



Convention on the Rights of the Child

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Committee on the Rights of the Child
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ISLAMIC REPUBLIC OF AFGHANISTAN

Replies to the List of Issues in connection with the consideration of the Initial Report of Islamic Republic of Afghanistan to Committee on the Rights of Child

Part I

1. Please clarify the status of the Convention in the domestic legal system and in particular whether the Convention takes precedence over domestic law.

According to Article 131 of the Constitution, the courts in Afghanistan initially reference to the domestic laws ratified by the parliament or other legislative bodies.

Though the convention does not impose any obligation to state party to incorporate it in internal legal system, but the government of Afghanistan, based on the article 7 of the Constitution, undertakes to regard those international treaties that Afghanistan is a party to and observe them with the domestic laws. In particular, principles of the Convention on the Right of Child are observed in the domestic laws of Afghanistan. Therefore, provisions of the Convention are enforced with the implementation of laws in the courts.

On the other hand, legislators consider the international commitments of Afghanistan during the draft and adoption of laws. Likewise, the Convention is in fact a relevant source of law in Afghanistan even though it has not been incorporated is also demonstrated by the fact that the Convention is being brought into play at the national courts.

Furthermore, the Supreme Court of the Islamic Republic of Afghanistan has diligently trying to consider the international values of the Human Rights Treaties within the Legal System of Afghanistan by organizing informative workshops and seminars for judges. The Ministry of Justice is also considering the international human rights treaties provisions at the time of drafting the bills or amendments to the laws.

2. Please indicate whether the State party has plans to harmonize the multiple sources of law (civil, customary and sharia law) and review those that are incompatible with the Convention, in particular the provisions of the Shi'a Personal Status Law relating to the age of marriage.

Afghanistan has enacted many laws in harmony with the Conventions on the Rights of Child. In particular, the provisions of the convention have been incorporated in the Civil Code of Afghanistan. This law specifies the age of 18 for the legal competence to conclude a contract. Regarding to age of marriage, the Civil Code and the Shia Personal Status Law stipulate accomplishment of 16 years for girls and 18 years for boys. In addition, Law on the Investigation of Juvenile's Violations states the age of 12 as age for penal responsibility.

3. Please indicate whether the State party intends to adopt a comprehensive Children's Law covering all the principles and provisions of the Convention.

After the establishment of the new administration in Afghanistan, the Islamic Republic of Afghanistan decided to adopt laws to support children on the basis its commitments and obligations to the Convention on the Rights of Child. That is why Afghanistan adopted the Law on Investigation of Juveniles Violations in 2004. This law was in accordance to convention.

Human Rights Support Unit (HRSU) of Ministry of Justice has reviewed around 30 national laws and strategies in light of CRC. The result of this review was concluded that principles of CRC are enshrined in provision of some laws but not included within all relevant laws. This review result is about to be submitted to Minister of Justice and propose amendments to this laws. By establishment of HRSU, the government of Afghanistan started practical steps in terms of law consideration and amendments in light of CRC and other human rights treaties.

Furthermore, Government intends to draft a Law on the Elimination Violence Against Children in cooperation with Civil Society institutions. This law would be in response to Action Plan of SAARC countries regarding children.

4. Please provide updated information on the establishment of a Children's Secretariat, in particular on its status and on the human, financial and technical resources allocated to its functioning and clarify its mandate vis a vis the Commission referred to in paragraph 32 of the report. Please also indicate the measures taken to rationalize the mandates of the multiple ministerial child-related bodies and strengthen the work of the Child Protection Action Network (CPAN).

Children's Secretariat is created in parallel to the Office of Social Affairs Deputy Minister in Ministry of Social Affairs, Martyrs and Disables. Its activities are currently performed by Social Protection Department. The Secretariat's main purposes are as following:

- Development of policy and work plans.
- Development and expansion of program.
- Legal analyses and reforms such as recommendations for law enforcement.
- Coordination of international cooperation and communication with nongovernmental organizations working in the field of child rights.

- Capacity development of government official working for the rights of child.

-Coordination, monitoring and evaluation of activities regarding child rights.

A building is under construction for this secretariat inside the MoLSAMD which is funded by the European Union. Government has allocated the budget for next year to perform the works of the Secretariat.

The difference between this secretariat and the Commission referred to Para 32 of report is that commission reports the problems of children to the office of president which accordingly the Secretariat take the measures to solve the problems.

5. Please provide updated information on the progress achieved by the anti-corruption bodies referred to in paragraph 26 of the report in reducing the extensive corruption in the State party and its negative impact on the availability of resources for children.

Important progress has been made in order to combat corruption. Now Afghanistan has most of the institutions needed to combat corruption. Central to these efforts is the High Office of Oversight (HOO), which was created by Presidential Decree in July 2008. The dedicated Anti Corruption agency has limited but critical technical responsibilities and authority, but will provide oversight and technical assistance to other key government agencies and ministries where advances in transparency and accountability (in financial management, human resources, etc) are needed. The HOO is mandated to oversee investigation, prosecution, and justice for corruption allegations and cases. HOO has developed a strategic action plan to guide its operations. The HOO is not an independent agency, but has been established within the Office of the President.

The current problem is that in practice the operations of these institutions, even ones older than the HOO, are limited by a lack of capacity, rivalries and poor integration, and an inability to pursue and prosecute high-level corruption. With development, the HOO may be able to both boost capacity and address integration. But the HOO is not a substitute for high-level anti-corruption efforts in other institutions. The HOO can nudge these other bodies and assist them – but cannot drive the needed processes themselves. Monthly meetings of the High-Level Anti-Corruption Board, chaired by the President, with the HOO participating and serving as the secretariat, are the lever to push ministries and departments into building anti-corruption capacity, integrate actions across the government, and prosecute corrupt actions (by the Attorney General Office in the courts).

