The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR) other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. The information included herein has been systematically referenced in endnotes. The periodicity of the review for the first cycle being four years, most of the documents used as reference are dated after 1 January 2004. In the absence of recent information, the latest available reports and documents have also been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

* Late submission.
GE.09-
I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

<table>
<thead>
<tr>
<th>Core universal human rights treaties</th>
<th>Date of ratification, accession or succession</th>
<th>Declarations /reservations</th>
<th>Recognition of specific competences of treaty bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICERD</td>
<td>6 July 1983</td>
<td>Yes (art. 22)</td>
<td>Individual complaints (art. 14): No</td>
</tr>
<tr>
<td>ICESCR</td>
<td>24 Jan. 1983</td>
<td>Yes (declaration to article 26 (1) and (3))</td>
<td>-</td>
</tr>
<tr>
<td>ICCPR</td>
<td>24 Jan. 1983</td>
<td>Yes</td>
<td>Inter-State complaints (art. 41): No</td>
</tr>
<tr>
<td>CEDAW</td>
<td>5 March 2003</td>
<td>No</td>
<td>Inter-State complaints (art. 21): No</td>
</tr>
<tr>
<td>CAT</td>
<td>1 April 1987</td>
<td>Yes (art. 39 (1) and (2))</td>
<td>Individual complaints (art. 22): No</td>
</tr>
<tr>
<td>CRC</td>
<td>28 March 1994</td>
<td>Yes</td>
<td>Inquiry procedure (art. 20): No</td>
</tr>
<tr>
<td>OP-CRC-AC</td>
<td>24 Sept. 2003</td>
<td>Binding declaration under article 3: 22 years</td>
<td>-</td>
</tr>
<tr>
<td>OP-CRC-SC</td>
<td>19 Sept. 2002</td>
<td>None</td>
<td>-</td>
</tr>
</tbody>
</table>

Core treaties to which Afghanistan is not a party: OP-ICESCR, ICCPR-OP1, ICCPR-OP2, OP-CEDAW, OP-CAT, ICRMW, CRPD, OP-CRPD and CED.

Other main relevant international instruments

<table>
<thead>
<tr>
<th>Convention on the Prevention and Punishment of the Crime of Genocide</th>
<th>Ratification, accession or succession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

Rome Statute of the International Criminal Court | Yes |

Palermo Protocol | No |

Refugees and stateless persons | Yes, except the 1954 and 1961 Conventions |

Geneva Conventions of 12 August 1949 and Additional Protocols thereto | Yes, except Additional Protocols I, II and III |

ILO fundamental conventions | No, except Conventions Nos. 105, 100 and 111 |

UNESCO Convention against Discrimination in Education | No |

B. Constitutional and legislative framework

1. UNICEF noted that the 2004 Constitution mandates, inter alia, the respect for and promotion of fundamental rights.

2. The High Commissioner for Human Rights reported that a new criminal procedure code and a law on family violence were being drafted and noted that many laws relevant for human rights had been recently adopted. However she stressed that implementation is problematic.

C. Institutional and human rights infrastructure

3. The Afghanistan Independent Human Rights Commission (AIHRC) was accredited with “A” status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) in 2007. The High Commissioner for Human Rights noted that AIHRC established, with the support of the United Nations Assistance Mission in Afghanistan (UNAMA) a new Special Investigations Team (SIT) for its activities.
related to the most serious conflict-related violations of international humanitarian law and
human rights law.\textsuperscript{15} She stated that AIHRC remains an effective and key national partner but
highlighted the concerns expressed by the subcommittee responsible for accreditation
applications, namely the fact that external sources compose its core funding, while the State
should provide for a minimum allocation in the national budget.\textsuperscript{16} She further mentioned the
need for a vote of confidence by the Lower House of the Parliament for the appointment of the
head of AIHRC risks compromising the AIHRC’s independence and effectiveness.\textsuperscript{17}

4. The High Commissioner welcomed the initiative towards establishing a human rights unit
within the Ministry of Justice\textsuperscript{18} and human rights offices located inside provincial police
headquarters.\textsuperscript{19}

D. Policy measures

5. UNICEF informed that the Afghanistan National Development Strategy (ANDS),
adopted in 2008, provides the framework for the development of government policies and
strategic plans and guides the allocation of resources and programmes.\textsuperscript{20} The High
Commissioner for Human Rights reported that, within the ANDS, human rights have been
subsumed under governance and public administrative reform rather than being treated as a
separate cross-cutting sector.\textsuperscript{21} FAO noted that the ANDS lays the ground for an improved
political framework for the incorporation of measures to work towards the right to food.\textsuperscript{22}

