

Diagnosing the First Democratic Regime in Afghanistan: Human Rights Perspective

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ABSTRACT

The constant presence of undemocratic regimes, insurgencies and political instability in Afghanistan has continuously resulted into the miserable status of civil and political human rights. Furthermore, the heterogeneous nature of Afghan society and economic underdevelopment have deprived the people of social, cultural and economic rights. In 2004, democratic government had been established in Afghanistan under the presidency of Hamid Karzai. Very obviously, the people at domestic level as well as the international community expected from the democratically elected regime to take concrete initiatives for the promotion and protection of human rights. The study observes that the pioneer democratically elected government of Afghanistan had taken all constitutional measures and legal provisions for the promotion and protection of human rights in Afghanistan which can be expected from a democratic nation. But several political, socio-ethnic and socio-economic circumstances such as frequent violence due to insurgency and counter-insurgency operations, dearth of popular legitimacy to the regime, challenges to political instability along with the orthodox and heterogeneous society, facing acute economic underdevelopment have hampered the actual process of the promotion and protection of human rights in Afghanistan.

Key Words: **Insurgency, Taliban, Foreign Intervention, Karzai Regime.**

Introduction

Afghanistan's geography as well social structure has deeply influenced its political history. The History of Afghanistan is the history of war, struggle, political instability and economic deprivation (Fitzgerald & Gould, 2008). Afghanistan, since its emergence as a district political unit, in spite of several social, political and economic circumstances, has managed to survive and retain some form of sovereignty and territorial integrity (Gill, 2008). Afghanistan has internationally occupied great importance, because of its geo-strategic location. It is situated at the meeting- point of the four ecological and cultural areas, i.e. the Middle East, Central Asian Republics, the Xinjiang province of China and the Indian sub-continent (Runion, 2007).

The creation of a viable state and the assertion of a distinctive and uniform Afghan nationality are quite recent, however it carries a long history (Phelps, 2009). The legible political consolidation can be traced only to the early eighteenth

century (Gladstone, 2012). The process which produced a state from a loosely related group of tribes, remains largely unstudied, but the major accomplishments which were required for the formation of a political unit are historically cleared. Afghanistan had been periodically subjected to invasions, migrations and frequent shifts of political jurisdictions (Newals, 1972).

The list of people and conquerors who have touched or influenced the Afghan history is very long. The Indo-Aryans are the first people recorded to have invaded the region, probably before the sixth century B.C. The Greeks, Turks, Mangols, Kushans and Sikhs also ruled over Afghanistan (Malleeson, 1879). Afghanistan emerged as an independent state in the world politics in 1747. Ahmed Shah Durrani was the founder of modern Afghanistan (Barfield, 2010). After that, Abdali Abdur Rahman Khan became the ruler of Afghan. He consolidated power since 1890. He imposed his cruel verdicts on Afghanistan. Habib Allah ruled on Afghanistan since 1890 to 1919. During his regime, he introduced modern reforms and new political ideals like, constitutionalism and nationalism. After his regime, King Amanullah became the ruler of Afghanistan. He introduced first formal constitution in Afghanistan in 1921. In 1933, Mohammad Nadir Shah held the power (Saikal, 2012).

In 1964, King Zahir Shah, belonging to the dynasty of Ahmad Shah, became the ruler of Afghanistan. He introduced modern reforms in Afghanistan. Under his regime, the PDPA (People Democratic Party of Afghanistan) was founded. Mohammad Taraki became the president of the PDPA. Zahir Khan ruled over Afghanistan since 1973. After him, Muhammad Daud declared himself as the president of Afghanistan. During his regime, Soviet troops entered in Afghanistan. In the modern era, the political crisis in Afghanistan emerged after the Soviet intervention in 1978. After the intervention, the Soviet troops assumed the complete control of the government of Afghanistan and started the war against the Afghan insurgents. Majority of the Afghan people were against the communist regime imposed by the Soviet Union. Because of the Soviet intervention, innumerable Afghan people lost their lives (Usha, 2004). The Russian military occupation of Afghanistan was criticised throughout the world. As a result of the violent opposition from within Afghanistan and sanctions imposed by the international community, finally the Soviet Union withdrew its troops from Afghanistan in 1989. After the withdrawal of the Soviet troops, insurgent elements took over the control on Afghanistan and again pushed it into the chaos of warfare (Warikoo, 2002).

After the withdrawal of Soviet troops, the PDPA ruled over Afghanistan since 1992. In afterwards, the Mujahedeen took over the control of Afghanistan. At the end of 1994, the Taliban emerged in Afghanistan. In 1996, they established their fundamentalist rule and declared Afghanistan as an Islamic state. After the 9/11 attack, the Taliban regime was overthrown by US led NATO forces in 2001.

On December 5, 2001, the Landmark of Boon Agreement was signed by a group of twenty two notable Afghans. The primary focus of the Boon agreement

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was to establish a legitimate government in Afghanistan and start the process of reconstruction of the war ravaged country. The Boon Agreement, a blue print for the political evolution of Afghanistan, established an Interim Administration, a special independent commission for the convening of the Loya Jirgah (Afghanistan Legislature) in Six months. The Loya Jirgah has two houses, i.e. Wolesi Jirgah and the second is Meshrahu Jirgah (Khan, 2001).

In 2002, the Loya Jirgah took over the control of Afghanistan. Hamid Karzai was selected as the head of transitional government. Under the Boon Agreement, the presidential elections were held in Afghanistan in 2004 and Hamid Karzai became the President of Afghanistan. His government completed its first tenure in 2009. In 2009, the second presidential and parliamentary elections were held in Afghanistan. Hamid Karzai was again declared as the President for another term of five year (Rai & Mishra, 2001).

Historical Overview of Human Rights in Afghanistan

Before the formal legal and constitutional acknowledgement of human rights, the Afghan citizens, during monarchical regimes, enjoyed the rights as depicted by the Islamic jurisprudence, e.g. right to life, right to property, right to family and equality of women. The males enjoyed more rights than women for instance, in matters of divorce and matrimonial matters, the male had the right to marry four times in his life. During that stage, the nature and scope of the attainment of human rights largely and dominantly depended upon the will, wish and prudence of the monarchs (Kakar, 1995). In 1923, human rights were introduced in the constitution by King Amanullah. However, that constitution provided limited rights to the Afghan citizens. According to this constitution, Afghan people had the right to life, right to property, right to education, right to justice, right to family and right to administration etc. The constitution of 1923 made equal provisions for both men and women. Nadir Shah became the successor of King Amanullah and he continued the legacy of human rights established by King Amanullah. But during his regime, the concept of human rights was under the control and scrutiny of the Mullahs and other religious leaders (Edwards, 2002).

