



BUREAU FOR RECONSTRUCTION AND DEVELOPMENT (BRD)
دبیا ودانولو او پراختیا موسسه

Report on

Status of Economic Social and Cultural Rights in Afghanistan

*For the Event of Examination of Afghan Government Report on ICESCR
by the Committee on ICESCR*

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Abbreviations and acronyms

| | |
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| AI | Amnesty International |
| AIHRC | Afghanistan Independent Human Rights Commission |
| CED | International Convention for the Protection of All Persons from Enforced Disappearance |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| ECLJ | European Centre for Law and Justice |
| GoA | Government of Afghanistan |
| ICCPR | International Covenant on Civil and Political Rights |
| ICCPR-OP1 | First Optional Protocol to ICCPR |
| ICCPR-OP2 | Second Optional Protocol to ICCPR |
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| ICTJ | International Centre for Transitional Justice |
| IDPs | Internally displaced persons |
| OHCHR | United Nations Office of High Commissioner for Human Rights |
| OP-CAT | Optional Protocol to CAT |
| OP-CEDAW | Optional Protocol to CEDAW |
| OP-CRC-AC | Optional Protocol to CRC on the Involvement of Children in Armed Conflict |
| OP-CRC-SC | Optional Protocol to CRC on the Sale of Children, Child Prostitution and Child Pornography |
| OP-CRPD | Optional Protocol to CRPD |
| OP-ICESCR | Optional Protocol to ICESCR |
| PWDs | Persons with Disabilities |
| TBs | Treaty Bodies |
| UNAMA | United Nations Assistance Mission in Afghanistan |
| UNHCR | United Nations High Commissioner for Refugees |
| UNICEF | United Nations Children Fund |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| WWA | World Vision Afghanistan |

About Organization

The Bureau for Reconstruction and Development (BRD)

1. Organization Back Ground

BRD was set up in 2002 by local Afghans to provide services in the areas of human rights (advocacy and education), capacity building of CSOs, local NGOs and government departments. The organization aims to create an environment in which Afghans are able to improve their standards of living through an equitable and sustainable use of resources and to contribute towards the development of a strong, viable and pluralistic civil society in Afghanistan.

1.1. BRD's Vision

BRD's vision is of an Afghanistan where all the population live with improved livelihood, social justice, integrity and prosperity, where human rights and rights of women are recognized, upheld and respected, where citizens have an active role in determining the values, direction and governance of their communities and country, for the benefit of all.

1.2. BRD's Mission Statement

- To create an environment in which men and women are able to improve their standards of living through equitable and sustainable use of resources.
- To facilitate the process of community development in BRD's target areas through programmatic and institutional intervention.
- To improve service delivery by building the institutional capacity of the public and Non-Profit sector to facilitate the process of long-term development in Afghanistan.
- To enhance the skills and knowledge of local communities on human rights and democracy to ensure their active participation in the development of a viable civil society in Afghanistan.

1.3. Our Key Programs

- Human Rights Education and Advocacy
- Civil Society Education and Training
- Capacity Building of Government
- Local Economy Development through Vocational Training and Income Generation

1.4. Our Strategy and Approach

BRD provides quality services to the Afghan community for the development of a sustainable society. Our work is guided by our Vision, Mission and Core Values. Our approach to development is the Rights Based Approach; The guiding principle for BRD work in Afghanistan remains the rights-based approach to human development. Poverty most often stems from the denial of human rights – through discrimination, marginalization. BRD approach is stand on the right based principles, accountability, empowerment, participation, non-discrimination and attention to vulnerable groups

Executive Summary

Economic and social rights are enshrined in the ICESCR which was adopted by the United Nations General Assembly on December 16, 1966. The Afghan government Acceded to the Covenant in 1983. Though many of the obligations of States parties to the ICESCR are of a progressive nature and subject to State resources, the inadequacy of existing resources must not be exploited as a pretext for a State's negligence and inaction.

The Afghan Constitution has guaranteed all the rights set forth in the ICESCR and required the government to fulfill economic and social rights. The International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the Afghan Constitution are the two fundamental sources of the Afghan government's legal framework for the realization of economic and social rights which are complemented by Afghanistan's Millennium Development Goals (MDGs) and the Afghanistan National Development Strategy (ANDS).

Which obliged the government of Afghanistan has a duty to protect these rights for its citizens, pave the way for social security, create conditions for enjoyment by the people of their right to an adequate standard of living, socially reintegrate returnees and internally displaced persons (IDPs), safeguard family life, and provide Afghan citizens with educational and health services.

This report aims to assess the status of economic and social rights in Afghanistan, in comparison with the Second to fourth periodic reports submitted by States parties under articles 16 and 17 of the Covenant

The report has been compiled from the information from various reports published by the International Human Rights Organizations, National Human Rights Institutions; BRD established CSOs advocacy network in the local level, some of the key findings in regards to the ESCR is outlined below:

- Though the government has taken steps towards fulfilling its obligation toward CESC, but it's limited to law regulation, reflected in the report, but without enforcement and implementation mechanisms which in the result have limited or no impact on the improvement of the status of the Economic, Social and Cultural Rights in Afghanistan.
- Under the point 6 of the general list of issues requested by the committee, the extent and manner of the participation of civil society in the preparation of the periodic report of the State party, where the civil society has not been involved in any consultation, or consideration of their inputs during the preparation of the Report.

The judiciary did not play a significant role in civil matters due to corruption and lack of capacity. Land disputes remained the most common civil dispute and were most often resolved through the informal justice system.

- The government made efforts to combat corruption in the security apparatus; however governors with reported involvement in the drug trade or past records of human rights violations received executive appointments and served with relative impunity.
- The constitution provides citizens the right to access government information, except when access might violate the rights of others. The government generally provided access in practice, but officials at the local level were less cooperative to requests for information. Lack of government capacity also severely restricted access to information.
- The penal code criminalizes assault, and courts entered judgments against domestic abusers under this provision but hundreds of thousands of women continued to suffer abuse at the hands of their husbands, fathers, brothers, armed individuals, parallel legal systems, and institutions of state such as the police and justice systems. Women widely reported that they were victims of violence, especially sexual violence.
- As to the report of the GoA, despite the provisions of the law, there are still discriminations against social minorities (Nomadi Kuchies, Hindus' and Sikhs) and there are discrimination against women and children by some government organs and some citizens, such police and judiciary in at the national and sub-national level in the country .
- July President Karzai signed a law doubling the minimum wage to 4,000 Afghanis (\$80) for government workers. The minimum wage was 2,000 Afghanis per month (\$40) in the private sector, but in practice wages were not protected. The minimum wage did not provide a decent standard of living for a worker and family. These standards were not effectively enforced, and citizens generally were not aware of the full extent of their labor rights under the law.
- Even though the GoA issued various employment laws, there are no legal provisions addressing irregular and casual labour, including the lack of mechanisms to estimate numbers or to understand the needs and protect the rights of workers employed in the informal economy and relying on a daily-wage labor.
- There were no occupational health and safety standards and no enforcement mechanism. Employment was at will, and MOLSA did not enforce the existing legal protections for workers. Workers did not have the right to remove themselves from situations that endangered their health or safety without jeopardizing their employment, as all employment could be terminated without cause.
- The conditions of work are hazardous: long hours in unhealthy environments with unsafe equipment. Although child labour has been vividly prohibited in both national and international law, little attention has been paid in this respect, and child labourers are still deprived of their rights. Children faced numerous health and safety risks at work and some of them sustained serious injuries such as broken bones.
- GoA does not have the ability to provide to social security due to shortage of resources and facilities. There are a wide range of problems in the area of social welfare and most of the citizens, especially in the rural areas, rarely have access to social and welfare

services, and this has created a consumer economy in the country.

