



**Afghanistan Independent Human Rights Commission
(AIHRC)**

**Fifth Report
Situation of Economic and Social Rights in
Afghanistan**

Qaus 1390 (November/December 2011)

A Message from Dr. Sima Samar

As the Chairperson of the Afghanistan Independent Human Rights Commission (AIHRC), it is a pleasure to present the Fifth Report on the Situation of Economic and Social Rights in Afghanistan.

According to the Afghan Constitution, the Law on the Structure, Duties, and Mandate of the Afghanistan Independent Human Rights Commission, and the international human rights instruments, the AIHRC has continuously monitored the situation of human rights and has made serious efforts for the promotion and protection of human rights. Monitoring the situation of economic and social rights is an important effort of the AIHRC in the country. The AIHRC staff members have faced many hardships to travel to near and far districts and villages across the country and have interviewed 56,000 people in 34 provinces since the AIHRC establishment.

The present report assesses the situation of economic and social rights in Afghanistan in the years 1388 (2009/10) and 1389 (2010/11). The report evaluates the enjoyment by the people of their economic and social rights based on the Afghan Government's national and international commitments. In the present report, endeavors have been made to present a complete picture of the situation of economic and social rights in the country. In addition, attention has been paid to assessing the economic and social rights of vulnerable persons, such as returnees, internally displaced persons (IDPs), children, women, and persons with disabilities (PWDs).

In brief, this report makes it clear that the Afghan Government has made relative gains and achievements in the provision of certain services, such as education and health, but there are problems and inadequacies with regard to these and other economic and social rights. Although Afghanistan has formulated good policies and programs in recent years, there has been no considerable change in people's income levels, a significant number of people suffer from extreme poverty and unemployment, and approximately half of school-age children are deprived of their right to education. The present report states that increasing insecurity and incompetence of governmental institutions, especially the judicial and justice system, have constrained the implementation of policies, the fulfillment of the Government's commitments, and the establishment of justice.

It is obvious that an assessment of economic and social rights helps the Afghan Government and its international partners in the formulation of socioeconomic policies and programs. To this end and for the purpose of addressing the problems and inadequacies, the present report presents specific recommendations to the Afghan Government for the full realization of economic and social rights. The Commission is committed to engage in dialogue and cooperate with all relevant governmental institutions, including the National Assembly, civil society, and international community for the implementation of these recommendations so as to improve the socioeconomic status of all Afghan people.

Dr. Sima Samar
Chairperson
Afghanistan Independent Human Rights Commission
Qaus 8, 1390 (November 29, 2011)

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Acronyms

ACBAR	Agency Coordinating Body for Afghan Relief
ACC	Afghan Civil Code
ADB	Asian Development Bank
AIHRC	Afghanistan Independent Human Rights Commission
ANA	Afghan National Army
ANDS	Afghanistan National Development Strategy
ANP	Afghan National Police
APC	Afghan Penal Code
APHI	Afghanistan Public Health Institute
BPHS	Basic Package of Health Services
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CSO	Central Statistics Office
EU	European Union
FEFA	Free and Fair Election Foundation of Afghanistan
GMIC	Government Media and Information Center
HI	Handicap International
HPC	High Peace Council
HRFM	Human Rights Field Monitoring
HRW	Human Rights Watch
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IDLG	Independent Directorate of Local Governance
IDPs	Internally Displaced Persons
IED	Improvised Explosive Device
ILO	International Labor Organization
IOM	International Organization for Migration
IWA	Integrity Watch Afghanistan
MCN	Ministry of Counter Narcotics
MDGs	Millennium Development Goals
MoE	Ministry of Education
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoLSA	Ministry of Labor and Social Affairs
MoPH	Ministry of Public Health
MoRR	Ministry of Refugees and Repatriation
MoRRD	Ministry of Rural Rehabilitation and Development
MoWA	Ministry of Women's Affairs
NEPA	National Environmental Protection Agency
NGOs	Non-Governmental Organizations
NRVA	National Risk and Vulnerability Assessment
NSP	National Solidarity Program
OHCHR	Office of the High Commissioner for Human Rights

PWDs	Persons with Disabilities
TI	Transparency International
UHDR	Universal Declaration of Human Rights
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WFP	World Food Program
WHO	World Health Organization

Foreword

The Afghanistan Independent Human Rights Commission (AIHRC) hereby publishes its Fifth Report on the Situation of Economic and Social Rights in Afghanistan. This report assesses the situation of Afghan people's access to their economic and social rights in the years 1388 (2009/10) and 1389 (2010/11). The rights to work, education, health, an adequate standard of living (access to food, shelter, safe potable water, and etc.), social security, marriage, non-discrimination in the enjoyment by people of these rights, and etc. are a selected number of socioeconomic rights that have been assessed and inadequacies and challenges for their realization have been identified in this report.

This report presents the findings of the AIHRC HRFM team, who faced difficulties and took risks by traveling to different parts of the country, interviewing thousands of people, and filling out standardized questionnaires. The data was consolidated in the AIHRC database and used for the production of the present report. In addition to the AIHRC HRFM findings, this report has used data and information provided by the pertinent governmental and non-governmental organizations, especially in the analysis of existing statistics and figures. Therefore, the AIHRC HRFM findings constitute basis of the present report.

According to the Law on the Structure, Duties, and Mandate of the AIHRC, monitoring the situation of human rights and people's access to their human rights and freedoms is a general objective for the AIHRC and HRFM is, therefore, a main and fundamental tool for the realization of the goals of national human rights institutions like the AIHRC. The AIHRC, hence, publishes the present report, which is the product of continued monitoring of Afghan people's socioeconomic status so as to accomplish its mission and take a big step forward for the realization of this goal. There is no doubt that this report can have a serious influence on the improvement of the situation of Afghan people's economic and social rights.

In addition to describing the current situation of economic and social rights, the present report identifies and analyzes the exiting inadequacies and challenges and the negligence and inattention of the Afghan Government. As the report indicates, there has been deterioration in certain socioeconomic areas, let alone improvement, compared to the previous two years. This is indicative of non-implementation of national and international commitments and obligations on the part of the Afghan Government. Despite its national and international commitments regarding economic and social rights based on the Afghan Constitution and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Afghan Government has failed to fulfill its obligations. This category of human rights, like the poor and vulnerable groups of persons who are entitled to them, has been marginalized and the international community aid and assistance has not been used to improve this category of human rights. Therefore, these inadequacies, challenges, and negligence of the Afghan Government have been discussed in this report so that the Afghan Government will use the lessons learned in the past ten years to pay more attention to economic and social rights, take measures for their realization, and review its strategies and programs with a view to increasing their overall effectiveness to deliver more tangible results that can have a positive impact on the day-to-day lives of Afghan people.

Furthermore, the present report discusses the situation of economic and social rights in the light of the provisions of the Afghan Constitution, ICESCR, Afghanistan National Development Strategy (ANDS), and other relevant national and international documents. Gauging the current situation on the basis of these legal standards helps, on the one hand, to identify areas of progress and regress regarding economic and social rights and, on the other hand, to highlight the Afghan Government's commitments and obligations.

The present report makes specific recommendations to the Afghan Government, international community, and civil society organizations to improve the situation of economic and social rights. The recommendations have been formulated on the basis of the needs and priorities of the Afghan people concerning economic and social rights. Although parts of these recommendations were made in the fourth report and were neglected by the relevant institutions, these recommendations are further emphasized in this fifth report. I hope that the Afghan Government will fulfill its national and international obligations in this area, that the international community will assist the Afghan Government in the implementation of these obligations, and that the civil society organizations will protect the human rights of all Afghans within Afghanistan's applicable legal framework.

I express my gratitude to all stakeholders whose efforts produced the present report. First of all, my special thanks goes to all the AIHRC HRFM team members who faced social, security, and logistical constraints and took risks to conduct their human rights field monitoring missions and gather data, to the AIHRC database staff members Nader Kohzad, Ibrahim Hussaini, and Shaheen Bashardost for consolidating and organization HRFM data and statistical information that helped the drafting team to write the present report, and to all people who were willing to be interviewed by the AIHRC and share their information, views, and comments with the HRFM team. I would also thank the drafting team members, H.A. Moin, A. Farzam, M.H. Saramad, M.H. Hasrat, A.Q. Zahedi, M.H. Nussrat for their excellent final product as this report.

As mentioned earlier, in addition to HRFM data, the present report makes use of information provided by relevant governmental and non-governmental organizations. Therefore, I express my appreciation and thanks to all institutions and individuals, particularly Mr. Jamahir Anwari, Minister for Refugees and Repatriation, Ministry of Women's Affairs (MoWA), Mr. Sima Ghani, Deputy Minister of Labor and Social Affairs (Labor), Mr. Wasil Noor Mohmand, Deputy Minister of Labor and Social Affairs (Social Affairs), Mr. Asef Nang, Deputy Minister of Education (Professional), Dr. Nadera Hayat Burhani, Deputy Minister of Public Health (Public Health Services), Mr. Ehsanullah Shahir, Director of Cadre and Personnel of the Ministry of Public Health (MoPH), Mr. Khalid Payanda, Advisor to the Minister of Finance, Mr. Abdul Ali Forough, Advisor to the Ministry of Labor and Social Affairs (MoLSA), Mr. Sadeq Mohebbi, Senior Advocacy and Communication Advisor to MoLSA, Mr. Hajji Ahmad Shah Azami, CCD Program Manager, Medica Mondiale, Mr. Aziz Frootan, UNICEF Afghanistan spokesperson, Prof. Saifuddin Saihun, Professor of Economics at Kabul University, Mr. Ghulam Rabbani Haqiqatpal, Statistics Director of the Ministry of Agriculture and Irrigation, Mr. Abdul Baqi Popal, General Director for Municipalities at the Independent Directorate of Local Governance (IDLG), Mr. Dad Mohammad Bahir, General Director of the Department of Water Supply and Canalization, Mr. Ghulam Qader, Director of Water Supply and Sanitary Education of Ministry

of Rural Rehabilitation and Development (MoRRD), Mr. Naqeebullah Tayyeb, Capacity-Building Officer of the Department of Water Supply and Irrigation, and all other stakeholders who contributed, in one way or another, to the production of the present report.

Finally, I express my thanks and appreciation to the AIHRC donors, whose assistance makes this report possible.

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Note: The identity of victims has been kept anonymous in this report for the sake of their protection.

About the Afghanistan Independent Human Rights Commission

The Afghanistan Independent Human Rights Commission (AIHRC) was established as Afghanistan's national human rights institution on Jawza 16, 1381 (June 6, 2002) in accordance with the Bonn Agreement and the Decree of the Afghan President. The AIHRC legal status was further strengthened when it was enshrined in Article 58 of the Afghan Constitution.

As the Afghan Constitution reads, “the previous injustices, miseries and innumerable disasters... have befallen our country.” People’s fundamental human rights and freedoms were frequently violated and almost never investigated. Therefore, there was a need for the Constitution to establish a formal institution for the protection of the human rights of the citizens of the country. Realizing the importance of this point, the Afghan Constitutional *Loya Jirga* allocated Article 58 of the Afghan Constitution to the set-up of the AIHRC. According to this Article, “To monitor respect for human rights in Afghanistan as well as to foster and protect it, the state shall establish the Independent Human Rights Commission of Afghanistan. Every individual shall complain to this Commission about the violation of personal human rights. The Commission shall refer human rights violations of individuals to legal authorities and assist them in defense of their rights. Organization and method of operation of the Commission shall be regulated by law.”¹

Pursuant to Article 58 of the Afghan Constitution, the Law on the Structure, Duties, and Mandate of the Afghanistan Independent Human Rights Commission was endorsed by the President in 1384 (2005/06), defining the AIHRC organization, functions, and powers. Based on Article 2 of the Law, “The Afghanistan Independent Human Rights Commission is established within the framework of the State of the Islamic Republic of Afghanistan and it shall function independently. The AIHRC will be guided by the provisions of the Constitution, this law, and other laws of the country in the implementation of its work.”²

So, in accordance with Article 2 of the Law, AIHRC is a national institution within the framework of the State of the Islamic Republic of Afghanistan, functions independently, and acts within the framework of national law. Also Article 5 of the Law states that the AIHRC basically functions in three areas: monitoring people’s access to their human rights and freedoms, promoting human rights, and protecting human rights. These constitute the AIHRC general objectives.³

In 1382 (2003/04), the AIHRC, as a newly established institution, developed a strategic plan, which regulated its activities until the year 1388 (2009/10). By the end of 1388 (2009/10), the AIHRC developed its new four-year strategic plan, drawing on its lessons learned in the previous eight years and considering the changes in the environment, for the period 1389-1392 (2010/11-2013/14). The AIHRC used a participatory and consultative approach to develop its strategic plan, consulting with 500 stakeholders, including government officials, civil society organizations, media representatives, religious *ulama*, international organizations, donors, and

¹ Government of the Islamic Republic of Afghanistan, *Afghan Constitution*, adopted in 1382 (2003/04).

² Ministry of Justice (MoJ), Islamic Republic of Afghanistan, *Law on the Structure, Duties, and Mandate of the Afghanistan Independent Human Rights Commission*, issue #16, date of publication: Saur 22, 1384 (May 12, 2005), AIHRC Publications.

³ Ibid.

the AIHRC staff members. To make sure that the strategic plan will reflect and meet the human rights needs of all people across the country, consultation meetings were held in Bamyan, Herat, Jalalabad, Kabul, Kandahar, and Mazar-e-Sharif, in which stakeholders from across the country took part. The strategic plan identifies five overarching goals for the AIHRC: (1) leadership, (2) education, (3) empowerment, (4) advocacy, and (5) monitoring and investigation. It is a big step forward in organizing, targeting, and systematizing the AIHRC work and a significant achievement for the AIHRC.

The AIHRC has made considerable achievements in various areas on the basis of the aforesaid strategic plans and objectives. The following presents a part of these accomplishments.⁴

Since its establishment, the AIHRC has held over 7,510 workshops for different segments of the Afghan population in which over 242,343 people, including government employees, non-governmental organizations (NGOs), religious *ulama*, women, children, civil society activists, public and private educational institutions (schools and universities), media, and trade unions have been trained on and increased their awareness about human rights standards. In the same way, tens of thousands of human rights awareness-raising meetings have been held for numerous people across the country. Many other activities have also been conducted in the area of human rights education. For example, in 1389 (2010/11), human rights were included as a subject in the curricula of five universities and seven teacher training institutes in different provinces, as a result of which around 1,000 students increased their awareness about the concept of human rights.

Broadcasting 49,841 minutes of radio programs and telecasting 17,296 minutes of television programs are another remarkable achievement of the AIHRC in the promotion of human rights. The AIHRC also has increased the awareness of hundreds of thousands of people about human rights through its print publications, such as *Human Rights Monthly Magazine*, international human rights instruments, the Afghan Constitution, pamphlets, brochures, and posters. Since its inception, the AIHRC has published 1,295,000 copies of *Human Rights Monthly Magazine* and 2,078,960 copies of other materials, such as pamphlets, brochures, and posters and it has distributed these print publications free of charge all over the country.

From 1381 (2002/03) onwards, 18,407 complaints of human rights violations were recorded by the AIHRC, of which 14,375 were identified as cases of human rights violations that were addressed by the AIHRC staff members.⁵ At the same time, legal advice was provided for all complainants/plaintiffs and the necessary legal protection was provided for victims of human rights abuses.

The AIHRC recorded 18,580 cases of violence against women since its establishment. The AIHRC relied on legal means, such as mediation, provision of legal advice for victims, legal assistance, referral of cases to pertinent organizations, meeting with government officials, legal

⁴ For further details on the activities of the AIHRC, see the AIHRC website <www.aihrc.org.af> for annual reports, thematic reports, and other publications.

⁵ On average, the AIHRC has received over 2,000 complaints per year; an average number of over 1,500 cases have been investigated by the AIHRC on an annual basis.

action, advocacy, introduction to safe shelters, introduction to health centers, documentation, etc. to address/have these cases addressed and protect the rights of the alleged victims.

In the area of human rights monitoring, 10,419 monitoring missions were conducted to detention places/places of deprivation of liberty (prisons, detention centers, custody centers, and juvenile rehabilitation centers). This means an annual number of over 1,100 monitoring missions in provinces and districts and as a result of the AIHRC continued and serious monitoring, around 68 private prisons were closed down and 4,647 illegally imprisoned or detained persons were released following the AIHRC intervention. When the AIHRC began its work, there were many private prisons run by wartime commanders in different parts of the country and many people had been illegally and arbitrarily detained in both private and government prisons/detention centers. To continue its detention center monitoring work, the AIHRC conducted 998 monitoring missions to shelters, 837 monitoring missions to orphanages, and 1,887 monitoring missions to hospitals.

The AIHRC monitored six election processes for verifying the exercise by the Afghan people of their political rights and for protecting the rights of the alleged victims and it published documented reports in this respect.

Taking into account the fact that Afghanistan, as a post-conflict country, witnessed war crimes, crimes against humanity, and gross infringements on human rights during the past three decades, the AIHRC conducted a national consultation to understand the perceptions of victims and Afghan public people in 1383 (2004/05) and published its findings in the report *A Call for Justice*, which was presented to the President. On the basis of the findings and recommendations contained in this report, an Action Plan on Peace, Reconciliation, and Justice in Afghanistan was adopted, which was launched by the President on Qaus 19, 1385 (December 10, 2006). In accordance with part three of the Action Plan, the AIHRC conducted the Conflict Mapping Program to document war crimes and gross human rights abuses in the past three decades and to identify the chain of command of the alleged perpetrators. Over 92 mass graves have so far been identified in various provinces in connection with this program and initial investigations have been conducted.

Considering the deterioration of the armed conflict between the Afghan Government (and its international partners) and the armed opposition, the AIHRC created a Special Investigation Team in 1388 (2009/10) to monitor the observance of international humanitarian law during the armed conflict. The AIHRC Special Investigation Team has continuously monitored the ongoing armed conflict in the country, has investigated many cases of conflict-related civilian deaths, and published a joint report with the United Nations Assistance Mission in Afghanistan (UNAMA) and two independent reports on conflict-caused civilian casualties and violations of international humanitarian law.

Since its establishment, the AIHRC has carried out 42 research projects to understand human rights challenges and opportunities and has published research reports on these topics. The studies have been conducted in various human rights-related areas, including children's access to education, situation of women's employment in government, situation of widowed women in Afghanistan, general situation of human rights, justice for children, and the like. In addition, the

AIHRC has organized several international conferences on family law, child custody, women's self-immolation, preventive mechanisms of violence against women, protection of victims of war crimes, protection of child rights, and so on.

So far the AIHRC has reported to the UN Committee on Economic, Social, and Cultural Rights and the Committee on the Rights of the Child and its reports have been well-received by the Committees, which have used the AIHRC reports in their meetings with and recommendations for the representatives of the Afghan Government. The Committees have, among other things, stressed governmental financing for the AIHRC. Reporting to the UN Committee on the Elimination of Discrimination against Women is under way and the report will soon be submitted to this Committee.⁶

The AIHRC began monitoring people's access to their human rights, particularly economic and social rights, in outlying areas in cooperation with the United Nations High Commissioner for Refugees (UNHCR) in 1383 (2004/05). The AIHRC Human Rights Field Monitoring (HRFM) team uses a standardized questionnaire for assessing these rights across the country, particularly in outlying areas. Data gathered through these questionnaires and direct interviewees with people will be inserted in the AIHRC central database for purposes of analysis and production of documented and analytical reports. The AIHRC has so far published four documented and specific reports on the exercise by the Afghan people of their economic and social rights. In addition to providing data, these reports present specific recommendations to the Afghan Government, donors, and civil society organizations for further improvement in the national socioeconomic status. The present report is the fifth such report that is hereby published.

⁶ The Afghan Government has an obligation to report to the relevant UN treaty bodies the implementation of the international human rights instruments to which it is a party. Following reporting by the Afghan Government to the Committees on Economic, Social, and Cultural Rights, on the Rights of the Child, and on the Elimination of Discrimination against Women, the AIHRC submitted its reports to the Committee on Economic, Social, and Cultural Rights on May 21, 2010 (Saur 31, 1389) and to the Committee on the Rights of the Child in September 2010 (Sunbula/Mizan 1389).

Afghan Government's National and International Commitments on Economic and Social Rights

Economic and social rights that are regarded as the second generation of human rights include a large category of human rights that are necessary for providing basic human needs. The rights to work, education, health, an adequate standard of living (access to food, shelter, healthy drinking water, etc.), social security, marriage, non-discrimination in the enjoyment of these rights, etc. are examples of socioeconomic rights.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) is the key binding international instrument, which sets out these rights and recognizes them as human rights. The ICESCR was adopted by the United Nations General Assembly in 1966 and 156 states became parties to the Covenant by April 2007. Afghanistan became a party to the ICESCR on April 24, 1983.

Article 2 of the ICESCR stipulates:

“1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

In accordance with this Article, the ICESCR requires all member states to use all existing resources and means to progressively realize all the rights contained in the Covenant individually or through international cooperation.⁷ It means that the member states should take immediate, informed, objective, and targeted measures for the realization of these rights. It is necessary for them to ensure the minimum level of the enjoyment of these rights and they should progressively realize these rights, especially for vulnerable persons in the society.⁸ At the same time, the principle of equality and non-discrimination is the most important precondition for the enjoyment by the citizens of their economic and social rights. This is an immediate principle that does not depend on resources and the member states must respect and fulfill it without any delay or hesitation.

In the view of the Committee on Economic, Social, and Cultural Rights, the ICESCR is clearly violated if a considerable number of people are deprived of necessary food, essential primary healthcare, basic shelter and housing, and fundamental education. These minimum obligations

⁷ This obligation is not subject to reservations by states.

⁸ Michael Freeman, *Human Rights*, trans., Mohammad Keiwanfar, Hermes Publications, 1st ed., 1387 (2008/09), p. 223.

must be fulfilled irrespective of existing resources and other related factors and challenges.⁹ Another important point is that member states should take legal and other measures to guarantee, respect, protect, and fulfill these rights.

In the light of Afghanistan's international commitments regarding economic and social rights, Article 6 of the Afghan Constitution states, "The state shall be obligated to create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization of democracy, attainment of national unity as well as equality between all peoples and tribes and balance development of all areas of the country." Similarly, according to Article 7 of the Afghan Constitution, "The state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights."¹⁰ Therefore, based on the Afghan Constitution, the Government has an obligation to respect and fulfill human rights standards, including economic and social rights. The Afghan Government also has an obligation to observe international conventions to which it is a party. In accordance with the applicable international treaties and the Afghan Constitution, the Afghan Government, hence, has a duty to respect, protect, and fulfill economic and social rights and should employ all existing resources for the realization of these rights for all Afghan people.

All in all, it is concluded that the Afghan Constitution and the ICESCR constitute the basic two sources that define the applicable legal framework on the obligations of the Afghan Government concerning economic and social rights. In addition, Afghanistan's Millennium Development Goals (MDGs) and Afghanistan National Development Strategy (ANDS) form another legal framework on economic and social rights in Afghanistan. According to these legal documents and strategies, the Afghan Government has an obligation to ensure economic and social rights and to protect these rights for all Afghan people without any forms of discrimination.

⁹ AIHRC, "Fourth Report on the Situation of Economic and Social Rights in Afghanistan, 1388 (2009/10)," p. 10.

¹⁰ Government of the Islamic Republic of Afghanistan, *Constitution*, adopted in 1382 (2003/04), Articles 6 and 7.

Executive Summary

The present report assesses the situation of economic and social rights in 1388 (2009/10) and 1389 (2010/11) in Afghanistan and evaluates the fulfillment by the Afghan Government of its commitments towards economic and social rights. In many cases, progresses made by the Afghan Government have been compared in these two years and in 1387 (2008/09). Prior to this, the Afghanistan Independent Human Rights Commission (AIHRC) prepared and published four reports on the situation of economic and social rights in Afghanistan and it is now publishing the fifth such report. The following is the executive summary of the fifth report.

The Right to Work

In modern and responsible societies, employment is significant to a person's self-esteem and employment is almost always a prerequisite for an independent, dignified life. Therefore, access to work has been recognized as a human right. Work is both an economic and a social right and plays an effective, vital role in ensuring security, stability, social justice, and the realization of broader human rights.

Based on statistical information provided by MoLSA, around 7 million Afghans are qualified for work, of which 34.5 percent are unemployed. In other words, about 66.5 percent of qualified workers are employed. Taking into account MoLSA statistical information in the past two years, there has been no considerable change in unemployment rate in the country. The AIHRC HRFM interviews with 9,333 people in 1388 (2009/10) indicate that 56.9 percent of interviewees were employed and 43.1 percent unemployed. Of those who are employed, 32.1 percent make a daily income of less than Afs50. There is a variation of 8.6 percent between the statistical information of the Government and the AIHRC HRFM, indicating that there are more unemployed workers than that reflected in the Government's official reporting.

Regarding women's employment, there are no exact and new statistical information on the number of women who are qualified for work. But NRVA findings show that less than half of women (47 percent) are qualified for work market, while 86 percent of men are qualified for work market. It means that women's presence in work market is 39 percent less than that of men. Women constitute around 20 percent of government employees, while they constituted 22.3 percent of civil servants in 2006 and 31.2 percent of government employees in 2005. 30 percent increase in women's participation in elected and non-elected institutions at all governance levels by 2020 is an important objective in the ANDS. But this statistics reveals the decrease in women's presence in the Government: women's presence in the Government has decreased by 11.2 percent since 2005.

Despite the legal prohibition of child labor, about 1.9 million children aged 6 to 17 are engaged in labor in Afghanistan. These children work in 22 kinds of hard labor, from street work to agriculture, construction work, carrying heavy loads, washing cards, weaving, shepherding, and so on. Around 92.5 percent of child laborers aged 12-17 work for 42 hours per week and most of them work under inappropriate circumstances. The AIHRC HRFM findings in 1388 (2009/10) shows that 42.7 percent of interviewees (3,958 out of 9,278 interviewees) had child laborers and these children were aged below 15 years. Of these, 5.6 percent stated that all children in their

families worked, 54.5 percent said that most children in their families worked, 23 percent (910 people) reported that child labor was the only income source for their families. This is while in 1387 (2008/09) 38 percent of interviewees said that children aged below 15 years in their families worked. The number of child laborers has increased by 3 percent in a period of one year.

The Right to Social Security

Poor families constitute a vulnerable social group in the Afghan society. According to official statistics provided by the Afghan Government, around 36 percent of Afghan population lives under the poverty line, including 9 million people. Of these, about 3.4 million face serious economic problems in Afghanistan. The AIHRC HRFM findings reveal in 1388 (2009/10), of all interviewees, 32.1 percent stated that they had a daily income of less than Afs50 and 21.8 percent said that they had a daily income of over Afs50.

The AIHRC HRFM findings in 1388 (2009/10) indicate that 63.3 percent of interviewees were in debt. Further, the AIHRC HRFM findings in 1389 (2010/11) indicate that 59.5 percent of interviewees (4,477 people) were in debt. Families and individuals who do not make an income appropriate to their spending are forced to borrow money from others. As a result, these poor families are part of vulnerable groups in the Afghan society.

There is no accurate statistical information on the number of older persons in Afghanistan. There is even no estimated statistics. Traditionally older persons have a special, respected status in the Afghan society, but it seems that an uncertain number of older persons are not able to look after themselves or their families are not able to look after them. It seems that there is no scheme or program for the protection of older persons.

The AIHRC findings reveal that of all HRFM respondents in 1387 (2008/09), 15.2 percent, in 1388 (2009/10), 14.1 percent, and in 1389 (2010/11), 17 percent had families headed by older persons. These figures show that there has been no considerable change in the percentage of older persons who are the heads/supporters of their families. It should be mentioned that not all older persons who are the heads of their families are vulnerable, because other members of their families are employed and bring revenues to their families, and older persons are family heads as a matter of respect and experience.

From Saur 1357 (April/May 1978) to 1387 (2008/09), around 100,000 persons were registered by the Government as martyrs and the number of registered martyrs was 124,361 by early 1390 (2011). The information indicates that from 1387 (2008/09) to 1398 (2010/11), over 24,000 people have been killed in war. This includes only those persons that were recorded by MoLSA and by no means indicates the accurate number of martyrs.

The new Law on the Rights and Privileges of Survivors of Martyrs and the Disappeared that was ratified in 1389 (2010/11) offers more privileges and is much better than previous legislations. Although the new Law has eliminated many obvious forms of discrimination, this Law offers no rights and privileges to families whose heads/supporters have died from incidents unrelated to war. Financial assistance has increased compared to the period before 1387 (2008/09) and this indicates some relative progress. Until 1387 (2008/09), each family of martyrs and the

disappeared received Afs300 to Afs500 per month (US\$6-10), but the new Law on the Rights and Privileges of Survivors of Martyrs and the Disappeared increased the financial assistance from Afs600 to Afs2,250 (US\$12-45).

The number of orphaned and unsupported children is not fully known. Based on information provided to the AIHRC by MoLSA, 6.5 million children are at risk in the country and 1.9 million children are engaged in child labor. Also around 16,000 orphaned children live in 70 institutions. This is while 9,347 children lived in institutions until 1387 (2008/09). This only includes children registered by MoLSA and who are institutionalized; the real number of orphaned children is higher than this.

There is also a lack of information about widowed and unsupported women; there is no accurate statistics on the number of these women. The AIHRC Fourth Report on the Situation of Economic and Social Rights in Afghanistan shows that 0.4 percent of interviewees stated that children are the breadwinners of their families and 12.9 percent said that women are the breadwinners of their families. The AIHRC findings in 1388 (2009/10) reveal that 14.2 percent of families are headed/supported by women and 0.2 percent of families by children. In 1389 (2010/11), the number of women who have headed/supported their families decreased by 8.1 percent and the number of children who headed/supported their families decreased by 0.1 percent. It should also be pointed out that this statistics indicates no considerable change (except the change in the number of women who head/support their families).

The Right to Marry and Found a Family

Collected data on violence against women in 1388 (2009/10) indicates that a total number of 122 cases of forced marriages were recorded by the AIHRC database. Gathered reports and figures in 1389 (2010/11) show the deterioration of the state of affairs. In this year, 237 cases of forced marriages were registered by the AIHRC. The Ministry of Women's Affairs of the Islamic Republic of Afghanistan has presented different statistics on the number of forced marriages in the past two years. According to the data provided by the Ministry, a total number of 149 and 95 cases of forced marriages occurred respectively in 1388 (2009/10) and 1389 (2010/11). Based on the above-mentioned data, MoWA reported more cases of forced marriages in 1388 (2009/10) and the AIHRC reported more such cases in 1389 (2010/11).

In 1389 (2010/11), around 2,260 cases of violence against women were recorded by the AIHRC. The forms of violence in 1388 (2009/10) include beating (909 cases), murder (62 cases), lack of provision of alimony/maintenance (137 cases), expulsion from home (31 cases), rape (51 cases), self-immolation (119 cases), and abortions (291 cases). Self-immolation and abortion have co-occurred with other forms of violence. In 1389 (2010/11), 2,765 cases of violence against women were registered. They include 172 cases of abortion, 538 cases of beating, 10 cases of deprivation of medical treatment, 46 cases of forbidding visits to relatives, 276 cases of lack of provision of alimony/maintenance, 39 cases of rape, and 144 cases of self-immolation.

The AIHRC Report on the Situation of Human Rights in 1388 (2009/10) indicates that of all complaints related to violations of the right to marriage, 13.2 percent concern marriages below the age of 15. During the AIHRC HRFM exercise in 1388 (2009/10), four percent of all

interviewees said that their girls below the age of 16 and their boys below the age of 18 have married. The cases and observations of the AIHRC regional and provincial human rights field monitors refer to family debt, gambling, poverty, destitution, *bad*, and *badal* as the reasons for child marriages. In the same manner, the 1389 (2010/11) Report on the Situation of Human Rights indicates that of all 852 cases of human rights violations recorded by or referred to the AIHRC, 6.2 percent included infringements upon the right to marry and found a family. Of these, 20 cases are related to child marriages. The AIHRC HRFM interviews depict a worse and more widespread trend of forced marriages. Of all 9,065 respondents to the AIHRC HRFM across the country, 10 percent (908 people) stated that their children had married before completing the age of 16.

The AIHRC gathered data in 1388 (2009/10) shows, a total number of 31 cases of *bad* and *badal* marriages occurred during this year. In 1389 (2010/11), the number of *bad* and *badal* marriages increased to 48 cases.

The AIHRC information indicates that in the year 1388 (2009/10), 103 cases of escape from home were recorded. This is while the number of cases of women's escape from home nearly tripled in 1389 (2010/11) with 292 cases. Cases recorded and figures collected by MoWA depict a different situation. According to data provided by MoWA in 1388 (2009/10), there were 435 cases of escape from home across the country. MoWA data also shows that the number of cases of escape from home reduced to 270 cases in 1389 (2010/11). Although escape from home for purposes of marriage is not a crime under the existing Afghan laws, in practice the Afghan court system has dealt with this issue with varying praxis. The variation in the opinion and practice of the Afghan court system on the question of escape from home was to the extent that many courts even treated it as a criminal act. Court decisions are usually made against women on this question, in which these women are accused of adultery and their accompanying men of abduction, while Article 425 of APC contradicts it.

The Right to an Adequate Standard of Living

It is difficult to provide adequate housing for poor and vulnerable groups of persons in the country. The AIHRC HRFM findings in 1388 (2009/10) and 1389 (2010/11) reveal that respectively 69.6 and 72.8 percent of interviewees live in inherited houses and 7.9 percent of interviewees in 1388 (2009/10) and 7.6 percent in 1389 (2010/11) said that they lived in their relatives' and friends' houses. In addition, 10.2 percent of interviewees in 1388 (2009/10) and 13.3 percent in 1389 (2010/11) stated that they lived in houses that they bought and 5.7 percent of interviewees in 1388 (2009/10) and 4.2 percent in 1389 (2010/11) said that they lived in rented houses.

HRFM findings during the past three years indicate a slight, relative reduction in the number of cases involving evictions, illegal property expropriations, and property conflicts. In 1389 (2010/11), 0.7 percent of interviewees stated that their lands and/or houses were illegally expropriated, while in 1388 (2009/10), 5.5 percent and in 1387 (2008/09), 6.8 percent of interviewees reported such illegal expropriations. Disputes and conflicts over house and land are also decreasing. In 1389 (2010/11), 1.2 percent of interviewees, in 1388 (2009/10), 2.7 percent, and in 1387 (2008/09), 3.8 percent reported that they were involved in disputes over house

and/or land. 4.4, 7.7, and 7.1 percent of interviewees said that they faced evictions/evacuations from their homes in 1389 (2010/11), 1388 (2009/10), and 1387 (2008/09) respectively.

In the AIHRC HRFM in 1388 (2009/10), 59.1 percent of interviewees said that they had problems over water, while this was increased to 62.6 percent of interviewees in 1389 (2010/11), who reported that they had problems over water. There are many water-related problems. For example, in 1387 (2008/09), 33.7 percent, in 1388 (2009/10), 39.2 percent, and in 1389 (2010/11), 55.6 percent of interviewees reported that the water they were using was not healthy and clean. In 1388 (2009/10), 67.3 percent of interviewees said that they had to walk for less than 15 minutes (one way) to reach the water source, 25 percent reported that they had to walk for over 15 minutes to reach the water source, and 7.7 percent stated that they had to walk for over an hour to reach the water source. In 1389 (2010/11), the distance to water source was gauged on the basis of kilometer. In 1389 (2010/11), 82.1, 16, and 2 percent of interviewees respectively stated that they had to walk for less than a kilometer, one to three kilometers, and over three kilometers to reach the water source.

The Right to Health

There are manifold problems in the provision of governmental and private health services. The AIHRC HRFM findings on governmental health services reveal that lack of medicines and other equipment, lack of trained staff members, lack of women doctors, and rising cost of health services are the major problems facing people. Of all 9,333 persons interviewed in 1388 (2009/10), 2,815 persons (33.6 percent) stated that they did not use governmental/nongovernmental health services. Of these people (33.6 percent), 42.7 percent said that governmental health centers lack quality medicine and other equipment, 40.1 percent said that they have difficulties accessing governmental health services, 6.1 percent said that there were no women doctors or staff members, 5.6 percent said that the staff members were not professional, and 1.2 percent said that they had to pay money in return for treatment.

The AIHRC interviewed 7,530 people in 1389 (2010/11), of which 49.7 percent stated that governmental health centers lack quality medicines and other equipment, 13.8 percent stated that they had difficulties accessing the health services, 13.5 percent stated that there were no health centers in their villages, 3.9 percent stated that there were no professional doctors, 2.2 percent stated that there were no women doctors and staff members, and 3.6 percent stated that the cost was high.

According to the Ministry of Public Health (MoPH), 60 percent of people have access to the Basic Package of Health Services (BPHS) based on the standard of access (less than two hours of walk one way to the nearest health center); This means that the ANDS health benchmarks have not been achieved, because the benchmarks determine that 90 percent of people will have access to the nearest health services by 1389 (2010/11). Based on the AIHRC HRFM findings in 1388 (2009/10), 12.9 percent of the interviewees, who answered the question on why they did not use governmental/nongovernmental health services, referred to physical access as the major problem in accessing their right to health. Likewise, the AIHRC HRFM data in 1389 (2010/11) indicates that 13.8 percent of interviewees stated that they have to walk over five kilometers to reach the health centers in order to enjoy the health services provided by governmental or

nongovernmental organizations. However, the AIHRC findings in 1387 (2008/09) shows that around 50.8 percent of respondents referred to physical access as the main problem in accessing health services. This means that the problem of physical access to public health services has been comparatively addressed.

According to information provided by MoPH, there are 1,183 men doctors and 517 women doctors serving in public/governmental health centers. In addition, there are 5,368 nurses (4,563 men (85 percent) and 805 women (15 percent) serving in public/governmental health centers. These figures indicate that the number of women doctors and nurses is much less than that of men. In specific terms, the number of women nurses is five times less than that of men.

According to the AIHRC HRFM findings, 8.1 percent of interviewees stated that they lost one child of theirs at the time of childbirth in 1389 (2010/11) and 91.4 percent responded in the negative to the question if they have lost a child of theirs in the time of childbirth during the year, and around 3 percent did not answer this question. In the AIHRC 1389 (2010/11) HRFM, 4.8 percent of interviewees said that their families lost their mothers during delivery and 94.7 percent responded in the negative to this question, and about 3 percent did not answer this question.

The Right to Education

People's access to education has been on the rise in the past several years and the number of students who enroll in schools has been increasing on an annual basis, indicating the significant achievements made by the Afghan Government in the area of education. For example, in 2000, the number of school students was less than one million (around 900,000 students), but today children who are enrolled in schools constitute seven million people, an increase of seven times. Between 2001 and 2010, the number of teachers has increased eight times, 30 percent of which are constituted by women teachers. Despite these achievements, still almost half of school-age children are deprived of school enrolment. Most importantly, there are still no girl students in secondary schools in 200 districts. There is not even a single women teacher in 250 districts. It means that girls face serious hardships and difficulties in accessing their right to education in these districts and this leads to their massive deprivation of the right to education.

The HRFM findings reveal that during the past several years, the Afghan Government and other stakeholder institutions have mostly focused on the quantity of education services, rather than on a balance of the quantity and quality of education. In 1388 (2009/10), only 69.5 percent of interviewees stated that their children regularly attended their schools, while 20 percent reported that their children never attended school. Around 10 percent said that their children sometimes or rarely attend their schools.

The AIHRC HRFM findings in 1389 (2010/11) indicate a lower percentage of students who do not regularly attend their schools than in 1388 (2009/10) findings. In this year, 23.3 percent of respondents reported that they do not have regular access to education and school (5.9 percent go to school one to four days per week and 17.4 percent do not go to school at all), while in 1388 (2009/10), 31.5 people could not regularly attend their schools, of which 20.5 percent never went to school. This improvement in 1389 (2010/11) is not Afghanistan-inclusive, because the AIHRC

HRFM monitors were unable to travel to insecure areas of the country due to growing insecurity and could not, as a result, monitor the human rights situation.

On the whole, girls have a more limited access to the right to education than boys, though there are different factors that are responsible for their educational deprivation. The AIHRC HRFM data in 1388 (2009/10) shows that only 73.8 percent of boys and 65.2 percent of girls regularly attend their schools. One-fourths (25 percent) of girls and 16 percent of boys cannot go to school at all. 9.8 percent of girls and 10.2 percent of boys sometimes or seldom go to school. Based on this year's data, the main reasons for education deprivation for boys of grades 1-6 include: labor (23.2 percent), long distance of school (12 percent), insecurity (7.5 percent), marriage (4.1 percent), inability to provide clothes, books, and other educational equipment (3.9 percent), and lack of teachers (2.9 percent). These reasons have, however, been differently stated for why girls of grades 1-6 do not attend schools: labor (12.6 percent), long distance of school (14 percent), insecurity (6.5 percent), marriage (8.4 percent), inability to provide clothes, books, and other educational equipment (4.5 percent), and lack of teachers (3.6 percent).

The 1389 (2010/11) data refers to labor (47.5 percent), long distance of school (21.2 percent), and low-quality education (15.4 percent) as the main causes for lack of boys' regular school attendance. These causes have been differently stated regarding lack of regular girls' school attendance: labor (20.6 percent), long distance of school (20 percent), and low-quality education (17.5 percent). In addition, lack of women teachers (11.1 percent) and other people's discouraging words (7.9 percent) are the other causes that lead to girls' irregular school attendance.

Early school dropout of a significant number of students, especially girl students, is a cause of grave concern concerning the right to education in Afghanistan. The number of girls keeps decreasing as the level of education goes up. According to information provided by MoE officials, in 1388 (2009/10), around 96,000 students graduated from grade 12; only 10 percent of them are girls. This is while the number of girl student graduates was approximately 26 percent in 1387 (2008/09) and more importantly, some 117,000 students graduated from grade 12 in 1389 (2010/11) and only 9 percent of them were girl students. The AIHRC HRFM findings in 1388 (2009/10), however, reveal that over 52 percent of girl students and nearly 66 percent of boy students who are in grade 6 or above drop out of school. Dropout rate is lesser in lower grades; over 15 percent of girl students and over 10 percent of boy students who are below grade 6 drop out of school.

Children with disabilities face many constraints in exercising their right to education. Disability leads to the humiliation of children in schools. According to some reports, educational facilities are generally inaccessible for children with disabilities in Afghanistan. Of around 200,000 children with permanent disabilities, 75 percent are deprived of education.

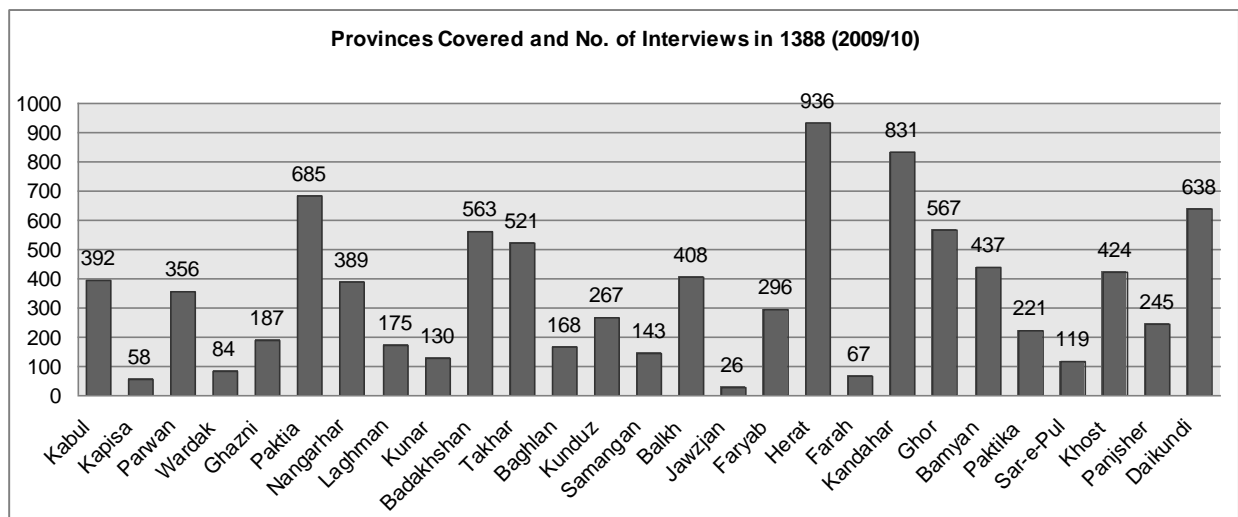
Methodology and Sample

As in previous reports, two types of information have been used to prepare the Fifth Report on the Situation of Economic and Social Rights in Afghanistan. First, information collected from continued monitoring by HRFM team in 1388 (2009/10) and 1389 (2010/11) was collected, organized, and consolidated by the AIHRC database and used in this report. Second, the present report also relies on the AIHRC annual reports on the situation of human rights in Afghanistan, the AIHRC research and other reports, information collected in the AIHRC databases related to women and children, reports of human rights organizations, annual reports of ministries and other governmental institutions, and interviews with government authorities, human rights defenders, and civil society activists.

