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## WORDS FROM THE CHAIR

This Annual Report marks the Afghan Independent Human Rights Commission's (AIHRC) third year, and one in which its influence and impact has become felt nationwide. At the time of writing this Annual Report, the AIHRC itself, like the current political situation in Afghanistan, is in transition. The Commission has undergone substantial growth in terms of staff, geographic coverage, program activities, and under the leadership of a new Executive is beginning a program of restructuring to increase our effectiveness.

This year, the Transitional Justice Unit completed its historic nationwide survey in a report titled *A Call for Justice*. The report including recommendations was presented to President Karzai in January 2005. *A Call for Justice* presented the expectations and desires, held by everyday Afghans, of the new government during this critical stage of transition towards democracy, and was truly a historic moment for those who participated in the survey. It was the first time Afghans had been asked by a national human rights commission about their experience during the conflict, and of their opinions of how Afghanistan should move forward. Their voices reflect the AIHRC's strongly held belief that there will be no peace without justice. Without justice and accountability, human rights will become nothing more than rhetoric.

The AIHRC was pleased that the Presidential Elections went relatively smoothly, and at the great enthusiasm of women to use their right to vote. Although the elections were a phenomenal and historic moment for Afghanistan, there were some clear lessons from the process that should feed into the upcoming parliamentary elections. In addition to recommending close monitoring of the process by national and international observers, one of the strong recommendations of the AIHRC's Presidential Election Monitoring Report was for an Independent Election Complaints Commission to be established for the Parliamentary elections in September 2005. While this has happily occurred, we hope the Election Commission will not be viewed as solely responsible for addressing the problems in the parliamentary election process. The new commission must be supported by the judicial system, law enforcement agencies, and a robust vetting system of candidates. AIHRC will support the Election Complaints Commission to the best of our ability.

However the context is not encouraging. Security has deteriorated markedly as the year has progressed, with increased assassinations and murders of government officials and particular

targeting of police. Foreigners are also being increasingly targeted for kidnapping attempts. The human rights situation for Afghan women has not significantly improved - illustrated painfully by the sentencing to stoning of a woman in Badakhshan on the orders of the local clergy and supported by the local community council. Most such violations are going unheard and unaddressed, thus further discouraging women's active participation in society and politics. Women who speak out, or who press for their human rights continue to do so at great personal risk.

The fragile security situation is due to intangible reforms in the Security Sector, the slow pace of reform within government and weak outcomes of the DDR program to which only lip service is being paid by powerful figures. The AIHRC believes that expanded reform of the justice sector would substantially improve security, as the current piece-meal reform is insufficient. The lack of security is undermining attempts to improve human rights and human security, and is fuelling child trafficking, land grabbing, torture by police and extra-judicial killings.

At the same time, the Government and international community's apparent prioritisation of security over human rights presents additional problems and threats to a sustainable peace and the establishment of democracy. The government of Afghanistan and the international community, especially Coalition Forces, must recognise that human rights of Afghans must be protected and promoted. Democracy, development and peace in Afghanistan can only be sustained through justice and accountability – the cornerstones of human rights and national reconciliation.

Finally I would like to thank the donor community, NGOs and individuals who supported and helped the AIHRC in fulfilling its challenging mandate and mission.

Dr Sima Samar

Chairperson, Afghanistan Independent Human Rights Commission

## COMMISSIONERS



### **Dr. Sima Samar, Chairperson**

Commissioner Dr. Sima Samar is a well known woman's and human rights advocate and activist within national and international forums. Since 1994, Dr. Samar has received various international awards on women's rights, human rights, democracy, and women for peace. Dr. Samar served as the first Deputy Chair and Minister of Women's Affairs in the Interim Administration of Afghanistan. Before chairing the Commission, she was elected as the Vice Chair of the Emergency Loya Jirga. She was appointed as the Chair of the AIHRC by Mr. Karzai, Chairman of the Afghan Interim Administration.



### **Ahmad Fahim Hakim**

Commissioner Fahim Hakim is a qualified social and development worker with over 12 years of experience working as an activist and mobilizer for peace building and human rights activities. He worked as director of an Afghan network called Co-operation for Peace and Unity before joining the Commission. As an active member of the Afghan civil society he attended the Bonn Conference. He has an MA on Post-war Recovery, PRDU, and the University of York, UK. Currently he is deputy chair of the Commission.



### **Ali Ahmad Fakoor**

Commissioner Ali Ahmad Fakoor is an expert in legal and Islamic related issues, with background in Islamic laws, history, homeopathic therapy, astronomy, philosophy and mathematics. He worked as member of the Drafting Committee for the Constitution of 1964, board member of Legal and Justice Commission of the Parliament, head of the Council of Hazara people, and member of Loya Jirga in 1987 and 1990 before joining the Commission.



### **Ahmad Nader Nadery**

Commissioner Nadir Nadery is a qualified lawyer and political analyst. He was actively involved in civil society initiatives in Afghanistan and represented the Afghan Civil Society in The Bonn Conference (UN talks on Afghanistan). Mr. Nadery is a founding member to Afghan Civil Society Forum and a board member of directors of the Foundation for Civil Society and Culture. Before joining the Commission, he worked respectively as programme co-ordinator with the International Human Rights Law Group and spokesman of the Emergency Loya Jirga.

He recently honerd with Reebok Human Rights award



### **Suraya Ahmadyar**

Commissioner Suraya Ahmadyar is a lawyer by profession and worked as a judge for ten years. She worked in various and senior positions with primary and higher courts in the provinces. She was head of the Rights Department of the Women's Affairs Ministry before joining the Commission. The Women's Affairs Ministry was the first Ministry within the Interim Administration tasked for promotion of women's rights, headed by Dr. Sima Samar.



### **Homaira Naimaty**

Commissioner Homaira Naimaty is a lawyer by profession and has an MA on International Relations. Besides being a lecturer at the Faculty of Law, Balkh University, she was dean of the faculty. Before joining the Commission, she worked as a member of the Emergency Loya Jirga.



### **Ahmad Zia Langari**

Commissioner Zia Langari has been, as an activist, involved in human rights activities since 1991. He worked in senior positions with national and international NGOs working for awareness raising and human rights programmes. He attended several national and regional forums. A well-known human rights activist and advocate, before joining the Commission he worked in senior positions with CCA, an Afghan NGO mandated for human rights protection and promotion.



### **Mohammad Farid Hamidi**

Commissioner Farid Hamidi is a well-known lawyer with extensive experience on criminology and investigation. He had attended various national and international conferences and events relevant to human rights promotion and protection. Before joining the Commission, Mr. Hamidi was member of the Emergency Loya Jirga and responsible for developing rules and regulation for election. He has worked closely with the Judicial Reform Commission in the training of lawyers and judges on international human rights law and standards.



### **Hangama Anwari**

Commissioner Hangama Anwari is a qualified Afghan lawyer with extensive working experience of community based initiatives and a well-known advocate and activist for human rights and particularly in promotion of women's rights. She worked in senior positions with the UN- Habitat as well as a member of the United Nation Human Right consultative group and founding member for culture and civil society. She has been involved in various research activities in the field of human rights and women's rights. Before joining the Commission she was working with UN-Habitat.



### **Dr. Hossain Ramoz.**

Dr Hossain is a well- known democracy and human rights activities with broad experience in civil society building in Afghanistan since 1995. before join the AIHRC Ramoz lead the democratic organizations for building a democratic constitution, worked as deputy county director in the National Democratic Institute for international affairs and was the first chair person of FEFA. He has been founder of four important civil society groups: Afghan Civil Society forum, Foundation for culture and civil society, FEFA and woman and politics net work

# ACRONYMS

ADF	Afghanistan Development Forum
AGO	Attorney General's Office
AIHRC	Afghanistan Independent Human Rights Commission
ANP	Afghanistan National ANP
CAT	Convention Against Torture
CCPR	Covenant on Civil and Political Rights
CEDAW	Convention on Elimination of Discrimination Against Women
CERD	Convention on Elimination of Racial Discrimination
CESCR	Covenant on Economic, Social and Cultural Rights
CPU	Child Protection Unit
CRC	Convention on the Rights of Child
CRC-OP-AC	CRC-Optional Protocol on Armed Conflict
CRC-OP-SC	CRC-Optional Protocol on Sale of Children
CRU	Child Rights Unit
CSO	Civil Society Organizations
HQ	Headquarters
HRAG	Human Rights Advisory Group
HR	Human Rights
HREU	Human Rights Education Unit
HRU	Human Rights Unit
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Convention on Economic, Social and Cultural Rights
IDPs	Internally Displace Persons
INGO	International NGO
M&IU	Monitoring and Investigation Unit
MFA	Ministry of Foreign Affairs
MoE	Ministry of Education
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoWA	Ministry of Women Affairs
NGO	Non Government Organization
NSD	National Security Department
OHCHR	Office of the High Commissioner for Human Rights
SRSR	Special Representative of the Secretary General of the UN
TJ	Transitional Justice
TJU	Transitional Justice Unit
UNAMA	United Nations Assistance Mission in Afghanistan
UNDP	United Nations Development Program
UNHCR	United Nation High Commissioner for Refugees
WRU	Women's Rights Unit
YCDP	Youth and Children Development Programme

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# INTRODUCTION

## Role and Purpose

The Afghanistan Independent Human Rights Commission (AIHRC) is a national institution with permanent and independent constitutional status, which was assured in January 2004 with the adoption of Afghanistan's new Constitution. This gave substantial momentum to a state-building process grounded in human rights, which began in Germany with the signing of the Bonn Agreement. The Bonn Agreement identified the need to establish an independent Human Rights Commission to support the building of a new democratic Afghan society that respects human rights, and this recognition is reflected in Article 58 of the Afghan Constitution:

*The State for the purpose of monitoring and protecting human rights in Afghanistan, shall establish the Independent Human Rights Commission of Afghanistan. Every person in case of violation of his or her 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 the victims in defending their rights. The structure and functions of the Commission shall be regulated by law.*

The Law on the Structure, Duties and Mandate of the AIHRC was passed by Presidential Decree with Cabinet approval in May 2005<sup>1</sup> after a year long wide range consultation with civil society groups and government institutions. The law sets out regulations regarding the structure, duties, authorities, responsibilities and mandate of the Commission and also addresses the independence of the Commission including appointment of Commissioners.

The AIHRC's vision is of an inclusive Afghan society, where all people's human rights are protected, promoted and respected. The Commission is required to submit opinions, recommendations, proposals and reports to local, regional and national authorities. It is also

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<sup>1</sup> The law regulating the AIHRC consists of five chapters and 40 articles. The law enables the AIHRC to act as an amicus curiae. Based on the new law, the AIHRC will have nine Commissioners and a new program unit for Rights for the Disabled.

mandated to promote the harmonization of Afghan laws and practices with international human rights instruments to which Afghanistan is a party.

From June 2004 – 2005, the AIHRC carried out its mandate nationwide through five program units, which are supported from Kabul by the Commissioners, the Media and Press Unit, the Research and Policy Unit and the Resource Centre. These program units are:

1. **The Transitional Justice Unit (TJU)**, which is responsible for developing strategies and policies to confront past human rights abuses of war crimes and crimes against humanity, and for collecting documentation and information about the nature, causes and perpetrators of these crimes in Afghanistan.
2. **The Monitoring and Investigation Unit (M&IU)**, which is responsible for monitoring human rights, receiving complaints of abuses from the public, investigating those abuses and addressing them with the relevant authorities. Where the WRU and CRU monitor the general well-being and status of women and children respectively, the M&I program addresses individual cases of violations of the rights of all citizens including women and children. The M&IU also feeds data to other Units to inform submissions to the President and relevant authorities.
3. **Human Rights Education Unit (HREU)**, which is primarily responsible for the promotion of human rights and for bringing about attitudinal and behavioural changes in Afghan society to support the institutionalisation of human rights. The vision of the program is a transformation from the prevailing culture of war and violence, to a culture of human rights and peace nationwide, supporting dialogue, tolerance, co-existence and diversity.
4. **Women's Rights Unit (WRU)**, which promotes and protects women's rights through advocacy, training and education, and monitors the status and well-being of women in Afghanistan with the aim of addressing the underlying causes of violations of women's human rights, thereby contributing to effective policy analysis and submissions.