The leadership of the President, as in other areas of policymaking in the country, is required; that is why the Board meets under his leadership. Board members are the Second Vice President, Chief Justice, Minister of Interior, Minister of Justice, Attorney General, National Security Advisor, Director General of the office of Administrative Affairs and Cabinet Secretariat, General Director of the Department of National Security, Chair of the Administrative Reform and Civil Service Commission, Director General of the Independent Department for Local Governance, as well as the General Director and Deputy General Director of the HOO. The Anti Corruption Board provides guidance and oversight to the HOO to counter the concerns that many have expressed as to whether HOO will suffer the fate of its predecessor organization which was dissolved due to charges of corruption. Important achievements of Afghanistan are elaborated more in three following areas

PREVENTION of Corruption:

Preventative efforts against corruption within the government are led by the new HOO, and combine work by the Ministry of Finance, Office of Administrative Procedures, the Independent Administrative Reform and Civil Service Commission (IARCSC), Control and Audit Office, and Ministry of Economy. These efforts are overseen by the Parliamentary

Commission on Judicial and Justice Affairs, Administrative Reform and Anti-Corruption (JJAARAC), civil society (acting through NGOs and CSOs), and the media. Given the weaknesses of these government and other Afghan oversight efforts, other governments and international community organizations encourage prevention through both technical assistance programs - although only the UNDP Accountability and Transparency (ACT) is explicitly an anti-corruption program - and political engagement with and pressure on the government.

HOO has authority to lead in the prevention of corruption. The HOO is mandated to:

- Oversee and coordinate prevention efforts
- Assist Ministries in developing and implementing AC action plans/strategies, and
- Report on AC measures through the High-Level Anti-Corruption Board to the president.

Prevention efforts focus on many areas. The HOO is to “lead” efforts to simplify processes and procedures within government to reduce vulnerabilities to corruption. This will be done in coordination with the Office of Administrative Procedures and the IARCSC, which lead in systems and human resource management respectively. To date the HOO has begun to develop a pilot program to streamline processes and reduce points of vulnerability in the traffic department in Kabul, which simplified procedures and processes for traffic tickets, drivers licenses, and car registration. Chosen as the areas that people experience their government, as well as known places that citizens suffer and complain about corruption; these efforts are promising and have even at an early stage already improved the Department’s performance in the capital, according to the HOO.

The Ministry of Finance (MOF) is responsible for the financial management of budget resources, under the Public Finance and Expenditure Management Law. The Ministry has made substantial progress, as has been noted in their Vulnerability to Corruption Assessment. This responsibility applies to tax revenues collected by the government as well as to donor resources provided to the government. To do so, the MOF manages program budgeting, expenditure management, procurement, and has an Afghanistan National Development Strategy (ANDS) implementation unit.

Budgeting is designed to target particular projects, and expenditures are tracked according to programs. Procurement has policies and processes to manage the purchase of goods and services. And in the MOF, a separate component focuses on the execution of the national development strategy through monitoring and evaluation (M&E) that link expenditures to program progress. While internal accountability mechanisms are quite strong in the MOF, external accountability has been weak. Parliamentary oversight, as well as civil society and media attention, has to date played little role in helping detect or deter corruption.

The Control and Audit Office (CAO) is responsible for auditing the financial matters of the government and is also mandated to identify deficiencies and inadequacies in public administration, by reporting to the President. The CAO ensures the implementation of systems and procedures, and provides standards to the internal inspection and audit departments of Ministries and Agencies. The CAO can also make recommendations on how to improve laws and these procedures. The Office provides external audits as “appropriate” to government clients; to date these have been limited. The CAO and the Internal Audit Department in the MOF have an ongoing disagreement over which agency has authority to oversee audits in ministries and departments, as authorized by the Public Financial management Law (2005) which provides for the establishment of internal auditors in each ministry.

The IARCSC is responsible for human resources across the government. The agency has established HRM systems, policies, and processes for the civil service, and is managing the Public Administrative Reform (PAR)/Priority Reform and Reconstruction (PRR) processes

that provide for salary upgrades based on job descriptions and performance for selected civil service positions. The agency has also developed well-thought out merit based recruiting and promotion systems and procedures, which it is rolling out to the provincial level. These apply to all civil service positions in the line ministries and in Sub National Government. Modest progress has been reported regarding the implementation of PAR reforms, i.e., a number of ministries have completed the “pay and grade” program and have instituted associated organizational restructuring.

The Ministry of Economy retains a role in ANDS implementation through oversight as well as M&E. One task is to identify implementation problems, whether ones of capacity or corruption, and refer them accordingly to capacity building programs (i.e., CDP) or to anti-corruption agencies (HOO). In addition, the MOE is charged with providing the public/press with progress reports on ANDS implementation. Department of Foreign International Development is providing assistance to build MOE capacities to perform these responsibilities.

The Parliamentary Commission on Judicial and Justice Affairs, Administrative Reform and Anti-Corruption (JJAARAC) is charged with overseeing anti-corruption agencies and efforts and has the duty of proposing laws to combat corruption, but meets irregularly and does not have a focused agenda, thus is minimally effective.

2. EDUCATIONS regarding corruption

In addition to prevention efforts to enhance transparency in its public administration, the HOO needs to spread the information about procedures, policies, prices, and prosecution widely among civil servants and the public. The HOO has already executed an initial public campaign, focusing on countering corruption and using the media to broadcast this message. The HOO commissioned four brief five to six minute television public service announcements demonstrating how to counter corruption, and had them repeatedly broadcast on Radio Television of Afghanistan, bought some time on commercial channels, and reportedly had other commercial broadcasters voluntarily show the clips due to their high quality. The HOO also plans a targeted outreach approach to civil servants on their roles and responsibilities. This has already been piloted in one critical way citizens interact with their government: with drivers’ licenses, car registration, and traffic tickets in Kabul. To reach the general public, the HOO also plans to work with Civil Society Organizations advocates for good governance. The government also recognized a general need to better communicate with citizens. To do so, the Office of the President (OoP) has a Media Center that works to developing whole-of government as well as ministry specific messaging and improved press relations that HOO can employ. The imperative of educating the public about what their government is doing in general, and in anti-corruption in particular, has been recognized and should be made a priority in the strategic communications of all Ministries; HOO and the Media Center can help make and advertise these changes to the population.

