



# Mapping Report on the Role of the Police in Child Protection in Afghanistan



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# **Mapping Report on the Role of the Police in Child Protection in Afghanistan**







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# LIST OF ACRONYMS

|               |  |                |  |
|---------------|--|----------------|--|
| <b>ABP</b>    | Afghan Border Police                                     | <b>JRC</b>     | Juvenile Rehabilitation Centre                           |
| <b>AGO</b>    | Attorney General's Office                                | <b>LoA</b>     | Letter of Agreement                                      |
| <b>AIHRC</b>  | Afghanistan Independent Human Rights Commission          | <b>MoE</b>     | Ministry of Education                                    |
| <b>ALP</b>    | Afghan Local Police                                      | <b>MoIA</b>    | Ministry for Interior Affairs                            |
| <b>ANA</b>    | Afghan National Army                                     | <b>MoJ</b>     | Ministry of Justice                                      |
| <b>ANP</b>    | Afghan National Police                                   | <b>MoLSAMD</b> | Ministry of Labour, Social Affairs, Martyrs and Disabled |
| <b>ANSF</b>   | Afghan National Security Forces                          | <b>MoPH</b>    | Ministry of Public Health                                |
| <b>AUP</b>    | Afghan Uniformed Police                                  | <b>MoWA</b>    | Ministry of Women's Affairs                              |
| <b>CPAN</b>   | Child Protection Action Network                          | <b>NATO</b>    | North Atlantic Treaty Organisation                       |
| <b>CRC</b>    | Convention on the Rights of the Child                    | <b>OIF</b>     | International Organisation of the Francophonie           |
| <b>CRU</b>    | Child Rights Unit  | <b>RTC</b>     | Regional Training Centre                                 |
| <b>FRU</b>    | Family Response Unit                                     | <b>SC</b>      | Supreme Court  |
| <b>HRWCAD</b> | Human Rights, Women's and Children's Affairs Directorate | <b>TDH</b>     | Terre des Hommes   |
| <b>IBCR</b>   | International Bureau for Children's Rights               | <b>UN</b>      | United Nations   |
| <b>ILO</b>    | International Labour Organisation                        | <b>UNDP</b>    | United Nations Development Programme                     |
| <b>IPCB</b>   | International Police Coordination Board                  | <b>UNFPA</b>   | United Nations Population Fund                           |
| <b>ISAF</b>   | International Security Assistance Force                  | <b>UNICEF</b>  | United Nations Children's Fund                           |
| <b>JPU</b>    | Juvenile Police Unit                                     |                |  |

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# 1. GENERAL CONTEXT AND OVERVIEW OF THE IBCR PROJECT

## 1.1 HISTORY OF THE PROJECT ON CAPACITY BUILDING OF SECURITY FORCES

To ensure the Convention on the Rights of the Child (CRC) is respected, it is important that lasting changes occur among decision makers within law enforcement institutions. In 2009, as a result of dialogue with representatives of law enforcement training institutions in West and Central Africa, the Middle East and Haiti, the work carried out by the International Bureau for Children's Rights (IBCR) created consensus among representatives from these countries that a mandatory and permanent initial training course on child-friendly policing should be included in the training curriculum of security forces. The course would provide law enforcement authorities with a solid and sustained understanding of child protection principles that would then be applied to their daily work.

### Ouagadougou, October 2009

In 2009, on the 20<sup>th</sup> anniversary of the UN's CRC, representatives of the OIF, Francopol, the IBCR and a dozen police academies (mostly from French-speaking Africa) met in Ouagadougou, Burkina Faso. The objective of this meeting was to raise participants' awareness on children's rights and the principle of the best interests of the child.

### Cotonou, December 2010

Subsequently, the International Organisation of the Francophonie (OIF), Francopol and the IBCR agreed to organise another meeting, this time focussing on the national application of international juvenile justice standards. The meeting took place in Cotonou, Benin, from 13 to 15 December 2010. Twelve countries helped create a regional plan of action for the development of training on child-friendly policing.

## Concrete Change in Promoting Children's Rights

Following these two meetings, the IBCR realised that courses offered by training institutions on children's rights are usually one-time sessions that are not evaluated. Moreover, these courses are often offered by external trainers and do not provide sufficient information on national laws and the behaviour expected from defence and security forces. Instead, the courses are mostly limited to the legal content of the CRC and are not focused enough on mainstreaming children's rights into practice.

In light of these observations, the IBCR offered its sustained support, through knowledge transfer and follow-up, to police training schools interested in developing training programmes that are permanent, practical and adapted to the local context. The goal was to equip police academies to independently provide training modules on child rights and child protection. The Cotonou workshop laid the groundwork for the development of an ambitious training programme on the protection and rights of children in conflict with the law.

## International Expert Meeting in Dakar, September 2011

Through a partnership with the United Nations Children's Fund (UNICEF) Regional Office for West and Central Africa, approximately 15 UNICEF offices, non-governmental organisation Save the Children Sweden, and the IBCR brought together 40 experts for a five-day meeting in Senegal to develop and validate a list of core competencies for all police officers working with children.



## Meeting of Training Centres in Niamey, November 2011

With the support of UNICEF Niger, a third international workshop took place in Niamey from 31 October to 4 November 2011. This event culminated with the 15 represented country delegations adopting by consensus the six core child rights competencies to be taught to all police officers. Each country also developed a national action plan, identifying next steps for integrating a mandatory initial course, at minimum, on children's rights within all security forces.

### Six core competencies on children's rights for law enforcement agents:

1. Knowledge, endorsement and implementation of children's rights
2. Knowledge and application of ethical and deontological standards
3. Knowledge of children
4. Practical communication skills for interaction with children and relevant family or community members
5. Collaboration with all formal and informal stakeholders for better coordinated interventions
6. Efficient use of working tools adapted to children

## Fourth International Workshop in Lomé, November 2012

From 5 to 7 November 2012, 22 country delegations met in Lomé, Togo, for the fourth international workshop on the training of security forces on children's rights. With the collaboration of the Togolese Ministry of Security and Civil Protection and with the support of UNICEF, OIF and the IBCR organized this workshop to take stock of the advances made regarding the integration of key competencies into the security force training programmes. This international meeting hosted more than 80 representatives of police training institutions from Iraq, Sierra Leone, Jordan, Kenya, the Central African Republic, Burundi, Ethiopia, Namibia, Mauritania, Swaziland, Tanzania, Chad, the Palestinian Territories and Zimbabwe.

## International Workshop on Justice for Children in the Middle East and North Africa, Amman, September 2013

Delegations from nine countries – Iraq, Jordan, Lebanon, Libya, Morocco, the Palestinian Territories, Sudan, Tunisia and Yemen – participated in a workshop to examine the work of specialised police units, such as child protection and family units. Toward the end of the workshop, the delegations each produced a plan of action on child protection, to be implemented by national authorities in collaboration with UNICEF's regional and national offices and the IBCR.

## Fifth International Workshop, Abidjan, November 2013

From 12 to 15 November 2013, 23 country delegations participated in this workshop on the training of security forces on child rights. The workshop created a space for delegations to share experiences and lessons learned, and develop national action plans adapted to each context. The workshop also created long-lasting working relationships between various countries, which will continue to collaborate in the future.

## Project Launching in Afghanistan, January 2015

In 2014, the IBCR entered into discussions with UNICEF Afghanistan about designing a project to build the capacity of Afghan security forces in the area of child-friendly policing. The discussions led to a first phase involving the assessment of the situation of children in relation to law enforcement and the judicial system in Afghanistan, with a focus on training needs of the security forces.

The project was launched in Kabul in January 2015, when the IBCR team met with partners and started collecting data for the situational assessment and needs analysis. It was followed by second and third missions in April and May 2015 to complete the data collection and meet with relevant actors to verify the analysis presented in this report.

### **Excerpt from the address given by His Excellency President Ashraf Ghani when he introduced the cabinet to the House of Representatives on 20 January 2015**

This is a group that is always in front of our eyes, but we have forgotten that they are our children. The kidnapping, rape and abuse of our children, unfortunately, have become a sinister culture and measures must be taken all over the country to prevent these acts.

From religious scholars to the Ministry of Interior, Ministry of Justice and all justice institutions, we are all responsible for what is happening to Afghan children. The way we treat our children violates our Islamic and national values and ethics. In this area, we will lay the groundwork. And we will not only use national resources, but we will also seek international assistance in this regard.

Right now, at least 1.7 million Afghan children still do not go to school, though I hope we will succeed in enrolling these children in school. Child labour can sometimes turn a child into a slave, and it is one of our fundamental tasks to prevent this from happening.

## **1.2 WORKING METHODOLOGY BASED ON COLLABORATION, CHILD PARTICIPATION AND PARTNERSHIP**

The IBCR's methodology is child and gender sensitive. It's based on participation, local ownership and sustainability. To make sure that initiatives lead to long-lasting results, the IBCR aims to establish local coordination mechanisms in each country of operation. These mechanisms steer initiatives and provide accurate and candid information on the functioning of the juvenile justice system and the challenges faced by child protection actors and security forces in their interactions with children.

The IBCR believes that a solid understanding of local circumstances is essential for relevant programme design. For this reason, the IBCR performs extensive needs assessments in each country of operation. These needs assessments include the following:

- A detailed analysis of the child protection system, with a focus on children's interactions with the judicial system, and including the legislative framework, its implementation in practice and challenges faced;
- An analysis of the interactions between security forces and children, from the points of view of children (boys and girls), police officers and other actors in the system;

- An assessment of training opportunities currently offered to security forces on the topic of children's rights and child protection, as well as any gaps and the potential for additional training;
- Recommendations based on extensive consultations with stakeholders as well as the analyses carried out by the IBCR and UNICEF.

To assess needs in Afghanistan, the IBCR used the following methodological tools:

### **Desk Review**

The IBCR conducted a literature review to gain a basic understanding of the situation of children in Afghanistan. This complemented data collected through interviews with stakeholders. Reports from various sources were consulted, including some from the Committee on the Implementation of the CRC, United Nations (UN) agencies, international and Afghan non-governmental organisations, Afghan government institutions, scholarly articles, media sources and websites. A list of sources is provided in the appended bibliography.

*"Focusing on children is focusing on our future."*

**Ikramuddin Yawar**  
Deputy Minister for Administration, MoIA

## Steering Committee


In January 2015, the Ministry of Interior Affairs (MoIA) created a Steering Committee to oversee the implementation of the project. The Steering Committee is chaired by the Deputy Minister for Administration, who is responsible for training and personnel management within the Ministry.<sup>1</sup> The following departments are members of the Steering Committee:

- Human Rights, Women's and Children's Affairs Directorate (HRWCAD), including the Child Rights Unit (CRU);
- Criminal Investigations Department, including the Juvenile Police Unit (JPU) and the Family Response (FRU);
- Statistics Department;
- Law Department;
- Police Academy;
- Education General Command;
- Community Policing Department.

## Bilateral Meetings and Workshops

The IBCR held extensive consultation sessions with all actors of the child protection system during the first few months of the project (January to April 2015). The following table presents a summary of the consultations:

| Institution | Departments   | Consultation type  |
|-------------|---|--|
| MoIA        | JPU in Kabul, Mazar-e-Sharif and Herat<br>HRWCAD (including the CRU) in Kabul, Mazar-e-Sharif and Herat<br>Statistics Department<br>Law Department<br>Police Academy<br>Staff College<br>Education General Command (RTCs)<br>Community Policing Department<br>FRU | Steering Committee meetings<br>Bilateral meetings<br>Thematic workshop<br>Validation workshop<br>Training development workshop |
| MoLSAMD     | Social Protection<br>CPAN in Kabul and Mazar-e-Sharif   | Bilateral meetings<br>Thematic workshop  |
| MoJ         | JRC Department<br>Directors of JRCs in Kabul, Mazar-e-Sharif and Herat<br>Justice Directors in Mazar-e-Sharif and Herat   | Bilateral meetings<br>Thematic workshop<br>Visits to JRCs  |
| SC          | First instance juvenile courts<br>Appeals juvenile courts   | Bilateral meetings<br>Validation workshop  |



| Institution             | Departments   | Consultation type                         |
|-------------------------|---|---|
| AGO                     | Juvenile prosecution offices in Kabul, Mazar-e-Sharif and Herat   | Bilateral meetings<br>Validation workshop |
| AIHRC                   | CRU   | Bilateral meetings                        |
| International Community | UNICEF<br>UNODC<br>UNDP<br>Correction System Support Program / US State Department (CSSP)<br>JSSP<br>EUPOL<br>ISAF Resolute Support<br>German Police Project Team | Bilateral meetings<br>Validation workshop |
| Civil Society           | Aschiana Foundation<br>Skateistan<br>Children in Crisis<br>Save the Children Afghanistan<br>TDH<br>ICRC<br>War Child UK   | Bilateral meetings<br>Thematic workshop   |


The bilateral meetings were mostly conducted on an informal, open basis. They varied in format and length, depending on which stakeholders were being interviewed and which topics were being discussed. In general, most meetings generally followed this sequence:

1. Introductions
2. The IBCR provides project overview (including timeframe, goal and future activities) and explains the purpose of the consultation
3. The IBCR answers questions about the project
4. Stakeholders explain their duties and how their organisations operate, including organisational structure and responsibilities
5. The IBCR asks questions about specific details and challenges faced by the organisations
6. Contact information is exchanged for future collaboration
7. Acknowledgements and thanks

Most interviews were conducted in Dari and translated into English by an interpreter. The interviews were not recorded, as this would have put some stakeholders on guard. The IBCR team took written notes during the interviews for future reference.

Two thematic workshops were organised by the IBCR in April 2015. These workshops brought together actors from the social sector of the child protection system (social workers, civil society organisations and legal aid practitioners) as well as actors from the security sector (police units and training institutions) to discuss the challenges being faced and recommendations to improve the system. The participants were selected by the IBCR during bilateral meetings, with suggestions from UNICEF. The workshops served to verify previously collected data, further the analysis and formulate the recommendations that are included in this report.

In addition, a validation workshop was organised for 26 May 2015 to discuss the structure, content and recommendations of this report. Bilateral consultations were organised with individuals who could not attend the workshop. Comments, suggestions and corrections were collected and added to the report before this final version was published.





## Focus Group Discussions with Children

Interviews with children were conducted in the form of focus group discussions, with groups of boys and groups of girls in Juvenile Rehabilitation Centres (JRCs) and with two groups of children living in the street in Kabul, the latter facilitated by Save the Children Afghanistan. Due to the cultural situation in Afghanistan (complete separation of sexes in public places) and based on the advice of stakeholders, girls and boys were consulted separately in JRCs, although the groups of children living in the street were mixed. The discussions involved a total of 34 girls and 57 boys. They were held in the Kabul, Mazar-e-Sharif and Herat JRCs. The interviews were arranged through the JRCs, who selected the participants. Children in JRCs are between 12 (minimum age of criminal responsibility) and 17 years old and children who participated in the discussions from outside JRCs were between 8 and 18 years old.

The focus group discussions started with the IBCR explaining the purpose of the consultation. The IBCR stressed that the process was confidential and explained that participating in the discussions was entirely voluntary. Children were allowed to leave the room at any point in the discussion and come back later if they wanted to. No child was forced to speak and children were encouraged to contribute to the discussion at their own discretion. Sufficient time was also allowed for children to ask any question they may have on the project and share their concerns. During the discussions, some children left the room and came back later. Some children stayed for the entire discussion but did not speak. Other children were very engaged and chose to respond to every question.

The discussions were conducted in Dari and translated into English for the IBCR project manager. The questions were open-ended and allowed for children to respond at their own pace. The questions are provided in Annex E and the results of the discussions are analysed in Section 6.2 of this report. To ensure confidentiality and avoid putting any of the children at risk, the results are presented in bulk, with no identification of which group of children provided which answer.

The IBCR also conducted bilateral discussions with 14 police officers and heads of units working on children issues. These discussions were held in Kabul, Mazar-e-Sharif and Herat. There was also a thematic meeting held in Kabul with representatives of various sections of the police from the provinces of Kabul, Kandahar, Nangarhar, Kunduz, Herat and Bamyan.

## Data Collection Challenges

The IBCR faced a few challenges during the data collection process. Due to the ongoing insurgency in Afghanistan, extensive travel to the provinces was not possible, especially to the southern and eastern regions of the country. For this reason, the IBCR only visited provinces in the northern and western regions of the country. To mitigate this challenge and ensure adequate data collection, the IBCR ensured that the situation in these regions was discussed with actors in Kabul. Also, the IBCR invited police officers from Kunduz, Nangarhar and Kandahar to the thematic workshop (see above).

The relatively short timeframe allocated to the data collection process meant that the IBCR had to focus on analysing the main actors of the child protection system and could not go in-depth into some related issues, such as child health care and education. In addition, the IBCR did not visit many police schools, due to time and security constraints.

Another challenge was the segregation of women and men due to cultural and religious circumstances. The IBCR's national consultant (male) was not permitted to visit the girls' section of the JRC in Mazar-e-Sharif. In Herat, the IBCR's project manager (female) was allowed to visit the girls' section but could not be accompanied by the national consultant and could therefore not talk to the girls due to language barriers.

Finally, there were some challenges due to the need to use interpreters at almost all meetings and workshops. Although no major problems arose, it is obvious that some nuances must have been lost due to translation issues.

# The Islamic Republic of Afghanistan: An Overview

The country was a pawn in a game between the Russian and the British Empires until 1919, when it gained its independence. Throughout the Cold War, it was a main geopolitical instrument in determining Soviet versus American influence<sup>2</sup>. The Soviet Union intervened militarily in Afghanistan in 1979 to support the communist movement in that country. Threatened by this move, the US and neighbouring countries intervened<sup>3</sup>. After the Soviets withdrew their military forces in 1989, the country suffered a series of civil wars<sup>4</sup>. The Taliban (the



“students”), emerged in the early 1990s. It captured the capital, Kabul, in 1996 and formed a government, setting up a very conservative regime based on Sharia, and creating stability in the country after 20 years of almost constant conflict.<sup>5</sup>

The Taliban were classified as a terrorist organisation for housing Osama Bin Laden, the Al-Qaeda commander who allegedly ordered the 11 September attacks on the US in 2001. A US, Allied, and anti-Taliban Northern Alliance military campaign eventually toppled the Taliban regime.

A framework for reconstruction was established by the UN-sponsored Bonn Conference in 2001.<sup>6</sup> The framework included a process for creating a new constitution and a presidential and national assembly election (in 2004-2005).<sup>7</sup> Although a president was democratically elected in 2004, violence was a recurring factor on Afghan soil. Western efforts had become increasingly unpopular and pressure was high for a withdrawal of international military forces.<sup>8</sup> By December 2014, around 130,000 troops led by the North Atlantic Treaty Organisation (NATO) withdrew from Afghanistan,<sup>9</sup> although the US and NATO retain a presence in the country following an agreement with the newly elected government (see below).<sup>10</sup>

## Geography and Climate

Afghanistan shares borders with Turkmenistan, Uzbekistan, Tajikistan, Iran, Pakistan and a 76-kilometre border with China in the east.<sup>11</sup>

Afghanistan's climate and terrain has had a significant impact on its ongoing conflicts, as the rugged terrain, with impassable peaks and isolated valleys, has restricted military manoeuvres and increased the population's fragmentation and isolation.<sup>12</sup> The country has barely any vegetation, and two-thirds of the land is covered by mountainous terrain. Only half of the population has direct access to fresh water. The Hindu Kush, a large mountain range, is the dominant geographical feature of the country. It stretches from the northeast to the southwest.<sup>13</sup> Overall, the climate is arid to semiarid, winters are cold while summers are hot and dry. Plate-tectonic movements make earthquakes extremely frequent, with approximately 50 earthquakes occurring every year.<sup>14</sup>



*Qargah Lake, near Kabul.*

*Photo IBCR*

## Security and Political Issues

The year 2015 will be a crucial for Afghanistan. On the political front, a new government will work on promised reforms and will have to demonstrate to Afghans that progress is possible. On the security front, the withdrawal of international forces and the transfer of responsibility to Afghan forces will pose major challenges to the security of the country.

The second round of the presidential elections in April 2014 did not produce a clear winner, with accusations of fraud on both sides. The two candidates, Dr Ashraf Ghani and Dr Abdullah Abdullah, reach a compromise in September to form a unity government, with Dr Ghani becoming President and Dr Abdullah becoming Chief Executive Officer. The negotiations to select a cabinet lasted several months and led to bitter exchanges between the two leaders. Nominees were finally proposed in early January 2015 and their names were forwarded to Parliament for approval. However, a series of issues surfaced, mostly related to some nominees having dual citizenships, which could disqualify them for ministerial positions, and in one case a nominee had not reached the minimum age of 35 years. In another case, it was discovered that an international arrest warrant had been issued for one nominee from INTERPOL for tax fraud in Estonia.



