



Save the
Children
100 YEARS

CIVIL SOCIETY ALTERNATIVE REPORT

TO THE COMBINED STATE PARTY
REPORT (THE SECOND TO FIFTH
PERIODIC REPORT) FOR
AFGHANISTAN ON THE
CONVENTION ON THE RIGHTS OF
THE CHILD

July 2019

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ABBREVIATIONS AND ACRONYMS

CRAF	Child Rights Advocacy Forum
CSOs	Civil society organisations
FGDs	Focus group discussions
IDPs	Internally displaced persons
MoLSA	Ministry of Labor and Social Affairs
MoPH	Ministry of Public Health
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund

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Save the Children would like to stress its commitment to working together with the Afghan Government, donors, CSOs, UN agencies and all other stakeholders to improve the situation of children of Afghanistan.

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EXECUTIVE SUMMARY

1. INTRODUCTION

1.1. Objective

The main objective of this report is to assess the status of implementation of the Convention on the Rights of the Child in Afghanistan, given the concluding observations and recommendations made by the Committee on the Rights of the Child to the Islamic Republic of Afghanistan (reference number CRC/C /AFG/CO/1) in 2011.

The report is presented on behalf of select civil society organisations (CSOs) in Afghanistan and provides potential grounds for legal reforms, policy changes and other measures aimed at improving the rights situation of children in Afghanistan.

1.2. Key findings

1.2.1. Positive steps

CSOs strongly commend the Government of Afghanistan for its efforts in establishing a conducive legal and policy environment. In support of the rights of children, the Government adopted the following laws, policies and strategies after the issuance of the Concluding

- The Amended Penal Code also criminalises *Bacha Bazi*
- The Child Guardianship Law, enacted in 2014
- The Civil Registration law, enacted in 2017
- The Afghanistan Civil Registration and Vital Statistics Country Strategic Plan (2016–2020)
- The National Hygiene Promotion Strategy (2017–2020)
- The Law on Protection of Child Rights endorsed in 2019
- The National Nutrition Policy and Strategy, developed (2016–2021)
- The Gender and Human Rights Strategy (2018–2022)
- The Community Based Healthcare Strategy (2015–2020)
- The National Child and Adolescent Health Strategy (2016–2020)
- The National Strategy for Disability and Rehabilitation (2016–2020)
- The National Health Policy (2015–2020)
- The National Public Nutrition Policy and Strategy (2015–2020)
- The National Mental Health Strategy (2011–2015)
- The National Health Promotion Strategy (2014–2020)
- The National Child Labor Strategy and Action Plan (2018–2030)
- The Women and Children Anti-Harassment Law
- The Annex to the Criminal Procedure Code on alternatives to imprisonment and detention
- The Road Transportation Law, The Social Protection Law (2018)
- The UNCRC in Islam-Host Country Agreement between Government of Islamic Republic of Afghanistan and Doctors without Borders (MSF), Agreement between Islamic Republic of Afghanistan and Republic of Uzbekistan on Areas for Border Control (2019)
- The Juvenile Code

¹ *Bacha Bazi* is an Afghan custom traditionally involving young boys performing dances for older males and being subjected to sexual abuse.

1.2.2. Gaps in policies and laws

With regards to the implementation of the Concluding Observations issued in 2011 by the Committee on the Rights of the Child, as well as new emerging issues, the following shortcomings were identified pertaining to the Government of Afghanistan:

- Delay in the adoption of the Family Code, which raises the minimum legal age of marriage for girls from 16 to 18 years.
- Discrimination in relation to the minimum age of marriage remains in the law, i.e. 18 years for boys and 16 for girls.
- Child marriage remains a reality for young girls and there is no legal framework to regulate it.
- The absence of a functional system for reporting violence against children.
- Weak law enforcement and policy implementation by government agencies.
- Lack of regulation to monitor child labour.
- Lack of disaggregated data on school drop-out and school completion rates.
- Lack of disaggregated data on children with disabilities.
- Low birth registration rate.
- The child mortality rate remains high at 451,000/ as indicated by the National Reproductive, Newborn, Child, and Adolescent Health Strategy (2017–2021).
- Delay in the revision of the completed communication strategy on nutrition.
- Delay in the revision of the completed National Mental Health Strategy (2011–2015).

1.3. Methodology

The drafting of this report was based on analysis of data collected from studies, national reports and national documents including laws, policies, strategic plans and consultations. The report benefited from the participation of 1,580 children (832 boys and 748 girls) and community members who provided their inputs through focus group discussions (FGDs). The FGDs were conducted in Kabul (Kabul province), Mazar-i-Sharif (Balkh province) and Jalalabad (Nangarhar province). The children represented the following categories: children with disabilities, returnees, internally displaced children, orphans, children in conflict with the law and street-working children.

To ensure a more participative interaction with children, various sessions of FGDs were conducted and, more importantly, they were organised based on the category to which children belonged.

Table 1. Number of children who participated in focus group discussions

CATEGORY OF CHILDREN	BALKH PROVINCE		KABUL PROVINCE		NANGARHAR PROVINCE	
	BOYS	GIRLS	BOYS	GIRLS	BOYS	GIRLS
Internally displaced persons	80	60	60	60	60	60
Returnees	60	59	60	60	60	60
Street-working children	45	47	105	83	60	20
Children with disabilities	44	37	58	43	20	40
Orphans	60	60	N/A	N/A	60	60
TOTAL	289	262	283	246	260	240

The drafting of the report also benefited from inputs of 120 community members – including community leaders – aged more than 30 years (60 male and 60 female) and 75 individuals representing youth aged between 19 and 30 years (40 males and 35 females).

