



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

Research and Policy Unit

**Research Report**

**The General Situation of Children in Afghanistan**

2007

## **Contents**

Introduction

1.1. The Research Objective

1.2. Methodology

1.3. National and International Commitments Concerning Children

1.4. General Figures and Information

1.5. Domestic Violence against Children

1.6. Identity Establishment and National ID

1.7. The Right to Health

1.8. The Right to Water

1.9. The Right to Education

1.10. The Right to Protection against Labour

1.11. Marriage

1.12. The Right to Participation

1.13. Conclusions

1.14. Recommendations

## **Introduction**

Various released reports indicate that the situation of children in Afghanistan is apprehensible. Children constitute a vulnerable and risk-prone category in Afghanistan. The place of residence, the existing cultural sensitivity, gender-based discrimination, and economic status are among the factors that give rise to, and exacerbate the vulnerability of children in the country.

In the aftermath of the protracted conflict in Afghanistan, the past half a decade has witnessed certain improvements in the lives of children, including the formulation of specific laws like the Law on Juvenile Delinquency, the development of the National Strategy for the Protection of Risk-prone Children, the creation of child rights advocacy organisations, the building of schools, the launch of vaccination campaigns, and so forth. But, firstly, these improvements have not been all-encompassing, and, secondly, they cannot be tangible and measurable, given the diverse problems and needs of children.

The belief of people in various traditions and cultures, which are in contravention of Islam and human rights values, has subjected children to a wider range of hazards. The problems of children differ in urban and rural settings. In rural areas, the lives of children are largely determined by the customs governing the local territory. Boy children have, for example, a greater educational opportunity than do girl children. Child marriage is another factor that hinders the access of children, girls in particular, to such fundamental, human rights as the rights to health and education.

As a supposedly accepted style of life, families have many children, and this has put into jeopardy the access of children to adequate food, education, health, and equal opportunity for the development of their personality. Girl children have faced this menace, mostly because of the prevailing gender-based discrimination in the society.

In urban areas, overpopulation, unemployment, lack of social security and continual shifting from the country to the city have made children far more vulnerable than adults, though urban children enjoy greater opportunities with regard to access to education and health than do rural children, and urban families give priority to the education of their children. The number of schools and educational facilities is not proportionate to the existing needs. The number of child labourers and beggars is considerably rising. Children do not enjoy their right to recreation and leisure.

The high rate of illiteracy, especially among mothers, has caused parents not to have a clear picture on how to bring up their children. To deteriorate, domestic violence against women is increasing. These two factors have contributed to increasing violence against children, and as a consequence, children are subjected to violence in the household, school, and community.

There is a lack of statistical data. Hence, the population percentage of children and other related statistical information are usually estimations.

Children in need of special care, like children with disability, have not received due attention. National and local programmes have ignored the especial needs of this category of children.

In the meantime, Afghanistan has been a state party to the Convention on the Rights of the Child (CRC) since 1994, and has made, under its constitutional law, a series of commitments to promote and protect the rights of children.

Considering what was mentioned above, Afghanistan Independent Human Rights Commission (AIHRC), in collaboration with Save the Children-Sweden, piloted the child monitoring project in the 2<sup>nd</sup> half of 2006 in 21 provinces. This report has been prepared out of the information provided by children in individual and group interviews. It is noteworthy that the child rights monitoring project, which started its probationary period in the 2<sup>nd</sup> half of 2006, will extend to all provinces in 2007.

The present research report presents an analysis of the situation of children in Afghanistan, and has been produced by using the data collected by the Commission's field monitors during the child monitoring exercise.

### **1.1. The Research Objective**

The general objective of the report is:

- To present a vivid picture on the situation of children in Afghanistan,
- To assess the situation of children in Afghanistan against the national and international commitments of the government, and
- To reflect the opinions and problems directly stated by the children.

The present research report covers the following main topics:

- The vulnerable categories of children,
- The right of children to health,
- The right of children to education,
- The situation of child labourers,
- Child marriages, and
- The participation of children in matters affecting their lives

### **1.2. Methodology**

The questionnaire, observation and interview techniques have been used to produce this research report. A questionnaire was developed, and 2,941 copies were filled out by the respondents. 50.7% of interviewees were girls (1,490 persons), and 49.3% of interviewees were boys (1,451 persons).

Data collection was carried out in 21 provinces, which include Kabul, Badakhshan, Badghis, Baghlan, Mazar-e-Sharif, Faryab, Herat, Jawzjan, Kandahar, Kapisa, Khost, Kunduz, Nangarhar, Paktia, Paktika, Panjshir, Parwan, Samangan, Zabul , Lagman and Takhar. The data was gathered by the Human Rights Field Monitoring Unit from 11 June 2006 to 29 December 2006.

