



**International  
Human Rights  
Instruments**

Distr.  
GENERAL

HRI/CORE/AFG/2007  
26 August 2009

Original: ENGLISH

---

**CORE DOCUMENT FORMING PART OF THE REPORTS  
OF STATES PARTIES**

**AFGHANISTAN\* \*\***

[27 April 2007]

---

\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the secretariat.

## CONTENTS

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
Abbreviations .....		3
I. GENERAL INFORMATION ABOUT THE REPORTING STATE .....	1 - 126	5
A. Demographic, economic, social and cultural characteristics of the State .....	1 - 68	5
B. Constitutional, political and legal structure of the State .....	69 - 126	17
II. GENERAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS .....	127 - 208	30
A. Acceptance of international human rights norms .....	127 - 141	30
B. Legal framework for the protection of human rights at the national level .....	142 - 162	36
C. Framework within which human rights are promoted at the national level .....	163 - 194	41
D. Reporting process at the national level .....	195 - 203	54
E. Other related human rights information .....	204 - 207	56
III. INFORMATION ON NON-DISCRIMINATION, EQUALITY AND EFFECTIVE REMEDIES .....	208 - 242	60

### Annexes

- I. Constitution of the Islamic Republic of Afghanistan
- II. Declarations and reservations to international treaties for the promotion and protection of human rights
- III. Law No. 3471 on the Structure of Duties and Mandate of the Afghan Independent Human Rights Commission
- IV. Executive summary of 2005 Human Development Report
- V. National Action Plan for Women

### Appendices

I. Partial list of major international conventions relating to issues of human rights .....	71
II. Indicators on crime and administration of justice .....	75
III. Indicators for assessing the implementation of human rights .....	77

## ABBREVIATIONS

AGO	Attorney-General's Office
AIHRC	Afghan Independent Human Rights Commission
CSO	Central Statistical Office
DAD	Donor assistance database
DDR	Disarmament, demobilization and reintegration
DIAG	Disbandment of illegal armed groups
EWS	Early warning systems
FAO	Food and Agriculture Organization of the United Nations
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (German Aid Agency)
HMIS	Health management information system
IARCSC	Independent Administrative Reform and Civil Service Commission
IEC	Independent Electoral Commission
ILO	International Labour Organization
IMF	International Monetary Fund
IMR	Infant mortality rate
JEMB	Joint Electoral Management Body
LICV	Law of Investigation on Children's Violations
LSCC	Law on the Structure and Competencies of Courts
MDG	Millennium Development Goal
MMR	Maternal mortality rate
MoFA	Ministry of Foreign Affairs
MoJ	Ministry of Justice
MoPH	Ministry of Public Health
MoWA	Ministry of Women's Affairs
MP	Member of Parliament

NA	National Assembly
NAPWA	National Action Plan for Women of Afghanistan
NGO	Non-governmental organization
NRVA	National risk and vulnerability assessment
OHCHR	Office of the United Nations High Commissioner for Human Rights
OIC	Organisation of the Islamic Conference
SAFMA	South Asian journalists coordination group
TB	Tuberculosis
UNAMA	United Nations Assistance Mission in Afghanistan
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USIP	United States Institute of Peace
VCCT	Voluntary and confidential testing and blood banks

## I. GENERAL INFORMATION ABOUT THE REPORTING STATE

### A. Demographic, economic, social and cultural characteristics of the State

#### History

1. Afghanistan, formally known as the Republic of Afghanistan, was renamed as the Islamic Republic of Afghanistan in 2003. Situated at the crossroads of Central Asia, South Asia, West Asia and Middle East, Afghanistan is a landlocked country mostly surrounded by rugged mountains and hills. Afghanistan shares borders with Tajikistan, Uzbekistan and Turkmenistan in the north; Xinjiang Province of China in the north-east; the Islamic Republic of Iran in the west; and Pakistan in the east. The capital city Kabul is one of the largest cities with an estimated population of 2.55 million (settled population). Other major cities with a population of over 50,000 include Herat, Kandahar, Mazar, Jalalabad and Kunduz. Estimates of the total population of Afghanistan are between 24-28 million, including refugees in other countries.
2. More than 99.9 per cent of Afghan people are Muslim, about 20 per cent Shiite and 80 per cent Sunni, Muslims. Non-Muslim groups, including Hindus, Sikhs and Jews make up less than 0.1 per cent of the population. Although the vast majority of its people share a common religion, Afghanistan is very diverse in terms of language and ethnicity. Among several distinct ethnic groups living in Afghanistan are the Pashtoons, Tajiks, Hazaras, Uzbeks, Turkmens, Kirghiz and Kazakhs. The two official languages are Farsi and Pashto.
3. Afghanistan has had a turbulent history. Before the mid-eighteenth century, at various times, it had been a part of many different empires including Persian, Mughul and Indian. With the formation of the Pashtoon tribal confederation in 1774, led by Ahmad Shah Durani of the Durani tribe, Afghanistan began to establish an independent identity. Since the mid-eighteenth century, the Pashtoon ethnic group has played a dominant role in the political history of Afghanistan.
4. Throughout the nineteenth century, Afghanistan was a battleground for the rivalry between Britain and Russia in their attempts to control Central Asia. Twice, the British attempted to secure the northern border of British India by extending their rule into Afghanistan: first from 1838 to 1842 and secondly in 1879. On both occasions, the British retained some control over Afghan foreign affairs until the 1921 peace treaty of Rawalpindi recognized the full independence of Afghanistan.
5. King Amanullah (1919-1921), having gained Afghan independence in 1921, launched a series of secular, liberal constitutional reforms similar to those developed by Mustafa Kamal Ataturk of Turkey, in an effort to modernize the country. The reforms opened Afghanistan to the outside world and introduced modern schools and education programmes. He introduced the first constitution in 1923 in an attempt to organize Afghan central authority on rational and predictable tenets. Women were allowed to unveil and initiatives were taken to promote their education. King Amanullah's reforms led to a rebellion labelled as jihad, which ended in his downfall.

6. In the 1930s, King Zahir's renewed attempts to modernize Afghanistan were more modest and urban oriented. Modern education was reintroduced in the cities and the foundation of Kabul University was laid down. In 1964, a new liberal constitution was introduced under King Zahir with a system of elected parliamentary democracy. The next decade saw unprecedented liberalization in the political arena. Political parties emerged and a lively, relatively free political press came into being in Kabul. Contrary to the expectations of its proponents, the Afghan political structure became increasingly polarized under the liberalization process. Communism influenced students just as fundamentalist Muslim ideology attracted a number of young intellectuals from the rural areas and junior officers in the Afghan army. Among the nascent political parties was the communist People's Democratic Party of Afghanistan (PDPA).

7. In 1973 Mohammad Daoud, who served as Prime Minister under King Zahir overthrew the constitutional monarchy and declared a republic. President Daoud suspended the free press and most of the political parties vanished with the exception of the PDPA. He broke off relations with the Soviet Union and established contacts with Arab and Muslim countries. Meanwhile, his Government initiated conciliatory discussions with Pakistan on the controversies that separated the two countries. The increasing distance of the Daoud regime from the Soviet Union led to further support for the PDPA opposition party and enabled it to take over the government in April 1978 in a bloody military coup, and to establish the Communist-led Democratic Republic of Afghanistan, led by Noor Mohammed Taraki. The situation then quickly deteriorated: the Islamist parties inspired by the Muslim Brotherhood revolted against the communist regime, while from within the PDPA a new coup brought Hafizullah Amin - from the Khalqi faction - to power, in the same year (1978). The destabilization and incipient civil war culminated in the Soviet invasion at the end of 1979 - which only worsened civil strife. The Soviets put Babrak Karmal in power (1980-1986) and brought approximately 100,000 troops into the country, to combat the growing resistance.

8. In 1986, after approximately 1.5 million martyrs and casualties and the exodus of 5 million Afghan refugees abroad, the Soviets were forced to retreat. Their gradual withdrawal was completed in 1989, shortly before the disintegration of the Soviet Union in 1991. Meanwhile, Mohammed Najibullah had replaced Babrak Karmal as president, and embarked on a politics of national reconciliation to end the civil war. These attempts failed, and in 1992 his regime was overthrown by the Afghan *mujahideen*.

9. Despite efforts to form a government of national unity comprising the major Islamist parties - who elected Burhanuddin Rabbani as their first president - these parties soon fell into violent disagreement, and the inter-factional war soon resumed, leading to greater destruction of the country and its capital Kabul. In 1996 the Taliban, which was created by the active and sustained support of Pakistan and some other regional and international entities, captured Kabul and established a severe regime (the Islamic Emirate of Afghanistan) which imposed heavy restrictions on Afghans' human rights, in particular those of women. The institutions of the Afghan State, already seriously weakened by the long civil war, were further sidelined by the fact that the real power was not wielded by the ministries in Kabul, but by the circle around Mullah Omar, the Taliban leader, in Kandahar.

10. The Taliban never conquered all of Afghanistan, and the ongoing civil war, compounded by international isolation and a terrible drought, brought the Afghan people to the brink of starvation. Meanwhile the Taliban, who also enjoyed significant support from Pakistan, harboured increasing numbers of international terrorists from countries all around the globe through the networks of Al-Qaida. Among other crimes against Afghan humanity and culture, the Taliban also destroyed the famous Buddha statues of Bamyán in March 2001, drawing international condemnation.

11. After the terrorist attacks on the World Trade Centre in New York and Washington on 11 September 2001, the international community, led by the United States, intervened to put an end to the rogue regime in Afghanistan. The United Nations Security Council passed a resolution authorizing the use of force to overthrow the Taliban. On 7 October the United States, having exhausted diplomatic means, started bombing the Taliban and supporting the resistance of the United Front (also known as the Northern Alliance) which provided ground forces. Despite the assassination of Commander Ahmad Shah Massud, the Front's famous military strategist, which happened on 9 September 2001, the northern forces captured Kabul on 14 November 2001.

12. During the Bonn conference (December 2001) an agreement was reached to establish an interim administration led by H.E. Hamid Karzai and to station an international peacekeeping force - ISAF, the International Security Assistance Force - in Kabul. In June 2002 an Emergency *Loya Jirga* (the traditional tribal Afghan conflict-solving mechanism) was convened in Kabul to nominate a transitional government. It elected Karzai as its President. In accordance with the road map laid out in Bonn, implemented with the support of UNAMA (United Nations Assistance Mission in Afghanistan), a Constitutional *Loya Jirga* approved a new constitution for the country in January 2004. It established the Islamic Republic of Afghanistan and restored the country's guarantee of human rights and adherence to democracy. This was followed by the country's first nationwide presidential elections in October 2004, which President Karzai won with an absolute majority. Parliamentary elections were held in September 2005, which led to the establishment of Afghanistan's first democratically elected National Assembly with full legislative powers. The Parliament consists of an upper and a lower house (*Meshrano* and *Wolesi Jirga*). Provincial councils were elected simultaneously.

13. At present institutional reform and reconstruction efforts are ongoing with the support of the international community, as laid down in the "Afghanistan Compact" and the interim Afghan National Development Strategy concluded in London in February 2006.

14. The modern State of Afghanistan with its current administrative structure dates back to the efforts of King Abdurrahman Khan during the end of the nineteenth century (1880-1901). Until the middle of the twentieth century, Afghanistan was ruled by the absolute power of the king. Two constitutions were promulgated, in 1923 and 1931, both affirming the power of the monarchy. The constitution of 1964, however, provided for a constitutional monarchy, based on the separation of executive, legislative, and judicial authorities.

15. The present-day Constitution, agreed upon by more than 500 delegates from all across the country, was formally ratified by President Hamid Karzai at a ceremony in Kabul on 26 January 2004. Article 6 states that:

“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 balanced development of all areas of the country.”

16. Furthermore, Afghanistan is to remain an Islamic republic, an independent, unitary, and indivisible State. Islam is the religion of the Islamic Republic of Afghanistan. Followers of other faiths shall be free within the bounds of law in the exercise and performance of their religious rituals.

17. Afghanistan is a republic and the current head of State is H.E. Hamid Karzai. His appointed cabinet, which obtained the approval of the House of People (*Wolesi Jirga*) in March 2006, consists of 25 members and were sworn in by President Karzai on 2 May 2006. President Karzai's previous cabinet was appointed upon formation of the transitional Government in 2002. After the elections of 18 September 2005 the transitional cabinet was dissolved.

18. As in most post-conflict situations a high demand for updated information in Afghanistan coincides with a low capacity to properly collect and analyse data. The lack of systematic knowledge of statistical procedures is compounded by low salaries for statisticians. Until recently most data collected since 2001 has been collected by international organizations or in cooperation with them. In Afghanistan there are daunting logistical difficulties in gathering data from provinces and districts. Communication and reporting is constrained by the absence of roads, networks and knowledge. In order to measure progress in both human development and human rights, including trends in the rise or fall of poverty and inequality, data needs to be sufficiently disaggregated by gender, province, rural and urban areas and ethnicity, among other criteria. Unfortunately at this stage of the reconstruction of Afghanistan data is usually collected only for one year, making trend analysis impossible. Until 2007 there was no base year for comparison. Data is rarely disaggregated, sometimes due to cultural and political constraints. Afghanistan has no proper register of births and deaths, making demographic parameters inadequate. In general, data is often unreliable.

19. The 2005 National Risk and Vulnerability Assessment (NRVA) survey, implemented between June and August 2005, was an extensive and concerted effort in which very isolated areas in the country were sampled. The Assessment was published in April 2007. The NRVA 2005 is an instrument that allows in-depth analysis of different aspects of the Afghan economy. Due to different data collection methods, NRVA 2005 is not statistically comparable with NRVA 2003, and as such it is not possible to assess rates of change with respect to 2003 (i.e., NRVA 2005 is statistically representative at provincial and national level while NRVA 2003 is not); however, NRVA 2005 sets a baseline that can be used for future assessments, such as NRVA 2007 and others to follow. NRVA 2005 is a forward-looking instrument that has been used to develop the capacities in reference to Millennium Development



Goals (MDGs). The NRVA is accepted by the Government of Afghanistan and the international community as the most reliable statistical data available on the economic, demographic and social situation in Afghanistan. This report is based on that data, unless specifically stated.

20. Between June and August of 2005 a national survey was carried out with a sample of 30,822 households in 34 provinces (1,735 Kuchi, 23,220 rural and 5,867 urban). The data set is divided into 34 provincial rural domains, 10 urban domains and 1 aggregated domain for the Kuchi population (the Kuchi are the pastoral nomadic tribes of Afghanistan). Four categories, namely, nationwide, Kuchi, rural and urban are used in the NRVA in relation to different socio-economic variables and people's perceptions.

## **Population**

21. The estimated population of Afghanistan is 24.1 million (including 1.5 million nomadic people known as Kuchi) according to the Central Statistics Office. No census has been completed since 1979. A new census is being planned for 2008. Afghanistan is a very young country; 52 per cent of the population is 17 years of age or younger and out of that group 16 per cent is of pre-school age. The average age of females is 21, and that of men is 22. The average number of people per household in Afghanistan is 7.4. Two per cent of the households are headed by females. There are 4 per cent disabled male heads of households; among female-headed households, 3 per cent are disabled. Fifty-four per cent of the population is male and 46 per cent is female.

22. The female to male ratio starts to decline above 24 years, which appears to be related to the cumulative effect of disadvantageous conditions for women. In contrast to its neighbours, Afghanistan presents a gender gap that favours male survivability. This situation prevails, even after years of war in which male mortality is typically higher than female mortality.

## **Education**

23. Twenty-four percent of the population in the country can read. The urban population has the highest literacy rate (49 per cent), followed by households in the rural areas (20 per cent); in contrast, only 5 per cent of the Kuchi can read. The female to male literacy ratio is 0.5 for the total population and for Kuchi, 0.4 in the rural areas and 0.7 among the urban population.

24. The highest literacy rates are found in the provinces with large urban areas, with Kabul reaching 50 per cent, Balkh 39 per cent and Herat 35 per cent; in contrast, the lowest rates are in rural Zabul (1 per cent), Paktika (2 per cent), Hilmand and Uruzgan (4 per cent). The national average school attendance of females is 27 per cent and that of males 44 per cent. Paktika, Hilmand, Uruzgan and Zabul in the south-eastern and southern parts of the country have the lowest female to male literacy ratios and enrolment rates. These provinces present security problems and their populations have strong cultural attitudes on female education.

25. Improved access to schools for both boys and girls and changes in cultural attitudes should continue to improve gender equality, as is now apparent in the urban areas exposed to non-traditional sources of information. The persistence of security problems in the eastern and south-eastern parts of the country will continue to hinder social development, particularly for women.

### **Access to information**

26. Afghan society largely (74 per cent) relies on social networks (relatives, local markets, business or group associates) to share information. Radio and television also play an important role (60 per cent); and mullahs and community leaders account for 39 per cent of information exchange. Among urban households, with a more anonymous lifestyle than Kuchi or rural households, the social network is less important while mass media is more important.

### **Health care**

27. Only 19 per cent of birth deliveries take place in suitable health facilities. The rest are home delivered with the help of neighbours or relatives. Women marry young; the most common age being 20, but 13 girls out of 1,000 marry as young as 10 or 11 years of age. Only 31 per cent of married women know or have heard about contraceptive methods. Out of these women, 47 per cent use at least one method; contraceptive pills (44 per cent), injections (38 per cent), condoms (8 per cent), early withdrawal (7 per cent), and sterilization (3 per cent).

28. Lack of hospitals and health posts with beds, doctors and nurses are reported by the male and female *shura* as the principal constraint to health care, predominantly in rural areas. Lack of health workers prevails in many communities; 67 per cent of female *shuras* recorded that a health worker would not visit their community in a case of emergency.

29. Provision of health facilities and professional attention in rural areas is a high priority for the Government; in addition it is important to spread more and better information about health-care practices.

30. It is crucial that the Government, with assistance from the international community, identify the causes of higher mortality rates of women above 24 years compared to that of men of the same age groups and formulate policies to revert this situation which is unique in Asia. Evidence suggests that lack of health facilities and practices, poor nutrition and frequency of marriage of girls under 15 years explain this gender gap.

### **Housing**

31. Nationwide, single private housing is reported as the most frequent type of dwelling (72 per cent of households) but 17 per cent of the households share a house with others. Migration to the cities and destruction of housing during the war has contributed to the higher incidence of shared housing. Most of the Kuchi households live in tents during most of the year, but they tend to live in houses during the harsh winter period.

32. Overall, the vast majority of households claim ownership of the houses they live in. These houses were acquired through inheritance (72 per cent) or purchase (13 per cent). Four per cent of all households considered themselves as tenants and another 4 per cent consider themselves squatters. While the proportion of tenants is 21 per cent in urban areas, it is only 1 per cent in rural areas. Sixty-one per cent of urban, 48 per cent of rural and 20 per cent of Kuchi households have a deed registered in court.

### **Household assets**

33. The most common assets (80-90 per cent) found in Afghan households are glims (kilims), watches and radios, followed by sewing machines, bicycles and handcarts (25-40 per cent), and carpets and televisions (20 per cent). Other assets such as ploughs, threshers and cereal grinders are more common among the rural households. Handcarts are equally common for both rural and urban households. Motorcycles are equally common among the urban and Kuchi households, but more frequently found among the rural households. Cars and power generators are much more prevalent among the urban households than among rural and Kuchi households. Overall, the asset endowment is lowest among the Kuchi and highest among the urban households.

### **Income and credit**

34. Nationwide, the most prominent source of income is agriculture (47 per cent), followed by non-farm labour (33 per cent), trade (27 per cent) and livestock (23 per cent). Manufacture and remittances are sources of income in 1 out of 20 households. Among the households in the urban areas, trade is the most frequent source of income (58 per cent) followed by non-farm labour (27 per cent). Among the rural households agriculture (57 per cent) and non-farm labour (34 per cent) comprise the most frequent sources of income. Among the Kuchi households, 74 per cent are involved in livestock and 29 per cent are involved in non-farm labour.

35. Remittances from seasonal and permanent migrants, both domestic (263,258 estimated cases) and abroad (379,067 estimated cases), provide economic support to their relatives. Nineteen per cent of the rural, 7 per cent of the Kuchi and 5 per cent of urban households have at least one migrant. This reflects less attractive employment opportunities for rural households. Rural and urban migration (equally distributed) within the country is 90 per cent seasonal and 10 per cent is permanent. Seasonal migration to Pakistan is 75 per cent, 50 per cent to both Iran and the Arabian Peninsula, and only 26 per cent to Europe. Permanent migration complements the situation; for example, 74 per cent of migration to Europe is permanent. Approximately one half of households with migrants receive remittances once a year and 10 per cent receive them at least every quarter.