Table 2. Number and categories of adults who participated in FGDs

CATEGORY OF ADULTS	BALKH PROVINCE		NANGARHAR PROVINCE	
	BOYS	GIRLS	BOYS	GIRLS
Community members aged more than 30 years (including leaders)	Males	Females	Males	Females
	20	20	40	40
Youth (between 19 and 30 years old)	20	15	20	20

Lastly, the drafting of the report benefited from the inputs and insights of members of the Child Rights Advocacy Forum (CRAF) and representatives of government institutions based in Kabul who participated in the key informant interviews.

1.4. Structure of the report

This report is divided into eight sections, namely an executive summary; general measures of implementation of the four principles of the Convention on the Rights of the Child; civil rights and freedom; family environment and alternative care; disability, basic health and welfare; education, leisure and cultural activities; special protection measures; and the bibliography.

1.5. General conclusions and recommendations

We draw the attention of the Committee to the following general conclusions and recommendations and ask the Committee to raise them with Government for immediate action:

Revise the outdated ‘Children at Risk’ strategy and develop its implementation plan to provide strategic direction to programmes

focusing on vulnerable groups of children. Unlike the previous strategy, a revised version should be appropriately costed in order to mobilise resources for its implementation. The report notes an increase in the number of vulnerable children in Afghanistan. More than 20 vulnerable groups require immediate and sustainable actions, including children with disabilities; street-working children; children in conflict; children facing legal status and/or civil documentation challenges; and children exposed to various types of abuse. The strategy should be developed in close coordination with relevant government agencies and national and international NGOs to contribute to the establishing of an informed and responsive strategy with a complementary reporting mechanism.

² The Child Rights Advocacy Forum (CRAF) is an advocacy network of child rights-based, non-governmental organisations (NGOs) established in July 2012 and committed to longstanding child rights joint advocacy engagement. CRAF is comprised of 25 NGOs and chaired by Save the Children International in Afghanistan.

Increase poverty eradication programmes to enable poor families to provide for their children's education, healthcare, adequate nutrition and protection. The escalation of armed conflict, recurrent drought and the deportation of hundreds of thousands of Afghan families from Iran and Pakistan have escalated the level of poverty. With deepening poverty, large numbers of children are compelled to engage in child labour, further undermining their rights. Moreover, child marriage is still practiced widely resulting in many children dropping out of school. Although addressing these issues requires long-term and durable solutions, Afghanistan may also need to develop programmes with short-term approaches that protect basic services and address the immediate needs of children in very poor families and communities.

Address gender-based discrimination and issues of children with disabilities more effectively through establishing and implementing a responsive national strategy and programme. Gender-based discrimination and disabilities adversely impacting children are among the determinants that prevent a conducive environment for children to survive, grow, learn and thrive in. Furthermore, the mainstream social programmes of the government – such as education – do not accommodate those who need a special focus, including street working children, returnees and children from Kuchi communities. Therefore, some groups are excluded or systemically discriminated from accessing available services because the services are not tailored to those groups' conditions.

In addition to expanding child rights education across society, the government together with humanitarian and development partners should establish and implement mechanisms for monitoring and responding to confirmed incidents where public officials and service providers fail to comply with the law and remain complacent when they encounter any sort of discrimination against children.

Strengthen the implementation of legislative and policy frameworks. Although there have been many improvements in legislative and policy frameworks, their impact on children is still not as significant as required. Currently, Afghanistan does not have a comprehensive strategy and policy for implementation of the newly endorsed Law on Protection of Child Rights. This makes the mainstreaming of addressing children's issues in all government programmes very difficult. Knowledge about policies and regulations is not widespread, especially at the grassroots level, including among law enforcement officials. The structures that are meant to implement them either do not exist or are poorly staffed and under-resourced. Further to this, there is no law and mechanism for civil society participation in government policies and decision-making to hold service providers accountable and to ensure that the good policies and legal frameworks are planned, resourced and implemented according to community needs. To address the existing challenges, a national child protection strategy and national priority programme on child protection should be introduced to ensure proper implementation of the legislation and policy frameworks and increase services for children.

¹ *Bacha Bazi* is an Afghan custom traditionally involving young boys performing dances for older males and being subjected to sexual abuse.

Allocate adequate budget to support child-related policies, strategies, and sectors. The agencies that are supposed to allocate resources for policies, strategies and programme implementation are more donor-dependent and receive a very small share of the government budget. The lack of quality planning and budgeting for children's needs have hindered the agencies' ability to receive appropriate levels of resources from the national budget and from donors. This is more pronounced at provincial and district levels where children require more concerted support and protection. Furthermore, mechanisms to properly assess whether public and private investments in other sectors, such as education and health, have taken the best interest of children as a primary consideration remain weak. It is therefore worth considering for the child rights focal ministry to introduce child impact assessment to ensure government decisions do not compromise children's best interests. Addressing these gaps is fundamental to ensuring the implementation of the policies and legislation that are meant to advance the rights of children.

Improve public knowledge and perceptions about childhood and child rights. There are many types of violations that children encounter at home and within their community, including at school and in public spaces, as well as those perpetrated by law enforcement officials. However, good initiatives have been taken by agencies such as the Ministry of Education (MoE), Ministry of Labor and Social Affairs (MoLSA) and the Afghanistan Independent Human Rights Commission (AIHRC) to expand awareness about child rights in schools and elsewhere. These agencies that are mandated to support children's rights need to develop contextualised awareness-raising resources to reach communities and traditional institutions with child rights education. Most importantly, people should know about child rights as per the Law on Protection of Child Rights, UNCRC, and the legal consequences of child rights violations.

Increase meaningful child participation and include children's views in all relevant decision-making processes. Children have little influence on decisions and actions taken by local and national programmes. This often puts them in disadvantaged positions due to their exclusion from the relevant processes and the subsequent lack of due and concerted attention paid to their issues. Both the government and non-state actors should continue to support children and young people to organise themselves and provide them with opportunities for civic engagement whereby platforms are established to allow dialogue between child-led groups and decision-makers at all levels of governance.

