

REPORT FROM NPWJ MISSION TO AFGHANISTAN, 16-21 JULY 2007

Background

In 2005, No Peace Without Justice (NPWJ) was mandated by the Afghan Independent Human Rights Commission (AIHRC) to provide technical assistance on their program to document human rights violations and violations of the laws of war. As part of that mandate, in December 2005, NPWJ conducted an initial training workshop in Kabul for the staff of the AIHRC working on this issue on how to collect and organise information required to do conflict mapping and, to a more limited extent, how to analyse that information, with a view to identifying those who bear the greatest responsibility for the crimes committed in Afghanistan as a whole. Following that training, the AIHRC Conflict Mapping Program was launched on International Human Rights Day (10 December) in 2005. Since then, the AIHRC has held two internal evaluations of the conflict mapping work and requested that NPWJ undertake an external evaluation of the work to date, to make specific suggestions and recommendations and to assist the AIHRC in refining its plans for the remainder of the Conflict Mapping Program.

In that context, No Peace Without Justice, in partnership with the Afghan Independent Human Rights Commission and in cooperation with Human Rights First, undertook a mission to Kabul from 16 to 21 July 2007. The purpose of the mission was twofold: (1) to provide an assessment of the conflict mapping work undertaken by the AIHRC since the first training in December 2005; and (2) to provide a refresher workshop on specific aspects of conflict mapping for which further training was required, as identified before and during the workshop. As such, the workshop addressed all aspects of the conflict mapping work being undertaken in Afghanistan, including its overall objectives; the gathering, storing and organisation of information; factual analysis; and, briefly, legal analysis. The workshop was conducted in a highly participatory manner, with the staff of the AIHRC taking the lead on the identification of areas in which further guidance and/or solutions were required.

Objectives of the Conflict Mapping Program:

The objective of the Conflict Mapping program are important to bear in mind when assessing the work to date and identifying recommendations to improve the process in the future, as the objectives have a direct impact upon the methodology of the work. The objectives of the conflict mapping program of the AIHRC were identified as the gathering and analysis of information related to the conflicts in Afghanistan from 1978 to 2001,¹ with a view to identifying those who bear the greatest responsibility for violations of the laws of war committed during that time. This feeds directly into the overall objectives for the work, including providing a measure of accountability for the victims (particularly since the amnesty law may prevent this from taking place “officially”, at least in the short term); establishing an historical record; strengthening the rule of law; identifying persons who should be barred from public office (“vetting”); and as a means to advocate for and work towards criminal justice and other accountability measures for violations were committed in Afghanistan during the identified period. These objectives were identified as stemming directly from the Afghan Constitution, the law establishing the AIHRC and the Action Plan for Peace, Justice and Reconciliation.

This report aims to highlight some of the main strengths and challenges of the AIHRC Conflict Mapping Program and offer some possible ways forward, some of which were identified directly during the workshop. It does not focus on dealing with specific challenges that were discussed during the workshop, such as gathering information about sexual offences, but instead seeks to identify general, overarching challenges and potential ways they may be addressed.

¹ The Conflict Mapping Program has broken this long period into three distinct phases: (1) the Soviet era; (2) the Mujahadeen era; and (3) the Taliban era. During the workshop, it was stressed that this breakdown is primarily useful for the factual analysis, not to provide strict guidelines for interviews, which instead should be free-flowing and covering all periods rather than conducted on the basis of well-defined time periods.

Strengths of the AIHRC Conflict Mapping Program

The main strengths of the AIHRC Conflict Mapping Program are the dedication, skills and abilities of the AIHRC staff working on this issue, their geographical spread and their ability to work from AIHRC offices throughout the country. This is of critical importance to the success of the program as a whole, since local knowledge is an essential component of the process, to ensure that the chronology of events is correct, that nothing major has been overlooked and that there are no major errors in the factual analyses. This is a strength that should be capitalised upon and further developed, including through assigning additional staff from each district to work on the project (which is being done) and working more closely with local actors, including human rights activists and persons of importance in their area, where possible.

Challenges and their solutions

Several challenges were identified in relation to fact-gathering on the one hand and the process of factual analysis on the other hand,² relating both to external and internal factors, which can be broadly grouped as follows:

- security concerns, for people who could give information and for those working on accountability for past violations, particularly given the possibilities that some people allegedly responsible for those violations now hold positions of power and authority;
- unfavourable or uncertain perceptions of people from whom information is sought, including in relation to the AIHRC itself, the Conflict Mapping Program and other external factors such as the impact of the amnesty law on the utility of the work: a lack of understanding about the mandate of the AIHRC and its work inhibits people's willingness to give information about painful events in the past, particularly when those responsible for those events continue to occupy positions of power and authority;
- lack of available evidence or information regarding violations (including a lack of physical evidence or inability to access it and an inability to obtain information on sexual offences) and regarding command structures of the various fighting forces;
- lack of cooperation from civil society and government;
- lack of resources, in terms of human resources and time, to implement the whole Conflict Mapping Program (from fact-gathering to legal analysis) before June 2008,³ particularly since Afghanistan is a large country and the Conflict Mapping Program aims to cover a time period spanning nearly 25 years.

Some of these problems are external factors lying outside the direct control of the AIHRC: security considerations, for example, need to be taken into account when developing and implementing working methodologies, but are not issues that can be solved by the staff of the AIHRC. Nevertheless, many possible solutions to the above-mentioned problems were already identified for immediate implementation, while other solutions require a longer timeframe to conceptualise and implement fully.