The media sector provides the main methods for reaching the population; both the government Radio Television of Afghanistan (RTA) channels as well as commercial electronic media have the footprint to reach most of the population, though television in urban areas and radios in rural ones. However, the main media sources are not independent. RTA broadcasts for the government and most of the commercial channels depend on large business clients to support their entertainment-oriented programs. Other media outlets are dominated by particular viewpoints be it religious or the perspective of a political party. Then there are some independent (i.e. Radio Nehad in Mazar-e-Sharif), which struggle to compete with stations that have better-funding from large commercial sponsors. Finally there are international media alternatives, although they do not focus much of their broadcasting on Afghanistan. And print media has only a small circulation in the major cities.

Another part of the needed infrastructure for anti-corruption education comes from outside the state. An active civil society must push for transparent and accountable government; this is typically the role of some political CSOs/NGOs. However, in Afghanistan, this sector is weak, and has to date not taken up this political role (with organizations typically preferring service delivery roles). NGOs need additional support to become advocacy oriented and to focus on governance and anti-corruption. There are some promising examples of NGO work at the local level that can be built upon, such as the approach of Welfare Association for Development of Afghanistan (WADAN) in working with local traditional leaders (maliks) on structures and the language of democracy for village governance.

Afghan people elected their president in 2009 and their representatives to the parliament in late 2010 for second time. There has been raised some allegations of fraud in parliamentary election. A specialized court has been established to address the allegations and complaints. Likewise, Afghanistan plans to hold a series of elections over the next years, such as electing governors, mayors, district heads, and provincial councils. These elections will be managed by the Independent Electoral Commission (IEC), which is responsible to do so in a transparent and accountable way.

3 .ENFORCEMENT:

Enforcement is critical in Afghanistan, where citizens and civil servants both note a culture of impunity among government officials. The HOO has some limited enforcement duties, which are the overall responsibility of the Ministry of Interior, Attorney General Office, the Ministry of Justice, and the courts. The HOO will seek out corruption complaints as well as receive, catalog, and distribute them to relevant ministries and departments, and subsequently track their resolution. The anonymity of forwarding through this mechanism has the potential to be an effective whistle blowing measure – as long as the identity of the person complaining is protected and complaints are adequately followed up upon. It is left to the relevant ministry or department, in addition potentially to the Police, AGO, and MOJ, to address the complaints and enforce any remedy. The HOO will also track these cases, and report on resolution to the President. In addition, as part of the asset registration, the HOO is charged with ensuring that there is an accountability mechanism for inquiring into assets and tracking the follow-up of the AGO and courts in cases of illegal enrichment. Like the High Office, the Afghanistan Independent Human Rights Commission (AIHRC) is also supposed to receive complaints from citizens. While the Commission's reports have not focused on this area, instead emphasizing social and economic rights, corruption falls under their mandate since it violates human rights. The Commission can not investigate a complaint that relates to corruption, but may compile the information and forward it to the AGO for investigation. The AIHRC focuses on making progress in how the government fulfills its obligations under the International Covenant on Economic, Social and Cultural Rights.

As part of enforcement, the IARCSC as well as individual government ministries and departments must develop and use administrative rules and sanctions against corrupt government officials. Public administration reform will play a key role in developing regulations to manage accusations of corruption or malfeasance as well as processes for addressing them within the civil service system. Codes or standards of conduct for the civil service must also include disciplinary measures for violations.

Responsibility for the initial “discovery” of crimes, such as corruption, generally falls to the Afghan National Police, under the MOI. After any unit of the police starts a case, the Criminal Investigation Department (CID) then has the next phase of the discovery, up to three days after the case is initiated. The AGO is tasked with picking up cases referred by the CID for investigation and to determine whether the case merits prosecution. The

investigative prosecutors in the AGO are thus critical elements in an effective anti-corruption effort. The US Government, through Bureau of International Narcotics and Law Enforcement Affairs, has supported a recent effort by the AGO to establish a special prosecutors unit on anticorruption to handle these difficult cases, and to act proactively to potentially find corruption cases themselves, rather than requiring an initial move by the police. The Afghan National Army, through the Ministry of Defense, and ANP, in the MOI, have their own separate prosecutors for handling crime and corruption within their organizations. The Anti-Bribery and Anti-Corruption Office (ABACO) handles corruption cases in the Ministry of Interior while the Anti-Corruption Prevention Unit in the Legal Department addresses work in the Ministry of Defense.

The National Directorate of Security (NDS) is responsible for countering organized crime, a mandate that extends to corruption. In these cases the NDS confines itself to information gathering and referring information to the Attorney General's Office, HOO and the Police. Information on and allegations against high level officials is submitted to the President who decides on any further action.

Finally, cases must be brought to the Court system by the AGO. Then judges will be able to rule on the merits of the case, with those found guilty sentenced to meaningful punishments. Provincial appeals courts plan to establish anti-corruption divisions which will serve as trial courts for corruption cases. As with prosecutors, the Afghan military and police have separate courts, judges, and penitentiaries for soldiers and the ANP.

