



6 June 2002

Afghanistan Independent Human Rights Commission

Annual Report

2002-2003

A few words from the Chair

The fifth of December, 2001 is a remarkable day in the history of Afghanistan. Several political entities struggling for power, under pressure from Afghan civilians and the international community in Bonn, agreed upon setting up the six-month interim administration followed by a two-year transitional government.

In spite of severe challenges, the provisions of the Bonn Agreement have been implemented one after another. The establishment of the Emergency Loya Jirga, convening of the ELJ sessions, establishment of the Afghan Independent Human Rights Commission, Judicial Reform Commission, Administration Reform Commission, the draft and review commissions of the constitution and other social and economic institutions have been among the fundamental achievements made by the Interim Administration and Transitional Government.

From an optimistic point of view, the re-employment of women in government and civil society organizations, the resumption of female education, the return of a huge number of Afghan refugees from neighbouring countries and joining of the Afghan Diaspora in the reconstruction process are the positive indicators of peoples support for the new political set-up in Afghanistan. The resumption of diplomatic relations with other states, including the re-opening of embassies and diplomatic representative offices has raised hopes that Afghanistan will never again be ignored by the international society.

Now we are reaching a very sensitive turning point in our history. We are to end the politically bewildering situation and the violence by adopting a new constitution based on values of democracy, social justice and the international norms and standards of human rights, so as to guarantee the fundamental rights of the people and to secure human development.

The establishment of a national human rights institution was a new institutional phenomenon in Afghanistan. The founding of the AIHRC is the consequence of several years of deprivation and struggle by Afghan human rights activists inside Afghanistan and abroad, who were strengthened by international supporters. Despite enormous challenges, ranging from a shortage of financial and technical resources to staff security and the insecure situation within the country that has retarded the process of transitional justice, the commission is now successfully developing into a credible independent national human rights institution, supported by the civil society and the government alike. The commission has the potential to change the disappointment people felt in the early days, to hopes that the commission is a powerful advocate for their rights. After a year of tireless efforts, the commissioners and our staff, while we were only activists at the beginning, have developed now into professional human rights advocates and educators. Meanwhile the public support we receive strengthens our morale, enabling us to work consistently towards establishing a cornerstone upon which tomorrows human rights efforts in the country will be founded.

We believe that if it wasn't for the international support received by the newly established Commission, it couldn't have achieved what it has done. Therefore, on behalf of my fellow commissioners and staff, to whom I am indebted for their professionalism and hard work, I address my gratitude, thanks and appreciation to those donors who supported the commission financially and technically during the first year of operation, as well as the United Nations, and I do hope for their continuing cooperation in the future.

Best wishes,

Dr. Sima Samar

Chairperson

Overview of the Human Rights situation in Afghanistan since June 2002

The history of Afghanistan has its own pros and cons about human rights, but is notorious in terms of human rights violations and abuses in particular. The people's rights have always been overshadowed by the state and governments policies, while their civil and political rights were most often manipulated in favor of those who were in power.

The patterns of violation have become more obvious and evidence, in particular, after 1978, when mass and arbitrary detention, extrajudicial killings, disappearance, force migration and displacement, force evicts, rape, torture and use of excessive force become very common practice by the authorities and armed groups.

A pattern of deterioration of human rights came about after collapse of Dr. Najibullahs government, the Soviet-backed regime, in which the civilians prevented practicing their basic rights and freedoms by factions and as the result of their factional fighting and power struggle.

Grave violation of human rights and patterns of visible intimidation were dominant features of the Taliban time. Resort to violence, and denial of individuals rights, particularly women's rights were all legal practice by the regime during 1996 to 2001.

After so many patterns of human rights violations, abuses, and deficits, the Bonn Conference created a flickering hope in the minds of war-affected Afghans for a peaceful, fair, and just future. Serious intimidations and treats to the ELJs delegates, assassinations of cabinet members, warlord, and low pace of tangible change in the conditions of peoples life are seen as contributing factors to extinguish peoples hope and expectations for change, which the pledges made in Tokyo Conference is an additional point to increase these expectation for better living condition.

Establishment of the Constitution Draft Commission, Judicial Reform Commission, Civil Reform Commission, printing and usage of new currency, and ratification of international treaties the International Criminal Court, Convention of Elimination of All Forms of Discrimination against Women, and Optional Protocol of CRC on the Involvement of Children in Armed Conflict were encouraging moves from the Interim and Transitional Authorities. Though the continuing years of conflict in Afghanistan, with its both regional and international dimensions, left the country behind of its international obligations and duties on due time reporting on the treaties that Afghanistan is a party to.

Security: Security is perceived as people's number one demand and is the main reason for the violation of the civilians' rights. However, the Bonn agreement (Annex one) regarding disarmament and security arrangements puts an obligation on UN and Interim Administration to improve the security situation, to rebuild a national army and implement the DDR plan. So it was expected that the Interim Administration through presence of International Security Assistance Force (ISAF), could contribute to substantially improve the security situation in Kabul and throughout the country.