5. **Child Rights Unit (CRU)**, which supports protection of child rights through providing coordination and support to stakeholders through its focus on awareness raising, promotion and monitoring of the status and well-being of children in Afghanistan. Like the WRU, its aim is to understand and address the underlying causes of the abuse of children's rights and advocate for laws and policies that protect children from such abuse.

The AIHRC has rapidly established itself with the critical support of strategic partnerships with UNAMA, UNOHCHR and UNDP. UNAMA Human Rights Unit (HRU) has ensured cooperative relations between AIHRC and UNAMA, UNOHCHR has provided technical human rights support, and UNDP assumed responsibility for the administration of donor funding to the AIHRC. Partnership with UNHCR has also been very helpful in Strengthening and expanding the AIHRC's monitoring function.

In the year beginning June 2004 to June 2005, the AIHRC has undergone substantial institutional developments and has established itself more securely within the political landscape of Afghanistan, winning international as well as domestic recognition for its work. In the process, the AIHRC has taken firm strides towards full accordance with the Paris Principles, which provide the foundation and reference point for the establishment and operation of national human rights institutions, and which were endorsed by the UN Commission on Human Rights (Resolution 1992/54 of 3 March 1992) and the UN General Assembly (Resolution 48/134 of 20 December 1993).

## **1.2 Organisational Structure**

The Commission is governed by its Board of nine Human Rights Commissioners who also provide technical support to the program units. The Human Rights Commissioners are formally appointed by the President of Afghanistan on the basis of their expertise, personal and professional integrity and competence, demonstrated independence and commitment to human rights. Four of the current nine Commissioners are women, and all represent the principal ethnic and religious groups in Afghanistan, and come from diverse backgrounds - an important fulfilment of the Commission's responsibility to pluralism.

In addition to their collective responsibility as a Governing board to the AIHRC, each Commissioner provides technical support to a program unit, and advocates both nationally and internationally for promotion and protection of human rights in Afghanistan.

Following the resignation during the past year of two commissioners in order to assume posts within the new government<sup>2</sup>, the number of Commissioners has been reduced to nine from the original eleven. It was decided not to replace those two posts and to permanently reduce the total number of Commissioners to the current number.

The human rights work of the Commission is carried out through programs implemented in eight satellite offices in Kabul, Herat, Bamiyan, Mazar-e-Sharif, Jalalabad, Gardez, Kandahar and Kunduz, and through 3 provincial offices in Badakhshan, Daikundi and Faryab. These are supported by the secretariat in Kabul, and the Commission's Secretariat. The Commission as a whole is managed by the Executive Director, who is supported by the National Program Manager and the National Finance and Administration Manager.

The Head office in Kabul houses the Commissioners, secretariat, the Press and Media Unit, Research and Policy Unit and administrative support to the programs nationwide. It also houses the program units for the Kabul regional office.

### **1.3 Independence**

The AIHRC's independence is a requirement of all national human rights institutions, as specified in the Paris Principles, and is central to the credibility and effective functioning of the Commission. The AIHRC's independence is assured through constitutional status and is reflected in its appointment and funding procedures. Thus while government funding of the AIHRC is sought and encouraged (also in accordance with the requirements of the Paris Principles), the AIHRC's budget is not subject to the Government's financial control.

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<sup>2</sup> The two Commissioners who resigned: Mrs Amena Afzali and Mr Raziq Samadi, respectively became Minister for Youth Affairs and Deputy Minister of Finance.

Furthermore, the appointment and independence of Commissioners is effected by the Constitution. All Commission members and staff are immune from all criminal prosecution and civil liability for words spoken, acts performed or omissions committed in the performance of their mandated professional duties within the Commission (Article 8, Presidential Decree, 6 June 2002 and article 17 of the law for the AIHRC).

The Law for the AIHRC's constitution specifies that it may freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner.

In the last year, the establishment of the AIHRC's legal independence has also been matched by a restructuring of relationships and systems to enhance organisational independence. An important decision was made with UNDP in this regard to put in place steps to transfer control and administration of donor funds from UNDP to the AIHRC, therefore a transition to bilateral relations. It is expected that by early 2006 the AIHRC will engage in bilateral relationships with all its donors.

The Afghan Constitution requires that the structure and functions of the AIHRC be regulated by law. In the past year, AIHRC after wide consultation with civil society groups, completed drafting the legislation to regulate the AIHRC, basing it on the Presidential Decree under which the AIHRC was first established. The draft was submitted to the MoJ Legislative Department which held four meetings with 12 different ministries attending each meeting in order to develop and challenge the draft. The result was some minor changes to the draft which was then presented to Cabinet. After some further small changes were made, the President approved and signed the draft legislation into law.

Afghanistan is party to the following International Human Rights Treaties, and is obligated to provide national reports to the United Nations on its fulfilment of obligations. However until the present, the Afghan Government has not been able to produce any reports regarding international

treaties and conventions. Below are the international human rights conventions signed by Afghanistan, and the reporting requirements of the government.<sup>3</sup>:

### **The Covenant on Civil and Political Rights (CCPR)**

The CCPR was ratified by Afghanistan on 24th April 1983. This is one of the founding international treaties. It addresses the following freedoms: of movement; of association; of thought, conscience and religion; of expression; from arbitrary arrest and detention; from torture and cruel, inhuman or degrading treatment or punishment; from slavery in all its forms (therefore including trafficking and forced labour). It also addresses the following rights: to self-determination, to remedy and appeal; to life; to peace assembly; to freedom to marry; to nationality. Amongst its various impacts, the CCPR places restrictions on the use of the death penalty, and sets out requirements for legal imprisonment and judicial procedure. The Afghan government must submit reports on measures adopted to give effect to the CCPR whenever the Human Rights Committee requests one.

### **The Convention on the Elimination of all Forms of Racial Discrimination (CERD)**

CERD was ratified by Afghanistan on 5th August 1983. The convention defines "racial discrimination" as any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin and affirms the equal rights of all irrespective of ethnicity. The Committee receives and investigates claims of ethnic or religious discrimination. No regular reporting is required of the Afghan Government, but it must cooperate with the Committee in regards to complaints.

### **The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)**

Afghanistan ratified CAT on 26th June 1987. The Convention makes torture illegal, and clearly states that, "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of

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<sup>3</sup> According to the Human Rights focal point at the MoFA, Afghanistan has not reported for several years on any conventions to which it is a party.

torture.” Afghanistan was last due to report to the Committee Against Torture in mid 2004, but has not yet done so.

### **The Covenant on Economic, Social and Cultural Rights (CESCR)**

The Afghan government ratified the CESCR on 24th April 1983. The CESCR affirms that all peoples have the right to freely determine their political status and pursue their economic, social and cultural development.” The CESCR includes issues of access to education, healthcare, just and favourable conditions of work, social security, formation of unions, to cultural life and the benefits of scientific technology. Reports are submitted to the UN Secretary General and transmitted to the Economic and Social Committee on a five-year basis. The last two reports (1995 & 2000) were not carried out.

### **The Convention on the Rights of the Child (CRC)**

The CRC was ratified by Afghanistan on 27th April 1994 with the reservation that "The Government of the Republic of Afghanistan reserves the right to express, upon ratifying the Convention, reservations on all provisions of the Convention that are incompatible with the laws of Islamic Shari'a and the local legislation in effect." The CRC is a comprehensive treaty laying out the rights of all people under the age of 18. The Convention addresses issues of disability, trafficking, adoption, access to health care and education and adequate standards of living, to cultural heritage and to protection from drugs. Afghanistan has not yet submitted a report

### **The Optional Protocol to the CRC on the involvement of children in armed conflict**

This Protocol was ratified by Afghanistan on 24th Sept. 2003, and is important because it seeks to increase the protection of children (all those under the age of 18) from involvement in armed conflict, including from being compulsorily recruited into the army, or being sent to engage in hostilities. In September 2005, the Afghan Government must submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.

### **The Optional Protocol of the CRC (CRC-OP-SC) on the sale of children, child prostitution and child pornography**

Ratified by Afghanistan on 19th October 2002, this Protocol is particularly important to Afghanistan because it covers issues of child trafficking and economic exploitation of children as well as sexual exploitation. Afghanistan was due to submit a comprehensive report on measures taken to implement CRC-OP-SC in 2004, and in future will include this reporting in its five yearly reports on the CRC.

### **The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)**

This Convention, known as CEDAW, was ratified by Afghanistan on 5th March 2003, thereby committing Afghanistan to undertake a series of measures to end discrimination against women in all forms, including: to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises. On 5<sup>th</sup> March 2004, Afghanistan was due to submit a report to the UN Secretary-General on the progress which they have made to give effect to CEDAW. This report is still outstanding.

### **The Rome Statute and establishment of the International Criminal Court**

The Rome Statute was signed by Afghanistan on 10 February 2003. Its purpose is to establish the International Criminal Court (ICC). The ICC provides a permanent enforcement mechanism with jurisdiction over individuals who commit war crimes, crimes against humanity, crimes of aggression and genocide, regardless of their official position. The International Court of Justice at The Hague only handles cases between States, not individuals, so the ICC is a critical missing link, and is needed to achieve justice for all, to end impunity and help end wars, to remedy the deficiencies of ad hoc tribunals, to take over when national criminal justice institutions are unwilling or unable to act, and to deter future war criminals.



# TRANSITIONAL JUSTICE

***Justice and peace are not contradictory forces. Rather, properly pursued, they promote and sustain one another. The question, then, can never be whether to pursue justice and accountability.*** (Kofi Annan, UNSG, “The rule of law and transitional justice in conflict and post-conflict societies” 3 August, 2004, UN Doc S/2004/616, at para 21)

***Justice is very important, but security and justice are inter-related.***

(Laghman woman participant in national consultation on transitional justice, second half 2004)

No one has had the courage to take action to bring them to justice. No one can defend us against them.

(male participant in national consultation on transitional justice, second half 2004)

***We need the kind of leadership that can gain people’s respect. We do have good people in Afghanistan, but unfortunately, these gunlords do not let good people work; they disrupt security and stir racial and tribal prejudices.***

(Kandahar woman participant in national consultation on transitional justice, second half 2004)

The AIHRC was mandated by Presidential Decree to “undertake national consultations and propose a national strategy for transitional justice and for addressing the abuses of the past” (Article 9, Presidential Decree, 6 June 2002). The Transitional Justice Unit is responsible for this delicate and complex area of the AIHRC’s work, which it has strategically approached through a combination of:

- researching and publicising the public’s understanding of human rights and justice
- holding broad public consultations to gauge support for transitional justice,
- meeting with key government officials and the President to advocate for pursuing justice as a means to achieve accountability and reconciliation,
- using the media to raise public awareness, and keep the debate alive
- providing documentation and witness statements to support historical records and documentation of war crimes and crimes against humanity in Afghanistan

## 2.1 A National Action Plan for Transitional Justice

In the past year the AIHRC has completed an extensive national consultation, carried out awareness-raising and mobilisation activities with civil society, and worked in close cooperation with the President's focal point for transitional justice and the UN to finalize a National Action Plan.

