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HUMAN RIGHTS

GENEVA, 29 MARCH 2001

**ITEM 9: QUESTION OF THE VIOLATION OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD**

Situation of Human rights in Afghanistan

Mr. Chairman, distinguished delegates, ladies and gentlemen,

I am presenting my fifth report at a time when I cannot decry as I have had to do when presenting my earlier reports that Afghanistan was being marginalized by the media and receiving little international attention.

A conjuncture of developments has now brought Afghanistan into the headlines. The impact of one of the worst droughts in decades has resulted in widespread destruction of crops and livestock. Conflict between the warring parties has erupted in different parts of Afghanistan, exposing civilian populations to shelling and aerial bombardment, to massacres and summary execution, and forced conscription. These have created massive internal displacement, substantial new flows of refugees fleeing from drought, hunger and conflict in which they have been victims of gross violations of human rights and breaches of international humanitarian law.

I therefore visited Pakistan on an emergency basis from 16 to 18 March 2001 and was able to visit one of the largest refugee camps which has received around 60,000 new refugees in the last six months, the Shamshatoo camp near Peshawar, and personally interview some of the most recent arrivals. These are part of 170,000 who are estimated to have crossed into Pakistan since mid-2000. A substantial part of them are in the Jalozai camp near Peshawar where registration by the UN was not being allowed, thereby denying to them the minimum assistance to meet their subsistence needs which were available to those in a camp like Shamshatoo. Conditions of the newly arrived in Jalozai are said to be so desperate that it has been described as a living graveyard. Despite my expressed desire to visit the Jalozai camp, I was unable to do so, as I was informed that even the Secretary-General during his recent visit did not have access to that camp.

My visit was also prompted by the concern reflected in the statement of the UN High Commissioner for Human Rights published on 16 February 2001 that "in view of the pattern of repeated massive violations of human rights and humanitarian law, I call upon the international community to establish an independent international inquiry into the massacres and other grave human rights violations committed by parties to the armed conflict in Afghanistan." This was made in the context of reports, among others, of summary execution of civilians by Taliban forces in the Yakawlang district of the province of Bamyan in January 2001. More information became available about massacres from reports published by a number of organizations, the most detailed of these reports being one dated 19 February 2001 by Human Rights Watch.

On the basis of the letter dated 19 February 2001 addressed to the Human Rights Commission by the Taliban authorities reporting that their opponents had recently mounted an attack on the town of Bamyan and upon entering it had resorted to crime and genocide, I had written on 26 February 2001 to the Islamic State of Afghanistan seeking their comments on these reports. I had also received a communication dated 1 February 2001 from the Permanent Mission of the Islamic State of Afghanistan in Geneva in which it reported that Taliban forces in the course of military offensives in the provinces of Takhar and Kunduz had engaged in mass killings of innocent civilians, furnishing names of some of the victims who were killed in the villages of Rustaq, Bagh Zakheera and Mamayee. I addressed a letter on 26 February 2001 to the Taliban authorities seeking their comments on this report. The Islamic State, in its reply dated 6 March 2001, denied the allegations regarding the killing of civilians in Bamyan and suggested that I carry out an on-site inquiry into these allegations. In their reply, they also reported that there had been a massacre of several hundreds of civilians by the Taliban in the Yakawlang district of Bamyan province and suggested that I visit Yakawlang to make inquiries. By their letter dated 19 March 2001, the Taliban authorities denied the allegations contained in the letter dated 6 March 2001 of the Islamic State of Afghanistan. Copies of the letters

exchanged are annexed to the Addendum dated 26 March 2001 to my report.

In the course of my visit to Pakistan, I was able to meet the Taliban Ambassador, Mullah Abdul Salam Zaeef, on 17 March 2001 when I expressed my desire to visit Afghanistan, in particular to pursue inquiries with regard to the Taliban report of killing of civilians by the opposition in Bamyan and the latter's report regarding the Yakawlang massacre.

I emphasized that despite an initial refusal to grant me a visa last year, I continued to renew my requests because I attached importance to direct discussions with the Taliban authorities and to making on-site inquiries inside Afghanistan. The Ambassador then indicated that he could grant me a visa to visit Kabul but could not do so for Bamyan; as for Yakawlang, he said this was in the control of the opposition forces.