Following chart shows the number of interviews conducted in each province:

Province Name	Interviews
Badakhshan	116
Badghis	36
Baghlan	120
Balkh	362
Faryab	400
Hirat	368
Jawzjan	162
Kabul	102
Kandahar	92
Kapisa	20
Khost	53
Kunduz	85
Laghman	6
Nangarhar	403
Paktika	54
Paktya	229
Panjsher	92
Parwan	90
Samangan	53
Takhar	90
Zabul	8

During the survey, the human rights field monitors identified, filed, and investigated 27 cases of human rights violations. The interviews included children belonging to all the ethnic groups in Afghanistan (Pashtun, Tajik, Hazarah, Uzbek, Turkmen, Baloch, Pashae, Arab, and so forth)

Selection of areas for interview has been done based on the principles set out in the human right monitoring guideline and it includes followings:

- Previously identified protection problem and human rights violation
- Groups of particular concern (minorities, Vulnerable groups, etc)
- Receipt of information about a particular incident or trend indicating a possible violation of human rights.

The following chart shows the age categories of children interviewed:

age category	Interview with children under 18 years old
Years 5	1
7	10
8	120
9	179
10	291
11	246
12	473
13	394
14	369
15	336
16	244
17	225
18	53

### 1.3. National and International Commitments Concerning Children

Afghanistan has been a state party to the CRC since 1994, and is legally bound to work towards the realisation of the provisions contained therein.

The CRC has been recognised and ratified by 192 countries, and aims to ensure the rights of children. The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography of 2002, and the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict of 2002, are the two other international instruments that require the member states to take especial measures for the protection of children.

The constitutional law enshrines specific provisions for the protection of the child. For instance, Article 54 of the Constitution reads, *“Family forms the fundamental unit of the society, and is protected by the state. The state shall take the necessary measures to secure the physical and mental health of the family, mother and child in particular, to rear children, and to eliminate the traditions contrary to the sacred religion of Islam.”*

Similarly, the Constitution, in its Article 53, states, *“The state shall take the necessary steps to regulate and provide, in accordance with law, medical service and financial assistance for the survivors of the martyred and the disappeared, and for the rehabilitation of the disabled and their active participation in the society. The state shall guarantee the rights of the retired, and provide, in accordance with law, assistance for the elderly, the widowed, the disabled, and the orphaned.”*

Furthermore, Article 49 of the Constitution sets out explicit provisions on the issue of child labour: *“Compulsory labour shall be proscribed. Active participation in states of war, calamity, and other states threatening the life and peace of the nation is among the fundamental duties of each Afghan. Child labour shall be prohibited.”*

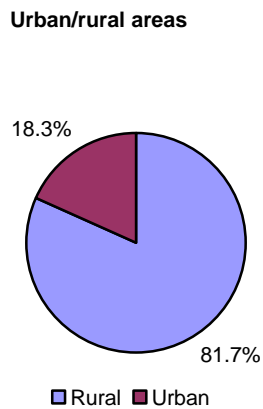
Concerning the right of children to education, the Constitution, in its Article 43, specifies, *“Education is the right of all Afghan citizens, which shall be provided gratis up to the bachelor’s degree level in state educational institutions by the state. The state shall design and implement effective programmes for the balanced generalisation of education in the entire country and the provision of compulsory secondary education, and shall pave the way for teaching mother tongues in areas where people speak in those languages.”*

Guided by the Constitution, the Law on Juvenile Delinquency entered into force to ensure the rights of those children who are in conflict with law.

In addition to that, the Ministry of labour, Social Affairs, Martyrs and the Disabled developed a strategy on children in danger, which was recently adopted by the government. This strategy is another national instrument that aims at promoting and protecting the rights of the child in the country.

#### 1.4. General Figures and Information

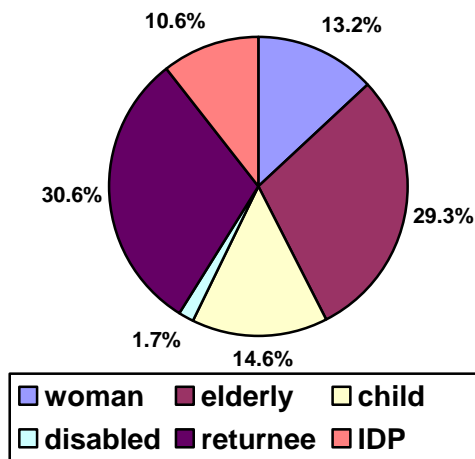
1. 2,308 interviews were set up with children living in rural areas, which constitute 81.7% of the total number of interviews.



The above figures indicate that the focus of the project was placed on children in rural settings.

2. 95.9% of all interviewees (2,821 persons) were children who had families, while 4.1% of all interviewees did not have families. What is noteworthy is various categories of people have been introduced as heads of families, who themselves require care and support. 13.2% of all interviewed families were headed by the widowed women, 29.3% by the elderly, 14.6% by children themselves, 30.6% by returnees, and 1.7% by people with disability. 10.6% internal displaced people

### Heads of families



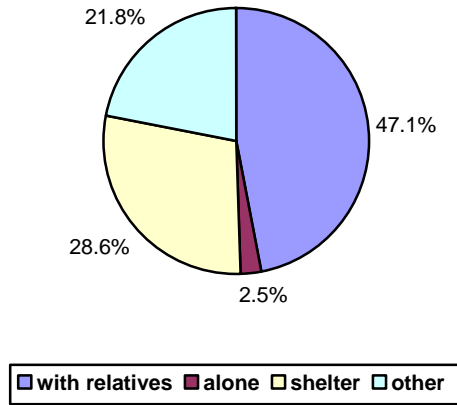
Taking a glance at the CRC, one finds out that it emphasises the best interests of the child. Article 3 (1) of the CRC reads, *“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”*

In accordance with the provisions of the CRC, the best interests of the child should be considered in all actions regarding children. The fact that either children themselves are the heads of families or are cared by those who themselves are in dire need of care and support, reveals that the rights of such children are violated, and that they are in great danger.

