

Annex II

**ISLAMIC REPUBLIC OF AFGHANISTAN MINISTRY OF FOREIGN AFFAIRS
HUMAN RIGHTS AND WOMEN'S INTERNATIONAL AFFAIRS**

**Reporting Process to the Human Rights Council of the United Nations within the
Framework of the Universal Periodic Review Mechanism
December 2008 to March 2009**

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1. Introduction

The preamble to the Universal Declaration of Human Rights expresses the aim of creating a world where people enjoy freedom of speech and religion, and where the individual can feel safe in terms of freedom from fear and want. This means a world with peace among people, nations and peoples. The rationale of the preamble is that such peace can be sustained if the individual person feels appreciated, treated with dignity and experiences equal rights - being equal for all persons- are protected by the law (rule of law).

Human rights can thus be considered as a comprehensive set of directions for the framework a state should establish to promote a peaceful development of society, based on

1. giving each individual the opportunity to exploit his/her potential while fully respecting the dignity and value of fellow human beings - and
2. provided that the development of society is governed in such a way that social progress is achieved as well as living conditions allowing the individual to experience freedom to act.

Human beings are different, peoples are different and states enjoy sovereignty. Differences must be respected and recognized in order to maintain peace and security, and sovereignty is the basis for national legislation in the shape of a state ruled by law which can ensure predictability and accountability.

The Human Rights Council (HRC), based in Geneva, was established pursuant to General Assembly resolution 60/251 of 15 March 2006 and consists of forty seven Member States of the United Nations. The General Assembly, in its resolution 60/251, mandated the Council to 'undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies.'

It means that in addition to reporting on each treaty to the relevant body, an overall human rights report from each country is required every four years - the Universal Periodic Review Mechanism. Afghanistan, as a UN member, should also submit its report, scheduled in February 2009.

The Government of Afghanistan is committed to complying with this new reporting mechanism while at the same time recognizing how demanding the task will be. Not least in the light of the limited time available and in view of the present conditions and resources available to the Government of Afghanistan it has decided to request specialized assistance to meet the requirements of the UN.

The Dutch Embassy in Kabul has been requested to be of assistance in the process. This request has been received in a positive way in line with the new Human Rights Strategy of the Dutch government, 'Human Dignity for All'. The strategy places human rights at the centre of Dutch foreign policy. Priority is being given to activities focussed on the promotion of freedom of speech and the enlargement of media diversity but also to activities that relate to actual developments in the field of human rights and support the long term goals of Dutch

foreign policy. One of the earmarked priorities in the implementation of the strategy is the support of reporting obligations resulting from International Treaties on Human Rights.

2. Strategy UPR Afghanistan

2.1. Reporting Standards

For a nation-building and peace process to become rooted and for the state to increase its internal as well as international legitimacy, the Government of the Islamic Republic of Afghanistan has to address the issue of human rights seriously and take effective steps in this regard. Reporting on international human rights treaties, and especially on the Universal Periodic Review mechanism (UPR), equips the state with one of the best instruments to coordinate its strategies and policies towards bringing unity among people, as well as establishment of a stable and responsible state.

The states legitimacy can only be obtained if it addresses the rights of all groups within the Afghan society, across all ethnic lines and ages. The treaty reporting process on the overall status of human rights within the Universal Periodic Review (UPR) mechanism is a means for the government of the Islamic Republic of Afghanistan to develop policies that realize the three generations of human rights for its citizens. These benefits are very necessary, even vital, for a country that is coming out of an extended period of conflict and starting to build of rebuild its nation - building process and its different kinds of infrastructures and institutions.

Afghanistan is a party to most of the major international human rights treaties¹. It has an obligation to implement the treaties and to periodically report on its progress to the treaty body committees in the UN.

The aim of the present process is to report on the overall status of human rights within the Universal Periodic Review (UPR) mechanism so that with the participation of line ministries, non governmental stakeholders, the required and sustainable reporting capacities are built for all human rights treaties, especially for the Universal Periodic Review (UPR) mechanism.