In late January 2015, Parliament approved nine nominees, including for the positions of ministers of foreign affairs, interior and finance. Ten other nominees were rejected, including those for social affairs, justice and border issues. Parliament then went on recess for 45 days, and new nominees were finally approved for the remaining positions on 21 April 2015, except for the position of Minister of Defence, which remained vacant until May 2015 due to a disagreement between the President and the Chief Executive Officer.<sup>14</sup>

In December 2014, the majority of international military forces left Afghanistan and the responsibility for security was transferred to the Afghan National Security Forces (ANSF), which is composed of the Afghan National Army (ANA), the Afghan National Police (ANP) and other forces. Some international advisors remain in Afghanistan, mostly on a mentoring and advisory basis, under a bilateral security agreement with the United States. NATO, which for years managed the International Security Assistance Force (ISAF), remains in Afghanistan with a reduced mission (9,800 officers) called Resolute Support that will focus on mentoring and advising until the end of 2016. Beyond 2016, NATO will maintain a small presence under its Enduring Partnership initiative.<sup>16</sup>

The withdrawal of international forces led to a surge in attacks from the Taliban in late 2014 and early 2015. Suicide attacks and bombings targeted foreign embassy personnel, Afghan government offices and the ANP headquarters in Kabul. Numerous attacks also targeted government and security force institutions and civil society organisations in many provinces.

Some attempts at negotiations with the Taliban have been undertaken by Afghan authorities in the past few years. While those attempts have not yet yielded clear results, President Ghani has made efforts to reach out to the Taliban by expressing his desire to include all parties in a unity government.<sup>A</sup> Some analysts expect the Taliban to be more amenable to negotiations with the withdrawal of international forces.<sup>17</sup>

On the international scene, the new Afghan government has made diplomatic efforts to reach out to its neighbours and improve relationships, especially with Pakistan. This has the potential to improve coordination between the two countries on the fight against the Taliban, as Pakistan has been accused in the past of providing a safe haven to the Afghan Taliban.<sup>18</sup>

A. The President offered three ministerial posts to the Taliban, who declined saying that they would not enter the government until all foreign military forces have left the country.

## Social Issues

The table below offers some statistics on social issues in Afghanistan. Where available, statistics are disaggregated by gender.

**TABLE 1 – Statistical Overview of Afghanistan**

| Official name   | Islamic Republic of Afghanistan                              |
|---|--|
| Capital   | Kabul  |
| Official languages  | Dari and Pashto  |
| Other languages   | Turkic (Uzbeki, Turkmen), Baluchi, Pashai, Nuristani, Pamiri |
| Political regime  | Democratic, Islamic Republic                                 |
| Independence  | 19 August 1919 (from UK control)                             |
| Date admitted to the UN   | 29 August 1946 (UNR 8)                                       |
| Geographical divisions  | 34 provinces<br>398 districts                                |
| Human Development Index (2013) <sup>19</sup>  | 169/187  |
| Gender Inequality Index (2013) <sup>20</sup>  | 169/187  |
| Corruption Perception Index (2014) <sup>21</sup>  | 172/174  |
| Total population (in thousands) (2014)  | 31,822,848   |
| Under 18 (in thousands) (2013) <sup>22</sup>  | 16,536   |
| Under 5 (in thousands) (2013)   | 4,905  |
| Population density (people per km <sup>2</sup> ) (2013) <sup>23</sup>   | 47   |
| Birth registration (2005-2012)  | 37.4%  |
| Infant mortality rate (number of infants dying before age 1 per 1,000 live births) (2013) <sup>24</sup> (gender disaggregated data unavailable) | 70   |
| Under-5 infant mortality rate (2013) <sup>25</sup>  | Male: 101<br>Female: 94                                      |
| Under-5 mortality rank (/196 countries) <sup>26</sup> (2013)  | 16   |
| Infants with low birth weight   | No recent data   |

| Official name   | Islamic Republic of Afghanistan |
|---|---------------------------------|
| Urbanised population (2012)                                     | 23.8%                           |
| Households consuming iodized salt (2008-2012)                   | 20.4%                           |
| Life expectancy at birth – females (2013)                       | 62 years                        |
| Life expectancy at birth – males (2013)                         | 60 years                        |
| Total fertility rate (number of children per household) (2012)  | 5.1                             |
| Total female youth literacy rate (females aged 15–24) (2011)    | 32%                             |
| Total male youth literacy rate (males aged 15–24) (2011)        | 62%                             |
| Population living on less than \$1.25 per day (%)               | No data                         |
| Average GDP growth per capita (2013) <sup>27</sup>              | 1.8%                            |
| Population using improved drinking water sources (2011)         | 61%                             |
| Population using improved sanitation facilities (2011)          | 28%                             |
| Primary school participation, net enrolment ratio (2008–2012)   | Male: 74%<br>Female: 46%        |
| Secondary school participation, net enrolment ratio (2008–2012) | Male: 18%<br>Female: 8%         |
| Child marriage  | 40.4%                           |
| Justification of domestic violence <sup>28</sup>                | Boys: No data<br>Girls: 90.2%   |
| Violent discipline <sup>29</sup>                                | 74.4%                           |

As the above table shows, Afghanistan is still marred by serious social and economic problems. Afghanistan's ranking on the Human Development Index and the Gender Inequality Index remain among the lowest in the world. In 2011, poverty rates were around 36%.<sup>30</sup> Life expectancy remains relatively low (62 years for women and 60 years for men). Only 30% of the population had access to electricity in 2014.<sup>31</sup> Enrolment in primary school has increased in the last few years, but enrolment in secondary school remains very low.

In general, women remain largely excluded from public life, although recent progress includes the appointment of women as prosecutors and judges. The Constitution reserves two seats in parliament for women in each province (Article 83).

Afghanistan is the world's largest supplier of opium (over 90%).<sup>32</sup> The drug trade has further strengthened the Taliban insurgency, and it is estimated that the group receives over \$100 million a year from the export of opium.<sup>33</sup> Levels of addiction are high among the population, including children (as discussed in the next section).

### 3. MAIN PROBLEMS AFFECTING CHILDREN IN AFGHANISTAN

According to UNICEF:

“In Afghanistan, children are required to adhere to strict, conservative social norms while still developing physical and psychological maturity. They are often required or obliged to take on adult responsibilities. There is a widespread failure to recognise children’s entitlement to special protection appropriate to their physical and psychological maturity. This failure occurs at family, community and state levels. Children are then more exposed to risks of violence, abuse and exploitation as a result of their protection rights not being realised.”<sup>34</sup>

Therefore, Afghan children face many challenges during their development. The following section describes the main challenges faced by children in Afghanistan in general, and boys and girls separately. While the following description is an overview only and is not an exhaustive list of these challenges, it nonetheless illustrates the dire situation that Afghan children face.

#### Unregistered Births and Issues Around Age Identification

Afghanistan is among the top 10 countries with the highest number of unregistered children. According to a 2013 UNICEF report, Afghanistan has 3 million children under age five whose births have not been registered. Several factors influence birth registration levels, including ignorance of the importance to register children within the general population and lack of access to government infrastructure.<sup>35</sup> Afghanistan is currently implementing a digital system to ensure that birth registrations are available in real time,<sup>36</sup> which should help mitigate some of these issues.

When children are arrested by police and do not have identification to prove their age, they are often considered adults based on their physical appearance and sent to adult detention facilities until their age can be determined.<sup>37</sup> In the absence of identification or other proof of age, the Juvenile Code (2005, Article 6) requires that the opinion of a forensic doctor be sought, but this is rarely done due to a lack of available resources in the public health sector, especially in rural areas.

National identification (ID) cards are issued by the government in hard copies and there is no centralized database to monitor their issuance. This leaves the door open for corruption and fraud, as adults fake their ID to pass as children and receive reduced sentences when arrested for crimes.<sup>38</sup> The Afghan government is in the process of changing the system to issue ID cards electronically, which, it is hoped, will help curb fraud.

#### Child Marriage

According to the 2010 Mortality Survey, which was conducted in all 34 provinces of Afghanistan by the Afghan Ministry of Public Health (MoPH), 53% of all women in the 25-49 age group were married by age 18, and 21% by age 15. The legal minimum age for marriage in Afghanistan is 16 for women and 18 for men. Cultural, social and economic circumstances contribute to the prevalence of forced marriages. Some religious officials interpret Islamic texts in a way that justifies the practice. Extreme poverty is another important factor that contributes to the development of “the most pervasive of all discriminatory practices affecting girls and women”.<sup>39</sup> The custom of exchanging bride money is an incentive for families to give away their daughters as young as six or seven years old, with the understanding that the actual marriage is delayed until the child reaches puberty. However, this is rarely observed, and the young brides are often sexually violated by the groom and by older men in the groom’s family.<sup>40</sup>

Child marriage has many negative consequences on the development of the child and on maternal health. Girls are especially prone to obstetric fistula when giving birth at a young age<sup>41</sup> (“a hole between the vagina and bladder or rectum, usually caused by prolonged labour without treatment”<sup>42</sup>). Afghanistan has one of the highest maternal death rates in the world.<sup>43</sup> When girls engage in sexual relations before they are mentally and physically mature, it increases the possibilities of maternal disability or deaths.<sup>44</sup> One in four Afghan women in the 20-24 age bracket had their first child before age 18.<sup>45</sup> The majority of women suffer from obstetric fistula due to early pregnancies,<sup>46</sup> which can leave them depressed and severely isolated.<sup>47</sup> A 2011 report conducted by the United Nations Population Fund (UNFPA) demonstrated that 25% of women suffering from fistula were less than 16 years of age when they got married.<sup>48</sup>

## Honour Killings

Honour killings in Afghanistan are a form of violence against women and girls in which they are killed because they brought shame to the family. Women and girls can be killed because they were raped, they committed adultery or possibly wanted to marry someone other than the man their family had chosen for them. According to Rubina Hamdard, a lawyer at the Afghan Women’s Network, an average of 150 cases of honour killings took place every year in Afghanistan between 2009 and 2014. Less than half of the cases were reported and even fewer led to convictions.<sup>49</sup>

One of the most common reasons for honour killings is because a female has been raped. Families strongly believe that a girl who was raped dishonours the family and is no longer fit for marriage, which means her family will be forced to support her.<sup>50</sup> In 2013, a representative of UN Women in Afghanistan stated that:

“UN Women is deeply concerned about the number of cases of so-called honour killings in Afghanistan. In many parts of the country, government officials are implementing the Elimination of Violence against Women (EVAW) law, but we are concerned that it is only in a small percentage of cases involving violence against women. Most cases are neither registered nor investigated.”<sup>51</sup>

## Health and Drug Addiction

Afghanistan has the third highest infant mortality rate in the world, after Sierra Leone and Angola, and 25% of Afghan children die before their fifth birthday.<sup>52</sup> Many Afghan children live in poverty and malnutrition remains a serious problem for them. The rate of stunted growth remains among the highest in the world, with more than half of children affected.<sup>53</sup> Across Afghanistan, children’s development is affected by the limited access to medical attention due to high healthcare, the long distances to the nearest health centres and the lack of trained medical personnel.<sup>54</sup> For example, “70% of children aged 12 to 23 months are not fully immunized; and disparities exist between boys and girls, and urban and rural areas”.<sup>55</sup> A 2014 UNICEF report indicates that 50% of births occur outside of health facilities and 47% of women do not have access to antenatal care.<sup>56</sup>

Afghanistan remains the leading producer of opium poppies in the world and high levels of drug addiction are found among the population, including children. The Afghanistan Independent Human Rights Commission (AIHRC) estimates that more than 300,000 Afghan children suffer from drug addiction and the main causes of drug addiction among children as “hard labour, domestic violence, addiction of a family member and displacement”.<sup>57</sup> Positive drug tests among children under 15 years of age in urban areas showed usage at 2.3%, compared to 5.3% for the total urban population.<sup>58</sup>



## Corporal Punishment and Physical Abuse

Children continue to face various forms of physical, verbal and emotional violence at home and in schools. Girls in particular suffer from insults and degrading treatment. A survey conducted by the AIHRC in 2013 with 4,166 children in 27 provinces (2,377 boys and 1,789 girls) showed that 28.2% of respondents have been subject to beating at least once, with most of the perpetrators being family members. Further, 24% said that they were subject to insults and humiliation on a daily basis.<sup>59</sup>

In 2008, surveys were carried out in three government schools in Jalalabad and 20 government schools in Mazar-e-Sharif. The results showed that 100% of the boys and 20% of girls suffered from several forms of humiliating punishment such as verbal abuse. Over 50% of the teachers believed they had the right to beat students, and the vast majority of teachers believed that physical punishment was essential and unavoidable.<sup>60</sup> However, a considerable majority of the teachers expressed an interest in learning alternatives to physical discipline. Other reports show that the most common forms of corporal punishment involve “slapping, verbal abuse, punching, kicking, and hitting with thin sticks, electrical cables and shoes”.<sup>61</sup> Less common forms of violence include “shouting at children, tying them up, washing them in cold water outside during winter and public humiliation”.<sup>62</sup>

The AIHRC and UNICEF carried out a survey in 2008 of 250 children in JRCs in 22 Afghan provinces. The results showed that 48% of the children reported being beaten when arrested (11% girls; 55% boys); 8% claimed they were verbally abused; and 62% declared that handcuffs were used when they were arrested (5% girls; 72% boys).<sup>63</sup>

## Domestic Violence

In a 2006 report, UNICEF defines domestic violence as “a pattern of assaultive and coercive behaviours including physical, sexual and psychological attacks, as well as economic coercion used by adults or adolescents against their current or former intimate partners”.<sup>64</sup>

Domestic violence is one of the most prevalent issues affecting children and women in Afghanistan. Several studies show that victims of child marriage are at higher risk of domestic violence than other girls.<sup>65</sup> The World Health Organisation shows that women and girls (15 to 19 years old) “are at higher risk of physical or sexual violence by their partners”<sup>66</sup> than older women. Global Rights reported that women and girls that are victims of forced marriages are twice as likely to suffer from domestic violence. Moreover, over 2,000 girls and women attempt suicide annually by trying to set themselves on fire as a result of forced marriages and violence.<sup>67</sup>

Children may be victims of domestic violence or witnesses to it. Besides physical abuse, children may have witnessed abuse at home or on the street, and as a result they may suffer ongoing emotional and psychological trauma. Some children may suffer from anxiety or post-traumatic stress disorder or be more prone to alcohol/drug abuse or juvenile delinquency.<sup>68</sup> Children witnessing their mothers being treated with disrespect may later develop disrespect for women on a larger scale.<sup>69</sup>

## Sexual Abuse and Exploitation

Sexual exploitation and abuse of children remains prevalent in Afghanistan. These terms refer to a range of acts, including sexual harassment, incest, rape, gang rape, etc. The same AIHRC survey shows that girls are more prone to sexual assault; however, accurate statistics on sexual assault cases remain difficult to obtain due to the traditional stigmas surrounding the issue.<sup>70</sup> In 2012, the MoIA reported around 100 cases of sexual assault in Kabul and around 470 cases in other provinces. Various sources indicated a 28% increase in sexual assault on children in 2013.<sup>71</sup> Children have reported that the main perpetrators of sexual abuse range from neighbours, close or distant relatives to local commanders and powerful figures in the community.

Many boys are used by wealthy men and armed groups for a form of sexual exploitation known as *bacha baazi* (boy play), where the boys are dressed in female clothing and used as dancers.<sup>72</sup> Girls are sometimes used as an exchange to settle disputes between families; this phenomenon is known as *baad*, which places girls in a situation where they are often subjected to sexual abuse.<sup>73</sup>

The prevalence of sexual abuse is strongly correlated with the rising number of street children.<sup>74</sup> The Aschiana Foundation stated that, over the past few years, “the organisation has witnessed a significant rise in the number of working street children who have been sexually assaulted”.<sup>75</sup>

In many cases, victims of sexual abuse are considered criminals. Afghan law prohibits “pederasty,” which is defined as “sex between a man and a boy”, and makes it a crime punishable by five to 15 years in prison.<sup>76</sup> Sexual relations between people who are not married are considered “moral crimes” (*zina*).<sup>77</sup> In 2013, Human Rights Watch reported 600 women and girls imprisoned for moral crimes. Girls who run away from home are often accused of attempted *zina*. In order to protect children, Human Rights Watch and others have strongly recommended including men and boys in the definition of rape as a crime.<sup>78</sup>

## Children in Street Situations

High poverty rates and a lack of security are important factors that force children to make a living on the streets.<sup>79</sup> In 2011, it was estimated that Kabul had about 50,000 children working on its streets.<sup>80</sup> The majority of children who work on the street are not homeless. Many live with their parents or, if they are orphans, with extended family who make them work on the street to support the family.<sup>81</sup> Children usually sell merchandise such as gum, magazines and memorabilia, or they may polish shoes or wash cars.<sup>82</sup> These children are especially vulnerable to attacks, drug addiction and sexual abuse and they work long hours in difficult conditions. They are also disproportionately subject to arrest and harassment by the police.

## Education

Secular education under the Taliban regime did not exist; education for girls was prohibited and boys received a religious curriculum.<sup>83</sup> With the fall of the Taliban regime, school enrolment rates have increased significantly. According to the Ministry of Education (MoE), 46% of girls and 74% of boys were enrolled in primary school by 2012. Secondary school enrolment was considerably lower, however, with only 8% of girls and 18% of boys in 2012.<sup>84</sup>

There are still significant disparities between the number of boys and girls attending school. “For every 100 urban boys, only 78 urban girls attend school; in rural areas it is 50 girls to 100 boys.”<sup>85</sup> Out of the 3.5 million children not attending school, 75% of them are girls.<sup>86</sup> Cultural norms, insecurity, low funding and extreme environmental conditions are the primary causes restricting children's access to school.<sup>87</sup> Also, “working children, children living with disabilities and children affected by conflict are often denied their right to education”.<sup>88</sup>

In addition, many children who are enrolled in school do not attend regularly. The reasons for absenteeism are multiple: many children have to work, their families don't value education enough to ensure attendance (especially for girls), the quality of education is poor, the schools are too far from home, or their parents married them off young.<sup>89</sup> There have also been many reports of inappropriate treatment such as beatings and insults of pupils (see above).

The insurgency has taken its toll on education. In 2012, the United Nations Mission in Afghanistan (UNAMA) reported 167 attacks on schools and educational personnel. These included suicide attacks, destruction of school buildings and property and forced closures, as well as the intimidation, abduction and killing of teachers.<sup>90</sup> In 2013, there were 73 violent attacks targeting educational facilities, leaving 11 children dead and 46 injured.<sup>91</sup> In some cases, girls were intentionally targeted by forcing them to consume contaminated water or breathe poisonous gas.<sup>92</sup>

## Child Labour

There are reportedly 1.6 million children working in Afghanistan. The figure for Kabul alone is 70,000.<sup>93</sup> The AIHRC survey showed that 52% of children interviewed worked in some capacity, most of them out of necessity caused by extreme poverty.<sup>94</sup> Many children work long hours in hazardous conditions, including working at night. Child labour includes house chores, apprenticeship, working on agricultural fields, washing cars, weaving or working as porters and vendors. Children have to perform work that is often detrimental to their health and even dangerous, such as working with chemicals or heavy machinery and cultivating opium. Children often work long hours in cold or hot conditions.<sup>95</sup>

The United States Department of Labour reported in 2013 that, despite the fact that children in Afghanistan have faced the worst forms of child labour and continue to be recruited for military purposes, the government has made significant progress in combatting these issues.<sup>96</sup> The Ministry of Interior and Ministry of Defence issued directives to prevent the recruitment and sexual abuse of children by the ANSF. The Afghan government created the Afghan Human Resources Information Management System, an electronic file containing information about the age of every member of the ANSF.

