

UNICEF inputs to
The Universal Periodic Review - AFGHANISTAN -

October 2008

I. BACKGROUND AND FRAMEWORK

1. Afghanistan Human Development Report 2007 indicates that the country remains one of the least developed countries, ranking 174 out of 178 in the Human Development Index (HDI). Forty two percent of the total population lives under the CBN poverty line.¹
2. Afghanistan's new Constitution was adopted in 2004 when the Loya Jirga approved it by consensus. The Constitution mandates the respect for and promotion of fundamental rights, the equality of men and women and conformity with the UN charter, international treaties and international conventions that Afghanistan has signed – provides a cornerstone for legislative and policy reform.
3. Afghanistan is a party to most of the major international human rights treaties. Afghanistan ratified the Convention on the Rights of the Child (CRC) on 27th April 1994, the CRC Optional Protocol on Armed Conflict on 24th September 2003 and the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography on 19th September 2002. It should be noted that, however, on signing the CRC, a declaration was entered that "the Government of the Republic of Afghanistan reserves the right to express, upon ratifying the Convention, reservations on all provisions of the Convention that are incompatible with the laws of Islamic Shari'a and the local legislation in effect." Also acceded to are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic Social and Cultural Rights and the International Covenant on Civil and Political Rights. Afghanistan joined SAARC in April 2007, and has also ratified the 2002 SAARC Conventions on Child Welfare and Trafficking.
4. The Afghanistan Compact provides the framework for international engagement with Afghanistan for 2006-2010 in three areas of activity: security, governance (including human rights and rule of law), social and economic development and cross-cutting areas such as counter narcotics, gender equity and anti-corruption. The full Afghanistan National Development Strategy (ANDS) was adopted in 2008 covering the period up to 2013 and provides the framework for the development of Government policies and strategic plans and guides the allocation of resources and programmes toward the benchmarks. During the Paris conference in June 2008, the Afghan government committed itself to implement its obligations through the ANDS and the international community in turn committed itself to provide resources and support to realize that vision. The Government and international community also committed themselves to improve the effectiveness and accountability of international assistance.
5. Established under the ANDS Governance, Rule of law and Human Rights Consultative Group, the Technical Advisory Group on Women and Children in Justice and the Criminal Law Committee of the Law Reform Technical Working Group supported by the UN agencies among others, are specifically dealing with justice-for-children-related policies, programmes and legal reforms.
6. Violence against women and children and their lack of access to justice continues to be a significant problem. Despite the progress made in Afghanistan's formal justice system, traditional dispute resolution mechanisms, especially in rural areas, remain dominant and continues to raise serious human rights concerns with respect to the treatment of women and children. There is discrimination against women with respect to their access to equal and fair justice because they are traditionally rarely able to register cases themselves.
7. The Government of Afghanistan endorsed the Millennium Development Goals (MDGs) in May 2004 and opted to count 2003 as the baseline year for its tracking. The country's MDG target year is 2020 which gives it another 12 years to achieve the MDG benchmark. Considering security an essential

¹ ANDS Social Protection Strategy (2008, P.2). This figure is estimate of poverty headcount rates based on the Cost of Basic Needs (CBN) poverty line.

prerequisite for achieving MDG goals in Afghanistan, *Enhancing Security* been added as the ninth MDG goal for the country. Afghanistan's first report on MDGs (Vision 2020) was presented to the UN General Assembly in 2005.

8. The National Strategy on Children at Risk (NSFCAR), drafted with extensive technical assistance from UNICEF, was launched in May 2006. NSFCAR also integrates the existing National Plan of Action on Child Trafficking (2004) and calls for a wider inter-ministerial and civil society collaboration. It particularly lays out specific activities to prevent family separation, institutionalization of children and violence against and exploitation of children. The Department of Social Work was established within the Ministry of Labour and Social Affairs, Disabled and Martyrs (MoLSADM) in order to facilitate the implementation of the NSFCAR.

9. The Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Radhika Coomaraswamy, visited Afghanistan from 28 June to 3 July 2008 at the invitation of the Government. The visit aimed at establishing the monitoring and reporting mechanism on grave violations committed against children in armed conflict, pursuant to the Security Council Resolution 1612 (2005) and assessing the impact of the conflict first hand.