As a result of the proposed process a report will be prepared to be presented to the Government of the Islamic Republic of Afghanistan before February 2009 in accordance with the general guidelines for the preparation of information under the universal periodic review Decision 6/102. This means that reporting will be finalized that does not stand alone and is not abstract, but is part of a national system that ensures continuous monitoring and follow-up. In this manner recommendations as well as lessons learned in the process will be used to improve the human rights situation in Afghanistan. The process will provide a base line on the human rights situation in Afghanistan upon which a specific action plan can be prepared, taking into consideration recommendations from the UN and from the national report itself.

¹ ICCPR, ICESCR, CAT, CEDAW, CERD, CRC

2.2. Methodology

Working in a number of different reporting processes in previous years, the Ministry of Foreign Affairs of the Islamic Republic of Afghanistan has developed a concept for fulfilling the UN human rights reporting requirements, the so-called 'Reporting Wheel'. The Ministry of Foreign Affairs of the Islamic Republic of Afghanistan finds that this concept is relevant and appropriate also in the Afghan context. The Reporting Wheel consists of a number of steps which ensure that the report(s) is prepared with due consideration to the work process, analysis, continuity, legitimacy, representation, dialogue, feed back and monitoring. It is a continuous process, thus a wheel, as each report presented also marks the first step for the next report, including not least follow-up on recommendations of the report or from the UN system or other stakeholders in this process.

2.3. Multi-stakeholder participation

The report preparation is the principal responsibility of the State Party. Yet, the participation of non-governmental stakeholders in the process of preparing the report is of eminent importance. The civil society should be actively involved in the reporting process. In a few countries there has been extensive consultation with NGOs and their contributions have been fully incorporated into the official State Parties' reports to their satisfaction. Irrespective of whether NGOs have contributed to the preparation of the government report, the Human Rights Council of the UN still expects a serious and independent assessment from NGOs (civil society).

The Human Rights Council of the UN believes that the process of preparing a report provides an important opportunity to conduct a comprehensive review of the various measures undertaken to harmonize law and policy with human rights values and to monitor the progress made. It has noted that the most useful State Parties reports are those which provide a clear picture of the value placed on their citizens and their rights by the Government and society at large. Therefore, the Council encourages that the report should go beyond providing the legislative framework and suggests that it reflects a multi-disciplinary approach to the implementation process.

The Ministry of Foreign Affairs of the Islamic Republic of Afghanistan considers this multi-stakeholder participation as an important element of the reporting process. For this purpose a civil society forum will be constructed and gathered at the beginning and the end of the process in order to take adequate care of the voice of the Afghan citizens in the field of human rights.

2.4. Advocacy and public education

The official launch of the initial report on the UPR Mechanism will create nationwide awareness and will alert the government to take corrective measures to fulfill the gaps identified throughout the process. This process will also help the Government of the Islamic Republic of Afghanistan to address the discourse of human rights more seriously on the national level. It will also encourage donor communities to have a trusting opinion on the efforts of the government of Afghanistan in the area of securing and institutionalizing human rights, which will encourage them to allocate resources to the government in order to help

further improve the situation of human rights in the country.

The translation of the report on the overall status of human rights within the UPR Mechanism into the national and local language(s) of Afghanistan and its wide publication will provide information to the people of the country on the overall status of human rights in their country and thus their trust will be strengthened. During this process, serious efforts will be exerted to make the subject matter of this report part of the discussion by different spectra of society, and to finally prepare a complete report based on the objective realities of Afghanistan's society as well as the UN applicable standards, and to submit it to the Human Rights Council of the UN.

3. Proposed Structure

3.1. Steering Committee (SC)

The Government of the Islamic Republic of Afghanistan appoints a Steering Committee (SC) consisting of the relevant departments, representatives of national reporting bodies to international treaty bodies, representatives of civil society and a number of legal and judicial experts. The Steering Committee (SC) of the Reporting Process will work under the chairmanship of The Islamic Republic of Afghanistan's Minister of Foreign Affairs.

