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ON DEVELOPMENT OF HUMAN RIGHTS
2003-2004

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Afghan Independent Human Rights Commission

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1 INTRODUCTION

1.1 THE AFGHAN INDEPENDENT HUMAN RIGHTS COMMISSION ROLE & PLACE

Until recently, using the term "human rights" was considered a crime in Afghanistan. For over two decades, the people of Afghanistan experienced fighting, massacres, destruction, displacement, environmental degradation and the persecution of women and ethnic minorities. Even after the fall of the Taliban in November 2001, violations of human rights have continued as a result of a lack of security and impunity experienced by human rights violators. The need for the work of the Afghan Independent Human Rights Commission is clear.

1.2 ESTABLISHING THE AIHRC

Because of the need to build a new, democratic Afghan society that respects human rights, the Afghan Independent Human Rights Commission (AIHRC) was written into the Bonn Agreement in December 2001. The Commission was formally established in June 2002 by Presidential Decree following months of national consultations that involved civil society, representatives of the Afghan government, the then UN High Commissioner for Human Rights, Mary Robinson, and the then UN Special Representative of the Secretary-General (SRSG), Lakhdar Brahimi. Dr. Sima Samar, then Minister of Women's Affairs, served as focal point for these consultations and was later appointed as the Commission's Chairperson.

In the Presidential Decree, the AIHRC was given responsibility for developing a national plan of action for human rights in Afghanistan, including human rights monitoring, investigation of violations of human rights, the development and implementation of a national program of human rights education, undertaking national human rights consultations and the development of domestic human rights institutions. The Commission is required to submit opinions, recommendations, proposals, and reports to local, regional and national authorities. It is also mandated to promote the harmonization of Afghan laws and practices with international human rights instruments to which Afghanistan is a party.

The Commission is comprised of eleven Commissioners, five of whom are women, who have initially been appointed for a two-year term. The Commissioners represent the principal ethnic and religious groups in Afghanistan.

1.3 WINNING CONSTITUTIONAL STATUS FOR THE AIHRC

In January 2004, the AIHRC won permanent, constitutional status in the newly adopted Afghan Constitution. During the six months prior to the Constitutional Loya Jirga, the AIHRC submitted recommendations to the Constitutional Drafting Commission and the Constitutional Commission.

While the final draft of the constitution submitted to Loya Jirga reflected the AIHRC's recommendations for a Bill of Rights, the language codifying the Human Rights Commission was very weak. However, at the Loya Jirga, the Commission won support from delegates for amendments to strengthen the provisions regarding the Commission.

Article 58 of Afghanistan's new Constitution states:

"The State for the purpose of monitoring the human rights in Afghanistan, and their protection, shall establish the Independent Human Rights Commission of Afghanistan. Every person in case of violation of his human rights can submit a complaint to this Commission. The Commission can refer persons whose human rights have been violated, to legal authorities and assist defending their rights. The structure and functions of this Commission shall be regulated by law."

This article did not secure all of the recommendations made by the AIHRC regarding its functioning and authority, but provides sufficient space for the Commission in its main recommendations on monitoring and investigation of human rights violations. The Commission has the authority to investigate and monitor cases of human rights violations and to refer and follow the cases in court.

1.4 NEXT STEP PARLIAMENT

The Constitution requires that the structure and functions of the Commission be regulated by law. Prior to the election of a Parliament, the Commission is drafting a proposal for such a legislation.

The Commission's draft will be modeled on the Presidential Decree under which the AIHRC now functions. However, over the past two years, the Commission also has identified other needs that the new legislation should address.

For example, in cases where the government perpetrates a violation against a group of people, the AIHRC should have the authority to file a case against the relevant government body or the government in general in court. An example of the need for this mandate was the incident at Kabul University in November 2002, when police opened fire on a group of students who were engaged in a peaceful demonstration, killing four students. Despite this clear human rights

violation, there was no one to file a court case against the Chief of Police and the officer in charge. As a result, there was essentially no investigation or legal redress for the murders.

1.5 STRUCTURE OF THE AIHRC

In July 2002, the Commission consisted of eleven individual Commissioners with no resources, no staff and no place to work except on the floor of borrowed office space. Two years later, the Commission is a vibrant national human rights institution with a central office in Kabul and regional offices in Herat, Bamiyan, Mazar-e-Sharif, Jalalabad, Gardez, Kandahar and Kunduz. As well, the Commission opened sub-offices in Badakhshan and Maimana this year. In the coming months, the Commission will begin construction of a building to permanently house its offices in Kabul. The property has been provided by the government. As well, the Commission plans to open a new office in the recently formed province of Dai Kundi.

The Commission now has 326 staff working in its headquarters and regional offices, which includes eleven Commissioners, 135 program staff, 62 administrative staff and 118 support staff.

The work of the Commission at the national level is carried out by seven units: Monitoring and Investigation, Transitional Justice, Women's Rights, Child Protection, Human Rights Education, Media and Publications and Research and Policy. The Research and Policy Unit was added to the Commission structure this year in order to conduct research and policy analysis, assist in the development and consolidation of policy recommendations to the government and other institutions, follow international human rights developments and assess the compatibility of Afghan law and practices with international human rights instruments to which Afghanistan is a party.

Each regional office is structured to include five units: Monitoring and Investigation, Transitional Justice, Human Rights Education, Women's Rights and Child Protection.

2 ESTABLISHING HUMAN RIGHTS UNDER THE LAW

2.1 ENSHRINING HUMAN RIGHTS IN THE CONSTITUTION

Largely as a result of the efforts of the AIHRC and other human rights and women's rights advocates, the new Afghan Constitution, which was adopted at the conclusion of a three-week Constitutional Loya Jirga on January 4, 2004, contains several provisions that offer some protection for human rights. However, some recommendations made by the Commission that would have provided stronger human rights guarantees were not included.

The AIHRC met with the Drafting Commission and Constitutional Commission throughout the constitution-making process. When initial versions did not include some of the AIHRC's key recommendations, the AIHRC wrote and submitted to the Drafting Commission its own draft of a constitution which highlighted the role and function of a national human rights commission as well as contained stronger human rights language.



2.2 ABIDE BY INTERNATIONAL TREATIES

In a significant victory, the AIHRC won inclusion of the following:

"The State shall abide by the UN Charter, international treaties, international conventions that Afghanistan has signed and the Universal Declaration of Human Rights."

Earlier drafts of the Constitution contained weaker guarantees of compliance with international human rights instruments, but the AIHRC prevailed in the final draft of the adopted Constitution.

2.3 BILL OF RIGHTS

Early in the constitution drafting process, the AIHRC recommended that the Constitution include a Bill of Rights with strong human rights provisions and implementation mechanisms. Early drafts had left most of the rights vulnerable to Parliamentary modification. The AIHRC worked to secure the strongest declaration of rights possible, winning incorporation of some of its recommendations.

The "Fundamental Rights and Duties of Citizens" in the Afghan Constitution includes the right to life, the right to liberty, right to legal defense, right to vote and to be elected, freedom of expression, communication and peaceful assembly, right to work and property rights. The Constitution also prohibits torture, invalidates confessions obtained by force, protects against imprisonment for crimes committed by another, and includes other provisions on the rights of the accused. (See www.constitution-afg.com for the full text of the Constitution).

2.4 WOMEN'S EQUAL RIGHTS

The AIHRC played a leadership role in advocating for women's rights in the constitution. The AIHRC Women's Rights Unit held and participated in many workshops, seminars, and consultations with the Ministry of Women's Affairs, other government Ministries and NGOs over the course of the constitution-making process to raise awareness about the Constitution and the need to include women. The Women's Rights Unit also published and widely distributed brochures and posters advocating that women's rights be enshrined in the Constitution.

While the final government draft of the Constitution did not include an explicit guarantee of equal rights for women as the AIHRC recommendations had urged, delegates at the convention adopted a provision stating that: "The citizens of Afghanistan – whether man or woman – have equal rights and duties before the law." The Constitution also now guarantees female representation in both Houses of Parliament.

2.5 CONSTITUTIONAL IMPLEMENTATION

The AIHRC was less successful in securing provisions on constitutional implementation. To monitor implementation of the Constitution, strengthen the rule of law and ensure fundamental freedoms and rights of the people, the AIHRC also urged the establishment of a Constitutional High Court. The responsibilities of such a court would be to monitor the conformity of laws with the Constitution and to adjudicate complaints on constitutional issues. However, a Constitutional High Court was not included in the final Constitution.

In another example, Article 3 of the Constitution reads: "No law shall contravene the tenets and provisions of the holy religion of Islam." The AIHRC's proposed constitution had recommended that this article provide stronger human rights assurances. The AIHRC provision, which was not accepted, stated: "In Afghanistan no laws shall run counter to the sacred

principles of Islam, human rights standards, principles of democracy, social justice, the country's international obligations, and other values enshrined in the Constitution."

The AIHRC had also urged greater separation of powers and a stronger Parliament than were provided in the final Constitution.

While the AIHRC was disappointed that many of its recommendations for stronger human rights language and for more checks and balances between the President and Parliament were not adopted, it believes that the Constitution – if implemented – does provide some basis for human rights in Afghanistan.

BILL OF RIGHTS

Summary of Rights in Chapter 2 of the New Constitution

- Equality and Non-discrimination
- Life
- Liberty and Human Dignity
- Innocence until Judicial Conviction
- Prohibition Against Torture
- Invalidity of Forced Confession
- Right to Legal Defense and Access to Courts
- Freedom from being Prosecuted for a Crime Committed by Another
- Right to Elect and Be Elected
- Freedom of Expression
- Right to Assembly, Demonstration, and Association
- Right to Citizenship
- Freedom and Security of Person
- Freedom of Travel and Residence
- Freedom of Trade, Occupation, and Profession
- Prohibition Against Forced Labor
- Right to Education
- Right to Health Care
- Right to Property
- Freedom and Confidentiality of Correspondence and Communication
- Compensation for Unfair Administrative Action

2.6 IMPROVING THE PENAL CODE

The current Afghan Penal Code was adopted in 1976. Few amendments have been made to the law since. Under the leadership of Commissioners Nadery and Hamidi, the AIHRC conducted an extensive review of the Penal Code to assess its compatibility with international human rights instruments and its relevance to criminal justice issues today.

In addition to reviewing the Penal Code as well as international treaties and conventions to which Afghanistan is a party, the AIHRC convened a series of meetings of legal scholars and lawyers with knowledge of the deficiencies in the implementation of the current Penal Code. Together with these scholars and practitioners, the AIHRC submitted recommendations for changes to the Penal Code to the Judicial Reform Commission.

2.7 INCLUSION OF WAR CRIMES

The 1976 Penal Code did not envision the horrendous crimes suffered by the people of Afghanistan over the past 25 years. Therefore, the AIHRC has recommended that the Penal Code be modified to include such crimes as war crimes and the trafficking of women and children. Laws in these areas should be drafted to conform to international human rights standards such as the Rome Statutes of the International Criminal Court (ICC). With its recommendations, the AIHRC submitted to the Judicial Reform Commission, translations of the Rome Statutes and implementation legislation for the ICC from Britain, Germany and Canada. The Judicial Reform Commission has indicated to the AIHRC that it will soon begin work to develop ICC implementation legislation for Afghanistan. The AIHRC will participate heavily in this process.

2.8 DEFINITION OF CRIMES

Another void in the Penal Code is the lack of clear definitions for crimes from fraud to trafficking in children. This situation has created ambiguity and uncertainty during legal interpretation and implementation. The four Geneva Conventions and their Additional Protocols provide specific definitions for crimes in order to prevent violations of the laws due to different and inaccurate interpretations and accord appropriate punishments. For these reasons, the AIHRC advocates explicit definitions of crimes.

2.9 CRIMINALIZE WOMEN'S RIGHTS VIOLATIONS

Both the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Afghanistan ratified in March 2003, and the Islamic Declaration on Human Rights require States to act to eliminate discrimination against women. In Afghanistan, women who go outside of their homes and who hold jobs are often subject to harassment and threats. In order to encourage women's economic, social, and political participation in Afghan society, the AIHRC has recommended that this type of harassment be defined as a crime in the Penal Code to effectively promote and protect women's rights. Iran and Pakistan have included similar provisions in their laws.

2.10 JUVENILE JUSTICE SYSTEM

Despite the fact that Afghanistan has signed the Convention on the Rights of the Child (CRC), the Penal Code does not adequately provide for child rights or a humane juvenile justice system. The AIHRC has proposed that a

specific penal code be drafted for children, along with the addition of separate courts for juveniles accused of crime as well as separate correctional facilities for children. Moreover, the conditions of children's detention centers and procedures for the investigation of crimes committed by children must be improved.

Furthermore, juvenile courts only exist in some parts of the country which means that children in different parts of the country are treated differently depending on whether or not they have access to a juvenile justice system.

2.11 BALANCE CRIME & PUNISHMENT

International human rights instruments also emphasize the need for fair trials and proportionality between crime and punishment. The current Afghan Penal Code has no balance between crimes committed and their subsequent punishment. For example, in the current Penal Code, someone who cuts a telephone line can be punished by execution. On the other hand, the punishment for "*Bad*" the giving of girls in marriage to settle disputes is less than two years. The AIHRC has recommended a review of the Penal Code to create a balance between the crime and punishment.

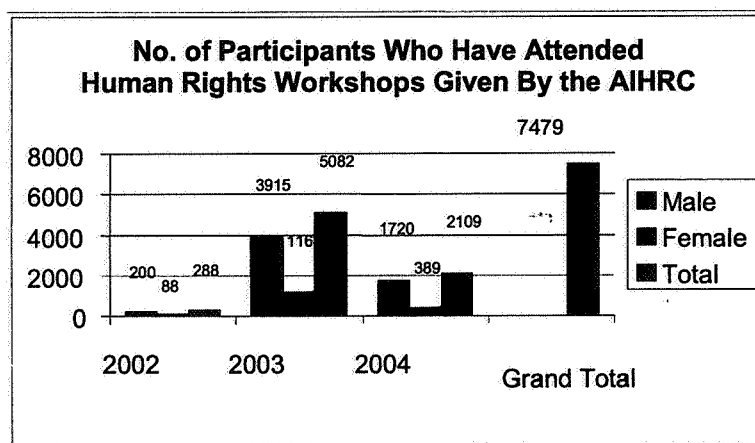
Detention and imprisonment take away the human right to freedom and have many negative social consequences such as the collapse of families. The AIHRC has proposed that imprisonment should be replaced by alternative punishment whenever possible and also advocates for a reduction in the use of execution as a punishment.

In May 2004, the Judicial Reform Commission informed the AIHRC that some of the AIHRC recommendations had been incorporated into the draft Penal Code submitted by the Commission to the Ministry of Justice, including its recommendations regarding punishment and the inclusion of ICC crimes.

The Ministry of Justice will review the draft Penal Code and then submit it to Cabinet for approval. This process, however, goes against the Bonn Agreement which requires the Judicial Reform Commission to submit recommendations directly to the President and Cabinet. The AIHRC has complained to UNAMA about this breach of the Bonn Agreement. In the coming year, the AIHRC will monitor and analyze the Penal Code that emerges from this process.