Therefore, information from databases related to women and children, research findings, and reports of human rights organizations has been juxtaposed to analyze the selected economic and social rights. Efforts have, hence, been made to comparatively study the enjoyment by the Afghan people of their economic and social rights. Similarly, HRFM findings and reports of other organizations have been juxtaposed to further analyze and explain the situation of economic and social rights in the country.

The AIHRC regional and provincial offices have done their utmost to travel to various villages, towns, and areas across Afghanistan for field monitoring purposes. HRFM interviewees were selected by random sampling so as to prevent bias on the part of the AIHRC human rights field monitors. Different persons, groups of persons, and ethnicities were covered by the AIHRC HRFM in different villages, towns, and areas across the country. In addition, HRFM selected major indicators, such as access to health, education, safe drinking water, daily income, debt, child labor, child marriage, deteriorating security, status of IPDs and returnees, livelihood, employment, and public services to explain the enjoyment by the Afghan people of their economic and social rights. Therefore, the AIHRC HRFM data, together with other information used in this report, represents the most accurate and the most real picture of economic and social rights in Afghanistan.

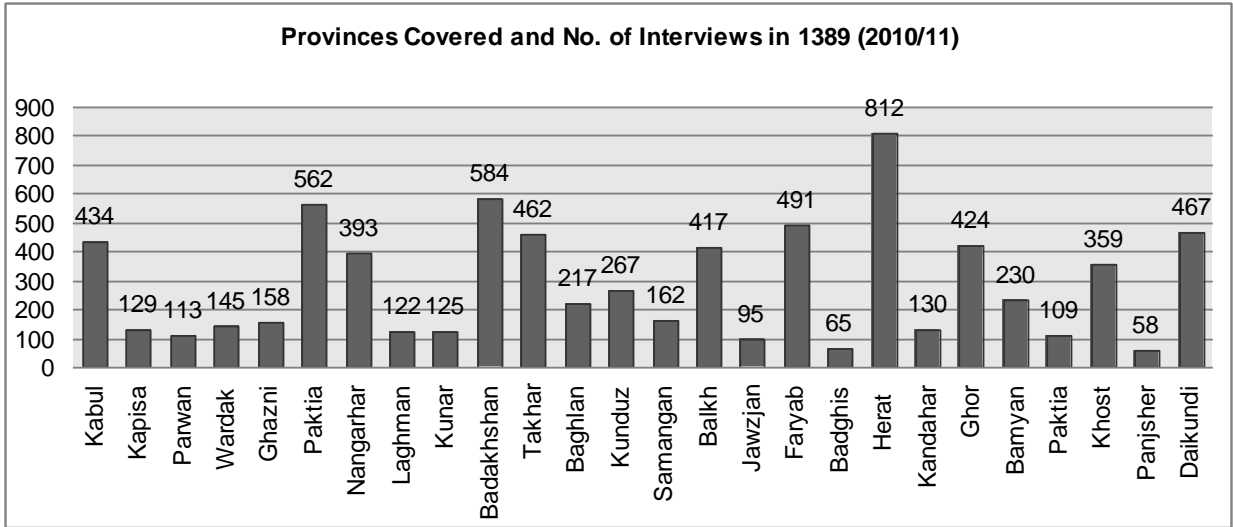
In addition to gender and ethnicity variables, HRFM also considered the region/province variable. HRFM covered 27 provinces in 1388 (2009/10) and interviewed 9,333 persons, as indicated below.



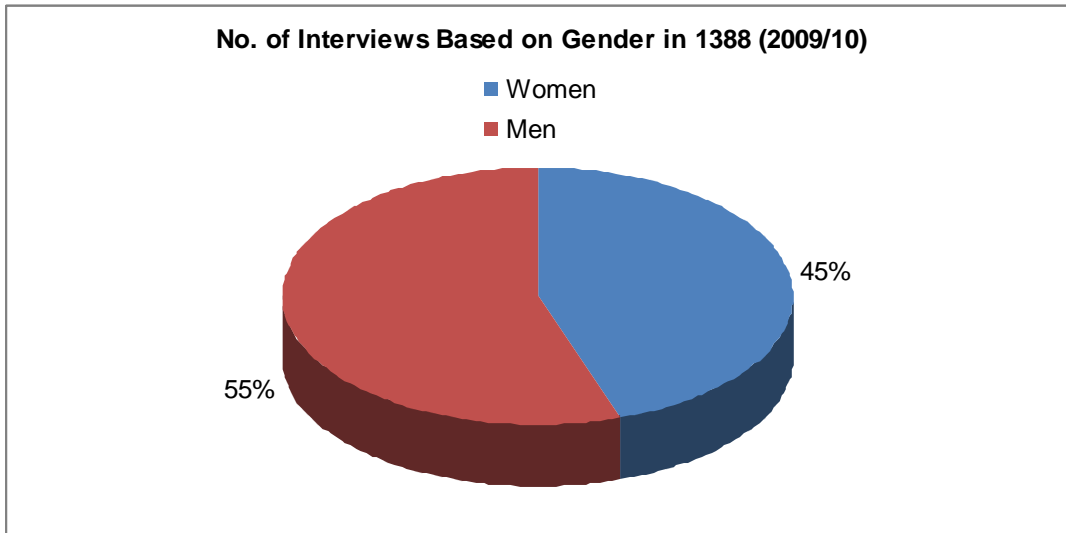
In 1389 (2010/11), a total number of 26 provinces were covered by HRFM and 7,530 persons were interviewed.

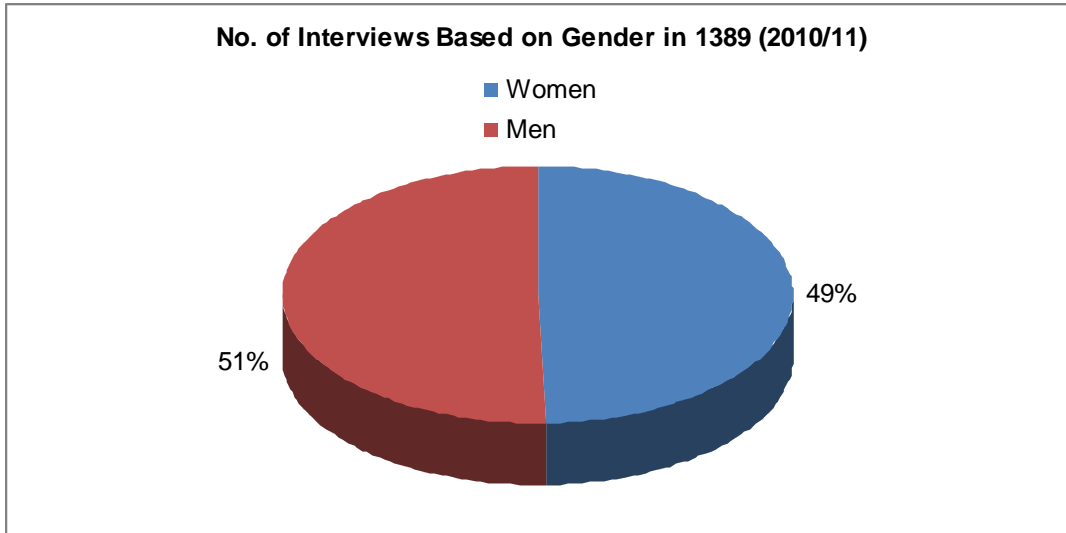
The deteriorating security situation is responsible for why HRFM did not cover the entire country in 1388 (2009/10) and 1389 (2010/11). It is a fact that lack of security and increasing presence of armed opposition groups makes monitoring and research simply impossible in some provinces. That is why only 27 provinces were covered in 1388 (2009/10), constituting 77 percent of Afghanistan. The seven provinces that were not covered were increasingly insecure and the AIHRC regional and provincial offices were not able to travel to and carry out their monitoring activities in those provinces.

Similarly, in 1389 (2010/11), of Afghanistan's all 34 provinces, only 26 provinces were covered, comprising around 76.5 percent of the whole country. Continued armed conflict was the reason why eight provinces were not covered by HRFM, making it impossible to conduct interviews in those provinces.



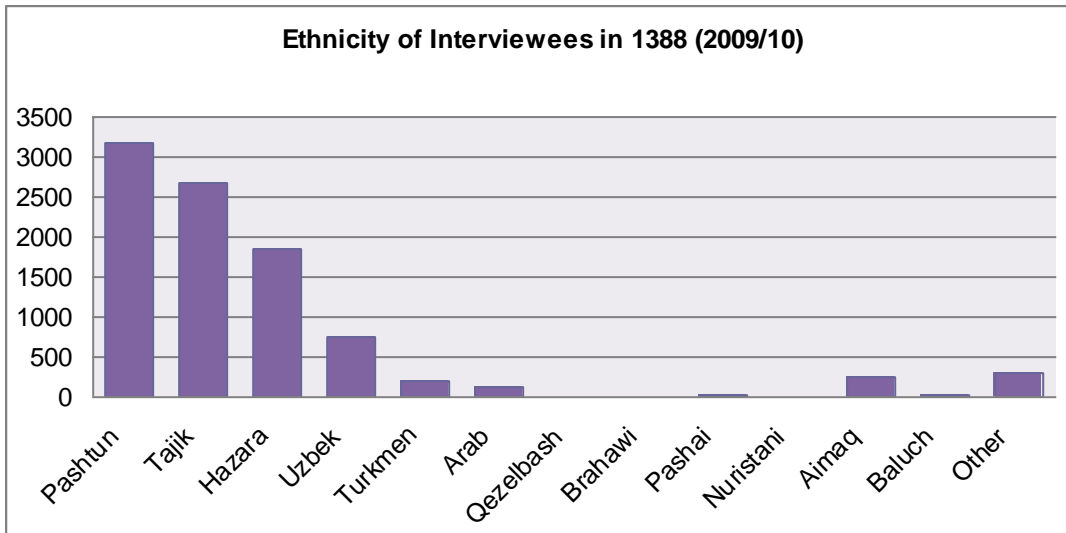
The AIHRC HRFM monitors in regional and provincial offices paid serious attention to gender in their monitoring and interviews. In 1388 (2009/10), a total number of 4,171 women and 5,162 men were interviewed; it means that women and men constituted 45 and 55 percent of all interviewees respectively with a gender difference of 10 percent.

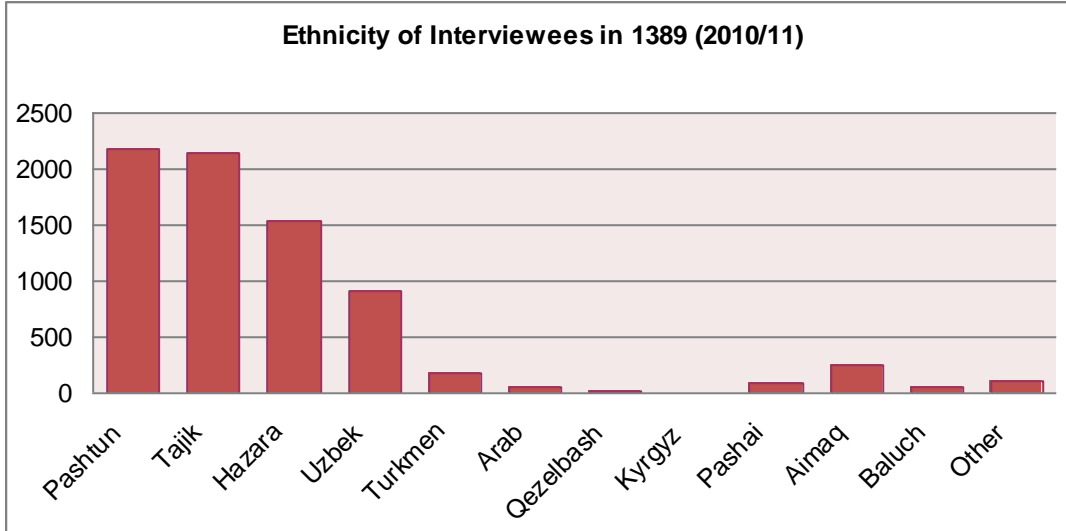




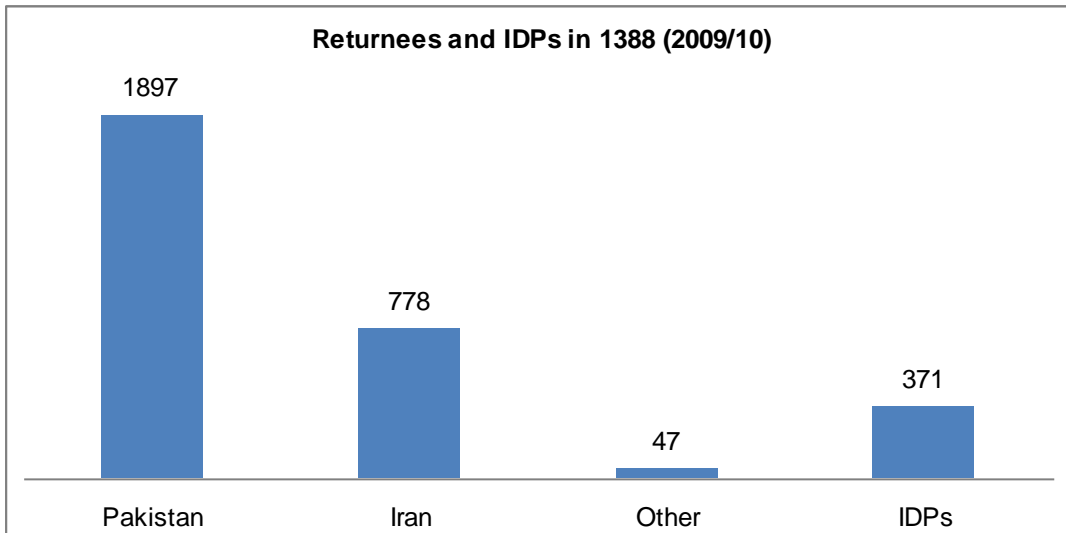
In 1389 (2010/11), of all 7,530 interviewees, 3,723 were women and 3,807 men. But a gender difference of 10 percent in 1388 (2009/10) was reduced to one percent in 1389 (2010/11).

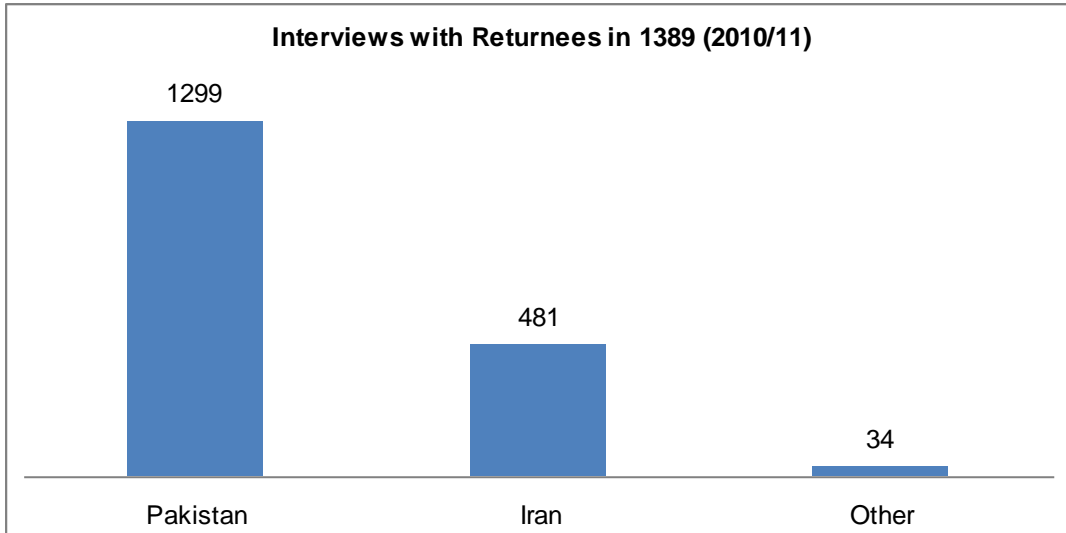
As already mentioned, ethnicity is another considerable variable in social research in the Afghan context. Therefore, ethnicity must not be ignored as a variable in social research. In the present report, ethnicity was a specific category, according to which the research sample was selected, as indicated below.





Returnees, who spent many years in neighboring and other countries, are regarded as a vulnerable group of persons in the Afghan society. That is the reason why refugees/migrants and returnees were interviewed as part of HRFM and reflected in the present report. As indicated below, of all interviewees in 1388 (2009/10), 371 were people who were internally displaced due to insecurity, drought, unemployment, or other problems in Afghanistan. The rest of persons had all repatriated from Iran, Pakistan, and other countries, as indicated below.





In 1389 (2010/11), 1,814 returnees from Iran, Pakistan, and other countries were interviewed. Of all 1,814 returnees, 1,299 had repatriated from Pakistan, 481 from Iran, and 34 from other countries. As mentioned above, these returnees are considered a vulnerable group for several reasons. Although unemployment and lack of livelihoods naturally increase returnees' vulnerability, their cultural compatibility is another challenge, since they spent many years in different cultures/societies. These problems plus increasing insecurity, lack of housing, and other similar challenges expose returnees to manifold hardships and difficulties.

Part 1

The Right to Work

Work makes up a greater part of human lifetime than any other activity. In modern societies, employment is significant to a person's self-esteem. Even if working conditions are unpleasant and work is boring, employment still is an important element for an individual's day-to-day life. Work gives a person lasting social identity and recognition. Therefore, it is not difficult to understand that unemployment gives rise to a person's lack of confidence in his/her social worth.¹¹

Taking into account the significance of work in social life and the pivotal role of work in contemporary societies, employment is almost always a prerequisite for an independent, dignified life and access to work has been recognized as a human right. Work is both an economic and a social right and plays an effective, vital role in ensuring security, stability, social justice, and the realization of broader human rights.

Article 48 of the Afghan Constitution states, "Work is the right of every Afghan. Working hours, paid holidays, employment and employee rights and related matters shall be regulated by the law. Choice of occupation and craft shall be free within the bounds of law."

The Government has the following obligations to ensure the right to work:

1. Not to interfere in the enjoyment of the right to work.
2. Prevent the interference of third persons and parties in the enjoyment of this right.
3. Enact and ratify the necessary legislations for the implementation of this right and the prevention of discriminatory policies of companies, trade unions, and public and private employers.
4. Provide facilities in work and increase employment and decrease unemployment.¹²

The Afghan Government joined the International Labor Organization (ILO) in 1934 and has so far ratified five ILO conventions.¹³ In addition to ILO conventions, the Afghan Government is party to other human rights instruments, including the Universal Declaration of Human Rights (UDHR) and ICESCR, which set out the right to work. Article 23 of UDHR stipulates:

"1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work."

¹¹ Anthony Giddens, *Sociology*, trans. Hasan Chavoushyan, 4th ed., *Nei Publications*, 1386 (2007/08), p. 540.

¹² Sarwar Danish, *Afghanistan's Constitutional Law*, a publication of Ibn-e-Sina Institute of Higher Education, 1st ed., 1389 (2010/11), p. 366.

¹³ Ministry of Justice (MoJ), Islamic Republic of Afghanistan; <<http://moj.gov.af/fa/page/1693>>.

Article 6 of ICESCR states, “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.”

Guided by Article 48 of the Afghan Constitution and in order to clarify and regulate issues related to the rights, duties, privileges, and social security of workers and employees, the Labor Law was enacted, ratified, and published and the Law is highly compatible with the relevant human rights norms and standards. The implementation of the Labor Law can highly contribute to the realization of constitutional provisions and human rights standards related to the rights of workers.

Article 2 of the Labor Law sets out the following objectives:

1. Establish, regulate, and strengthen worker relationships.
2. Ensure equal rights and protect the rights of workers.
3. Improve work organization, increase productivity, employ human resources rationally, strengthen work and production discipline, mainstream pay scales, and provide social security for enhancing workers’ material, social, and cultural life.
4. Establish the rights and duties of workers and management, ensure maintenance and occupational safety, develop skills and capacities continually, and strengthen national economic growth.
5. Promote legality and equal implementation of legal documents related to work in all areas of production and manufacturing.
6. Provide placement facilities.¹⁴

Employment, work contract, working hours, rest and holiday, remuneration, vocational training, worker skills development, work-related rules and regulations, work discipline, worker financial responsibility, occupational health and safety, women and youth work, work disputes, social security, and other miscellaneous affairs are the issues the Labor Law determines.

People’s Access to Work

It is not easy to analyze qualified people’s access to work and unemployment. First, there are no specific statistics on the number of people who are qualified for work under the Afghan Labor Law. Second, it is not easily feasible to define unemployment, because over 90 percent of employment is unstable, unpaid, inadequately paid, or often hidden in the country.¹⁵ But, in any case, unemployment means “lack of work” and here it means “lack of paid work.”

Based on statistical information provided by MoLSA, around 7 million Afghans are qualified for work, of which 34.5 percent are unemployed. In other words, about 66.5 percent of qualified workers are employed.¹⁶

¹⁴ MoJ, Islamic Republic of Afghanistan, Official Gazette, *Labor Law*, no. 966, date of publication: Qaus 16, 1387 (December 6, 2008).

¹⁵ Central Statistics Office (CSO), *NRVA 1386/87 (2007/08/2008/09)*, printed at Jaihun Printing Press.

¹⁶ Interview with Sima Ghani, Deputy Minister, MoLSA, Sunbula 2, 1390 (August 24, 2011).

Compared with statistical information provided by MoLSA two years ago,¹⁷ there has been no considerable change in unemployment rate in the country. There are still problems and inadequacies in these statistics and the Government is yet to be able to provide exact data on the number of the employed or the unemployed. For example, the percentage of literate or illiterate unemployed population is not clear. When there are no exact statistics, governmental and non-governmental planning is conducted on the basis of inadequate information and this will, in turn, not yield accurate results.

The AIHRC HRFM interviews with 9,333 people in 1388 (2009/10) indicate that 56.9 percent of interviewees were employed and 43.1 percent unemployed. Of those who are employed, 32.1 percent make a daily income of less than Afs50. There is a variation of 8.6 percent between the statistical information of the Government and the AIHRC HRFM, indicating that there are more unemployed workers than that reflected in the Government's official reporting.

Authorities are of the opinion that the statistical information provided by the Government is not credible. Prof. Saifuddin Saihun, an economics professor, says, "Although the Afghan Government has paid little attention to the serious and vital issue of producing reliable data and indicators, I believe that if we pay attention to hidden unemployment in rural and other areas, we will come up with an estimate that around half of Afghanistan's population are qualified for work and around 50 percent are unemployed. It means that they do not have access to necessary, productive employment."¹⁸

HRFM findings reveal that the priority for 20.3 percent of interviewees in the year 1389 (2010/11) is employment and the expansion of work opportunities. Similarly, employment ranks first in interviewee priorities list in 1389 (2010/11).

As already mentioned, there has been no considerable change in employment rate in the past two years. This is indicative of the Government's inefficient and ineffective planning for employment and the creation of job opportunities.

MoLSA claims that the Government has launched vocational training and employment skills programs through the Ministry. MoLSA has launched vocational training programs for literate and illiterate persons and there are vocational training centers in 16 provinces. In general, around 20,000 people (including literate and illiterate, men and women) have been trained in MoLSA vocational training courses since 1388 (2009/10). Private sector too has had vocational training programs and there are no exact statistics in this regard.¹⁹

However, authorities believe that these programs have not yielded tangible results and visible effects in the reduction of unemployment rate. Prof. Saifuddin Saihun states, "On the one hand, these programs are short-term and ad hoc and they are not effective from a training point of view; on the other hand, the country's prevailing economic system is not supportive of employment and the reason is clear: the Government has forgotten employment creation in the

¹⁷ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," p. 32.

¹⁸ Interview with Saifuddin Saihun, Economics Professor, Kabul University, Sunbula 22, 1390 (September 13, 2011).

¹⁹ Interview with Sima Ghani, Deputy Minister, MoLSA, Sunbula 2, 1390 (August 24, 2011).

macroeconomic reality. Ad hoc, reactionary, and propagandist policies in which people are vocationally trained for a period of time do not guarantee employment for the trainees. For example, if ten programs are launched to deliver educational services but the conditions for employment are not created and there is no strategy for creating employment for the trainees, these people will face serious problems. People who are trained look at the market with expectations and when they cannot find employment, they join the ranks of the unemployed and criminal gangs. Therefore, employment must be created for those who are trained.”²⁰

There are also no exact statistics on the kinds of employment for the employed people. MoLSA data indicates that around 80 percent of the Afghan population subsists through agricultural employment. So, the agriculture sector has received the biggest number of the employed. According to CSO statistics, 328,977 people (66,672 women, 262,305 men) work in the Government.

The AIHRC HRFM data in 1388 (2009/10) shows that 39.1 percent of interviewees are employed in agriculture, 23.7 percent in unskilled daily-wage labor, 12.8 percent in stable self-employment, 7.6 percent in stable employment, 4 percent in skilled daily-wage labor, and 11.4 in other employment. It should be mentioned that 1.2 percent of interviewees reported that they meet their family needs through remittances sent to them from abroad and 0.2 percent of them did not answer this question.

The AIHRC HRFM data in 1389 (2010/11) is slightly different from that in 1388 (2009/10) and is as follows: 37.4 percent of interviewees are engaged in agriculture, 28.2 percent in unskilled daily-wage labor, 11.7 percent in self-employment, 10.9 percent in stable employment, 5.1 percent in skilled daily-wage labor, and 4.3 percent in other employment.

Comparing the data for the previous two years, it can be concluded that there was 1.7 percent decrease in agricultural employment during the past year and the recent droughts certainly constitute a major causal factor. Also there was 4.5 percent increase in unskilled daily-wage labor and this can indicate the ineffectiveness of the Government’s plans for employment creation and vocational training. Governmental neglect has caused people to approach unskilled labor and this has reduced the number of skilled laborers.

Some authorities believe that lack of attention of the Government to create job opportunities reinforces the armed opposition and many unemployed people join the armed opposition in order to meet their family needs and the armed opposition has absorbed these people, offering them relatively handsome salaries. “An unemployed person and a society afflicted by unemployment lack stable sources of income. When people and social groups do not have permanent revenues, such people are likely to use illegitimate means to ensure their family livelihoods. There is no doubt that unemployment is the root cause for many social evils. Unemployment has dangerous social and psychological ramifications. An unemployed family is a humiliated family. A hungry person cannot do well in the society. Therefore, unemployment is the source of insurgency, delinquency, crime, theft, and other social issues. That is why there is an international sensitization regarding employment indicators in today’s world. A healthy, balanced society pays

²⁰ Interview with Saifuddin Saihun, Economics Professor, Kabul University, Sunbula 22, 1390 (September 13, 2011).

serious attention to employment creation. In Afghanistan, there is a need and an opportunity for work and employment in various sectors, including road construction, agriculture, and mines and this way Afghan people can find access to work and employment.²¹

Women and the Right to Work

Throughout history, men and women have had a role in the production and reproduction of the society in which they live. But this partnership and division of responsibility has taken different and relatively unfair forms in different periods of time. Despite women's extensive participation in the social sphere, "paid work" is still a men's province and importance is not attached to women's work and women's work is inadequately paid. As a result, women's presence in work is inconsiderable.

But Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has recognized the rights to work, choice of work, equal conditions in choice of work, pay equal to that of men, use of work benefits, and equal evaluation for equal work, insurance in times of illness, unemployment, and age, maternity leave while maintaining one's job and other privileges for women and has stipulated, "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights" and that women should not be forced to engage in any work that is harmful to their health and that women's protection laws should be enacted.²²

There are no exact and new statistical information on the number of women who are qualified for work. But NRVA findings show that less than half of women (47 percent) are qualified for work market, while 86 percent of men are qualified for work market. It means that women's presence in work market is 39 percent less than that of men. Women's participation in agriculture and livestock in rural areas is higher at 60 to 70 percent. But women's participation in the workforce is less in urban areas at around 21 percent. In general, women are less active in work market and those women who work are employed in jobs that are less paid, less secure, fewer working hours, and more vulnerable.²³

At the same time, 14.1 percent of the AIHRC HRFM interviewees in 1388 (2009/10) stated that their families are headed by women. In these families, women are the breadwinners.

Types of Women's Employment

According to the ANDS assessment, women constitute at least 30 percent of agricultural workers. They are mainly employed in livestock, small businesses, and handicrafts, but they have limited access to capital, information, technology, and marketplace. Women earn

²¹ Interview with Saifuddin Saihun, Economics Professor, Kabul University, Sunbula 22, 1390 (September 13, 2011).

²² United Nations General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, adopted on December 18, 1997, Article 11.

²³ CSO, *NRVA 1386/87 (2007/08/2008/09)*, printed at Jaihun Printing Press.

considerably less than men do.²⁴ Tailoring, cooking, housekeeping, carpet-weaving, embroidery, teaching, art and industry, handicrafts, hairdressing, livestock, and governmental and non-governmental employment are the areas in which women are employed. The current definition of economically active population excludes women who are employed “unpaid” in family economic affairs. As a result, women’s economic contribution is not considered and this leads to loss of women’s self-confidence and family status.²⁵

In this manner, Afghan women are often employed in housekeeping. Unpaid housework (hidden employment) has huge significance for national economy. It is estimated that 25 to 40 percent of wealth generated in industrialized countries comes from housework. Housework is the backbone of economy, because it ensures free services that are needed by the majority of employed population.²⁶ But no importance is attached to housework in our society and it is not viewed as effective employment.

Currently (1390 (2011)), women constitute around 20 percent of government employees, 88 percent of them are employed as official staff members, and 12 percent of them work as service personnel or staff members.²⁷ Women constituted 22.3 percent of civil servants in 2006 and 31.2 percent of government employees in 2005. At the same time, 30 percent increase in women’s participation in elected and non-elected institutions at all governance levels by 2020 is an important objective in the ANDS.²⁸ But this statistics reveals the decrease in women’s presence in the Government: women’s presence in the Government has decreased by 11.2 percent since 2005.

Problems of Employed Women

Women are also responsible for housework and upbringing of children. Employed mothers, who have little children, have to grapple with endless expectations of work at both office and home on a daily basis. For many employed mothers, daily life is extremely hectic from housekeeping to caring for children, day-long work, performing official responsibilities, dealing with family issues, etc.

In addition to usual, daily problems, employed women also grapple with many issues at the workplace. The AIHRC report entitled *A Study on the Situation of Employed Women in Afghanistan’s Government Institutions* released in 1388 (2009/10) indicates that employed women face manifold problems from the time they enter the marketplace: 55 percent of employed women believe that they cannot get their desired employment without intermediaries; 67 percent of respondents have not been promoted due to lack of appreciation of their achievements by their superiors, lack of implementation of timely promotion schemes, and discrimination against women in the workplace; 25 percent of respondents do not have separate desks for performing their daily duties in the Government institutions; 69 percent of researched

²⁴ Government of the Islamic Republic of Afghanistan, ANDS, Gender Strategy.

²⁵ Interview with Sima Ghani, Deputy Minister, MoLSA, Sunbula 2, 1390 (August 24, 2011).

²⁶ Anthony Giddens, *Sociology*, trans. Hasan Chavoushyan, 4th ed., Nei Publications, 1386 (2007/08), p. 572.

²⁷ CSO, *Statistical Yearbook 1388 (2009/10)*, date of publication: Mizan 1389 (September/October 2010) and Interview with Sima Ghani, Deputy Minister, MoLSA, Sunbula 2, 1390 (August 24, 2011).

²⁸ Government of the Islamic Republic of Afghanistan, ANDS, Gender Strategy.

Government institutions lack kindergartens; 70.8 percent of employed women lack access to vehicles; 16 percent of employed women cannot use their legal leave due to work overload and lack of superior agreement; and 1.7 percent of employed women are sexually harassed in the workplace.²⁹

Despite enjoying legal equality with men and strong legal guarantees, women still experience inequalities and manifold problems in the marketplace and do not have access to a healthy, safe working environment. Therefore, there is increased need to plan a cultural restructuring of Government institutions.

Child Laborers

Child laborers refer to a large group of children who are employed in hard and difficult labor in agricultural fields, mines, roads, underground workshops, kilns, etc. The employers exploit these children as cheap labor for increasing their profit.³⁰

Article 49 of the Afghan Constitution specifies, “Forced labor on children shall not be allowed.”³¹ Likewise, Article 13 of the Afghan Labor Law sets out, “Completion of the age of 18 is one of the fundamental requirements for employment” and “completion of the age of 15 in light labor and the completion of the age of 14 for apprenticeship” are the necessary requirements for employment. Paragraph 4 of the Article emphasizes, “Employing youth aged less than 18 years in harmful work that threatens their physical development or subjects them to disability is forbidden.”³² In addition, Article 31 of the Law stipulates that children “aged between 15 and 18” should work “for 35 hours per week” and it is illegal to exceed this limit.³³

On the other hand, the Convention on the Rights of the Child (CRC) recognizes the right of every child to be protected from exploitation and hard labor and Article 32 of the CRC reads:

“1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

²⁹ AIHRC, *A Study on the Situation of Employed Women in Afghanistan’s Government Institutions*, winter 1388 (2009/10).

³⁰ Masouma Sayyedi, *In Bereavement of Life: Studying the Phenomenon of Child Abuse*, Shirazah Publications, 1st ed., 1386 (2007/08), p. 181.

³¹ Afghan Constitution, Article 49, 1382 (2003/04).

³² MoJ, Islamic Republic of Afghanistan, Official Gazette, *Labor Law*, no. 966, date of publication: Qaus 16, 1387 (December 6, 2008).

³³ *Ibid*, Article 31.

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.³⁴

The United Nations Children's Fund (UNICEF) regards the following as child labor: (1) full-time work at early age, (2) work accompanied by inappropriate sensory, social or psychological pressure, (3) street work and life under unfavorable conditions, (4) inadequate pay, (5) excessive responsibility, (6) work that impedes education, (7) work that destroys a child's worth and dignity like slavery or sexual exploitation, and (8) work that is harmful for social and psychological growth and development.³⁵

Despite the legal prohibition of child labor, about 1.9 million children aged 6 to 17 are engaged in labor in Afghanistan. These children work in 22 kinds of hard labor, from street work to agriculture, construction work, carrying heavy loads, washing cards, weaving, shepherding, and so on.³⁶ Around 92.5 percent of child laborers aged 12-17 work for 42 hours per week and most of them work under inappropriate circumstances.³⁷

³⁴ United Nations General Assembly, *Convention on the Rights of the Child (CRC)*, adopted on November 20, 1989.

³⁵ Masouma Sayyedi, *In Bereavement of Life: Studying the Phenomenon of Child Abuse*, Shirazah Publications, 1st ed., 1386 (2007/08), p. 182.

³⁶ Interview with Wasil Noor Mohmand, Deputy Minister for Social Affairs, MoLSA, Sunbula 14, 1390 (September 5, 2011).

³⁷ Ministry of Foreign Affairs (MoFA), *Preliminary Report of the Islamic Republic of Afghanistan to the Committee on the Rights of the Child*, 1388 (2009/10).



The AIHRC HRFM findings in 1388 (2009/10) shows that 42.7 percent of interviewees (3,958 out of 9,278 interviewees) had child laborers and these children were aged below 15 years. Of these, 5.6 percent stated that all children in their families worked, 54.5 percent said that most children in their families worked, 23 percent (910 people) reported that child labor was the only income source for their families. This is while in 1387 (2008/09) 38 percent of interviewees said that children aged below 15 years in their families worked.³⁸ The number of child laborers has increased by 3 percent in a period of one year. In addition to these, 23.5 percent of interviewees in 1388 (2009/10) reported that child labor was the only source of revenue for their families. This category of children is subjected to risks and hazards, because they are forced to engage in hard labor to make a living for their families.

In 1389 (2010/11), 51 percent of interviewees told the AIHRC HRFM team that girls aged below 15 in their families worked and 49 percent of them reported that boys aged below 15 in their families worked. Similarly, 53 percent of interviewees said that boys over 15 years in their families worked and 47 percent of them stated that girls over 15 years in their families worked. On the whole, the HRFM findings in 1389 (2010/11) indicate that 68 percent of children (children aged below 18 years) work/are engaged in labor. More important is that 40.3 percent of interviewees reported that their children work in inappropriate, unhealthy, and unsafe conditions.

Different Forms of Child Labor in Afghanistan

³⁸ AIHRC, “Fourth Report on Economic and Social Rights in Afghanistan,” 1388 (2009/10).

According to studies by the AIHRC and MoLSA, children are engaged in 22 types of work as follows:

Street work: Children who work on streets in urban areas are the most commonplace and most obvious category of child laborers. These children are engaged as vendors, work in factories, collect metals from garbage bins, polish the shoes of passers-by, wash clothes, beg, clean the windows of cars in busy city squares and in front of restaurants and hotels, work with drivers, and so on. In numerous cases, these works are the worst forms of child exploitation, because these children are sometimes used for the purposes of sex work, drug trafficking, and other illegal activities.

The AIHRC HRFM findings in 1388 (2009/10) reveal that 7.3 percent of child laborers work on streets, while this figure was 5.8 percent in 1387 (2008/09),³⁹ meaning that there was about one percent increase in the number of child laborers on streets in the period of a year. In 1389 (2010/11), 7.9 percent of interviewees (415 people) stated that their boys worked on streets and 2.5 percent of interviewees (128 people) reported that their girls worked on streets. 1389 (2010/11) statistics also indicate an increase in the number of child laborers on streets.

Carrying heavy loads: This is a common form of child labor in which a high percentage of children are engaged. This is manifested in carrying commercial loads in markets, transporting boxes and other loads by cart, transporting firewood, and carrying buckets and barrels full of water in rural areas.

Based on the AIHRC HRFM findings in 1388 (2009/10), 34.1 percent of interviewees (1,652 people) stated that their children are engaged in this form of labor. This indicates no considerable change compared to the year 1387 (2008/09). The HRFM team findings in 1389 (2010/11) show that 30 percent of interviewees (1,582) said that their boy children are engaged in carrying heavy loads and 43.2 percent of interviewees (2,110 people) stated that their girl children are engaged in carrying heavy loads. The percentage of girls who are engaged in hard labor is much more than that of boys. Of all interviewees, 28 percent stated that their girls fetch water across long distances. In rural areas, girls often face much hardship to fetch drinking water for their families. This type of labor has negative social and health implications and obstructs the physical development of the affected children.

Work in mines: Although there are not any accurate statistics on child labor in the mining industry, a study conducted by the AIHRC in cooperation with the Child Protection Action Network (CPAN) in Klij and Ashpashta coal mines in Kehmard district of Bamyan province reveals that around 212 children are engaged in hard labor in these mines. These children work without adequate equipment, masks, eyeglasses, helmets, or other protection equipment and they work for long hours, even during nighttime. Based on the findings of the research that was conducted in February 2010, 79 percent of these children are from Kehmard district of Bamyan province, 11 percent from Samangan province, 5 percent from Baghlan province, and 2 percent from Shibar district of Bamyan province. 15 percent of the children said that they personally witnessed dangerous incidents leading to injuries and deaths in the mines. Plumes of dust and smoke are a serious threat to these children's respiration and respiratory system.

³⁹ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," 1388 (2009/10).

Other forms of child labor: Working in hotels and restaurants, in farmlands and in the military; shepherding; weaving; and doing overnight work, work in excessively hot and cold weather, and work with dangerous equipment; and so on are the forms of child labor identified and assessed by the AIHRC in its HRFM exercise. In 1388 (2009/10), 31.1 percent of interviewees stated that their children aged below 15 years are engaged in these forms of labor. In 1389 (2010/11), 62 percent of interviewees said that their boy children aged below and over 15 years are engaged in these forms of labor and 54 percent of them said that their girl children are engaged in these types of work.

Child labor has harmful physical and mental impacts on the affected children and studies show that child laborers suffer from feelings of inadequacy and humiliation at puberty and afterwards, since they feel they have lost their “childhood” and have to enter an adult world and perform hard labor instead of playing and studying. As a result, there is a big gap in their natural growth and development throughout their lifespan.

There is a perceptible link between child labor and education. There is a large group of children who are deprived of education due to labor and long working hours. 11.6 percent of interviewees (564 people) told the AIHRC HRFM team that their children cannot go to schools due to work and long working hours.

Education is not an independent and exclusive right, but it provides a context for the enjoyment of all human rights. At the same time, it is vivid that there is no appropriate and long-term solution for the problem of child labor, but waging a campaign to ensure education for all. Education is the most necessary and effective tool for eradicating child labor.⁴⁰

Finally, child labor is indicative of the fiasco of adults, society, family, and particularly the state in materializing their commitments towards children. It is a fact that the Government has not taken effective steps for reducing child labor and has not fulfilled its national and international obligations for the promotion and protection of the rights of the child.

PWDs and the Right to Work

Access to employment is an inalienable right of PWDs. Employment will boost the self-esteem and self-confidence of PWDs. Article 27 of the Convention on the Rights of Persons with Disabilities states:

“1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation...

⁴⁰ Masouma Sayyedi, *In Bereavement of Life: Studying the Phenomenon of Child Abuse*, Shirazah Publications, 1st ed., 1386 (2007/08), p. 184.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”⁴¹

Article 22 of the Law on the Rights and Privileges of PWDs reads, “The Government considers at least a three percent employment quota for qualified PWDs upon their request in Government ministries and institutions in accordance with the provisions of law.”⁴²

However, estimates indicate that less than 1 percent of Government employees are PWDs and of all 2.7 percent PWDs in population, around 90 percent are unemployed. Employed PWDs serve in low-income jobs.⁴³

Article 20 of the Law on the Rights and Privileges of PWDs states, “MoLSA in cooperation with pertinent institutions shall provide technical and vocational training for PWDs, taking into account their talents and capabilities.”⁴⁴ The major gender-disaggregated vocational training projects implemented in the interest of PWDs are as follows: tailoring, hairdressing, needlework, flowermaking, business, physiology course, carpet-weaving, and etc. for women with disabilities and tailoring, carpet-weaving, carpentry, metalwork, sweeper-making, mobile phone and computer repair, and etc. for men with disabilities. These projects have been mainly implemented by NGOs. On the whole, we can say that around 80 percent of these projects have been implemented by NGOs and only 20 percent by governmental institutions.⁴⁵

These projects have had an output of less than 30 percent and have been largely ineffective in creating employment opportunities for PWDs. Reasons for program ineffectiveness include: (1) poor coordination among program managers that has led to one person using several programs and benefit from none; (2) poor program quality and management; (3) lack of program compatibility with marketplace (i.e. PWDs have not been trained in marketable fields); and (4) no marketing has been conducted for vocational, productive projects, such as flowermaking and needlework for women with disabilities.⁴⁶

According to the AIHRC HRFM findings in 1388 (2009/10), 2 percent of interviewees stated that their families are headed by PWDs. But in 1389 (2010/11), the figure rose to 3.2 percent, including 91 interviewees. This means an increase in the number of families in which PWDs are responsible for family livelihoods. In case of continued PWD deprivation of employment, these families will face worrying economic problems.⁴⁷

⁴¹ United Nations General Assembly, *Convention on the Rights of Persons with Disabilities*, adopted on December 13, 2006.

⁴² MoJ, Islamic Republic of Afghanistan, *Law on the Rights and Privileges of Persons with Disabilities*, Official Gazette, no. 1,037, Sunbula 15, 1389 (September 6, 2010).

⁴³ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

⁴⁴ MoJ, Islamic Republic of Afghanistan, *Law on the Rights and Privileges of Persons with Disabilities*, Official Gazette, no. 1,037, Sunbula 15, 1389 (September 6, 2010).

⁴⁵ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

⁴⁶ Ibid.

⁴⁷ AIHRC, Human Rights Field Monitoring (HRFM) Database, 1388 (2009/10) and 1389 (2010/11).

Migrant Workers

Poverty, insecurity, and lack of appropriate education and employment opportunities have caused numerous Afghans to leave for neighboring countries in pursuit of employment. 7 percent of all families have one migrant worker inside the country, 6 percent have sent a family member outside the country for employment, and 14 percent have seasonal migrant workers. 94 percent of internal migrant workers are men and 98 percent of migrant workers outside the country are men. For migrant workers outside the country, Iran is the most favored destination.⁴⁸ These migrants are mostly deprived of their human rights in work and in life in the host country. The Convention on the Rights of Migrant Worker and Members of Their Families explicitly recognizes the rights for freedom of movement, freedom from torture, life, freedom from forced labor, and education for migrants, but neither the Afghan Government nor the Iranian Government has acceded to this Convention. Although other international human rights instruments, which were previously mentioned, have made these rights legally binding, the host country does not abide by them.

⁴⁸ CSO, *NRVA 1386/87 (2007/08/2008/09)*.