The SC represents the Government throughout the drafting process and is responsible to the Government for the report. The SC will present the report to the Government for approval. The SC will comment on a draft report before the Drafting Group (DG) presents the final draft of the report to the Council of Ministers for approval. The SC will guide the work of the Drafting Group.

All members of the SC will be Afghan officials and their contribution to the SC is part of their existing mandates and responsibilities.

The Steering Committee (SC) is composed of eleven members:

1. Dr. Rangin Dadfar Spanta, Minister of Foreign Affairs of the Islamic Republic of Afghanistan, Head of the Committee
2. Dr. Muhammad Qasim Hashim Zai, Professional Deputy Minister, Ministry of Justice, member
3. Mr. Wasel Noor, Deputy Minister, Ministry of Labor & Social Affairs (member)
4. Mr. Abdul Malik Kamawi, General Director of Administration of the Supreme Court, member
5. Mr. Muhammad Farid Hamidi, Member of Afghanistan Independent Human Rights Commission, member
6. Mr. Nasrullah Stanakzai, Professor, Faculty of Law and Political Sciences, Kabul University, member
7. Ms. Zohra Rasekh, Director of Human Rights and Women's International Affairs, MoFA, member
8. Mr. Farhad Arian, Deputy Director of Human Rights and Women's International Affairs, MoFA, member
9. Mr. Muhammad Sediq Rasooli, Deputy Director of United Nations and International

- Conferences, MoFA, member
10. Mr. Abdul Hamid, Head of Law and Judicial Affairs' Protection Department, General Directorate of Administration of Affairs, Minister's Council, member
 11. Mr. Malik M. Sietez, representative of civil society, member

3.2. Drafting Group (DG)

The Steering Committee appoints a Drafting Group (DG) consisting of relevant ministries, the Afghan Independent Human Rights Commission, civil society institutions, and experts from the three Working Groups (WG) acting under the DG. The DG will be headed by an Expert Chairman (EC). The DG includes the WGs and other focal points headed by the Expert Chairman who answers to the SC through the Secretariat.

The core members of the DG are Afghan officials. They contribute to the SC as part of their defined mandates and responsibilities. The experts from the three WGs will also be Afghan experts appointed on their merit.

The Drafting Group (DG) is composed of about 9 experts in the field of civil rights, political rights, social rights/psychology, economic rights, women and gender rights, environmental rights, Afghan legal and judicial system, education and health and child rights.

3.3. Working Groups (WG)

The three WGs will be responsible for the Legal Analysis (four local experts for a period of 6 months), Implementation Status and Basic Country Data (each with 3 local experts for a period of 4 months). The work of the two first Working Groups will be supported by a Civil Society Forum to be held twice during the process. This Forum will be a major event gathering a wide representation of Afghan civil society - approx. 100 participants gathered for 2 days. The Secretariat will be responsible for this activity in close cooperation with the DG.

3.4. Civil Society Forum (CSF)

During the entire reporting process the DG will ensure both multi-stakeholder participation and advocacy and public awareness.

The DG along with the Secretariat will liaise continuously with relevant stakeholders such as NGOs, civil society networks, media, etc and maintain an open dialogue about the reporting process as well as the main content of the report. The key event in this process will be the Civil Society Forum consisting of a broad representation of Afghan civil society to ensure its input to the report. With the assistance of the DG the Secretariat will also ensure continuous advocacy and public information about the reporting process and the final report to the general public.

3.4. Secretariat

The secretariat will function in the heart of the reporting structure. The secretariat is responsible to the Steering Committee (through monthly reporting). It functions as a liaison between SC, DG, WG's and CSF and is responsible for the coordination and facilitation of the whole UPR process. It provides administrative and technical assistance, also to SC/DG/WG's/CSF. The secretariat will be directly responsible for the public's access to the reporting process information and will ensure continuous advocacy on the UPR process. The

secretariat is responsible for the website. It liaises continuously, together with the DG, with NGO's, civil society networks, media etc. It is headed by a coordinator and further on staffed by a project manager, two translators, a communication advisor/website manager, a liaison officer and two international human rights experts.