6. The Secretary-General noted that implementation of the National Action Plan for the
Women of Afghanistan (NAPWA)\textsuperscript{23} had begun but that further progress will depend on political
will, the availability of resources and implementation capacity.\textsuperscript{24} The Secretary-General and the
High Commissioner reported that, following the July 2007 Rome Conference on the Rule of Law
in Afghanistan, the national justice sector strategy was developed, as well as the National Justice
Programme,\textsuperscript{25} which had already displayed encouraging results.\textsuperscript{26}

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<table>
<thead>
<tr>
<th>Treaty body\textsuperscript{27}</th>
<th>Latest report submitted and considered</th>
<th>Latest concluding observations</th>
<th>Follow-up response</th>
<th>Reporting status</th>
</tr>
</thead>
<tbody>
<tr>
<td>CERD</td>
<td>1984</td>
<td>March 1997 (in absence of the report)</td>
<td>-</td>
<td>Eight to twelfth report overdue since 1996 to 2006</td>
</tr>
<tr>
<td>HR Committee</td>
<td>1984</td>
<td>July 1984</td>
<td>-</td>
<td>Third report overdue since 1994</td>
</tr>
<tr>
<td>CEDAW</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Initial report overdue since 2004</td>
</tr>
<tr>
<td>CRC</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Initial to second report overdue from 1996 to 2001 respectively</td>
</tr>
<tr>
<td>OP-CRC- AC</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Initial report overdue since 2004</td>
</tr>
</tbody>
</table>
7. The Human Rights Committee, at its sixty-third session in November 2001, considered that the examination of the second periodic report would not be productive, due to the armed conflict.28

2. Cooperation with special procedures

<table>
<thead>
<tr>
<th>Treaty body</th>
<th>Latest report submitted and considered</th>
<th>Latest concluding observations</th>
<th>Follow-up response</th>
<th>Reporting status</th>
</tr>
</thead>
<tbody>
<tr>
<td>OP-CRC-SC</td>
<td></td>
<td></td>
<td></td>
<td>Initial report overdue since 2004</td>
</tr>
</tbody>
</table>

7. The Human Rights Committee, at its sixty-third session in November 2001, considered that the examination of the second periodic report would not be productive, due to the armed conflict.28

2. Cooperation with special procedures

3. Cooperation with the Office of the High Commissioner for Human Rights

8. In 2008, the Security Council decided that UNAMA continue with the support of OHCHR, to cooperate with AIHRC and relevant international and local non-governmental organizations, to monitor the situation of civilians, to coordinate efforts to ensure their protection and to assist in the full implementation of the human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State party, in particular those related to women’s rights.35

9. Former High Commissioner visited Afghanistan in November 2007.36 OHCHR supports the UNAMA Human Rights Unit whose core programme covers transitional justice and the protection of civilians. It works closely with AIHRC and the United Nations Country Team (UNCT).37 OHCHR and other United Nations partners support the Government in meeting its treaty-reporting obligations.38 The High Commissioner for Human Rights indicated that this human rights treaty reporting project, among others, successfully produced a common core document for submission to the treaty bodies and was due to complete the ICESCR country report by January 2008.39 Afghanistan contributed financially to OHCHR in 2008.40
B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

10. Although the Constitution formally recognizes equality and the principle of non-discrimination, the High Commissioner noted that, in reality, discriminatory practices based on sex, religion, ethnic, tribal, family and political affiliation exist throughout Afghanistan.\(^{41}\)

11. While the Secretary-General and the High Commissioner respectively acknowledged some progress on women’s economic advancement\(^ {42}\) and that women and girls had continued to make gains in the workplace, education and government\(^ {43}\), the High Commissioner noted that progress remains tentative, because of pervasive social, political and economic discrimination against women\(^ {44}\), as well as insecurity and the persistence of customary practices.\(^ {45}\)

12. In 2008, the ILO Committee of Experts asked the Government, inter alia, to include in the new Labour Code a definition of discrimination, in accordance with article 1 of ILO Convention No. 111\(^ {46}\) and to indicate the measures taken to promote equal access to vocational training and employment and occupation of women, disabled persons and disadvantaged ethnic minorities, including those from nomadic communities.\(^ {47}\)

2. Right to life, liberty and security of the person

13. Both the Secretary-General and the High Commissioner for Human Rights expressed their concerns at the carrying out of death sentences and called upon Afghanistan to halt further executions.\(^ {48}\) Allegations were transmitted by the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning non-respect of international standards relating to the imposition of capital punishment.\(^ {49}\) Stressing that the criminal justice system is deeply flawed, he noted that there should be a moratorium on carrying out any death sentences.\(^ {50}\)