3 PROMOTING HUMAN RIGHTS

A major goal of the AIHRC's human rights awareness programs is to replace the existing culture of violence with a culture of peace and respect for human rights. Human rights will only be achieved in Afghanistan when the AIHRC is successful in bringing about positive changes in the attitudes and behavior of the traumatized and war-affected people of the country. Through workshops, public events, the media, publications and the introduction of human rights into all levels of education, the AIHRC has sought to inform people about their rights and to change the climate for human rights.



3.1 HUMAN RIGHTS EDUCATION WORKSHOPS

The AIHRC's Human Rights Education Unit has produced curricula for workshops on sixteen human rights topics for a wide range of audiences. (See Box). Every workshop includes an introduction to human rights, the history of human rights, and "my right, your right" components. Many of the workshops train community leaders, educators and government employees in how to teach human rights.

While earlier in its life, the AIHRC had to request opportunities to make presentations, the Commission now receives numerous requests from NGOs, professional associations, women's councils and other community groups to hold human rights workshops. The AIHRC educational materials are in high demand. For example, the AIHRC provided 200 copies of its publications on international human rights treaties to the local NGO, Human Rights Activists Association for their use in Baghlan Province.

Since June 2003, 3400 people have participated in 85 human rights training workshops run by the AIHRC.

Topics Covered in the AIHRC's Human Rights Workshops

- History of Human Rights
- Universal Declaration of Human Rights
- Your Rights and My Rights
- Forced Marriage
- 10 Standards for Police and Army to Consider Regarding Civilian Treatment
- Violence and the Culture of Human Rights
- Conflict and Human Rights
- Human Rights and the Media
- Human Rights Treaties
- Human Rights Enforcement Mechanisms
- Human Rights, Development and Democracy
- Human Rights and Civil Society
- Culture Of Human Rights

Police and Army

Human rights training for army, intelligence, police and other law enforcement officials is a major priority for the AIHRC. Over the past year, the Human Rights Education Unit has conducted workshops for police, security, inspectors and army officers across the country. The trainings focus on the ten international standards of behavior for law enforcement, which the AIHRC has modified with passages from the Koran that reinforce human rights and on prohibitions against torture.

Because Afghanistan is in the process of training thousands of army, police, and other security personnel, the AIHRC has focused much of its work on training academies. This past year the AIHRC ran workshops at the Army Training Center, the Teachers of Army Training Center, Intelligence Services Training Center and the Academy of Police. At the Academy of Police, the AIHRC provided a four-month training for twelve groups of police. Last fall the AIHRC helped establish a National Army human rights office, which now holds its own trainings twice a week on human rights subjects. Other trainings were held for the Ministry of Interior Human Rights Unit.

The AIHRC has also distributed 700 cards to policemen and soldiers regarding the humane treatment of civilians.



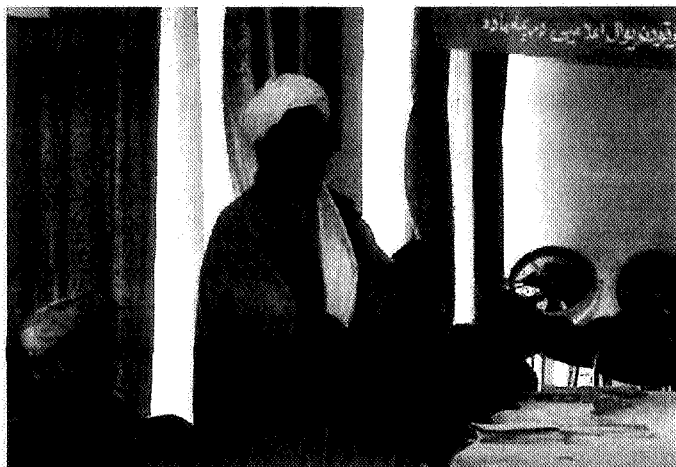
Journalists

The Commission has sought to enlist journalists as partners in the creation of nationwide human rights awareness. In February 2003, the AIHRC launched a series of courses on human rights and journalism, which have continued in 2004. The goal of the six-week course for broadcast and print journalists as well as an academic course for students in the Faculty of Journalism at Kabul University is to ensure coordination between the AIHRC, journalists and the journalism faculty to increase human rights awareness.

As a result, various official and private newspapers are either focusing on human rights awareness raising as a routine activity or they are highlighting patterns of human rights abuses and violations. They are also asking the Commission to provide them with human rights information and materials on a regular basis.

Community Leaders

Every month in Kabul the AIHRC holds human rights workshops for mullahs, university faculty and other community leaders. The workshops are held on Thursdays to encourage mullahs to talk about human rights in their sermons on Fridays. Similar trainings are held throughout the country and have resulted in mullahs in a number of mosques educating their members on human rights issues.



Disabled

In 2004, the AIHRC held its first workshop for disabled people. After more than two decades of war, there are many disabled people in Afghanistan. They suffer from stigma and discrimination. With this workshop, the AIHRC aims to give disabled people hope as well as education about their rights. The first workshop in May focused on training disabled officers, doctors, and teachers to become human rights trainers themselves. The AIHRC has also held workshops at a school for the disabled that is located near Kabul.

In the workshop organized for disabled people, it was proposed that:

- *The Commission should consider in its future structure, a separate unit for the promotion and protection of disabled people;*
- *Measures should be taken to pass a law for the protection of disabled people in the country.*

Principals and Teachers

In order to teach the next generation about human rights and democracy, the AIHRC has conducted many workshops for principals and teachers in both government-run and private schools. The workshops are called "*Let's Learn and Teach Human Rights*".

University Students and Faculty

Afghanistan's universities are another primary site of human rights education. The AIHRC has trained students in human rights, who, in turn, hold their own workshops for their peers. Over the last year, the AIHRC also held a workshop on human rights and sports with the Sports Faculty of Kabul University and the Department of Sports in the Ministry of Education.

Doctors

In August 2003, the AIHRC held its first workshop for doctors on human rights and health. The workshops aim to educate doctors about human rights and

enable them to play an important role in increasing human rights awareness as well as explore ways to provide better health care services.

Women's Rights Workshops

Both the Women's Rights Unit and the Human Rights Education Unit of the AIHRC held workshops on women's rights throughout the country this past year, raising awareness about a variety of issues related to women's rights, including women and the family, women and elections and the legal rights of women in Afghanistan.

Women's rights workshops were held for female government employees, local women's councils and female community leaders in many locations in Afghanistan. As well, the AIHRC held workshops on women's rights for representatives from the High Court, Ministry of Foreign Affairs, Ministry of Planning, Ministry of Frontiers and Tribal Affairs, Ministry of Labor, and Ministry of Rehabilitation and Rural Development, Ministry of Transport, Ministry of Civil Aviation and Tourism, Ministry of Health and Ministry of Justice.

Before the Constitutional Loya Jirga took place, the Women's Rights Unit invited delegates from the Emergency Loya Jirga, held the previous year, to provide training on women's rights. The Unit also conducted a number of workshops entitled, "*The Role of Women in Society*", which focused on CEDAW and women's rights from the perspective of Islam.

Constitutional Loya-Jirga Activities

The AIHRC was actively engaged in the process of developing a training manual for 500 delegates of the Constitutional Loya Jirga (CLJ) in close collaboration with civil society representatives as well as the CLJ Secretariat.

As well, the Commission organized a training of trainers to conduct orientation sessions in advance of the CLJ. Commissioners Samadi and Hakim were the key facilitators throughout both processes.

Future Workshops

In the coming year, the Human Rights Education Unit hopes to work with the Monitoring and Investigation Unit to strategically plan workshops to address issues most appropriate for different geographic areas and audiences. With this contextualized approach, the AIHRC hopes to link its human rights promotion and protection work in order to change behavior and increase the ability of people to exercise their human rights.

3.2 CHANGING THE CURRICULUM

New school curricula developed by the AIHRC have been introduced throughout Afghanistan's education system. Curricula have been designed for grades 1-5, grades 6-10 and grades 10-12.

The Commission began this project soon after its establishment. This was in response to the school curriculum developed during the war which sought to foster a culture of war and fundamentalism. For example, math problems

taught students to count using guns and tanks in equations. The first stage of the AIHRC's curriculum development project was to remove subjects from the curriculum that were against human rights. The second stage was to change the curriculum to support human rights.

To develop the new curriculum, the AIHRC invited the participation of 50 members of the Ministry of Education's national curriculum committee. A smaller subcommittee reviewed and rewrote the old curriculum. While at first the Ministry of Education was reluctant to take suggestions from the AIHRC, they accepted the curriculum in the end. The AIHRC Human Rights Education unit will continue to work to make further improvements in the curriculum.

The AIHRC also has introduced human rights courses at universities in Kabul, Mazar-e-Sharif, Herat, and Bamian. The course offered by the University of Education is entitled, "*Peace, Democracy and Human Rights*".

In addition, the Human Rights Education Unit has completed the first of a four-part series of adult literacy books. The books are to be used in government adult literacy programs.

3.3 INTERNATIONAL HUMAN RIGHTS DAY, DECEMBER 10, 2003

As a part of its annual celebration marking International Human Rights Day in 2003, the AIHRC unveiled a human rights monument to honor the four students who were killed and the 32 injured at Kabul University in November 2002 when police attacked a student protest. Designed by Commissioner Fahim Hakim, the monument contains the words of Article 3 of the Universal Declaration of Human Rights. The monument is featured on the cover of this annual report.

3.4 PUBLICATIONS

The AIHRC now has 64 publications, including magazines, books, booklets, posters, brochures, leaflets and articles on diverse human rights topics. Publications are distributed to 224 different governmental and non-governmental institutions. (See Publication List in the Report's Annex).

Since July 2003, seven editions of Human Rights, the AIHRC's monthly magazine, have been published. Ten thousand copies of each edition have been distributed throughout Afghanistan, through the AIHRC regional offices. The magazine publicizes the work of the AIHRC and includes numerous articles on the human rights situation in Afghanistan.

The AIHRC's website, (<http://www.aihrc.org.af/>), has also been substantially improved in the past year. The site includes features on the Women's Rights, Child Protection, Transitional Justice and Monitoring and Investigation Units as well as access to AIHRC reports, press releases and publications.



3.5 CHILD RIGHTS EDUCATION

Between June 2003-June 2004, the Child Rights Unit held 75 workshops to raise the awareness of organizations working with and for children. Participants in the workshops have included teachers, government officials and police. Some 2300 people have participated in the workshops: 40% women and 60% men. The one-day workshops focus on the Convention of the Rights of the Child (CRC), child trafficking, the rights of children in Islam, child protection issues, and law enforcement and children.

The AIHRC recently published a book on the CRC which discusses child rights from different perspectives using the CRC, Islamic principles, and national laws and regulations. The book provides information for the police, judges, prosecutors, teachers, doctors and parents.

To introduce the book, the AIHRC held a meeting in Kabul with authorities from the Ministry of Higher Education, Academy of Police, Ministry of Education, National Army, Faculty of Law, Faculty of Sharia Law, Faculty of Education and NGOs working on CRC awareness raising programs. The Commission urged these institutions to include the book in their curricula. Participants agreed to integrate the book in courses either as a separate subject or as a supplement to their existing subjects. The Child Rights Units in the AIHRC's regional offices also are trying to introduce the CRC book into the education curriculum in their provinces.

In addition, the AIHRC has developed and published brochures and posters to raise public awareness on the issue of child rights. Topics covered in the brochure series include the CRC, child trafficking and child labor.

To raise the awareness of children themselves, the AIHRC has published a cartoon book based on the principles of the CRC. In May, the Commission trained a core of youth volunteers who will disseminate this information to younger children.

3.6 INTERNATIONAL WOMEN'S DAY, 8 MARCH 2004

International Women's Day has become a focal point for educational activities to promote women's rights in Afghanistan. On 3 March 2004, the AIHRC held an event at Kabul University Auditorium for 400 people, including government officials, diplomats and journalists. The AIHRC regional offices held similar events across the country in conjunction with local NGOs. The Women's Rights Unit also published brochures on CEDAW and posters on women's rights in the new Afghan Constitution that were distributed at International Women's Day events throughout Afghanistan.

The Women's Rights Unit also launched a photo exhibit on Afghan women at Kabul University to coincide with International Women's Day. The exhibit, which included 120 photographs, illustrated both the positive and negative aspects of the current situation of Afghan women. The exhibition was organized in conjunction with AINA, an international media NGO, who provided eleven photographers. A selection of the photographs was also exhibited at the Palais des Nations in Geneva, Switzerland as a part of the 60th annual meeting of the UN Commission on Human Rights.



3.7 FILMS, TELEVISION, AND RADIO

Because of the high rate of illiteracy in the country, broadcast and visual media are often the best way to reach and to educate large numbers of people about human rights. In the past year, the AIHRC has produced short documentary films and television and radio programs on such issues as women's rights, children's rights, and elections.

Working with independent Afghan filmmakers, the AIHRC Media and Publications Unit has produced five compelling drama films. The films are 10-30 minutes in length and are both in Dari and Pashtu.

The first film, *Cha* ("The Well"), tells the story of a young girl, whose father commits a murder. Following the traditional practice of "*bad*," the girl is thrown

in a well and killed to avenge the murder. The film was produced by Kabul Films.

A second film, *Koza Haya Kenar Chasma* ("Clay Pitchers at the Source of Water"), explores the life of a woman suffering from TB. Produced by Royan Films, the main theme of the film is the importance of education for women and girls.

Radmanish Films worked with the Commission to produce *Ba Soiye Roshnayee* ("Towards the Light"). The film focuses on child rights. It is about a boy whose father dies and who has to provide for his family at the same time he tries to get an education.

The most recent dramatic production, *Sangsar* ("Stoning"), is the story of a young woman who becomes pregnant after being raped by a local military commander. Local elders sentence her to death by stoning, but the woman takes her own life before they can kill her. This film was produced by the Afghan film director, Engineer Latif.



For International Women's Day, 2004, the AIHRC produced a documentary about women's rights and women's lives in Afghanistan. *Dargostratifa* ("On the Waves of Affection") interviews Afghan women about their lives and about the suffering of women under the Taliban.

Some of the films have been broadcast on Afghan television. All films have been distributed through the AIHRC regional offices and are available for viewing at the AIHRC Resource Library in Kabul.

The Commission has also produced numerous educational radio and television programs. One such program, entitled *Rawshani* ("Clarity"), is broadcast every two weeks. Each program is 15-22 minutes in length. The shows have featured roundtable discussions around such issues as child labor, child trafficking, police and human rights and women's rights in the Constitution. The programs are copied on VHS tapes and distributed through the regional offices and the AIHRC Resource Library.

Since March 2004, twenty-six AIHRC radio programs have been broadcast on Radio Afghanistan and through local radio stations. Using dramatic,

interview, and narrative formats, the radio broadcasts seek to expand human rights awareness and to increase voter registration and participation in elections. One program, "What are my Rights", developed in conjunction with InterNews, an international media NGO which supports local radio development in Afghanistan, was broadcast in 18 provinces. In the coming year, the AIHRC has made arrangements to broadcast its radio programs on Radio Killid, Radio Voice of Women, and Radio Kabul as well as Radio Afghanistan.