In November 2004, the Transitional Justice Unit successfully completed its nationwide consultation on past human rights violations in Afghanistan. The consultation was carried out as a two-pronged research project that began in January 2004. Nationally, 6,351 individuals participated through one-on-one interviews (4151) or focus group discussions (2200). Approximately 400 refugees were interviewed in Pakistan and a further 300 in Iran. 39% of all participants were women. This was the largest research to be carried out in Afghanistan's history. The findings and recommendations were published in a report titled *A Call for Justice*, which was submitted to President Karzai on January 29<sup>th</sup> 2005, and now awaits his action.

The AIHRC has continued to widely distribute the report and publicly debate its findings and recommendations through public meetings and in the media in order to build understanding and support for transitional justice mechanisms.

Since the release of *A Call for Justice*, at least<sup>4</sup> 9550 members of civil society groups and government agencies have directly participated in AIHRC transitional justice meetings and workshops to mobilize support for a human rights based approach to addressing Afghanistan's past abuses and moving forward to a democratic society based on justice and tolerance. 26% of all participants or attendees were women, with 31% of women participants of workshops.

In addition to mobilization meetings with the public, workshops and seminars have been held with government ministries, ANP and prison wardens, intelligence services, the judiciary, elders and community leaders to ensure they have accurate information and fully understand the importance of the **Call for Justice**.

## **MEDIA COVERAGE OF A CALL FOR JUSTICE REPORT**

On January 9 2005, the Commission held a press conference to promote the *Call for Justice* report. 28 local media representatives and 8 international media representatives including a large number of civil society groups and NGO representatives attended, and resulted in 52 different articles or broadcasts about transitional justice and A *Call for Justice* report.

**Musharikat Mili 31st January 2005** ( the Afghan nation receives the justice will come from implementing the law ... The AIHRC conducted consultations with thousands of individuals...69% consider themselves victims of human rights violations and they believe that these crimes were committed continually during the 23 years of war and are still ongoing.

**Jamia, 8 February 2005:** “A list of the human rights crimes committed here has been prepared by the AIHRC and presented to the President. If Mr. Karzai wants to announce the names of war criminals we will face a major challenges from some of them Now does he have the practical capability to meet this challenge?”

**Payam Mojahid, 3 February, 2005:** “ As the writers of the reports say security can not be strengthened without human rights observance and without punishment of those who do not respect humanity or follow principals, because justice is closely related to security”.

**Islah Millie, 8 February 2005:** “Ex-Jihadi parties and their members have expressed concern that the report presented by the AIHRC is a tactic to block them from standing for election to the Parliament. According to them, the AIHRC is not independent or impartial.”

**Subat, 5 February 2005:** “It is evident from the content of the report that it is biased: it states that 14% of violations were committed during the communist regime, 11% during the Taliban regime and 18% during the Mujahideen period.”

**Kabul Weekly, 2 February, 2005:** “Not now nor in the coming five years will trilling those accused of war crimes help maintain stability. Afghanistan is currently so compelled to compromise that itself resorts to releasing such accused from Guantanamoo Prison, for example Taliban Comanders Naim Kochi and Mulla Abdul Salam Rakety were freed to help maintain and strengthen security”.

**Bahar, 8 February, 2005:** “ The best way to secure social justice is to try the criminals. The AIHRC’s desire should actually be recognized as the keen desire of all those Afghans who really want peace and justice in this country”.

Feedback from the Afghan public has been very positive and supportive, though not without question. One significant and repeated challenge has been why the AIHRC did not name the alleged war criminals within the report. In expected contrast, there has been opposition from some powerful political figures who claim that the report is an attack upon their specific political groupings. These individuals have called for their amnesty, and have sought to weaken the position of the AIHRC and its Commissioners. Their public stated position has encouraged nationwide debate of transitional justice and the *Call for Justice* recommendations, which has illustrated a high level of support for the recommendations put forward by AIHRC, resulting in a weakening of the position of those who opposed the AIHRC's recommendations.



*President Karzai is presented with A Call for Justice report  
by the Chairperson of the AIHRC,  
Dr Sima Samar*

Parallel to the Transitional Justice Unit's work, the AIHRC has also been a key actor in the Special Taskforce for Transitional Justice, which was established following the submission of *A Call for Justice*, at President Karzai's request. The Special Taskforce consists of an Advisor from the Presidential Office, a representative from UNAMA, and Commissioner Nadery from the AIHRC. Its purpose has been to develop a *National Action Plan for Justice and Peace*, which was drafted by the Commission, presented to the task force for discussion, and then elaborated upon by a larger group of advisors led by the President's Office, Dutch Government and EU, and including international and national experts.

The final draft was presented to an international conference hosted by the Dutch Government, on *Peace and Justice in Afghanistan* at The Hague on 6-7<sup>th</sup> June 2005. The primary aim of the conference was to rally political support for the Action Plan domestically and internationally, and is a substantial next step toward the implementation of a National Action Plan as initiated by the AIHRC.

## **2.2 Documentation**

The Transitional Justice Unit developed its own database in the past year on the basis of the research carried out for *A Call for Justice*. All data and information gathered through the National Consultation research has been entered into this database following classification and analysis. In addition to data received through the national consultation process, the Transitional Justice Unit also receive, investigate and record complaints of past human rights abuses from members of the public. In the past year more than 400 cases were received and recorded.

In June 2005 an additional project was established to receive, investigate and document cases of disappearances during the conflict. Afghan media has been useful for informing members of the public that they can report incidents of disappearances of family members to the Commission for investigation and archiving.

## **2.3 Evidence to Support Judicial Processes and Vetting**

The Transitional Justice Unit succeeded in providing sufficient evidence to the Attorney General to enable the removal from office of a perpetrator of human rights violations and crimes against humanity in Ghor Province.

The Unit has also collected and provided evidence to support prosecutions in Britain, Denmark and the Netherlands of four Afghans charged with war crimes, human rights violations and crimes against humanity.

The AIHRC provided significant support to the UNOHCHR in its mapping exercise of past human rights crimes in Afghanistan, which began in the first quarter of 2004. Since June 2004, AIHRC reviewed drafts, provided substantiating documentation collated by the Transitional

Justice Unit, and undertook translation of key sections of the document. The final document is submitted to the President by the UN High Commissioner for Human Rights.

## **2.4 Experience Gained and Lessons Learned**

The Commission has learned in the past year that a marathon mentality and intensive advocacy efforts are required if transitional justice is to be provided to the people of Afghanistan. The Commission has undertaken large-scale research consultations, and consistent lobbying and advocacy activities both nationally and internationally. While there is clear support from the Afghan public, there is apparent reluctance on the part of the government to prioritise justice alongside security, and to make the decisions needed to end the culture of impunity.

In September 2004, the AIHRC satellite office in Herat was attacked and burned and transitional justice unit documents were stolen. Although no sensitive documents were lost and no witness names were accessed, the incident highlighted the need for secure documentation centers. In March 2005, the AIHRC became a member of the international *Affinity Group*, which was established jointly by the International Center for Transitional Justice and DC-Cam of Cambodia in order to develop capacity for secure documentation centres for transitional justice archives. The AIHRC is currently developing a secure centralized database to house this information

The current political context, combined with weakness in the justice sector, has not favoured a transitional justice process. The public's support and desire for actions to address past abuse is clear, however the continued power of warlords and the weakness of the central authority in the provinces, is eroding confidence in the civil administration and the government as a whole. The AIHRC will continue to counter this through educating the public and raising awareness, building support from civil society, and lobbying the international community and the President for implementation.

The past year has highlighted the importance of having a strong Research & Policy Unit within the AIHRC, of close working relations with a free press and media, and of building supportive networks domestically and internationally. Partnerships, particularly with OHCHR has been of great importance in the past year. Underlining the past year's achievements and challenges has

been the evidence that among Afghans, there is not only a high demand and desire for the establishment of justice, but that the people have a clear understanding of what human rights and justice means for them.

Confronting transitional justice issues has been a difficult and at times risky task for the AIHRC. The Commission has grown stronger from the challenge however and has learned that with team effort, willingness and commitment among the staff, the Commission can achieve very challenging goals.

### **3. PROMOTING HUMAN RIGHTS**

Promotion of human rights is at the heart of the AIHRC's work and mandate. As a country emerging from 25 years of war and civil conflict, the Afghan people not only lack knowledge and understanding of human rights, there exists pockets of active hostility toward human rights, which continue to be perceived and portrayed in many places as antithetical to Islam. At the heart of opposition to human rights is the challenge it presents to the power of some individuals, whether at the level of the family, or at the level of regional commanders or warlords.

The AIHRC sees promotion of human rights as a long-term process to develop a culture of tolerance and respect that will support and protect the human rights of all Afghans. The Commission promotes human rights through education, training, research and policy. Many of its activities have been carried out through partnerships.

Promotion activities are led by the Human Rights Education Unit (HREU), but important roles are also played by the Child Rights Unit (CRU), Women's Rights Unit (WRU), Media Unit and Research and Policy Unit, all of which support one another and cooperate for training and policy activities. Over the last year, more emphasis has been placed on the strategy of working through partnerships and networks, for example with local *shura* and religious leaders, NGOs, and of working extensively with the mass media.

#### **3.1 A Partnership Approach**

In the past year, the AIHRC has established a partnership approach to HR promotion, particularly in the area of training and education. The strategy of the HREU has been to develop and build upon the informal networks with civil society organizations providing support, material and training. The HREU has identified key NGOs, particularly those in the field of advocacy and training to cooperate with on education and awareness raising campaigns. These NGOs receive HR education training, ToT on HR, support materials, technical support and advice from AIHRC and provide HR education to their own networks and partners, thus enabling a far greater scale and impact. In the past year, formal partnership agreements have been signed



with 17 national civil society organizations and NGOs. The HREU also continue to work informally with a wider network, and remain open to identifying other CSOs and NGOs with the capacity to act as partners to the AIHRC in HR education.

Partnerships with international NGOs and organizations have also been very important. The CRU for example has received technical and financial support from Save the Children Sweden and Norway and from UNICEF.

In order to promote women's human rights, the Women's Rights Unit have sought to increase the number of women in *shura*, and have provided support and advice to local women shura representatives. When a women's shura is established, the WRU offers training, and ongoing support between the AIHRC and the women's *shura*, including providing educational material, stationery and advice and even simple stationary, to keep the shura active.

The WRU conducted 66 workshops on CEDAW and other international instruments for women's rights, in the past year, A total of 2,845 women and men participated in the workshops. On International Women's Day, the WRU also held a photo exhibition on Afghan women in the family and society. The exhibition was also shown in Geneva, Switzerland.



*Afghan female air force officers at photo  
Exhibition of Afghan women  
On 8<sup>th</sup> March 2005*

The AIHRC has made substantial efforts to develop strong working relationships with the Ministries of Women, MoI, Ministry of Foreign Affairs, and Ministry of Mines. UNIFEM, AWEC, and Afghan Women's Network. All partners regularly receive the Commission's publications as well as films about women's and children's rights, and the AIHRC regularly meets and communicates with these parties. Through these partnerships, the Commission

focuses on building the capacity of national resources and institutions and advocating for human rights principles in policies, strategies and legislation.