36. Credit is a source of income that allows households to cope with unexpected circumstances or opportunities for new ventures. Thirty-eight per cent of all households had taken at least one loan during the year prior to the survey. Specifically, 42 per cent of the rural households, and 25 per cent of both Kuchi and urban households have received loans.

37. Of the largest loans granted to households during the last year, 45 per cent of urban households used them to purchase food, and about 65 per cent of both Kuchi and rural households also used them to cope with food insecurity.

### **Drinking water and sanitation**

38. Nationwide, 31 per cent of the households have access to safe drinking water. Kuchi households have the lowest access (16 per cent), rural households 26 per cent and urban households 84 per cent. Access to safe drinking water in urban households is highest in Kandahar (99 per cent), Kabul (71 per cent) and Balkh (67 per cent). In contrast, the lowest access is in Kunduz (15 per cent), while Baghlan and Herat have 35 per cent access.

39. The time required for water collection from the nearest source and return shows the constraints faced by the Afghan people. Fifty-six per cent of Kuchi have their main water source in their community, requiring almost no time to collect water: 34 per cent require 1 hour or less, 6 per cent require 1 to 3 hours, 3 per cent require 3 to 6 hours, and 1 per cent require between 6 to 12 hours. Most rural households (81 per cent) have access to drinking water sources in their community, 15 per cent get water within one hour, 3 per cent require one to three hours and only 1 per cent requires three to six hours to procure water. Ninety-four per cent of urban households have access to water within their community and only 6 per cent require one hour or less to acquire drinking water.

40. Nationwide, the traditional covered latrine is the most common toilet facility (57 per cent); followed by *dearan* or midden (13 per cent); open field or bush (12 per cent); and open pit (10 per cent). Improved latrines and flush toilets are the only safe type of toilet facility, available in 5 per cent and 2 per cent of households, respectively. Improved latrines have highest use in Kandahar (19 per cent), Nimroz (15 per cent), Kabul and Jawzjan (14 per cent), Balkh and Kunarha (11 per cent). None of the households in Daykundi, Bamyan, Paktika, Zabul, Sar-I-Pul, Logar, Samangan, Kunduz, Badakhshan, Nuristan, and Parwan reported use of improved latrines. Flush toilets are only used in Kabul (11 per cent), Herat (6 per cent), Kandahar (3 per cent), and the provinces of Balkh, Nangarhar, Baghlan, Jawzjan and Kunarha (1 per cent). In the rest of the provinces of the country none of the households use flush toilets.

### **Electrical power and other sources of energy**

41. Nationwide access to electrical power is 23 per cent; 74 per cent in the urban areas, 13 per cent in the rural areas and only 4 per cent among the Kuchi. The sources of electrical power comprise public supply grids, government generators, personal generators (engines), personal generators (microhydro), community generators (engines) and community generators (microhydro). National access to public supply grid is only 14 per cent, the highest availability being in the urban areas, followed by rural and Kuchi.

42. The most important source of fuel for cooking in the summer is animal dung and bushes, followed by firewood and gas. During the winter the use of animal dung and bushes decreases while firewood use increases.

43. The subarctic mountain climate, with dry cold winters in the highlands, and the continental winter in the lowlands drive the demand for energy for heating. Nationwide, firewood is the main fuel source for heating in 39 per cent of households, followed by stove burning straw, bushes or manure (36 per cent); the remaining households use other sources. Five per cent of households do not use any heating source at all.

44. Sources of energy for lighting in the summer and winter are very similar; 76 per cent of the households rely on oil lamps, 15 per cent on the public supply grid, 5 per cent on generators, and 2 per cent on gas and other sources. Kuchi households have much more restricted choices for lighting compared to urban households. Kuchi households during the summer rely mostly on oil lamps (92 per cent), generators or access public grid supply (4 per cent), candles (2 per cent); 4 per cent do not use any type of lighting. Urban households during the summer use the public supply grid (61 per cent), oil lamps (23 per cent), generators (6 per cent), batteries (2 per cent) and gas (5 per cent); fewer than 1 per cent have no source of lighting.

45. Energy for heating, cooking, illumination and other amenities has a bearing on the environment. Widespread wood cutting has changed the Afghan landscape. Whilst the use of animal dung is a traditional and reliable method, it affects the nitrogen cycling and possibly the long-term soil fertility. Alternative energy sources such as natural gas or gasoline/diesel-powered generators are not available or are at prohibitive cost. Public grid supply is very limited - and when available is not steady - and therefore, unreliable.

### **Agriculture**

46. Fifty-eight per cent of the rural households, 12 per cent of the Kuchi and 5 per cent of urban households have access to or manage agricultural land or garden plots. Surprisingly, only 2 per cent of rural and urban households reported having disputes over property rights. Further investigation is required to clarify this finding given that uncertain property rights are widely reported as potential conflicts and sources of human rights violations to the Afghan Independent Human Rights Commission.

47. About 21 per cent of the households have access to garden plots. Most of the plots have been acquired by inheritance (86 per cent). The average size of urban plots is 5.2 jeribs (approximately 1.04 hectares) and the average size of both Kuchi and rural plots is half that of urban plots. These plots are usually irrigated; fruit trees, grapes, wheat, fodder and vegetables are the most common crops that contribute to diet diversification and income generation.

48. Seventy-four per cent of rural households have access to irrigated land, followed by 65 per cent of urban and 55 per cent of Kuchi households. Many urban dwellers have retained land ownership. Nationwide the average irrigated plot size is 7.5 jeribs of those households involved in agriculture, Kuchi average 10.5 jeribs, urban 9.7 jeribs and rural 7.5 jeribs. But it should be noted that rural households comprise 98 per cent of those households involved in agriculture. Three out of four households own or cultivate their own land, 6 per cent share crop out and 5 per cent share crop in. It is surprising that 8 per cent of the irrigated land is fallow or uncultivated. The most important crops are wheat, opium, vegetables, maize, barley, rice, alfalfa, melons or watermelons and potatoes for food security, forage and cash.

49. Thirty-eight per cent of Kuchi households have access to rain-fed land, followed by 33 per cent of rural and 23 per cent of urban households. About 70 per cent of households own and cultivate their own land while 16 per cent leave it fallow and 6 per cent share crop out. The average size of rain-fed land plots for rural households is 2.5 jeribs while that of Kuchi households is 0.4 jeribs and only 0.3 jeribs for urban households. The most important crops are wheat, rapeseed, barley, maize, flax and melons and watermelons.

50. Poppy is an illegal crop grown away from the homesteads, possibly to minimize problems with surveillance authorities. However, poppy is a preferred crop on irrigated land. Afghanistan is the largest producer of opium in the world, and the gross income from this crop is 9 to 10 times that of irrigated wheat. Widespread rural poverty makes farmers prone to get involved in opium cultivation or related activities.

## **Livestock**

51. About two thirds of the households in Afghanistan own some type of livestock or poultry and rely on them as a source of food and income. The increasing numbers of urban dwellers with higher income demand more and more diverse livestock products, and it is expected that peri-urban livestock production will further increase.

52. Eighty-nine per cent of Kuchi, 75 per cent of rural and 10 per cent of urban households own livestock or poultry. Forty-four per cent of Afghan households own poultry and 45 per cent own cattle; these animals are mostly owned by rural and Kuchi households. Donkeys, sheep and goats are largely owned by the Kuchi but rural households also own these types of livestock to a lesser extent. Urban households owning some type of livestock or poultry are much less prominent, but they are likely to be related to peri-urban production systems. Camels and horses are mostly owned by Kuchi households and to a lesser extent are owned by rural households. Yaks and oxen are mostly owned in rural households, and to a lesser extent in Kuchi households.

53. The size of the national herds is 3.48 million cattle, 0.92 million oxen, 0.30 million horses, 2.18 million donkeys, 0.40 million camels, 16.77 million goats and 20.75 million sheep; and 15.77 million birds. The number of horses, camels, sheep and goats estimated are more than twice the estimates of the FAO Livestock census. Nationwide, the average size of the herd or flock per household owning livestock or poultry is 2.0 cows, 1.5 oxen, 2.0 horses, 1.6 donkeys, 2.6 camels, 12.7 goats, 15.5 sheep and 9.1 birds. For the Kuchi, the average size of the herd or flock per household is 2.7 cows, 1.7 oxen, 2.2 horses, 3.2 donkeys, 3.5 camels, 34.1 goats, 53.5 sheep and 8.7 birds.

## **Constraints on agriculture**

54. The agricultural sector is largely constrained by biophysical and socio-economic factors. The subarctic mountain climate in the highlands and semi-arid climate in the lowlands limits production. Even though Afghanistan is not a poor country in terms of per capita water availability, its topography limits the capacity to harness and distribute available water. While drought has been used to explain many of the fluctuations in agricultural output, the extent and spread of drought has not been quantified until recent years. Outbreaks of pests and diseases may occur under different microclimatic conditions and can affect crops and livestock. Natural disasters such as earthquakes, landslides, heavy rain, hailstorms, frosts and severe cold temperatures affect entire regions or communities and also have a negative impact on agriculture.

55. Lack of roads to access markets to sell products or purchase inputs, pricing information that could empower farmers to maximize net benefits, farmers' associations that could facilitate the access to markets, credit, and storage facilities to minimize spoilage, among other socio-economic factors, are all factors that limit farmers' choices.

## **Transportation and access to markets**

56. Distance to markets less than one hour from the communities and availability of daily transportation, as perceived by the *shuras*, would suggest that infrastructure is reasonable, but

experience shows that this is not the case. Accessing the markets and choices for selling and buying require pricing information, which is still very limited. NRVA 2005 has made modest contributions to this knowledge.

### **Income or livelihood diversification**

57. Income or livelihood diversification is an ancient behaviour to cope with uncertain events. Nationwide 55 per cent of the households have income from one out of eight groups of income diversification, 35 per cent have income from two out of eight groups, 10 per cent have income from three out of eight groups and less than 1 per cent have income from four out of eight groups. Of the households with only one source of income, 29 per cent are in trade and services, 27 per cent are in agriculture, 26 per cent are in non-farm income activities and 9 per cent are in livestock.

### **Past programme participation**

58. National Emergency Employment Programmes, National Solidarity Programmes and food aid programmes have been used throughout Afghanistan to help relieve natural disasters, food insecurity and poverty. These programmes are divided here into cash for work and food aid or food for work. About 3 per cent of the households in the survey participated in cash for work programmes and 4 per cent participated in food aid programmes.

59. Cash for work: 3 per cent of the households in Afghanistan participated in these programmes, 90 per cent in rural areas, 9 per cent urban and 1 per cent Kuchi. The participants were mostly men (89 per cent) while women only participated in 3 per cent, and children only participated in 4 per cent; the rest were men or women in combination with children. Seventy-one per cent of the participants used the cash to buy food, 7 per cent paid debts, 7 per cent paid for medical expenses and 1 per cent paid for education. Seven per cent “did not receive any benefit” (households localized in Jawzjan, Baghlan and Paktya). Fifty per cent of the participating households in Uruzgan acquired income-generating skills and to a lesser extent in Balkh, Kandahar, Takhar and Nangarhar; these cases, clearly aimed towards financial sustainability, could be extended or intensified.

60. Infrastructure has been improved in these programmes (90 per cent), and as a result there is more access to health facilities and improved access to markets and education. Beneficiaries also report improved access to employment opportunities as time for travelling is likely to be reduced. Of the 10 per cent of participants who did not perceive any benefit out of the infrastructure created or rehabilitated, 36 per cent were Kuchi.

### **Food aid and food for work**

61. The World Food Programme and other United Nations agencies, government or non-governmental (NGO) programmes directly donate food or use food as payment for work. These programmes are often associated with natural disasters or poverty. Three and a half per cent of households participated in these type of programmes (food-relief distribution, school feeding, institutional feeding, food for work, food for training or food for income generation). These programmes have had most the participation by rural households (93 per cent) and to a much lesser extent, urban and Kuchi households.

62. The main benefits perceived by the participants were that the quantity of food had improved (36 per cent) and reduced household expenditure (25 per cent), while only 14 per cent indicated that quality of food had improved. The main perceived benefits out of infrastructure rehabilitated or built were improved access to education (40 per cent), improved access to health facilities (26 per cent) and improved access to markets (10 per cent).

### **Diet and food security**

63. The majority of Afghan households (61 per cent) have low dietary diversity and poor food consumption; the remaining 39 per cent of households have better diets. Twenty-four per cent of households were classified as having low dietary diversity and very poor food consumption; 37 per cent have low dietary diversity and poor food consumption; 20 per cent have better dietary diversity and slightly better food consumption while 19 per cent have better diet diversity with better food consumption.

64. Daykundi shows the poorest diet diversity and lowest food consumption, followed by Bamyan and Nuristan, and Nimroz, Zabul, Uruzgan and Ghor. The urban populations in Takhar, Kandahar, Balkh and Kabul have very poor diets.

65. When a minimum daily calorie intake (2,067) is adjusted by gender and age the results are somewhat similar, Nimroz has the lowest food security, followed by Hilmand, Uruzgan, Daykundi, Patika and Sar-I-Pul. The highest food insecurity in the urban areas is in Balkh and lowest in Nangarhar.

66. NRVA 2005 data suggest that 30 per cent of the Afghan households do not meet the minimum daily calorie intake. Of them, 31 per cent live in the urban areas, 30 per cent in rural areas and 24 per cent are Kuchi. The proportion of the population below the intake threshold is likely to lose weight; if this condition prevails among children, their physical and mental development is at risk. National household perception of food insecurity (44 per cent) is above the 30 per cent and below the 61 per cent estimated to have a low diet diversity and poor food consumption. Forty-five to 65 per cent of the largest household loans during the last year were used to compensate food insecurity.

67. Forty-four per cent of Afghan households perceive themselves as food insecure to different degrees. Only 28 per cent of urban households perceive themselves to be food insecure while 40 per cent of Kuchi households and 48 per cent of rural households perceive this condition. These perceptions are supported with a high proportion of loans used to purchase food, as mentioned above.

68. Further work is required to assess the rural-urban, rural-Kuchi and urban-Kuchi gap in terms of intake and quality of diet. It is possible that a nutritional gender gap contributes to the increasing number of women above 24 years of age with higher mortality than men of the same age groups. This has tremendous implications for the achievement of gender equality if the MDGs were rewritten to include equality in life expectancy.



### Millennium Development Goals and NRVA 2005

MDG	Indicator	Kuchi	Rural	Urban	National average
1. Eradicate extreme poverty and hunger	Proportion of population below minimum level of dietary energy consumption (%)	24	30	31	30
2. Achieve universal primary education	Net enrolment rate in primary education	9	36	53	37
	Literacy rate of 15-24-year olds (%)	5	25	63	31
3. Promote gender equality and empower women	Ratio of girls to boys in primary education	0.5	0.6	0.9	0.7
	Ratio of literate women to men, 15-24-year olds	0.9	0.3	0.8	0.5
4. Reduce child mortality	Proportion of 1-year-old children immunized against measles (%)	35	51	63	53
5. Improve maternal health	Proportion of births attended by skilled health personnel (%)	7	9	52	53
6. Combat HIV/AIDS, malaria and other diseases	Use of condoms (%)*	17	8	9	8
7. Ensure environmental sustainability	Proportion of population using solid fuels (%)	98	98	75	94
	Proportion of population with sustainable access to an improved water source, urban and rural (%)	16	26	63	31
	Proportion of population with access to improved sanitation, urban and rural (%)	0	3	28	7
	Prop. HHs with secure housing tenure (%)	28	44	83	49
8. Develop a global partnership for development	Telephone lines and cellular subscribers per 100 population	0.1	0.3	8.3	1.5
	Personal computers in use per 100 people	0.00	0.01	0.52	0.09
	Internet users per 100 people	0.00	0.01	0.18	0.03

After Green (2006).

\* Out of those women using contraceptive methods; first, second and third married women in the household included.

### B. Constitutional, political and legal structure of the State

#### The Constitution of the Islamic Republic of Afghanistan

69. The present Constitution of the Islamic Republic of Afghanistan was agreed upon by more than 500 delegates representing Afghan men and women from across the country at the Constitutional *Loya Jirga* (13 December 2003-4 January 2004). The Constitution was formally ratified by President Hamid Karzai at a ceremony in Kabul on 26 January 2004.

70. A joint panel of Afghan and international scholars prepared the draft constitution, and it was then presented to the Grand Council. The Council comprised representatives of different groups such as tribal leaders, civil society, religious minorities, the Muslim clergy, Afghan intellectuals, leaders of political parties, Afghan refugees, women, disabled people and other

marginalized groups. The Council discussed the draft constitution over a three-week period and adopted the final draft, which was different from the early draft on a number of points, paving the way for the subsequent presidential and parliamentary elections. The Constitution was adopted and came into force on 3 January 2004.

71. The Constitution contains 162 articles. The articles that relate to human rights as contained in international human rights instruments are outlined in the following section on the legal framework for the protection of human rights at the national level. The full Constitution is attached to this report as annex I.

### **Structure of government**

72. Afghanistan is an Islamic Republic. The Constitution separates the Government into three branches - executive, legislative and judicial. The Constitution also calls for a Grand Assembly or *Loya Jirga* to be convened under certain situations.

### **Executive**

73. The President is the head of the executive branch. The President serves as the head of State and the Commander-in-Chief of the Armed Forces of Afghanistan. He or she is elected by receiving more than 50 per cent of the votes cast through free, general, secret, and direct voting. If none of the candidates for President receive more than 50 per cent of the votes in the first round, a run-off election is held within two weeks. In this round, only the two candidates with the highest number of votes are allowed to participate. In the run-off, the candidate who gets the majority of the votes will be elected President. The presidential term is four years. Article 61 of the Constitution stipulates that the new President shall be elected within 30 to 60 days prior to the end of the presidential term. The executive branch also includes two Vice-Presidents and members of the cabinet. Cabinet Ministers are appointed by the President and approved by the National Assembly.

### **The Cabinet**

74. The present Cabinet consists of 25 Ministers and one senior Minister. Each was nominated by President Karzai, approved by the *Wolesi Jirga* (House of People), and sworn in by the President on 2 May 2006. The previous cabinet was appointed by President Karzai upon formation of the transitional government in 2002. The transitional cabinet was dissolved after parliamentary elections on 18 September 2005.

75. Upon announcing his candidacy for the presidential post, the President appointed his two Vice-Presidents - First Vice-President: Ahmad Zia Masood and Second Vice-President: Mohammad Karim Khalili.

76. The current Cabinet members and their respective ministries are:

- H.E. Hedayat Amin Arsala is appointed as Senior Minister in the Cabinet
- Ministry of Foreign Affairs: H.E. Dr. Rangin Dadfar Spanta
- Ministry of National Defence: H.E. General Abdul Rahim Wardak

- Ministry of Interior Affairs: H.E. Zarar Ahmad Moqbel
- Ministry of Finance: H.E. Dr. Anwar-ul-Haq Ahadi
- Ministry of Economy: H.E. Dr. Mohammad Jalil Shams
- Ministry of Justice: H.E. Sarwar Danish
- Ministry of Culture and Youth Affairs: H.E. Abdul Karim Khoram
- Ministry of Education: H.E. Dr. Mohamad Hanif Atmar
- Ministry of Higher Education: H.E. Dr. Ahzam Dadfar
- Ministry of Trade and Industries: H.E. Dr. Mohammad Amin Farhang
- Ministry of Water and Energy: H.E. Mohammad Ismail Khan
- Ministry of Transport and Aviation: H.E. Hamidullah Qaderi
- Ministry of Women Affairs: H.E. Mrs. Hosn Bano Ghazanfar
- Ministry of Hajj and Islamic Affairs: H.E. Nematulla Shahrani
- Ministry of Public Welfare: H.E. Sohrab Ali Saffary
- Ministry of Public Health: H.E. Dr. Mohammad Amin Fatimie
- Ministry of Agriculture: H.E. Obaidullah Ramin
- Ministry of Mines: H.E. Ibrahim Adel
- Ministry of Communication: H.E. Eng. Amirzai Sangin
- Ministry of Rural Development: H.E. Ehsan Zia
- Ministry of Work and Social Affairs, Martyrs and Disabled: H.E. Noor Mohammad Qarqeen
- Ministry of Borders and Tribal Affairs: H.E. Karim Barahowie
- Ministry of Urban Development: H.E. Eng. Yousef Pashtun
- Ministry of Anti-Narcotics: H.E. General Khodaidad
- Ministry of Refugees: H.E. Shir Mohammad Atabaree

## Departments

77. Government departments have been established to function within the executive branch of the Government. Departments can propose acts and regulations for better management of their activities. The head of the departments are appointed by the President and approved by the National Assembly.