- Poor Afghans experience sustained deprivation of the resources, choices, security and power that are necessary for the enjoyment of their human rights. Poverty reduction needs to focus on abusive structures and institutions of power, opportunities for choice and inclusion in decision-making processes, equitable resource allocation, and improved security.
- Illicit land seizures, particularly in rural areas, among the most prevalent human rights violations. Difficulties in resolving disputes over land persist because of lack of coherent legal framework, policy, administration, and enforcement and that this also undermines the rule of law and economic development.
- Access to adequate food in poor communities is frequently affected by connections to those in power. Corruption in food aid limits access for those who cannot afford to pay a bribe or who do not receive food aid because it has been diverted elsewhere. There was a marked difference in response between men and women, with women disproportionately and negatively
- Malnutrition is regarded as one of the most serious public health challenges in Afghanistan that requires safe water and good diet, which is not accessible to all. Afghanistan has the worst ratio as far as health indicators are concerned: low life expectancy (46), low access to public health services, and high mortality especially among mothers: 1,600 deaths per 100,000 live births.
- Although the progress towards implementation of the Benchmarks of the Afghanistan Compact, basic health delivery service in the rural areas is increased, but the quality of services are remained entirely poor, to lack of capacity of the MoPH for quality control and monitoring.
- Drop-out rates are extremely high. Only 11% of boys and 5% of girls enrolled in primary school continue on to grade 12 while almost 82% of boys and 63% of girls reach grade six. It is estimated that more than half of school-age children do not attend schools. The reasons for irregular school attendance included: quality of education, adequacy of school facilities, and economic factors. This broad category might also include such reasons as cultural preferences, taboos, and a fear of sexual abuse or harassment in school, early age marriages . Distance to school is also the second biggest reason. +early marriage
- The lack of capacity and resources for the civil society for effective monitoring of the implementation the obligation of the state and protection and promotion of the CESCR in Afghanistan.

Recommendations

Government of Afghanistan

- The Government of Afghanistan should strengthen coordination and employ the necessary resources to ensure the implementation of economic and social rights contained in national laws, policies and strategies including ANDS.
- The State should amend and reform some of the religious crime laws that are in contravention with the Afghan constitution and international legal standards.
- Marriage registration offices and family courts should be established in all Afghanistan's provinces and districts in order to protect families, prevent forced marriages and child marriages, and safeguard equal rights of both spouses.
- The government of Afghanistan should establish a good partnership and collaboration with Afghan Civil Society for promotion and protection of the CESCRC in the country.
- The Government of Afghanistan should reform assign
- The Government should increase its capacity and competency in order to effectively spend international aid and assistance through governmental institutions.
- The Government should take the necessary measures to ensure reform and capacity building of institutions responsible for the provision of basis services.
- The Government should take necessary and effective measures to eradicate corruption in governmental institutions and non-governmental organizations.
- The Government should ensure access to birth registration centre's for all Afghans and further regulate national ID issuance offices in order to prevent inaccuracies and irregularities related to early age mirages, child labor and child trafficking.
- The Government should create employment opportunities and increase agricultural productivity by building water dams and by providing irrigation for more lands.
- Effective programmes should be designed and implemented to ensure gender equality and women's access to all socio-economic services.
- The government should develop better programmes to raise awareness on sexual

Harassment, traffic in person, and forced labor and domestic violence. A long-term strategy should be adopted to address food insecurity. This strategy can include reconstruction programmes, rural infrastructure, investment in rural development, and food assistance for vulnerable persons.

- The Government should adopt a rights-based and equal approach towards all vulnerable people and refrain from applying any form of discrimination.

International Community

- The international community should support the capacity building of Afghan civil society technically and the same time through provision of financial resources in order to enable the CSOs to provide effective monitoring the implementation of the state obligation in regards to CESCRES in Afghanistan.
- The international Donors and UN Agencies channel more resources to the government and NGOs for provision of more protection vulnerable families and children, Disables, femoral headed women's.
- The international donors and Government should consider the needs and priorities of the Afghan society and undertake increased efforts to maximum use of international assistance in order to bring about aid effectiveness.
- The international Community should adopt an integrated approach towards building the capacity of the government for improving the service delivery and at the same empower local civil society and NGOs to provide social audit on the performance of the government.
- The international donors, who deliver program through International NGOs, the local empowerment policy should be included in their funding criteria.

Introduction

Considering the current political, social and economical situation in Afghanistan, in particular a weak rule of law and poor performance of the state for protection of human rights. Since 2002 there are more than 380 recommendations issued by the UN mechanisms on Afghanistan.

After thirty years of war and armed conflict in Afghanistan and the coming to power of a democratically elected government, the country witnessed important opportunities to ensure economic and social rights such as the international community's involvement in the reconstruction process.

Unfortunately, many opportunities were lost as a result of a weak and inefficient government and Afghanistan had continued to face many problems and challenges such as poverty, unemployment, underdevelopment, and consecutive droughts.

There is very less progress towards implementation of obligation of the state toward CESCER, which need A strong civil society to promote State accountability and to foster the respect of State treaty obligations regarding the promotion and protection of human rights, but due lack of capacity and resources for the civil society to effectively engaged in motoring of the implementation of the state obligation in regards to CESCER and provide the Committee on CESER with a clear picture of the status , in order to increase the state accountability, for its obligation.

This report has been prepared based the existing from information compiled from various report published by international human rights organizations, national institutions is an attempt to identify basic needs and highlight instances where the government of Afghanistan has failed to fulfill its responsibilities and commitments or has shown negligence or failure in living up to its obligations.

Article 2-5 - Non-discrimination and Equal rights of men and women

As to the report of the GoA, despite the provisions of the law, there are still discriminations against social minorities and there is discrimination against women and children by some government organs and some citizens. GoA formed the Ministry of Women Affairs (MoWA) in the Government structure and joined CEDAW. The GoA, the civil society and other actors have gone significant steps in furthering the right of Afghan women and girls. Yet, the women of Afghanistan are among the worst off in world on measures of health, poverty, deprivation of rights and protection against violence, education and literacy, and public participation, but the reconstruction and development of Afghanistan requires the full participation of Afghanistan women in political, social, cultural and economic life. Afghanistan women have one of the lowest indicators in the world according to Gender Development Index which combines life expectancy, educational achievements and standard of living. Gender gaps in health, education, access to and control over resources, economic opportunities, justice and political participation remain pervasive.

