



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/102/Add.1
19 April 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Agenda item 19

**ADVISORY SERVICES AND TECHNICAL COOPERATION
IN THE FIELD OF HUMAN RIGHTS**

Note by the secretariat

The independent expert for Afghanistan, Mr. Cherif Bassiouni, who was unable to attend the Commission, has submitted the text of his oral statement* which is reproduced below for information purposes.

* Reproduced in the annex as received, in the language of submission only.

Annex

**Written statement by Mr. M. Cherif Bassiouni,
Independent Expert for Afghanistan**

Having just recently been appointed as the Independent Expert for Afghanistan, I am regrettably unable to be present at this 60th session of the Commission on Human Rights. Nevertheless, I felt it important to provide a statement under item 19 to ensure the Commission that its concerns for Afghanistan are keenly felt by this expert. To that end, I submit my views to the Commission concerning what I foresee may be the work ahead in accordance with the mandate with which I am entrusted.

The mandate provided by the Commission at its 59th Session is to “develop a programme of advisory services to ensure the full respect and protection of human rights and the promotion of the rule of law and to seek and receive information about and report on the human rights situation in Afghanistan in an effort to prevent human rights violations.” This mandate has two main components: supporting the capacity building efforts in the area of human rights and rule of law in the country; and receiving and reporting to the Commission on human rights violations in Afghanistan. Though distinct, these components are complementary. My work will therefore deal with them and my report to the Commission will reflect it.

The mandate also refers to working closely with the Afghan Independent Human Rights Commission (AIHRC) and the Office of the High Commissioner for Human Rights (OHCHR).

In the area of capacity building, I plan on working closely with the AIHRC and other relevant Afghan institutions. The AIHRC was established by Presidential decree in June 2002, and its mandate has been confirmed in the new constitution. The Commission has already had the benefit of hearing directly from the Chair of the AIHRC on their accomplishments as well as on the continued challenges they face. My role will be to support the AIHRC’s work, and not to develop a new range of programmes of advisory services distinct from that work. I say this because I am aware of the already stretched resources in that country, and of existing limitations on implementation of programmes.

With the support of OHCHR, the UN Assistance Mission in Afghanistan (UNAMA), and UNDP, the AIHRC has programmes in five areas: monitoring and investigations; human rights of women; human rights of children; human rights education and transitional justice. The work plans for each of these areas have been progressing with the overall objective of implementing the human rights provisions of the Bonn Agreement. But as all concerned parties are aware, much more needs to be done and the challenges that lay ahead are not to be underestimated.

UNAMA is an indispensable partner in the pursuit of this mandate given UNAMA's focus on building longer term capacities in Afghanistan. It is therefore necessary for me to work closely with its programmes, particularly in the area of the rule of law and justice and I look forward to the mission's cooperation with this mandate.

Supporting the Transitional Authority's efforts in building upon its human rights efforts will also be one of my aims. This includes the programme of annual human rights treaty reporting initiated by the Ministry of Foreign Affairs in cooperation with the OHCHR.

As is well-known, the country has suffered for almost 30 years as a result of war, internal conflicts, and repressive regime practices. Human rights and humanitarian law violations have been numerous and they have resulted in high levels of victimization and social disruptions. These consequences are deeply felt by the people of the country. Security is still one of the major concerns throughout the country, with increased criminality, outbreaks of factional fighting, and an overall absence of law enforcement and the rule of law in many parts of Afghanistan. These and other factors contribute to the widespread violations of human rights. Of greatest concern is that these violations are committed at the hands of warlords throughout the country, whose accountability to the central government ranges from the nonexistent to the limited. The AIHRC and UNAMA are very much aware of this and other critical issues, and the continue to receive complaints from multiple sources which include: killing, intimidation, extortion, arbitrary arrest, illegal detention, and forced occupation of lands and houses. UNAMA continues to monitor and investigate these and other contemporary violations, to ensure that human rights fundamentals are incorporated in the process of institution building. The central government is also deeply aware of these and other critical issues, but has acknowledged its inability to control areas outside of Kabul and also that some local officials are among the source of these problems.

Another area of concern is the troublesome expectation of impunity by perpetrators of present and past human rights and humanitarian law violations. This situation persists given the lack of an effective national army and police force and the weaknesses of the judicial system. The impunity which has so far benefited the perpetrators of violations of the former repressive Taliban regime is also a factor in connection with violations of human rights committed by warlords and others since the establishment of the Transitional Authority. To address past violations, the AIHRC has begun a national public consultation to ascertain the views of the population on how those crimes should be addressed. It is expected that this effort will be completed in mid-2004. In the interim, OHCHR has initiated a mapping exercise of past violations, and expects to finalize and submit to the AIHRC a draft compilation. The draft and the national consultation process will assist the Afghan Transitional Administration in deciding how to pursue transitional justice. These joint efforts are important and should be supported both by the Afghan Government as well as the international community. Without accountability, it is impossible to deter future violations. By monitoring and addressing current human rights, as well as by addressing those of the past, I hope to contribute in

focusing attention on what needs to be done to correct the situation. The message must be clear: violations and violators will not be ignored.

Lastly, among the outstanding challenges that should not be underestimated are those stemming from the poppy cultivation and illicit drug trafficking. This constitutes a significant threat to that country's stability and future. Drug trafficking involves organized crime, its proceeds are used to corrupt government and undermine its authority and also to fund terrorism. Where such crimes exist, human rights are violated. In that context, I look forward to working with the UNDOC in order to better report to the Commission on the threats posed to human rights by drugs and crime.

The Transitional Administration, the international community and, most importantly, the people of Afghanistan are collectively trying to rebuild a country which continues to suffer from years of conflict and the accumulation of many social and economic problems. The last years and months have seen progress which must be recognized and encouraged, thus enhancing support for the tasks that lay ahead. The State of Afghanistan now has a democratic constitution, unanimously approved. It is developing the institutional tools of sovereignty and good governance. The forthcoming elections will be critical in building upon the achievements of the Bonn process. I welcome the recent request from the Transitional Authority to the UNAMA and the AIHRC to monitor jointly and closely the implementation of political rights in the pre-election period. I will lend whatever support I can in this regard as well.

As is well-established, reconstruction of the country includes the building of institutions and structures on a sound foundation, whether in the field of justice, education or health. So far, these institutions are in their infancy and very much dependent upon the consolidation of an effective central government, and adequate economic resources. Without effective government and adequate resources, it is difficult to see how an environment conducive to the exercise, by the people of Afghanistan of their fundamental civil, political, social, economic and cultural rights can be established and sustained. All of this requires continued commitment by all concerned to sustain that country's efforts to build a democratic society founded on the rule of law and with equal justice for all.

I take this opportunity to inform the Commission that I intend to come to Geneva for consultations in the near future, with a view to prepare myself to undertake my first mission in the country, and to also while in Geneva conduct consultations with interested governments, IGO's and NGO's in the hope of securing as much assistance and support as may be available.

I look forward to reporting on my progress to the third Committee at the next session of the General Assembly and to the Commission on Human Rights at its 61st session.