### List of current departments:

- Department of National Security
- Department of the Central Bank
- Department of the Mayor of Kabul
- Department of the Red Cross
- Department of Academy of Sciences
- Department of Olympics
- Department of Fighting Disasters
- Department of Control and Audit
- Department of Anti-corruption
- Department of Environmental Protection
- Department of Cartography

## Legislature

78. Article 81 of the Constitution reads as follows: “The National Assembly of the Islamic Republic of Afghanistan as the highest legislative organ is the manifestation of the will of its people and represents the whole nation. Every member of the National Assembly takes into judgement the general welfare and supreme interests of all people of Afghanistan at the time of casting their vote.”

79. The legislative branch is the National Assembly or Parliament. The National Assembly consists of an upper and lower house. The lower house is the *Wolesi Jirga* (House of People) and the upper house is the *Meshrano Jirga* (House of Elders). No one can become a member of both houses simultaneously. Members of the *Wolesi Jirga* are elected by the people through free, general, secret, and direct elections. Each member of the *Wolesi Jirga* will enjoy a five-year term expiring on 21 June of the fifth year (21 June 2010).

80. An aspiring candidate for the *Wolesi Jirga* must fulfil the following criteria:
- Be at least 25 years of age
  - Be a citizen of Afghanistan
  - Be registered as a voter
  - Be running as a representative in only one province
  - Pay a registration fee of 15,000 Afghanis (approximately US\$ 300) which will be refunded provided the candidate wins at least 3 per cent of the vote
  - Submit a nomination form along with photocopies of 500 voter ID cards supporting the candidacy
  - In addition, no candidate can run for office if he has been charged with crimes against humanity

81. The *Meshrano Jirga* consists of a mixture of appointed and elected members (a total of 102 members). Sixty-eight members were selected by 34 directly elected Provincial Councils, and 34 were appointed by the President. President Karzai's appointments were vetted by an independent United Nations sponsored election board and included 17 women (50 per cent), as required by the Constitution.

82. Each provincial council has elected one council member to serve in the *Meshrano Jirga* (34 members), as will each district council when they are constituted (34 members). Representatives of provincial councils will serve a term of four years, while representatives of district councils will serve a term of three years. Sebghatulla Mojadeddi was appointed President of *Meshrano Jirga*. An aspiring candidate for the *Meshrano Jirga* must fulfil the following criteria:

- Be at least 35 years of age
- Be a citizen of Afghanistan
- In addition, no potential member of the *Meshrano Jirga* can have been charged with crimes against humanity

### **2005 Parliamentary elections**

83. The National Assembly was formed through the first free and independent election in three decades in 2005 with substantial voter turn out (53 per cent of the country's 12.5 million registered voters - about 43 per cent of them women) on 18 September 2005. Non-citizens are not eligible to vote under the Electoral Law. There were 2,707 candidates, including 328 women, who competed for the 249 seats of the *Wolesi Jirga* (or House of the People) during the 18 September elections of 2005. Sixty-eight women were elected to the seats reserved for women under the Constitution, while 17 of them were elected in their own right.

84. President Karzai inaugurated the first session of the National Assembly on 19 December 2005 and swore in the 351 members of both houses.

85. Each province is a constituency and has a varying number of seats, depending on population. Voters had a single non-transferable vote. People voted for candidates in their own province. Each province has a number of representatives in Parliament, depending on the estimated population (Afghanistan has no up-to-date census information at this stage). The largest province by population is Kabul which has 33 seats (390 candidates, 50 female and 340 male).

86. Elections for the provincial councils were held simultaneously with those for the *Wolesi Jirga*. District elections have been delayed pending the finalization of district boundaries which should be completed in 2007.

87. An Electoral Complaints Commission of international and Afghan members was established as an interim body under the Electoral Law pending the establishment of the Independent Electoral Commission. During the Parliamentary election period complaints were received by Electoral Complaint Commission offices in each province and in Kabul. There were 5,423 complaints in total. Of these complaints 37 resulted in the disqualification of candidates. The main reasons for disqualification were: links with illegal armed groups (62 per cent); candidate still holding an official government position (30 per cent); and violations of the code of conduct or electoral law (8 per cent).

### **Responsibilities of the National Assembly**

88. Under article 90 of the Constitution the National Assembly shall have the following duties:

- Ratification, modification or abrogation of laws or legislative decrees
- Approval of social, cultural, economic as well as technological development programmes
- Approval of the state budget as well as permission to obtain or grant loans
- Creation, modification and or abrogation of administrative units
- Ratification of international treaties and agreements, or abrogation of membership
- Other authorities enshrined in the Constitution

### **Sessions of the National Assembly**

89. Both Houses of the National Assembly will convene two regular sessions for the term of nine months annually. The sessions are held concurrently, but separately, unless:

- (a) The legislative term or annual sessions are inaugurated by the President;
- (b) It is deemed necessary by the President.

90. The Speaker of the Lower House shall preside over the joint sessions of the National Assembly. The sessions are open, except when the Speaker of the National Assembly, or 10 members of the House, request secrecy and it is granted by the Assembly. The President can order extraordinary sessions of the NA during recess.

#### **The secretariat of the National Assembly**

91. Upon commencement of their work period, each of the two houses of the National Assembly elects one member as Speaker for the term of the legislature, two members as first and second deputies, and two members as secretary and assistant secretary for a period of one year. These individuals shall form the administrative teams of the Lower House as well as the Upper House. Regulations of Internal Duties will determine duties of the administrative team. The Lower House has the authority to establish a special commission, on the proposal of one third of its members, to review as well as investigate the actions of Government.

#### **Law-making process**

92. Any law has to be approved by both Houses of the National Assembly and endorsed by the President. Proposals for drafting a bill are made either by the Government or members of the National Assembly, or if related to regulating the judiciary, by the Supreme Court through the Government. A bill is first submitted to the *Wolesi Jirga* (the Lower House or House of the People), which has one month to either approve or reject it by a two-thirds vote. The proposal is then referred to the *Meshrano Jirga* (the Upper House), which will decide its approval or rejection within fifteen days. If the President is to reject what the National Assembly has approved, he/she is required to send the bill back to the Lower House within fifteen days outlining the reasons for rejection. If the House of the People re-approves the Bill with a majority of two thirds then the bill is considered endorsed and enforceable. Proposals for drafting the budget and financial affairs law are only to be made by the Government.

93. When deciding on proposed laws, the National Assembly shall give priority to treaties and development programmes that the Government considers to be urgent.

94. The state budget and development programme of the Government shall be submitted, through the Upper House to the Lower House. If it is approved by the Lower House, it will be implemented without being submitted to the Upper House, after endorsement by the President. In urgent matters such as the annual budget, or development programme, or issues related to the national security, territorial integrity and independence of the country, the sessions of the Assembly shall not end until a decision is made.

95. If one House rejects decisions of the other, a joint commission comprised of an equal number of members from each House will be formed to solve the difference. The decision of the commission shall be enforced, after endorsement by the President. If the joint commission can not solve the difference, the decision will be considered rejected. In such cases, the Lower House will pass it with two-thirds majority in its next session, and will have it endorsed by the President.

## Judiciary

96. The judiciary is to remain an independent organ of the State. It is comprised of one Supreme Court, courts of appeal and primary courts whose organization and authority is regulated by law. The Supreme Court is the highest judicial organ, heading the judicial power of the Islamic Republic of Afghanistan. The Supreme Court is comprised of nine members appointed by the President, with the endorsement of the Lower House and in observance of the provisions of clause three of article 50 and article 118 of the Constitution. Three members are appointed for a period of 4 years, three members for a period of 7 years and three members for a period of 10 years. Appointments made later shall be for a period of 10 years. Appointment of members for a second term shall not be permitted.

97. The President appoints one of the members as Chief Justice of the Supreme Court. Supreme Court members are not to be dismissed until the end of their term except under circumstances stated in article 127 of the Constitution:

“When more than one - third of the members of the *Wolesi Jirga* demand the trial of the Chief Justice, or a member of the Supreme Court due to a crime committed during the performance of duty, and the *Wolesi Jirga* approves of this demand by a majority of two-thirds votes, the accused is dismissed from his post and the case is referred to a special court.”

98. The structure of the court system in Afghanistan is set out in the Law on the Structure and Competencies of Courts. Under this structure there should be 1,570 judges at the district, provincial and national levels. Currently 83 per cent of these positions are filled according to the Supreme Court. The Supreme Court estimates that there is approximately one judge for every 100,000 Afghan citizens.

## Grand Assembly (*Loya Jirga*)

99. The *Loya Jirga* is the highest representative body of the people of Afghanistan. It consists of the following: members of the National Assembly; chairpersons of the provincial and district councils; ministers, the Chief Justice and members of the Supreme Court can participate in the sessions of the *Loya Jirga* without the right to vote.

100. The *Loya Jirga* shall be convened in the following situations: to take decisions on issues related to independence, national sovereignty, territorial integrity, and the supreme interests of the country; to amend the provisions of the Constitution; and to prosecute the President.

## Commissions

101. The Government of Afghanistan has established a number of Commissions in various fields which are considered to be vital for the overall development of Afghanistan. They include:

- Afghan Independent Human Rights Commission
- Judicial Reform Commission (The mandate of the commission was terminated in 2005)



- Constitutional Commission
- Anti-corruption Commission
- Independent Electoral Commission
- Media Commission

### **Afghan Independent Human Rights Commission (AIHRC)**

102. The Afghan Independent Human Rights Commission (AIHRC) was established by Presidential Decree on 6 June 2002. The establishment of the AIHRC was contemplated in the Bonn Agreement of December 2001. The AIHRC is responsible for monitoring human rights, investigating violations of human rights, and strengthening respect for and enforcement of human rights among domestic institutions.

### **Judicial Reform Commission**

103. The Judicial Reform Commission (JRC) was also established under the terms of the Bonn Agreement, and exists to lead the justice and rule of law reform agenda. Two and a half decades of war had left Afghanistan's judicial system in disarray - if not complete collapse. The Commission worked over the last five years to strengthen Afghanistan's permanent judicial institutions (Supreme Court, Ministry of Justice, and the Attorney-General's Office), as well as local judicial processes. In 2005, the Commission was dissolved but the work was succeeded by the Supreme Court, especially in the field of judicial training.

### **Constitutional Commission**

104. The Constitutional Commission was established as Afghanistan prepared to revise its constitution following the Emergency *Loya Jirga*. The Commission developed, after extensive consultations with Afghans from all walks of life and after conducting detailed studies of constitutions from across the globe, a draft constitution which served as the basis for the debate and agreement which arose out of the Constitutional *Loya Jirga* in December 2003 and January 2004. The Constitutional Commission, having completed its work, is no longer in operation.

### **Anti-corruption Commission**

105. To promote an ethos of meritocracy throughout the government bureaucracy and to reduce corruption, nepotism, and severe inefficiencies, President Karzai established an Anti-corruption Commission in June 2003. This Commission is charged with developing strategies to eliminate corruption and to promote a talented, competent and committed civil service throughout the Afghan Government.

### **Independent Electoral Commission**

106. According to article 156 of the Constitution, the Independent Electoral Commission (IEC) has the authority and responsibility to administrate and supervise all kinds of elections; as well as refer to general public opinion of the people, in accordance with the provisions of the law. The IEC consists of nine members, including a chairperson and a deputy chairperson, appointed by Presidential Decree No. 21, dated 19 January 2005.

107. The IEC secretariat is the executive body of the Commission. The professional electoral staff of the secretariat implement decisions, regulations and procedures adopted by the IEC. As an interim measure during the transitional period, the 2004 Presidential election and the 2005 *Wolesi Jirga* and provincial council elections were conducted and supervised by the Joint Electoral Management Body (JEMB), which was a joint institution of the Afghan Government and the United Nations. After completion of its responsibilities the JEMB was dissolved by Presidential Decree No. 110, dated 18 December 2005 and all its responsibilities were transferred to the IEC.

108. As a body independent of the Government, the IEC is revising the electoral law of Afghanistan to ensure it is free and fair. It establishes the procedures and creates the infrastructure for future elections, as well as training election staff throughout the country.

### **Media Commission**

109. The Media Commission was established under the Media Law. It has 10 members (2 must be female), and 1 serving as the chairperson. The chairperson should be the Minister for Information and Culture. The mandate of the Commission is to consider violations of the Media Law and to mediate resolutions. In cases that cannot be resolved through mediation, the Commission refers them to the Attorney-General for prosecution. The Commission is empowered to issue penalties and fines.

### **Political parties**

110. As at March 2007 there are 94 registered political parties at the national level. The process for registration requires that prospective political parties provide the following documents: application; charter (*Asasnama*); manifesto (*Maramnama*); 700 membership registration forms; party emblem; party flag; written assurance that the party has no military branch; written assurance that the members of the party are not also members of the judiciary, military, Attorney-General's offices or police.

111. The charter of the party, the manifesto and 700 membership registration forms will be reviewed by the Ministry of Justice and letters will be sent to the Ministries of Defence and Interior and the National Security Directorate to confirm that the party has no military branch. The property registration form of the party will be submitted to the Ministry of Finance. After the charter and manifesto are checked against the Constitution and the Law on Political Parties,

they are submitted to the Revision Commission. After the Commission has approved them, the Political Parties Department of the Ministry of Justice issues the permit and retains the documents of the party.

### **Social organizations**

112. As of March 2007 there are 906 social organizations registered with the Ministry of Justice in Afghanistan. The registration of the social organizations is a simpler process than the registration of political parties. Documents required for registration are: the list of names of the founders; financial statements; the list of names of the board of directors; the charter; application and symbol (that will be used after completion of the documents). The headquarters of the social organization will be inspected and the list of names of the board of directors will be sent to the Attorney General's Office to confirm they have not been deprived [by a court] of their civil and political rights. The articles of association of the organization will be reviewed and a permit will be issued for the applicant after making sure that the charter of the organization does not contradict the Law on Social Organizations and the Civil Code. Social Organizations currently enjoy tax-free status.

113. In Afghanistan today, the formal justice system, which is struggling to stand on its feet after three decades of war and turmoil, coexists with a diverse and robust informal system of dispute resolution. A useful reference document on the different forms of customary law practised across Afghanistan can be found in a report by the International Law Foundation at [http://www.usip.org/ruleoflaw/projects/ilf\\_customary\\_law\\_afghanistan.pdf](http://www.usip.org/ruleoflaw/projects/ilf_customary_law_afghanistan.pdf).

114. After the conflict and erosion of State institutions, non-State dispute resolution mechanisms remain dominant in the countryside and are utilized by many in urban centres. Most Afghans do not have access to State-run justice institutions. Those who do have access rarely choose to use them. Instead, many Afghans rely on a mixture of tradition, tribal relations, Islamic law, and current power relations to resolve disputes. But the outcomes produced by the informal system are sometimes far from ideal. At their best, they rely on social cohesion and conceptions of fairness to solve problems and maintain community harmony. Even then, their decisions are largely unenforceable, seldom recorded, and reinforce problematic social conventions such as the exclusion of women. At their worst, some traditional forums perpetuate gross human rights abuses such as forced marriage and extrajudicial killing. Despite these shortcomings, community-based forums remain both more available, and in many cases more legitimate than what the State system has to offer.

115. The Afghan Government is responsible for protecting the rights of its people and for providing access to effective and accountable justice institutions. At the same time the Government cannot prevent Afghans from resolving disputes at the community level. Indeed, rather than alienate community leaders, the Government must strive to boost its legitimacy among them. By creating a positive relationship between the formal and informal systems, the Government can harness the positive power of *shuras* and *jirgas* while also ensuring that the worst abuses are prevented.

116. According to the “Justice for All” strategy, the Government of Afghanistan sees positive elements in traditional mechanisms, including their role in community cohesion and locally accessible dispute resolution while also recognizing serious concerns about their impact on the authority of the State system and human rights. The Government’s strategy calls for a programme to assess the relationship between the formal and informal sectors, to conduct dialogue at the local and national level, and to develop policies that will create a more cohesive, competent, and accountable future.

117. The Afghan Ministry of Justice, together with its partners the United States Institute of Peace (USIP) and the Fletcher School at Tufts University have been pursuing this goal through a multi-year project of research and consultation. First, USIP commissioned a study of traditional/customary practices in Afghanistan, their evolution and relation to the formal system of justice. Second, in late 2005 and early 2006, with the cooperation of the Ministry of Justice, the Supreme Court, the Attorney-General’s Office, the Ministry of Interior, the Afghan Independent Human Rights Commission, and UNAMA, USIP conducted a series of consultations in four different regions of Afghanistan among formal and informal justice system actors from over 20 provinces to gauge the status of each, their interactions and attitudes towards each other, and to begin a process of dialogue.

118. The Ministry of Justice, the Afghanistan Research and Evaluation Unit and USIP hosted a conference on “The Relationship between State and Non-State Justice Systems in Afghanistan” from 10-14 December 2006 in Kabul. The conference drew together relevant actors to bring the results of this research and dialogue into the national level policymaking process. The goal of the conference was to bring together actors from the State, the informal system, civil society, and the aid community to help devise policy approaches and practical solutions pertaining to the interaction between the formal and informal sectors.

119. From the perspective of the Government, informal justice mechanisms pose a threat to State authority. In many places, criminal disputes are handled in *jirgas* instead of courts. While this may have some value in terms of reconciling the parties and providing compensation, it also undermines the duty of the State to provide justice, and to enforce the *Haq ul’Allah*, or rights of God for which the State is responsible. There is a fear that recognizing informal institutions will provide legitimacy to those practices that violate basic rights, such as *baad* (forced marriage of daughters for purposes of compensation and reconciliation). There is also concern that focus on the informal system will draw already limited resources away from the formal system.

120. From the perspective of non-State actors, they see the imposition of the justice system as undue interference in affairs best left to the community. The State has been a corrupt and predatory entity for many years - variously attempting to impose Communism or Islamic extremism - and rarely working for the good of the people. *Jirgas* and *shuras*, on the other hand, represent time-honoured traditions that respect local values, and that maintained community harmony and order while all else was collapsing. They also ensure that the *Haq ul’Abd* (rights of the person, e.g. compensation) is enforced. Given the current weakness of the government justice institutions, and their lack of respect for the informal system, incentives for cooperation are limited.

121. At present, however, there are no good alternatives to cooperation. There is too great a need for effective conflict resolution mechanisms in the current fragile state of stability to reject the positive elements of the non-State system. Indeed, a chief finding of the regional consultations is that, at the local level, the formal system is very reliant on community-based mechanisms, and regularly defers to them. At the same time, the informal system is very limited in its ability to address issues broader than the community, or to address systemic violence. A strong Government that can control violence, punish injustice, and mediate across communities is an absolute necessity for stability. From the human rights perspective, it is constructive engagement with community leaders over time that will ultimately eliminate abusive practices and open the way for broader access to community forums and government institutions.

122. Actors in both the formal and informal systems consider sharia as a fundamental basis of their decision-making. While there may be disagreement between the systems as to whether certain principles or practices are actually “Islamic” - both systems rely heavily on the perceived righteousness of their outcomes. In the formal sector, this position is based on the fact that most judges have had formal training in Islamic law or theology, and that Afghan law is derived from the sharia. Actors in the non-State sector believe that the practice of *shura* - or community consultation - is an Islamic form. Community leaders also implore parties to embrace notions of fairness, forgiveness, and charity, which are strongly associated with being a “good Muslim”. In some regions, and especially among the Shi’a, local clergy also play a very prominent role in non-State resolution.

### **Administration of justice**

123. According to the laws enacted in Afghanistan, justice is administered through criminal and civil procedures. Criminal cases are investigated primarily by the police within a maximum period of 72 hours, and then the case is handed to the Prosecution Department (Attorney-General’s Office). The prosecution must complete its case within 15 days; if necessary the period can be extended up to 15 additional days by order of the court. Through this process, if there is inadequate evidence the accused person must be released.

124. If investigations reveal a legitimate case the file is submitted to the court.

125. The court system in Afghanistan includes primary (lower) courts, appeal courts and the Supreme Court through which the judiciary practices its authority. According to article 2 of the Law of the Organization and Authority of the Courts of Islamic Republic of Afghanistan: “the judiciary shall be an independent pillar of the state and composed of Supreme Court, courts of appeal [and] primary courts. Circuit courts may be established when needed”. For crime figures see appendix II.

126. Civil cases are submitted to the courts by the Law Department (Hukuk) of the Ministry of Justice. The Rights Department has the responsibility to investigate and present the cases.