It was also mentioned that 4.1% of children do not live with their families: 47.1% stay with their relatives, 28.6% live in orphanages, and 21.8% live in child correction centres. 2.5% of the children are living alone, this last percentage shows children who are at 16 – 18 years old and they work and live alone.



Who do you live with?

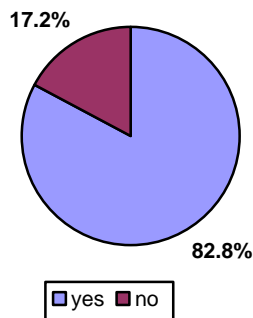


The above graph shows that a considerably large number of children are deprived of familial love and affection, and, thus, they stay either with their relatives or in institutions. This category faces serious problems in such areas as health, food, and so forth.

Orphans constitute a highly vulnerable group of children, who are yet to receive due heed in Afghanistan.

3. 3.1% of all interviewees (93 persons) were children with disability. They stated their problems that originate from disability. For example, this category of children cannot normally attend schools, and are stigmatised in the family, and community.

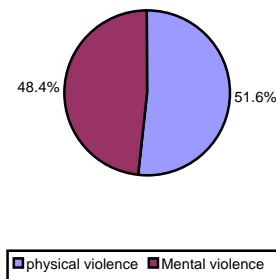
Do you have problems because of disability?



Research indicates that since children with disability are in need of especial care, they encounter serious problems if they lack especial care facilities. The children with disability stated that their needs were not duly heeded, and that they were stigmatised. They were deprived of recreation and leisure. To worsen, they had no access to health and educational facilities, and there is yet to be any especial educational and vocational training centre for children with disability. Outlying provinces and cities lack orthopaedic clinics, which offer artificial organs like artificial hands and feet.

Concerning children with disability, the CRC, in its Article 23 (1), specifies, “*States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.*”

### 1.5. Domestic Violence against Children



The collected information indicates that 11.6% of all interviewees (340 persons) are dissatisfied and discontented with the manner their parents treat them. 51.6% of all interviewees (208 persons) reported physical violence, and 48.4% (195 persons) mental violence. This is while the majority of children feared to respond to such questions for various reasons.

The above graph shows that physical and mental forms of violence exist in families, which are mostly perpetrated by the parents and other close relatives of children, leading consequently to the growth of grudge and coarseness in children.

### 1.6. Identity Establishment and National ID

The research indicates that 80.2% of children (2,355 persons) lack national IDs, and merely 18.6% (545 persons) possess such identification documents. One very important and valuable effect of holding a national ID is the establishment of the child identity, which has a significant, fundamental impact on the lives of children.

The existing problems in the country prevent people from having their identity registered by the competent governmental authorities. These problems are not only caused by inefficiencies in the national registration system, but also emanate from the inattention and disinterestedness of people to register births and acquire national IDs. Additionally, another major reason for the non-registration of births is that most births take place in the

household, mothers and children do not have access to proper health care facilities, and it makes the registration of births impracticable.

Lack of national IDs, which are documents establishing the age and identity of the child, can cause serious problems for children. Critical problems exist with regard to determining the age of children in conflict with law. Lack of national IDs has created a fundamental problem, and can lead to the denial of the rights of children while their cases are addressed. Girl children suffer from more vulnerability, and are, as a result, subjected to premature marriages.

Concerning the right of the child to preserve his or her identity, Article 8 (2) of the CRC specifies: *“Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.”*

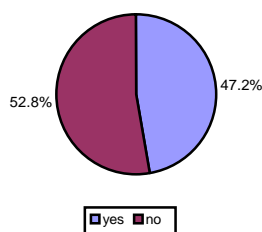
### 1.7. The Right to Health

Health is not only essential for natural and normal development, but also necessary for the natural and normal functioning of the individual. The child, who is deprived of health and wellness, will be physically and mentally retarded. Childhood disease affects the behaviour of children. It has been proved that chronic disease affects the tendency of the child, leads to behavioural disorders, and doubtlessly prevents the personality of the child from developing and, thus, from moulding.