Part 2

Right to Social Security

The right to social security includes the right to access and enjoy the material and spiritual benefits associated to protection of people from such vulnerabilities as loss of/inadequate income due to disability, pregnancy, unemployment, old age, occupational hazard, death of family members, and limitations in the enjoyment of healthcare. The right to social security is particularly significant for safeguarding the human dignity of all individuals who are deprived of the rights enshrined in the ICESCR.⁴⁹ Social security has a direct link with human dignity, because vulnerable persons who meet the above-mentioned requirements and members of their families are not able to fully enjoy their economic and social rights. Therefore, his/her dignified life faces hardships and constraints. Governments are responsible to design and implement protection policies and programs to ensure the enjoyment of human rights by vulnerable persons. Social security protection programs should be designed and implemented for all vulnerable persons and vulnerable groups of persons on an equal footing and without any discrimination.⁵⁰



Articles 22 and 25 of UDHR and Article 9 of ICESCR ensure the right to social security for all individuals. Article 53 of the Afghan Constitution also enshrines the right to social security for vulnerable persons, such as survivors of the martyr and the disappeared, PWDs, the retired, older persons, and unsupported women and orphans and requires the Government to ensure this right for them.⁵¹ The Government of the Islamic Republic of Afghanistan included protection programs for vulnerable persons in the ANDS. Pillar seven of the ANDS is devoted to the social

⁴⁹ Committee on Economic, Social, and Cultural Rights (November 23, 2007), *General Comments*, OHCHR; <<http://www2.ohchr.org/english/bodies/cescr/comments.htm>> (accessed October 15, 2011).

⁵⁰ Committee on Economic, Social, and Cultural Rights (November 23, 2007), *General Comment No. 19*, OHCHR; <<http://www2.ohchr.org/english/bodies/cescr/comments.htm>> (accessed October 15, 2011).

⁵¹ Afghan Constitution, 1382 (2003/04), Article 53.

security sector. According to the ANDS, around 42 percent of all population lives under the poverty line and approximately 45 percent of the Afghan people are not able to purchase a basic food package containing 2,100 calories per day.⁵² Based on the NRVA, about 36 percent of all population, i.e. around 9 million people, live under the poverty line and are not able to meet their basic needs.⁵³

The ANDS has put forward ambitious programs and objectives. In its social security sector, the ANDS has set the benchmark that by the end of 1391-1392 (2012-2013), national per capital poverty rate will decrease by two percent per year from its existing 42 percent and by the end of 1389 (2010), there will be a three percent decrease in the number of people with less than one dollar income per day on an annual basis. It also says that by the end of 2010, there will be a 20 percent decrease annually in the number of extremely poor families headed by women and that there will be a 20 percent increase in employment for them.

Although the elements of the right to social security vary from country to country, the establishment of a sustainable social security system is imperative for meeting the needs of the needy people. Social security policies and programs should take present and future probabilities into account. It means that programs should be formulated in a way that they address social risks for present and future generations. It is noteworthy that the right of PWDs to social security was discussed under the section related to PWDs.

Old Age

Old age is a period of life in which people have reduced physical capacity and they should, therefore, be protected. Old age does not mean lack of health or incapacity *per se*, though ageing normally is followed by increasing health problems. The social security of older women is usually more difficult than that of older men.

Older persons who are the supporters of their families need special attention and states are required to formulate basic and special programs to protect them. According to Article 12 of ICESCR, states should recognize the right of all persons to the enjoyment of the highest attainable standard of health, both physical and mental, and should take measures for the full realization of this right.⁵⁴ Article 5 of the Afghan Constitution too explicitly requires the Government to provide assistance for older persons, unsupported women, PWDs, and destitute orphans.⁵⁵

There is no accurate statistical information on the number of older persons in Afghanistan. There is even no estimated statistics. Traditionally older persons have a special, respected status in the Afghan society, but it seems that an uncertain number of older persons are not able to look after themselves or their families are not able to look after them. The number of older persons who live without families and are, thus, unsupported is not known. Unfortunately the Afghan

⁵² NRVA 1386/87 (2007/08/2008/09).

⁵³ Ibid.

⁵⁴ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*, Article 12, adopted in 1966.

⁵⁵ Government of the Islamic Republic of Afghanistan, Afghan Constitution of 1382 (2003/04), Article 53.

Government has not implemented any programs for the protection of older persons. In order to ensure the rights of older persons, it is necessary to enact protection laws for them, educate families and society regarding physical and mental conditions of older persons and their rights, and establish institutions for unsupported older persons.

MoLSA Deputy Minister said that the Ministry previously intended to formulate and implement programs for the protection of older persons, but it withdrew its intentions after preliminary studies, but protection of older persons is still part of the Ministry's future program. The Deputy Minister further said that it is currently impractical to establish institutions for the protection of older persons, because this needs huge budgetary facilities. He added that if the Ministry announces plans to establish institutions for the protection of older persons, waves of people will bring their older persons to these institutions, for which he thought that people's culture and lack of awareness are the reasons.⁵⁶ It appears that the understanding of MoLSA Deputy Minister is remote from reality, because this has never been researched by any institution and there is no precedent in this regard. It is better if MoLSA implements pilot projects for establishing institutions for older persons in a number of provinces.

The AIHRC findings reveal that of all HRFM respondents in 1387 (2008/09), 15.2 percent, in 1388 (2009/10), 14.1 percent, and in 1389 (2010/11), 17 percent had families headed by older persons. These figures show that there has been no considerable change in the percentage of older persons who are the heads/supporters of their families. It should be mentioned that not all older persons who are the heads of their families are vulnerable, because other members of their families are employed and bring revenues to their families, and older persons are family heads as a matter of respect and experience.

Survivors of Martyrs and Orphans

Survivors of martyrs and orphans are among the vulnerable groups that must enjoy the right to social security and are in need of special attention. In accordance with ICESCR⁵⁷ and CRC,⁵⁸ the Government is required to protect survivors of martyrs and orphans who are the breadwinners of their families by formulating and implementing a basic, inclusive program. Article 53 of the Afghan Constitution explicitly states that the Government should protect and assist unsupported women and orphans.

Afghanistan is a country most affected by war. The armed conflict has continued for over three decades and is still ongoing and further deteriorating compared to previous years. Many families lost their supporters and breadwinners in the course of past and ongoing armed conflict. From Saur 1357 (April/May 1978) to 1387 (2008/09), around 100,000 persons were registered by the Government as martyrs⁵⁹ and the number of registered martyrs was 124,361 by early 1390

⁵⁶ Interview with Wasil Noor Mohmand, Deputy Minister for Social Affairs, MoLSA, Sunbula 14, 1390 (September 5, 2011).

⁵⁷ Committee on Economic, Social, and Cultural Rights, *General Comment No. 19*, 2007.

⁵⁸ United Nations General Assembly, *Convention on the Rights of the Child (CRC)*, Article 26, adopted in 1989.

⁵⁹ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," p. 44, 1388 (2009/10).

(2011).⁶⁰ This includes only those persons that were recorded by MoLSA and by no means indicates the accurate number of martyrs.

MoLSA of the Government of the Islamic Republic of Afghanistan offers financial assistance to the families of martyrs, PWDs, and the disappeared who have been registered by the Ministry. The financial assistance has increased in comparison with the period before 1387 (2008/09) and this is a relative progress. Until 1387 (2008/09), each family of martyrs and the disappeared received Afs300 to Afs500 per month (US\$6-10), but the new Law on the Rights and Privileges of Survivors of Martyrs and the Disappeared increased the financial assistance from Afs600 to Afs2,250 (US\$12-45). The Law was ratified in 1389 (2010/11) and offers better protection than previous legislations. Although the new Law has eliminated many obvious forms of discrimination, this Law offers no rights and privileges to families whose heads/supporters have died from incidents unrelated to war.⁶¹ The Law been enacted only for families of martyrs and the disappeared who have been killed or who have disappeared during the armed conflict.

In recent years, from 2007 till now, civilian casualties have been on the rise. Civilian casualties are caused during aerial bombardments by international military forces and armed attacks by anti-Government elements. Recently, under pressure from the Afghan Government and as a result of relative coordination between the national and international security forces, civilian casualties by international military forces have decreased, but civilian casualties caused by anti-Government elements have increased. A joint report by the AIHRC and UNAMA indicates that in 2001, 2,777 civilians were killed, a 15 percent increase in civilian casualties compared to 2009. Civilian casualties caused by anti-Government elements have increased by 28 percent compared to 2009 and civilian deaths caused by the national and international security forces have decreased by 26 percent.⁶²

The number of orphaned and unsupported children is not fully known. Based on information provided to the AIHRC by MoLSA, 6.5 million children are at risk in the country and 1.9 million children are engaged in child labor. Also around 16,000 orphaned children live in 70 institutions.⁶³ This is while 9,347 children lived in institutions until 1387 (2008/09).⁶⁴ This only includes children registered by MoLSA and who are institutionalized; the real number of orphaned children is higher than this. Many orphaned and unsupported children are on the streets and in the markets, begging, collecting things from the garbage, acting as vendors, and washing cars—this labor puts these children at risk. (For more information, please see the section on child labor.)

The AIHRC findings reveal that the conditions in Afghanistan's institutions are unfavorable and it has recorded many complaints in this regard. Generally many of the institutions lack welfare

⁶⁰ Interview with Sadeq Mohebbi, Senior Advocacy and Communication Advisor to MoLSA, Sunbula 1, 1390 (August 23, 2011).

⁶¹ Government of the Islamic Republic of Afghanistan, MoJ, *The Law on the Rights and Privileges of Survivors of Martyrs and the Disappeared*, Article 2, 1389 (2010/11).

⁶² UNAMA, *United Nations Assistance Mission in Afghanistan*, from Key Documents and Reports; <<http://unama.unmissions.org/Default.aspx?tabid=4652>> (accessed October 16, 2011).

⁶³ Interview with Wasil Noor Mohmand, Deputy Minister for Social Affairs, MoLSA, Sunbula 14, 1390 (September 5, 2011).

⁶⁴ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," p. 44, 1388 (2009/10).

and education facilities and are located in rented houses. The AIHRC has received reports that the children of the institution authorities or their relatives and friends have been registered in the institutions instead of deserving, needy children. At the same time, the Government's monitoring mechanism for these institutions is not transparent and has failed to address inadequacies and challenges.

There is also a lack of information about widowed and unsupported women; there is no accurate statistics on the number of these women. The AIHRC Fourth Report on the Situation of Economic and Social Rights in Afghanistan shows that 0.4 percent of interviewees stated that children are the breadwinners of their families and 12.9 percent said that women are the breadwinners of their families. The AIHRC findings in 1388 (2009/10) reveal that 14.2 percent of families are headed/supported by women and 0.2 percent of families by children. In 1389 (2010/11), the number of women who have headed/supported their families decreased by 8.1 percent and the number of children who headed/supported their families decreased by 0.1 percent. It should also be pointed out that this statistics indicates no considerable change (except the change in the number of women who head/support their families).

Maternity Leave

Women's maternity leave is an issue that is included in the right to social security. Article 10 of ICESCR states that women are entitled to special protection for a reasonable amount of time before and after childbirth, during which employed women must enjoy paid leave and other related benefits.⁶⁵ Article 54 of the Islamic Republic of Afghanistan's Labor Law too has recognized this right for mothers. According to the Law, employed women are entitled to a paid maternity leave of 90 days, one-thirds before childbirth and two-thirds after. In case of unnatural childbirth or birth of twins or more, the employed mother is entitled to 15 more days in her maternity leave.⁶⁶

There is on accurate information on the number of women who have enjoyed their maternity leave. MoLSA Deputy Minister said that there is not adequate information in this regard.⁶⁷ A research by the AIHRC in 1388 (2009/10) found that 4.5 percent of employed women cannot use their maternity leave properly and fully. Most of the women who said they cannot use their maternity leave fully were from Daikundi, Nangarhar, Bamyan, Laghman, Jawzjan, Herat, Takhar, Balkh, Kandahar, Faryab, Paktia, Kunduz, Khost, and Baghlan provinces respectively.⁶⁸

Maternity leave also depends on the level of awareness among employees and employers. The AIHRC research on employed women indicates that these women do not have adequate awareness about the Labor Law and the rights and privileges, to which they are entitled, in outlying provinces and that employers sometimes violate the Labor Law and do not permit maternity leave for the duration specified in the Law. In some cases, the nature of the work is in

⁶⁵ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*, Paragraph 2, Article 10, 1966.

⁶⁶ Islamic Republic of Afghanistan, MoJ, Article 54, *Labor Law*, 1387 (2008/09).

⁶⁷ Interview with Sima Ghani, Deputy Minister, MoLSA, Sunbula 2, 1390 (August 24, 2011).

⁶⁸ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," p. 44, 1388 (2009/10).

a way that it is interrupted by maternity leave taken by women employees,⁶⁹ but authorities and employers are required to plan in a way that women employees can use their maternity leave fully.

In summary, it should be mentioned that many Afghan citizens are in need of material and spiritual protection and must enjoy their right to social security. It is necessary to formulate and implement a comprehensive, continued program for the protection of vulnerable persons and all vulnerable persons should be able to enjoy such protection without any forms of discrimination. The Afghan Government has relatively protected war-affected persons and it has not protected or assisted those persons whose family heads/supporters have lost their lives in incidents unrelated to war. No program has been formulated and implemented for protecting older persons who are in need of special attention. In addition, some women employees are unable to use their maternity leave completely. It is necessary to establish a special fund for the protection of the vulnerable.

⁶⁹ AIHRC, “Fourth Report on Economic and Social Rights in Afghanistan,” p. 44, 1388 (2009/10).

Part 3

The Right to Marry and Found a Family

Family is the foundation of society and its integrity and stability is, therefore, a priority and a concern for policy-making processes. As a result, the right to marry and found a family has been recognized as a human right. It is a social right within human rights categorization and states are required to respect and protect it.

There are many international laws, commitments, and instruments on human rights that emphasize the importance of respecting, upholding, and safeguarding the institution of the family. Of these, we can refer to Article 10 of ICESCR that recognizes family life and the right to marriage and makes consent a key requirement for the creation of the family unit. The Article reads, "... Marriage must be entered into with the free consent of the intending spouses." The right to marry and found a family basically includes consent in marriage, prohibition of child marriage, and determining the rights of men and women in marriage and its dissolution.⁷⁰ Likewise, Article 16 of CEDAW sets out the right to marriage, equality in marriage, and other issues related to marriage. The Article enshrines equal rights for women in all matters related to children, equal rights in decision-making on the number and spacing of births, prohibition and legal inapplicability of child marriage, determination of the legal age of marriage, and equal rights and responsibilities for women regarding child custody and adoption in the best interests of the child, and equal rights for women and men in choosing family names. The Article therefore captures diverse dimensions of the right to marry and found a family.

Since women in our country face many restrictions for work and employment outside their four-walled homes, it can be said that most violations of women's rights take place in the domestic family sphere. The right to family protection should primarily focus on the freedom of marriage, equal rights for men and women in marriage and its dissolution, and prohibition of domestic violence. Article 54 of the Afghan Constitution stipulates, "Family is the fundamental pillar of the society, and shall be protected by the state. The state shall adopt necessary measures to attain the physical and spiritual health of the family, especially of the child and mother, upbringing of children, as well as the elimination of related traditions contrary to the principles of the sacred religion of Islam."

On the basis of the Afghan Constitution, the Government ratified the Law on the Prohibition of Violence against Women on Saratan 15, 1388 (July 6, 2009) to persistently combat violence against women. The Law was endorsed by the president and then published in the form of a legislative decree in issue 989 of the Official Gazette on Asad 10, 1388 (August 1, 2009). The Law criminalizes violence against women and punishes the perpetrators. Article 4 of the Law reads, "Violence is a crime and no person has the right to commit it in residence, governmental and nongovernmental organizations, other institutions, public places, transportation vehicles, and other places. The perpetrator will be punished in accordance with the law."

⁷⁰ AIHRC and UNHCR, *National and International Legal Instruments*, Kabul, 2006.

Despite these legal guarantees, violence against women is common in Afghanistan in such manifestations as force marriage, early marriage, *bad* marriage, violation of the right to marriage and choice of one's spouse, rape, murder, beating, insulting, humiliating, harassment, forced labor, education deprivation, and etc. and these have been recorded by the relevant institutions.

Laws Governing the Right to Marry and Found a Family

The existing laws governing the right to marry and found a family are comparatively vague and are, in some cases, incompatible with the Afghan Constitution and relevant international legal standards. On the other hand, the Afghan Civil Code (ACC) contains inadequate provisions regarding the right to marry and found a family and the dissolution of the family unit and it, therefore, cannot meet family's legal needs. This legal lacuna has continued in the new Shia Personal Status Law. Therefore, it is necessary to expansively and comprehensively regulate family matters, especially the right to marry and found a family, through legislation.

One inadequacy in existing laws (ACC and Shia Personal Status Law) is the difference in marriageable age for boys and girls, which is 18 years for boys and 16 years for girls. This age difference of two years is regarded as gender-based discrimination between boys and girls. This is in gross contravention of international law, such as Article 3 of ICESCR and Article 16 of CEDAW, and national law, such as Article 22 of the Afghan Constitution. Article 22 of the Afghan Constitution reads, "Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law."⁷¹ In addition, the Committee on the Elimination of Discrimination against Women (CEDAW) has explained that difference in marriageable age for men and women is in direct conflict with CEDAW.⁷²

Besides the aforementioned emphasis, religious texts and Islamic laws have contained desirable rights for men and women. Nonetheless, equal rights for women and men have not been accurately enshrined in some of national laws and legislations. Existence of discriminatory laws in the Afghan legal system has affected the protection of women's rights. For example, in matters related to divorce, a man can easily divorce his wife without due process of law. But women face very difficult circumstances to get a divorce. Based on Articles 176, 183, 191, and 194 of ACC, women can demand separation under four circumstances: (1) separation due to defect, (2) separation due to harm, (3) separation due to lack of alimony/maintenance, and (4) separation due to unjustifiable absence. The Shia Personal Status Law contains similar provisions in this respect.⁷³ Hence, women who are forced to demand separation as a result of continued family violence and other problems face serious obstacles to prove the said conditions. Vagueness in legal provisions and limitations facing women in providing the necessary legal evidence deprive them of their legal rights.

Registering marriages and obtaining marriage certificates can greatly help regulate and clarify family responsibilities for the intending parties to marriage and the resolution of future probable

⁷¹ Afghan Constitution, Chapter II, Fundamental Rights and Duties of Citizens, Article 22, AIHRC Publishing.

⁷² AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," Qaus 1388 (November/December 2009), p. 46.

⁷³ See Article 141 of Shia Personal Status Law, Serial No. 988, date of publication: Asad 5, 1388 (July 27, 2009).

family disputes. A marriage certificate basically includes marriage registration, entry into marriage, and the responsibilities of the two parties to marriage. Article 61 of ACC requires the registration of all marriages. However, a regular, binding mechanism is yet to be established to register marriages and divorces. It is necessary to promote public awareness about the benefits of marriage certificate, but that should follow the establishment of a binding marriage registration mechanism in the court system. The Ministry of Women's Affairs (MoWA) was supposed to create marriage registration offices in all provinces. But this never materialized in the past recent years and marriage registration was delegated to courts at the provincial and district levels. People living in outlying rural areas face difficulties accessing marriage registration centers in provincial capitals. Lack of marriage registration facilities has led to the failure of the overall marriage registration plan.

According to the 1388 (2009/10) Report on the Situation of Human Rights, of all complaints (1,020 complaints) received by the AIHRC in 1388 (2009/10), 83 were related to the violations of the right to marry and found a family. Of these complaints, 61 were lodged by women and the rest by men and children. Most violations have been perpetrated in northern and northwestern Afghanistan.⁷⁴

As can be seen, the 1389 (2010/11) Report on the Situation of Human Rights shows a smaller number of cases of violations of this right. A total number of 852 cases of human rights violations were referred to/registered by the AIHRC during 1389 (2010/11) and of these, 6.2 percent of cases are about violations of the right to marry and found a family. As can be seen, of all cases of violations of the right to marry and found a family, 20 percent concern children, 40 percent women, and 13 percent men.⁷⁵ The right to marry and found a family is violated in various forms. These mainly include forced marriage, *bad* marriage, *badal* marriage, early marriage, and the like.

Forced Betrothal and Marriage

Forced marriage is a widespread phenomenon and it is a serious harm to family relationships and to the very institution of marriage. Lack of recognition and consent eventually leads to hatred, grudge, and abuse in the domestic sphere. In this respect, Article 10 of ICESCR regards family as the “natural and fundamental group unit of society” and reiterates, “... Marriage must be entered into with the free consent of the intending spouses.” Article 66 of ACC too stresses, “Marriage shall be entered into with explicit consent that indicates exigency and continuation without caveats in one single sitting.” Similarly, Article 95 of Shia Personal Status Law stipulates, “The marriage of girl shall be entered into with her consent.” Therefore, according to ACC and Shia Personal Status Law, consent is the basic requirement of the integrity of marriage and no valid marriage can be entered into without the consent of the intending parties.

At the same time, Article 5 of the Law on the Prohibition of Violence against Women has criminalized *bad* marriage and forced marriage as violence against women and the Law in its Article 25 specifies, “Any person who marries a women in a *bad* marriage or makes a woman enter into a *bad* marriage shall be sentenced to long-term imprisonment not exceeding ten years,

⁷⁴ AIHRC, *Report on the Situation of Human Rights in 1388 (2009/10)*, Kabul, Afghanistan.

⁷⁵ AIHRC, *Report on the Situation of Human Rights in 1389 (2010/11)*, Kabul, Afghanistan.

depending on the circumstances.” Article 26 of this Law adds, “When a person marries a woman, who is not of a legally marriageable age, without her consent, that person shall be sentenced to medium-term imprisonment not less than two years, depending on the circumstances, and the marriage will be annulled in accordance with the law.”⁷⁶ Article 517 of the Afghan Penal Code (APC) contains similar provisions.

It is a fact that unacceptable customs and traditions governing the society will give little space for the implementation of the rule of law; otherwise the enforcement of the provisions contained in the ACC, Law on the Prohibition of Violence against Women, and other legislations on family can eliminate widespread cases of violations of the right to marry and found a family and many other issues related to the exercise of this right.

Collected data on violence against women in 1388 (2009/10) indicates that a total number of 122 cases of forced marriages were recorded by the AIHRC database. Gathered reports and figures in 1389 (2010/11) show the deterioration of the state of affairs. In this year, 237 cases of forced marriages were registered by the AIHRC. The Ministry of Women’s Affairs of the Islamic Republic of Afghanistan has presented different statistics on the number of forced marriages in the past two years. According to the data provided by the Ministry, a total number of 149 and 95 cases of forced marriages occurred respectively in 1388 (2009/10) and 1389 (2010/11).⁷⁷ Based on the above-mentioned data, MoWA reported more cases of forced marriages in 1388 (2009/10) and the AIHRC reported more such cases in 1389 (2010/11). The above figures indicate that this right is widely violated.

I was not at the legal age for marriage that my father made me marry a man without my opinion and consent. My husband abused me and beat me since the beginning of marriage. He was a drug addict for a long time, but he uses the crystal method of drug addiction presently. He beats me and tells me to find money. He wants to force me into prostitution and to find some money this way. One he so beat me that I was hospitalized for two nights and the signs of beating and battering are vivid all over my body. I served as badal for my brother (i.e. I was made to marry my current husband and my brother married my husband’s sister) and I was oppressed as a result. My husband has made several commitments in the village council to give up his bad habits. But what I see is that he will never change for the better.

It should be reminded that forced marriage specifically includes early forced marriage and forced marriage of girls who have reached the marriageable age. This type of marriages lacks any legal justification and is a gross manifestation of violence against women, providing the ground for physical violence against women throughout family life. The real situation of the right to marry and found a family is much worse than that reflected in the above-mentioned statistics; due to unacceptable traditions, increasing insecurity, and lack of women’s active participation in the society, most women and families do not report violations of this right. That is why many cases of violations go unreported.

⁷⁶ Islamic Republic of Afghanistan, MoJ, *Law on the Prohibition of Violence against Women*, Official Gazette, Serial No. 989, date of publication: Asad 10, 1388 (August 1, 2009).

⁷⁷ Violence against women in 1388 (2009/10) and 1389 (2010/11) in accordance with MoWA database.

The widespread nature of forced marriages requires us to explore guarantees and solutions to prevent its persistence with a view to upholding the right to marry and found a family. Requiring the registration of all marriages can serve as an important guarantee for the prevention of early and forced marriages. Marriage registration can pave the way for the follow-up and prevention of forced marriages. Besides helping to regulate and organize marriages, registration can prevent such negative implications as physical violence, beating, and other criminal acts. In addition to registration of marriage, divorce registration can help prevent many probable future problems between the two parties.

Child Marriage (Marriage before Completion of Legal Age)

ACC has conditioned the marriage of a child aged between 15 and 16 to the consent of the child's father and the competent court and has prohibited the marriage of a child aged below 15 in all circumstances. Article 70 of ACC stipulates, "Marriage competence is completed when males reach the age of 18 and females the age of 16." In addition, Paragraph 2, Article 71, ACC explicitly states, "The marriage of a minor below the age of 15 is forbidden in all circumstances."⁷⁸ Likewise, Article 94 of Shia Personal Status Law has determined "the age for marriage for girl to be 16 and for boy to be 18 in accordance with the solar *hijri* calendar."⁷⁹ Therefore, exerting any pressure and compulsion on marriage without the consent of the intending parties before the completion of the marriageable age is in contravention of the law of the land and "marriage before the completion of the legal age" is violence against women according to Article 28 of the Law on the Prohibition of Violence against Women and "when any person marries a woman, who has not completed the legal age of marriage, without respecting the provisions contained in Article 71 of ACC shall be sentenced to medium-term imprisonment not less than two years, depending on the circumstances, and the marriage will be annulled upon the woman's request in accordance with the law."

There is no doubt that child marriages have many harmful physical and mental implications. Early marriages have irreparable physical and mental impacts, especially for girl children. First of all, child marriages deprive the affected children of their childish life, peace, and tranquility and additionally hamper education, cause early pregnancies, and seriously sabotage children's physical, psychological, and intellectual growth and development. Besides, the physical and mental effects of early marriages will have long-term and lifelong effects particularly for girl children as they are not bodily prepared for pregnancy.

There are several reasons why early marriages have obvious harms for girl children. First, these marriages hamper women's education and training and thus pave the way for future violence against women. The previous Reports on Economic and Social Rights indicate that boy children have a higher chance of completing their primary education than do girl children. It is therefore clear that there are two male graduates for every girl who completes her education. Likewise, the previous reports show that more girls than boys drop out of primary schools. Second, child marriages cause children to engage in family issues without any understanding and physical and

⁷⁸ Islamic Republic of Afghanistan, MoJ, *Afghan Civil Code*, Volume 1, Serial No. 353, date: Jaddi 15, 1355 (January 5, 1977).

⁷⁹ Islamic Republic of Afghanistan, MoJ, Shia Personal Status Law, Serial No. 988, date of publication: Asad 5, 1388 (July 27, 2009).

mental preparedness for forming families and looking after children. As previous reports indicate, early marriages are dangerous for both those who give birth to children and those who are newly born as a result. In this way, girls who marry at a tender age and give birth to children do not have sufficient mental and emotional affection and relationship with their newborns, often keep a certain distance from them, and mother-child health is, as a consequence, hurt.

In order to prevent early marriages and eliminate its predictable consequences, human rights organizations have made many efforts to urge the states to solve this problem. These efforts are ongoing in various areas, ranging from legislation to increasing public awareness about the negative impacts of this phenomenon. According to CRC, every human being under the age of 18 is a child. Likewise, UNICEF has recommended that 18 be the minimum age for marriage.

There are no accurate figures on the number of child marriages in the country, given the lack of statistics and lack of continued access to villages and towns. However, continued follow-up by the AIHRC based on cases and complaints gathered by its provincial and regional offices has led to the production of statistics in this respect, which has been published in diverse reports during 1388 (2009/10) and 1389 (2010/11). The AIHRC Report on the Situation of Human Rights in 1388 (2009/10) indicates that of all complaints related to violations of the right to marriage, 13.2 percent concern marriages below the age of 15.⁸⁰ The cases addressed by the AIHRC monitors in its provincial and regional offices list family debt, gambling, poverty, destitution, *bad*, and *badal* as the common reasons for child marriages. During the AIHRC HRFM exercise in 1388 (2009/10), four percent of all interviewees said that their girls below the age of 16 and their boys below the age of 18 have married. Moreover, the ANDS shows that girls' early marriages (below the legal age of marriage) are at 57 percent.⁸¹ Economic problems, exchange for resolution of conflicts, and exchange for debt payments are the main reasons why families marry their children at an early age.⁸²

In the same manner, the 1389 (2010/11) Report on the Situation of Human Rights indicates that of all 852 cases of human rights violations recorded by or referred to the AIHRC, 6.2 percent included infringements upon the right to marry and found a family. Of these, 20 cases are related to child marriages.⁸³ The AIHRC HRFM interviews depict a worse and more widespread trend of forced marriages. Of all 9,065 respondents to the AIHRC HRFM across the country, 10 percent (908 people) stated that their children had married before completing the age of 16.

“When I was three, my father engaged me to a man. That man is now forty years old and has another wife and children and he now wants to marry me and live with me. I don’t want to live with him, because this will mean my ruin and this will also be harmful for that man’s wife. I cannot go to his residence and litigate against him, because it is insecure there and I don’t have anyone to accompany and guide me.”

⁸⁰ AIHRC, *Report on the Situation of Human Rights in 1388 (2009/10)*, Kabul, Afghanistan.

⁸¹ ANDS, p. 126.

⁸² AIHRC, “Fourth Report on Economic and Social Rights in Afghanistan,” 1388 (2009/10), Kabul, Afghanistan.

⁸³ AIHRC, “Report on the Situation of Human Rights in Afghanistan,” 1389 (2010/11), Kabul, Afghanistan.

Early marriages are often caused by various factors that vary across the country. Poverty is a main, common factor for most of the cases of early marriages. Families sometimes use the marriage of their girls below the legal marriageable age to get rid of extreme poverty.

Protracted conflict and crisis is another factor that has disturbed human dignity and security and causes risks to vulnerable groups of persons, especially children. The Afghan legal system has recognized age differences between girls and boys and has allowed a lower marriageable age for girls, despite the provisions enshrined in the international human rights instruments. Nonetheless, the ACC has explicitly outlawed early and forced marriages.

Escape from Home

The Afghan society regards escape from home as indecent and anti-social, given the dominant social customary and traditional practices. It is vivid that women escape their homes because of the intolerable pressure, hardship, and violence in the domestic sphere.

Although escape from home for purposes of marriage is not a crime under the existing Afghan laws, in practice the Afghan court system has dealt with this issue with varying praxis. The variation in the opinion and practice of the Afghan court system on the question of escape from home was to the extent that many courts even treated it as a criminal act. Court decisions are usually made against women on this question, in which these women are accused of adultery and their accompanying men of abduction, while Article 425 of APC contradicts it. This Article sets out, “When a person takes a woman who has completed the age of 16 from the residence of the woman’s parents with the woman’s consent and that person marries that woman, this act shall not be regarded as abduction.”⁸⁴ It can be deduced that escape from home for the purposes of marriage is not a criminal act and no one should be prosecuted for such an act.

As explained above, escape from home is caused by forced marriage, hardship, and physical and mental violence against women in the domestic sphere. Therefore, one should not refer to customary and traditional means to address this problem with no attention to its context, factors, and reasons.

The AIHRC information indicates that in the year 1388 (2009/10), 103 cases of escape from home were recorded. This is while the number of cases of women’s escape from home nearly tripled in 1389 (2010/11) with 292 cases. Cases recorded and figures collected by MoWA depict a different situation. According to data provided by MoWA in 1388 (2009/10), there were 435 cases of escape from home across the country. MoWA data also shows that the number of cases of escape from home reduced to 270 cases in 1389 (2010/11).

“My mother died five years ago and from that time onwards, I have lived in my step-aunt’s home. My step-aunt always uses violence against me and beats me. I could not bear this situation after some time and it became intolerable for me. I was forced to leave the home. On the way, I got into a person’s car and we reached that person’s cousin’s home at three o’clock in the afternoon. I spent one week there. After one week, accompanied and guided by the driver’s cousin (aunt’s daughter), I went to the AIHRC to find a solution for my problem.”

⁸⁴ Islamic Republic of Afghanistan, MoJ, *Afghan Penal Code (APC)*, adopted in 1355 (1976/77).

Another cause of concern for the AIHRC is the cases involving the escape of girls who are subjected by the Afghan justice system to forensic medical experiments without their consent. Girls and women who escape from their homes are detained by the Afghan justice system and in order to prove whether they have committed acts of a sexual nature out of wedlock or not, they are subjected to medical experiments involuntarily. In the cases recorded by the AIHRC, girls who were not accused were subjected to medical experiments, because they had escaped from their homes for purposes of matrimony. These experiments are often conducted involuntarily. These experiments are completely forbidden under human rights standards and values. These are, therefore, violations of human rights.

Article 7 of the ICCPR stipulates, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.” Considering this Article, the cases of arresting and conducting medical experiments on girls during 1388 (2009/10) and 1389 (2010/11) are clear examples of torture through involuntary medical experimentation.

Escape from home has heavy, unpredictable consequences for the affected women. Hence, shelters established by human rights organizations in recent years can serve as safe areas for women, especially those who have left their homes due to family violence, pressure, and hardship. These shelters provide a safe environment for the affected women so that they can solve their problems through the justice system. The shelters provide these women with the opportunity to stay in safety until the time they address their problems. When solution of their problems is ensured, MoWA can return these women to their families on guarantee.

Domestic Violence

Violence is actually an act that hurts human physique and psyche. Hence, an act that causes pain, suffering, and physical, mental, sexual, and personality harm in a person and deprives him/her of his/her freedom in the society and in the private sphere is called violence. Here violence means gender-based violence or violence against women. Article 1 of the Declaration on the Elimination of Violence against Women defines violence thus, “For the purposes of this Declaration, the term ‘violence against women’ means any act of genderbased violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”⁸⁵ Likewise, Article 3 of the Law on the Prohibition of Violence against Women reads, “Violence means the commission of the acts mentioned in Article 5 of this Law that cause harm to personality, physique, property, or psyche of the woman.” This Article sets out that violence is any harm inflicted on a woman’s personality, physique, property, or psyche. This Article includes various forms of gender-based violence against women, including physical, mental, and linguistic violence. Article 5 of this Law lists acts that constitute violence against women, criminalizes these acts, and determines punishments for the perpetrators of these acts.⁸⁶

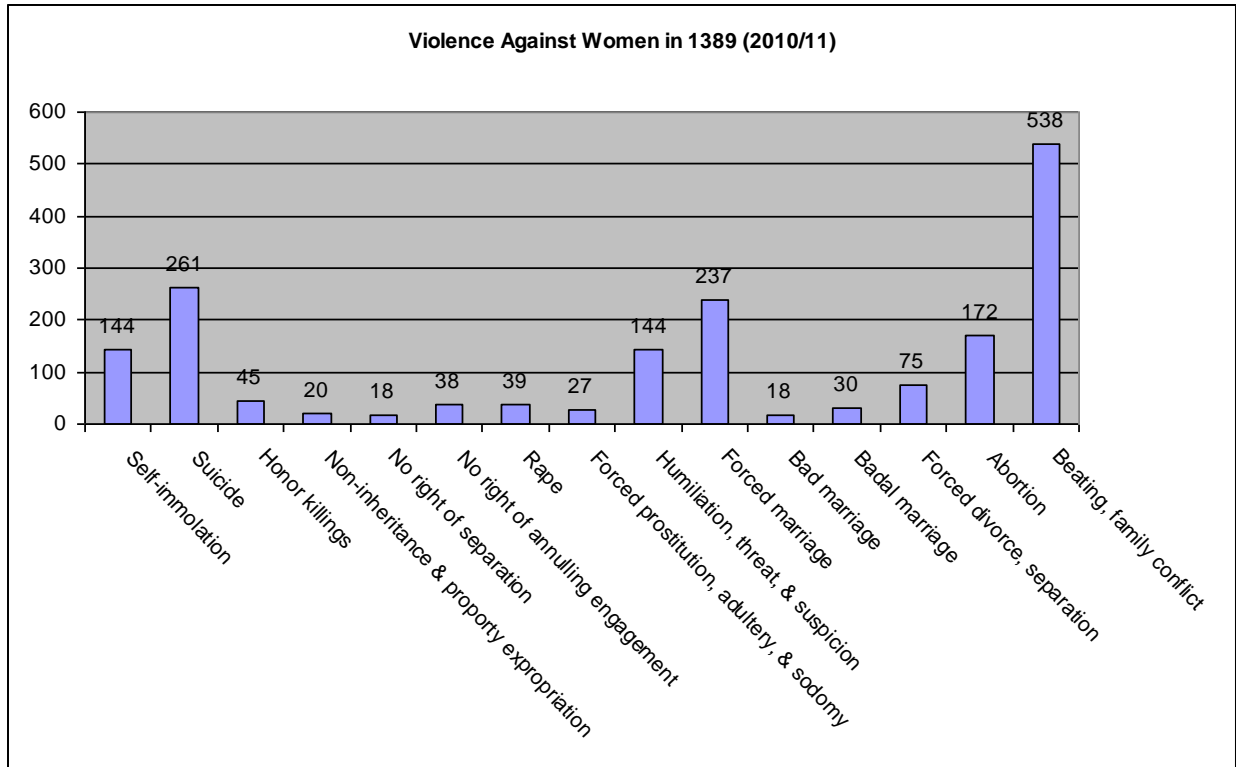
⁸⁵ United Nations General Assembly, Declaration on the Elimination of Violence against Women, adopted in 1993.

⁸⁶ For acts constituting violence against women, see Article 5 of the Law on the Prohibition of Violence against Women, Serial No. 989, date of publication: Asad 10, 1388 (August 1, 2009).

Violence against women takes different forms. Some of the cases mentioned above represent egregious forms of such violence. Here we focus on domestic violence. Domestic violence mainly occurs in such forms as beating, forced betrothal and marriage, early marriage, *bad*, lack of provision of alimony/maintenance, expulsion from home, deprivation of education and higher education, deprivation of employment and access to health services, forced labor, rape, forced prostitution, forbidding visits to relatives, murder, and other manifestations of violence. The Law on the Prohibition of Violence against Women is an important achievement for Afghanistan's legal system. Most of the aforesaid forms of violence against women have been enshrined in Article 5 of this Law. It should be mentioned that domestic violence is not limited to the above-mentioned forms, but it also includes violence against children, older persons, and even men.

Although the Law on the Prohibition of Violence against Women is an effective and useful step forward in the fight against and the elimination of violence against women in Afghanistan, there are inadequacies and lacunae in this Law that perpetuate violence against women and require the review and amendment of the Law. For example, Article 39 of this Law states, "1. The cases shall be dealt with and the perpetrators of the crimes contained in Articles 22-39 of this Law shall be prosecuted only on the basis of complaints lodged by the victim or their representative. 2. The victim can withdraw their complaint in any stage of prosecution (discovery, investigation, trial, or sentencing) under the provisions of Article 1 of this Law; in this case, the criminal proceedings shall cease."

Under Article 39 of this Law, cases will be addressed and the perpetrators of the crimes set out in Articles 22 to 39 will be prosecuted based on complaints lodged by victims or their representatives and the victims can withdraw their complaints during any stage of prosecution (discovery, investigation, trial, or sentencing); in this case, penal proceedings will come to an end. The crimes enshrined in Articles 22 to 29 of this Law include injury, disability, beating, buying and selling of girls for the purposes of or under the pretext of marriage, forced marriage, infringement of the right of marriage, and early marriage, which are serious crimes that should be addressed through the actions of prosecutors against alleged perpetrators. In addition, the victims of these crimes are women or girls under the legal age who are neither able themselves to complain nor are able to hire legal representatives. Therefore, like other generic crimes, these crimes should be directly addressed by prosecutors and criminal proceedings should not cease after the complaints are withdrawn by victims. In many cases of *bad*, forced marriage, early marriage, and the like, the criminal cases have not been addressed due to lack of action by victims. This is a major cause for the perpetuation of violence against women, criminality, and the culture of impunity. In many cases of violence recorded by the AIHRC, the alleged victims have faced constraints, have, therefore, been unable to complain to competent authorities, and have been forced to withdraw their complaints under duress (in some cases, the alleged victims of violence were children).



Data gathered by the AIHRC and women’s rights organizations indicates that violence against women has been widespread and severe in 1388 (2009/10) and 1389 (2010/11). Most violence and abuse have been so grave that have led to women’s suicide, self-immolation, and escape from home. The AIHRC data on violence against women in 1389 (2010/11) shows that around 2,260 cases of violence against women were recorded by the AIHRC. The forms of violence in 1388 (2009/10) include beating (909 cases), murder (62 cases), lack of provision of alimony/maintenance (137 cases), expulsion from home (31 cases), rape (51 cases), self-immolation (119 cases), and abortions (291 cases). Self-immolation and abortion have co-occurred with other forms of violence. In 1389 (2010/11), 2,765 cases of violence against women were registered. They include 172 cases of abortion, 538 cases of beating, 10 cases of deprivation of medical treatment, 46 cases of forbidding visits to relatives, 276 cases of lack of provision of alimony/maintenance, 39 cases of rape, and 144 cases of self-immolation.

MoWA has gathered considerable statistics in this regard. Information collected by MoWA in 1388 (2009/10) include 6,692 cases of violence against women in Afghanistan, consisting of 641 cases of physical violence, 65 cases of rape, 103 cases of self-immolation, and 120 cases of lack of provision of alimony/maintenance. According to the Ministry, 6,765 cases of violence against women were recorded in 1389 (2010/11). These include 319 cases of physical violence against women, 107 cases of lack of provision of alimony/maintenance, 12 cases of rape, 24 cases of murder, and 17 cases of self-immolation.

This statistical information shows that violence against women is on the rise in Afghanistan. This is while a large number of cases of violence against women are not reported, given the deteriorating security situation and the predominance of traditional practices and cultural

sensitivities in the family unit and the broader society. Therefore, women are not willing to state their experiences and memories about violence against them in the family and in the society. For instance, the husband can easily threaten his wife with divorce, separate her from her children, and even stop providing her economic and psychological needs. In the same way, husbands can easily beat their wives under the pretext of disciplinary measures. It should be reminded that some part of the above-mentioned data is about the infringement of women's right to the custody of their children that has repeatedly occurred in the two years covered by the present report.

"I married 15 years ago. Since then, my husband has treated me in a violent manner and he always used to beat me and insult and humiliate me. This situation continued for a very long time. Once our problem went out of home and we approached Police Station #8. I approached the Police Station for a second time after I was beaten and I continued to have the same problems. The situation was not resolved and I was left with no options but to leave my home. I approached one of the institutions to solve my problems. Now I want to get my divorce, because our problems never get solved."

Unacceptable Customs and Traditions

High levels of illiteracy, people's excessive adherence to customs and traditions, and long-standing nature of customs and traditions in people's social relationships have provided an environment appropriate for enduring unacceptable customs and traditions. That is why violations of dominant values and norms are considered as breaking taboos that have governed collective relationships for years.

The AIHRC data in 1388 (2009/10) and 1389 (2010/11) indicates that the number of *bad* marriages, *badal* marriages, and forced marriages have increased. Forced marriages and their extent during the two years covered by the present report were explained above, but, as the AIHRC gathered data in 1388 (2009/10) shows, a total number of 31 cases of *bad* and *badal* marriages occurred during this year. In 1389 (2010/11), the number of *bad* and *badal* marriages increased to 48 cases. These reveal a part of the reality regarding *bad* and *badal* marriages, because very few people are willing to report such cases in their regions, cities, districts, and villages to the AIHRC or other women's rights organizations.

At the same time, MoWA has recorded 20 and around 8 cases of *bad* and *badal* marriages in 1388 (2009/10) and 1389 (2010/11) respectively. *Bad* and *badal* marriages have a very long precedent in Afghanistan. In some parts of the country, *bad* and *badal* marriages are usually entered into to resolve family and ethnic disputes, especially murders affecting tribes and ethnicities. Such traditional practices lack a legal basis and they, therefore, constitute violence against women.

"I was made to marry when I was 14. After some time, my fiancé died and after that, my family made me to marry my deceased fiancé's brother who was engaged himself (his fiancée was still a child). Since my father had married a young girl from the neighboring village at a huge cost, he made me a sacrifice for his whims and fancies and made me marry in return for receiving a big amount of money. After this marriage, domestic violence started against me and my husband left for Iran. To cut the story short, we left the area due to the enmities between my husband's family

and a village resident. We went to a different province. After some time, my husband divorced me and my father decided to sell me in exchange for Afs1,000,000 and that caused me to run away.”

All in all, the right to freedom in marriage and family formation was repeatedly violated in 1388 (2009/10) and 1389 (2010/11) in Afghanistan. Traditional practices governing family, societal customs, poverty, destitution, and many other factors are responsible for violations of this right. *Bad* and *badal* marriages, forced marriages, abductions, honor killings, self-immolations, suicides, rapes, and escapes from home are egregious cases of violence against women that have occurred during the two years covered in the present report. These are egregious cases of violence against women and they perpetuate through traditional and customary practices. Likewise, inattention of responsible authorities, women’s weak economic and financial status, limited or lack of access of women and girls to education, and lack of capacity-building cause more and more women to be denied their right to marry and found a family. Lack of alternatives for violence and other abusive behavior to which women are subjected in the domestic sphere causes these women to face increasing hardships and difficulties and even commit suicides or run away. That is why cases of escape from home, suicide, self-immolation, and similar cases are caused by hardships and difficulties in the family unit.

Similarly, the AIHRC findings reveal that lack of women’s access to justice has given rise to women’s complaints and disillusionment. When women victims approach the justice system for claiming their rights related to marriage or issues related to domestic violence, the justice system often does not act based on justice. Hesitation and negligence in following up cases of violations of the right to marry and found a family has increasingly hurt women’s access to justice and women will, therefore, continue to remain victims.