## **II. GENERAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

### **A. Acceptance of international human rights norms**

127. Afghanistan has signed and ratified the following international treaties for the promotion and protection of human rights:

- International Covenant on Civil and Political Rights (24 April 1983)
- International Covenant on Economic, Social and Cultural Rights (24 April 1983)
- International Convention on the Elimination of All Forms of Racial Discrimination (5 August 1983)
- Convention on the Elimination of All Forms of Discrimination Against Women (4 March 2003)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (26 June 1987)
- Convention on the Rights of the Child (27 April 1994), and its optional protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict (24 September 2003)

128. A table of these treaties follows. The declarations and reservations attached to those treaties by Afghanistan is at annex II. Of the substantive reservations to these treaties there are few - they largely relate to the interaction between international human rights law and Islam, the official religion of Afghanistan. There are no other treaties currently under active consideration by the Government. The priority of the Government is to ensure domestic legislation is put in place for existing treaties and that the ratified treaties are officially translated into local languages.

### **The Cairo Declaration on Human Rights in Islam**

129. Afghanistan joined the Organisation of the Islamic Conference (OIC) in 1969. Its membership was suspended in the 1980s when the Soviets invaded the country and the People's Democratic Party of Afghanistan came to power. In 1990, when the Cairo Declaration was approved, some of the leaders of *Jehadi* parties attended the Conference and took part in the discussions and finalization of the Declaration. Membership of OIC was restored and the seat was given back to Afghanistan in 1992, when the Mujaheddin came to power.

Reservations given by Afghanistan	Date of ratification by Afghanistan	Date of signature by Afghanistan	Date of adoption by the General Assembly and monitoring body	Name of the convention
Reservation on article 22 Declaration on articles 17, 18 Acceptance of amendment to article 8 (6)	05/03/2003	14/08/1980	21 December 1965 (CERD)	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
Declaration on article 43 (2)	24/01/1983	Accession,	16 December 1966 (Human Rights Committee)	International Covenant on Civil and Political Rights (ICCPR) This convention is supplemented by two optional protocols which have not been signed or ratified yet by Afghanistan
Declaration on article 26 (1, 3)	24/01/1983	Accession	16 December 1966 (CESCR)	International Covenant on Economic, Social and Cultural Rights (ICESCR)
Declaration on: Acceptance of amendment to article 20 (1)	05/03/2003	14/08/1980	18 December 1979 (CEDAW)	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
Reservations on articles 20, 30	01/04/1987	04/02/1985	10 December 1984 (CAT)	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
Acceptance of amendment to article 43 (2)	28/03/1994	27/09/1990	20 November 1989 (CRC)	Convention on the Rights of the Child (CRC)
None	Accession 24 September 2003	-	25 May 2000 (CRC)	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. OP-CRC-AC
Declaration	Accession 19 September 2002	-	25 May 2000, (CRC)	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography OP-CRC-SC

## **Government policy on good governance, rule of law, and human rights**

130. Rule of law is the foundation for a legitimate government, protection of citizens' rights, and a competitive market economy in Afghanistan. It is also essential to combat corruption and curb the illegal drug economy. An independent judiciary and accountable law enforcement system are needed to protect the human rights and legal protections guaranteed to all Afghans. Vulnerable social groups, such as women, children, and the poor are especially at risk from the illegal use of force by State and non-State actors. In addition, the transition of the informal sector into the formal economy is dependent on the acceptance and enforcement of the rule of law.

131. At present, traditional justice fills the gap in State justice, but is often out of step with Islam, the Constitution, State law, and human rights. The community leadership and accessibility of *shuras* and *jirgas* can strengthen the overall justice system. Religious leaders can help shape public opinion and increase understanding of important social issues, including drug control, anti-corruption, forced marriage, and girls' education.

132. Lasting peace and prosperity in Afghanistan require structures of governance that are accountable, transparent, effective, and Islamic. A well-functioning National Assembly will complement and balance the executive and judicial branches of power, while linking national policymaking to the people. Without proper support, an inexperienced National Assembly will distance the Afghan people from their Government rather than bring them closer.

*The goal of the Government of Afghanistan is to establish the basic institutions and practice of democratic governance at the national, provincial, district, and village levels for enhanced human development, by the end of the current Presidency and National Assembly terms.*

### **Five-year strategic benchmarks**

133. The goal of the Government of Afghanistan for the governance, rule of law, and human rights sector will be realized through five interrelated programmes.

#### **Programme 1: Empowering the National Assembly**

*1. The National Assembly will be provided with technical and administrative support by the first quarter of mid-2006 to effectively fulfil its constitutionally mandated roles.*

*2. The Afghanistan Independent Electoral Commission will have the capacity and resources to undertake elections in a fiscally sustainable manner by the end of 2008, with the Government contributing as much as possible to the cost of future elections from its own resources. A permanent civil and voter registry with a single national identity document will be established by the end of 2009.*

134. The goal of the Government is to strengthen the capacity of the National Assembly to become the major actor in the legislative process, to act as a responsible check on executive and judicial power, to assist Members of Parliament (MPs) to represent the economic and political aspirations of their constituents, and to drive a legislative reform programme that lays the foundation for reducing poverty and stimulating economic growth.



## **Programme 2: Justice and the rule of law**

1. *By the end of 2010, the legal framework required under the Constitution, including civil, criminal, and commercial law, will be put in place, distributed to all judicial and legislative institutions, and made available to the public.*
2. *By the end of 2010, functioning institutions of justice will be fully operational in each province of Afghanistan. The average time to resolve contract disputes will be reduced as much as possible.*
3. *A review and reform of oversight procedures relating to corruption, lack of due process, and miscarriage of justice will be initiated by the end of 2006 and fully implemented by the end of 2010; reforms will strengthen the professionalism, credibility, and integrity of key institutions of the justice system (the Ministry of Justice (MoJ), the Judiciary, the Attorney-General's office, the Ministry of Interior, and the National Directorate of Security).*
4. *By the end of 2010, the justice infrastructure will be rehabilitated; and prisons will have separate facilities for women and juveniles.*
5. *A process for registration of land in all administrative units and the registration of titles will be started for all major urban areas by the end of 2006 and all other areas by the end of 2008. A fair system for settlement of land disputes will be in place by the end of 2007. Registration for rural land will be under way by the end of 2007.*

135. The goal of the Government is to establish a system of justice that serves as the principal legitimate institution for accessing justice and regulating disputes in conformity with international standards. The Government will continue to reform the basic legal framework of Afghanistan. Across the justice sector, it will strengthen professional skills and implement standards through administrative reforms and skills training. The MoJ will formalize the role of formal and informal justice mechanisms and their respective roles, enhancing the legitimacy and efficiency of both. Justice institutions will emphasize strengthening protections for vulnerable and geographically remote people. The Government will increase public awareness and confidence in the justice system through nationwide campaigns and increasing transparency in court decisions.

## **Programme 3: Religious affairs**

1. *By the end of 2010, religious institutions and scholars, both men and women, will participate in structured ways on issues of national development policy.*
2. *By the end of 2010, concrete measures will be put in place to ensure that the status and participation of women in Islamic activities increase, both locally and internationally.*

136. The goal of the Government is to ensure that all Afghans can participate equally in the religious life of the nation. Islamic teachings, principles, and scholarship are to be consulted regarding the development agenda, governance institutions and legal framework of the nation. As a result, progress will coexist in harmony with our religion.

#### **Programme 4: Public administration reform**

1. *By the end of 2010, Government machinery (including the number of ministries) will be restructured and rationalized to ensure a fiscally sustainable public administration; the civil service will be strengthened; and civil service functions will be reformed to reflect core functions and responsibilities.*
2. *A clear and transparent mechanism for national appointments will be established within 6 months, applied within 12 months, and fully implemented within 24 months for all senior level appointments to the central government and the judiciary, as well as for provincial governors, chiefs of police, district administrators, and provincial heads of security.*
3. *By the end of 2006, a review of the number of administrative units and their boundaries will be undertaken with the aim of contributing to fiscal sustainability.*
4. *By the end of 2010, in furtherance of the work of the Civil Service Commission, merit-based appointments, vetting procedures, and performance-based reviews will be undertaken for civil service positions at all levels of government, including central government, the judiciary, and police. The Government will also provide requisite support for building the capacity of the civil service to function effectively. Annual performance-based reviews will be undertaken for all senior staff starting by the end of 2007.*
5. *The census enumeration will be completed by the end of 2008 and the complete results published.*
6. *Reliable statistical baselines will be established for all quantitative benchmarks by the first quarter of mid-2007 and statistical capacity built to track progress against them.*

137. The goal of the Government is to develop an effective and accountable public administration at all levels capable of ensuring security, equitable provision of basic social services, and an environment conducive for economic growth. Through the Public Administration Reform Programme, the Government will ensure that there is improved coordination between decision-making bodies within the central government. It will restructure ministries and simplify administrative procedures and business processes. It will improve service delivery through subnational administration and create an effective, financially sustainable civil service that gradually phases out the supplementing of salaries by donors. The Independent Administrative Reform and Civil Service Commission (IARCSC) will strengthen rules and procedures for a professionally managed civil service, including promotion of high ethical standards and disciplinary measures for corrupt or unethical practices. The Government will adopt a merit-based recruitment system that promotes gender equity and ethnic diversity. It will establish a coherent, comprehensive skills development programme for existing and new civil servants.

#### **Programme 5: Human rights**

1. *By the end of 2010 the capacity of the Government to comply with and report on its human rights treaty obligations will be strengthened; government security and law*

*enforcement agencies will adopt corrective measures including codes of conduct and procedures aimed at preventing arbitrary arrest and detention, torture, extortion, and illegal expropriation of property with a view to the elimination of these practices; the exercise of freedom of expression, including freedom of the media will be strengthened; human rights awareness will be included in education curricula, and promoted among legislators, judicial personnel, and other government agencies, communities, and the public; human rights monitoring will be carried out by the Government and independently by the Afghan Independent Human Rights Commission (AIHRC), and the United Nations will track the effectiveness of measures aimed at the protection of human rights; and the AIHRC will be supported in the fulfilment of its objectives with regard to monitoring, investigation, protection, and promotion of human rights.*

*The implementation of the Action Plan on Peace, Justice, and Reconciliation will be completed by the end of 2008.*

138. Poverty reduction is only effective and sustainable when the poor are empowered to fully participate in the economic, social, cultural, and political life of Afghanistan. The goal of the Government is to build an inclusive society where everyone's human rights are protected, promoted, and respected. The Government will work with the AIHRC and the international donor community to develop and strengthen capacities to protect and promote human rights, including awareness training for civil servants. The Government will enhance protection from human rights violations committed by government agencies. The Government will continue to promote and protect women's rights through harmonizing women's provisions in the major policy frameworks of the country, improving access to justice, and raising awareness on issues such as child marriage, domestic violence, and women's employment. To strengthen the protection of children's rights, the Government will introduce laws and policies to protect children, establish preventative measures against sexual abuse of children, and strengthen measures to counter child-trafficking. The Government will promote and protect the rights of the disabled by working towards the removal of barriers that deter them from fully participating in society, such as advocacy, increasing awareness of their special needs, and promoting their hiring in the work force.

### **Cross-cutting initiatives**

139. Fundamental to the interventions above is a focus on the following cross-cutting initiatives.

#### **Initiative 1: Combat corruption**

140. Strengthening the legal framework, public sector management, and accountability systems are vital components of the Government anti-corruption strategy, all of which will increase public confidence in the legitimacy of the State. Utilizing these tools to combat corruption will accelerate the achievement of security, good governance, and economic development. A motivated, merit-based civil service will be resistant to the temptations of corruption, enabling efficient, effective, and transparent service delivery without bribes. Strengthening accountability systems will deny officials the opportunity to cover up corruption.

## **Initiative 2: Promote gender equity**

141. Proactive laws and policies are required of the State to reverse obstacles and abuses faced by women. Civil society, including religious leaders, will have an important role in raising public awareness about the situation of women. Likewise, greater participation by female professionals at all levels of the civil service will give them a voice in policy and decision-making, as well as improve the capacity of the Government as a whole to design and deliver adequate services to female constituents.

### **B. Legal framework for the protection of human rights at the national level**

#### **The 2004 Constitution of Afghanistan**

142. The new Constitution stipulates in article 7 that:

“The Afghan state shall abide by the UN Charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights.”

The Afghan State and its institutions are therefore bound by the Constitution to uphold human rights standards set by the international treaties to which Afghanistan is a party. The protection of human rights and the principle of equality (non-discrimination) is reinforced in the Constitution in article 6, which states that:

“The state shall 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.”

143. The specific provisions of the Constitution that relate to rights contained in international human rights instruments are:

- Article 2 - Freedom of religion
- Article 6 - Protection of human rights, democracy and equality
- Article 7 - Observance of the Charter of the United Nations, the Universal Declaration of Human Rights and other treaties
- Articles 13 and 14 - Right to an adequate standard of living
- Article 15 - Protection of the natural environment
- Articles 17, 43, 44, 45, 46 - Right to education
- Article 22 - Freedom from discrimination and equality before the law
- Article 23 - Right to life

- Article 24 -Right to liberty and dignity
- Article 25 - Presumption of innocence before the law
- Articles 26, 27, 30, 31 - Due process of law
- Article 29 - Freedom from persecution and torture
- Article 33 - Right to vote and to be elected
- Article 34 - Freedom of expression
- Articles 35 and 36 - Freedom of assembly, association and the right to form political parties
- Articles 37 and 38 - Right to privacy
- Article 39 - Freedom of movement
- Article 40 - Right to property
- Article 47 - Right to protection of culture
- Articles 48 and 49 - Right to work and freedom from forced labour
- Article 51 - Right to effective remedy and compensation
- Article 52 - Right to health care
- Article 53 - Protection of minorities and vulnerable groups
- Article 54 - Protection of the family
- Article 58 - Establishment of national human rights institutions

#### **Other relevant national legal standards related to human rights**

- **Law on the Structure, Duties and Mandate of the AIHRC No. 3471**

144. The provisions of this law are outlined in the following section concerning the legal framework for the promotion of human rights.

- **Civil Code and Penal Code of Afghanistan**

145. Provisions in the Civil Code and Penal Code support the rights and duties of individuals outlined in the 2004 Constitution and in international treaties, and provide more detail as to how human rights standards are regulated by national law. The Penal Code lists the consequences of transgression of national law through committing acts which violate these standards.

146. In addition to the Civil and Penal Code several articles of national laws as well as presidential decrees are listed here to provide additional relevant provisions and details (and to better understand the scope) as to how human rights standards are guaranteed and defined within the national legal framework. For example:

- Interim Criminal Procedure Code
- Counter-narcotics Law
- Counter-terrorism Law
- Public Health Law
- Psychological Health Regulations
- Law on the Organization of the Attorney General's Office
- Forensic Medicine Law
- Military Criminal Procedure Code
- Military Penal Code
- Law on Prisons and Detention Centres
- Civil Service Law
- Civil Servants Overtime Regulations
- Labour Law
- Safe Conditions of Work Regulations
- Vocational Training Regulations
- Work Safety Regulations
- Workplace Dispute Regulations
- Law on Congregation, Strikes and Demonstrations
- Law on Investigation of Children's Violations
- Mother and Child Protection Council Regulation
- Political Parties Law
- Law on Social Organizations

- Laws on Elections and Municipal Elections
- Education Law
- Higher Education Law
- Law on Mass Media (which replaces the previous mass media law of 1943)
- Environment Law
- Law on Property
- Decree establishing the Land Disputes Court
- Decree No. 297 of the President of the Afghan Interim Administration on the dignified return of refugees

147. Although these new laws de jure incorporate many human rights principles there still remains a long way to go before they are implemented in practice. The Government of Afghanistan, in cooperation with international partners, must continue to work together to ensure that laws implementing human rights standards are implemented at the central, provincial and district levels. The Ministry of Justice has a long list of new draft legislation to be introduced to the newly established parliament that will further entrench human rights principles in domestic law. Some examples of new proposed legislation that will help to protect human rights are: the labour bill; the media bill; the bill on registration of marriages; the higher education bill and the bill on human trafficking.

### **Incorporation of international human rights law into the national legal system**

148. The Constitution clearly incorporates international human rights law into Afghan law in article 7.

149. Incorporation of the international human rights law into the national legal system is among the many priorities of the Government. However, lack of capacity and the existence of higher priorities such as security, justice sector reform, rule of law, etc. has delayed the process of establishing a mechanism to ensure that international human rights law becomes a part of domestic law.

150. Although specific treaties may not be referenced in domestic legislation, a significant part of Afghan laws and policies (including those referenced individually above) implicitly incorporate international human rights standards. The Legislative Drafting Directorate of the Ministry of Justice considers that the Universal Declaration of Human Rights, the Charter of the United Nations and the human rights treaties that Afghanistan has ratified are reflected in domestic legislation.

### **Judicial and administrative competence over human rights issues**

151. The Supreme Court of Afghanistan has determined that international human rights standards as recognized in the Universal Declaration of Human Rights and the human rights

treaties ratified by Afghanistan have been incorporated into domestic law and court procedures. The Supreme Court considers these standards when making its decisions. Under article 22 of the Constitution, the Supreme Court is bound to provide equality before the law and non-discrimination in the handling of its cases, regardless of wealth, status, religion, political beliefs, tribal origin or sex. Article 14 of the Law on the Structure and Competencies of Courts affirms that equality before the law should be observed in court procedures and decisions and that discrimination between Afghan citizens is prohibited.

152. It is acknowledged by the Government of Afghanistan that this legal framework has not yet filtered down to all the provincial and district courts. It is further acknowledged that the existence of local power brokers has impeded the ability of the courts to apply the principles of equality and non-discrimination absolutely. The Justice Sector Reform Programme, supported by the United Nations Development Programme (UNDP) and a number of other international organizations and donors through “Justice for All” outlines the strategy of the Government for improving access to justice for all Afghans. In particular the project aims to provide support to the Government of Afghanistan in re-establishing the rule of law and reforming the justice sector in order to achieve improved access to timely and effective justice for all Afghan citizens, especially the poor, the disadvantaged, women and other vulnerable groups, through strengthening the service capacity of national justice institutions whilst enhancing the capacity of the civilian population to seek and demand justice from national justice institutions. More information on the Government’s 10-year national strategic framework, “Justice for All”, and the current problems faced by the justice system can be found in chapter III below (para. 232).

153. Article 58 of the Constitution gives competence to the AIHRC to handle human rights complaints. It also authorizes the AIHRC to refer violations of individual human rights to the Attorney-General and the Courts. It further authorizes the AIHRC to assist individuals in defending themselves in cases brought against them.

154. Article 120 of the Constitution requires the judiciary to consider all cases brought before it under any law of Afghanistan, by any natural or legal person, including the Government of Afghanistan, either as complainant or defendant. Importantly, article 4 of the Law on the Structure and Competencies of Courts states that no case once commenced can be transferred to any other non-judicial body, including the informal justice sector. This practice of referring cases from the courts to community or religious *shuras* is still practised at the provincial and district levels and must be regulated in practice.

155. It must be acknowledged that within the court structure at the provincial and district level, capacity, resource and education deficiencies have restricted the awareness and application of international human rights standards in court decisions. This is even more of a problem given that around 85 per cent of legal disputes are handled outside the formal justice sector by tribal, religious and community *shuras* and never make it to the courts. This is partly because the *shuras* are seen as faster, cheaper and more accessible than the formal justice system.

156. Under article 31 of the Constitution, article 11 of the Law on the Judicial System and articles 18 and 19 of the Interim Criminal Procedure Code, the Legal Assistance Department of the Supreme Court provides legal aid to those who cannot afford a defence lawyer in criminal



cases. Under article 38 of the Interim Criminal Procedure Code the defence attorney can be present during interrogation. In 2002 legal aid was provided to 66 people in 22 criminal cases. In 2006 1,765 individuals were provided with legal aid in 650 cases.

157. Further information on administrative and judicial competence on human rights issues, including remedies and compensation, is contained in chapter III of this report. Information on government policies for vulnerable groups is contained in the section on government policies on good governance, rule of law and human rights above and in chapter III below in the section on special measures for vulnerable groups (para. 210).

158. In cases where the Government violates the rights of an individual, article 51 of the Constitution provides the right of the victim to claim compensation from the Government by appealing through the formal justice system. The procedures for specific claims involving a violation of individual human rights have not yet been established but are under consideration for future application.

### **Regional human rights mechanisms**

159. The Government of Afghanistan is not a member of any regional human rights mechanism. However the AIHRC is a full member of the Asia Pacific Forum of National Human Rights Institutions.

160. The Asia Pacific Forum of National Human Rights Institutions was established in 1996 following the first regional meeting of national human rights institutions from the Asia Pacific region. This meeting was also attended by a number of regional governments and NGOs. At this meeting the institutions adopted the Larrakia Declaration which set out important principles governing the functioning of national human rights institutions. To advance these objectives, the national human rights institutions decided to establish a regional organization.