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

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

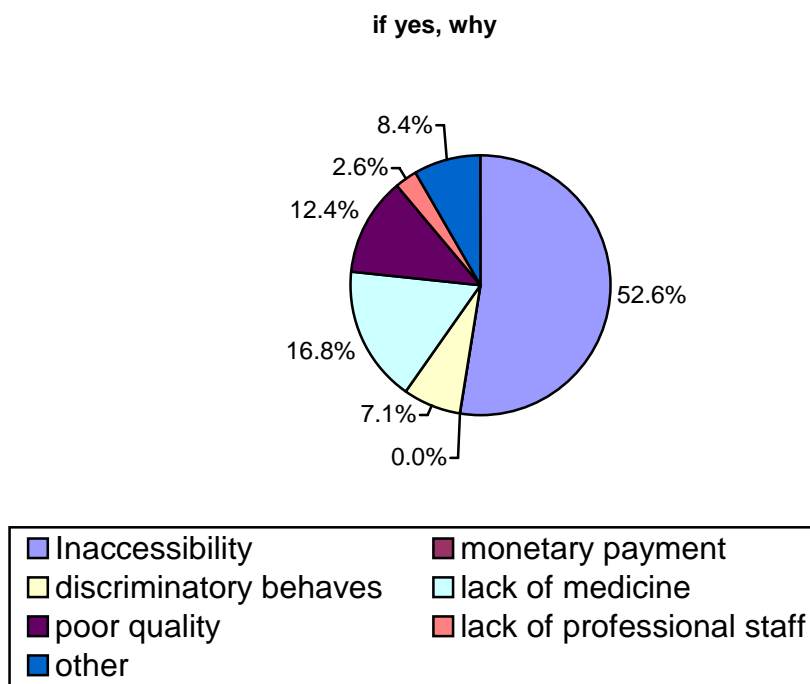
when you refer, is there any problem?



The research reveals that 47.2% of all interviewees (1,352 persons) referred to problems in

their places of residence as reasons for not using the health care facilities: 52.6% of all interviewees stated that the health care centres were far, 16.8% said that there was a lack of medicine and medical equipment, 12.4% mentioned that the quality of medicine was poor, 8.4% regarded monetary payment as a constraint to use the health services, and a very small number of interviewees cited the discriminatory treatment and lack of female workers in health care centres as reasons for not availing themselves of the services.

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



In this regard, the Constitution, in its Article 52, reads, *“The state shall encourage and support, in accordance with law, the prevention and treatment of illnesses, and the provision of gratis health facilities for all nationals. The state shall take the necessary steps to promote sound physical education, and develop national and local sports.”* Pursuant to this article, the government is responsible to provide health facilities to all Afghan citizens.

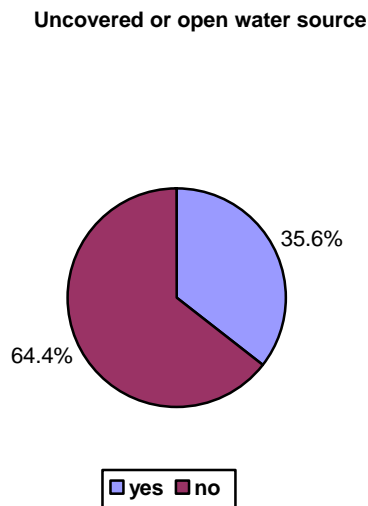
Likewise, Article 24 (1) of the CRC maintains, *“States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.”*

## 1.8. The Right to Water

According to the International Covenant on the Economic, Social and Cultural Rights (ICESCR), the right to water is an essential element of the right to an adequate standard of living, and the right to health.

The right to healthy water can prevent the affliction of children with various diseases, and lead to the enhancement of child health. The use of open water sources, for instance, can cause health problems. Similarly, the aspect of distance to the water source is important in the enjoyment of the right to water, because it is usually children who are assigned to fetch water. Walking long distances to bring water can, thus, make them vulnerable.

The research indicates that 35.6% of all interviewees use open water sources, while 64.4% use covered water resources.



The following responses were made with regard to the distance children walk to fetch water:

- 21.7% (637 persons), more than 15 minutes,
- 6% (176 persons), more than 1 hour.

The World Health Organisation (WTO) has set a less-than-15-minute distance benchmark for people to reach a water source.

In this respect, Article 52 of the Constitution reads, *“The state shall encourage and support, in accordance with law, the prevention and treatment of illnesses, and the provision of gratis health facilities for all nationals. The state shall take the necessary steps to promote sound physical education, and develop national and local sports.”*

The significance of the right to health is reflected in a number of international instruments. For example, pursuant to Article 12 of the ICESCR, the member states recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Having ratified the CRC, the Afghan government is responsible to take appropriate measures to diminish the rate of child mortality, and to provide mothers with suitable pre- and post-natal health care. According to Article 24 of the CRC, the member countries are responsible to ensure the right of children to health, to combat child disease and malnutrition, to provide mothers with appropriate health care, to raise public awareness of preventive health measures, and to abolish the traditional practices prejudicial to the health of children.

It is the duty of the government to take effective steps, in accordance with the Constitution and the international treaties to which it is a party, towards the realisation of the Millennium Development Goals (MDGs), which, *inter alia*, pertains to the improvement of the health of mothers.

### **1.9. The Right to Education**

The right to education is a fundamental human right. As already mentioned, Article 43 of the Constitution refers to the realisation of the right to education as one of the duties of the government.

