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Towards a Political Settlement in Afghanistan: The Need to Protect Human Rights

On May 21, 1991, the Secretary General of the United Nations, Javier Perez de Cuellar, issued a public statement outlining in very broad terms the framework for a political settlement of the conflict in Afghanistan.¹ This statement reportedly reflects a consensus reached by the five countries involved in aiding various parties to that conflict: the United States, Pakistan, Saudi Arabia, and Iran, all of which have provided assistance to the Islamic resistance fighters known collectively as the *mujahidin* (defenders of Islam), and the Soviet Union, which has assisted the Afghan government of President Najibullah. The Secretary General's plan calls for a settlement based on an internationally assisted "transitional mechanism." This mechanism would enable the Afghans to hold "free and fair elections, in accord with Afghan traditions," accompanied by a cessation of hostilities and an end to military assistance to all Afghan parties by all external parties.

The Secretary General's statement noted that the purpose of the initiative was "to bring about an end to the suffering of the Afghan population." Much of that suffering resulted from violations of human rights and humanitarian law, and Asia Watch believes that any proposal to end the conflict must include strong safeguards for human rights. Many of the recent internationally-sponsored efforts to resolve regional conflicts, such as those in Nicaragua, El Salvador, Cambodia, Angola and Namibia, have produced accords which include provisions that may be applicable in Afghanistan as well.

Part I of this report sets the current initiative in political context; Part II lists the human rights provisions drawn from other regional accords that Asia Watch recommends be included in an Afghan settlement.

Part I: The Diplomacy

On April 14, 1988, after nearly ten years of civil war in Afghanistan,² the United States, the Soviet Union, Pakistan, and Afghanistan signed a set of accords in Geneva designed to resolve the conflict. That conflict, which had intensified after the entry of Soviet troops into

¹ See appendix for text of the statement. For a recent report on human rights violations in the context of the conflict, see Asia Watch, *The Forgotten War: Human Rights in Afghanistan Since the Soviet Withdrawal* (New York:1991).

² On April 27, 1978, a small Marxist-Leninist party called the People's Democratic Party of Afghanistan (PDPA) took power in a *coup d'etat* that marked the beginning of the war.

Afghanistan in December 1979, had taken an estimated 1.24 million³ Afghan lives and driven another five million⁴ Afghans into refugee camps in Pakistan and Iran.

The centerpiece of the Geneva Accords was the agreement by the Soviet Union to remove all of its uniformed troops from Afghanistan. The text of the accords also called for all aid through Pakistan to the *mujahidin* to be terminated at the beginning of the pull-out period. As the final round of talks dragged on, the Reagan administration, under bipartisan pressure from a Congress which strongly supported the *mujahidin*, informed the U.S.S.R. that it would not accept the accords as formulated, arguing that as long as Soviet aid to the Kabul government continued, an end to aid to the *mujahidin* constituted unacceptable asymmetry. The U.S. proposed that both sides commit themselves to end such assistance (negative symmetry), but the Soviets, citing treaty obligations to Afghanistan, refused. Secretary of State George Schultz then made a formal reservation to the accords, stating that the U.S., while signing them, reserved to itself the right to aid its friends in Afghanistan as long as the Soviets aided their friends (positive symmetry). Since the accord entered into force, the U.S. has continued to adhere to positive symmetry.

The *mujahidin* were not included in the negotiations leading up to Geneva and did not accept its results. Also, the Geneva Accords said nothing about the future government of Afghanistan, which was to be left to a second track of diplomacy or to the fortunes of the battlefield.

Fearful that the government in Kabul might disintegrate before the final withdrawal of their troops and angry over the continued American aid to the resistance under the doctrine of positive symmetry, the Soviet leaders introduced new weapons of mass destruction to Afghanistan in November 1988: Scud-B missiles, which carry warheads of 1,000 kilograms and are highly inaccurate. Since then, these missiles have been fired blindly into many areas of Afghanistan, including some densely populated agricultural zones. The *mujahidin* have also indiscriminately fired Sakr rockets and missiles, some with fragmentation warheads, into Kabul and other towns, causing hundreds of deaths.