161. The Forum is comprised of independent national human rights institutions that have been established in compliance with the fundamental criteria set out in the “Principles relating to the status of national institutions” (more commonly known as the Paris Principles) endorsed by the General Assembly of the United Nations. Meetings of the Forum also provide for observer status to be given to governments, United Nations agencies and human rights NGOs.

162. The Forum enjoys the strong support of its member institutions. It opens up important new avenues for strengthening human rights observance and advancing human rights protection for the peoples of the region in a constructive and cooperative environment. It provides a framework of regional cooperation for the development and implementation of practical programmes which aim to genuinely improve the enjoyment of human rights by individuals and vulnerable groups. More information on the Forum can be found at <http://www.asiapacificforum.net/about/index.html>.

## **C. Framework within which human rights are promoted at the national level**

### **The National Assembly**

163. The first democratically elected National Assembly of Afghanistan was constituted for the first time in early 2006. It is still in the early stages of defining its role, functions and rules of

procedure, as well as its interaction with the executive and legislative branches of government. There is currently no political party system in Afghanistan, as provided for by the Electoral Law; MPs are elected as individuals, not parties. One new development of the parliamentary rules of procedure however is the provision for the formation of parliamentary groups. To form such a group 23 members are required and must share a common goal or perspective. The issue of international human rights standards remains a contentious one in the Afghan Parliament. Issues of westernization and conflict with Islamic sharia law are hotly debated. The Parliament is in the process of defining its role in relation to international law and treaties, in particular the process for ratification and implementation of treaties.

164. The Parliament has 25 per cent female representation across both upper and lower houses: 68 women in the lower house (27 per cent) and 21 in the upper house (20 per cent). There is a strong union of female representatives, supported by a Women's Parliamentary Resource Centre managed by the United Nations Development Fund for Women.

165. The Parliament currently has 22 committees:

- Finance and Budget
- Complaints
- Communications
- Legislation
- Justice
- Defence
- Martyrs and Disabled
- Women's Affairs
- National Economy
- Cultural Affairs
- Counter Narcotics
- Education, Health and Youth
- Central Audit
- Religious Affairs
- Human Rights, Gender and Civil Society
- Immunities and Privileges

- International Relations
- Internal Affairs
- Natural Resources and Environment
- Provincial Councils Affairs
- Public Welfare
- Tribes and Ethnicities

166. Two key committees relating to human rights treaties are the International Affairs Committee and the Human Rights, Gender and Civil Society Committee. Article 90 of the Constitution provides that one of the duties of the Parliament is to undertake “Ratification of international treaties and agreements, or abrogation of membership of Afghanistan in them”. The current procedure of the Parliament is that a proposed treaty first comes before the International Relations Committee to decide the policy value of ratification. Then the treaty goes to the Human Rights, Gender and Civil Society Committee to determine if the treaty is in compliance with Islamic principles and what laws would need to be changed to implement the treaty. Then the proposed treaty would go to the lower house for consideration, followed by the upper house and finally to the President.

167. Currently, the Committee on Human Rights, Gender and Civil Society performs two main functions. Firstly, reviewing draft legislation for compliance with human rights, gender issues and from a civil society perspective. For example the Committee is currently considering the Political Parties Law from a civil society perspective, as well as the new Law of Prisons from a gender and human rights perspective. Secondly, the Committee conducts monitoring exercises. Currently the Committee is monitoring the human rights situation inside prisons and detention facilities.

### **National human rights institution - the Afghan Independent Human Rights Commission**

168. The establishment of a national human rights institution was entrenched by the Bonn Agreement of December 2001 which states in article 6, “The Interim Administration shall, with the assistance of the United Nations, establish an independent Human Rights Commission, whose responsibilities will include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions.”

169. The role and functions of the AIHRC were then elaborated in the Decree of the Presidency of the Interim Administration of Afghanistan on the Establishment of an Afghan Independent Human Rights Commission, 6 June 2002. It set out the terms of reference of the AIHRC, including: responsibility for developing a national plan of action for human rights in Afghanistan; human rights monitoring; investigation of violations of human rights; complaint handling; development and implementation of a national programme of human rights education; developing a strategy for transitional justice; submitting reports on the human rights situation to the Government and international organizations; working with civil society organizations; promoting the harmonization of national law and practice with international human rights

instruments to which Afghanistan is a party; providing advice and information to the country's human rights treaty reporting processes; undertaking national human rights consultations; and development of domestic human rights institutions, in accordance with the terms of the Bonn Agreement and applicable international human rights norms, standards, and conventions, and the provisions of the decree and its annex. It sets the mandate of the AIHRC to provide coverage of the whole country through the establishment of regional offices. The Decree establishes criteria and rules for the appointment of Commissioners and their fixed term of office and immunity from prosecution.

170. Following the Presidential Decree, in January 2004 the Interim Administration adopted the new Constitution which constitutionally entrenched the AIHRC through article 58:

“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 defence of their rights. Organization and method of operation of the Commission shall be regulated by law.”

171. On 14 May 2005 the Government approved the Law on the Structure, Duties and Mandate of the AIHRC No. 3471. Article 2 of the law guarantees the independence of the AIHRC. Article 5 elaborates its objectives which are to: monitor the situation of human rights in Afghanistan; promote and protect human rights; monitor access to fundamental rights and freedoms; investigate human rights cases; and take measures to improve and promote human rights in Afghanistan (these are elaborated further in article 21). Article 7 establishes that nine Commissioners shall be appointed for a fixed term of five years. Article 16 sets out the immunity from prosecution for all staff of the AIHRC. Article 32 sets out the reporting obligations of the AIHRC, including drafting annual reports on the human rights situation. The full text of Law No. 3471 on the Structure, Duties and Mandate of the AIHRC is attached at annex III.

### **Dissemination of human rights information**

172. The AIHRC has played the main role in disseminating information on human rights since the fall of the Taliban regime in 2001. Since 2002 the AIHRC Education Unit has held workshops, briefings, round tables and press conferences on the full range of human rights issues for 36,574 Afghans, 20,531 men and 16,043 women. These sessions started with 5 workshops for 298 participants in 2002 and have grown to 31 workshops and 77 information briefings for 4,324 participants in 2006. The target audiences for these sessions have been: AIHRC staff, religious ulemas and elders, civil society, government ministries, university students, teachers, school students, police, prison officials, the National Security Directorate, the Afghan National Army, and the disabled.

### **Raising human rights awareness of public officials**

173. The Ministry of Interior has established a human rights unit in its Kabul headquarters and human rights focal points in each province of Afghanistan. The chief role of the focal points is to raise awareness of human rights within the police rank and file and to report on and investigation

allegations of human rights violations by police officers. This is a newly established unit within the Ministry of Interior and due to the relatively low awareness of human rights issues, as well as the internal investigations aspect of the work, it will take some time for the unit to establish and achieve concrete results in human rights promotion and protection. The Ministry of Interior has participated in several human rights workshops. The Internal Affairs Unit of the Ministry has participated in a three-day workshop on human rights. The Norwegian police have hosted a four-day seminar on human rights for the human rights unit as well as the staff of the Kabul Security Command. The United Nations Mission in Afghanistan (UNAMA) has provided a three-day training session to the staff of Kabul Police District 10, a model police station that also hosts a domestic violence unit. In addition 22 of the human rights focal points based in the provinces have received training on the Universal Declaration of Human Rights, the human rights conventions and the Law on Police.

174. In November 2006, the Ministry of Work, Social Affairs and Martyrs and Disabled conducted a workshop on the adverse effects of corporal punishment on children for 120 nursery teachers. The training was conducted by the AIHRC and the Family Welfare Institute. Two Ministry officials also participated in human rights training conducted by the AIHRC in 2006.

175. The Ministry of Counter Narcotics was provided with training by the AIHRC on the Universal Declaration of Human Rights in 2006. The Ministry of Education conducted human rights education workshops for 1,182 female and 1,392 male schoolteachers annually from 2003 until 2006. Its staff also attended a 10-day conference organized by the AIHRC on human rights issues.

176. The Ministry of Refugees conducted a workshop on peacebuilding for 17 Ministry officials in April 2006. One hundred of its officials attended conferences on human rights protection conducted by the International Rescue Committee in July, August, September and December 2004 and a follow-up conference on the same issue for 26 officials was conducted by IRC in August 2006. Twenty Ministry officials also attended a workshop on child rights in July 2004 conducted by Save the Children UK. The Afghan Developmental Education Organisation held two training sessions on gender issues for 30 Ministry officials in June and November 2004. In December 2004 the Ministry extended that training to 35 officials from its provincial offices in Kandahar and Mazar-i-Sharif.

177. The Ministry of Agriculture has conducted 15 training sessions for 42,000 rural households and its own officials in 4 provinces (Kabul, Herat, Bamiyan and Badakshan) since August 2006 on nutrition education and gender.

178. The Supreme Court undertook 12 rounds of training sessions for 459 senior judges in the capital and the provinces on fair trial procedures in 2005 and 2006.

179. The Office of the Attorney-General (AGO) has participated in several training sessions for its officials. In 2004 the German Aid Agency GTZ provided a seminar on fair trial procedures for 50 attorneys. In 2005 the Canadian Development Agency provided training for 25 prosecutors on sexual crimes. The Afghan Women Lawyers Union provided the AGO with seminars on the interaction between human rights and Islam, and gender and criminal justice between 2004 and 2006. The Ministry of Women's Affairs held a conference for all the AGO Deputies on the elimination of violence against women in 2006. The Family Protection

Association held a workshop for 120 AGO prosecutors on violence awareness in the same year. The AIHRC held a seminar on the legal issues surrounding self-immolation for all senior ministry officials from different ministries in 2005. The Justice Sector Support Programme provided training for 40 prosecutors on ethical principles in 2006.

180. The Ministry of Women's Affairs conducted a four-day training session on human rights capacity-building for all its legal staff in 34 provinces in 2006. With the assistance of the International Organization for Migration (IOM), it also conducted training for four line ministries on human trafficking in 2006. A conference was also held in 2006 to raise awareness of the Convention on the Elimination of All Forms of Discrimination against Women. Every quarter since the beginning of 2006 the Ministry has conducted round tables on: the draft law on the elimination of violence against women, the Commission on the Elimination of Violence Against Women, and collecting statistics on violence against women. It also held a campaign for the elimination of violence against women on the occasion of International Women's Day in 2006.

### **Government public information campaigns**

181. The Government has conducted many public information campaigns on a range of human rights issues. The campaigns are typically run on a ministry by ministry basis and often in cooperation with international partners. Some examples include: the 2004 and 2005 election campaigns conducted by the Ministry of Information and Culture concerning "get out to vote" messages, freedom of expression, and the rights of minorities; "return to school" campaigns for primary education by the Ministry of Education; Ministry of Health campaigns on vaccinations, sanitation, child health, termination of pregnancies and safe drinking water; anti-corruption campaigns by the Ministry of Justice and the Office of Anti-Corruption; campaigns against child marriage and child labour by the Ministry of Labour and Social Affairs; and campaigns against forced marriage, the rights of women and raising awareness of domestic violence conducted by the Ministry of Women's Affairs. The mediums used by the Government for public information campaigns include radio and television broadcasts, newspapers and public billboards, public gatherings at the district and provincial level and workshops at the national level.

### **Human rights education in school curriculum**

182. The new Afghan primary and secondary education curriculum includes human rights and discrimination as part of the core curriculum along with peace, democracy, terrorism and counter-narcotics. Under the human rights component of the curriculum the rights of children, women, the elderly, families and the poor as well as programmes on the elimination of discrimination have been included in school textbooks for grades one to six. When developing the textbooks, the Ministry of Education utilized the services and resources of the AIHRC, including their Dari and Pashtu translations of the six human rights treaties Afghanistan has ratified. Since then the AIHRC has held several training sessions for teachers and textbook drafters. A memorandum of understanding has been signed between the Ministry of Education and the AIHRC to hold meetings regularly to discuss the human rights content of school textbooks.

183. Following the change in the curriculum and the production of the new textbooks, 93 master trainers were selected from all 34 provinces and were trained in Kabul on human rights issues. The trainers have the responsibility to reach all primary schools in the country.

### **Promotion of human rights through mass media**

184. There are two prominent independent media organizations in Afghanistan - the Afghanistan National Journalists Union and the Afghanistan Independent Journalists Association. They advocate largely for freedom of expression but are also involved in promoting human rights through various forms of media.

185. The Afghanistan Independent Journalists Association was launched in June 2005 and has 1,600 members. It was established with the assistance of the World Journalists Federation. It is a member of the South Asian Journalists Coordination Group and SAFMA. It has representative offices around the country. Its activities include:

- (a) Training journalists;
- (b) Defending journalists material and intellectual copyright;
- (c) Issuing a report on 3 May each year (International Media Day). Presently an investigative report (containing 50 cases including 3 cases of murdered journalists) is under consideration;
- (d) The Union has a partnership with the Ministry of Women's Affairs, the AIHRC and InterNews to raise the capacity of journalists on human rights issues;
- (e) Training for journalists:
  - (i) Health
  - (ii) Environment (training 60 journalists with United Nations assistance)
  - (iii) Good governance
  - (iv) Gender
  - (v) Women rights
    - Interviews on women's rights in different media
  - (vi) Rights of the child
    - With the assistance of Save the Children
  - (vii) Reconstruction
  - (viii) Codes of ethics
  - (ix) Training 60 journalists on human rights and monitoring the results of the training (with the assistance of the Asia Foundation).

- (f) Articles on human rights published in different dailies:
  - (i) Women's rights
  - (ii) Rule of law
  - (iii) Individual freedoms
  - (iv) Freedom of the press
  - (v) Freedom of expression.

### **Role of civil society in promoting human rights**

186. Civil society has a crucial role to play in raising awareness of human rights issues in Afghanistan. There are 691 social organizations registered with the Ministry of Justice. Although it is difficult to identify how many of these are working on human rights promotion, there are a number of civil society networks, such as the Afghan Civil Society and Human Rights Network, the Afghan Women's Network and the Child Rights Coalition, that are actively engaged in promoting human rights. Civil Society in Afghanistan has been particularly active on issues of transitional justice, women's rights and children's rights.

187. The Ministry of Foreign Affairs, through its Human Rights Treaty Reporting Project, has worked closely with civil society to provide training on human rights treaty reporting. A one-day workshop in 2006 for 200 civil society groups and a three day workshop for 100 human rights organizations in 2007 are two examples of efforts to build the capacity of civil society to engage in human rights reporting. The Ministry has also fostered the establishment of a Civil Society Shadow Reporting Working Group to be the main interface between the Government and Civil Society for sharing reports and holding dialogue on human rights issues.

### **Budget allocations for implementing human rights obligations**

188. Under the current budget there are no programmes or projects funded through the core budget supporting human rights. Financial problems and the existence of higher priorities such as security, food, shelter, education, health, extreme poverty reduction, counter-narcotics, etc., are among areas that require urgent budget and funding attention.

189. At this stage the budget of the AIHRC is not funded through the core budget but is funded as an external project by multiple donors. The donors are Canada (US\$ 634,491), Denmark (US\$ 2,328,273), Finland (US\$ 1,807,332), Luxembourg (US\$ 26,617), New Zealand (US\$ 5,517,23), Norway (US\$ 480,551), Switzerland (US\$ 2,100,000), UK-DFID (US\$ 2,050,823) and USAID (US\$ 575,000). Only Finland has committed US\$ 1,166,670 for the current (1386 (2007)) fiscal year. The commitments of other donors have already been disbursed and spent in the previous years.

### **Gender budgeting**

190. The Afghanistan Compact is a key policy of the Government committed to by the Government in London in 2006. It has two basic principles regarding gender:



- (a) Build up the capacities of men and women alike;
- (b) Recognize in all policies and programmes that men and women have equal rights and responsibilities.

### **Gender benchmarks under the Compact**

- (a) Fully implement the NAPWA (National Action Plan for Women of Afghanistan - not yet approved by Cabinet);
- (b) Strengthen female participation in all governance institutions, including elected and appointed bodies and the civil service;
- (c) Prisons will have separate facilities for women and juveniles;
- (d) Net primary enrolment for girls will be at least 60 per cent, for boys 75 per cent;
- (e) 150,000 men and women will be trained in marketable skills;
- (f) Female teachers will be increased by 50 per cent;
- (g) University enrolments will be 100,000, with at least 35 per cent female students;
- (h) Basic package of health services will cover at least 90 per cent of the population;
- (i) The number of chronically poor female-headed households will be reduced by 20 per cent and their employment rates will be increased by 20 per cent.

### **Key actors in gender budgeting**

- The Ministry of Finance
- The Gender Budgeting Working Group, Ministry of Finance
- GTZ-Gender Mainstreaming Project (since 2005)
- The Inter-ministerial Gender Mainstreaming Working Group
- UNDP-Gender Mainstreaming Project (to start 2007)

### **History of gender budgeting in Afghanistan**

- Spring 2005: first inter-ministerial training workshop on gender budgeting
  - Participants: Ministry of Women's Affairs, Ministry of Finance, Ministry of Labour and Social Affairs, Ministry of Martyrs and Disabled
- Autumn 2005 to Autumn 2006: mentoring and coaching including small training sessions with the Ministry of Finance, and establishment of Gender Budgeting Working Group

- Participants: Ministry of Finance
- Autumn 2006: Inter-ministerial Working Group on Gender Mainstreaming Introduced to Gender Budgeting Concepts
  - Participants: Ministry of Women's Affairs, Ministry of Finance, Ministry of Communications, Ministry of Labour and Social Affairs, Ministry of Martyrs and Disabled, Ministry of Reconstruction and Rural Development.
- Summer 2006: Gender Budgeting Planning Workshop
  - Participants: Ministry of Finance Heads of Budget
  - Summer 2006: briefing to Parliamentary Budget Committee on Gender Budgeting
- Winter 2006: cooperation agreement between GTZ and the Ministry of Finance to establish a Gender Budgeting Unit in Ministry of Finance.

### **Outcomes to date**

- Two sets of training materials on gender budgeting available in local language
- High level of familiarity by the Ministry of Finance and other Ministries with the "idea" of gender budgeting
- Very receptive Government
- Ministry of Finance/GTZ agreement to establish a gender budget unit
- Gender Budgeting Vision for Afghanistan
- Draft of gender budgeting statement for the next Budget speech of the Minister of Finance
- Gender Budgeting Vision of the Government of Afghanistan

The budget process will be on a just and fair basis and will make sure that resources are equally distributed to all citizens - male and female - equally. In the long term it will ensure that poverty has been reduced in Afghanistan and all people live in peace in a just society.

### **Limitations**

- Government has low capacity - most work done by foreign and seconded national experts (not civil servants)
- All administrative processes are new and unfamiliar to most of the civil service
- Good governance is not firmly established
- Weak influence by central government in provinces

- Ministry of Women's Affairs not interested to engage in "technical issues" and very weak on budget or project development, and other analytical areas
- ANDS and other policy documents largely address gender because of outside lobbying/pressure

### **Development cooperation and assistance**

191. The Government of Afghanistan decided to establish a system for tracking aid flows into the country to assist in resource mobilization and the effective allocation of these resources across sectors and provinces in preparing the budget guiding the flow of funds. To meet these needs, the Government established the Donor Assistance Database (DAD) with the support of UNDP, drawing on best international practices. DAD provides a tool for tracking reconstruction and humanitarian projects operating in Afghanistan, where the projects are operating, who finances them, and which organization implements them.

192. DAD is designed to support the implementation of the national budget. DAD records all the Cabinet-approved projects contained in the national budget, and provides the Cabinet with fortnightly updates on total donor commitments and disbursements in support of each national programme. It also provides the means to track the translation of the broad pledges made by the international community at Tokyo in January 2002, in Brussels in March 2003, and in Berlin in March 2004 into support for specific projects and programmes - or for the operating budget. DAD also tracks projects outside the national budget framework, enabling donors and the Government to assess what proportion of assistance supports the priorities set out in the national budget, and what remains extrabudgetary.

193. DAD operates in Dari as well as English, ensuring that the information is of the broadest value to the Government and other stakeholders within Afghanistan. DAD is accessible to anyone who has an internet connection. It is however a sophisticated tool and most users will find that they can get all the information they require from the pre-prepared reports presented below. These reports are presented by programme, donor, ministry, and province. For DAD to be useful to decision makers it is essential that it is as comprehensive and accurate as possible. This relies on a close partnership between the Government of Afghanistan and the international community - donors, United Nations agencies, international financial institutions (IFIs), and NGOs.