Based on Article 28 of the CRC, it is the right of every child to enjoy equal opportunity in matters relating to education, irrespective of such factors as ideology, race, and gender. Every child is, therefore, entitled to have access to education. In addition to that, Article 28 deals with the duty of the states parties to the CRC to provide free primary education, the respect of the dignity of the child in educational institutions, and the emphasis placed on the need of international cooperation in realising this right.

It is the obligation of the government to provide equal opportunity for every child in accessing education, which must be seriously heeded. This access is both quantitative and qualitative. Although 96.7% of interviewed children claimed that they went to schools, a large number of them stated that they did not regularly attend their schools due to different reasons.

The interviewees cited diverse reasons for their irregular school attendance, which include the following:

- 30.5% of all interviewees have to work,
- 19.4% of all interviewees, who were mostly girls, said that their schools were far,
- 15.8% of all interviewees stated that education is not in vogue in their places of residence,

- Others have referred to such reasons as marriage, lack of professional teachers, ailment and disability, inappropriate treatment by teachers, and unaccepted local customary practices for their irregular school attendance.

With regard to the inappropriate treatment of students by teachers, the field monitors encountered different cases of which, we can mention a case of child battering in one of the schools situated in Kabul. The case is as follows: *“During the sports period in which all students go out of the classroom, the attendance book is lost. The next period, the physics teacher comes to the class, and asks for the attendance book. Since the attendance book is lost, the teacher insults, humiliates, and beats all students, and swears that he will leave all of them failed in the examinations. As a result, the entire class fails in tests.”*

The research indicates that a large category of children cannot either regularly continue their education due to labour, unaccepted local traditional practices, and physical inaccessibility of schools or are compelled to leave their education unfinished. 8.4% of all interviewees (209 persons) ended their education at the end of the primary level of education, 4.6% at the end of the secondary level of education, and 19.1% (471 persons) do not know at what grade they gave up their education.

The reasons for ending education at the levels of primary and secondary education were stated by the interviews:

- 25% of all interviewees stated that labour was the main reason, which emanates from poverty,
- 9.1% could not afford school expenditures,
- 9.7% regarded insecurity as a factor constraining them to continue their education.

The report released by AIHCR on the situation of child labourers in Afghanistan in 2006 corroborates the findings of this research: *“Of all the interviewed children, 35% attend schools in which the quality of education is too poor. Firstly, they cannot maintain regular school attendance, and secondly, they are not able concentrate on their studies and do their homework, because of labour fatigue. Although the Constitution ensures free, compulsory primary and secondary education, it has had no de facto effect on an unaccountable number of children, who are simply unable to complete their primary education. Though gratis education is a very positive constitutional provision, children cannot even afford marginal educational expenses, such as uniforms, stationery, transportation fares, and the like. They have to engage in labour so that they can provide their school expenditures. The average annual expenditure of a student amounts to USD 200 (7 to 10 thousand Afghanis), while the annual income of a governmental employee does not exceed USD 600-700.”*<sup>1</sup>

The research indicates that economics is a basic factor why children are not able to carry on their education. It has caused parents to compel their children to engage in labour.

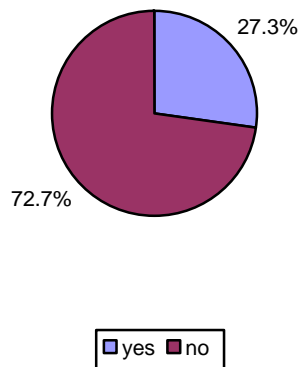
---

<sup>1</sup> AIHRC, Research Report on the Situation of Child Labourers in Afghanistan

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

One of the ways to secure universal access to education, especially for children who do not attend schools, is the administration of literacy courses. 72.7% of all interviewees (2,042 persons) reported the lack of literacy courses in their areas, while 27.3% (786 persons) reported the availability of such courses in their places of residence.

Are there any literacy courses in your area?



According to the findings of the research, the majority of surveyed communities are deprived of access to literacy centres. The availability of literacy courses is an educational option for those who are forced to leave education, due to the prevailing traditional and economic influences. As the above graph shows, a large number of interviewees stated that their communities lacked literacy centres.

With respect to the eradication of illiteracy, Article 44 of the Constitution reads, “*The state is responsible to design and implement effective programmes to balance and develop the education of women, to improve the education of nomads, and to eliminate illiteracy in the country.*”

The right to education is explicitly enshrined in both national and international law, including the Constitution, the CRC, and the ICESCR. In accordance with Article 14 of the ICESCR, a member state should undertake, within two years since its ratification of the Convention, to thrash out and adopt an action plan for the realisation of the principle of primary, compulsory and free education for all. It is, therefore, the duty of the government to provide the ground for the enjoyment by the individual of the right to education.



