

Royce Wiles

Trophy Libraries and Strategic Opacity

Information Management Challenges in the Afghan Legal Sector (2004–11)

In July 2004, Afghanistan's Independent National Legal Training Centre (INLTC) was established by a memorandum of understanding signed by the minister of justice (MoJ) of Afghanistan, the minister of higher education, the attorney general (AGO), the chief justice of the Supreme Court, head of the National Security Council (NSC), and the donor governments of Italy and the United States. It was set up as part of the larger push to foster the reconstruction of the country's judicial systems,¹ specifically for the enhancement of legal professionalism and strengthening academic, ethical and specialised professional skills for Afghan law institutions. The building for the INLTC on the campus of Kabul University (North Road) was built by the government of the Italy and furnished by the United States. Subsequently, pursuant to Presidential Decree Number 1564 on 9 June 2007, the INLTC officially became an independent component of the Afghan government. Funded by USAID, the Afghanistan Rule of Law Project (ARoLP), 2004–09, provided support for the centre and specifically for the library as part of the overarching project. In addition, the International Development Law Organization (IDLO) based in Rome provided support (including technical support for the hiring of staff, sponsoring training courses, etc.). The Supreme Court pulled out of the project in 2006, which reduced the utility of the project for raising national standards of legal education (the Supreme

Court wanted to have its own training centre).² The library was officially opened on 27 August 2008.³

There can be no question about the education and resource gaps the INLTC was meant to fill: a survey of training needs of judges by the Afghanistan Supreme Court in 2006 evidenced the need for better legal education, finding that 43 per cent of judges had not completed their training, while 36 per cent did not have sufficient access to laws.⁴ The fact that the Norwegian Refugee Council found it necessary to produce a land law manual for Afghanistan in 2005 (in English and Dari) also illustrates the wide experience of gaps in legal information.⁵

In terms of concrete achievements, the project provided the abovementioned new building on the edge of the campus of Kabul University for law lecturers and students and designed a curriculum for training. In terms of the management of legal information management, the project made two singular contributions: the associated ARoLP project to reproduce a complete set of Afghan laws (scanned

¹ 'New Law Library in Kabul and Number of Women Studying for High Court is Up', USAID press release, available at www.dd-rd.af/events/usaidd.pdf, accessed on 20 August 2011.

² 'IDLO Italian-Funded Projects (2005–2008) for Legal and Juridical Reform in Afghanistan: Evaluation Report', International Development Law Organization Monitoring and Evaluation Unit, August 2008, 32, available at www.idlo.int/DOCNews/277DOC1.pdf, accessed 20 August 2011.

³ 'Afghanistan's First Full-Service Law Library Opened', USAID, 27 August 2008, available at afghanistan.usaid.gov/en/Article.386.aspx, accessed 25 September 2010.

⁴ 'Judges Survey of Training Needs: Preliminary Report' Supreme Court, Kabul, 2006, 2.

⁵ Conor Foley, 'A Guide to Property Law in Afghanistan' Oslo, Norwegian Refugee Council, 2005.

versions as well as reprinted hardcopy sets) and the INLTC library.

A consistent gap in assistance, reconstruction and development initiatives in Afghanistan has been the undervaluing of the role of information management. The example of the INLTC highlights three issues: a systematic ignoring of the utility of information management; (unsurprisingly) poor coordination of any activities with an information provision role, and finally the underestimation of the specific information management challenges present in the Afghan context.

1. A GENERAL UNDERVALUING OR IGNORING OF THE UTILITY OF INFORMATION MANAGEMENT

I know of only four development or assistance programmes that have set up dedicated information management facilities in Afghanistan: the INLTC library, the Afghan Energy Information Centre,⁶ the health policy library set up by Management Sciences for Health (MSH) through the Rural Expansion of Afghanistan's Community-Based Healthcare (REACH) programme in the ministry of public health, and the library at the Independent Electoral Commission (IEC). Most other projects either ignore this area or assume that setting up a website with some downloadable documents fulfils the need for professional information management.