President Gorbachev laid out a new Soviet plan in a December 1988 address to the U.N. in which he proposed that all countries cease aid to all Afghan parties (negative symmetry). The U.S. refused, citing an "imbalance" created by accelerated Soviet supplies. American officials also estimated that the Kabul government would fall of its own accord within six to twelve months.⁵

To fill the anticipated political vacuum, the United States, Pakistan, and Saudi Arabia, the main backers of the principal *mujahidin* groups (which are Sunni Muslim), pressured the exiled political leadership of the resistance groups to hold a *shura* to choose what was billed as an interim government. The *shura* convened in Rawalpindi, Pakistan on February 10, 1989. Despite intensive negotiations with Iran and with Shi'a resistance groups, no formula was agreed to regarding their representation, and they did not participate. The *shura* also rejected representation for the former king, Zahir Shah, and for the Kabul government. The Afghan Interim Government (AIG) chosen at the *shura* was headed by Sibghatullah Mojaddidi, a respected religious scholar, but that result was rejected by resistance commanders inside Afghanistan and by many Afghan refugees outside, who regarded it as having been manipulated by the Pakistani and Saudi intelligence services.

A Swiss demographer calculated the civilian toll at 1.24 million, based on an estimated pre-war population of 15.5 million. See Marek Sliwinski, "Afghanistan: The Decimation of a People," *Orbis*, vol. 33, Winter 1988-89, pp. 39-56.

The precise number of refugees is impossible to determine. Five and a half million is a widely-used estimate, with some 3.2 million registered refugees in Pakistan and an estimated 500,000 unregistered. In Iran, there are some 2.3 million registered refugees. See Felix Ermacora, "Situation of Human Rights in Afghanistan," *Report to the General Assembly of the United Nations*, U.N. A/45/664, October 31, 1990, p. 7.

This Defense Intelligence Agency estimate was widely cited by U.S. officials. See "Developments in Afghanistan and Their Implications for U.S. Policy," *Hearings before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, U.S. House of Representatives, February 21 and June 14, 1989*. (Washington D.C.: U.S. Government Printing Office, 1990).

The Bush administration still publicly stated its faith in and support of the AIG as the most representative group of Afghans. It stated that it favored a political settlement, but that the removal of Najibullah and his party from power was a pre-condition for any negotiations. The various *mujahidin* groups took a similar stance, publicly refusing to negotiate with the Kabul government as long as Najibullah and his party remained in power.

The United Nations continued to be active, as did some policy-makers in both Washington and Moscow, in elaborating plans for a political settlement. By June 1990, both the U.S. and the Soviet Union had agreed to the basic content of a "non-paper" authored by U.N. Assistant Secretary General Benon Sevan, the Secretary General's personal representative on Afghanistan. In this scenario, the U.N. Secretary General was to be encouraged to assist Afghans in forming a transitional body of respected individuals acceptable to all sides. This body was to exercise certain powers during a transitional period and to organize elections in accord with Afghan cultural and national traditions to choose a new government in a process in which all Afghans could freely participate. There was also agreement on the need for a cessation of hostilities during the transition period and on the need to discuss both an end to weapons supplies and the possible removal of weapons.

What this proposal left unanswered was what exact powers the transitional body would have and what Najibullah's role would be. The Soviet Union continued to hold to the position that the transitional body's power should be limited to organizing the elections and that Najibullah should stay where he was. The U.S. objected, saying that Najibullah's command of the army and secret police (which he headed from 1980 to 1985) and of the broadcast media gave him an unfair advantage in intimidating voters and manipulating the outcome. The U.S. did, however, relax its previous objection to Najibullah, stating that he could remain as president as long as there were satisfactory safeguards of free and fair elections, and that his party⁶ could participate in any elections.

At a meeting in Houston, Texas, in December 1990, U.S. Secretary of State Baker and Soviet Foreign Minister Shevardnadze agreed that the role of Najibullah and the precise structure of the transitional mechanism were questions that should be left to Afghans. Pakistan and Saudi Arabia remained inclined toward pursuit of a military victory by the *mujahidin* parties they supported. However, after those same parties⁷ denounced the Saudi position in the Gulf War, the Saudis decided to support a political settlement.