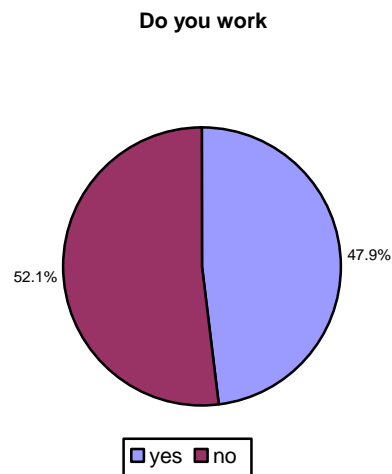
### 1.10. The Right to Protection against Labour

The Constitution has, in explicit terms, banned child labour. Article 49 of the Constitution reads: “*Compulsory labour shall be proscribed. Active participation in states of war, calamity, and other states threatening the life and peace of the nation is among the fundamental duties of each Afghan. Child labour shall be prohibited.*”

Today, child labour is a basic problem affecting children. Children are growingly subjected to the worst forms of child labour, which include street engagement, beggary, and hard labour. These reveal shocking facts about the segment of the population, which is increasingly threatened, and deprived of its legitimate rights, though it is simultaneously supposed to shape the future of the country. The AIHRC research reveals that a large number of children are involved in labour to support their family members.

According to Article 28 of the CRC, children should be protected from economic exploitation and from performing any work that is likely to be hazardous to the child’s health, education, and development. Furthermore, the states parties to the CRC should take legislative measures aimed at establishing a minimum age for admission to employment, and at preventing the employment of children.

Although child labour has been vividly prohibited in both national and international law, little attention has been paid in this respect, and child labourers are still deprived of their rights.



Out of the aggregate number of interviewees, 47.9% (1,401 persons) stated that they were engaged in labour.

The international instruments governing child labour include the Worst Forms of Child Labour Convention, 1999 (No. 182), and the Minimum Age Convention, 1973 (No. 138)

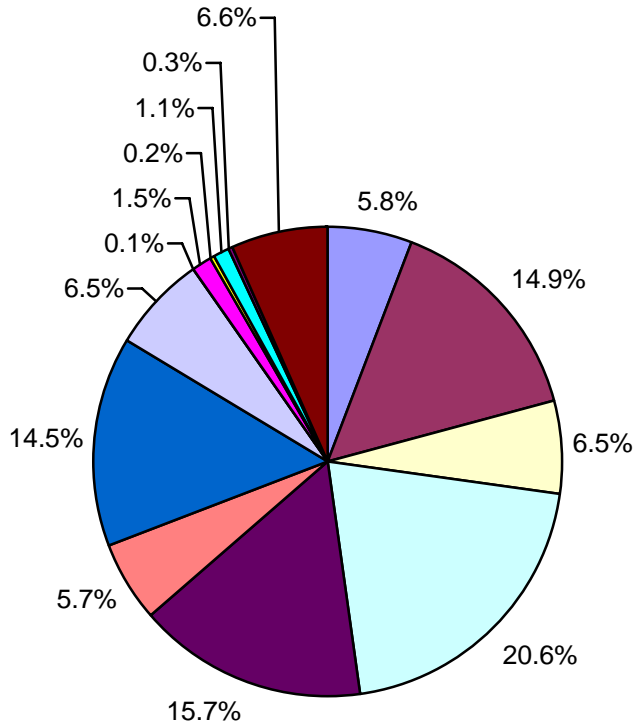
adopted by the International Labour Organisation (ILO). These conventions have made a distinction between the activities of the child that fall into the realm of prohibited labour and must be eliminated, and the activities that contribute to the sound development of the child.

According to the Minimum Age Convention, 1973 (No. 138), national law must establish the minimum age, at which children may be admitted to employment. In addition, this convention proscribes the following activities that are harmful to children:

- a. Work that exposes the child to physical, mental and sexual ill-treatment,
- b. Work that is carried out underground, underwater, in perilous highlands and confined areas,
- c. Work that is done through the use of hazardous machines, manual equipment and devices, and the transportation of heavy cargoes,
- d. Work that is performed in an unhealthy environment, which is apt, for instance, to expose children to injurious objects, materials, factors, processes and temperatures, loud noise and inappropriate radiations, that are detrimental to their health,
- e. Work that is executed under difficult circumstances, such as working for long hours, at night or in a place that is unjustifiably restricted by the employer.

Out of 2,941 children who took part in this research, 253 persons (20.6%) are engaged in collecting garbage, food remnants and other messy stuff, which is injurious to health. 15.7% of all child interviewees (193 persons) said that they had to work under circumstances that had been very cold, hot or noisy.

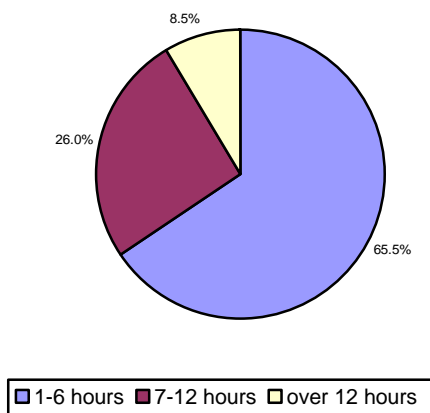
**Is one or more than one of these things involved in your work?**



- Working with chemicals and smoke like colouring cotton
- Working outside the place of residence
- Hazardous machines and devices
- Gathering trash and other similar stuff
- Working under cold, hot or noisy conditions
- Working under inadequate light
- shepherding
- Working overnight
- Selling illicit drugs
- Cultivating opium

Those interviewed stated that they worked for long hours: 65.5% of all interviewees (775 persons) work daily from 1 to 6 hours, 26% (307 persons) from 7 to 12 hours, and 8.5% (101 persons) over 12 hours.