Presence of irresponsible armed groups and military representation of provincial warlords in capital city of Kabul, increase in cases of robberies and lootings of people's houses as well as aid agencies, growing incidents of attacks to aid organizations, mistreatment of IDPs and returnees, disappearances and human trafficking incident intangible achievements in the process of establishment of the National Army and Police have been hampering factors to security improvement and domination of rules of law.

Factional fighting and clashes in the north, which have left behind hundreds civilians killed or lost their properties and assets, have been occurring over and over again, while no one has been brought to account for these breaches. These factional fighting still not counted as a crime but just viewed as a misunderstanding, which would have soon mediated by a third party. But so far no one except the civilians and the people has paid for these continued misunderstandings. AIHRC has strongly condemned these factional and group fighting through its various statements and has accordingly asked the authorities to take proper measures in bringing all the culprits and war criminals into justice. The Commission in its appeals always pushed for accountability and brining the perpetrators of these grave breaches in to justice and was reminding them the obligation of Afghanistan toward International Criminal Court in order to promote accountability and prevent civilians suffering in the future.

AIHRC, however, constantly asked for the transparency in the process of recruitment and rebuilding of the national army and police, was concern during last fiscal year of the reform process in National Army and Police. AIHRC believes that the process of national army doesn't have transparency and move very slowly.

The Commission welcomes the decision of NATOs expansion to other major cities of the country and hopes that this will be complementary to the establishment of the national army and police and the enhancement of the DDR to substantially improve the security measures and situation, as well as limits the complaints about the International Coalitions Forces in the South and Eastern parts of the country.

Poppy cultivation: Poppy cultivation is one of the worse forms of the war economy, spreading widely even in those areas where had never poppy cultivation, such as the central highland and many parts of the Northern provinces. AIHRC observed in last year that the numbers of heroin processing plants were increased in Badakhshan, Helmand, Nangarhar, and other poppy cultivating areas. The commission identified that the other impact of the war economy is corruption, which has compounded the combat to poppy cultivation.

The extension teams of the opium mafia were consistently active in introducing the poppy crop, the agronomy and harvesting methods, as well as tempting financial arrangements for poor farmers. The measures adopted by the Drug Control Commission couldn't applied because of several reasons: a) the opium mafia is apparently very powerful in their networking; b) the local authorities are not powerful to implement the measure, or they are not obeying to the central government; c) no signs of application of the rules of law were evident in poppy cultivation areas; d) that most of the local commanders and leadership of the provinces are involved in opium business; e) corruption and the scourge of poverty are the main obstacles, and finally; f) the approaches and agreements implemented by the drug control offices have not been effective and fruitful project oriented and very short term.

In addition, the Taliban, Al Qaeda, and the drug mafia are disseminating information that exporting opium and heroin to western countries could be considered as Jihad.

The commission's research showed that a comprehensive community development initiative, enhanced reconstruction efforts, awareness raising campaigns, and smooth implementation of DDR is required to effectively eliminate poppy cultivation.

Economic, social, political, and human resource development: The Tokyo Conference, where a sum of USD 4.5 billion was pledged to the reconstruction of Afghanistan, was very promising to the Afghan people. Though, it would be unrealistic that overnight the changes would be occurring and tangible outcomes in post-war situation of the country would be then followed.

The engineering of the National Solidarity Program, and the process for the development of a National Budget were both bold and encouraging measures that the ATA has initiated for the effective delivery of its services and goods, as well as enabling local communities to lead the programs affecting their lives. Indeed capacity building of the staff involved in the implementation of the National Solidarity Plan (NSP), and the criteria the program is based on, as well as the selection criteria for the targeted districts are key factors to the success of the NSP. Unemployment and underemployment are still major issues to be consider

The adoption of Political parties law by ATA is a positive step toward free practice of political right, including some limitation that the party law imposes on people; there were number of issues like, imposing ban on activities of specific parties, punishment of political activists, preventing people to take part freely in political decision making process(the constitution consultation).

Freedom of demonstration has been guaranteed somehow but there were some serious violation. The rally made by the Kabul University student last years ended into violence. Police opened fire that put two dead and about 30 injured.

Human rights protection: The miserable situation of the prisons remained unchanged as before. Local commanders maintained their private detention in Kandahar, Parwan, Badakhshan, Ghazni, Ghore and some other provinces. The government assigned several missions to assess the situation of prisons and the status of prisoners in the south, west, north, and east. They could release about 763 prisoners, who did not had any charges and there were no file and case proceeding on them not with police nether with prosecutions office.

Transformation of the management of the prisons from the Ministry of Interior to the Ministry of Justice was a positive step toward protecting the rights of detainees and prisoners, but it also couldn't bring significant changes in the prisons because the Ministry of Justice was not prepared enough to handle the prisons and there was not a proper mechanism and plan foreseen prior to transformation. The MoJ had no enough financial resource and expertise. On the other hand, because of this transfer, the prison authorities reduced their attention on prisons in this regards. Prisoners have no access to washing water, health/medical facilities, and education for rehabilitation. In most of the jails, the prisoner's food is provided by their relatives or given very poor food by the prison authorities. Off course adequate budget has not been allocated for many prisons in the provinces. AIHRC registered several cases of torturing the detainees. In spite of all efforts the AIHRC monitors had no access to the private detention and also the detention centers of the Intelligence Department (Riasat Amniat) in Kabul and provinces.

