

In the Name of God, the Most Merciful, the Most Kind



December 12, 2016

'Stand up for Everyone's Rights'

Stand up for Everyone's Rights' was the theme for this year's Human Rights Day, which was celebrated on December 10, around the world. The Day called on everyone, particularly the human right activists, to stand up firmly for everyone's rights as discrimination against the weak, poor and powerless has continued in different forms and extremism, terrorism and violence have also engulfed the world in various ways. Therefore, it is important that the ones who are in better position to perform some sort of role must not hesitate and play his/her part.

Human Rights Day basically commemorates the day on which the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948. Later in 1950, the Assembly passed resolution 423 (V), inviting all States and interested organizations to observe December 10 of each year as Human Rights Day.

Though human rights violations and issues are almost in every part of the world. The underdeveloped and developing countries are suffering the most in this regard. Afghanistan is also a type of country wherein insufficient development and persistent instability, extremism and terrorism have violated the rights of men, women and children to a large extent. These all evils, in addition to violation of human rights have also made the tasks of those individuals and organizations difficult that have been active to safeguard human rights. However, there have been many brave individuals who have proved that they have the will and intention to stand strong and such people should be appreciated as much as possible. United Nations Assistance Mission in Afghanistan (UNAMA), while marking Human Rights Day, spotlighted the crucial work of Afghan human rights defenders and joined the call for all citizens to stand up to protect the rights of vulnerable women, men, and children. At a UNAMA-sponsored event in Kabul, leading human rights defenders described how Afghanistan's armed conflict had made their work more challenging, but all the more essential. "The work of human rights defenders has become ever more crucial amid ongoing human rights abuses and violence across Afghanistan. These abuses can occur during armed conflict, but also in the workplace and in the home," UNAMA said in a statement.

Afghanistan needs to play a tremendous role in the area of human rights because of the basic reason that there have been evident violations of human rights on Afghan soil and they have even continued after so much emphasis and efforts. Even today there are many examples of clear violation of human rights throughout the country and they make the headlines in the national and international media, while there are many that go unrecorded. Looking at the plight of human rights in Afghan society, it is really important that the Afghan authorities must do something more than promises and commitments.

Unfortunately, Afghanistan lacks the basic democratic principles and the requirements of welfare state and therefore fail to provide the citizens their due rights. To be very specific about Afghanistan it can be said that a so-called democratic government has been installed, which has taken oath to provide the people their basic rights, yet there are millions who remain unattended.

For Afghan government and national organizations that want to develop a framework for the protection of human rights the United Nations Charter and the United Nations Universal Declaration of Human Rights (UDHR) can play a tremendous role. Article 1 of the UDHR says, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Its preamble also emphasizes on the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Meanwhile, the preamble of the United Nations Charter reaffirms faith in fundamental human rights, in the equal rights of men and women, while the Article 56 of the charter says, "All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55, which suggests for '(a) higher standards of living, full employment, and conditions of economic and social progress and development; b) solutions of international economic, social, health, and related problems; c) international cultural and educational cooperation; d) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'."

The objective for Afghan government to play a tremendous role can be what is set forth in Article 55 of United Nations Charter. To be very much realistic about Afghanistan, one can say that guidelines are many; the only missing factor is practical measure. There is a wide gap between the guidelines/commitments and actions, and this gap becomes wider once the intentions and honesty are doubted; and in case of Afghanistan the gap is wider. Meanwhile, the scenario is no better on the individual level. Many individuals are not even sure about how to protect the rights of others. They, in their daily lives, violate the rights of the poor, women and children and do not even feel guilty about it. It is very important that the protection of the rights must start on the individual level as well and everybody must make sure to play his/her part.



Flagrant Violation of Human Rights Continues

By Hujjatullah Zia

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on December 10, 1948 as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected.

Human Rights are "the recognition of the inalienable dignity of human beings"; free of discrimination, inequality, or distinction of any kind, human dignity is universal, equal and inalienable. After the horrors of the Second World War, which inflicted heavy casualties and indescribable destructions upon human societies, the international community decided to draw up an international charter of rights that would affirm the values put forward in the struggle against fascism.

The Human Rights Law was adopted to alleviate the pains and sufferings of mankind and put an end to war and violence. Men's natural rights to life, liberty and estate are recognized in the UDHR and it aptly states, "disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people".

Despite the claims made by the UDHR "to promote respect for these rights and freedoms", the rights and liberty of the people are violated flagrantly around the globe and violence and militancy continue unabated. The blood of women and children is spilt in the worst possible way and a large number of the individuals are killed on the grounds of their race, color and creed. In addition, terrorism is a serious threat to the men's rights and dignity and scores of individuals fall victim to the radical ideology of warring parties - which make no bone about shedding the blood of innocent people or dishonoring them.

They pay no heed to national or international laws and sacrifice moral standards and religious tenets for satiating their carnal desire and megalomania. In other words, the terrorist networks resort to war and violence to break the lump in their throats made by deprivations and poverty. Despite religious emphasis on respecting rights and dignity, they trample upon their rights in the worst possible way.

Similarly, humanitarian law is not considered at all by warring parties, mainly by the Taliban and the self-styled Islamic State

of Iraq and the Levant (ISIL). Women and children bear the brunt of violence in every corner of the world. For instance, Yazidi girls and women are arrested and raped on the basis of their race and belief and the wounded and arrested soldiers are beheaded mercilessly. "Syria is the worst war, the worst humanitarian crisis, the worst displacement crisis, the worst refugee crisis in a generation." It is really shocking to hear that more 250,000 people, half of whom are believed to be civilians, have lost their lives in Syria's war. Moreover, in the first nine months of 2016, UNAMA documented 2,461 child casualties, a 15 percent increase on the same period in 2015. The militancy is estimated to have caused 70,000 civilian casualties, including over 25,000 deaths since 2009.