Local actors need to be consulted for the design of development and assistance projects, but a major hurdle is the level of knowledge that Afghan government officials, and those involved in designing projects, have of the technical aspects of information provision and organisation. Planners seem to be only rarely consciously aware of the advantages accruing from the provision of information management components for development or assistance projects. In the case of legal information, however, the gap was so fundamental it could not be ignored.

The INLTC project made a valiant effort but in the long run has not been able to find information professionals in Afghanistan to run its library. Of those working in development, few are aware of the inputs needed to set up, develop and run an information management facility. When this combines with the general and institutionalised inability seen in Afghanistan to share information, the result is a significant gap in the design of assistance projects. When the United Nations Development Programme (UNDP) was providing training for library staff at the Afghan Parliament, they advertised a training position for seven days to teach information management (specifying the use of overheads or PowerPoint). The

⁶ Learn more about this organization at www.afghaneic.com.

usual training period for a cataloguer in academic libraries is two years of hands-on training (after formal information management studies of some kind – either undergraduate or postgraduate). It is not possible to train anyone to enter standardised data for a library system in a week and expect it to work without considerable follow-up.

Judging by the information on the website of the INLTC library today (three years after its opening in 2008), there is still no library catalogue for the legal materials collection. Internationally no library would ever be opened without a functioning catalogue (even if only on cards). Setting up library software for Dari and Pashto materials certainly has its challenges, but they can be faced when taken seriously. This is a specialised task that needs adequate resources.

As with other projects – e.g., the IEC – once the INLTC was handed over to the Afghan government and salaries dropped back to national level norms, almost all the trained library staff left. The situation at the IEC was the same. The Asia Foundation had been the major donor and set up the IEC library with a custom-built three-language archival software system, which also listed the library materials. It was handed over (along with the virtual archive) in 2005. When I last saw it in action (in mid-2010), all the elements had been preserved, but not a single item had been added to the holdings; those staff members who had received library training left at the same time that the hand over to the government system took place.

2. POOR COORDINATION OR PURPOSEFUL MIS-COORDINATION?

The new INLTC building and library were set up on the campus of Kabul University less than 25 metres from two existing law faculties (and their separate libraries) with apparently no formal or informal coordination or discussion between these libraries or their donors. The issue of poor coordination for much development work in Afghanistan (and elsewhere) is both well known and long standing.⁷

Across the driveway from the INLTC, the Faculty of Law and Political Science at KU had a law library of approximately 1,500 titles, which had received funding from the Goethe Institut over two years for training

⁷ Nicholas Stockton, 'Strategic Coordination in Afghanistan' Afghanistan Research and Evaluation Unit, August 2002, available at www.reliefweb.int/sites/reliefweb.int/files/resources/F04F9B76A959E35CC1256C8B002E8D39-areu-afg-31aug.pdf. See also, 'Aid and Conflict in Afghanistan', International Crisis Group, 4 August 2011, 17 (on PRT-NGO coordination) available at www.crisisgroup.org/en/regions/asia/south-asia/afghanistan/210-aid-and-conflict-in-afghanistan.aspx.

and resources. The Asia Foundation had also made donations there (including one of the archival sets documenting the 2003 Constitutional Loya Jirga deliberations). The KU Faculty of Shari'a (the next building on the KU campus past the INLTC) had its library restored (at the same time as the INLTC was being set up) with funding from the IDLO in Rome (approximately 2,000 titles). Putting the resources of all three libraries together (even if only virtually) would have provided a stronger basis for legal education of all kinds at KU. Why didn't Afghan aid recipients attempt to at least limit the redundancy here?⁸ The usual answer is that the donors are providing the money and so donor activities and views drive the process. However, Afghan institutions must also take some responsibility.

A feature of Afghan society that may also play a role here and needs to be made explicit for donors is this: the practice of establishing status (ie, self-aggrandisement) by all manner of responsible individuals (be they senior officials, academics or bureaucrats). Status and the ability to make a good impression are key features of seniority in Afghanistan (as elsewhere), and the possession of a 'library' is sometimes seen as a way to do this. As a result, 'libraries' are set up which are visible but in effect non-functional. Almost every faculty at KU wants to establish an independent 'library', duplicating the activities and resources of the central library and starving it of funds.

