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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1 \***

**Afghanistan**

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## **Introduction**

1. Afghanistan, as a country in transition, is facing a wide range of problems in political, social and economic areas after the fall of the Taliban regime. Nevertheless, in collaboration with the international community, the Government of Afghanistan (GoA) has managed to have a number of important achievements, including formation of a political system; adoption of a new constitution; holding presidential, parliamentary and provincial council elections; reform of the legal and judicial systems; adoption and amendment of a number of laws that were not in conformity with human rights standards; creation of human rights protecting and monitoring mechanisms; initiating the reporting processes on international human rights treaties; establishment of 102 political parties, 1,348 social organizations and 1,285 NGOs; enrollment of more than six million children in schools, a third of whom are girls; establishment of private schools and higher education institutions; expanded access to health services; ensuring the freedom of expression, by establishing dozens of private radio and television channels; hundreds of private and state owned publications; wide public access to telephone and internet services; relative improvement of legal, political, economic, and social situation of citizens, especially of children and women; and adoption of Afghanistan National Development Strategy (ANDS) in which serious attention has been paid to eradication of poverty and improving the livelihood of the citizens.

2. However, there are still key challenges facing human rights in Afghanistan, including the existence of extensive corruption and lack of capacity in government institutions, the existence of corruption in some non-governmental organizations, insecurity, weakness of the rule of law, contradictions between a number of statutes with the Constitution, inadequate resources for the citizens, failure to properly and systematically observe human rights due to lack of human rights culture, increase in number of drug addicts, the appalling conditions of refugees and internally displaced persons, imbalanced development between urban and rural areas, the existence of high ratio of poverty and unemployment among citizens, unsuitable environment, weakness of the civil society, failure to implement transitional justice, impunity, violence against women and children, violation of human rights by terrorists and in some cases by international forces and inadequate attention to cultural rights of the citizens.

3. This report, while pointing out the main achievements of the last seven years, will also highlight the current challenges to human rights and in order to fill up gaps, it will offer practical solutions that can be implemented in direct cooperation with the international community in the coming years. In the UPR reporting process, the Centre for International Legal Cooperation (CILC), representing the Royal Embassy of the Netherlands in Afghanistan, Human Rights Office of UNAMA, Afghanistan Independent Human Rights Commission (AIHRC), Civil Society and Human Rights Network, and a number of other civil society groups provided technical, specialized, and advisory assistance as a result of which the UPR report was prepared by the Ministry of Foreign Affairs (MoFA) of the Islamic Republic of Afghanistan.

## **I. METHODOLOGY AND PREPARATION PROCESS OF THE AFGHANISTAN UNIVERSAL PERIODIC REVIEW STATE REPORT**

### **A. Methodology and preparation process**

4. The GoA, in accordance with resolution No. 251/60, dated 15 March 2006 of United Nations General Assembly, and in the light of Afghanistan's commitments towards human rights treaties, decided in the second half of 2008 to submit its UPR state report by 2 February, 2009 to UNHRC. Subsequent to this decision, a reporting wheel made of seven steps was developed that

constituted the reporting process. The steps consisted of: (a) preparing the UPR reporting process mechanism; (b) analysis of Afghanistan legal framework; (c) data analysis; (d) drafting and government approval; (e) United Nations treaty body process; (f) feedback by UNHRC member states regarding the Afghanistan UPR report; and (g) indicator-based monitoring by UNHRC<sup>1</sup>.

5. The methodology of Afghanistan UPR state report preparation process is aimed at a number of systematic activities in accordance with international scientific research methods as well as UNHRC guidelines. Accordingly, a national strategy was drawn to prepare the report which includes: building standards and reporting capacities, data collection and analysis methods, involvement of government and civil society stakeholders, public awareness and consultation activities. The coordination structure of national reporting process included: formation of a secretariat; a steering committee; a drafting group; working groups consisting of focal points of government; AIHRC, civil society; utilization of CILC technical expertise and organizing orientation and consultation workshops; and finally preparing the report based on principles of transparency, participation, responsibility, accountability, nondiscrimination and inclusiveness.<sup>2</sup>

### **B. Time constraints and technical challenges**

6. The Government was faced with time constraints and technical challenges in preparing the report such as lack of prior experience and required reporting capacities within the government and civil society.

## **II. LEGAL, POLITICAL, AND ECONOMIC SYSTEM OF THE ISLAMIC REPUBLIC OF AFGHANISTAN**

### **A. Legal framework**

7. The legal framework is built on the Constitution of Afghanistan, ratified in 2004. The Constitution consists of a preamble, 12 chapters, 162 articles, and defines Afghanistan as an Islamic, independent, united and indivisible republic. The Constitution obliges the Government to observe the United Nations Charter, international treaties, International Declaration of Human Rights, and human rights conventions that Afghanistan has ratified. The Constitution explicitly confirms non-discrimination among citizens of Afghanistan, ensuring the right to life, liberty and respect for human dignity, freedom of expression, prohibition of torture, right to elect and being elected, ensuring fair trial, right of demonstration, guaranteeing confidentiality of correspondence, ensuring immunity of residence/private property from invasion, access to education, right to free health services, prohibition of forced labor, and accountability of the Government to the public. These principles that reflect the international human rights standards in the national legislation provide required legal safeguards for the protection of human rights.

### **B. Structure of the State**

8. The State is based on a Presidential System and the Constitution declares Separation of Powers. The State is comprised of the Executive, the Legislature and the Judiciary. The Executive is made up of 25 ministries and a number of independent directorates. The President is the Head of the Executive, as well as Head of the State and Supreme Commander of the armed forces and has two Vice Presidents. The President appoints the cabinet with the vote of confidence from the Wolesi Jirga (lower house) of the National Assembly. The National Assembly is the highest legislative body and the symbol of people's power. The National Assembly is bicameral, made up of the Wolesi Jirga and the Meshrano Jirga. The Judiciary is an

independent branch of the State, comprised of the Supreme Court, the Appellate Courts, and the Primary Courts. The Supreme Court, as the highest judicial authority, has nine members and presides over the judiciary branch.

### **C. Economic system**

9. According to Article 10 of the Constitution, Afghanistan's economic system is based on market economy.<sup>3</sup> This system is in its early stage and has not reached its needed strengths due to existing challenges.

## **III. MECHANISMS FOR PROTECTION OF HUMAN RIGHTS IN THE ISLAMIC REPUBLIC OF AFGHANISTAN**

### **A. National human rights implementing and protecting institutions**

#### **1. The Supreme Court**

10. Based on the Constitution, the Supreme Court is regarded as one of the state powers and has over 1370 judges working in 365 courts throughout the country. A total of 800 judges have received specialized training on fair trial, and 750 university graduates of Law and Sharia faculties after receiving special training have been recruited in the judicial system. Several thousands criminal and civil cases have been handled in the courts. Insecurity of the courts in some provinces is considered a major challenge, where so far 12 judges have been assassinated and six kidnapped. Also the judicial system is faced with shortage of office space in some provinces. The judiciary, in conformity with its strategies in judicial sector, has adopted specific programs for building up professional capacity, implementing and observing the principles of fair trial, and observing the human rights of individuals in the courts.