Afterwards, King Zahir Shah became the ruler of Afghanistan. He also followed king Amanullah's policy of Modernization. In 1963, King Zahir Shah introduced the new constitution. That constitution provided equal rights to both men and women. The concept of human rights further nourished during his regime. He introduced the constitutional monarchy in Afghanistan. During Zahir Shah's regime, there were special provisions for women's education. Under Zahir Shah's regime, the Afghan people enjoyed basic fundamental rights such as right to equality, right to life, right to freedom, right to property, right to family and religious freedom. In 1978, when Soviet troops entered in Afghanistan, the socialist regime was imposed on Afghanistan. At constitutional level, Afghan

citizens had all fundamental rights, but in actual, Afghan people lost their basic rights during the Soviet regime imposed by the Soviet Union. Huge and severe human rights violations took place in Afghanistan after the intervention of Soviet troops (United Nations, 1981: 39).

After the withdrawal of Soviet Union from Afghanistan, the Taliban took over the control of Afghanistan. They destroyed the modern concept of human rights. The women were the main victims of human rights violations during the Taliban's regime. They imposed their cruel policies on Afghan people. They burnt the schools, especially girls' schools, killed thousands of innocent civilians. They interpreted Islam and Islamic jurisprudence according to their own interests. Taliban deprived the women from their basic rights. Modern means of entertainment were totally banned during the Taliban's regime. After the 9/11 attack, the Taliban regime was overthrown by the US led coalition forces and in 2004, a democratic government was established in Afghanistan. Hamid Karzai had been elected as the president of the country. The Karzai regime made several constitutional and legal measures for the promotion and protection of human rights. But the continuance of the existence and influence of the Taliban, therefore the political conflict and instability, produced challenges before the Karzai regime to promote and protect the human rights realised in the constitutional-legal framework (Rashid, 2010).

Significance of the Study

It is always significant to observe the nature, scope and vision of human rights in the newly established democracies through constitutional-legal status of human rights in the newly established democracies. Reasonably, the scope, survival and sustainability of democracy can only be examined through exploring the nature and scope of human rights in the country. Besides observing the constitutional-legal realization, it is always relevant to examine the actual status of human rights in the newly established democracies as the actual status of human rights depicts the level of the sustainability and predicts the chances of survival of the newly established democracy. Moreover, there is always less scope for the realization of human rights in the multi-ethnic societies, experiences long history of political happenings, violence, upheavals and invasions. And there are always challenges to the establishment and implementation of West-sponsored modern doctrine of human rights in the orthodox fundamentalist societies such as Afghanistan. An overview of the historical discourse of Afghanistan depicts that the region has experienced several political upheavals, insurgencies and mutinies. The constant presence of undemocratic regimes and political instability has continuously resulted into the miserable status of civil and political human rights. Furthermore, the heterogeneous nature of Afghan society and economic under development has deprived the people of social, cultural and economic rights. In 2004, democratic government had been established in Afghanistan under the presidentship of Hamid

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Karzai. Very obviously, the people at domestic level as well as the international community expected from the decoratively elected Karzai regime to take concrete initiatives for the promotion and protection of human rights. Therefore, it is relevant to study the constitutional measures and legal provision made by the Karzai regime for the promotion and protection of human rights in Afghanistan. It has been a well observed fact that the in the orthodox and heterogeneous society which face constant challenges to political stability, it is difficult for the newly elected democratic government, formed with the intervention of international forces, to implement the constitutional and the legal ideals of human rights. Hence, it is also significant to study the actual status of human rights in Afghanistan during the Karzai regime since 2004 to 2014.

Research Questions

1. What were the nature, scope and vision of the constitutional-legal realization of human rights recognized by the first democratic regime in Afghanistan for the society which was socially multi-ethnic, economically underdeveloped and politically instable?
2. In the milieu of the constitutional-legal realization, what was the actual status of human rights in Afghanistan under the pioneer democratic regime facing challenging to its survival and sustainability?

Findings of the Study

After the overthrow of Taliban regime in Afghanistan, the International community considered it necessary to constitute a provisional government in Afghanistan. A conference at Boon in Germany was held under the supervision of the Special Representative of the Secretary General of the United Nations. After 9 days of Negotiations, the Boon Agreement was finalized. This agreement provided an opportunity for establishing peace, security and defense of human rights in Afghanistan (Mishra, 2011). The Boon conference commenced the developments to draft the new constitution for Afghanistan. The latest constitution comprises of the principles of democratic system, liberty and citizens' equal rights as it preserves a wide focus on Afghanistan's Islamic legacy. On January 25, 2004, the latest constitution of the state of Afghanistan containing 162 articles was approved as the fundamental law by Hamid Karzai, the President of Afghanistan and till date subsists as the supreme legal edict of Afghanistan (Sadat, 2010).

The second chapter of the Afghan constitution is entitled as 'Fundamental Rights and Duties of Citizens' and details all of the rights assured to the citizens of Afghanistan. This constitution contains two primary types of human rights, i.e. civil and political rights. Civil rights guarantee individual safety and uprightness and political rights permit people to take part in the political organizations and institutions. Afghanistan is committed to implement the UDHR, International

Covenant on Civil and Political Rights, International Covenant on Social Economic and Cultural Rights (Lewis, 2013). Following are the basic human rights which are provided by the constitution of 2004.

Right to Equality

Under the Article 22, the citizens of Afghanistan encompass equivalent rights and duties in the eye of the law. Right to equality has two components viz. fairness of law and equal treatment of the law.

Right to Life

Under the Article 23, right to life is the natural right of human beings.

Right to Liberty

Under the Article 24, the state would recognize and defend liberty as well as human self-esteem.

Right to Innocence

Under the Article 25, innocence is the original condition; the under-trial shall be not guilty until confirmed blameworthy by the order of an convincing court.

Protection from Illegal Torture

According to the Article 26, hounding of individuals shall be proscribed. No individual or authority shall be permitted to persecute or harass the detainees.

Right to Defense

Under the Article 27, no act shall be approved as offense unless ruled by a law propagated prior to committing of the offence. No one shall be arrested and apprehended lacking due procedure of the appropriate law.

Right to Privilege

Under the Article 28, no national of Afghanistan, charged of a transgression, shall be transfered to a foreign state devoid of mutual provisions and the international agreements to which Afghanistan have joined.

Right to prevent from Illegal Persecution

Under the Article 29, illegal persecution of individuals shall be prohibited.

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Write to Appear Before the Court

Under the Article 30 and 31, to prove himself not guilty, every person can appoint a defense lawyer. Instantly after taking into detention, the indicted shall have the prerogative to be revealed of the character of the allegation and come into view before the court not beyond the time limits specified by the law.

Right to Debt

Under the Article 32, debt shall not restrain or deny the liberty of the person. The process and techniques of recuperating debit shall be according to the law.

Right to Elect and be Elected

According to the Article 33, the citizens of Afghanistan will enjoy the right to political participation and political representation. The conditions of implementing this prerogative will be defined by the law.