AIHRC has observed that in many cases the juvenile criminals have been kept with elder criminals in the same rooms and compounds. The situations of the female prisons were not good enough. Children are also kept with criminal mothers. Mr. Karzai ordered the release of many female prisoners, but some of them kept in jails for longer period by the authorities with no reason.

However, there was little progress in betterment of the livelihood situation of prison such in Hirat and Koduz. Most of these facilities have been provided by ICRC, NGOs, and somewhere by the authorities.

Land and water dispute: The long history of land and water disputes was further revived in 2002/2003. About thirty percent of the complaints received by AIHRC are related to land and water dispute. There are many cases that a house have been sold to several persons based on falls ownership documents, while the real owners are unaware of the case because he/she has been in exile. Much of these disputes refer to inherited land that has not been distributed legally to entitled descendants, while one of them has ignored others when it has sold it. There are also many cases that the houses of those people who have been member of the former regimes party or affiliated to it, have been arbitrary confiscated by commanders and then prepared the ownership document by using their authorities. There are such cases that the Supreme Court, even Chairman Karzai has re-affirmed the right of a house owner and ordered the restitution, but still the occupiers are not evacuating the premises.

To solve the increasing number of such cases, Chairman Karzai appointed a special court to deal with. As far as seen, this court further complicated the cases and caused denial of the rights of the people because it is only one-term court, which is not capable of solving such complicated land disputes. The commission identified that most of the violation regarding property rights is due to systematic problems and incapability of the special property court, lack of proper policy in the government regarding housing and property issues. However the commission welcomes the policy developed by the Ministry of Rural Rehabilitation and Development (MRRD) regarding land and property issues, but still has concerns about the lack of a national policy on adequate housing and property. The commission has recommended to the government of developing of a national policy on adequate housing and property issues and increasing in number of terms of the special property court on Sep 13, 03, as well as a specific recommendation to the Constitution commission. There is no positive response nor from government neither from the Constitution Commission. The final draft of the constitution have been submitted to the president doesn't include such an article to ensure adequate housing to the citizens.

Bribery and corruption in judicial system and law enforcement departments is an including factor in increasing these types of right violations. The entitled persons also have to give bribe, otherwise he/she loss the rights.

Forced purchase of houses by commanders has also been reported. Powerful commanders now want to have big houses and farm land. They, therefore, force their neighbors by different means to sell their houses or farm land. Now there are some commanders who are ready to by the neighbors houses located in the same street as his house. The past years experience has shown that such forced purchasing disturbs the neighbors and put them at risk whenever a conflict is flared in the area.

The government has also denying the rights of people to land. The crucial example is the case of land grub by the high authorities in Shirpor, attached to Wazir Akbar Khan .

Environment protection: It seems that the present administration is not keen enough to environmental degradation in Afghanistan, or not capable to cope with this issue, while the people, in accordance with the international bill of rights, have the right to have healthy and sound environment. Deforestation and desertification is further extending. Excessive soil erosion and flood cases endangered the lives of people. One of the side-effect of the conflict is the natural degradation. Most of the plantations established by the government have been deliberately cut down, and the vegetation cover of the land has removed. Endangered species of animals and birds have been moved, killed or smuggled abroad. The government has not been able to take efficient step in stopping overuse of the forests, rangeland and natural resources. No efficient plans have been launched so far to substitute the fuel wood brought from the natural forests.

In cities, air and water pollution is a serious threat to people's lives. The waste just runs into the open drainage ditches. The street garbage even remains for month, but the municipalities don't remove them, nor contracting with private organization to do so. There is no proper city sanitation scheme. The new high building construction, for example in Kabul, is mushrooming now but without planning the sewage system. Ninety percent of the houses latrines are open air type in cities. On the other hand, most of the households use the water from the shallow wells, which are highly contaminated. A clear indicator is the high number of pharmacy shops increased in cities and towns comparing to the number of bakeries exist. But, in some cities like Herat and some part of Kandahar cities, the efforts made for improving the city sanitation is appreciated.

Freedom of expression: The AIHRC welcomes the very positive improvement in respecting freedom of expression rights of citizen by the authority despite the few cases like Aftab Weekly which over shadowed this improvement, since January 2003. Amendment of press law however there is need for more amendments, which fortunately is under way; is another remarkable achievement by the TA during last year. The number of private publications had increased. There are good number of print and electronic media involved in producing and broadcasting good programs freely in provinces and even remote areas of the country using the international assistance.

The public gatherings in Kabul and provinces where people have a chance to express their views freely and openly, is a sign of improvement in practicing the rights to freedom of expression.