Part 4

The Right to an Adequate Standard of Living

The right to an adequate standard of living is a vivid element of economic and social rights, which includes the right of everyone to the enjoyment of a standard of living that is adequate for the person and their development. The right to an adequate standard of living is interlinked with basic human needs, such as food, shelter, clothing, and healthcare. The right to development, which is still a disputed human right, means that everyone has a right to have a role and participate in economic, social, cultural, and political development and enjoy such development—development that fully realizes the fundamental human rights and freedoms of all people. Economic progress either directly, through generation of employment and income, or indirectly, through improving social services for a great number of people, increases people’s access to healthcare, food, clothing, and shelter. The right to an adequate standard of living comprises housing, clothing, water, health, food, and freedom from hunger.

The ICESCR requires all member states to take appropriate measures to progressively improve living conditions.⁸⁷ According to general comments made by the Committee on Economic, Social, and Cultural Rights, member states have an obligation to provide access for everyone under their jurisdiction to minimum sufficient and safe food and prevent hunger.⁸⁸

The right to housing and improvement in people’s living conditions has been enshrined in Article 14 of the Afghan Constitution, which requires the Government to “adopt necessary measures for provision of housing and distribution of public estates to deserving citizens in accordance with the provisions of law and within financial possibilities.” These measures are taken to “develop agriculture and animal husbandry, improve economic, social and living conditions of farmers, herders and settlers as well as the nomads’ livelihood.” Security of tenure, housing, water, and food are the four principal components of the right to an adequate standard of living. These needs constitute the major impediments to the enjoyment by citizens, especially vulnerable persons like refugees/migrants and IDPs, of their right to an adequate standard of living. The ANDS has stressed the provision of an adequate standard of living and determined certain benchmarks for the improvement of the living conditions of Afghan people. The ANDS sets out that the ratio of persons who make a daily income of less than one dollar will annually decrease by three percent and the ratio of persons who suffer from hunger will annually decrease by five percent.

In the section on good governance, the ANDS emphasizes that by the end of 1389 (2010/11), the capacity of municipalities will be further developed so that they can better manage urban development and provide urban services to citizens effectively and transparently. Unfortunately

⁸⁷ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights*, Article 11, Paragraph 1.

⁸⁸ General Comment No. 12 of the Committee on Economic, Social, and Cultural Rights, (1999 (1377/78)), the right to adequate food, paragraph 14.

the ANDS lacks clear and specific guidelines for the resolution of disputes over house and property. Inattention to the problem of shelter is a key inadequacy of the ANDS.

The right to food has been explicitly mentioned in the international human rights instruments, including the Universal Declaration of Human Rights (UDHR), ICESCR, Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities, and Universal Declaration on the Eradication of Hunger and Malnutrition. Article 11 of the ICESCR entitles all human beings to an adequate standard of living that can, among other things, provide the provision of the needed food for all. Paragraph 2 of this Article stipulates that states parties to this Covenant will ensure that all their citizens are free from hunger. In addition, general comment 12 of the Committee on Economic, Social, and Cultural Rights sets out the right to adequate food: “The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”⁸⁹

Providing water supply services at the provincial level is the responsibility of the relevant governmental organizations, including the Ministry of Rural Rehabilitation and Development (MoRRD), Ministry of Energy and Water, Department of Engineering Research, Ministry of Mines and Industries, Ministry of Agriculture and Livestock, National Environment Protection Agency (NEPA), and General Department of Water Supply, which are responsible, in one way or another, for the provision of water for people in the country. The General Department of Water Supply and Canalization is responsible to provide water for people in urban areas. This General Department has its specific strategy that covers the following four areas.

The first part of this strategy includes short-term and quick-impact objectives. The objective in the first phase is the production of 120,000 cubic meters of water per day for 30 percent of people and based on this, the General Department has completed this phase by around 45 percent by the first half of the year 1390 (2010/11). In the second phase, the strategy has focused on short-term objectives that include the construction of water reservoirs and installation of machinery and this work will continue until 2013. In this phase, the production and provision of water for people will increase to 60 percent. US\$70m has been earmarked for achieving this objective of the strategy. This budget should be spent for 17 major cities across the country. The third phase of the strategy focuses on medium-term objectives, for which US\$530m has been considered. The fourth phase of the strategy has been devoted to long-term objectives, for which US\$2.1bn is needed and it has been predicted that by 2024, all Afghan people (100 percent) will have access to healthy water.

According to the General Department, international donors have made pledges for the implementation of medium- and long-term water supply projects, but they have not fulfilled these pledges in practice. Due to growing insecurity and lack of access of the General Department staff to modern technologies, there is little tangible capacity for attracting and spending large budgets in the General Department. The Department of Water Supply, Cleanliness Education, and Environmental Sanitation of MoRRD, which is responsible for providing healthy water in Afghanistan’s rural areas, states that 90 percent of people in rural

⁸⁹ Committee on Economic, Social, and Cultural Rights, General Comment No. 12, (1999 (1377/78)), the right to adequate food.

areas will have access to safe potable water with the spending of US\$250m by 2013. The Department further said that it will implement water supply networks and build water wells (one well for every 25 families) by 2013.⁹⁰

The Right to Adequate Housing

Adequate housing is a basic human need. According to the ICESCR, states have a responsibility to take measures to ensure the right to an adequate standard of living for all, including the right to adequate housing. The safety and security of housing is an imperative for ensuring people's right to adequate housing, because housing does not mean that persons should have a ceiling under which they live, but the right to adequate housing means that everyone has a right to live in a peaceful environment that is safe and secure and respects human dignity.

Adequate housing is a condition where persons live with safety (both physical and psychological) and have access to health services, child care centers, and other social facilities. Residential houses should be built in areas that are free of pollution, especially air pollutants, which are hazardous to the health and well-being of the residents.

Security of Tenure

Security of tenure means that a person's property should be safe and secure both physically and legally. When security of tenure is discussed, it means that a person's property should be immune from interference, take-over, expropriation, and destruction and that the owners should not be evicted from their property without their consent. One of the reasons that housing has been enshrined as a basic human right in the international human rights instruments and national laws is that housing is the residence and privacy of a person and that achieving physical and psychological calm is a basic human need with regard to security of tenure of property/housing.

The protracted war in Afghanistan has led to the emergence of several legal claims over the same one plot of land. The existing property dispute resolution institutions have either been ineffective or have lacked effective competence and authority. In 2002 (1380/81), the Special Land Disputes Resolution Court was established to address a large number of disputes over land and the Court was dissolved in January 2007 (Jaddi/Dalw 1385) and currently property disputes are addressed by civil courts and local dispute resolution mechanisms.⁹¹ A significant number of people consult informal justice mechanisms (*shuras* and *jirgas*) to deal with their property disputes and conflicts due to rampant corruption in and lack of competence of the official court system.

HRFM findings during the past three years indicate a slight, relative reduction in the number of cases involving evictions, illegal property expropriations, and property conflicts. In 1389 (2010/11), 0.7 percent of interviewees stated that their lands and/or houses were illegally expropriated, while in 1388 (2009/10), 5.5 percent and in 1387 (2008/09), 6.8 percent of interviewees reported such illegal expropriations. Disputes and conflicts over house and land are also decreasing. In 1389 (2010/11), 1.2 percent of interviewees, in 1388 (2009/10), 2.7 percent, and in 1387 (2008/09), 3.8 percent reported that they were involved in disputes over house

⁹⁰ AIHRC, Fourth Report on the Situation of Economic and Social Rights in Afghanistan, p. 53.

⁹¹ AIHRC, Fourth Report on the Situation of Economic and Social Rights in Afghanistan, p. 53.

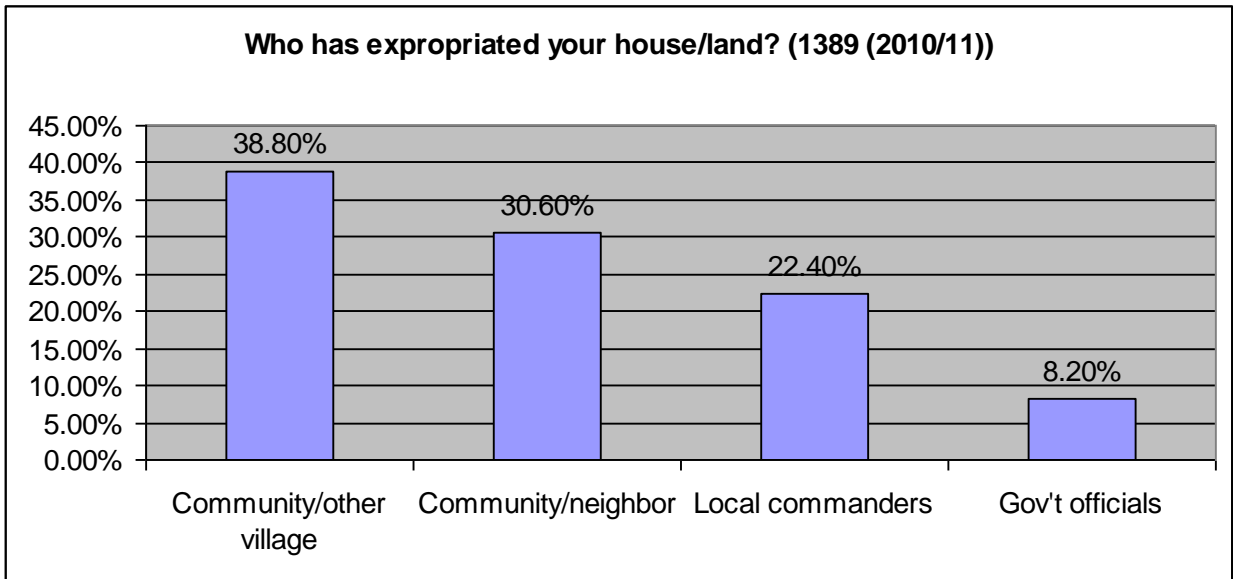
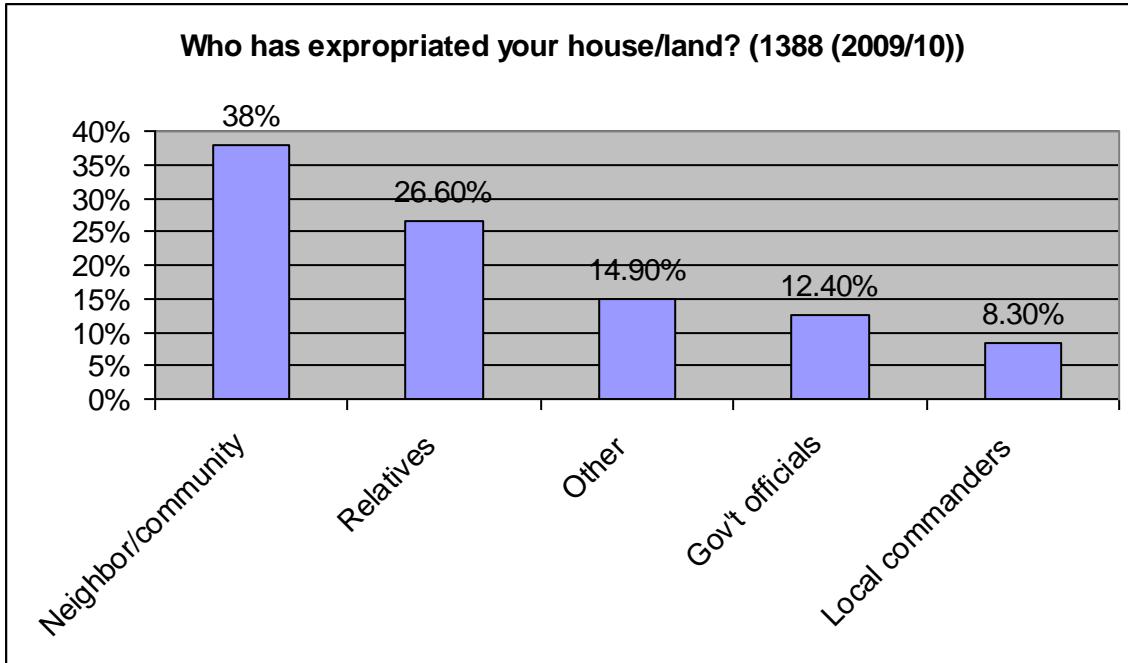
and/or land. 4.4, 7.7, and 7.1 percent of interviewees said that they faced evictions/evacuations from their homes in 1389 (2010/11), 1388 (2009/10), and 1387 (2008/09) respectively.

Types of House/Land Problems	1387 (2008/09)	1388 (2009/10)	1389 (2010/11)
Illegal expropriation	6.8%	5.5%	0.7%
Dispute/conflict	3.8%	2.7%	1.2%
Eviction/evacuation from home	7.1%	7.7%	4.4%

Illegal expropriation of public lands by powerful local figures still persists. Majid Qarar, spokesperson of the Ministry of Agriculture, said, “Four million acres of public lands that are mainly pastures and agricultural lands have been illegally expropriated by people and powerful figures all over Afghanistan. Although Afghanistan’s economy largely depends on agriculture and livestock, most agricultural lands and pastures have been illegally expropriated by powerful figures and they possess fake ownership documents. Governmental lands belong to all Afghan people and no one can use even one acre of governmental land for his private interests.”⁹²

In 1388 (2009/10), 5.5 percent of interviewees stated that their house or land has been illegally expropriated by other people. Of these, 8.3, 12.4, 38, and 26 percent reported that their house or land has been illegally expropriated by local commanders, government officials, neighbors or co-villagers, and relatives respectively. In 1389 (2010/11), 0.7 percent of interviewees said that their land has been illegally expropriated. Of them, 38.8, 30.6, 22.4, and 8.2 percent reported illegal expropriations by people from the other village, neighbors or co-villagers, local commanders, and government officials respectively. For more information, see the following graphs.

⁹² Afghan Voice Agency (AVA), Mizan 26, 1390 (October 18, 2011); <<http://www.avapress.com/vdca6wne.49num15kk4.html>>.



Existing data in the AIHRC database shows that in 1389 (2010/11), of all 852 cases of human rights violations recorded by the AIHRC, 70 cases (2.8 percent) were related to violations of the right to property, of which 5 cases concern women's property. Data in 1389 (2010/11) indicates that violations of the right to property has generally decreased by 75 percent compared to the previous report. This is while the present report has recorded 15 cases of violations of women's right to property less than 1388 (2009/10).⁹³

⁹³ AIHRC, Report on the Situation of Human Rights in Afghanistan, 1388 (2009/10).

The AIHRC HRFM findings reveal that 2.7 and 1.2 percent of interviewees respectively in 1388 (2009/10) and 1389 (2010/11) stated that they were, in one way or another, involved in disputes over land or house. In 1388 (2009/10) and 1389 (2010/11), 93.9 and 89.1 percent of those who were involved in such disputes respectively said that their disputes were not resolved. Although there has been a slight decrease in the level of property disputes resolution, the number of unresolved disputes is still high and this means that both formal and informal land and house disputes resolution mechanisms have not been effective and that most people do not have trust in the justice system.



“It has been nine years that I have a dispute with a person who has claim over my land. During this time, this person has made up fake ownership documents, but I have my legal land ownership document. The responsible institutions do not regard my document as valid. I made a petition to the Supreme Court, which ordered the court of appeal to investigate this case. The court of appeal ordered the relevant primary court, but the primary court does not perform its functions. So I request the AIHRC provincial office in Faryab to assist me.”

Adequate housing includes conditions, such as quality of housing, number of people who live together, security of property tenure, freedom from forced eviction, and environmental sanitation. It is very difficult and even impossible to provide adequate housing for all people, given the lack of the necessary financial resources and lack of effective protection programming in the Government. The housing schemes announced by the Government have mostly been planned in Kabul and they have not been implemented. New Kabul city project in Deh Sabz is a key governmental project, which has not commenced implementation yet. Currently Afghan cities, especially Kabul, face serious housing problems. Many parts of Kabul and other cities lack comprehensive urban planning.

It is very difficult to provide adequate housing for destitute citizens and vulnerable persons in the country, because land and housing prices are, on the one hand, soaring, and unemployment, on the other hand, has added to the number of the vulnerable. Most families who have a medium level of income cannot afford adequate housing. The problem of housing has particularly aggravated due to the return of refugees/migrants from neighboring countries, massive rural migration, lack of a comprehensive housing scheme, and sharp rise in land prices; housing is now a serious challenge.

The AIHRC HRFM findings in 1388 (2009/10) and 1389 (2010/11) reveal that respectively 69.6 and 72.8 percent of interviewees live in inherited houses and 7.9 percent of interviewees in 1388 (2009/10) and 7.6 percent in 1389 (2010/11) said that they lived in their relatives' and friends' houses. In addition, 10.2 percent of interviewees in 1388 (2009/10) and 13.3 percent in 1389 (2010/11) stated that they lived in houses that they bought and 5.7 percent of interviewees in 1388 (2009/10) and 4.2 percent in 1389 (2010/11) said that they lived in rented houses.

Residential Houses	1388 (2009/10)	1389 (2010/11)
Inherited	69.6%	72.8%
Relatives'/friends' houses	7.9%	7.6%
Purchased	10.2%	13.3%
Rented	5.7%	4.2%

IDPs are a major vulnerable group of persons that faces a serious housing problem. Unemployment, drought, and continued insecurity in southern and southwestern provinces have led to the displacement of a large number of families to urban centers, especially Kabul. According to the latest data provided by the United Nations High Commissioner for Refugees (UNHCR), there are 378,858 IDPs across the country.⁹⁴ Most of these IDPs have concentrated in specific areas and have used plastic, stone, clay, etc. to build temporary shelters for themselves. These areas lack infrastructure and life's basic facilities. A small number of people in IDP camps have access to healthy water, school, and healthcare. For more information about this issue, see the section on IDPs.

Right to Adequate Food

The right to food is a primary and fundamental human right that makes a person's survival possible. Access to adequate, healthy, and acceptable food is part of human rights. A person needs an adequate and appropriate level of calories per day. Malnutrition and hunger are caused by low-quality food. Malnutrition is also a cause for specific diseases and ailments. The right to adequate food aims at the elimination of malnutrition and hunger. States are responsible to provide food and eliminate hunger and malnutrition among their people.

The right to food comprises four basic elements: (1) the element of quality means that food should meet nutritional needs; (2) the element of availability means that food should be made available either directly from production or other natural sources or indirectly through distribution, processing, and marketplace; (3) the element of access means that food should be

⁹⁴ Interview with the Director of Planning and Foreign Relations, Department of Planning, Ministry of Refugees and Repatriation (MoRR), Sunbula 21, 1390 (September 12, 2011).

made physically and economically access to people; and (4) the element of continuity means that food should be made available and accessible for the present and future generations.⁹⁵

Article 11 of the ICESCR stipulates:

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions...

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the [necessary] measures...”⁹⁶

Therefore, states should make sure that their citizens have access to adequate food and water. It means that food and water should be always available for all citizens without any forms of discrimination.

Most Afghan people work in agriculture and livestock and their income, as a result, depends on agriculture and livestock. Afghanistan has 7,910,000 hectares of arable land, of which only 3,200,117 hectares are cultivated and 4,709,883 are not cultivated.⁹⁷ Of all the land in the country, 12 percent are arable, 3 percent are forests, 46 percent are permanent pastures, and the remaining 39 percent are mountains and oases. In addition, Afghanistan currently uses only 30 percent of its water resources. Reconstruction of irrigation system and investment on water resources can help increase the production of food, because this can make more land arable and agricultural.⁹⁸

Afghanistan’s agriculture sector still remains traditional and local and few modern equipment, tools, and machines have found their way in this sector. So far 396 cold storehouses and reservoirs have been built for keeping foodstuffs and fruit in the capacity of 20,000 tons in 13 provinces. Farmers who do not have access to cold storerooms are forced to sell their agricultural products, especially fruit, urgently and at a lower price to the marketplace.⁹⁹

In recent years, Afghanistan’s agriculture was negatively impacted by drought. This drought damaged agriculture in 14 provinces, especially in the north and east, and forced hundreds of people into famine. The Afghan Ministry of Agriculture was compelled to describe the situation as “highly critical,” because of drought. The Ministry has said that international aid and assistance are necessary to help over 2.5 million people who will face acute food shortages due to this year’s drought. The drought has caused many farmers to leave their agricultural lands and they are in need of help to provide their food now that winter is approaching. The Afghan Minister of Agriculture believes that low levels of production due to drought and increasing food

⁹⁵ Committee on Economic, Social, and Cultural Rights, General Comment No. 12, 1999.

⁹⁶ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights*, adopted in 1966.

⁹⁷ Interview with Director of Statistics, Ministry of Agriculture, Irrigation, and Livestock, Mizan 16, 1390 (October 8, 2011).

⁹⁸ AIHRC, Fourth Report on Economic and Social Rights, p. 57.

⁹⁹ AIHRC, Fourth Report on Economic and Social Rights, p. 58.

prices at the international level have caused a state of emergency in Afghanistan's north. An estimated 10 million people are in need of food assistance in Afghanistan, while the World Food Program (WFP) faces a lack of funding for the implementation of its program in Afghanistan.¹⁰⁰

Sustainability of access to food is a critical element of the right to food. Afghanistan's agricultural products are completely dependent on climate, because the Afghan Government has not been able to formulate and implement a comprehensive program to regulate and use the country's water resources. On this basis, the sustainability of access to food is not certain. When there is rain, agricultural production is satisfactory; when there is drought, there is a decline in agricultural production. The Afghan Ministry of Agriculture states that it needed 700,000 tons of wheat to meet Afghan market need, while it needs around 2,000,000 tons of wheat to meet this year's need (1389 (2010/11)).¹⁰¹

The Right to Water and Sanitation

Water is a primary need for the survival of human life and it is a priority in the programs and activities of the governments and international organizations. Safe potable water and environmental sanitation are economic and social rights and everyone needs adequate, quality, and acceptable water to live a healthy and dignified life. Water should be continuously available to meet human needs, such as drinking, personal hygiene, washing, cooking, and health. The quality of water is also very important and water should be free of all forms of pollution and contamination that are harmful to human health.

ANDS has required the Afghan Government to halve the number of persons who do not have access to safe potable water by 1400 (2020). Also according to ANDS, 50 percent of families in Kabul and 30 percent of families in other urban areas will have access to tap water, 90 percent of villages will have access to drinking water, and 50 percent of villages will have access to sanitation by 1391 (2012/13).¹⁰²

The General Department of Water Supply, which is responsible for urban water supply, has been able to provide safe water for only 30 percent of the country's urban-dwellers. According to information provided by the General Department, the Department had a daily capacity to produce 45,000 cubic meters of safe water at the national level, but this has now increased to 155,939 cubic meters of safe water (29 percent).¹⁰³ This is an increase of 29 percent compared to the last two years. According to the General Department, currently 35 percent of produced water is wasted because of technical problems, while the wastage was around 65 to 70 percent in the past. The General Department has said that it now has a daily capacity to produce 44,020 cubic meters of water in Kabul and 111,919 cubic meters of water nationally. This daily production of water is in no way adequate, because the country needs 910,000 cubic meters of safe water per day. The information and statistics provided by the General Department of Water Supply and

¹⁰⁰ BBC Persian, Afghanistan, "Afghanistan requests foreign aid to combat drought," *Mizan* 16, 1390 (October 8, 2011); <http://www.bbc.co.uk/persian/afghanistan/2011/10/111006_k01_afghan_drought.shtml>.

¹⁰¹ BBC Persian, Afghanistan, "Afghanistan needs 2 million tons of imported wheat," *Asad* 16, 1390 (August 7, 2011); <http://www.bbc.co.uk/persian/afghanistan/2011/08/110807_k01_afg_wheat_shortage.shtml>.

¹⁰² ANDS, management of water resources (1387 (2008/09)-1391 (2012/2013)).

¹⁰³ Interview with Dad Mohammad Bahir, Director of General Department of Water Supply and Canalization, *Mizan* 16, 1390 (October 8, 2011).

Canalization reveals that the General Department only has the capacity to provide 12.3 percent of the safe water that is needed by urban-dwellers across the country.¹⁰⁴

Based on the General Department's assessment, Herat city has the highest level of access to safe water and Zabul and Mehtarlam cities have the least access. Kabul faces the biggest problem in accessing safe water. Given the population congestion and lack of sewage system, the absolute majority of underground water resources are contaminated and not healthful. Kabul, as the country's capital, faces the biggest problem with regard to safe potable water. Kabul's residents do not have access to adequate water, let alone safe potable water.¹⁰⁵

Sultan Hussain Hesari, Acting Minister of Urban Development, has said that 70 percent of Kabul's residents lack access to safe potable water. According to him, digging of deep water wells is responsible for the dry-out of Kabul's water reservoirs.¹⁰⁶ This is while the Director of the General Department of Water Supply and Canalization told the AIHRC two years ago that around 70 percent of people lacked access to safe water and used water wells that were not safely covered.¹⁰⁷ This means that the General Department did not do anything to improve people's access to safe water during the past two years in Kabul city.

In the AIHRC HRFM in 1387 (2008/09), 33.7 percent, in 1388 (2009/10), 39.2 percent, and in 1389 (2010/11), 55.6 percent of interviewees reported that the water they were using was not healthy and clean. It means that people's access to safe potable water has been decreasing and the number of such families has increased annually.

¹⁰⁴ Interview with Dad Mohammad Bahir, Director of General Department of Water Supply and Canalization, Mizan 16, 1390 (October 8, 2011).

¹⁰⁵ AIHRC, Fourth Report on the Situation of Economic and Social Rights, p. 60.

¹⁰⁶ Afghan News, Saratan 15, 1390 (July 6, 2011); <<http://www.afghannews.tv/Dari/1390/Saratan/15/index.html>>.

¹⁰⁷ AIHRC, Fourth Report on the Situation of Economic and Social Rights, p. 60.



Presently 21 major cities have relative water supply grids and only 30 percent of interviewees use tap water. However, in the AIHRC HRFM, 7.7 percent of interviewees said that they had to wait for over an hour in queue to get water. Jarullah Mansoori, Minister of Rural Rehabilitation and Development, has said that eight provinces in the north face potable water shortages due to drought and that water tanks will be transferred to those provinces. According to the Minister, generally speaking, 17 provinces encounter potable water shortages, to which water tanks will be transferred. So far water supply grids have been built in seven provinces and the grids will be constructed to meet people's needs in the remaining provinces in the future.¹⁰⁸

Director of Water Supply, Sanitary Education, and Environmental Sanitation of MoRRD stated that MoRRD, in cooperation with United Nations Children's Fund (UNICEF), has constructed 1,941 deep and semi-deep water wells and 31 water supply grids in different parts of the country as part of the water supply and irrigation scheme, making healthy drinking water available for 534,688 people. Three deep water wells and two drinking water reservoirs were operationalized in 1388 (2009/10). In addition, over 3,000 potable water sources were funded by the United States Agency for International Development (USAID) and constructed by private companies in the past two years, making safe potable water and sanitary services available for over 500,000 people in rural areas.¹⁰⁹

In 1389 (2010/11), MoRRD alone built 396 semi-deep water wells and 11 water supply grids across the country, supplying safe potable water to 301,625 people. Additionally, 802 semi-deep

¹⁰⁸ Pajhwok Afghan News, August 23, 2011; <<http://www.pajhwok.com/dr/2011/08/23/>>.

¹⁰⁹ Interview with Ghulam Qader, Director of Water Supply, Sanitary Education, and Environmental Sanitation, MoRRD, Mizan 5, 1390 (September 27, 2011).

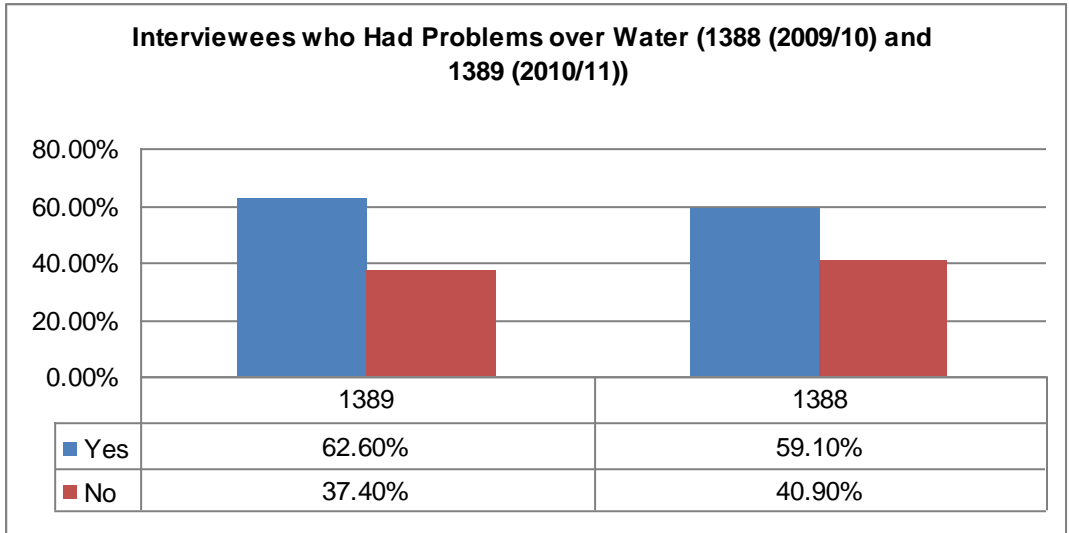
water wells, 32 water supply grids, one drinking water reservoir, and seven deep water wells are being constructed in different provinces in 1389 (2010/11). Also over 3,000 water sources have been constructed by other organizations in rural areas, making healthy drinking water available for more than 450,000 people.¹¹⁰

Although the relevant authorities claim that they have designed and implemented many projects to ensure people's access to water, access to water is considered a major challenge in rural areas, given the consecutive years of drought. The AIHRC HRFM findings reveal that people in rural areas complain about distant water sources. In 1388 (2009/10), 67.3 percent of interviewees said that they had to walk for less than 15 minutes (one way) to reach the water source, 25 percent reported that they had to walk for over 15 minutes to reach the water source, and 7.7 percent stated that they had to walk for over an hour to reach the water source. In 1389 (2010/11), the distance to water source was gauged on the basis of kilometer. In 1389 (2010/11), 82.1, 16, and 2 percent of interviewees respectively stated that they had to walk for less than a kilometer, one to three kilometers, and over three kilometers to reach the water source. According to one of the authorities in the Department of Water Supply, some people in villages walk less than two hours one way to reach the water source.¹¹¹ This statistics shows that there has been no considerable change in people's access to water and that Afghan people have a limited access to safe potable water.

The AIHRC HRFM findings reveal that most people have problems over water. In 1388 (2009/10), 59.1 percent of interviewees said that they had problems over water, while this was increased to 62.6 percent of interviewees in 1389 (2010/11), who reported that they had problems over water. There are many water-related problems. Many interviewees stated that the water they use is not clean and others pointed out long distance to water source, lack of water wells, frequent interruptions of water supply, waiting for over an hour to get water, purchasing water, salinity of water, damage and dry-out of water wells, and disputes over water. In 1389 (2010/11), 43.1 percent of interviewees said that the water they use is not clean and healthy, 19.3 percent reported that they use water sources jointly with animals, 4.9 percent stated that they purchase water, 4.6 percent do not have access to adequate water, and 4.6 percent have access to water that is saline.

¹¹⁰ Interview with Ghulam Qader, Director of Water Supply, Sanitary Education, and Environmental Sanitation, MoRRD, Mizan 5, 1390 (September 27, 2011).

¹¹¹ Interview with Naqeebullah Tayyeb, Capacity-Building Officer, Department of Water Supply and Irrigation, Mizan 5, 1390 (September 27, 2011).



Kuchis, returnees, and IDPs are the vulnerable groups who have manifold problems in accessing healthy water. The AIHRC HRFM findings in 1388 (2009/10) and 1389 (2010/11) indicate that of all 329 *kuchi* interviewees, 60.5 percent had access to uncovered water sources and 39.5 percent to covered water sources. Also of all 3,096 returnee interviewees, around 31.5 percent had access to uncovered water sources and about 68.5 percent to covered water sources. IDPs have more problems than others in accessing safe water. Around 65.6 percent of IDPs had access to uncovered water sources and about 34.4 percent to covered water sources. Given the widespread nature of these problems, there is no program to effectively address these problems, leading to increasing lack of access to safe, covered water sources, child morbidity and mortality, and spread of communicable water-borne diseases.

According to the Department of Water Supply of MoRRD, delay in budget confirmation, insecurity, poor coordination at the provincial level, low capacity of the relevant institutions at the provincial level, low capacity of private companies and NGOs and local development councils, and complicated public logistics system are the major challenges for the development of water supply services in rural areas. Consecutive years of drought have rendered the water wells constructed by MoRRD and other organizations dry and unusable. The Department of Water Supply has said that approximately 30 to 35 percent of constructed water wells have dried out.¹¹²

¹¹² Interview with Ghulam Qader, Director of Water Supply, Sanitary Education, and Environmental Sanitation, MoRRD, Mizan 5, 1390 (September 27, 2011).

Part 5

The Right to the Highest Attainable Standard of Health

Health is a basic, essential human right that can provide the context for the enjoyment of all other human rights. All persons are entitled to enjoy the highest attainable standard of health for having a dignified life.¹¹³ Article 25 of UDHR is explicit that every person has the right to enjoy healthcare and social security. Also Article 12 of ICESCR requires member states to recognize the right of all persons to the highest attainable standard of physical and mental health and take measures for the full realization of this right. The Covenant sets out measures to reduce the birth of stillborn children and child mortality, promote child health and hygiene, and prevent, treat, and combat epidemic, indigenous, and other dangerous diseases.¹¹⁴ Article 52 of the Afghan Constitution too requires the Afghan Government to provide the means for the prevention and cure of illnesses and the provision of free healthcare facilities for all Afghan citizens in the country.

According to the general comments of the Committee on Economic, Social, and Cultural Rights, the right to health should be available for all without any forms of discrimination. In addition, health services and facilities should be physically accessible for all segments of population, particularly vulnerable groups. Such services and facilities should also be affordable for all; it means that health services should be organized in such a way that all persons can afford to access these services economically. Health services should also be adequate, appropriate, and high-quality and people should have access to information about health issues. Health services and facilities should, besides, be socially and culturally acceptable (i.e. they should be compatible with a society's ethical and cultural standards).¹¹⁵

The ANDS has set goals and expected results in ensuring access to health services and facilities. These goals and expected results in the health sector are for the period from 1389 (2010) to 1393 (2014). According to the ANDS, till 1389 (2010/11), 90 percent of population will have access to primary healthcare services, maternal mortality rate will drop by 15 percent, and under-five mortality rate will decrease by around 20 percent. The strategy also determines that 90 percent of population will be covered by measles vaccination in children aged below one year and DPT vaccination.¹¹⁶

The Millennium Development Goals (MDGs) have determined more accurate and practical objectives. Based on the MDGs, until 1389 (2011), 90 percent of Afghan population will have access to health services, maternal mortality rate will drop by 15 percent, and under-one and under-five child mortality rate will drop by 20 percent. According to these goals, maternal

¹¹³ Committee on Economic, Social, and Cultural Rights, *General Comment No. 22*; <<http://www2.ohchr.org/english/bodies/cescr/comments.htm>> (accessed October 17, 2011).

¹¹⁴ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*, Article 12, 1966.

¹¹⁵ Committee on Economic, Social, and Cultural Rights, *General Comment No. 22*; <<http://www2.ohchr.org/english/bodies/cescr/comments.htm>> (accessed October 17, 2011).

¹¹⁶ Islamic Republic of Afghanistan, ANDS, Pillar Five, Health Sector, p. 3, 1386 (2007/08).

mortality rate will drop by around 21 percent until 1393 (2014/15). In addition, the strategy mentions that full vaccination coverage will increase by 90 percent until 1389 (2010/11).

Access to Health Services

Physical access to health services is an element of the right to health. Member states of ICESCR are required to provide health services and facilities in such a manner that all people, especially disadvantaged and vulnerable groups, have easy access to such services and facilities. The major problems related to access to healthcare include long distance of health centers, poor quality of services, lack of medicines and other equipment, lack of women doctors, and discriminatory treatment.

Despite all these problems, the Ministry of Public Health (MoPH) believes that 60 percent of people have access to the Basic Package of Health Services (BPHS) based on the standard of access (less than two hours of walk one way to the nearest health center).¹¹⁷ This means that the ANDS health benchmarks have not been achieved, because the benchmarks determine that 90 percent of people will have access to the nearest health services by 1389 (2010/11). Based on the AIHRC HRFM findings in 1388 (2009/10), 12.9 percent of the interviewees, who answered the question on why they did not use governmental/nongovernmental health services, referred to physical access as the major problem in accessing their right to health. Likewise, the AIHRC HRFM data in 1389 (2010/11) indicates that 13.8 percent of interviewees stated that they have to walk over five kilometers to reach the health centers in order to enjoy the health services provided by governmental or nongovernmental organizations. However, the AIHRC findings in 1387 (2008/09) shows that around 50.8 percent of respondents referred to physical access as the main problem in accessing health services. This means that the problem of physical access to public health services has been comparatively addressed.

Most health services are provided by the private sector. According to MoPH, approximately 70 percent of health services are rendered by the private sector and the remaining 30 percent by the Government.¹¹⁸ In the AIHRC HRFM in 1388 (2009/10), 70.2 percent of interviewees said that private health services are available for their families. The number of professional doctors engaged in governmental or private health centers is almost the same. According to information provided by MoPH, 70 percent of professional doctors are engaged in private health centers and the remaining 30 percent in governmental health centers. Also according to MoPH, there are 126 hospitals and a total number of 2,166 healthcare centers, including centers for the treatment of drug addicts, extreme malnutrition, tuberculosis, district hospitals, regional hospitals, comprehensive health centers, basic health centers, and health posts in the country. MoPH says that the number of governmental hospitals is proportionate to population, excluding Kandahar province that has two hospitals and Helmand province that has four. MoPH has reported that the number of clinics, including basic health centers, comprehensive health centers, centers for treatment of drug addicts, subsidiary health centers, and health posts has increased compared to

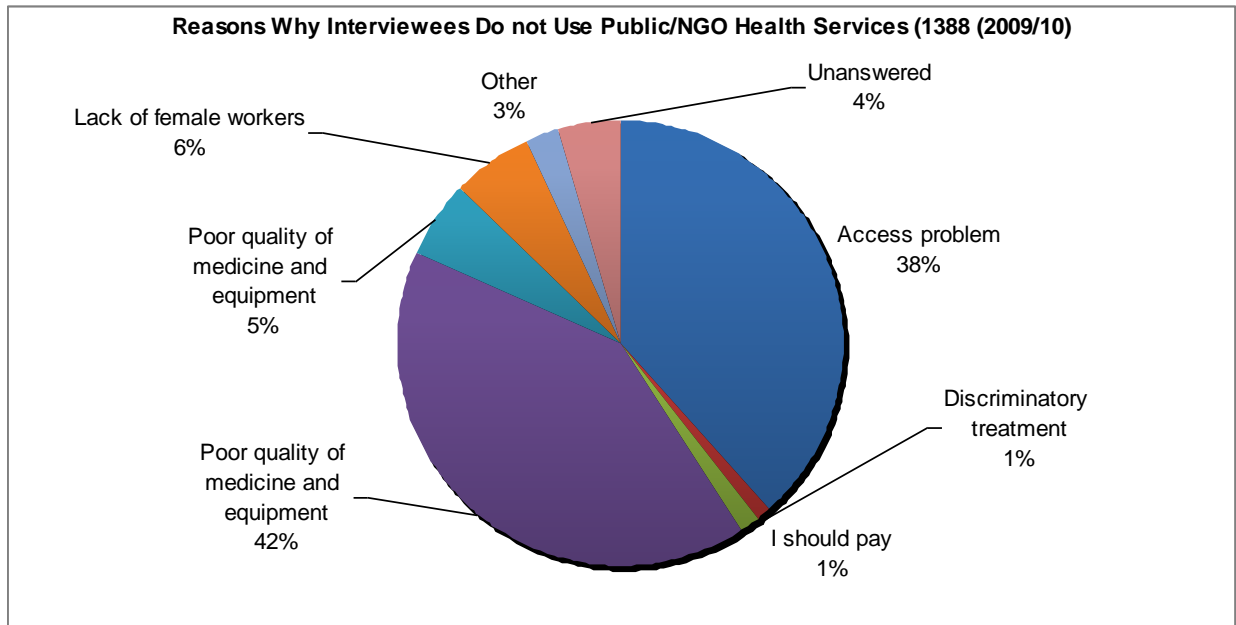
¹¹⁷ Islamic Republic of Afghanistan, MoPH, 1389 (2010/11) Report, Preamble.

¹¹⁸ Interview with Ehsanullah Shahir, Director of Cadre and Personnel, MoPH, Islamic Republic of Afghanistan, Mizan 13, 1390 (October 5, 2011).

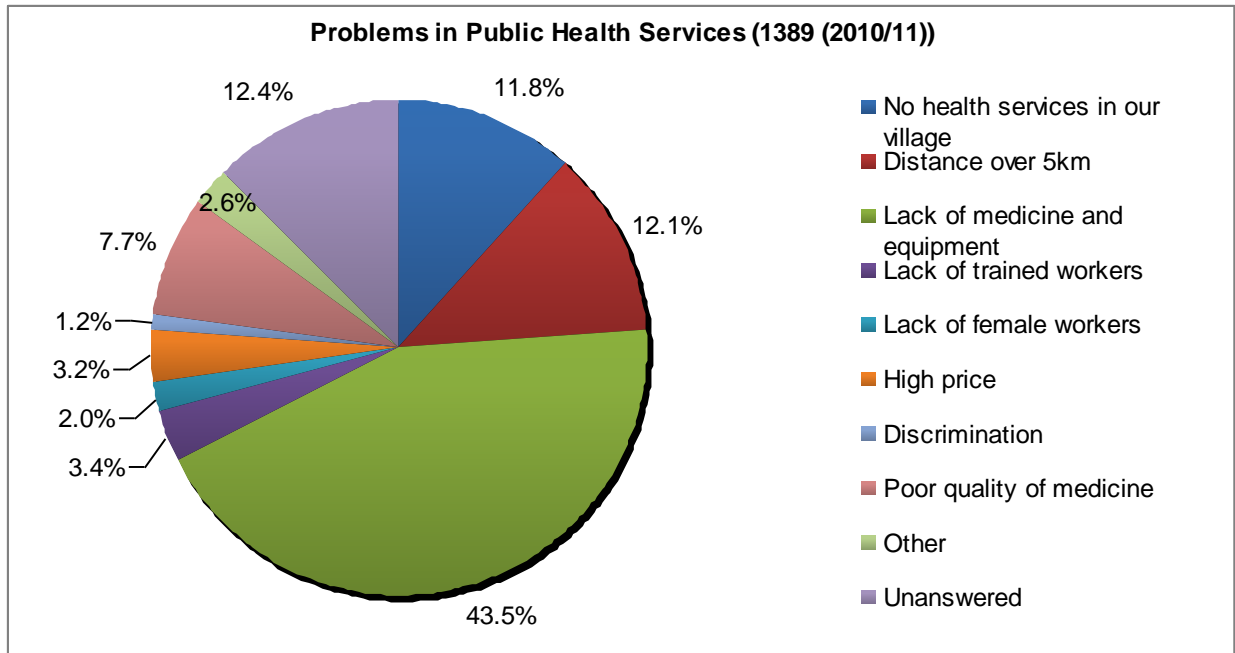
past years. The number of these clinics was 1,638 in 1388 (2009/10) and 1,799 in 1389 (2010/11).¹¹⁹

There are manifold problems in the provision of governmental and private health services. There is not much information about problems in the provision of private health services, but the AIHRC HRFM findings on governmental health services reveal that lack of medicines and other equipment, lack of trained staff members, lack of women doctors, and rising cost of health services are the major problems facing people. Of all 9,333 persons interviewed in 1388 (2009/10), 2,815 persons (33.6 percent) stated that they did not use governmental/nongovernmental health services. Of these people (33.6 percent), 42.7 percent said that governmental health centers lack quality medicine and other equipment, 40.1 percent said that they have difficulties accessing governmental health services, 6.1 percent said that there were no women doctors or staff members, 5.6 percent said that the staff members were not professional, and 1.2 percent said that they had to pay money in return for treatment.

The AIHRC interviewed 7,530 people in 1389 (2010/11), of which 49.7 percent stated that governmental health centers lack quality medicines and other equipment, 13.8 percent stated that they had difficulties accessing the health services, 13.5 percent stated that there were no health centers in their villages, 3.9 percent stated that there were no professional doctors, 2.2 percent stated that there were no women doctors and staff members, and 3.6 percent stated that the cost was high.



¹¹⁹ Presentation by Dr. Nadera Hayat, Deputy Minister, MoPH, Islamic Republic of Afghanistan, Sunbula 26, 1390 (September 17, 2011).