Freedom of Expression

According to the Article 34, freedom of expression shall be unfringeable. Each Afghan citizen will enjoy the right to articulate through dialogue, script as well as other resources, in agreement to the established law.

Right to Association

Under the Article 35 and 36, the nationals of Afghan shall have the right to structure associations in accordance with the conditions of laws. The Afghan citizens also have the right to establish political outfits and political groups.

Right to Privacy

Under the Article 37 and 38, every Afghan has the right to individual freedom and private life. As per the Article 37, the state will refrain from examining the private communication and communiqué unless endorsed by condition of the law. Under the Article 38, personal dwellings shall be exempted from intrudes.

Right to Travel

Under the Article 39, every Afghan shall have the right to voyage and settle in any part of the country, apart from in those regions which are prohibited by law. Every Afghan shall have the right to travel outside Afghanistan and come back according to the provisions of the law.

Right to Property

Under the Article 40, the Afghan citizens have the right to private property. No one shall be outlawed from owning personal property and acquisition, except the procedure defined by the law.

Right to Education

According to the article 43, education is the fundamental claim of each Afghan national. This prerogative is made permissible up to the graduation level in the public educational organizations. Elementary schooling is free of charge and compulsory for all Afghan citizens. Establishing higher and specialized educational organizations has been considered as the primary responsibility of the state.

Special Privileges for Women's Education

According to the Article 44, the state has been given the duty to chalk out and realize in practice efficient policies to generate and promote unbiased education for the female gender, recover the standards of education as well as eradicate illiteracy in Afghanistan.

Right to Religion

Under the Article 45, Islam is the authorized religion of Afghanistan. The state shall formulate and put into practice an amalgamated educational set of courses based on the doctrine of the religion of Islam.

Right to Establish Higher Education Institutions

According to the Article 46, setting up and controlling advanced, common and specific educational organizations has been considered as the fundamental obligation of the state of Afghanistan. The people of Afghanistan shall set up advanced teaching organizations with the authorization of the state.

Right to Develop Cultural Heritage

According to the Article 47, the state shall develop effective programs for development of awareness, traditions, literature and arts. The state will guarantee the copyright of writers, scientists, discovers and shall support to defend technical and systematic research in all quarters, broadcasting or publishing their outcomes for efficient utilization in agreement with the conditions of the law.

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Right to Work

Under the Article 48, employment should be considered as the fundamental claim of every Afghan national. Fixed timings (hours) of work, remunerated vacations, job and employees' rights shall be synchronized by the law. Every citizen has the right to desire and decide profession according to his aptitude.

Prohibition of Child Labour and Forced Labour

According the Article 49, child labour and forced labour shall be outlawed. Forced labour among children shall not be permissible. The people of the country shall be employed on the grounds of their capability exclusive of any prejudice, according to due process of the established law.

Right to Administrative Information

According to the Article 50, Afghan nationals have been granted the right to obtain information from the governmental branches in accordance with the conditions of the law. This right shall have no limits except when damaging freedoms of other individuals or putting into risk the public order and security.

Right to Compensation

Under the Article 51, any individual suffering from harm by the state, without due authorization course from the government, shall disband compensation and shall appeal to the court according to the requirements of law.

Right to Health

Under the Article 52, the state has the obligation of ensuring complimentary and without any charges, the healthcare and handling of ailments as well as medical amenities to all citizens, as per the provisions of the law.

Right to Social Security

According to the Article 53, the state shall approve essential measures to standardize medicinal service as well as monetary assistance to dependents and family members of martyrs and persons who have disappeared and for livelihood of the injured, disabled and handicapped persons. The state shall assure the right of retirees and shall provide essential assistance to the old aged women without custodian along with the poverty ridden people in the orphans as per the conditions of the law.

Right to Form Family

Under the Article 54, Family is the basic pillar of the humanity and shall be sheltered by the state. Every Afghan has the right to get married according to the provision of Islam.

Legislative Measures for Human Rights

After the establishment of the democratic government in Afghanistan under the leadership of president Karzai, Afghan government has put a number of lawful steps for the safety of human rights. Following are the major human rights legislations which have been adopted by the government of Afghanistan.

Campaign against Financing Terrorism Act, 2004

The law on the Campaign against Financing Terrorism was adopted in 2004 under the Article 7 of the constitution, which emphasizes that state shall thwart all kinds of rebellion activities. The law includes six chapters and thirty four articles. The main purpose of the legislation is to combat terrorism and check terrorist activities. This is a key step taken by the government of Afghanistan to escape the Afghan citizens from the brutality of terrorism.

Counter Narcotics Law, 2006

Counter Narcotics law was introduced in 2006. It derives its legitimacy from the Article 7 of the constitution. Under this law, the state shall check farming and utilization of intoxicants. This law contains 58 Articles and has been categorized into 8 chapters. According to this law, the Ministry of Narcotics and other nodal authorities are held accountable for implementing the Narcotics Law (Katzman, 2004).

National Action Plan for Women Act, 2008

National Action Plan for Women was passed by the government of Afghanistan in 2008. Under this Act, Ministry of Women Affairs was established in Afghanistan. Through this Law, women's involvement has been increased in the public field under the NAPWA (National Action Plan for Women Act)'s direction. The state institutions are encouraged to dedicate at least 30 per cent of their budget for women's welfare (Afghanistan Ministry of Women Affairs, 2008: 20).

Elimination of Violence against Women (EVAW) Act, 2009

This law was adopted by the government of Afghanistan in 2009. According to this law, all the customs and traditions which are cause violence against women are against the Islamic Sharia law. For the first time, the forced marriage, rapes,

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denial of inheritance are commenced as criminal offenses in Afghanistan. The law emphasizes the state to shelter women from any type of violence. The law enforcement organizations are required to execute the EVAW law and inform the Ministry of Women's Affairs about the incidents. Under this law, women who are victims of violence can ask for shelter or safe houses run by the Ministry of Women Affairs of Afghanistan. With the enforcement of this law, women are ever more becoming conscious of their rights (Hamid, 2011).

Minorities Protection Law, 2001

The Minorities Protection Law, 2001 makes legal provisions for the defense of the rights of minorities in Afghanistan. On the basis of the provisions of this law, the Uzbeks and the Turkmens have obtained rights for their languages and scripts to be the officially recognised in their regions.

Afghan Women and Children Relief Act, 2001

After the extraction of the Taliban, the government has taken a constant attention in dealing of women in Afghanistan. The Karzai government has passed Afghan Women and Children Relief Act, 2001. Under this Act, the Afghan government has supplied special fundings for women's development. This Act sanctions the president to endow with educational and healthcare aid to the children residing in Afghanistan and as refugees in neighbouring countries. This Act proscribes the illegal act towards women and children (Ministry of Women Affairs, 2013: 40).

Afghan Freedom Support Act, 2002

The Afghan freedom Support Act 2002, an endorsement bill, was passed by the National Assembly in 2002. It includes the following provisions (Ministry of Women Affairs, 2013: 175).