3.8 THE AIHRC RESOURCE CENTER

Established in November 2003, the AIHRC Resource Center provides books, videos, audio-visual equipment, and other educational materials to staff, the human rights community, and the general public.

The library section of the Resource Center includes books, newspapers, and magazines. The book section has over 900 titles in Dari, Pashtu, Arabic and English on topics such as history, philosophy, politics, literature, law, culture and the social sciences as well as a large collection of human rights books in English.

The Resource Center is well-equipped for internet access with three computers for this purpose and can be used by Commission staff as well as the human rights community.



The Audio Visual section of the Resource Center tapes AIHRC workshops, seminars, and events and makes the tapes available for use on television. A small recording studio has been set up in the resource center, as well as a viewing area for videos. The Resource Center also photographs AIHRC events and maintains a collection of these photographs. A television, video camera, digital camera, overhead projector, Power Point projector, video player, cassette player, CD player, amplifier, microphones, stabilizers, printers, copier and scanner are available for AIHRC use.

4 MONITORING HUMAN RIGHTS

The AIHRC is mandated to monitor the situation of human rights, where the liberty of people have been denied, restricted or violated in police custody, detention centers, prisons, juvenile prisons and other situations where human rights are vulnerable. The Commission also monitors freedom of speech and the status of women and children.



4.1 MONITORING OF PRISONS AND DETENTION CENTRES

Between June 2003-June 2004, the AIHRC made more than 134 monitoring trips to prisons and detention centres through its central and regional offices. During these trips, Commission staff examined facilities and asked prisoners about the status of their cases and their treatment. The AIHRC then assessed whether the imprisonments were arbitrary and whether or not prisoners experienced torture during their detention.

Among the prisons regularly monitored are women's prisons in Kabul, Jalalabad, Mazar-e-sharif, Herat and Kandahar, which are jointly monitored by the Women's Rights and the Monitoring and Investigation Units.

4.2 TORTURE

Torture continues to take place as a routine part of police procedures. The AIHRC has found torture to occur particularly at the investigation stage in order to extort confessions from detainees. Forced confessions are clearly in violation of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

Torture was found to be especially prevalent in Herat province. For example, two brothers in Herat were imprisoned on the charge of stealing bicycles.

They were then beaten and hidden from the AIHRC investigators, who eventually found them in the Herat Criminal Investigation Office. As a result of the torture, the brothers were unable to walk. The AIHRC filed complaints against the Herat Criminal Investigation Office with the Herat Deputy Governor, Chief of Police and the Ministry of the Interior. As a result of the complaint filed by the AIHRC, the Head of the Criminal Investigation Department of Herat was removed from his post.

4.3 BAD CONDITIONS, LACK OF LEGAL AID

Poor conditions within prisons are another concern of the AIHRC. Prisoners suffer from a lack of space, lack of sunlight and overcrowding. Food and clean water also are scarce. In Parwan prison, for example, water is brought in by tankers and stored in an open pool which is used for drinking and washing. Prisoners are routinely denied medical care or only treated within the prison. Female prisoners have had to give birth in detention centers.

In 2004, the Commission's Monitoring and Investigation Unit, with cooperation from the Ministry of Justice, installed complaint boxes in both the male and female prisons in Kabul. Of 35 female prisoners, 28 submitted complaints and 136 of 623 male prisoners registered complaints. Most of the prisoners complained about treatment by police and judicial officials, about delays in their cases and about a lack of legal representation. Corruption in the judicial system is also a common complaint. To preserve the confidentiality of the complaints, the key to the complaint boxes remains with the AIHRC.

The Commission has also identified the lack of prisoner access to legal services as a major factor in their incarceration and is working with other organizations to provide defense attorneys to prisoners who cannot afford to hire their own.

The Monitoring and Investigation Unit shares the results of its monitoring with other human rights and legal aid organizations and some monitoring visits are conducted in coordination with UNAMA.

In the past year, the AIHRC has won some improvements in the prisons, including better staff behavior towards prisoners, regular food, separate facilities for child and adult prisoners and visitation rights for the families of prisoners. The AIHRC also has ended the practice of shackling prisoner's ankles in the Kabul detention centers. In the women's prisons in particular, the AIHRC has successfully pressed for literacy and vocational training programs and for kindergartens for the children of women prisoners. Another major improvement is the registration of detainees at detention centres.

However, little improvement has been seen in the overall prison conditions and the handling of prisoners' cases by the judicial system. In August 2003, by Presidential Decree, the Ministry of the Interior handed over the administration of prisons and jails to the Ministry of Justice. While the AIHRC supports this transfer of prison administration as a positive step in the reform of the prison system, the transfer process was not well planned and resulted in chaos and a cutoff of food rations.

4.4 JUDICIAL CORRUPTION

The AIHRC also monitors human rights violations within the judicial system. Individuals are often arrested and detained without cause by district attorney offices. For example, in Panjshir, the District Attorney held four people in prison for 45 days with no evidence of a crime. The AIHRC intervened and won the release of all four prisoners. Prisoners are sometimes held for a year or more before the courts issue rulings in their cases.

As well, the disposition of cases often is decided by bribes. Those who pay the bribes are released, those who do not remain in prison. The Commission has documented cases where murderers are released because they paid money. Innocent people with no money, power or access to influential people remain in prison while those who are guilty of crimes are set free.

4.5 COALITION FORCES

Long before evidence of human rights abuses against prisoners in Iraq at the hands of the U.S. military emerged, the AIHRC received and brought to the attention of U.S. military officials similar allegations in Afghanistan.

The Commission has received 44 complaints of human rights violations committed by international coalition forces. Eleven of the complaints were related to the bombing of civilians. The other 33 complaints included cases of beatings, detention of innocent people, and damage to houses, injuries to people and a lack of respect for Afghan culture during coalition raids.

In the fall of 2003, a former Afghan police colonel filed a complaint with the Commission detailing the beatings, sleep deprivation, taunts and sexual abuse that he was subjected to during 40 days in custody at U.S. military bases in Gardez, Kandahar and Bagram. Like the prisoners in Iraq, the victim was repeatedly photographed, often without clothes. He was taken prisoner in July after being accused of membership in the Taliban and released in August after he was found to be no threat to coalition forces.

Following an interview with the victim, the AIHRC informed U.S. military officials of his complaint. However, to the Commission's knowledge, no action was taken. After the victim's story appeared on the front page of the New York Times, the U.S. military says it launched an immediate investigation but nothing yet has been heard from them about this case. The results of an investigation of the deaths of two Afghans in American custody at Bagram in December 2002 have also yet to be released.

The AIHRC thus far has not been allowed to monitor coalition detention centers. In May 2004, the AIHRC Chairperson, Dr. Sima Samar, formally requested access to detention centres in Bagram and other detention centres in the country. In addition, she officially requested the President's support in visiting the detention centers. The Commission has also requested the appointment of a U.S. military liaison to deal with human rights abuses.

4.6 DETAINED CHILDREN

On a monthly basis, the AIHRC Child Protection Unit visits detention centres for children which are called correction centres. The AIHRC monitors children's detention centres in Kabul, Herat, Parwan, Kapisa, Gardez, Mazar-e-Sharif, Kandahar and Jalalabad.

Through these visits, the Unit has been able to identify some of the main problems and to bring some improvements in conditions at the centres. For example, the quality of education and health care for children in detention has improved through the intervention of the AIHRC. The Unit also successfully established a kindergarten for the children of women held in the Kabul women's prison.

As well, the Child Protection Unit assisted in the release of more than 85 children who were illegally detained or had committed petty offences. The AIHRC also won the separation of child offenders from adult offenders in prisons in Mazar-e-Sharif and Kandahar.

In Kabul and in most of the regional offices, the AIHRC has held training and sensitization programs for the police to try to stop the torture and illegal detention of children. As well, the Children's Rights Unit has organized training sessions for the police, Attorney General and the judiciary regarding the need for justice for children.

4.7 MONITORING MISSIONS

In response to complaints about the behavior of military commanders and other authorities, the AIHRC has undertaken a number of monitoring missions to assess human rights violations in the regions and to make recommendations. In many cases, the victimization of local residents is the result of the involvement of commanders with poppy cultivation, the seizure of natural resources and other illegal activities. Poverty and the lack of reconstruction activity have further exacerbated these problems.

Mission to Kirjan:

In August 2003, the AIHRC received complaints about the appointment of Haji Abdurrahman as District Governor of Kirjan district in Uruzgan province. The complaints alleged that Abdurrahman had recruited soldiers and established military posts at public expense; that bribes were being taken to settle disputes and that he had opium business dealings with the Governor of Uruzgan. A District Governor of the neighboring district of Charchina, Toren Aman, was also accused of torture and collecting illegal taxes from residents.

After a government mission to the area was unable to obtain information, the AIHRC made the decision to send its own mission to investigate the situation. The AIHRC team found that the primary source of the conflict and human rights violations in the area was the collection of taxes on opium production by local authorities.

As District Governor, Abdurrahman had requested that the farmers in his district pay one-fourth of their opium harvest to him as a tax. Toren made the

same request of the residents from his district. However, they refused to pay the tax and Toren was forced from his job. Toren and his troops then attempted to take control of Kirjan district. Residents complained to President Karzai about both governors. Attempts by the Governor of Kandahar province to broker an agreement failed and fighting broke out, resulting in 30 people being killed and 20 injured, including a pregnant woman and her daughter. Looting and subsequent arrests occurred.

Following the mission, the AIHRC recommended that neither Abdurrahman nor Toren be allowed to hold office. The AIHRC also found that water shortages, lack of education and health care and a lack of job opportunities in Kirjan district had contributed to the dependence of the population on opium production. AIHRC recommended that humanitarian organizations and the government address these needs. The mission resulted in the dismissal of both Toren Aman and Abdurrahman.

Mission to Kahmard:

A mission to the Kahmard District of Bamiyan took place after the AIHRC received reports that local residents were protesting check points set up by the local commander, Haji Ahmad, who was the Chief of Police. Residents were also concerned about the lack of competent administration, the lack of security, poppy cultivation, trafficking and non-payment of police salaries. The mission was conducted as a joint effort by the AIHRC, UNAMA, UNHCR, Bamiyan PRT and the Bamiyan Governor's office to examine the controversies surrounding the Ministry of Interior's appointment of Haji Ahmad as Chief of Police and Allah Bomani as Kahmard District Governor.

The mission concluded that the majority of people held Haji Ahmad responsible for human rights violations and harassment. While most people were happy with Allah Bomani, they felt that his administration was very weak. The mission recommended that checkpoints established by Ahmad be removed and that both Ahmad and Bomani be dismissed and also recommended the acceleration of reconstruction in the area.

Mission to Herat:

In March 2004, a series of incidents took place in Herat which resulted in the death of Mirwais Sadiq, the Minister of Civil Aviation and the son of the Governor of Herat, Ismail Khan, in a fire fight between the Minister and the men loyal to him and the men working loyal to the Chief Commander of Military Base 17.

In retaliation, the soldiers of Ismail Khan went on a rampage, looting and burning homes, including the Head of the Provincial Court of Herat. As a result of this rampage, 40 people were killed, 19 people were injured, 296 disappeared and 178 were arrested.

A joint mission made up of government authorities and the Commission went to Herat to investigate and 157 people were released from custody due to the intervention of the Commission.

4.8 ELECTION MONITORING

Monitoring human rights prior to and during elections is one of the major duties of the AIHRC.

For the election of delegates to the Constitutional Loya Jirga in late 2003, the AIHRC provided its regional offices with instructions and procedures to monitor the electoral process. The goals of the AIHRC monitoring were to ensure respect for freedom of speech, non-discrimination against women and the political participation of all people.

The AIHRC investigated numerous complaints of intimidation and threats around the election of delegates and at the Loya Jirga itself. The Commission has contracted an independent researcher to conduct a full human rights analysis of the election of the delegates to the Constitutional Loya Jirga and the conduct of the Loya Jirga to ensure that future electoral and government decision-making processes are free from human rights violations. This study will be completed prior to Afghanistan's Presidential elections in the fall.

As well, the AIHRC will play a leadership role in monitoring the Presidential and Parliamentary elections. Because of inadequate security in the country, Presidential elections were postponed from June 2004 to September 2004 and Parliamentary elections were postponed until the spring of 2005. The AIHRC's responsibilities during the electoral process are two-fold: first, the AIHRC will assess whether or not the political and security environments are conducive to free and fair elections. Second, the AIHRC will participate in joint election monitoring exercises with civil society institutions.

The AIHRC is a part of the Joint Electoral Monitoring Body (JEMB), which is led by the government of Afghanistan and includes UNAMA, the European Union and the International Foundation for Election Services (IFES).

Together with UNAMA, the Commission is implementing a Political Rights Verification Program. The two organizations have developed mechanisms through which the principles of freedom of speech, non-discrimination and political participation will be monitored and investigated. With UNAMA, the AIHRC has begun to actively monitor the electoral process and publish regular reports of their findings, which will continue until elections are held.

The AIHRC is also working in collaboration with JEMB on public education around the elections. The AIHRC has recommended that there be a public education campaign to present voting as a right and has criticized materials that thus far have introduced voting as a duty rather than a right.

A major concern of the AIHRC is the involvement of armed persons in the elections and their likely negative impact on the electoral process. Current discussion involves strategies to appoint electoral supervisors and observers from the regions.

The AIHRC is also a part of the unofficial monitoring efforts of the Domestic Election Monitoring Body, National Democratic Institute (NDI) and Afghan Civil Society Forum. In this role, the AIHRC will help mobilize and organize the participation of civil society organizations in election monitoring.

As well, the AIHRC has played a leading role in setting up an NGO, Fair and Free Election Foundation for Afghanistan (FEFA). Composed of several different Afghan civil society groups as well as the Commission, FEFA lobbies for reform of the election legislation, raises awareness about various election issues and will monitor and observe the electoral process from the campaign to voting day.

4.9 ENDING CHILD TRAFFICKING

A major priority for the AIHRC and its Child Protection Unit is combating child trafficking. The AIHRC has been working to assess the extent of trafficking, to educate law enforcement officials about trafficking and to establish a committee under the Ministry of Labor and Social Affairs to prepare a national plan of action on child trafficking.

The AIHRC has also urged law enforcement action to prevent child trafficking and to locate children who have been taken. The AIHRC convened a meeting of 100 officials including the chiefs of police from all 32 provinces, representatives from the Ministry of the Interior, border police, district level police officers in Kabul, child rights officers from the AIHRC regional offices and members of a network of NGOs working in the field of child protection to discuss strategies to stem child trafficking.

