with children, have any of them contacted you in terms of feeding these children whose mother's have to share a little bit of food with them...

MCB: Actually, I've contacted them. I had several meetings with all of the local NGOs, as well as international organizations working there and urged them to do something about it.

Q: Training of the police to sensitize regarding the abduction of children, how is that going along?

MCB: Ah, it hasn't started. I urged President Karzai to have the Minister of Interior issue a general directive to the police to be watchful of that. Um there is a sort of a reaction on that part of many government leaders to that. They feel this is exaggerated information, that it doesn't really take place that often that um so, its sort of a, what should I say, I think it's a, its something that's abhorrent to most people in that society and there is a bit of a denial that its taking place and just to illustrate the point but its an illustration that is anecdotal, in the week in which I was there and proceeding my visit with the President and Cabinet officers, two of the UN staff working with me had children kidnapped from among their staff. And a driver who was a local person said that an attempted kidnap on his daughter was made. So, it's anecdotal but think of

the coincidental nature, within a one-week period within a small group of people, that three such incidents occurred. The problem is the police does not take the reports in so there are no statistics on it. When you go and talk to the government people, they say well there are no reports on it. It's the chicken or the egg. You don't sensitize the police; they don't write the reports. The general public doesn't go to the police because they know the police won't write the reports.

Q: Mr. Rapporteur, It's you and how many people in your staff for this *** country?

MCB: Well, this is another one of those great things about the UN, they give you a job which is volunteer so it's, I think it's important to know that, those of us that do that are not compensated and we have a UN staff person to help us, but we have to find our own resources to do the work and fortunately because I had been in Afghanistan for a year before that, on the training of the judges and had a staff at my institute at DePaul University, I was able to maximize the resources and able to get as many facts as possible but anyone without the resources, knowledge of the country and access that I had would not have been able to achieve the mission. Thank you.

Yes sir.

Q: * Because your number one recommendation includes beefing up security substantially...

MCB: correct.

Q:...does that then, does that assume that you are not a big fan of these provincial reconstruction teams, which seem to be the way that any countries that are contributing right now seem to be going towards these, they seem to be more comfortable, they have reported some success anecdotally, but what is your view on these, that approach to security ?

MCB: Well, I think if you, if you look at it in a macro fashion and you say look at the ethnic divisions of the country on a map, look at the tribal divisions within the ethnic divisions, look at the concentration of man power under arms in the control or under the control of a known person whom, for lack of a better term, we can call a war leader or a war leader who has been co-opted into legitimacy and who has suddenly become a provincial governor or local commanders, it's

quite clear that um unless the central government is going to have the power to enforce what it wants to do, yes you are going to have small reconstruction teams have small success stories. So, I suppose the difference in approach is whether or not you think that you can have many small successes which incrementally and in the course of time, will amount to the reduction and eventual elimination of the power of these war lords and former war lords or do you think that now the time is the most critical for the Coalition Forces and the government forces to disarm these groups and do it once and for all. I believe that the two are not necessarily incompatible that you can pursue both strategies because you are not going to have the same level of success in the different provinces.

Q: Were you encouraged at all by the relative lack of incidents during the elections earlier this month?

MCB: I was but think that in a sense that was also predictable, that the strategy that has been pursued by the government as well as by those external forces supporting the government has been to co-opt these war lords into political legitimacy and I think it worked so far. Now, whether these co-opted war lords are now going to agree to be subject to the law and (27:00) work within the law is something that only time can tell.

Q: Finally, and the impact again on human rights is that you're seeing these war lords and local commanders as sort of influencing the day-to-day life of people in lots of little areas throughout the country, in terms of intimidation, that type of thing...

MCB: They are in control of everyday life. Its more than just intimidation. They are in control. They are in control of who gets the land, they are in control of who gets the water and who cultivates what and who gets back his old house and who gets back his old plot. With one reservation that is very important which is, it's not uniform across the country. The regions will differ and so where you have a region that is very homogenous in terms of ethnic belonging, in terms of tribal belonging, a region that has not suffered from a lot of refugees you may find much less of that. But in other regions you may find more. So it would be unfair to sort of paint the whole country with broad brush.

Yes sir.

Q: It seems that, from what I read in your report that if the Bush administration, or the CPA, does not taken a more activist or hands on approach to the development of the Afghani government, that the Karzai government risks being overwhelmed by factors on the ground and being marginalized by all war lords and Kabul becomes a city-state in and of itself. I'm just wondering, is that a correct interpretation, if in fact they allow things to progress the way they are going right now that its going to be a free-for-all in Afghanistan?