- To encourage the women participation in the social fields.
- To encourage the economic and political development.
- To strength the Afghan National Army.

Right to Education Act, 2005

Afghanistan is the nation with one of the lowest literacy rate in the world. Only 14 per cent of adult women are educated. Under this Act, the Afghan Ministry of Woman has been introduced to amplify education and elevate literacy ranks especially among women.

Anti-Bribery Law, 2004

The law on the Campaign against Bribery and Administrative Corruption was approved in 2004 and was printed in the Official Gazette of Afghanistan in the same year. According to this law, the state shall approve significant steps to generate vigorous and transparent government. Under this act, the administration shall have the responsibilities to uphold municipal law and regulations and eradicate every type of governmental corruption. This law inflicts the essential limitations upon the government workers (Katzman, 2013).

The 2004 Interim Criminal Code

This law was commenced in Afghanistan in 2004. Beneath this law, it is the obligation of the police to evidently notify the suspect and the accused prior to questioning and at the time of taking into custody about his or her rights to stay silent. According to this Act, if the accused be economically not capable of appointing a defense lawyer are permitted to have a free defense attorney selected for them. The amount of the appointed lawyer shall be paid from the state funds and its expand shall be set by the rules. This law comprise of essentials of self protection as well.

- Defense should be against antagonism and assaults.
- Defense should be in proportion to the risk of the danger.
- Defense against an illegal an unjust act.

Under this law, a court has the authority to decrease the penalty of someone, who, in good faith, uses extreme power in protection of himself or another (International Development Law Organization, 2007: 30).

The Electoral Law, 2010

This law was passed by the government of Afghanistan in 2010. Under this electoral law's requirements, every Afghan citizen has the right to vote. Under this law, 25 per cent constituencies are reserved for female contenders in the upper house of the Parliament. Further, the Department of Defense has recruited 13,700 female election security officers to give confidence to the females for voting (International Development Law Organization, 2007: 249).

Afghanistan Independent Human Rights Commission (AIHRC) Act, 2002

The AIHRC Act had been created to set up the Afghanistan Independent Human Right Commission. It is a governmental organization for the safeguard of human rights, under the Article 58 of the constitution. The AIHRC is the nodal and formally ratified human rights institution. The AIHRC is mandated to endorse and examine human rights and examine human rights infringements and build up a

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national curriculum on civil rights and provide proposals for remedial measures to get better the human rights situation in the country. The composition of AIHRC has 11 members, 4 of them are women including the chairperson. The Commission also employs in safeguarding women's rights and speaks up against human rights violation (Afghanistan International Human Rights Commission, 2010: 6).

However the new Afghan constitution comprises of a variety of obligations to internationally documented human rights and sets up institutional instruments to make sure the defense of human rights. The preamble of the constitution commits it fully or in part to deference the UDHR, assuring a wide range of social, political, economic and cultural rights. Despite many positive developments in the country since the collapse of the regime and the control of Taliban, such as the reinstatement of some democratic organizations, the signing of several international human rights pronouncements, there remains much unawareness and confrontation of human rights from within the central and provincial governments. But it is a fact that the newly elected Karzai regime, even though boasting as the popularly elected democratic government, has been under the influence of the US and other Western forces since its commencement. It is a crucial question which has its answer latent in the future, that whether the newly established government, patronized by the US and depicting Western ideology and agenda through its constitution and legislation would be able to approve its legitimacy from its orthodox and conservative masses, numerous among whom still feel the present government as puppet of the US and express faith towards the Taliban. Until and unless, the present government gets successful in restoring its faith as a sustainable and favourable regime, it has to struggle for its survival and sustainability, hence would not be in a position to pursue an effective agenda for the protection of human rights.

Actual Status of Human Rights in Afghanistan

Afghan government has made all constitutional and legislative efforts for the endorsement and safeguard of human rights. The democratic regime has provided all social, political, cultural and economic rights to its citizens which are acknowledged by the international humanitarian law. But despite the existence of constitutional and legal provisions for the defense of human rights, various types of violations continuously occur in Afghanistan. The actual status of human rights reveals a miserable story (United States Department of States, 2012: 1). The Karzai government has not been able to shield the basic human rights of its citizens. Besides violation of various rights and liberties, right to life, the primary human right, is frequently violated by the fundamentalist forces, especially the Taliban. Worryingly, even the governmental security forces along with the NATO forces have been reportedly killing civilians. Furthermore, the status of the human rights of the vulnerable groups especially women, children and minorities depicts a

miserable story even under the democratic regime. While examining the actual status of human rights in Afghanistan, primary focus has been given to the violation of right to life of civilians, rights of women, children and minorities.

Status of Women's Rights in Afghanistan

During the Taliban's regime, the violation of women's rights was a routine norm. Since the US led intervention in 2001, there is amplification in the efforts to generate the conditions more favourable for the realisation of women's rights. After the establishment of the democratic government in Afghanistan, the women, as per the constitution, have been enjoying equal rights as men. Under the Karzai government, women enjoy political rights as 25 per cent seats are reserved for women in the central legislature. The constitution has also incorporated lawful assurance for political participation, provisions of equal education and rights in regard to health and medical care for women (AIHRC, 2009: 13).

Since the implementation of the new constitution, woman campaigners, women legislators and members of the Ministry of Women Affairs have become influential advocates for women's rights. ANDS (Afghan National Development Strategy) aims at changing the women's socio-economic conditions and their access to development opportunities. The National Action Plan for Women of Afghanistan (NAPWA) is the government's main agency for realizing policies and commitments on women's empowerment and gender equality. The AIHRC is also working for the protection of women's rights. In addition to this, the Public Health Department, the Ministry of Labour and Social Affairs are being headed by the women. It depicts a positive indicator of women's participation in public affairs (AIHRC, 2009: 20).

Status of Women's Right to Education

The Karzai regime has provided right to education equally for men and women. Up to the graduation level, the education is free of charge in the state institutions. Reasonably, women's literary rate has improved. Afghanistan has one of the lowest literacy rates in the globe, especially in regard to females. According to the Ministry of Education Affairs, only 14 per cent of adult women are literate. The literacy rate in the rural areas is as low as 4 to 5 per cent. It is reasonably because education for girls was severely restricted under the Taliban ruled areas (Afghanistan Legal Education Project, 2008: 208).

The education to girls had been historically provided through home-schools, often run by private individuals, or the communities. But now the Afghan Ministry of Education has been working to amplify women's education and raise the literacy level among girls. Due to the Ministry of Education Affairs and initiatives of other agencies, some advancement has been made as 1.2 million girls have been enrolled in Afghanistan's primary schools since 2002. But more than one million girls belonging to the age group of 6-14 years are still not attending schools

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(Afghanistan Ministry of Education, 2012: 6-7). The Afghan Ministry of Education is concentrating on developing the education opportunities for girls in communities. Even separate schools for girls are being opened in Afghanistan.