As a result of recommendations from the meeting, a Ministry-level committee on child trafficking was formed. The Ministry of Labor and Social Affairs will lead the committee, with the AIHRC participating as an active member. Other members of the child trafficking committee include the Ministry of Justice, Ministry of the Interior, Ministry of Refugee Affairs, Ministry of Foreign Affairs, UNICEF, UNHCR, UNAMA, IOM and Save the Children affiliates from Sweden, Norway, UK, Japan and the U.S. This committee meets once a month and will soon issue a national plan of action on trafficking. On April 28-29, 2004, a workshop was held to assess the anti-trafficking activities of each organization, evaluate gaps and overlaps in child advocacy work and make recommendations to the national plan of action.

The AIHRC Child Protection Unit has developed and published a chart with guidelines on measures that parents and teachers can take to prevent trafficking in both Dari and Pashto. Four thousand charts were distributed to all regional offices and posted in schools, district police offices and other public spaces. Because of the high demand for the chart from child protection organizations, it was recently reprinted.

In addition, the AIHRC Child Protection Unit in the spring of 2004 started a process of follow up with the police and judiciary on cases of persons charged with child trafficking. Although the Ministry of the Interior has announced that forty-nine cases of trafficking have been under investigation, thus far not a single case of trafficking has been prosecuted. With its monitoring program, the Child Protection Unit intervenes as soon as it learns of the arrest of an alleged trafficker. With this strategy, the Unit has already been able to move forward the prosecution of seven alleged perpetrators by district attorney

offices. Later in 2004, the Unit will publish a report on how the judicial system handles cases of trafficking.

4.10 MONITORING THE IMPLEMENTATION OF INTERNATIONAL TREATIES

Afghanistan is a party to most of the core international human rights treaties. These instruments comprise a set of standards that form the basis of the UN human rights system and are a part of international law. Afghanistan has also made a constitutional commitment to abide by international human rights treaties.

Article 7 of the Constitution of Afghanistan states: "the State shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights."

Ratifying a human rights treaty imposes a number of obligations on the State as the treaty must be implemented in law and in practice. It is usually necessary for governments to review laws, policies and practices to ensure that they are in compliance with treaty obligations. All proposed laws and policies should be checked for compliance before they are enacted and many of the treaties have reporting obligations.

As an independent national human rights institution, the AIHRC has the function of promoting the harmonization of national law and practice with international human rights instruments to which Afghanistan is a party and providing advice and information to the country's human rights treaty reporting processes.

Some of the treaties have Optional Protocols that the State party may choose to ratify. Afghanistan has signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

Due to the long period of armed conflict, it has been many years since Afghanistan lodged any reports on its implementation of the treaties it has ratified. Therefore, in February 2004, the AIHRC, together with the UN Office of the High Commissioner for Human Rights (OHCHR), organized a training workshop for one week on reporting on human rights treaties. Participants came from all relevant government Ministries, the AIHRC and NGOs. The workshop was led by three experts from Geneva and was held at the Ministry of Foreign Affairs, which coordinated the event.

Following the workshop, the Minister of Foreign Affairs committed to a six year programme of reporting to the human rights treaty bodies, at the rate of one report per year, beginning with the report on the International Covenant on Civil and Political Rights (ICCPR) by March 2005. The Government's commitment to a programme of treaty reporting was subsequently confirmed by its inclusion in the Government's Workplan published as an Annex to the Berlin Declaration.

A Working Group on treaty implementation and reporting, including the AIHRC, has begun meeting under the auspices of the Ministry of Foreign Affairs Human Rights and Women's Rights Unit.

International Treaties that Afghanistan has Ratified

Every member of the United Nations is automatically required to recognize the Universal Declaration of Human Rights (UDHR). Afghanistan has also ratified seven international human rights covenants or conventions. They are:

- International Covenant on Civil and Political Rights (April 24, 1983)
- International Covenant on Economic, Social and Cultural Rights (April 24, 1983)
- Convention on the Elimination of All Forms of Racial Discrimination (August 5, 1983)
- Convention on the Elimination of All Forms of Discrimination Against Women (March 5, 2003)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (June 26, 1987)
- Convention on the Rights of the Child (April 27, 1994)
- Rome Statutes of the International Criminal Court (February, 2002)

5 PROTECTING HUMAN RIGHTS

The AIHRC investigates specific complaints of human rights violations, involving abuses of authority and seeks remedies to end the abuses. The Commission also investigates cases of domestic violence as human rights violations. Between June 2003-June 2004, 881 complaints of human rights abuses were filed with the AIHRC's Kabul office. In the prior year, 775 complaints were filed.

Of these 881 complaints, 112 were resolved following AIHRC investigations and interventions. In another 444 cases, the AIHRC sent letters or otherwise contacted appropriate authorities in an effort to remedy violations, but these cases are as yet not concluded.

Some complaints contain multiple types of human rights violations. During this period, the complaints included 965 individual human rights violations. The violations include murder, forced marriage, rape, property confiscation and destruction, forced migration, torture, illegal imprisonment, kidnapping, physical abuse and the selling of women and children.

This year property violations were the most frequently reported human rights abuse. Of the 881 violations, 421 or 42% involved property crimes – 32% were reports of confiscation of land and 15% were reports of property destruction. From June 2002 to May 2003, only 269 or 26% of the reported violations involved property crimes.

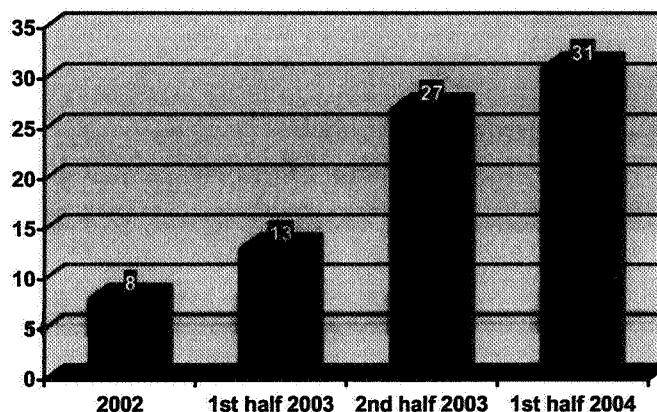
Reports of illegal detention also increased in the past twelve months. In this reporting period, 86 cases of illegal detention were reported to the Commission; in the prior year, only 9 illegal detention cases were filed with the Commission. Reports of murder declined however. This year 96 murders were reported to the Commission, compared with 163 between June 2002-June 2003.

Human Rights Violations Reported to the AIHRC

Violations	June 2003-May 2004	June 2002-May 2003
Complaints	881	775
Violations:	1002	1070
Right to Life	96	163
Freedom of Marriage	23	23
Right to Property	316	75
Property Destruction	150	194
Illegal Detention	86	32
Other Violations	328	583

5.1 STOPPING PROPERTY VIOLATIONS

The AIHRC has been the leading voice confronting property violations in Afghanistan. These violations include property confiscation, property destruction, setting property on fire and forced possession of immovable property such as agricultural land, houses, shops, and apartments. Most often, the violations are committed by military commanders or government authorities abusing their power.



■ % of complaints received by the AIHRC on Land & Property

Shirpoor

On September 3, 2003, the Chief of Security for Kabul Police with 100 armed police officers and bulldozers, began the destruction of 30 homes in the Shirpoor section of Kabul, affecting 250 people. The area is adjacent to land owned by the Ministry of National Defense. The government land and the land upon which these homes stood were distributed to senior government officials and their relatives which local residents then called, "Kart-i-Wazira", (Minister's town).

The Mayor of Kabul, who authorized the destruction, was quoted as saying: "Since these families are poor and disadvantaged and cannot build luxury houses, their properties should be distributed for rich people." Residents were not even given time to remove their belongings and some residents were still in their homes when the destruction began and received injuries.

Upon learning of this, the AIHRC, working with the UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, intervened and stopped the destruction. The AIHRC obtained the list of the names of the government Ministers and military commanders who were to receive the properties in Shirpoor and released this list at a press conference. The AIHRC actions kept the issue of "land grabbing" in the media for weeks.

The AIHRC's intervention resulted in the creation of an Independent Investigative Commission to examine the Shirpoor cases, which included AIHRC Commissioner Hamidi. The Commission recommended that the families either be able to stay in Shirpoor or that they be given land for another house and materials to build the houses. Because of the Commission's intervention, the Chief of Security for the Kabul police was fired, although he was given another job in Wardak.

Despite the support of Afghan civil society and the international community for the actions of the AIHRC, the Commission has not been able to stop the further construction of the area as the plots are owned by high-ranking government officials or those with close ties to the government.



Saripul

In another property seizure case, 200 residential homes were destroyed in Saripul province. The residents were given 5-15 days notice and received no compensation or relocation assistance. Residents were threatened if they resisted. The government argued that the houses were removed in order to bring electricity to the area. However, other solutions would not have resulted in families losing their shelter prior to a cold winter. The Commission investigated the Saripul case and along with UNHCR, UNAMA and the IRC, raised the issue with Afghan Vice President Khalili. A delegation was sent to the province to solve the problem and help people relocate. As a result, the Saripul Governor was replaced.

Logar

In Logar Province, a commander who was a department director for the National Security Service has repeatedly confiscated houses. In one case, he seized a house from its legal owner who had rented it to another person. The landlord had to pay his tenant's money back and lost his house. The AIHRC sent letters to the Ministry of the Interior, the President's Office and the National Security Service, but thus far no action has been taken to remedy the situation. In another case in Khairkhana district, the same commander confiscated another house. However, in this case, the Commission's intervention resulted in the eviction of the person who confiscated the land.

Another type of property violation involves children's inheritance. In one case, the father of a 7-year old girl died and left her some land. An uncle tried to take the girl from her mother in order to obtain the land. The AIHRC went to court on behalf of the girl. The judge, who had no knowledge of property law, eventually accepted the AIHRC's legal arguments. The land was put in trust until the girl turns 21 years of age and can determine what she wants to do with it.

Another Commission strategy to improve transparency and accountability in land dispute cases has been to press for improvements in the Property Dispute Resolution Court. For the most part, this Court of three judges has ignored land documents and ruled in favor of those who pay money. The Commission complained to President Karzai. As a result, the Court in late 2003 was converted from a one-stage court to a two-stage court. The

Commission is hopeful that an appeals process will better enable the protection of human rights in terms of property rights.

5.2 THE AIHRC RECOMMENDATIONS ON HOUSING & LAND DISPUTES

The right to adequate housing is one of the fundamental rights of all citizens and the State is obligated to fulfill and respect this right.

Confiscation of lands should not be allowed unless it is proved to be in the public interest and there should be land distributed to those who have had their lands confiscated.

To resolve the crises of housing, land and property-related issues in the country, the Judicial Reform Commission should draft a law on housing, land and property related issues.

The AIHRC recommends an increase in the levels of the Property Court to primary, appeal and high court.

The forced selling of homes and properties should be treated as crimes and should be investigated by police and those who are found guilty should be punished by the courts.

5.3 STOPPING THE ABUSE OF WOMEN

Women in Afghanistan have experienced horrendous violations of their rights over the past two and a half decades of war, particularly in the last few years of the conflict, much of which continues today. Coupled with this is the fact that traditional practices and customary law in Afghanistan have been traditionally discriminatory toward women and girls. Because approximately 70% of the justice in this country is implemented through the informal justice system, many of the violations of women's rights therefore stem from a lack of implementation of the formal legal system.



Forced Marriage

Between June 2003 and June 2004, the Commission received 26 complaints of forced marriage. Although the Afghan Civil Code requires mutual consent for marriage, forced marriages are prevalent and remains one of the major causes of violence against women.

In one case, a girl in Balkh Province was forced to marry a 50-year old

commander. The girl had been married the commander's younger brother but he died shortly after the wedding. The family refused the marriage of the commander because of the age difference and because the commander's first wife threatened to kill the girl if the marriage occurred. The commander kidnapped the father and looted the home and later kidnapped the girl. As a result of the intervention of Commission the father was released.

The Commission later learned that the girl had been killed and intervened to secure the release of her body to her family. She had been badly abused and was four months pregnant. After putting pressure on the local authorities, the commander was arrested for the girl's murder. He confessed to the crime and the police have promised protection for the girl's family.

"BAD"

The traditional practice of giving of women and girls to resolve disputes between families, known as *Bad*, continues throughout Afghanistan. The Commission has tried to resolve some of these cases through mediation and conciliation. In the Surkh Parsa district, a man divorced his wife on the grounds that she had engaged in immoral behavior. However, he could not prove his charges. The tribal elders forced the man to give his 8-year old sister to his wife's brother as punishment. The wife's brother planned to marry the girl. The girl's mother sought help from the AIHRC. The AIHRC, with support from the police, provided security for the girl and her mother and successfully prevented the girl from being given as *Bad*.

In Karibul district, a young girl's family fought with another family over property. A member of the other family was injured. Police arrested the girl's father and two sons. The father and sons were to be released after three months. However, the other family demanded that the girl be given to them as *Bad*. The AIHRC won the release of the father and sons and prevented the daughter from being given as *Bad*. The AIHRC also succeeded in getting the police to provide security for the girl and her family.

Domestic Violence

Domestic violence is recognized as a major human rights violation and is a common experience for women in Afghanistan. In one case in which the AIHRC intervened, a woman who suffered from epilepsy was beaten by her husband repeatedly over the course of two years every time she experienced a seizure. He also burned her three times. In May 2004, the woman, who was hospitalized with severe burns to her leg and stomach, sought help from the AIHRC. The AIHRC contacted the Kabul Family Court to help the woman obtain a divorce. Altogether, the AIHRC has investigated 56 cases of domestic violence this past year.

Other Abuses of Women

Women are also attacked for exercising their rights. For example, on International Women's Day, March 8, 2004, a woman who worked for the government bus company was beaten by a deputy after speaking out for women's rights. The AIHRC sent letters to the Office of the President. In response, the deputy was dismissed from his job while the woman still works for the company.



5.4 PREVENTING SELF-IMMOLATION

In response to reports of high numbers of cases of women setting themselves on fire in suicide attempts, the AIHRC Herat office convened a seminar on self-immolation in October 2003. The seminar, which included scholars, doctors, lawyers and women's rights advocates, sought to share information on self-immolation and to explore solutions to prevent women from committing suicide. In all, twenty-two presentations were given at the seminar which were then compiled and published as a book, *"Why Self-immolation?"* At its conclusion, the seminar adopted a resolution requesting actions from cultural, social, and government institutions. The recommendations from the resolution are presented in the box below.

Further reports of cases of self-immolation in early 2004 prompted women's rights advocates, including the AIHRC, to organize a mission to Herat to examine the situation. Authorized by Presidential Decree and led by Minister of State for Women's Affairs, Mahbuba Huqooqmal, the delegation also included representatives from the Ministry of Women's Affairs, Ministry of Justice, Ministry of the Interior, and Judicial Reform Commission. Women's Rights Unit Deputy Program Officer, Karima Karimi, represented the AIHRC.

The Mission, which was in Herat from February 17-21, found that in the first few months of 2004, 56 cases of self-immolation had been identified by the Herat police and Herat Hospital. Of these cases, 52 were women between the ages of 14 and 60 years old and four were men. In 35 of the 52 cases, the women died; in the other cases, they recovered with medical care. Only four of the cases are being pursued as criminal cases. No perpetrator is alleged for the other cases.