Recently, a committee on monitoring and evaluation has been established to tackle corruption in Afghanistan. This committee has authority to monitor the implementation of international aids and evaluate its effectiveness in action. Three Afghans and three foreigners have the membership of this committee which seeks the effective ways for operations of international aids throughout Afghanistan. The committee evaluates and monitors corruption in government organizations and as well as international organization working in Afghanistan.

6. Please provide detailed information on the targeted measures taken to eliminate traditional and cultural practices and gender-role stereotypes which contribute to the persistent discrimination of girls in the State party and the gross violations of their rights. Please also inform the Committee of the concrete actions taken to combat harmful traditional practices such as the widespread practice of early marriage, the practice of “Baad” by which parents handle over girls to settle disputes and the practice consisting of marrying a girl to her rapist.

The establishment of the Ministry of Women's Affairs and assistance given in establishing civil society organizations have been happened with the aim of fighting with these unacceptable traditions that unfortunately hurt women's rights in Afghan society. Likewise, the Family Law is drafting process which supports men's participation in house affairs and chores and the importance of both parents' participation in the up-brining of the children.

Text books and educational material in universities are often prepared with national and international standards with non-discriminatory contents. In the recent years, the school books have been revised and there has been an attempt to prevent inclusion of discriminatory clichés. Likewise, there has been an effort to introduce both female and male authors and poets. Fundamental change has taken place in book of grades one to six but there are not much noticeable changes in texts from grades eight to twelve. Nevertheless, the Ministry of Education plans to finish the reform and revision of the new books and print them in shortest amount of time possible. In this regard, in 2006, The Afghanistan Independent Human Rights Commission has also agreed on the related issues with the

Ministry of Education and sent two commission members as advisors in printing of the books. Afghan Women's Network and other civil society organizations also participate in providing suggestions to the Ministry of Education in this field. In the university curriculums, there are no classes or subjects specified to one gender only and all students benefit from the same curriculum and classes. The police educational system has specific classes on respectful behaviour with women and a new department under the name of Gender and Women's Rights has been established in this system.

Islamic republic of Afghanistan has adopted the Law on the Elimination of Violence Against Women (LEVAW) in 2009. This law has specific provisions to criminalize harmful practices such as early marriage and exchange of girls to settle disputes. LEVAW has increased penalties for perpetrators of violence against women and has projected establishment of the High Commission on Elimination of Violence against Women. Article 5 of this Law indicates the following actions as violence against women and criminalizes them with imposing specific punishments:

- Rape
- Force for prostitution
- Recording of the identity of victims of crimes and publishing them for the purpose of hurting their personality
- Burning or using chemical or poisonous material against the victims
- Forcing someone to self immolation or suicide or using harmful material on them
- Injuring or disabling
- Beating
- Buying and selling of women for the purpose of marriage,
- Exchanging women
- Forced marriage
- Restriction of marriage right or the right to choose their spouse
- Wedlock before legal age
- Cursing, threatening, harassing, and harming women
- Forced isolation
- Force women to addiction
- Forbidding occupancy of heritage and personal property
- Restricting women to the rights of education, employment and access to health services
- Forced labour
- Marrying more than one woman with disregarding legal provisions
- Disclaimer of imminence

Article 25 of this law; impose a 10 years prison as punishment for anybody who exchange or marry women in order to resolve a dispute (BAAD). Meanwhile, the persons who facilitate such marriages such as witnesses, proxy, and contractor can be sentenced to middle term prison. If the woman wants to end the marriage, it can be terminated according the law.

According to article 28 of this law, anybody who forced a woman who is under the legal age to marry, shall be sentenced to middle term prison but not less than two years.

7. Please indicate whether the new regulation setting the standards and rules of the orphanages has been adopted for both public and private sectors. Please also provide information on the concrete measures adopted to prevent and decrease the institutionalization of children, develop family-type and community-based alternative care and reunite institutionalized children who are not orphans with their parents, if in the best interests of the child.

The new regulation for public and private sector which regulates the protection of orphans, children without guidance and providing conditions for their absorption with families and relatives, has been prepared by a special commission and sent to the Ministry of Justice for its finalization. Currently efforts are made for the protection of children to care them in the daily care centers and join their families or relatives from the night. So that they are not kept far from family and social community and those which don't have their families or guidance they are served in the respective centers.

8. Please update the Committee on the concrete results achieved so far by the National Strategy for Children at risk adopted in 2006.

National strategy for the protection of vulnerable children was officially implemented with the technical and financial cooperation of UNICEF in the year 2006. Till now in According to this strategy, the Child Protection Action Networks are established in 28 provinces and 54 districts of the country. All national and international institutions which are working regarding child rights have the membership of this network. They have proper working plans which met once in month normally for the evaluation and addressing of all the challenges in front of children.

This network has addressed many cases that violate rights of child in 2010. Totally, 4211 cases have been addressed by the network like breaking law, fleeing from home, sexual abuses and rapes, kidnapping, smuggling, lack of parents care, forced and under age marriages. 92% of cases have been dealt by judiciary organs.

Proper system for presenting cases to CPANs in provinces and districts has been established. From the beginning of implementation of National Strategy for Children at Risk till now, the CPANs have been capable for helping more than 2376000 vulnerable children. Establishment of emergency shelter for vulnerable children in provincial level to help vulnerable children is considered as one of important work of the network.

For the capacity building of the members of the network many workshops and seminars are held. Establishment of departments for social workers and their cooperation with the CPAN has resulted in positive achievements for proceeding network activities and reintegration of vulnerable children with community. Survey regarding vulnerable families has been conducted while the department is in process of development and expansion.

9. Please indicate whether the Disability Law referred to in paragraph 212 of the report has been adopted? Please provide information on the budget allocated to the implementation of the National Action Strategy for Children with Disabilities and the Social Protection Strategy and the concrete results already achieved for children with disabilities.