10. The Country Task Force Monitoring, Reporting and Response Mechanism (CTFMRM), co-chaired by UNICEF and UNAMA, was set up on 27 July 2008. The establishment of a Monitoring and Reporting Mechanism (MRM) in Afghanistan was endorsed on 28 July 2008 by the United Nations Country Team. The CTFMRM submitted its first annual report to the SRSG CAAC in August 2008. The report covers the period from 01 July 2007 to 15 August 2008 and highlights trends and patterns of violations committed against children in the context of the armed conflict in Afghanistan, and is expected to be discussed by the Security Council in later 2008.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

11. Experience and expertise in the monitoring of child rights violations has been limited in Afghanistan. There are however organizations monitoring child protection issues including conflict related incidents, the most prominent being the Afghanistan Independent Human Rights Commission (AIHRC).

12. AIHRC has constitutional status to monitor the observation of human rights and to promote their advancement. AIHRC can refer cases of violation of human rights to the legal authorities, and assist in defending the rights of the complainant. In the area of child rights monitoring, AIHRC undertakes regular field child rights monitoring through their 12 child rights monitoring officers. UNICEF supports the capacity building and field operations of Child Rights Units in 12 provinces. In March 2008 UNICEF, UNHCR, UNAMA and UNIFEM signed a Statement of Principles (SoP) to establish a common framework for the capacity building of AIHRC.

13. Child Protection Action Networks (CPAN), a working group consisting of government departments, service providers, child protection NGOs and UN agencies also monitor violations and refer victims to support services. As of September 2008, there are 27 provincial CPANs and one national CPAN operational in Afghanistan. Between January and June 2008, 637 cases (368 boys; 269 girls) of child protection abuses have been reported to 21 provincial CPANs and subsequently received various support services such as legal aid, counseling and medical assistance.

14. In response to emerging issues of child sexual abuse and exploitation and in line with the South Asia Forum and Regional Strategy for combating sexual exploitation, a Task Force on Prevention of Child Sexual Abuse and Exploitation was established by the national CPAN in September 2008. Limitation of the existing legal framework to tackle trafficking, child sexual exploitation and sexual abuse is a key area of concern.

15. An under-developed independent bar (only established in July 2008) 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. Since January 2008, UNICEF supports the development of legal aid services

for children in 10 provinces in order to reduce inappropriate/illegal incarceration of children and to reduce the overall length of incarceration. To date, legal aid has reached over 600 children and youth aged 10-19 years in 10 provinces, and coverage was extended to additional 6 provinces in August 2008.

16. The Afghan Protection Cluster (APC) was established in May 2008, as part of the roll-out of the Cluster Approach for the coordination of emergency and relief response. The APC aims at facilitating a more predictable, accountable and effective approach by humanitarian, human rights and other actors to protection concerns within the context of humanitarian action in Afghanistan. The APC is chaired by UNHCR, with UNAMA's Human Rights Unit and an NGO as Deputy chairs. UN agencies have agreed to assume primary responsibility on substantive areas: (i) IDPs, Deportees, Returnees – UNHCR; (ii) Enhanced Protection of Civilians – UNAMA; (iii) Child Protection – UNICEF; and (iv) GBV and other forms of violence against women – UNFPA. With the creation of a MRM CAAC, the APC will prioritize grave violations and abuses committed against children in armed conflict and will support the work of the MRM.

17. The National Solidarity Programme (NSP) under the Ministry of Rural Rehabilitation and Development (MRRD) is the largest programme throughout the country that caters for the provision of rural infrastructures; schools, clinics, water and sanitation, roads, rural electrification among many of its activities that supports directly or indirectly the healthy well being and growth of children. The programme also aims at community empowerment by engaging beneficiary communities in all aspects of programme implementation. By end November 2007, the programme has successfully mobilized activities in 19,690 communities, helped elect 18,491 Community Development Councils (CDCs), facilitated the completion of 18,234 Community Development Plans (CDPs) and financed 16,031 CDCs with 30,626 subprojects. These projects reflect and respond to identified priorities of communities and represent important progress towards achieving the targets under the ANDS and the MDGs in Afghanistan.

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

18. Despite the many challenges faced by the country, 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.

19. Afghan MDG 1 Eradicate Extreme Poverty and Hunger: The country's GDP per capita (PPP) increased from \$683 in 2002 to \$964 in 2005 and has maintained double digit economic growth over past few years (AHDR 2007). Almost 40% children less than three years old are underweight and 54% of children under five are stunted. The government has made major investment in rural public works to build an all-weather rural road system and restore reliable irrigation to increase access to markets and provide impetus to the rural economy.

