



## International Covenant on Civil and Political Rights

Distr.: General  
21 August 2012

Original: English

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### Human Rights Committee

#### **List of issues prior to the submission of the third periodic report of Afghanistan (CCPR/C/AFG/3) adopted by the Human Rights Committee at its 105th session, 9-27 July 2012\***

##### **General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

1. Please provide information on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national level that have taken place since the previous periodic report. Please also provide information on the extent to which provisions of the Covenant have been applied by domestic courts, as well as on measures adopted to disseminate the Covenant among judges, lawyers and prosecutors.
2. Please provide information on significant political and administrative measures taken since the previous report to promote and protect human rights under the Covenant, and the resources allocated thereto, their means, objectives and results.
3. Please provide any other information on measures taken to disseminate and implement the Committee's previous recommendations (CCPR/C/AFG/CO/2), including any necessary statistical data.

##### **Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to additional previous recommendations**

##### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

4. Please describe the measures adopted (a) to strengthen the independence of the Afghanistan Independent Human Rights Commission (AIHRC) and its effectiveness by providing adequate funding; (b) to guarantee the respect for due process in the selection and appointment of AIHRC members to ensure the legitimacy and credibility of the process, as well as the stability of their mandate in accordance with the Paris Principles and (c) to

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\* The present list of issues was adopted by the Committee at its 105th session, according to the new optional procedure established by the Committee at its ninety-ninth session. This new procedure consists of the adoption of lists of issues by the Committee, which are transmitted to States parties prior to the submission of their periodic reports. The replies from States parties to these lists of issues will constitute their periodic reports under article 40 of the Covenant.

ensure the safety of all commissioners of AIHRC and protect their role and work as human rights defenders;

**Non-discrimination, equal rights of men and women (art. 2, paras. 1 and 3)**

5. Please indicate which legislative and other measures have been taken to combat widespread discriminatory practices based on sex, sexual orientation, religion, ethnic, tribal, family and political affiliation.

6. Please state the measures being taken to improve (a) women's participation in the political, economic and social spheres of life in the country; (b) levels of employment among women, including the proportion of women in senior positions both in the private and public sectors and (c) the literacy and school enrolment rates for women and girls as compared to those of men and boys. Please indicate the measures which have been taken to bring an end to all traditional discriminatory practices and stereotypical attitudes about the roles of women and men in the family and society which impair the equal enjoyment of rights by women and men.

7. Please inform the Committee on how the State party envisages to bring in line the 2009 Sharia Law with the Covenant, especially on the following issues (a) to enable Shia wives to inherit houses and land from their husbands, in the same way as husbands can inherit them from their wives; (b) to allow Shia women guardianship rights; (d) to abolish the practice of treating virginal women as legal minors irrespective of age and the requirement of approval by a "guardian" before she can marry; (e) to remove the legal obligation for a woman to accede to the sexual demands of her husband; (g) to remove the restrictions to woman's mobility, including the right to leave her house; (h) to prohibit the forced marriage of girls. Please also report on the steps taken to bring customary law and practices into line with the rights laid down in the Covenant, including with regard to the practice of giving girls in marriage in compensation for a wrongdoing.

8. Please provide information on the number of women prosecuted and punished for *Baad* (giving a girl to another family to resolve a dispute), for *Baadal* (the exchange of daughters between two families for marriage), for running away after forced marriage, or for *Zina* (sexual intercourse by two individuals who are not married to each other) in the last five years, and the basis upon which they were punished.

9. Please indicate what measures have been taken to implement the National Strategy for Children with Disabilities (2008) and the Law on the Rights and Privileges of People with Disabilities and Martyrs' Families (2010). In particular, describe the actions taken to guarantee that children with disabilities are not exposed to violence or neglect, to prevent the institutionalization of persons with disabilities, and to ensure access to education for persons with disabilities.

**Right to life, prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)**

10. Please provide information, from 2007 to date, on the number of death sentences imposed, the number of executions carried out, the grounds for each conviction and sentence, the age of the offenders at the time of committing the crime, and their ethnic origin. Please indicate whether the State party intends to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and to formalize the current de facto moratorium on the death penalty.

11. Please indicate the measures taken to protect civilians against death and injuries; to prevent the intrusion into their daily lives by the armed conflict; to ensure that allegations of violations perpetrated by any party to the conflict are investigated in a transparent, timely and independent manner; and to guarantee that perpetrators of those violations are brought to justice. Please provide information on the actions taken to establish an official register for

recording the number of victims of civilian casualties committed in the context of the internal armed conflict.

12. Please report on the measures taken to criminalize domestic violence, and to prevent and punish any form of violence against women and girls. In this regard, please specify the actions taken to guarantee the implementation throughout the country of the “Elimination of Violence against Women Law” adopted in August 2009. Please also specify if the State party envisages adopting legislation clearly criminalizing rape of boys and sexual harassment.

13. Please provide information on (a) the total number of cases of alleged torture and cruel, inhuman or degrading treatment on the part of police officers, prison officials and members of the intelligence agency that have been investigated since 2005; (b) the outcome of these investigations and the action taken against those found guilty; and (c) the measures taken for the rehabilitation and compensation offered to victims. Please clarify whether medical doctors in places of detention are independent from penitentiary management, and indicate what steps have been taken to introduce a zero tolerance policy towards the use of torture by the intelligence agency, the police force and prison officials, on detainees, including children.