The Law on the Rights and Privileges of People with Disability and Martyrs' Family has been approved by parliament in 2009 and adopted by president in early 2010.

Government has allocated an amount of 24,420,000,000 Afg to support people with disability and families of martyrs which include children with disability as well.

10. Please provide detailed information on the measures taken to combat sexual abuse and exploitation of children in the State party and to ensure that perpetrators of child sexual abuse are duly prosecuted and punished if found guilty. In particular, please indicate the measures taken to ensure that children abused or used in prostitution are no longer treated as offenders. Please also indicate the measures taken to remove children victims of sexual abuse from prisons and to provide them with the necessary psycho-social rehabilitation services.

Struggle for preventing of exploitation and sexual abuse from children is one of the responsibilities of the CPAN. Special children's courts and attorneys have the membership of CPAN, which works in defending from rights of children in judicial sector.

The MoLSAMD has signed an agreement with the Ministry of Justice according to which the social workers from MoLSAMD can help juveniles in Rehabilitation Centers to process their cases. The social workers even authorized to attend in court sessions and endeavor to practice the best interest of juveniles.

Children which have been the victims of sexual violations are sent to the Juvenile Rehabilitation Centers. They are kept in other shelters and support centers who just social workers work with them. Only perpetrators are kept in the Rehabilitation Centers.

The MoLSAMD has signed an agreement with six organs like Ministries of Justice, Interior, Education, Supreme Court and Office of Attorney General. According to which specific forms for social investigation are arranged and the social workers with the cooperation of child courts and attorneys follow and consider on the reintegration of new children or with their families. The child courts do not accept cases without the consideration forms of social workers.

Furthermore, after the media reported 18 case of sexual abuse during month of April 2008, the President ordered for establishment of this organization. This commission is led by the Vice President and the members of the commission are the Ministers of Interior Affairs, Justice, Women's Affairs, Public Health, Education, Information and Culture, Hajj and Labor and Social Affairs, a member of Supreme Court, president of the primary court for children, Attorney General, head of family court, Chairman of AIHRC, the authoritative representative of CPAN, head of Children's Rehabilitation Center, Chairman of Afghanistan's Red Crescent, the advisor of the president in children's affairs and 5 to 7 members from children's rights advocacy group of Afghan Women's Network. This Commission has the task of advising the relevant organizations in terms of fighting against women's and children's sexual abuse and demanding information and report from them. The commission also refers the cases of sexual abuse to responsible organizations and works towards public awareness in this regard. In addition, the members of the commission can participate in court sessions of perpetrators of rape and sexual abuse and report them to the commission. Furthermore, the members of the commission visit the victims of the rapes and report to the commission of the inadequacies and infractions.

11. Please indicate the legislative and institutional measures taken as well as the bilateral agreements signed for the reception and reintegration of repatriated unaccompanied migrant children.

From the beginning of UNHCR's programs in 2002 to late 2008 in Afghanistan, more than 2.5 million refugees returned into the country. Afghan refugees who still living in Iran and Pakistan are estimated around 2.3 million people. 28% of returnees are under the age of 18. During 2002-2008, Afghan government with UNHCR has recognized and reintegrated around 4,880 unaccompanied children deported from neighboring countries with their families. The UNHCR supports children who return to their homeland voluntarily. Similarly, immigrant children and orphans are given support by government in different supporting centers. From this amount only 28% of these children have access to education and socio-psychological services in the society.

12. Please provide detailed information on the measures taken to prevent and combat the involvement of children in armed conflict and to ensure that children victims of armed conflict are provided with the necessary psycho-social rehabilitation services.

At the beginning of establishment of the elected government in Afghanistan, MoLSAMD requested from security institutions to prevent the recruitment of children inside the security forces. Subsequently, in order to implement the Resolution 1620 of UNSC, a high level Steering Committee under the chairmanship of Minister of Foreign Affairs has been established to address the problems children affected by armed conflict. This Steering Committee includes representatives from the United Nations Country Task Force on Monitoring and Reporting Children associated with National Security Forces and Armed Groups in Afghanistan. The Steering Committee has adopted an Action Plan on 30 Nov 2010 which includes activities in the areas of cooperation between government and international organizations, prevention and of recruitments of children in armed forces, awareness raising and capacity buildings, legal enforcement and disciplines, and release and reintegration of such children. According to this Action Plan, the government and UN Task Force are committed to:

Prevent and end the association of children under the age of 18 to ensure their immediate release and reintegration.

Ensure sufficient and appropriate human and financial for effective timely implementation of all activities related to the Action Plan.

Appoint focal points at the high level of government and military structures in cooperation with UN and relevant partners.

Provide unimpeded and regular access to recruitment and training centers and military bases, installation or camps, detention facilities, or other relevant locations where age verification procedures take place by UN monitoring and reporting staff in order to verify compliance.

Guarantee free and confidential access by UN monitoring and reporting staff to relevant persons and areas of concern, and to ensure no retaliatory action is taken against monitors and witnesses.

Promptly investigate allegations and violations against all children and to prosecute perpetrators with due regard to national and international standards.

Facilitate dialogue with the armed groups, such as Taliban, Haqqani Network, Hezb Islami, Jamat Sunat al-Dawa Salafia, Tora Bora front listed in the annexes of the last SG report with the UNCTFMR, in order to enter into Action Plans on ceasing recruitment of children as soldiers and the immediate release and reintegration of such children.

The UN Country Task Force on Monitoring and Reporting, in collaboration with the government, is committed to providing specific interventions, including support for the identification, verification, release and reintegration of children associated with armed forces and/ or armed groups under the auspices of the government of the Islamic Republic of Afghanistan.

The Office of the Special Representative for Children and Armed Conflicts is committed to advocate for necessary support for demobilization and reintegration of the children associated with armed forces and/or armed groups in conjunction with the UNCTFMR and the government of Islamic Republic of Afghanistan.