#### **2. Afghanistan National Assembly**

11. The National Assembly with new experience of democracy to some extent monitors performance of the government and approves social, cultural, and economic national development programs. The National Assembly has made some efforts to monitor human rights situation of citizens, however, there have been instances that cases of human rights violations have not been possible to be attentively followed up and monitored, due to insufficient experience in the practice of democracy. Lack of parliamentary groups has resulted in individual members following their own different views, which has been time consuming and has reduced the speed of ratifying laws and monitoring issues.

#### **3. Ministry of Justice**

12. Ministry of Justice (MoJ) has the responsibility of organizing and developing legislative affairs as well as the consolidation of rule of law. MoJ administers the affairs of prisons, juvenile correction centers (JCC), solicit public rights and properties, settles public and individual disputes, raises public legal awareness, provides legal aid to the indigent before the courts, established the bar association, facilitates the establishment of human rights section, registers and grants operation licenses to political parties and social organizations. Despite these efforts, the MoJ is faced with some challenges such as non-separation of children in juvenile correction centers, low level of public legal awareness, failure of the prisons to meet human rights standards, failure to settle some private property disputes and sometimes, putting children inside adults' prisons.

#### **4. Office of the Attorney General**

13. Office of the Attorney General (OAG) is an independent body within the limits of law. The OAG has the mandate to observe and equally enforce law to protect individuals and society through different stages of monitoring, investigation and judicial prosecution. OAG is bound by law to observe all legal mechanisms and human rights standards in the process of investigating the accused and suspect by facilitating access of the accused to a defense lawyer and, if necessary, to translator. Likewise, to some extent, efforts have been made to observe the principle of fair and equal treatment before the law and to rely on expert opinions, witnesses and the required information provided by law enforcement departments during the course of investigation.

14. The OAG faces problems such as insufficient legal awareness of suspects and accused, limited access to defense lawyers especially in the provinces, insecurity of prosecutors, shortage of technical equipment during detection and investigation of crimes, manipulation and pressure by influential individuals, low salaries of prosecutors, and lack of proper facilities for investigation.

#### **5. Ministry of Interior**

15. Ministry of Interior (MoI) is a national law enforcement body, mandated to: ensure security and public order, protect borders, combat terrorist groups, counter narcotics and prevent violation of the law. In recent years, MoI has made efforts to train the National Police to observe human rights. However, the police has been criticized for some cases of violation of human rights standards.

#### **6. National Directorate of Security**

16. National Directorate of Security (NDS) is a national law enforcement body, mandated to: ensure enforcement of law, combat organized crimes and terrorist activities, gather intelligence on smuggling and narcotics networks, counter economic crimes and sabotage, combat misuse of public property, investigate on armed illegal activities and collect intelligence on foreign nationals involved in unlawful activities within the territory of Afghanistan. NDS has tried to observe human rights standards in some aspects of its performances, including allowing its detention centers to be monitored by some human rights organizations. Likewise, there are still some criticisms of mistreatment and torture of prisoners and intimidation of some journalists and human rights activists.

#### **7. The process of reform in human rights national implementing and protecting institutions**

17. The GoA has established the High Council for Prisons (HCP) to monitor and review human rights situation and cases of violation. Despite regular monitoring by AIHRC and HCP, torture, degradation and violent behaviors still continue in some of the detention centers, and most of the judicial procedures are not processed within the required time limits.

18. To deal with administrative corruption, the GoA has formed a Special Advisory Board to the President to recommend appointments to high official ranking positions on basis of merit and clean human rights background. In addition, the GoA has set up the High Office for Monitoring of the Strategy against Official Corruption, Special Prosecutor Office, judicial departments dealing with administrative corruption, Civil Service Commission and Commission for Combating Official Corruption<sup>4</sup> to tackle administrative corruption. Nevertheless, corruption still

exists among some governmental departments and further measures are needed to fully eradicate it.

19. In order to implement reforms in legal and judicial sectors, the GoA has adopted several national programs<sup>5</sup> including: amendment and adoption of laws compatible with international human rights standards, transfer of the administration of prisons to MoJ, Establishment of human rights section in MoI, establishment of an open system in JCC, formation of family cases section in family courts and establishment of the Ministry of Women's Affairs as a human rights protecting mechanism for women.<sup>6 7</sup>

## **B. National human rights monitoring and protecting institutions**

### **Afghanistan Independent Human Rights Commission**

20. Afghanistan Independent Human Rights Commission that was established based on Article 58 of the Constitution constitutes one of the major achievements towards human rights protection. AIHRC is mandated to: monitor the implementation of the provisions of the Constitution, statutes and human rights commitments, activities of administrative, legal and judicial systems, relevant performance of governmental and non-governmental agencies and detention centers on a regular basis. AIHRC is also promoting rights of the child, women, and disabled people, observing cases of human rights violations, transitional justice and raising human rights awareness.

21. AIHRC has been able to train 207,419 individuals by holding 6,569 workshops and special programs on human rights. To protect human rights, AIHRC has received around 13,389 cases of human rights complaints and has addressed to 12,555 of the cases. In addition, fifty private prisons have been closed due to monitoring and follow up activities and more than 3,614 individuals have been released who were illegally detained.

22. AIHRC in cooperation with the GoA has been able to monitor all detention without prior notice. Subsequent to agreement of the GoA with Norway, France, Canada, the United Kingdom and the Netherlands, AIHRC has been able to monitor Afghan detainees suspected of terrorist acts by the forces of the concerned countries. However, AIHRC has not yet been permitted to visit Coalition forces detention centers.<sup>8</sup>

## **C. Special state commissions for monitoring the human rights situation in Afghanistan**

### **1. Commission Addressing Observance of Human Rights in Investigation, Interrogation and Detention Stages**

23. This Commission was founded in 2007 for the purpose of ensuring the observance of individual human rights in investigation, interrogation, and detention stages and for the prevention of torture and other forms of human rights violations during interrogation of suspects, the accused, and the guilty by investigating and interrogating agencies.

### **2. Commission Addressing Problems of Children and Juveniles**

24. This Commission was established in 2008 to address the needs of children and the juveniles.

### **3. Commission on Addressing Capital Punishment and Retaliation Files**

25. This Commission was established in 2006 to review relevant documents and processing the dossiers of capital punishment and retaliation prior to approval of the president.

### **4. Board for Addressing Complaints of Prisoners Transferred from Bagram and Guantanamo**

26. This Board was established in 2007 to review documents and files of the prisoners transferred from Guantanamo and Bagram to Pule Charkhi Prison in order to provide them legal protection. So far, this Board has managed to identify 300 of the prisoners as innocent and has recommended their release to the President.

### **5. Board for Addressing Situation of Prisoners in Kabul Prisons and Detention Centers**

27. This Board was assigned by the President in 2007 to review the situation, problems, complaints, documents and files of the prisoners in Kabul prisons and detention centers and therefore has managed to resolve 3,600 cases.

### **6. Commission for the Elimination of Violence against Women**

28. This Commission was established in 2005 to address violation against women within the five year strategic working plan of the Ministry of Women's Affairs.