*The AIHRC has recognized the critical role played by civil society in all areas of human rights, and has encouraged networks and coalitions. In the last year, AIHRC played a leading role in setting up the Fair and Free Election Foundation for Afghanistan (FEFA). Composed of several different Afghan civil society groups as well as the Commission, FEFA raises awareness about various election issues, lobbies for reform of the election legislation, and monitors and observes the electoral process from the campaign to voting day.*

### **3.2 Education and Training**

The AIHRC has worked to improve national education and government training curricula by removing discriminatory and violent messages, and amending educational material so that they are in accordance with human rights principles and laws. Teachers and trainers have been taught human rights laws and principles and encouraged to teach their students the same.

In the past year, the HREU has worked closely with the MoE and the MoHE to complete the new curricula for primary school and to begin work on curricula and training teachers at higher education levels. This fulfilled a promise made on the 10<sup>th</sup> December 2004, when the Commission published a press statement urging the MoE to consider a special curriculum for all schools particularly primary and intermediate schools. The AIHRC offered to commit itself to supporting the MoE, and did so by reviewing drafts, and providing recommendations for the final publication.

As a result of AIHRC advocacy, the MoE introduced a 4-member committee representing its various departments, with which the HREU can closely work. The AIHRC provided translation of relevant HR treaties, and technical support, and cooperation with this committee led to changes to the existing education policy of the MoE, such as Article 18 of the new Education Policy, with specific emphasis on HR and democracy. The HREU also conducted numerous workshops on HR issues with the Literacy department of the MoE, which assisting them to develop new literacy texts.

The HREU has assisted the University of Education to develop a curriculum and syllabus for a new course being developed by the University, called 'Peace, Democracy, and Human Rights'. Meetings with the MoHE through the course of the year have resulted in the MoHE being close to signing an agreement with the AIHRC in which the ministry will establish a policy on HR education to encourage universities and tertiary institutes to incorporate human rights language and establish courses. The University of Education also hosts the second monument to Human Rights, commissioned by the AIHRC, and has requested further cooperation with the AIHRC to establish a HR department or unit.

In addition to education curricula, the Commission has taught human rights to the trainers of various government agencies as well as influential civil society groups such as clergy and journalists, and law enforcement officials, and officials of judicial branches of government. A strong working partnership between the AIHRC and the Central Prison Department of the MoJ has resulted in various HR education sessions in prisons, and in considerable accommodation by the MoJ of recommendations by the AIHRC for improvements of prison conditions.

***Members of the learning about human rights and their roles in protection and promotion, at AIHRC office***



One of the most innovative and successful training programs of the past year has been the Child to Child trainer program, initiated by the CRU in 2004. The plan for this program was for the AIHRC to train ten child trainers for each regional office about the CRC, child trafficking and child rights issues. These ten child trainers would then each teach 30-35 children within their

regions. By June 2004, an average of 1000 children per regional office have been taught by the child trainers, totaling approximately 11,000 children around the country.

Afghanistan is a religious society and it is therefore very important to work with religious leaders in the area of human rights promotion. The AIHRC has been working closely with clerics and the Ministry of Haj-Awqaf, particularly through the Human Rights Education Unit. Before he was assassinated by extremists in May 2005, Mawlana Fiaz was one of the most famous Ulama in Afghanistan, and he preached through his congregational mosque Abdul Rab Akhonzada in Kandahar to defend human rights. Mawlana Fiaz stated strongly that: "Islam is for justice and Human Rights calls for justice. Islam emphasizes kindness towards children and provision for their education and considers the responsibility of parents, while Human Rights also protects and defends the rights of children. The importance of a fair trial is one of the principles of Islam, and Human Rights also emphasize fair trial. Aside from some minor differences, the Universal Declaration of Human Rights is in accordance with Islam" The AIHRC mourns the loss of Mawlana Faiz caused by violent fundamentalism.

### 3.3 Research

Research projects have been carried out both independently and with other organizations, such as HRRAC, to better understand the role and status of various human rights in Afghanistan. Research is used directly for advocacy aimed at relevant ministries and government agencies, and to inform internal policy and programs. The issues researched over the past year were:

- *The Causes of Crimes Committed by Women* (November 2004)
- *Family violence against women* (2004)
- *Justice for Children* (October 2004)
- *Civil Rights in the New Constitution* (June 2004)
- *The AIHRC in the new Constitution* (July 2004)
- *The Commission also participated in joint research as a member of HRRAC for the research report: Take the Guns Away* (October 2004)
- *Joint research with Altai Consulting and UNICEF: Cases of Child Victims of Kidnapping and Trafficking* (August 2004)

### **3.4 Awareness-Raising Campaigns**

In the last year, the AIHRC has addressed a number of key human rights issues with awareness-raising campaigns to promote protection and respect for human rights. These issues have included highlighting the illegality and unreligious nature of certain traditional practices, the problem of women's suicide by self-immolation, and child sexual abuse.

The Commission has sought the participation of civil society and in particular the support of mullahs to increase the scale and momentum of awareness raising efforts. This is driven by the recognition that at the grassroots level and even nationally, the mullahs have immense authority. Informal networks and training have therefore been provided to clergy to raise their awareness of human rights principles, and also of the judicial system and the rights of citizens to a fair trial. The WRU and HREU also jointly worked with the Ministry of Haj-Awqaf over the past year to encourage regular awareness-raising messages in mosques about the importance of ending violence against women. This has recently borne fruit, with the Ministry of Haj-Awqaf requesting the AIHRC to provide 1000 copies of material about the UN Declaration of Human Rights for a national workshop for clergy in every province.

In collaboration with the JEMB, the AIHRC carried out national public awareness-raising of political rights in the run-up to the Presidential elections. As a result of observations made during that election process, the AIHRC recommended that there be an extensive public education campaign to present voting as a right, and has analysed existing materials that thus far have introduced voting as a duty rather than a right, and has lobbied for a change in the public presentation of voting.

To broaden public support of women's and children's human rights, the Commission also supports and encourages celebration of international human rights days. All regional offices carried out celebration programs and activities in celebration of the International Human Rights Day on 10 December. The Commission also printed and distributed special celebratory posters for International Children's Day on November 20 to celebrate the CRC, and International Day

for the Elimination of Violence Against Women on November 25, and joined other participants on celebration marches.

### **3.5 Resource Center**

The AIHRC Resource Center was established in November 2003 in the Kabul office to provide books, audio and visual material, and technical and training material to other units of the AIHRC, and to outside researchers during office hours. The Resource Center has expanded its library from 900 to 4000 books in various local languages as well as English and Arabic, and has also expanded its collection of current newspapers, magazines and publications from different organizations.

In the past year the Resource Center has established a mobile unit for human rights films, that has enabled film showings to 3000 people around the country. The Resource Center is equipped with three computers with internet access. An important enhancement of this service in the past year has been the installation of computer software for blind people.

### **3.6 Media**

The AIHRC works with journalists and mass media, and also has its own Media and Press Unit. In the past year, the Media and Press Unit has published and distributed 40 different publications on human rights, with a total of 500,000 copies distributed. 26 radio programs were broadcast (each one an average length of 20 minutes), and also 26 television programs were broadcast, also an average length of 20 minutes). Two short films on the rights of the child, and on women's rights and the tradition of 'bad', were also produced.

Substantial efforts have gone into building closer relationships with media and broadcasting companies and journalists. In the last year, negotiations with National Television's Roshani channel, and National Radio have provided the AIHRC with 15 minutes every fortnight to broadcast shows providing HR information or discussing human rights issues. Topics included international women's day, the right to education, and discussions about complaints received by the AIHRC.

In joint collaboration with the Faculty of Journalism at Kabul University, the HREU began a month-long training course on 'Journalism and Human Rights'. The AIHRC provided trainers and material to conduct relevant sessions. As of May 31 2005, over 400 journalists, reporters and photo-journalists working with various official and private media have benefited from the course. This has also led to an informal network of HR journalists, who AIHRC facilitate meetings for in order to discuss current HR issues and concerns, and to provide HR information and material.

### **3.7 Outputs and Achievements**

675 human rights training workshops, seminars and awareness raising meetings reached a total of 24,765 people:

- 152 ANP officers (all male participants)
- 3013 members of the clergy (including 30 female participants)
- 145 NSD (all male participants)
- 488 prison wardens (including 3 female participants)
- 441 journalists (9.5% female participants)
- 351 prosecutors (10% female participants)
- 265 judges (all male participants)
- 1145 police officers (including 5 female police officers)
- 1281 members of CSOs (49% female participants)
- 1076 university students (21% female university students)
- 7765 school students (45% female school students)
- 448 DDR combatants (all male)
- A further 3549 women and 4646 men were reached through various other avenues.
- Announcement of the coming 3 years as the years for Human Rights Education for Primary and Secondary Schools Courses will have incorporated human rights messages and language by the end of 2005.
- Agreement from the MoE to amend the secondary school curricula by end of 2006 in the same courses of Islamic Studies, Social Studies and Dari and Pashto.

- Produced 20 short teaching courses on different HR issues, which are used for training by AIHRC and other organizations.
- Reduction in reported cases of self-immolation following awareness raising activities.<sup>4</sup>
- The Child to Child Trainer program is virtually self sustaining, with the child trainers highly motivated and continuing to teach children beyond their original commitments. The only ongoing requirements of the AIHRC in regard to this project are monitoring, provision of transport and stationary.
- MOUs with 16 NGOs to undertake HR education and training with local partners



Street children and other children at risk receive a full education, health care, and attention at Aschiana, a partner of the CRU and a local NGO well known for its protection work for children's rights. Aschiana is currently fighting for its existence after the land on which it is based has been sold to a land developer.

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<sup>4</sup> AIHRC bases this data on monitoring missions to hospitals in Herat, Gardez and Nengarhar.



## 4. MONITORING HUMAN RIGHTS

Human rights monitoring has been a core function of the Commission since its inception, and is clearly stated as part of the mandate in the Commission's relative legislation Article 58 of Afghan constitution, the Presidential Decree that established the AIHRC, and the Bonn Agreement.

Over the past year, monitoring has been carried out by the M&IU, WRU, CRU and since April 2005, by Human Rights Field Monitoring teams.

### 4.1 Monitoring & Investigation Unit

The Monitoring & Investigations Unit in all offices have carried out regular and systematic monitoring of state prisons, detention centers and correctional centers throughout the year. The M&IU also ensures monitoring of the existence of illegal prisons, monitoring ANP behaviour during demonstrations, and monitoring judiciary during court hearings. Twelve demonstrations and fourteen court hearings were monitored in the past year.

Every month, each Provincial prison is monitored, and in addition each satellite office also monitors one district prison, which is chosen randomly or on the basis of complaints received. Each women's prison and child correctional center is monitored monthly, and NSD and ANP detention centers are randomly monitored each month. The table below sets out the number of monitoring missions to prisons and detention centers in each regional office in the past year:

	Herat	Nangarhar	Gardez	Kandahar	Kabul	Mazar	Kunduz	Bamiyan
Prisons	31	55	75	66	48	8	35	14
Correction centers	22	17	52	56	48	14	14	9
totals	53	72	127	122	96	22	49	23

During visits to prisons, detention centers and correctional centers, Commission staff monitor two areas, firstly compliance with the minimum international standards for the prisons; and

secondly the legality of individual imprisonments or detainments. This begins with recording the case from the point of arrest through judicial procedures and treatment in prison and application of the criminal procedural code. The monitoring report will determine the Commission's further role in terms of intervention.

INSERT PHOTOS OF PRISON CONDITIONS WITH DESCRIPTIONS



*Photo of cell in Kapisa prison. Each cell has 8 beds, and is built into the ground, allowing very little fresh air and light. Torches are needed to move around the prison. Approximately 35 men are incarcerated here.*

## **4.2 Child Rights Unit**

The Child Rights Unit (CRU) monitored the general status of children in conflict with the law at juvenile correction centers both during joint visits with the M&I team and independently.