## Child Trafficking

Trafficking of children is on the rise in Afghanistan, mainly due to the existence of a great proportion of vulnerable, poor children, sometimes described as “forgotten”.<sup>97</sup> According to the UN Committee on Economic, Social and Cultural Rights, Afghanistan is “a source, transit point and destination country for human trafficking, and women and girls are kidnapped, lured by fraudulent marriage or job proposals, or sold into marriage or commercial sexual exploitation”.<sup>98</sup> Trafficked children are also used as child labour for carpet-making and brick kiln factories, domestic servitude, in commercial sexual exploitation, begging and transnational drug smuggling.<sup>99</sup> According to multiple studies, most Afghan children are trafficked within the country, but children are also trafficked transnationally to Pakistan, Iran and Saudi Arabia for commercial sexual exploitation, forced begging, drug smuggling and camel racing, among others.<sup>100</sup> Afghan boys are sent to Iran for forced labour in the agriculture and construction sectors and to Pakistan for paramilitary training. Girls are sent to India and Pakistan for forced domestic service and commercial sexual exploitation,

including forced marriages. Girls from other countries are sent to Afghanistan for commercial sexual exploitation. Some children are sold into prostitution by their families. Families involved in opium farming sometimes sell their children to settle debts with opium traffickers.<sup>101</sup>

Many children who are taken to Iran for work are then arrested by the Iranian authorities and deported back to Afghanistan. UNICEF has received many reports of abuse by Iranian authorities, including beatings and sexual abuse. There have been some reports of children being shot by the Iranian police at the border. Children are arrested by the Iranian police on the streets and taken to detention centres without being allowed to contact their families; in most cases, the police confiscate the children’s mobile phones. They are then kept in the detention centres until they can raise the necessary funds for their own transport back to the border. UNICEF has received reports of forced labour in the detention centres. When the children cross the border back into Afghanistan, they are picked up by the Afghan Border Police (ABP); identification and screening is inadequate and many children end up being smuggled back to Iran instead of reunited with their families.<sup>102</sup>

## Armed Conflict

Children are used in armed conflicts across the country. In 2014, the UN reported the use of 97 boys (the youngest being eight years old) for military purposes; the majority were recruited by the Taliban and the Haqqani network.<sup>103</sup> These two groups “use children as suicide bombers and to plant improvised explosive devices”.<sup>104</sup> These children, both boys and girls, are often bought from their families by insurgent groups, typically for about 10 million Afs (around US\$170,000).<sup>105</sup> In 2014, the Ministry of Justice (MoJ) reported that 196 boys were in JRCs due to charges related to national security and alleged association with armed groups.<sup>106</sup> Child casualties increased by 30% in 2013 compared to 2012.<sup>107</sup> In 2014, 545 children died and 1,149 were injured in 790 reported incidents related to armed conflict.<sup>108</sup> In 2014, there was a 25% increase in the number of child casualties.<sup>109</sup>



## 4. RECOMMENDATIONS FROM INTERNATIONAL TREATY BODIES

### Observations and recommendations by the UN Committee on the Rights of the Child on Afghanistan's implementation of the CRC, 2011<sup>110</sup>

In the last decade, various legislative measures have been adopted to promote and protect human and children's rights in Afghanistan, such as:

- Elimination of Violence Against Women Law, 2009;
- Juvenile Rehabilitation Centre Law, 2009;
- Education Law, 2008;
- Counter Abduction and Human Trafficking Law, 2008;
- Juvenile Code, 2005.

Afghanistan has also ratified the following international human rights instruments:

- Optional Protocol to the CRC on the involvement of children in armed conflict, 24 September 2003;
- Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, 19 September 2002;
- Convention on the Elimination of All Forms of Discrimination Against Women, 5 March 2003;
- ILO Convention No. 138 (Minimum Age) and Convention No. 182 (Worst Forms of Child Labour), 7 April 2010;
- Convention relating to the Status of Refugees (1951) and its 1967 protocol, 30 August 2005.

Afghanistan adopted the following institutional and policy measures:

- The establishment of the Inter-Ministerial Steering Committee on Children and Armed Conflict, 2010;
- The Afghan National Development Strategy of 2008, in particular its sub-strategies on education, children at risk, and children with disabilities;
- The National Plan of Action against Trafficking and Kidnapping of Children, adopted in 2004;
- Child Protection Action Network (CPAN), established in 2003;
- The AIHRC, established in 2002 and which created a CRU in 2003;
- The current drafting consultative process for the development of a Child Act.

The last report of the UN Committee on the Rights of the Child is dated 2011. The Committee recognized Afghanistan's progress in terms of legislation and policy-making in the field of children's rights; however, several concerns and recommendations remain prevalent in the Committee's observations.

The following table summarises the Committee's concerns and recommendations regarding law enforcement and the judicial system in Afghanistan:

**TABLE 2 – Concerns and Recommendations of the CRC Committee, 2011**

|                                | Concerns  | Recommendations  |
|--------------------------------|---|--|
| <b>Legislation</b>             | <p>The Convention has not been considered as a legally binding instrument and has not been incorporated systematically into the internal legal system.</p> <p>Child rights are negatively affected by the application of different sources of law (codified, customary and Sharia laws).</p> <p>Weak enforcement, limited level of awareness of the legal norms promulgated, widespread corruption, the application by courts of provisions of customary or Sharia law which infringe the principles and rights contained in the Convention have all contributed to the low implementation of child rights legislation.</p> | <p>Afghanistan needs to ensure applicability of the Convention in the domestic legal order, ensure that all the principles and provisions from the Convention can be applied in the courts and administrative proceedings and that it can be applied to all children living in the territory.</p> <p>Ensuring that the existing domestic framework, including customary or Sharia laws is brought to compliance with the Conventions.</p> <p>A comprehensive Child Act should be enacted which supersedes all legislation that is not in conformity with the Convention, and provide children with appropriate means of redress.</p> |
| <b>Coordination</b>            | <p>The recently established Children's Secretariat to coordinate the implementation of the Convention has been placed within the Ministry of Labour and Social Affairs, Martyrs and the Disabled (MoLSAMD) which may limit its cross-sectorial impact.</p> <p>The proliferation of ad hoc commissions, and the overlapping of such commissions and Government department on issues affecting children.</p>  | <p>Allocating principal responsibility for the coordination and evaluation of the implementation of the Convention to a single mechanism with full authority and capacity to coordinate the implementation of children's rights across all ministries and other agencies.</p> <p>Providing that mechanism with the adequate financial and human resources to fulfil its mandate throughout the national territory.</p>   |
| <b>National plan of action</b> | <p>The Committee acknowledges the formulation of several specific plans of action for children and of an overall Afghan National Development Strategy (2008-2013), however there is a lack of a comprehensive policy and strategy for the attainments of child rights which could be linked to the Afghan National Development Strategy and to the national budget.</p>   | <p>Developing a comprehensive policy and strategy on children that is closely linked to the Afghan National Development Strategy with appropriate resources, and covering all specific plans of action relating to different aspects of child rights, either in the form of a National Plan of Action for children or other such framework.</p>  |
| <b>Independent monitoring</b>  | <p>The Committee welcomes the creation of the Afghanistan Independent Human Rights Commission (AIHRC), and the establishment by the Commission of a specific Child Rights Desk, however, there are concerns about the procedure for nominating the Commission's members which could be politically influenced. Also, there is insufficient financial support provided to the Commission and limited expertise of its child rights monitors.</p>   | <p>The nomination procedure for Commissioners should be fully independent from political influence in accordance with the Paris Principles.</p> <p>The AIHRC and its Child Rights Desk should receive adequate public funds and training to perform all functions set out in their mandates.</p> <p>Children should be aware of the Child Rights Unit at the AIHRC and be able to access it.</p> <p>The Committee would like to draw the attention of the Afghan government to its General comment No.2 (2002) on the role of independent human rights institutions (CRC/GC/2002/2).</p>   |

|  | Concerns   | Recommendations   |
|--|--|---|
| <b>Allocation of resources</b>                                     | Information about budget allocation for implementing the rights of children is extremely limited.<br>There is no effective mechanism for tracking and monitoring the allocation and impact of resources from national and international sources, from a child's rights perspective.  | Allocate adequate budgetary resources in accordance with article 4 of the Convention for the implementation of the rights of children, based on needs and on a transparent basis, allowing for monitoring of progress and evaluation of results.  |
| <b>Corruption</b>  | Corruption has attained alarming levels and directly impacts children's enjoyment of their rights and greatly reducing the funds available notably for education, health care, including access to safe drinking water and child protection.   | Immediate measures need to be taken to efficiently prevent and combat corruption and prosecute acts of corruption.  |
| <b>Data collection</b>   | Absence of a comprehensive data collection system, which allows disaggregation and further analysis of data on the living conditions of children, particularly girls, children in poverty, or children with disabilities.  | There is a need to establish a comprehensive data collection and analysis system, with disaggregation by, inter alia, age, sex, minority group, and family structure, and covering all rights under the Convention. The Committee recommends that the State Party take guidance from its General comment No. 5 (2003) on the general measures of implementation of the Convention on the Rights of the Child (CRC/GC/2003/5).   |
| <b>Definition of the child (art 1 of the Convention)</b>           | Inconsistencies between civil law, Sharia and customary laws as to the legal minimum age for marriage.   | These inconsistencies need to be rectified by raising the minimum age of marriage for girls to 18 years as it is for boys (as opposed to 16).   |
| <b>GENERAL PRINCIPLES (arts. 2, 3, 6 and 12 of the Convention)</b> |  |   |
| <b>Non-discrimination</b>  | High concerns that girls continue to be subject to multiple gender-based discrimination from the earliest stages of their life, and through their childhood. This is due to the persistence of adverse and traditional attitudes and norms.<br>There have been efforts to expand girls' education, improve their safety, and protect them against violence, however, no systematic efforts have been undertaken by religious leaders, opinion makers, and the mass media, to combat and change the discriminatory attitudes and practices.<br>Discrimination against girls and women has been legitimized by the Shia Personal Status Law adopted in 2009. | (a) Formulate a comprehensive strategy, including a clear definition of targets, and the establishment of a monitoring mechanism, to modify and eliminate negative attitudes and practices, and deep-rooted stereotypes that discriminate against girls;<br>(b) Undertake such efforts in coordination with a wide range of stakeholders, including girls, and involve all sectors of society, so as to facilitate social and cultural change and the creation of an enabling environment that promotes equality;<br>(c) Monitor such efforts and regularly assess progress made towards the achievement of established goals, and include an assessment of the results achieved in its next report; and<br>(d) Repeal the Shia Personal Status Law as recommended by the United Nations High Commissioner for Human Rights (A/HRC/13/62 para. 69 c). |
| <b>Best interests of the child</b>                                 | The principle of the best interests of the child is not adequately applied by legislative bodies and is absent from most of the legislation concerning children, as well as from the judicial and administrative decisions and policies, and programmes relevant to children.  | The general principle of the best interests of the child should be fully integrated into: legislative, political, judicial and administrative procedures and decisions, as well as in programmes, services and reconstruction activities which have an impact on children.  |



|   | Concerns  | Recommendations  |
|---|---|--|
| <b>Right to life, survival and development</b>  | While welcoming the establishment in July 2008 of a Country Task Force on Monitoring, Reporting and Response (CTFMRM) in compliance with Security Council resolution 1612, the Committee expresses deep concern over the death of hundreds of children as a result of attacks and air strikes by insurgent groups, international military forces and the Afghan National Army (ANA). The Committee expresses serious concern that armed forces responsible for the killing of children have not been held accountable and that the grievances of families have not been redressed. The Committee expresses further concern that the 2007 Law on Public Amnesty and National Stability may be used to grant amnesty to perpetrators of the most serious crimes against children. | The Committee urges the State party to ensure that allegations of violations against children perpetrated by any party to the conflict are investigated in a transparent, timely and independent manner, and ensure that perpetrators of those violations are brought to justice.  |
| <b>Respect for the views of the child</b>   | The Committee is concerned that traditional societal attitudes towards children limit, and often totally prevent, children from expressing their views on issues that affect them and from having their views duly taken into account within the family, schools, other children's institutions, the judicial and administrative system, and society at large. The Committee also notes with concern that although the 2005 Juvenile Code provides for the right of children to be heard in any judicial or administrative proceedings affecting them, it is rarely respected, especially when girls are concerned, and children are not present or often requested not to speak during proceedings that concern them.  | Recalling States parties' obligation to undertake appropriate measures to fully implement the right of the child to be heard, the Committee urges the State party to actively combat negative attitudes which impede the full realization of the child's right to be heard through public education programmes and campaigns, including opinion leaders and the media, and to pay special attention to the particularly disadvantaged situation of girls in this regard. The Committee also urges the State party to amend its civil and criminal code to ensure that children are heard in judicial and administrative proceedings affecting them. The Committee draws the attention of the State party to its General comment No. 12 (2009) on the right of the child to be heard (CRC/C/GC/12). |
| <b>CIVIL RIGHTS AND FREEDOMS (arts. 7, 8, 13-17, 19 and 37 (a) of the Convention)</b> |   |  |
| <b>Birth registration</b>   | While noting some progress made in 2009 to increase birth registration, the Committee is however concerned that the majority of children remain unregistered. The Committee also expresses concern about the situation of children born out of wedlock, who may be deprived of their right to birth registration.   | The Committee draws the attention of the State party to the fact that birth registration is an essential means of protecting children's rights. It urges the State party to take all necessary measures to ensure that all children, including children born out of wedlock, are properly registered at birth.   |
| <b>Torture or other cruel, inhuman or degrading treatment and punishment</b>          | The Committee is deeply concerned that almost half of the children arrested are reportedly subjected to different forms of verbal and physical abuse by the police during arrest in order to extract a confession, and that virginity testing is imposed on girls in judicial proceedings. The Committee also expresses grave concern that children are being handcuffed and shackled in juvenile rehabilitation centres, during transportation to court or hospital, and at night, allegedly for security reasons or as a form of punishment.  | The Committee calls upon the State party to urgently set up an independent child-sensitive mechanism to receive complaints against law enforcement officers regarding ill-treatment during arrest, questioning and police custody, and ensure that perpetrators are brought to justice. The Committee also urges the State party to systematically train police, prison staff and other authorities on human rights of children, and ensure physical and psychological recovery and social reintegration of child victims of ill-treatment. The Committee further calls upon the State party to immediately cease imposing virginity testing on girls.   |

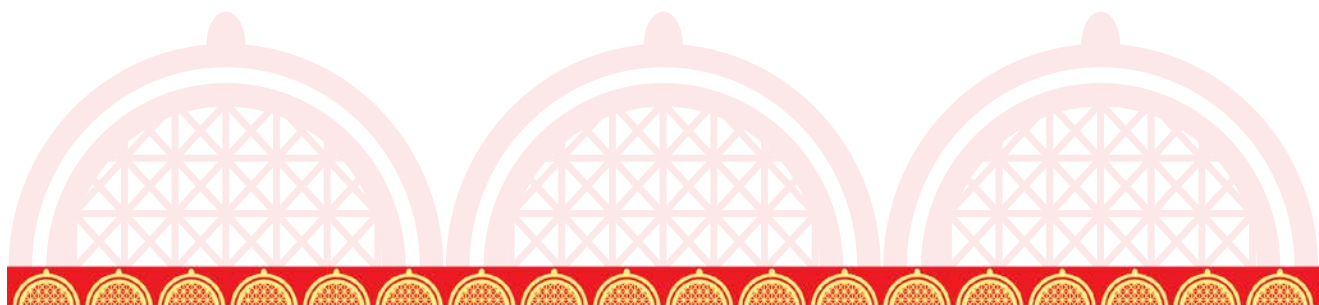




|   | Concerns   | Recommendations   |
|---|--|---|
| <b>Corporal punishment</b>  | <p>The Committee notes with concern that in spite of the prohibition contained in the Education Law against all kinds of physical and psychological punishment of students, such practices continue to be common in the State party's schools. The Committee is particularly concerned that all schools continue to have a discipline/guards committee, comprised of teachers and students, with full permission to use physical punishment on school children.</p>  | <p>The Committee urges the State party to unequivocally prohibit by law corporal punishment in the family, schools and institutions for children, and ensure that those laws are effectively implemented, and that legal proceedings are systematically initiated against those responsible for mistreating children. The Committee also calls on the State party to introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment, with a view to changing the general attitude towards this practice, and to promote positive, non-violent, participatory forms of child-rearing and education as an alternative to corporal punishment. In this regard, the Committee draws the attention of the State party to its General comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8).</p>   |
| <b>Follow-up to the United Nations study on violence against children</b> | <p>The Committee is extremely concerned by the high level of violence against children in the State party and abhors that child victims of abuse and violence, especially girls, are often treated as perpetrators and sent to juvenile rehabilitation centres, while most of the perpetrators of violence against children enjoy impunity. While noting as positive the recent establishment of the Child Protection Action Networks (CPAN) in several provinces and districts, the Committee expresses concern about the absence of comprehensive public and private systems of protection for child victims of violence as reflected by the lack of a mechanism through which child victims of violence can lodge complaints and obtain protection and rehabilitation services.</p> | <p>(a) Prioritize elimination of all forms of violence against children, including by ensuring implementation of the recommendations of the United Nations study on violence against children (A/61/299), paying particular attention to gender;</p> <p>(b) Provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, namely:</p> <p>(c) The development in each State of a national comprehensive strategy to prevent and address all forms of violence against children;</p> <p>(d) The introduction of an explicit national legal ban on all forms of violence against children in all settings; and</p> <p>(e) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.</p> <p>(f) Cooperate with the Special Representative of the Secretary-General on violence against children, and seek technical assistance, inter alia, from UNICEF, the Office of the High Commissioner for Human Rights (OHCHR), World Health Organization (WHO), International Labour Office (ILO), UNESCO, UNHCR, United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.</p> |



|  |  | Concerns  | Recommendations   |
|--|--|---|---|
| <b>FAMILY ENVIRONMENT AND ALTERNATIVE CARE (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para.4) and 39 of the Convention)</b> |  |   |   |
| <b>Children deprived of a family environment</b>   |  | <p>The Committee expresses serious concern about the continuous increase in the institutionalization of children in the State party, especially children from poor families. The Committee notes with concern that other alternative care options, such as foster care, remain underdeveloped which leads to excessive institutionalization of children. The Committee is also concerned that most alternative care facilities are unregistered and are not adequately regulated and monitored.</p> <p>While noting the information provided in the State party's report that the State party does not practice adoption or kafalah, the Committee expresses concern that the State party does not have a system that provides special protection and assistance to children deprived of a family environment. The Committee also takes note of the information provided during the interactive dialogue that a system of guardianship exists in the State party to take care of orphaned children, and that legislation to protect those children is being considered. Nevertheless, the Committee is concerned about the absence of a legal framework regulating such guardianship and protecting children deprived of a family environment on a long-term basis.</p> | <p>(a) Revise admission criteria and strategies to reduce the number of children living in care facilities, including through policies to strengthen and support families and ensure that placement of children in institutions is only used in the best interests of the child;</p> <p>(b) Develop community-based alternative care especially in rural areas;</p> <p>(c) Ensure that all alternative care facilities are registered and monitored by an independent body;</p> <p>(d) Periodically review the placement of children in alternative care facilities and fully include children in the review of their placement;</p> <p>(e) Implement mechanisms to expand and stimulate the reintegration of children into their families, and to this aim, recruit and train social workers and other professionals; and</p> <p>(f) Take into account the Guidelines for the Alternative Care of Children annexed to the United Nations General Assembly resolution 64/142 of December 2009.</p> <p>The Committee urges the State party to adopt through legislation a system that fully protects the rights of all children deprived of a family environment who may require permanent placement, in conformity with of article 20 of the Convention. The Committee encourages the State party to seek technical assistance, inter alia, from UNICEF, in matters regarding placement of children deprived of a family environment.</p> |






|                          | Concerns  | Recommendations  |
|--------------------------|---|--|
| <b>Abuse and neglect</b> | <p>The Committee notes with deep concern that in spite of widespread abuse and neglect of children and women in the home, domestic violence has not been criminalized in the State party, and that the Penal Code even allows the father to discipline family members, including children, without incurring penalties. The Committee also expresses serious concern about Edict No. 1497/1054 of 26 October 2010 by which the Supreme Court ruled that women and girls who run away from their residence to a stranger's residence, instead of to a relative's house, or a security or justice department, regardless of whether they had experienced violence caused by a family member, will be condemned as having committed the crime of adultery or prostitution.</p> | <p>The Committee urges the State party to criminalize domestic violence and to adopt a comprehensive national strategy to prevent, combat and punish domestic violence and other forms of child abuse and neglect, and in particular:</p> <ul style="list-style-type: none"> <li>(a) Conduct broad awareness-raising campaigns and training on domestic violence and the provisions of the new law for officials (law enforcement agencies, judges, lawyers and social workers) who are in direct contact with the victims, as well as for the public at large;</li> <li>(b) Recruit and train female police officers, and provide adequate facilities in order to increase the number of Family Response Units (FRUs) within police stations to register cases of domestic violence.</li> <li>(c) Open, as a matter of urgency, State-sponsored temporary shelters exclusively for victims of domestic violence throughout the country;</li> <li>(d) Provide adequate protection to child victims of abuse in their homes when possible, through restraining and removal orders against the alleged perpetrator;</li> <li>(e) When the removal of the child from his/her family is necessary, give preference to foster care or similar family-type settings, and only resort to institutionalization when in the best interests of the child; and</li> <li>(f) Ensure the inclusion and participation of the whole society, including children, in the definition and the implementation of preventive strategies against domestic violence and other forms of abuse and neglect.</li> </ul> |

