

HUMAN RIGHTS *monitor*

The invisible Afghanistan

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It was just coming from a meeting with a group of scholars, and the first thing we started talking about there was the statues. And the first thing we started talking about here was also the statues. It is very unfortunate how little we see and how little we know. Nobody has seen the problems of Afghanistan; nobody saw their problems before. And the only thing that represents Afghanistan today are the statues.

Afghanistan is called the Crossroads of Asia. So, we are suffering because of our geo-strategic location. We have suffered in the 18th century, 19th century, and we are still suffering in this century. We have not attacked the British. We have not attacked the Russians. It was them who attacked us. So the problems in Afghanistan you see are not our creation.

The Soviet invasion

The recent problems in Afghanistan started in 1979. Afghanistan was a peaceful country. The Russians, along with their 140,000 troops attacked Afghanistan in the December of 1979, just 21 years ago, stayed there for a decade, killed one and a half million people, maimed one million more people, and six million out of the eighteen million people migrated because of the Russian brutalities. Even today, our children are dying because of the landmines that they planted for us. And nobody knows about this.

After the Russians left during the Russian occupation, on the other side, the American government, the British government, the French, the Chinese, and all of the rest, supported the counter-revolutionaries called the Mujahideen. There were seven parties only in Pakistan and eight parties in Iran who fought the Russian occupation. And after the Russians left, these parties went into Afghanistan. All of them had different ideologies, and a lot of weapons. And instead of having a single administration, they fought in Afghanistan.

The destruction that they brought was worse than the destruction the Russians brought. 63,000 people were only killed in the capitol, Kabul. Another million people migrated because of this lawlessness.

The beginning of Taliban

Seeing this destruction and lawlessness, a group of students called the Taliban, i.e. a group of students (Taliban is the plural of student in our language; it may be two students in Arabic, but in our language it means students) started a movement called the Movement of Students. It first started in a village in the southern province of Afghanistan, called Kandahar. It happened when a war-lord, or a commander abducted two minor girls and violated them. The parents of those girls went to a school and asked the teacher of the school to help them. The teacher of that school, along with his 53 students, finding only 16 guns, went and attacked the base of that commander. After releasing those two girls, they hanged that commander, and so many of his people were also hanged. This story was told everywhere. BBC also quoted this story. Hearing this story, many other students joined this movement and started disarming the rest of the warlords. This same students movement now controls 95% of the country including its capitol.

Our achievements

We have been in government for only five years, and the following things that we have done, and many of you may not know:

1. The first thing we have done is reunifying the fragmented country. Afghanistan was formerly fragmented into five parts. We unified it when nobody else could do it.

2. Second thing we have done, which everybody failed to do, was disarming the population. After the war every Afghan got a Kalashnikov, and even sophisticated weapons such as stinger missiles, and they even got fighter planes and fighter helicopters. Disarming these people seemed to be impossible. The United Nations in

1992 made an appeal asking for 3 billion dollars to re-purchase those arms. And because of its impracticality, that plan never materialized, and everybody forgot about Afghanistan. So the second thing we have done is to disarm 95% of that country.

3. The third thing that we have done is to establish a single administration in Afghanistan, which did not exist for 10 years.

4. The fourth achievement that we have that is surprising to everybody is that we have eradicated 75% of world's opium cultivation. Afghanistan produced 75% of world's opium. And last year we issued an edict asking the people to stop growing opium, and this year, the United Nations Drug Control Program, UNDCP, and their head, Mr. BARNARD F.

proudly announced that there was 0% of opium cultivation. Zero, zilch, none at all.

5. The fifth achievement that we have, is the restoration of human rights. Now, you may think that we are involved in violation of human rights. The reality is exactly the opposite. Among the fundamental rights of a human being is the right to live. Before us, nobody could live peacefully in Afghanistan. The first thing we have done, is to give to the people a secure and peaceful life. The second major thing that we have restored is to give them free and fair justice; you don't have to buy justice, unlike here. In Afghanistan justice is free and readily available.

Women's rights

We have been criticized for violating women's rights. Do you know what happened before us? I can see some Afghans living here, and they will agree with me, that in the rural areas of Afghanistan, women were used as animals. They were sold actually. We stopped this abominable practice. They didn't use to have any say in the selection of their husbands. First thing we have done is to let them choose their future.