14. The High Commissioner\(^ {51}\), the Secretary-General\(^ {52}\) and the Security Council\(^ {53}\) indicated that the impact of the conflict on civilians has become a pre-eminent concern. In 2008, UNAMA noted a growing death toll of civilian casualties which represents an increase of almost 40 per cent compared to 2007.\(^ {54}\) Both the High Commissioner and the Secretary-General expressed concerns that civilian casualties have been increasing over the past years predominantly due to an escalation of suicide attacks by anti-Government elements (AGEs).\(^ {55}\) They reported on tactics of AGEs targeting civilians seen to be supporting the Government,\(^ {56}\) including civil servants or high profile figures.\(^ {57}\) UNAMA indicated that the relative proportion of deaths attributed to pro-government forces remained relatively stable for 2008. However, the actual number of recorded noncombatant deaths caused by pro-government forces amounts to a 31 per cent increase over the deaths recorded in 2007.\(^ {58}\) Notwithstanding increased efforts by national and international forces to minimize harm to non-combatants the High Commissioner indicated that there remained allegations of the use of disproportionate force in relation to defensive air strikes and force-protection incidents\(^ {59}\) and serious misconduct during house searches.\(^ {60}\) In 2008, the Special Rapporteur on extrajudicial, summary or arbitrary executions stressed that there were large numbers of avoidable killings of civilians.\(^ {61}\) The Secretary-General expressed his concerns at the increase in the number of attacks against local and international humanitarian workers\(^ {62}\) and indicated that landmines and explosive remnants of war continued to be a significant threat.\(^ {63}\)
15. The High Commissioner for Human Rights indicated that cases of torture and ill-treatment of detainees held by the Afghan authorities continue to be reported. In that regard, the use of torture by the National Directorate of Security (NDS) was reported by OHCHR. Allegations were transmitted by the Special Rapporteur on the question of torture, concerning the transfer by Afghan authorities of non-Afghan suspects to officials of a foreign Government operating in Afghanistan, in whose custody they were allegedly ill-treated and tortured. Relevant authorities assured the High Commissioner that UNAMA will be given free and unrestricted access to NDS facilities and that the Government would investigate human rights violations attributed to NDS.

16. In 2008, the Secretary-General identified parties to the conflict, both State and non-State actors, who commit grave abuses against children. In particular, he highlighted the fact that children have been recruited and utilized by State and non-State armed groups and that non-State armed groups such as the Taliban continue to train and use children as suicide bombers. The Special Representative of the Secretary-General for Children in Armed Conflict expressed similar concerns. UNICEF noted that an unknown number of children have been captured and arrested by Afghan law enforcement agencies and international military forces due to their alleged association with armed groups. Further concerns were expressed by the Secretary-General.

17. In 2005, the Special Rapporteur on violence against women reported that despite a number of significant developments, the situation of women remains dramatic, and severe violence against them is all-pervasive. The Special Rapporteur on extrajudicial, summary or arbitrary executions stated that honour killings continue to be widespread and numerous.

18. The Secretary-General referred to the insufficient protection for victims of or witnesses to sexual violence and the low level of cases being prosecuted, notably due to fear of violent retaliation and to the lack of specific legislation in line with CRC. In 2008, the Secretary-General noted that in the system of administration of justice, the criminalization of women who have been victims of gender-based violence and gender discrimination in the application of customary law continues to be a major concern. The High Commissioner highlighted that there were signs of increasing willingness on the part of victims to report rape, and of the authorities to investigate and prosecute some high profile cases in 2008. The Special Representative of the Secretary-General for Children and Armed Conflict reported about worrisome allegations about sexual violence against boys by armed actors.

19. The High Commissioner reported that monitoring programmes confirmed widespread arbitrary and illegal detentions, including for customary practices, breach of Sharia law and civil disputes. She also noted that victims, particularly of sexual offences, often find themselves accused and detained illegally on charges of adultery or elopement.

20. The High Commissioner underlined that the population of detention centres has increased exponentially and that the conditions of detention still fail to meet minimum internationally accepted standards. Despite this there was some progress noted. The Secretary-General stated that there is a critical need for increased investment in the Central Prison Department.