Correction centers have been monitored in Kabul, Herat, Parwan, Kapisa, Gardez, Mazar-i-Sharif, Kandahar and Jalalabad twice a month.

Where the M&I team is responsible for monitoring the conditions and facilities in accordance with established standards and the legality of incarceration of individual cases, the CRU identify and observe the needs of juvenile prisoners, the causes of the crimes that have brought them into conflict with the authorities, their progress toward rehabilitation, access to family members. The findings of monitoring reports are used to advise the M&I team of investigations required, and to inform research and advocacy efforts. The CRU has monitored access to education and health of juvenile prisoners, systems of discipline, freedom of expression, and identified children at risk.

The same procedures and forms used for regular monitoring of juvenile correctional centers is also used for irregular monitoring of orphanages and schools in response to complaints or media reports of abuses. Approximately 45 different cases of violence against children were resolved over the reporting period by the CRU.

The CRU has also monitored the situation of 315 deported children following reintegration with their families in 2004. These children were trafficked to Saudi Arabia, and then deported back to Afghanistan. In addition to monitoring the process of their repatriation including accompaniment back to their families, the AIHRC has monitored their progress. As of March 2005, 250 of the 315 children were still living with their families, and were engaged either in work or school.

### **4.3 Women's Rights Unit**

The Women's Rights Unit (WRU) have carried out regular joint monitoring missions with the M&I Unit as well as independent visits to women's prisons across the country in Kabul, Jalalabad, Mazar-i-sharif, Herat and Kandahar. During the past year each women's prison was visited monthly. Like the CRU, the WRU has focused on identifying and observing the needs of women prisoners, the causes of the crimes they have committed, their treatment and access to their children. The results of these monitoring missions inform research and advocacy efforts, and advise gender-sensitive approaches by other AIHRC units. Recommendations have been submitted to the government to improve the situation of women in prisons and detention centers.

#### 4.4 Election Monitoring

In March 2004 in Berlin, the Afghan Government and international community requested the AIHRC to conduct an exercise of political rights verification in preparation for the presidential and parliamentary elections. The AIHRC's responsibilities during an electoral process are two-fold: monitoring and assessing whether or not the political and security environment is conducive to free and fair elections; and joint election monitoring exercises with civil society institutions.

Partnerships with NGOs and the international community were, and will continue to be, critical for election monitoring. The AIHRC is supporting the Joint Electoral Monitoring Body (JEMB), which is a joint U.N. and Afghan government body appointed by President Karzai to oversee and administer elections, in nomination of provincial electoral commissioners.. The AIHRC conducted a joint verification project with UNAMA, and produced three periodical reports which highlighted the main trends and challenges of the pre-electoral environment and indicated what intervention was required..

The commission also facilitated the establishment of FEFA - the first domestic election monitoring body which is a coalition of NGOs, civil society groups and the AIHRC. On the election day, the AIHRC observed the election process through its central and eight regional offices and three provincial offices, contributing 251 staff as observers. A total of 1200 polling stations were observed for approximately one and half hours each. 181 were observed for opening, 845 for polling and 174 for closing.

The AIHRC identified nine problem areas during the Presidential Election, and provided a report with recommendations to inform the parliamentary elections in September 2005. These nine areas of concern were:

1. Washability of ink from voters' fingers
2. Casting of votes by children (under 18)
3. Lack of immediate transfer of ballot boxes to secure locations upon closure of polling stations
4. Rocket and mine explosions in a few provinces

5. Visibility of campaign material in some polling stations
6. Lack of awareness of responsibilities and duties by ANP monitors
7. Lack of awareness of responsibilities and duties by candidate representatives
8. Lack of a clear complaints mechanism
9. Lack of coordination between JEMB and polling stations
10. Inadequate training of JEMB staff

*A woman receives her first voter registration card*



#### **4.5 Human Rights Field Monitoring Teams**

In March 2005, Human Rights Field Monitoring teams were established in partnership with UNHCR. Recruitment and training took place in March and the beginning of April. Since April, the field monitoring teams have been actively monitoring and gathering data, which is being stored in a database in Kabul. The establishment of the field monitoring teams has been an important step in developing the AIHRC's monitoring function, and by 2006 will be substantially increasing the ability of the AIHRC to provide accurate and comprehensive human rights reports.

The AIHRC and UNHCR have established a common framework for monitoring as equal partners, covering agreed human rights and priority protection issues, based on joint guidelines and methodology, information-exchange, intervention and capacity-building of AIHRC staff. Because both parties have developed common human rights monitoring tools, they are able to carry out consistent and comparable monitoring, investigation, regular reporting and interventions across the country. This will also enable, in the near future, a more comprehensive

national human rights situation report.

Each field monitoring team is built according to gender balance and has a team leader. AIHRC and UNHCR teams work in different geographic areas, therefore pooling resources to enable wider coverage.

The following 11 human rights have been mutually determined as the priority areas for monitoring, and are reflected as such in the monitoring form that is used by both the AIHRC and UNHCR:

1. The principle of non-discrimination
2. The right to life, right to liberty and security of person / personal integrity
3. The right to own property
4. The right to nationality
5. The right to freedom of movement and residence / right to return
6. The right to freedom of expression
7. The right to participation and the right to freedom of association
8. The right to education
9. The right to freedom of marriage
10. The right to effective remedy
11. The right to an adequate standard of living; the right to healthcare, water etc.

Each human rights field monitoring team is expected to conduct a minimum of 300 interviews each year. A team consists of two monitors and one team leader. In the first month of field monitoring, 630 interviews were conducted, with all offices contributing except Daikundi and Bamian, which did not yet have team leaders. As at the end of May 2005, the database is not yet functioning, but it is expected that the problem will soon be resolved.

#### **4.6 Coalition Forces**

Despite evidence of HR abuse at Coalition Force detention centers, and despite the AIHRC having received 113 complaints of human rights violations at the hands of Coalition Forces over the past year, the AIHRC continues to be denied access to Coalition Force detention centers.

The Commission continued to press for access to the detention centers to enable monitoring, and requested the appointment of a U.S. military liaison officer to address complaints of HR abuses. A liaison officer was appointed in early May 2005, and it was agreed that the AIHRC and coalition forces will share information regarding the abuses and complaints, and that the CF liaison will provide authorised information that is not classified, and will assist in forwarding AIHRC queries and requests for access to the relevant authorities in Kabul or Washington.

In mid May, the AIHRC mediated a difficult but important meeting between the Coalition Force representatives including the US Kabul Embassy representatives, and elders of five provinces of Khost, Paktia, Paktika, Ghazni and Logar to discuss concerns related to detainees by CF, and CF methods of conducting operations.



Meetings between coalition forces and elders of five provinces on detainees and the conduct of operations by the coalition forces

*Meeting between coalition forces and elders of five provinces, mediated by the AIHRC*

## 4.7 HUMAN RIGHTS SITUATION OVERVIEW

Monitoring reports and complaints investigations over the past year have provided the AIHRC with a body of data that allows a snapshot reflection of human rights in Afghanistan. In terms of information gathered from the recently established field monitoring missions, it must be noted that the numbers of human rights violations recorded by regional and provincial offices include many other issues that fall outside the mandate of the monitoring missions and therefore compromise the data. For this reason, the findings of field monitoring missions are not included in the table of violations that follows. However, the data collected still illuminates the experience and concerns of Afghans and does reflect the human rights situation. In particular, the field monitoring teams have recorded many past violations prior to the fall of the Taliban, common crimes for which the victim has no effective remedy, and development problems such as lack of access to education and healthcare.

The largest number of human rights concerns gathered by the field monitoring teams relate to adequate standard of living, followed by access to effective remedy, and issues related to land-grabbing and confiscation of property. There were many reports of violations of the right to liberty and security of person, which were especially high in Kandahar. Notably low in reporting were gender-sensitive human rights violations, and generally the violations of women's human rights and those of children. An exception is the relatively high number of reports of forced marriage.

AIHRC has found that the main obstacles to effective protection of human rights of Afghans are:

- The slow progress of DDR and fragile security throughout the country.
- The culture of impunity for crimes committed by, or with the acquiescence of, state authorities.
- Entrenched corruption, particularly in the judicial and law enforcement branches.
- Weak judicial institutions and lack of access to justice.
- Overall lack of understanding of human rights by civil society. Self-censorship of the media and citizens due to lack of security and fear of retribution.
- Widespread poverty and poor protection of economic, social and cultural rights.



- And in relation to the AIHRC's role; weak - though growing- cooperation between governmental and non-governmental organizations and the Commission.

Torture continues to take place as a routine part of ANP procedures and appears to be closely linked to illegal detention centers and illegal detention, particularly at the investigation stage in order to extort confessions from detainees. Torture was found to be especially prevalent in Paktia and Kandahar provinces, linked to the high numbers of illegal detainees. High numbers of complaints of torture were received from all regional offices in the past year. The lack of prisoner access to legal services continues to be a major factor in incarceration.

Substandard conditions and facilities within prisons are an ongoing problem with prisoners suffering a lack of space, lack of sunlight and overcrowding. Food and clean water also are scarce. Prisoners are routinely denied medical care or are only treated within the prison. Female prisoners have had to give birth in detention centers. AIHRC continues to find women and children being incarcerated or detained in men's prisons.

Women's lack of access to justice and protection remains the core problem in terms of women's human rights. The widespread practice of discriminatory customary law or traditional practices continue to violate women's rights, graphically illustrated by the sentencing to stoning in Badakhshan in April 2004 and the apparent honour killing of a TV announcer in Kabul in May. The culture of fear and hopelessness makes it even more difficult for women to demand their rights and to speak out about the violations they suffer. The low number of reported rapes reflects the cultural constraints against women or family members addressing the abuse of women's right to personal integrity. In contrast, the high number of successful and attempted suicides including self-immolation reflects the desperation and psychological trauma borne by so many Afghan women.

The rights of children in Afghanistan are particularly threatened by the ongoing lack of security which is facilitating trafficking, kidnapping and sexual abuse and child abuse, in addition to increasing the obstacles between each child and their right to an education and healthcare and services. Over half of Afghanistan's population are under 18, and half of the disabled population

are children. Another large group of vulnerable children are the war orphans, most of whom are inadequately provided for by the state or exploited within their own communities. The AIHRC also has indications of a burgeoning vulnerable population of addicted children.



### *Child labour in Afghanistan*

In the past year there has been substantial progress in the establishment of juvenile correctional centers, with the establishment of correctional centers for children in conflict with the law in most provinces, thus allowing the separation of approximately 60% of male children from adult male prisoners, but not yet the separation of any female adults and children. Unfortunately the correctional centers are marked by the lack of access to proper education, healthcare, safe drinking water and other facilities suitable for rehabilitation of children. While the Juvenile Justice Law was an important step towards ensuring the rights of children to access to justice, juvenile courts and procedures have not been established nationwide.

Political and civil rights continue to be undermined by the weak security situation. The failings of the DDR project has not helped reduce the climate of fear and culture of impunity. The security problem will particularly affect the ability of women to participate in elections and in general their freedom of movement, but for all Afghans it is a threat to the freedom of speech and association. There is a need for sustained training of local authorities, awareness raising among communities, increased dissemination of information about political and civil rights, but above all large-scale disarmament is first required.

## HUMAN RIGHTS VIOLATIONS RECORDED BY THE AIHRC (June 2004 – May 2005)

The statistics below are drawn from monitoring missions and from complaints investigated table highlights the main violations identified by AIHRC in the past year the AIHRC received 2698 HR complaints representing 4236 different HR violations. 492 other cases were identified through monitoring missions. ( The new field monitoring team data is not included here).