### **D. Civil society human rights institutions**

29. After the fall of Taliban, Afghanistan acquired a unique opportunity to create an efficient civil society which could be one of the main players in the area of human right. Initially, lack of required standards and shortages of capacity caused civil society to be weak in terms of achievement and transparency. Despite the provisions of law on establishment of civil society, there is still no moral support for civil society and to some extent its role has not been recognized. The civil society has performed effectively and advocated in incorporating human rights standards into laws, particularly law of mass media, law on prevention of violence in families, family law, draft law on addressing the juvenile violations, labor law, political parties law, election law and non governmental organizations law. The civil society has also opened dialogue and cooperation between civil society and legislative bodies and has conducted a number of valuable researches on different human rights issues<sup>9</sup>.

## **IV. COMMITMENTS OF THE ISLAMIC REPUBLIC OF AFGHANISTAN TOWARDS INTERNATIONAL HUMAN RIGHTS TREATIES**

### **A. Afghanistan commitments towards international declaration of human rights and international human rights treaties**

30. According to Article 7 of the Constitution and other enforced statute, the GoA is obliged to observe, protect and implement human rights. The Constitution recognizes the fundamental rights and freedom of citizens in a comprehensive manner. Practical mechanisms have been set up for the realization and protection of human rights. Accordingly, ANDS has prioritized capacity building within the government to report on international human rights treaties until 2010<sup>10</sup>. Afghanistan has also signed the Rome Statute and has acquired membership of International Criminal Court (ICC).

## **B. Initial and periodic reporting methods on the implementation of international human rights treaties in Afghanistan**

### **1. Sustainable capacity building**

31. The GoA is committed to carry out all its obligations and submit reports on international human rights treaties. MoFA is currently implementing a project called creating sustainable reporting capacities within the GoA to carry out state reporting obligations on human rights treaties. Since 2006, this project has been able to train more than 100 government and civil society focal points to build professional capacity for collection and analysis of data by organizing workshops, conferences, roundtables, and study trips.

### **2. Public awareness and consultation**

32. Public information on treaty reporting process is one of the major obligations of the GoA. To this end, MoFA has tried to raise the human rights awareness of citizens and to reflect their points of view in the reports<sup>11</sup> through writing and publication of articles in the media, interviews, news conferences, consultation and training sessions, and establishment of a website.

## **C. Reporting on international human rights treaties**

### **1. International Covenant on Economic, Social and Cultural Rights**

33. The GoA ratified this covenant in 1983. The initial report on articles 16 and 17 of this covenant was submitted to the United Nations in 1991. After 1992, due to political instability and factional fighting, Afghanistan was not able to submit its subsequent reports. To prepare the second report on this covenant, initial steps were taken in 2006 when the second report was prepared by MoFA and submitted to the United Nations in 2007.

### **2. Convention on the Rights of the Child**

34. The GoA ratified this convention in 1994. The reporting process on this convention has started by MoFA since May 2008, and according to the work plan of this process, the report will be prepared by April 2009 and will be submitted to the United Nations.<sup>12</sup>

### **3. Convention on the Elimination of All Forms of Violence against Women**

35. The GoA ratified this convention in 2003; however, up to now no report has been submitted on this convention. MoFA plans to start the initial reporting process on this convention as soon as possible.

### **4. Convention on the Elimination of All Forms of Racial Discrimination**

36. The GoA ratified this convention in 1983 and submitted its initial report in 1984 to the relevant treaty body of the United Nations. The second periodic report on this convention should have been submitted in 1989 but has been delayed up to now.

### **5. Convention against Torture**

37. The GoA ratified this convention in 1987 and submitted its initial report in 1992 to the United Nations. The second periodic report on this convention should have been submitted in 1997 but has been delayed up to now.

## **6. International Covenant on Civil and Political Rights**

38. The GoA ratified this convention in 1983 and submitted its initial report in 1984. The second periodic report on this convention was prepared in 1991 and submitted to the relevant committee of the United Nations. The subsequent periodic reports on this convention have been delayed up to now.

## **7. Optional Protocols of the Convention on the Rights of the Child**

39. In addition to the six human rights conventions, the GoA has also ratified the Optional Protocol on Children in Armed Conflict on 24 September 2003, and the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography on 19 September 2002. So far, no report has been submitted on these optional protocols.

### **D. Monitoring mechanisms on the implementation of international human rights treaties**

40. In the past few years, the GoA has continually been monitored through human rights monitoring mechanisms, namely United Nations Special Reporter, United Nations High Commissioner for Human Rights, as well as other international organizations. So far, many reporters have prepared reports on the situation of human rights in Afghanistan and submitted it to the relevant organizations.

## **V. NATIONAL STRATEGIES AND POLICIES ON HUMAN RIGHTS**

41. On 5 December 2001, Afghans and the international community signed the Bonn Agreement, which culminated towards establishment of a democratic system and development of Afghanistan in accordance with internationally accepted values, especially human rights standards. Subsequently, conferences held in Tokyo 2002, Berlin 2004, London 2006 and Paris 2008 reconfirmed adherence and support to the process.<sup>13</sup> Accordingly, in light of the objectives of the above conferences, the GoA has adopted a number of national policies and strategies which are summarized as follows:

### **A. Afghan National Development Strategy**

42. The Afghan National Development Strategy (ANDS) was approved by President of Afghanistan on 21 April 2008 for the implementation of a series of priorities, programs, and projects envisaged for the years 2008-2013. In this strategy, for major national institutions and main issues separate strategies, have been foreseen, among which also are measures for addressing Afghanistan international commitments to Universal Declaration of Human Rights and the six international human rights conventions that the GoA has ratified. According to the second Pillar of the ANDS: Governance, Rule of Law, and Human Rights, certain benchmarks should be met among which are: support and monitoring and development of human rights, consolidation of democratic institutions and rule of law, providing public services, accountability, gender equality, promoting the political participation of women in state and non-state activities, and implementation of action plan for development of women at national level by the year 2010, including providing legal privileges for women in the law. Based on these benchmarks the GoA will allocate a minimum 35 per cent participation in vocational training, a minimum of 20 per cent employment opportunities, and will lower the gender disparity for ensuring access to justice to 50 per cent by 2013.<sup>14</sup>

## **B. Action Plan on Peace, Justice and Reconciliation 2005**

43. To achieve a peaceful life, consolidation and reconciliation and addressing past human rights violations without resorting to revenge, and taking into consideration the principles of inclusion, tolerance, and social order based on rule of law, the GoA assigned Afghanistan Independent Human Rights Commission to conduct a public consultation by 2008 aimed at drafting a strategy for transitional justice that mandates the Action Plan on Peace, Reconciliation and Justice responsible for the adoption and implementation of the strategy. To implement transitional justice, Afghanistan Human Rights Commission has taken specific measures such as naming 10 December as the day of Victims of Human Rights Abuses, documenting human rights abuses, and building memorial sites for human rights abuses. Despite these measures, the process of transitional justice has not been followed due to unsuitable conditions in the country such as insecurity, inefficiency in the government apparatus and influence of powerful and former violators of human rights. Although the National Assembly approved the National Reconciliation Bill, the President did not sign the bill. The bill has caused some misunderstandings and as a result, this program was not implemented in 2008.