Women are discriminated on the basis of traditional practice, and also in economic and educational spheres. For economic advancement of Afghanistan, women are not playing as such significant role. This happens due to pervasive social, political and economic problems. The High Commissioner and the Secretary General acknowledged some progress on women's economic advancement and to the fact that women and girls had continued to make gains in the work place, education and government.

Women and girls continue to face severe discrimination and suffer the worst effects of Afghanistan's insecurity. Conditions are better than under the Taliban, but four years later progress has been inadequate and too slow. Women who are active in public life as political candidates, journalists, teachers, or NGO workers, or who criticize local rulers, still face disproportionate threats and violence. Women and girls are subject to both formal and informal (customary) justice mechanisms that fail to protect their rights. Some are placed in custody to prevent violent retaliation from family members.

Article 6, 7, 8: Right to work and to just and favourable conditions of work

The Constitution of Afghanistan recognizes right to work and to just and favourable conditions of work and the new Labor Law introduced in 2007 contain comprehensive provisions enforcing workers' rights. Also Afghanistan has ratified various ILO Conventions. The Constitution of Afghanistan offers an excellent basis for an equitable and just society. Law enforcement, however, needs to be strengthened. The government needs to implement labor codes, particularly in regards to daily-wage workers, health care, a safe work environment, and child labor.

Even though the GoA ratified the above stated laws there were no legal provisions addressing irregular and casual labor, including the lack of mechanisms to estimate numbers or to understand the needs and protect the rights of workers employed in the informal economy and relying on a daily-wage labor. Casual workers have no access to skills upgrading or avenues for collective bargaining to improve their quality of life.

As to Government report for ICESCR, the new Labor Law introduced in 2007 contains comprehensive provisions enforcing workers' rights. The new law provides for not only the right to work, workers' rights, labour rules and standards, but also vocational training and development of professional skills. The government has provided information in regarding the establishment of the vocational training centres and the numbers of trainees who are provided the marketable skills training; however they are not properly linked with the job placement or no mechanism to provide the graduate trainees with an adequate job.

Pursuant to article 50 of the Constitution, State employees must be employed on the basis of qualification without any discrimination. Conditions for recruitment of State employees are regulated by the 2005 Civil Service Law. According to the Civil Service Law, recruitment and appointment of civil servants should be based on candidates' professional skills, such as education and professional experiences, through competitions. Any types of discriminations, based on gender, tribal, religious, and disabilities in the recruitment process is prohibited.

In practice however, State employees are not always recruited based on their qualification but sometimes through political and personal connections due to the reality in which the Government is sometimes pressured by external factors. Labor rights were not understood outside of the Ministry of Labor, and workers were not aware of their rights. There was no effective central authority to enforce them.

Minimum Working Condition

There is no reliable information existed regarding a statutory minimum wage or maximum workweek or the enforcement of safe labor practices. The national minimum wage of approximately \$1,000 (5,000 AFG) per month did not provide a decent standard of living for a worker and family and was not observed in practice. Even though the Labor Right Law defines the standard of work weeks these standards were not effectively enforced, and citizens were not generally aware of the full extent of their labor rights under the law.

Labour rights remained largely unprotected due to failure of the government to develop regulations and protection mechanisms to enforce the law. In particular, this refers to the workers employed in the informal economy, child labor, labor migrants, and women.

Concerning minimum wages, the Government has established a monitoring system in the Labor Law. In reality, however, minimum wages cannot be implemented in practice due to economic situation in the country. As the law prohibits forced or compulsory labour, including by children; however, there were reports that such practices occurred. As in past years, there were reports of women being given away as laborers to another family in order to settle disputes and debts.

There are a growing number of social organizations registered in Afghanistan every year and the number had reached over 900 as of 2007. By contrast, the number of trade unions is limited to the ten. Creation of trade unions is still on an early stage.

The 2007 Labor Law does not provide for the right to strike, and the country lacked a tradition of genuine labor-management bargaining. The law did not protect collective bargaining. There were no known labor courts or other mechanisms for resolving labor disputes. Instead, it provides for setting resolution mechanisms for work related disputes or differences.

Although statistical data on fatal incidents has not yet been collected in Afghanistan, the Government makes efforts to prevent any hazardous incidents in work places through setting national standard on office/workplace safety and health conditions. There were no occupational health and safety standards and no enforcement mechanism. (contradiction between the two sentences: are there or not implementation efforts?) The conditions of work are hazardous: long hours in unhealthy environments with unsafe equipment. The situation of casual workers and children make them vulnerable to trafficking and forced labor. An anti-trafficking law is being developed and two units (at what level?) were formed to combat trafficking in persons; their work, however, is sporadic.

Rights and protection of women in both formal and informal employment need special attention. Currently, maternity leave is the only measure implemented to protect the rights of working

women. There is a need to extend their protection, in particular, with regard to sexual abuse and harassment at the workplace. As of now, there are no existing mechanisms to protect women and offer safe avenues to report incidents. There are also no incentives to attract more women into the workforce such as the provision of childcare and job training as well as gender-sensitive workforce policies.

The conditions of work are hazardous: long hours in unhealthy environments with unsafe equipment. Although child labour has been vividly prohibited in both national and international law, little attention has been paid in this respect, and child labourers are still deprived of their rights. Children faced numerous health and safety risks at work and some of them sustained serious injuries such as broken bones. 15.7% of all child interviewees (193 persons) said that they had to work under circumstances that had been very cold, hot or noisy.

Article 9 - The right to social security

Article 53 of the Constitution of Afghanistan guarantees the right to financial support of families left without providers, persons with disabilities, former government employees, vulnerable elderly, women without caretakers, and vulnerable orphans. The right of Afghan citizens to social security and protection from vulnerability is protected by the Constitution of Afghanistan in line with the UDHR. Article 9 of the ICESCR recognizes the right of everyone to social security and social insurance.

In Afghanistan, the social security system is focused on issues of disability, families of martyrs, and children. The protection of persons with disabilities and families of the martyred is largely limited to the provision of social pensions. Social services for children are focused on establishing shelters. As of January 2008, there were three children's shelters in Kabul and four in other cities. Each shelter can accommodate 20 children. There are one hundred sixty four public kindergartens in Kabul and two hundred two elsewhere in the country. Besides the abovementioned, there are no other services implemented by the government for these groups. In addition, despite constitutional provisions for support to the elderly, ill or women without caretakers, no protection mechanisms were developed and the implementation of the law remains sporadic.

Despite all these efforts, the GoA does not have the ability to provide to social security due to shortage of resources and facilities. There are a wide range of problems in the area of social welfare and most of the citizens, especially in the rural areas, rarely have access to social and welfare services, and this has created a consumer economy in the country.