	Badakshan	Bamiyan	Daikundi	Faryab	Gardez	Herat	Nangarhar	Kabul	Kunduz	Mazar	Qandahar	TOTAL
Illegal Detention	20	8	8	0	464	49	132	47	13	27	336	942
Property Destruction	5	2	25	0	6	9	9	17	14	2	17	76
Torture	15	15	22	1	54	59	19	73	37	37	141	439
Extra-judicial Killings	25	5	22	2	31	30	44	33	24	32	63	261
Extortion	23	3	51	4	35	38	40	139	66	76	19	410
Rape	2	1	5	0	18	6	1	3	8	6	10	51
Violations of women's rights	10	5	1	1	26	79	24	16	18	23	27	222
Other violations	129	67	36	2	274	196	121	160	88	118	267	1410
<b>TOTAL</b>	<b>229</b>	<b>106</b>	<b>170</b>	<b>10</b>	<b>908</b>	<b>466</b>	<b>390</b>	<b>488</b>	<b>268</b>	<b>321</b>	<b>880</b>	<b>3811</b>

*“Other violations” include discriminations on ethnic and religious grounds, aside from those violations already listed, and also includes reported violations by coalition forces. The data from Badakhashan, Bamiyan, Daikondi and Faryab is lower due to their recent establishment and communications, and transportation difficulties. Due to inaccessibility, security concerned of those reporting violations and overall insecurity it was not possible to fully verify all the complaints.*

## **5. PROTECTING HUMAN RIGHTS**

The protection of the human rights of Afghan citizens is the formal duty of the Afghan Government, to be carried out by its ANP and judiciary. The AIHRC's role is to support the protection efforts of the government through providing information and advice, by advocating for the establishment and enhancement of laws, policies and systems that enable protection, and by advocating and lobbying for action on specific cases and general issues.

The Commission's focus on protection is important because of the current fragility and weakness of the judiciary and ANP in this period of reconstruction and political transition. The Commission's strategy has been to identify and focus on particular vulnerable groups, to investigate all complaints received, to carry out research in order to understand the causes and nature of different vulnerabilities, to work with government to strengthen capacity, and to work with media to expose abuses and pressure for government action.

Due to the particularly widespread and deep vulnerabilities of women and children in Afghanistan, the AIHRC has two units dedicated to improving the protection of their rights. The CRU strategy has been to focus on building and working through strong networks to ensure coordination in advocacy and promotion actions. The CRU has focused on coordination and supporting other organisations, and advocating through networks or single-issue committees, thus allowing a broad range of organisations including government agencies and NGOs to work together. One example is the Combating Drug Committee, led by the Ministry of Narcotics, in which the AIHRC has been able to insert child rights and needs into analysis and planning.



*Child labour and street-kids in Kabul*

The WRU has supported the protection of women's rights through researching the causes and nature of women's human rights violations, and advising women who have complaints of abuse. Most of the complaints of human rights abuse from women were related to domestic abuse such as forced marriage and child marriage and were forwarded to the M&I Unit to address. Investigations and awareness raising have taken place in response to the large number of cases of self-immolation by women. The Unit completed research of domestic violence in Afghanistan in a report that was released in March 2005, titled *Family Violence Against Women*. The research surveyed 1000 women from 20 provinces and found that 50% had experienced physical violence and 50% had experienced psychological torture.



***Woman victim of burning by her husband***

During a prison monitoring visit to Baghlan province on 22 May 2005, AIHRC staff encountered a case of 'bad'. Two men had been illegally detained on charges of a murder that took place in 1979. The family of the murdered man was demanding they be given the 2 and 9 year old daughters of the alleged murderers, which is an Afghan custom known as 'bad'. The family was being indirectly supported by the local court and who were detaining the alleged murderers until the family's bad demands were met. This is an Afghan tradition that is against both Islamic law and Human Rights, but which is believed to be quietly practiced in many corners of Afghanistan.

## **5.1 Establishing Legislation and National Policies**

In the past year, the AIHRC has been instrumental in the passing of a number of key pieces of legislation and approval of policy that serve to better protect the rights of children and the rights

of prisoners. The challenge now is to ensure implementation. The AIHRC has been doing this through monitoring, supporting government agencies with training, as well as working with civil society organisations to pressure agencies to abide by and use the laws and policies to protect human rights of Afghans. The laws and national policies are:

The Prison Management Law: was approved by Cabinet and signed by the President into law on 11th May 2005. Its purpose is to establish minimum international standards for prisons in Afghanistan, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, adopted August. 30, 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The Law assures the human rights of all those detained and imprisoned, and was drafted and reviewed by the AIHRC. Prison conditions in Afghanistan remain extremely poor and prisoners generally have to rely on relatives for their food. Prisons and their staff are severely under-paid and no training is provided to them about caring for prisoners or their duties in regards to the human rights of prisoners. The AIHRC has been working with the Ministry of Interior to improve the situation and address the lack of legislation in this area.

The Juvenile Justice Law: formally titled the *Laws of Investigation on Children's Violations* was signed on 23<sup>rd</sup> March 2005. This law provides protection to children in conflict with the law, including by raising the minimum age of criminal responsibility from 7 to 12, by providing convicted children with the right to appeal, by establishing juvenile correctional centers with all necessary facilities for children. Approximately two thirds of Afghanistan now has separate facilities for children.

The National Strategic Plan to Combat Child trafficking: was signed by the Minister for Labour and Social Affairs, in August 2004, and approved by the President on 2<sup>nd</sup> December 2004. The AIHRC's CRU participated in the development of the Action Plan, and the AIHRC has continued to assess the extent of child trafficking in Afghanistan, to educate law enforcement officials about trafficking, to support reintegration of trafficked children back into their families and raise awareness in schools and communities.

The AIHRC supported the establishment of Human Rights Units within different Ministries, through provision of computers to dedicated staff who will act as HR focal points, and provision of education material on HR. The Ministries involved include the Ministry of Mines, Foreign Affairs, Interior.

Due to the long period of armed conflict, many years passed without Afghanistan submitting any reports to the UN on its implementation of treaties it has ratified. The Ministry of Foreign Affairs has committed itself to a six-year programme of reporting to the human rights treaty bodies, at the rate of one report per year, and the AIHRC has supported the Ministry in this goal through participating in a Working Group on treaty implementation and reporting.

## **5.2 Investigation and Research**

The AIHRC's M&IU and Research & Policy Unit both contribute to human rights protection by collecting evidence and findings that inform and give credibility to AIHRC interventions. The CRU and WRU contribute toward research on child and women's issues, and forward complaints they receive directly relating to individual violations of women's or children's human rights, to the M&IU for investigation.

In the past year, 2698 human rights complaints were received by the AIHRC for investigation by Afghans seeking resolution. Following verification by the M&IU that the complaint is of a human rights violation or abuse and thus falls within the jurisdiction of the AIHRC, the M&IU opens a case file and begins investigations, which may or may not lead to intervention. In the case of intervention, relevant government agencies were contacted and informed of their responsibility to resolve the complaint, or were resolved through the mediation of the AIHRC itself. In the past year the AIHRC has successfully provided secure complaints boxes inside male and female detention centers, which have been actively used, especially by women detainees.

## **5.3 Mediation**

Due to the weakness of the judiciary, many citizens come to the AIHRC with the expectation or hope that the Commission can resolve their problems. This is not the mandate nor authority of



the Commission however, and a significant amount of time is spent with complainants explaining what process they need to follow, what constitutes human rights violations, and what the Commission is able to do for them.

The Commission has found however that in many cases, mediation on the part of the Commission can result in the protection of the human rights of complainants and a reduction or avoidance of violence. Furthermore, without the Commission's mediating role there would likely be no resolution to these cases. Most of the mediation cases the Commission has undertaken has been at the request of women and are within domestic contexts, however the Commission also successfully mediated an ethnic conflict in a province bordering with Pakistan, and has helped resolve property rights violations.

The AIHRC has regularly acted as a mediator both directly between family members and between family members and the Family Court to resolve complaints of human rights abuse in relation to the rights of women or children within domestic situations.

### ***Child Trafficking: Protection and Mediation***

*In (March 2005), an electrician brought a 12 year old boy to the Kabul office of AIHRC, asking for the Commission's intervention and complaining that all of the government agencies and orphanages he had approached had refused to help.*

*The electrician had rescued this boy from off the streets after he had escaped from a human trafficking ring, and he had been housing the boy with his family while seeking government help. The situation was complicated because the boy was illiterate and had a severe stutter so he was unable to explain where he was from or what had happened to him.*

*The CRU in Kabul was able to determine where the boy was from by naming each province, district and then sub-district on a map until the boy recognised "Shajui, a sub-district in the province of Zabul.*

*The CRU staff in Kabul and Qandahar (which is responsible for Zabul) then worked together to arrange to put up posters of the boy around the bazaar of that subdistrict. After .....days, the boy's uncle saw the poster, and the boy's father was informed to come to Kabul to collect his son. Hidden cameras in the room confirmed that the relationship was indeed one of family, and the AIHRC handed over the child.*

#### 5.4 Results of AIHRC's Human Rights Protection Efforts:

- Closure of 4 illegal detention centers: 3 in Ghazni and 1 in Kabul.
- Release of 1386 illegally detained persons from state prisons
- Removal of 27 children from shared adult prison cells. Securing of land to build correction centers in four more provinces. Secured the release of 3 children illegally detained.
- The passing of the Juvenile Justice Legislation, which raised the age of criminal responsibility from age 7 to age 12.
- Through advocacy efforts, AIHRC insured the building of child correction centers for juvenile offenders in Mazar, Gardez, Khost and Kunduz, on land given by the government and built by PRT and UNOPS.
- Indications of a reduction in number of cases of child trafficking.
- 315 children deported from Saudi Arabia reunited with their families in Afghanistan. 1 child stopped from being trafficked to Pakistan and successfully returned to his family.
- Dismissal of 3 prosecutors in Ghazni, 1 prosecutor in Kapisa, 2 prosecutors in Parwan, 3 judges in Parwan due to evidence of their violation of human rights and/or corruption.
- Dismissal of 1 ANP commander in Karabagh district, Ghazni and 1 ANP officer of tenth district of Kabul city due to evidence of their violation of human rights and/or corruption. and arrest of 2 highway police on charges of corruption and/or human rights abuse
- Return of 250 *jerib* of confiscated land and property in Kapisa belonging to returnee Mangal refugees after coordinated efforts by UNAMA, UNHCR and AIHRC. Outstanding disputed land of several thousand *jerib* is currently under court proceedings.
- Local governmental plans for towns and distribution of plots for returnees. For example the Governor of Kapisa has agreed to establish a town and to set aside land and development including housing for returnees.
- Prevention of violation of the rights of 37 women and girls for customary *bad* purposes. Most complaints and reports came from Paktia, Paktika and Khost.
- 90 family disputes have been resolved through mediation

- Prevention of implementation of a stoning sentence on a young girl and a woman in Kahmard district of Bamyan.
- Removal of illegal security checkpoint in Balkh, which was used for illegal taxation.