Women Participation in Public Sphere

Due to the governmental initiatives, women have been enthusiastically becoming part of the public environment. Women have started taking part in the civil society, police and the government sectors. They are attending schools and teaching as teachers. There is reservation of seats for women in the political institutions to ensure their political participation. The women have been coming forward to utilise these constitutional rights. Moreover, there are abundant women's organizations which now stand as self-governing advocates for women's rights. Under the Taliban rule, women only worked in professions related to health and medical care such as doctors and nurses and could not be found in any other profession. Since 2004, after the institution of democratic government, women have been increasingly becoming part of the work force in various governmental, private as well as civil services. After the establishment of democratic regime in Afghanistan, some positive advancement has been made for women. Following are the basic positive developments that have been introduced by the Karzai government of Afghanistan for women.

- Endorsement of activism and employment by various NGO for women's rights.
- Supply Allotment to women's issues and gender mainstreaming efforts in Afghanistan.
- Getting assistance from the US Department of State and the US Afghan Women Council.
- Getting funding from the UN agencies, especially the United National Development Fund for Women.
- The formation of legal aid agencies for women, to provide legal support.
- Constant employment efforts for female police officers.
- Afghanistan's endorsement of the Convention of the Elimination of all forms of Discrimination against Women and ratification of the Convention on the Rights of Child.
- 25 per cent reservation for women's representation in the Afghan legislature.

Undoubtedly, the Karzai regime has made various constitutional and legislative provisions for the protection of women's rights. But, in spite of all these provisions, the real picture of the status of women depicts a miserable story. The violence against women in one form or the other has been continuously occurring in Afghanistan (Amnesty International, 2010: 20).

Violence against Women in Afghanistan

Violence against women in Afghanistan occurs in various forms. The Afghan women lead the life of isolation and struggle in an environment of fear (RAWA, 2010: 20). Afghanistan's deep-rooted conventional and regular practices comprise one of the strongest sources of violence. The most common types of violence are physical, sexual, economic, verbal and psychological violence. According to the United Nations Security Council Resolution (USSCR) 2011, numerous women have experienced two or three different types of violence in Afghanistan (RAWA, 201: 14).

According to the AIHRC's research, the preponderated violence against women is corporeal violence including kicking, slapping, beating are the most common acts of physical violence. Sexual violence is a widespread but as socio-culturally hidden form of violence against women. The recorded data by AIHRC shows that women have been afflicted from various kinds of sexual violence. These types of violence are practiced in many ways such as rapes, enforced sexual violence, sexual abuse, etc. Verbal and psychological violence is another general type of violence against women that is rarely recognised. Embarrassing and humiliating behaviour against women takes place in all spheres of society, inside the family as well as in public spaces, and put the women in a hazardous subjected situation (International Crisis Group, 2013: 15).

Economic dependence on their husbands and men in the family put women in subordinated position. It often rules out women from the decision-making regarding the family issues and men compel their wills on women without taking into deliberation their approval. Economic violence against woman occurs in many different forms and takes a severe appearance due to injurious tradition and practices prevailing in Afghan society. In many cases, if women demand their rights, men resort to force and violence (AIHRC, 2013: 18).

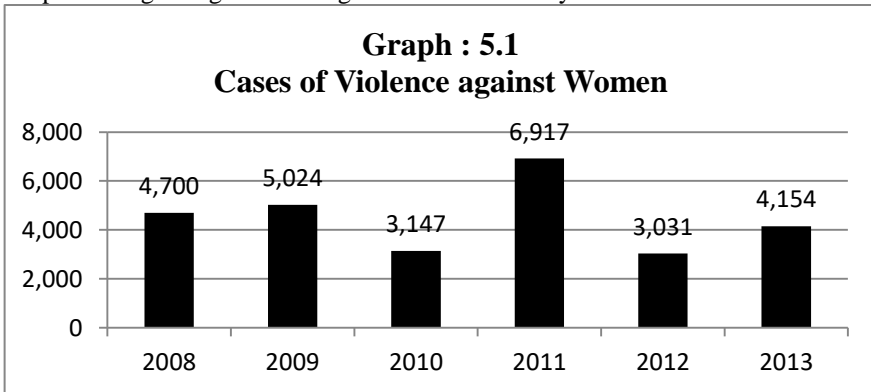
Violence against women is not limited to the aforementioned boundaries but there are other forms of violence imposed on women such as honor killings, dowry, rape, early marriage, forced marriage, taking dowry, expulsion from home. Due to the widespread occurrence of these types of violence against women in the society, there is less social reaction against them who are responsible for violating women's rights. In addition, women are also heavily affected by the continuing armed clashes. Many women have lost their lives in suicide attacks, blasts of roadside bombards and air strikes (AIHRC, 2013: 25).

In Afghanistan, the AIHRC is the formal institution to address all types of human rights violations. To attain the statistical data about violence against women in Afghanistan, the annual reports of AIHRC from 2008 to 2013 have been examined. In 2008, 4700 cases of violence against women were received by AIHRC. AIHRC documented 5024 cases in 2009. In 2010, AIHRC documented 3147 cases of violence against women. In 2011, total 6917 cases of violence against women were received by the AIHRC. In 2012, AIHRC documented 3031

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cases. In 2013, as many as 4154 incidents of violence against women were recorded by AIHRC. The data asserts that the AIHRC had received total 26,973 complaints regarding violence against women in six years.



Source: Afghan Independent Human Right Commission, Annual Reports (2008 to 2013).

The data asser that in the year 2009 there was 6 per cent increases in the cases of violence against women in comparison to 2008. Decrease of 37 per cent was noticed in the number of cases during 2010 as compared to 2009. However during 2011, increase of 54.5 per cent was observed in comparison with the year of 2010. Decrease of 56 per cent was noticed in the number of cases during 2012 as compared to 2011. The year 2013 witnessed the increase of 37 per cent in comparison with the year of 2012. It depicts that recently, there has been decrease in the cases of violence against women. But still the magnitude of the cases reveals a worrying state. Thus, the data confirms that despite the acknowledgement of women's rights at constitutional and legal level, the actual condition of the lives of women have not changed much and they still have been facing brutal violation of their various rights and freedoms.

Status of Children's Rights

The government of Afghanistan has made all lawful and constitutional provisions for the improvement of children's rights. International Convention on Children's Rights has been also ratified by the government of Afghanistan. According to the Article 48 and 49 of the constitution, forced labour and child labour are constitutionally proscribed in Afghanistan. Child marriage is also recognized as an unlawful act. Every person who is under the age of 18 is incorporated in the category of child.