Persons with disabilities

Article 53 of Constitution has assigned the GoA to ensure necessary measures for rehabilitation of disabled and handicaps and to enable them to regain their active participation in government and public life. To this effect, Law of Disabled Rights was adopted. Afghanistan has about 1,000,000 people who were disabled during the conflict years. Great majority of them are faced with grave problems of life. The State can not extend sufficient aid to them to alleviate their problems. The disabled face many problems with the small salary that they receive. Also, it

requires that the GoA should take measures in this area; however, the GoA is not able to fulfill its obligations because of the weakness of national economy.

Article 10 - Protection of the family, mothers and children

Though the Constitution has prohibited child labour in its Article 49 AIHRC noted that the number of children, faced with the worst forms of child labour, is unfortunately increasing day by day. WWA noted the estimates that there are roughly one million child labourers between the age of seven and fourteen in Afghanistan. Child labor remained a pervasive problem; nearly a quarter of children in Kabul work despite the legal ban on any full-time labor under 18 years of age. According to UNICEF estimates, at least 20 percent of primary school age children undertook some form of work and there were more than one million child laborers under age 14. UNICEF referred to findings of a 2003 survey indicating that 24.3 per cent of children aged between 7 and 14 years were working, that girls work more than boys and that there is more child labour in rural than urban areas.

Despite all these efforts, the GoA does not have the ability to provide to social security due to shortage of resources and facilities. There are a wide range of problems in the area of social welfare and most of the citizens, especially in the rural areas, rarely have access to social and welfare services, and this has created a consumer economy in the country.

Children as one of the most vulnerable group of the country, their rights were grossly violated. After the fall of Taliban, major steps were taken towards promotion of child right in the country. In 2002, after the reopening of schools, a total of three million boys and girls were able to go back to schools. In 2008/9 this figure has reached six million students a third of which are girls.

Children have the right to learn in their mother tongue in areas inhabited by linguistics minorities. Afghanistan has ratified the Convention on the Rights of the Child (CRC) in 1994, on the basis of which previous regulations on children right and justice were reviewed and amended. Major achievements have been made in reference to child health care in Afghanistan. Millions of children under 5 have been successfully vaccinated against major killer diseases of childhood such as; measles and polio. Since four years ago, northern and central provinces of the country have become immune against polio virus. Extension of mother and child health care services and facilities has dropped mortality rate under five years old by 25 per cent.

In order to protect children against violence, child smuggling, and child abuse, the GoA in cooperation with international organizations, has established child protection networks throughout the country. Also, to guarantee the rights of the child, the Law for Addressing Juvenile Violations was adopted in conformity with provisions of the CRC and for legal protection of juvenile to protect children's interests while under trial, children at risk and children in need of basic care and protection.

Despite above mentioned progress, Afghan children, primarily girls, still are faced with great challenges. For example, millions of children mostly in conflict provinces can not attend schools. Daily, hundreds of children are dying from malnutrition and curable diseases and 35 per cent of

these losses emanates from waterborne diseases. Due to growing poverty of their parents, yet, thousands of children go to labor markets, work in small plants or in farms.

Children also are subject to different forms of violence, such as smuggling or abduction, exploitation, or sexual abuse. AIHRC noted that child marriage and rape and other forms of sexual exploitation of children are a challenge. that children in need of special care, like those with disabilities, are generally neglected in national as well as local planning. Statistics suggest that around 80 per cent of children do not have National Identification Cards, which causes numerous problems, including under-age marriage and unfair court proceedings.

The legal recruitment age for members of the armed forces was 18. There were unconfirmed reports of children younger than 18 falsifying their identification records to join the national security forces, which offered a large-scale source of new employment opportunities. There were reports of Taliban forces using children younger than 18 in some cases as suicide bombers. Although most of the children were between 15 and 16 years old, children as young as 12 were used.

UNAMA reported Taliban tricked, promised money, or forced the children to become suicide bombers. Beginning in 2004 an estimated 8,000 former child soldiers were demobilized under a UNICEF-initiated program. Since 2004, more than 15,000 children affected by war have been supported through UNICEF's reintegration project in 28 provinces.

Children are no longer reportedly recruited into the Afghan National Army, but there are unconfirmed reports that the police auxiliary maintain informal associations with children. Nonetheless, the greatest cause for concern remains the Taliban, who continue to recruit children.

Corporal punishment

Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted that corporal punishment of children is lawful in the home. Children have limited protection from violence, but there is no explicit prohibition of corporal punishment. GIEACPC also noted that there is no explicit prohibition of corporal punishment in schools.

In 2004 the Ministry of Education issued a letter to all schools prohibiting severe beating of children by teachers, and in June 2006 the Ministry of Education announced “that the use of any form of violent behaviors and punishment against children are seriously prohibited.” Further, in the penal system, corporal punishment is unlawful as a sentence for crime, but it is not explicitly prohibited as a disciplinary measure in penal institutions. And there is no explicit prohibition of corporal punishment in alternative care settings. However the government is failed to take practical steps towards ending the Corporal Punishment of Children.

Violence against women

The penal code criminalizes assault, and courts entered judgments against domestic abusers under this provision but hundreds of thousands of women continued to suffer abuse at the hands of their husbands, fathers, brothers, armed individuals, parallel legal systems, and institutions of state such as the police and justice systems. UNAMA reported a slight decline in cases of violence against women active in public life. A total of 1,708 cases were reported from January to September, compared with 2,322 for the same period in 2008; however, the number of incidents was believed to be underreported.

According to Human Rights Watch, 87.2 percent of women had , experienced at least one form of physical, sexual, or psychological violence or forced marriage in their lifetimes. Many elements of society tolerated and practiced violence against women. Killing and assault against women commonly involved family members as suspects. Women widely reported that they were victims of violence, especially sexual violence. Police response to domestic violence was limited, whether because of the crimes never being reported, sympathetic attitudes towards perpetrators, or limited protection.

Human trafficking

The 2008 anti-trafficking law was published on July 15. The persons were trafficked to, from, through, and within the country. The country was a source for women and children trafficked predominantly to Iran and Pakistan for forced labor and commercial sexual exploitation. Children were trafficked internally for forced labor as beggars or for debt bondage in the brick kiln and carpet industries.

Women and girls were kidnapped, lured by fraudulent marriage or job proposals, or sold into marriage or commercial sexual exploitation within the country and elsewhere. Boys as well as girls were victims of trafficking. Men were trafficked to Iran and Pakistan for forced labor and debt bondage, as well as to Greece for forced labor in the agriculture or construction sectors. The country was also a destination for women and girls from Iran, Tajikistan, and possibly China for forced prostitution. Sexual exploitation of boys, reportedly more widespread than sexual exploitation of girls, occurred in every region of the country, and internal trafficking was more widespread than cross-border trafficking. The MOI reported 75 cases of trafficking during the year.