The visit proved to be valuable as the direct testimony of the newly arrived refugees in Shamshatoo confirmed the desperate situation within Afghanistan as a result of the economic devastation resulting from persistent drought effectively creating conditions of famine and the insecurity of life and person resulting from outbreaks of conflict.

In addition, it became clear that prima facie there was a substantial basis for conducting systematic investigations into the reports of summary executions and massacres, as these constitute gross violations of human rights and grave breaches of international humanitarian law for which international criminal responsibility is incurred. Since the continuing conflict and taking and re-taking of areas by the warring parties creates situations in which innocent civilians become victims of summary execution and massacres, the aim of these investigations would be to gather relevant evidence, identify the individuals responsible with a view to enforcing accountability through appropriate mechanisms so as to deter and thus prevent such massacres in the future.

The efforts of the Special Representative of the Secretary-General had secured an agreement in November 2000 by the two warring parties to initiate a process of dialogue under the Secretary-General's good offices aimed at bringing about, in the shortest possible time, an end to the armed conflict in Afghanistan through political means. Unfortunately, despite this agreement, both parties have engaged in military operations resulting in resumption of conflict in different parts of Afghanistan, extending from July 2000 to date.

All the warring parties have been guilty of grave breaches of international humanitarian law. Their war-making is supported by the involvement of Afghanistan's neighbours and other states in providing weapons, ammunition, fuel and other logistical support. State and non-state actors across the region and beyond continue to provide new arms and other material as well as training and advisory assistance. The arms provided have been directly implicated in serious violations of international humanitarian law. These include aerial bombardments of civilian targets, indiscriminate bombings, rocketing and other artillery attacks on civilian populated areas, massacres involving reprisal killings of civilians, summary executions of prisoners, and torture.

There were credible reports that Taliban forces summarily executed ethnic Uzbek prisoners in Samagan province during early May 2000. Account of the number of killings and precise burial sites vary, but the killings appear to have been large-scale and are reported to have taken place near the Rubatak pass, along the road from Mazar-i-Sharif to Pul-i-Khumri.

Reports supported by reliable eyewitnesses document some of the summary executions and massacres carried out in January 2001 in Yakawlang. These reports indicate that in the taking and re-taking of Yakawlang breaches of humanitarian law were committed by both parties as they violated the neutrality of medical facilities in the district and disregarded the rights of civilians to be treated as non-combatants. Yakawlang was captured by the United Front forces (Hezbe Wahdat and Harakat Islami) on 28 December 2000 but was re-captured by the Taliban in early January 2001. Taliban forces reached the district centre of Nayak in the morning on 8 January 2001. Following the re-taking, there are reports of mass arrests followed by summary executions carried out between 8 to 12 January 2001. A number of aid agency personnel and a United Nations staff member were among those who were killed. The Human Rights Watch report published on 19 February 2001 has identified civilian victims which include a number of aid workers and staff of international humanitarian agencies, hospitals and local relief and assistance organizations. This report indicates that search parties were organized to round up male civilians following house-to-house searches. Those rounded up were detained and many of them, the total number being estimated at several hundred, were reportedly executed. It is also reported that a number of Hazara elders who came to intercede with the Taliban were killed. Some of the execution sites identified include the outside of a relief agency in Nayak, the outside the district hospital, the ravine behind the mosque in the old bazaar area, the outside the prayer

hall of Mindayak village and Qala Arbab Hassan. A number of sites of mass graves are also identified.

Also, the identities of commanders who present in the area at the relevant time are available in these reports.

It is now increasingly recognized that the impunity enjoyed by those who have been responsible for ordering and carrying out the massacres and summary executions and the absence of accountability for such gross violations of human rights and grave breaches of humanitarian law has contributed to the repeated occurrence of such violations. There is thus a growing opinion that in order to deter and prevent the occurrence of such atrocities, an effective international initiative is called for to expose and hold to account those responsible for war crimes, breaches of international humanitarian law and gross violations of human rights. International cooperation would be needed to deny impunity and enforce accountability by developing mechanisms to undertake full investigation to gather evidence and to identify those responsible in order that they may be brought to justice.