4. CILC Involvement

CILC, the Center for International Legal Cooperation, based in Leiden in The Netherlands has been requested to assist the Ministry of Foreign Affairs of the Islamic Republic of Afghanistan to support the UPR process. This support will be given through adequate input in the Secretariat. CILC works demand driven on the principle that CILC involvement is meant to support both the quality and the Afghan ownership of the UPR process.

The Center for International Legal Cooperation (CILC) is an independent Dutch non-profit organization. It is a foundation according to the law of the Netherlands, which provides expertise to developing and transition countries engaged in legal and judicial reform. CILC was founded in 1985 in the belief that a functioning, reliable legal system is a critical precondition for the political, economic and social well-being of a country's population.

As development and transition countries work to improve their legal and judicial systems, many welcome the assistance and expertise provided under international legal cooperation projects. The aim of these projects should preferably be to transfer knowledge adapted to local needs, rather than to transplant foreign institutions and procedures. Taking an active role in this field befits the Dutch tradition of political and economic internationalism. The modern Dutch legal and judicial system, based on civil law but incorporating common law elements, is highly regarded internationally as an inspiring example. There is great demand in developing and transition countries for Dutch legal expertise.

The CILC Executive Board consists of a number of prominent lawyers from the Dutch judiciary, the Ministry of Justice, universities and the diplomatic service of the Netherlands. The Board of Trustees has seats for representatives of the various Dutch law faculties, the Council for the Judiciary, the Board of Prosecutors-General, the Netherlands Bar Association, the Association for the Administration of Justice (NVvR), the Royal Organization of Bailiffs (KBVG), the Association of Company Lawyers (Nederlands Genootschap Bedrijfsjuristen), the Netherlands Notary Organization (KNB), and other professional bodies and specialized institutions whose work is relevant to CILC's mission. CILC's Board of Trustees also functions as the Council for International Legal Cooperation: a platform and network for exchange of information and experiences in international legal cooperation. All aforementioned organizations and institutions have joined CILC, leaving the tasks of development, implementation and monitoring/evaluation of projects, as well as the process management for an institutionalized legal change process, in the competent hands of CILC's staff. This allows them to focus on the core input of providing high level (comparative) expertise. Another advantage of CILC, representing the entire legal community of the Netherlands is, assuring a broad and coherent input of expertise in its projects rather than addressing issues of legal reform exclusively from the perspective of one of the legal professions or one single law school.

CILC has a strong network in the Dutch and European legal professional world, which allows it to draw on a large pool of legal specialists in order to build expert teams for individual cooperation projects. The CILC approach allows these experts to concentrate on providing specific expertise to the beneficiaries and project partners. All other aspects related to the experts' input, such as knowledge of the local languages and the cultural context of the legal system, project management, logistics, embedding the individual expert's input in a broader strategic intervention logic, are taken care of by CILC staff. This model allows for the most effective and efficient input of high level expertise by Dutch legal professionals.

5. The UPR Secretariat

CILC involvement will be focused on the Secretariat in the UPR process. From the side of the Ministry of Foreign Affairs of the Islamic Republic of Afghanistan a proposal has been made for the staffing of the secretariat, its responsibilities and activities in order to manage the UPR process and to take care of a UPR report of high quality with the involvement and consultation of all parties concerned. CILC meanwhile has made some additional suggestions in order to ameliorate the process as much as possible, on the basis of its international and human rights experience. As a result the following proposal has been set:

5.1. Proposed activities

5.1.1. Requirement of international expertise on human rights and the UPR process

- a. CILC will take care of the selection of two highly qualified human rights experts with a broad international experience, who will assist in the process both in Kabul and in The Netherlands;
- b. CILC will take care of the selection of several human rights experts in the different fields of human rights as mentioned under the DG. This specific network of experts (from Dutch and if necessary European origin) will be available as a resource in The Netherlands;

5.1.2. Internal coherence of the UPR process

a. Orientation Workshops

An orientation workshop will be organized at the start of the UPR process for all staff of the Secretariat, the Drafting Group, Working Groups and representatives of the Civil Society Forum, and also inter ministerial focal points (estimated at 60 participants). The goal of this meeting is team building and familiarization with the process rationale of UPR.

b. UPR Steering Committee meetings

The Secretariat will be responsible for the organization of meetings of the Steering Committee during the process.