The Action Plan is going to be officially launched by Minister of Foreign Affairs and Special Representative of Secretary General of UN in Afghanistan in the late January 2011.

13. Please provide updated information on the results/outcome of the measures taken to reform the juvenile justice system. In particular, please provide updated information on:

(a) The treatment of children below the age of 12 years who are in conflict with the law;

(b) The measures taken to reduce the number of children in pre-trial detention;

(c) The measures taken to establish specialized courts for children and rehabilitation centres for children in conflict with the law;

(d) The concrete measures taken to address children's complaints at the stages of investigation, detention and decision of the court and on the legal proceedings engaged against those found guilty of torture and ill treatment of children.

(a) The major measure taken regarding the treatment of children in conflict with the law who are below the age of 12 years is the article 5 of the Law on Investigation of Juvenile's Violations which stipulates that "A person who has not completed the age of 12 is not criminally responsible. If violation is a result of negligence on the part of parents and has caused material losses, the parents are obliged to compensate for the losses". In this context, these children are not legally considered responsible for their violation; even they are not kept in Rehabilitation Centres. In addition, there has recently been adopted the Procedure of Open Rehabilitation Centres which impose the home confinement for such children. This confinement takes place with facilitation of social workers under the control of court with involvement of parents. Social workers are in contact with parents and regularly report to the court from behaviour of the child.

(b) According to article 10 of the Law on the Investigation of Juvenile's Violations, if a misdemeanour, felony, or offense, takes place; then the police is authorize to arrest the offender only under following circumstances:

- Risk of runaway
- Alteration of documents and evidences

- Risk of repetition of a new crime

Police is not allowed to handcuff the person below the age 18, unless there is a risk of flight or if they pose imminent threat to themselves or to others. Depending on situations and circumstances, the juvenile court has the authority, at the time of issuing pre-trial detention order, to consider other appropriate alternatives instead of detention.

(c) The Law on the Investigation of Juvenile's Violations has envisaged the establishment of special juvenile's court within structure of Supreme Court. To this end, primary juvenile courts shall be established in provincial capitals according which, 34 juvenile courts are active throughout the country. These Primary juvenile courts comprise of a presiding judge, members and administrative staff. The judges of juvenile court, in addition to meeting the criteria and qualifications stipulated in the law of jurisdiction and organization of courts, have got specific professional training and special experience in children's trial.

To ensure justice in case of child offenders, according the article 27 of this law, legal proceedings shall be conducted in three levels; Primary Court, Appeal Court and Supreme Court.

The juvenile court shall hear the following cases according to the provisions of this code:

- Children's violations
- Children whose irregular behaviour that cannot be corrected through parental care or care of those who have the right to guardian them or by adopting ordinary educational measures.
- Cases of children at risk and in need of care and protection.

Depending on the situation, the court has the authority to adopt one of the following measures against the accused child:

- Performing social services
- Sending the child to special social services institutions.
- Issuance of warning.
- Postponement of trial.
- Conditional suspension of punishment.
- Home confinement.
- Surrender of child to his/her parents or those who have the guardianship rights.
- Sending the child to the juvenile rehabilitation centres for confinement

(d) Addressing to the complaints of children is implemented according two provisions of Afghan laws. One provision of the Law on Investigation of Juvenile's Violation stipulates that "The legal representative of the child (parents, guardians, executors, relatives, attorney or legal guardian of a child), after getting information about the proceeding of investigation, has the right to file a complaint to the higher prosecutor. The higher prosecutor is obliged to assess the complaint immediately and make necessary decision". Likewise, article 33 of

Law on Rehabilitation Centres specifies that “children who are suspect, accused, or sentenced to detention, have the right to submit their written or verbal complaints by him/herself or by their legal representative to the officials or head of rehabilitation centres, prosecutor, and minister of justice, Independent Human Rights Commission, or parliament. If complaints are related to Attorney Office, Courts, or other state’s organizations will confidentially proceed by rehabilitation centre during 24 hours to reach them at relevant organizations. The relevant organizations are obliged to address complains according the law. Furthermore, to insure the physical and mental safety of children, all procedures of addressing the complaints performs confidentially.

In Addition to which Afghan constitution forbids all kinds of tortures, the article 257 of penal code specifies that “if a civil servant tortures or orders to torture the accused persons in order to make him/her plead guilty, will be sentenced to long term imprisonment. If accused person die as result of being tortured, the perpetrator will be sentenced to death penalty.

Part II

Under this section the State party is invited to briefly (three pages maximum) update the information provided in its report with regard to:

- (a) New bills or laws, and their respective regulations;**
- (b) New institutions (and their mandates) or institutional reforms;**
- (c) Recently introduced policies, programmes and action plans and their scope and financing;**
- (d) Recent ratifications of human rights instruments.**

New adopted or drafted laws and regulations are as following:

Enactment of Law on the Rights and Privileges of People with Disability and Martyrs’ families that published in official gazette No 1037. This law prohibits any type of discrimination against people with disabilities. Depending on their mental or physical disabilities, they can participate in all economic and social activities without any discrimination.

Presidential Decree on Prohibition of Beggaring;

According to this decree, nobody is allowed to seek forward with doing begging activity or use children and other persons in this respect. Ministry of Interior in collaboration with MoLSAMD and MoWA is obliged to identify those tricky persons who recruit others to do begging activity as a job and introduce them for judicial prosecution.

Draft of new regulation for the public and private orphanages by MoLAMD.

Draft of Law to Support Poor People by MoLSAMD, which includes children who earn livelihood

Establishment of Human Rights Support Unit within Ministry of Justice. Human Right Unit within the Ministry of Justice has the responsibility for strengthening the capacity of the

government to implement international human rights responsibilities in accordance with Constitution and human right international conventions to which Afghanistan has ratified. In the Ministry of Justice, this unit acts as an inter-ministerial mechanism to coordinate and evaluate administrative activities from the point of view of human rights. There is four semi units with specified activities.