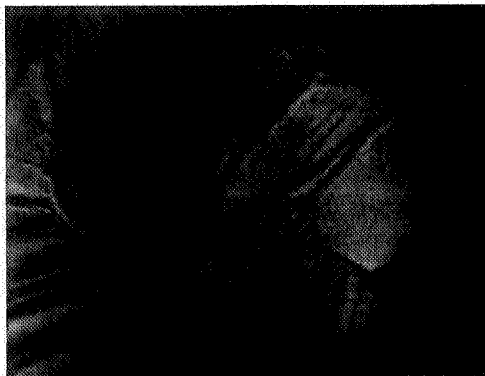
The delegation found that forced marriage, premature marriage and multiple marriages as well as other discriminatory practices, the lack of societal awareness of women's rights, the psychological impact of 25 years of war, customary practices such as *Tuyana* (bride price) and family problems were the main causes of self-immolation. Continuing restrictions on women's lives

as a result of the lack of security in the country were also identified as contributing factors.

The Mission also investigated the conditions of a shelter established jointly by the Ministry of Refugees and UNHCR. At the time, the shelter housed 32 women between the ages of 14 and 25. Most of them had been detained and then deported by Iranian police for "moral corruption", including drug addiction and running away from their homes. Eighteen of the women were returned to their families. Eleven women remain in the Herat shelter.

The mission found that the Herat shelter was providing vocational and literacy training and access to health care, although the medical facilities could not provide sufficient care for women with chronic diseases. Most did not want to return to their families and instead were interested in getting an education. Many of the women suffered from psychological problems due to previous abuse. Premature marriage, forced marriage, drug addiction, trafficking and poverty were factors in their situation.

In its recommendations, the Mission urged the Ministry of Education, Ministry of Higher Education, Ministry of Women's Affairs, Ministry of the Interior and the AIHRC to create special education programs and advisory committees to end self-immolation and domestic violence against women. The Mission articulated support for the other recommendations of the October Self-Immolation Seminar for family courts, marriage registration offices, human rights awareness training, and counseling services and urged the establishment of a shelter for women in Kabul, programs for women with drug addiction and the appointment of representatives of the Ministry of Foreign Affairs, Ministry of Refugees and Returnees and UNHCR to monitor camps along the border between Iran and Afghanistan.



Recommendations on Actions to Prevent Self-Immolation: Herat, 21-22 October, 2004

- Marriage should be by full mutual consent;
- Forced marriage, including forced marriage of widows with their husband's relatives, is against religious and statutory law;
- Laws setting an age limit for marriage should be observed;
- Marriages should be registered in court to facilitate judicial monitoring of forced marriage;
- Large differences in age between the bride and groom should be

prevented;

- Marriage expenses such as *Tuyana* (bride price) should be avoided;
- Equality among wives in multiple marriages should be ensured;
- Human rights awareness programs, focusing particularly on women's rights should be set up;
- Women's rights to work, education, and social, cultural, and political participation are indispensable;
- Psychotherapy centers and legal advisory services for women should be established;
- The Attorney General's office, the courts, and judicial system should take serious measures to deal with self-immolation cases;
- Family courts should be established to deal with family conflict; and
- Families should not discriminate between girl and boy children and relatives should not interfere in married life.

5.5 RETIRED MILITARY OFFICERS

The Commission's assistance also has been requested by retired military officers who have not received their salaries and were not given other suitable posts after they lost their jobs with the Ministry of Defense.

In response to protests by military officers, the AIHRC raised the issue with the President, Minister of Defense and other parties. The government promised to give the officers 50% of their salaries, but this decision was not implemented.

To increase pressure, the AIHRC in March 2004, organized a meeting with the retired military officers as well as deputies from the Ministry of Defense, Ministry of the Interior, Ministry of Finance and the Office of the President. The Commission also invited media representatives to attend the meeting. The deputies promised to make a proposal to the President's Office to provide salaries to the officers. As of press time, the proposal had not yet been submitted.



5.6 CHILDREN DEPORTED FROM SAUDI ARABIA

In June 2003, Saudi Arabia announced plans to deport 700 Afghan children from Saudi Arabia to Afghanistan as the children lacked legal status. The Ministry of Labor and Social Affairs assumed responsibility for reuniting these children with their families.

After the first group of children was brought back to Afghanistan, the AIHRC visited the northeastern area of the country where many of the children were from and to where they were to be relocated. The AIHRC found that many of the children had either never returned or were no longer there. The children may have traveled to Pakistan in order to return to Saudi Arabia.

As a result of concerns about the children's welfare, the AIHRC signed an agreement with UNICEF through which the AIHRC would be able to inform families and authorities, accompany the children to their place of residence, and monitor the children's progress. The AIHRC hired five monitors for this purpose and the Ministry of Labor and Social Affairs hired an additional five. Jointly with the Ministry, the AIHRC has assisted in the reunification of 122 children out of the 320 deported so far. The AIHRC has also worked with the Ministry to establish a committee to counter child trafficking in Baghlan Province, where a high number of the deported children originated.

5.7 ENDING ILLEGAL DETENTION

Illegal detention is another frequent human rights violation. Often, innocent people are held in jail without charge for the purpose of getting bribes. In many cases, people are detained because of property disputes.

Private prisons run by military commanders and other authorities remain throughout Afghanistan. The Commission so far has verified the existence of 18 such prisons. They appealed to the commanders directly as well as to government officials to stop these illegal detention centres. The Commission has succeeded in closing 6 of these jails.

Some authorities also use official prisons as their private jails. The AIHRC has found that authorities in Badakhshan, Herat, Kandahar, Mazar-e-Sharif, and Jalalabad have prisons used as private jails.

In Logar Province, an eighth grade student, his father, and another family member were detained over a land dispute and were tortured by the district security chief and his soldiers. Once the case became public, students at the school of the imprisoned boy held a demonstration. The security chief ordered that the students who protested be beaten, resulting in the injury of 10 other students. With the AIHRC's intervention, the security chief was dismissed.

In Ghazni province, 69 people are currently detained in the provincial prison, but only 35 of them are registered in the prison record book with the rest of the prisoners illegally imprisoned.

The AIHRC investigated one case where a man spent almost two years in jail in Faizabad with no charges being filed. The prosecutor repeatedly asked the prisoner for money and said he would not be released unless he paid. However, in another case, a commander who committed murder in a public place was released after only 25 days.

In a Kabul case, a shopkeeper was hospitalized as a result of a beating by an intelligence officer. The intelligence officer had driven a car into the generators in front of the man's shop. The man asked the officer why he had hit the generators. The officer took the man to a private jail where he beat him. The man's father contacted the AIHRC, who won his release and assurances from police that security would be provided for the man and his shop.

The AIHRC has won the release of 162 prisoners from government jails this year in addition to the release of 158 prisoners which the Commission secured following the events in Herat in March 2004.

The AIHRC Penal Code Recommendations

- The Penal Code should be drafted in accordance with international human rights standards;
- The Penal Code should be updated to reflect such crimes as child trafficking which were not envisioned five decades ago when the last penal code was written;
- The Penal Code should include a Preamble which sets forth the aim of the Code and the policies of the State with regard to criminal justice;
- Provisions aimed at improving the status of women should be included in the Penal Code, particularly a provision on the harassment of women;
- A separate Juvenile Penal Code should be created and the legal age of criminal responsibility should be raised from 7 to 9 years of age;
- Legislation regarding the implementation of the Rome Statutes of the International Criminal Court (which Afghanistan has ratified) should be adopted and crimes recognized in the Statutes, particularly war crimes and crimes against humanity, should be incorporated into the Penal Code;
- The Penal Code should be amended to include the concept of proportionality and balance between the crime committed and the punishment received;
- Taking the experience of other countries in the use of alternative forms of punishment, the AIHRC recommends that alternative punishment should be used, taking into consideration the nature of the crimes, social status and position, age, gender, education level and technical and professional abilities of the offender. For this purpose, specific legislative measures should be taken;
- The AIHRC believes that the judicial system of Afghanistan is currently not in the position to hold fair trials and therefore recommends reduction in the use of the death penalty as well as a moratorium on the death penalty.

6 SECURING JUSTICE

By Presidential Decree, the AIHRC is mandated to undertake "national consultations and propose a national strategy for transitional justice and for addressing the abuses of the past."

The AIHRC has determined that up to one million individuals committed crimes or were involved in human rights abuses during the conflict in Afghanistan. These individuals include both perpetrators within Afghanistan and those from outside the country. The Commission firmly believes that a process of accountability for past violations will strengthen the rule of law and put an end to the reign of impunity that has governed Afghanistan for decades.

The goal of the AIHRC's Transitional Justice Unit is to enhance respect for human rights and national reconciliation in the country and to restore the dignity of victims. This includes investigating, recording and publishing the truth about war crimes as well as developing mechanisms for accountability for crimes against humanity and gross violations of human rights in accordance with international law, Islamic principles, Afghan tradition and the will of the people of Afghanistan. The Unit's strategies include documentation of past crimes, awareness-raising, and an extensive national consultation process.

6.1 DOCUMENTATION OF WAR CRIMES

To increase the capacity of staff to systematically document war crimes and crimes against humanity, the Transitional Justice Unit held a four-day training program on transitional justice and documentation methods. The training also provided basic skills in documenting and investigating past crimes including how to collect data and how to conduct interviews with victims. In collaboration with the International Center for Transitional Justice (ICTJ), the AIHRC conducted a 10-day training program for AIHRC staff on different methods of transitional justice and national consultations used in other parts of the world. These training sessions helped them better understand documentation techniques.

The Commission has also set up a system for interviewing and filing transitional justice complaints and petitions. Approximately 600 petitions and complaints have been submitted to the Commission on past crimes by victims or their family members. Most of the people who have submitted petitions and complaints have been interviewed and some have been able to submit evidence to document their claims. The Transitional Justice Unit has also worked to identify and document mass graves, document past human rights violations, collect testimonies and statements from victims and interview a large number of witnesses across the country. With support from the American company, Management Systems International (MSI), the

Commission was able to develop a database that can be used for transitional justice cases as well as monitoring and investigating cases of current violations.

The Transitional Justice Unit has identified victims and witnesses of an accused Afghan war criminal, Zardad, who is currently being held in custody in the UK and will be tried in September 2004 for crimes he committed between 1992-1996 in the eastern part of Afghanistan. The Unit has collected documentation of his crimes and a report has been produced and submitted to the relevant authorities in the UK.

The Transitional Justice team in each regional office has also conducted a security analysis of their region, identifying a large number of armed groups and warlords that are currently involved in human rights violations.

Another part of the Commission's work is to collect existing documents of human rights violations in Afghanistan that have been collected by human rights organizations over the last two decades of war. Amnesty International has submitted a package of documents and CDs of past crimes to the AIHRC. Most of these documents have been summarized and translated into Dari. Contacts have also been established with those individuals who hold private archives of documents of past crimes. Other ongoing documentation projects such as those undertaken by Human Rights Watch, the Office of the High Commissioner for Human Rights (OHCHR) and the NGO, Afghanistan Justice Project, will contribute to the AIHRC's work in this area.

6.2 PUBLIC AWARENESS ON TRANSITIONAL JUSTICE

The AIHRC has conducted a series of meetings with Afghan civil society groups in Kabul and the provinces to increase awareness of transitional justice issues. The Transitional Justice teams in the regional offices have held workshops and regularly meet with elders at the district and provincial levels to discuss this issue.

The AIHRC has also produced radio and television programs to explain the Commission's mandate on transitional justice to a wider audience. Two pamphlets on transitional justice have been developed as well.

6.3 NATIONAL & INTERNATIONAL ADVOCACY

Believing firmly that accountability for crimes of the past is essential to peace, stability and human rights in Afghanistan in the future, the AIHRC has worked to build coalitions and develop national and international political will to support justice.

At the national level, the AIHRC has met frequently with the President and other government officials to gain more support for its programs on transitional justice. The AIHRC has, as well, established a working relationship with the Judicial Reform Commission regarding recommendations for changes to the Penal Code. Improvements in the

Penal Code would enhance the capacity of local judicial institutions to deal with past violations.

The AIHRC has also held regular meetings with civil society groups to involve them in transitional justice deliberations. This year the Commission supported the Foundation for Civil Society and Culture's development of a transitional justice program. As well, the AIHRC works closely with the Afghan Civil Society Forum on transitional justice civic education.

The AIHRC has placed transitional justice issues on the agenda for the international community. Based on a report of the Special Rapporteur of Extrajudicial Killings, Asma Jahangir, as well as discussions with the then High Commissioner for Human Rights, Sergio de Mello and the then SRSG, Lakhdar Brahimi, the AIHRC convinced the OHCHR to undertake a mapping exercise of past crimes. In collaboration with the AIHRC, a panel of OHCHR-commissioned experts will conduct an in-depth analysis and compile a document of human rights violations dating back to 1978. The initial work will be based on existing publications. Experts on human rights and Afghanistan, including Commissioner Nadery, were assembled in Geneva in late January 2004 to discuss the mapping project.

In collaboration with the International Center for Transitional Justice (ICTJ), the AIHRC convened a two-day roundtable in Berlin, Germany in April 2004, to discuss the role of the international community in transitional justice. Approximately 50 people attended and participants included Dr. Sima Samar, Chair of the Commission, Commissioners Hamidi and Nadery, representatives from the Ministry of the Interior, the President's Office, the Judicial Reform Commission, Afghan civil society, the international diplomatic community, including the EU Special Envoy to Afghanistan, the Canadian Ambassador to Afghanistan and the Head of the Committee on Human rights and Humanitarian Aid of the German Parliament, the UN Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, independent experts on Afghanistan, international NGOs working in Afghanistan, and members of government offices prosecuting war crimes and crimes against humanity in Canada and Denmark, as well as a representative from the International Criminal Court.

The round table was intended to re-invigorate debate on transitional justice, an issue that all the participants consider crucial to the successful and permanent transition of Afghanistan from that of a warring nation to one of sustainable peace, but one that has often been neglected at the expense of political expediency. There were several presentations including one on current initiatives on transitional justice and one on current issues relating to judicial reform and the rule of law. The round table was also intended to be informative and to allow for better coordination between separate initiatives.

The AIHRC has also held events and meetings with diplomats from other countries in Kabul on this issue. In May 2004, the German Ambassador to Afghanistan held an informal meeting where the AIHRC briefed representatives of different countries. The Commission will hold follow up

meetings with these representatives to encourage their countries to develop policies and strategies to aid in the transitional justice process.

6.4 NATIONAL CONSULTATION ON PAST CRIMES

The AIHRC is mandated by the Bonn Agreement and by Presidential Decree to conduct a national consultation to assess public opinion on how past human rights violations should be addressed. The national consultation will assist the AIHRC in formulating recommendations for a mechanism for dealing with past crimes.

After reviewing national consultation strategies used in other countries that have faced violent internal conflict, the Transitional Justice Unit chose to undertake a two-pronged research project: a national sample survey and focus groups.