Strengthen protection of children in conflict and natural disaster contexts. Children are the most affected group of society as a result of decades of conflict and recurrent natural disasters. Nearly 16,500 children have died or been injured since 2011 and millions more children displaced due to conflict. Schools are used for military and election purposes that affect children's education. Despite being a signatory, the government has not been able to implement the Safe School Declaration and hold perpetrators of crimes against children to account through judicial mechanisms.

To address the existing issues, the government should establish and implement guidelines for the implementation of the Safe School Declaration and hold the perpetrators of child rights violations to account in support of the declaration. Also, practical actions should be taken to protect children and support their recovery, by increasing multi-year investments in humanitarian child protection and ensuring mental health and psychosocial support for children and their families are well resourced and mainstreamed. Furthermore, the government should increase investments in education and programmes to address sexual and gender-based violence, and include children in peace-making and peacebuilding

2. IMPLEMENTATION OF THE FOUR PRINCIPLES OF THE CONVENTION ON THE RIGHTS OF THE CHILD

2.1. Non-discrimination (Article 2 of the Convention)

We acknowledge the prohibition of discrimination under the Constitution of 2004. However, we are concerned about the discrimination based on the legal minimum age for marriage as article 70 of the Civil Code sets 18 years for boys and 16 years for the girls.

Interviews with key informants revealed that children from Jogi and Kuchi communities faced discrimination and negative stigma.

We call upon the Committee to recommend to the government to:

- Prioritise the implementation of the Law on Protection of Child Rights and amend the Civil Code with a view to ensuring that the minimum age of marriage for boys and girls is set at 18 years.
- Adopt and implement a strategy to eliminate all forms of discrimination and stereotyping against children, especially those with disabilities.
- Put in place a strategy to address specific needs of Jogi and Chori Frosh with a view to ensuring that children from these communities enjoy their rights without any discrimination.

2.2. Best interest of the child (Article 3 of the Convention on the Rights of the Child)

We take note of Article 14 (1) of the Children Guardianship Law of 2014 which provides that the Court shall, in any case, give priority to the interests of the child and may, in addition to the provisions of this law, require the guardian to observe other conditions as well.

We are concerned that this provision, as it currently stands in the guardianship law, does not meet the threshold of the Convention on the Rights of the Child. What must be sought is the best interest of the child and not merely the interest of the child.

We are also concerned that this law does not allow the child to be heard by the court. We believe that assessing the best interest of the child without hearing the views of the child is problematic. Furthermore, the government invests very little funding for child protection to ensure the best interest of the child in policies and practices.

³ https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_-_first_quarter_report_2019_english.pdf

⁴ *Minority Rights. Afghanistan - Jogi and Chori Frosh. November 2017. Available at <<https://www.justice.gov/eoir/page/file/1023086/download>>. Accessed on 19 November 2018*

We call upon the Committee to recommend to the Government to:

- Amend Article 14 (1) of the Children Guardianship Law with a view to raising the threshold of interest of the child to “the best interest of the child”.
- Amend the Children Guardianship Law to ensure that when assessing the best interest of the child, an opportunity is given for the child to express his or her views.
- Review all laws relating to children to ensure that the principle of the best interest of the child is integrated.
- Develop a National Priority Programme on Child Protection and increase budget to promote protection.

2.3. Right to life, survival, and development of the child (Article 6 of the Convention on the Rights of the Child)

We welcome the criminalisation of anyone who puts at risk the life of a child as enshrined in Article 616 of the Penal Code amended in 2017).

However, we remain concerned with the number of verified cases of children killed and maimed: 3,179 in 2017 and 3,062 in 2018. And in the first quarter of 2019, UNAMA documented 582 child casualties ⁶.

We call upon the Committee to recommend to the government to:

- Establish mechanisms for accountability and prosecution of perpetrators of grave violations against children, including those responsible for the killing of children.
- With support from the international community, hold non-state armed groups accountable for adhering to international laws and standards to protect children in conflict.
- With support from the international community, ensure perpetrators of violations of children’s rights in conflict are systematically held to account.
- Ensure that programmes and interventions to protect children in conflict and rebuild shattered lives are adequately funded and effectively implemented.

2.4. Respect for the views of the child (Article 12 of the Convention on the Rights of the Child)

The Government of Afghanistan endorsed the Law on Protection of Child Rights, whose provisions uphold children’s active participation in society. Civil society organisations (CSOs) highly commend the Government for this endorsement but remain concerned about the lack of respect for the views of children in official policies. Interviews with some key informants showed that children’s views are still rarely sought and respected at home, in communities or by the Government.

We call upon the Committee to recommend to the government to:

- Conduct legal and policy reform with the aim of ensuring that children’s views are respected and promoted.
- Conduct a nationwide campaign to sensitise parents and other adults on respect for the views of the children and promoting child participation in decision-making at family and community levels.
- Establish a mechanism for re-integration of children back into their community.

⁵ https://unama.unmissions.org/sites/default/files/24_february_2019_-_civilian_deaths_from_afghan_conflict_in_2018_at_highest_recorded_level_-_un_report_english.pdf

⁶ https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_-_first_quarter_report_2019_english.pdf

3. CIVIL RIGHTS AND FREEDOMS

3.1. Birth registration (Article 7 Paragraph 1 of the Convention on the Rights of the Child)

We positively note the enactment of the Civil Registration Law in 2017 as it guarantees children's right to nationality and supports children's access to other rights. However, we are concerned by the low rate of birth registration. Findings from the Demographic and Health Survey revealed that only 42% of children under age 5 were registered. Focus group discussions with community members in Nangarhar province revealed that parents are not aware of the importance of child birth registration.