Training Unit on Human Rights

This unit has been set up to focus on capacity building programs of civil servants via launching human rights training programs and workshops

Legislation and Strategic Studies Unit

This unit is in charge of conducting comparative studies of Afghanistan laws and policies with international standards of human rights, advocacy for ratification of the main international conventions of the United Nations, optional protocols of the conventions and analysis of domestic laws

Supervision and Evaluation Unit

Supervision and evaluation of the implementation of the human rights conventions, which Afghanistan ratified to, in coordination with the relevant domestic and foreign authorities and colleagues, are among the activities of this unit.

Internal Support Unit

This unit is responsible for all internal affairs of Human Rights Unit including capacity building of the employees, human resources, and management of the budget.

Signing of agreement between, MoLSAMD, MoJ, MoI, MoE, Office of Attorney General and Supreme Court to support children who are against the law. This agreement aims to establish collaboration among relevant entities in order to develop such a juvenile justice system which protects the rights and best interest of children. Taking in to consideration the socio-psychological needs of children and their reintegration with their family, this agreement tends to consider the detention of children in rehabilitation centers as the last way and for very short time.

Adoption of Action Plan to address the issues of children associated with armed forces and groups. More information is mentioned in reply to the question of 12 of part I.

Planning to develop a Strategy to Support Laborer and Street Children.

Advocacy to develop an Action Plan on National CPAN and extension of its policies and programs for 2011.

Part III

Data, statistical and other information, if available:

In light of article 4 of the Convention, please provide updated data for 2008, 2009 and 2010, on budget allocations (including trends analysis) for the implementation of the Convention throughout the State party in the areas of health, education and protection of children.

The total budget allocated for child protection was as following:

The total budget allocated for child protection in 2008 was 388,849,503 Afg.

The total budget allocated for child protection in 2009 was 634,002,516 Afg.

The total budget allocated for child protection in 2010 was 594,382,067 Afg.

Similarly, UNICEF has got the funding responsibility for the implementation of the National Strategy for Children at Risk.

Please refer to the following table about the allocated budget for implementation of convention in the area of education:

Table No 1. Budget of Education

| Fiscal year | Type of budget | Total planned budget in US\$ | Expenditure in US\$ by end of fiscal year |
|-------------------------------|---|-------------------------------------|--|
| 1385 (21.3.2006–20.3.2007) | Operating budget(as per MoF budget decree) | 163,425,060 | 156,855,601 |
| | Core development budget(as per MoF budget decree) | 61,180,000 | 16,421,548 |
| | External development budget | | |
| | Total | 224,605,060 | 173,277,149 |
| 1386 (21.3.2007–20.3.2008) | Operating budget(as per MoF budget decree) | 181,829,240 | 174,300,567 |
| | Core development budget(as per MoF budget decree) | 122,170,000 | 30,335,441 |
| | External development budget | | |
| | Total | 303,999,240 | 204,636,008 |
| 1387 (21.3.2008–20.3.2009) | Operating budget(as per MoF budget decree) | 266,483,488 | 262,208,834 |
| | Core development budget(as per MoF budget decree) | 140,046,365 | 59,895,652 |
| | External development budget | | |
| | Total | 406,529,853 | 322,104,486 |
| 1388 (21.3.2009-20.3.2010) | Operating budget(as per MoF budget decree) | 315,787,838 | 313,511,633 |
| | Core development budget(as per MoF budget decree) | 175,350,000 | 77,340,000 |

| | | | |
|-------------------------------|---|--------------------|--------------------|
| | External development budget | | |
| | Total | 491,137,838 | 390,851,633 |
| 1389 (21.3.2010-20.3.2011) | Operating budget(as per MoF budget decree) | 360,502,041 | 251,289,154 |
| | Core development budget(as per MoF budget decree) | 162,901,000 | 75,800,000 |
| | External development budget | | |
| | Total | 523,403,041 | 327,089,154 |

Note :

1.The expenditure for 1389 is till end of 9th month.

2. Since the external budget is not channeled through MoE finance, this information is not available with MoE finance.

Please provide data, if available, for the years 2007, 2008 and 2009 on the number of children with disabilities (data should be disaggregated by age, sex types of disabilities ethnic background and geographical location) and on the percentage of children with disabilities attending regular education;

The total number of disabled children is 196,000 in Afghanistan including 109,800 boys and 86,200 girls. 86,800 of them are physical disabled, 74,500 of them are mental disabled, and 34,700 of them have a kind of sense disability like in sight, hearing, and feeling. A total number of 62,500 disabled children including 14,500 disabled girls and 48,000 disabled boys have access to education.

3. Please provide detailed statistics, if available, from 2007, 2008 and 2009, disaggregated by age, sex, socio economic background and offence committed, on the number of children who have been:

(a) Tried as adults and through informal dispute resolution process involving Shuras and Jirgas;

This information is not available.

(b) Charged with and detained for homosexuality, debauchery, adultery, and running away from home; and

(c) Detained in juvenile rehabilitation centres, adult penitentiaries and children living in prisons with their mothers as well as the time spent in detention.