In spite of this development, the Afghanistan TV, which was factionalized, dominated by one Tanzeem (party). In most of the provinces, publication and other media activities kept at very low profile. Most of the NG publications in provinces were overshadowed by the power of local commanders. In Herat, for example, some of the publications are influenced by Ismail Khan, the governor of Herat. Members of the Professional Council of Herat (Shurai Muttakhasisan) were intimidated by Ismail Khan.

Ahmed Bihzad, reporter of Radio Liberty, who was reporting the opening ceremony of AIHRC office in Herat, was beaten by Ismail Khan Intelligence agents at the corridor of the inauguration hall. He then had to leave the country. Mr. Zuhoor Afghan the Chief Editor of Erada weekly news, Mr. Mahdawi the Chief Auditor of Aafab weekly news, The Chief Editor of Ferda weekly news, editor of Talyia published in Baghlan and editor of Kohandazh in Kondo province, and Marya Sazawar, a female journalist in Mazar were intimidated by local authorities and commanders, who were threatened by local commanders, local authorities even by attorney General and Supreme Judge.

Access to education: A considerable improvement have been seen in the field of right to access to education particularly girls access to education since the establishment of Interim Administrations. Thanks to UNICEF and the Ministry of Education that arranged a broad education campaign in the spring of 2002, titled Bia ba Maktab Birawim wa Sabaq Bikhwanim (Lets go to school and study). Under this programme, considerable amount of fund and resources were mobilized. As far as possible, textbooks and teacher materials were provided to city schools.

Since last year the number of schools has been increased 10 times, however refreshing seminars were arranged for school teachers and managers of the MoE, but access to good schools still is an important issue to be solved.

However, most of the attention in education was confined in Kabul and big cities. Rural student were deprived of assisted facilities. Rural schools have not or very little benefited from assistance. Due to poverty, parents don't send their young male children to schools because they have to work on their farm land or go outside the country for laboring. In many parts of the country, because of discrimination attitudes, girls after eight are not allowed to go to formal schools, or there is no girl school at all in the area.

Because of miss-management and low teaching quality, many parents are not happy with prevailing education situation and children are reluctant to go to schools. Many parents cannot afford to send their children to private courses; on the other hand, private courses are not available at district and village level.

Bribe business incredibly corrupted the university environment. For enrolment into well-known faculties, such as faculties of Medicines, Engineering, and Law, the bribe per person has increased to one thousand US\$. Many students have been enrolled in the named faculties as per order of the high level commanders, or through giving bribes to the university staff. The teaching quality has badly diminished in recent years. Such situation has negatively affected the quality of higher education in the country.

In recent months number of attacks on girl's schools has been increased and the commission has been registered more than ten cases of girl's schools burning and intimidations to the families of to not send their daughters to schools in Logar, Kandahar, Balkh, Jilalabad and Ghor provinces.

Rule of Law: It would be very pessimistic to say that there is no improvement in field of rule of law have not been made in the country, the first steps toward bringing rule of law have initiated so far; Training of judges, lawyers, prosecutors and legal students has been initiated by the Judicial Commission, with three training courses. Likewise the process of legal review and revision of laws is ongoing.

One encouraging sign of early progress made in judicial reform comes from the evaluation of judges themselves serving today in various parts of the country. Several of the provincial chief justices and judges that work closely with AIHRC were worked hard to manage to restart their court houses despite the physical destruction of war-time. In many court houses, there are visible signs of physical reconstruction. Even in dilapidated and broken down courts in small towns, there are signs of busy activity. Court houses are crowded without exception at district and provincial level.

However, this does not mislead us to the major challenges the judicial reform process has to face. One of the biggest challenges the Judiciary process is that the courts in most of the provinces are under the control of whichever faction has power on the ground. Regional or local commanders have either put in place persons loyal to them as judges or simply manipulate the judges installed by the Supreme Court. At least four judges and chief judges were dismissed by local authorities and power holder in provinces because they issued judgment not on benefits of the commanders or the persons loyal to them, there is no question of fair or free trial not only in provinces but also in Kabul. One of the very famous case one can give example of a fail trail is the Abdullah shahs case. The AIHRCs monitoring of several cases shows that the principles of fair and free trial have not been observed during case proceedings. Another related problem across provincial and district courts appears to be corruption and bribery. Poor people who are not able to pay the bribe are suffering for long time in detentions and waiting for judgments.

Up on collapse of Taliban all police post and chief of police in entire country took over by successor of Taliban, most of them are not trained police officer and are not familiar with rules and procedure. However in some areas, initial police structure was later changed by the Ministry of the Interior. Soon after the transition, the MOI called back police officers who had served under previous regimes and had fled or been expelled by the Taliban. Several former officers therefore have returned to their posts. In many areas whereas the new police chiefs are former Mujahideen commanders without police experience, they often have experienced police officers serving under them. The AIHRC identified 25 chief of police out of 32 in provinces during December 2002 to June 2003 who are not with police experience and professional police background.

An important development that has influenced police reform was the appointment of Mr. Jalali as the Minister of the Interior. Since his appointment, Mr. Jalali, has made efforts to accelerate police reform and to enhance the image of the police and the MOI as a whole.