#### SPECIAL PROTECTION MEASURES (arts. 22, 38, 39, 40, 37(b) and (d), 30, 32-36 of the Convention)

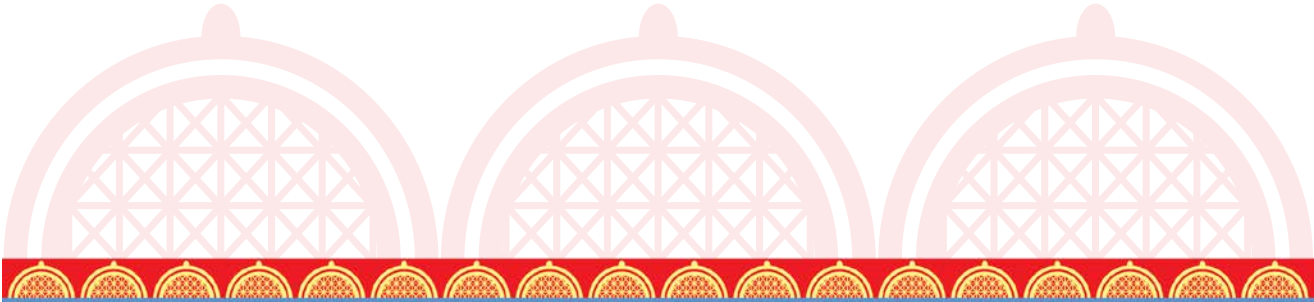
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|--|---|---|
| <b>Children affected by armed conflict</b> | <p>While welcoming the establishment in 2010 of the Inter-Ministerial Steering Committee on Children and Armed Conflict and the adoption of an Action Plan to respond to grave violations committed against Afghan children during conflict, the Committee is concerned that there is no specific reference in the 2010 Afghanistan Peace and Reintegration Programme to, nor resources or responsibilities allocated for, the particular needs of all children affected by armed conflict. The Committee further notes with concern that although the minimum age for recruitment in the police and the army has been set at 18 years by presidential decree, under-18 recruitment persists in the State party, including in the ranks of the Afghan police. The Committee is also concerned that, when arrested, children used by insurgent groups are held with adults under national security charges for extended periods of time in facilities of the international armed forces or of the National Directorate of Security, with limited access by national and international child protection bodies.</p> | <ul style="list-style-type: none"> <li>(a) Ensure that appropriate child-specific provisions and resources are included in all peace and reconciliation negotiations and treaties;</li> <li>(b) Implement the above-mentioned Action Plan to respond to the six grave violations of child rights committed against Afghan children during conflict;</li> <li>(c) Allow national and international child protection bodies regular access to all detention facilities at all levels, including those of the National Directorate of Security, and ensure due process for all juveniles detained for alleged association with armed groups; and</li> <li>(d) Fully implement the recommendations contained in the latest mission report of the Special Representative of the Secretary-General on Children and Armed Conflict on her visit to Afghanistan from 20 to 26 February 2010.</li> </ul> |
|--|---|---|







|                                      | Concerns   | Recommendations   |
|--------------------------------------|--|---|
| <b>Children in street situations</b> | The Committee is concerned that there are significant numbers of children working in the streets in the State party, and that these children are at great risk of physical, emotional and sexual exploitation and abuse. The Committee expresses particular concern that children in street situations are often used as sex workers and introduced to intravenous drug use by criminal groups. The Committee is also concerned that children in street situations under the age of criminal responsibility have been arrested and detained by the Afghan National Police  | The Committee urges the State party to collaborate closely with civil society to support local authorities in designing and implementing social inclusion strategies for children in street situations and their families.  |
| <b>Sexual exploitation and abuse</b> | <p>The Committee expresses grave concern that limited action has been taken by the State party to combat widespread sexual abuse and exploitation of children, and that perpetrators of such abuse enjoy impunity. The Committee also expresses deep concern that while there is a systematic failure on the part of the authorities to prosecute perpetrators of sexual abuse, child victims are very often considered and treated as offenders, and charged with offences such as debauchery, homosexuality, running away from home or zina. The Committee is also particularly concerned that:</p> <p>(a) Shame and stigma are attached to the child victim rather than the perpetrator;</p> <p>(b) The crime of rape has not been clearly defined and separated from the offence of zina in domestic legislation, and that other types of sexual abuse, including abuse in homosexual relations as well as sexual exploitation, have not been included in the Penal Code;</p> <p>(c) There is no mechanism in place through which child victims of sexual abuse can lodge complaints and obtain protection and recovery services, with their privacy protected; and</p> <p>(d) Girl victims of sexual abuse and exploitation are at risk of honour killing, the practice of baad or forced marriage with their rapist, and rejected by their families.</p> | <p>The Committee calls on the State party to:</p> <p>(a) Urgently develop awareness-raising programmes and campaigns, with the involvement of children, to curb sociocultural norms that lead to sexual abuse of children, condone abusers and stigmatize child victims;</p> <p>(b) Revise legislation in order to adequately protect all girls and boys from all forms of sexual abuse and violence, and ensure that the crime of rape is clearly defined;</p> <p>(c) Ensure that child victims of any form of sexual abuse or exploitation are considered and treated as victims and no longer charged and detained as offenders;</p> <p>(d) Strengthen Family Response Units and establish, as a matter of urgency, effective and child-friendly procedures and mechanisms to receive, monitor and investigate complaints;</p> <p>(e) Ensure that perpetrators of sexual abuse and exploitation of children are brought to justice and punished with sanctions proportionate to their crimes; and</p> <p>(f) Develop a national strategy to respond to the housing, health, legal and psychosocial needs of child victims of sexual exploitation and violence.</p> |





|   | Concerns   | Recommendations   |
|---|--|---|
| <b>Administration of juvenile justice</b> | <p>The Committee welcomes the adoption of the Juvenile Code in 2005 and the establishment of the specialized juvenile justice system based on said Juvenile Code. The Committee is however deeply concerned at the situation of juvenile justice in the State Party, in particular that:</p> <p>(a) To date juvenile courts have only been established in six districts and children in conflict with the law are tried by family judges, many of whom are not specifically trained for juvenile justice;</p> <p>(b) Status offences regarded as "abnormal behaviours" can lead children to be sentenced as criminals, in particular girls who are victims of violence and abuse and who are made responsible for the criminal acts committed against them;</p> <p>(c) Detention is not the last resort and a large number of children are in detention, almost half of them in pre-trial detention, while about half of the girls in Juvenile Rehabilitation Centres have been charged with so-called moral offences, such as running away from home, some of them even during pregnancy and the birth of their child;</p> <p>(d) A number of children under the age of criminal responsibility, which is 12 years, are in Juvenile Rehabilitation Centres;</p> <p>(e) Alternatives to detention are rarely used despite options provided by the Juvenile Code of 2005;</p> <p>(f) A number of children in detention are not separated from adults, nor are they provided with adequate food, care, protection, education and vocational training, and they are often subjected to abuse and torture;</p> <p>(g) Children are not provided with legal aid, including while in court, and often statements are forcibly extracted from them; and</p> <p>(h) Many parents are not informed of the detention of their children, and children not allowed to meet with their parents.</p> | <p>The Committee recommends that the State party bring the juvenile justice system fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's General comment No. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10). In particular, the Committee urges the State party to:</p> <p>(a) Strictly respect the minimum age of criminal responsibility;</p> <p>(b) Strengthen efforts to establish specialized courts throughout the country;</p> <p>(c) Revise legislation to decriminalize so-called moral offences, and release children detained on this basis;</p> <p>(d) Ensure that no child is subjected to abuse and torture when in contact or in conflict with the law, especially during arrest and investigation;</p> <p>(e) Respect the right of the child to be informed of the charges and to have access to his/her family, as well the right of the parents to have information;</p> <p>(f) Limit by law the use and length of pre-trial detention of children;</p> <p>(g) Provide children, both victims and accused, with adequate legal and other assistance at an early stage of the procedure and throughout the legal proceedings;</p> <p>(h) Ensure that detention is a measure of last resort and for the shortest possible period of time, and that it is reviewed on a regular basis with a view to withdrawing it;</p> <p>(i) Continue efforts to ensure that children deprived of liberty or in rehabilitation centres or detention facilities are never kept with adults, but have a safe, child-sensitive environment and can maintain regular contact with their families, and are provided with food, education and vocational training;</p> <p>(j) Promote alternative measures to detention, such as diversion, probation, counselling, community service or suspended sentences, wherever possible;</p> <p>(k) Request further technical assistance in the area of juvenile justice and police training from the Interagency Panel on Juvenile Justice, whose members include UNODC, UNICEF, OHCHR, and NGOs; and</p> <p>(l) Take account of the Committee's General comment no. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10).</p> |





|   | Concerns | Recommendations  |
|---|----------|--|
| Protection of witnesses and victims of crimes | N/A      | The Committee also recommends that the State party adopt adequate legal provisions and regulations to ensure that all child victims, such as child victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking, and child witnesses of such crimes are provided with the protection required under the Convention, and fully take into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20). |

Source: 2011 Report of the Committee on the Implementation of the CRC

## Progress Made Since 2011

Progress has been made on some of the Committee's recommendations. The following developments are worth noting:

- In early 2015, a draft Child Act was submitted to UNICEF and other partners for revision and comments.
- The MoA's 10-year vision establishes the strategic framework for ministerial reform and ANP professionalization during this decade of transformation. The goal of the vision is for the ANP to become "a civilian community policing institution with strong relations with the people through formal and informal mechanisms, and serving the people according to their legitimate needs" by 2023.
- Government bodies involved in the child protection system under the letter of Agreement (LoA, see Section 8.1 and Annex B) have started collecting data on cases involving children in the judicial system. A database is being developed under the Ministry of Labour, Social Affairs, Martyrs and Disable (MoLSAMD) that will include organisations that are members of CPAN (also see Section 8.1 below). The database will have 23 categories of violations of children's rights<sup>111</sup>. The information entered in the database is meant to be used in policy making.
- Other ministries have developed data collection and reporting systems, including the various police units under the MoA (see Section 7 below for more details).
- Amendments to the Shiite Personal Status Law: On 7 April 2009, the president requested the MoJ to amend the law based on international and Islamic norms. The MoJ revised the law in coordination with human rights institutions, civil society organisations and legal experts/academics. The president issued a decree enacting the amendments to the Shiite Personal Status Law on 20 June 2009. A total of eight amendments were made to the law, mostly relating to women's rights (marriage and divorce, inheritance, etc.). With regard to children's rights, two amendments are worth nothing:
  - Article 99: establishment of the minimum age for marriage at 16 years old for females and 18 years old for males (although marriages are possible for younger children if approval is granted by a court); and
  - Article 194, Paragraph 3: grants mothers custody of their daughters until age 9 and their sons until age 7 (after that age, the father gets custody).<sup>112</sup>
- The ANP's FRUs are now present in 33 provinces (see Section C below for more details).



## 5. LEGAL FRAMEWORK

There are several laws that regulate the status of children in Afghanistan. The laws that were enacted after the beginning of the foreign military intervention in 2001 are all in line with international instruments ratified by Afghanistan, such as the Universal Declaration of Human Rights, the CRC<sup>B</sup>, and other international legal instruments and guidelines. The following section summarises the main laws that impact children and justice.

### Constitution of the Islamic Republic of Afghanistan (2004)

The Constitution recognises human rights and basic freedoms in several articles, for example equality and non-discrimination in Article 22 and freedom of expression in Article 34. International laws and covenants ratified by Afghanistan have force of law (Article 7). The presumption of innocence is the basis for the criminal legal system (Article 25) and forced confessions are invalid (Article 30). Children's right to education is recognised by articles 17 and 43, and child forced labour is prohibited by Article 49. Article 54 outlines the responsibilities of the State in regard to the wellbeing of children:

"The state shall adopt necessary measures to attain the physical and spiritual health of the family, especially of the child and mother, upbringing of children, as well as the elimination of related traditions contrary to the principles of the sacred religion of Islam."

### Juvenile Code (2005)

Enacted in 2005, the Juvenile Code has precedence over the Penal Code where children are concerned ("any existing laws contradicting the provision of this code are abrogated", Article 66). The Juvenile Code contains 66 articles divided into eight chapters (general provisions; investigation procedures; trial procedures; functions of juvenile centres; procedures with children with irregular behaviour; procedures for children in need of protection and at risk; guardianship; and final provisions).

The definition of a child is provided in Article 4 as "a person who has not completed the age of 18" and a juvenile as "a person who has completed the age of 12 and has not completed the age of 18". Article 5 states that "a person who has not completed the age of 12 is not criminally responsible" and therefore cannot be accused of a crime. According to Article 6, a child's age will be determined according to his/her citizenship ID card; should there be any contradictions or disagreements on the child's age, then it will be determined by medical experts.

Article 7 stipulates that harsh punishment of children is not allowed under any circumstances. Once a child is arrested, the police have 24 hours to report the arrest and the child's place of detention to the appropriate legal representative and social services institutions (Article 11). Article 12 states that a child that is held on suspicion or arrested will be detained in a special temporary location. The child will still have access to the necessary social, educational, vocational, psychological and health services while in detention and these services will be provided in a manner that is appropriate for the child's age and gender.

Article 39 states the sentencing provisions for children as follows: the punishment for children who have completed 12 years of age and not 16 years of age cannot exceed one third of the maximum sentence indicated in the Penal Code for adults for the same crime. It also states that the punishment for children who have completed 16 years of age and not 18 cannot exceed half of the maximum sentence. A child cannot be sentenced to life imprisonment or the death penalty. According to Article 50 the court has the ability, when required, to amend its judgement "to safeguard the interests of the child regarding his or her education and reintegration into society."

Articles 26 and 29 establish juvenile courts (see Section 8 below for more details). Other articles (14, 22, etc.) cover the legal rights of children accused of crimes.

B. Afghanistan ratified the CRC in 1994.



Article 35 enumerates the types of diversion and other measures that the court is allowed to implement against the child as follows: “performing social services, sending the child to special social services institutions, issuance of a warning, postponement of trial, conditional suspension of punishment, home confinement, surrender of child to his/her parents or those who have the guardianship rights, sending the child to the JRCs for confinement.”

## Child Act (draft)

There is currently a process underway to draft a Child Act. The drafting committee is composed of representatives from: civil society; AIHRC; international organisations; UNICEF; MoE; MoJ; MoLSAMD; MoPH, Ministry of Women’s Affairs (MoWA); AGO; Supreme Court (SC) and the Afghan Independent Bar Association. There are also a number of sub-committees (see annex H). A first draft of the Child Act is expected in 2015.

The Child Act is meant to cover all situations involving children and provide guidance to all state institutions in working with children. It is meant to complement the Juvenile Code.

## Penal Code (1976)

Since 1976, several laws have been enacted that have criminal provisions and sometimes conflict with the Penal Code. That is why the President of Afghanistan signed a 2010 decree to revise the Penal Code and update the law based on the current needs of the country. A committee was appointed to revise the Penal Code and the work started in April 2012. The new draft was finalised on 14 April 2014 and includes 229 articles within 22 chapters. The draft on the specific provisions (crimes and punishments) has been started and the drafting committee has already completed 430 articles within 44 chapters. The work is ongoing.

In the draft of the new Penal Code, the maximum period of imprisonment for juveniles is 7.5 years. In cases of misdemeanours, judges may use alternatives to detention, in line with Article 35 of the Juvenile Code (2005). The new draft also includes fines for parents and legal representatives if juveniles repeat a crime due to lack of supervision or negligence.

## Criminal Procedure Code (2014)

The revised Criminal Procedure Code was published in May 2014. It has some articles that affect children.

The “incompetent victim” issue is discussed under Section 2 (“Initiating a Criminal Case”) and limits the right of a child as stipulated in Article 65 which says: “When the victim is a child or is affected by mental disorders, a complaint shall be filed by his or her legal representative according to the circumstances”.

Alternative to imprisonment is applicable based on conditions stated in Article 325 of the code:

(1) A person who is sentenced to up to 3 years of imprisonment can request the MoJ to assign him or her to do community service outside of prison instead of enforcing imprisonment.

(2) Alternative penalty to imprisonment is applicable to the following convicts:

1. The convicted person sentenced to prison is a school student, university student or teacher and/or breadwinner of a child or an elderly person, or a woman who does not have an occupation outside the house.

## Law on Organisation and Jurisdiction of Courts of the Islamic Republic of Afghanistan

Chapter 3 of this law establishes the structure of appeal courts. Based on Article 31, courts of appeal shall be established in all provinces. Appeal courts have different *dewans* (divisions) and Juvenile is one of them. Chapter 4 regulates the organisation of the primary courts. Article 40 establishes the Juvenile Court, stating: “there shall be established a juvenile primary court in the centre of every province”. The law does not create a juvenile division within the SC.

## Juvenile Justice Department Rules (2008)

The Juvenile Justice Department Rule is composed of 42 articles. The rule's stated objective is to "rehabilitate the suspected, accused and convicted juveniles and to uphold their rights" (Article 1). The rule puts the responsibility for juvenile centres under the MoJ (Article 11). This responsibility includes the internal security of the centres. Meanwhile, external security is the responsibility of the MoIA (Article 16).

A number of provisions in the rule describe the necessary conditions in the juvenile centres. For instance, boys and girls must be kept separately (articles 10 and 11), hygienic conditions in the centres must be adequate (Article 17) and juvenile centres must have the necessary equipment to maintain and develop the children's educational, recreational and cultural development (Article 21). Article 24 ensures that juveniles will be permitted to communicate with their family through supervised phone calls, mail and visits. Article 31 (b) prohibits any kind of punishment that can disrupt physical health and cause humiliation.

Article 13 establishes a High Council of Juvenile Centres in order to "observe the right of suspected, accused and convicted juveniles to imprisonment, effective use of law, violation of the children, investigation and welfare of the juvenile centres and adoption of required decisions". The council is under the responsibility of the MoJ and has 12 members.<sup>C</sup> Representatives from local and international NGOs can be invited to observe meetings of the High Council. The Council is responsible for providing recommendations on how the situations of children can be improved to the relevant authorities. The Council can also establish provincial committees consisting of the same members.

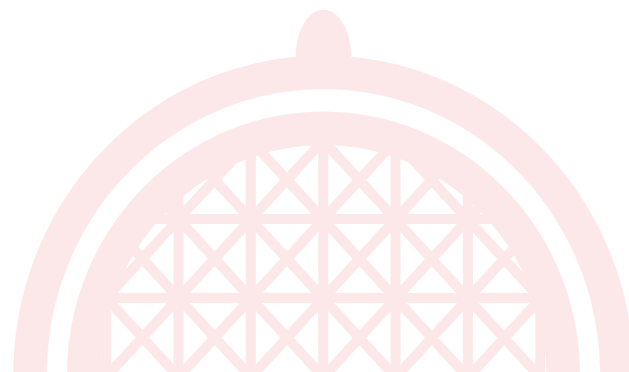
C. High Court, Deputy Attorney General, Deputy Minister of Interior Affairs, Deputy Minister of Education, Deputy Minister of Public Health, Deputy Minister of Women's Affairs, Deputy Minister of Labour and Social Affairs, Deputy Minister of Virtue and Pilgrimage, Deputy Minister of Culture and Media, representative of the Afghanistan Independent Human Rights Commission, representative of Social Society who will be selected by the Minister of Justice, a general Juvenile Centres Director as a member and a secretary.

## Elimination of Violence Against Women Law (2009)

This law includes penalties for violations of women's rights, including child and forced marriage. However, in 2013, Parliament approved a change to the criminal procedure that bans testimonies against relatives. This means that a woman can no longer testify against her abusive husband, nor can a girl testify against her father who forcibly married her.<sup>113</sup> This change creates another severe impediment to the already challenging prosecution of these types of cases.

## Labour Code

Article 49 of the Constitution prohibits forced labour. Children shall not be subjected to forced labour. Based on Article 13 of the Labour Code, the general requirement is 18 years as a minimum age, but depending on the type of labour, the minimum age can be lowered to 15 and, upon completion of his or her 14<sup>th</sup> year, a child can start training. The main shortcoming of the law is that there is no punishment for someone who forces a child under 15 to work.