3. Administration of justice, including impunity, and the rule of law

21. The High Commissioner for Human Rights noted that customary law prevails, where traditional dispute resolution mechanisms are frequently used in place of formal court systems in
criminal and non-criminal cases. These mechanisms often fail to respect even the most basic human rights standards, especially as regards women and girls.\textsuperscript{84} A particular issue of concern is the practice of *baad*, by which girls as young as seven years of age are given away to settle feuds and murder cases.\textsuperscript{85}

22. The 2004 Common Country Assessment (CCA) report noted that women’s and children’s rights are particularly affected by the lack of functioning formal justice mechanisms at every stage, including knowledge of rights, access to justice, and trial and detention. Particularly nomadic tribes and the poorest sector of society face similar disadvantages.\textsuperscript{86}

23. The High Commissioner reported that corruption, insecurity and inadequacy of legal and regulatory frameworks, qualified personnel and physical infrastructure severely undermine executive, judicial and law enforcement institutions’ functionality and promotion of the rule of law.\textsuperscript{87} In addition the Secretary-General noted, inter alia, the lack of transparent and merit-based processes for appointments and career advancement but welcomed the establishment of the National Legal Training Centre.\textsuperscript{88}

24. The High Commissioner reported on complaints received by UNAMA concerning police failure to conduct proper investigations or to act impartially and independently\textsuperscript{89}, but was encouraged by the Ministry of Interior’s development of a Human Rights Unit\textsuperscript{90} and the campaign to tackle corruption launched by the new Attorney-General.\textsuperscript{91}

25. The High Commissioner highlighted that NDS conducts intelligence gathering, surveillance, arrest, detention and prosecution of those suspected of crimes against national security but operates under an unpublished presidential decree and is apparently accountable only to the President.\textsuperscript{92} She expressed concerns at the growing number of Afghan and international Private Security Companies (PSCs), which remain largely unregulated. A draft regulation on PSCs was discussed throughout 2007 but had yet to be finalized.\textsuperscript{93}

26. UNICEF informed that an under-developed independent bar and the lack of a state funded legal aid system is a major impediment to providing the necessary legal representation for vulnerable groups including children.\textsuperscript{94} The High Commissioner reported that detainees are rarely informed of their rights or given access to legal counsel,\textsuperscript{95} and defence lawyers are not given the opportunity to correctly carry out their activities.\textsuperscript{96} Both the Secretary-General and the High Commissioner noted slow improvements.\textsuperscript{97}

27. The Special Rapporteurs on the independence of judges and lawyers and on the promotion and protection of human rights while countering terrorism transmitted allegations relating to trials of detainees and to the system of detention and transfer of detainees failing to comply with fair trial international standards.\textsuperscript{98}

28. The High Commissioner underlined that impunity\textsuperscript{99} prevails for past and present crimes, including war crimes that alleged perpetrators continue to hold high-ranking positions of authority.\textsuperscript{100}

29. Despite the launch of the Action Plan on Peace, Reconciliation and Justice\textsuperscript{101}, both the High Commissioner\textsuperscript{102} and the Secretary-General\textsuperscript{103} noted the lack of progress and political support on transitional justice. The High Commissioner reported that the Parliament passed the “National Reconciliation Charter”, which grants all political parties and other belligerent groups
associated with the two and a half decades of conflict in Afghanistan full immunity from prosecution. President Karzai refused to sign the Charter.\footnote{104}

30. UNICEF noted that lack of due process in juvenile justice system is a serious concern.\footnote{105} It noted that the Juvenile Code raised the minimum age of criminal responsibility from 7 to 12 years old. Yet, mainly due to the lack of means of age verification, children under the age of 12 years can be arrested and imprisoned for minor crimes such as theft.\footnote{106}

4. Right to privacy, marriage and family life

31. The High Commissioner for Human Rights made reference to a 2006 AIHRC study, which indicated that the largest category of cases of violence against women consisted of forced marriages.\footnote{107} She stated that there is a failure by officials to bring about redress for forced marriage.\footnote{108} Nevertheless, she made reference to a then signed protocol on the eradication of child forced marriages.\footnote{109}

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

32. An allegation was transmitted by the Special Rapporteur on the right to freedom of opinion and expression concerning a death sentence imposed for apostasy.\footnote{110} The Special Rapporteur stated that a law prohibiting conversion would constitute a State policy aiming at influencing individuals’ desire to have or adopt a religion or belief and would therefore not be acceptable under human rights law.\footnote{111}

33. The Special Rapporteur also transmitted an allegation concerning a draft plan to re-establish the Department for the Promotion of Virtue and Prevention of Vice.\footnote{112} She urged the Government to ensure compliance with article 2, paragraph 1 of the ICCPR.\footnote{113}