We call upon the committee to recommend to the Government to:

- Establish mechanisms for accountability and prosecution of perpetrators of grave violations against children, including those responsible for the killing of children. With support from the international community, hold non-state armed groups accountable for adhering to international laws and standards to protect children in conflict. With support from the international community, ensure perpetrators of violations of children's rights in conflict are systematically held to account. Ensure that programmes and interventions to protect children in conflict and rebuild shattered lives are adequately funded and effectively implemented.

3.2. Protection against violence (Article 19 of the Convention on the Rights of the Child)

We welcome the criminalisation of battering of children under the penal code as amended in 2017 (Article 612) and acknowledge the government's effort in establishing Child Protection Action Network (CPANs), which exist in 28 out of the 34 provinces in the country. However, we are concerned by the weak enforcement of the law on the Elimination of Violence against Women, as most cases of violence against women and girls are settled through mediation and thus perpetrators enjoy impunity. Findings from the Evaluation of CPAN networks in Afghanistan revealed systemic weaknesses, such as limited capacity to manage cases, lack of a social welfare workforce and limited resourcing. This curtails the functioning of the child protection system.

7 Central Statistics Organization (CSO), Ministry of Public Health (MoPH). Afghanistan Demographic and Health Survey 2015 available at

<<http://moph.gov.af/Content/Media/Documents/Afghanistan2015-Complete_CDversion_0120171792017131459670-31-1458322570.pdf>>

8 United Nations Assistance Mission in Afghanistan United Nations and Office of the High Commissioner for Human Rights. "Injustice and Impunity: Mediation of Criminal Offences of Violence against Women" Report

Interviews with key informants revealed that most mediation committees (shura) dealing with violence against women and children are mostly composed of men with a lack of knowledge of children's rights. This implies that decisions made by these committees are not made in the best interest of children and instead may perpetuate violence, exploitation and neglect of children.

Findings from focus group discussions with children in Kabul, Nangarhar and Balkh provinces showed that people at the community level were not aware of the existence of the Law on the Elimination of Violence against Women nor were they aware about the rights of children. Key informants stated that there is a weak protection mechanism in terms of reporting sexual violence at the community level. This is largely attributed to the culture for avoidance of shame.

We call upon the Committee to recommend to the Government to:

- Strengthen without a delay the child protection system by ensuring a well trained and resourced social welfare workforce and effective referral pathways from the community to the national level.
- Increase government departments' awareness on child protection, especially juvenile police officers and social workers.
- Develop a communication strategy targeting community leaders and religious leaders with the aim of eliminating harmful cultural practices such as Baad and Badal which contribute to sexual abuse of young girls.
- Develop nationwide awareness-raising campaigns on the Penal Code and the Law on the Elimination of Violence against Women and gender-based violence, with a focus on violence against children.
- Train mediators in Shura on children's rights.
- Encourage the inclusion of women in mediation committees (Shura).

3.3. Freedom from torture, inhuman, cruel and degrading treatment (Article 37 of the Convention on the Rights of the Child)

We positively welcome the criminalisation of torture in the amended penal code of 2017 as enshrined in Article 451 paragraph 2, which provides for the maximum penalty if the victim of torture is a child.

Despite the prohibition of corporal punishment by both the Penal Code and the Education Law, this form of punishment persists as shown by the findings from the baseline survey on knowledge, attitudes and harmful practices against children. According to this baseline survey, physical violence remains high. The worst forms of violence include kicking (40%); hitting with objects (40%); beating (34%); choking to prevent breathing (21%); burning or branding (15%).

Children in the focus group discussions stated that they are beaten up by their parents in home settings and in some schools as well.

May 2018. Available at

<https://unama.unmissions.org/sites/default/files/unama_ohchr_evaw_report_2018_injustice_and_impunity_29_may_2018.pdf>. Accessed on 10 November 2018

9 Baad means the giving away of girls in marriage to resolve disputes.

10 Badal means the exchange of girls between families as brides.

We call upon the Committee to recommend to the government to:

- Introduce without further delay a sustained public education, awareness-raising and social mobilisation programme, involving children, families, communities and religious leaders, on the harmful effects, both physical and psychological, of corporal punishment, with a view to changing the general attitude towards this practice and promoting positive, non-violent and participatory forms of discipline as an alternative to corporal punishment in the family and schools.
- Strengthen monitoring and reporting systems to ensure children are not physically punished in school and to enable a child-friendly educational environment.

3.4. Right to Participation (Article 12 paragraph of the Convention on the Rights of the Child)

The Government endorsed the Law on Protection of Child Rights, the provisions of which uphold children's active participation in society. However, interviews with key informants have revealed that there are no guidelines for children's participation in the development of laws, policies and programmes affecting them.

We call upon the Committee to recommend to the government to:

- Develop a national guideline for children's participation at different levels in accordance with the Law on Protection of Child Rights.
- Establish structures such as children's forums at national level and sub-national levels to enable children raise their opinions and participate in decision-making affecting their lives and their country so that their views are given due weight in accordance with their age and maturity.
- Empower children with communication skills to fully participate in relevant decision-making processes at local, provincial, national and international levels.

4. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (ARTICLES 27 ;25 ;21–19 ;18 ;11–9 ;5 AND 39 OF THE CONVENTION ON THE RIGHT OF THE CHILD).

Heavy reliance on institutional care (orphanages) is increasingly depriving children of a family environment and exposing children to child rights abuses. This was revealed through focus groups with children. In 2016, there were 72 orphanages in Afghanistan hosting an estimated 3,060 children. We have not ascertained the actual number of children in orphanages and their levels of vulnerability, as there has not been any recent assessment.

The government considers orphanages as the measure of last resort for children who lose family care. A report from UNICEF (2015) states according to some NGO reports, up to 80% of children between the ages of 4 and 18 living in orphanages were not orphans but were from families that could not provide basic services to their children. The report found that children encountered a wide range of abuses such as mental, physical and sexual abuse and that many orphanages lacked adequate running water, health services and recreational facilities.