Another thing that used to happen in Afghanistan was women were exchanged as gifts. Of course, this was not something religious; this was something cultural. When two fighting tribes wanted reconciliation, they would exchange women. And this has been stopped. Unlike what is generally said, women do work in Afghanistan. True that until 1996 when we captured the capitol Kabul, we did ask women to stay home. It didn't mean that we wanted them to stay at home forever. We said that as there is no law and order, you have to stay at home.

We disarmed the people, and we established law and order, and

now women are working. True, that women are not working in the ministry of defense, like here. We don't want our women to be fighter pilots, or to be used as objects of decoration for advertisements. But they do work. They work in the Ministry of Health, Interior, Ministry of Education, Ministry of Social Affairs, and so on.

Similarly we don't have any problem with women's education. We have said that we want education, and we will have education whether or not we are under anybody's pressure, because that is part of our belief. We are ordered to do that. When we say that there should be segregated schools, it does not mean that we don't want our women to be educated. It is true that we are against co-education; but it is not true that we are against women's education.



An Afghan woman holds her child, who was injured by the US-led strikes in Afghanistan, as she waits for treatment at the Afghan Women's Council, in Peshawar, 29 October 2001. Afghan people continue to flee the US-led strikes in Afghanistan into Pakistan seeking food and safety.

We do have schools even now, but the problem is the resources. We cannot expand these programs. Before, our government numerous curriculums were going on. There were curriculums that preached for the kings, curriculums that preached for the communists, and curriculums from all the seven parties. So, the students were confused as to what to study. We have started to unify the curriculum and that is going on.

Osama bin Laden

We are also accused of

sponsoring terrorism. And for Americans terrorism or terrorist means only bin Laden. Now you will not know that Afghanistan, or bin Laden was in Afghanistan for 17 years before we even existed. Bin Laden was in Afghanistan, fought the Soviet Union, and Mr. Ronald Reagan, the president of America at that time, and Mr. Dick Cheney called such people freedom fighters or the Heroes of Independence, because they were fighting for their cause. And now when the Soviet Union is fragmented, such people were not needed anymore, and they were transformed into terrorists. From heroes to terrorists. This is exactly like Mr. Yasser Arafat who was transformed from a terrorist to a hero. Neither of the two were declared and both of them killed civilians. If it means killing civilians blindly, both of them killed civilians blindly. The United States government tried to kill a man without even giving him a fair trial. In 1998, they just sent cruise missiles into Afghanistan and they announced that they were trying to kill Osama bin Laden.

With 75 cruise missiles they tried to kill one man. And they missed that man; killed 19 other students and never apologized for those killings. What would you do if you were in our situation. If we were to go and send 75 cruise missiles into the United States and say that we

were going to kill a man that we thought was responsible for our embassy, and we missed that man, and we killed 19 other Americans what would the United States do?

Our proposals

Rather we have been very open-minded on this issue. We have said, that if really this man is involved in the Kenya/Tanzania acts, if anybody can give us proof or evidence about his involvement in these horrific acts, we will punish him. Nobody gave us evidence. We put him on trial for 45 days and nobody gave us any kind of evidence. The United States told us they did not believe in our judicial system. We were surprised as to what kind of judicial system they have?

They just tried to kill a man without even giving him a fair trial. Even if one of us is a criminal here, the police are not going to blow his house; he must go to a court first. So our first proposal was rejected. They said they do not believe in our judicial system, and we must extradite him to New York. After the rejection of this first proposal we said we were ready to accept an international monitoring group to come into Afghanistan and monitor this man's activities in Afghanistan. So that he does nothing. Even that he has no telecommunications. That proposal was also rejected. The third proposal we gave, six months ago, was that we were ready to try or accept the trial of Osama bin Laden in a third Islamic country, with the consent of Saudi Arabia and Afghanistan. That was also rejected.

Afghanistan is not a terrorist state; we cannot even make a needle. How are we going to be a terrorist state? How are we going to be a threat to the world? If the world terrorism is really derived from the world terror, then there are countries making weapons of mass destruction, countries making nuclear weapons, they are terrorist states; we are not.

Sanctions

Now, we are under sanctions. And the sanctions have caused a lot of problems. Despite that we already had been going through so many problems--- the 23 years of continuous war, the total destruction of our infrastructure, and the problem of refugees, and the problem of land mines in our agricultural lands --- all of a sudden the United Nations, with the provocation of Russia, is imposing sanctions on Afghanistan. And the sanctions have been approved; we are under sanctions. Several hundred children died a month ago. Seven hundred children died because of malnutrition and the severe cold weather. Nobody even talked about that. Everybody knows about the statues.