34. In 2008, the Secretary-General noted that extrajudicial measures continue to be used to suppress criticism and dissenting religious and political views.\footnote{114} The High Commissioner for Human Rights reported that the media, which has flourished in recent years, faced increased levels of violence and serious threats in 2007 and 2008\footnote{115}, and the Secretary-General reported on tactics of intimidation used by AGEs.\footnote{116} The Special Rapporteur on the right to freedom of opinion and expression transmitted allegations concerning harassment and attacks against journalists,\footnote{117} as well as attempts by the Minister of Culture and Information to maintain and increase government control over the media.\footnote{118} The Special Rapporteur noted that the draft amnesty law contains provisions which would prevent journalists from reporting on certain issues.\footnote{119} She also reported that a new media law adopted by the Parliament was rejected by President Karzai at the end of 2007.\footnote{120}

35. The Special Representative of the Secretary-General on the situation of human rights defenders expressed concern about the continuing lack of security and the ensuing instability, which impacts negatively on the ability of human rights defenders to carry out their work.\footnote{121}

36. As reported by the Secretary-General, the National Assembly was not able to adopt a new electoral law.\footnote{122} In view of the coming elections, the High Commissioner expressed various concerns, notably at the participation of women, freedom of movement due to hostilities, the vetting of candidates, and the complaints processes.\footnote{123}

6. Right to work and to just and favourable conditions of work
37. UNICEF referred to findings of a 2003 survey indicating that 24.3 per cent of children aged between 7 and 14 years were working, that girls work more than boys and that there is more child labour in rural than urban areas. According to UNICEF, much more needs to be learned about the nature, forms, concentration and cause of child labour in Afghanistan.\textsuperscript{124}

7. Right to social security and to an adequate standard of living

38. The High Commissioner for Human Rights referred to an AIHRC report according to which the Government is failing to meet its minimum core obligations under ICESCR.\textsuperscript{125} She noted that vulnerability and widespread poverty most severely impact upon women, children, the disabled, elderly, and the landless.\textsuperscript{126}

39. The Special Rapporteur on the right to food stated that the volatile security situation is endangering nutritional status and livelihoods through the displacement of increasing numbers of people in the southern and south-eastern regions, and is restricting the work of humanitarian organizations.\textsuperscript{127} A 2008 WFP report noted that since December 2006 there has been a significant decline in accessibility to food in urban areas, due to a growing disparity between food prices and income.\textsuperscript{128} FAO informed that national assessments conducted in 2005 showed that 44 per cent of the households classify themselves as food insecure.\textsuperscript{129}

40. A 2007 WHO brief indicated that the lack of physical infrastructure impedes the improvement of health. Also, the low status given to women, low level of water supply and sanitation coverage, extremely poor hygiene and environmental health shortcomings contribute to high infant and child mortality and morbidity. Due to the long period of conflict, over two million Afghans are affected by mental health problems.\textsuperscript{130} UNICEF informed that a substantial long-term investment to strengthen the health system was needed while making efforts to increase access to high impact in un-reached areas and addressing neonatal deaths.\textsuperscript{131}

41. The High Commissioner reported that Afghanistan continues to suffer from high mortality rates.\textsuperscript{132} She also underlined that, despite some progress, provision of and access to adequate health care, particularly for women and children, remains a serious concern.\textsuperscript{133} She noted that, although child mortality rate in Afghanistan is the third highest globally, the country has managed to reduce this rate by 25 per cent since 2001.\textsuperscript{134}

42. In 2003, the Special Rapporteur on adequate housing underlined that the complexity of housing and land rights in Afghanistan will necessitate working at all levels of the system.\textsuperscript{135} The High Commissioner mentioned that AIHRC reported illicit land seizures, particularly in rural areas, among the most prevalent human rights violations. According to UNAMA, difficulties in resolving disputes over land persist because of lack of coherent legal framework, policy, administration, and enforcement and that this also undermines the rule of law and economic development.\textsuperscript{136}

43. The High Commissioner noted that the consequent land-grabbing, subversion of rule of law and insecurity caused by the illicit narcotics trade further undermine the Government’s ability to deliver services and implement development programming.\textsuperscript{137}

44. The Secretary-General reported that the ANDS recognizes that poverty and lack of access to food, medical care and education remained major obstacles to equitable and sustainable socio-economic development. He added that progress continued in several sectors but still much more needed to be done.\textsuperscript{138}
8. Right to education and to participate in the cultural life of the community

45. In 2009, the Special Representative of the Secretary-General for Children and Armed Conflict expressed grave concern about the increase in the number of child victims of attacks against schools by Taliban insurgents who deny children the right to education. She deplored the throwing of acid to prevent girl children and female teachers from going to school.