We are also concerned that one of the requirements for a child to be taken into guardianship is “underage”, as legislated under Article 6 (1) of the Child Guardianship Law of 2014. This provision does not define the proper meaning of being underage. This vagueness of the law is likely to lead to inconsistent and potentially harmful decisions from the courts while determining whether or not a child is underage.

We are also concerned with Article 11 of the Child Guardianship Law of 2014, which reads: “Parents who cannot provide financial support to their child, under the provisions of this Law, can place their child under the guardianship of their relatives or a couple who are eager to assume guardianship of the child.” This provision does not allow the Court to scrutinise whether the couple or family relatives meet the criteria set by the law.

We call upon the Committee to recommend to the government to:

- Conduct a thorough assessment of children who are in orphanages and develop a strategy for child care reform, which will enable children in orphanages to be gradually reintegrated with their families and communities. This will help children to regain their right to family care and be responsible citizens in their country.
- Amend the Child Guardianship Law to ensure that the Court always assesses the eligibility of whoever is granted guardianship of the child whether they are a relative or not.
- Amend the Child Guardianship law to ensure inclusion of a clause that establishes minimum standards of care for children in government orphanages as well as ensuring that these standards are put in place.

5. DISABILITY, BASIC HEALTH AND WELFARE

5.1. Disability (Article 23 of the Convention on the Rights of the Child)

We positively note the efforts made by the government in developing the National Strategy for Disability and Rehabilitation. However, though the National Strategy for Disability and Rehabilitation proposes cost estimates to increase knowledge among health workers, including midwives and community-based rehabilitation workers, on early identification and referral of persons with disabilities, especially children with disabilities, it does not provide information on the number of health workers to be trained.

The government has not paid proper attention to establishing and implementing a responsive policy and strategy to providing facilities for disabled children in school.

We note with concern the failure of the National Strategy for Disability and Rehabilitation to provide disaggregated data on sex and age in terms of the percentage of persons with disabilities who have access to medical care compared to those without disabilities.

¹⁴ Ministry of Public Health of the Islamic Republic of Afghanistan.

¹⁵ National Strategy for Disability and Rehabilitation 2016/2020-

becomes difficult. There is no specific policy dedicated to the education of children with disabilities.

During the focus group discussions, children with disabilities participating stated that they faced stigma and discrimination at school and community.

Focus group discussions with community members revealed that children with disabilities received little attention from the government.

We call upon to the Committee to recommend to the government to:

- Review the National Strategy for Disability and Rehabilitation with the view to ensuring that it provides information on the number of health workers to be trained.
- Assess and subsequently adopt the National Mental Health Strategy.
- Collect and consider in policies and strategies disaggregated data based on the sex of children with disabilities.
- Develop and implement a national campaign strategy against stigma and discrimination faced by children with disabilities.
- Adopt a special need education policy for children with disabilities.

5.2. HEALTH (ARTICLE 24 OF THE CONVENTION ON THE RIGHTS OF THE CHILD)

We welcome the adoption of the National Health Policy as this policy has identified among its top priorities to improve access to and ensure the sustainability of primary health care and public health, particularly for mothers, newborns, children and adolescents.

We also positively commend the adoption of the Community Based Healthcare Strategy, which aims among other things to contribute to the reduction of morbidity and mortality rates, particularly among mothers and children. We commend the government for adopting the National Child and Adolescent Health Strategy as this strategy sets two key ambitious child health objectives, namely to reduce child morbidity and mortality by ensuring the provision of high quality, equitable health services for all Afghan newborns and children, including their mothers, with more focus on marginalised populations; and to reduce new-born and child morbidity and mortality by ensuring the creation of an enabling environment for child survival where political will, financial and human resources match the burden of disease. We also commend the government for adopting the National Reproductive, Newborn, Child and

16 Ministry of Public Health of the Islamic Republic of Afghanistan. National Health Policy 2015/2020-

17 Ministry of Public Health of the Islamic Republic of Afghanistan. Community Based Healthcare Strategy 2015/2020-

18 Ministry of Public Health of the Islamic Republic of Afghanistan. National Child and Adolescent Health Strategy 2016 – 2020

Adolescent Health Strategy which sets the goal to reduce child mortality by 35% within five years. 19

However, we are concerned with the fact that the Draft National Child and Adolescent Health Strategy does not have a monitoring and evaluation framework.

The National Health Promotion Strategy gives priority to health-related programmes targeting the most vulnerable groups, including women, children, youths, people with disabilities, internally displaced persons, returnees and nomads. 20 We also commend the government for adopting the Gender and Human Rights Strategy which aims to inter alia increase access of women, girls and the most vulnerable, disadvantaged and marginalised Afghans to health services and facilities. 21

However, we are concerned with the low rate of vaccination among children aged between 12 and 23 months as only 46% were vaccinated. 22 We are also concerned with the high rate of dropout of 21% at the national level from the first to the third dose of pentavalent vaccine and the 24% dropout rate from the first to the third dose of polio vaccine. 23

Despite efforts made to eradicate polio, we remain concerned with the increase of polio cases, with 13 cases registered in 2013, 14 in 2017 and 16 in 2018. 24

Interviews with key informants revealed that there is an unequal distribution of healthcare services and facilities across the country.

We call upon the Committee to recommend to the government to:

- Develop and implement a behaviour change strategy to increase the rate of vaccination and acceptance of polio vaccination by the population.
- Improve the quality of service at the primary healthcare level and pay particular attention to children with disabilities.
- Ensure equitable distribution of health facilities across the country.

19 Ministry of Public Health of the Islamic Republic of Afghanistan. National Reproductive, Newborn, Child, Adolescent Health Strategy 2017-2022.