### ***The Last Man***

*The last person to be released from illegal imprisonment in this year ending May 31 2005, was a man about 35 years old from Loghar province, who was detained for 16 days. During his illegal detention he was moved between an illegal private prison and a state prison, and was assaulted and tortured by his captors. No charges were laid or reasons given, but it is understood that the motivation was extortion and land dispute. Although the High Court has ruled in favour of the victim's property claim, local ANP who arrested him have refused to return his land to him.*

## 6. INSTITUTIONAL DEVELOPMENTS

### 6.1 Action Plan (2005-2007)

In March 2005, the AIHRC began a participatory consultation with civil society and government agencies to develop an Action Plan for 2005-2007. The consultations alone lasted a month and a half and focused on identifying key areas and on achievability and practicality. A total of 224 people were invited to attend 8 workshops, hosted by ANCB, ACSF, and FCCS. A diverse group of people participated including mullahs, lawyers, journalists, university teachers, NGOs and UN agencies as well as private sector, and put forward their recommendations toward a draft action plan.

The draft action plan was further developed through meetings with senior government officials, NGOs, academic institutes and lawyers and clerics. The draft was then thoroughly reviewed by the Commissioners and Executive of AIHRC, recommendations from the external evaluation incorporated and a budget line formulated. The action plan was presented to donors on 23<sup>rd</sup> May 2005.



*AIHRC staff and members of civil society in a working group to build the 3 Year Action Plan*

## **6.2 Evaluation & Audit**

In January 2005, an external evaluation began of the AIHRC and the UN project of technical support for the AIHRC. This was the first external evaluation to be carried out of the AIHRC, which was two and a half years old at that point. The Evaluators examined both UN partnership and support to the Commission, and the Commission itself. The team was based in Kabul but also visited regional offices.

By the end of May 2005, the draft evaluation had been read by the Executive and Commissioners of the AIHRC, and their collated feedback had been sent to the Evaluators for finalisation of the Evaluation. Although not finalised at the time of writing this Annual Report, the recommendations from the draft evaluation were important considerations in the final stages of the three-year Action Plan of the Commission. The Commission looks forward to the release of the final evaluation, which is due in July 2005.

In May 2005, a UNDP audit was also undertaken. The recommendations for improvements in financial administration have been adopted by the Commission and the audit itself found to be very helpful for the management of organisational reform and growth.

## **6.3 External Relations**

Working partnerships, both short and long-term have become increasingly important to the AIHRC's work. These include partnerships with international agencies and organisations, with governmental agencies and ministries, and with civil society and NGOs.

### **Government Ministries and Agencies**

Over the past year the AIHRC's relationship with different state agencies and ministries has substantially evolved towards one of mutual respect and cooperation. There are now regular meetings and cooperative relationships with a number of key government bodies, and 2004 to

2005 has provided evidence that there is growing interest in human rights within the civil service and law enforcement and judicial branches of government.

The Attorney General's Office (AGO): The AGO is a critical branch of the Executive, and has the power to institute, undertake or discontinue criminal proceedings in their individual judgment. Over the past year, the Attorney General has been highly cooperative toward the AIHRC, and has initiated sharing some cases which it considered probable human rights violations. AGO officials have been invited to training programs held by the AIHRC, and participated actively in the Commission's Action Plan consultation process. The AGO has requested the AIHRC send its monthly magazine *Huqoq Bashar*, and has informed the Commission that they find the publication useful for indicating areas and issues for investigation by the AGO in addition to education and awareness raising.

Prison Authorities: Prison authorities and the MoJ have been very cooperative, responding encouragingly with upgrades to proposals made by the AIHRC, for example to improve access to sunlight and fresh air and provide physical exercise. In the past year, the MoJ approached the AIHRC to provide training workshops to prison wardens and authorities.

MoI: The Human Rights unit of the MoI is another strong example of the growing interest and respect for human rights within the civil service in Afghanistan. The Human Rights Unit has been an open and helpful link between the AIHRC and the Minister of Interior, facilitating contact with the Minister and sharing information.

The AIHRC is increasingly being approached by Ministries and agencies, including the Ministry of Haj-Awqaf, MRRD, and High Courts. The workshop at the end of May 2005 for senior officials of the Ministry of Mines is one such example. There is also regular capacity training for newly appointed judges, and a growing demand from educational units within the NSD, MoI and MoD for *Huqoq Bashar* and other education material from the AIHRC to establish training curriculum in accordance with human rights principles and standards. An agreement has also been established with the MoN and the CRU to strengthen protection of child rights in MoN strategies, and maintain high awareness within the MoN of human trafficking and child

protection. AIHRC has also worked with MoD, Ministry of Labour and Social Affairs, Ministry of Youth and MoE, and is currently working with the MoHE.

### **Civil Society**

Partnerships with civil society organisations and groups have been an important focus of the Commission's work in the past year. Each Program Unit has fostered relationships and established agreements with civil society and with NGOs for campaigning, training, research, advocacy or monitoring purposes.

The importance of partnerships with civil society was vividly highlighted to the AIHRC following the release of *A Call for Justice* report. The strong opposition to the report by certain political figures showed how easily the AIHRC could be isolated and targeted, at the same time there was a realization of how much more seriously the report would have to be taken if the AIHRC was part of a broad coalition of civil society and NGOs calling for human rights protection and justice.

The Action Plan consultation process at the beginning of 2005 was an important networking opportunity with civil society, and helped develop understanding of and support for the AIHRC. In particular, NGOs said they came away from the consultation process with a far greater understanding of the role of a national human rights institution, and of how they could work together with the AIHRC.

In the past year and for the first time, the Commission began providing small grants for capacity building to local NGOs. In the past year a total of US\$160,000 was granted to 25 NGOs. Partnerships with civil society will continue to be nurtured, especially following the draft External Evaluation, which recommended more effort be put into this area.

Between June 2004 and end of May 2005, the Commission signed Memoranda of Understanding with 25 CSOs to establish mutual co-operation in the area of human rights monitoring; lasting partnerships in human rights promotional activities; networking and advocacy initiatives. AIHRC facilitated the establishment of FEFA to monitor the Presidential election, providing

office space and technical assistance, and helping FEFA organise over 2000 civil society election monitors.

The Human Rights Education Unit alone has signed agreements with more than 16 organizations, which are working towards the promotion of human rights. The unit provided Training of Trainers (ToT) and materials to the staff of the following organizations:

- Sanayee Development Foundation (SDF).
- Coordination of Humanitarian Assistance (CHA)
- The Norwegian Projects Office (NPO),
- Association of Protection of Youth Rights,
- Faizee Development Organization,
- Development of Women Abilities (DWA),
- Shohada Organization,
- Foundation of Human Rights Activists for Afghanistan (FHRA)
- Polghoo Reconstruction Foundation (PRF),
- Afghan Women Network (AWN),
- Afghan Women for Development (AWD),
- Educational Training Center for poor women and girls of Afghanistan (ECW),
- Afghan Women Skills Development Center (AWSDC),
- Health and Development Center for Afghan Women (HDCAW),
- Education Development Center (EDC),
- Afghan Women Service and Education.

AIHRC has also worked with international CSOs, in particular Save the Children Sweden, UK and Norway on joint projects and coordinates with international NGOs in the field of human rights including Amnesty International and Human Rights Watch.



## International Bodies

### UNOCHR

The UN Commission on Human Rights is the principal human rights organ of the UN and is composed of 53 member states. Over 3000 delegates from member and observer states and from NGOs participate in the Commission's annual meeting in Geneva. The 61<sup>st</sup> Session of the UNOHCHR, which ran from 14th March to 22<sup>nd</sup> April in Geneva was attended by Chairperson Dr Sima Samar. In her speech, Dr Samar gave an update of the human rights situation in Afghanistan and cautioned against too much optimism about Afghanistan's progress towards democracy and stability. Dr Samar emphasised the fragility of the current situation, the absence of human security and ongoing impunity of human rights violators. The findings of *A Call for Justice* report were shared, and Dr Samar urged the international community to strongly support politically, materially and through international cooperation, the implementation of the comprehensive national strategy for transitional justice in Afghanistan.

The UNOCHR had provided important support to Afghanistan in the form of Professor Cherif Bassiouni, who was appointed Independent Expert on Human Rights for Afghanistan. Bassiouni was however removed from this position, and the role of Independent Expert on Human Rights for Afghanistan was terminated in April 2005 following Professor Bassiouni's report, which stated:

*The Coalition forces' use of distinct units that answer to different command and control structures is dangerously permeating the Afghan military and security organizations and remains a source of serious human rights violations. In general, the Coalition forces' practice of placing themselves above and beyond the reach of the law must come to an end.*

The AIHRC continues to be greatly disappointed that the position has been terminated, and hopes and calls for this decision be overturned due to the crucial function it fulfilled.

### **Other UN Agencies**

The AIHRC has been supported by UNDP and UNAMA since its establishment, and these formative relationships have been critical to the current functioning and influence of the AIHRC. In the last year, UNDP has continued to take responsibility for reporting and financial management of donors funds, also helping with funds mobilisation and some training in the area of financial administration. UNAMA has provided a political link between the AIHRC and UN administration in the country, and continues to help provide technical assistance and advice. In 2005, a new partnership was established with UNHCR for field monitoring teams, which will provide an important extension to the HR monitoring function of the Commission. UNHCR and AIHRC have been taking part in joint training, reporting and coordinated monitoring since April 2005. AIHRC has also worked with UNICEF through the CRU, and with UNDP in DDR through the Afghan New Beginnings Programme, in which the AIHRC provides human rights awareness raising and training for ex-combatants.

### **Asia Pacific Forum**

The AIHRC is an associate member of the Asia Pacific Forum of National Human Rights Institutions (APF). 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 independent national human rights institutions, facilitate exchange of information and expertise, provide training and develop joint positions.

The AIHRC attended the APF's 9<sup>th</sup> Annual meeting held in Seoul, South Korea on 13 September, 2004. Chairperson Dr Sima Samar and Commissioner Langari represented the AIHRC, and presented the situation in Afghanistan in relation to women's rights in the context of conflict.

The APF Secretariat has also supported the AIHRC, and sent a formal letter of support for the AIHRC to President Karzai to support inclusion of the AIHRC within the new Afghan Constitution. APF Secretariat also facilitated capacity building of a staff member within the NZ HR Commission.



*Dr Sima Samar receiving a Doctorate of Human Letters from Brown University, USA*

#### **6.4 Contributions by Commissioners at International Level**

AIHRC Commissioners have been invited to speak at international conferences and events, indicating the growing regard and influence of the Commission's work.

- |               |  |
|---------------|--|
| October 2004  | Dr Sima Samar and Nader Nadiry contributed to UNOHCHR mapping exercise of past HR abuses in Afghanistan in Geneva, Switzerland   |
| November 2004 | Nader Nadery presented to a conference on Transitional and rule of law tools in Geneva at the OHCHR  |
| February 2005 | Dr Sima Samar, presents on HR and Women's Rights in Afghanistan at University of Connecticut, USA<br>One of four key speakers on a Nobel Peace Prize Forum in Minneapolis, USA |
| March 2005    | Nader Nadery contributed to summit on democracy, terrorism and security in Madrid, Spain.  |
| March 14 2005 | Dr Sima Samar presented at the 61 <sup>st</sup> Session of the Commission for Human Rights in Geneva   |

- March 28-30 2005 Dr Sima Samar presented on Gender equality in education at an international conference on Gender Mainstreaming and the MDGs
- April 2005 Nader Nadery moderated a panel at the international conference on transitional Justice and human security in Cape Town South Africa
- May 9-10, 2005: Fahim Hakim attended and spoke at the joint Norwegian-German initiated conference: "Afghanistan a Model for Peace building" held in Berlin, Germany. At which he highlighted the challenges of human security in the country.
- May 12-14, 2005: Nader Nadery made a presentation on Afghanistan and Transitional Justice to a conference on Transitional Justice in post-conflict countries at the Wilton Park conference, UK.
- May 14, 2005 Hamidi presents on identity differences and HR, at invitation of Mofad University of Tehran.
- June 6-7, 2005 Dr Sima Samar and Nader Nadery attended a conference on Transitional Justice for Afghanistan at the Hague

In addition the AIHRC began offering opportunities of internship to post-graduate students of prestigious universities, and in the past year hosted 5 foreign student interns.