I have seen Afghan ministries and other agencies establish or maintain a 'library' that looks good to local taste (large desks, gauzy tasselled curtains, gold lettered name plates, alpha-male furniture to sit on, etc), but those same agencies fail to resource, staff or train the 'library' workers professionally. I have coined the term 'trophy library' for these: they look like a library but in fact are usually only a meeting room containing books. In a development or reconstruction context the establishment of non-functioning libraries absorbs resources and does not further information management. Donors need to recognise these for what they are.

⁸ A similar example comes from the Ministry of Agriculture, Irrigation and Livestock (MAIL), which has five libraries on the one ministerial campus: a useful agricultural library donated by the Iranian government of approximately 5,000 textbooks and reference books (all in Persian); the surviving rump of the old ministry library in a small room with a hodgepodge of materials and a government staff member; the United Nations Food and Agriculture Organization (FAO) library set up to house all FAO publications as a national reference set; a small policy-focused NGO library set up to provide access to Afghanistan-specific material with one staff member; and finally the forestry department of the ministry requested a library, and USAID has supplied sets of English-language periodicals from US government libraries; the staff appointed could not decipher the titles, let alone list them or provide access to the contents.

3. SPECIFIC CHALLENGES

The example of the scanned set of the Afghanistan *Official Gazette* (prepared by the ARoLP project and donated in hard copy to the INLTC library) highlights another example of cultural or attitudinal disjunction between international and local actors: public access to government (and other) information can directly challenge the status quo and, therefore, entrenched systems of reciprocity and influence.

The ARoLP (USAID) project to set up the INLTC did excellent work over several years by scanning copies of all known laws to cumulate a complete set of legal materials. They also scanned earlier *Usul-namahs* and *Nizam-namah* (these traditional terms cover regulations, laws, decrees, etc.). The potential utility of public access to laws in controlling abuses of power, calling government agencies and individuals to account, etc., is presumably self-evident.

The set of scanned laws in PDF form was also produced as a DVD and hundreds of copies were given away to law libraries, judges, interested NGOs, etc., by the ARoLP. The DVD set had two HTML index pages, one Dari and one Pushto, with the clickable PDFs arranged chronologically by gazette number and indexed by title. Early in 2009 this arrangement of PDFs with index page was also handed over to the MoJ for posting on their website (www.moj.gov.af).

The materials appeared on the Dari and Pushto pages of the MoJ website in late-2009 but as a simple numerical list from 1–900, i.e., the titles of the laws were no longer present so users would now need to open each of the 900 links to locate any particular law. In other respects the index pages were identical to those of the ARoLP DVDs. Whatever the reasons for the loss of the titles, judging from the database as released on the MoJ website, access to the laws was hindered.

The MoJ did begin to supplement these files by adding new PDFs of laws as they were published. However, some laws never appeared, and sometimes merely a placeholder PDF was uploaded with no content, although it appeared to the casual observer that a law had been uploaded. This brief period of publicly available laws ended around mid-2010 when, with the re-design of the MoJ website, everything was taken down. As of late-2011, no laws had been added, but the entire *Official Gazette* backset was once again available.

The set of laws released as separate PDFs just mentioned was supplemented by a 'full-text' searchable database of all existing Afghan laws also prepared by the ARoLP and handed over to the ministry. This allowed searching of terms appearing in all the laws. It has not become available on the MoJ

website, and it is unclear if it is being updated or is even still available.

It seems that entrenched attitudes towards information provision within the Afghan state apparatus have come into play (here as elsewhere). The need to share, exchange and promulgate public information is (more or less) well established in other countries where open access to certain categories of government information is a foundation of democratic systems, since it promotes government accountability and is also one factor in limiting abuses of power and corruption. In Afghanistan, the reluctance to share documentation is assumed to be a legacy from the Soviet period, or earlier days, when little information was released. Donors are also guilty of omissions, and few of them have done anything to counter this tendency within Afghan government institutions, e.g., the Joint Coordination and Monitoring Board (JCMB) papers have similarly gone off-line in the past two years.⁹