The Goals of the Research Project are:

- *To understand how the Afghan population and its subgroups understand justice, to identify their expectations for justice, and to evaluate their desire to deal with the legacy of violations; and*
- *To assess attitudes toward past human rights violations, strategies to bring about justice, and the role of the international community and national institutions in transitional justice.*

The research includes a 16-item questionnaire that will be administered to 3,300 randomly selected people from all provinces inside Afghanistan as well as approximately 750 Afghan refugees in Iran and Pakistan. The survey asks respondents to describe what justice means to them, whether they want to see justice for past crimes, which national and international institutions should play a role in bringing about justice, and whether they or family members have been victims of crimes during the country's successive conflicts. (A copy of the Questionnaire is in the Report's Annex).

Five hundred focus groups are the other component of the national consultation. The focus groups include 6-10 participants and last 90-120 minutes each. The discussions cover the areas of violations of human rights, justice, confidence in the international community and in national institutions such as the judiciary and reconciliation strategies.

Data collection for the national consultation was in the spring of 2004 and the Commission will issue a report prior to the Presidential elections in the fall. (A copy of the focus group questions is in the Report's Annex).

7 ASSESSING HUMAN RIGHTS

7.1 JUSTICE FOR CHILDREN

The AIHRC's Child Protection Unit recently released a report, entitled, "*Justice for Children*", which examines the causes of crimes committed by children and the treatment of children in the penal system. The field research upon which the report is based, included site visits and interviews with children, judiciary staff, police, teachers and parents. In all, three hundred interviews were conducted.

The types of crimes committed by children included robbery, killing, sexual abuse, trafficking and smuggling. It was found that girls committed ten percent of the crimes. The study identified poverty, lack of education, having only one parent, psychological tensions in the family, migration, lack of secure jobs, recruitment of child soldiers, a weak educational system, discrimination by parents among the children in a family and early marriages as the main reasons why children committed crimes.

The research also investigated the treatment of children within the judiciary system. The report looked at each stage of the incarceration process, including arrest by police, prosecution by the attorney general's office, deposition of cases in the court and experiences in rehabilitation and detention centres. The report reveals the aggressive reaction of police towards child offenders including torture, lack of professional behavior of authorities toward children and a lack of balance between offense and punishment. Imprisonment in a detention center is almost always the penalty imposed on child criminals. For example, a 12-year old boy was confined in jail for six months for robbery.

The study exposed the problems of the lack of trained juvenile police, lack of knowledge of the needs of children by the judiciary, lack of separate detention centers for juvenile offenders, and the overall absence of justice for children in the judicial system. For the most part, children's cases are handled through the regular judicial system and convicted offenders are placed in correctional facilities, which are in terrible condition and are especially ill-equipped to meet the needs of children.

The study recommends raising public awareness as well as the need for the judicial system to put the best interests of the child at the forefront. Recommendations that could be implemented through public awareness include improving family interactions, refraining from punishing children and increasing parental contact with school.

In order to reduce the crimes committed by children and improve their treatment within the criminal justice system the report recommends:

- enhancing the education system;
- establishing child affairs sections in all police stations and special investigations units for crimes committed by children;
- including juvenile justice provisions within the Penal Code in Police Academy curriculum;
- improving detention center facilities to include vocational training, recreation and sports programs, income generation programs and prevent degrading treatment of child offenders.

The Child Protection Unit is pursuing these initiatives.

"Justice for Children" can be viewed at www.aihrc.org.af

7.2 THE CAUSES OF WOMEN'S CRIMES

With the hope of identifying strategies to reduce crimes committed by women and their subsequent incarceration, the AIHRC this year sponsored research on the causes of women's crimes.

For this study, the AIHRC hired a consultant who interviewed women in prison in Kabul, Nangahar and Mazar-e-Sharif. At the time the research was conducted, there was no prison in Jalalabad and the researcher was not given permission to enter the prison in Herat. The study explored the relationship between women's crimes and factors such as age, poverty, illiteracy, forced marriage and family violence.

The study found that eighty percent of the women who committed crimes were illiterate. A substantial number of the women also came from poor families. The age of marriage also affected women's criminal behavior. Forty-two percent of the women interviewed had married below the age of 16. As well, the study found that forced marriages and age differences between spouses were more likely among illiterate women.

The study made the following recommendations to reduce women's crime and imprisonment:

- reduce early marriage;
- prevent forced marriage through monitoring and educational activities;
- improve respect for women's and children's rights;
- reduce violence in the household;
- increase girls' education;
- improve women's economic status and employment opportunities.

"The Causes of Women's Crimes" can be viewed at www.aihrc.org.af

7.3 NEW RESEARCH

The Research and Policy Unit has begun two major policy analysis and research projects. In order to develop and submit child rights policy recommendations on the Afghan Civil Code to the Judicial Reform Commission, the AIHRC Research and Policy Unit and Child Protection Unit have begun an analysis comparing Afghan law, procedures and policies with international instruments on child rights. The goal of the project is to identify, develop and propose recommendations for improving policies on children's rights in Afghanistan.

Later in the year, the AIHRC will undertake a major field research project on violations of women's rights and children's rights under customary law. This research will document the consequences of these violations on the lives of women and children and will seek to identify policies and programs that can change these practices.

Currently the Women's Rights Unit together with the Research and Policy Unit is undertaking a survey on domestic violence against women to determine, among other things, how widespread the practice is and how it impacts on women. 1,900 questionnaires have been distributed to the regional offices and the findings will be analyzed to establish what policies and practices can be adopted to help prevent and mitigate domestic violence against women.

As well, the Unit with the assistance of independent researchers, is conducting research on, "*The Family and Human Rights*". The idea behind the project is to produce a training manual for teaching human rights in the family, including human rights can be promoted and protected in the family and what are the rights of each member of the family. The project should be completed later in the fall.

7.4 HUMAN RIGHTS RESEARCH & ADVOCACY CONSORTIUM

The Human Rights Research and Advocacy Consortium – of which the AIHRC is a member – was established in early 2003. The Consortium includes thirteen Afghan and international NGOs working in the fields of humanitarian relief, reconstruction, human rights, peace promotion, research and advocacy. In late 2003, the Consortium conducted a collaborative research project to assess public opinion on the priorities of the people of Afghanistan.

Based on both a random sample survey and focus groups, the research found that 43% of Afghans identified security rights as the top priority among the rights categories. While an overwhelming majority of the respondents (83%) felt more secure than three years ago, optimism in some parts of the country was significantly lower. Only 23% of those surveyed in Gardez and 53% of those in Kandahar saw improvements in security. A plurality of respondents (33%) felt that disarmament was the most important factor to improve security; and that disarmament was necessary in order to hold free and fair elections and to make significant progress on reconstruction.

[The Commission is also working closely with the Consortium on another research project, *"Elections and the Rule of the Gun"*. The report will be published before the Presidential elections this fall.

8 EXTERNAL RELATIONS

8.1 THE AIHRC ATTENDS THE UN COMMISSION ON HUMAN RIGHTS

Dr. Sima Samar, Chairperson of the AIHRC, addressed the 60th session of the UN Commission on Human Rights on 14 April 2004. The Commission on Human Rights is the principal human rights organ of the UN and is composed of 53 member states. Over 3,000 delegates from member and observer States and from non-governmental organizations participate in the Commission's annual meeting in Geneva.

In her speech, Dr. Samar described the human rights situation in Afghanistan and outlined the work of the AIHRC to improve the situation; in particular, she emphasized ongoing violations such as forced marriage, torture, illegal detention and trafficking in persons. In order to secure a better future for Afghanistan, Dr. Samar called for an increase in the international security presence, disarmament of the militias and a commitment to achieve justice for both past and present crimes.

The Chairman of the Commission on Human Rights, Michael Smith, also made a statement on Afghanistan. Recognizing the human rights achievements made in Afghanistan during the past year, including the work of the AIHRC, he expressed concern about the insufficient progress made in improving the security situation and in women's rights. He called for renewed efforts both by the Afghan Transitional Administration and the international community to address human rights in Afghanistan.

As part of the support offered by the Commission on Human Rights, an independent Expert on Human Rights for Afghanistan has recently been appointed, Professor Cherif Bassiouni, from Egypt. Prof. Bassiouni plans to visit Afghanistan in the near future and make an assessment of human rights needs as well as recommendations for future action and technical assistance.

8.2 HUMAN RIGHTS UNITS IN GOVERNMENT MINISTRIES

In the past year, the AIHRC has worked to open human rights units in various government Ministries. The purpose of these units is to increase human rights awareness in their respective Ministries and to monitor human rights violations. Human Rights Units this year have been opened in the Ministry of Women's Affairs, Ministry of Mines and Industries, Ministry of Energy, Ministry of Foreign Affairs, Ministry of Labor and Ministry of Information and Culture. Human Rights Units also are planned for the Ministry of Rehabilitation and

Rural Development and Ministry of Education. A Human Rights Unit was opened in the Ministry of the Interior last year.

8.3 THE AIHRC AND ASIA PACIFIC FORUM

The AIHRC was accepted as an associate member of Asia Pacific Forum of National Human Rights Institutions (APF) during its eighth session held in Katmandu, Nepal from 16 - 18 February 2004. Dr. Sima Samar, the AIHRC Chairperson, addressed the conference, sharing the Commission's achievements to date and current human rights challenges in Afghanistan.

The APF provides a framework for regional cooperation to strengthen observance of human rights and to develop and implement human rights programs. The mission of the APF is to support the establishment and development of independent national human rights institutions, to facilitate the exchange of information and expertise, to provide training and to develop joint positions on issues of common concern.

8.4 1000 WOMEN FOR THE NOBEL PEACE PRIZE 2005

Ten Afghan women have been recommended to be among 1000 peace-promoting women who are nominated as a part of "*1000 Women for the Nobel Peace Prize 2005*".

The AIHRC Chairperson, Dr. Sima Samar, serves as one of nineteen project coordinators worldwide tasked with identifying the 1000 women. To select the women, the AIHRC translated the information and nomination forms into Dari and Pashtu and circulated them across the country. An Advisory Board comprised of influential women from both the governmental and non-governmental sectors was established. The Advisory Board then selected the ten nominees from approximately 70 nominations received.

The purpose of "*1000 Women for the Nobel Peace Prize*" is to recognize women's individual and collective leadership for peace, human rights, and the economic, social, and political empowerment of women. Only 10 women have received the Nobel Peace Prize in its history.

9 BUILDING STAFF CAPACITY

9.1 TRAININGS, STUDY ABROAD AND FORUM PARTICIPATION

The AIHRC, despite being very new, has been able to represent Afghanistan at regional and international forums. Capacity building has been an important component of the Commission's activities. The following initiatives have been actively participated by Commission staff from all levels.

- Mapping Exercise on transitional Justice, Geneva, Switzerland
- Violence against Women and Rights to Adequate Housing, India
- Human Rights and Terrorism, Lucerne Switzerland
- Regional Cooperation for the Promotion and Protection of Human Rights in the Asia Pacific Region, Doha, Qatar
- Eighth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions, Kathmandu, Nepal
- Seminar on National Human Rights Institutions, Belfast, Ireland
- Course on the International Criminal Court, Nottingham, UK
- Transitional Justice Field visit for Comm. Based Reconciliation, East Timor
- National Consultation on Transitional Justice with Afghans in the Diaspora, Australia
- National Consultation on Transitional Justice + Training by the New Zealand Human Rights Commission, New Zealand
- Round Table on Transitional Justice, Berlin, Germany
- Recipient of HR Award, Reebok Foundation, Boston, New York, DC, USA
- Round Table on the Situation of Afghan Refugees in Iran, Iran
- International Observer for Presidential Election, Indonesia, India & Thailand
- Judicial Reform Workshop, Rome, Italia
- Civil and Islamic Law Conference, Germany
- Immigration and the Future of Asylum Seekers, The Hague, Netherlands
- Security and Human Rights, Ascona, Switzerland
- Post war Reconstruction & Development Workshop, University of York, UK
- Disabled Rights Convention, India
- Field Visit to Post-conflict Bosnia, Bosnia
- Child Trafficking Conference, Bangladesh,
- Introduction and exchange of Ideas with SAHRC, South Africa
- Workshop, University of Lund, Sweden
- Status of Women's Development in Africa, Johannesburg, South Africa,
- International Development and Law Organization, (IDLO), Rome Italy
- Responding to Conflict Training Course, Birmingham, UK
- Training Course with the New Zealand HR Course, Auckland, New Zealand
- Human Rights Training Course, Copenhagen, Denmark
- The Media and Human Rights workshop, Accra, Ghana

10 TECHNICAL COOPERATION



Richard Bennett
Technical Advisor

As a young and growing organization with an important and often technically complex mandate, the AIHRC welcomes well targeted and professionally delivered international assistance. At the request of the Commission, three United Nations agencies – Office of the High Commissioner for Human Rights (OHCHR), UNDP and UNAMA – are involved in a two year joint technical cooperation programme with the AIHRC. OHCHR, in addition to fundraising responsibilities, provides advisory and technical support to the AIHRC. UNAMA provides logistical support and cooperates operationally with the AIHRC. UNDP is responsible for the financial administration of the project, and for building the commission's administrative and financial management capacity. Overall management of the support project is undertaken by a Project Steering Committee composed of three representatives from the Commission, one representative from its secretariat, and a representative each from OHCHR, UNAMA and UNDP.

The project supports capacity building and implementation of activities carried out by the Commission. International staff are kept at the minimum necessary number, strictly in accordance with the needs and wishes of the Commission. Donor funds for the project are contributed to a designated project fund with UNDP support costs kept at 3%.

During the reporting period, the Commission was supported by a Chief Technical Advisor and Technical Advisors for Monitoring and Investigation, Human Rights Education, Women's Rights and Research/Policy. In addition, a number of shorter term consultants were engaged to advise on specific areas including child trafficking, transitional justice and human rights investigations.

10.1 TECHNICAL ADVISORS

2003

1. Mr. Richard Bennett commenced as Chief Technical Advisor in June 2003. He has 11 years experience in the New Zealand Human Rights Commission and has worked with national human rights institutions in Sierra Leone, Malawi and Timor Leste among others. Richard coordinates the programme of technical assistance, provides advice to the Commission and liaises with UNAMA, OHCHR, UNDP and donors.
2. Mr. Nurul Khan, a judge from Bangladesh, was Technical Advisor on Monitoring and Investigation from June 2003 to February 2004 during which time he helped to develop the Commission's monitoring and investigation procedures and to build the capacity of staff working in this area.
3. In October 2003, Mr. John Dwyer, who has served as a human rights institutional development advisor in a number of countries, provided

training workshops to the Commission's monitoring and investigation staff on how to conduct human rights investigations and on monitoring skills, particularly in relation to prisons. John also made an assessment of the Commission's resources and procedures and made a number of recommendations for improvements, which were later endorsed by the Commission.