20 Ministry of Public Health of the Islamic Republic of Afghanistan. National Health Promotion Strategy 2014-2020

21 Ministry of Public Health of the Islamic Republic of Afghanistan. Gender and Human Rights Strategy 2018-2022

22 Afghanistan Demographic and Health Survey 2015

23 Afghanistan Demographic and Health Survey 2015

24 Ministry of Public Health. Polio situation updates. Available at <<

<http://moph.gov.af/en/page/polio-eradication/polio-situation-updates>>>. Accessed on 10 November 2018

5.3. STANDARD OF LIVING (ARTICLE 27 OF THE CONVENTION ON THE RIGHTS OF THE CHILD)

We appreciate initiatives made by the Government in reducing malnutrition, such as the adoption of the National Public Nutrition Policy and Strategy , the Health and Nutrition Policy and Strategy and the Food Security and Nutrition Strategy.

Although we note the reduction in the stunting rate between 2012 and 2016 , we nevertheless remain concerned by the high rate of 60.5% of children suffering from stunting.

We note that the National Health Promotion Strategy sets the numeric target of 60% of mothers and caregivers knowing the importance of measuring their children’s weight, but it does not provide a baseline survey against which 60% of women and caregivers who know the importance of measuring their children weight is proposed. The Draft National Health Promotion Strategy also does not provide a baseline survey against which it sets the numeric target of children measured at 40% for weight and 40% for height.

We are concerned by the high rate of early pregnancies as findings from the Demographic and Health Survey reveal that 12% of women age 15–19 had begun childbearing, with 8% who had given birth and an additional 4% who were pregnant with their first child.

We note the lack of safe drinking water in schools as revealed during focus group discussions.

We are concerned with the delay in the adoption of a revised nutrition communication strategy as the previous one came to an end in 2013.

We call upon the Committee to recommend to the government to:

- Review and adopt the Draft National Health Promotion Strategy with a view to ensuring that objective targets are informed by the previous survey.
- Develop and implement a national strategy to combat early pregnancies.
- Expedite the adoption of the revised nutrition communication strategy.
- Provide safe drinking water in schools.

25 Ministry of Public Health. National Public Nutrition Policy and Strategy 2015- 2020

26 Ministry of Public Health. Nutrition Policy and Strategy 20122020-

27 Food Security and Nutrition Strategy 20152019-

28 European Commission. “Country Profile on Nutrition:Afghanistan” (July 2017). Available at

<https://ec.europa.eu/europeaid/sites/devcol/files/2017_country_profile_on_nutrition_-_afghanistan.pdf> Accessed on 192018/11/

28 World Bank. Malnutrition in Afghanistan: Scale, scope, causes and potential responses”. Available at

<http://siteresources.worldbank.org/INTAFGHANISTAN/Resources/Afghanistan-Reconstructional-Trust-Fund/Malnutrition_inAfghanistan_for_High_level_audience.pdf> Accessed on 112018/11/

30 Afghanistan Demographic and Health Survey 2015

6. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

6.1. Education (Article 28 of the Convention on the Rights of the Child)

We acknowledge progress made by the Government in adopting the community-based education policy and guidelines in January 2018. This policy supports the enrolment of girls in schools. We also appreciate the criminalisation of people who deprive children of their right to education as stipulated under article 609 of the Penal Code amended in 2017.

However, educational infrastructure is insufficient for the potential number of school-going children in the country, with a significant portion of existing schools not having adequate buildings. In addition, insecurity in some provinces forces children to leave schools. 31

We are further concerned by the increasing number of attacks on schools by armed groups. Over 1,000 schools in Afghanistan have been destroyed, damaged or occupied in incidents related to conflict. The Monitoring and Reporting Mechanisms (MRM) report for October 2018 indicates that attacks on schools increased by four times as much compared to 2017 for the same period from January to October. There were 162 election-related attacks compared to 9 cases in 2017. While there were 130 (37%) general insecurity incidents against schools in January to October, there were 218 election-related incidents (63%). There was a 90% increase in election-related attacks against schools in 2018 compared to 2014 when the country previously conducted elections. In 2018, there were 218 incidents while in 2014 there were 115 incidents.

The report indicated that the majority of election-related cases occurred in the Northern Region, with 68 incidents, followed by the Central region (59 incidents), while the majority of general insecurity incidents were recorded in the Eastern Region. The Southern Region registered less attacks, because most of the schools had already been closed down during the pre-elections period. It is estimated that more than half a million children were deprived of school attendance because of elections. In total 348 attacks against schools were documented, of which 218 were election-related.

We are further concerned by the falling net attendance ratio from 60% in primary school to 38% in secondary school. 69% of boys and 50% of girls aged 7–12 attend primary school while only 50% of boys and 25% of girls aged 13–18 attend secondary school. 33

31 Ministry of Education, Islamic Republic of Afghanistan, United Nations Children's Fund (UNICEF) and Samuel Hall. *All children in school and learning: Global initiative on out of school children - Afghanistan country study*. Kabul, 2018. Available at << <https://reliefweb.int/sites/reliefweb.int/files/resources/afg-report-oocs2018>>> Accessed on 11 November 2018

32 Afghanistan Demographic and Health Survey 2015

33 Idem

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Although we note the reduction in the stunting rate between 2012 and 2016 , we nevertheless remain concerned by the high rate of 60.5% of children suffering from stunting.

We note that the National Health Promotion Strategy sets the numeric target of 60% of mothers and caregivers knowing the importance of measuring their children’s weight, but it does not provide a baseline survey against which 60% of women and caregivers who know the importance of measuring their children weight is proposed. The Draft National Health Promotion Strategy also does not provide a baseline survey against which it sets the numeric target of children measured at 40% for weight and 40% for height.