Child Abuse

In the month of December 17, 2013, the AIHRC in a report described that it had recorded 400 cases of child abuses. Such abuses include general neglect, physical

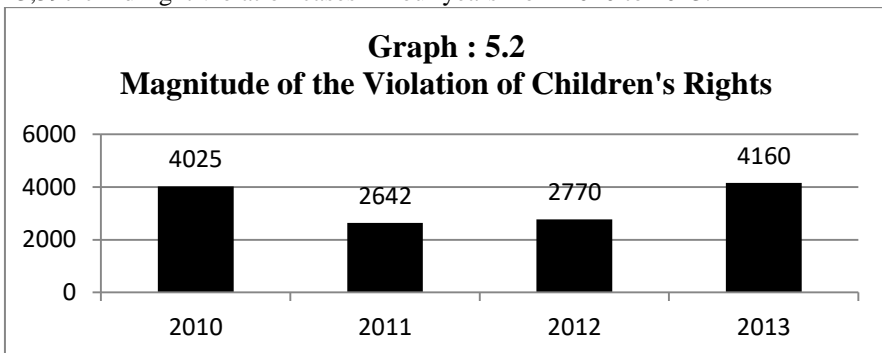
abuse, sexual abuse, abandonment, and confined forced labour to pay off family debts. There were reports that police beat and sexually abuse the under-arrest children. Sexual abuse of children has lingered unrelenting in the country. The AIHRC has noted that most child victims were abused by the unmitigated family members. Most of the abusers, who exploit the children sexually, are not arrested. Worryingly, there are reports that security officials and those connected to the Afghan security forces also rape the children with impunity (AIHRC, 2013: 10).

The AIHRC chairwomen revealed that some of the children are forced to engage in laborious activities like brick making, carpet making and work on roads. The AIHRC's report 2013 on violation of children rights asserts that because due to some obstacles, the children are deprived of attending school, while some other are facing violence. The commission asserts that sexual assault on children is shocking and mostly girls have become soft targets (RAWA, 2013: 15).

Child Marriage

According to the constitution of Afghanistan, the legal age for matrimony is 16 years for girls 18 years for boys. According to the RAWA's report of the year 2011 on child casualties in Afghanistan, roughly 60 per cent of girls are married younger than the age of 16. Under the Elimination of Violence Against Women (EVAW) Act, those who organize forced or under age marriages, may be sentenced to imprisonment of not less than two years. But there has been very imperfect execution of the law. The custom of bride money has motivated poor families to pledge daughters as young as six or seven years only (RAWA, 2013: 42-43).

The statistical data of the AIHRC regarding violations of children rights has been analyzed from 2010 to 2013. According to the AIHRC data there were total 4025 cases in 2010. In the year of 2011, there were 2642 cases reported. In the year 2012, there were 2770 cases reported. The AIHRC in 2013 had received 4160 child right violation cases. The data asserts that the AIHRC had received total 13,597 child right violation cases in four years from 2010 to 2013.



Source: Annual Reports of AIHRC (2010 to 2013).

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In the year 2011, there was a decrease of 49 per cent regarding violation of children rights in comparison to 2010. While in 2012, there was an increase of 26.28 per cent cases in comparison to 2011. In the year of 2013, there was 64 per cent increase in comparison to 2012. In the year 2013, there was increase of 3.35 cases of the violation of child rights in comparison to the year 2010. Thus, the data confirms that the ideals acknowledged to promote and protect the child rights have yet been able to become a reality in the country and the magnitude of the incidents of the cases of child rights violation have been constantly increasing year after year.

Status of the Rights of Minorities in Afghanistan

The Karzai government has endowed with equal rights for all citizens. In addition, special constitutional provisions are made by the government to protect the minorities' rights. According to the Article 45, in Afghanistan, linguistic, racial or ethnic minorities have the right to develop their culture and language. But the AIHRC report 2012, asserts that Afghan law and procedure does confine religious liberty. Members of minorities' communities, including Christians, Sikhs and Hindus, often face unfairness. Though, the Karzai regime had appointed a Hindu as an economic advisor. There are also Sikh worship places and five Hindu temples in Afghanistan. But there is no public church in the country. Various other minorities also reside in the country. The ethnic conflicts between Pashtun and non-Pashtun groups frequently result in hostilities and killings. Afghanistan is a country where rights of minorities' communities are highly at jeopardy of mass killings and other violations human rights (AIHRC, 2012: 5).

The Taliban still carry on controlling the larger areas of Afghanistan particularly in the south and east where the conditions for religious minorities are unconfident. In the territory controlled by the Afghan government too, there have been incidents of violation of religious freedom. According to the AIHRC report 2012 on minorities' rights, a number of people were killed as violence broke out in Kabul between the members of two communities (AIHRC, 2012: 5-6). The non-Muslim minorities continue to undergo societal harassment. The Sikh and Hindu communities although are allowed publicly to practice their religious practices, but they continuously face prejudice particularly when seeking government jobs. They are also reported to experience threats and annoyance during major religious carousing. Both communities contend that they are not able to cremate the dead bodies of their relatives in accordance with their customs. The large number of both communities is believed to have left Afghanistan as a result of the severe difficulties they faced (AIHRC, 2013: 10).

Status of Civil and Political Rights

At the constitutional and legal level, Afghan citizens enjoy each kind of civil and political rights but actual status of these rights is totally different from constitutional and legal status. There were reports that the government or its representatives committed arbitrary and unlawful killings. Afghan media source reported that Afghan police in Kandahar was implicated in extra-judicial killings. The occurrences of torture and other cruel inhuman or degrading treatment by police are common in Afghanistan. The constitution prohibits such practices. However, there are prevalent reports that government security forces, including the police execute physical or sexual abuses. NGOs have reported that security forces continue to use excessive force, including torturing and beating civilians (AIHRC & UNAMA, 2011: 9-10).

The law excludes arbitrary, intrusion in matters of privacy, but the government reportedly did not respect these prohibitions in practice, and there was lack of sincerity for the protection of victims. Government officials forcibly enter in the dwellings of civilians, without the judicial permissions (United States Department of State, 2012: 3-14).

The constitution provides for freedom of the dialogue and the freedom of the press. However the government confined these rights. The authorities used pressure, and threats to silence critics. Freedom of speech was even more constrained at the provincial level, where warlords possess many of the broadcasting posts and the print media. Female reporters allegedly found it difficult to practice their profession. Despite these obstacles, media in Afghanistan has been playing active role to strengthen the democracy (UNAMA, 2009:11).