2004

1. Dr. Jennifer Jackman, a social scientist from the USA with a strong women's rights background, including advocacy for human and women's rights in Afghanistan, worked at the Commission from February to June 2004 as Research/Policy Advisor. She helped to establish the Research and Policy Unit and contributed to a number of the Commission's research projects.
2. Ms. Elzy Ofreneo joined the Commission as Technical Advisor on Human Rights Education in April 2004. She brings with her 14 years experience in Human Rights Education at the Philippines Commission on Human Rights, where she held the position of Director of Human Rights Education and Policy. She is advising on the Commission's human rights education plan, training the HRE section staff and assisting with the development of education and training materials.
3. Also in April 2004, the Commission was joined by Ms. Corey Levine who has many years experience working on women's rights, often in conflict zones such as Kosovo, Sierra Leone and Timor-Leste. Corey is the Technical Advisor on Women's Rights. She has been advising the commissioners and staff of the Women's Rights section on their strategic and work plans, as well as assisting with coordination of activities, liaison with external partners and a research project on violence against women.
4. Mr Olivier Bercault, an expert on human rights documentation, assisted the Commission twice, in November 2003 as a member of an ICTJ team and again in April 2004 when he provided advice to several regional teams working on the transitional justice public consultation.
5. In May 2004, Ms. Susan Elliott, worked with the Child Rights section to help them develop a strategy and a work plan to combat child trafficking.
6. Valuable assistance has also been provided by two interns, Mr. David Poplack and Ms Ogai Haider. David, a winter intern, undertook internal and external consultation and wrote a report on the commission's external stakeholder relations. Ogai, the Commission's summer intern, is assisting the Transitional Justice unit with analysis of its public consultation exercise and is also working on the development of a partnership framework with UNHCR.

OHCHR has a desk officer for Afghanistan who provides information and support from Geneva, not only to the Commission but also to UNAMA. The technical advisors in particular have benefited from the backstopping provided

by the desk officer. For most of this reporting period the post was held by Shahrzad Tadjbakhsh, who was relieved for several months by Jonathan Willems.

UNAMA, in addition to day to day logistical support for the technical advisors and, when requested, for Commission personnel, seconded one of its staff, Simone Troller, to work with the Commission's Women's Rights section, from February until May 2004, pending the arrival of the Technical Advisor on Women's Rights. As UNAMA's Human Rights Unit expanded in the regions during 2004, more international human rights staff became available to work jointly with the Commission's Kabul and satellite offices. This culminated in the Political Rights Verification Campaign, a completely joint AIHRC-UNAMA project, launched on June 15th.

UNDP provided training to the Commission's finance staff. In August 2003 a decision was taken by the Steering Committee to transfer financial management from a DEX (direct execution) mode to NEX (national execution), effectively giving the Commission more control over the management of its finances. However, a full operational transition to DEX is being phased in, pending development of the Commission's financial management systems and staff. Several UNDP staff worked on this project, led by Programme Officer, Emilia Mugnai.

In addition to technical cooperation through the UN, the Commission also entered into bi-lateral arrangements with Management Systems International (MSI), the International Center for Transitional Justice (ICTJ), the Danish Institute for Human Rights (DIHR), Save the Children Alliance (STC) and GTZ.

- In 2003, MSI provided the commission with consultancy services on strengthening management and on database development.
- The ICTJ provided training and advisory services on transitional justice. To follow a workshop held in February 2003, ICTJ conducted an 8-day training workshop for the Commission's transitional justice staff in November.
- In October 2003, the DIHR ran a one week workshop to train human rights educators and will follow up with advanced training following the presidential elections.
- In both 2003 and 2004, STC provided regular support to the Child Rights section as well as opportunities for staff to gain exposure to child rights work in other countries.
- In September-October 2003 and again in April 2004, GTZ undertook a series of regional workshops on human rights in the context of elections, in conjunction with the AIHRC and the police.

The Commission is grateful to all the partners who have engaged with it in different forms of technical cooperation during this reporting year.

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ANNEXES

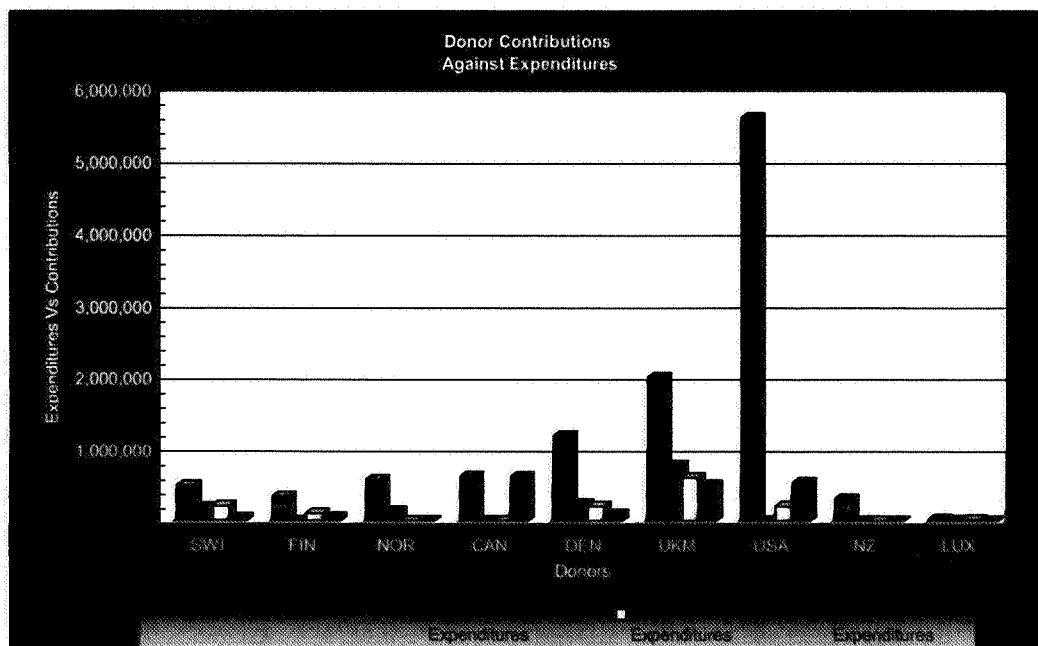


ANNEX I FINANCIAL REPORT

AIHRC Funding Status
Project ID:00011042

Donor	Funding			Diatr	Program able	AFG/03/017			AFG/03/017			Budget for 2004			Expenditure + Additional funds for 2004			Net Balance For Transfer to New project		
	Committed	Received	Balance			Final Expenditures of 2003 & 2004			Final Expenditures of 2003			Net			Project 00011042			Net Prog.	GMS 3%	Total
						Net	COA	Total	Net Exp.	COA	Total	Net	COA	Total	Net	COA	Total			
SWI	499,960	499,960	-	14,562		187,152	5,615	192,767	205,593	8,187	211,750	334,694	22,158	356,852	92,663	2,760	95,443			
FIN	344,468	344,468	-	10,033	3%	334,435			99,475	2,884	102,459	346,628	55,397	404,025	47,877	1,436	49,313		187,093	182,996
NOR	584,682	584,682	-	17,029	3%	567,633		136,901											434,719	447,761
CAN	634,491	634,491	-	18,480	3%	616,011						321,136	149,571	470,707	616,011	18,480	634,491			
DEN	1,217,852	1,217,852	-	35,471	3%	1,182,381		240,499	199,951	5,969	204,820	870,361	44,318	914,679	91,150	2,735	93,885	650,766	10,763	678,549
UKM	2,050,823	2,050,823	-	59,733	3%	1,991,090		790,658	596,852	17,905	614,757	447,868	155,112	602,980	498,634	14,905	511,739	120,774	3,695	133,669
USA	5,750,000	5,750,000	-	167,476	3%	5,582,524			199,340	5,990	205,320	1,078,259	127,413	1,205,672	528,816	15,664	544,680	4,854,369	145,631	6,000,000
NZ	312,228	312,228	-	9,094	3%	303,134												303,134	9,094	312,228
LUX	26,456	26,456	-	771	3%	25,686		10,200	15,783	473	16,256									
	11,420,940	11,420,940	-	332,849		11,088,291		1,371,025	1,315,984	39,478	1,355,462	3,400,946	523,969	3,924,915	1,873,350	56,201	1,929,551	6,587,664	187,038	6,764,692

Net-Contribution Vs Expenditures						
Donor	NetContribution	Expenditures				Balance
		2002 Expenditures	2003 Expenditures	2004 Expenditures	Total Exp.	
SWI	485,398	187,152	205,563	40,637	433,372	52,026
FIN	334,435	-	99,475	47,877	147,352	187,083
NOR	567,633	132,914	-	-	132,914	434,719
CAN	616,011	-	-	613,912	613,912	2,099
DEN	1,182,381	233,494	198,951	91,150	523,595	658,786
UKM	1,991,090	767,630	596,852	496,834	1,861,316	129,774
USA	5,582,524	-	199,340	528,816	728,156	4,854,368
NZ	303,134	-	-	-	-	303,134
LUX	25,686	9,903	15,783	-	25,686	(0)
Total:	11,088,291	1,331,093	1,315,984	1,819,226	4,466,303	6,621,988



ANNEX II LIST OF AIHRC PUBLICATION

No.	Publications
1.	Rawshani/Hoqooq-e-Bashar Magazine (AIHRC Monthly) 10,000 copies per month
2.	Calendar (1382)
3.	Special publications, brochures & posters for Dec. 10: International Human Rights Day
4.	Special brochure and posters for March 8: International Women's Day
5.	Brochure on the definition of the International Criminal Court
6.	Brochure on the definition of Human Rights Violations
7.	A Glance to the Emergency Loya Jirga brochure
8.	2002 – 2003 Annual Report
9.	Learning about the Rights of Children
10.	AIHRC Draft of the Constitution (in Dari, Pashto and English)
11.	My Rights, Your Rights brochure and resource book
12.	Poster on Child Rights
13.	Convention on the Rights of the Child in Dari and Pashto
14.	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in Dari and Pashto
15.	Brochure and poster on child's rights
16.	Brochure and poster on women's rights
17.	Brochure on the Definition of the AIHRC
18.	Brochure about Warlords
19.	Calendar containing the Universal Declaration of Human Rights
20.	Justice for Children Booklet
21.	Female Prisoners: the Causes of their Crimes
22.	"Why Self-Immolation?"
23.	Brochure and Poster of "Who is a Mujahid and Who is a Warlord?"

**ANNEX III PRESIDENTIAL DECREE / TERMS OF
REFERENCE**

**Decree of the Presidency of the Interim Administration of Afghanistan on the Establishment of
an Afghan Independent Human Rights Commission**

No.: _____

Date: _____

Whereas, the Agreement on Provisional Arrangements in Afghanistan Pending The Re-Establishment of Permanent Government Institutions (hereinafter, "the Bonn Agreement") provides that: "The Interim Administration shall, with the assistance of the United Nations, establish an independent human rights commission, whose responsibilities will include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions,"

Now therefore and to these ends,

- (1) There shall be an Afghan independent human rights commission (hereinafter "the Commission") established in Afghanistan, in accordance with the provisions of the Bonn Agreement, and the terms, conditions and membership set out in Annexes One and Two, attached.
- (2) The present decree shall enter into force on the date of its adoption, and shall thereafter be published in the official gazette, together with its annexes.

Wasalam

Hamid Karzai,

**Terms of Reference
of
The Afghan Independent Human Rights Commission**

Article One

There shall be an Afghan Independent human rights commission (hereinafter "the Commission") established in Afghanistan, with the support of the United Nations. The Commission shall serve for a fixed term of two-years from the date of its appointment, subject to the provisions of the Articles Fourteen and Fifteen, below.

Article Two

The Commission shall be charged with developing a national plan of action for human rights in Afghanistan, and with human rights monitoring, investigation of violations of human rights, development and implementation of a national program of human rights education, undertaking of national human rights consultations, and development of domestic human rights institutions, in accordance with the terms of the Bonn Agreement, applicable international human rights norms, standards, and conventions, and the provisions of this decree and annex. It shall carry out these functions in all of Afghanistan.

Article Three

The Commission shall be composed of 11 (eleven) full-time members appointed on the basis of their individual human rights expertise, personal and professional integrity and competence, demonstrated independence, commitment to the cause of human rights, and public credibility, one of whom shall be designated as Chairperson by the Interim Administration. The membership of the Commission shall include Afghan women and men, persons drawn from each of the principal ethnic and religious groups of Afghanistan, both from inside the country and in the Afghan Diaspora, and from Afghan refugee and internally displaced communities. All members shall be Afghan nationals.

Article Four

The members of the Commission shall be appointed by the Chairman of the Interim Administration, in close consultation with relevant ministries of the Interim Administration, members of the Special Independent Commission for the Convening of the Emergency Loya-Jirga, and representatives of Afghan civil society, including Afghan human rights organizations.

Article Five

Members of the Commission shall serve for a term of two years from the date of their appointment. During their tenure, they shall not be subject to removal by any external authority. The Commission shall promulgate its own internal disciplinary rules, regulations and procedures, including requirements for a quorum and procedures relating to the preservation of confidentiality.

Article Six

The Commission shall have its headquarters in Kabul, and shall as well establish and maintain regional satellite offices in Kandahar, Herat, Mazar-e-Sharif, Faizabad, Jalalabad, Gardez and Bamiyan. The Commission shall determine whether, when and where to open additional offices, with a mind to ensuring the widest possible national coverage and public accessibility within available resources.

Article Seven

The Commission shall be supported by a full-time professional secretariat, staffed by Afghan human rights specialists and qualified support staff. The Commission shall appoint a Director to head the staff and be responsible for the daily management of the work of the Commission and its offices. The Director shall, in turn, be responsible for the appointment of all other staff, in accordance with criteria, terms and procedures to be developed by or under the authority of the Commission.

Article Eight

All Commission members and staff shall be immune from all criminal prosecution and civil liability for words spoken, acts performed or omissions committed in the good faith performance of their mandated professional duties for the promotion and protection of human rights. Persons appearing before the Commission in order to offer evidence or testimony shall be entitled to immunity from civil or criminal liability only for the act of providing such evidence or testimony, except where that person is charged with giving false testimony or fabricating evidence. All national authorities and official institutions shall be required to afford full cooperation to the Commission, and to facilitate its work in carrying out its mandated functions. The national authorities shall be responsible for providing adequate security for the members, staff, witnesses, premises, materials and property of the Commission, wherever these may be found.

Article Nine

The Commission shall be mandated to monitor the situation of human rights throughout the entire country, to investigate allegations of violations of human rights, and to develop recommendations for the building and strengthening of national human rights capacities and institutions. It shall work with partner institutions to develop and implement human rights education activities including through the incorporation of human rights into national educational curricula at all levels, and in the mass media. It shall as well undertake national consultations and propose a national strategy for transitional justice and for addressing the abuses of the past. It shall submit opinions, recommendations, proposals and reports to local, regional and national authorities, promote the harmonization of national law and practice with international human rights instruments to which the Afghanistan is a party, provide advice and information to the country's human rights treaty reporting processes, assist in the development and implementation of national human rights education programs, and cooperate with the United Nations and other international organizations on all matters within the Commission's competence.