194. A list of the donor aid flows for 2005-2006 dedicated to human rights projects is provided below.

User code	Title	Donors	Implementing Agency	Fund Prior 1385	Fund 1385	Fund 1386	Requirement Prior 1385	Requirement 1385	Requirement 1386
2.1.5 - Human rights, including women's rights programme									
AFG/0474201	Voter registration project in Afghanistan	AUS BEL CAN DNK EC FIN GER ITA JPN NOR SA SWE Swiss UK-DFID USA	UNDP	1.43 0.64 7.28 2.29 1.44 1.02 1.80 5.12 7.80 1.00 0.01 1.19 1.41 15.34 25.94			85.76		
AFG/0606101	General services for women	USDOD	PRT	0.34	0.00	0.00	0.49		
AFG/0626801	Human right education within ACS HRN (Afgh. civil society HR Network)	Swiss	ACS HRN	0.07	0.30	0.32	0.07		
AFG/0627001	Afghan Independent Human Rights Commission (AIHRC)	Swiss	AIHRC	0.50	0.00	0.00	1.30	0.80	0.80
AFG/0627002	National human rights project	Swiss	AIHRC	0.00	0.75	0.75	0.00	0.75	0.75
AFG/0654101	Establishment of shelters in two provinces			0.00			0.00	0.20	
AFG/0654401	Assistance to promote women's rights			0.00			0.00	0.03	0.03
AFG/0677001	Gender mainstreaming project	GER	GTZ	0.95			0.95		
AFG/0681301	Gender and justice programme	DNK FIN ITA	UNIFEM	0.00 0.00 1.12	0.40 0.04 0.09	0.40 0.08	1.51	0.65	0.05
AFG/0691301	Building capacity for human and legal rights activists	DNK	zTBD	0.00	0.32	0.24	0.00	1.06	1.60
AFG/0691301	Building capacity for human and legal rights activists	UK-DFID	zTBD	0.00	0.15	0.15	0.00	1.06	1.60

User code	Title	Donors	Implementing Agency	Fund Prior 1385	Fund 1385	Fund 1386	Requirement Prior 1385	Requirement 1385	Requirement 1386
AFG/0691401	Danish Centre for Human Rights/Civil Society and Human Rights Network	DNK	zTBD	0.00	0.30		0.00	0.30	
AFG/0692701	Afghanistan Independent Human Rights Commission	FIN	AIHRC	0.00	1.17		0.00	1.17	
AFG/0700601	Human rights programme	USAID	UNDP	5.00			1.25	3.75	
AFG/0700901	Initiative to promote Afghan civil society	USAID	Counterpart International	2.63	5.89	4.00	2.63	5.89	4.00
AFG/0704201	City-to-city partnership project	USAID	ICMA	0.69	1.15		0.00		
AFG/0704401	Small media-based outreach to Afghanistan's oral communicators using low cost, advanced technology	USAID	IRI	1.83			0.00		
AFG/0704501	Support to small media-based civic education for Afghanistan oral communicators	USAID	VFH	3.00			0.00		
AFG/0717501	Women in business: promoting a new approach in Afghanistan	EC	zComments	0.05	0.10	0.10	0.05	0.10	0.19
AFG/0723601	Support to Afghan NGOs	FIN	zComments	0.00	0.52	0.52	0.00	0.52	0.52
AFG/0742901	Support to centre of Government (CoG)	USAID	UNDP	0.00		2.00	0.00		2.00
AFG/0748101	Gender mainstreaming adviser	JPN	JICA	0.00	0.03	0.03	0.00	0.03	0.03

## **D. Reporting process at the national level**

### **History of reporting**

195. The process of human rights treaty reporting is starting in Afghanistan after three decades of conflict. Afghanistan has not been able to comply with all its reporting obligations during that period due to massive political upheavals, the undermining of State structures and the isolation of Afghanistan from the international community.

196. Afghanistan submitted its last human rights treaty report in 1992 on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Afghanistan - this was the first report on the Convention. Afghanistan's first report on the International Covenant on Civil and Political Rights was submitted in 1984 and was followed by a second report in 1991. Afghanistan submitted its first and only report on the International Covenant on Economic, Social and Cultural Rights in 1991 and its first and only report on the International Convention on the Elimination of All Forms of Racial Discrimination in 1984. Afghanistan has not yet presented a report on the Convention on the Rights of the Child.

### **Obstacles to reporting**

197. Afghanistan faces a number of problems in reporting on its implementation of international human rights obligations at the national level. Government structures remain very weak both at the national and particularly at the subnational level. The Government's access to reliable data is seriously impaired - both by a lack of data collection and storage mechanisms and as a result of the destruction of many government records over the period of the conflict. Of particular concern is the lack of reliable and disaggregated census data. Afghanistan has not been able to conduct a census since 1979 and even that was not complete. Without reliable population and demographic information, reform and development efforts in Afghanistan have been severely hampered. As a result, the availability of disaggregated statistical data relevant to the human rights treaty reporting process is limited.

198. The Government of Afghanistan is working closely with the international community (in particular through the United Nations Population Fund (UNFPA) in preparation for a census in 2008. Until the results of that census are known, the data presented by the Government of Afghanistan is a compilation of best estimates based on figures compiled by individual ministries, international organizations and the National Risk and Vulnerability Assessments of the Central Statistics Office. Although best efforts have been made to provide all the required data in this common core document, there are some deficiencies.

199. At this point in post-conflict transformation in the history of Afghanistan, awareness, understanding and acceptance of international human rights norms is at a formative stage. Acceptance of international human rights standards and their harmonization with the principle of Islam is a key and controversial issue. There is relatively low awareness and understanding by Afghan elected representatives and government officials on human rights issues in Afghanistan.

In the current political and security environment, a sustained commitment to human rights remains tenuous. The advocates for human rights within the Government of Afghanistan require the committed and tangible support of the international community and the United Nations in particular to keep Afghanistan moving forward on the path to full implementation of human rights standards.

### **The current reporting process**

200. The international community is currently supporting the Government of Afghanistan to fulfil its human rights treaty reporting obligations through a project funded by the Canadian Development Agency and jointly managed by OHCHR and the UNDP Afghanistan Country Team. The project is called “Building Sustainable Capacity for Human Rights Treaty Reporting” and is based in the Ministry of Foreign Affairs. The project aims to rebuild the capacity of the Government of Afghanistan to report on all six treaties it has ratified, beginning with this common core document and a report on the International Covenant on Economic, Social and Cultural Rights.

201. The reporting process, at this early stage, is an evolving process. The Ministry of Foreign Affairs, Human Rights and Women’s International Affairs Department is responsible for coordinating the reporting. It has developed a permanent network of human rights focal points in approximately 20 line ministries to collect, draft and cross-reference the reports. The AIHRC also has focal points that work in this network, which meets on a monthly basis to collect and share data. The project has provided several training programmes to these focal points on international human rights law, the role of treaty reporting and practical training in data collection. Unfortunately, given the general problems within the Afghan Civil Service, cooperation to support treaty reporting through this Focal Point Network is at the very early stages in terms of producing effective results. It is hoped that by continuing this network the internal government coordination will improve over time.

202. In addition to the capacity-building and institutional development of the Government, the project has also aimed to build the capacity of civil society to engage with the Government on treaty reporting. Several publicized and promoted training sessions for a wide range of civil society actors have been provided in 2006 and 2007. This group of civil society representatives will form a core group to participate in a permanent institutional framework of NGO Roundtables with the Government during the process of reporting on each treaty and after receiving the concluding observations of the treaty monitoring bodies.

203. The reports must be approved by the Cabinet prior to submission to the treaty monitoring bodies. At this stage the treaty reports are not examined by the legislature prior to submission to the Committees.

## **E. Other related human rights information**

### **World conferences**

#### **Progress under the Millennium Development Goals**

204. In September 2000, when the Millennium summit was held at the United Nations in New York, Afghanistan was still suffering from war and, hence, could not participate in the formulation of the Millennium Development Goals (MDGs). Since then, with the help of the international community, Afghanistan has started its recovery from protracted violence and achieved significant gains in building democratic institutions, providing basic public services to its people, and reviving its economy. Afghanistan has convened two *Loya Jirgas*, adopted a new constitution, and held presidential, parliamentary and provincial council elections. The Government has demobilized and begun the reintegration of 60,000 former combatants while building a professional army and police force to provide safety and security to all Afghans. It has also enrolled more than 4 million children in school and welcomed 4 million refugees back to their homes.

205. In 2005 the Government launched its Millennium Development Goals report, which is the product of intensive work by a wide range of actors within the Government, assisted by United Nations partners and the international community.

206. Despite achieving major progress since 2001, the report shows that the Afghan people have a long way to go. After decades of war, Afghanistan is one of the poorest and least developed countries in the world. Nonetheless, the Government is committed to building a better future and mobilizing as much of its own resources as possible to meet the MDGs. However, years of conflict have depleted the resources of Afghanistan, necessitating the commitment of the international community to contribute to its development for an extended period. Therefore, in implementing the goals set out in the MDG report, Afghanistan will rely heavily on partnership with, and contributions from, the international community. The MDG report was key in providing targets for the national development strategy. A summary of the “Afghanised” MDG targets follows.





Can the "Afghanised" MDG Targets be met?

Goals	Targets	Will the target be met?	State of policy environment?
Goal 1: Eradicate extreme poverty and hunger	Target 1: The proportion of people whose income is less than US \$1 a day decreases by 3% per annum until the year 2020	Potentially	Fair
	Target 2: The proportion of people who suffer from hunger decreases by 5% per annum until the year 2020	Potentially	Fair
Goal 2: Achieve universal primary education	Target 3: Ensure that, by 2020, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	Potentially	Fair
Goal 3: Promote gender equality and empower women	Target 4: Eliminate gender disparity in all levels of education no later than 2020	Potentially	Weak but improving
	Target 5: Reduce gender disparity in economic areas by 2020	Lack of data	Weak but improving
	Target 6: Increase female participation in elected and appointed bodies at all levels of governance to 30% by 2020	Potentially	Fair
	Target 7: Reduce gender disparity in access to justice by 50% by 2015 and completely (100%) by 2020	Lack of data	Weak but improving
Goal 4: Reduce child mortality	Target 8: Reduce by 50%, between 2003 and 2015, the under-5 mortality rate, and further reduce it to 1/3 of the 2003 level by 2020	Potentially	Fair
Goal 5: Improve maternal health	Target 9: Reduce by 50% between 2002 and 2015 the maternal mortality ratio, and further reduce the MMR to 25% of the 2002 level by 2020	Potentially	Fair
Goal 6: Combat HIV/AIDS, malaria and other diseases	Target 10: Have halted by 2020 and begun to reverse the spread of HIV/AIDS	Lack of data	Fair
	Target 11: Have halted by 2020 and begun to reverse the incidence of malaria and other major diseases	Potentially	Fair
Goal 7: Ensure environmental sustainability	Target 12: Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources	Lack of data	Weak but improving
	Target 13: Halve, by 2020, the proportion of people without sustainable access to safe drinking water and sanitation	Potentially	Fair
	Target 14: By 2020 to have achieved a significant improvement in the lives of all slum dwellers	Lack of data	Fair
Goal 8: Develop global partnership for development	Target 15: Deal comprehensively and influence the provision of foreign aid through appropriate measures to enable Afghanistan develop sustainably in the long term	Potentially	Fair
	Target 16: Develop an open, rule-based, predictable, non-discriminatory trading and financial system includes a commitment to good governance, development and poverty reduction	Potentially	Fair
	Target 17: Develop and implement strategies for decent and productive work for youth	Lack of data	Weak but improving
	Target 18: In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries	Lack of data	Weak but improving
	Target 19: In cooperation with the private sector, make available the benefits of new technologies, especially information and communication	Potentially	Fair
Goal 9: Enhance security	Target 20: Reform and professionalise the Afghan National Army by 2010	Probably	Fair
	Target 21: Reduce the misuse of weapons, and reduce the proportion of illegally held weapons by 2010	Potentially	Fair
	Target 22: Reform, restructure and professionalise the Afghan National Police by 2010	Potentially	Fair
	Target 23: All emplaced antipersonnel mines destroyed by 2013. All other explosive contaminants destroyed by 2015	Probably	Fair
	Target 24: All stockpiled antipersonnel mines destroyed by 2007. All other abandoned or unwanted explosive stocks destroyed by 2020	Potentially	Fair
	Target 25: To reduce the contribution of opium to the total (licit and illicit) GDP to less than 5% by 2015, and to less than 1% by 2020	Potentially	Fair
<i>Assessment scale</i>		<i>Probably Potentially Unlikely Lack of data</i>	<i>Strong Fair Weak but improving Weak</i>

207. The executive summary of the 2005 Millennium Development Report of Afghanistan, setting out the current situation, achievements and objectives for each of the eight Goals, is attached as annex IV to this report.

#### **Other world conferences Afghanistan has attended**

1. 29th session of the Islamic conference of Foreign Ministers, Khartoum, 2002.
2. 30th session of the Islamic conference of Foreign Ministers, Tehran, 2003.
3. 10th Islamic Summit Conference, Malaysia, 2003.
4. 31st session of the Islamic conference of Foreign Ministers, Istanbul, 2004.
5. 32nd session of the Islamic conference of Foreign Ministers, Sana'a, 2005.
6. 33rd session of the Islamic conference of Foreign Ministers, Baku, 2006.
7. Third Regional Workshop for National Authorities of States Parties of OPCW in Central Asia (29-31 August 2005), and Training Course for the National Authorities of Afghanistan and Tajikistan (1 and 2 September 2005) in Tajikistan.
8. Third Extraordinary Session of the Islamic Summit Conference, with the High Level (Vice-President) Delegation of Islamic Republic of Afghanistan, (5 and 8 December 2005), Makkah Al-Mukarramah, Kingdom of Saudi Arabia.
9. Second Meeting of the Regional Action Forum on Fostering Safe Migration, (25 and 26 January 2006), Kathmandu, Nepal.
10. Workshop on Management of Overseas Employment and Labour Migration (8-10 March 2005), Tehran, Islamic Republic of Iran.
11. Regional Conference, (provide a forum for discussions about the significance, benefits and status of CTBTO verification work in the regions of Central Asia) 6-8 June 2005, Ashgabat, Turkmenistan.
12. South Asia Regional Consultation for "United Nations Secretary-General's Study on Violence against Children" 19-21 May 2005, Islamabad, Pakistan.
13. First seminar of "Implementation of UNSC resolution 1540 in Asia and the Pacific" - 12-14 July 2006, Beijing, China.
14. Fourth Regional Workshop for National Authorities of States Parties in Central Asia on Practical Implementation of the Chemical Weapons Convention, 27-29 September 2006 in Chok-Tal, Kyrgyzstan.
15. Workshop on combating terrorism, Turkey, 2007.
16. Conference of Islamist Recruitment in Europe, Georgia, 2007.

17. Second Regional Workshop Union for the Protection of New Varieties of Plant (UPOV) of the member States to the Convention on UPOV, Tajikistan, September 2006.
18. Waste Management Workshop for South Asian Experts, September 2006.
19. Male Declaration on Control and Prevention of Air Pollution its Likely Transboundary Effect for South Asia.
20. Conference on International Conservation in Conflict, 2006.
21. The International Center for Genetic Engineering and Biotechnology (ICGEB), 2006.
22. Conference on Trans-boundary Peace Park 2006.
23. Workshop on Capacity Building for Implementation of the Convention on Biological Diversity (CBD).
24. Regional Sustainable Management Workshop.
25. Capacity Building for Implementation of the Convention on Biological Diversity (CBD).
26. Non-Legally Binding Instrument on all Types of Forest.
27. Fourth World Conference on Avian Influenza and Preparedness for the Human Pandemic and the Pledging Conference.
28. 1st Governmental Meeting on Urban Air Quality in Asia.
29. Water Resources Management in the Islamic Countries, 2007.
30. Conferences and Tripartite Commission Meetings of the UNHCR.
31. Workshop for the Formulation of the 2007-2008 TC Programme for Afghanistan.
32. The Fiftieth Regular Session of the General Conference of the International Atomic Energy Agency.
33. Conference on combating drug trafficking, 2005.
34. 4th Intergovernmental Technical Commission (IGTC), 2004.
35. 48th International UNODC Conference.
36. Paris Pact 2003, 2004, 2005, 2006.

### **III. INFORMATION ON NON-DISCRIMINATION, EQUALITY AND EFFECTIVE REMEDIES**

#### **Non-discrimination**

208. The principles of non-discrimination and equality before the law are enshrined in the 2004 Constitution in article 6 which states that:

“The state shall create a prosperous and progressive society based on social justice, preservation of human dignity, protection of human rights, realization of democracy, and to ensure national unity as well as equality among all ethnic groups and tribes and to provide for balanced development in all areas of the country.”

Also in article 22:

“Any kind of discrimination and distinction between the citizens of Afghanistan are prohibited. The citizens of Afghanistan - whether man or woman - have equal rights and duties before the law.”

209. The principle as it applies to refugees is also found in Decree No. 297 of the President of the Afghan Interim Administration on the Dignified Return of Refugees which states in article 1 that:

“Returning Afghan nationals who were compelled to leave the country and found refuge in Iran, Pakistan and other countries of the world, will be warmly welcomed without any form of intimidation or discrimination.”

Article 2 goes on to provide that:

“Returnees shall not be subject to harassment, intimidation, discrimination or persecution for reasons of race, religion, nationality and membership of a particular social group, political opinion, or gender and will be protected by the State.”

In addition article 6 states that:

“All returnees will be guaranteed the same human rights and fundamental freedoms enjoyed by other citizens.”

#### **Special measures for vulnerable groups**

##### **Empowering women**

210. The reconstruction and development of Afghanistan requires the full participation of Afghan women in political, social, cultural, and economic life. Yet, the women of Afghanistan are among the worst off in the world on measures of health, poverty, deprivation of rights and protection against violence, education and literacy, and public participation. Deprivation in each of these areas is interrelated and all must be addressed. Since 2001-2002, progress in advancing the situation of women has been made. The Constitution guarantees non-discrimination and equality of women and men, reserves a 25 per cent share of seats for women parliamentarians in

the National Assembly, pledges to promote educational programmes and health care for women, and guarantees the rights of vulnerable women. Women represented 44 per cent of the voters registered for the presidential elections. School enrolment rates for girls have risen significantly. Nonetheless, Afghan women have one of the lowest indicators in the world according to the Gender Development Index, which combines life expectancy, educational achievements, and standard of living. Gender gaps in health, education, access to and control over resources, economic opportunities, justice and political participation remain pervasive. The Government of Afghanistan has already identified women-specific targets in these areas as part of its commitment to the Millennium Development Goals. Afghanistan must build on the progress made in the last several years and increase its efforts to realize the vision of gender equality. Gender-responsive development will contribute to the reconstruction of the country, to economic growth, and to poverty reduction.

211. The Government's goal is to eliminate discrimination against women, develop their human capital, and ensure their leadership in order to guarantee their full and equal participation in all aspects of life. The Government of Afghanistan has developed a five-year strategic benchmark. By the end of 2010 the National Action Plan (NAP) for Women in Afghanistan will be fully implemented; and in line with the MDGs, female participation in all Afghan governance institutions, including elected and appointed bodies and civil service, will be strengthened. The NAP for Women is attached at annex V.

212. To achieve the constitutional mandate of equal rights between men and women, gender mainstreaming will be the Government's main strategy. The participation of women in all levels of policy and decision-making is an integral component of gender mainstreaming. Gender mainstreaming will be supported by a public awareness and advocacy campaign to ensure that the population supports the vision of gender equality as an important contribution to the development of the country. To reduce gender disparities, the Government also supports positive measures that promote policies and resource allocation for women-specific programmes. Priority areas are female education, reproductive health, economic empowerment, access to justice, and political participation. Every government instrument is mandated to incorporate gender concerns into its operations and to establish clear benchmarks and indicators for measuring achievement.

213. The Ministry of Women's Affairs (MoWA) has overall responsibility for leading and coordinating Government efforts to advance the role of women. MoWA is mandated to ensure that policies and programmes are reviewed from a gender perspective. MoWA presides over the meetings of the Advisory Group on Gender and gender focal points [in other ministries] have been appointed to liaise with MoWA on issues and policies relevant to women. These gender focal points are directed to assist the mainstreaming efforts in their respective ministries as well. Women's departments have also been created in the AIHRC and the Ministry of Foreign Affairs (MoFA) to handle gender-related concerns and programmes in their respective offices. A gender working group will be set up in all ministries to work with MoWA on gender mainstreaming. The Minister of Women's Affairs has been active in legislative reform and provides expert advice on legal issues concerning women's rights. Support will be provided to this office to strengthen its functioning. Its relationship with MoWA will be further clarified and reinforced. To mainstream gender into statistical work, the Government has also established an informal inter-ministerial working group on gender and statistics.