## **C. National strategies and policies on justice sector**

44. In order to promote justice sector in conformity with national and international norms and regulations, and to create an Islamic society based on an effective, fair and accessible judicial system, and to ensure the necessary security in the country, the GoA has developed a Justice for All Strategy (2005), National Justice Sector Strategy (2007), and National Justice Sector Action Plan (2007). These strategies have analyzed the needs aimed at ensuring an efficient justice system, consolidation of justice institutions, promotion and development of laws especially human rights based laws, as well as building and strengthening of professional capacities, provision of necessary resources and facilities and efficient programs within the judicial system.

## **D. National Education Strategy of Afghanistan**

45. This strategy was adopted in 2007 on the basis of ANDS benchmarks. This strategy has been prepared to meet by 2020 the educational objectives set out in Millennium Development Goals (MDG), whereby the Ministry of Education should carry out specific programs to enhance education qualitatively and quantitatively in different areas. These goals include: increasing the level of girls' enrolment and school retention, incorporate human rights concepts in the educational curriculum and provide for the establishment of private schools. According to the plan for the development of basic education, there has been measures taken to establish 4,900 new schools and 4,800 community based schools to provide for education of minority groups, the disabled, and groups with special needs.<sup>15</sup>

## **E. National public health and nutrition strategy of Afghanistan**

46. Based on ANDS objectives, this strategy was adopted in 2008. Accordingly, the Ministry of Public Health (MoPH) is mandated to improve health and nutrition status of the people of Afghanistan in an equitable and sustainable manner, through provision of quality healthcare, services and promotion of a healthy environment and living conditions along with living healthy life styles. The anticipated outcomes of this strategy are to increase access to basic health services from 65 per cent in 2006 to 90 per cent in 2010, to reduce maternal mortality ratio from 1,600 per 100,000 live births in 2000, to 15 per cent meaning 1,360 per 100,000 live births in 2010, and to 21 per cent (1,246) by 2013 from the baseline and to 50 per cent (800) by 2015 from the baseline. For child mortality, the target is to reduce mortality rate of children under 5

years from 257 per 1,000 live birth in 2000 to 205 per 1,000 live births by 2010 in a 20 percent reduction, and to 35 per cent reduction from the baseline to 167 by 2013, and 50 per cent reduction from the baseline, to 128 by 2015; and, similarly to reduce the mortality rate of children under 1 year old from 165 deaths per 1,000 live births in 2000 to 20 per cent (132 deaths per 1,000 live births) by 2010 and to 30 per cent reduction from the baseline to 115 by 2013 and to 50 per cent reduction from the baseline to 82 by 2015, and to expand national immunization coverage for children under one year against three diseases (diphtheria, whooping cough and tetanus) from 77 per cent in 2006 to 90 per cent in 2010 and to sustain that coverage during the years from 2013 to 2015.

#### **F. National strategy for children at risk**

47. This strategy was adopted in 2004 in order to form a protective mechanism for children and families at risk, to promote coordination between previous and current programs, to balance the supply and extension of services in conformity with national needs and priorities, to strengthen capacities of families and communities for addressing the needs of children at risk, to plan for new services and programs, and to attract donors and financial support. This strategy is aimed to protect children from exploitation, violence and abuse. In this strategy, various groups of children have been identified who are at risk and should receive protection support by the GoA and international community.

#### **G. National higher education strategy of Afghanistan**

48. This strategy was adopted for 2007-2013, on the basis of which one hundred thousand students, 30 per cent of them girls, will be enrolled in the universities. The universities should also meet required quality standards of higher education. This strategy provides grounds for the increase in the attendance of girls to universities and the inclusion of human rights subjects in the curricula of faculties in order to promote the human rights culture in the higher education system of Afghanistan.

### **VI. CURRENT SITUATION OF HUMAN RIGHTS IN AFGHANISTAN: ACHIEVEMENTS AND CHALLENGES**

#### **A. Economic, social and cultural rights**

49. Three decades of war and crisis in Afghanistan has resulted in wide destruction of economic, social and cultural, infrastructure which after seven years of international assistance, still has not improved significantly. At the moment, many people suffer from acute poverty, unemployment and the majority of government employees are not able to provide for their livelihood due to low salaries. In addition, due to inability of market economy and weak control of the government on the market, living costs have risen uncontrollably and people's financial status has deteriorated. This situation has overshadowed the achievements of the recent past.

##### **1. Right to work**

50. Article 48 of the Constitution of Afghanistan upholds the right of Afghans to work and to freely choose their occupations and professions as provided by law. The Government also has tried to provide the grounds for employment through drawing up rules, regulations and policies, establishing employment and vocational training centers, including adoption of regulations concerning employment of Afghans abroad which facilitates employment opportunities outside the country.

51. One of the MDGs of Afghanistan is the reduction of severe poverty and hunger in the country. Three decades of war and destruction, resulted in low vocational and professional skills in the country which have slowed down the pace of economic and social development in the country. The Program for National Skills Development<sup>16</sup> that was announced by Afghan President in 2004 at Berlin Conference has proved quite effective. Despite the efforts of the GoA in recent years, due to unavailability of employment opportunities, the rate of unemployment has not been reduced in the country<sup>17</sup>, and the income of state employees is still low.

## **2. Social services and securities**

52. In conformity with provisions of Article 53 of the Constitution of Afghanistan the State is legally bound to adopt measures for their active participation in society. The state has guaranteed the right of the retired and should provide necessary assistance and support to the elderly, women without family support, the disabled, handicapped, and destitute orphans. Among achievements, to this effect support to a total of 9,312 orphan boys and girls in 54 orphanages throughout the country should be mentioned. These centers have been equipped with boarding, recreation, and educational facilities. Similarly, a total of 369 kindergartens are functioning throughout the country and special schools have been established for disabled children. Also, the state has provided for operation of a number of private banks, and has provided small loans to a number of citizens. At rural level, the GoA has also taken measures to create vocational employment for the rural citizens through village councils and to improve the lives of the people through rural development. Despite all these efforts, the GoA does not have the ability to provide to social security due to shortage of resources and facilities. There are a wide range of problems in the area of social welfare and most of the citizens, especially in the rural areas, rarely have access to social and welfare services, and this has created a consumer economy in the country.

## **3. Right of access to suitable living conditions, food and shelter**

### **a) Right to food**

53. Based on 2005 statistics, a total of 44 per cent of the people of Afghanistan live under poverty line and 75 per cent of the population is food insecure. This situation is further aggravated due to rise of food cost in 2008 and repeated droughts in recent years. To alleviate this situation, the GoA has decided to import food supplies from neighboring countries and the Ministry of Agriculture and Animal Husbandry has developed a special food security program in May 2008 aimed at ensuring better food supply to the people. Despite these efforts, there are still many problems facing people in terms of access to food and the majority of the people have low levels of income. Therefore, it is necessary to take measures with assistance of international community to tackle these problems.