14. Please indicate the measures taken to implement the “Procedure for Regulating Activities of Private Security Companies in Afghanistan” that was approved by the Council of Ministers on 7 January 2008. Please also describe the steps taken to investigate, disarm and prosecute all private military and security companies (PMSCs) operating without licenses in the country and investigate all reported cases of incidents involving civilian casualties caused by private security contractors and, if unlawful, prosecute the perpetrators and ensure effective remedies for victims. What are the plans of the State party to establish an independent public complaints mechanism to which the local population and civilian international actors can submit complaints about violations committed by PMSCs?

15. Please provide information on the intention of the State party to include additional exceptions to the prohibition of abortion in cases such as pregnancies following rape or incest. Please indicate what measures have been taken to give women adequate information on contraceptive methods and the avoidance of unwanted pregnancies.

#### **Elimination of slavery and servitude (art. 8)**

16. Please report on the steps taken to prevent the trafficking of persons and to fully implement the 2008 Law on Counter Abduction and Human Trafficking, specifying the measures adopted to prevent and punish the sexual exploitation of girls and boys. Please also indicate what steps have been taken to extend the implementation of measures to assist the social reintegration of victims and to provide them with access to health care and counselling in all areas of the country.

#### **Right to liberty and security of person, treatment of persons deprived of their liberty (arts. 9 and 10)**

17. Please indicate what measures have been adopted to prevent arbitrary detention and to guarantee that persons subjected to illegal and/or arbitrary detention are able to report such violations and are afforded effective judicial redress and compensation. Please also indicate which steps have been taken to limit the legally prescribed maximum duration of police custody following arrest and pretrial detention, and to ensure that this duration is not exceeded in practice.

18. Please specify the circumstances and conditions under which night search operations or “night raids” are carried out by special operations forces and other government agencies. Please provide data on the number and on the civilian casualties resulting from such operations. Please describe the measures adopted to define clear lines of accountability, command and control for the Afghan National Army and the Afghan National Police.

19. Please provide information on the steps taken by the State party to guarantee the rights of all detained persons from the outset of their detention to access to defence counsel (including ex officio defence counsel); to access to independent medical examinations or an independent doctor; to inform a relative; and to be informed of their rights and to be promptly brought before a judge. Please indicate whether all persons detained are duly registered, immediately after their detention.

**Freedom of movement (art. 12)**

20. Please provide up-to-date information on the situation of internally displaced persons and the measures taken by the Government to address their predicament and find durable solutions to their displacement.

**Right to a fair trial (art. 14)**

21. Please clarify how the right to a fair trial is respected and guaranteed in practice. Please report on steps taken to improve the administration of justice, including the execution of court decisions, and the human and material resources in the justice system.

22. Please describe the strategies adopted to prevent corruption and to ensure the accountability of judges, prosecutors, prison officers, members of the police, and other members of judicial authorities. Please also provide information on the steps taken to investigate and prosecute such cases of corruption, and to ensure the independence of judges.

**Freedom of religion and belief (art. 18)**

23. Please provide information on steps taken to ensure that registration of religious organizations is based on clear and objective criteria that are compatible with the obligations of the State party under the Covenant. Please also provide a list of officially recognized religious institutions, the number of non-Muslim places of worship licensed to operate, and the status of persons practicing religions other than the Muslim religion. Please comment on allegations concerning the punishment of apostasy.

**Freedom of opinion and expression, and freedom of assembly (arts. 19 and 21)**

24. Please provide information on steps taken to protect the exercise, by journalists and the media, of the right to freedom of expression, as explained in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression.

25. Please explain what steps are being taken to prevent the excessive use of force for dispersal of assemblies, and provide information about investigations into the deaths or mistreatment of protesters. Please describe the measures taken to promote the right to peaceful assembly and association for all.

**Marriage, family and measures for the protection of minors (arts. 23 and 24)**

26. Please describe the actions taken to rectify the inconsistencies between civil law, sharia and customary law as to the legal minimum age for marriage, and to eliminate the discrimination existing in this regard on the basis of sex.

27. Please indicate what measures have been taken to ensure that all children, including children born out of wedlock, are properly registered at birth, including in particular in rural areas and in areas affected by the conflict.

28. Please describe the measures taken to eradicate child labour, including in the informal and private sectors, to raise awareness of the negative consequences of child labour throughout the country, to address the root causes of child labour and to provide educational opportunities for children who must work for their family's survival. Please

also describe the measures taken to eradicate and prosecute forced recruitment of children by armed groups and forces, and to reintegrate children who have been recruited.

**Participation in public affairs and right to vote (art. 25)**

29. Please indicate what measures have been taken to guarantee free and transparent elections, and if there is an independent electoral commission in the State party, to supervise the electoral process and to ensure that elections are conducted fairly and impartially in accordance with established laws. Please describe the measures adopted to investigate fraudulent practices that were denounced following the 2009 and 2010 elections.

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