Article 11 - The right to an adequate standard of living

Afghanistan remains one of the poorest countries in the world with an estimated one third of its population living in absolute poverty and a further 37 per cent precariously situated just above the poverty line. Afghanistan was ranked 181 out of 182 countries in the 2009 Human Development Index. Poverty is a complex and multidimensional problem, compounded in the Afghan context by numerous factors, including conflict, weak governance, abuse of power, lack of accountability, and discrimination against women.

Poor Afghans experience sustained deprivation of the resources, choices, security and power that are necessary for the enjoyment of their human rights. Poverty reduction needs to focus on

abusive structures and institutions of power, opportunities for choice and inclusion in decision-making processes, equitable resource allocation, and improved security.

Deprivation of the enjoyment of human rights is well demonstrated by, for example, Afghanistan's high child mortality rates and low life expectancy, and by the limited progress achieved in access to health care. In this regard, Afghanistan has the second highest maternal mortality rate in the world (1,600 maternal deaths per 100,000 live births), which points to the failure of the health system to provide care for women.

Right to shelter

According to the ICESCR, the Government has the responsibility to take steps towards the realization of the right to an adequate standard of living for everyone, which includes the right to adequate housing. The Constitution of Afghanistan provides for the right to shelter and obliges the government to take necessary measures to supply and distribute public land to deserving citizens in conformity with law within available resources. In order to provide access to shelter for citizens, the GoA has just adopted the law of shelter loan. Donors including the World Bank, EU, Germany, Japan, the International Committee of the Red Cross, and Care are implementing housing supply, sanitation, and drainage projects. To implement housing projects in an efficient manner, the Government introduced City Master Plan and banned on distributing State lands contrary to the master plan in 2002. In addition, the Regulation on Distribution of Residential Plots to Homeless and Teachers was enacted in 2006.

Illicit land seizures, particularly in rural areas, among the most prevalent human rights violations. According to UNAMA, difficulties in resolving disputes over land persist because of lack of coherent legal framework, policy, administration, and enforcement and that this also undermines the rule of law and economic development. Rapid growth of urban dwellings and accommodating new groups of returnees and displaced persons, expansion of poverty and slums in the cities have been exacerbated the shelter problem in Afghanistan.

Among the estimated total population of 24.1 million, around 18.5 million people live in rural areas. According to estimates, the national population is expected to reach 37 million by 2015. More than half of this growth will be in urban areas provided by that geographic location, and economic conditions, rural areas are limited to absorb further population growth. In addition, Afghan returnees from refuted countries, mainly Pakistan and Iran have exacerbated the population growth, particularly in cities, such as Kabul, Jalalabad, Mazar, and Kandahar.

A large number of IDPs exists in the country. In reality, however, difficulties to obtain official statistics on homeless, forced evictions, and demolition of houses in addition to the lack of mapping of households and land survey in general are the leading cause of the problem. Furthermore, the security and complex property registration situations influence slow implementation of housing projects.

Though the government has announced several housing programs, there is a disjuncture between these announcements and the programs being actually implemented. In Afghanistan's Second to Fourth Periodic Report on ICESCR, the government cites security and complex property

registration situations as reasons for the slow implementation of housing projects. These are not sufficient grounds to further delay resolution of these issues.

Most of the housing projects are concentrated in Kabul. Beneficiaries of the constructed houses, selected by a committee, must be native to the province and cannot have any immediate family members that already own a house in Kabul. This policy specifically excludes many returnees who currently settled in Kabul and cannot return to their places of origin, and thus are most vulnerable. While *26 Dalw* (what does it stand for?) attempts to fix a housing shortage among the middle class, it ignores the needs of Afghanistan's most vulnerable populations.

In the absence of other projects specifically targeting the urban poor, the implementation of *26 Dalw* reflects the government's larger disregard for Afghanistan's urban poor. While conversations with ministry officials revealed that they were aware and concerned about specific problems of the urban poor, the lack of action from the ministry reveals the lack of political will to implement programs to achieve concrete gains for the urban poor.

Availability and affordability of housing are acute problems in urban areas. The simultaneous influx of migrants and soaring property costs has precipitated a housing crunch in Afghanistan's urban areas.

The MoUD is responsible for the design and implementation of housing and infrastructure in Afghanistan's urban areas. Its mandate, however, clashes with the mandate of Municipal Authorities who own the urban land and report directly to the President. This makes it difficult for MoUD to implement projects or provide solid relocations plans for the urban poor displaced by development activities of either the municipal authority or MoUD.

Right to food

In the last five years, agricultural production has increased, as indicated by the Ministry of Agriculture, Irrigation and Livestock (MAIL) surveys (3,589,000 MT in 2002 to 5,584,000 MT in 2007), in large part due to the recovery from the prolonged and generalized drought that struck the country between 1998 and 2001. Improvement in the political situation in the country has enabled farmers to return to their land, irrigation systems to be rehabilitated, inputs to be procured, and has made knowledge and technology transfer more feasible. Recent changes in national policies and laws represent steps in the right direction. At the national level, the country does not produce enough crops to meet the nutritional requirements of the population. The Government of Afghanistan is taking several measures to improve the distributions of food supplies to vulnerable groups, with assistance from external donors.

An OHCHR/UNAMA right to food survey conducted in 2009 found that access to adequate food in poor communities is frequently affected by connections to those in power. Corruption in food aid limits access for those who cannot afford to pay a bribe or who do not receive food aid because it has been diverted elsewhere. There was a marked difference in response between men and women, with women disproportionately and negatively impacted in accessing adequate food. These findings, as well as additional research, contributed to a larger study on the human rights

dimension of poverty in Afghanistan. This research has shown that abuse of power is a critical factor in the marginalization and disempowerment of Afghans living in abject poverty. In sum, poverty is neither accidental nor inevitable, but rather reflects the way Afghan society is organized, how resources are allocated and used, and the accountability, or lack thereof, of decision makers.

Based on 2005 statistics, a total of 44 per cent of the people of Afghanistan live under poverty line and 75 per cent of the population is food insecure. This statistic is corroborated by the fact that an estimated 30 per cent of households do not meet with their energy (calorie) requirements and 61 per cent of households have poor food consumption as indicated by diet diversity (i.e. they consume less than four different food items each day or less than four different food items each day plus an additional two or three other items per week).

This can be possibly explained by the high unemployment rates in urban areas; in rural areas, most households engage in some form of subsistence agriculture or livestock farming to meet at least part of their food requirements. This situation is further aggravated due to rise of food cost in 2008 and repeated droughts in recent years.

Food insecurity is also reflected in high malnutrition rates. A nutritional survey conducted by the MoPH and NGOs found that over six per cent of children under five years of age suffer from acute malnutrition (low weight-for-height ratio) while 45 to 60 per cent of the same age group are chronically malnourished (low height-for-age).