### **b) Right to shelter**

54. The Constitution of Afghanistan provides for the right to shelter and obliges the government to take necessary measures to supply and distribute public land to deserving citizens in conformity with law within available resources. Rapid growth of urban dwellings and accommodating new groups of returnees and displaced persons, expansion of poverty and slums in the cities have been exacerbated the shelter problem in Afghanistan. The GoA with financial support of the World Bank has launched a shelter project in Dehsabz district of Kabul to build 20,000 houses and alleviate pressures from other 20 districts of the capital, despite this; serious problems still exist in this area. Shelter problem is quite complicated in rural areas as well. 70 per cent of rural populations inherit their houses, 10 per cent live in their relatives houses and

less than 10 per cent have purchased their own houses in villages, 2 per cent of villagers do not have their own houses and 40 per cent of them rent houses for living.

55. In order to provide access to shelter for citizens, the GoA has just adopted the law of shelter loan. Despite all these efforts, there are many citizens of Afghanistan whose properties have been seized by powerful people and so the conflict over land is one of the serious problems of the people. Although the GoA has launched 24 programs to build townships for the returnees, the problem still persists seriously. The issue of construction of buildings without meeting required standards is also a problem facing people.

#### **4. Right to health services**

56. Article 52 of the Constitution of Afghanistan stresses on the health rights, and the government is bound to provide free health services and the Ministry of Public Health is authorized to ensure medical and preventive measures for public safety. Achievements after Taliban include: reduction in child mortality (under five years) from 257 in 2001 to 191 in 2006, rise of public health services coverage from 9 per cent in 2001 to 65 per cent by 2007,<sup>18</sup> and expansion of immunization coverage for the first time to 83 per cent.

57. Malnutrition is regarded as one of the most serious public health challenges in Afghanistan that requires safe water and good diet, which is not accessible to all. Afghanistan has the worst ratio as far as health indicators are concerned: low life expectancy (46), low access to public health services, and high mortality especially among mothers: 1,600 deaths per 100,000 live births. There are only 17 doctors and 48 health workers for every 100,000 individuals in the country. 80 per cent of health clinics in districts are ill-equipped, and short of reproductive health services, sufficient medical personnel and facilities. Over 70 per cent of births take place at homes without medical support or attendance. Only 20 per cent, mostly complicated births are referred to hospitals. Despite all these efforts in the area of public health, Afghanistan still has a long way ahead to provide efficient health care, and it requires a series of strong measures to provide fair and balanced health coverage to all the country.

#### **5. Right to education**

58. Article 43 of the Constitution on education reads: "All citizens of Afghanistan are entitled to free education until they graduate from universities in state sponsored institutions. Primary education is compulsory until ninth grade." Student population which reached to one million during the Taliban and was limited only for boys, now in 2008 exceeds six million, one third of which are girls, and school curriculum has been widened to include general sciences as well. It should be noted that during the Taliban all school curricula was confined only to religious subjects. The establishment of private schools and universities is also an important achievement for right to education.

59. Serious challenges lies ahead of education sector in Afghanistan. For example, destruction of schools by the terrorist groups during 2008 year caused 650 schools to be burned in south and southwest provinces depriving 300,000 children from school. Other challenges include shortage of qualified teachers, especially female teachers, shortage of financial and technical resources leading to low salary for teachers.

60. A total of 15,842 pupils attend village schools. In order to alleviate shortage of qualified teachers in the country, a total of nine teachers colleges have been established throughout the country. The school curriculum has been revised and new textbooks have been printed and

distributed. Meanwhile, it should be stressed that a total of 300,000 women are attending literacy courses in different provinces of the country. In 2008, more than 300,000 literacy students, 75 percent of them women, have gained literacy.

## **6. Right to participate in cultural life**

61. Based on article 47 of the Constitution of Afghanistan the State is accountable for launching effective plans for promotion of science, culture, and art. The right of creative writings, discovery and inventions is reserved and protected by law. State encourages and supports scientific research and study in all fields. Despite the fact that Taliban destroyed and looted many historic relics and monuments of the country, the GoA is trying to reconstruct and keep the existing heritage. However, there are many problems in the area of participation in cultural life because of insecurity in many parts of the country. On the other hand, the GoA hasn't been able to promote cinema and theatre as required. However, the GoA has provided for the growth of artistic activities in the private sector.

## **7. Rural development**

62. Afghanistan is an agricultural country, and over 70 per cent of the population resides in the rural areas. This has placed rural development as a top priority of the Socio-Economic Development Programs. The Ministry of Rural Rehabilitation and Development has been established as a support Ministry to reach these goals.

63. The Ministry of Rural Rehabilitation and Development carries out its mission through eight programs, namely the National Solidarity Program (NSP), the National Area-Based Development Program, National Rural Access Program, National Water and Sanitation Program, Micro-Finance Program, Rural Industry Development Program, National Social Security Program, and the Disaster Preparedness Program. The GoA has tried to establish 22,000 village development councils through the National Solidarity Program. Also, it provides rural services, drinking water for 6 million people, creates temporary employment by reconstruction and building of 3,248 kilometers of rural roads, creating employment and sustainable livelihood through small loans to 700,000 persons, 65 percent of whom are women, are some of the activities done in this area. Despite all, there is still a big difference in living standards in urban and rural areas which requires balanced growth for villages.

## **B. Civil and political rights**

### **1. Right to life**

64. Considering that the right to life is the highest and most important right of human beings in accordance with national and international standards, Article 23 of the Constitution of Afghanistan reads: "life is a gift of God and humans have a natural right to it. Nobody shall be deprived of this right, unless the law rules otherwise." It is worth mentioning, death penalty up to now has been carried out after the final convictions by the three courts, however the Constitution provides for the execution of the penalty to be authorized by the Presidential Decree following a thorough review and study process.

65. On the other hand, public opinion polls in Afghanistan suggest that majority of the population support the decisions of the President, in order to improve the security situation. Ensuring and protecting the right of life for the citizens has been one of the biggest challenges of the State, as this right has been often violated through civilian casualties, suicide bombings and attacks by the terrorists, and aerial bombings. The State has been continuously endeavoring to

take necessary measures to ensure the right of life for its citizens. Also, the issue of civilian casualties during operations by the international forces is a main challenge facing the right to life for Afghans. On the other hand, the killing of civilians by the terrorist groups is another challenge regarding the respect to the right of Afghans to life. In relation to implementation of capital punishment, laws of Afghanistan clearly allows it and courts can decide on capital punishment and retaliation in conformity with the Sharia law.

## **2. Right to political participation**

66. In the past seven years, the right of political participation has been ensured in the country in a good manner. Article 33 of the Constitution of Afghanistan declares “Afghan citizens have the right to elect or to be elected.” To this end, the elections law of 2005 recognizes the right to elect and be elected for all eligible citizens (above the age of 18 years). In the presidential elections of 2004, out of the total of 10,567,834 eligible voters, 4,359,651 were women (41 per cent) and the remaining 6,208,183 were men (59 per cent). A total of 8,128,940 citizens had registered to vote, out of which 70 per cent actually voted. Some 6.4 million voters voted in the Parliamentary Elections of 2005, which made 51.5 per cent of total eligible voter toll. This was the first time that the people of Afghanistan voted in a democratic manner in the Presidential and Parliamentary Elections<sup>19</sup>. Despite the three elections, the GoA has not been able to hold Municipal and District Elections.