## **6.5 Construction and Expansion**

The physical construction of offices around the country has proceeded gradually, if not smoothly in the past year. The Commission has been allocated lands for its Headquarter office and regional sub-offices but construction has had to be halted due to opposition from the Ministry of Energy and Power, who is disputing AIHRC's ownership of that land. AIHRC offices have also suffered during riots, with the office in Herat seriously burned in September 2004.

Construction in Kandahar began in April 2005, in Bamian in March 2005, in Kunduz in April 2005, in Gardez an MOU has just begun following the signing of an MOU with ADSI who is contributing funds towards construction. In Kabul, construction has begun but dispute over ownership with the Ministry of Energy and Power has required interruption until resolution of the dispute.

The AIHRC has established its own internal printing press with trained staff, due to the high market prices and delays with printing, and due to the high volume of material the Commission needs to produce and the need for timely completion. This addition has substantially increased the capacity of the AIHRC for promotion, education and awareness-raising.

The Resource Center has expanded its library, increasing its available resources from 900 to 4000 and has established a mobile unit for film showings. Over 550 people have come to use the Resource Center in the past year. The Action Plan for the following three years will result in resource centers being established in each regional office.

## **6.6 Building Staff Capacity**

Participation in training and conferences carried out abroad:

- 3 staff members to Denmark (with DIHR) for HR law education
- 2 staff members to the United Kingdom (with RTC), for conflict transformation education
- 1 staff member to Pakistan (through Max Planck Institute) for seminar on the challenge of rebuilding Afghanistan and its law enforcement institutions.
- 3 staff members to Sweden and Norway (through Save the Children) to study Child Rights with the Ombudsman's office.
- 1 staff member to India (through British Council) on child rights and trafficking
- 1 staff member to Bangladesh on child rights and trafficking
- 1 staff member to New Zealand (APF) to learn from experience and structure of NZ HR Commission
- 1 staff member to Lahore, Pakistan (through Sharkatga) on the role of women in South Asian politics
- 1 staff member to Sri Lanka (through UNICEF) exposure visit on child trafficking
- 1 staff member to Cambodia for training on security of data management for recording war crimes and crimes against humanity
- 2 staff to Thailand for human rights training in children, refugees, IDPs and women
- 1 female staff member to AI France for training in women's rights
- 2 staff members to Ghana on the role of media in human rights education and promotion

**Afghanistan Independent Human Rights Commission**

Donor Funding Status for AIHRC projects

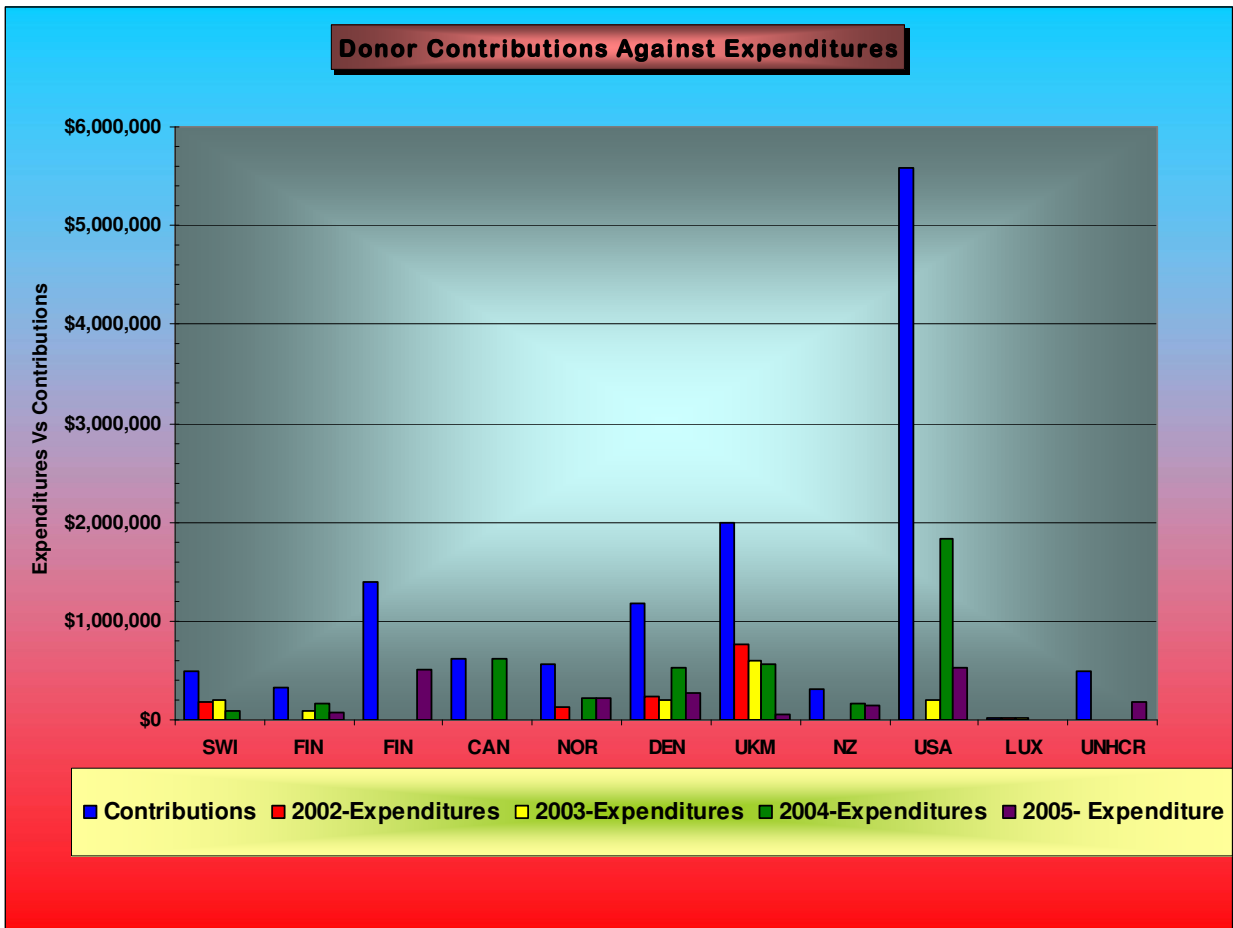
For the period of 2002 to June 2005

Donor	Committed	Received	Balance	GMS	GMS Rate	Programable	AF-G-02-008		AF-G-03-017		11042 & 38945		UNDP-38945 + UNHCR-05/AB/AF-G-375		Total Expenditures from 2002 to June 2005		Remaining Balance for Year 2005							
							Final Expenditures 2002		Final Expenditures 2003		Final Expenditures 2004		Exp: from Jan to June 2005		Net	GMS	Total	Net	GMS	Total				
							Net	GMS	Net	GMS	Net	GMS	Net	GMS										
SWI	499,980	499,980	-	14,562	3%	485,398	187,152	5,615	192,767	205,533	6,167	211,750	92,663	2,780	95,443	-	-	485,398	14,562	499,980	0	0	0	
FIN	344,488	344,488	-	10,033	3%	334,435	99,475	2,994	102,459	171,003	5,130	176,837	63,597	1,919	65,876	334,435	10,033	344,488	0	0	0	0		
FIN	1,462,865	1,462,865	-	69,860	5%	1,393,214	-	-	-	616,011	18,480	634,491	505,680	25,334	532,014	505,680	25,334	532,014	886,524	44,226	930,851	0	0	
CAN	634,491	634,491	-	18,480	3%	616,011	-	-	-	616,011	18,480	634,491	-	-	-	616,011	18,480	634,491	0	0	0	0		
NOR	584,882	584,882	-	17,029	3%	567,833	132,914	3,987	136,901	-	6,532	227,884	219,550	6,586	226,136	573,516	17,205	590,721	6,883	178	6,059	0	0	
DEU	1,217,882	1,217,882	-	36,471	3%	1,182,381	233,494	7,005	240,499	199,951	5,959	204,920	530,724	15,922	546,646	277,899	8,331	286,030	1,240,888	37,226	1,278,094	68,487	1,759	60,242
UK	2,050,823	2,050,823	-	59,733	3%	1,991,080	767,630	23,029	790,639	599,832	17,905	614,757	559,652	16,790	576,442	55,130	1,634	56,784	1,979,264	69,377	2,038,641	11,826	356	12,182
NZE	312,228	312,228	-	9,084	3%	303,134	-	-	-	-	4,978	170,908	142,823	4,279	146,902	303,654	9,257	317,811	6,420	163	6,589	0	0	
USA	5,750,000	5,750,000	-	167,476	3%	5,582,524	-	-	-	199,340	5,980	205,320	1,826,108	54,183	1,880,891	517,850	15,530	533,180	2,543,088	76,283	2,619,391	3,038,426	91,183	3,130,609
LUX	26,456	26,456	-	771	3%	25,685	9,503	297	10,200	15,782	473	16,255	-	-	-	25,685	771	26,456	0	0	0	0	0	
UNHCR	499,297	499,297	-	-	-	499,297	-	-	-	-	-	-	184,952	-	184,952	184,952	-	184,952	184,952	-	184,952	313,345	-	313,345
<b>Total:</b>	<b>13,382,102</b>	<b>13,382,102</b>	<b>-</b>	<b>402,309</b>	<b>0</b>	<b>12,979,793</b>	<b>1,331,093</b>	<b>38,933</b>	<b>1,371,026</b>	<b>1,315,983</b>	<b>38,478</b>	<b>1,355,461</b>	<b>4,183,144</b>	<b>125,194</b>	<b>4,308,638</b>	<b>1,980,242</b>	<b>63,632</b>	<b>2,031,874</b>	<b>8,798,462</b>	<b>288,538</b>	<b>9,086,999</b>	<b>4,181,331</b>	<b>133,774</b>	<b>4,315,102</b>

**FINANCES**

**Net-contribution Vs Expenditures for the Period of 2002 to June 2005 for Project No: 38945 and UNHCR Project**

Donor	Total Net Contributions	E x p e n d i t u r e				Total	Remain Balance
		2002-Expenditures	2003-Expenditures	2004-Expenditures	2005-Expenditure		
SWI	485,398	187,152	205,583	92,663	0	485,398	0
FIN	334,435	0	99,475	171,003	63,957	334,435	0
FIN	1,393,204	0	0	0	506,680	506,680	886,524
CAN	616,011	0	0	616,011	0	616,011	0
NOR	567,633	132,914	0	221,052	219,550	573,516	-5,883
DEN	1,182,381	233,494	198,951	530,724	277,699	1,240,868	-58,487
UKM	1,991,090	767,630	596,852	559,652	55,130	1,979,264	11,826
NZ	303,134	0	0	165,931	142,623	308,554	-5,420
USA	5,582,524	0	199,340	1,826,108	517,650	2,543,098	3,039,426
LUX	25,685	9,903	15,782	0	0	25,685	0
UNHCR	498,297	0	0	0	184,952	184,952	313,345
<b>Total</b>	<b>12,979,793</b>	<b>1,331,093</b>	<b>1,315,983</b>	<b>4,183,144</b>	<b>1,968,242</b>	<b>8,798,462</b>	<b>4,181,331</b>



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# AIHRC in Afghanistan