It is now clear that there is enough material available for carrying out a more thorough investigation to gather relevant evidence to establish the exact circumstances in which civilians were detained and executed as well as to identify those responsible for such breaches of international humanitarian law. Such an investigation, if undertaken promptly, could be reasonably expected to achieve these objectives. Investigators could

through on-site visits gather substantial evidence as they would have access to graves where the victims are buried, the sites of execution and many eyewitnesses of the occurrences. The Taliban authorities and the Islamic State of Afghanistan will be expected to respect their obligation to cooperate in the carrying out of these investigations. The findings of these investigations would provide a basis for enforcing accountability through appropriate mechanisms at the national and international levels.

Over half a million Afghans have left their homes and become newly displaced during 2000 and early 2001, heading towards impoverished cities and other areas. According to UNHCR officials in Pakistan, there has been a marked increase in new arrivals in recent months, the total number estimated to have arrived since mid-2000 is around 170,000 and a significant number of these are from northern Afghanistan. Reports at the end of January 2001 from UNHCR sources indicate that the new refugee flows into Pakistan and Iran are continuing. These refugee flows are caused by the interrelated impact of conflict, drought, and hunger. The situation of refugees is aggravated by the imposition of the ban on new arrivals by Pakistan which, having hosted the single largest and one of the oldest refugee populations in the world, has argued that it simply cannot cope with new inflows. This has resulted in the suspension by regional authorities of the verification process commenced on 25 January 2001 by UNHCR to determine those who are most vulnerable and in need of urgent assistance, followed by the Government decision that all undocumented Afghans would be subject to deportation. Following these decisions, there are reports of forcible deportation of thousands of Afghans. Many of them had fled Afghanistan in quest of survival in the face of drought, hunger and conflict in which those specially affected were ethnic minorities and other vulnerable groups. It is necessary to appeal to the authorities concerned to respect internationally agreed upon principles of refugee protection in respect of the new arrivals from Afghanistan.

After more than two decades of conflict, Afghanistan has some of the worst education indicators in the world. Access is low at all levels, especially for girls but also for boys. According to recent UNESCO data, as few as three per cent of Afghan girls and 39 per cent of boys in the relevant age groups may be attending some form of primary education, the quality of much of which remains poor.

A major setback with regard to female employment occurred in July 2000 when the Taliban issued a decree of law banning Afghan women from working in aid agencies except in the health sector. The UN Coordinator and other senior UN staff made several visits to Kabul and Kandahar in an attempt to negotiate the withdrawal of the law. A decree was promulgated by Mullah Omar on 7 January 2001 to apply capital punishment to Afghans who converted from Islam to either Judaism or Christianity. The unpredictability of instant legislation by edicts of the Supreme Leader is exemplified by the recent edict (26 February 2001) on the destruction of the pre-Islamic cultural heritage including the great Buddha statues in Bamyan which date back nearly 2000 years, reversing an earlier edict on protection of cultural heritage promulgated in 1999.

The destruction of the grand statues and others in Herat, Ghazni, Kabul and Jalalabad was announced in early March 2001 disregarding worldwide appeals which included many from Muslim countries including the Islamic Republic of Iran, the Islamic Republic of Pakistan and Qatar which chairs the Organization of the Islamic Conference and the opinion of eminent Islamic jurists, including the Mufti of the Republic of Egypt

who arrived in Kandahar with a delegation from the Islamic Conference on 11 March to appeal against the destruction.

Throughout Afghanistan, the impact of the continuing armed conflict on the economic infrastructure has been devastating. Transport and communication facilities are derelict. For Afghans, there are few job opportunities outside the subsistence economy on the one hand and the criminalized economy on the other. The situation has been further compounded by three consecutive years of severe drought resulting in massive displacement and near famine conditions. Close to a million people are estimated to be vulnerable, hungry and at risk due to loss of their agricultural output, combined with lack of other opportunities to earn enough money to pay for essential food. A report in January 2001 of a UN-sponsored health survey in northern Afghanistan has found alarming levels of malnutrition among children and aid officials warned that the situation could dramatically worsen. The World Food Programme has