More important was the decision by Pakistan's political leadership. Following the *mujahidin's* capture of the provincial border town of Khost in March 1991, Pakistan's political leaders decided to support the U.N. plan. They had concluded that a political settlement was the only means to settle the conflict in a way that would allow the over three million Afghan refugees in Pakistan to return home. For the first time since the beginning of the war, representatives of former king Zahir Shah were invited to Pakistan to meet with government officials and *mujahidin* leaders, a gesture that appeared to signal genuine Pakistani interest in a political settlement. This was the background to the Secretary General's statement of May 21.

Part II: Recommendations for the Protection of Human Rights

The statement itself offers only a general framework for a settlement. Asia Watch believes that as discussions proceed, specific measures for the protection and promotion of human rights should be incorporated. These measures might include the following:

1. All parties should agree to abide by standards of human rights and humanitarian law.

In June 1990 the PDPA renamed itself the Watan (Homeland) Party.

The *Hizb-e Islami* of Gulbuddin Hikmatyar and the *Ittihad-e Islami Bara-ye Azadi-ye Afghanistan* of Abdul Rabb Rasul Sayyaf.

In El Salvador, for example, both the government and the Faribundo Marti Liberation Front have agreed to this in the Acuerdos de Mexico of 27 April 1991 (part II, "*Sistema Judicial y Derechos Humanos*"). In Namibia, U.N. Security Council Resolution 435 called for a constitution respecting internationally recognized human rights. Point five of the Fundamental Principles for the Establishment of Peace in Angola and various provisions of the Protocol of Estoril similarly require respect for human rights. The agreement on Cambodia of the five permanent members of the U.N. Security Council states that all Cambodians and others in Cambodia should "enjoy the rights enshrined in the Universal Declaration of Human Rights and other relevant international human rights instruments. Fundamental rights and freedom should form part of the constitutional principles within the comprehensive political settlement."

2. All parties should agree to allow domestic and international monitoring of respect for human rights and humanitarian law.

The draft agreement on Cambodia calls on international humanitarian organizations to assist the International Committee of the Red Cross and signatories to the agreement in effecting the release of all prisoners of war and civilian internees. It also underscores the right of all Cambodians to "undertake activities which would promote and protect human rights and fundamental freedoms" in Cambodia. The recent agreement in Ethiopia obligated the parties to allow Amnesty International and Africa Watch to monitor the observance of human rights in that country. The parties to the conflict in El Salvador have asked the U.N. Secretary General to establish a United Nations Verification Mission to monitor the observance of human rights.

In recent years both the Government of the Republic of Afghanistan and most of the opposition and refugee groups have voluntarily offered their cooperation to the U.N. Special Rapporteur, the International Committee of the Red Cross, and private human rights groups such as Human Rights Watch and Amnesty International. It would be useful if such cooperation on the part of all parties to the conflict could be guaranteed in a settlement.

3. There should be accountability for past violations.

The Acuerdos de Mexico regarding El Salvador ask the U.N. Secretary General to appoint a Truth Commission which would "have as its mission the investigation of the grave acts of violence that have occurred since 1980" in El Salvador. The members of this commission are to take into account, "the necessity of creating confidence in the positive changes launched by the peace process and to stimulate the transition toward national reconciliation." Such an impartial investigation is required with equal urgency and for the same reasons in Afghanistan.

4. All involved non-Afghan parties should agree to act as guarantors of human rights promotion and protection.

Just as the U.S. and U.S.S.R. agreed to act as guarantors of the Geneva Accords, so we urge all concerned foreign governments to agree to promote the protection of human rights and observance of humanitarian law as part of the settlement in Afghanistan. For instance Portugal, the U.S. and the U.S.S.R. have done so with respect to Angola by acting as mediator and observers of the Protocol of Estoril.

5. Political prisoners and others arrested in connection with the conflict should be released.

The Cambodian accords state that at the "earliest possible date," all prisoners of war and civilian internees should be released. Civilian internees are defined as "all persons not prisoners of war who having contributed to armed or political struggle have been arrested or detained by any of the parties by virtue of their contribution thereto."

6. The various armed forces and police should be reorganized into a new national army and police subject to the reconstituted civil power to assure their accountability to domestic and international law.

These are provided for in Part I of the "Fuerza Armada," of the Acuerdos de Mexico, and Part VI of the Protocol of Estoril on Angola.

7. All parties should agree to identify and destroy or render inoperable weapons of mass destruction or of an indiscriminate character, such as Scud missiles, Sakr rockets, chemical weapons (if any), fragmentation weapons, and land mines.