MCB: well, you know, predicting a worst case scenario is always easy to do, I would think that there are some positive developments that have taken place but there is something that most people really tend to over look and that is the people in Afghanistan are really tired of 23 years of war, they are really fed up with that situation, they really want to get back to normalcy, and so what is going to really effect the future of the country is going to be much less that pressure from the top as its going to be that the man from the bottom of people wanting changing, and wanting democracy, wanting rule of law, wanting human rights, that is going to be very difficult to sort of brush aside. So that's one factor and we can't really assess how strong that factor is going to be. The second is that the policy of co-optation may really work with some of these former war lords and you can't assess that, at sometime. The government is sometimes taking strong positions against certain war lords. Witness what happened in August, September in Herat where one of the war lords was removed from his position as provisional governor and yet he was probably one of the most successful provisional governors in terms of achieving reconstruction. So at this point I would say the danger that you mentioned is a possibility but I think there are many more positive factors that I am much more hopeful about than that. To me, the dangers I see more readily are the control of the economy by the drug cultivators, the increased level of corruption as a result of that and all of the socio, political, economic consequences of an economy which is driven by the proceeds of drug as opposed to legitimate production.

Q:**[what are some things the CPA can do] in order to mitigate those problems

MCB: Well, over there its not called the CPA, its the Coalition Forces are to the best of my knowledge, not involved in nation building. The Coalition Forces are there to chase Al-Qaeda, and that's about it. And if I had any advice for them, I would say, you know, why don't you help stabilize the country, help bring more security in the country and don't only look at Al Qaeda as your prime purpose there.

Q: Hasn't United States had taken upon itself to assist President Karzai in developing a functioning government?

MCB: Yes indeed. But that is being done through the US ambassador who is also the President's Permanent representative there and so you have the reconstruction effort is now administered in large part by USAID and by the State Department and by the ambassador who in his capacity as the representative of the President, deals directly with the White House. If there are any fears, the fears will be, I shouldn't say if there are any fears, there are fears that looking back at the practices of the last two years when the US government had provided significant aid to Afghanistan which was not expended. That's continuing. That's a problem. The money is there, the money has been allocated, its not being spent. Um and if it's going to be spent with the usual bureaucracy that we see things getting done with, we may not have a lot of, if you will, good outcome from the money that we'll be spending. So, I think that the key is to see if we can develop a more imaginative approach than the traditional US aid contract giving approach to American companies going and doing reconstruction work there.

Q: The facts that you are getting from Washington, perhaps they are going to modify or reevaluate their strategy in Afghanistan.

MCB: Nope. I think that what we have there is really multiple sources of decision making. DOD obviously calls the shot with respect to the Coalition Forces that are there, with respect to the American military bases that are there and that's totally on itself. Um, Ambassador Khalilzad is running the political and diplomatic effort, he has a very important role in the local politics, he has some role in the channeling of the funds but the contracts come out in accordance with USAID regulations and so you know you have RFPs that go out and proposals coming in and

contracts that are being given out to American companies and my fear is that looking at the past two years that that has not proven to be at all effective.

Q: So therefore, do you believe the administration needs to take responsibility for the slow progress, or perhaps the lack of progress, over the last two years?

MCB: well there is no doubt that the administration knows that it has had very slow progress over the last two years. In fact when Khalilzad was appointed ambassador with the additional title of special representative, one of the I think, press conferences or statements made was that he was going there with a billion dollars of funds that he was going to spend rapidly to increase economic development and so on, well very little of that has happened.

Q: But President Karzai, he has been to Washington many time, he had been there two, three, four times a year, he has had all of these extensive meetings on Capital Hill with the various US agencies, but from what you're telling me, is there is very little to show on the ground as a result of all these consultations with the United States.

MCB: Well I can tell you that, President Karzai, every time he comes to the United States repeats the same thing and urges the same thing and it doesn't happen. I mean, let me give you a simple example. Um, the United States could be in a very good position to say let's develop an integrated, comprehensive plan of training police, training prosecutors, training judges, setting up courts, training prison officials and building modern prisons so that you have an entire system done on a comprehensive plan. That's not done. So you have a little bit of training that is done by the Germans or by other Europeans on the police level, almost none done at the prison level, nobody is funding building of prisons. Italy has assumed the job of retraining the judges but nobody is doing anything for building courtrooms, nobody is doing anything for training administrative support personnel, so what you have is individual efforts totally disjointed, not part of a comprehensive plan, in which at least in the justice sector in the broader sense (37:28) from police, law enforcement to prisons, the United States is absent. And yet the United States can have a very significant role in it.

Q: ** Afghanistan, and my question from you would be instead of doing a conference for **, in terms of economic reconstruction, perhaps in your office have you ever considered a conference **to expose this?

MCB: Well my role as the United Nations Independent Expert is not to expose, it's a role of photographing reality and presenting the photographed reality to the United Nations and to the governments of the United Nations. It's up to these governments then to assume their responsibilities in taking the appropriate action and I think if you read my report you'll see that I do that and certainly point the finger and to a certain direction where some changes can be made and hopefully somebody will be listening.

Thank you.