## 6. INTERACTIONS BETWEEN SECURITY FORCES AND CHILDREN IN AFGHANISTAN

In Afghanistan, children come in contact with security forces as victims, witnesses and offenders. In all these cases, the first point of contact is usually regular police officers, who are either on patrol or in a police station. Police behaviour is regulated by the ANP Code of Conduct (under the MoIA). The preamble mentions children as a vulnerable group in need of specific protection and Article 1 of the Code stipulates that the role of the police “is to serve the Afghan society, safeguard life and property of the citizens (men, women and children), and respect and protect their freedom and lawful rights”.

The Code of Conduct also outlines the nine following principles:<sup>114</sup>

- Respect for the rule of law;
- Impartiality and non-discrimination (specifying that “women and children and non-citizens” shall be considered vulnerable persons);
- Proportional and appropriate use of force.
- Responsibility for the wellbeing of those in custody;
- Respect of confidentiality;
- Obedience to orders, except in cases where obedience would lead to a violation of human rights;
- Service to community;
- Honesty;
- Use of own discretion to remain professional.

The roles and powers of the police are described in the Police Law (2005). The only reference to children in the law is under Article 23, which stipulates that police cannot use firearms or explosives against children. However, many articles refer to due process and respect for human rights in general.

### 6.1 COMMON SITUATIONS OF INTERACTION BETWEEN CHILDREN AND SECURITY FORCES

Common crimes against child rights are harmful cultural practices, such as *bacha bazi* and child marriage, beatings and mistreatments, forced labour, forced drug trafficking, use in combat operations, sexual abuse and rape.

Afghan children come in conflict with the law mostly for theft, robbery, traffic offenses, assault, murder and so-called “moral crimes”, which refer to offenses such as running away from home and adultery. Women and girls running away from abusive homes are often charged with attempted *zina*, or adultery, which can attract a sentence of up to 15 years of prison for adults and five to eight years for girls, depending on their age.<sup>115</sup>

“Battery is common in all police stations and districts. I was arrested very violently and they handcuffed me.”

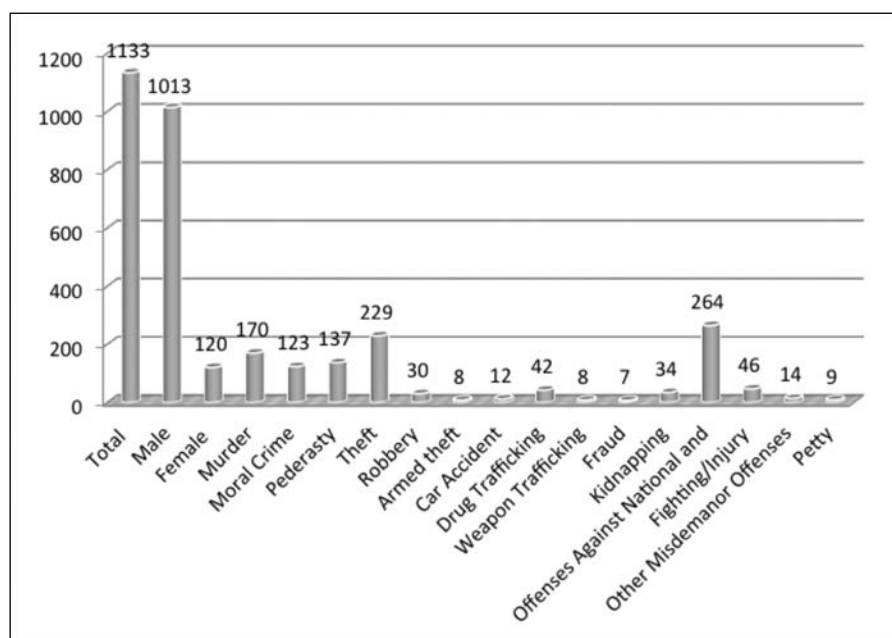
– Boy, JRC

“The police have to stop beating and insulting us.”

– Boy, JRC



There are also a series of crimes under the umbrella of “crimes against national security”, which include being a suicide/roadside bomber (direct crimes) and helping insurgent and terrorist groups to gather material and other logistics (crimes of instigation, which attract lower sentences).<sup>116</sup> The graph below shows the distribution of types of offenses for juveniles in JRCs as of March 2015:



Source: Juveniles Statistics – March 2015, UNAMA Rule of Law Section

Cases of police officers keeping children in custody for several days to make them work in the police station, for example to wash cars, have been reported and appear to be common (see below).<sup>117</sup> Some cases of sexual abuse of girls in custody were also reported and, in at least one case, the sexual abuse led to the girl being forced to marry the police officer who abused her.<sup>118</sup> There are also widespread reports of police officers using violence against children in custody, such as beatings and slapping.<sup>119</sup> Several cases of torture of children by police have been reported to the AIHRC<sup>120</sup> and other organisations.

The IBCR was told by multiple stakeholders that police officers prefer to take bribes from families to resolve cases involving children quickly, rather than going through the process of engaging with social workers and referring cases for prosecution.<sup>121</sup> This leads to the victimisation of poor children, whose families cannot afford to pay bribes.

## 6.2 CHILDREN'S PERCEPTIONS OF SECURITY FORCES

The results of the focus group discussions organised with children are presented below. While boys and girls have mostly gone through similar experiences in their encounters with the police, some differences exist. For example, sexual harassment by police while in custody was only mentioned by girls whereas beatings were only mentioned by boys. Also, experiences of children inside and outside of JRCs differed.

Most children interviewed in JRCs stated that they had been mistreated by the police at the time of arrest and while in police custody. They reported being slapped, beaten and handcuffed; forced to work at the police station (cleaning, washing cars or clothes, carrying wood and cooking). One child reported that his leg was broken as a result of the beating. Two children reported being

electrocuted by police officers as a form of torture; one of them stating that he had already confessed his crime before the electrocution.

Children experienced delays in the processing of their cases, mostly (they think) because police officers wanted to keep them in custody longer to use them to work.

Some children considered that they had been treated well by the police during their arrest and while in custody, with one mentioning that the officers had invited him to share their lunch. One girl also mentioned being treated very well but she also said this might have been because her brother is a member of the airport police and intervened when she was arrested.

Girls also mentioned that they were frequently insulted by police officers during arrest and while in custody. None reported being beaten but some were slapped. They also reported that if girls are not willing to provide sexual favours for the officers, their case gets automatically transferred to the prosecutor, even for minor offenses.

"I was arrested by the Major Crimes Task Force. They treated us like international criminals. I wanted to call my family but they didn't let me. They told me I had done something wrong so I needed to stay there [in the police station]."

– Girl, JRC

"When I was arrested, I committed the offense together with three police officers. I was told to say I didn't know them and I would be released, so I did, but they then blamed the whole case on me."

– Boy, JRC

"If you pay bribes, your case will be dropped, but poor people go to jail."

– Boy, JRC

Many also stated that their legal rights had not been respected during the judicial process; for example, several children reported that their statement was written for them by the police and that they were then forced to sign the statement without being allowed to read it (many children interviewed are illiterate and reported not being able to read their statement). The statements often contain confessions of crimes and are then passed on to the prosecutor; meanwhile the children are not made aware of the content. One child reported that she wrote her statement herself but when it was presented in court, the police or the prosecutor had added additional information in the statement without her consent.

Some children mentioned being sent to adult detention centres while their age was being determined, staying for several days with adult detainees before being transferred to a JRC.

Children working on the street interviewed seemed to have a slightly better experience of interactions with the police. Some explained that the police had helped preventing a crime or addressing a potentially threatening situation. Other children said that the police had visited their school to conduct prevention activities. One child mentioned witnessing a case of a police officer helping another child who was in need of medical attention, and taking her to the hospital.

Some of the children in those focus group discussions also described harassment by the police while working in the street. Those cases included being asked to wash police cars for free, having their merchandise destroyed and getting slapped by a police officer. In one case, a girl described witnessing a police officer forcing a child to sell drugs on the street.

A common complaint among children is that police officers only act after being bribed, which means that wealthier children who can afford to pay bribes receive preferred treatment.

Most children interviewed in JRCs don't trust the police for protection. They say that the police do not act according to the principle of presumption of innocence, and that they treat child victims and witnesses of crimes as offenders. Several children said that they would prefer to go to elders in their community rather than report crimes to the police.

When asked if they would like to become police officers in the future, the vast majority of children interviewed in JRCs said “no.” Some of them, however, stated that they would, in order to contribute to making the system better. Some also stated that providing security for their community and their country would be an honour:

“I want to become a police officer because police can bring security, which is an honour, and this will be achieved by the police. And if police secure villages and districts, then people can go to school and learn, and society will benefit from it in the long term.”

“I don’t want to become a police officer because I was beaten by them and I was kept for six days in the detention centre with adults. Even illiterate police officers are the same with those who have gone to school, and even though I showed my national ID, the police took me there.”

“I don’t want to become a police officer because they behaved very badly with me and my family, and I cannot live in my village after I was arrested.”

The responses in the groups of children working on the street were more mixed. The majority of them trust the police to protect them and help them when required. Similarly, when asked if they wanted to become police officers when they grow up, several children answered “yes” and said they would like to protect people, bring justice and prevent crime. Two children mentioned that more female police officers are needed to provide better security for children working on the street.

Children mentioned other actors that they would also trust for help, such as elders, Mullahs and social workers. The girls said they would prefer to ask assistance from a woman.

“I will approach both the police and village council at the same time, because the village council can also help. The reason why I want to do that is that I think that would prevent the police from abusing the situation.”

– Boy, JRC

Children were also asked what they would like to teach the police. Their answers included respect for the population and children in particular, respect for human rights and the need to change their behaviour:

“I will teach the police human rights because I know that the police officers do not know about the human rights of children.”

“I will teach the police to respect the people, all of them, including those who have committed a crime like me.”

“I would teach them how to behave and deal with people properly. I believe that some of them even do not consider us as humans.”

“I would teach the police to talk with children in a soft way.”

“To teach them legal issues to not hit us and to let them know about street working people’s rights.”

“Police shall help us with giving some advice instead of forcing us to go away from the streets.”

“Since police hit children and make them work for them then it should be clear that they don’t have information about children’s rights.”

“Afghanistan has signed something which has rights about children and children shall be considered based on that.”

## 7. ORGANISATION AND OPERATION OF SECURITY FORCES IN AFGHANISTAN

### 7.1 STRUCTURE OF THE AFGHAN NATIONAL POLICE

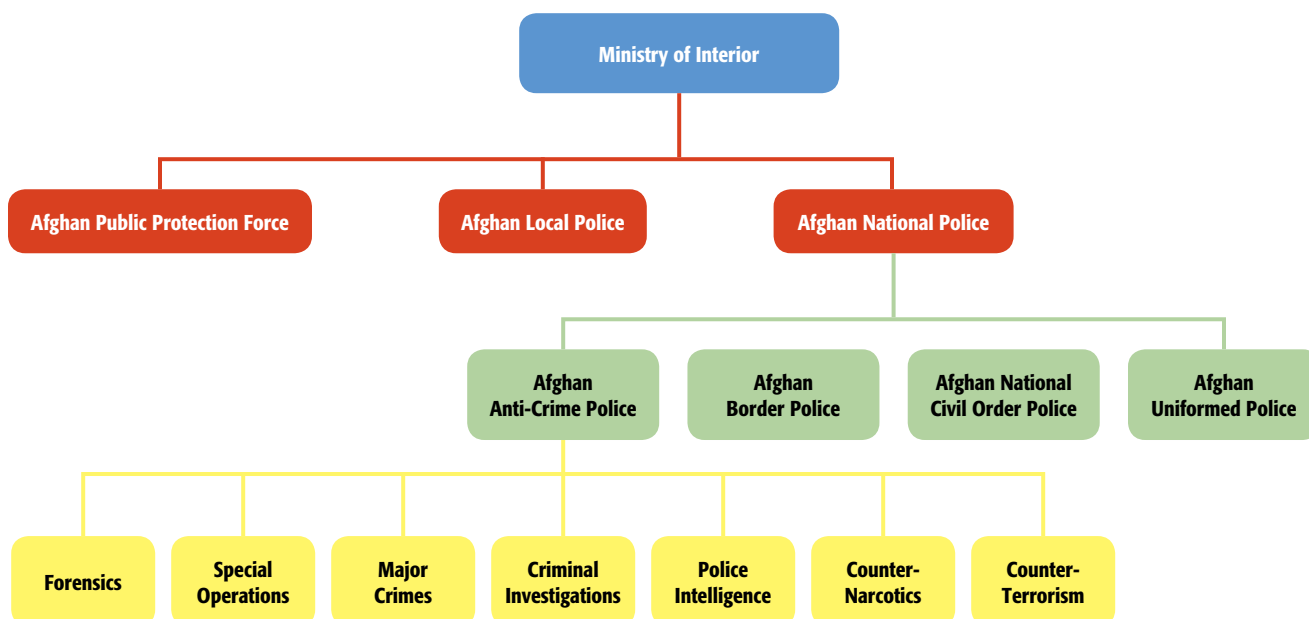
The Afghan National Police (ANP) was established in 2003 and currently has a total of 150,000 police officers. As this is not a sustainable number, especially with the lowering of the international community's financial support, the government has announced plans to reduce the number of police officers to approximately 120,000.

During the years since the US-led invasion, the ANP has been employed mostly by the international community and the Afghan government as a paramilitary force, performing counter-insurgency tasks to assist the armed forces in fighting the Taliban.<sup>122</sup> This has led the police forces to neglect traditional police duties,

such as fighting criminality and protecting the civilian population.<sup>123</sup>

The MoIA's 10-year vision (2010–2020) sets the strategic framework for reform of the ANP. The vision states that "within 10 years, the ANP will become a unified, capable and trustworthy civilian police service. Its primary responsibility will be to enforce the rule of law; maintain public order and security; detect and fight crimes; control borders; protect the rights, assets and freedoms of both Afghans and foreigners in Afghanistan according to national laws; and operate without ethnic, gender, language or religious discrimination."<sup>124</sup>

The figure below illustrates the current structure of the ANP, although it is in a constant state of change due to ongoing reforms:



Source: MoIA and UNDP



The Afghan Uniformed Police (AUP) have 90,500 members and the force is deployed in all provinces. It is responsible for combating crime, maintaining public order, traffic control, and fire, rescue and emergency response.<sup>125</sup> The AUP are generally the first point of contact between the population and security forces.

Under the new structure, the AUP will act as first responders for all cases brought to the police. They will then refer these cases to the appropriate specialised units.<sup>126</sup> They are currently 60 Information Desks around the country under the responsibility of the AUP, including 20 in Kabul. These desks are meant to act as the first points of contact between the population and the security forces, receive complaints from the public and address or refer them to the appropriate unit.

The Afghan Local Police (ALP) have approximately 29,000 members (all male),<sup>127</sup> who were selected by local elders and community leaders. It is a kind of civil defence force formed to defend local communities against Taliban attacks. ALP members don't have powers of investigation and arrest. The ALP is not under the responsibility of the ANP and has a separate command structure.

The ABP have approximately 20,000 members and is responsible for the zones that fall within 50 kilometres of the country's borders.

The Afghan Anti-Crime Police (AACP) comprises seven units: the Criminal Investigations Department, the Counter-Terrorism Unit, the Counter-Narcotics Unit, the Intelligence Unit, the Major Crimes Unit, the Special Operations Unit and the Forensics Unit. This is the investigative arm of the ANP. All these units will encounter children in the course of their work, even though they are not specially mandated to manage cases involving children. Children's first point of contact with the police is at police stations, which means that they are first in contact with regular police officers who do not have knowledge and expertise in handling juvenile cases.<sup>128</sup>

## 7.2 SPECIALISED POLICE UNITS

There are a number of police units that specialise in cases of human rights and cases involving women and children. The section below provides a description of the various units that currently exist within the ANP.

One challenge noted during the data collection process is that the specialised units' mandates often overlap and the division of labour between the units is not always clear.

### Juvenile Police Unit (JPU)

The JPU is under the responsibility of the Criminal Investigations Department. The Unit is composed of a manager and 17 officers in Kabul (all male), and two to three officers in each province (one manager and two officers).<sup>129</sup> The Unit works with children who are victims, witnesses and in conflict with the law, using a 13-category classification system for children at risk (street working children, children in need of reintegration, children recruited by armed groups, married children, disabled children, trafficked children, juvenile offenders, internally displaced and refugee children, children who have been sexually abused, drug-addicted children, etc.). Cases involving children are referred to the JPU by other police units and the AUP. The JPU monitors areas where children are at risk and works to raise awareness among parents on how to better supervise children.<sup>130</sup> However, there does not seem to be a clear document stating the mandate of the Unit, which leads to some confusion and overlapping of mandates with other units within the ANP.

The JPU's responsibilities include:

- Coordination with all other police units;
- Collaboration on activities with other criminal investigation units for better performance of duties;

"There is a need for the ANP to work better with children. Prevention is crucial to eradicate juvenile crime."

**Director for Detection, Criminal  
Investigations Department**

- Detection of and follow-up on crimes committed by juveniles;
- Prevention of crimes committed by juveniles through proper monitoring and enforcement;
- Recruitment of community members to work at the community level;
- Coordination with the ministries of education, justice, labour and social affairs and other law enforcement and crime prevention institutions;
- Preparation of monthly and weekly working plans;
- Reporting regularly on activities and follow-ups.<sup>131</sup>

Juvenile police officers operate under weekly and daily work plans agreed upon by the staff at headquarters in Kabul. The provincial units report to the Kabul unit and are in charge of sending statistics on juvenile cases to Kabul each morning at 9 a.m. This information is passed on to the MoIA to be used for policy making.<sup>132</sup>

The provincial and Kabul units are part of the CPAN (see below) and refer cases to other members. Due to a lack of resources, the work of the Unit is limited; for example, there are no vehicles assigned to provincial units, which prevents their ability to follow up on cases. For these reasons, the Unit uses CPAN and the working groups under the LoA (see below) to treat cases.<sup>133</sup>

As an example, the unit in Mazar-e-Sharif handled 39 cases of juvenile offenders from March 2014 to March 2015, including cases of battery and laceration, murder, sodomy, rape and robbery, among others. Once a week, there is a coordination meeting of managers from the Criminal Investigations Department from the Balkh province and Mazar-e-Sharif police stations. Emergency meetings are also held for urgent cases. The unit has only two officers (both male) working for the whole province.

The Herat unit was established in 2006 and currently has only two officers (both male) and no vehicle. The Herat unit handles two types of cases: juvenile crimes referred by police stations and cases of missing children. The lack of vehicle forces the two officers to take taxis to follow up on cases and transport children to the court, using their own financial resources; this greatly limits the number of cases the Unit can effectively manage. In addition, the two officers sit in the same office and do not have a spare room; therefore, they cannot interrogate suspects separately.<sup>134</sup>

## Human Rights, Women's and Children's Affairs Directorate – Child Rights Unit

The MoIA also has a HRWCAD, under which there is a CRU. The Unit's mandate is to monitor children's rights, coordinate child protection initiatives and report on Afghanistan's international obligations, including follow up on the recommendations of the CRC Committee. In this last capacity, the Unit works with other government institutions to gather statistics on children's rights issues; the Unit reports these statistics to the Ministry of Foreign Affairs, who is in charge of official reporting to the CRC Committee.

However, based on interviews with the Unit's management, there seems to be confusion about the respective mandates of the CRU and the JPU. As described above, the JPU sees its mandate as managing all cases of children in contact with the law, and this includes children in conflict with the law, child victims and witnesses of crimes, and children at risk. On the other hand, the perception of the CRU is that the JPU should only handle cases of children in conflict with the law and that the protection of child rights should be the mandate of the CRU.<sup>135</sup>

There are Gender and Human Rights Units in each province. These are composed of three officers each (with a few female officers). There are also Gender and Human Rights Units in all 17 police stations in the Kabul area and in the ABP. However, there are no child rights officers in these units and a need has been identified to have at least one child rights officer per province. The CRU is headed by a manager based in Kabul and there is another child rights specialist working with the ABP in Kabul. There are five other officers around the country, for a total of only seven specialised officers.<sup>136</sup> The Unit is a member of CPAN and is involved in the drafting of the new Child Act.