Renovating statues as people die

When the world is destroying our future with economic sanctions, then they have no right to worry about our past. I called my headquarters, I asked them, why are they going to blow the statues, and I talked to the head of the council of scholars of people, who had actually decided this, he told me that UNESCO and an NGO from Sweden, or from one of these Scandinavian countries Norway, Sweden, one of these they had actually come, with a project of rebuilding the face of these statues, which have worn by rain. The council of people told them to spend that money in saving the lives of these children, instead of spending it to restore these statues. It is really, really ridiculous. These people do not care about children, about people who are dying there, about the foreign interference that still exists; they only care about the statues. And I am sure they don't care about our heritage. They only care about their picnic site one time.

And I'm sure these sanctions which are imposed on our government will never change us, because for us, our ideology is everything. To try to change our ideology with economic sanctions will never work. It may work in the United States, where the economy is everything, but for us, our ideology is everything. And we believe that it is better to die for something than to live for nothing."

Sayyid Rahmatullah Hashemi is the roving Ambassador from Afghanistan who recently visited the US. The following is the edited version of the transcription of a lecture given by him at the University of Southern California in Los Angeles, on March 10, 2001.

Star LAW report

A dual citizen is considered to have lost his absolute loyalty to Bangladesh

High Court Division, The Supreme Court of Bangladesh (Special Original Jurisdiction)

Md Abdul Halim ... Petitioner

Vs

Mr Md Abul Hasan Chowdhury Kaiser & others... Respondents

and

Kazi Tajul Islam ... Petitioner

Vs

The Speaker of Bangladesh Parliament and others... Respondents

Writ Petition No. 933 of 1998 with Writ Petition No. 3251 of 1997

Before Mr. Justice Md Joynul Abedin and Mr. Justice Nozrul Islam Chowdhury

Judgment: July 23, 2001

Result: Both the rules discharged being infructuous with observations

Judgment

Md Joynul Abedin, J: Since both the Rules involve common questions of fact and law they are heard and disposed of by this common judgment.

Facts and issues

In both the Rules the petitioners, by filing applications under Article 102 of the Constitution of the People's Republic of Bangladesh, have challenged under what authority respondent No. 1 in Writ Petition No. 953 of 1998 and respondent No. 3 in Writ Petition No. 3251 of 1997 were holding Office as members of Parliament after being elected on 12.6.1996 in the 7th Parliament. Rules were issued in both the writ petitions calling upon the respondents to show cause under what authority respondent Nos. 1 and 3 respectively were holding the office as members of Parliament having been elected from Constituency No. 133, Tangail-1 and Constituency No. 260, Chandpur-1. It is claimed by the petitioner in Writ Petition No. 953 of 1998 as a voter of the said Constituency of Tangail that respondent No. 1 being a citizen of Bangladesh acquired British citizenship on 18.7.1995 and obtained British Passport No. 701185593 and thus became disqualified to contest the parliamentary election held on 12.6.1996 and also to continue as a member of Parliament in view of Article 66(2) of the Constitution for acquisition of citizenship of a Foreign State. Similarly, the petitioner in Writ Petition No. 3251 of 1997, a voter of the said Constituency of Chandpur claims that respondent No. 3, a citizen of Bangladesh by birth acquired citizenship of the United States of America on 30.5.91. Subsequently, he (respondent No. 3) again acquired citizenship of Bangladesh by the government on 21.11.95 under Article 2B(2) of the Bangladesh Citizenship (Temporary Provisions) Order, 1972 (PO 149 of 1972). But since respondent No. 3 did not renounce his USA, citizenship till the date of election on 12.6.1996, he became disqualified to contest the said parliamentary election and, after being elected also became disqualified to continue as a member of Parliament of the reason that he acquired USA citizenship in 1991 in view of Article 66(2) of the Constitution.

Respondent No. 1 in Writ Petition No. 953 of 1998 entered appearance through his Advocate but did not contest the Rule by filing any affidavit-in-opposition. Respondent No. 3 in Writ Petition No. 3251 of 1997 stated that since he (respondent No. 3)

applied for and acquired citizenship of Bangladesh on 21.11.95 under Article 2B(2) of Bangladesh Citizenship (Temporary Provisions) Order 1972 after he acquired the citizenship of the United States of America on 30.5.91, he was not disqualified under Article 66(2) of the Constitution either to contest the Parliamentary Election on 12.6.96 or after being elected to continue as a member of Parliament, inasmuch as, the acquisition the Bangladesh citizenship before the election and after the acquisition of the citizenship of the United States of America removed his disqualification, if any, as envisaged under Article 66(2) of the Constitution.