The establishment of a rapid reaction force to meet security needs rapidly and transfer and removal of police chiefs known to be corrupt or underperforming are the improvements that at the local level are welcomed and been respected. In many occasions, AIHRC has received proper co-operation from MoI, the joint missions of MoI and AIHRC along with UNAMA have been launched and several projects and missions of AIHRC have been assisted by MoI. There were positive responses to the appeals of AIHRC by the MOI. The removal of chief of Kabul police, removal of chief police of Farah province, transfer of head of criminal investigation of Herat and Badakhshan Provinces are the few examples.

In March 2003, the establishment of a human rights (HR) unit within the MOI was also an important development.

The establishment of the constitution drafting and reviewing commissions are another major and important development in the country. However the national consultation on constitution was not a complete democratic process and certain level of intimidation and influence have been registered by AIHRC of the process, but for the first time this process provided peoples participation in constitution making process and ensured their political rights in participating in political decision making of the country.

Economy: The launch of the new Afghan currency as seen as critical factor of improvement of rights to good living condition in the country. Creating of job opportunities had been increased and National Solidarity Plan (NSP) was a major step toward improvement of the living condition of those people living in rural areas.

In spite of all above mentioned efforts the present unemployment problem is challenging. Those educated people are not recruited by the government departments, because of its low deploying capacity. On the other hand, NGOs are also not capable to employ the huge number of people, who have lost their job in the government departments. The foreign investment in large project has not taken place so far to solve the unemployment problems. There are thousands of Pakistani labors are busy in construction inside Afghanistan, while Afghan labors are unemployed. It shows the lack of national economic policy within the country.

Even high rank manager of the government departments are given inadequate salary. The monthly salary of a head of a department is 1800 Afghanis, equivalent to 40 UD\$, while a six-member family need 100 US\$ per month to provide only modest food staff. But, they need cash for medicine, house rent, clothes, fuel, sanitary materials and other basic needs, as well.

There are thousands of support-less widows, who are bread winners for their children and families. Young children have to work to contribute to the family food. There is no social security measures adopted so far. The pension remuneration is 1-4 US \$ per month.

Finally, AIHRC believes that improvement of human rights in the country in the past twelve months brought more optimism to the human rights community of Afghanistan. The commission does believe that there will be no change unless to challenge all the negative traditions and practices that fundamentalised the society, which was further reinforced by three decades of civil war. There are strong challenges toward making human rights a reality in this country, but there are commitment and promises among each and individual Afghans that gives hope and feed more confidence to the newly established Afghan Independent Human Rights Commission.

ACTIVITIES FROM JUNE 2002 TO OCTOBER 2003

Genesis and Function:

Discrimination, arbitrary arrest, torture, oppression, persecution of women and minorities, forced migration and displacements, summary executions and massacres, environmental degradation, and factional fighting always leaving behind civilians as victims, were evident features of over two decades of Afghanistan history. The prevailing culture of violence, war economy, and war lordism, in addition to the scourge of poverty and inadequate access to education and health facilities, were contributing factors to the deterioration of the human rights situation in the country.

The Bonn Conference was a turning point in the contemporary history of Afghanistan. Launching a transition process, the Bonn Agreement highlighted a number of specific and strong human rights clauses binding on the authorities in the transitional period including securing political participation of women, international human rights standards, and establishment of an independent human rights commission.

The Bonn Agreement Emphasizes that:

There is to be a human rights commission established in Afghanistan

The Commission is to be independent

The Commission is to be established by the Interim Administration.

The United Nations is to assist the Administration in the establishment of the Commission The functions of the Commission will include:

Human rights monitoring

Investigation of human rights violations

Human rights institution building.

Article 15 of the Decree signed by Mr. Karzai highlights:

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

The Bonn Agreement provides that:

The Interim Administration shall, with the assistance of the United Nations, establish an independent Human Rights Commission, whose responsibilities will include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions.

Process leading to the establishment of the Independent Human Rights Commission A series of national human rights workshops, based on the provisions of the Bonn Agreement, were initiated by UNAMA. These started on 9 March 2002 in Kabul, where over 80 Afghans human rights activists and experts, lawyers and judges, aid workers, recognized individuals with human rights experience-attended, as well as representatives of the interim administration, civil society institutions, and urban and rural communities. Mr. Karzai, Chair of the Interim Administration, Mrs. Mary Robinson, High Commissioner for Human Rights, and Mr. Lakhdar Brahimi, the UN Special Representative inaugurated the workshop, while Dr. Sima Samar, Minister of the Women's Affairs and the Human Rights Focal Point, was chairperson.

The National Workshop on Human Rights substantially focused on the establishment of an independent human rights commission based on a number of guiding principles and a two-year action plan for the following programmes:

Establishment of an independent human rights commission.

Development and implementation of a national programme of human rights education.

Strategies for human rights monitoring and investigations.

Approaches to transitional justice and addressing the abuses of the past.