The Child Rights provincial units conduct ongoing monitoring of the police on issues of gender and human rights. As an example, in Herat, the provincial unit has five mandates:

- Monitoring of all police detention centres;
- Follow up on deaths and injuries of police officers, including relations with their families;
- Coordination through CPAN and awareness raising on human rights;
- Collection of statistics on child cases and human rights violations;
- Addressing issues related to underage recruitment in the security forces.<sup>137</sup>

The unit in Herat coordinates with the JPU on a day-to-day basis.

## Family Response Unit

The Family Response Unit (FRU), under the command of the Criminal Investigations Department, was created in 2010 to address family crimes, such as violence against women and girls, domestic violence and other crimes covered by the law on the Elimination of Violence Against Women.

The approved structure for the FRU is 354 staff members across 184 provincial, district and police stations. The FRU is currently present in all provinces except Nuristan, where no one has been recruited yet due to the high level of insecurity in that province.<sup>138</sup> Of the 354 approved positions, there are currently 283 people working for the FRU. Each province has at least two officers. FRU personnel is composed of 156 third-level to first-level officers, and 127 lieutenants and senior positions. Of that number, only 34 are female officers, working in 14 provinces (including FRU's deputy manager). In the Ministry of Interior Affairs in Kabul, there are eight officers working in the FRU. The FRU has a database in which data is collected from all provinces and compiled for reporting to the MoIA every three months.<sup>139</sup>

## Community Policing Department

The ANP has been trying to restructure into a more civilian institution focused on law enforcement and protection after years of war.<sup>140</sup> As police have been largely involved in fighting the insurgency, they have neglected their policing duties and this has created a relationship of distrust with the population.

The ANP has accordingly established a Community Policing Department, which undertakes initiatives to repair police/community relations. The Department has created mobile teams in eight provinces (Kabul, Balkh, Kunduz, Herat, Ghor, Bamyan, Baghlan and Samangan), with nine officers per team (for a total of 72, including 15 female officers). The teams go around communities and receive complaints about the police. They have the authority to use mediation to solve small issues on site or address more important issues at the provincial police headquarters. In some districts, the Department has also established councils made up of police, community elders, religious leaders

and other community representatives. These councils meet every 15 days and discuss security issues in the district.<sup>141</sup>

The Department is responsible for managing the 119 telephone number that enables the public to contact the police for emergencies. The number has been in service for the past seven years, and six provinces currently have a call centre (with two other provinces to be added this year). Calls from provinces that do not have call centres are automatically transferred to Kabul. Officers answer the calls, ask the caller for his or her location and contacts the local police district station for immediate intervention. A follow-up call is made to the caller a few minutes later to ensure that the local police unit has made contact. The 119 number is available to the public to report emergency situations, request assistance or report issues around police behaviour. The number is also available for police officers to report internal situations within the police force.<sup>142</sup>

Call centres report to the MoIA every 24 hours on cases received; these include cases of domestic violence, arson, robbery, terrorism, human rights violations, landmines and IED, etc. The Department has prevented 21 suicide bombers from carrying out attacks and confiscated 16 bomb vests over the last seven years thanks to public reporting through the 119 number.<sup>143</sup>

For the past year, the Department has also been maintaining a Facebook page for the same purpose as the 119 number.<sup>144</sup> The page is monitored hourly and information from the public is passed on to the Criminal Investigations Department for further investigation.

In addition, the Department manages a number of programmes with communities, such as sports events, and local and provincial community gatherings, during which a questionnaire is distributed to participants to identify the community's challenges in working with the police.<sup>145</sup> The Department's social safety programme is currently implemented in schools in nine provinces (nine schools per year per province) and aims at sensitizing children on topics such as traffic laws and safety, first aid, drug use and emergency procedures in cases of natural disasters or attacks on the school. The Department has produced and distributed a number of educational materials to schools (posters, booklets, calendars, etc.). The concept is for police officers to teach children about these topics and encourage them to pass on the knowledge gained to their families and communities.<sup>146</sup>



## 8. CHILD PROTECTION FRAMEWORK

### 8.1 INSTITUTIONAL FRAMEWORK

In the case of juvenile offenders, the child protection framework is regulated by an overall partnership described in the LoA signed in 2008 by nine state institutions (six government ministries, the AGO, the SC and the National Directorate of Security). The overall goal of the partnership is to:

“Contribute to a child-oriented and right-based juvenile justice system that respects children’s rights and best interests; prioritizes their rehabilitation and reintegration based on the individual child’s needs and circumstances; and ensures that detention and custodial sentences are used only as a last resort and for the shortest period of time.”<sup>147</sup>

Each party’s specific responsibilities are described in the LoA (see Annex B for full text). In addition, all parties are responsible for collecting and maintaining statistics related to their areas of operation so that these statistics can later be used for policy design.

The LoA also created a National Working Group that includes representatives from each of the nine partners and meets once a month. The LoA has been criticized by some members of civil society as bringing little change on the ground. In addition, some criticize the fact that the agreement was placed under the responsibility of the MoLSAMD, which has no power over the judicial system, security forces and legislative instances.<sup>148</sup> Following this line of argument, the agreement would have been better placed under the responsibility of the MoIA or the MoJ.

The following section describes the responsibilities of each party to the LoA and the practical challenges encountered. Due to resource and time constraints, not all parties were visited during the data collection process. This section therefore presents a more in-depth analysis of the parties that interact directly with the police.

### Ministry of Labour, Social Affairs, Disabled and Martyrs (MoLSAMD)

The MoLSAMD has the overall responsibility to manage the partnership. The Ministry oversees CPAN (see below for more details on CPAN) and manages social workers and their interactions with the police. The MoLSAMD submits a list of social workers available in each province to the provincial police headquarters. It also facilitates the referral of cases involving children to social workers, and the joint work of police, social workers and juvenile prosecutors.

In each case involving a child, the police are supposed to contact a social worker immediately, who will then produce a social inquiry report on the child’s situation and circumstances within seven days of the child’s arrest. Social workers are also supposed to testify at the trial, if relevant, and do reintegration work for children.

LoA coordination meetings are held monthly in each province. Reporting from the provinces is a challenge, as the local branches of the nine parties to the LoA do not all follow directives from their national offices.<sup>149</sup> There is a reporting mechanism for provincial offices to send information to the Social Protection Department of the MoLSAMD in Kabul, where the information is filed in a newly created database. The database includes 23 categories of violations of child rights. In addition, the MoLSAMD is working on expanding the database to include additional information on the general situation of children in the country and on emergency situations faced by children (such as internally displaced or refugee children).<sup>150</sup>

In practice, the quality of the work of social workers varies greatly depending on the location.<sup>151</sup> The Department of Social Work was created by the Ministry in 2009, and there are currently only 46 social workers (male and female) in the country, with 11 working in Kabul. They are responsible for all cases involving vulnerable Afghans, not only children, and must therefore handle cases involving widows, the elderly, etc.<sup>152</sup> In Kabul, there are five social workers assigned to the JRC and they must cover all cases.



In cases involving children, the social worker's duties cover the whole case, from identification and age determination of the child through to reintegration. Since 2010, social workers are required by the law to complete a social inquiry report for each child accused of an offence (see annex F). The report examines the child's situation and environment in a holistic way and aims at recommending to the court a solution based on the best interest of the child. Social workers are also responsible for reintegrating children, whether they are juvenile offenders released from detention or victims of crimes.

The number of social workers is obviously highly inadequate to cover the 34 provinces, as some provinces only have one or two social workers. While the salaries of the social workers are paid under the MoLSAMD's budget, the Department does not have an operating budget. Social workers receive only their salaries, which amount to approximately US\$150 per month; they do not have access to vehicles and must rely on their own funds to use public transport to follow up on cases.<sup>153</sup>

The Department provides provincial police headquarters with updated lists of social workers and their contact information on a quarterly basis. Social workers also interact with other child protection actors through CPAN. Referring cases through CPAN seems to be working relatively well, with good cooperation between actors (government institutions, national and international NGOs).<sup>154</sup>

Social workers from the MoLSAMD and from civil society organisations have complained of a lack of cooperation from the police. They claim that police officers do not inform them of cases involving children in a timely manner.<sup>155</sup>

## Child Protection Action Network

The Child Protection Action Network (CPAN) is composed of 191 governmental and non-governmental organisations working on child protection across Afghanistan, including the nine state agency members of the LoA, the AIHRC, and international and national NGOs. CPAN's lead agency is the Ministry of Labour, Social Affairs, Martyrs and the Disabled. CPAN is operational in 31 provinces (but only 65 districts within those provinces) and is still expanding. CPAN has eight technical advisors based in Herat, Kandahar, Nimruz, Bamyán, Mazar-e-Sharif, Nangarhar, Kunduz and Kabul, each covering several provinces.<sup>156</sup>

CPAN's mandate is to address the situations of all children at risk of violence. It is a reporting and referral mechanism between its members. A single case can be referred to several organisations, depending on the various needs of the child. CPAN meets once a month in Kabul and in each province where it has a presence. Minutes of the national meetings are sent to the provincial CPANs for their action.<sup>157</sup> CPAN has committees that focus on specific topics (judicial issues, social issues, etc.) and creates emergency committees as needed. The provincial networks are mandated to work on local issues, collaborate with the national network and collect data on child protection cases (see Terms of Reference for National CPAN in annex C).

The ANP is a member of CPAN. However, there are some coordination challenges. While the police attend CPAN meetings in Kabul and the provinces, they do not consistently inform CPAN of cases involving children.<sup>158</sup>

## Ministry of Interior Affairs (MoIA)

The MoIA is in charge of all police units, including the JPU. Under the LoA, it is responsible for deploying both male and female JPU officers to all provinces. The MoIA must also ensure that all provincial police headquarters have CPAN liaison officers.

Under the LoA, the MoIA is also responsible for ensuring that child protection measures are implemented by the police, for example:

- The child's parents or guardians must be informed of the child's arrest within 24 hours and have the right to be present whenever the child is interrogated;
- The police must ensure that the social inquiry report (prepared by the social worker) is submitted to the prosecutor within 14 days of the child's arrest;
- Diversion measures must be prioritized in cases involving a first offender, and any case of obscenity or misdemeanour;
- Police must ensure appropriate measures are applied to determine the age of the child.

According to the law (Juvenile Code, Article 11), police must inform a social worker immediately of all cases involving a child. In practice, this is not done systematically. In addition, police officers from the major specialised units working on children issues complain about a lack of coordination at the local level and a lack of cooperation from social workers.<sup>159</sup>

## Attorney General's Office (AGO)

The AGO oversees the work of the juvenile prosecutors and is responsible, under the LoA, to ensure that prosecutors give “due weight” to the social inquiry reports submitted by social workers. Prosecutors can send cases back to the police for further investigation, and no case should go to court when the social inquiry report is unavailable or incomplete.

In practice, juvenile prosecutors face several challenges. The Kabul prosecution office is overcrowded, with five persons working in the same office (the head of the office, the administrator, and three prosecution office professionals). This is not conducive to maintaining the confidentiality of cases. Transportation is also an issue, and the lack of vehicles makes it very difficult for prosecutors to perform their duties and to treat cases within the timeframes prescribed by law.<sup>160</sup>

The situation in the provinces varies. In Mazar-e-Sharif, the office is better equipped and has computers and other office furniture. It is also interesting to note that the Chief Juvenile Prosecutor is a woman. She considers that coordination with the JPU is good overall. The prosecution office sometimes receives complaints about police treatment of children; such cases are referred to the disciplinary unit of the MoIA (which is under the responsibility of the AGO). For example, for the period between March 2014 and March 2015, there were three such cases.<sup>161</sup>

Police officers do not always treat cases within the time limits established in the Juvenile Code. As a result, juvenile cases may take longer to process than the three-week maximum time limit permitted by law. Children remain in detention in JRCs while their cases are being processed, which sometimes leads to undue suffering.<sup>162</sup> Prosecutors are also aware of cases of police officers using force to obtain signed confessions.<sup>163</sup>

## Ministry of Education (MoE)

The MoE is responsible for assigning teachers to JRCs and for overseeing the reintegration of children in schools after they leave the centres (for a six-month period following their release).

In practice, there are limited numbers of teachers in the JRCs and the curriculum is only taught when the number of inmates is deemed sufficient, which especially affects girls, who are always less in number. For example,

this is the case in the Kabul and Herat JRCs, in which only around 25 and 16 girls are currently detained respectively; this number is not considered sufficient to enlist a full time teacher.

## Supreme Court (SC)

The SC is responsible for the work of juvenile judges. Under the LoA, the judges must ensure that:

- All cases involving juvenile offenders have a social inquiry report or else are returned to the prosecutor;
- Defence attorneys are present at any trial involving a child and social workers are called to testify;
- Alternative sentencing options are given priority, as per Article 35 of the Juvenile Code.

The juvenile court system was first established in 1969 by the creation of a court of first instance in Kabul. The current system is composed of primary and appeal courts, with the SC acting as last instance. Currently, there are juvenile primary and appeal courts in Kabul, Jalalabad, Kunduz, Mazar-e-Sharif, Kandahar and Herat. The Juvenile Code establishes the need for juvenile courts in all provinces, but this is not being implemented due to current budget constraints.<sup>164</sup> This leads to juvenile cases in other provinces being handled by the general judicial system, which is not well equipped to consider the special needs and circumstances of children.<sup>165</sup>

The Kabul Juvenile Primary Court receives cases from five juvenile prosecution offices in Kabul. Cases are reviewed by the Chief Judge who then appoints a judge to take on the case. The appointed judge reports back to the Chief Judge within three days. There are two options at this stage: if the file lacks important information or documentation, it is sent back to the relevant prosecution office for review; if the file is complete, the court informs the juvenile offender or his/her defence lawyer to prepare the defence statement based on the indictment presented by the prosecutor. After receiving both the indictment and the defence statement, the court announces the time and date of the hearing for both parties.<sup>166</sup> In practice, there are delays in this process and the cases are not always handled within the timeframes prescribed by law.<sup>167</sup> This is mostly due to insufficient resources.

According to the law, the maximum sentence for children is 10 years, which is half of an adult life

sentence (20 years). However, the recommendation from the chief judge of the Juvenile Appeal Court is to limit sentences to 7.5 years and apply this maximum for the most serious crimes only. The chief judge also recommends that judges give priority to alternatives to detention for minor offenses. These alternatives include warnings, postponement of punishment, supervision by parents, house arrest, etc.<sup>168</sup> While the Juvenile Code provides for other alternatives to detention (social service institutions, community work, postponement of trial), the infrastructure for these options do not exist in reality, so judges cannot use them.<sup>169</sup> Early release is possible under Article 50 of the Juvenile Code and under a directive from the SC, and has to be requested by the JRC or the parents.<sup>170</sup>

The chief judges of both the primary and appeal courts are women; there are other female judges in the provinces.

## Ministry of Public Health (MoPH)

The MoPH provides health services to children in contact with the law (both children accused of offenses and victims of crimes) and is responsible for monitoring the JRCs for cleanliness, proper food distribution, etc. The inspections should be conducted quarterly in all centres. The MoPH is also responsible for ensuring proper measures are in place to verify the age of children that come in contact with the law.

This report did not examine the practice and challenges of the MoPH beyond what is stated in the LoA. From visits conducted by the IBCR during this project and by the national consultant for other projects, it appears that only the Kabul JRC has a proper health clinic.

## Ministry of Justice (MoJ)

The MoJ is responsible for juvenile detention centres and JRCs, and for the overall wellbeing of children in the care of the centres, in collaboration with the MoPH and the MoE. The MoJ is responsible for ensuring that social workers are kept informed of developments in the cases assigned to them, and also to provide defence attorneys access to children.

As per Article 13 of the JRC Law, there is a JRC High Council that includes all the relevant ministries and should be meeting regularly. Although the meetings had stopped for a while for unspecified reasons, they resumed on 2 March 2015.

There are 34 JRCs in the country, with one in each province. As of March 2015, there were 1,133 children in the care of JRCs, including 135 girls. The majority of these children are in Kabul (234), Herat (120), Helmand (58), Takhar (57) and Nangarhar (54). The remaining JRCs have less than 45. Of these 1,131 children, 219 had been convicted by a court of law and were serving a sentence, 809 were awaiting trial and 103 were suspected of crimes but had not yet been indicted.<sup>171</sup> The children awaiting trial in detention are mostly those suspected of serious crimes, such as murder or “crimes against security,” which are crimes related to insurgency or terrorism.

External security for the centres is provided by the Central Prison Department, under the MoIA, while the management of the centres is the responsibility of the MoJ. The centres employ teachers during daytime and wardens at night to supervise the children. Each centre has an education section under the responsibility of MoE, and the centres in Kabul and two other provinces have medical clinics under the responsibility of the MoPH. The MoJ is responsible for safeguarding the children and maintaining the facilities.

The MoJ faces many challenges in managing the JRCs. The first involves resources, both human and financial. The staff at the JRCs are too few to properly attend to the children in their care; for example, the Kabul JRC only has 10 staff members to attend to 237 children. There is also a need for other professionals, such as psychologists, to provide care to children who have suffered trauma or are in need of psycho-social rehabilitation.<sup>172</sup>

“Juveniles play a fundamental role in the future of this country [and] juveniles who are now held in Juvenile Rehabilitation Centres should be the builders of tomorrow.”

CEO of the Islamic Republic of Afghanistan  
Dr Abdullah Abdullah (JRC High Council  
meeting, 2 March 2015)



In addition, budgets allocated to the JRCs are inadequate. The centres receive 90 Afs per child per day for food and other care. This amount can be sufficient in locations where there are many children and the food can be bought in bulk, but it is highly insufficient in centres hosting only a few children. There are no budgets for building maintenance or emergencies. The MoJ owns just six of the JRC buildings; the rest are located in rented houses that do not provide sufficient space for care as required by law for physical and religious activities, meetings with families and, most importantly, to keep children awaiting trial separate from convicted children, as required by the Juvenile Code.<sup>173</sup>

The JRCs do not have vehicles to transport the children, such as when they have to appear in court. Therefore, they have to rely on taxis, which do not offer adequate security. As a result, children are handcuffed more often than necessary. This is in contravention of Article 10 of the Juvenile Code and to the preservation of the dignity of the child.<sup>174</sup>

The Juvenile Code also provides seven alternatives to detention to judges who can determine the best option for juvenile offenders (Article 35). In practice, however, the only option that exists are the JRCs. Therefore, judges send all children to detention.<sup>175</sup> All children are kept in JRCs and there is no means to separate children awaiting trial from convicted juveniles,<sup>176</sup> in contravention of Article 12 of the Juvenile Code. In addition, there are only very limited structures to accommodate children who are released from JRCs. In most cases, if the family refuses or is unable to receive the child back, the only option is to send the child to an orphanage until he or she reaches the age of majority. The MoLSAMD is planning to construct five centres devoted to the reintegration of children, where they could stay for a few months and receive skills training, as a kind of halfway house.<sup>177</sup>

A visit to the Kabul JRC was conducted on 7 February 2015. The JRC comprises two closed centres, one for boys and one for girls, as well as one open centre for boys. At the time of the visit, the closed centres held 20 girls and 207 boys, respectively, and the open centre held 26 boys, which is within the JRC's capacity. The boys in the open centre are required to come to the centre every day for classes and go home at night. The facilities were relatively adequate, although girls had to share rooms. The IBCR was not permitted to visit the closed centre for boys and therefore we only saw the facility from the outside.

The boys in the closed centre are educated by teachers assigned to the JRC and follow the normal curriculum. The girls do not receive the same because they are not numerous enough to justify bringing in teachers. As a result, the girls are deprived of an education for the time they spend in the JRC. This causes them to fall behind in their studies, as they have to pick up where they left off when they are released. They are taught tailoring, carpet weaving and bead jewellery making, and attend literacy classes. The boys in the open centre study Dari and English, and receive training in computer literacy, painting, carpet weaving and tailoring.

A visit to the Mazar-e-Sharif JRC in Balkh province was conducted on 25 March 2015. The centre currently hosts 45 children, including seven girls. The children are incarcerated for various reasons including adultery, sodomy, robbery and murder. The children are hosted in three rooms only and living conditions at the centre are quite poor. The JRC building is under construction.

There seems to be a difference between the children arrested in Mazar-e-Sharif itself, who are in general well treated by the police, and those arrested in nearby districts, who often get insulted, beaten and kept beyond the timeframe prescribed in the law.<sup>178</sup> Juvenile offenders learn school subjects, tailoring and computers and participate in literacy programmes. Inmates believe that these lessons will help them find a job outside the JRC and earn some money. The IBCR was not allowed to hold a discussion with the girls, as the consultant was male and this is contrary to local customs.