Poor quality of medicines and equipment and low capacity of many health centers and medical personnel cause some people to go abroad for medical purposes. In recent years, there has been an increase in trips to neighboring and immediate countries such as India. The main reason for why people go to neighboring countries for medical treatment is poor quality of medicines and lack of competent doctors inside Afghanistan. A survey by Afghanistan Public Health Institute (APHI) shows that 856 Afghans traveled to India for medical treatment within 43 days.¹²⁰ According to APHI survey, on average a person who has traveled to India for medical treatment has spent Afs167,057, which amounts to over one billion and two hundred million Afghanis (Afs1,213,669,105) that is spent by Afghans traveling to India for medical treatment per year. The survey was conducted with Afghans upon their return from India to Kabul airport. This means that every year over one billion Afghanis go out of Afghanistan to be spent in India. At the same time, there is no information about Afghans leaving for other countries, near and far, for medical purposes.

Acceptability of health services is a key element of the right to the highest attainable standard of health. It means that health services and facilities should be compatible with people's culture and that they should not feel alienated from health services. The availability of women doctors, nurses, and midwives is crucially important in hospitals and other health centers, because there are few women doctors and nurses and many women patients are not willing to approach health centers as a consequence, even in case of very bad and dangerous ailments. That is why a number of respondents said that they did not use health services due to the unavailability of women doctors and nurses. According to the information provided to the AIHRC by MoPH Department of Cadre and Personnel, there are 1,183 men doctors and 517 women doctors serving in public/governmental health centers. In addition, there are 5,368 nurses (4,563 men (85 percent) and 805 women (15 percent) serving in public/governmental health centers. These

¹²⁰ Interview with Ehsanullah Shahir, Director of Cadre and Personnel, MoPH, Islamic Republic of Afghanistan, Mizan 13, 1390 (October 5, 2011).

figures indicate that the number of women doctors and nurses is much less than that of men. In specific terms, the number of women nurses is five times less than that of men. According to MoPH 1389 (2010/11) report, there is one nurse for every doctor in Afghanistan, while the international standards require that there be four nurses for each doctor. MoPH believes that the lack of adequate women health workers is a major challenge. According to a report by MoPH, 27 percent of health centers (540 health centers) do not have any women health workers.¹²¹ At the same time, people have a better access to women midwives. Based on information provided by MoPH, there are 2,716 midwives, of which 2,663 are women and 53 men.¹²²

MoPH has reported that hundreds of people have been trained as local birth attendants in recent years, but the program ended as it was unsuccessful. Instead a training program has been launched for almost 10,000 women health workers. As of now it is not certain to what extent the program has been successful. The above information indicates that the lack of women doctors and nurses is a major problem facing health services in the country, causing some women patients not to approach health centers. One should pay attention that health services for women will not be effective if such services do not take local customs and traditions into account. On the other hand, launching public awareness-raising programs on health-related issues can reduce the severity of the problem.

Child mortality is a key indicator for overall health situation. Based on MoPH 1387 (2008/09) report, child mortality rate was estimated at 129 children in every 1,000 live births, under-five child mortality rate at 191 children in every 1,000 live births, and maternal mortality rate at 1,600 women in every 100,000 live births, making Afghanistan the country with the second highest child mortality rate after Sierra Leone.¹²³ MoPH new data refers to a decrease in these figures. In its 1389 (2010/11) report, MoPH stated that maternal mortality rate was 1,400 women in every 100,000 live births and that of every six born children, one child dies before reaching the age of five.¹²⁴ Afghanistan is still a country with very high child and maternal mortality levels.

According to the AIHRC HRFM findings, 8.1 percent of interviewees stated that they lost one child of theirs at the time of childbirth in 1389 (2010/11) and 91.4 percent responded in the negative to the question if they have lost a child of theirs in the time of childbirth during the year, and around 3 percent did not answer this question. In the AIHRC 1389 (2010/11) HRFM, 4.8 percent of interviewees said that their families lost their mothers during delivery and 94.7 percent responded in the negative to this question, and about 3 percent did not answer this question.

Based on the AIHRC HRFM findings in 1388 (2009/10), 8.4 percent of all interviewees said that they were not assisted by anyone during the birth of their last child, 51 percent said that they were assisted by their relatives, 25.8 percent reported that they were assisted by doctors and/or

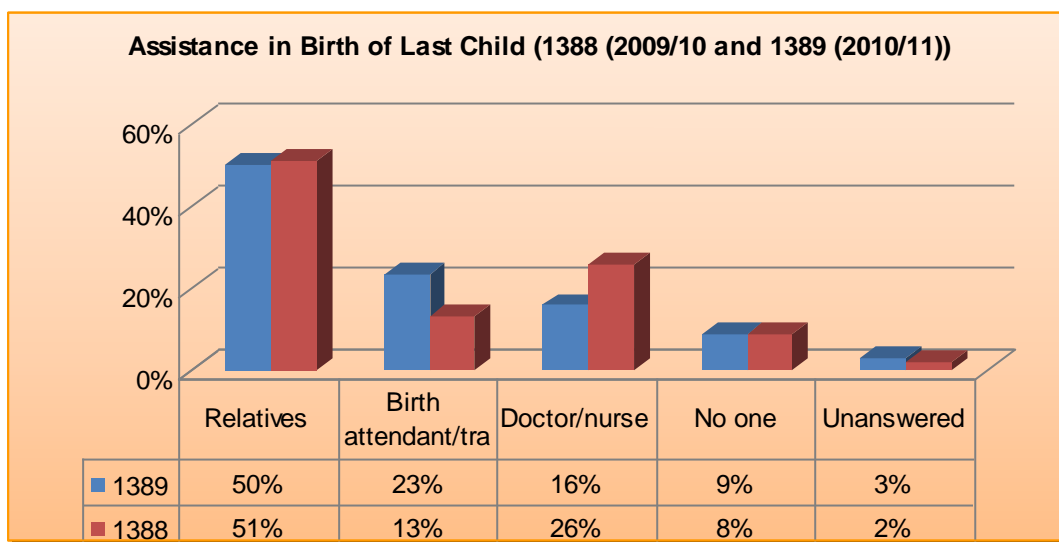
¹²¹ Islamic Republic of Afghanistan, MoPH, 1389 (2010/11) Report, p. 20.

¹²² Interview with Ehsanullah Shahir, Director of Cadre and Personnel, MoPH, Islamic Republic of Afghanistan, Mizan 13, 1390 (October 5, 2011).

¹²³ Government of the Islamic Republic of Afghanistan, MoPH, 1387 (2008/09) Report; <<http://moph.gov.af/en/documents?DID=114>>.

¹²⁴ Islamic Republic of Afghanistan, MoPH, 1389 (2010/11) Report, p. 7.

nurses, and 12.9 percent pointed that they were assisted by local birth attendants and/or trained midwives. The figures for 1389 (2010/11) are slightly different. In 1389 (2010/11), 8.7 percent of all interviewees stated that they were assisted by no one during the birth of their last child, 49.8 percent said that they were assisted by their relatives, 15.6 percent reported that they were assisted by doctors and/or nurses, and 23 percent pointed that they were assisted by local birth attendants and/or trained midwives. Around 3 percent of interviewees did not answer this question. It is clear that the number of people who were not assisted by anyone during the birth of their last child is almost the same. However, the number of doctors and/or nurses who helped families during the birth of their last children has dropped by almost 10 percent from 1388 (2009/10) to 1389 (2010/11) and on the other hand, the number of respondents who stated that they were assisted by local birth attendants and/or trained midwives has increased by approximately 10 percent.



The vaccination program is a significant means for the prevention of diseases. In recent years, the Afghan Government has cooperated with the UN and other pertinent organizations to implement the vaccination program in many parts of the country, but the implementation process has faced such challenges as continued war and insecurity in southern, southwestern, southeastern, and some districts in northern Afghanistan, hampering the nationwide coverage of the vaccination program. In the AIHRC HRFM in 1389 (2010/11), 74.9 percent of people said that their under-five children have been regularly vaccinated, 24.6 percent of them stated that their under-five children have not been regularly vaccinated, and around 3 percent did not answer this question. MoPH has reported that 83,000 children aged between 2 and 3 were vaccinated against measles and 23,000 children aged below two were vaccinated against eight diseases of childhood during vaccination campaigns in 1389 (2010/11). In addition, two vaccination campaigns were launched against intestinal worm and polio in 1389 (2010/11) in which 6.4 and 4.2 million children were vaccinated respectively. MoPH has further stated that there have been 34 percent decrease in children's polio cases compared to 1388 (2009/10).¹²⁵

¹²⁵ Islamic Republic of Afghanistan, MoPH, 1389 (2010/11) Report, p. 8.

Access to ambulances and other transportation means is a health-related facility. As previously mentioned, many people have to walk long distances or rent cars to reach health centers and this entails more cost for them to access and use health services. During the AIHRC HRFM exercise in 1389 (2010/11), 35.3 percent of interviewees stated that ambulances were available to them, 59.7 percent said that ambulances were not available to them, and around 6 percent did not answer this question. These figures mean that patients have low access to transportation means to and from health centers. MoPH has reported that a total number of 368 ambulances are available in the country and most are used in urban areas. 368 ambulances are highly inadequate across the country and can by no means meet the needs of the majority of populace.

Drug addiction is a big challenge. There is no accurate statistics on the number of drug addicts in the country. Drug addiction has steeply risen in recent years in the country. Returnees form a large number of drug addicts, who have repatriated to the country from neighboring countries, particularly Iran and Pakistan. Based on report by MoPH, 70 percent of drug addicts in Mazar-e-Sharif city who use heroine intravenously and 80 percent of drug addicts in Jalalabad city who use heroine intravenously have previous living experience outside Afghanistan. Most drug addicts in Jalalabad and a high percentage of drug addicts in Mazar-e-Sharif and Herat who use heroine intravenously have previous living experiences in Pakistan and Iran respectively.¹²⁶ Women and children constitute another category of drug addicts particularly in northern Afghanistan. They use opium to relieve themselves from the tiredness associated to carpet-weaving and the like and they make their children eat opium so as the children do not disturb them during work. MoPH data on the number of drug addicts is highly inadequate. Based on data in 2005, there are approximately 920,000 drug addicts, of which 740,000 are men, 120,000 are women, and 60,000 are children.¹²⁷ According to a number of media reports, the number of drug addicts in Afghanistan has risen to 1.5 million people.¹²⁸ This is while Afghanistan is one of world's poorest countries where drug addicts shockingly constitute around 3 percent of total population.

The Afghan Government has not paid due attention to the treatment of drug addicts and the prevention of drug addiction among the people. Based on information provided by MoPH, so far 12 drug addiction treatment hospitals have been built that include less than 20 beds and additionally six drug addiction treatment centers have been built in six provinces. These figures indicate that these hospitals and centers are in no way proportionate to the number of Afghanistan's drug addicts.

Drug addiction is a major cause of HIV/AIDS. Intravenous drug abuse causes the transmission of HIV/AIDS from one person to another. A report by MoPH shows that of all 920,000 drug addicts in Afghanistan, around 19,000 to 25,000 are estimated to have used heroine intravenously.¹²⁹ The number of people who suffered from HIV/AIDS in 2009 was 636, who had been randomly

¹²⁶ MoPH, United Nations General Assembly Special Session on HIV/AIDS (UNGASS), Country Progress Report, p. 14, March 2010.

¹²⁷ MoPH, United Nations General Assembly Special Session on HIV/AIDS (UNGASS), Country Progress Report, p. 14, March 2010.

¹²⁸ BBC News, May 17, 2010; <<http://news.bbc.co.uk/2/hi/8687734.stm>>.

¹²⁹ MoPH, United Nations General Assembly Special Session on HIV/AIDS (UNGASS), Country Progress Report, p. 14, March 2010.

registered by blood banks and there were less than ten HIV/AIDS-caused deaths this year.¹³⁰ However, World Health Organization (WHO) has estimated the number of HIV/AIDS-afflicted people to be in the range of 1,000 to 2,000.¹³¹ HIV/AIDS is at an initial stage in Afghanistan and it is most prevalent among vulnerable groups of persons.

Drug addiction and HIV/AIDS have a direct link with the level of awareness. Assessments indicate that drug addicts and people suffering from HIV/AIDS have a very low level of awareness. A World Bank report has determined the level of literacy among Afghan people to be 36 percent and particularly among Afghan women to be 13 percent.¹³² The Afghan Government must further develop awareness-raising programs on drug addiction, HIV/AIDS, and environmental hygiene and sanitation.

The way people and security officers treat them violate their human dignity. People come out to stare at them and pass their time this way. Sometimes they are laughed at, insulted, humiliated, harassed, and stoned. This manner of treatment violates their human dignity, giving rise to their pessimism and grudge against the community and further isolating them. This behavior categorically has negative implications for their treatment and social reintegration.

All in all, it can briefly be said that health services and facilities have improved during recent years, but health-related benchmarks enshrined in the ANDS have not been achieved. By the end of 1389 (2010/11), 60 percent of Afghan population had access to health services, while, according to the ANDS, 90 percent of Afghan population must have had access to health services by the end of 1389 (2010/11). There have been no remarkable reductions in maternal and child mortality rates and a considerable number of Afghan people complain against the poor quality of health services, medicines, and other equipment and physical access to healthcare. Around half of interviewees stated that they were assisted by their relatives during the birth of their last child. Inadequacy of female health workers is another major challenge facing the realization of the right to health. The increase in the number of drug addicts is another serious problem.

¹³⁰ MoPH, United Nations General Assembly Special Session on HIV/AIDS (UNGASS), Country Progress Report, p. 14, March 2010.

¹³¹ World Bank, HIV/AIDS in Afghanistan, p. 1, February 2011.

¹³² World Bank, HIV/AIDS in Afghanistan, p. 2, February 2011.

Part 6

The Right to Education

The rate of literacy and awareness in the citizens of a country plays a basic, pivotal role in the progress and development of that country and constitutes the capacity of its human resources. On this basis, states give special attention and importance to education. Education is a basic human right, especially for children. From the perspective of the sacred religion of Islam and national and international instruments, education is the right of every child, both girl and boy. All children should fairly and equally enjoy their right to education without any racial, ethnic, religious, linguistic, regional, or other discrimination. Equality of education opportunity is an essential requirement for any society. The right to education has been established in the ICESCR and based on Article 13 of the ICESCR, all countries party to this Covenant recognize the right to education for all. Primary education should be compulsory and made available for all free of charge. Article 28 of CRC stresses that states parties have a duty to provide the ground for free and compulsory primary education and equal access to intermediate and high education for all children and to ensure that school discipline does not harm the exercise by children of all their human rights.

The Afghan Constitution guarantees the right of all Afghans to free education up to bachelor's degree in public institutions of higher learning and requires the Afghan Government to ensure balanced development of education all over the country. The Government is also required to formulate and implement effective programs for providing compulsory intermediate education and teaching in mother tongues where these are spoken.

In accordance with Article 44 of the Afghan Constitution, the Government is required to formulate and implement effective programs to ensure balanced and developed education for women, improve education for *kuchis*, and eradicate illiteracy. In addition, Article 3 of the Law on Education states, "The citizens of the Islamic Republic of Afghanistan have an equal right to education without any kinds of discrimination."

Goal 3 of Afghanistan's MDGs clearly sets out that all boys and girls should equally complete a full course of primary education by 2020. Besides, the ANDS and the Afghanistan Compact have established significant benchmarks for the realization of universal primary education by the Afghan Government. Compatible with Afghanistan's MDGs, the Afghanistan Compact predicts enrolment of at least 60 percent of girls and 75 percent of boys in primary school by 1389 (2010). At the same time, the number of women teachers should increase to 50 percent, 70 percent of teachers should pass a merit and competency test, and a system to evaluate education achievements such as the national student testing system should be established by 1389 (2010).

Availability

In Afghanistan where children below the age of 15 form nearly half of the population, education should be a top priority for the Government and the international community. Data collected by

the AIHRC, Ministry of Education (MoE), and other education-related institutions indicate that there have been considerable improvements in education sector during the last 10 years and that the Afghan Government has made remarkable achievements. For example, there were about 11,000 schools across Afghanistan as documented in the Fourth Report on the Situation of Economic and Social Rights, but currently, according to MoE authorities, this has increased to 13,000 schools, though the proportionality between schools and education levels still remains a problem, especially for primary and intermediate school graduates who intend to enroll for high schools and advance to higher studies.

According to 1388 (2009/10) data collected through the AIHRC HRFM exercise, around 96.3 percent of interviewees stated that education was available for their children. On the contrary, nearly 4 percent of all interviewees said that no educational facilities were available for their children. Of interviewees who reported that education was available for their children, 91.6 percent said that educational services were provided either by the Government or NGOs. Almost two percent reported that their children were being educated at home.

Providing the access of 96 percent of population to education is a considerable achievement for the Afghan Government particularly MoE, without taking into account the quality of education. But if we consider the quality of education, it is easily found out that the Afghan Government and the relevant stakeholders have focused on the quantity, rather than the quality, of education services in the past recent years. This inattention and negligence has caused many children not to use low-quality education services and even be deprived of their right to education.

The AIHRC HRFM findings in 1389 (2010/11) reveal that only 75.6 percent of interviewees' children study in schools that have buildings. This is while 6.7 percent of students study in an outdoor environment, 5.6 in private houses, 4.7 percent under tents, 3.9 percent in mosques, and 3.4 percent in other places. It should be reminded that these figures reflect the areas and provinces of the country where the security situation allowed the AIHRC human rights field monitors to travel to. The situation in unsafe and outlying provinces is much worse than that in monitored villages and districts. MoE authorities admit that of all schools, only half (50 percent) have buildings.¹³³ A report by Oxfam and Agency Coordinating Body for Afghan Relief (ACBAR) entitled *Health and Education in Afghanistan* confirms this.

Access to Education Services

Educational institutions and programs should be available for all without any kinds of discrimination. Access to education has three dimensions:

- Non-discrimination: Education should be made available for all people of the society, especially vulnerable groups of persons, without any forms of discrimination.
- Physical accessibility: Access to education should be safe, either through presence in an appropriate geographical location (such as schools) or through new technologies (such as access to distance learning and education).

¹³³ Interview with Asef Nang, Deputy Minister of Education (Professional), Sunbula 13, 1390 (September 4, 2011).

- Economic accessibility: Education should be available for all from an economic point of view. Primary education should be free and free intermediate and high education should be promoted and upheld.¹³⁴

People's access to education has been on the rise in the past several years and the number of students who enroll in schools has been increasing on an annual basis, indicating the significant achievements made by the Afghan Government in the area of education. For example, in 2000, the number of school students was less than one million (around 900,000 students),¹³⁵ but today children who are enrolled in schools constitute seven million people, an increase of seven times. Between 2001 and 2010, the number of teachers has increased eight times, 30 percent of which are constituted by women teachers. Despite these achievements, still almost half of school-age children are deprived of school enrolment.¹³⁶

Most importantly, there are still no girl students in secondary schools in 200 districts. There is not even a single women teacher in 250 districts.¹³⁷ It means that girls face serious hardships and difficulties in accessing their right to education in these districts and this leads to their massive deprivation of the right to education.

There are huge disparities in education between urban and rural areas. Urban-dwellers have a better economic situation than that of rural residents. Urban inhabitants are less forced to make their children engage in labor to support the family. In cities, there is lesser and safer distance between home and school, while home-school distance is longer and more insecure in villages. The other difference is the availability of more human resources in city than in village schools. There are more qualified teachers and more women teachers in city schools than in village schools. There are also gross differences between these two types of schools with regard to educational facilities. For example, city schools have more equipment, tools, and furniture, such as tables, chairs, stationery, hygiene, buildings, while the lack of such facilities has caused many children, especially girls, not to go to schools in rural areas. There are more problems in schools in rural areas and these are impediments to students' attendance in schools.¹³⁸

Children's Irregular School Attendance

The AIHRC findings indicate that school-age children's access to education is not easy and many obstacles, such as long home-school distance, insecurity, labor, discrimination, and other impediments deprive some students of their right to education.

The AIHRC HRFM findings confirm the existence of these obstacles. In 1388 (2009/10), only 69.5 percent of interviewees stated that their children regularly attended their schools, while 20 percent reported that their children never attended school. Around 10 percent said that their

¹³⁴ Committee on Economic, Social, and Cultural Rights (1999), General Comments of Committee on Economic, Social, and Cultural Rights, OHCHR; <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/462/16/PDF/G9946216.pdf?OpenElement>> (accessed October 17, 2011).

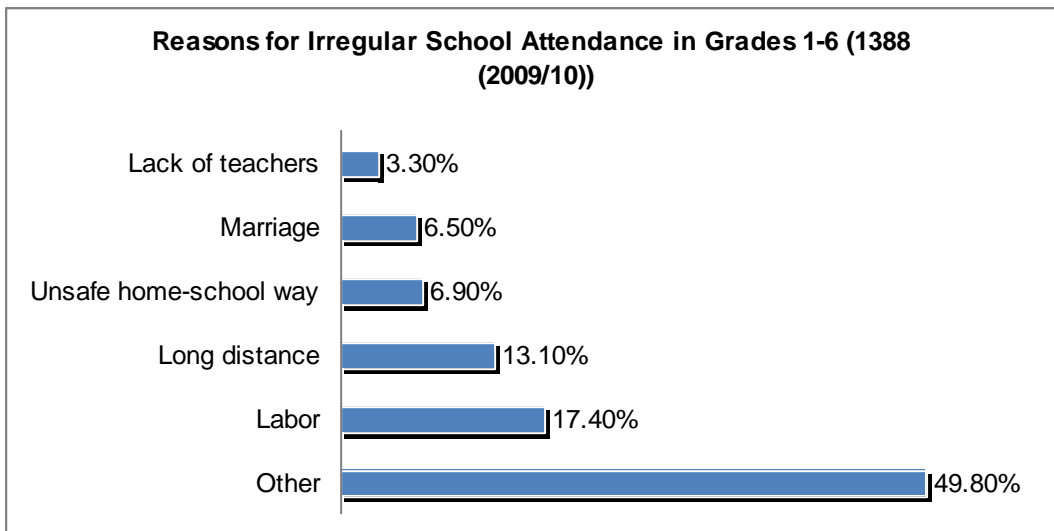
¹³⁵ Paper, J.N. (2011), "High Stakes: Girl's Education in Afghanistan, Kabul.

¹³⁶ Agency Coordinating Body for Afghan Relief (ACBAR), Health and Education in Afghanistan, Kabul: ACBAR.

¹³⁷ Islamic Republic of Afghanistan, Ministry of Education (MoE), interview with Asef Nang, Deputy Minister of Education (Professional), Sunbula 13, 1390 (September 4, 2011).

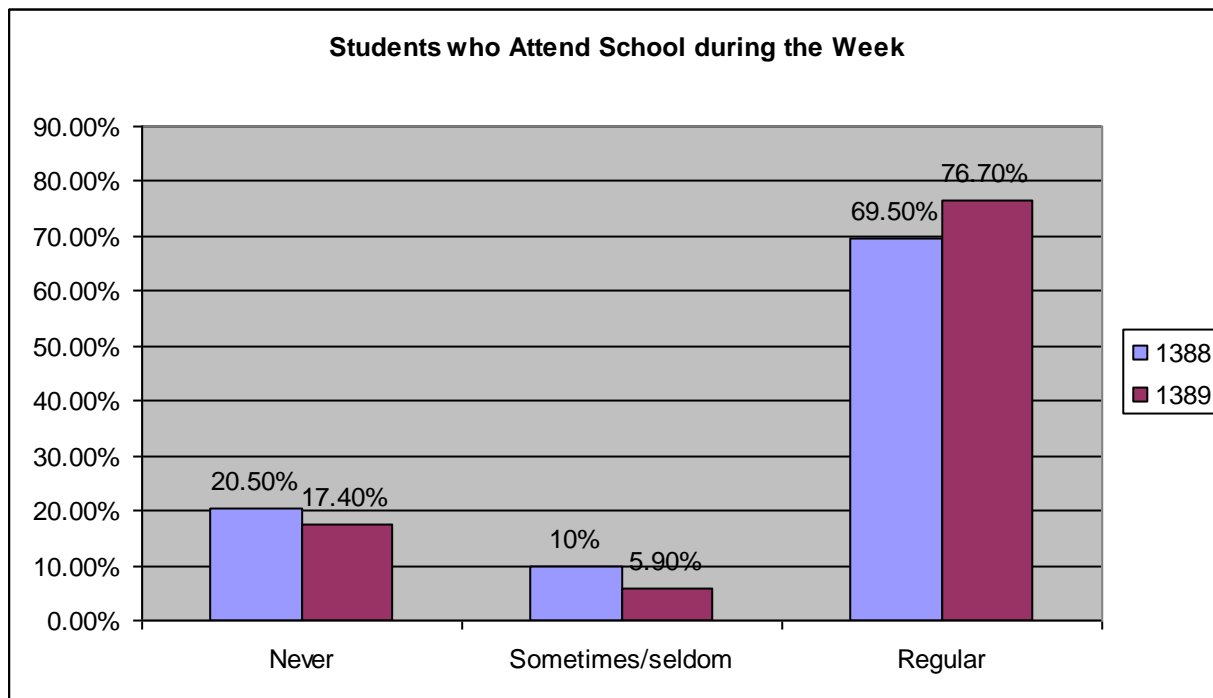
¹³⁸ Written information received from the United Nations Children's Fund (UNICEF) spokesperson.

children sometimes or rarely attend their schools. The reasons for lack of regular school attendance are related to the quality of education and economic, cultural, and geographical factors. But, in general, of those people whose children do not regularly attend their schools, 17.4, 13.1, 6.9, 6.5, around 3.3, and 4.2 percent respectively referred to child labor, long home-school distance, insecurity on the way from home to school and vice versa, child marriage, lack of teachers or lack of professional teachers, and lack of financial ability in providing books, clothes, and other necessities as the main challenges for regular, continued access to the right to education. These challenges cause children to be deprived of their right to education provisionally and sometimes permanently.



The AIHRC HRFM findings in 1389 (2010/11) indicate a lower percentage of students who do not regularly attend their schools than in 1388 (2009/10) findings. In this year, 23.3 percent of respondents reported that they do not have regular access to education and school (5.9 percent go to school one to four days per week and 17.4 percent do not go to school at all), while in 1388 (2009/10), 31.5 people could not regularly attend their schools, of which 20.5 percent never went to school. This improvement in 1389 (2010/11) is not Afghanistan-inclusive, because the AIHRC

HRFM monitors were unable to travel to insecure areas of the country due to growing insecurity and could not, as a result, monitor the human rights situation.



On the whole, girls have a more limited access to the right to education than boys, though there are different factors that are responsible for their educational deprivation. The AIHRC HRFM data in 1388 (2009/10) shows that only 73.8 percent of boys and 65.2 percent of girls regularly attend their schools. One-fourths (25 percent) of girls and 16 percent of boys cannot go to school at all. 9.8 percent of girls and 10.2 percent of boys sometimes or seldom go to school. Based on this year's data, the main reasons for education deprivation for boys of grades 1-6 include: labor (23.2 percent), long distance of school (12 percent), insecurity (7.5 percent), marriage (4.1 percent), inability to provide clothes, books, and other educational equipment (3.9 percent), and lack of teachers (2.9 percent). These reasons have, however, been differently stated for why girls of grades 1-6 do not attend schools: labor (12.6 percent), long distance of school (14 percent), insecurity (6.5 percent), marriage (8.4 percent), inability to provide clothes, books, and other educational equipment (4.5 percent), and lack of teachers (3.6 percent).

1389 (2010/11) data shows that there has been a little improvement in the situation compared to the previous year and there has been an increase in the number of students who regularly go to school (80 percent of boys and 73.2 percent of girls). However, a considerable percentage of children (20.8 percent of girls and 14.1 percent of boys) never go to school and nearly 6 percent of girls and boys sometimes attend schools.

The 1389 (2010/11) data refers to labor (47.5 percent), long distance of school (21.2 percent), and low-quality education (15.4 percent) as the main causes for lack of boys' regular school attendance. These causes have been differently stated regarding lack of regular girls' school attendance: labor (20.6 percent), long distance of school (20 percent), and low-quality education

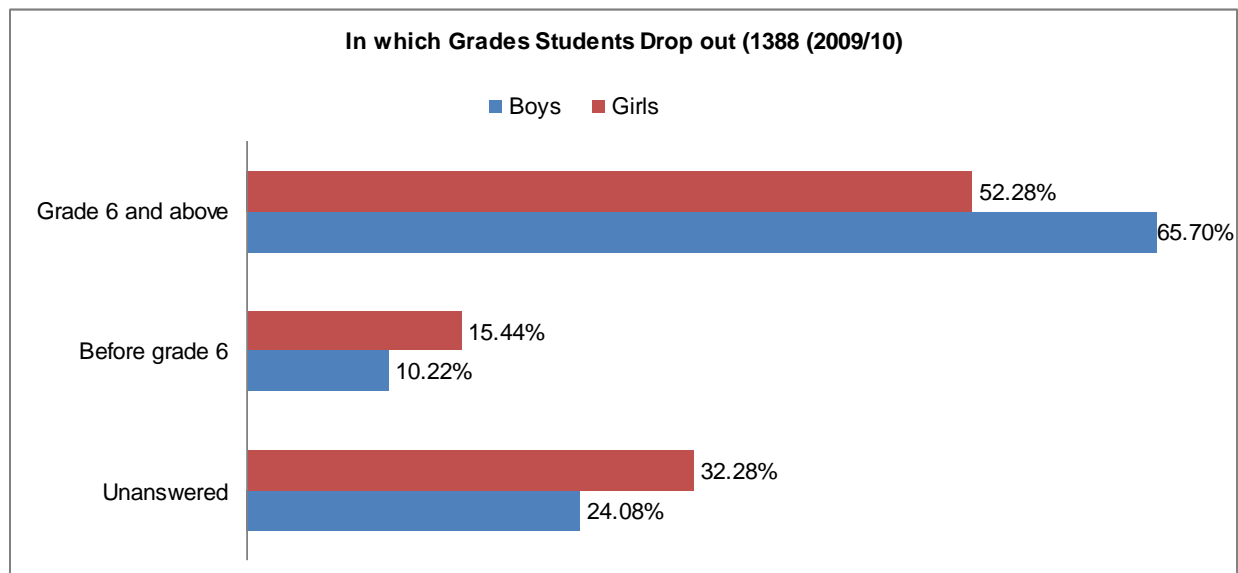
(17.5 percent). In addition, lack of women teachers (11.1 percent) and other people's discouraging words (7.9 percent) are the other causes that lead to girls' irregular school attendance.

These figures represent the situation in secure areas in the country. Girl students face the largest number of restrictions regarding the right to education, like many other economic and social rights, in the country's insecure areas. As mentioned previously, there are no secondary-school girl students in 200 districts and there are no women teachers in 250 districts.¹³⁹ It means that girls face a lot of problems and constraints in accessing their right to education.

School Dropout

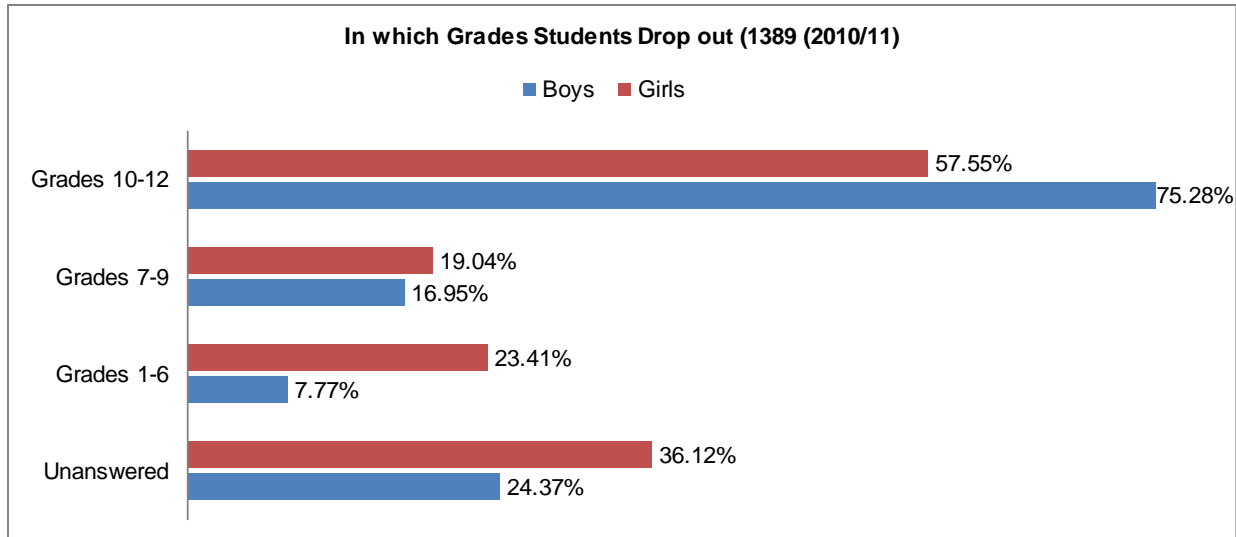
Early school dropout of a significant number of students, especially girl students, is a cause of grave concern concerning the right to education in Afghanistan. The number of girls keeps decreasing as the level of education goes up. According to information provided by MoE officials, in 1388 (2009/10), around 96,000 students graduated from grade 12; only 10 percent of them are girls. This is while the number of girl student graduates was approximately 26 percent in 1387 (2008/09) and more importantly, some 117,000 students graduated from grade 12 in 1389 (2010/11) and only 9 percent of them were girl students.

The AIHRC HRFM findings in 1388 (2009/10), however, reveal that over 52 percent of girl students and nearly 66 percent of boy students who are in grade 6 or above drop out of school. Dropout rate is lesser in lower grades; over 15 percent of girl students and over 10 percent of boy students who are below grade 6 drop out of school. 32 percent of girls and 24 percent of boys did not answer this question.



¹³⁹ Islamic Republic of Afghanistan, Ministry of Education (MoE), interview with Asef Nang, Deputy Minister of Education (Professional), Sunbula 13, 1390 (September 4, 2011).

But in 1389 (2010/11), around 23.4 percent of girls and 7.7 percent of boys who are in grades 1-6 dropped out of school. Approximately 19 percent of girls and nearly 17 percent of boys who are in grades 7-9 are forced to drop out of school. And in grades 10-12, 57.5 percent of girls and over 75 percent of boys cannot continue their education.



The above-mentioned statistics indicates that girls face more educational restrictions than boys in lower grades and are forced to drop out of school. But in higher grades, boys are more vulnerable. Labor, insecurity, and long distance of school are the main causes for why boys are forced to drop out of school. Economic and livelihood responsibilities and forced labor are the main causes for why boys are forced to drop out at higher grades. On the other hand, insecurity, long home-school distance, traditional and customary practices that regard girls' education as unacceptable, early marriages, and lack of girls' schools and women teachers are the most important reasons for girls' school dropout. During the past several years, suspicious attacks have been carried out against schools, particularly girls' schools, and these can further limit girls' right to education.

Children with disabilities face many constraints in exercising their right to education. Disability leads to the humiliation of children in schools. According to some reports, educational facilities are generally inaccessible for children with disabilities in Afghanistan. Of around 200,000 children with permanent disabilities, 75 percent are deprived of education.¹⁴⁰

¹⁴⁰ *Health and Education in Afghanistan*, ACBAR.

Part 7

Cross-Cutting Issues

This section deals with issues that are interrelated with the economic and social rights discussed in this report. Though it is not devoted to the assessment of a specific right as such, this section looks at the general economic and social rights situation of vulnerable groups such as persons with disabilities (PWDs), refugees, internally displaced persons (IDPs), and *kuchis* (nomads). Further, certain issues such as national identification, birth registration, aid effectiveness, and development are discussed in this section. Complementing other sections of this report, these issues can shed light on various dimensions of economic and social rights in the country.

1. Gender

Gender is a sociological concept and is fundamentally different from sex, which is a biological term. Sex refers to the anatomical and physiological differences between man and woman, while gender is related to psychological, social, and cultural differences of men and women.¹⁴¹ Gender does not exist by itself; we all “actualize gender” in our day-to-day interactions. We socially reproduce (i.e. construct and reconstruct) gender in thousands of small daily actions.¹⁴² In principle, social world is a gendered phenomenon; feelings, tendencies, behaviors, social roles, professions, and all institutions have been defined as appropriate for men or women or not, as masculine or feminine.¹⁴³

A major part of social inequalities are gender inequalities. Although scholars point out the effective role of sex differences (biological differences) in social inequalities, the dominant view is that most social inequalities between men and women arise out of masculine and feminine gender roles. These roles are learned through such social agents as family and media. Children gradually internalize their sex-appropriate social standards and expectations through contact and relation with various primary and secondary socialization agents. From this perspective, gender inequalities arise, because men and women are socialized in different roles.¹⁴⁴

Gender inequalities are particularly serious in traditional and underdeveloped societies, where societies are built on the basis of “gender order.” Gender order is one in which men are almost always in a superior position.¹⁴⁵ Socio-political developments in modern and developed societies, especially universal suffrage and women’s social role, transformed men’s and women’s socio-political statuses and turned gender inequalities into wide social gaps between men and women. Gender gaps led to the emergence of feminist movements and those groups in these societies that defended equal rights for men and women. This is while gender inequalities

¹⁴¹ Anthony Giddens, *Sociology*, 4th ed., trans. Hasan Chavoushyan, Tehran, *Nei Publications*, 1387 (2008/09), p. 156.

¹⁴² *Ibid*, p. 155.

¹⁴³ Steven Sidman, *Conflict of Ideas in Sociology*, trans. Hadi Jalili, Tehran, *Nei Publications*, 2nd ed., 1388 (2009/10), pp. 271-272.

¹⁴⁴ Giddens, *ibid*, p. 157.

¹⁴⁵ Sidman, *ibid*, p. 272.

are still deep in traditional societies, which have reduced as a result of efforts made by feminist movements and human rights and women's rights groups, but these inequalities still persist.

Equality of men and women is a basic objective of the United Nations (UN) and human rights organizations, which has been stressed in numerous international conferences and international human rights instruments. For instance, Article 3 of the ICESCR (1966) states, "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant."¹⁴⁶

Article 2 of CEDAW sets out the obligations of member states regarding equality between men and women and the elimination of all forms of discrimination:

"States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women."¹⁴⁷

This Article enshrines the specific obligations of member states, especially the establishment of legal guarantees for the elimination of all forms of inequality and discrimination against women and its criminalization. CEDAW and the Declaration on the Elimination of Violence against Women are the most important international instruments on the eradication of gender inequalities, to which Afghanistan is party.

Similarly, Paragraph 2 of Article 22 of the Afghan Constitution specifies, "The citizens of Afghanistan, man and woman, have equal rights and duties before the law."¹⁴⁸ The Law on the

¹⁴⁶ UN ICESCR (adopted by the United Nations General Assembly on December 16, 1966), Article 3.

¹⁴⁷ CEDAW (adopted by the United Nations General Assembly in 1979), Article 2.

Prohibition of Violence against Women (1388 (2009/10)) has forbidden various forms of violence against women and has set punishments for the perpetrators.

The ANDS has treated gender equality as a cross-cutting issue in all security, governance, and development sectors and various economic and social areas; it has obligated the Government to implement it: “The Government’s vision is to have a peaceful and progressive nation where women and men enjoy security and equal rights and opportunities in all areas of life... this strategy provides a framework for gender mainstreaming in all sectors to advance women’s status in the society, improve their socioeconomic conditions, and increase their access to development opportunities. It is the responsibility of all governmental institutions, both at national and provincial levels, to implement the gender quality strategy.”¹⁴⁹

However, Afghanistan is one of the worst places in the world regarding gender equality. Women face inequalities and even discriminations in diverse spheres of social life, such as education, health, access to and control over resources, access to economic opportunities, justice, and political participation.

There are very limited educational opportunities for girls in most parts of the country, particularly in rural and insecure areas. They encounter with many cultural and traditional constraints in accessing their right to education. In addition, girls have more economic and security vulnerabilities than boys. In poor families, girls have fewer opportunities for schooling and education than boys. Therefore, the first priority is given to boys. Security threats by the armed opposition and fundamentalist groups further constrain girls’ educational opportunities. During the rule of the Taliban, girls could not go to school and their schooling is still obstructed in areas under the control of the Taliban. In recent years, in different parts of the country, including in Kabul city, there have been suspicious attacks on girls’ schools. These problems further limit girls’ educational opportunities.

Despite the considerable increase in the number of girl students in recent years, the ratio of boy students to girl students is still two boys to one girl in primary school and the disparity increases as the level of education goes up.¹⁵⁰ Girls constitute about two-thirds of all children who do not go to school.¹⁵¹ There are no girl students in secondary schools in around 200 districts.¹⁵² Numerous cultural, social, economic, and security challenges cause a large number of girls students not to complete their education and drop out of school at different educational levels. On this basis, the number of girls who can complete their school is much less than that of boys. Of all 61,375 university students in 1388 (2009/10), only 20 percent are girls and the remaining 80 percent are boys. This ratio was around 18 percent of girl university students to 78 percent of

¹⁴⁸ Afghan Constitution (1382 (2003/04)).

¹⁴⁹ ANDS, Summary (1387 (2008/09)-1391 (2012-2013)), pp. 16-17.

¹⁵⁰ Asian Development Bank (ADB), Afghanistan Country Partnership Strategy 2009-2013 (November 2008), p. 10; <<http://www.adb.org/Documents/Translations/Dari/CPS-AFG-2009-2013-da.pdf>> (accessed November 29, 2011).

¹⁵¹ Asian Development Bank (ADB), Country Partnership Strategy (CPS), 2009-2013 (November 2008), p. 93; <<http://www.adb.org/Documents/Translations/Dari/CPS-AFG-2009-2013-da.pdf>> (accessed November 29, 2011).

¹⁵² Interview with Asef Nang, Deputy Minister of Education (Professional), Sunbula 13, 1390 (September 4, 2011).

boy university students in 1387 (2008/09).¹⁵³ (For further information, see the section on the right to education in this report.)

Additionally, the number of women teachers is very low and women teachers face manifold security problems in insecure parts of the country. There is not even one women teacher in 250 districts.¹⁵⁴ There is a higher illiteracy rate among women than men. In the age group over 15, women's literary rate is about 14.1 percent, while it is around 43.2 percent for men.¹⁵⁵

Women also have more vulnerabilities than men in accessing their right to health. They have a very limited access to health services. There is little pre-natal and childbirth healthcare for women. Women cannot enjoy prenatal and childbirth health care and service due to the dominant social and cultural traditions in many parts of the country. Around 53 percent of births take place at home in Kabul and only 45.5 percent of childbirths occur with the help of a trained birth attendant. In 28 of all 34 provinces, about 90 percent of women give birth at home and less than 10 percent enjoy specialized assistance in 24 provinces.¹⁵⁶ Maternal mortality rate is 1,600 in every 100,000 live births, which is one of the highest in the entire world.¹⁵⁷ According to the available data, one in every six Afghan women dies at childbirth; one Afghan woman dies every 30 minutes due to delivery complications.¹⁵⁸

There are few women doctors and nurses in the country. Women constitute nearly 44 percent of doctors in governmental health centers (517 women doctors for 1,183 men doctors) and women constitute around 18 percent of nurses (805 women nurses for 4,563 men nurses). In addition, around 27 percent of health services lack women health workers.¹⁵⁹ (For further information, see the section on the right to health in this report.)

Women also have limited access to economic opportunities compared to men. Less than half of qualified women (about 47 percent) are employed in the marketplace compared to 86 percent of men; most of these women work in low-quality and less profitable jobs.¹⁶⁰ Despite this, women's economic activities take place more in informal sectors or at home; this is mostly not considered as a valuable, income-generating economic activity. In most rural areas across the country, women play a role in activities, such as agriculture and livestock, and their participation is around 60 to 70 percent.¹⁶¹

In 1390 (2010/11), women constituted about 20 percent of Government employees and around half of all ministries and governmental institutions have less than 10 percent of women as part of

¹⁵³ Islamic Republic of Afghanistan, Central Statistics Office (CSO), *Statistical Calendar (1388 (2009/10))*, CSO Printing Press, Mizan 1389 (September/October 2010), p. 37.

¹⁵⁴ Interview with Asef Nang, Deputy Minister of Education (Professional), Sunbula 13, 1390 (September 4, 2011).

¹⁵⁵ Asian Development Bank (ADB), Country Partnership Strategy (CPS), 2009-2013 (November 2008), p. 93; <<http://www.adb.org/Documents/Translations/Dari/CPS-AFG-2009-2013-da.pdf>> (accessed November 29, 2011).

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Asian Development Bank (ADB), Afghanistan Country Partnership Strategy 2009-2013 (November 2008), p. 10; <<http://www.adb.org/Documents/Translations/Dari/CPS-AFG-2009-2013-da.pdf>> (accessed November 29, 2011).

¹⁵⁹ Interview with Ehsanullah Shahir, Director of Cadre and Personnel, MoPH, Islamic Republic of Afghanistan, Mizan 13, 1390 (October 5, 2011).

¹⁶⁰ Central Statistics Office (CSO), *NRVA 1386/87 (2007/08/2008/09)*, printed at Jaihun Printing Press.

¹⁶¹ Ibid.

their personnel. Over 50 percent of women work in ordinary positions as those who have completed their high-school education. This is while women constituted 22.3 percent of civil servants in 2006 and this was 31.2 percent in 2005.¹⁶² This statistical information indicates that women's presence has decreased in the governmental institutions. (For further information, see the section on the right to work in this report.)