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We note the lack of safe drinking water in schools as revealed during focus group discussions.

We are concerned with the delay in the adoption of a revised nutrition communication strategy as the previous one came to an end in 2013.

We call upon the Committee to recommend to the government to:

- Empower poor families with the view that they can take care of their children and that the children can be removed from working in the street and other places.
- Adopt guidelines for the implementation of the Safe School Declaration and design a strategy for stopping the use of schools for election and military related activities as this
- has been found to be the main reason why schools are attacked.
- Recruit more female teachers in remote areas.
- Collect data on school drop-out and school completion rates, and simplify the process for enrolment/re-enrolment in school.
- Increase efforts to prevent child recruitment into armed groups.
- Increase efforts to rehabilitate into formal and vocational schools children rescued from armed groups.
- Provide psychosocial support to children rescued from armed groups and children in conflict.
- Establish community based education and accelerated learning programmes, especially in remote areas.
- Increase education facilities in schools, especially those that contribute to increasing children’s enrolment and education completion rates.

6.2. Leisure

Focus group discussions with working street children revealed that they did not have time for leisure. Children in focus group discussions in Balkh, Kabul and Nangarhar provinces said that their schools lacked playgrounds.

We call upon the Committee to recommend to the government to ensure that schools have recreational facilities such as playgrounds.

¹ *Bacha Bazi* is an Afghan custom traditionally involving young boys performing dances for older males and being subjected to sexual abuse.

7. SPECIAL PROTECTION MEASURES

7.1. Children in conflict with the law

We positively note the increase of the legal minimum age for criminal liability from 7 years to 12 years as stipulated in the amended penal code of 2017. This is a positive step.

However, we are concerned by article 10 (2) of the Juvenile Code which provides for other measures such as warning, supervision by social services and confinement to a rehabilitation centre for children who are aged between 7 and 12 years and have committed a crime. This violates the legal minimum age for criminal liability (12 years of age).

Findings from interviews with key informants reveal that there exists only one department dealing with children at the Police Headquarters, despite the legal requirement to establish special units composed of male and female personnel specialising in dealing with children (article 15 of the Juvenile Code). In addition, the existing police officers who handle children's cases do not have adequate skills or knowledge in child-friendly policing. This can result in unintentional child abuse.

Some key informants said that juvenile rehabilitation centres rely mostly on funding from partners including NGOs.

We are concerned with article 38(2) of the Juvenile Code, which stipulates that “the probation officers shall present periodic reports on the behaviours of children to the Juvenile Primary Court which made the original decision”. The Juvenile Code does not precisely define the frequency of report submission.

The National Child Labour Strategy and Action Plan acknowledges the overwhelming of correction facilities caused by the application by the Afghan judiciary system of the maximum penalty for children in conflict with the law. The strategy further asserts that due to poor oversight and mismanagement of correction facilities, children usually end up reoffending once they are released and continue to be in conflict with the law.

We call upon the Committee to recommend to the government to:

- Establish without further delay specialised units in all police stations dedicated to children.
- Train police on children's rights and child-friendly policing.
- Amend the Juvenile Code to ensure that probation officers present periodic reports on the behaviour of children on a monthly basis.
- Amend the Juvenile Code with a view to ensuring that children below the age of 12 years are not subjected to any proceedings before the juvenile court as per the legal minimum age for criminal liability requirement.
- Allocate adequate budget to juvenile rehabilitation centres.
- Amend articles 97 and 98 of the Penal Code to increase protection of children in conflict with the law.

¹ *Bacha Bazi* is an Afghan custom traditionally involving young boys performing dances for older males and being subjected to sexual abuse.

Children in situations of exploitation (Article 32 of the Convention .7.2 (on the Rights of the Child

A study by Save the Children shows that children between 5 and 11 years old comprised the bulk (close to %46) of child labour participants. Vulnerability to engaging in child labour is higher among children whose mothers have no education (%26), and those coming from the poorest households (%30). A report from Afghanistan's Independent Human Rights Commission shows that the activities in which children are engaged in urban areas which are considered child labour are diverse. They include, among others, shopkeeping, carpet weaving, vending and workshop assistance.

We welcome the criminalisation of anyone who recruits a child into hard physical, unhealthy and underground forms of labour as stipulated under article 613 of the Penal Code as amended in 2017. We positively note the minimum legal age for employment set by the Labour Code to be 18 years and 15 years for light types of work (article 13 paragraph 2). We welcome the development of the National Child Labor Strategy and Action Plan which aims to end child labour by 2030 with a special focus to end the worst forms of child labour by 2025. The National Child Labor Strategy and Action Plan states that %29 of children aged five to 17 years are engaged in child labour. However, we are concerned by the lack of activities and objectives in the Strategy and Action Plan to reintegrate children formerly involved in labour into formal or vocational schools.

We also appreciate the prohibition of the employment of people less than 18 years of age for work that is injurious to their health (article 13 paragraph 4 of the Labor Code). However, we are concerned by the weak enforcement of the Labor Code: a Human Rights Watch report documented many cases of children below the minimum age for employment working in very difficult situations in the carpet and metal industries.

We note the delay in the issuance by the Ministry of Public Health (MoPH) and the Ministry of Labor and Social Affairs (MoLSA) and the relevant organizations of the list of worst forms of child labour as provided under article 2) 31) of the Labor Code.

One survey showed that %51.5 of children reported they were working a full day from 8:00 am to 4:00 pm while %48.5 reported working a half day from 8:00 am to 12:00 or 1:00 pm to 4:00 pm.

We are concerned by the increasing number of street-working children in urban areas, particularly in Kabul.