Besides terrorism, the high graph of domestic and social violence against women is a blatant violation of women's human rights. They fall victim to (gang) rapes and their freedoms are curtailed not only in Afghanistan but in many parts of the world. Cultural restrictions are serious barrier before their progress and since the hegemony of democracy is not digestible in villages, crossing the red line in tribal areas by women - though their acts will not be in conflict with religious tenets - will be followed by torture and punishment. Forced marriages and selling girls for economic reasons are practiced widely in our society. Hence, do you think that UDHR has mitigated the sufferings of mankind?

In fact, there is a great sensitivity towards Human Rights Law and human rights discourse in traditional cultures. I remember vividly when I was working as a civic educator to conduct awareness about women's rights in some villages; the people purred their lips with hearing the subject and believed that it would lead to conflict between men and women in their area. It is believed that the main reason behind their negative reaction was misunderstanding human rights. They believe that human rights are a western gift preached to westernize our culture and may affect the minds of our youths negatively.

The Afghan Government with the help of the international community will have to spread true awareness about human rights and condemn the violation of human rights committed by anyone. Furthermore, a strong sanction by international community is lacking and many violators of human rights are not prosecuted by international court. Hence, only writing the rights and dignity of mankind on a piece of paper will not alleviate the anguishes and sufferings of human societies and will not put an end to violence and bloodshed.

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UPs and Downs to Women's Rights

By Muhammad Zahir Akbari

Basically, the Bonn agreement in 2001 served as a framework for the establishment of democratic government in Afghanistan. Among others, the implementation of the Bonn Agreement led to the adoption of a national Constitution, which enshrines the principle of equal rights for men and women; it led to an increase of women's participation in civil and political life; and it led to a commitment to respect international human rights, including through the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In addition, several legislative and institutional advances have been made towards the promotion of human rights broadly and women's rights in particular, including through the creation of a national human rights institution, a ministry for women's affairs at the national level and departments of women's affairs at provincial level, human rights units in various ministries, gender units in some ministries and the enactment of landmark legislation on the Elimination of Violence Against Women (EVAW).

EVAW was created through a Presidential Decree in 2009 and it includes a reference to "fighting against customs, traditions and practices that cause violence against women contrary to the religion of Islam". The law lists 22 acts of violence including among others, rape; forced prostitution; burning or poisoning women; engaging in violent behavior which causes women to commit suicide or self-harm; causing injury or disability; battery; selling women for the purpose of marriage; baad; forced marriage; and underage marriage.

The EVAW law represents a key step towards the elimination of violence against women and girls and includes both criminal and civil remedies. For the implementation of the EVAW law, the Government has established an EVAW Commission, specialized EVAW prosecution units in some provinces, and Family Response Units within some police stations. Furthermore, in order to provide a responsive reporting environment, the recruitment of more women police officers has been undertaken.

Training and awareness-raising activities for relevant state authorities continue to take place, especially with the support of the international community.

Despite above achievements, there are also challenges such as lack of effective interpretation and implementation of relevant laws by State authorities, particularly the EVAW law. Many reports indicate that the unresponsiveness and pervasive gender-bias in the policing sector is a barrier to reporting. Moreover, the failure to investigate or prosecute crimes committed against women and girls, continues to reinforce a climate of impunity, and normalizes violence and renders it as acceptable.

Allegations of discriminatory judgments and arbitrary sentencing patterns, as experienced by women defendants, can also reinforce the lack of trust in the formal justice system.

Furthermore, many women and girls who are subjected to violence do not come forward to register complaints due to their lack of knowledge of the law and its protective remedial provisions;

fear of reprisal from the perpetrators and family members; financial and other constraints, including the lack of freedom of movement; and fear of being treated as criminals instead of victims, when reporting crimes committed against them.

Women and girls who try to escape from situations of violence or abuse are often condemned and shunned by their families, communities and the authorities, and are threatened with death, should they return home.

According to recent reports 80% women are faced with violence and a large number of women and girls live in a context of deep inequalities for instance: food discriminations, underdevelopment, high levels of illiteracy, and the lack of educational and employment opportunities, more especially those living outside of the cities. In these circumstances, the challenge of addressing issues of violence, difficulties of obtaining a divorce, inheritance deprivation, fears about removal of children from their custody, and the inability to return to their homes and communities, all contribute to women choosing not to leave abusive situations. The existence of shelters in some provinces could be seen as a protective remedy for women seeking to flee their violent and discriminatory situations. But in traditional contexts of Afghanistan when a woman spends night out of home she considered as an impious woman. So, Shelters do not have a good profile rather it viewed by many individuals as institutions which encourage women to leave home; to behave immorally and outside of what is traditionally considered 'acceptable' in a conservative and religious society; as prostitution houses; and as establishments that are causing the break-up of families. It is clear that many women and girls spend long periods of time in shelters, sometimes up to five years. This is unusual but necessary in Afghanistan, considering the reality of women's situation as described above.

For the medium and longer term, there is a need to think about solutions for the long term housing needs of women and girls, so as to enable them to transition from shelters to more independent and safe living arrangements.

Finally, being a student, at the same time as someone who is aware of women situation and as acted as a National Coordinator for CEAW reporting process in MOFA, I think it is important to recall that Afghanistan has international legal obligations to meet, as set out in, among other treaties, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The State has a responsibility to act with due diligence to eliminate all forms of violence against women and girls. This responsibility includes the protection, prevention, investigation, punishment, and provision of effective remedies, including compensation measures. Furthermore, the State has a responsibility to hold accountable not only the perpetrators of violence, but also state authorities who fail to protect and prevent the violations of women and girls human rights, due to a lack of response or because of ineffective responses.

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