Women also face deprivations related to their right to property, especially owning cash and holding control over their property. Women who work in the informal sector and who do not receive salary payments in practice are deprived of their right to property and to hold control over their property and wealth. Deprivation from the right to property and owning cash has huge impacts and implications for the enjoyment of other rights, such as the rights to health, education, participation in development, and even marriage. On the one hand, women do not have independent financial capabilities and cannot meet their needs, and, on the other hand, they are always dependent on men and enjoy less social respect in the family and society, because they do not have independent financial capabilities.

Women face many limitations with regard to political participation and participation in development. They do not take part in socio-political decision-making in most parts of the country and encounter with manifold cultural and traditional constraints and challenges. Women have less participation than men in the recent elections in many parts of the country, especially in insecure areas. Women constitute only 27.7 percent of parliamentarians, which include 69 out of all 249 parliamentarians. As previously mentioned, there has been a sharp decrease in the number of Government's female employees, falling from 31 percent in 2005 to 20 percent in 2010. Women have very limited presence and role in the reconciliation process, constituting only 9 out of 70 members of the High Peace Council. Additionally, the reconciliation process has given rise to many concerns for women. According to a report by Action Aid, 86 percent of Afghan women have expressed their concern about the return of the Taliban.¹⁶³

Women have been deprived of the benefits of development projects and social services. The AIHRC HRFM data confirm this point. According to the data, nearly 70 percent of interviewees who stated that they have been deprived of these projects and services reasoned that they were "women." (For further information, see the section on aid effectiveness and participation in development in the present report.)

Domestic violence and discrimination are serious challenges facing women. Women face these problems in various manifestations. Due to traditional practices that isolate them, women have been constrained within home and have very limited access to social, legal, medical, or economic protection care or advice.¹⁶⁴ Based on the AIHRC data, 18,580 cases of violence against women have so far been recorded by the Commission since 1382 (2003/04). In 1388 (2009/10), around 2,260 cases of violence against women were recorded, which increased to 2,765 cases in 1389 (2010/11). These include different kinds of violence, such as self-immolation, suicide, honor

¹⁶² ANDS (1387 (2008/09)-1391 (2012-2913)), Gender Strategy, p. 9.

¹⁶³ Action Aid, A just peace? The legacy of war for the women of Afghanistan, October 3, 2011; <http://www.actionaid.org/sites/files/actionaid/a_just_peace.pdf> (accessed November 3, 2011).

¹⁶⁴ ADB, *ibid*, p. 94.

killings, humiliation and insult, threat, forced marriage, abortion, beating, and so on. (For further information, see the section on the right to marry and found a family in the present report.)

Women have very limited access to the justice system. Most of them cannot refer their cases to the competent justice institutions. Family and the social environment do not allow them to do so. In addition to this, both formal and informal justice systems treat women's offences harshly and discriminatorily. Women rarely maintain their property and capital in civil cases.¹⁶⁵

Although efforts have been made to eliminate gender inequalities in various sectors in the country, the situation is one of gender inequality to the detriment of women. The current view on gender and gender inequality is flawed. The view is quantitative in the governmental and civil society institutions, which are concerned with increasing the level of women's presence quantitatively rather than qualitatively. Women's qualitative presence can strengthen their capabilities, such as literacy and professionalism, thereby promoting their status in policy- and decision-making processes. The existing quantitative view further weakens women and as a result, they cannot play an effective role in eliminating gender inequalities. This also slows down the process to eliminate gender inequalities in the society. Low literacy and public awareness rates, especially among women, is another contributing factor.

2. Persons with Disabilities

Disability is a perennial phenomenon that is almost always regarded as vulnerability in the human community. It is more prevalent in societies that have passed through war, unrest, and natural calamity and have little facilities and resources with regard to economy and health. War and its aftermath play a major role in disability.

Disability of hundreds of thousands of people is a major consequence of over three decades of war and insecurity in Afghanistan. In addition to people who were disabled during the armed conflict, many people were victims of millions of mines and other unexploded ordnance. In 2001, an average number of 138 people were victimized by mines on a monthly basis. This was reduced to 55 people per month in subsequent years,¹⁶⁶ but rising insecurity, suicide attacks by Taliban and other armed opposition groups, and improvised electronic device (IED) attacks increased the number of victims. Mounting insecurity, war, and suicide bombing leads to the disability of the injured. Moreover, war's psychological aftermath spread mental disability among the population.

According to the definition in the Convention on the Rights of Persons with Disabilities adopted by the United Nations in 2006, PWDs "include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others." Afghanistan's Law on the Rights and Privileges of Persons with Disabilities of 1389 (2010/11), in its Paragraph 1, Article 2, defines a person with disability as one who "due to physical, sensory, intellectual, and

¹⁶⁵ ADB, *ibid*, p. 93.

¹⁶⁶ Afghanistan Independent Human Rights Commission (AIHRC), "Fourth Report on Economic and Social Rights in Afghanistan," 1388 (2009/10), Kabul, Afghanistan, p. 16.

mental impairment, as determined by the Disability Health Commission, loses his/her integrity and efficiency in a way that reduces his/her capacity in social and economic areas.”

The Law on the Rights and Privileges of Persons with Disabilities has divided PWDs into two categories:

Full PWDs: These are PWDs whose disability is over 60 percent as determined by the Disability Health Commission.

Partial PWDs: These are PWDs whose disability is 30 to 60 percent as determined by the Disability Health Commission.

The Afghan National Disability Survey conducted by Handicap International (HI) in cooperation with the Ministry of Labor and Social Affairs (MoLSA) has differentiated between five categories of disability:

1. Physical disability that constitutes the highest number of PWDs, covering around 36 percent of all PWDs.
2. Sensory disability that includes the disability related to any of the five sensory organs, covering around 26 percent of all PWDs. Persons with visual and auditory impairment constitute the majority of these PWDs.
3. Mental disorders that cover around 19 percent of all PWDs.
4. Mixed or compounded disability characterized by the existence of more than one kind of disability that covers 9 percent of all PWDs.
5. Intellectual disability that covers 10 percent of all PWDs.

According to the definition of disability in the Convention on the Rights of Persons with Disabilities and the Law on the Rights and Privileges of Persons with Disabilities, disability can be physical, sensory, and mental. Afghanistan’s PWD protection law has differentiated between intellectual and mental disabilities. Nonetheless, the public perception of disability in Afghanistan is one of physical and bodily disability and less attention has been paid to other forms of disability. This has led to distinction and discrimination in social treatment and protection of different PWD groups. As clarified in the definition, disability reduces a person’s social, economic, and cultural performance. This reduced performance is also a characteristic of other forms of disability.

There are no exact statistics on the number of PWDs in Afghanistan. The National Risk and Vulnerability Assessment (NRVA) of 1386/87 (2007/08/2008/09) sets the number of PWDs at 406,000, accounting for 1.6 percent of the total population. NRVA adds that around 188,000 of PWDs suffer from more than one kind of disability.¹⁶⁷ In spite of this, the Afghan National Disability Survey conducted by Handicap International (HI) in cooperation with the Ministry of Labor and Social Affairs (MoLSA) in 2006 indicates that there are approximately 800,000 PWDs in Afghanistan, constituting about 2.7 percent of the total population, meaning that there is one PWD in every five families. Therefore, the actual number of PWDs is higher in

¹⁶⁷ Paul, P. (2007/2008), “National Risk and Vulnerability Assessment (NRVA): A Profile of Afghanistan,” Kabul, Afghanistan, ICON Institute.

Afghanistan. MoLSA has only registered war PWDs; as a result, around 77,748 war PDWs have been recorded all over Afghanistan until early 1390 (2011). This also includes PDWs affected by war.¹⁶⁸ There are more PWDs in cities than in villages; for instance, 3.6 to 3.9 percent of Kabul City's inhabitants are PWDs.¹⁶⁹

As previously mentioned, war is the major cause of disability in Afghanistan. War has either directly or indirectly led to disability. A large group of people apparently regarded as congenital PWDs have been indirectly affected by war; around 27 percent of PWDs have been affected by war. The number of war-affected PWDs has certainly been increasing, given the escalation of fighting since 1388 (2009/10).¹⁷⁰

Disability is more prevalent among men than women. Based on an HI survey, around 59 percent of PWDs are men and around 41 percent women. There are approximately 196,000 children with disabilities in Afghanistan; 109,800 are boys and 86,200 are girls.¹⁷¹ Further, according to NRVA, about 82 percent of those disabled in war, mine explosion, or detonation of unexploded ordnance are men. Sickness- and ageing-related disability is more prevalent among women than men.¹⁷² In the AIHRC Human Rights Field Monitoring (HRFM), around 3.2 percent of interviewees stated that they lived in families headed by PWDs.

Hence, PWDs are a major vulnerable group in the Afghan society that is in need of special protection. The Afghan Government ratified the Convention on the Rights of Persons with Disabilities and the Law on the Rights and Privileges of Persons with Disabilities in 1389 (2010/11).

The Afghanistan National Development Strategy (ANDS) regards the protection of PWD rights as a strategic objective for the Government and sets out that by the end of 1389 (2010/11), measures will be taken to improve the living conditions of PWDs and meet their special needs by reintegrating them in the society through the creation of education and employment opportunities.¹⁷³ Article 3 of the Law on the Rights and Privileges of Persons with Disabilities assigns MoLSA and other pertinent organizations with the duty to provide the social protection and rehabilitation of PWDs so that they can actively participate in the social sphere.¹⁷⁴

It seems that the Government has not taken serious and successful measures to realize these goals. The Law on the Rights and Privileges of Persons with Disabilities stipulates that PWDs

¹⁶⁸ Interview with Sadeq Mohebbi, Senior Advocacy and Communication Advisor to MoLSA, Sunbula 1, 1390 (August 23, 2011).

¹⁶⁹ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

¹⁷⁰ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

¹⁷¹ Interview with Sadeq Mohebbi, Senior Advocacy and Communication Advisor to MoLSA, Sunbula 1, 1390 (August 23, 2011).

¹⁷² Paul, P. (2007/2008), "National Risk and Vulnerability Assessment (NRVA): A Profile of Afghanistan," Kabul, Afghanistan, ICON Institute.

¹⁷³ Afghanistan National Development Strategy (ANDS) (1387(2008/09)-1391(2012/13)), Seventh Pillar: Social Responsibility Sector.

¹⁷⁴ Official Gazette, *Law on the Rights and Privileges of Persons with Disabilities*, no. 1,037, Article 3, Sunbula 15, 1389 (September 6, 2010).

should comprise three percent of all Government employees, but they currently form less than one percent of Government employees and if they are Government employees, they serve in less-income-generating positions.¹⁷⁵ Two-thirds of families headed by PWDs have very limited access to adequate food and one member in one in ten such families has access to adequate food.¹⁷⁶ PWDs have a lower chance than others to use private resources such as land. They are sometimes forced to rent their land to others for cultivation purposes or enter into such partnerships; as a result, they lose control over their benefits arising from agriculture.¹⁷⁷

According to the Law on the Rights and Privileges of Persons with Disabilities, PWD Rehabilitation Centers should be established in provincial centers and PWDs should constitute around ten percent of beneficiaries of skills development and training programs. The Law also stipulates special protection for PWDs in education and land allocation areas. The Government has not taken effective measures to meet the needs and expectations of the country's PWD community.¹⁷⁸ Around 80 percent of skills development and vocational training projects and education and training programs are implemented by non-governmental organizations (NGOs) and the Government implements only 20 percent of such projects and programs. These projects and programs have had an output rate of 30 percent due to lack of coordination, poor quality, and incompatibility with marketplace.¹⁷⁹ Rural and outlying areas are more deprived than urban areas from protection and rehabilitation programs.

In the past two years, PWD education and training programs have increased and efforts have been made to:

- Enroll more children with disabilities in the school system;
- Provide special training for PWDs, especially those with visual and auditory impairment; and
- Hold literacy courses for illiterate PWDs.¹⁸⁰

Nonetheless, these programs have not been able to adequately address PWD problems and needs and they have responded to less than 50 percent of PWD needs.¹⁸¹

According to MoLSA, approximately 84,000 PWDs are financially assisted by the Government.¹⁸² This means a monthly stipend of Afs600 to Afs2,250 for each one of these

¹⁷⁵ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

¹⁷⁶ IOM, I.O. (2009, 89), "Italy Back IOM Reintegration Program in Western Afghanistan," retrieved October 25, 2011, from IOM, International Organization for Migration: <<http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAS/cache/offonce/lang/en?entryId=26138>>.

¹⁷⁷ Ibid.

¹⁷⁸ Interview with Hajji Ahmad Shah Azami, Program Manager, CCD, Sunbula 2, 1390 (August 24, 2011) and with Sadeq Mohebbi, Senior Advocacy and Communication Advisor to MoLSA, Sunbula 1, 1390 (August 23, 2011).

¹⁷⁹ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

¹⁸⁰ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

¹⁸¹ Interview with Hajji Ahmad Shah Azami, Program Manager, CCD, Sunbula 2, 1390 (August 24, 2011).

¹⁸² Interview with Wasil Noor Mohmand, Deputy Minister for Social Affairs, MoLSA, Sunbula 14, 1390 (September 5, 2011).

PWDs. On the whole, this financial assistance can never suffice the needs of PWDs and their families.¹⁸³

PWDs are also subject to discrimination, especially in their efforts to gain employment. This is mainly because of lack of trust in PWD capabilities as well as lack of capacity in PWDs, and lack of PWD access to job openings.¹⁸⁴ Disability sometimes leads to PWD humiliation and stigmatization in the society's traditionalist culture, even resulting in social ostracism and further limiting their enjoyment of social services and opportunities; for instance, a child with disabilities has 50 percent chance less than a child without disabilities for schooling. Men with disabilities have 50 percent less chance than men without disabilities to find employment and women with disabilities have 75 percent less chance than women without disabilities to find employment.¹⁸⁵

Although the enactment of the Law on the Rights and Privileges of Persons with Disabilities in 1389 (2010/11) was an achievement for the Afghan Government, the Law is defective and sometimes discriminatory. The Law emphasizes non-discrimination in disability and stipulates, "Persons with disabilities have an equal right to participation in social, economic, political, cultural, education and training, and recreational and sports areas without discrimination."¹⁸⁶ At the same time, the Law categorizes and discriminates between PWDs. The Law gives more privilege to war PWDs than to congenital PWDs. The Law is also silent on persons who become disabled due to natural disasters or traffic incidents or ailments. There is no mention of sensory, intellectual, and mental disability in the Law and the legal status of persons suffering from these disabilities is, thus, unclear. Furthermore, Articles 7 and 10 of the Law discriminates between war PWDs from the perspective of conflict phases and their affiliation to certain conflict groups. The Law gives more privilege to *mujahidin* PWDs than to others, although there is no discrimination in the determination of rights and privileges in the Law.

There is sometimes discrimination among PWDs themselves. War PWDs, especially PWDs belonging to *jihad* period and diverse *mujahidin* groups, discriminate against other categories of PWDs belonging to other conflict phases or persons that became disabled as a result of natural disasters or persons with sensory or mental disabilities. This discriminatory treatment is rooted in the Afghan social fabric and customs and traditions. In specific terms, persons with intellectual or mental disabilities are severely discriminated against and humiliated; their human dignity and worth is not respected.

3. Refugees, Returnees, and Internally Displaced Persons

Over three decades of conflict and increasing insecurity in recent years have caused millions of Afghans to seek asylum in different countries or be displaced internally. Poor economy, unemployment, and drought are the factors leading to people's migration and internal

¹⁸³ Interview with Hajji Ahmad Shah Azami, Program Manager, CCD, Sunbula 2, 1390 (August 24, 2011).

¹⁸⁴ Interview with Abdul Ali Forough, Social Affairs Adviser to the Ministry of Labor and Social Affairs (MoLSA), Sunbula 16, 1390 (September 7, 2011).

¹⁸⁵ OHCHR, March 2010, *Poverty Report*, United Nations Human Rights; <http://www2.ohchr.org/SPdocs/Countries/AF/PovertyReport_30032010_Dari.doc> (accessed October 31, 2011).

¹⁸⁶ Official Gazette, *Law on the Rights and Privileges of Persons with Disabilities*, no. 1,037, Article 15, Sunbula 15, 1389 (September 6, 2010).

displacement. The fall of the Taliban and the establishment of the new political system gave new hope to people in the future of Afghanistan and as a result, many refugees returned to the country. Despite this, Afghanistan is still a country with a high number of refugees abroad, where the number of its migrants and IDPs is increasing on a daily basis.

Migrants, refugees, returnees, and IDPs are among social vulnerable groups in need of special attention and protection. The benchmark in the Afghanistan Compact regarding migrants/refugees, returnees, and IDPs is as follows: By the end of 1389 (2010), “all refugees opting to return and internally displaced persons will be provided assistance for rehabilitation and integration in their local communities; their integration will be supported by national development programmes, particularly in key areas of return.”¹⁸⁷

In order to address challenges concerning migrants/refugees in Iran and Pakistan and concerning people’s travel in the region, the Afghan Government has implemented a number of strategies that have political and practical dimensions. These strategies provide the following: (1) voluntary repatriation of migrants/refugees from Iran, Pakistan, and elsewhere; (2) practical and understandable reintegration programs; (3) better management of people’s travel and economic migration; (4) people’s concerns about long-term stay in migration; and (5) capacity-building for the Afghan Government for planning, preparing for, and addressing IDP crises.¹⁸⁸

A. Migrants and Refugees

Although over five million Afghans have repatriated since 2002, around 5,030,000 Afghans still live overseas, according to statistics provided by the Ministry of Refugees and Repatriation (MoRR). Of these, approximately 62 percent (3,130,000) are registered and the rest unregistered. Of all refugees, 46 percent (2,330,000) live in Iran, 44 percent (2,200,000) in Pakistan, and the remaining in other countries around the world. The majority of unregistered refugees live in Iran and Pakistan.¹⁸⁹ The duration of stay of Afghan refugees in Iran and Pakistan ranges from three to 30 years.¹⁹⁰ Around 80 percent of them have lived there for over 20 years and approximately 50 percent of them have been born there.¹⁹¹

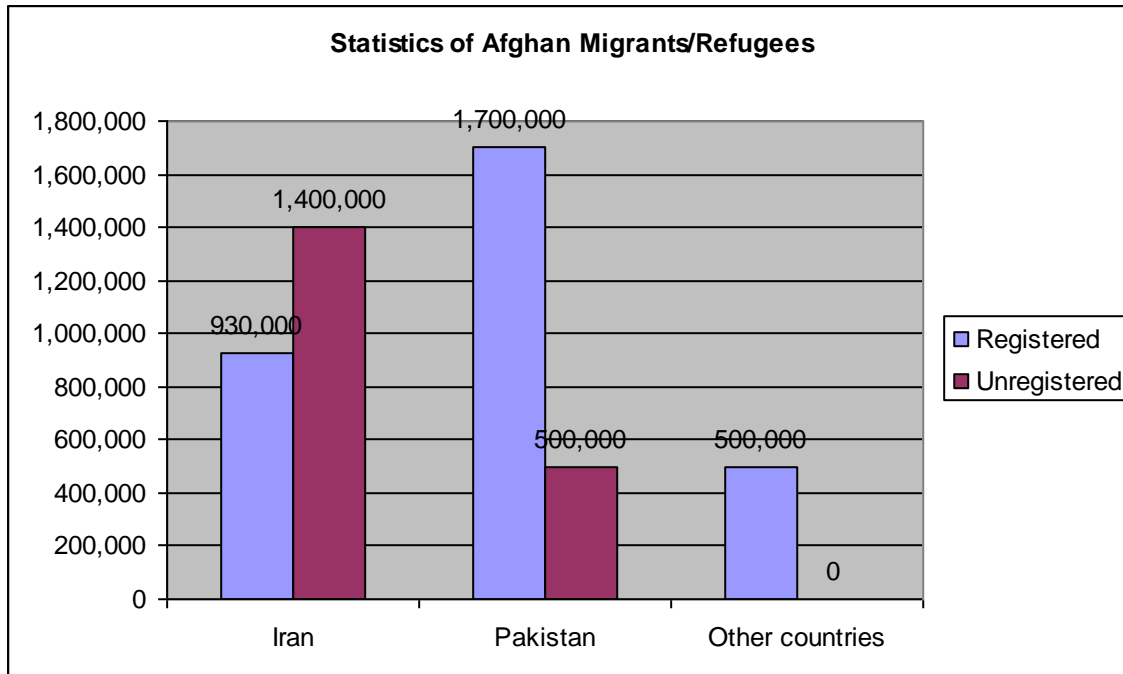
¹⁸⁷ Refugees and IDPs Sector Strategy (1387 (2008/09)-1391 (2012/13)), MoRR; <http://morr.gov.af/Content/Media/Documents/DariRefugeeStrategy_final1992011829118381458322570.pdf> (accessed Mizan 25, 1390 (October 17, 2011)).

¹⁸⁸ Ibid.

¹⁸⁹ Interview with Mohammad Humayun Yunusi, Head of Planning and Liaison Department of Ministry of Refugees and Repatriation (MoRR), Sunbula 21, 1390 (September 12, 2011).

¹⁹⁰ Interview with Khair Mohammad Yusufzai, Chief Monitoring Officer for Violations Related to Agreements, MoRR, Sunbula 26, 1390 (September 17, 2011).

¹⁹¹ Refugees, Returnees, and Internally Displaced Persons Sector Strategy (1387(2008/09)-1391(2012/13)), MoRR; <http://morr.gov.af/Content/Media/Documents/DariRefugeeStrategy_final1992011829118381458322570.pdf> (accessed Mizan 25, 1390 (October 17, 2011)).



Source: Planning and Liaison Department, MoRR

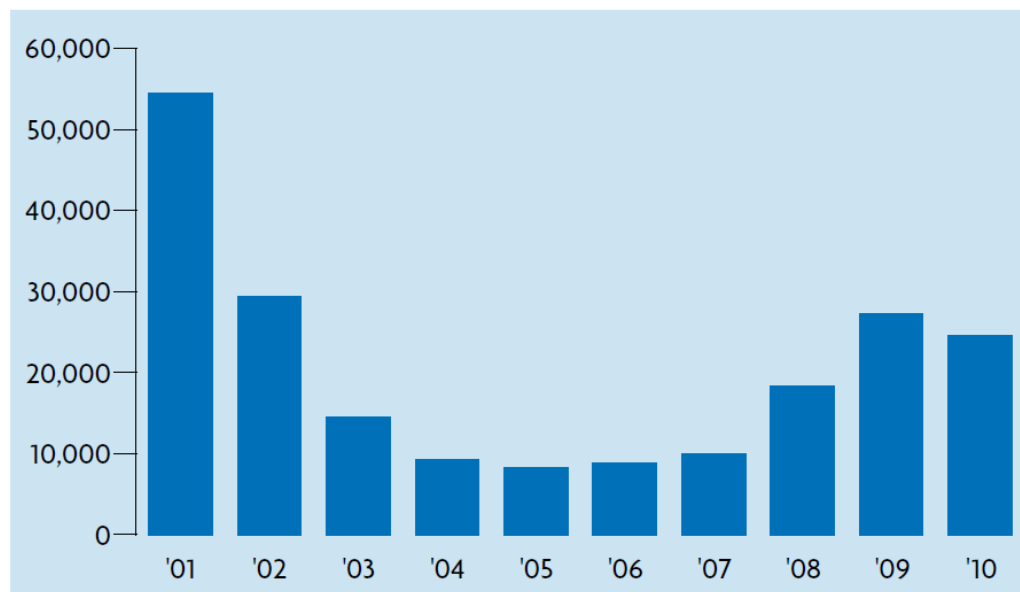
Though the repatriation process was accelerated following the downfall of the Taliban, this process slowed down from 2005 onwards. Rising conflict and insecurity, instability, uncertain future, unemployment, poverty, rampant corruption, and Government's failure to provide an adequate standard of living for people caused a new wave of migration in recent years and thousands of people started migrating to or seeking asylum in other countries. In addition to these factors, drought and the resultant loss of opportunities related to livestock and agriculture compelled many Afghans to leave the country for economic migration, mainly for work. A large number of poor families depend on remittances sent home by their migrant members. In general, around 7 percent of all families have a migrant worker outside the country, 6 percent have sent a family member for employment to another place within the country, and 14 percent have members who are seasonal migrant workers. Migrant workers are exclusively men who constitute approximately 94 percent of internal migrant workers and 98 percent of overseas migrant workers.¹⁹²

At look at motivations for migration shows that the Afghan people, especially refugees, have a specific picture of their future and the future of their country. Most recently migrated young people leave the country for asylum in Europe, North America, and Australia. Only those who have major family responsibilities and cannot, therefore, leave home for a long time or do not have the necessary economic means for migrating to farther countries leave the country for employment in neighboring and regional countries, especially Iran and Pakistan. This categorization indicates that most young people do not have hope and trust in the future of the country and look for safe asylum and life elsewhere. Mounting conflict and insecurity, poverty,

¹⁹² Paul, P. (2007/2008), "National Risk and Vulnerability Assessment (NRVA): A Profile of Afghanistan," Kabul, Afghanistan, ICON Institute.

unemployment of young people, rampant corruption in the Government, and prejudice eliminate chances for hope and trust in future.

FIGURE 7 Afghan asylum claims lodged in 44 industrialized countries | 2001-2010



Source: UN High Commissioner for Refugees (UNHCR) website¹⁹³

Afghan migration considerably reduced from 2001 to 2005, but it remarkably increased afterwards, in industrialized and developed countries. According to a UNHCR report, with 27,151 asylum claims in 2009, Afghanistan was the largest source country of asylum-seekers to industrialized and developed countries, comprising 7.4 percent of all asylum claims (368,085) in that year. In 2010, Afghanistan had 24,769 asylum claims, comprising 7.1 percent of all asylum claims (347,131) in that year, and ranked second after Serbia. Norway and the UK have respectively received 3,900 and 3,500 asylum claims from Afghans; they were, thus, the main destinations of Afghan asylum-seekers in 2009, but Germany and Sweden, with the receipt of 5,900 and 2,400 asylum claims respectively, replaced Norway and the UK as the main destinations of Afghan asylum-seekers in 2010. All in all, European countries have received 93.6 percent of all Afghan asylum claims (48,600 out of total 51,920 asylum claims) in 2009 and 2010 and they, therefore, constitute the main destinations of asylum-seekers from Afghanistan. Then is Australia that received 2,203 asylum claims from Afghans, comprising 4.2 percent of all Afghan asylum claims.¹⁹⁴

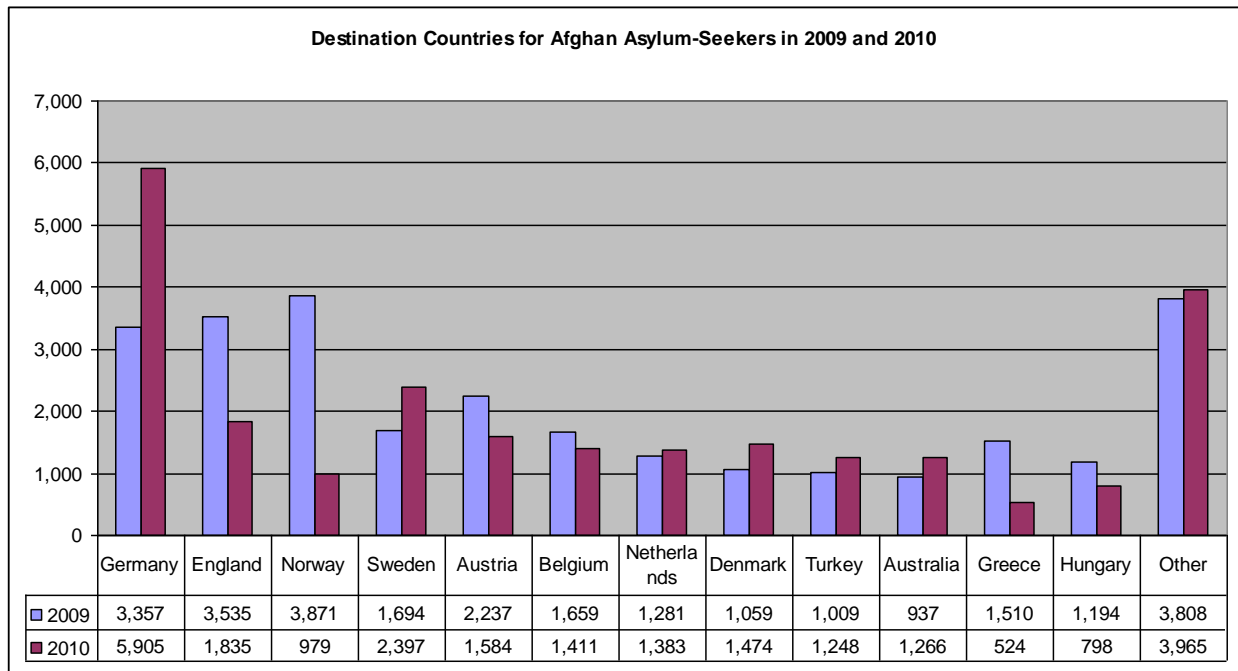
¹⁹³

http://www.unhcr.de/fileadmin/user_upload/dokumente/06_service/zahlen_und_statistik/2011aAsylumTrendsIndus.pdf.

¹⁹⁴ UNHCR (March 28, 2011), Asylum Levels and Trends in Industrialized Countries 2010;

http://www.unhcr.de/fileadmin/user_upload/dokumente/06_service/zahlen_und_statistik/2010AsylumTrendsIndus.pdf (accessed October 23, 2011).

Although the number of Afghan asylum-seekers in 2010 dropped by around nine percent compared to the previous year, a UNHCR report for the first half of 2011 indicates that Afghanistan with approximately 15,300 asylum claims has again become the largest source country for asylum-seekers in the world. The trend has seen an increase of 20 percent in the first six months of 2011 compared to the same period in 2010.¹⁹⁵



Source: UNHCR website¹⁹⁶

Increasing migration and asylum-seeking due to rising insecurity, war, poverty, unemployment, and corruption has added to hopelessness and mistrust in migrants and asylum-seekers, who take serious risks to reach to their destination countries. They continue to face manifold problems while in migration or asylum. They have been subjected to harassment and humiliation in host countries and face restrictions in the enjoyment of their human rights.

Greece is one country where Afghan migrants encounter many challenges. After his trip to assess the situation of Afghan migrants and refugees in a number of European countries, Minister for Refugees and Repatriation Jamahir Anwari stated that approximately 65,000 Afghan migrants live in Greece and they are harassed and even beaten by the Greek police and nationalist groups. Of these migrants, only 71 persons have been awarded residence and nationality certificates and the rest live in very poor conditions.¹⁹⁷

¹⁹⁵ UNHCR (March 28, 2011), Asylum Levels and Trends in Industrialized Countries 2010; <http://www.unhcr.de/fileadmin/user_upload/dokumente/06_service/zahlen_und_statistik/2010AsylumTrendsIndus.pdf> (accessed October 23, 2011).

¹⁹⁶ <http://www.unhcr.de/fileadmin/user_upload/dokumente/06_service/zahlen_und_statistik/2011aAsylumTrendsIndus.pdf>.

¹⁹⁷ Maiwand Fada, [Jamahir] Anwari: Tens of thousands of Afghan asylum-seekers live in an unfavorable situation in Greece, September 26, 2011; <<http://www.pajhwok.com/dr/migration>> (accessed October 24, 2011).

Greece is the way for migrants and asylum-seekers to cross to Western and Northern Europe. Many of these asylum-seekers do not intend to remain in Greece and they have, therefore, not registered in the relevant police offices. As a result, they lack access to health services. On the other hand, these asylum-seekers suffer from traumatic stress and the number of addicts is rising among them. There are hundreds of Afghan asylum-seekers in Greece who are drug addicts. Many of the addicts have separated from their families after becoming drug addicts and have adopted a street lifestyle. There are reports that some of these addicts suffer from HIV/AIDS. The situation of children among these asylum-seekers is of grave concern. In addition to a lack of access to health services, many children suffer from malnutrition. Some have been forced to sell things on streets in Athens. Since they do not have enough money on them to cross Greece all together, some of the asylum-seekers have left their children in Greece and they themselves have moved to other countries. So far at least 12 children live in this situation and do not know where their parents are. They are most prone to psychological trauma.¹⁹⁸

The Afghan Government is yet to have a political representation in Greece and is, hence, unable to deal with the problems of its migrants and asylum-seekers there. The responsibility to deal with Afghan migrants in Greece has been placed on the Afghan Embassy in Bulgaria, but Minister for Refugees and Repatriation Jamahir Anwari expressed his dissatisfaction with the little work the Afghan Embassy in Bulgaria has done to help Afghan asylum-seekers in Greece. He said, “UNHCR does not pay attention to Afghan asylum-seekers. Instead it is giving priority to asylum-seekers from insecure Arab countries.”¹⁹⁹

Afghan migrants in Iran and Pakistan too face many problems. Afghan migrants, especially those who have illegally migrated, are deprived of many of their human rights in Iran. They are harassed and humiliated by the Iranian police and people. Most migrant workers are undocumented and they work in informal economy and do not sometimes receive their wages. Since they have migrated illegally, they lack legal protection for their right to work, including receiving their wages and remunerations. Employers sometimes abuse their vulnerability and force them into hard labor.²⁰⁰

Rising living cost is another major problem for Afghan migrants in Iran. This is caused by changes in the subsidy program made by the Iranian Government about a year ago,²⁰¹ as a result of which food, water, electricity, and other basic prices increased. Migrant families in Iran are

¹⁹⁸ BBC Persian, Ahang Nasir, Sunbula 19, 1390 (September 10, 2011), “Afghan asylum-seekers in Greece, homeless and worried”; <http://www.bbc.co.uk/persian/afghanistan/2011/09/110910_k02-afghan-refugees-greece.shtml> (accessed October 24, 2011).

¹⁹⁹ Maiwand Fada, [Jamahir] Anwari: Tens of thousands of Afghan asylum-seekers live in an unfavorable situation in Greece, September 26, 2011; <<http://www.pajhwok.com/dr/migration>> (accessed October 24, 2011).

²⁰⁰ AIHRC, *Study on Causes and Consequences of Trafficking in Women and Children in Afghanistan*, 1390 (2011); <http://www.aihrc.org.af/2010_dari/Dri_Pages/Reports/thematic/Qachaqe_Zanan_va_Atfaal.pdf> (accessed Aqrab 5, 1390 (October 27, 2011)).

²⁰¹ Subsidy is, in fact, governmental financial assistance out of public funds to keep low the prices of goods and services, making it possible for public people to access the goods and services. The change in the subsidy program is aimed at stopping this governmental financial assistance, but this assistance is instead credited in citizens' bank accounts in cash. As a result of this change in the scheme, the prices of goods and services will rise in the marketplace; as a result, migrant and citizens of other countries, who do not receive subsidy in cash, are forced to pay much more to continue to use the goods and services.

not interested to return due to insecurity, war, homelessness, lack of employment opportunities, and drought in Afghanistan, but continue to face serious economic and living problems there.

Additionally, most migrant children lack access to education in Iranian public schools. There are also complaints that Afghan migrants face obstacles to access health services in Iran. Afghan migrants in Pakistan face, more or less, similar problems.²⁰²

The Afghan Government has not taken effective measures to protect its migrant population. Afghan migrants, especially in Iran, encounter increasing problems and pressures from the Iranian Government. Recently the Iranian Government has started to implement a program, according to which illegal Afghan migrants are forced to return to Afghanistan, but can re-enter Iran with Iranian visas. The program has been rejected by the Afghan MoRR and Islamuddin Jur'at, Head of Public Relations at the Ministry, has said that the Afghan Government has not had such an agreement with the Iranian Government. He called the Iranian move as unilateral and involuntary.²⁰³

B. Returnees

As already mentioned, the repatriation of refugees was accelerated in 2002 and over five million Afghans returned to their country. Around four million were assisted by the UNHCR, International Organization for Migration (IOM), the Afghan Government, and foreign and domestic NGOs in their repatriation back to Afghanistan. Most of them returned from Iran and Pakistan with men constituting 52% and women constituting 48% of all returnees.²⁰⁴

There was a decrease in repatriation levels since 1386 (2007/08), due to deteriorating security situation, unemployment, poverty, drought, and lack of an adequate standard of living. Despite this, a large number of Afghans migrants/refugees were forced to return back to Afghanistan particularly from Iran and Pakistan because of migration- and asylum-related pressures and deprivations. UNHCR 2010 report shows that over 118,000 Afghan migrants were assisted by it to voluntarily repatriate to Afghanistan. This is twice the total number of migrants/refugees whose repatriation was assisted by UNHCR in 2009 (approximately 54,500 persons).²⁰⁵

Based on statistical information provided by the MoRR, around 226,306 migrants/refugees voluntarily repatriated to Afghanistan in 1388 (2009/10) and 1389 (2010/11).²⁰⁶ Most of migrants/refugees whose repatriation was assisted by the UNHCR in 2010 returned back to the

²⁰² BBC Persian, Mizan 23, 1390 (October 15, 2011), "Afghan refugee affairs minister talks about the problems of Afghan asylum-seekers," <http://www.bbc.co.uk/persian/afghanistan/2011/10/111014_109_afghan_refugee_ministry.shtml> (accessed Aqrab 2, 1390 (October 24, 2011)).

²⁰³ Pajhwok Afghan News, Quraishi, Ahmad, (August 9, 2011), "Refugee affairs ministry: New Iranian plan for expulsion of Afghan migrants is not acceptable," <<http://www.pajhwok.com/dr/migration>> (accessed October 29, 2011).

²⁰⁴ Refugees, Returnees, and Internally Displaced Persons Sector Strategy (1387(2008/09)-1391(2012/13)), MoRR; <http://morr.gov.af/Content/Media/Documents/DariRefugeeStrategy_final1992011829118381458322570.pdf> (accessed Mizan 25, 1390 (October 17, 2011)).

²⁰⁵ UNHCR (2011), 2011 UNHCR Country Operations Profile – Afghanistan, UNHCR, The UN Refugee Agency; <<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6>> (accessed October 19, 2011).

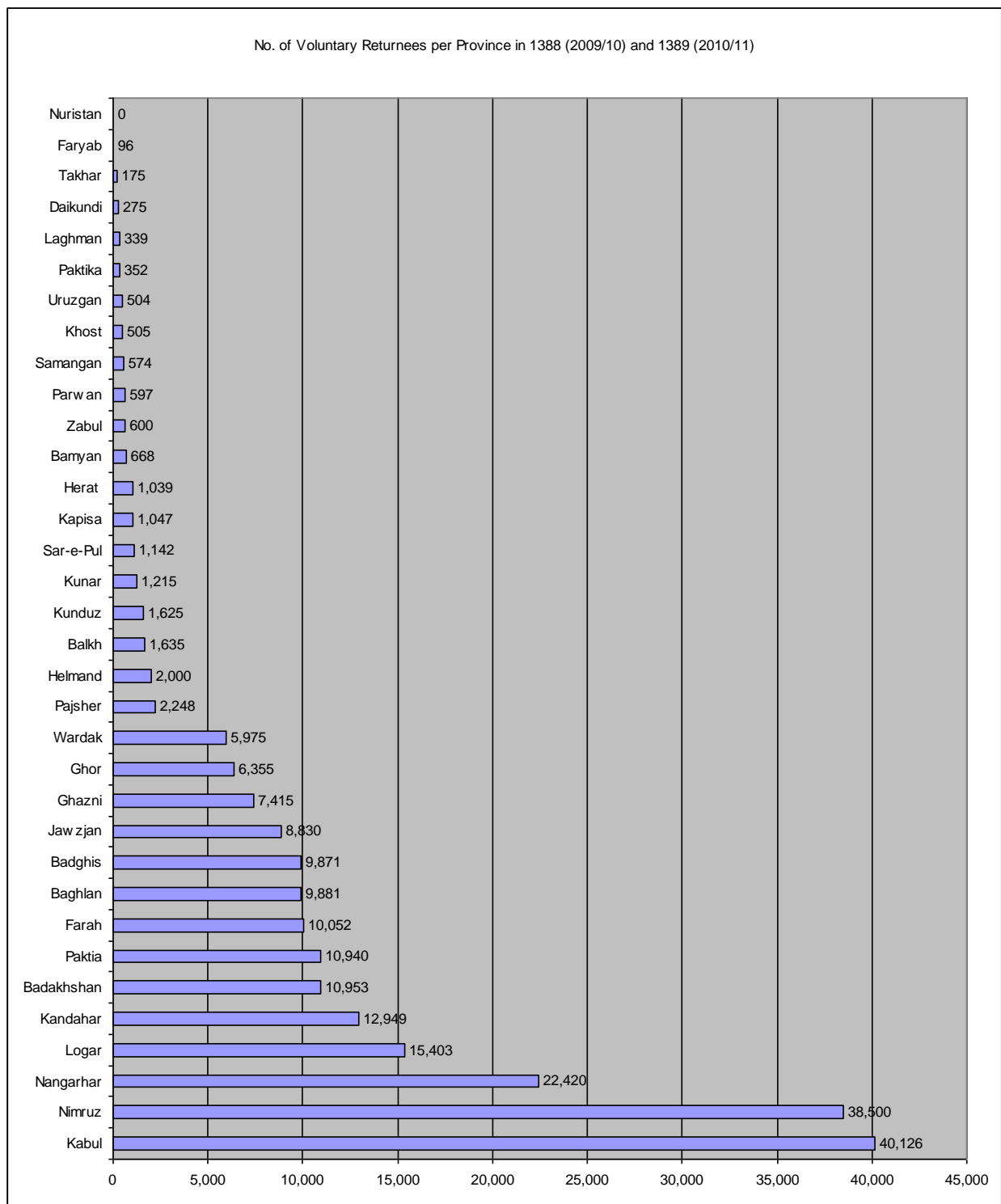
²⁰⁶ Interview with Head of Planning and Liaison Department of MoRR, Sunbula 21, 1390 (September 12, 2011).

country from Pakistan (around 92.7 percent) and Iran (around 7.2 percent). Almost half of returnees were women and approximately 58 percent were persons under the age of 18.²⁰⁷

The AIHRC HRFM data in 1389 (2010/11) indicates that most of returnees repatriated to the country from Pakistan. 24.2 percent of all AIHRC HRFM respondents stated that they had repatriated from Pakistan. Of these, around 71.6 and 26.5 percent respectively referred to Pakistan and Iran as their places of migration. Based on AIHRC HRFM data in 1388 (2009/10), approximately 33.6 percent of interviewees were returnees; 61.3 percent had repatriated from Pakistan and 25.2 percent from Iran.

There are several reasons for lack of repatriation interest in Afghan migrants/refugees who are residents in Iran. First, there are employment opportunities for migrants in Iran. That is why fewer migrants are interested to return to the country from Iran. Second, the repatriation of Afghan migrants from Iran requires a more complicated and lengthier process under the auspices of the UNHCR. That is why most of the returning migrants make repatriation decisions at their own personal expense; as a result, many of them are not registered. Third, many Afghan migrants are deported from Iran and are, therefore, unregistered. Hence, official statistics indicates lower levels of refugee/migrant return from Iran.

²⁰⁷ UNHCR (2011), 2011 UNHCR Country Operations Profile – Afghanistan, UNHCR, The UN Refugee Agency; <<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6>> (accessed October 19, 2011).



Source: MoRR

In addition to this, a large number of migrants/refugees, especially those in Iran, were forced to repatriate. According to a report by IOM, approximately 766,000 Afghan migrants/refugees were deported by Iran to Afghanistan through Islam Qala and Zaranj ports in 2007 and 2008. Moreover, over 166,000 migrants/refugees were deported by Iran from January 1 to May 22,

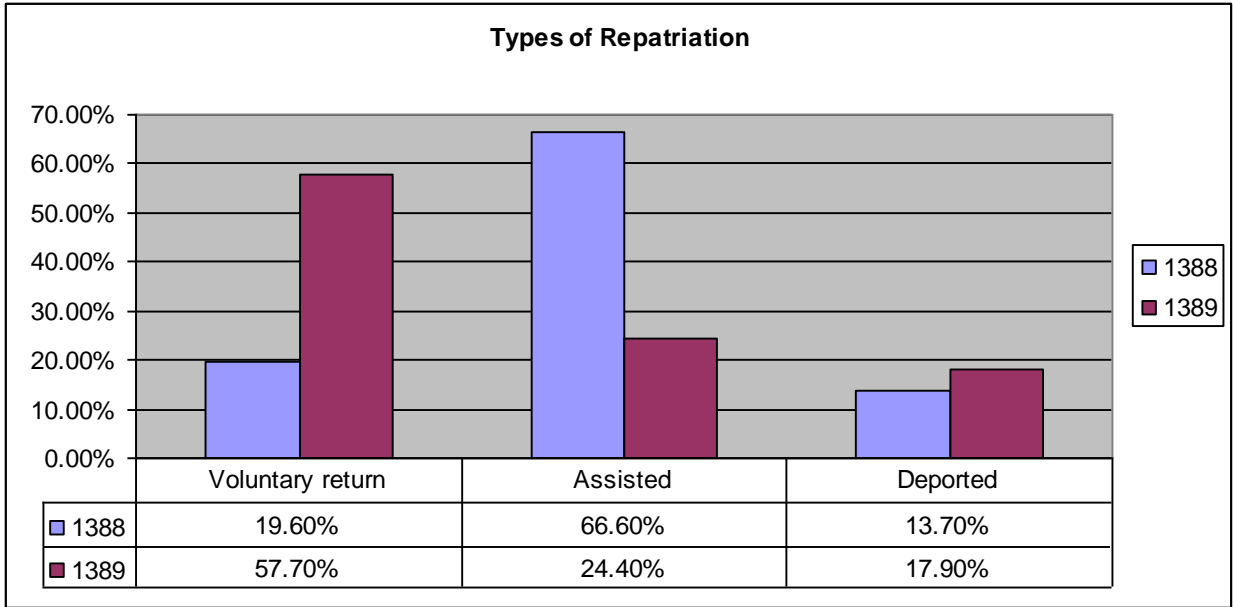
2009, indicating an increase of 42 percent compared to the last year.²⁰⁸ Authorities from the MoRR say that close to 190,000 Afghan migrants/refugees, who were mainly undocumented migrant workers, were deported by Iran in 1389 (2010/11). In the first quarter of the current year, around 25,000 illegal Afghan migrants in Iran were deported to Afghanistan.²⁰⁹

Afghan migrants/refugees have been taken by Iranian police officers from streets or from their houses and deported to Afghanistan after being harassed. In most cases, they did not have the chance to receive their remunerations from their Iranian employers. Family members were separated as a result of these arrests and people were deported without the knowledge of their families. Deported migrants/refugees, in most cases, lack housing and an adequate standard of living inside Afghanistan. These migrants/refugees were forcibly deported from Iran and as a result, they were deprived of assistance provided by the relevant organizations for voluntarily returning migrants/refugees. Disillusionment, homelessness, unemployment, and lack of food security debilitate these migrants/refugees to reorganize their lives and resume normalcy in living. As a result, their reintegration into the society becomes very difficult. In the light of these challenges, deported migrants/refugees are afflicted with a sense of pessimism and mental disorders that can even lead to domestic violence.