46. UNESCO informed that in terms of access to education and of reducing gender disparities, Afghanistan has made significant progress during the last years. UNICEF noted that there are still enormous gender gaps and that lack of security is a major challenge. The High-Commissioner for Human Rights noted that early marriage also tends to deprive girls of the opportunity to receive secondary education.

9. Minorities and indigenous peoples

47. The 2004 CCA report mentioned that discriminatory practices have provided preferential access to land as a reward for certain ethnic groups and power bases and have levied heavy taxes against groups in political or social disfavour. As a result, violent repercussions have taken place against numerous ethnic groups and are heightened by the return and resettlement of large numbers of refugees and IDPs. The High Commissioner stated that the Kuchis (nomads predominantly Pashtun) were facing discrimination notably regarding access to land and also to identity cards.

10. Refugees and internally displaced persons

48. UNHCR informed that the deteriorating security situation, landlessness, and limited livelihood opportunities are the factors preventing the reintegration of IDPs and returnees as well as the return of refugees. The Representative of the Secretary-General on the human rights of internally displaced persons (IDPs) raised similar concerns. UNHCR noted a national report in August 2008, profiling IDPs situation across Afghanistan, which was a direct response to a recommendation of the Representative of the Secretary General.

49. UNHCR informed that different displacements have occurred at different times, in different parts of the country and for different reasons, and that, therefore, finding durable solutions will be neither easy nor quick. The Representative of the Secretary-General on the human rights of IDPs stated that the fact that most areas affected by the conflict are not accessible for humanitarian organizations for security reasons hampers the delivery of urgently needed humanitarian assistance.

11. Human rights and counter-terrorism

50. In 2008, the Security Council expressed strong concern about and the increasingly strong links between terrorism activities and illicit drugs.

51. In 2006, a communication was transmitted by the Special Rapporteur on the promotion and protection of human rights while countering terrorism, concerning the draft law against terrorism and the definition of terrorist crimes.

52. The Secretary-General noted that child protection actors have welcomed the juvenile-specific provisions, including on offences relating to children associated with armed groups, in
the Law on combating terrorist offences adopted in 2008. The Law states that when an offence has been committed by individuals below the age of 18, the 2005 juvenile code will apply. 153

53. The High Commissioner for Human Rights expressed concerns at cases of alleged mistreatment and prolonged arbitrary detention of some persons detained by international forces 154 and, in this regard, the Independent Expert on the situation of human rights in Afghanistan reported on actions committed in these places of detention, which can be qualified as acts of torture. 155 The High Commissioner hoped that UNAMA and AIHRC will be granted access to them promptly and unrestrictedly. 156 Regarding individuals detained by Operation Enduring Freedom and held in a detention facility in Bagram Airbase, she highlighted that detainees have no right to legal counsel or to trial before a court established by law. Some individuals have reportedly been in detention at Bagram for as long as five years and some have allegedly been subjected to torture. At the end of 2008, Bagram authorities agreed to permit visitation rights to the relatives of certain detainees. 157 In addition, the Secretary-General reported on allegations of incommunicado detention of children in Bagram Airbase. 158

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

54. In 2008, the High Commissioner for Human Rights was encouraged by the President’s support for the campaign against gender violence, his endorsement of NAPWA and his active support for its realization. 159 She welcomed the decision by the Ministry of Justice to take up the mantle as lead agency in respect of human rights vis-à-vis the ANDS process. 160

55. UNICEF noted that despite the many challenges, Afghanistan has made significant progress towards achieving its MDG goals and targets in the areas of health and education. Still, it is possible that not all goals may be achieved by 2020. 161 In 2008, the Secretary-General noted some progress in the area of governance, notably in fighting against corruption. Despite positive developments, the key challenge for the central Government would be to create capacity at the subnational level, where the lack of resources, as well as corruption, continues to have a crippling effect. 162

56. UNICEF noted that over the three decades of conflict, Afghanistan has experienced destruction of institutions, infrastructure and most importantly, human and social capital. There are still serious capacity gaps in terms of policymaking, programming and implementation. 163

57. In 2008, the Secretary-General noted that Afghanistan continues to face serious deficiencies in the area of human rights which contribute to very high levels of poverty. 164

58. A 2007 UNODC report noted that despite progress made, women continue to face enormous social, economic, security and human rights challenges. 165

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

Specific recommendations for follow-up

59. In 2003, the Special Rapporteur on adequate housing issued recommendations with respect to, inter alia, the development of a comprehensive national policy and legislation on housing and land rights. 166
60. In 2005, the Special Rapporteur on violence against women made recommendations with respect to, inter alia, reviewing of family and criminal law; women in detention; and prioritizing in public policy women’s human rights and the elimination of violence against women. 167