Parties which supplied weapons with the potential for lasting long-term impact, such as mines, should take responsibility for allocating the funds to clear or destroy them and should be required by the United Nations to supply all technical data that would facilitate such actions.

8. All refugees and displaced persons should be guaranteed the right of voluntary return.

Such efforts have some precedent in the Afghan situation. The Geneva Accords of April 14, 1988, explicitly recognized the role of the United Nations High Commissioner for Refugees in overseeing and protecting the right of voluntary return of the refugees. The U.N. Office of the Coordinator in Afghanistan has been involved in measures for clearing mines and creating the conditions for the return of refugees.

9. The government of Afghanistan should be chosen through a free and fair political process, monitored by the international community.

Such provisions are part of all previous agreements and are included in the Secretary General's statement on Afghanistan.

This crucial moment for the peace process is the right time to build in safeguards of the rights of the people of Afghanistan which may assist them for years to come.

Appendix

Statement by Secretary-General Javier Perez de Cuellar

May 21, 1991

Reports of active hostilities in Afghanistan over the last few weeks have reconfirmed my concern that further efforts are needed to bring about an end to the suffering of the Afghan population. At a time when other developments seem to be attracting the attention of the world, the Afghans have become a forgotten people. Their plight unfortunately is very real and the urgency to put an end to it is no less felt today at a time when the international community is showing a growing determination to assist in the alleviation of human suffering.

In pursuance to the mandate entrusted to me by the General Assembly in its resolution 45/12 of 7 November 1990, I have persevered in encouraging all segments of the Afghan people, as well as the Governments concerned, to work towards a comprehensive political settlement in Afghanistan.

I have on several occasions reiterated that the question of Afghanistan cannot be solved except by political means, and that to achieve such a settlement, a consensus is needed both at the national and the international levels.

I have just concluded an intensive round of consultations, through my Personal Representative in Afghanistan and Pakistan, Benon Sevan, with all segments of the Afghan people, including political leaders of opposition groups and resistance commanders, based in Peshawar, Teheran and inside Afghanistan, as well as with prominent Afghans currently residing outside the region. The Governments concerned have also been consulted.

I have impressed on all my interlocutors that whatever the process to attain a settlement, it should be a strictly Afghan political process, free from foreign interference.

Encouraged as I am by the views expressed, I believe that the following elements would serve as a good basis for a political settlement in Afghanistan, acceptable to the vast majority of the Afghan people:

1. The necessity of preserving the sovereignty, territorial integrity, political independence and non-aligned and Islamic character of Afghanistan;
2. The recognition of the right of the Afghan people to determine their own form of Government and to choose their economic, political and social system, free from outside intervention, subversion, coercion or constraint of any kind whatsoever;
3. The need for a transition period, details of which have to be worked out and agreed upon through an intra-Afghan dialogue, leading to the establishment of a broad-based Government.
 - a. The need, during that period, for transitional arrangements acceptable to the vast majority of the Afghan people, including the establishment of a credible and impartial transition mechanism with appropriate powers and authority (yet to be specified) that would enjoy the confidence of the Afghan people and provide them with the necessary assurances to participate in free and fair elections, taking into account Afghan traditions, for the establishment of a broad-based Government.
 - b. The need for cessation of hostilities during the transition period.

c. The advisability of assistance, as appropriate, of the United Nations and of any other international organization during the transition period and in the electoral process.

4. The necessity of an agreement -- to be implemented together with all agreed transitional arrangements -- to end arms supplies to all Afghan sides, by all.

5. The recognition of the need for adequate financial and material resources to alleviate the hardship of the Afghan refugees and the creation of the necessary conditions for their voluntary repatriation, as well as for the economic and social reconstruction of Afghanistan.

It is my intention to continue my discussions with all concerned in order to encourage and facilitate the working out of the details of the above elements.

I appeal to all Afghan leaders to put the interest of the Afghan people above all other interests, and resolve their differences through a political process, bringing to an end the long and devastating war.

I also call on all Governments concerned to support the political process, and respect the right of the Afghan people to decide their own future.

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News From Asia Watch is a publication of Asia Watch, an independent organization created in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair is Jack Greenberg, the Vice Chairs are Orville Schell and Harriet Rabb, and the Executive Director is Sidney Jones.

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