How long do you work in a day?



The Constitution has prohibited child labour in its Article 49. Similarly, the CRC has recognised the right of children to enjoy protection from economic exploitation and from performing the following:

- Work that is hazardous,
- Work that interferes with the child's education, and
- Work that is harmful to the child's health or physical, mental, spiritual, moral or social development.

According to Article 32 of the CRC, the minimum responsibility of the member states is to provide for a minimum employment age that should not be under 15 years of age, and to provide for appropriate regulation of the hours and conditions of employment that should be only admissible to children aged above 15, and should be considered in processes in which laws are made, and executed.

### 1.11. Marriage

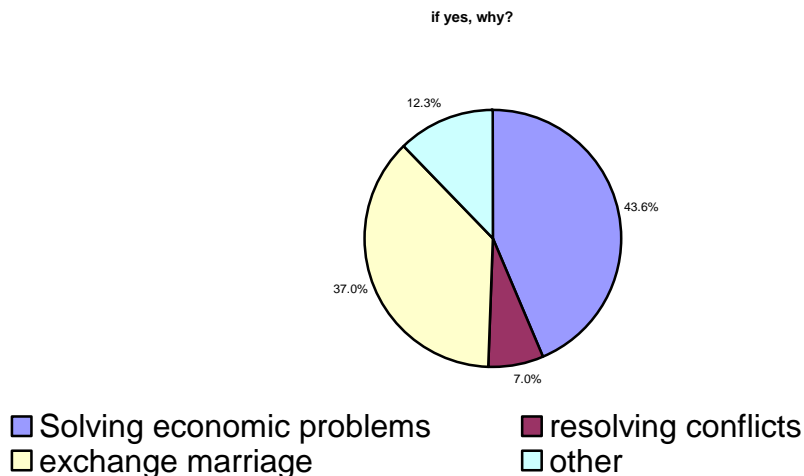
Child marriage is criminalised not only in national law, but also in international law. For instance, the World Conference on Women, which was organised in 1995 in Beijing, proclaimed the criminalisation of the marriage of the underage, and declared that steps had to be taken to establish a minimum age for marriage. Likewise, the Afghan Civil Code, in its Article 71, has illegalised the marriage of a below-15-year-old minor, and stressed that such a marriage is utterly void from a legal standpoint. Article 71 has, however, in another paragraph, permitted the marriage of a below-16-year-old daughter only when it is agreed by the genuine father or the competent court of law.

Article 16 (2) of the International Convention on the All Forms of Discrimination against Women (CEDAW) reads, "*The betrothal and the marriage of a child shall have no legal*

*effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”*

At least 9.1% of all interviewees (265 persons) have got married before attaining the age of 16. At the same time, one must heed that the lack of national IDs and birth registration documents has made it difficult to establish the age of girls while they enter into marriage. In addition, access to girl children, who marry in their childhood and usually do not attend schools, is another constraint in collecting accurate statistical data in this area. Thus, the information provided in this report may not be able to capture the total reality regarding child marriage. This information can, nonetheless, shed light on the reasons of the early marriage of girl children, revealing the fact that child marriage takes place in a frequent and pervasive fashion. These reasons include:

- 43.6% stated that they got married primarily to solve their economic problems,
- 7.1% referred to the resolution of conflicts as the reason for their premature marriage,
- 37% said that *badal* (exchange of girls between two families for marriage purpose) was the main reason,
- 12.3% pointed to varying reasons such as local traditional practices and parental interference.



In this respect, Article 16 (2) of the CEDAW sets out, “*The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*”

Article 70 of the Afghan Civil Code has established the age of 18 for boys and the age of 16 for girls as the ages when they attain the capability to settle into matrimony. Nevertheless, Article 1 of the CRC states, “*For the purposes of the present Convention, a*

*child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”* Afghanistan is a state party to the CRC, and is legally bound to implement the provisions contained therein.

One must pay attention to the fact that the Afghan domestic law is riddled with flaws, which cause legal ambiguities. Therefore, the difference between the *de jure* age of marriage and the *de factor* age of marriage, especially of girl children, is the main problem to be addressed, as the Afghan Civil Code, in one hand, establishes the age of 18 as the age of civil responsibility, and, on the other, sets the age of 16 as the age when girls can enter into marriage.

### **1.12. The Right to Participation**

The right to participation is a fundamental right of children, because children have the right to take part in and comment on all matters that affect them both in the household and in the society. The right of the child to participation should be respected by parents. It is the duty of the parents to allow their children to have a say in matters that influence their lives.