Micronutrient deficiencies affect the majority of the population. According to the Micronutrient Deficiency Survey conducted by the MoPH, UNICEF, and the Centre for Disease Control in 2004, 72 per cent under five and 75 per cent of women in reproductive age suffer from iodine deficiency. 72 per cent and 48 per cent of the same groups suffer, respectively, from iron deficiency, including 38 per cent and 25 per cent suffering from anemia.

20 per cent of mothers have chronic energy deficiency, and micronutrient deficiencies are worse amongst women than men. 18 per cent of adult men were found to suffer from iron deficiency compared to 48 per cent of women, (excluding pregnant women) in the MoPH survey in 2005.

Maternal malnutrition is related to the high number of pregnancies women experience (often six and up to twenty), the young age at the first pregnancy (sometimes thirteen years old), and the short birth spacing. These physiological difficulties are compounded by the social and economic challenges that many Afghan women faces: women generally do not make decisions on the use of household income, and they have difficulties generating their own income due to lack of education and skills and social disapproval of female employment. The situation is particularly challenging for women without husbands or adult sons.

Lack of knowledge about nutrition and how food can contribute to health is a leading cause of malnutrition in the country. Preventable causes of malnutrition include the belief that pregnant women's breast milk is forbidden for their baby, late introduction of complementary foods which often fail to meet child needs, and limited use of diverse foods when they are available. In order to overcome lack of public awareness regarding nutrition, the MAIL in consultation with FAO has developed several practical nutrition education materials, such as Afghan Family Nutrition

Guide: Guide on Improved Feeding Practices and Recipes for Afghan Children and Mothers; Home-based food processing.

The booklets are disseminated at the community level through literacy classes, poultry, dairy and others agricultural projects, and health workers. School gardens have been piloted with the Ministries of Agriculture and Education, and will be expanded to several hundred schools in the next few years. Nutrition education is also being incorporated in literacy and school curricula.

According to the diet diversity data, the most food insecure provinces are the central highlands, and Nuristan province, followed by some provinces in the South (Zabul and Nimroz). Generally, highlands tend to be most food insecure due to the long winters and related transportation and access difficulties. Many rural households have difficulties accessing land. The National Risk and Vulnerability Assessment 2005 estimated that 26 per cent of rural households do not have access to irrigated land. Agricultural plots are often small, the growing population means that agricultural plots are increasingly fragmented through inheritance.

Many plots do not receive enough water for year-round cultivation. Finally, some families are challenged by land that has not been properly cultivated for a long time because many Afghan households are returning to their region after years of absence as refugees or IDPs, or are still displaced from their home areas.

Right to safe water

The right to healthy water can prevent the affliction of children with various diseases, and lead to the enhancement of child health. AIHRC research indicates that 35.6% of all interviewees use open water sources, while the following responses were made with regard to the distance children walk to fetch water: 21.7% (637 persons), more than 15 minutes, 6% (176 persons), more than 1 hour. The densely populated urban areas of the country lack any basic services, including safe drinking water and clean environment. The WHO has set a less-than-15-minute distance benchmark for people to reach a water source.

AI noted that more than 200,000 people are internally displaced in Afghanistan because of “conflict, ethnic tensions or human rights violations, and natural disasters such as drought, or secondary displacement in the case of refugees and deportees who have returned from neighboring countries.” AI also noted that the situation for internally displaced people in conflict zones remains desperate as international and local humanitarian agencies by and large are unable to gain access to them and assess their needs. AIHRC noted that IDPs are mostly facing lack of health services, shelter and unemployment. Most of the returnees and IDPs are reluctant to return to their place of origin due to insecurity and lack of sustainable livelihood opportunities. They ultimately join the ranks of jobless and poor people in urban areas. Hundreds of thousands of

Afghan children have become displaced with or without their parents. The government estimates as many as 60,000 street children occupy the territory under its control – many of these children are malnourished and chronically ill.

Article 12 - The right to physical and mental health

The right to health is a fundamental human right according to which, the person is entitled to enjoy the highest achievable standard of health and health facilities. The right to health is a key aspect of life, and is of paramount importance for the enjoyment by the individual of other human rights.

Article 52 of the Constitution of Afghanistan stresses on the health rights, and the government is bound to provide free health services and the Ministry of Public Health is authorized to ensure medical and preventive measures for public safety. Achievements after Taliban include: reduction in child mortality (under five years) from 257 in 2001 to 191 in 2006, rise of public health services coverage from 9 per cent in 2001 to 65 per cent by 2007, and expansion of immunization coverage for the first time to 83 per cent.

Based on ANDS objectives, National public health and nutrition strategy of Afghanistan strategy was adopted in 2008. Accordingly, the Ministry of Public Health (MoPH) is mandated to improve health and nutrition status of the people of Afghanistan in an equitable and sustainable manner, through provision of quality healthcare, services and promotion of a healthy environment and living conditions along with living healthy life styles.

There is limited access to quality health care throughout the country. For every 1,000 Afghan children born, 165 die within the first year, and one quarter of all Afghan children die before their fifth birthdays – the vast majority from preventable diseases. WWA further noted that children who live on the streets of Afghanistan are at grave risk and are exceptionally vulnerable to malnutrition and infectious diseases. Over 50 percent of Afghan children throughout the country have stunted growth patterns. Infant malnutrition and the poor nutritional status of women are major contributors to high early death rates. Insufficient training and lack of physical infrastructure impairs the accessibility and the quality of health care services. There is a large gap between health care facilities that are available to the urban and rural populations of Afghanistan.

In the latest survey on socio-economic rights, conducted by AIHRC, 15 per cent of respondents in urban areas and 30 per cent in rural areas have said that they do not have access to health services. Quality mother and child health care (MCH) is mostly unavailable; resulting in still high maternal and child mortality rate.

According to the National Action Plan for the Women of Afghanistan (NAPWA), the average Afghan women have a life span of 44 years, around 20 years short of the global average. Maternal mortality is one of the highest in the world at an estimated 1,600 to 1,900 per 100,000 live births and the literacy rate for adult women is 21 per cent compared to 36 per cent for men. Remote areas are hard to service because of the lack of roads, electricity, and skilfully-trained health workers. Preventative health measures are weak due to poor information and substandard levels of hygiene and nutritional practices.

These constraints similarly reduce the effectiveness of the health care system in controlling communicable diseases. SRI noted that universal access to quality services is a primary means to reproductive health that the Afghanistan Government is committed to providing through the Ministry of Public Health.

Malnutrition is regarded as one of the most serious public health challenges in Afghanistan that requires safe water and good diet, which is not accessible to all. Afghanistan has the worst ratio as far as health indicators are concerned: low life expectancy (46), low access to public health services, and high mortality especially among mothers: 1,600 deaths per 100,000 live births.

There are only 17 doctors and 48 health workers for every 100,000 individuals in the country. 80 per cent of health clinics in districts are ill-equipped, and short of reproductive health services, sufficient medical personnel and facilities. Over 70 per cent of births take place at homes without medical support or attendance.