A visit to the Herat JRC in Herat province was conducted on 6 April 2015. In Herat, the JRC High Council meets every three months. These meetings involve civil society organisations and problems associated with the JRC are



Kabul Juvenile Rehabilitation Centre.

Photo IBCR



discussed and addressed.<sup>179</sup> At the time, the Herat JRC was holding 61 boys and 15 girls in closed centres. The boys were in detention for a variety of offenses, such as murder, theft, blackmail, etc.<sup>180</sup> The girls were mostly detained for running away from home because their parents wanted to marry them against their will; one of them was being held for murder.<sup>181</sup>

The JRC building is owned by the MoJ and appears in good condition. It is adequate in terms of space and cleanliness. It has a capacity to hold many more inmates than it did at the time of IBCR's visit.

The boys receive vocational training in carpentry, mobile phone repairs, tailoring, craft and electricity. They are also provided with classes that follow the regular curriculum, but only for first grade, which is inappropriate for those who are older and already know how to read and write. The girls only learn jewellery making.

## Ministry of Women's Affairs (MoWA)

The MoWA is responsible, under the LoA, to provide shelter and psychological support to children who are released from JRCs and cannot return to their families. The MoWA's ability to carry out its role was not assessed for this report.

## National Directorate of Security

The responsibility of the National Directorate of Security is to ensure legal rights and due process for children under its custody. The directorate's ability to carry out its role was not assessed in the context of this report.

## Afghanistan Independent Human Rights Commission – Child Rights Unit (AIHRC – CRU)

The Afghanistan Independent Human Rights Commission (AIHRC) was created by the Constitution under Article 58:

“To monitor respect for human rights in Afghanistan as well as to foster and protect it. [...] Every individual shall complain to this Commission about the violation of personal human rights. [...] The Commission shall refer human rights violations of individuals to legal authorities and assist them in defence of their rights.”

The AIHRC created a CRU in 2003. The unit currently has 46 staff members at the main office in Kabul and eight regional offices. These staff members include child rights officers, assistants, field monitors and border based monitors (the last two categories are funded by UNICEF). The unit works closely with the Commission's Investigations Unit on complaints involving children and the Commission's Education Section on children's rights awareness campaigns (including workshops with teachers and parents, radio and television programs, etc.). The CRU also works on research and advocacy on child rights violations, and produces thematic reports on issues such as child trafficking.<sup>182</sup>

The unit is a member of CPAN and uses the network meeting to discuss complaints received on cases concerning children. The AIHRC receives complaints from its own field officers, from children directly (sometimes through their lawyers) and from non-government and civil society organisations.

In addition, there is an Ombudsman's Office at the AIHRC that monitors police detention centres for violations on a regular basis.

## UN Agencies and Other International Organisations

Many UN agencies work with the MoIA and the police. The United Nations Office on Drugs and Crime (UNODC) has a programme working on border security and trafficking.

The United Nations Development Programme (UNDP) has been working with the Ministry for some years, under its Law and Order Trust Fund for Afghanistan. Part of that fund concerns community policing. In December 2014, the newly elected President Ghani requested the UNDP hand the fund over to the MoIA. This handover started in December 2014 and January 2015.

UNICEF has been supporting CPAN since its creation in 2003 and is currently involved in building the capacity of the security forces on child protection. UNICEF is an active member of the Drafting Committee on the Child Act and is working on child protection issues around the country, including the new birth registration system.

The EUPOL Mission in Afghanistan and the German Police Project Team have worked with the ANP in the past on training development and delivery (see the section on training below) and still provide mentoring services to various sections of the MoIA and the police. However, with the withdrawal of international forces from Afghanistan in late 2014, these organisations' mandates and personnel have been substantially reduced.<sup>183</sup>

International support to the ANP is coordinated through the International Police Coordination Board (IPCB), an organisation that comprises all the international actors involved and operates under the supervision of the MoIA. The IPCB meets once a month to discuss work with the police and attempts to coordinate donor initiatives. The IPCB has two levels: a strategic level in which donors are represented by their ambassadors and a technical working level.<sup>184</sup>

## Civil Society

Many civil society organisations are involved in the child protection framework. They perform a number of duties, including providing services to children through social workers and education and health programmes. These organisations participate in CPAN. Some organisations have provided training or awareness-raising sessions on child protection to the police in the past. The section on training below describes the main initiatives.

## 8.2 INFORMAL JUSTICE FRAMEWORK

The concept of informal justice refers to "a series of mechanisms that are outside of the state's direct control – though not necessarily beyond its influence – and that are used to resolve disputes and conflicts in a manner perceived as legitimate by local communities".<sup>185</sup> Informal mechanisms can range from ad hoc groups to standing local councils. The latter include *jirgas* in Pashtun areas and *shuras*, which are more institutionalized and are found in Pashtun and non-Pashtun areas. Other informal frameworks include an appeal to elders, religious leaders and informal mediators who can find a way to facilitate solutions without help from the formal system.<sup>186</sup>

While an extended analysis of the Afghan informal justice framework is beyond the scope of this report, it is important to mention a few issues related to children. The informal legal system is strongly based on customary tribal law, which is mainly drawn from the Pashtun community code (*Pashtunwali*) and Islamic legal traditions (*Sharia*). There have been growing concerns surrounding the credibility of Islamic religious scholars (*ulama*) participating in the informal process to resolve disputes. These concerns stem from the “poor levels of training in Islamic legal precepts” and questions surrounding their neutrality.<sup>187</sup>

In practice, there are many interactions and overlaps between the informal and the formal justice systems. Government officials (such as governors) often sit on informal bodies (such as tribal councils), and prosecutors and judges pass cases to the informal system. In some areas, warlords and local commanders have been involved in informal justice mechanisms, which raises serious concerns on the fairness of decisions. In addition, major corruption issues have been reported.<sup>188</sup>

There have been multiple efforts to push for the recognition of the informal processes by the formal system in a more coherent manner.<sup>189</sup> For example, in 2007, the UNDP commissioned a report that “advocated for a hybrid system, under which minor civil disputes and criminal incidents would be decided first by local mechanisms, while major incidents would be handled by the formal system”.<sup>190</sup> The report was rejected by representatives from the formal justice system. In 2009, a working group was created by the MoJ and international actors. The group sought to “draft a policy on the relationship between the state justice system and informal mechanisms”.<sup>191</sup> The policy attempted to “address individual rights issues, such as providing all members of the community (including children, women and vulnerable groups) equal access to informal mechanisms”.<sup>192</sup>

Criticisms of the informal system have mostly focused on human rights issues and the right to due process, such as proper participation of women and children in informal judicial processes.<sup>193</sup> Decisions are made about children without their participation and children’s interests are often secondary:

“The rights of the child may not be taken into account in the proceedings and decisions of *jirgas*. The best interests of children, in particular of girls, are vulnerable of being sacrificed for the perceived benefit of the community.”<sup>194</sup>

Afghan laws no longer protect the rights of children who come in contact with informal justice mechanisms. In addition, certain customary practices violate Islamic law. For example, the Taliban banned the practice of *baad* (selling a girl in marriage to resolve a dispute) because it goes against Islamic law.

## 9. TRAINING OF SECURITY FORCES ON CHILD RIGHTS AND CHILD-FRIENDLY POLICING

In the past, various actors have conducted training initiatives in Afghanistan on child-friendly policing. The following sections describe these initiatives and the regular training programmes of police training institutions.

### 9.1 TRAINING ON CHILD RIGHTS AND CHILD-FRIENDLY POLICING IN POLICE TRAINING INSTITUTIONS

Police training is conducted in three different institutions: the Police Academy, the Staff College and Regional Training Centres (RTCs), all of which are under the responsibility of the Education General Command, which is overseen by the Deputy Minister for Administration, MoIA. The Police Academy and the Staff College are located in Kabul only, while there are 11 RTCs (Badakhshan, Kunduz, Balkh, Herat, Helmand, Kandahar, Paktiya, Nangarhar, Parwan, Wardak and Kabul).

#### Police Academy

The Police Academy was first founded in 1936. As of April 2015, the Police Academy had 1,870 students enrolled in the Bachelor's degree programme, and around 200 students enrolled in refresher courses or on-the-job training lasting six to eight weeks. The Academy currently does not have female students.

The Police Academy is composed of the Security and Safety faculty (which includes building security and crime scene management), the Border Police faculty and the Logistics and Communications faculty. In April 2014, the Criminal Investigations faculty was transformed into the Institute of Criminal Investigations, with four main departments: Criminalistics/Intelligence, Criminal Technical, Criminology, and Terrorism and Organized

Crime. These subjects are chosen based on needs of the ANSF and students graduating are assigned to a unit based on what they studied.

The content of the curriculum is revised each year, according to the country's ever-changing circumstances and emerging crimes. For example, in the last few years new classes were created on kidnappings and suicide bombings.<sup>195</sup>

There are also 14 departments that teach cross-cutting issues, including the Law Department and the Human Rights, Gender and Child Rights Department. These topics are taught in the various faculties, but the topic of human rights, gender and child rights is only taught in the Security and Safety faculty. However, all faculties receive legal training, which includes a study of major international legal instruments, including the CRC.

The Human Rights, Gender and Child Rights Department of the Police Academy uses a training manual published in Dari and Pashto. The topics covered in the child rights section of the manual are as follows:

- Children as a vulnerable population;
- The rights of the child from an Islamic perspective;
- A brief history of children's rights;
- Major problems faced by children in Afghanistan;
- Abuse of children (physical abuse, emotional abuse, neglect, sexual abuse and commercial sexual exploitation);
- Child rights in national and international law (Constitution, Juvenile Code, Police Law, UDHR, CRC, international covenants);
- Child rights in the family;
- Discrimination and different treatment of children;
- Impact of child maltreatment;
- The juvenile judicial system in Afghanistan (the concept of child offender, criminal responsibility of juveniles, investigation and interrogation).



The Department has three teachers (including one woman), each one the focal point for one of the three topics (human rights, gender and child rights). However, due to the limited number of teachers, each one of them teaches the whole curriculum and not just the topic under their responsibility. The total training time for the three topics is 144 hours (96 classes).

The Criminal Investigations Institute's curriculum relating to children is found in a book called *Criminalistics Volume 3*, which is used for the fifth and sixth semesters. The major subjects in the book are:

- Characteristics of juvenile crime investigations;
- Interrogating juveniles;
- Performing arrests and searches;
- Investigating child kidnappings: kidnapping with the use of force; factors and circumstances surrounding kidnapping and trafficking of children (girls and boys); and child abduction prevention, control and fighting.

There are 12 pages in the book covering the above-mentioned topics. This book is currently under review, with no stated date for completion. For this reason, the IBCR was not provided with a copy, but the Police Academy will share the book once the revision is complete.<sup>196</sup> The book contains outdated laws and the revision will add an overview of the Juvenile Code (2005).

The Academy receives recruits once a year and therefore also holds graduations once a year. The first two years of the programme cover general police training, and students choose a speciality in their third year. At the end of the fourth year, students are required to write an academic paper and defend it in front of the relevant faculty of the Police Academy. After the four year programme, students graduate with a Bachelor's degree from one faculty. In all, the programme is composed of 4,400 classes, with each class lasting 90 minutes (6,600 hours or about 940 days over 4 years).

The selection criteria for new students are as follows:

1. Having graduated from high school (grade 12);
2. Being in good health and not addicted to drugs;
3. Not having been convicted of a felony;
4. Being aged between 18 to 25 years;
5. Passing the entry exam.<sup>197</sup>

The Academy has 96 active teachers (including one woman). Teaching methods are different for each subject, but all include both theoretical and practical activities, such as lectures, group work, seminars and field work. In the last year of the programme, there is a mandatory one-month internship outside the Academy, during which the students familiarize themselves with the actual activities and locations where they will be assigned.<sup>198</sup>

## Regional Training Centres (RTCs)

As of March 2015, there were 7,519 students, including 52 women, in the 11 RTCs.<sup>199</sup> The RTCs train two types of students: officers and regular police. The selection criteria for recruits are the same as the Police Academy (see above). During their time at the RTC, students go through the whole practical and theoretical training for active police officers. Seven legal subjects are available, though students only take those that are part of their curriculum. The seven subjects are:<sup>200</sup>

- Human rights (six classes, nine hours);
- Gender and child rights (six classes, nine hours);
- Traffic law (six classes, nine hours);
- Police law (18 classes, 27 hours);
- Criminal Procedure Code (18 classes, 27 hours);
- Criminal Code (12 classes, 18 hours);
- Constitution (18 classes, 27 hours).

Teaching methods include lectures and group work.

RTCs also provide refresher training sessions for active police officers. These training sessions may be on thematic subjects, like child trafficking or counter-narcotics, or be designed for police officers who were recruited even though they have not yet been trained. In the latter case, RTCs offer training to officers while they continue performing their duties.<sup>201</sup>

A visit to the Herat RTC in Herat province was conducted. At the time of the visit, the RTC had 350 students, although new recruits were expected shortly, as this was the start of the academic year (solar calendar). The total capacity of the centre is 1,500 students. Students are drawn from all police departments in Western Afghanistan's four provinces, including the AUP, Border Police, Public Protection Force and ALP. The ALP receive one month of basic training. More than 30,000 students have graduated from the Herat RTC so far. The RTC currently has 80 instructors.<sup>202</sup>

## Staff College

The Staff College was established in February 2014. The mandate of the College is to provide additional leadership capacity to police officers in both operational and strategic areas. The College provides on-the-job training and education on managerial skills and other topics, such as police tactics; management, policy, planning, and strategy;<sup>203</sup> leadership; management; gender and human rights (including child rights); command and control; intelligence-led policing; community policing; and violence against women and children.<sup>204</sup> In 2014, the College trained approximately 1,200 students.<sup>205</sup>

The College has a law department that teaches human rights, gender and child rights in all courses. The amount of time allocated to this subject varies from a three-day seminar to several sessions over a three-month period (though the exact number of sessions and their length was not specified).

The subject includes the following topics, divided into four chapters:<sup>206</sup>

### Chapter 1: General Topics

- Children as a vulnerable group in society
- The concept of a child
- Importance of the child based on the Holy Quran
- The Messenger's Sunnah regarding children
- A brief history of children's rights
- Main problems faced by children in Afghanistan
- Violations against children: physical abuse, psychological abuse, sexual exploitation

### Chapter 2: Child Rights in National and International Laws

- Child rights in national legislation (the Constitution, police law)
- Child rights in international law (the Universal Declaration of Human Rights, the International Convention on the Rights of the Child)

### Chapter 3: Child Rights in the Family

- Duty of parents regarding children's rights (food, clothing, etc.)
- Discrimination and children (misbehaviour, gender-based violence, running away and children's education)

### Chapter 4: Afghanistan's Judicial System

- A brief introduction to the Juvenile Code and criminal policy on children in conflict with the law
- Investigation of crimes committed by juveniles (child rights during and after arrest, interrogation of children)

## 9.2 TRAINING FOR SPECIALISED POLICE UNITS

The JPU does not receive training on a regular basis. The JPU participated in a seminar organised by UNICEF in December 2013. Apart from that, the JPU conducts internal legal training for field officers on an ad hoc basis. There is, however, no specific training for the juvenile officers, and the JPU recognises that there is a need to do more.<sup>207</sup> The FRU of the MoIA has also received some ad hoc training from NGOs, EUPOL and the UNDP in the past.<sup>208</sup>

The training unit of the MoIA's HRWCAD received a training of trainers from EUPOL (for 16 officers) and has in turn organised training sessions for police officers located outside of Kabul (see below). The training sessions are three days long and include a child rights component (one day), mostly on legal instruments relating to children (the CRC, the Juvenile Code, the Universal Declaration of Human Rights and the Afghan Constitution) and on interview techniques.<sup>209</sup> The unit uses a questionnaire to test officers' knowledge before and after the training; they claim to have seen a significant difference in the results of the two questionnaires.<sup>210</sup>

### 9.3 AD HOC TRAINING INITIATIVES

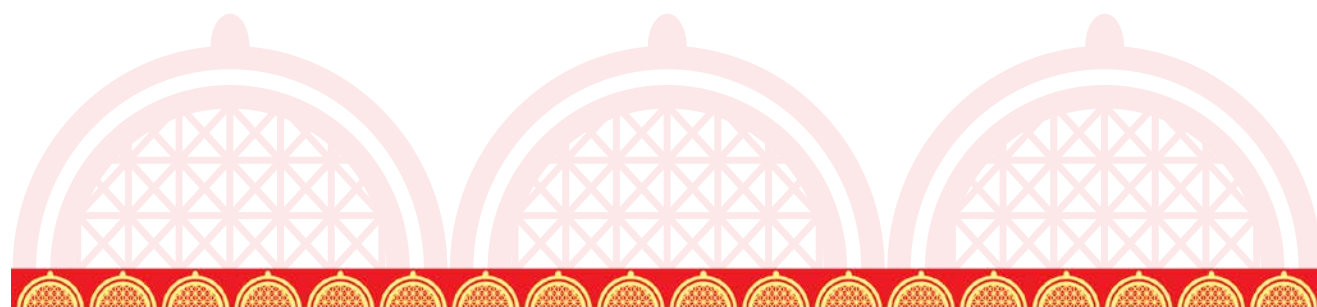
The Human Rights and Education section of the AIHRC has been conducting training with the police since 2004 through a partnership with the Police Academy. A training manual, which includes a section on child rights, was developed and is being used to train recruits on human rights. The length of training depends on the training programme and type of recruits (see details below under the Police Academy).<sup>211</sup>

EUPOL has developed a four-day training package on the legal framework on juvenile justice and “psychological aspects”, such as child abuse and harmful cultural practices (*bacha bazi*, child marriage, etc.). The package includes a booklet, a pocket book summarising the main aspects of the training and a video. EUPOL conducted a training of trainers in Kabul with 16 instructors from the Police Academy and the MoIA’s HRWCAD; following an evaluation of participants at the end of the training, only five instructors were certified. Another training of trainers was held in Herat for participants from the HRWCAD and the JPU.<sup>212</sup> This training is being replicated by the HRWCAD (see below).

Other, ad hoc training/awareness-raising sessions are offered to different units of the police by various organisations, including the Aschiana Foundation, Children in Crisis and Save the Children. In early 2015, the latter started giving a five-day training session on issues affecting children in street situations for AUP personnel. Save the Children also developed a handbook on child-friendly policing.<sup>213</sup>

UNICEF and War Child UK have developed an induction workshop on child rights, law, Islam, and violence against women and children for the Herat RTC as part of an ongoing project (September 2014 to June 2015). So far, a training of trainers was organised for 15 instructors and the two best trainers were selected and mentored to deliver the workshop twice for various sectors of the police, including the Border Police but not the JPU or the HRWCAD.<sup>214</sup> The idea is to eventually include this training in the curriculum of the Herat RTC.

A major challenge raised by many of the actors who were interviewed is the high turnover rate within specialised police units. Many police officers either leave the police force or are transferred to other duties after they receive training on child rights.<sup>215</sup> This leads to two unfortunate consequences. First, the training provided does not lead to increased capacity, as officers are assigned to duties that do not allow them to use the training received. Second, officers do not fear disciplinary measures in cases where they acted wrongly because there is no proper system to follow up on complaints once an officer is transferred.





## 9.4 TRAINING NEEDS ON CHILD RIGHTS AND CHILD-FRIENDLY POLICING

Most actors consulted by the IBCR recognise the need for all levels of the juvenile justice system to receive additional training. This need is particularly crucial for specialised police units working on cases involving children. The training provided by police institutions and external actors mostly focuses on legal aspects of child rights and specific violations against children, with the exception of the curriculum of the Police Academy, which is more extensive and also covers appropriate investigation techniques for cases involving children. However, only a small number of officers graduate from the Police Academy each year, and therefore this more extensive training only benefits a few.

While some of the specialised units (FRU and the HRWCAD provincial units) have received ad hoc training from partners, the JPU has not received any specialised training. All these units would benefit from more in-depth training on child-friendly policing, including:

- Knowledge and application of international and national legal instruments;
- Advanced policing techniques, such as arrest, interview and investigation techniques adapted to children (boys and girls);
- Interview and investigation techniques adapted to specific cases and the specific needs and situations of children (boys and girls): traumatised children, children with addiction problems, sexually abused children, trafficked children, disabled children, etc.;
- How to treat children (boys and girls) that are victims of crimes, witnesses to crimes or in conflict with the law;
- Crime prevention measures adapted to children;
- Psychology of children (boys and girls) and child development stages;
- Interventions with families and communities in cases involving a child (boy or girl), including mediation and other diversion measures;
- Gender-based violence;
- Collaboration with other actors of the child protection system and the juvenile justice system;

- Data collection and use for operational and strategic planning;
- Reintegration measures for children;
- Ethics.