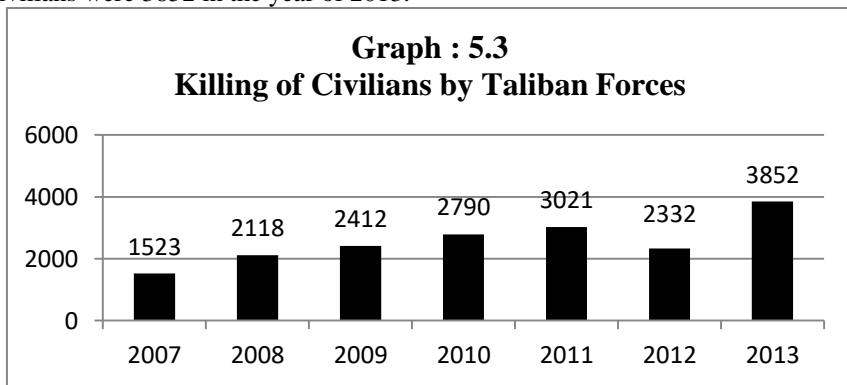
Killings of Civilians by Taliban Forces

Taliban still remain vigorous in Afghanistan. The Taliban forces are responsible for the casualties of civilians in Afghanistan. The escalation and increase of the armed conflict in Afghanistan continues to take a heavy toll of civilians' lives all through the country. Suicide and (IED) Improvised Explosive Devices attack have caused more civilian casualties than any other methods. Although, such attacks have primarily targeted government and international military forces, they are frequently carried out in areas frequented by the civilians. Civilians are also intentionally beleaguered with killings, abduction and executions if they are apparent to be sympathetic of, or associated with the government. A broad range of civilians together with political leaders, former military employees, doctors, construction workers, etc. have been targeted. Other persons such as the representative of the UN and NGOs have also been targeted. These acts of terrorization and killings are used as methods of disseminating terror among communities and applying power over the civilians. These strategies also weaken the support for the Afghan government and expose the government's incapability

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to defend civilians from such actions and mistreatment by Taliban forces (UNAMA, 2012: 5).

To obtain the statistical analysis of the killings of civilians by Taliban forces, the annual reports of the UNAMA from 2007 to 2013 have been examined. After examined the data of killing of civilians by Taliban forces, given in the annual reports of the UNAMA, it has been found that cases of civilians' killings are increased year after year. The UNAMA had registered 1523 killing of civilians in the year of 2007. In the year 2008, there were 2118 killing of civilians cases were reported. In 2009, there were 2412 cases were received by the UNAMA. In 2010, UNAMA had received 2790 and in the year 2011, there were 3021 cases reported. In 2012, UNAMA had received 2332 cases. The number of cases of killing, civilians were 3852 in the year of 2013.



Source : UNAMA, Annual Reports (2007 to 2013).

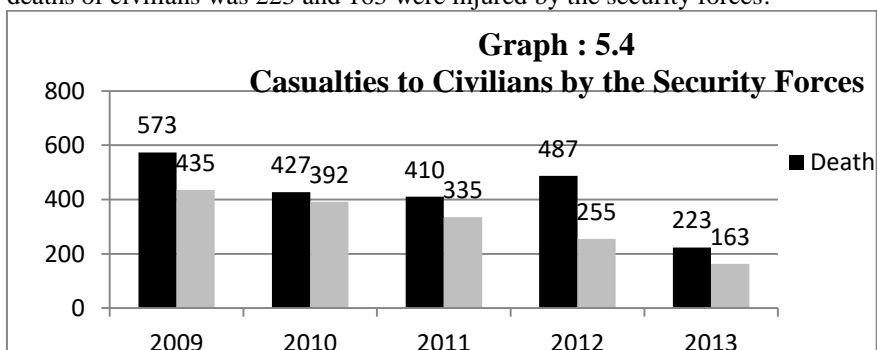
The data asserts that there were total 18048 cases of killing of civilians in Afghanistan from the period of 2007 to 2013. In the year 2008, there was 13.9 per cent increase in comparison with 2007. During 2009, 11 per cent increase in the killing in comparison with 2008. In 2010, there was 15.7 per cent increase of civilians killing in comparison with 2009. Decrease of 8.27 per cent was noticed in the number of cases during 2011 as compared to 2010. In the year of 2012, there were significantly 22.8 per cent decreases in comparison with 2011. The year 2013 witnessed the increase of 65 per cent in comparison with 2012. The above data assert that the government of Afghanistan has failed to protect the civilians' lives from the Taliban forces. The Taliban, to disturb the law and order situation to make the government instable, to disseminate terror in the region and to expose its power, keep on making the innocent civilians their targets, without any probable fear of the Afghanistan security forces.

Casualties to Civilians by the Security Forces

Afghanistan is a signatory to several international human rights treaties including the International Covenants on Civil and Political Rights which obliges the

government of Afghanistan to offer indispensable human rights safeguard to all people within the territory of the state. The employees of the government security forces are also responsible for breach of international human rights standards mainly regarding any events of the exercise of power against civilians during law enforcement actions such as investigations and arrest operations. But the Afghan security forces have been reportedly attacking on the public places such as hospitals, schools, and religious places. The Afghan Local Police and the Afghan National Army has been involved into the incidents of human rights violation. The UNAMA also received reports on murder, rape and violence by Afghan local police (UNAMA, 2011: 10-11).

To attain the statistical analyses about the execution of civilians by the security forces, the annual reports of the UNAMA from the year 2009 to 2013 have been examined. In the year 2009, there were 573 civilians were killed and 435 injured. In the year 2010, there were 427 killed and 392 injured and in 2011, 410 civilians were killed and 335 injured. In 2012, security forces were responsible for 487 civilian deaths and 255 injuries. In 2013, the number of the deaths of civilians was 223 and 163 were injured by the security forces.



Source : UNAMA, Annual Reports (2009 to 2013).

The data asserts that there were total 3700 civilian casualties by the security forces in Afghanistan from the period of 2009 to 2013. In 2010, 25.47 per cent were reported death and 9.8 per cent were injured. This data is decreased if we compare it with the data of 2009. Then, in the year 2011, the number of deaths were reported 3.98 per cent and 14.54 per cent people injured again if we compare the data with 2010 then it is decreased. The data of 2012 reveal that death rate is increased of 18 per cent and the rate of injuries decreased at 23.8 per cent. If we talk about the data of 2013, 54.29 per cent death rate was decreased and 36.07 per cent injuries also decreased as compared with the data of 2012. The decrease of 61 per cent was noticed in the cases of civilian casualties during 2013 as compared to 2009. On the basis of above data it is found that failure of the government to implement its policies and maintain the status of law and order and limited scope of government are responsible for the civilian casualties. Because of the international community's pressure especially by the US, the Afghan government provided various kinds of fundamental rights to Afghan citizens but government is

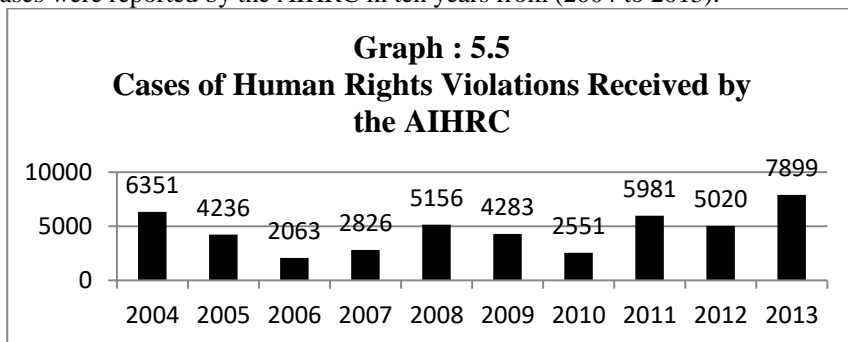
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failed to implement these laws in practice. The decrease of the 61 per cent casualties of civilians by the security forces in 2013. So that security forces becoming responsible to protect the Afghan citizens' lives.