214. Promoting gender equality and protecting women's rights is not only the responsibility of all government agencies, but also civil society, the private sector, and the individual citizen. The Government will strengthen its relationship with the private sector in order to improve economic opportunities for women. Civil society organizations will remain key partners in advancing the role of women. MoWA is planning to establish a multi-stakeholder gender mainstreaming management system that serves as a mechanism to monitor government actions relating to women's concerns, as well as changes in the lives and situation of women. Just as women are represented in the National Assembly, so they will serve in all representative bodies to oversee gender equality investments in all government programmes.

215. A 10-year National Plan of Action for Women was finalized in early 2007 to support gender mainstreaming. Each ministry will establish a unit to facilitate the monitoring of its implementation. Particular emphasis will be given to monitor the gender-related MDGs and targets. The capacity of MoWA will be significantly enhanced so that it can coordinate the National Plan of Action for Women, provide technical assistance and gender training to the various ministries, and monitor overall implementation. The Ministry will strengthen its own mechanism and capacity for gender mainstreaming, particularly as a technical resource to ministries. Its monitoring mandate, particularly with respect to the MDGs, will likewise be enhanced and recognized at the inter-ministerial level. The Government is also looking to strengthening the provincial offices of MoWA and the role of gender focal points in line ministries. In addition, mainstreaming will require all ministries taking on responsibility for gender concerns in consultation with MoWA.

216. The National Action Plan has a focus on promotion of women leadership, capacity-building for gender analysis and women in poverty; communication; negotiation and advocacy; gender budgeting; and drafting policy recommendations, planning, and monitoring. The Government will undertake programmes to assure the participation of women in all representative bodies to oversee the implementation of gender equality. Capacity-building will include enhanced efforts to improve the collection and use of data disaggregated by sex to inform policy, planning, and pilot studies to address gender gaps in education, health, and other priority areas. Data disaggregated by sex are important to document women's and men's involvement in decision-making, as well as to enable the monitoring of benefits from interventions and investments. Data gathered on women's contribution to the economy should be reflected in the Government National Accounts.

217. Government initiatives will be incorporated by MoWA into a national advocacy campaign to enhance understanding of women's roles and gain support of the nation's citizens. In partnership with development partners, ulema and spiritual leaders, media, and civil society, this will focus on reproductive health, the importance of girls' education, ongoing violence against women, poverty, and the impact of early marriage.

218. To reduce gender disparities, the Government also supports positive actions that focus on policies and resource allocation for specific programmes for women. The following highlight just some of the main priorities:

(a) Improve women's access to health services, in particular to reproductive health services. The Government will increase the number of skilled female health workers, above all in rural areas, in order to minimize the social and cultural constraints to accessing such services.

The Government will also raise awareness of reproductive health and reproductive rights among men and women, take steps to increase gender sensitivity among medical staff, including awareness of violence against women, and undertake efforts to incorporate women's concerns into the delivery of health services;

(b) Increase the enrolment and retention rate of girls in primary and secondary schools. Recognizing the acute shortage of educated female human resources, the impact of literacy on overall well-being, and the continuing constraints to girls' progress to higher levels of education, the Government will provide non-formal and accelerated learning programmes with a particular focus on girls and married women. It will also conduct a national literacy campaign for women. The number of female teachers will be increased and more educational facilities for girls constructed. The Government will develop gender-sensitive curricula and teacher training programmes. Ways of addressing other constraints to women's access to education, such as security and transportation, will also be identified and implemented. This should be supported by adequate resources to build schools that are both safe and close to residential communities;

(c) Promote women's economic empowerment. Women play an important role in many economic activities, particularly in the agricultural and livestock sector. However, women's labour in these and other economic activities remains within the non-formal sector, and thus their invisible, but vital contribution to household economies is non-monetized. The Government will address the barriers to women's full economic participation and to their increased productivity. It will assist them through facilitating access to capital, marketing, and skills development. With large regional variations, women are disadvantaged in terms of security of tenure and security of other social and economic assets. The Government will ensure, as part of a demand-driven and community-based approach, that women are especially targeted in the provision of extension services, training, and expanding marketing opportunities. In the implementation of microcredit schemes, the Government will continue to pay particular attention to women, aiming to expand the number of female beneficiaries relative to men and encourage mechanisms for group savings;

(d) Address vulnerable women. Many widows and other female-headed households have no or inadequate support. The fact that this population is among the most likely to be living in extreme poverty is a serious concern. The Government is committed to addressing the difficulties of the poorest and most vulnerable women by providing skills training, by assisting in job placements, by taking strong measures to enforce their rights, and by making provisions for them in social protection and welfare schemes;

(e) Enhance women's rights and political participation. The Government accords priority to increasing the representation of women in managerial, policy, and decision-making positions. The Government will enhance legal reforms to reflect gender equality in line with the new Constitution; ensure the implementation of law reforms particularly in family, inheritance, and property law; eradicate all forms of violence against women; promote legal awareness; and enhance the accessibility of legal services particularly for the poor and illiterate. Human rights training, including women's rights, will be incorporated into the school system. Gender and women's rights training for police officers and members of the judicial and penal system will be conducted;

(f) Improve women's access to community representation, particularly through the National Solidarity Programme. Government will continue its efforts to increase the participation

of women in the political process as well as encourage and provide incentives to increase the participation of women in the political process and encourage and provide incentives to increase their share of decision-making positions;

(g) Government will adopt an affirmative action policy within the public administration reform programme. Government aims to include specific, time-bound quantitative targets for achieving greater participation rates of women at all levels. This will be supported by concrete programmes involving training for women who are already in government and proactive hiring of women in various management and technical positions.

## **Social protection**

219. Social protection comprises a set of public policies and interventions which would help Afghan society to better manage risk at the individual, household, and community level, and to provide support to the critically poor and vulnerable. Historically, different forms of social protection have existed through community and patronage systems. However, two decades of civil war have considerably strained the traditional informal systems of support and increased the number of dependents in society. There is an urgent need to protect those who fall outside existing social networks. The Government needs to establish a functioning social protection policy that provides targeted assistance to the most vulnerable groups. A low level of social protection often coincides with low levels of income and productivity, while overall economic growth does not always mean care and provision for all groups of the society. Apart from standard rural development programmes, targeted investments are required for those below the poverty line, and those not benefiting from community-based and self-help groups, and groups in remote areas. In line with the MDGs, the Government is committed to decreasing the proportion of people whose income is less than US\$ 1 a day by 3 per cent per year and the proportion of people who suffer from hunger by 5 per cent per year.

220. Our goal is to increase the capacities, opportunities and security of extremely poor and vulnerable Afghans through a process of economic empowerment in order to reduce poverty and increase self-reliance. The goal for the social protection sector will be realized through five inter-related and mutually supporting mechanisms.

221. Within the social protection policy key measures will include the determination of a national poverty line, a focus on redressing gender-related discrimination and the effective inclusion of children and the elderly within programmes. Given the limited resources and capacity of the Government, the State will prioritize allocations and services to the most vulnerable within target groups and aim to generate self-help efforts within society for the long term. The Government will develop a national rapid response mechanism for humanitarian and disaster response. A comprehensive registration process and database will be established to monitor physically and mentally disabled people. An affirmative action programme will enrol 10,000 disabled people in the national skills-building programme. This programme will also cover 100,000 unemployed youth and demobilized soldiers and provide training in skills demanded by the market.

222. There is a particular focus on vulnerable women: the number of chronically poor women will be reduced by 20 per cent within the next five years. Finally, the Government will strive to complete the voluntary return and reintegration of all refugees from neighbouring countries.



### **Five-year strategic benchmark**

- 1. By the end of 2010, in line with the MDGs, the proportion of people living on less than US\$ 1 a day will decrease by 3 per cent per year and the proportion of people who suffer from hunger will decrease by 5 per cent per year.**
- 2. By the end of 2010, an effective system of disaster preparedness and response will be in place.**

### **Programme 1: Humanitarian and disaster response**

223. An institutionalized disaster response capability serves as the primary form of protection for Afghans. It helps them attain a basic level of physical security and enhances their capabilities to find sustainable livelihoods. The Government will establish a national disaster preparedness and response capacity that effectively deals with slow and quick-onset disasters throughout the country, resulting from either natural or man-made causes. It will consider a national food security reserve in order to support the pre-positioning of food and other emergency aid with regard to the effective utilization and targeting of food aid, and will develop both the self-targeting procedures that minimize errors of exclusion, as well as focus on developing employment-generation capacities through public works. Communication and dissemination will serve as key tools in preparedness and the Government will take measures so that disaster information and in particular, early warning information, is universally disseminated at the *shura*, district, provincial and national level. Furthermore, there is a need to integrate information across disciplines, organizations, and geographical regions. The National Disaster Preparedness, Management, and Response Commission has overall coordination for new initiatives, including establishment of national early warning systems, which are closely coordinated with structured surveys, such as National Risk and Vulnerability Assessment. The Commission is also responsible for national coordination, with international community support, of international aid (food and non-food) during disasters.

### **Programme 2: Support to vulnerable women**

224. By the end of 2010, the number of female-headed households that are chronically poor will be reduced by 20 per cent, and their employment rates will be increased by 20 per cent. Policies and projects for vulnerable women will serve to better integrate them within the social fabric of society through a process, primarily, of economic empowerment. The Government's goal is to work towards the elimination of discrimination against women in Afghanistan, particularly those who are chronically poor, and to build women's capacities and ensure their leadership and equal participation in all aspects of national development. Gender mainstreaming is the Government's main strategy for attaining its goals in gender equality. Promotion of women's advancement is a shared obligation within Government and it is a collective responsibility of all sectors, institutions and individuals to include women or gender concerns in all aspects of government work from policies, to budgets, programmes, projects, services and activities, including recruitment, training, promotion and allocation of benefits and opportunities. Affirmative steps will be institutionalized to ensure women's participation in all levels of policy and decision-making. Beyond ensuring that women are numerically represented in government,

opportunities will also be created to develop their leadership capacities. The actual participation and leadership of women is an essential component of gender mainstreaming; this programme will look to establish local political advocates to champion its implementation.

### **Programme 3: Support to unemployed youth and demobilized soldiers**

225. By the end of 2010, employment opportunities for youth and demobilized soldiers will be increased through special programmes. Inclusion of youth and demobilized soldiers in the formal economy is crucial to social and economic rehabilitation goals; their achievement will be accelerated if able-bodied persons can find employment avenues and support themselves as productive members of society. The goal of this programme will be to enhance the productivity of unemployed youths and those demobilized through the disarmament, demobilization, and reintegration (DDR) process and the disbandment of illegal armed groups (DIAG) process, supporting greater social integration while minimizing criminality and enhancing national productivity. Although the Government has yet to fully develop an explicit policy to support youth development per se, government policies will aim to support capacity-building, knowledge enhancement, and promotion of juvenile abilities to participate in the reconstruction and rehabilitation of Afghanistan. It will set up an employment centre for youth and juveniles and support the scientific, cultural, and arts rights of young innovators. The Government will look to develop a national youth development policy and enhance coordination efforts between government departments. Furthermore, it will coordinate efforts by civil foundations, NGOs and international organizations in order to mainstream problems faced by young people into other key national programmes.

### **Programme 4: Supporting the disabled**

226. By the end of 2010 increased assistance will be provided to meet the special needs of all disabled people, including their integration into society through opportunities for education and gainful employment.

227. The disabled form perhaps the most vulnerable group requiring social protection; initial provisions by the State will greatly contribute towards their inclusion in the social and economic mainstream of Afghan society. This programme aims to create a barrier-free society for all based on the principles of participation, integration and the equalization of opportunities, as defined by the United Nations. In doing so, the Government gives priority to enabling disabled people to take charge of their lives by removing barriers that deter them from full participation in society. Broadening of prioritization for disabilities beyond the war-disabled is a crucial task to be undertaken; emphasis will be expanded to include other disabled populations, while continuing to honour the sacrifices that the war-disabled have made for Afghanistan. Early detection prevention, and rehabilitation programmes are critical to the success of the Government's health policy towards the disabled. The Ministry of Public Health will look to develop policy and strategy aimed at early physical, visual hearing and intellectual impairment monitoring. Frontline health and education personnel will be trained to keep accurate records on children with disability and their "at risk" children from birth.

## **Programme 5: Refugees and returnees**

228. By the end of 2010 all refugees opting to return and internally displaced persons will be provided with assistance for rehabilitation and integration in their local counties. Their integration will be supported by national development programmes, particularly in key areas of return.

229. The full voluntary return and reintegration of all Afghan refugees is a priority for the Government. Effective reintegration requires economic opportunities within Afghanistan. The Government is working towards the return of all remaining refugees and normalizing their legal status, as well as negotiating long-term agreements with neighbouring countries on the number and status of Afghans who remain as economic migrants, while continuing to support the internally displaced and their effective reintegration. A strategy for refugees' return is being formulated under the current Tripartite Agreements on voluntary repatriation with Pakistan and Iran. To address concerns resulting from the recent security-related camp closures such exercises will be carefully thought out on both sides of the border with respect to the future planning of closures and consolidation, a mapping and analysis of camps and settlements with clear assessment criteria (e.g. security, prospects for return, potential for self-reliance) is under way but all camp closures, consolidation and evictions should respect the voluntary character of return. The Government will press Iran for regularized migration from Afghanistan within the framework of the repatriation programme. Technical expertise from agencies such as the International Labour Organization (ILO) and IOM will be used to enhance government capacities to address economic and other forms of migration, and to distinguish it from refugee return. There is also a need for an approach for protecting existing Afghan refugee groups. Certain issues, such as recognition of education certificates, remain unresolved and the Government remains committed to providing legal protection to returnees. The Government will have discussions with the Iranian authorities regarding renewable documentation for registered Afghans, screening mechanisms for deportation cases and continued access to social services. The Government will look to regularize the temporary stay of Afghans as an important first step upon which to develop future management arrangements. A major challenge will be to ensure that the latter adequately reflect genuine protection needs among both the established Afghan population and any new arrivals.

### **The right to an effective remedy**

230. The 2004 Constitution reiterates this right as set out under international law by stating in article 51 that any person who suffers harm by government action is entitled to compensation, through appeal to the courts. The right to an effective remedy is also contained in article 45 of the Civil Code of Afghanistan which states that victims of violations have the right to stop the violation and claim for compensation. Article 58 of the 2004 Constitution provides individuals with the right to file a complaint to the AIHRC in the case of human rights violations, as part of the right to an effective remedy under Afghan national law. It also authorizes the AIHRC to assist in defending the rights of the complainant.

231. Article 122 of the Constitution provides that:

“No law shall, under any circumstances, exclude any case or area from the jurisdiction of the judicial organ as defined in this chapter and submit it to another authority thereby

ensuring access to a judicial remedy. In addition to the Constitution, the Civil Code of Afghanistan provides in Article 45 that a person whose rights are encroached upon, may demand to stop the violation and can claim for compensation of the damage, if there is any.”

232. However as noted in previous sections of this report related to the justice sector, the de facto situation as it relates to access to justice and effective remedies has a long way to go. Until the development of the Government’s 10-year strategy for justice reform, “Justice for All”, in August 2005, progress on the reform of the justice sector remained fragmented during the Bonn Agreement Period (2002-2005) and suffered from insufficient coordination. A Justice Sector Consultative Group has been established to support “Justice for All” and includes all key donors, United Nations agencies and government agencies. The Government has identified the following issues that require urgent attention and coordinated support from the Donor Community:

(a) Afghanistan needs comprehensive strategic planning in the justice sector through improved coordination between key justice institutions: the Ministry of Justice, Supreme Court and Attorney General’s Office;

(b) Donors should cease using unilateral initiatives to support the justice sector and develop programmes in concert with the Government’s Justice Reform Programme;

(c) The Supreme Court as a constitutional court of appeal must play a key role in justice reform and must be fully staffed with nine legally qualified, independent and well paid members;

(d) The capacity of the Ministry of Justice’s Legislative Department needs to be strengthened to avoid lengthy delays in implementing important legislation. Its staff need training equipment and research facilities. Public consultation and transparency during the drafting phase needs to be introduced;

(e) Induction and continued training of judges and prosecutors needs to be standardized and improved and must be sustainable. Short ad hoc courses cannot and have not produced consistent results.

(f) Basic legal education for new entrants to the legal profession must be improved through universal curricula, further training of law teachers and greater access to legal materials;

(g) Work on the compilation of existing statute law needs to be continued. Statute law needs to be provided to all legal professionals, government and private and should also be made available in Dari and Pashtu to the general public;

(h) Detainees rarely have access to legal counsel or the facilities needed to prepare a defence. Substantial assistance is needed from the international community to train and fund defence lawyers;

(i) The Government needs to study and further define and regulate the relationship between formal and customary law in Afghanistan, with a view in particular to protecting the rights of vulnerable groups such as women, children and minorities;

(j) Corrections and detention facilities in the provinces and districts need to be improved and modernized to a level that meets minimum international standards.

### **Due process**

233. The right to due process is also envisaged in article 31 of the 2004 Constitution which states that a person has the right to seek help from an advocate following arrest and the right to be informed of the reasons for arrest, and to appear before a court within a reasonable time. Article 26 of the Constitution states that “Crime is a personal action. The prosecution, arrest, and detention of an accused and the execution of penalty cannot affect another person.” In line with the Constitution, article 28 (1) of the Penal Code states that “A person shall not be held responsible for a crime which is not the result of his criminal action.” This principle, defining criminal responsibility, has often been neglected in Afghanistan, where if suspects cannot be found, it is common practice to arrest, detain, bring before the court or punish family members instead, or to punish not only the accused but also one or more member(s) of the family.

234. The Constitution establishes in article 25 that “Innocence is the original state. An accused is considered innocent until convicted by a final decision of an authorized court.” Furthermore, the Interim Criminal Code for Courts sets out in article 4 that from the moment of the introduction of penal action until criminal responsibility has been assessed by a final decision, the person is presumed innocent until proven guilty in accordance with the law. As a consequence, it is up to the prosecution to establish the responsibility of the accused while the latter has the right to remain silent. The prohibition of forced confession is aimed at protecting the fundamental rule of the presumption of innocence. No one charged with a criminal offence may be compelled to testify against themselves or to confess guilt, in accordance with the presumption of innocence.

235. Although the new Constitution does not explicitly provide for the principle of *ne bis in idem*, (the right not to be prosecuted twice for the same offence) the concept as such is contained in the legal system in article 78 of the Interim Criminal Code for Courts.

236. Article 27 of the Constitution enshrines the principle of non-retroactivity of the law and states that “No act is considered a crime unless determined by a law adopted prior to the date the offence is committed. No person can be pursued, arrested, or detained but in accordance with provisions of law. No person can be punished but in accordance with the decision of an authorized court and in conformity with the law adopted before the date of offence.”

237. Article 19 of the Penal Code provides that:

“With the exception of cases included in articles 6 and 7 of [this] law, punitive claims cannot be launched against a person who proves that a foreign court has acquitted him in respect of the crime under reference or that he has been convicted and the final pronouncement has been implemented upon him, or that the punitive claim has been dropped in accordance with the law before the pronouncement of the final judgment or punishment of the convict.”

238. Article 29 of the Constitution provides guarantees against torture and states that: “Torture of human beings is prohibited. No person, even with the intention of discovering the truth, can

resort to torture or order the torture of another person who may be under prosecution, arrest, or imprisoned, or convicted to punishment.” In addition, article 30 states that “Any statement, testimony, or confession obtained from an accused or of another person by means of compulsion, is invalid. Confession to a crime is a voluntary confession before an authorized court by an accused in a sound state of mind.”

239. Article 31 provides the procedural right to a legal defence:

“Every person upon arrest can seek an advocate to defend his rights or to defend his case for which he is accused under the law. The accused upon arrest has the right to be informed of the attributed accusation and to be summoned to the court within the limits determined by law. In criminal cases, the state shall appoint an advocate for a destitute. The confidentiality of oral, written or telephonic communications between an advocate and his accused client are immune from invasion.”

### **The judiciary**

240. Article 116 of the Constitution provides that “The judicial branch shall be an independent organ of the state of the Islamic Republic of Afghanistan. The judicial branch consists of the Supreme Court, courts of Appeal as well as Primary Courts whose organisation and authority shall be regulated by law.”

241. The Law on the Structure and Competencies of Courts reinforces the independence of the courts in article 2. Article 14 provides for equality before the courts, “The courts are independent in the examination and adjudication of their proceedings and only bound by law when issuing decisions. Proceedings and issuance of decisions of the courts will be based on the principle of equality before the law as well as the court and with the observance of justice and neutrality.” Article 28 provides that the decisions of appeal courts are binding on the lower courts and article 31 provides that appeal courts shall be established in each province. Article 44, as mentioned above, makes provision for the establishment of special juvenile courts in each province.