Advancing the human rights of women. From 9th March till 25th May 2002 a series of workshops and consultations on the above-mentioned topics were conducted by UNAMA and Afghan individuals with human rights experience. At the final workshop, a draft decree for the establishment of an independent human rights commission and recommendations for an action plan were developed. Eventually the Commission came into being on 6th June 2002 through a decree issued by Mr. Karzai, Chair of the Interim Administration. The decree is annexed to this report. (please refer to annex I.)

AIHRC starts operation:

The Commission has faced many challenges, and naturally the most obvious one was the building and development of the institutional. But before doing so, the Commission was tasked to observe the course of Emergency Loya Jirga .

The Commission work was mainly focused on administrative and logistical issues in the first six months of its establishment. The Commission was able to sign the project support document with UNAMA/UNDP on 28 October 2002.

The Commissions immediate needs were:

- a) finding an appropriate office space;
- b) recruitment of qualified staff;
- c) developing rules and regulations for effective functioning of the Commission;
- d) capacity building of the new staff;
- e) setting up satellite offices (seven offices), and ;
- f) reviewing the already developed action plan and strategic planning.

What officials think of the AIHRC in the course of the opening satellite offices:

It is very good to have human rights offices everywhere to have deterrence for those violators, who are still in power, to KNOW that they are closely watched by an independent body, which would definitely decrease the patterns of violation at the national level.
Haji Din Mohammad Governor of Jalalabad

We expect that the AIHRC will investigate the cases of mass killings of our people happened in Yakaulang, and effectively address the injustice of the past and mis-treatment of our people. Sadly those known criminals are still enjoying impunity. Mohammad Rahim Aliyazada Governor of Bamyan

a) Finding an appropriate office space: The Commission was provided a temporary office space in the first floor of the guesthouse of the Emergency Loya Jirgah in Shashdarak. For over a month the

b) Commission continued to work there, but it was realized for various reasons it was unsuitable. Fortunately the Commission was able to find a suitable office compound in Kart-e-Seh sometime in late August 2002. c) Recruitment of qualified staff: The Commission recruited 264 staff by end of March 2003, including programme and support staff, through short-listing and interview procedure, for the headquarters as well as the satellite offices. Please refer to the Commission structure as annex II. d) Developing rules and regulations for effective functioning of the Commission: The Commission not only worked to develop its charter and the Commissioners ToR, but working on staff rules and regulations as well as administration and finance guidelines. e) Capacity building of new recruited staff: Another challenge was to build the capacity of the new staff to effectively deliver human rights services. The Commission undertook the following activities:

Conducted a series of orientation workshops on how the commission operates with particular focus on the Commissions working policy, strategy and culture.

Complementary human rights training workshops in Kabul and satellite offices.

Establishment of a resource centre in the headquarters.

Organizing a specialized training workshop on transitional justice, in which the Commissioners also attended.

Participating in national, regional (Bangladesh, India, Nepal, Pakistan, and Thailand) and international forums Ireland, Italy, Japan, Norway, Sweden, Switzerland, UK, USA, and Uganda.

Accounting and finance training for AIHRC finance staff.

Management, accounting and finance training workshops for the satellite offices staff.

f) Setting up satellite offices:

The Commission opened seven satellite offices as follows:

1. In Herat on 19 March 2003
2. In Bamyan on 25 March 2003
3. In Mazar on 25 March 2003
4. In Jalalabad on 5 April
5. In Gardez on 5 May 2003
6. In Kandahar on 8 May 2003
7. In Badakhshan on 16 May 2003

All satellite offices include units covering women's rights, children rights, human rights education, monitoring and investigation of human rights, and transitional justice.

The opening of seven satellite offices has effectively expanded the coverage and accessibility of the Commission to the people, who are victims or subject to suffering of human rights violations and war crimes. Each satellite office services the surrounding region. However, to be fully accessible further outreach activities are necessary. As it is not feasible at this time to open new offices, a system of human rights focal points is being put in place.

g) Reviewing the already developed action plan and strategic planning: The Commission was very appreciative of the action plan developed in the course of the National Human Rights workshops. However, the Commission by early 2003 realized that it would benefit from review due to the ambitiousness of the plan, patterns of change in the social dynamics, logistical and administrative limitations, and the AIHRC capacity for delivery of human rights services.

"Even if we are not able to enjoy our rights, but at least there is a place to talk and be listened about our troubles and violations against us. That place is indeed the AIHRC office."

A local person attending inauguration of an AIHRC satellite office.

Therefore a new round of strategic planning began in March 2003. In the course of strategic planning four satellite offices were functioning and were actively involved . The strategic planning was focused on:

Assessment of priorities and needs of recruited staff/satellite offices Redefining the Commissions programmatic intervention to be achievable and applicable

Review the structure and management

Develop a practical and realistic action plan for the AIHRC for the coming 12 months.

Please refer to annex III for the strategic plan and action plan.

Constitutionalisation of the Commission:

The Decree establishes the Commission for 2 years, and under the article 15 of the Decree the Commission is mandated to make a proposal and plan to the Constitutional Commission and Constitutional Loya Jirga for its transformation into a permanent, constitutional commission in conformity with the UN Paris Principles on national human rights institutions.