Table No 2: Children detained in and released from juvenile rehabilitation centers

| No | Description | Six months of 2007 | 2008 | 2009 |
|----|-------------|--------------------|------|------|
| | | | | |

| | | | | |
|----------|-----------------|------|------|------|
| 1 | Boys | 1665 | 7230 | 2438 |
| 2 | Girls | 196 | 803 | 300 |
| 3 | Total | 1861 | 8033 | 2738 |
| 4 | Released | 430 | 1214 | |

4. Please provide data for 2007, 2008 and 2009, if available, on the number of:

- (a) **Children victims of sexual exploitation, including prostitution and pornography;**
- (b) **Children victims of trafficking;**
- (c) **Children victims of sexual abuse, including incest;**
- (d) **Children who were provided access to recovery and social reintegration services, specifying the type of services;**
- (e) **Children victims of economic exploitation; and**
- (f) **Trials against perpetrators of such offences and the outcomes of those proceedings over the same period;**

For detailed information about available data for victims children from 2007-2009, please refer to the following tables:

Note: these data might not reflect overall incidents in country but these are at least reported to CPAN offices through the country.

Table No 3: children offences

June - December 2007

| S. No | Provinces | Number of children affected | Rape* ¹ | Sexual abuse (except for rape) | Physical abuse | Trafficking | Abduction/Kidnapping | Child marriage | Hazardous Child labour | Children in conflict with the law | Children separated | Drug abuse | others, specify |
|-------|-----------|-----------------------------|--------------------|--------------------------------|----------------|-------------|----------------------|----------------|------------------------|-----------------------------------|--------------------|------------|-----------------|
| 1 | Gazni | 82 | 1 | 1 | 12 | | | 5 | 6 | 10 | 8 | 15 | 23 |
| 2 | Bamyan | 20 | | | 3 | | | | | 5 | 2 | 3 | 7 |
| 3 | Paktya | 22 | 3 | | | 1 | 4 | | | 3 | 9 | 1 | 1 |
| 4 | Juzjan | 104 | 1 | 6 | 2 | | 2 | 4 | 1 | 11 | 21 | | 56 |
| 5 | Balkh | 49 | 4 | 5 | 8 | | 1 | 1 | 1 | 13 | 13 | | 3 |
| 6 | Baghlan | 36 | 2 | 4 | 2 | | 5 | | | 16 | 6 | | 1 |
| 7 | Kunduz | 48 | | 1 | 7 | | 4 | 1 | 4 | 9 | 10 | | 8 |
| 8 | Nangarhar | 23 | 1 | 3 | | | 2 | | | 17 | | | |

¹During this reporting period 38 cases of rape and sexual abuse of girls and boys were identified and referred to the appropriate services by respective CPANs.

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| | | | | | | | | | | | | | |
|--------------|----------|------------|-----------|-----------|-----------|----------|-----------|-----------|-----------|------------|------------|-----------|------------|
| 9 | Kandahar | 50 | 1 | 4 | 1 | | 5 | 1 | | 14 | 29 | | 2 |
| 10 | Herat | 50 | 3 | 1 | | 3 | 4 | | | 31 | 4 | | 4 |
| 11 | Badghis | 16 | | | | | 1 | 2 | | 2 | 7 | | |
| Total | | 500 | 16 | 25 | 35 | 4 | 28 | 14 | 12 | 131 | 109 | 19 | 105 |

2008

| Region | Total cases reported | Boys | Girls | Age range | rape | Sexual abuse | Physical abuse | trafficking | Abduction /kidnapping | Child marriage | Hazardous child labor | Children in conflict with the law | Children separated from family | Drug abuse | Others |
|-----------------|----------------------|-------------|------------|-----------|-----------|--------------|----------------|-------------|-----------------------|----------------|-----------------------|-----------------------------------|--------------------------------|------------|------------|
| Central region | 556 | 373 | 183 | 0 | 23 | 13 | 9 | 9 | 15 | 20 | 4 | 213 | 102 | 7 | 198 |
| Northern region | 338 | 237 | 101 | 0 | 26 | 23 | 22 | 2 | 3 | 6 | 0 | 115 | 73 | 5 | 45 |
| Eastern region | 141 | 111 | 30 | 0 | 1 | 0 | 7 | 1 | 12 | 9 | 2 | 86 | 21 | 0 | 2 |
| Western region | 446 | 359 | 87 | 0 | 4 | 7 | 0 | 1 | 3 | 13 | 3 | 246 | 66 | 0 | 103 |
| Southern region | 117 | 92 | 24 | 0 | 7 | 0 | 1 | 0 | 1 | 5 | 3 | 42 | 32 | 0 | 25 |
| Total | 1598 | 1172 | 245 | 0 | 61 | 43 | 39 | 13 | 43 | 53 | 12 | 702 | 294 | 12 | 373 |

2009

| | | | | | | | | | | | | | | | |
|-----------------|-------------|------------|------------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|------------|-----------|------------|
| Central region | 358 | 145 | 213 | 0 | 13 | 6 | 8 | 8 | 18 | 9 | 6 | 118 | 44 | 22 | 106 |
| Northern region | 418 | 171 | 247 | 0 | 31 | 12 | 4 | 7 | 19 | 12 | 1 | 135 | 100 | 5 | 92 |
| Eastern region | 100 | 75 | 25 | 0 | 1 | 2 | 0 | 1 | 1 | 8 | 0 | 67 | 16 | 0 | 4 |
| Western region | 485 | 377 | 108 | 0 | 5 | 4 | 6 | 4 | 2 | 21 | 2 | 324 | 65 | 1 | 51 |
| Southern region | 98 | 93 | 15 | 0 | 0 | 4 | 0 | 1 | 1 | 0 | 1 | 26 | 54 | 1 | 10 |
| Total | 1459 | 851 | 608 | 0 | 50 | 28 | 18 | 21 | 41 | 50 | 10 | 670 | 279 | 29 | 263 |

According to above table, there are a total of 223 children as victims of sexual violation for the years 2007, 2008, and 2009.

5. Please update the Committee with regard to any data in the report which may be superseded by more recent data collected or other new developments.

In addition, the State party may list areas, affecting children that it considers to be important with regard to the implementation of the Convention.