Deliberations

The contention of Mr Khondker Mahbubuddin Ahmed is that the expression "acquires the citizenship of, a foreign state" under Article 66(2) of the Constitution will mean and operate as a disqualification either for contesting the parliamentary election or to continue as an elected member of parliament if the acquisition of citizenship of any foreign state takes place after the acquisition of the citizenship of Bangladesh and before the election is held. Mr. Khondker, therefore, submits that since respondent No. 1 in Writ Petition No. 953 of 1998 never acquired citizenship of Bangladesh after he acquired the British citizenship on 18.7.1995 he attracted the mischief of Article 66(2) of the Constitution and became disqualified a member of the 7th Parliament of Bangladesh. But since, according to the learned Advocate, respondent No. 3 in Writ Petition No. 3251 of 1997 acquired citizenship of Bangladesh on 21.11.95 under Article 2B(2) of PO 149 of 1972 and thereafter he did not acquire citizenship of any foreign state before the election of the 7th Parliament held on 12.6.1996 he was not and could not be considered disqualified under Article 66(2) of the Constitution to continue as a member of the 7th Parliament.

Ms Tania Amir, submits that since Bangladesh Citizenship (Temporary Provisions) Order, 1972 allows its national to continue as a Bangladesh citizen even after he acquires the citizenship of the United States in view of the proviso to Article 2B, respondent No. 3 having acquired the citizenship of the United States of America on 30.5.91 continued as a citizen of Bangladesh as well as a citizen of the United States of America. The respondent No. 3 therefore contested the Parliamentary Election of the 7th Parliament of Bangladesh held on 12.6.1996 when he was also a citizen of the United States of America. The respondent No. 3 was thus disqualified to contest the said election and although he was elected, he became disqualified to continue as a member of the Parliament in view of Article 66(2) of the Constitution.

Mr. Salahuddin Ahmed, Advocate for the respondent No. 1 in Writ Petition No. 953 of 1998, submits in reply to the contention of Mr Kh. Mahbubuddin Ahmed that the expression used in Article 66(2) of the Constitution will mean and operate as a disqualification if a citizen of Bangladesh, in addition to his acquiring a citizenship of any foreign state, affirms or acknowledges allegiance to any foreign state. In other words, in order that a citizen of Bangladesh becomes disqualified under the aforesaid Article, he must not only acquire citizenship of a foreign state, but is also found affirming or acknowledging allegiance to a foreign state. Mr Salahuddin Ahmed reinforces his argument by submitting that unlike the interpretation of a statute, a constitutional provision is required to be interpreted to suit the changing need of the society keeping in view the hope and aspiration of its

citizens. He, therefore, contends that Article 66(2) of the constitution should be construed to mean that mere acquisition of citizenship of a foreign state will not operate as a disqualification unless he is also found to have pledged allegiance to that foreign state.

Careful consideration of the laws relating to citizenship of Bangladesh reveals that the Bangladesh Citizenship (Temporary Provisions) Order, 1972 (PO 149 of 1972) was published in the Bangladesh Gazette on 15th December, 1972 (Extra-ordinary), but it came in to force with effect from 26th March, 1971. This law initially did not provide for acquisition of dual citizenship by a citizen of Bangladesh until Article 2B was incorporated by way of amendment to the PO 149 of 1972 on 11.2.1978. However, the Constitution of the People's Republic of Bangladesh was adopted by the Constituent Assembly on 4th November 1972 with the disqualification clause under reference as it is. No necessity of constitutional amendment in respect of Article 66(2) of the Constitution was felt in keeping with the spirit of Article 2B of the PO 149 of 1972.

We therefore do not find any force in the contention of Mr Salahuddin Ahmed.

In order to find out the true meaning of the disqualification clause under Article 66(2) of the Constitution it is advisable to refer to Article 66 of the Constitution, which reads as under:

"66. (1) A person shall subject to the provisions of clause (2), be qualified to be elected as, and to be, a member of Parliament if he is a citizen of Bangladesh and has attained the age of twenty-five years.

(2) A person shall be disqualified for election as, or for being member of Parliament who-

(a)..... (b) ...

© Acquires the citizenship of, or affirms or acknowledges allegiance to, a foreign state; ..."

The said clause © requires to give an ordinary meaning and to do otherwise would amount to violating the language and expres-

LAWSCAPE