Proposals for implementation within current methodological framework

The main overall recommendation is that **more time and effort needs to be devoted to outreach**,⁴ i.e. engaging people in two-way interaction about both the AIHRC and its Conflict Mapping Program. The AIHRC has designed and implemented effective outreach strategies concerning all areas of its work; however, from the discussions that were held during the workshop, it seems that more outreach is needed on transitional justice generally and the conflict

² While challenges relating to legal analysis were also identified, there was insufficient time to discuss those issues in any detail. Following the departure of the NPWJ team, the AIHRC was planning to continue the workshop with two days specifically devoted to legal analysis, during which it is anticipated that challenges and solutions were identified. While the NPWJ team was not present and therefore those discussions do not form part of this report, it is hoped that this report together with the report from the additional two days on legal analysis can combine to provide an overall picture for the way forward for the AIHRC Conflict Mapping Program.

³ The Action Plan foresees the conflict mapping work being concluded by June 2008.

⁴ The NPWJ team did not see the outreach strategy of the AIHRC or the Conflict Mapping Program, but is more than willing to provide comments on such a strategy, if that would be useful.

mapping work in particular, especially in light of the current (and changing) circumstances in relation to transitional justice, including developments concerning the amnesty law. The AIHRC's outreach work is critical to the success of the conflict mapping program as a whole, particularly in terms of the people of Afghanistan feeling part of the work and to maximise the ability of the work itself to act as an accountability process, as well as fostering cooperation with civil society and government and reducing direct security threats to the staff of the AIHRC.

The main recommendation in relation to fact-gathering is that the Conflict Mapping Program should focus on **obtaining as much information as possible from as many sources as possible**. In this respect, finding creative ways of obtaining information (for example through informal discussions during social interactions) is a positive example of an approach that has already been adopted. It was underscored that such creativity can provide the flexibility needed to work around security challenges, which are beyond the immediate control of the staff of the AIHRC. At the moment, however, there is a tendency to focus too much on obtaining information from eye-witnesses or victims of particular incidents. While this can be a good way of obtaining useful information, several factors need to be weighed before proceeding with this approach, including the need to avoid re-traumatisation,⁵ the time it will take to find such interviewees and the possibilities of obtaining information from other sources. Open sources can also be a useful way of supplementing information gathered directly in the field, particularly in relation to command structure and chain of command information. In addition, it may be helpful in some circumstances to seek information from refugees and other Afghans currently living outside the country. This supplementary fact-gathering may be able to be accomplished by developing partnerships with civil society organisations in relevant locations.

The ability of the staff of the AIHRC to undertake successful factual analysis depends heavily on there being a large amount of information to draw upon, which must be organised in the database in such a way as to enable easy and quick retrieval and comparison. In this respect, it is critical that AIHRC staff undertaking factual analysis have access to a **fully-searchable and comprehensive database** that contains all the information gathered in the course of the work. The database is an essential tool in undertaking factual analysis and it is critical that analysts have access to pooled information from each and every district in order to put together a complete picture of what happened during the conflict. While recognising the challenges this presents in terms of data security, it is necessary to develop a protocol according to which there is regular information-sharing throughout the country. It would also be useful for there to be a **review of the database** to ensure that it is responsive to the needs of those entering and retrieving data, for example by holding an intensive "database review workshop" to identify problems and solutions.

Proposals for adjustments to methodological framework

One of the main challenges identified, namely time and human resources, requires a longer-term approach, to bolster the strengths of the AIHRC Conflict Mapping Program and to provide greater access to those with experience in conflict mapping in other situations, which workshop participants identified as a regular need. To that end, there are two possible solutions that could assist, which require further discussion and conceptualisation:

- (1) **Increasing the number of people working on the AIHRC Conflict Mapping Program:**
The AIHRC is already allocating an additional person per district to the Conflict Mapping Program, which will be very useful in bolstering human resources. However, given the timeframe foreseen for completion of the project (i.e. June 2008), there is a need for a far greater injection of people working on this project. There are two possible ways in which this can be done: first, increasing links with civil society working on transitional justice issues and establishing partnerships in the gathering of information; and second, tapping into pre-existing networks (such as that established for the election

⁵ "Do no harm" is the main principle underlying the work of the AIHRC Conflict Mapping Program: while many people find it cathartic to talk about what happened, an important aspect of implementing this principle is to recognise when victims and witnesses are not ready to relive what happened and/or where the risks of further damage are too great, particularly given that currently there is no psycho-social support to which such victims and witnesses can be referred.

monitoring) to obtain overview information or a chronology of events in each district. Increasing the number of people working on fact-gathering would allow a saturation approach that would ensure that no piece of potential information is lost or overlooked and that a large amount of ground can be covered in a relatively short period of time. The people selected to work on this would need training on fact-gathering and could work under the auspices of the AIHRC staff working on conflict mapping in their area.

- (2) Providing longer-term conflict mapping experts: As was stated during the workshop, conflict mapping is a science but is also an art, which is developed through application and re-application. While the two workshops already held with the NPWJ team (in December 2005 and July 2007) were valuable, everybody recognised that there is a need for greater and more regular access to those with experience in conflict mapping, to enable challenges to be identified and solved as they arise. To this end, NPWJ would be willing to work with the AIHRC to identify two conflict mapping experts who could work exclusively on this project from the AIHRC Offices in Kabul for two or three months, to be on-hand to assist the staff of the AIHRC Conflict Mapping Program directly and to facilitate any necessary communications with other NPWJ staff abroad.

NPWJ remains available and willing to work with the AIHRC Transitional Justice Unit in further conceptualising and implementing these potential adjustments to the current methodological framework, as well as on any other way in which NPWJ's experience can be useful to the AIHRC Conflict Mapping Program.