5.1.3. Civil Society involvement and external communication

a. Civil Society Forum

During the UPR process the Civil Society Forum will meet. The forum will consist of about 60 participants. The selection and invitation of organizations to participate in this forum will be an important task of the Secretariat, and will start at the very beginning of the UPR process.

b. Press conferences

The Secretariat will organize every first week of the month a press conference in its offices on the proceedings of the UPR reporting process. The Secretariat will take care of an open invitation procedure, in close collaboration with the communication experts of the Ministry of Foreign Affairs of the Islamic Republic of Afghanistan.

c. Website

The official website for the Treaty Reporting Process is going to consist of all needed information about the Universal Periodic Review (UPR) Reporting Process as well as the Afghanistan Report on the Convention on the Rights of the Child and the previous human rights treaty reporting which the Government of the Islamic Republic of Afghanistan has already prepared since 2002 and submitted to the UN related reporting bodies.

d. Other communication material.

Moreover the Secretariat will be responsible for editing and publication of newsletters, posters, radio and television spots etc.

5.1.4. Final presentation of the UPR report

The final report will be presented in Geneva in February 2009 by a delegation of about 10 persons, headed by the Minister of Foreign Affairs of the Islamic Republic of Afghanistan. It is preferable that the delegation will consist of one of the international human rights experts who participated in the UPR process.

5.2. Staffing of the Secretariat

In order to take care of these activities the Secretariat will consist of the following personnel.

The Ministry of Foreign Affairs of the Islamic Republic of Afghanistan proposes a coordinator and further on a project manager, two translators, a website manager/communication advisor and two international experts. The administration of funds and the organization of activities of the writing process will be in the hands of a, locally recruited, project assistant. The assistance in the writing process of the DG and in the analysis of data will be done by international, in this particular case, Dutch experts.

The human rights field covers many subjects; it is impossible to have all this knowledge at hand by two international human rights experts. CILC will take care that one human rights expert has the required seniority and general background to be able to assist in all discussions and reporting matters, and that the second human rights experts will be specialized in the UPR mechanism. Meanwhile more specific expertise on the three generations human rights should be at hand in a pool of experts in The Netherlands. CILC therefore will construct a human rights expertise pool in The Netherlands and assure that the required expertise will be at hand at the shortest notice possible.

The organization of the human rights expertise from The Netherlands/Europe, the right matching between the Afghan demands and Dutch supply, and the support of the Secretariat during the process also in the field of administration, financial accounting, management and perhaps also communication will need to be staffed as well. For this purpose CILC proposes a liaison officer, bi lingual and bi cultural, to take care of the quality of the process and the final outcome.

5.3. Management, housing, logistics

The secretariat will be located in the vicinity, or perhaps even in the offices of the Ministry of Foreign Affairs of the Islamic Republic of Afghanistan, supposing the meetings of the Steering Committee will take place there under the presidency of the Minister of Foreign Affairs. The secretariat will be provided with sufficient office equipment, including up to date computers (hardware and software). Moreover the secretariat will have a car at its disposal during the whole process, with which it can take care of its external visits.

6. Workplan and Time Schedule

Refer to Annex 3, Afghanistan UPR Reporting Process Action Plan

7. Budget

1. The deadline for the UN reporting is in February 2009. The project period will be 2 months (December 2008 and January 2009).
2. The main resource required for the process is human resources (personnel remuneration) and technical facilities. As the “Reporting Wheel” builds on ordinary, existing national structures, most staff will already be government officials/civil servants and therefore, not be funded by the project. However, the need for specialized input concerning human rights/UN reporting methodology is substantial.

The End