## **3. Media and freedom of expression**

67. Laws of Afghanistan provides for the freedom of expression and the media. In Afghanistan, there are three national television broadcasters and 21 local television stations in Kabul and other provinces, both state-run and private. A total of 57 state-run and private radio stations operate in Kabul and other provinces. Furthermore, hundreds of publications, including newspapers, weekly, monthly, quarterly and annual publications freely publish for their readers. Contents of the publications are published without prior authorization and censorship. License conditions are smooth and all eligible citizens may freely obtain a license. Expansion of access to information technology and internet can also be mentioned as a positive development.

68. One of the challenges of freedom of press and media is lack of awareness by some journalists and media about provisions of law which have caused key problems and, also, the growth of the media has not been qualitative. At the same time, the intimidation of journalists by terrorists and unprofessional treatment of them by some government organs dealing with the media is a key challenge in the area of the freedom of expression.

## **4. Political and social activities**

69. Article 35 of the Constitution of Afghanistan emphatically supports free political and social activities. Additional to the provisions of the Constitution, two other laws, the Law of the Formation and Registration of Social Organizations 2002 and the Political Party Formation Law 2003, have been endorsed to support and protect free social and political activities. To meet the needs in systematic ensurance of this human right, insofar some 102 political parties and 1,348 social organizations have been registered with the Ministry of Justice and have obtained their licenses.

70. Furthermore, the Constitution of Afghanistan supports the right to peaceful protests and demonstrations. Article 36 of the Constitution provides that the Afghan citizens have the right to stage peaceful gatherings without carrying arms to ensure and secure their legitimate demands.

As per the provisions of this Article, a number of demonstrations and protests have taken place in Kabul as well as in the provinces.

### **5. Non-discrimination**

71. Article 22 of the Constitution of Afghanistan stipulates “discrimination and favoritism of any kind is prohibited. Afghan citizens – men and women alike – have equal rights and responsibilities.” In the face of the stipulation made by the Constitution, the prohibition of discrimination law has been carried out equally on citizens, who are treated as per the provisions of the law on equal basis. Non-discriminatory policy in public service recruitments is one of the most important aspects of the GoA’s agenda. Despite the provisions of the law, there are still discriminations against social minorities and there is discrimination against women and children by some government organs and some citizens.

### **6. Rights of minorities**

72. As per the provisions of Article 22, the Constitution prohibits discrimination and favoritism of any kind among the citizens of Afghanistan who have equal rights and responsibilities before law. Article 16 of the Constitution declares Dari and Pashto as the official languages of the state in Afghanistan. The Ministry of Education has developed a 1-6 grade curriculum in Uzbeki, Turkmeni, Baluchi, Pashaie and Nooristani languages and distributed to beneficiaries in their respective regions.

### **7. Right to security from torture and cruel treatment**

73. In relation to the prohibition of torture, the Constitution of Afghanistan has reinstated firm guarantee in Article 22, which stipulates “torture and arbitrary treatment of humans are prohibited.” Nobody shall perpetrate or order the perpetration of torture and arbitrary treatment against another person even for the purposes of obtaining information – and even if the person is detained or sentenced. Regarding enforcement of this Article, unfortunately torture and cruel treatment is common during criminal investigations in Afghanistan.

### **8. Prevention of slavery and human trafficking**

74. The Constitution of Afghanistan supports this right in Articles 23 and 49, which stipulate “Freedom is the natural right of humans and is inviolable.” The GoA endorsed the Law on Combating the Abduction and Human Trafficking in 2008, the Article 4 of which authorizes the formation of the Commission for Combating Abduction and Human Smuggling. This commission is presided over by law enforcement organizations. As per the statement of the Ministry of Justice, Afghanistan is not the source country but a transit route for human trade. Despite these efforts, human smuggling through Afghanistan or from Afghanistan, especially that of the children, is a main human rights challenge.

### **9. Right of freedom and personal security**

75. The right to personal security is protected by Article 28 of the Constitution, which stipulates “Nobody shall be pursued, detained or prosecuted unless otherwise stated by the law.” The Criminal Law of Afghanistan has anticipated a medium prison term for anyone who detains, prosecutes or bans another person’s activity without legitimate reason otherwise. For a better enforcement of this right after formation of the new government in Afghanistan, an Interim Criminal Procedures Law was endorsed which protects rights of suspects and violators according

to international standards. Despite these legislative measures, there is still the need to take further measures to secure this right.

#### **10. Right of equal treatment before law and presumption of innocence**

76. According to the Constitution of Afghanistan, all citizens have equal rights and responsibilities before law without any consideration of their race, gender, religion and language. Article 25 of the Constitution states: “presumption of innocence is the original state.” Despite firm statements about equality of rights in the Constitution, unfortunately administrative corruption and overlapping of state branches of power, has led to major violations by rule of law institutions and deprivation of innocent people from their rights. There are some concerns and problems about the law enforcement and monitoring agencies respect for the equality before law and the influence of powerful individual and official corruption would not violate people’s rights. Despite provisions of laws, there are still some problems in this area, including sometimes violation of this right by some government organs.

#### **11. Right to marriage and establishment of family**

77. Protection to families applies to all members of the family and is an issue of interest for the GoA. Article 54 of the Constitution regards and protects family as the cornerstone of the society. As per the provisions of this article, the State needs to take firm steps to provide for physical and mental wellbeing of the families particularly for the mother and child health. Marriage age in the Afghan Civil Law for boys is 18 years and for girls 16 years. Despite this, the old traditions affect marriage and are a big challenge in this area. Approximately, over 40 per cent of marriages are premature or simply a forced marriage. Therefore, serious problems still prevail in ensuring the realization of this right.

#### **12. Right to citizenship**

78. The Constitution of Afghanistan has envisaged that no citizen of Afghanistan would be deprived of the right of citizenship. Based on the citizenship law of Afghanistan, anyone born from Afghan parents is a citizen of Afghanistan, living inside or outside of the country. Efforts have been made to enforce this law, to the extent possible.

### **C. Thematic human rights**

#### **1. Women rights**

79. During last seven years Afghanistan has achieved great success in reference to ensuring Women’s Rights. The formation of Ministry of Women Affairs in the government structure, joining the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, exerting equal rights of men and women in the Constitution, presence and active participation of women in social, economic and cultural spheres, all are considered major gains in such a relatively short span of time.

80. Based on article 22 of the Constitution, all citizens of Afghanistan both men and women are equal and enjoy equal rights and equal duties by law. The GoA in conformity with Constitution has made great endeavors to promote women rights and maintain their equal status. Accordingly, the Constitution in article 83 ensures the presence of at least two female deputies from each province to the Parliament. Also, at least 25 per cent of the Parliament must be women, currently women make up 28 per cent of the National Assembly. Similarly, in the judiciary, out of 1,652 judges working in military and civil courts, a total of 189 are women. This makes up 5.4

per cent of all the present judges in the country. Likewise out of 1,095 prosecutors employed by Office of Attorney General, 103 of them are women, which make 9.4 per cent of the prosecutors. Among civil servants out of 221,684 state employees 47790 are women (excluding ministry of interior and defense).