### **Juveniles**

242. The Penal Code, the Law of Investigation on Children’s Violations (LICV) and the Law on the Structure and Competencies of Courts (LSCC) contain special provisions protecting the interests of juveniles. Article 4 (4) of the LICV defines a minor as “a person having not yet completed the age of 18” and a juvenile as “a person having completed the age of 12 but not yet the age of 18”. Article 5 of the LICV states that “a person who has not yet completed the age of twelve is criminally not responsible”. Article 44 of the LSCC states that “in the capital of each province one juvenile court shall be established and that the method of procedure on juvenile offences shall be regulated by a special law”. Article 9 (1) of the LICV states that “special juvenile prosecutors are responsible for the assessment, the investigation and the prosecution of offences of minors. To this end special juvenile prosecutors’ offices will be established in the capital and in the provinces”. Article 22 provides the right of minors to defence counsel and interpreters, who will be appointed by the court in the case where the minor’s family cannot afford such assistance.

## Appendix I\*

### PARTIAL LIST OF MAJOR INTERNATIONAL CONVENTIONS RELATING TO ISSUES OF HUMAN RIGHTS

#### A. Main international human rights conventions and protocols ratified by Afghanistan

Name of the convention	Date of adoption by the General Assembly and monitoring body	Date of signature by Afghanistan	Date of ratification by Afghanistan	Reservations given by Afghanistan
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	21 December 1965 (CERD)	14/08/1980	05/03/2003	Reservation on art. 22 Declaration on arts. 17, 18 Acceptance of amendment to art. 8
International Covenant on Civil and Political Rights (ICCPR) This Convention is supplemented by two optional protocols which have not been signed or ratified yet by Afghanistan	16 December 1996 (Human Rights Convention)	Accession	24/01/83	Declaration on art. 43
International Covenant on Economic, Social and Cultural Rights (ICESCR)	16 December 1966 (CESCR)	Accession	24/01/1983	Declaration on art. 26
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	18 December 1979 (CEDAW)	14/08/1980	05/03/2003	Declaration on Acceptance of amendment to art. 20
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	10 December 1984 (CAT)	04/02/1985	01/04/1987	Reservations on arts. 20, 30
Convention on the Rights of the Child (CRC)	20 November 1989 (CRC)	27/09/1990	28/03/1994	Acceptance of amendment to art. 43
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. OP-CRC-AC	25 May 2000, (CRC)	“	Accession 24 September 2003	None
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. OP-CRC-SC	“	“	Accession 19 September 2002	Declaration

\* Annexes can be consulted in the files of the secretariat.

**B. Other United Nations human rights and related conventions ratified by Afghanistan**

Name of the convention	Date of adoption by the General Assembly and monitoring body	Date of signature by Afghanistan	Date of ratification by Afghanistan	Reservations given by Afghanistan
Convention on the Prevention and Punishment of the Crime of Genocide	New York, 9 December 1948		22 March 1956	
Slavery Convention, 1926 as amended 1955	Geneva, 25 September 1926	16 August 1954		
Convention for the Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others	Lake Success, New York, 21 March 1950	Accession 21 May 1985		Reservation on art. 22
Rome statute of the International Criminal Court	17 July 1998		10/02/2003	
United Nations Conventions against Transnational Organized Crime, 2000, and its protocols against the smuggling of migrants by land, sea and air, and to prevent, suppress and punish trafficking in persons, especially women and children	15 November 2000	14 December 2000	24 September 2003	



### C. Conventions of the International Labour Organization

Name of the convention	Year of adoption by the General Assembly and monitoring body	Date of ratification by Afghanistan	Reservations given by Afghanistan
Night Work Convention	1919	12 June 1939	
White Lead Convention	1921	12 June 1939	
Weekly Rest (industry) Convention	1921	12 June 1939	
Revised Night Work Convention	1934	12 June 1939	
Underground Work Convention	1935	14 May 1937	
Protection of Wages Convention	1949	14 May 1957	
Equal Remuneration Convention	1951	22 August 1969	
Abolition of Forced Labour Convention	1975	16 May 1963	
Weekly Rest (Commerce Office) Convention	1957	16 May 1963	
Discrimination (Employment and Occupation) Convention	1958	1 October 1969	
Dock Work Convention	1973	16 May 1979	
Occupational Cancer Convention	1974	16 May 1979	
Paid Educational Leave Convention	1974	16 May 1979	
Rural Workers' Organizations Convention	1979	16 May 1979	
Human Resources Development Convention	1975	16 May 1979	

**D. Geneva conventions and other treaties on international humanitarian law**

Name of the convention	Date of adoption by the General Assembly and monitoring body	Date of signature by Afghanistan	Date of ratification by Afghanistan	Reservations given by Afghanistan
Geneva Convention (1) for the Amelioration of the Condition of the Wounded and the Sick in Armed Forces in the Field	12 August 1949	8 December 1949	26 September 1959	
Geneva Convention (2) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea	12 August 1949	8 December 1949	26 September 1956	
Geneva Convention (3) relative to the Treatment of Prisoners of War	12 August 1949	8 December 1949	26 September 1956	
Ottawa Convention on the Prohibition of Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction	18 September 1997		11 September 2002	

## Appendix II

### INDICATORS ON CRIME AND ADMINISTRATION OF JUSTICE

Themes	2002	2003	2004	2005	2006	Source	Explanation
Incidence of violent death and life-threatening crimes reported per 100,000 persons			3	33	111	Ministry of Interior	
Number of persons and rate (per 100,000 persons) who were arrested/brought before a court/convicted/sentenced/incarcerated for violent or other serious crimes (such as homicide, robbery, assault and trafficking):						Ministry of Interior	
<ul style="list-style-type: none"> <li>• Incidents</li> <li>• Arrested</li> <li>• Imprisonment sentences</li> </ul>	2 666 1 745 96	3 178 3 538 235	4 006 4 742 187	4 264 6 782 138	3 321 4 946 109		
Number of reported cases of sexually motivated violence (such as rape, female, genital mutilation, honour crimes and acid attacks)	106	156	165	203	147	Ministry of Interior	
Maximum and average time of pretrial detention	According to the "Police Law" the police can keep suspects in detention for 72 days and should submit the case to Attorney-General. After that the prosecutors should end investigation in 15 days, if necessary the court increase the period for more than 15 days.					Ministry of Interior Attorney-General	
Prison population with breakdown by offence and length of sentence							
Incidence of death in custody							
Number of persons executed under the death penalty per year	No data	No data	12	70	61	Supreme Court	Sentenced to death

Themes	2002	2003	2004	2005	2006	Source	Explanation
Average backlog of cases per judge at different levels of the judicial system	No data is available	No data is available	No data is available	No data is available	No data is available		
Number of police/security personnel per 100,000 persons	54 463	54 539	60 494	65 516	69 930	Ministry of Interior	
Number of prosecutors and judges per 100,000 persons <ul style="list-style-type: none"> <li>• Prosecutors</li> <li>• Total number of judges</li> </ul>					1 309	Supreme Court	
Share of public expenditure on police/security and judiciary <ul style="list-style-type: none"> <li>• Police</li> <li>• Supreme Court</li> <li>• Attorney-General</li> </ul>	US\$ 56 678 600	\$ 64 800 000 \$ 2 796 000 \$ 3 224 000	\$ 106 100 000 \$ 3 726 800 \$4 638 340	\$ 138 000 000 \$ 3 587 400 \$ 3 888 600	\$ 165 240 000 \$ 5 659 900 \$ 5 492 940	Ministry of Interior CSO Supreme Court Attorney-General	
Of the accused and detained persons who apply for free legal aid, the proportion of those who receive it	66	94	402	2 496	1 765	Supreme Court	These are the number of individuals who have received free legal aid
Proportion of victims compensated after adjudication by type of crime	No data is available	No data is found	No data is available	No data is available	No data is available		

### Appendix III

## INDICATORS FOR ASSESSING THE IMPLEMENTATION OF HUMAN RIGHTS

### Demographic indicators

Themes	2002	2003	2004	2005	2006	Source	Explanation
Population size: • Male • Female	20.291 m • 51.51 per cent • 48.49 per cent	20.689 m • 51.51 per cent • 48.49 per cent	21.677 m • 51.14 per cent • 48.86 per cent	22.098 m • 51.14 per cent • 48.86 per cent	22 576 • 51.14 per cent • 48.86 per cent	CSO	Plus 1.5 million nomadic known as Kochi, total population in year 2006 is 24.1 m.
Population growth rate	1.9 per cent	1.9 per cent	1.9 per cent	2.03 per cent	2.03 per cent	CSO	
Population density (per sq. km)	32	34	36	36	37	CSO	
Population distribution by mother tongue, religion and ethnicity, in rural and urban areas: • Mother tongue • Religion • Ethnicity • Rural • Urban	- - - 78.03 per cent 21.97 per cent	- - - 77.63 per cent 22.37 per cent	- - - 78.47 per cent 27.47 per cent	- - - 78.46 per cent 21.54 per cent	- - - 78.46 per cent 21.53 per cent	CSO	No official data is available with regard to population distribution by mother tongue, religion and ethnicity.
Age-composition: • 0-<6 • 6-<13 • 13-<18 • 18-<24 • 24-<99	-	-	-	16 per cent 24 per cent 13 per cent 13 per cent 35 per cent		NRVA 2005	The population of Afghanistan is very young; 52 per cent is 17 years of age or younger, out of this 16 per cent is preschool age.

Themes	2002	2003	2004	2005	2006	Source	Explanation
Dependency ratio (percentage of population under 15 and over 65 years of age): <ul style="list-style-type: none"> <li>Under 15 years</li> <li>Over 65 years</li> </ul>	45.39 per cent 3.87 per cent	45.4 per cent 3.87 per cent	45.4 per cent 3.9 per cent	50 per cent 4 per cent	47 per cent 4 per cent	CSO	
Statistics on births and deaths: <ul style="list-style-type: none"> <li>Births ( per 1,000)</li> <li>Deaths</li> </ul>	48 17.2	48 17.2	48 17.2	48 17.2	-	CSO MoPH	
Life expectancy	44 years	44 years	44 years	44 years	46 years	CSO	20 years less than any other Asian country.
Fertility rate	6.3	6.3	6.3	6.3 (rate of live births per woman)	6.3 (rate of live births per woman)	CSO	It is the highest fertility rate in South Asia.
Average household size	-	-	-	7.4	7.4	NRVA 2005	
Proportion of single-parent households and households headed by women: <ul style="list-style-type: none"> <li>Single-parent household</li> <li>Household headed by women</li> </ul>	-	-	-	2 per cent		NRVA 2005	
Proportion of population in rural and urban areas: <ul style="list-style-type: none"> <li>Rural</li> <li>Urban</li> </ul>	78.03 per cent 21.97 per cent	77.63 per cent 22.37 per cent	78.47 per cent 27.47 per cent	78.46 per cent 21.54 per cent	78.46 per cent 21.53 per cent	CSO	

### Social, economic and cultural indicators

Themes	2002	2003	2004	2005	2006	Source	Explanation
Share of (household) consumption expenditures on food, housing, health and education	-	-	-	-	-	-	
Proportion of population below the national poverty line	-	-	-	-	53 per cent estimated	Strategy of the Ministry of Labour and Social Affairs	
Proportion of population below the minimum level of dietary consumption		20 per cent		26 per cent		NRVA 2003 and 2005	
Gini coefficient (relating to distribution of income or household consumption expenditure)	-	-	-	-	-		
Prevalence of underweight children under five years of age	41 per cent	41 per cent	55 per cent stunting (chronic) 6-10 per cent wasting (acute) MoPH	-	-	Source: MDG report 2005	
Infant and maternal mortality rates	1 600 = MMR	Infant = 140	-	Infant = 130	-	CDC = MMR UNICEF UNICEF = IMR	Per 100,000 Per 1,000 live birth
Percentage of women of childbearing age using contraception or whose partner is using contraception	-	-	-	12 per cent	-	MoPH	

Themes	2002	2003	2004	2005	2006	Source	Explanation
Medical terminations of pregnancy as a proportion of live births: <ul style="list-style-type: none"> <li>• Pill</li> <li>• Condom</li> <li>• Injection</li> <li>• Sterilization</li> <li>• Early withdrawal</li> </ul>	-	-	-	Overall, only 31 per cent of the first married women up to 49 years of age know or have heard about methods to avoid pregnancy, of those: <ul style="list-style-type: none"> <li>• 44 per cent</li> <li>• 8 per cent</li> <li>• 38 per cent</li> <li>• 4 per cent</li> <li>• 7 per cent</li> </ul>	-	NRVA 2005	In general, urban households have higher knowledge of methods to avoid pregnancy.
Rates of infection of HIV/AIDS and major communicable diseases: <ul style="list-style-type: none"> <li>• HIV/AIDS</li> <li>• Malaria</li> <li>• Dots</li> <li>• Treatment</li> </ul>	12 infected cases  Reported cases: 413 866  Coverage 40 per cent  Success rate 78 per cent	23 infected cases  Reported cases: 360 940  Coverage 47 per cent  Success rate 80 per cent	29 infected cases  Reported cases: 146 798  Coverage 64 per cent  Success rate 82 per cent 27 per cent case detection	52 infected cases  Reported cases: 281 818  Coverage 80 per cent  Success rate 85 per cent 32 per cent case detection	61 infected cases:  Reported cases: 258 864  Coverage 100 per cent  Success rate 89 per cent 37 per cent case detection	VCCTs (voluntary and confidential testing) and Blood banks  Malaria HMIS  National TB control programme Database/WHO	Up to April 2007, total detected for HIV/AIDS is 71 cases  DOTS stands for Directly Observed Treatment Short course



Themes	2002	2003	2004	2005	2006	Source	Explanation																								
Prevalence of major communicable and non-communicable diseases	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• emorrhageH</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• esMeasl</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	Child: UNICEFOP UNI/CDC/HC M:Maternal EF																									
Ten major causes of death	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• easlesM</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	<ul style="list-style-type: none"> <li>• ARI</li> <li>• Diarrhea</li> <li>• Measles</li> <li>• Malnutrition</li> <li>• TB</li> <li>• Malaria</li> <li>• Hemorrhage</li> <li>• Obstructed Labour</li> <li>• Pre/Eclampsia Sepsis</li> </ul>	Child: UNICEFOP UNI/CDC/HC M:Maternal EF																									
Net enrolment ratio in primary and secondary education: <ul style="list-style-type: none"> <li>• Primary education (6-13 years old) <ul style="list-style-type: none"> <li>• Girls</li> <li>• Boys</li> </ul> </li> </ul>	-	-	-	<table border="1"> <thead> <tr> <th colspan="2">Urban</th> <th colspan="2">Rural</th> <th colspan="2">Kuchi</th> </tr> <tr> <th>All</th> <th>Female</th> <th>All</th> <th>Female</th> <th>All</th> <th>Female</th> </tr> </thead> <tbody> <tr> <td>53</td> <td>55</td> <td>51</td> <td>36</td> <td>44</td> <td>27</td> </tr> <tr> <td>9</td> <td>11</td> <td>6</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>37 per cent overall 29 per cent 43 per cent</p>	Urban		Rural		Kuchi		All	Female	All	Female	All	Female	53	55	51	36	44	27	9	11	6				-	NRVA 2005	Details of year 2007 in State report on ICESCR
Urban		Rural		Kuchi																											
All	Female	All	Female	All	Female																										
53	55	51	36	44	27																										
9	11	6																													

Themes	2002	2003	2004	2005	2006	Source	Explanation
Attendance and drop-out rates in primary and secondary education: <ul style="list-style-type: none"> <li>• Net attendance</li> </ul>	-	54 per cent or 2.3 million students	-	-	-	Source: MDG reports	Details of year 2007 in State report on ICESCR
Teacher-student ratio in public funded schools: <ul style="list-style-type: none"> <li>• Teachers</li> <li>• Students</li> <li>• Ratio</li> </ul>	80 814 2 337 256 1-28	101 813 3 183 466 1-31	122 910 3 974 704 1-32	128 400 4 880 634 1-38	136 503 5 435 075 1-40	Ministry of Education	Details of year 2007 in State report on ICESCR
Literacy rates: <ul style="list-style-type: none"> <li>• Male</li> <li>• Female</li> <li>• Rural</li> <li>• Urban</li> <li>• Kuchi</li> </ul>	-	-	-	24 per cent 31 per cent 16 per cent 20 per cent 49 per cent 5 per cent	-	NRVA 2005	The national literacy rate of the age group of 15-24 years is 31 per cent
Unemployment rate	-	-	-		33 per cent	MoLSMD	
Employment by major sectors of economic activity, including breakdown between the formal and informal sectors: <ul style="list-style-type: none"> <li>• Engaged in agricultural</li> <li>• Industry and services</li> </ul>	-	-	80 per cent 10 per cent	-	-	Strategy of the Ministry of Labour and Social Affairs	
Work participation rates	-	-	-	-	-		
Proportion of workforce registered with trade unions	-	-	-	-	-		

Themes	2002	2003	2004	2005	2006	Source	Explanation
Per capita income (US dollar)	182	200	253	300	354	Central Bank of Afghanistan	
Gross domestic product (GDP)	28.6 per cent	15.7 per cent	8 per cent	14 per cent	8 per cent	Central Bank of Afghanistan	
Annual growth rate Nominal GDP growth (annual change)	33.8	23.1	26.4	27.6	15.6	Central Bank of Afghanistan	
Gross National Income (GNI) Atlas method	-	US\$ 4.3 billion	-	US\$ 7.0 billion	-	World Bank	
Consumer Price Index (CPI)	-	-	9.9 per cent	8.2 per cent	-	CSO	
Social expenditures (e.g. food, housing, health, education, social protection, etc.) as proportion of total public expenditure and GDP:	-					IMF country report No. 06/114	
<ul style="list-style-type: none"> <li>• Health and nutrition</li> <li>• Education and vocation training</li> <li>• Livelihood and social protection</li> </ul>		0.2 per cent 0.1 per cent  0.1 per cent	0.2 per cent 0.1 per cent  0.2 per cent	0.4 per cent 0.9 per cent  3.8 per cent	0.4 per cent 0.9 per cent  3.8 per cent		
External and domestic public debt	-	-	US\$ 749 million	US\$ 749 million	-	IMF country report No. 06/114	

### Indicators on the political system

Theme	2002	2003	2004	2005	2006	2007	Source	Explanation
Number of recognized political parties at the national level	Nil	Nil	Starting registration		85	94	MoJ	
Proportion of population eligible to vote: <ul style="list-style-type: none"> <li>• Women</li> <li>• Men</li> </ul>				10 567 834 4 359 651 (41 per cent) 6 208 183 (59 per cent)			JEMB	
Proportion of non-citizen adult population registered to vote	Nil	Nil	Nil	Nil	Nil			
Number of complaints on the conduct of elections registered, by type of alleged irregularity: <ul style="list-style-type: none"> <li>• Number of complaints</li> <li>• Types of alleged irregularity: <ul style="list-style-type: none"> <li>• Links with illegal armed groups</li> <li>• Still holding a prohibited government position</li> <li>• Violation of the code of conduct or electoral law</li> </ul> </li> </ul>				5 423  23  11  3			JEMB	

Theme	2002	2003	2004	2005	2006	2007	Source	Explanation
Population coverage and breakdown of ownership of major media channels (electronic, print, audio, etc.): Population coverage: <ul style="list-style-type: none"> <li>• Public TV</li> <li>• Public radio</li> <li>• Private TV</li> <li>• Public radio</li> </ul> Number and the ownership of major media: <ul style="list-style-type: none"> <li>• Public TV</li> <li>• Public radio</li> <li>• Public publication (news paper, magazine, etc.)</li> <li>• Private TV</li> <li>• Private radio</li> <li>• Private publication (news paper, magazine, etc.)</li> </ul>	-	-	-	-	25 per cent 85 per cent 70 per cent Over 90 per cent	Over 70 per cent Over 70 per cent	Ministry of Culture and Youth	
Number of recognized NGOs	No registration system	Starting registration			691	906	Ministry of Justice	
Distribution of legislative seats by party	Nil	Nil	Nil	Nil	Nil			
Percentage of women in parliament: <ul style="list-style-type: none"> <li>• Upper House</li> <li>• Lower House</li> <li>• Over all</li> </ul>				20 per cent 27 per cent 25 per cent			Afghan parliament	

Theme	2002	2003	2004	2005	2006	2007	Source	Explanation
Proportions of national and subnational election held within the schedule laid down by law			Presidential election	Parliamentary and provincial council election			JEMB	
Average voter turnouts in the national and subnational election by administrative unit (e.g. states or provinces, districts, municipalities and villages)			Presidential election 8,128,940 - 70 per cent of registered voters 40 per cent female 60 per cent male	Parliamentary and provincial council: 6.4 million (51.5 per cent of total number of registration cards issued)			JEMB	

---