20. MDG 2 Achieve Universal Primary Education and MDG 3: Promote Gender Equality and Empower Women: Over 4.6 million children were enrolled in primary grade in 2007 as compared to less than 1 million in 2001. However, there are still enormous gender gaps to meet MDGs 2 and 3. There is almost a 1:1 ratio of girls and boys attending school in urban areas, but boys' attendance in primary grade is almost double that of girls in rural areas. Girls still face lack of access to education due to restricted movement, shortage of female teachers and poor facilities. Lack of security is a major challenge particularly in some Southern provinces where the attendance rate is below 6%.

21. The National Education Strategy endorsed in 2007 highlights the government's commitment to increase enrolment with focus on expanding the attendance rate of girls and increasing both access and the quality of education. The Strategy seeks to make a beginning towards the Constitutional mandate that the State will provide free and compulsory education from Grade 1 to Grade 9 and a free education to the completion of tertiary level.

22. MDG 4 Reduce Child Mortality: The estimated U5MR is 257 per 1000 live births (LB) and IMR is 165 per 1000 LB (SOWC 2008). The mortality remains the highest among the neighboring countries, but the falling trend suggests that MDG target on reducing child mortality will be possible with a supportive policy environment. A substantial long-term investment to strengthen the health system is needed while making efforts to increase access to high impact in un-reached areas and addressing neonatal deaths which

account for 24 % of total under-five deaths (Lancet Newborn series). In 2003, the framework for Primary Health Care in Afghanistan was adopted as the Basic Package of Health Services (BPHS), which is rural-oriented, engages Community Health Workers (CHWs), and covers health care from community to district hospital level with an emphasis on preventive measures. The framework for Hospital Care is provided by the Essential Package of Hospital Services (EPHS).

23. MDG 5 Improve Maternal Health: Afghanistan has over 26 million women of child bearing age (15-45 years) representing 21.3% of the population (AHS, 2006) and children under-five making 18% of the population (SOWC, 2008). A Maternal Mortality Ratio (MMR) of 1600/100,000 live births means 17,000 Afghan women die of pregnancy-related complications every year. With expanding coverage of BPHS, the situation seems to be improving. Preliminary findings of recent household study shows that pregnant women in rural areas receiving care from a skilled provider before delivery has increased from 4.6% in 2003 (MICS 2003) to 32.2% (JHU and IIMR, 2006). Women in rural Afghanistan having a doctor, nurse or midwife assist with last delivery increased from 6% to 18.9%.

24. MDG 6 Combat HIV/AIDS, Malaria and Other Diseases: Prevalence of HIV/AIDS is low (<0.1) but there is risk of rapid spread. To respond to the threat of HIV/AIDS, Afghanistan developed the National HIV/AIDS Strategic Framework 2006-2010, which covers HIV surveillance; Voluntary Counseling and Testing (VCT), HIV treatment, care and support; targeted interventions for most at risk populations and other vulnerable groups; joint HIV and TB services, as well as advocacy and communication for community leaders and general population. Reportedly, the malaria cases dropped by almost half; the official malaria incidence is 329,754 in 2006 (NHDR 2007). Afghanistan remains polio endemic with 22 cases reported so far (October 2008). Cases of communicable diseases remain high, and to enable the health system to detect and respond, a Disease Early Warning System was established by MoPH with support of CDC/US, USAID, WHO and UNICEF.

25. MDG 9: Enhancing Security: The security situation throughout Afghanistan has deteriorated significantly in the past years. Civilian casualties as a result of imprecise targeting or mistaken identity remain of major concern. A national workshop on the Protection of Civilians was held in Kabul in August 2007. The recommendation includes the necessity of conducting After-action reviews in cases where civilian casualties occurred following military operations.

26. There are at least 200,000 children in Afghanistan living with permanent disability (physical, sensory and/or mental impairment), according to a 2005 survey by Handicap International. A working group on Children with Disability established under the NSFCAR led by the AIHRC has developed a draft Plan of Action on Children with Disability in 2006.

27. 24.3% of children aged between 7 and 14 years are working (MICS 2003). The same survey found that: 1) girls work more than boys (25.1% v.s. 23.5%); 2) regional differences are small (Central 20% v.s. North 27%); 3) provincial differences are big (Badakshan 5% v.s. Bamyan/Paktika 39.5%); 4) more child labor in rural than urban areas (26% v.s. 20%). While these figures provide a glimpse into the scale of the problem, much more needs to be learned about the nature, forms, concentration and cause of child labor in Afghanistan. The latest Labour Code (2007) sets the minimum age of employment at 15 years (with some restrictions). Afghanistan has not yet ratified the ILO Convention 182.