Functioning of Afghanistan Independent Human Right Commission

AIHRC is a legislative organization with the authorization to endorse and defend the human rights of Afghan and to examine the cases of human rights violations. It provides human rights education within the government establishments as well as in schools. It also encourages laws that guard the liberties of women and other defenseless clusters and work to elevate consciousness among the Afghan citizens about their rights. The AIHRC devotes meticulous concentration and resources to concentrate on the right of women and children. Because of the lack of capital supplies and feeble situation of the law, there are numerous complexities, boundaries and inadequacies in the performance of the AIHRC (AIHRC, 2006: 10).

To observe the magnitude of the cases received by the AIHRC, its reports of ten years from 2004 to 2013 have been examined. The data depict that large number of violation of human rights has been committed in Afghanistan every year. During first two years of its establishment, the AIHRC received 18000 complaints. According to the AIHRC data, there were total 6351 human right violation cases in 2004. In 2005, the number decreased 4236. In 2006 as many as 2063 cases were reported by AIHRC. In 2007, AIHRC documented 2826 cases, in 2008, total 5156 cases were reported by the AIHRC. In 2009, AIHRC documented 4283 cases, in 2010, again 2551 complaints were received by the AIHRC. In the year 2011, a number of 5981 complaints was received by the AIHRC. In the year 2012, the AIHRC received 5020 complaints, in the year 2013, total 7899 cases were reported by the AIHRC. In 2013, and total 47000 human right violation cases were reported by the AIHRC in ten years from (2004 to 2013).



Source : Annual Reports of AIHRC from 2004 to 2013.

The data assert that there were total 47000 human right cases reported by AIHRC. In the year 2005, there was 33 per cent human rights violations cases

decreased as compared to 2004. In 2006, there was 51 per cent decrease in comparison with 2005. In 2007, there were 27 per cent human rights violation cases decreased in comparison with 2006. In 2008, there was an increase of 45 percent cases in comparison with 2007. Decrease of 20 per cent was noticed in the number of cases in 2009 as compared to 2008. The 2010 witnessed the significant decrease of 67 per cent in comparison with the year of 2009 while in 2011, there was an increase of 57 per cent cases in comparison with 2010. In 2012, there was 0.64 increase as compared to 2011. In 2013, there was 31 per cent human right violation cases increased as compared to 2012. In the year 2013, there was an increase of 24.37 per-cent human right violation cases in comparison with the year of 2004.

The statistical data of the AIHRC show that the violation of the right to dignity is violated most frequently. Torture, inhuman and degrading treatment are constantly committed by the Afghan security forces. The AIHRC contributes the decrease of violation by arguing all parties and the armed groups to respect civilians' life and property. As a result of the AIHRC's efforts, training to the police, military personnel, judicial officials, common civilians, lawyers and paralegals, their behaviour and attitude has changed positively, which reflects an increasing understanding and adherence to human rights and the humanitarian law.

The UNAMA (United Nations Assistance Mission in Afghanistan) was organized in 2001 for the protection of civilians' rights. The UNAMA carries out actions intended at encouraging and defending human rights in agreement with the UN Security Council Resolution which explicitly requires UNAMA to monitor the circumstances of civilians to synchronize efforts to guarantee their safeguard, and to support in the full connotation of the basic freedoms and human rights provisions of the Afghan constitution and the international treaties which are approved by Afghanistan as a state party (UNAMA, 2012: 7). The RAWA (Revolutionary Association of Afghan Women) is an innovative establishment of women which has been functioning for the safety of women's rights and committed to safeguard women from different types of violence. RAWA's purpose is to amplify the number of Afghan women in the social and political functions aspiring at protecting women's human rights.

Conclusion

Although, President Karzai's government has provided various kinds of human rights to the Afghan citizens at the constitutional level, but the real position of constitutional rights in Afghanistan reveals a miserable story. The Afghan citizens have been experiencing severe and brutal violation of human rights during present Karzai regime. Human rights violations including enforced disappearances, arbitrary detentions, extra-judicial killings, summary executions, torture, mass killings through random barrage on residential areas, forced disarticulation, prowling and annihilation of public properties has been constantly occurring in the

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state. The acts of human rights violations are committed both by the governmental forces as well as Taliban. The present uncertainty, experienced by the Afghans, the destabilized situation of the rule of law, the inability of the government to put into practice the law to protect human rights, its failure to provide basic social services, the poverty exaggerated by the conflict and the insufficient level of public consciousness about human rights has prohibited citizens from realizing and accessing their rights. Unfortunately the international community and the UN have generally demonstrated ineffectiveness in endorsing human rights in Afghanistan. The international alliance, supplying security forces or reconstruction funds, has failed to take a positive role in addressing human rights issues. Violation of human rights incessantly occurs in Afghanistan. Therefore, the accomplishment of the constitutional and legislative measures for human rights is still a challenge for the Karzai regime. The actual status of human rights in Afghanistan depicts defenselessness of several sections, various regions and numerous people. The Afghan government has not succeeded in its obligation to investigate, arrest and punish the accused of human rights violations. Thus, the political stability through eradicating fundamental forces along with the proper status of the rule of law and the adequate delivery of the criminal justice system is sturdily required to protect the human rights of the Afghans. Besides that the strong political will, the emergence of the active civil society and, most significantly, the awareness among common masses will further help in the broader realisation of human rights.

However the new Afghan constitution comprises of a diversity of obligation to globally documented human rights and sets up institutional mechanism to ensure the safeguard of human rights. The preamble of the constitution entrusts it completely or in part to respect the UDHR, assuring an extensive assortment of civil, political, economic and cultural rights. Despite several developments in Afghanistan since the fall of the Taliban, such as the restoration of some democratic institutions, the signing of several international human rights declarations, there remnants much lack of knowledge and confrontation of human rights from within the central and local governments. But it is a fact that the newly elected Karzai regime, even though boasting as the popularly elected democratic government, has been under the influence of the US and other Western forces since its commencement. It is a crucial question which has its answer latent in the future, that whether the newly established government, patronized by the US and depicting Western ideology and agenda through its constitution and legislation would be able to approve its legitimacy from its orthodox and conservative masses, numerous among whom still feel the present government as puppet of the US and express faith towards the Taliban. Until and unless, the present government gets successful in restoring its faith as a sustainable and favourable regime, it has to struggle for its survival and sustainability, hence would not be in a position to pursue an effective agenda for the protection of human rights.

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