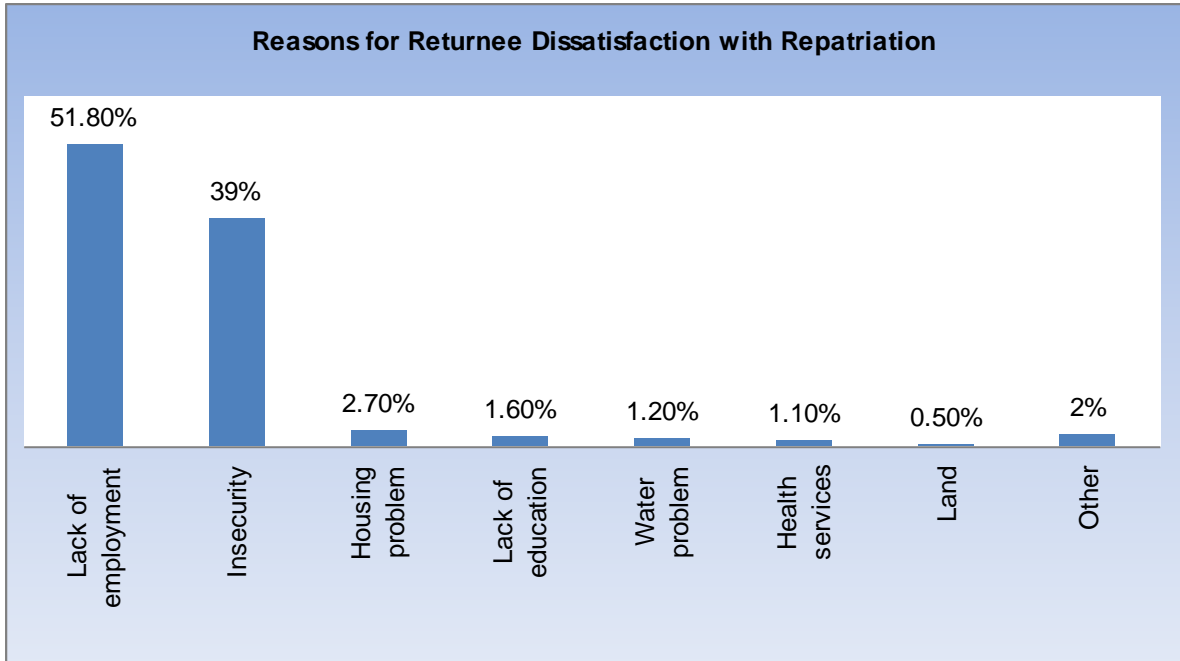
Based on the AIHRC HRFM data in 1389 (2010/11), close to 58 percent of returned migrants/refugees have voluntarily repatriated back to their country. Close to 18 percent of them have been deported and over 24 percent have been assisted by the UNHCR and IOM in their return back to Afghanistan. Although 1388 (2009/10) data indicates that 19.6 percent of returnees have voluntarily repatriated, 13.7 percent of them have been deported and 66.6 percent have been assisted by the relevant organizations in their repatriation.

²⁰⁸ IOM, I.O. (2009, 89), "Italy Back IOM Reintegration Program in Western Afghanistan," retrieved October 25, 2011, from IOM, International Organization for Migration: <<http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAS/cache/offonce/lang/en?entryId=26138>>.

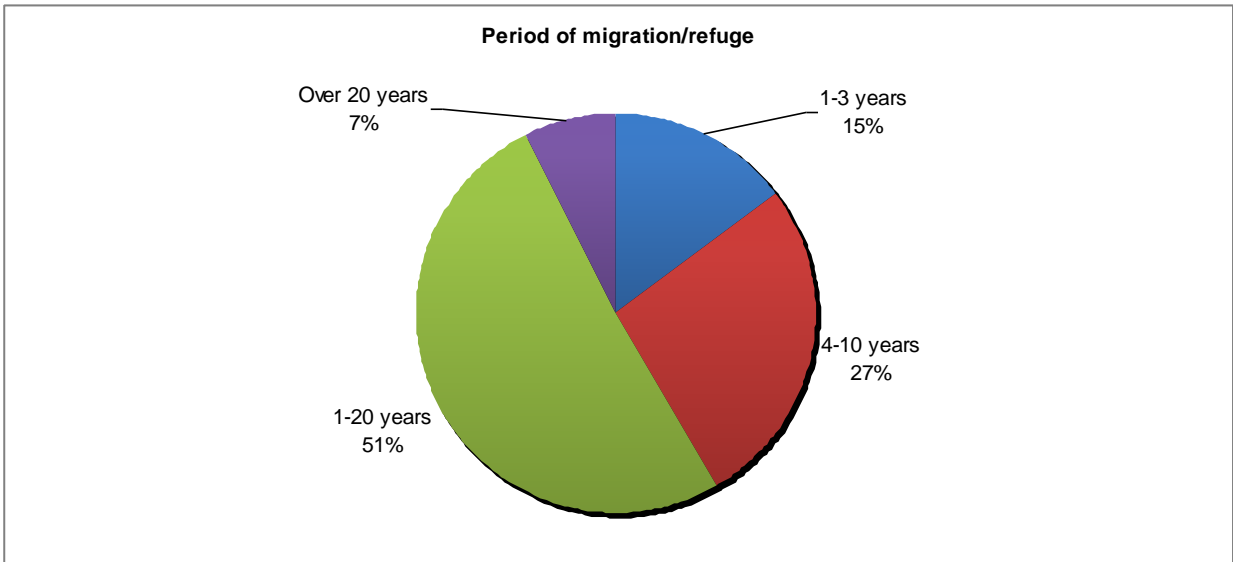
²⁰⁹ Pajhwok Afghan News, Quraishi, Ahmad, (August 9, 2011), "Refugee affairs ministry: New Iranian plan for expulsion of Afghan migrants is not acceptable," <<http://www.pajhwok.com/dr/migration>> (accessed October 29, 2011).



Lack of employment opportunities, poverty, insecurity, lack of an adequate standard of living, lack of health services, lack of education, lack of potable water, and so on are the major problems facing returnees. The Afghan Government encounters many challenges in meeting these needs and has not been able to provide an adequate standard of living for its people. Extreme poverty and unemployment and mounting insecurity not only has delayed the repatriation process in recent years, but also has led to increasing dissatisfaction and disillusionment among returnees over their repatriation back to Afghanistan. The AIHRC HRFM data in 1388 (2009/10) and 1389 (2010/11) shows that on average around 42 percent of returnees are dissatisfied with their repatriation. The data further indicates that lack of employment opportunities is the major source of returnee dissatisfaction. Insecurity and homelessness are the other major causes of their disillusionment.



As already mentioned, over 80 percent of Afghan migrants/refugees who remain in Iran and Pakistan, have spent over 20 years in migration/asylum there and approximately 50 percent of them have been born in migration/asylum.²¹⁰ The AIHRC HRFM data in 1388 (2009/10) indicates that over half of interviewees were returnees who spent from 11 to 20 years in migration/asylum and over one-fourths of them had spent from four to ten years in migration/asylum.



²¹⁰ Refugees, Returnees, and Internally Displaced Persons Sector Strategy (1387(2008/09)-1391(2012/13)), MoRR; <http://morr.gov.af/Content/Media/Documents/DariRefugeeStrategy_final1992011829118381458322570.pdf> (accessed Mizan 25, 1390 (October 17, 2011)).

It means that most of returnees aged below 10 have been born in migration/asylum and most returnees aged below 18 have spent a great deal of their lives in migration/asylum.

Lengthy migration/asylum duration, especially migration/asylum of persons who left the country at an early age or were born while in migration/asylum, has caused many deep cultural and traditional problems for the Afghan society. Since they have been brought up in other countries' cultures, they feel themselves to be strangers in Afghanistan's indigenous culture and many of them cannot adjust themselves to the customs and traditions governing the Afghan society and way of life. This issue has also caused mental problems for them, leading to their social and cultural ostracism and marginalization.

Unfortunately societal treatment of them is often disproportionate and rejectionistic. They are humiliated and discriminated against in the state institutions, including education and higher education institutions. The way they speak and their way of clothing themselves are laughed at and they are harassed. Sometimes the accent and clothing of returnees leads to them being deprived of their rights. These issues give rise to hopelessness, pessimism, and disillusionment among the returnee population, causing them to feel losing their belongingness to their country and society and even leaving the country once more.

C. Internally Displaced Persons

Internal displacement of hundreds of thousands of Afghan people has been a consequence of more than three decades of war, insecurity, drought, and poverty in the country. After the fall of the Taliban, most IDPs returned to their original places of residence. But there is still a large number of IDPs who lack adequate housing. Deteriorating security situation, inter-factional conflict, military operations, poverty, unemployment, and natural disasters like drought have forced many families into the category of IDPs.

A survey by MoRR puts the number of IDPs at approximately 378,858 people across the country.²¹¹ Despite this, the UNHCR data shows that by the end of August 2011, there were around 73,452 IDP families in the country, comprising almost 472,601 people. Of these, 116,741 had been internally displaced before December 2002, but between June 2009 and August 2011, approximately 302,776 were internally displaced due to the armed conflict. According to UNHCR statistics, there was a sharp increase in internal displacement in 2011 compared to previous years. In the first eight months of 2011, around 147,661 people were forced to leave their hometowns, while approximately 102,658 people were internally displaced in 2010 and the first eight months of 2010 saw the internal displacement of around 52,255 people.²¹² A joint assessment by Kabul Department of Refugees and Repatriation and UNHCR shows that there are a total of 29 informal settlements in and around Kabul city in which around 2,800 IDP families comprising 13,500 people live, the majority of whom were displaced in 1381 (2002/03) and 1382 (2003/04). Of these, there are over 360 gypsy families who have lived in no shelter their entire lives and currently happen to reside in Chahr Rahi Qanbar and Chaman Babrak.²¹³

²¹¹ Interview with Mohammad Humayun Yunusi, Head of Planning and Liaison Department of Ministry of Refugees and Repatriation (MoRR), Sunbula 21, 1390 (September 12, 2011).

²¹² UNHCR, Afghanistan Protection Cluster Meeting, Kabul, September 26, 2011.

²¹³ MoRR (1389 (2010/11)), MoRR Report, Analysis, and Recommendation on IDP Families in Kabul, Kabul.

These are estimates on IDP statistics as no formal survey has been conducted in these settlements. Most IDPs live in tents or dilapidated houses/buildings.²¹⁴ Around 5.4 percent of HRFM interviewees said that their families were headed/led by IDPs.

War, insecurity, military operation, local disputes, forced recruitment, poverty, unemployment, lack of housing, lack of food, lack of water, lack of electricity, lack of health services, lack of the right to property, drought, and natural disasters such as floods, and etc. are the major causes for internal displacement. These factors play different roles in different areas of the country with some being severe in some areas, leading to higher levels of internal displacement from those areas. Most IDPs hail from southern, western, and eastern Afghanistan where insecurity, conflict, and military operation are ongoing. UNHCR data indicates that internal displacement is around 99 and 96 percent in western and southern Afghanistan respectively, which is due to conflict, military operation, and insecurity. These factors are responsible for 93 percent of internal displacement in eastern Afghanistan. In addition, Pakistan's shelling of rockets into the Afghan territory has caused approximately 87 percent of internal displacement in eastern Afghanistan.²¹⁵

Estimated number of IDPs disaggregated by area		
Areas	No. of Families	No. of Individuals
North	7,495	47,724
South	24,501	182,085
Southeast	1,978	11,959
East	13,981	87,642
West	20,201	111,408
Central Region	5,268	31,608
Central Highlands Region	28	175
Total	73,452	472,601

Source: UNHCR, Afghanistan Protection Cluster Meeting, Kabul, September 26, 2011

Unemployment, poverty, drought, *kuchi*-resident disputes, and lack of housing are other major causes of internal displacement, particularly in rural and outlying areas. Disputes between *kuchis* and local residents are the main reason of internal displacement in the Central Highlands Region. In 1386 (2007/08), around 1,900 families from Behsud and Daimirdad districts of Maidan Wardak province were internally displaced due to these disputes. In 1387 (2008/09), the disputes led to the internal displacement of over 6,000 families and the burning of 84 residential houses. In 1388 (2009/10), *kuchis* did not come to these areas and as a result, no one was internally displaced. However, in 1389 (2010/11), *kuchis* once again came to these areas and as a result of their conflict with the local residents, 2,791 local families were internally displaced from their homes in Hesa Awal, Hesa Dowum, and Daimirdad districts and most of them took refuge in Kabul.²¹⁶ In 1390 (2011), as a result of similar conflicts in Nahor district of Ghazni province, 36

²¹⁴ Ibid.

²¹⁵ UNHCR, Afghanistan Protection Cluster Meeting, Kabul, September 26, 2011.

²¹⁶ AIHRC (Asad 1389 (July/August 2010)), *The Report of the AIHRC Investigation into the Conflict between Kuchis and Local Residents in Behsud*;

villages were severely damaged and 782 families were internally displaced after their properties were pillaged.²¹⁷

Drought is another cause for internal displacement in some parts of the country, especially in northern and central regions. A large group of people who are residents in these areas have been forced to leave their hometowns. Family economy depends on traditional agriculture in rural areas, but drought has made people move to urban areas. According to the relevant Afghan authorities, drought in central areas has caused thousands of families to be displaced from Daikundi, Bamyan, and Maidan Wardak provinces. In addition, about 30 percent of people in most districts of Bamyan province have migrated out of rural areas. Drought has caused a severe water shortage in these areas.²¹⁸ Furthermore, over 1,000 families in Jawzjan province were forced to leave their hometowns due to drought. Most arable lands have been destroyed in these areas and people face an acute food shortage.²¹⁹ Nimruz province too encounters with severe drought and around 30 percent of Zaranj city residents have been forced to leave their hometowns as a result. People in these areas are forced to buy drinking water.²²⁰

Employment-seeking is another factor that has led many IPDs into urban centers. They move to big urban centers due to unemployment in rural areas, because they assume that there are many employment opportunities in cities than in villages.²²¹ A number of migrants/refugees who repatriate do not return to their original places of residence. The exact number of such people is not available.

Based on the UNHCR data, a limited number of IDPs, around 3,400 IDPs (less than one percent), returned to their original places of residence in 2011 and were assisted with their reintegration.²²²

Most IDPs live under difficult conditions, face acute shortages of life's basic needs, and are deprived of work opportunities. Those IDPs, who live in cities, have access to very limited economic opportunities. According to a joint study of the World Bank and UNHCR in the three cities of Kabul, Herat, and Kandahar, around 70 percent of families have lived in informal settlements for over two years, often in hazardous living circumstances.²²³ The absolute majority

<http://www.aihrc.org.af/2010_dari/Dri_Pages/Reports/Report_besod8_aug_2010.pdf> (accessed Aqrab 5, 1390 (October 27, 2011)).

²¹⁷ AIHRC, *Report on the Conflict between Kuchis and Local Residents in Nahor District of Ghazni Province*, Jawza 31, 1390 (June 21, 2011) till Saratan 4, 13 90 (June 25, 2011) (unpublished report).

²¹⁸ BBC Persian, Yaqubi, Aref (Asad 5, 1390 (July 27, 2011)), "Drought has displaced hundreds of Afghan families"; <http://www.bbc.co.uk/persian/afghanistan/2011/07/110727_k02-drought-central-afg.shtml> (accessed Aqrab 5, 1390 (October 27, 2011)).

²¹⁹ Pajhwok Afghan News, Tamkin (October 22, 2011), "Over thousand families have migrated from Jawzjan"; <<http://www.pajhwok.com/dr/migration>> (accessed October 29, 2011).

²²⁰ Pajhwok Afghan News, Ramin (September 18, 2011), "People in Zaranj City have left their homes"; <<http://www.pajhwok.com/dr/migration>> (accessed October 29, 2011).

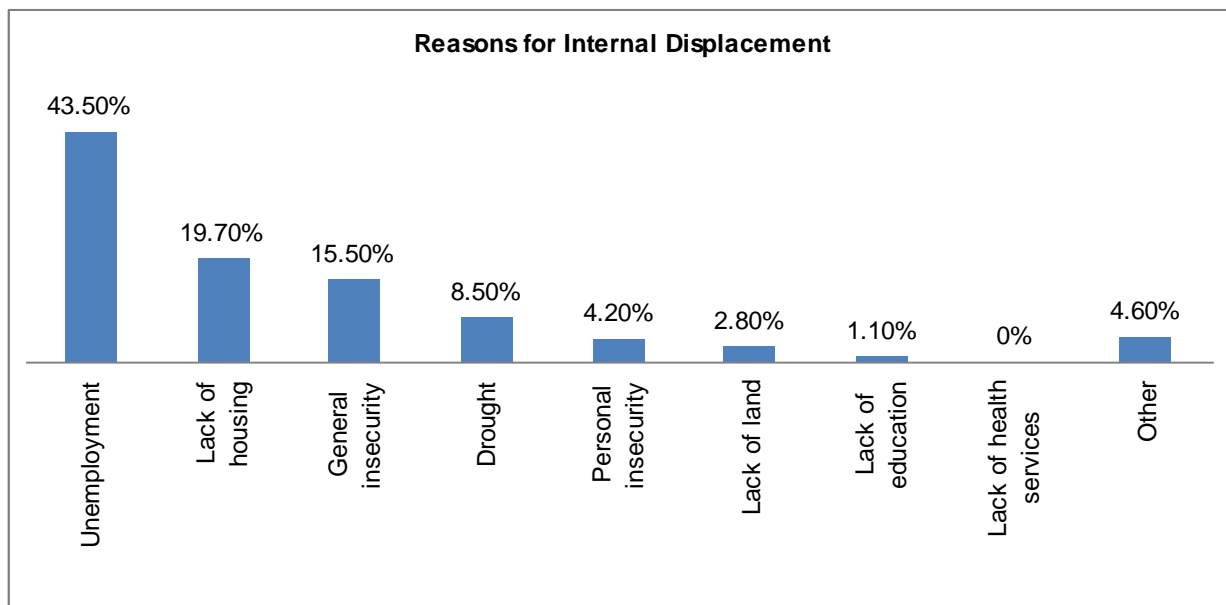
²²¹ World Bank and UNHCR, *Displacement and Increase in Informal Settlement in Urban Centers, Kabul, Afghanistan* (report received from MoRR on Sunbula 21, 1390 (September 12, 2011)).

²²² UNHCR (2011), *2011 UNHCR Country Operations Profile - Afghanistan*; <<http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6>> (accessed October 24, 2011).

²²³ World Bank and UNHCR, *Displacement and Increase in Informal Settlement in Urban Centers, Kabul, Afghanistan* (report received from MoRR on Sunbula 21, 1390 (September 12, 2011)).

of these families lack skills necessary for successful integration and participation in urban economic fabric. Heads of IDP families have lower rates of literacy and education than the urban poor. 80 percent of IDP family heads cannot read and write. IDP family women have few skills and low literacy. One in hundred IDP family women is literate, while one in three is literate in urban poor families.²²⁴ IDPs have a very limited access to skills, literary, and work opportunities in urban areas. As a result, most of them are busy in low-quality, unsafe jobs. Around 68 percent of IDP men are daily-wage laborers, 23 percent are self-employed, and 6 percent are employed in the private sector. This is while 49 percent of urban poor are self-employed, 25 percent are daily-wage laborers, and 17 percent are employed in the public sector.²²⁵

The AIHRC HRFM data shows that 6.1 percent of interviewees were IDPs who cited unemployment, insecurity, lack of land and housing, and drought as the causes for their internal displacement.



The increasing presence of returnees and IDPs in urban areas is a significant challenge for the Afghan Government, because they are in need of special attention. Returnees, especially those who lived in migration/asylum for a long time or were born while in migration/asylum, have mostly settled in urban areas and are less inclined to return to rural and outlying areas. First, they lived in urban or semi-urban areas while in migration/asylum and have, therefore, acclimatized with urban living. Second, there are fewer employment opportunities in rural than urban areas. Third, there is not sufficient land and shelter for them in rural areas, especially in mountainous and cold regions, which can suffice their living needs. Fourth, most migrant workers have lost their houses and shelters during their long migration and their lands have even been expropriated by power-holders. Fifth, there are limited education and health facilities in rural areas.

²²⁴ Ibid.

²²⁵ Ibid.

Most IDPs also have settled in urban areas. They are not interested to return to their rural areas either. In a joint study by the World Bank and UNHCR, over 90 percent of IDPs stated that they intend to live permanently in cities. About 80 percent said that they do not intend to return to their original places of residence due to such problems as unemployment, lack of housing, and food insecurity.²²⁶

The Afghan Government has not taken effective measures to resettle returnees and IDPs and provide them with employment opportunities and access to health, education, and food security. The Government has paid inattention towards IDPs and has not allocated any budget whatsoever for their socioeconomic development. Therefore, MoRR has done little practical work, apart of policy-making. Only in 1390 (2011), approximately US\$500,000 was allocated and this is one-fourths of MoRR proposed budget.²²⁷ Although MoRR is responsible for coordination work related to the provision of services and aid for returnees, the relevant institutions face a lack of coordination and MoRR has not been able to take effective measures in this respect.²²⁸

4. *Kuchis*

Kuchis are part of the Afghan population who do not have a permanent residence and move from place to place during different seasons of the year. They subsist through livestock and each family often has tens or hundreds of sheep, goats, and camels.

The exact number of *kuchis* is not clear and there has been no census in this regard. However, the Central Statistics Office (CSO) has estimated the population of *kuchis* to be 1.5 million, constituting 6 percent of total population.²²⁹ In general, *kuchis* fall into three major categories. First, there are the settled *kuchis* who have abandoned their *kuchi* lifestyle and have settled in and reintegrated with people in villages or cities. They are no longer considered *kuchi*. Second, there are *kuchis* who have short-term migration within a district or a province in certain seasons of the year for grazing their domestic animals. These *kuchis* usually have houses and shelters where they settle for some part of the year. They are, in fact, semi-*kuchi*. Third, there are *kuchis* who usually move from one place to another in the course of the year and are, therefore, always in migration. They do not have long-term residence in one specific place and they, as a result, have a complete *kuchi* lifestyle.

In general, around 1.9 percent of the AIHRC HRFM interviewees in 1388 (2009/10) and two percent of interviewees in 1389 (2010/11) were *kuchis*. In 1388 (2009/10), over 60.5 percent of them stated that they have settled, around 14 percent said that they live a semi-*kuchi* lifestyle through short-term migration, and about 25.6 percent reported that they live a permanent *kuchi* way of life. In 1389 (2010/11), over 80 percent of *kuchis* said that they have settled, close to 18 percent reported that they have short-term migration, and two percent stated that they engage in long-term migration.

²²⁶ Ibid.

²²⁷ Interview with Mehr Khoda Sabar, Head of Emergency Department, MoRR, Sunbula 21, 1390 (September 12, 1011).

²²⁸ Ibid.

²²⁹ Paul, P. (2007/2008), "National Risk and Vulnerability Assessment (NRVA): A Profile of Afghanistan," Kabul, Afghanistan, ICON Institute.

If we consider lack of residence as the main characteristic of *kuchis*, the first category cannot be deemed *kuchis*, because they are settled people and have integrated with ordinary citizens of the country. Second category has a two-faceted lifestyle wherein they are settled during certain parts of the year and engage in migration in certain other parts of the year.

Kuchis face manifold problems in diverse areas of their life. They often live in tents under unfavorable living conditions. Mobile lifestyle and continuous migration expose them to severe deprivations and make them vulnerable to natural mishaps, such as heavy snowfall and cold. They have a very limited access to health facilities, be it clinics or hospitals. *Kuchi* children have a much lower access to vaccination than rural and urban children and their immunization rate is 13 percent. 17 percent of *kuchi* women have access to prenatal care.²³⁰ They also are deprived of their right to education. *Kuchi* children do not have continuous and regular access to schooling as they are not settled and every migration interrupts these children's access to education. Many *kuchi* children have been deprived of education and those, who have access to education, cannot continue their education beyond elementary and intermediate levels. There has been little improvement in *kuchi* literacy situation and the literacy rates for girls and boys under the age of 10 are 10 and 20 percent respectively.²³¹ According to a report by the United Nations Office of the High Commissioner for Refugees (OHCHR), only 6 percent of *kuchis* aged 15 and above can read and write and this is the worst case in the whole world.²³² The Government has seldom kept its pledges to build mobile schools and clinics for *kuchis*.²³³ The constructed mobile schools have been negatively affected by mounting insecurity, teachers have been threatened, and schools and their paraphernalia have been set afire.²³⁴

There are many economic problems among the *kuchi* community. Poverty rate is 54 percent in *kuchis*, while it is 29 percent in urban population and 36 percent nationally.²³⁵ Therefore, *kuchis* are the poorest segment of the Afghan population with livestock being their major source of economic income. However, drought has added to their vulnerability and their pastures have been damaged or otherwise constrained.

Lack of pastures is an issue that causes conflicts between *kuchis* and local residents in certain parts of the country, especially in the central region, leading to many skirmishes and damages. *Kuchis* claim that it is their right through a decree issued by Afghanistan's past rulers to use pastures in Afghanistan's central region, while the local residents maintain that it is the right of the permanent local residents to use the pastures and the decisions of Afghanistan's past rulers have been unjust, unilateral, and illegitimate.²³⁶ In addition, local residents complain that *kuchis*

²³⁰ Ibid.

²³¹ Ibid.

²³² OHCHR, March 2010, *Poverty Report*, United Nations Human Rights;

<http://www2.ohchr.org/SPdocs/Countries/AF/PovertyReport_30032010_Dari.doc> (accessed October 31, 2011).

²³³ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," 1388 (2009/10), Kabul, Afghanistan.

²³⁴ OHCHR, March 2010, *Poverty Report*, United Nations Human Rights;

<http://www2.ohchr.org/SPdocs/Countries/AF/PovertyReport_30032010_Dari.doc> (accessed October 31, 2011).

²³⁵ Paul, P. (2007/2008), "National Risk and Vulnerability Assessment (NRVA): A Profile of Afghanistan," Kabul, Afghanistan, ICON Institute.

²³⁶ AIHRC (Asad 1389 (July/August 2010)), *The Report of the AIHRC Investigation into the Conflict between Kuchis and Local Residents in Behsud*;

have burned and pillaged their houses and fields. According to the AIHRC report, in 1386 (2007/08), eleven people from Behsud and Daimirdad were killed, 15 people, including four women, were injured, and 1,900 families were displaced. *Kuchis* also claimed that one of their people has been killed in this conflict. In 1387 (2008/09), the conflict spread and caused further human and financial losses. In this year, 24 local residents were killed, 11 injured, and more than 6,000 families displaced. Over 84 schools were burned and huge losses were caused due to pillaging of houses, loss of domestic animals, destruction of arable lands, and shut-down of schools and clinics. A number of *kuchis* were also killed and injured in this conflict.²³⁷

In 1388 (2009/10), *kuchis* did not come to the area due to the holding of the presidential elections and as a result, there were no conflicts. But in 1389 (2010/11), the problem reemerged and as a consequence, six local residents were killed and six others injured. 340 villages were evacuated, of which around 180 villages were destroyed, 153 houses were set ablaze, and 35 schools were pillaged and closed down.²³⁸

The problem unfortunately reemerged in 1390 (2011) in Nahor district of Ghazni province, causing such losses as the burn-down of 36 villages, escape of 782 families, and pillaging of their properties.²³⁹ Unfortunately the conflict between *kuchis* and local residents has become a complicatedly politicized issue subject to political manipulation. Even the number of *kuchi* population has turned into a political affair and it is used to gain political advantages. Unfortunately the Afghan Government has not taken any effective measures for the resolution of the *kuchi*-local resident disputes. The decree issued by President Karzai in 1387 (2008/09) on the settlement of *kuchis* was not implemented. The AIHRC believes that the issue of the *kuchis* should be resolved pursuant to the Afghan Constitution. Article 14 of the Afghan Constitution obligates the state to devise and implement effective programs for the settlement of *kuchis* and for the improvement of their living conditions.²⁴⁰

Kuchi way of life has caused many problems and deprivations for *kuchis* themselves and has led to conflicts between them and the local residents. In addition to this, Taliban and other armed opposition groups use this issue to add fuel to insecurity in different parts of the country.²⁴¹

5. National Identification and Birth Registration

National identification establishes a person's national identity, whereby that person can legally enjoy his/her rights and privileges as part of the country's citizenry. Without national identification, a person can be deprived of his/her civil rights in such areas as education, marriage, work, overseas travel, punishment, due process of law, and so on. Birth registration

<http://www.aihrc.org.af/2010_dari/Dri_Pages/Reports/Report_besod8_aug_2010.pdf> (accessed Aqrab 5, 1390 (October 27, 2011)).

²³⁷ Ibid.

²³⁸ Ibid.

²³⁹ AIHRC, *Report on the Conflict between Kuchis and Local Residents in Nahor District of Ghazni Province*, Jawza 31, 1390 (June 21, 2011) till Saratan 4, 13 90 (June 25, 2011) (unpublished report).

²⁴⁰ Afghan Constitution of 1382 (2003/04), Article 14.

²⁴¹ BBC Persian (June 26, 2011), "Conflict between *kuchis* and Ghazni rural residents displaces hundreds of families"; <http://www.bbc.co.uk/persian/afghanistan/2011/06/110626_k02-ghazni-nomads.shtml> (accessed October 29, 2011).

plays a similar role. Unfortunately, people do not attach much importance to national identification (possessing national ID cards) in rural and outlying areas. People try to obtain national ID cards when they have to do so. Obtaining birth certificates is rare even in urban areas.

The AIHRC HRFM data in 1388 (2009/10) indicates that newborns in 92.5 percent of families have not been issued birth certificates. Based on this data, around 99.7 percent of these families do not think it is necessary to obtain birth certificates for their newborns. Also based on the AIHRC data in 1389 (2010/11), 5.8 percent of interviewees stated that their under-five children have birth certificates, while 92.1 percent said that their under-five children do not have birth certificates. Concerning children above the age of five, around 94 percent of interviewees reported that their children did not have birth certificates and only four percent said that their children had such certificates.

Since a large number of children are born at home outside of clinic and health centers, they do not have birth certificates issued by health centers. In many rural and outlying areas, families cannot approach health centers due to long distance and they prefer their children to be born at home. In some cases, it is considered “bad” to approach clinics and health centers for deliveries and families are not willing to allow the childbirth of their women to take place outside of home in health centers. The data also indicates that even if people approach clinics, some clinics do not issue birth certificates. Birth certificates are not issued, because no bribe is paid to clinic staff members or due to client specific affiliations.

Interviews with respondents in 1388 (2009/10) reveal that children in around 35 percent of families have been issued national ID cards and this is not the case in close to 65 percent of families. National ID cards have not been issued in 99 percent of cases because families did not request them. A number of respondents stated that they did not request national ID cards for their children due to corruption in the relevant government departments. Parts of *kuchi* and IDP populations have been unable to receive national ID cards. But 1389 (2010/11) data shows that under-five children in only 7.5 interviewed families have been issued national ID cards, while children in around 90.5 percent of families lack national ID cards. Regarding children over five, only 28 percent of interviewees reported that their children had national ID cards, while around 69.8 percent said that their children did not have national ID cards.

National ID cards have been printed on delicate paper that is very vulnerable and prone to decay. It is therefore difficult to maintain such cards. On the other hand, it is very easy to forge these cards. In addition, the relevant authorities are negligent and inattentive in recording applicants’ data in national ID cards and there are mistakes when writing names, fathers’ names, age, and other data of applicants on cards. This will cause many problems for the applicants in the future. Authenticity and accuracy are necessary in the issuance of national ID cards and the relevant authorities should pay due attention to it.

The Afghan Government has decided to computerize the national identification system. This will reduce vulnerability and prevent fraud and forgery of national ID cards. This will be very useful from a security perspective and can help in crime discovery.

6. Security

Security is a fundamental human right that is necessary for an individual and social life. Articles 23, 24, and 38 of the Afghan Constitution enshrine the right to life and basic freedoms of people and obligate the state to ensure them. All economic, social, and cultural rights are linked to the security situation, either directly or indirectly. In absence of security, the rights to work, health, education, adequate standard of living, and other rights will be negatively affected and not realized. The armed conflict has given rise to unemployment of many people with implications for people's livelihoods. War has caused economic and social underdevelopment and has increased poverty rate. Similarly, insecurity causes people to have limited access to health services and facilities and children continue to face problems in attending schools in the light of the deteriorating security situation. In the same manner, continued insecurity in the country has displaced thousands of families and disrupted normalcy so that many families have lost their supporters as a result of armed attacks, aerial bombardments, suicide attacks, and explosions.

Insecurity is a serious challenge facing Afghanistan. Insecurity has been increasing in the recent years and has spread to areas that enjoyed relative clam in the past. The lives of a large group of people have been affected by armed conflicts, roadside IED explosions, banditry, and abductions by anti-Government opposition forces, armed skirmishes, and aerial bombardments by the international military forces and Afghan national security forces. In addition, a large number of civilians have been killed, injured, or displaced from their original places of residence. Insecurity has negatively affected all aspects of people's economic and social lives and has led to interruptions in the implementation of reconstruction and development programs. Security has been aggravating in Afghanistan since 2005 and every year is referred to as the bloodiest year.

A joint report by the AIHRC and the United Nations Assistance Mission in Afghanistan (UNAMA), which covers the year 2010, indicates that during 2010, 2,777 people were killed, a 15 percent increase in casualties compared to the year 2009. Additionally, in 2010, 4,343 civilians were injured and this shows a 22 percent increase in injuries compared to 2009. The report is indicative of the fact that 8,832 people have been killed in the past four years and the trend has had an increasing nature.²⁴² Based on this report, in 2010, 2,080 people (75 percent of the killed) were murdered by anti-Government opposition forces, a 28 percent increase compared to 2009. Suicide attacks, roadside IED attacks, and assassinations are responsible for these deaths. Most assassinations have been carried out in southwestern Afghanistan in the provinces of Kandahar and Helmand.

During 2010, 440 civilians (16 percent of the killed) were murdered by pro-Government national and international forces, 26 percent decrease compared to 2009. Most lost their lives in aerial attacks. 9 percent of civilian deaths cannot be attributed to any party to the conflict. It should be mentioned that illegal armed groups, known as *arbakis*, also have had a role in destabilizing the situation in the recent years and many complaints have been recorded in this regard. *Arbaki* forces, which are illegal armed forces, are supported by some police commanders and local

²⁴² AIHRC and UNAMA, *Report on Civilian Casualties*, March 2011; <<http://unama.unmissions.org/Default.aspx?tabid=4652>> and <http://aihrc.org.af/2010_eng/>.

power-holders. They have committed such crimes as killings, thefts, beatings, and extortions in northern Afghanistan.²⁴³

Assassinations and kidnappings are security-related incidents that have sharply increased in recent years. According to a joint report by the AIHRC and UNAMA, assassination of civilians has been a grave concern in 2010. In that year, there was a 105 percent increase in assassinations by anti-Government opposition forces compared to 2009 and 462 people were, all in all, assassinated in 2010. Half of these assassinations were carried out in southwestern Afghanistan in Kandahar and Helmand provinces. Abductions also rose in 2010. There was an 83 percent increase in abductions by anti-Government opposition forces compared to 2009. In 2009, 137 people were abducted and in 2010, 251 people were abducted.²⁴⁴

Insecurity also has had negative implications for reconstruction, investment, and development programs and destructive social and psychological aftermath for families and society at large. Continued insecurity specially affects women's and children's mental welfare. They have been directly affected by continued insecurity; for instance, in 2010, there were respectively six and 21 percent increase in women's and children's casualties compared to 2009.²⁴⁵

Civilian casualties caused by the international military forces have been a highly controversial issue. Civilian deaths as a result of aerial bombardments carried out by international military forces are frequently reported. As a consequence, people have staged protests and demonstrations and the Afghan President has time and again seriously reacted to such civilian casualties. It seems that more coordination is being built between the Afghan national security forces and international military forces and this has led to a reduction in civilian deaths caused by pro-Government national and international security forces. According to its Strategic Plan, the AIHRC has held coordination meetings with the Afghan National Army (ANA), Afghan National Police (ANP), and international military forces in order to decrease civilian deaths in different provinces and achieved good results in these meetings.

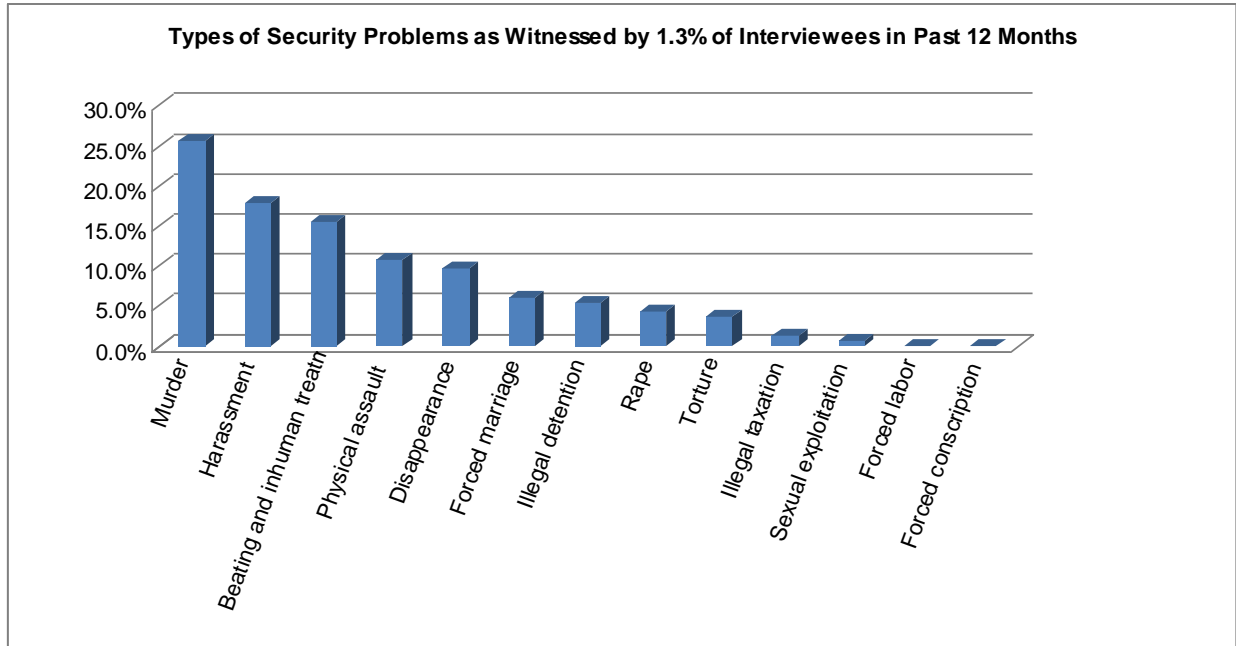
Insecurity in Afghanistan has different causes. Many experts believe that unemployment, poverty, extremism, corruption in government and non-governmental institutions, lack of the rule of law, a weak central government, and interference of neighboring countries are the major factors of discontentment and insecurity. Some believe that various mistakes in policies and strategies of the international community and the Afghan Government have contributed to increasing insecurity. It means that the international community and the Afghan Government have paid more attention to the military suppression of the armed opposition instead of addressing the root causes of insecurity. Although there has been an increase in the number of international military forces in the past two years, there has been not only no positive change in the security situation, but also the security situation has been further deteriorating.

²⁴³ AIHRC, *Draft Report on Local Police*, Aqrah 11, 1390 (November 2, 2011).

²⁴⁴ AIHRC and UNAMA, *Report on Civilian Casualties*, March 2011; <<http://unama.unmissions.org/Default.aspx?tabid=4652>> and <http://aihrc.org.af/2010_eng/>.

²⁴⁵ AIHRC and UNAMA, *Report on Civilian Casualties*, March 2011; <<http://unama.unmissions.org/Default.aspx?tabid=4652>> and <http://aihrc.org.af/2010_eng/>.

Based on the AIHRC findings, 1.3 percent (117 people) of all interviewees stated that they have witnessed security-related incidents in the past 12 months and of them, 25.6 percent (either themselves or members of their families) have witnessed killings, 17.9 percent have witnessed harassment, 10.7 percent have witnessed physical assaults, 9.5 percent have witnessed disappearances, 6 percent have witnessed forced marriages and use of violence, 15.5 percent have witnessed beating and inhuman treatment, 5.4 percent have witnessed illegal detention, and 4.2 percent stated that cases of raped took place in their places. Killing, harassment, and beating constitute the majority of security-related incidents.



In the past several years, the Afghan Government and the US forces have raised the issue of the establishment of local police force to ensure security and defense in rural and outlying areas. The program began to implement last year. So far local police force has been formed in Kunduz, Maidan Wardak, Uruzgan, Kandahar, Helmand, and Baghlan provinces and it is intended to include 15,000 to 20,000 police forces. According to a report by Human Rights Watch (HRW), the US Congress has approved the budget for 30,000 local police forces.²⁴⁶ Local police is formed in insecure areas far from ANP reach. Based on the legal procedure for the establishment of local police approved by the Ministry of Interior (MoI), local police forces are selected by local councils. Pursuant to this procedure, local police forces should not be selected from people with records of war crimes and human rights violations and they should be selected and guaranteed by local councils. After selection, they are trained on tactical and legal matters for a period of three weeks. They will have special uniforms and their weapons will be registered. According to this procedure, they will only have the mandate to defend their villages and districts and will have no role in law enforcement.

Local police force has been effective in providing security in a number of provinces such as Uruzgan and Helmand and some districts in Kunduz province. However, the establishment

²⁴⁶ Human Rights Watch (HRW), *Just don't call it militia*, p. 10, September 2011.

process of local police force has several shortcomings. Local police force has not been often established pursuant to the legal procedure. It means that in some provinces local police forces have not been selected by local councils and some members of the local police force have previous criminal records.²⁴⁷ Local police forces have also been nominated by irresponsible armed groups known as *arbakis*. On the other hand, very short training has been offered to them and they, as a result, do not know and violate law and human rights. According to Kunduz deputy provincial governor, local police force has not contributed to security, but it has itself become a source of insecurity in the area. The HRW report indicates that local police forces have committed human rights violations in different areas and have committed killings and injuries, particularly in Kunduz province.²⁴⁸

The Afghan Government has time and again criticized the performance of private security companies and has demanded the dissolution of all such companies—a move that was opposed by some US officials. The Afghan Government has accused private security companies of causing insecurity, arbitrary killings, beatings, and harassment of people. In 1389 (2010/11), the Afghan President demanded the dissolution of these companies and eventually issued a decree that led to the practical dissolution of several private security companies. It seems that the presidential decree has not been fully implemented and as a result, not all private security companies have been dissolved.

There are currently around 100,000 US soldiers to ensure security in Afghanistan. Although there was an increase in the number of international military forces in the past two years, the security situation not only has not improved, but also it has aggravated. In early 2011, the US Government decided a strategy to withdraw its soldiers from Afghanistan by 2014. The strategy includes the transfer of security responsibility to Afghan national security forces. In summer 1390 (2011/12), security responsibility in several provinces was practically transferred to Afghan national security forces. Many experts believe that the Afghan national security forces are not adequately equipped and reinforced to assume responsibility for security across the country by 2014. The Afghan Government and the international community have so far focused on the military and quantitative aspects of the Afghan national security forces. It is better for the Afghan Government and the international community to focus both on the civilian dimension, such as quality of social services, good governance, anti-corruption, and establishment of justice and on the military dimension (reinforcing and equipping Afghan national security forces quantitatively and qualitatively).