Additionally, children are entitled to take part in cultural activities, and have the right to freedom of association, which enables them to share their points of view. The CRC, in its Article 15 (1), reads, “*States Parties recognise the rights of the child to freedom of association and to freedom of peaceful assembly.*” In the same manner, Article 12 (1) states, “*States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*”

The research shows that children did not have objective participation in the decision-making processes related to them. It is the elderly that make the majority of decisions on children, as many children stated such a question was alien to them, thereby indicating the unconventionality of this question. However, a small number of children answered this question in the affirmative: 30.6% claimed that they were never consulted, and that all decisions relating to their lives were made by other family members.

Concerning the rights of the child to freedom of association and to freedom of peaceful assembly, children were largely unfamiliar with such concepts, because they do not have organised structures to regulate their social activities except the small peer play groups. 94.8% of all interviewees (2,559 persons) said that they had not been part of any organisation, which worked for the cause of children. These data show that there has been no social activity for the children and by the children in many parts of the country. Although the general perception could yield such a response from the outset, our interviewers stated that asking children such a question had motivated a sense of curiosity in them, and they had asked uncountable queries regarding the manner of such participation, which is *per se* a factor motivating children to engage in social activities.

### 1.13. Conclusions

As it was already mentioned in the introduction, this research project entered a probationary stage in the 2<sup>nd</sup> half of 2006, the results of which were later analysed. It is noteworthy that the questionnaire, which was used in the pilot project, is now being modified drawing on the lessons learned in the course of the probationary stage. Serious efforts were made to study certain key issues about the situation of children in Afghanistan according to which, the following general inferences are drawn:

- The research indicates the fact that children constitute the most vulnerable social group in Afghanistan.
- The findings reveal a lack of opportunities and grounds for protecting children, which affected children not only in the past, but also influences them in the present, and, moreover, challenges the future plans for Afghanistan.
- Economic poverty is *prima facie* victimising children, as one, throughout the research report, notices that economics is a factor that exacerbates child vulnerability. Examples include the role of economics in child marriage, child labour, and the access of children to education.
- The data show that sufficient and even relative investments have not been made to meet the needs of children, ranging from such general issues as access to potable water and health facilities to more specific ones like equal opportunity in matters relating to education.
- Lack of public awareness on the rights and needs of children has caused a lack of self-awareness in children, and has made them the victims of violence and rights abuses. Violence against children, both in its physical and mental forms, is a commonplace, humdrum event.
- As children have been insufficiently attended, the categories of children, which are at risk and in need of especial care, such as the children with disability, the orphaned, and children under detention, are far more vulnerable than the rest of children, as orphanhood has coerced certain children to engage in hazardous employment to meet their expenses and those of other family members, leading consequently to being dropped out of schools.
- Unaccepted customary practices stand another challenge affecting children, and violating their rights. These, for example, include early marriages and discontinuation of education, which mainly emanate from unaccepted traditional practices, and target girl children.
- Children in poor families are in a worse plight, and poverty obstructs the normal development of their personality.

### 1.14. Recommendations

#### To the government:

- Considering the contents of this report, it is necessary to design laws and policies that recognise the child as an independent entity so as to remove legal ambiguity in the manner children are treated in legislation.

- The commitments of the government towards the international child rights instruments require it to proportionately balance its budget according to the needs of children, and to annually dedicate a certain portion of the budget to the promotion and protection of children's rights in Afghanistan.
- Taking into account the extent of problems facing children in Afghanistan, the government should, through funding local organisations, work towards the realisation of the rights of the child.
- The national child rights strategy should be designed and implemented. The role of the stakeholders in implementing this strategy needs to be defined.
- Since the situation of the child is intimately linked with the situation of the family, the government is, in accordance with Article 54 of the Constitution, responsible to adopt comprehensive programmes to ensure the health of the family, and, in specific terms, to prevent domestic violence, child labour and early marriages.
- By creating mother and child clinics in provinces and outlying areas, the government should provide the ground for mother-child protection so that the necessary consultation is rendered to mothers in such varied areas as better care of children, prevention of consecutive childbirths, and the like.
- The Ministry of Education (MoE) should take immediate and effective measures to reform the school curricula and to include messages therein with regard to children's rights, the culture of peace, and non-violence.

#### **To the civil society and press:**

- The civil society institutions, including the mass media, should allocate further space to the discussion and analysis of issues relating to children and their needs.
- In all social activities that in one way or another pertain to children, efforts should be made to enhance the involvement of children in such activities.
- Cultural fora should take stronger steps in order to promote child literature, and the access of children to information.
- Massive campaigns need to be launched to eliminate violence, and raise the level of social awareness on its implications, and repercussions.
- The civil society institutions and mass media should strongly combat unaccepted traditional practices that lead to the violation of the rights of the child.

#### **To the international community:**

- There is a dire need to pay more attention to allocating extensive, immediate resources to ensure children's rights. The funding agencies are recommended to place the enjoyment by the children of the projects as a direct or indirect condition in the project documents, or at least make it preferential.
- In addition, financial resources should be allotted to ensure the rights of the child.