61. In 2008, the Special Rapporteur on extrajudicial, summary or arbitrary executions issued preliminary recommendations with respect to, inter alia, police reform to end unlawful killings; a moratorium on executions; honour killings; establishment of an independent anti-corruption agency; respect of the principles of accountability and transparency by the international forces present in Afghanistan. 168

62. UNHCR noted that the Government must develop and implement practical steps to resolve land disputes. 169 The Government also has to develop a long-term coping strategy to address food insecurity and to invest in developing water resources. 170

63. The High Commissioner for Human Rights made recommendations to the Government, inter alia, to recommit to the human rights and transitional justice agenda; fully develop the Afghan National Police as a civilian law enforcement body; prevent arbitrary arrests and detentions; to promptly commence reforms needed within NDS; reinstate its moratorium on the death penalty; criminalize and investigate allegations of family and other forms of violence; enact legislation implementing the provisions of the Rome Statute in domestic law. 171

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

64. The 2006-2008 United Nations Development Assistance Framework (UNDAF) lists the following priority areas of cooperation: governance, rule of law and human rights, sustainable livelihoods, health and education, and environment and natural resources. 173 In July 2008, the Afghanistan UNCT commenced its preparation of the 2010-2013 UNDAF. 174 FAO, UNEP, UNESCO, UNHCR and UNICEF submitted information on their capacity-building and technical assistance programmes. 175

65. The Secretary-General noted that UNAMA, UNDP and the UNIFEM are providing support to improve the capacity of the Ministry of Women’s Affairs for the effective coordination of NAPWA implementation at all levels of governance. 176

66. UNICEF informed of the Afghan New Beginnings Programme, a joint United Nations-Afghan Government programme leading the disarmament, demobilization and reintegration of former combatants across the country. 177

Notes

1 Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006 (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/.

2 The following abbreviations have been used for this document:
   ICERD International Convention on the Elimination of All Forms of Racial Discrimination
   ICESCR International Covenant on Economic, Social and Cultural Rights
   OP-ICESCR Optional Protocol to ICESCR
ICCPR  International Covenant on Civil and Political Rights
ICCPR-OP  Optional Protocol to ICCPR
ICCPR-OP 2 Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW Optional Protocol to CEDAW
CAT Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT Optional Protocol to CAT
CRC Convention on the Rights of the Child
OP-CRC-AC Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD Convention on the Rights of Persons with Disabilities
OP-CRPD Optional Protocol to Convention on the Rights of Persons with Disabilities
CED International Convention for the Protection of All Persons from Enforced Disappearance

3 The presiding body of the Revolutionary Council of the Democratic Republic of Afghanistan declares that the provisions of paragraphs 1 and 3 of article 48 of the International Covenant on Civil and Political Rights and provisions of paragraphs 1 and 3 of article 26 of the International Covenant on Economic, Social and Cultural Rights, according to which some countries cannot join the aforesaid Covenants, contradicts the international character of the aforesaid Treaties. Therefore, according to the equal rights of all States to sovereignty, both Covenants should be left open for the purpose of the participation of all States.

4 Adopted by the General Assembly in its resolution 63/117 of 10 December 2008, in which the General Assembly recommended that a signing ceremony be organized in 2009. Article 17, para. 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”


7 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

8 International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No.105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

9 UNICEF submission to the UPR on Afghanistan, p. 1. See also UNESCO submission to the UPR on Afghanistan, p. 1; UNEP submission to the UPR on Afghanistan, p. 1.

10 A/HRC/10/23, para. 59.

12 A/60/343, paras. 17-18. See also UNESCO submission to the UPR on Afghanistan, pp. 1-2; UNICEF submission to the UPR on Afghanistan, p. 4.
13 A/60/343, para. 18.
14 For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex 1.
15 A/HRC/7/27, para.71.
16 Ibid., para. 69.
17 Ibid., para. 70.
20 UNICEF submission to the UPR on Afghanistan, p. 1. See also UNHCR submission to the UPR on Afghanistan, p. 2.; FAO submission to the UPR on Afghanistan, p. 1.
21 A/HRC/7/27, para. 54.
22 FAO submission to the UPR on Afghanistan, p. 1.
27 The following abbreviations have been used for this document:
   CERD Committee on the Elimination of Racial Discrimination
   CESCR Committee on Economic, Social and Cultural Rights
   HR Committee Human Rights Committee
   CEDAW Committee on the Elimination of Discrimination against Women
   CAT Committee against Torture
   CRC Committee on the Rights of the Child
   CCPR/C/545, para.1.
29 E/CN.4/2006/61/Add.5.
32 The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate-holder.
33 See (a) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (b) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005; (e) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (f) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special