34 Save the Children International – Afghanistan Country Office. *Knowledge, Attitudes and Practices (KAP) on violence and harmful practices against children: a baseline study*. Published in August 2018

35 National Child Labor Strategy and Action Plan 20182030-

36 Human Rights Watch. "Hazardous Child Labour in Afghanistan" (2016). Available at <https://www.hrw.org/sites/default/files/report_pdf/afghanistan0716_brochure_lowres.pdf> Accessed on 15/2018/11/

37 Save the Children. *Child Supported on Children's association with harmful work (Nangharar and Balkh: July 2018)*

In addition, a study by Save the Children reveals that %18 of children and %13 of the adults interviewed stated they were at risk of recruitment into armed opposition groups in their communities. The same was also identified in the mini-survey of street working children. Although the problem is almost nationwide, children's vulnerability to recruitment varies from one region to another. For example, there were higher incidences of child recruitment in Jawzian, Sari Pul, Balkh and Nangarhar provinces than in the others. Both child (%19) and adult (%30) respondents think that children are vulnerable to recruitment into government security forces. The reasons given by the respondents include: low level of income; the presence of armed opposition groups (AOG) in the community or nearby; attraction to the popularity of AOG; costs associated with weddings; and the desire to conduct Jihad. Of all these, %74 of the children and %71 of the adults mentioned economic reasons. 38 The recruitment of minors into armed groups is an offence that also drives other violations. As a study by Save the Children notes, "child soldiers are victims, whose participation in conflict bears serious implications for their physical and emotional well-being. They are commonly subject to abuse and most of them witness death, killing and sexual violence. Many are forced to perpetrate these atrocities and some suffer serious long-term psychological consequences"³⁹.

We call upon the Committee to recommend to the Government to:

- Issue without further delay a list of worst forms of child labour.
- Ensure proper implementation of the National Child Labor Strategy and Action Plan to provide educational, vocational and livelihoods opportunities for child workers.
- Ensure the recent recruitment guidelines are strictly enforced by the defence forces.
- Roll down the Civil Registration and Vital Statistics Country Strategy Plan progressively with human resource, budget and other mechanisms.
- Work with local community leaders to influence AOGs against recruiting children.
- Strengthen local and provincial CPAN and Disaster Risk Reduction teams with human resource and budget to respond to the needs of children from conflict affected areas.

Freedom from sexual exploitation and sexual abuse (Article 34 of.7.3 the Convention on the Rights of the Child

Studies show that sexual violence is practiced against children in various ways. The Save the Children baseline document (2017) provides a picture of the magnitude of the problem. The report notes sexual abuse at home is of concern with %11 of children being forced to watch videos or look at pictures of people with no or few clothes on. And %7 of the children who participated in the survey admitted they had had to look at adults' private parts or adults had looked at theirs. Again, %7 reported being touched on their private parts in a sexual way or being forced to touch others' private parts; and %4.7 were forced into sexual intercourse. The Save the Children report further adds that sexual abuse perpetrated against girls at community level was significantly higher⁴⁰.

³⁸ Save the Children International (2017). *Knowledge, Attitudes and Practices on Violence and Harmful Practices Against Children in Afghanistan*.

³⁹ *ibid*

Furthermore, child marriage as well as forced marriage are serious protection challenges, common across provinces and ethnic groups, even though current laws prohibit these practices. The Afghanistan Multiple Indicators Cluster Survey of 2011 showed %15 of women between 15 and 19 years of age were married before they turned 15. And %46 of women were married before they were 18 years of age. Guardians marry off their girls at earlier ages for various reasons. As marriages are decided and arranged by parents, children have no say in the process. Sometimes parents opt for letting their children marry before they reach 18 in exchange for money or under the influence of powerful persons. Although there are situations where boys marry before 18, girls are nine times more exposed to early marriage than boys.

According to the Afghanistan Independent Human Rights Commission, %36.4 of child marriages take place due to economic problems. When analysed across regions, %33 of those aged 19–15 in the Western Region were married while the figure was %12 in the Central Region. Child marriage remains widespread in Afghanistan for various reasons including the law, which sets the minimum age for girls at 16 years, and customs that allow for marriage of girls aged below the legal minimum age.

We appreciate the criminalisation of sexual exploitation and abuse in the amended Penal Code. However, we remain concerned by the entrenched harmful practices as mentioned above as well as Bacha Bazi, Baad and Baadal. Interviews with some of the key informants revealed that boys who were victims of Bacha Bazi do not report their cases as they fear being stigmatised by the community. Key informants also revealed that boys who are victims of Bacha Bazi do not receive psychosocial support from the Government.

Some informants revealed that girls were vulnerable to sexual abuse in camps hosting Internally Displaced Persons (IDP). Some informants cited poverty and insecurity as being among the causes of child marriage.

We are concerned about the children engaged in drug use and trading due to the lack of government political will to come up with responsive policies and strategies to protect children from exposure to drug abuse at home and in communities and public places.

We call upon the Committee to recommend to the government to:

- Increase efforts to end child marriage.
- Develop a comprehensive strategy to prevent and respond to child sexual abuse.
- Provide psychosocial support to victims of sexual abuse.
- Provide security in camps hosting IDP and returnee children.
- Establish reporting mechanisms in IDP camps with a focus on children's rights.
- Develop and implement poverty reduction programmes to assist poor families and tackle poverty as one of the root causes of child marriage.
- Develop and implement a responsive policy and strategy to protect children from involvement in the use and trading of drugs.

40 *ibid*

41 CSO (2017). *The Afghanistan Population Estimates for the Year 1397 (2018/19-)*

42 Government of the Islamic Republic of Afghanistan (2018). *Child Marriage in Afghanistan: Changing the Narrative*. Study commissioned by MoLSAMD and supported by UNICEF Afghanistan. Available at <<
<https://www.unicef.org/afghanistan/sites/unicef.org.afghanistan/files/201807-lafg-report-Child%20Marriage%20in%20Afghanistan.pdf>>>. Accessed on 15 November 2018.

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