81. Insecurity in some provinces, culture of immunity from punishment, low awareness of women's rights particularly among women, old and harmful traditional beliefs, and lack of job opportunities are among pressing challenges that women rights is facing in Afghanistan today for the improvement of which, the government should take effective measures.

## **2. Children rights**

82. Children as one of the most vulnerable group of the country have suffered all kinds of violence during last three decades. Their rights were grossly violated. After the fall of Taliban, major steps were taken towards promotion of child right in the country. In 2002, after the reopening of schools, a total of three million boys and girls were able to go back to schools. Now in 2008/9 this figure has reached six million students a third of which are girls. Afghanistan has ratified the Convention on the Rights of the Child (CRC) in 1994, on the basis of which previous regulations on children right and justice were reviewed and amended. Major achievements have been made in reference to child health care in Afghanistan. Millions of children under 5 have been successfully vaccinated against major killer diseases of childhood such as; measles and polio. Since three years ago, northern and central provinces of the country have become immune against polio virus. Extension of mother and child health care services and facilities has dropped mortality rate under five years old by 25 per cent.

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

84. Despite above mentioned progress, Afghan children, primarily girls, still are faced with great challenges. For example, millions of children mostly in conflict provinces can not attend schools. Daily, hundreds of children are dying from malnutrition and curable diseases and 35 per cent of these losses emanates from waterborne diseases. Due to growing poverty of their parents, yet, thousands of children go to labor markets, work in small plants or in farms. Children also are subject to different forms of violence, such as smuggling or abduction, exploitation, or sexual abuse.

## **3. Rights of the disabled**

85. Article 53 of Constitution has assigned the GoA to ensure necessary measures for rehabilitation of disabled and handicaps and to enable them to regain their active participation in government and public life. To this effect, Law of Disabled Rights was adopted and enforced. Afghanistan has about 1,000,000 people who were disabled during the conflict years. Great majority of them are faced with grave problems of life. The State can not extend sufficient aid to them to alleviate their problems. The disabled face many problems with the small salary that they receive. Also, it requires that the GoA should take measures in this area; however, the GoA is not able to fulfill its obligations because of the weakness of national economy<sup>20</sup>.

#### **4. Rights of the returnees and the displaced persons**

86. Currently a total of 3.3 million Afghan refugees live in neighboring countries, mainly in Iran and Pakistan. In order to attend the problems of disabled and returnees, the State established the Ministry of Refugees and Returnees which addresses the problem of Afghan returnees in cooperation with UNHCR. These services include: helping returnee families in getting resettled at their home towns, extending humanitarian assistance, finding new jobs, helping them in building new shelter, as well as education of their children. The Ministry has attempted to take up serious measures for the refugees in accordance with international conventions and human rights standards, but because of non-cooperation of the host countries many problems still exist in this area.

#### **5. Rights to environmental protection**

87. The GoA is committed to protect the environment and natural resources for creating better living environment for its citizens. The National Office for Environment Protection is a policy making organization, which also conducts monitoring of environmental problems. The office was established in 2002 in the frame work of the Ministry of Power and Energy. However, in 2005 the office was promoted into an independent office. The new environmental law adopted, is based on international standards and is bound to ensure sound environmental protection mechanism for all living beings, and plants. The organization is doing it's utmost to prevent all forms of pollution. Three decades of war and consecutive droughts has degraded 60 per cent of living environment in the country. To address ecological problems prevailing in the country, the department of environmental protection has developed concrete roadmaps.

#### **6. Rights of civilians to safety during military operations**

88. In order to ensure security to Afghan civilians during military operations by the GoA and the international coalition, the President has urged these forces to be careful while in action. To this effect, the Ministry of Defense (MoD) in reference to international armed encounters has prepared a policy regarding the International Humanitarian Law, and has dispatched it to all contingents of Afghanistan National Army (ANS). Also specialized training sessions have been conducted on international regulation of armed encounters by MoD in cooperation with International Red Cross to all ranks of Afghan army to respect human rights in course of duty<sup>21</sup>. Despite these efforts, sometimes right to safety of civilians is violated by armed anti-government forces and international forces. The GoA, has also taken measures to ensure safety of civilians so far with less success. Reportedly, majority of civilian casualties are caused by armed anti government forces operations.

#### **D. Challenges in the area of human rights in afghanistan**

89. Current human rights challenges in Afghanistan can be summarized as following:

1. Conflicts between some statutes and the Constitution and conflicts among laws and the defects in the penal code;
2. Lack of full implementation of compulsory education especially for girls;
3. Failure in launching elections for district assemblies and municipal councils ascribed by the Constitution;
4. Copying some alien regulation which has no application in Afghanistan;

5. Low capacity of rule of law enforcement institution of the country;
6. Overlapping of authorities of three branches of state power and lack of respecting on separation of powers;
7. Various violation of the law by the three branches of the government;
8. Weakness of democratic institutions and non-institutionalization of democratic and human rights values in the society;
9. Existence of rampant corruption in certain government and non-governmental organizations;
10. Insecurity in certain regions of the country;
11. Existence of irresponsible armed forces and powerful warlords who prevent implementation of law;
12. Exercise of violence against women and children;
13. Civilian casualties by anti-government forces and also sometimes in military operation of international forces;
14. Prevalence of grave poverty and unemployment among citizens;
15. Deportation of Afghan refugees from neighboring countries and the problem of internal displaced persons;
16. Lack of social protection mechanism for vulnerable people;
17. Critical status of some jails, detention, and juvenile correction centers;
18. Lack of women jails according to international standards and poor condition of children born in jail;
19. Existence of International detention centers beyond state control;
20. Occasional arrests of Afghan civilians by international and Afghan Security Forces and their detention for an uncertain period without proper investigation and trail;
21. Lack of just trials in certain courts;
22. Lack of access to defense lawyers especially female advocates;
23. Procrastination of court procedures in some cases;
24. Impunity of certain people against their criminal record and their past human rights violations and war crimes;
25. Problems in implementation of transitional justice program;

26. Failure to implement the 10 year Action Plan for women due to security problems, existence of unhelpful social customs, and discrimination against women; and;
27. Weakness of the civil society.

## **VII. RECOMMENDATIONS**

90. Based on realities of Afghanistan, the following recommendations are proposed for the areas of legislation, reforms in the judicial sector, adopting new policies on human rights, and creating mechanisms for the protection, support, and monitoring of human rights, in cooperation with international community:

1. Review of state laws and regulation in accordance to Afghanistan international human rights obligations and amendments of those laws which are in contradictions with human rights standards;
2. Review of all statutes in the country and reconciling them with the Constitution;
3. Reconcile conflict of authority of the Judiciary power and law enforcement agencies to better protect human rights;
4. Build the professional capacities of judicial branch and those of law enforcement institutions;
5. Eliminate corruption in judicial and justice system;
6. Adherence to fair trial in the legal and judiciary system
7. Assign professional defense lawyers, especially women advocates for ensuring fair trial;
8. End Constitutional violations by the three branches of state power;
9. Accelerate the judiciary procedures in law enforcement institutions and courts;
10. Put an end to arbitrary detentions of Afghans by international forces and some Afghan law enforcement authorities;
11. Create the grounds for monitoring of detention centers of of international forces by human rights organizations;
12. Adopt of the strategy for promotion, protection and monitoring of human right
13. Adopt of the strategy for elimination of violence against women;
14. Strategies for social security, returnees, addressing food insecurity of citizens through reconstruction of and consolidation of infrastructure of sub national regions, decentralization of programs, and distribution of food aid to vulnerable strata of population, and for the protection of the freedom of expression;
15. Form of national human rights monitoring institutions;