Only 20 per cent, mostly complicated births are referred to hospitals. Despite all these efforts in the area of public health, Afghanistan still has a long way ahead to provide efficient health care, and it requires a series of strong measures to provide fair and balanced health coverage to all the country.

A 2007 WHO brief indicated that the lack of physical infrastructure impedes the improvement of health. Also, the low status given to women, low level of water supply and sanitation coverage, extremely poor hygiene and environmental health shortcomings contribute to high infant and child mortality and morbidity. UNICEF informed that a substantial long-term investment to strengthen the health system was needed while making efforts to increase access to high impact in un-reached areas and addressing neonatal deaths.

Afghanistan continues to suffer from high mortality rates. Despite some progress, provision of and access to adequate health care, particularly for women and children, remains a serious concern, child mortality rate in Afghanistan is the third highest globally, the country has managed to reduce this rate by 25 per cent since 2001.

The research shows that 72.7% of all interviewees (2,250 persons) are aware of the availability of health care services and facilities in their places of residence. At the same time, 22% of all interviewed children (593 persons) stated that there was a lack of health care facilities in their areas. The majority of interviewees have, therefore, reported the availability of health care services in their places of residence, but they do not use such services for a number of reasons. 47.2% of all interviewees, who had answered this question in the affirmative, said that they had problems accessing the health facilities.

The research reveals that 47.2% of all interviewees (1,352 persons) referred to problems in their places of residence as reasons for not using the health care facilities: 52.6% of all interviewees stated that the health care centres were far, 16.8% said that there was a lack of medicine and medical equipment, 12.4% mentioned that the quality of medicine was poor, 8.4% regarded monetary payment as a constraint to use the health services, and a very small number of interviewees cited the discriminatory treatment and lack of female workers in health care centres

as reasons for not availing themselves of the services. The research findings show that the inaccessibility of health services, lack of medicine, poor medicine, discriminatory treatment, lack of female health workers, and pecuniary payment are among the reasons why the interviewees do not make use of the health care facilities.

Progress towards implementation of the Benchmarks of the Afghanistan Compact, basic health delivery service in the rural areas is increased, but the quality of services are remained entirely to lack of capacity of the MoPH for quality control and monitoring.

Articles 13 and 14 - The right to education

General

The right to basic education is guaranteed by both the ICESCR and the Afghanistan Constitution. Article 13 and 43 of the Covenant and the Constitution stipulates that the government has a responsibility to provide free, universal and compulsory primary education. The Government is obliged to create and foster balanced education for women, improve education of nomads, and eliminate illiteracy in the county according to article 44. In addition, to ensure education for those who speak other than Dari and Pashto, the Government has responsibilities to design and implement effective programmes. Article 46 of the Constitution describes that establishment and administration of higher, general and specialized educational institutions is the duty of the State. In addition, the constitution allows the establishment of private schools by both Afghan and foreign citizens. In line with the Afghan MDGs, the Government commits to ensure that all children can complete a full course of primary education throughout the country by 2020. The Government of Afghanistan is making efforts to eliminate gender disparities in all levels of education no later than 2020. There are two ministries in charge of education; MoE and the Ministry of Higher Education (MoHE). The MoE deals with the primary and secondary education, and the MoHE manages higher education, namely university education.

The Government of Afghanistan also developed programmes for those who could not complete compulsory education for different reasons. There are mainly two programmes; accelerated education programme and night school programme. The State shall permit foreign individuals to establish higher, general and specialized institutions in accordance with the provisions of the law. However, the Government faces tremendous difficulties to achieve the said goals in reality.

Even though the government has a great commitment in educational sector there are serious challenges lies ahead of education sector in Afghanistan. According to AIHRC, access to education is hampered by an ever-increasing insecurity, including assassination and intimidation of female teachers and students. The primary targets of the attacks were schools where boys and girls attend classes together or where they share a building. Security was the number one reason cited when the AIHRC investigated allegations of girls being prevented from going to school by their relatives.

Current obstacles are lack of financial resources to build more number of literacy centres and difficulties in recruiting trained teachers, especially female ones in rural areas. The majority of surveyed communities are deprived of access to literacy centres. The availability of literacy

courses is an educational option for those who are forced to leave education, due to the prevailing traditional and economic influences. The AIHRC has documented cases of sizable communities that do not have access to education.

Drop-out rates are extremely high. Only 11% of boys and 5% of girls enrolled in primary school continue on to grade 12 while almost 82% of boys and 63% of girls reach grade six. As low as they are, these numbers are in fact inflated. A study by the Swedish Committee for Afghanistan found that children's names are often kept in school registers even after they had stopped attending more than three years prior.

The type of settlement, gender, and region has the most decisive effect on the attendance statistics. HRFM findings show that children in urban locations are more likely to attend school regularly. Boys in urban areas were only slightly more likely than those in rural areas to attend school regularly: 66.40% compared to 65.60% in rural areas. Contrary to expectations, the number of boys not attending in school was higher in towns than it was in rural locations (18% and 15%, respectively).

Living in an urban settlement had the biggest positive impact on girls' attendance: a 5% gap that saw 57.60% attendance in urban locations compared to 52.30% in rural areas. However, the number of girls not attending school is almost the same in both locations: 26.60% in urban and 27.30% in rural areas. In rural areas, girls were less likely to attend school regularly than boys. The difference in attendance widens from 8% in urban to 13% in rural areas.

The reasons for irregular school attendance included: quality of education, adequacy of school facilities, and economic factors. This broad category might also include such reasons as cultural preferences, taboos, and a fear of sexual abuse or harassment in school. Distance to school was the second biggest reason.

This holds true for all but rural boys; work as the factor preventing school attendance had a much greater impact on boys than girls. Marriage affected child attendance in 3% of urban girls, 6% of rural girls, and 4% of rural boys. It is necessary to be wary of this finding; the question in the survey asks why all siblings of the same gender do not have regular school attendance. The research indicates that economics is a basic factor why children are not able to carry on their education.

It has caused parents to compel their children to engage in labour problem, to which children referred in the interviews, is related to the lack of textbooks and educational equipment, and the complexity of textbooks, which are, in many respects, unintelligible to students. This factor has discouraged students, and has reduced the scale of their access to education.

Women education and its challenges

According to article 44 the Government is obliged to create and foster balanced education for women, improve education of nomads, and eliminate illiteracy in the county. The Constitution in the same article further stipulates the necessity of positive discrimination to facilitate equal access to education for women and Kuchis. The Government believes that more number of women in higher education can make a positive impact on the Afghan society, especially improving rights of women in general, and preventing any types of discriminations and violence

against women.

There is equal right of men and women to the enjoyment of all economic, social and cultural rights. The Millennium Development Goal Target 4 for Afghanistan is to eliminate gender disparity in all levels of education, no later than 2020 – the current baseline value for the ratio of boys to girls in primary school is 0.6.