Article Ten

The Commission shall be empowered to freely consider any questions falling within its competence, whatever the source of the proposal or referral, and shall have the right to initiate its own enquiries and investigations. It shall receive, hear and consider complaints and petitions concerning both individual cases and general situations, whether brought before it by individuals, their representatives, third parties or organizations, and shall be entrusted to address such cases and situations, variously, and in accordance with its own judgment, by seeking amicable settlement through conciliation, issuing decisions, or those confidential procedures which it may see fit to adopt; by informing petitioners of their rights and available remedies within the national legal system and international mechanisms and how to access them, by referring them to the courts or transferring them to other competent authorities, and or by making recommendations to the authorities for remedial legal or administrative reform. The Commission shall develop its own rules and procedures for these purposes, giving due regard to the need to ensure gender sensitivity and physical, cultural and linguistic accessibility.

Article Eleven

The Commission shall have the power to hear any person and obtain any information evidence and documentation necessary to assess situations and cases falling within its competence. It shall further have the power to require that the evidence of any witness, whether written or oral, be given under oath or affirmation, in the manner required for the presentation of evidence before the courts of Afghanistan, and to administer such oath or affirmation. It shall have the power to summon any person resident in Afghanistan to appear before the Commission in order to give evidence, provide testimony, produce documents or deliver material evidence, to examine such persons as witnesses, and to compel them to produce documentary or material evidence in their possession or under their control. The Commission shall have the authority to admit or exclude the public from any part of an enquiry, in particular where this is necessary in order to protect the safety or reputation of any persons.

Article Twelve

The Commission shall develop and maintain cooperative working relationships with organizations and representative of Afghan civil society, including non-governmental organizations, community based groups, and others. It shall publish a comprehensive yearly report on the state of human rights in Afghanistan. It shall as well publicize its opinions and recommendations, undertake regular public information activities, and address public opinion directly and through the media.

Article Thirteen

The Commission shall develop its own budget, as well as transparent and efficient systems for its financial management, ensuring the acquisition and maintenance of adequate infrastructure, funding, staff, premises, and materials necessary for the independent performance of its mandated responsibilities. It shall seek the technical and financial support of the United Nations and international donors for its activities during the transitional period, as defined in the Bonn Agreement.

Article Fourteen

The Commission itself shall have sole authority for determining rules and procedures for the removal of members and staff for reasons relating to capacity or actions incompatible with their duties, and for the actual removal of such members or staff in accordance with such rules and procedures. In all cases where the removal, resignation or death of a member results in a vacancies, in accordance with its own rules and procedures. Any new members appointed to fill such vacancies shall serve for the balance of the original two-year mandate of the Commission.

Article Fifteen

Prior to the termination of the mandate of the Commission, as defined in Articles One and Five, *Supra*, the Commission shall develop and present to the Constitutional Commission and the Constitutional Loya-Jirga a proposal and plan for the Commission's transformation into a constitutionally entrenched permanent independent Afghan human rights commission, in accordance with the United Nations Principles Relating to the Status Of National Institutions for the Promotion and Protection of Human Rights ("The Paris Principles," United Nations General Assembly Resolution 48/134 of 20 December 1993, Annex).

**ANNEX IV FOCUS GROUP & INTERVIEW QUESTIONS ON
NATIONAL CONSULTATIONS ON TRANSITIONAL
JUSTICE**

CONSENT FORM

COMMUNITY FOCUS GROUP DISCUSSIONS

Introduction:

My name is I am working for the AIHRC. We are collecting information here in We would like to learn more about people's opinions regarding human right violations in Afghanistan and what you think would be the best way to deal with these violations. The information collected will help us understand what the Afghan people believe is important and will be used to help influence decisions about how to respond to human rights abuses that occurred in the past. By participating in this study, we believe that you will contribute to a free and safe Afghanistan.

Confidentiality and consent:

"I would like to ask you to participate in a group discussion. The discussion will take about 1 to 2 hours. A researcher named..... will be asking questions. Another researcher named..... will be taking notes. You will be part of a group of eight to ten people.

The researcher will keep your responses confidential. You do not need to use your real name in the group meeting. Please do not discuss the conversation or the names of participants with anyone outside the group. Your name will not be written down anywhere nor there be any way to identify you. Only researchers involved in this study will view the discussion notes which will be stored under lock and key at AIHRC Kabul. (We also are asking your permission to tape record this discussion. Only the researchers will have access to these tapes and they will be destroyed once they are transcribed. No names or identifying information will be recorded.)

While we see no foreseeable risks to you from participating in this research, we are aware that Afghanistan has suffered a great deal and that many have strong opinions about what has happened.

However, we are a human rights organization and are not part of the government or military. If you have any doubts about this, please feel free not to participate. There is no direct benefit to you, however we hope that the research will benefit Afghans by helping us understand what people want in order to help the country move forward.

You will not receive money if you join this study. Your participation is voluntary. You may refuse to answer any question and you may choose to leave the group discussion at anytime. Refusing to participate will not affect you or your family in any way.

Do you have any questions for me?

You may ask questions about this study at any time. If you have any questions about your rights or your treatment as a participant in this project, after we leave the facility, please contact——

Demographic Characteristics

Province.....DistrictVillage

AgeMarital Status

Level of Education Occupation

GenderEthnicity

Focus Group Key and Probe Questions

1. In your opinion what are human rights?
 - Probe 1a: What kinds of human rights violations have occurred in Afghanistan during the period of conflict.
 - Probe 1a: Have you Personally been affected by human rights violations?
 - Probe 1b: What institutions or person(s) do you identify as responsible for the event(s) you just described? violations?
2. Do you think the population of Afghanistan should remember and preserve the record of what has happened to them?
 - Probe 2a: Why or why not?
 - (If these events should be preserved) How should the population of Afghanistan remember and preserve the record of what has happened of what has happened to them?
3. How would you like to see the injustice remedied?
 - Probe 3a: For you, what constitutes justice?
 - Probe 3b: How important is it to you that persons responsible for injustice are held accountable for their actions?
 - Probe 3c: What should be done to help the victims of injustice in Afghanistan?
 - Probe 3c: Are there individuals and organizations in Afghanistan who you believe could conduct a fair and accurate inquiry into the injustices suffered by people in Afghanistan?
 - Probe 3d: What about outside Afghanistan?
 - Probe 3e: Do you have confidence in the Afghanistan judicial system?
 - Probe 3d: What about the judges?
 - Probe 3f: And lawyers?
 - Probe 3h: If there are trials for those who are accused of committing human right violations, where should these trials be held?
 - Probe 3i: Under which laws? Afghanistan Laws? International Laws?
 - Probe 3j: Should the international community be involved in any ways in these trial processes? If yes, how and what capacity?

4. What can be done to stop these injustices from being committed again?
 - Probe 4a: Is there a need for reconciliation between people in Afghanistan?
 - Probe 4a: What measures would help to forge unity and trust among the people of Afghanistan?
 - Probe 4b: Have you heard of the International Criminal Court or the International Criminal Tribunals Yugoslavia and Rwanda?
 - Probe 4c: Have you heard of a Truth Commission?
5. What are your immediate concerns? (For example: Security, food, electricity, finding missing family members. Etc.)
 - Probe 5a: What about justice? Is that an immediate concern?

Questionnaire:

Introduction

Hello, my name is _____. I am an officer with the Afghan Independent Human Rights Commission. The Commission was established by the Interim Administration of Afghanistan through a Presidential Decree but it is independent of the Afghanistan Transitional Administration. It is a non-partisan, non-political body. Our job is to monitor and promote human rights in Afghanistan. The Commission also has a mandate to ask Afghans what should be done about human rights violations and abuses that were committed in the past, during the conflict from 1978 - 2001. For example whether such violations should be investigated and trials of the people who committed them.

The Commission has no policy on this subject right now. Our task is to ask Afghans from all over the country what they think should be done, and then issue a public report which will be available to the government, the people of Afghanistan, and the international community. I may have my own personal views, but it is my job here to be very impartial and simply record your views. I hope you will feel that this is an important process for you to be involved in. You will not receive any money for participating, and there may be no direct benefit to you, but your views will help determine the policies of the government, and this will help Afghanistan to build a better future.

Confidentiality, Comfort, and Consent

I want to assure you that I will not be taking your name down on my forms, and that all the views you express here are completely confidential and anonymous. You see, the form I have to record your views has no space for a name. (Show the form) Nor will we keep any records of who you are, or provide any way to identify you.

All I will do is record your gender and approximate age for statistical purposes.

Do you agree to participate in this consultation? Do you have any questions for me?

Instructions

I will ask you 19 questions, and ask you to answer either yes or no or provide you with a series of options. Sometimes you may not feel that any of the options provided is the answer you would ideally like to give. In this case, please choose the best answer among the options offered.

Truth Seeking

1. Do you think it is important to establish the truth of what happened, in terms of human rights violations committed in Afghanistan during the war? Yes/No
2. Who should play the most important role(s) in an institution established for this purpose?
 - a) The National Government
 - b) The International Community
 - c) Local Elders
 - d) Intellectuals and Social Groups
 - e) Religious Figures
 - f) Women
 - g) All of them
3. What does justice mean to you?
 - a) Punishment of those responsible by a court.
 - b) Compensation for victims of human rights violations.
 - c) Reconciliation of divided communities.
 - d) Publication of the truth about the past.
 - e) All of the above.
4. Would you support amnesties or pardons for anyone who confessed their crimes before an institution created for transitional justice? Yes/No

Judicial Remedies

5. Do you want to see justice for crimes committed during the war? Yes/No

If you want to see justice, how important is it to you?
 - a) Very Important
 - b) Important
 - c) Only somewhat important
6. Whom do you think should face criminal trials for crimes committed during the war?
 - a) everyone who committed a crime
 - b) those who committed serious crimes and their commanders
 - c) only commanders who were responsible for planning, ordering or carrying out serious crimes
 - d) no-one
7. Do you think there should be reparations for crimes committed? Yes/No
8. If war criminals are brought to justice, who do you think should play the most important role?
 - a) The National Government
 - b) The International Community
 - c) Both the National Government and the International Community
 - d) Local Leaders
 - e) None of these
9. If trials for war criminals are held, where should they be held?
 - a) Inside Afghanistan
 - b) Outside Afghanistan, in a Muslim country.
 - c) Outside Afghanistan, in any country

10. When should war criminals be brought to justice in Afghanistan?
 - a) Now
 - b) Within two years.
 - c) 2-5years).
 - d) More than 5 years.
11. Which would you trust the most to hold a fair trial for war criminals?
 - a) A court with Afghan judges
 - b) A court with international judges
 - c) A court with both international and Afghan judges
12. Do you have confidence in Afghanistan's legal system to be able to bring about accountability for past human rights violations? Yes/No
13. Will justice for crimes committed during the conflict help to bring about security and development in Afghanistan? Yes/No
14. Do you think that bringing war criminals to justice in the near future would
 - a) increase the stability of the peace and bring security to Afghanistan
 - b) decrease the stability of the peace and threaten security in Afghanistan
 - c) not sure
15. Do you think that human rights abusers should be removed from their posts or positions? Yes/No
16. If there is no process of accountability, will people seek revenge? Yes/No
17. Do you think a judicial process will help reconciliation? Yes/No
18. What other process are useful for reconciliation?

Please rate the following options 1-5 (1 = most useful; 5 = least useful).

 - a) Local shuras/jirgas.
 - b) Social justice for victims.
 - c) Truth and Reconciliation Commission.

Personal

19. Have you been a victim of a conflict-related crime? Yes/No
20. Has anyone in your family been a victim? Yes/No
21. When did this happen?
 - 1978- 1991
 - 1991-1996
 - 1996-2001
22. Was Afghanistan's war mostly
 - a) A civil war among internal factions
 - b) A war imported by other countries
 - c) Both equally
23. 24) Was Afghanistan's war mostly

- a) A civil war among internal factions
 - b) A war imported by other countries
 - c) Both equally
24. 25) Which country or countries do you hold responsible for crimes committed during the war? (You may choose more than one)
- a) Iran
 - b) Pakistan
 - c) Russia
 - d) U.S.
 - e) All of them
25. How do you feel the international community, since the fall of the Taliban, has dealt with Afghans who committed crimes against humanity?
- a) Supported them politically, militarily and financially
 - b) Has tried as much as possible to limit their power and influence
 - c) Neither of the above
26. What role did ethnicity play in Afghanistan's war?
- a) Part of Afghanistan's conflict was between ethnic groups
 - b) Ethnicity is manipulated by commanders but there is no real ethnic conflict in Afghanistan.
27. Should a report be written documenting all the past human rights violations? Yes/No.
- If yes, what are the main purposes of the report?
- a) Disclose the truth.
 - b) Bring about justice.
 - c) Recommend new institutions and policies so that similar violations will never occur again.
 - d) All of the above.

Province	Total Population	Margin for interview
1. Badikhshan	375,000	75 persons
2. Badghis	225,000	45
3. Baghlan	650,000	130
4. Balkh	850,000	170
5. Bamyan	350,000	70
6. Farah	200,000	40
7. Faryab	600,000	120
8. Ghazni	700,000	140
9. Ghor	425,000	85
10. Helmand	650,000	130
11. Hirat	075,000	215
12. Jozjan	350,000	70
13. Kabul	2525,000	505
14. Kandahar	800,000	160
15. Kapisa	325,000	65
16. Konar	100,000	20
17. Konduz	775,000	155
18. Khost	200,000	40
19. Laghman	350,000	75
20. Logar	75,000	15
21. Ningrahar	950,000	190
22. Nimroz	100,000	20
23. Paktika	175,000	35
24. Paktia	150,000	30
25. Parwan	575,000	115
26. Samangan	250,000	50
27. Sarpul	425,000	85
28. Takhar	600,000	120
29. Orezgan	575,000	115
30. Wardak	350,000	70
31. Zabul	150,000	30
32. Nuristan	125,000	25
33. Districts	150,000	30
Total:	15,175,000	3165

ANNEX V LIST OF AIHRC REGIONAL OFFICES

Province	District Centre	Contact
● Kabul	Kabul Head Office	Pul-e-Surkh, Karte-e-Sae,
● Bamyan	Bamyan Regional Office	Shahr-e-Naw. Tel: 8821-651171903, +93 79410506 Email: musamahmodi@yahoo.com
● Paktia	Gardez Regional Office	Gardiz city, Agriculture Dept Building Tel: 8821-650268863, +93 79394284 Email: aihrcgdz@yahoo.com
● Balkh	Mazar-e-Sharif Regional Office	Behind Municipality, Near Khairkwa Mosque. Tel: 070-502665 Email: aihrcmzr@yahoo.com
● Nangarhar	Jalalabad Regional Office	Public Health Square, Babor street Tel: 8821-650268969, +93 79336659 Email: aihrc_jalalabad@yahoo.com
● Kunduz	Kunduz Regional Office	Tel: 8821-650268966, Email: aihrc_kunuz@yahoo.com
● Kandahar	Kandahar Regional Office	6 th District, Stadium str. across, Afghan Feliz. Tel: 070-303133, +93 303001006 Email: aihrc_k@yahoo.com
● Hirat	Hirat Regional Office	Behind Hirat Regional Hospital Tel: +93 40226248 Email: aihrc_hrt@yahoo.com