The Commissions views on the peculiarities of a post-war situation and the troubles associated with them were shared with the Constitution Commission, and should be and reflected in the New Constitution.

Besides suggestions and recommendations on how to incorporate human rights values and principles into the new Constitution, the Commission proposed the following article:

Article:

The Independent Human Rights Commission is established for promotion and protection of human rights situation in Afghanistan and mandated to:

Promote and monitor human rights and investigate human rights violations and abuses

Develop a national curriculum on human rights

Provide suggestions and corrective measures for the betterment of human rights in the country based on the international human rights principles and standards

The Commission is comprised of 11 people, from whom at least 4 commissioners are Afghan women. The President appoints the commissioners and a Chair for the Commission. The State shall provide sufficient financial resources as well as secure and safe working environment to the Commission.

The Commission shall, based on its charter and rules and regulations, manage its financial, administrative and managerial affairs

THE COMMISSION AND THE HRS CHALLENGES:

The existence of private armies, private jails and detention places, rampant corruption in governmental offices and institutions including the police and court offices, and resistance to reforms remain obstacles to both state and nation building processes.

The Commission has been very keen to deliver human rights services in professional and effective manner. It was realized without committed, knowledgeable, and skilful staff, this will not be achieved.

The Commission therefore invested its time on staff capacity building, developing rules and regulations as well as internal policies, and strategic planning. The staff capacity building programme is an ongoing process, as the Commission believes the more clarity in the vision and mandates of the AIHRC amongst the staff the more fruitful and effective their initiatives on HRs relevant issues.

The Commission, as a new national human rights institution in Afghanistan, had to tackle the donor communities' expectations and high demands from the general public on effective delivery of human rights services. With the belief that quality works come from quality staff, the Commission, with a commitment to strengthening its staff's skills in HRs activities, implements five programmatic interventions for practical protection and promotion of human rights:

Women's rights

Child Protection

Human rights education

Monitoring and investigation of HRs

Transitional justice The Commission carried out various awareness raising activities.

Right from the outset of its activities, the Commission realized that unless the people are aware of their rights, as well as their obligations, and are taking active roles in achieving and fulfilling them, it might be very optimistic, or even unrealistic, to expect tangible outcomes from its investments in promoting and protecting human rights.

By appreciating the proverb an ounce of prevention is worth a pound of cure the Commission advocated that pro-active roles to be given to the people. In doing so the Commission not only focused on general human rights concepts, values, and standards, but also on skills to be transferred to the people. Awareness raising programmes covered all sectors of people at various levels. Working simultaneously with communities, governmental institutions, aid agencies, civil society set ups and youth groups, as well as educational institutions have become a priority for the Commissions protective measures.

Monitoring the situation of HRs and investigation of the cases of HRs abuses

This unit works in two disciplines, Monitoring and investigation of the cases of HRs violation.

This unit has been mandated to protect the human rights through, first, immediate stepping, i.e., investigation of the cases of HRs abuses reported by complainers or by mass media, NGO or other means. Secondly, monitoring the situation of human rights, where the liberty of people have been denied, restricted, and or violated such as the police custody, detention centers, prisons, and juvenile prisons. This unit is also operative in each of the satellite offices.

Monitoring the HRs situation

The commission monitoring staff in the headquarters, and in the satellite offices have monitored the prisons and detention centers once a month in the provinces where the offices are located in, and once or twice the prisons in other provinces since their establishment, The commission so far have monitored 192 prisons, 62 detention centers and 7 juvenile prisons in 20 provinces of the country. The staff visits some of the jails and detention centers several times. These visits include male and female prisons, female detention centers and female juvenile prisons. The prisoners have been visited individually at the absence of the prisons officers. The AIHRC monitoring staffs also has checked precisely the register books of the prisons and the number of existing prisoners. The aims of this monitoring are:

to advocate the prisons situation in terms of providing standard accommodation space per prisoner, and access to food, health and sanitation facilities;
the prisoners access to their relatives and their attorney advocators; the mechanism of defending themselves;
the facilities of rehabilitation of prisoners;
establishment of an appropriate registering system within the prisons, and
in the long run, to prevent the arbitrary detention and protect the rights of the people.

Most of the findings of the visits and recommendations have been shared with the prison authorities, the local governors and the ministries of justice and interior for the corrective measures.

In addition to the regular monitoring of prisons, the commission has monitored the status of freedom of speech, and status of women and children. The commission took practical steps in monitoring the violation took by police ill-treating the rally arranged of the university students in Kabul in November 2002 that the consequence was killing 4 students and 32 injured. The commission made a statement in this regard and condemned the act of police. Similarly, the commission monitored the series of intimidation of journalist and released its official statements about the intimidation of Ahmad Bihzad, the Radio Liberty reporter, Zuhoor Afghan, Syaed Mir Hussain Mihdawi Chief Auditor of Aaftab weekly. The commission also released various statements on the cases of forcibly repatriation of Afghan refugees from UK and killing of Afghan soldiers at the front of US Embassy in Kabul. .