AIHRC noted that despite increase in number of students, construction and rebuilding of schools, access to education is not inclusive yet. It is estimated that more than half of school-age children do not attend schools. However, girls represent only 35% of Afghanistan's population total school-going. At the grade 1, girls constitute 40% of students.

This percentage becomes progressively smaller at middle school (34%). By grade 12, females account for only a quarter of the students. HRW noted similar concerns and noted that even in areas free from armed conflict, girls continue to face immense obstacles to education, such as a lack of girls' schools and transport, fear of sexual harassment and violence while en route to school, and early marriage resulting in drop out. The severe shortage of qualified female teachers outside of urban areas has not been adequately addressed.

HRW further noted that despite a presidential decree guaranteeing married girls' right to attend school, in April 2008 the Ministry of Education reinstated a policy directive ordering schools to separate married girls from other students and provide separate classrooms for them. There is no such policy for married boys, and this discriminatory directive may result in pushing married girls out of the educational system. Girls' schools already lack resources and are unlikely to be able to offer separate classes and teachers for married girls.

The national average school attendance of females is 27% and that of males 44%. Paktika, Hilmand, Uruzgan and Zabul in the south-eastern and southeastern parts of the country have the lowest female to male literacy ratios and enrolment rates.

There are weak signs of female participation in higher education in the southern region of Afghanistan where security situation remains extremely difficult. In rural areas, girls were less likely to attend school regularly than boys. The difference in attendance widens from 8% in urban to 13% in rural areas. This is of particular importance since the majority of the population lives in rural areas; thus, the education of girls in rural areas is disproportionately affected.

Generally education opportunities for girls are limited. The cultural requirement to have female teachers creates a vicious cycle. Girls are not educated due to a lack of female teachers, which in turn prevents the development of female teachers to educate girls. The AIHRC documented several cases when children were prevented from going to school by the heads of family.

Article 15 - Cultural rights

Article 47 of the Afghanistan's Constitution provides that the State shall devise effective programmes for fostering knowledge, culture, literature and arts. The State shall guarantee and copyrights of authors, inventors and discoverers, and, shall encourage and protect scientific

research in all fields, publicizing their results for effective use in accordance with the provisions of the law. The GoA is trying to reconstruct and keep the existing heritage which is destroyed by Taliban. However, there are many problems in the area of participation in cultural life because of insecurity in many parts of the country. On the other hand, the GoA hasn't been able to promote cinema and theatre as required. However, the GoA has provided for the growth of artistic activities in the private sector. Article 16 ensures usage of languages other than the official languages of Pashuto, and Dari, in areas where the majority people speak, such as Uzbeki, Turkmani, Pachaie, Nuristani, Baluchi, or Pamiri languages, especially the usage of these non-official languages in press publications and mass media.

The Government of Afghanistan supports cultural development through the Academy of Sciences established in Kabul, which is an independent research institute within the executive branch of the Government with 180 Afghan researchers. In order to promote cultural life and to improve access to culture in Afghanistan, the Ministry of Information, Culture and Tourism (MICT) plans and implements various projects for the development of culture, including support for private initiatives to disseminate culture and cultural information.

The Government of Afghanistan is also committed to protect historical and cultural properties in line with the following international conventions ratified by Afghanistan: Agreement on the Importation of Educational, Scientific, and Cultural Materials of 1950; Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972; Convention on Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property of 1970; and UNIDROIT Convention of Stolen or Illegally Exported Cultural Objects. In implementing the said international conventions, the Government has registered over 130 historical sites. Over 450 historical sites, especially in Herat Province have been surveyed by the support of German Cultural Foundation. Over 1,920 pieces of historical relics were repaired and maintained by the staff of the Institute of Archaeology. Two hundred and thirty one historical relics has been discovered and submitted to the Government from national and international forces, individuals and archaeological departments.

In 2004, the Law on the Protection of Historical and Cultural Properties was enacted. Article 2 of the said Law stipulates that all historical and cultural properties of Afghanistan belong to the people of Afghanistan. The Institute of Archaeology and the Department of Protection and Rehabilitation of Historical Monuments at the MICT are assigned to register all historical monuments and sites according to the law.

Without the permission of the Institute of Archaeology, it is prohibited to construct any public or private buildings, irrigation and other projects within an archaeologically registered land. In addition, the immovable historical and cultural properties cannot be sold pursuant to article 23. Movable historical and cultural objects can be owned by the person who obtained ownership/possession before the application of this law.

Furthermore, Chapter Eight of the law provides penalties for the person who steals, imports, and exports up to ten years. The Government is making efforts rehabilitating national museums while recollecting cultural property unlawfully exported to countries parties to the aforementioned 1970 UNESCO Convention and to the UNIDROIT Convention on Stolen or Illegally Exported

Cultural Objects. The Government has already requested Denmark and Switzerland to return 4,382 and 1,423 relics respectively that were illegally exported from Afghanistan. With Azerbaijan, Pakistan, and the United Kingdom, the Government has also engaged in the process of requesting the return of cultural properties.

However the progress is entirely slow and the government required taking further practical steps toward enforcement of the law, because the current efforts for protection of the historical and cultural properties are still not fully protected, and they are smuggled to the neighboring countries.

Conclusion

The growing insecurity viewed as the cause of deprivation of their economic social and cultural rights by the government of Afghanistan, but the poor economic and social situation in Afghanistan also represents a major source of insecurity across the country. We believe that the armed insurgency cannot be defeated solely through a military means, improving the security situation requires both the Afghan Government and the international community to socioeconomic development and an improved standard of living for Afghan People.

It should be indicated that some of the obligations to be fulfilled by the state under the CESCR are not subject to resources and States parties to the Covenant should immediately act to implement them. From the perspective of the UN Committee on Economic, Social, and Cultural Rights (CESCR), the State party in whose territory a considerable number of people are deprived of necessary food supply, basic healthcare, shelter, basic housing, and fundamental education is *per se* a violator of the Covenant.

These minimum obligations are applicable, irrespective of available resources in a State, party and other factors and problems. To meet their commitments of immediate effect, States parties have a duty to prioritize the rights of their poorest and most vulnerable groups of people.

Three key principles govern the implementation of economic and social rights and governments must undertake to respect these principles, (i) States parties to adhere to them. 'Non-discrimination', mean not to allow distinction of any manifestation in ensuring economic and social rights for people.(ii) 'progressive realisation', meaning that States parties will improve economic and social rights continuously and that the enjoyment by the people of these rights must not decline.(iii) 'action' to provide economic and social rights and that this action should be 'deliberate, realistic, and targeted'. The Afghan government also has stressed this principle⁸ and guaranteed balanced development.

As is evident from the foregoing, the Afghan government is committed to realizing economic and social rights under the Afghan Constitution and the ICESCR and should take steps in this direction and that these steps should not be discriminatory, but deliberate, realistic, and targeted. In addition, the Government should act to realize their rights and that these rights should improve continuously and progressively.

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