7. Aid Effectiveness and Participation in Development

After September 11, 2001 and the fall of the Taliban, Afghanistan was placed at the center of international community's attention and there was an irreplaceable, exceptional opportunity for the country to emerge as an effective and dignified member of the international community. The world's and region's richest countries committed themselves in a series of conferences on Afghanistan to help the country in reestablishment of national institutions, especially through the provision of economic aid. Since 1381 (2002/03), Afghanistan has been one of the biggest

²⁴⁷ Kunduz province, interview with Hamdullah Daneshi, Kunduz deputy provincial governor, Asad 16, 1390 (August 7, 2011).

²⁴⁸ Human Rights Watch (HRW), *Just don't call it militia*, p. 10, September 2011.

recipients of foreign aid. After the downfall of the Taliban, foreign aid has formed a major part of Afghanistan's gross domestic product. All aid paid to Afghanistan since 1381 (2002/03) amounts to US\$57bn, of which the US has paid the largest amount (37.1bn), followed by Japan (3.2bn), European Union (EU) (2.6bn), and the UK (2.1bn). Aid paid to Afghanistan in 1387 (2008/09) and 1388 (2009/10) was US\$7.13bn and US\$6.32bn respectively. In 1389 (2010/11), it was US\$10.90bn. In general, 18 percent of all aid has been spent through governmental budget and 82 percent has been spent by donor countries themselves and their organizations.²⁴⁹ There was an increase in aid spending through the governmental budget from 1383 (2004/05) to 1387 (2008/09). In 1387 (2008/09), around US\$1.9bn was spent through the governmental budget, but this reduced to US\$1.66bn in the following year. In 1390 (2011), the amount increased to US\$1.8bn.²⁵⁰ According to the commitments made in the London and Kabul conferences in 1389 (2010/11), it was agreed to disburse up to 50 percent of all foreign aid through the governmental budget.²⁵¹ 51 percent of all aid was allocated to the security sector and the remaining 49 percent to all other development sectors.²⁵²

Based on assessment by MoF, Afghanistan's dependence on foreign aid is one of the highest in the world. From 1381 (2002/03) onwards, foreign aid has been used to fund 100 percent of the development budget and close to 52 percent of regular budget.²⁵³ National regular spending is increasing in different sectors year by year, while national domestic income is slightly increasing. In 1387-88 (2008/09-2009/10), national domestic income was US\$1.27bn and in 1388-89 (2009/10-2010/11), it increased to US\$1.42bn (an increase of US\$150m/12 percent), while national regular expenditure was increased from US\$1.87bn in 1387-88 (2008/09-2009/10) to US\$2.47bn (an increase of US\$603m/32 percent).

Although there has been a slight increase in national domestic income, this has been so slow that will make Afghanistan dependent on foreign aid for many long years to come. If we compare the increase in national domestic income with the increase in regular spending, the development process is negative and there will be increasing dependence on foreign aid in the years to come. In fact, the development of national domestic income is 20 percent less than regular spending from 1387-88 (2008/09-2009/10) to 1388-89 (2009/10-2010/11). Despite this, MoF has claimed that around 67 percent of regular budget was funded by domestic revenue in the current year and the remaining 33 percent of regular budget and the entire development budget were funded by foreign aid.²⁵⁴

A. Aid Effectiveness

State-building was one of the responsibilities of the Afghan Government and the international community. Although two presidential elections, two parliamentary and provincial council

²⁴⁹ Afghan Ministry of Finance (MoF), *Development Cooperation for Afghanistan*, 1389 (2010/11) Report, p. 25.

²⁵⁰ Ibid, pp. 11-26.

²⁵¹ Communiqué of the International Kabul Conference on Afghanistan, Asad 25, 1389 (August 16, 2010); <<http://www.gmic.gov.af/dari/index.php/features/89-2010-08-16-07-56-20>>.

²⁵² MoF, *ibid*, p. 29.

²⁵³ Ibid, pp. 19-20.

²⁵⁴ Aziz Shams, MoF Spokesperson: 67 percent of governmental regular budget is funded through domestic sources, Aqrab 9, 1390 (October 31, 2011);

<http://www.gmic.gov.af/dari/index.php?option=com_content&task=view&id=801&Itemid=86>.

elections, formation of parliament and provincial councils, and creation of around 27,000 local village councils under the National Solidarity Program (NSP)²⁵⁵ have been Afghanistan's achievements in the state-building arena, a comparison of turnout and transparency in the previous public elections indicates that the Afghan Government has unfortunately followed a negative trend in this regard. First presidential and parliamentary elections had more turnout and transparency than the second, previous presidential and parliamentary elections. The recent elections were marred by fraud, which decreased public trust in state and its institutions. The International Kabul Conference on Afghanistan stressed, "Afghan Government can guarantee security only when its people are confident in its ability to deliver public services, good governance, human rights protection including gender equality, and economic opportunities."²⁵⁶ However, fraud in recent elections and post-election controversy brought the credibility of the state under question for people. Interference of judicial organs in elections aggravated the problem. The parliament, to a great extent, lost its effectiveness and could not play an effective, active role in the state. In addition to these, the Government has not taken any effective measures for combating corruption and reforming public administration. In the Kabul Conference, the Afghan Government committed itself to "undertake all necessary measures to increase transparency and accountability and tackle corruption."²⁵⁷

According to Transparency International (TI) 2009 and 2010 reports, Afghanistan, with Somalia, Burma, and Iraq, is among the world's most corrupt countries, while Afghanistan was the world's fifth most corrupt country in 2008 and ninth most corrupt country in 2007.²⁵⁸ Over half of Afghan people have paid bribes.

According to a UN report, one in two Afghans has been forced to pay bribes. As a result, around two-thirds of Afghans have lost their trust in state institutions and foreign aid providers. Over half of the Afghan population believes that international organizations and NGOs active in Afghanistan are implicated in corruption.²⁵⁹ Integrity Watch Afghanistan (IWA) has reported that 28 percent of families have paid bribes in order to access one public service. In 2009, average cost of bribe has been Afs7,769 (roughly equivalent to US\$156). This is a big figure in a country where annual per capital income is US\$502. IWA research indicates that security and judicial institutions are the most corrupt institutions of the state.²⁶⁰ On this basis, a UN study

²⁵⁵ Jarullah Mansoori, Minister of Rural Rehabilitation and Development, Aqrab 9, 1390 (October 31, 2011); <http://www.gmic.gov.af/dari/index.php?option=com_content&task=view&id=802&Itemid=126>.

²⁵⁶ Communiqué of the International Kabul Conference on Afghanistan, Asad 25, 1389 (August 16, 2010); <<http://www.gmic.gov.af/dari/index.php/features/89-2010-08-16-07-56-20>> (accessed Aqrab 9, 1390 (October 31, 2011)).

²⁵⁷ Ibid.

²⁵⁸ Transparency International (TI): The Global Coalition against Corruption, <<http://www.transparency.org>>, CPI 2010; <http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results>, CPI 2009; <http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table>, CPI 2008; <http://www.transparency.org/news_room/in_focus/2008/cpi2008/cpi_2008_table>, and CPI 2007; <http://www.transparency.org/policy_research/surveys_indices/cpi/2007>.

²⁵⁹ Deutsche Welle, TI report on financial corruption in 180 countries, October 26, 2010; <<http://www.dw-world.de/dw/article/0,,6150665,00.html>>.

²⁶⁰ Integrity Watch Afghanistan (IWA), Afghan Perceptions and Experiences of Corruption: A National Survey 2010; <http://www.iwaweb.org/corruptionsurvey2010/Main_findings_files/IWA%20National%20Corruption%20Survey%202010.pdf> (accessed November 1, 2011).

shows that corruption has become a problem larger than insecurity and unemployment. In general, in 2009, Afghans paid US\$2.5bn in bribes, around 23 percent of Afghanistan's whole GNP.²⁶¹ Corruption is a major cause for pessimism and mistrust of people in state institutions. Armed opposition groups use these problems for attracting recruits and for further destabilization of Afghanistan.

Afghanistan has been regressing in security sector too. Although the bulk of international community's aid (51 percent) has been allocated to the security sector, the country's security situation has been deteriorating. Explosions and suicide operations in various parts of the country, especially in urban areas, and the ensuing casualties have been continually increasing the past years. Insecurity has spread to previously secure areas in northern and central Afghanistan. Public roads have been affected by increasing insecurity, making it difficult for the movement of people and essential commodities. This has had considerable negative implications for people's lives by increasing prices. (For further information regarding security-related incidents and civilian casualties, please refer to the security section of this report.)

Rising and spreading insecurity challenges the authority of the state and makes people more distrustful and disillusioned in the state. Weak governmental authority and lack of Government's ability to provide security for the people will make the Government lose further popular support. This is a big problem in state-building process in Afghanistan.

The Government too has encountered manifold problems in infrastructural development. Although reconstruction and rehabilitation of around 4,000 kilometers of roads, construction of about 3,500 schools, and enrolment of approximately seven million children in schools, and provision of health services and electricity have been Afghanistan's great achievements,²⁶² the implemented infrastructural projects have had very low quality and the Government has not had effective and serious supervision over these projects. For example, road-building and construction projects have been subcontracted for several times and these projects have been implemented in a non-standardized manner. As a result, most such projects are non-standardized and unendurable. Most intra-city roads that have been built this way have not lasted even for one year. According to the applicable Afghan law, every company that receives projects for implementation should complete the projects itself and cannot subcontract the projects to other companies and in case of incompetence, contracts are abolished and the company will lose the projects.²⁶³ Parts of Kabul city are still deprived of electricity and it is very difficult to people living in those parts of the city to have access to clinics and hospitals.²⁶⁴ And almost half of school-age children are deprived of their right to education.²⁶⁵

Poppy cultivation and trafficking is a main problem for the country. For several years, Afghanistan has been the biggest producer of opium in the world. Though the Afghan

²⁶¹ BBC Persian, "Opinion poll: Corruption, people's biggest problem in Afghanistan"; <http://www.bbc.co.uk/persian/afghanistan/2010/01/100119_115_corruption_report.shtml> (accessed Aqrab 9, 1390 (October 31, 2011)).

²⁶² MoF, *Development Cooperation for Afghanistan*, 1389 (2010/11) Report, p. 41-42.

²⁶³ Jarullah Mansoori, Minister of Rural Rehabilitation and Development, Aqrab 9, 1390 (October 31, 2011); <http://www.gmic.gov.af/dari/index.php?option=com_content&task=view&id=802&Itemid=126>.

²⁶⁴ For further details on health and education, please refer to the relevant sections of this report.

²⁶⁵ ACBAR, 2011, *Health and Education in Afghanistan*, Kabul, ACBAR.

Government has developed a program for the eradication of illicit drugs in the country and poppy cultivation dropped from 2007 to 2009, poppy cultivation, according to a report by the United Nations Office on Drugs and Crime (UNODC), has increased in 2011, 61 percent more than last year. The report indicates that Afghanistan has produced 5,800 tons of opium and there are 131,000 hectares of land under poppy cultivation. Based on this report, there is a direct link between insecurity and poppy cultivation and the bulk of illicit drugs in Afghanistan are produced in nine insecure southern provinces, particularly Helmand.²⁶⁶

In 1388 (2009), around 509,000 Afghan families were engaged in poppy cultivation, constituting 14 percent of Afghanistan's total population.²⁶⁷ There is no exact statistics on the number of drug addicts in the country, but the number of drug addicts is rapidly increasing. According to a UNODC survey in 2009, the number of drug addicts in Afghanistan is estimated to be 940,000 people, constitution close to 8 percent of the population aged 15 to 64.²⁶⁸ The Ministry of Counter Narcotics (MCN), however, stated in 1388 (2009/10) that there are 1.5 million drug addicts in Afghanistan.²⁶⁹ These figures show that the Afghan Government has failed in its efforts to combat opium cultivation and drug addiction.

B. Participation in Development

Increasing insecurity and corruption have left negative impacts on people's participation in development and enjoyment of social and cultural services and activities. We can understand people's participation in development through a comparative study of turnout in the previous presidential and parliamentary elections. According to an AIHRC report, around 75 percent of people turned out to vote in the first presidential elections. The turnout dropped to 50 percent in the previous parliamentary elections. The second presidential and parliamentary elections witnessed a turnout of 45 and 40 percent respectively.²⁷⁰ Although part of turnout decrease can be natural, a drop of 35 percent from the first presidential elections to the second parliamentary elections mostly emanates from people's disillusionment in electoral processes and the performance of the state, including the government and parliament. In specific terms, widespread frauds in elections, undue delays in the announcement of election results, post-election disputes, and especially the interference of the Government and judiciary in election have further increased people's disillusionment and mistrust.

Women have faced more restrictions and deprivations in political participation. They have been more vulnerable to rising insecurity. Although more women participated in the second rather

²⁶⁶ BBC Persian, "Opium cultivation increased by 61 percent in Afghanistan," Mizan 19, 1390 (); <October 11, 2011> (accessed Aqrab 5, 1390 (October 27, 2011)).

²⁶⁷ Malalai Afzali, "Situation of Women Drug Addicts in Afghanistan," AIHRC, 1388 (2009/10), p. 1.

²⁶⁸ United Nations Office on Drugs and Crime (UNODC), 2009; <<http://www.unodc.org/documents/data-and-analysis/Studies/Afghan-Drug-Survey-2009-Executive-Summary-web.pdf>> (accessed November 1, 2011).

²⁶⁹ Ghaffar Salehi, "Afghan drug addicts reached one million," Good Morning Afghanistan, June 18, 2006; <<http://www.gma.com.af/Documents%20of%20GMA/All%20News/Archive%20of%20June%202008/news86.htm>> (accessed November 1, 2011).

²⁷⁰ Third AIHRC Monitoring Report on Political Rights during the Second Parliamentary Elections of 1389 (2010/11);

<http://www.aihrc.org.af/2010_dari/Dri_Pages/Reports/Monitoring%20of%20Politic%20rights%20from%20the%20Parliamentary%20Election%20in%202010.pdf> (accessed Aqrab 10, 1390 (November 1, 2011)).

than the first parliamentary elections and made a number of achievements due to their continued campaign, they generally faced more constraints. The Free and Fair Election Foundation of Afghanistan (FEFA) says in its report on the second parliamentary elections that new electoral regulations were a disproportionate obstacle for women candidates compared to men candidates. Women encountered more impediments in areas such as voter registration, lodging formal complaints against candidates, and enjoyment of protection by law enforcement agencies during the electoral campaign period. Increasing armed conflict too has affected women's political participation. Women's electoral campaign was more constrained than men's electoral campaign due to insecurity, and law enforcement agencies unwillingly offered protection for these women.²⁷¹

Oxfam says in a report that women's social and political participation has decreased in recent years and the presence and role has reduced in government institutions, particularly ministries. Based on Oxfam's findings, women's participation was 31 percent in state institutions in 2006 and this reduced to 18 percent in 2010.²⁷² In general, 27.7 percent of parliamentarians are women, constituting 69 out of 249 parliamentary seats. FEFA has stated that support for women and their cause has been decreasing. In the present parliament, 12 women have directly won their seats, while 17 women directly won their seats in the previous parliament.²⁷³ Women's participation is very weak in the reconciliation process. Women constitute nine out of 70 members of the High Peace Council (HPC). The reconciliation process has raised general concerns about women's rights and achievements in the past ten years. Oxfam calls women's achievements fragile and their future uncertain.²⁷⁴ Action Aid has stated in a report that 86 percent of Afghan women are worried about the comeback of the Taliban. Based on this report, most Afghan women believe that in case of the withdrawal of international forces from Afghanistan, the situation of the country will worsen.²⁷⁵ A number of Afghan civil society organizations have regarded the composition of HPC and reconciliation process as "worrying" and "non-transparent," expressing grave concern over the fate of Afghanistan's civil achievements, particularly in the area of women's rights and privileges. They have further said that civil society is nonexistent and the role of women, representatives of victims, academics, and intellectuals is not considerable in HPC.²⁷⁶

Lack of participation in social activities is another form of deprivation. The AIHRC HRFM data in 1389 (2010/11) indicates that around 17.5, 15.4, and 1.8 percent of interviewees have respectively been deprived of joining cultural or professional associations, local development

²⁷¹ Free and Fair Election Foundation of Afghanistan (FEFA), *Report on Monitoring of 1389 Wolesi Jirga Elections*; <<http://www.fefa.org.af/dari/fardireport/Parliamentari%20Election%20Report%20Dari%202010.pdf>> (accessed Aqrab 10, 1390 (November 1, 2011)).

²⁷² Oxfam, "Ten years of gains for Afghan women under threat, warns Oxfam," October 3, 2011; <<http://www.oxfam.org.uk/applications/blogs/pressoffice/2011/10/03/ten-years-of-gains-for-afghan-women-under-threat-warns-oxfam/>> (accessed November 3, 2011).

²⁷³ FEFA, *Report on Monitoring of 1389 Wolesi Jirga Elections*.

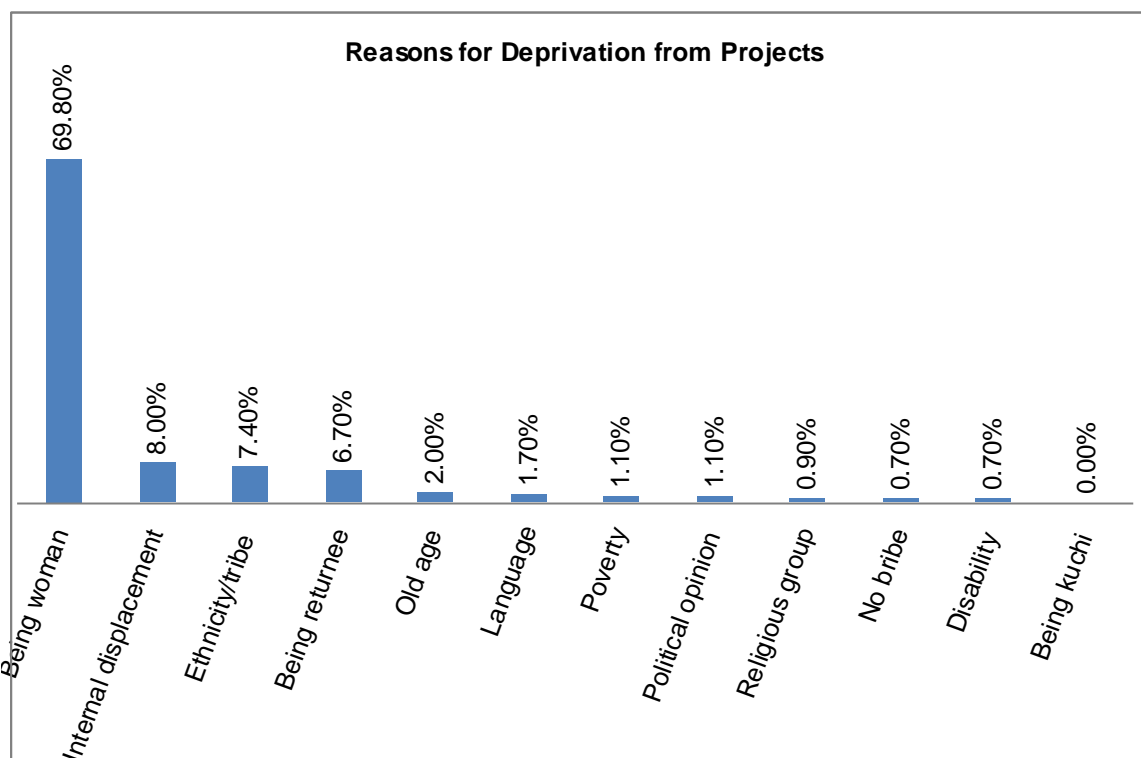
²⁷⁴ Oxfam, "Ten years of gains."

²⁷⁵ Action Aid, "A just peace? The legacy of war for the women of Afghanistan," October 3, 2011; <http://www.actionaid.org/sites/files/actionaid/a_just_peace.pdf> (accessed November 3, 2011).

²⁷⁶ Civil Society and Human Rights Network (CSHRN), "Message of a One-Day Conference on Reconciliation and Justice," Aqrab 19, 1389 (November 10, 2010); <<http://www.cshrn.af/Documents%20of%20CSHRN/News%20and%20Reports/News54.htm>> (accessed Aqrab 12, 1390 (November 3, 2011)).

councils, or village councils. Being a woman (72.2 percent), an IDP (6 percent), a returnee (5 percent), ethnic and tribal belongingness (5.2 percent), and old age (4.7 percent) were mentioned as reasons.

A number of citizens have also been deprived of benefiting development and social service projects. According to the AIHRC HRFM data in 1389 (2010/11), around 18, over 12, around 4.5, and 2.5 percent of interviewees were respectively deprived of roads, access to water, access to education, and access to health. Almost 61 percent of these projects have been implemented by NGOs and 37.5 percent by the Government. Based on the AIHRC HRFM data, approximately 94 percent of interviewees did not mention reasons for their deprivation of benefiting development projects. Of the mentioned reasons, being a woman was a major one, followed by internal displacement, ethnic and tribal affiliation, old age, and so on.



The above-mentioned reasons show that women face the greatest deprivation in areas like participation in social and cultural activities and enjoyment of development projects. A comparative analysis indicates that women’s participation has been constrained and decreased in political, social, and cultural areas and in their enjoyment of development services and projects.

8. Poverty

Establishing a fixed standard of poverty is difficult. Some regard the lack of basic needs for a healthy, physical living, such as adequate food and shelter, as the standard of poverty. They assume that these needs are universal for all people, regardless of their age, physique, and

nationality. However, income level is often used as the indicator to gauge poverty. It means that income level is used as the standard to measure poverty in practice.²⁷⁷

Poverty should not be viewed as the sheer lack of adequate income, but the deprivation of human rights, such as the right to an adequate standard of living, shelter, food, and etc. To this same end, Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) enshrines:

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”²⁷⁸

On the other hand, the United Nations General Assembly has, in its resolutions on human rights and extreme poverty, reaffirmed that extreme poverty and social deprivation lead to degradation of human dignity and immediate national and international measures are needed to eliminate these phenomena. In its Resolution 51/79 dated September 12, 1996, the General Assembly has acknowledged that extreme and widespread poverty is an impediment to the full and effective enjoyment of human rights and that it, in certain cases, poses threats to people’s right to life.²⁷⁹

Afghanistan is undoubtedly one of world’s poorest countries. According to official statistics provided by the Afghan Government, around 36 percent of Afghan population lives under the poverty line, including 9 million people. Of these, about 3.4 million face serious economic problems in Afghanistan.²⁸⁰

The unemployed and those partly employed often live in poverty. Therefore, there is an inverse correlation between unemployment and poverty: an increase in employment will result in a

²⁷⁷ Anthony Giddens, *Sociology*, trans. Manouchehr Sabouri, *Nei Publications*, 19th ed., 1386 (2007/08), p. 270.

²⁷⁸ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*, adopted on December 16, 1966.

²⁷⁹ Johnson Simmonds, *Human Rights: New Dimensions and Challenges*, trans. Dr. Mohammad Ali Shirkhani, *Gerayesh Publications*, 1383 (2004/05), p. 12.

²⁸⁰ Interview with Wasil Noor Mohmand, Deputy Minister for Social Affairs, MoLSA, Sunbula 14, 1390 (September 5, 2011).

decrease in poverty. The AIHRC HRFM findings reveal in 1388 (2009/10), 56.9 percent of interviewees were employed and 43.1 percent unemployed. Of those who were employed, 59.5 percent make a daily income of less than Afs50 and 40.5 percent make a daily income of over Afs50. Of all interviewees, 32.1 percent stated that they had a daily income of less than Afs50 and 21.8 percent said that they had a daily income of over Afs50. The data shows no considerable difference with that of 1387 (2008/09), but indicates that there has been a very slight reduction in poverty rate. In 1387 (2008/09), 63.6 percent of interviewees who were employed stated that they made a daily revenue of less than Afs50 and of all interviewees, 36 percent reported that they had a daily revenue of less than Afs50. There has been a decrease of 3.7 percent ($63.6-59.5=3.7$ percent) in the first figure and a decrease of 3.9 percent ($36-32.1=3.9$ percent) in the second figure.²⁸¹

Therefore, poverty rate has reduced by 3.8 percent among the AIHRC HRFM interviewees in the course of one year and this is not a considerable percentage that can give rise to hope for decreasing poverty levels in the future. On the contrary, it can be claimed that there has been no remarkable positive change in the percentage of poor families.

People's debt is another indicator for assessing poverty rate. Families and individuals who do not earn an income proportionate to their expenditure are forced to borrow from other families and individuals. People's debt level was assessed by the AIHRC HRFM team whose findings indicate that in 1388 (2009/10), 63.3 percent of interviewees were in debt and 36.6 percent reported that they were not in debt. 0.1 percent did not reply to this question. These figures reveal around 1 percent decrease compared to the fourth report published in 1387 (2008/09); therefore, it can be mentioned that there has been no major difference in people's debt levels. Nonetheless, 1389 (2010/11) AIHRC HRFM findings reveal a 3.8 percent decrease in the number of indebted families and a same percent of families reported that they were not in debt and 0.3 percent did not answer this query. On the whole, family debt level has been decreasing in the past three years and this is indicative of the fact that there has been a reduction in the number of indebted families, but this is not considerable and that the pertinent institutions should take robust measures to reduce family debt rates and decrease the number of indebted families.

Poverty has negative implications for various dimensions of an individual's life. In the cultural sphere, this includes educational regression, dropout, and lack of access to education. According to the AIHRC HRFM data in 1388 (2009/10), 23.2 and 12.6 percent of interviewees respectively stated that their boys and girls cannot regularly attend their schools due to child labor. This shows a considerable increase in 1389 (2010/11); this year 47.5 and 20.6 percent of respectively interviewees reported that their boys and girls are unable to maintain regular school attendance because of child labor—24.3 and 8 percent increase in the number of boys and girls respectively. Lack of regular school attendance means educational regression and eventually dropout. Poor families put their children in labor and thus hamper their education.

There is a strong relation between poverty and violence against women. Poverty is a principal cause of violence against women. Domestic violence, early marriage, forced marriage, and other forms of violence against women are rooted in family poverty. For example, the AIHRC HRFM team found out in 1388 (2009/10) that 58.8 percent of interviewees had consented to the

²⁸¹ AIHRC, "Fourth Report on Economic and Social Rights in Afghanistan," 1388 (2009/10).

marriage of their children aged below 16 so as to solve their economic problems and ensure their livelihoods. This shows a 3.3 percent increase in the course of one year: in 1389 (2010/11), 62.1 percent of interviewees reported that their children aged below 16 have been forced to marry in order to solve family economic problems. Other forms of violence against women too are rooted in poverty and poor family economic situation.

In addition, there is a correlation between poverty and social deviations, delinquency, and crime. Several studies indicate that poverty is a cause of social deviations, though a direct, categorical correlation has not been established. For example, a study by the AIHRC Research Section on women and child trafficking shows that poverty and unemployment are the major causes of human trafficking. According to this report, more than 58 percent of families victimized by human trafficking had no income and only over 10 percent of such families had an income over Afs7,000 per month. More than 27 percent of such families had an income, ranging from Afs1,000 to Afs7,000 on a monthly basis. Interviews with public people confirm the claim that poverty and unemployment are the major causes of human trafficking.²⁸²

At last, it can be concluded that poverty is a serious, harmful problem in the Afghan society and little attention has been paid to address it. There are still no exact statistics in this area, the causes and roots of poverty are yet to be identified, and effective and practical anti-poverty programs have not been designed and implemented. This is while an effective anti-poverty approach requires a more comprehensive understanding of poverty and that poverty should not be viewed as the mere lack of adequate income, but as deprivation of human rights and that the Afghan Government should include extensive and balanced anti-poverty measures in its programs in the light of Afghanistan's national and international obligations.

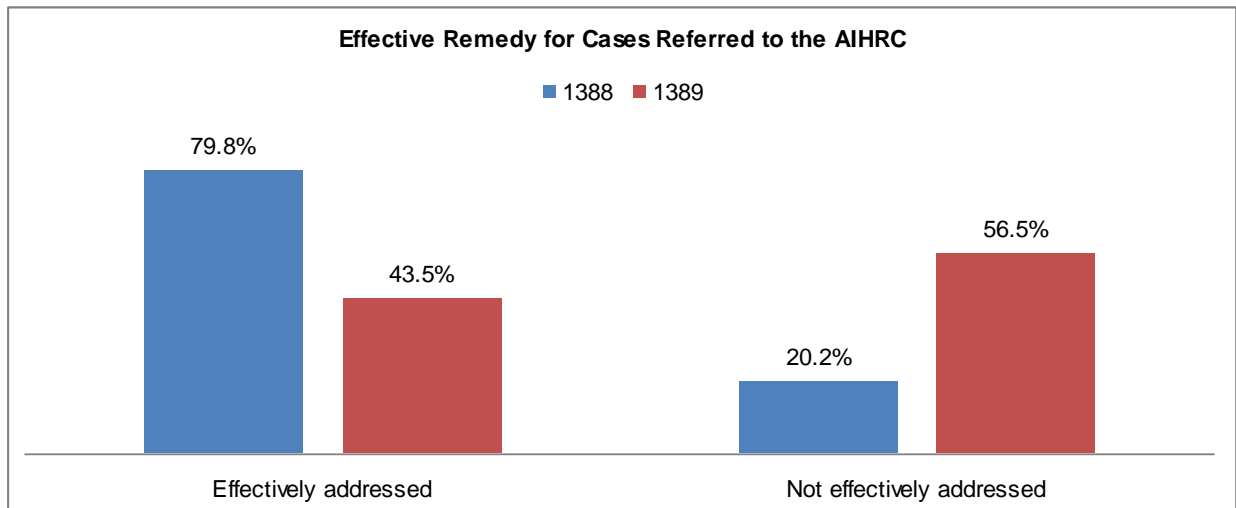
9. The Right to Effective Remedy

The right to effective remedy ensures the protection of the rights of people and the effective and fair resolution of disputes and conflicts by competent authorities. In case of human rights violations, this means that the Government should take measures to address such violations. The remedy can include the punishment of criminals and human rights violators, enactment and/or amendment of laws for the protection of the rights of alleged victims in accordance with international instruments, provision of increased services for the protection of victims of human rights violators, and even public awareness-raising about human rights. If the alleged human rights violators are found guilty, prosecutions should be conducted pursuant to national law. In principle, human rights abuses should in any case be prosecuted according to international human rights instruments and national law should be made compatible accordingly.

The AIHRC case management database recorded 1,011 cases of human rights violations in 1388 (2009/10), of which nearly 80 percent (807 cases) were effectively addressed by the relevant justice institutions and over 20 percent (204 cases) were not effectively addressed. Nevertheless, of all cases referred to the Commission in 1389 (2010/11) (around 852 cases), only 43.2 percent (371 cases) were effectively addressed by the pertinent justice institutions and the remaining 56.5 percent (481 cases) were not effectively addressed. A comparative study of these cases indicate

²⁸² AIHRC, *Summary of Research on Causes and Consequences of Women and Child Trafficking in Afghanistan*, Saratan 1390 (June/July 2011); <http://www.aihrc.org.af/2010_dari/>.

that although the number of human rights violations cases recorded by the AIHRC reduced in 1389 (2010/11) compared to the previous year, people’s access to the right to effective remedy decreased by approximately 36 percent in this year compared to the last year.



One of the principles and preconditions of the right to effective remedy is that the country’s justice system should be immune and protected from the influence of political institutions/persons. But powerful institutions and persons exert influence over the judicial organs in most parts of the country and particularly so in insecure and outlying areas and they, as a result, obstruct people’s access to effective remedy.²⁸³ For instance, the AIHRC HRFM data in 1388 (2009/10) shows that close to 94 percent of interviewees stated that their cases over land and house were not resolved and only 6 percent of them said that their cases were resolved. Similarly, around 30 percent of interviewees reported that their disputes over house and land were resolved, but over 51 percent expressed their disillusionment that their disputes will not be resolved. Nearly 19 percent said they did not know.

Influence by powerful institutions and persons over the judicial process and proceeding of legal cases can increase public disappointment and distrust in the judiciary and make informal, local dispute resolution mechanisms, rather than formal, state courts, more approachable for public people.

During the AIHRC HRFM in 1388 (2009/10), about 34 percent of interviewees stated that they use formal, judicial mechanisms for resolving their disputes over water, house, and land, while approximately 66 percent said that they approach informal, local structures, such as *shuras*, elders, mullahs, and relatives to resolve their disputes. In 1387 (2008/09), the situation was, more or less, the same: around 32.5 percent of interviewees consulted formal, judicial mechanisms and over 67 percent approached local mechanisms for resolving their disputes and conflicts.²⁸⁴

²⁸³ AIHRC, *Report on Monitoring the Situation and Performance of Afghanistan’s Judicial System*, Hout 1389 (February/March 2011), p. 32.

²⁸⁴ AIHRC, *Fourth Report on the Situation of Economic and Social Rights in Afghanistan*, 1388 (2009/10), p. 31.

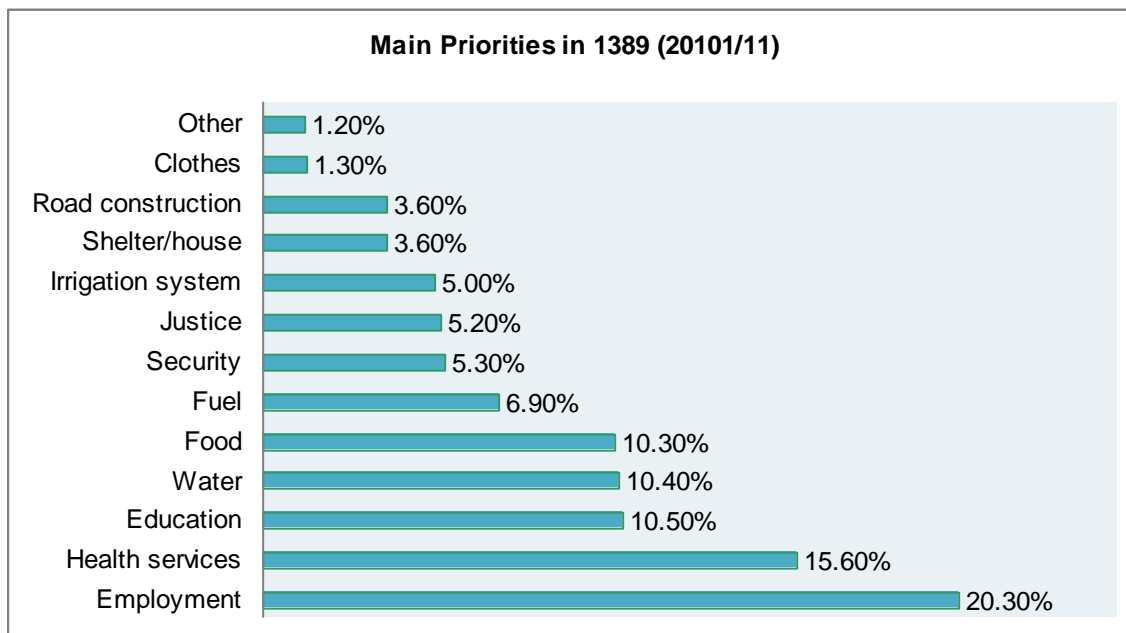
The above-mentioned figures indicate that the Afghan justice system has been unable to attract public trust and that most people resolve their disputes through local structures. Lack of case referrals to the formal justice system, on the one hand, leads to the multiplicity of justice mechanisms and sometimes contradictory legal standards and, on the other hand, challenges state authority and competence in these areas. It is possible for informal justice mechanisms to resolve cases in a way that runs counter to human rights standards and Afghan constitutional and other laws.

Part 8

Priorities

Prioritizing needs is an important method to understand the human rights needs of individuals with a view to realizing these rights. Prioritizing is significant for the allocation of existing time and resources to meet the needs in terms of their importance. This will lead to optimal use of time and resources to meet as many needs as possible. That is because time and resources are always limited and it is impossible to provide all necessities in a short period of time. Therefore, prioritization will help the country's authorities and managers in their policy- and decision-making processes.

The AIHRC HRFM team assessed the priorities of the people in terms of economic and social rights. The HRFM findings reveal that employment was the top priority for the interviewees in 1388 (2009/10) and 22.1 percent of all interviewees stated that creation of job opportunities was the main priority for their families.²⁸⁵ Improving health services (15.6 percent), potable water (13.3 percent), education services (13.2 percent), foodstuffs (8.4 percent), security (7.5 percent), housing (5.6 percent), and access to justice (3.4 percent) were respectively the second to eighth priorities of the interviewees. Likewise, the AIHRC HRFM findings in 1389 (2010/11) indicate that employment is the highest in the priorities for the interviewees and 20.3 percent of them said that they needed job opportunities the most. After employment comes health services (15.6 percent), education (10.5 percent), access to drinking water (10.4 percent), foodstuffs (10.3 percent), fuel (6.9 percent), security (5.3 percent), access to justice (5.2 percent), and housing (3.6 percent) as the second to eighth priorities for the interviewees.



²⁸⁵ For further details, see the section on the right to work where people's right to work is extensively discussed.

Employment was also identified as interviewees' top priority in 1387 (2008/09), which means that it remains the most needed and objective need of the Afghan people and has increased by 2.4 percent compared to 1387 (2008/09).²⁸⁶ This is indicative of the extent of poverty and unemployment in the Afghan society. Health services, foodstuffs, and potable water are also among the main priorities since 1387 (2008/09), meaning that the primary needs of the Afghan people are still to be met. Although these priorities were seriously highlighted in the AIHRC Fourth Report on the Situation of Economic and Social Rights in 1387 (2008/09), the responsible authorities have unfortunately not taken effective measures to provide these needs.

Another important point is that compared to 1387 (2008/09), there is increased prioritization for access to justice/anti-corruption and security. In 1387 (2008/09), security and justice were priorities respectively for 4.6 and 2.6 percent of interviewees, but the priorities of security and justice have increased by respectively 1 and 2.6 percent in 1389 (2010/11). This shows that people's access to security and justice not only has not improved, but has rather aggravated.

As referred to previously, the AIHRC HRFM findings indicate that despite the available opportunities and facilities in the past several years for enhancing people's socioeconomic status, the bulk of the primary needs and necessities of the Afghan people has not been met and effective steps have not been taken to provide these basic human needs. In fact, there has been increased prioritization for basic needs. Therefore, the Afghan Government should pay more attention to provide these needs based on its national and international commitments.

²⁸⁶ In the Fourth Report on the Situation of Economic and Social Rights, 19.7 percent of interviewees referred to employment as the top priority for their families.

Recommendations

Given the current situation of economic and social rights that was relatively accurately described in the present report, the Afghan Government should, within the framework established by the Afghan Constitution, International Covenant on Economic, Social, and Cultural Rights, Afghanistan National Development Strategy, and other relevant national and international instruments, take effective and practical measures, in cooperation with international community and civil society institutions, to address the existing inadequacies regarding Afghan people's access to their economic and social rights. The Afghanistan Independent Human Rights Commission (AIHRC) makes the following recommendations to the Government of the Islamic Republic of Afghanistan, international community, and civil society institutions in order to improve economic and social rights in Afghanistan and urges the relevant institutions to make increased efforts in this direction.

The Right to Work

The AIHRC makes the following recommendations on the right to work based on the findings of the present report:

1. As explained in the present report, the Afghan Government still lacks accurate statistics regarding the number of persons qualified for work, the number of unemployed persons, general unemployment rate, the number of employed persons, and kinds of employment. Therefore, the Afghan Government should launch an accurate survey in this regard to produce valid and reliable statistical information, on the basis of which sound and effective programs can be developed.
2. There has been no change in unemployment rate in Afghanistan in the past two years and no concomitant development in employment areas; therefore, the Government and all relevant institutions should formulate and implement efficient and effective programs to reduce unemployment rate and increase job opportunities.
3. The vocational training programs that have so far been implemented have not yielded tangible results and have not had a considerable impact on the reduction of unemployment rate; therefore, the Government and pertinent non-governmental organizations should formulate employment-generating vocational training programs that are effective in providing vocational training appropriate to market needs and demands.
4. The Government should not solely rely on income-generating vocational training programs to decrease unemployment rate, but it should develop and diversify employment areas in which qualified and trained persons can be employed after graduation.
5. As described in the present report, less than half of qualified women are employed in the workforce and they mostly work in jobs that have low wages, less job security, less working hours, and more vulnerability. In addition, the number of women's employees has been decreasing in the public sector. Therefore, the Afghan Government and relevant institutions should take serious and effective measures to address these problems and ensure women's participation in the workforce on an equal footing with men.
6. Employed women face manifold problems that prevent their effective participation in the labor force; therefore, the Government and all other relevant organizations should address these

challenges, offer legal protection for victimized women, and eliminate the causes for these challenges in the work environment.

7. Despite the legal prohibition of child labor, around 1.9 million children aged 6-17 work in Afghanistan. The Afghan Government should take effective measures to reduce and eliminate child labor in accordance with its national and international commitments.

8. As described in the present report, Afghan children are engaged in 22 kinds of labor; therefore, the Afghan Government and pertinent non-governmental organizations should launch public awareness-raising campaigns to explain the hazards of child labor for families so that these families end employing their children in labor.

9. According to Article 22 of the Law on the Rights and Privileges of Persons with Disabilities, the Government should implement at least a three percent quota for the employment of qualified persons with disabilities in ministries and other governmental institutions. Estimated statistical information, however, indicates that 1 percent of government employees are persons with disabilities. Therefore, the Afghan Government should increase the employment of qualified persons with disabilities in the public service in accordance with applicable legal rules.

10. Vocational training projects for persons with disabilities have been ineffective and have not led to increased employment of these persons in the workforce. Therefore, the Afghan Government and all relevant non-governmental organizations should launch vocational training programs with due consideration of job opportunities in order to develop and diversify employment for persons with disabilities.

The Right to Social Security

The AIHRC makes the following recommendations on the right to social security based on the findings of the present report:

11. The Afghan Government should consider a sufficient annual budget for the protection of vulnerable persons and should develop its protection program for all vulnerable persons without any kinds of discrimination.

12. The Ministry of Labor, Social Affairs, Martyrs, and Disabled should consider protection programs for older persons, including the establishment of institutions for older persons in a number of pilot provinces.

13. The Afghan Government, particularly Ministry of Justice and Ministry of Labor, Social Affairs, Martyrs, and Disabled should amend the Law on the Rights and Privileges of Survivors of Martyrs and the Disappeared in order to extend the existing protection system to include survivors who have lost their supporters or their supporters have disappeared in incidents that are unrelated to war.

14. The Ministry of Labor, Social Affairs, Martyrs, and Disabled should launch awareness-raising and monitoring programs for the implementation of legal rules on maternity leave for female workers/staff members.

15. The Afghan Government should create a special fund for the protection of vulnerable persons.

The Right to an Adequate Standard of Living

The AIHRC makes the following recommendations on the right to an adequate standard of living based on the findings of the present report:

16. The Government should take special measures and implement housing projects in order to prevent the housing crisis, especially in Kabul city. It is also necessary to formalize the informal settlements and take measures for improving these settlements.

17. The Afghan Government should improve judicial reform in order to secure people's trust so that the justice system is enabled to resolve property disputes/conflicts.

18. The Government should guarantee security of tenure for returnees and internally displaced persons and it should provide life's primary facilities (potable water, electricity, road, health service, school) for IDP settlements.

19. The Government should ensure rural and urban people's access to healthy drinking water, fund water supply projects, and develop the capacity of the relevant institutions.

20. The Afghan Government should develop a long-term strategy to reduce poverty and hunger as a priority.

The Right to Health

The AIHRC makes the following recommendations on the right to health based on the findings of the present report:

21. The Ministry of Public Health should increase the number of health services centers so that people can have closer physical access to these services.

22. The Ministry should make further efforts to promote the quality of health services (professionalism of health workers, quality of medicine, quality of equipment, etc.). To this end, it is necessary to develop more vigorous monitoring and control programs. It is better to more seriously control the entry and production of low-quality and expired medicines and set legal penalties for offenders.

23. The Ministry should launch incentive and protection programs in order to increase the number of female health workers and should make further efforts to provide training for them.

24. The Ministry should further develop awareness-raising programs regarding childbirth, prevention of addiction, HIV/AIDS, and environmental hygiene and sanitation.

25. The Ministry should pay more attention to the treatment of drug addicts and should allocate a sufficient budget for the creation of more specialized centers for drug addiction treatment. It is necessary to institutionalize and provide care for all drug addicts in the framework of a comprehensive program.

The Right to Education

The AIHRC makes the following recommendations on the right to education based on the findings of the present report:

26. The AIHRC requests the Government and donor countries to focus on the quality, rather than the quantity, of education services and vocational training so as to increase both the quantity and quality of education.

27. The Government should provide equal education for ethnic, linguistic, and religious minorities in accordance with the applicable national laws, particularly the Afghan Constitution.
28. The Government should make serious efforts to provide secondary-level education in districts where such education is still unavailable for girls.
29. The Afghan Government should take serious measures to ensure the security of schools, students, and teachers, especially girl students and women teachers.

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