28. Despite a "deinstitutionalization policy" stipulated in the NSFCAR, there is a persisting interest by local governments, civil society and general public to expand or initiate orphanages as the first line of response for children in need of care and protection. The number of private orphanages has increased in recent years. There are 46 state-run orphanages under MoLSADM and 16 private orphanages operating in the country hosting over 10,000 children as of October 2008. Lack of proper regulatory mechanisms and qualified social workers makes it almost impossible to establish proper gate-keeping and maintain the quality of care in those institutions.

29. The child soldiers' demobilization process supported by UNICEF in Afghanistan ran from February 2004 - October 2005. The programme was parallel to and synchronized with the Afghan New Beginnings Programme (ANBP), a joint UN-Afghan Government programme leading the disarmament, demobilization

and reintegration (DDR) of former combatants across the country. A total of 7,444 under-age soldiers (all boys) between the ages of 13-18 were demobilized throughout the process. UNICEF subsequently assisted reintegration of 12,614 children (8,311 boys/3,803 girls) associated with armed forces and groups and other war-affected children in 29 provinces between 2003 and 2007.

30. The Afghan Juvenile Code was enacted on 9 March 2005. The new 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. Lack of due process in juvenile justice system is also a serious concern in Afghanistan. The AIHRC/UNICEF study (2007) in 22 provincial juvenile facilities shows that 1) only 23% of juveniles had contact with a lawyer during detention; 2) 44% reported that their statement was given voluntarily; and 3) only 9% of respondents were explained of their rights upon arrest.

31. There are 29 provincial Juvenile Rehabilitation Centres (JRC) operational in Afghanistan today. In those provinces where there is no Juvenile facility, children may be kept in prison with adults or sent to near-by provinces. It is alarming that the number of children deprived of their liberty is on constant increase. According to the Ministry of Justice (MoJ), the number of children increased from 385 children in 20 JRCs (December 2006) to 452 in 29 JRCs (October 2007) and 540 in 29 JRCs in September 2008.

32. 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. Compiled information received from the MoJ and others shows that from October 2007 to July 2008 at least 28 children have been detained on charges related to national security. The new law on Combating Terrorist Offences adopted in 2008 includes specific provisions for offenses relating to children associated with armed groups and clearly states that in case an offence has been committed by individuals below 18, the Juvenile Code will apply.

IV. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

33. 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 policy making, programming and implementation. There is also lack of awareness about rights among government and population at large, under-developed civil society and generally weak institutions.

34. Since March 2008, UNICEF provides technical and financial assistance to the government to prepare the first State Report to the Committee on the Rights of the Child. To date, several committees including Steering Committee, Drafting Committee and 7 Thematic Groups have been set up and undertaking desk reviews and consultations to prepare the draft report, which is expected to be finalized by early 2009.

20. In the area of Education, UNICEF supports the government in the provision of adequate school infrastructure and WES facilities (in schools and communities); pre-service and in-service teacher training with a special focus on female teachers; provision of teaching-learning materials; promotion of school hygiene, security and community mobilization; women's literacy classes. The Education Management Information System (EMIS) is functioning at national level and expansion to provincial level is ongoing.

21. In Health, UNICEF supports capacity building of medical personnel at the service provider and community levels, as well as national EPI priorities, elimination of maternal and neo-natal tetanus, measles control and ensuring immunization safety. It also supports Therapeutic Feeding Units, especially now given the context of the food crisis (rising food prices, drought).

22. UNICEF supports national and sub-national child protection actors to monitor, report and respond to child protection abuses. This also includes capacity development of specialized services such as legal aid and social work for children. UNICEF also supports formalization of the role of social work in justice sector: in June 2008, an agreement was signed between the Ministry of Interior, Attorney General's Office and MoLSADM to recognize social work in the juvenile justice system.

23. In 2007-2008, Afghanistan will also conduct a Child Poverty and Disparity Study as part of UNICEF's Global Study. It is designed in such way that the process includes capacity building elements for the government and local researchers (where applicable) in the area of social policy and poverty research (policy and statistics). A comprehensive Multiple-Indicator Cluster Survey is also planned for 2009 to fill the data gap on indicators pertaining to children and women. UNICEF also assisted the Central Statistics Office (CSO) and ANDMA in managing emergency data using DevInfo.