36 OHCHR 2007 Report on activities and results, p. 93.

37 Ibid.

38 Ibid.

39 A/HRC/7/27, para. 73.

40 OHCHR 2008, Report on activities and results.


43 A/HRC/7/27, para. 15.

44 Ibid.


50 A/HRC/8/3/Add.6, para. 24.

51 A/HRC/7/27, para. 24.

52 S/2008/695, para. 32.


56 A/HRC/4/98, para. 28; A/HRC/7/27, para. 28; A/HRC/10/23, para. 18; S A/63/372-S/2008/617, para. 54.


59 A/HRC/7/27, paras. 31 and 33.
93 Ibid., para. 68.
94 UNICEF submission to the UPR on Afghanistan, p. 2.
95 A/HRC/7/27, para. 57.
96 Ibid., para. 59.
98 Special Rapporteur on the independence of judges and lawyers, to appear in forthcoming communications report; and Special Rapporteur on terrorism, communications report (A/HRC/10/3/Add1), paras. 6-12.
99 See also A/HRC/8/3/Add.6, para. 25; A/63/372, S/2008/617, para. 47.
100 A/HRC/7/27, paras. 37-38.
102 A/HRC/7/27, para. 41.
104 A/HRC/7/27, para. 40.
105 UNICEF submission to the UPR on Afghanistan, p. 5.
106 Ibid., p. 5.
109 Ibid., para. 23.
110 A/HRC/4/21/Add.1, para. 4.
111 Ibid., para. 6.
112 A/HRC/4/21/Add.1, para. 7.
113 Ibid., para. 8.
114 A/63/372, S/2008/617, para. 50.
115 A/HRC/7/27, para. 48; A/HRC/10/23, para. 50.
117 A/HRC/4/27/Add.1, paras. 8-10; A/HRC/7/14/Add.1, para. 11; E/CN.4/2006/55/Add.1, paras. 7-8.
118 A/HRC/7/14/Add.1, paras. 7-9.
119 Ibid, para. 10.
120 A/HRC/7/27, para. 47.
121 E/CN.4/2006/95/Add.5, paras. 11-27.
123 A/HRC/10/23, para. 55-58. See also A/HRC/7/27, para. 16.
124 UNICEF submission to the UPR on Afghanistan, p. 4.
125 A/HRC/7/27, para. 5.
126 Ibid., para. 10.

128 WFP/EB.A/2008/10, p. 4.

129 FAO submission to the UPR on Afghanistan, p. 1.


131 UNICEF submission to the UPR on Afghanistan, pp. 3-4.

132 A/HRC/7/27, para. 6.

133 Ibid., para. 7.

134 Ibid.


136 A/HRC/7/27, para. 11.

137 Ibid., para. 12.


141 UNESCO submission to the UPR on Afghanistan, p.2.

142 UNICEF submission to the UPR on Afghanistan, p. 3. See also A/HRC/4/98, para. 8.

143 A/HRC/7/27, para. 9.


145 A/HRC/10/23, paras. 35-37.

146 UNHCR submission to the UPR on Afghanistan, p. 3. See also A/62/722-S/2008/159, para. 52.


148 UNHCR submission to the UPR on Afghanistan, pp. 3-4.

149 Ibid., p. 4.


151 Security Council resolution 1833 (2008)


153 S/2008/695, para. 57.

154 A/HRC/7/27, para. 32.

155 E/CN.4/2005/122, para. 46

156 A/HRC/7/27, para. 56.

157 A/HRC/10/23, para. 26
158 S/2008/695, para. 29.
159 A/HRC/7/27, para. 17.
160 Ibid., para. 53.
161 UNICEF submission to the UPR on Afghanistan, p. 3. See also UNHCR submission to the UPR on Afghanistan, pp. 1 and 5.
162 A/63/372-S/2008/617, paras. 40 and 45.
163 UNICEF submission to the UPR on Afghanistan, p. 5.
164 A/63/372-S/2008/617, para. 46.
168 A/HRC/8/3/Add.6, paras. 30-36.
169 UNHCR submission to the UPR on Afghanistan, pp. 4-5.
170 Ibid., p.5.
171 A/HRC/7/27 para. 78.
172 A/HRC/4/98, para. 72 (i) and (m).
174 A/HRC/10/23, para. 64
175 FAO, UNEP, UNESCO, UNHCR and UNICEF submissions to the UPR on Afghanistan.
177 UNICEF submission to the UPR on Afghanistan, pp. 4-5.