16. Strengthen national democratic institutions, such as the parliament, provincial councils, and the judiciary to protect human rights;
17. Establish effective social protection system for support of vulnerable people;
18. Strengthening civil society organizations active in the human rights field;
19. Establish human Right offices in law enforcement agencies and including human rights courses in curricula of all education institutions;
20. Establish a specific mechanism in accordance with human rights for arrest, interrogation, and detention during arm encounters, by Afghan and international forces;
21. Observe civilians' rights during military combats exercised by international forces and government forces in compliance with internationally accepted norms and standards;
22. Supervise the second pillar of ANDS which focuses on good governance, rule of law, and human rights;
23. Monitor systematically human Rights in law enforcement institutions and state courts by AIHRC and other civil society organizations;
24. Launch extensive community awareness programs aimed at addressing sexual harassment, smuggling, and forced labour;
25. Create mechanisms for sound security of schools, and hospitals in cooperation with international forces;
26. Adopt necessary mechanisms for greater access of deprived children to formal education through launching village schools with special attention to girls' education and employment of further female teachers;
27. Establish necessary mechanisms for extension of clinics and health services in order to provide emergency healthcare services;
28. Establish reliable mechanisms for security of private property in rural and urban areas and making concrete efforts in supply of shelter to needy families.
29. Establish mechanisms for supply of safe drinking water, environmental protection, and other public services needed especially in urban areas.
30. Create an effective mechanism for settling of land disputes and launching of labor-intensive projects aimed at promotion of alternative livelihood.
31. Create mechanism for registration of child birth, marriage, divorce and identity card offices throughout the country.
32. Create mechanisms for creating employment opportunities for workers and other citizens of the country.

## VIII. CONCLUSION

91. The GoA considers this UPR country report as a unique opportunity to highlight the achievements, the current human rights challenges and present practical solutions. The present report clearly reflects the intent of the GoA and its seriousness in dealing with human rights failures, and it demonstrates that the GoA understands its international obligations to gradually secure the human rights of its citizens, and strives in this respect.

92. In addition, the present report provides a good opportunity for the international community and other human rights actors to put the human rights situation of Afghanistan in a comparative, analytical, and realistic perspective and notice its problems and challenges. The present report approaches the issue with a view that although there have been human rights achievements in the last seven years, there are still many serious challenges to be tackled which require the GoA to take necessary measures in cooperation with the international community.

93. With regards to judicial reforms, a careful attention toward amending and adopting laws in accordance with legal and human rights standards of the country should be implemented. Also, serious attention should be paid to reconcile the national laws in force with the provisions of the Constitution, remove the conflict of legal powers and enhance the professional capacity of legal and judicial sectors.

94. Adopting a number of new national strategies related directly to human rights and the creation of further protection mechanisms for ensuring and protecting human rights are some of the other measures that the GoA should take with the cooperation of the international community. These strategies can allow human rights to significantly improve and will create more suitable ground for the implementation, protection and monitoring of human rights in Afghanistan. It should be noted that it is not possible to implement the reforms discussed for the improvement of human rights without the cooperation of the international community; therefore, the mutual cooperation of the GoA with the international community will gradually result in the improvement of human rights situation in the country.

## IX. ANNEXES<sup>22</sup>

95. Annexes to the present report are available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/AFSession5.aspx> .

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<sup>1</sup> Refer to annex I, UPR Reporting Wheel.

<sup>2</sup> Refer to annex II, UPR Reporting Process Mechanism and annex III, UPR Action Plan.

<sup>3</sup> Article 10 of the Constitution: “The State encourages and supports private enterprise investments on the basis of market economic system in accordance with the provisions of statutes and guarantees its safety.”

<sup>4</sup> The Commission on Combating Official Corruption has been formed in accordance with Article 6 of the United Nations Convention on Combating Administrative Corruption.

<sup>5</sup> Justice for All Strategy (2005), National Justice Sector Strategy (2007), and National Justice Sector Action Plan (2007).

<sup>6</sup> Refer to annex IV, National Strategies on legal and judicial sector.

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<sup>7</sup> Refer to websites of the Ministry of Justice [www.moj.gov.af](http://www.moj.gov.af), the Supreme Court [www.supremecourt.gov.af](http://www.supremecourt.gov.af), and Afghanistan National Assembly [www.nationalassembly.af](http://www.nationalassembly.af)

<sup>8</sup> Refer to the website of Afghanistan Independent Human Rights Commission: [www.aihrc.org.af](http://www.aihrc.org.af)

<sup>9</sup> Researches on improper customs, family violence, women's access to justice, economic independence of women, official corruption, and refugees and IDPs.

<sup>10</sup> Afghanistan has ratified six international human rights conventions: International Covenant on Civil and Political Rights, International Covenant on Economic, Social, and Cultural Rights, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Violence against Women, and Convention on the Elimination of All Forms of Racial Discrimination.

<sup>11</sup> Refer to Afghanistan MoFA website: [www.mfa.gov.af](http://www.mfa.gov.af) and Afghanistan Treaty Reporting Process website: [www.trp.mfa.gov.af](http://www.trp.mfa.gov.af)

<sup>12</sup> In the last seven years, due to the lack of reporting capacities within the government of Afghanistan, reports have not been submitted on the conventions.

<sup>13</sup> The Bonn Conference provided for the establishment of Afghanistan Independent Human Rights Commission and the Judicial Reform Commission.

<sup>14</sup> Refer to annex V, Afghanistan National Development Strategy document.

<sup>15</sup> Refer to annex VI, National Strategies on Education and Public Health.

<sup>16</sup> In 2008, 8,000 people were trained in different professions and more than 200,000 are being trained by national and international organizations.

<sup>17</sup> Refer to annex VII for related Conventions on labor which Afghanistan has ratified.

<sup>18</sup> Afghanistan in total has 4523 medical doctors, 115 hospitals in the capital and provinces, 17 treatment centers for addicts, 775 basic health clinics and 10 mobile clinics. The total medical facilities of Afghanistan will reach 1564 by 2008.

<sup>19</sup> Refer to Afghanistan Election Commission website: [www.iec.org.af](http://www.iec.org.af)

<sup>20</sup> Presently there are two million disabled from three decades of war who receive a monthly salary from the GoA.

<sup>21</sup> Refer to annex VIII which include the Constitution and other Afghan laws.

<sup>22</sup> Refer to annexes I to VIII:

Annex I Afghanistan UPR Reporting Wheel

Annex II Afghanistan UPR Reporting Process Mechanism

Annex III Afghanistan UPR Reporting Process Action Plan

Annex IV Afghanistan National Strategies on Justice Sector

Annex V Afghanistan National Development Strategy

Annex VI Afghanistan National Strategies on Education and Public Health

Annex VII List of Labor Conventions which Afghanistan has ratified

Annex VIII Afghanistan Constitution.

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