There is an additional cultural feature at play here: in most cases, networks (personal, professional, etc.) are needed to get anything at all done when dealing with Afghan government agencies, be it getting the power supply (re-)connected to a house, a *tazkira* (Afghan identity document) re-issued, a driver's licence, etc. People need to call in favours or ask for assistance from well-placed relatives or acquaintances. The use of favours and influence (*wasita*) produces (at best) an implicit expectation of reciprocity. The idea of information sharing as a public good has little history in Afghan government agencies: the idea of anyone from the public sphere having the right to ask for, and receive, government information is new and challenging to the established system of reciprocal favours. Sharing information publicly is perhaps an affront to this system since it opens up ways for otherwise disempowered or non-influential people to call or hold powerful or influential people to account, particularly with regard to information about government decisions, financial or legal matters. It also has the potential to de-mystify the legal professions to some extent by making the text of laws, decrees, regulations and judgements available to all.

By having the ministry place the law PDFs on its website, the ARoLP initiative was showing that it

regarded free access to Afghan laws as a public right. However, this seems to have challenged the MoJ, and they removed all laws from the website with a re-design in mid-2010. The donor project ended, and control has returned to the MoJ. The earlier principles of less transparency have won out. Similarly the website of the president does not give access to any presidential decrees, nor does the website of the Supreme Court contain any records of their decisions.

I term this tendency of Afghan government agencies (and at times international donors) to hide or at least not release information 'strategic opacity'. By not releasing definitive statements, documents, budgets or minutes, they control the flow of information outward. In the ensuing murkiness, individuals and agencies are able to continue with existing systems and potentially existing abuses.

4. CONCLUSION

Acquiring, organising and making available information sources are specialised tasks. The value of information management as part of development and assistance projects is poorly understood or resourced in Afghanistan (by both international and local actors). Institutionally, international agencies are only rarely able to conceive of information management needs as part of an overall development or assistance agenda. This is partly because in developed countries the work of information professionals is taken for granted and is therefore mostly invisible, in much the same way as universal literacy, street-lighting, all-weather roads, public open spaces, etc. Afghan decision makers do not seem to value or have experience with functioning knowledge management systems and tend to consistently devalue or de-prioritise them.

Only sustained pressure from donor agencies toward greater transparency, organisation of information and public accountability coupled with consistent and informed grass roots demands for access to information can push against the tendency of Afghan government and other agencies to continue to prevent public access to information.

⁹ 'The Joint Coordination and Monitoring Board (JCMB) is a high-level governing body established in 2006 to provide overall strategic coordination of the Afghanistan Compact. . . . It aims to ensure greater coherence of efforts by the Afghan government and the international community to realize the goals set forth in the Compact.' From the 'A to Z Guide to Afghanistan Assistance', Kabul, AREU, 2011, 40.

ABOUT THE AUTHOR: ROYCE WILES

Royce Wiles, librarian at the Afghanistan Research and Evaluation Unit (AREU), has worked with libraries and the like in Kabul since 2003. Prior to that he worked in the library of the Australian National University and the Australian National Library. Since 2004 he has produced more than thirty issues of the quarterly *Afghanistan Research Newsletter* in an attempt to promote the use of new research and resources on Afghanistan.

ABOUT THIS CHAPTER

This chapter is part of a larger volume called *Snapshots of an Intervention: The Unlearned Lessons of Afghanistan's Decade of Assistance (2001–2011)*, edited by Martine van Bijlert and Sari Kouvo. The volume is a collection of 26 short case studies by analysts and practitioners, each with long histories in the country, who were closely involved in the programmes they describe. The contributions present rare and detailed insights into the complexity of the intervention and, in many cases, the widely shared failure to learn necessary lessons and to adapt to realities as they were encountered.

The chapters and full document can be found on the AAN website (www.aan-afghanistan.org) under publications.

ABOUT THE AFGHANISTAN ANALYSTS NETWORK (AAN)

The Afghanistan Analysts Network (AAN) is a non-profit, independent policy research organisation. It aims to bring together the knowledge and experience of a large number of experts to inform policy and increase the understanding of Afghan realities.

The institutional structure of AAN includes a core team of analysts and a network of regular contributors with expertise in the fields of Afghan politics, governance, rule of law and security. AAN will publish regular in-depth thematic reports, policy briefings and comments.

The main channel for dissemination of the reports is the AAN web site. For further information, please visit www.aan-afghanistan.org.