In terms of monitoring the legislation process, the commission reviewed the penal code of Afghanistan and made suggestion, based on the provision of the ICESCR and ICCPR that Afghanistan has already ratified them, to the Judicial Reform Commission.

Most of the results of the commission monitoring activities have been published in Hoquq-i-Bashar magazine, the monthly journal of AIHRC. The commission delegates contributed into the governmental missions, who were commissioned to monitor the situation of prisons and prisoners in some part of the country. The commissions' delegates prepared their monitoring reports separately according to their own findings, which were submitted to relevant authorities or partly published in the periodical journal of the commission.

b) Investigation of HRs violations

This section is receiving complaints in the headquarters and in the satellite offices. During the first year of the commission operation, over 2000 Complaints have been registered, which comprise of 1323 cases of violation. 480 Complaints have been handed over to the Transitional Justice unit of the commission. More than 365 Complaints have been processed and forwarded the cases to appropriate government offices for conciliation. 48 cases have been negotiated with the relevant court and finalized the cases, and 19 cases have been followed up when refereed to the governmental offices. Other complaints were required to be investigated in the field, but due to security constraint, remained pending.

The commission also could release about 400 prisoners who were innocent and have been detained arbitrary or miss-suspects.

However, the commission has investigated several explicit cases of HRs violation in several provinces. The case of bulldozing the private market inn belonged to Hazara inhabitants of Helmand in Lashkergah city by the local authorities under the pretext of implementing the city master plan, the case of offensive actions towards a Pashtun residence village belonged in Badghis province

by Jahadi Militias of Ismail Khan, the case of killing civilians in Dar-i-Souf, Samangan province was another tragic incident caused by factional fighting was seriously investigated by the AIHRC joint team from Kabul and Mazar.

For safe and secure return of Pashtun IDPs, who were forcibly displaced from their villages by local non-Pashtun armed people, a Return Commission was formed. Many stakeholders, UNHCR, UNAMA, AIHR C, and local authorities in the North have a representative in the Return Commission. In the ToR of the Return Commission, based on the suggestion of the AIHRC, strong emphasis was on HRs principals and International Humanitarian law.

Human Rights Education: The Commission plays a vital role in developing a national human rights curriculum. This would not only include schools, but universities, national police and army.

The Commission was closely working with the Ministry of Education to revise the current teaching texts of primary, secondary, and high schools. The Commission has a strong belief on the statement to build a country; its nations or people should be first build. The sooner human rights concepts, values, principles, and standards are incorporated into students teaching curriculum, the more likely they are to become second nature to them paving the way for replacing culture of violence with culture of human rights, peace, tolerance, and coexistence, where dialogue and celebration of diversity are commonly practiced.

In particular militarization of education system in the last two decades of power struggle in the country, where basic math was practiced with counting dead soldiers and Kalashnikov rifles and burnt villages. This has not contaminated the minds of pupils with violence and aggressive approaches, but further damaged the teaching methods, where corporal punishment perceived an accepted norm. Sadly some traditions and local beliefs have been contributing factors to violent behaviors demonstrated by school administrations and teachers.

By realizing the above-mentioned challenges the Commission focused on: a) revision of the existing teaching curriculum and development of a new one; b) introduction of new teaching methods through guidelines and manuals to be participatory and student-centered, and; c) capacity building of schools teachers and human rights educators.

Extensive work has been done in translation of international treaties and conventions into local languages. Various books on international conventions, particularly on women and children, are published and widely distributed in Kabul and in the provinces.

Celebration of the Human Rights Day, 10th December 2002, was a significant achievement for the new born Commission, in which the first publication of the Commission, as a newsletter, was introduced and distributed but the foundation stone for a human rights monument at the Kabul University compound was jointly laid by Mr. Karzai, Chair of TA, Mr. Brahimi, SRSG, and Dr. Sima Samar, Chair of AIHRC.

Based on the socio-cultural peculiarities and peoples belief the Commission is very keen to contextualize its approaches and ways of interventions in human rights awareness raising programmes.

To achieve this, the Commission has realized that the human rights values and principles to be applicable first should be understandable, digestible, and acceptable to the people.

Various human rights workshops and seminars were held in Kabul and provinces, where a diverse group of participants - ranging from students to teachers, university instructors, journalists, government employees, community representatives, youth groups, civil society and cultural institutions, police and army officers, and women groups attended.

The awareness raising and capacity building programmes for human rights covered different topics and issues related to human rights promotion and protection. A wide range of workshops on basics of human rights, HRs and peace, journalism and HRs, education and human rights, HRs and constitution, our basic rights and our HRs, media and HRs, Culture and HRs, and HRs international instruments were conducted.

The participants would not only receive, in the course of these workshops, handouts and publications of the Commission, but also given a list of resources and references on human rights issues.

As a tangible outcome of the HRs training workshops with media and journalists now various local newspapers have allocated a column or two for HRs issues awareness as well as violations and abuses in addition to their editorial commentary. Works of many such newspapers received appreciation from the Commission.