Moreover, the various specialised police units would benefit from receiving this kind of training jointly, as their mandates overlap and they all come into contact with children.

## 9.5 PROCEDURES FOR MAKING CURRICULUM ADJUSTMENTS

The procedures for amending curricula vary from one organisation to the next. The Police Academy has an ongoing review process, through which the whole curriculum is revised on a continual basis and amended every year to ensure that it keeps up with the country's ever-changing circumstances. The Academy also offers refresher and on-the-job courses, meaning that additional topics could be added in this regard. It is therefore easy to make amendments to the content of the training. The same holds true for the Staff College, which already offers some training on child rights but would like to expand and improve this training.<sup>216</sup>

The RTCs can add new courses fairly easily, as they provide a range of refresher courses for active police officers. However, it has been pointed out that the skills and capacity of RTC instructors is generally low.<sup>217</sup> For this reason, it might be difficult to develop and implement specialised training on child-friendly policing in the RTCs.

The various departments and police units under the MoIA have experience (albeit to varying degrees) in working with international and national organisations to develop additional training for the police. It is possible to propose new topics for training.



## 10. MAIN CHALLENGES IDENTIFIED AND STRATEGIC RECOMMENDATIONS

Section 10.1 presents the main challenges identified through the data collection process regarding the work of the Afghan National Police. Section 10.2 proposes strategic recommendations to address those challenges, as well as other challenges of the child protection system identified through this report.

### 10.1 MAIN CHALLENGES FACING THE SECURITY FORCES

After years of conflict, the Afghan National Police face major challenges in Afghanistan. Some of these challenges are internal to the ANP and some relate to police interactions with other actors. The points below present the main challenges identified during the IBCR's data-collection process. They come from the police themselves, children, other actors of the child protection system and assessments conducted by organisations. While some of the challenges are not directly related to children, it is important to mention them here, as they affect children as well as adults.

- Levels of illiteracy are high in the police. This makes it difficult for police training institutions to adequately train recruits, especially in the area of basic knowledge of laws, including laws specifically addressing cases involving children.
- There is a lack of female officers. This has a direct impact on girls in contact with the law, who would benefit from interactions with female officers;<sup>218</sup>
- The police are a popular target for insurgent attacks, which leads to deaths and resignations among police personnel. This situation reduces the impact of training and experience, as qualified officers regularly leave the force;
- The police have counter-insurgency training and tend to focus on counter-insurgency instead of on traditional police duties, such as law enforcement and protection of civilians;<sup>219</sup>
- Corruption is high at all levels of the police (bribes, drug trafficking);
- There are many human rights violations reported against the police; disciplinary measures are rarely implemented, even after complaints;<sup>220</sup>
- There is a high level of attrition, which counters the effects of training. In addition, police officers are not always appointed based on their skills and experience, but often based on their connections within the system. Officers are constantly being reassigned, which leads to a loss of expertise within specialised units;<sup>221</sup>
- Public confidence in the police is very low;
- The police have only limited training in human rights, and especially in child rights, and do not always implement the procedures prescribed in the Juvenile Code. In addition, there is knowledge gap on child- and gender-sensitive policing techniques. There are not enough juvenile police officers and children in contact with the law are handled by regular police who lack the necessary expertise to manage the cases properly;<sup>222</sup>
- Interactions between the various police units working specifically with children are not regulated by clear protocols, and some units have overlapping mandates (for example the JPU and the FRUs);
- Interactions between specialised police units and other actors of the child protection system, while regulated by formal agreements, are not functioning well enough in practice. Coordination structures do exist (as described below) but they are not operational everywhere and they do not necessarily solve problems efficiently;
- There is insufficient material and human resources allocated to the specialised police units (number of officers assigned to units, availability of vehicles, etc.). This hampers their capacity to efficiently manage cases involving children;
- There is a lack of child-friendly infrastructure in police stations. For example, most stations do not have separate holding cells for children.

## 10.2 RECOMMENDATIONS

The following recommendations were developed by the IBCR and UNICEF based on the assessment conducted for this report and extensive interviews with actors at all levels of the juvenile justice system. These recommendations are not exhaustive but provide a starting point for improving the system with a view to bringing it in line with international standards.

The recommendations formulated by children interviewed in the JRCs are presented separately. This is to ensure that the voices of these children are heard for themselves.

### 10.2.1 Recommendations on structural reforms

To the Ministry of Interior Affairs:

- Enhance coordination between police units working on cases involving children. The MoIA should encourage coordination meetings and other liaison activities in the provinces and in Kabul to ensure proper coordination between the Human Rights Units, the JPUs, the FRUs and the community policing teams. This should include better procedures for regular police to transfer cases involving children to specialised police units.
- Revise the mandates of the specialised police units working on cases involving children to ensure that there is a clear division of tasks between the units and clear procedures for collaboration.
- Consider revising the current organisational reporting structure of the JPU and the FRU, and consider placing them under the Community Policing Department instead of the Criminal Investigations Department.
- Continue efforts already undertaken to transform the ANP into a community policing force working for the protection of the population and law enforcement through sustained investment in community policing programmes, awareness-raising campaigns and training.
- Encourage police officers to increase their efforts to prevent juvenile crime and crimes against children through the joint creation and implementation of prevention programmes with communities, schools and other relevant actors.

To the Government of the Islamic Republic of Afghanistan:

- Consider the creation of an independent police oversight body to be responsible for disciplinary measures against police officers who violate human rights, including child rights. This body should have a clear and easily accessible complaints mechanism, clear and transparent investigations procedures, and well-defined and fair disciplinary measures. Many good examples of such bodies exist in other countries and could serve as models.
- Create viable alternatives to detention for juvenile offenders to enable judges to use detention as a last resort, as prescribed by international standards and Afghan law. For example, create community structures and programmes that can help juvenile offenders learn from their mistakes and reintegrate into society. Work in collaboration with local communities and other stakeholders, including state institutions and civil society, to create these structures and programmes.

### 10.2.2 Recommendations on training

To the Ministry of Interior Affairs:

- Continue efforts to provide awareness-raising/ short training sessions on child rights to all regular police until all areas of the country have been covered.
- Develop and provide in-depth training on child-friendly policing for the specialised police units who work on cases involving children, including the JPU, the FRU, the Human Rights units and the community policing teams. This training should cover, at a minimum, the following topics:
  - Knowledge and application of international and national legal instruments;
  - Advanced policing techniques, such as arrest, interview and investigation techniques adapted to children (boys and girls);
  - Interview and investigation techniques, including confidentiality issues, adapted to specific cases and to specific needs and situations of children (boys and girls) who are: traumatised children, children with addiction problems, sexually abused children, trafficked children, disabled children, etc.;
  - How to treat children (boys and girls) who are victims of crimes, witnesses of crimes or in conflict with the law;

- Crime prevention measures adapted to children;
- Child psychology (boys and girls) and child development stages;
- Interventions with families and communities in cases involving a child (boy or girl), including mediation and other diversion measures;
- Gender-based violence;
- Collaboration with other actors of the child protection system and the juvenile justice system;
- Data collection and use for operational and strategic planning;
- Reintegration measures for children;
- Ethics.

This training should be delivered in an ongoing basis to all officers joining the specialised police units and not just as a one-time session. The training should effect a change in police behaviour toward children, including the following aspects:

- Police should understand the importance of prevention in cases of child abuse and juvenile crimes, and engage in prevention activities;
- Police should respect children's legal rights more, whether they are victims, witnesses or suspected offenders; this includes doing a better job of informing children of their rights;
- Police should be aware of and use alternatives to detention and diversion measures with children who have committed minor offenses;
- Police should pay special attention to children who are victims of rape and ensure that they are not treated as offenders;
- As a general principle, police actions should be guided by the best interest of the child in all circumstances and not the purely the drive to obtain a confession.
- Improve the skills and capacity of teachers in the RTCs, for example by using enhanced recruitment criteria, such as higher levels of literacy and education, and providing them with better training.
- Consider the creation of a specific code of conduct for police who interact with children (in addition to the existing general Code of Conduct). This code would describe specific behaviours that police should have when interacting with children.

To the Ministry of Labour, Social Affairs, Martyrs and the Disabled, the Attorney General's Office, the Supreme Court and the Ministry of Interior Affairs:

- Develop and provide additional training on child protection for all actors of the juvenile justice system. This training should be organised jointly between social workers, juvenile prosecutors, juvenile judges and police officers from specialised police units working on cases involving children.

### 10.2.3 Recommendations on allocation of resources

To the Ministry of Interior Affairs:

- Assign a sufficient number of officers to specialised police units working with children to enable them to do their work properly. For example, it is recommended that the number of officers in the JPU be increased to five officers per province and that the HRWCAD deploy two child rights officers to each province. In addition, there should be at least one police officer in each police station with basic training on child rights to act as the focal point and liaison with the specialised units.
- Expand the work of the Community Policing Department to all provinces. Expand the 119 call centres to all major locations in the country.
- Provide appropriate material resources to the JPU. These include:
  - Adequate office space in Kabul and in the provincial police headquarters to enable the Unit to hold juvenile suspects separately from adults, interrogate multiple suspects in a case separately, etc.
  - A vehicle should be assigned to the Unit in each province to enable officers to follow up on cases involving children, conduct investigations, transport juvenile suspects to the court for hearings, etc. This vehicle could be secured from the pool of vehicles of the Criminal Investigations Department at each provincial police headquarters.



- Increase the recruitment and training of women in the ANP, and especially for the specialised police units. This will facilitate, among other things, handling of cases involving girls, both suspected offenders and victims of crimes, who would prefer being interviewed by an officer of the same sex.
- Address the causes of the high turnover of officers, especially within specialised police units, and ensure that officers are assigned to specialised units based on their skills and experience. This will enhance the efficiency and sustainability of training initiatives by allowing officers to apply the knowledge they have gained.

To the Ministry of Labour, Social Affairs, Martyrs and the Disabled:

- The number of social workers in the provinces is insufficient. The MoLSAMD should increase the number of social workers and allocate an operational budget to the Department of Social Services to enable social workers to adequately respond to children's needs. This budget should include, for example, funds for transportation to follow up on cases involving children, conduct investigations, attend court hearings and visit children in JRCs.
- Continue and enhance work on the creation of reintegration centres for children released from JRCs, and ensure that proper services (education, psycho-social support, gender-sensitive) are provided to children in centres.
- Enhance efforts to develop reintegration and reinsertion programmes for children released from JRCs, working jointly with communities.
- Create centres that can receive and provide shelter to child victims for whom it is in their best interest to be separated from their families.

To the Ministry of Justice:

- Consider the creation of separate detention centres for juveniles held in preventive custody to ensure that they are no longer held together with convicted juveniles, as prescribed in Article 12 of the Juvenile Code (2005).
- Consider creating separate spaces in JRCs to hold first-time juvenile offenders apart from repeated offenders.
- Increase the budgets of JRCs to ensure that proper rehabilitation services are offered to juveniles.

To the Supreme Court:

- Expand juvenile courts to all provinces to ensure that cases involving children are handled by competent structures.

To the Attorney General's Office:

- Ensure that juvenile prosecutors are present in all provinces in sufficient numbers so that cases involving children are handled by prosecutors with adequate knowledge of child rights and related skills.

To the Ministry of Education:

- Ensure that enough teachers are assigned to JRCs so that juveniles can continue their education while in detention. Pay special attention to female teachers to ensure that girls who are detained receive the same services as boys, even if they are fewer in number.
- Enhance teacher training on and awareness of child rights, and ensure that teachers are properly supervised to reduce incidences of child abuse in schools.



### 10.2.4 Recommendations on coordination

To the parties to the LoA:

- Improve coordination between all actors in the juvenile justice system by ensuring that coordination meetings happen on a regular basis and at all levels of the system, and that decisions made in these coordination meetings are effectively implemented into practice.
- Develop clear, detailed and systematic coordination procedures to describe the roles and responsibilities of all actors in the juvenile justice system. Create a reporting system that will incite actors to better follow the coordination procedures.

### 10.2.5 Recommendations from children


- Police must follow the Constitution and treat children as innocent until proven guilty through a proper judicial process.
- Police should know and respect rights of children working on the street.

- Police should have special procedures for children who are witnesses of crimes and not treat them like suspects. Police should change their behaviour towards all children, whether they are offenders, victims or witnesses, and learn to respect children.
- Police should abide by the law and not mistreat children in police stations.
- There should be more female police officers.
- Police officers who commit abuses against children should face disciplinary action.
- Police should engage in mediation and other diversion measures before referring cases involving children to the prosecutor, especially for minor offenses.
- The MoIA should establish an independent complaint mechanism so that children can report police abuse.
- All police officers should receive adequate legal training, especially on children's rights.
- JRC directors should recommend to courts that children with good behaviour be released early.


# ANNEX A – State of Ratification by the Islamic Republic of Afghanistan of Regional and International Instruments Related to Children's Rights and Child Protection

| International and Regional Human Rights Conventions/Treaties   | Status                        | Last Report Submitted by State |
|--|-------------------------------|--------------------------------|
| Admission to the UN  | 29 August 1946                |                                |
| Convention on the Rights of the Child  | Ratified<br>March 1994        | Submitted<br>28 August 2009    |
| Optional Protocol to the CRC on the involvement of children in armed conflict  | Ratified<br>24 September 2003 |                                |
| Optional Protocol to the CRC on the sale of children, child prostitution and child pornography                                 | Ratified<br>19 September 2002 |                                |
| Optional Protocol to the CRC on a communications procedure   | No action                     |                                |
| International Convention on the Elimination of All Forms of Racial Discrimination  | Accession<br>6 July 1983      |                                |
| Convention on the Elimination of All Forms of Discrimination against Women   | Ratified<br>5 March 2003      | Submitted<br>13 March 2007     |
| Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women                            | No action                     |                                |
| International Covenant on Economic, Social and Cultural Rights   | Accession<br>24 Jan 1983      |                                |
| International Covenant on Civil and Political Rights   | Accession<br>9 February 1987  | Submitted<br>4 August 2004     |
| Optional Protocol to the International Covenant on Civil and Political Rights  | No action                     |                                |
| Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty | No action                     |                                |
| Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment                                       | Ratified<br>1 April 1987      | Submitted<br>November 1992     |

| International and Regional Human Rights Conventions/Treaties   | Status                        | Last Report Submitted by State |
|--|-------------------------------|--------------------------------|
| Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  | No action                     |                                |
| Convention on the Rights of Persons with Disabilities  | Ratified<br>18 September 2012 |                                |
| Optional Protocol to the Convention on the Rights of Persons with Disabilities   | Ratified<br>26 March 2009     |                                |
| Convention on the Reduction of Statelessness   | No action                     |                                |
| Convention for the Protection of All Persons from Enforced Disappearance   | No action                     |                                |
| Convention relating to the Status of Refugees  | Ratified<br>30 March 2005     |                                |
| Protocol relating to the Status of Refugees  | Ratified<br>30 March 2005     |                                |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families  | No action                     |                                |
| Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts, and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime | No action                     |                                |
| Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others   | Accession<br>6 April 1989     |                                |
| Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime                        | No action                     |                                |
| Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption  | No action                     |                                |
| Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages  | Accession<br>9 February 1987  |                                |
| Convention concerning Minimum Age for Admission to Employment (C-138)  | Ratified<br>7 April 2010      |                                |
| Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (C-182)  | Ratified<br>7 April 2010      |                                |
| Convention against Discrimination in Education   | No action                     |                                |



| International and Regional Human Rights Conventions/Treaties  | Status                       | Last Report Submitted by State |
|---|------------------------------|--------------------------------|
| Rome Statute of the International Criminal Court  | Signed<br>28 December 2000   |                                |
| Protocol additional (I) to the Geneva Conventions, and Relating to the Protection of Victims of International Armed Conflict    | Ratified<br>17 April 1990    |                                |
| Protocol additional (II) to the Geneva Conventions, and Relating to the Protection of Victims of International Armed Conflict   | Ratified<br>17 April 1990    |                                |
| Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction | Ratified<br>1 September 1998 |                                |
| Convention on Cluster Munitions   | No action                    |                                |
| Convention on the Safety of United Nations and Associated Personnel   | No action                    |                                |
| International Convention for the Suppression of the Financing of Terrorism  | No action                    |                                |
| International Convention for the Suppression of Terrorist Bombing   | Accession<br>23 April 2001   |                                |
| Convention concerning Forced or Compulsory Labour   | Ratified<br>14 April 1969    |                                |
| Arab Charter on Human Rights  | Ratified<br>15 March 2008    |                                |
| Rabat Declaration on Child's Issues in the Member States of the Organisation of the Islamic Conference                          | Signed<br>9 November 2005    |                                |
| Khartoum Declaration Towards a Brighter Future for Our Children   | Signed<br>4 February 2009    |                                |
| Tripoli Declaration on Accelerating Early Childhood Development in the Islamic World  | Signed<br>11 February 2011   |                                |
| Arab Convention on the Employment of Juveniles  | No action                    |                                |
| The Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups                      | Endorsed<br>3 December 2012  |                                |
| Arab Charter on the Rights of the Child   | Ratified<br>19 February 1985 |                                |
| World Declaration on the Survival, Protection and Development of Children   | Signed<br>30 April 1992      |                                |





# ANNEX B – Letter of Agreement

## THE LETTER OF AGREEMENT

### BETWEEN

**MINISTRY OF INTERIOR (MoI)**  
 &  
**THE ATTORNEY GENERAL'S OFFICE (AGO)**  
 &  
**MINISTRY OF LABOUR, SOCIAL AFFAIRS, DISABLED  
AND MARTYRS (MoLSAMD)**  
 &  
**MINISTRY OF JUSTICE (MoJ)**  
 &  
**MINISTRY OF EDUCATION (MoE)**  
 &  
**THE SUPREME COURT**  
 &  
**MINISTRY OF PUBLIC HEALTH**  
 &  
**MINISTRY OF WOMEN'S AFFAIRS**  
 &  
**NATIONAL DIRECTORATE OF SECURITY**

The Ministry of Interior (MoI), the Ministry of Labour, Social Affairs, Disabled and Martyrs (MoLSAMD), the Office of the Attorney General (AGO), the Ministry of Justice (MoJ), the Supreme Court, the Ministry of Public Health (MoPH), the Ministry of Women's Affairs (MoWA), and the National Directorate of Security (NDS) hereby agree to support action to pilot "Referrals and Cooperation between Social Workers, Police Officers, Prosecutors, and Judges" at province and district level in line with the requirements as stipulated in the Juvenile Code.

## GOAL:

The overall goal of the partnership is to contribute to a child-oriented and right-based juvenile justice system that respects children's rights and best interests; prioritises their rehabilitation and reintegration based on the individual child's needs and circumstances; and ensures that detention and custodial sentences are used only as a last resort and for the shortest period of time.

## OBJECTIVES:

Specific objectives of the partnerships are:

- 1) To facilitate implementation of Article 2, 8, 11, 17, 20, 33, 34 and 35 of the Juvenile Code stipulating the critical role of social workers in complementing the work of police and prosecution at the stage of arrest and investigation of a case;
- 2) To develop an official mechanism to ensure the implementation of "*social inquiry reports*" (i.e. the "Beijing Rules" Rule 16, Juvenile Code Article 17) for children coming into conflict with the law by establishing a referral system between local social workers and Police in charge of juvenile matters.

## AMENDMENT:

For any amendment of the Letter of Agreement (LoA), prior written agreement among the nine parties will be mandatory.

## RESPONSIBILITIES:

Specific responsibilities of each party are described below.

## MINISTRY OF LABOUR, SOCIAL AFFAIRS, DISABLED AND MARTYRS (MoLSAMD)

MoLSAMD, as the lead agency of provincial Child Protection Action Networks (CPAN)<sup>D</sup>, shall:

1. Appoint a senior level official authorised to represent MoLSAMD in the LoA National Working Group.
2. Instruct DoLSAMD directors to provide the required support to implement the LoA at provincial level.
3. Ensure that there are enough trained and accredited social workers in provinces to meet the needs of children in contact with the law. Ensure that social workers are both male and female and that there is a clear job description in place for each social worker.
4. Provide the necessary logistical and financial resources to social workers to enable them to undertake their responsibilities to complete the *social inquiry report* individual care and reintegration plans.
5. Ensure that the staff person responsible for CPAN at DoLSAMD, in consultation with CPAN members, **prepares and submits a list of trained social workers locally available** in the respective province (*Social Worker Contact Sheet*) **to provincial police headquarters and to district police stations where there is a CPAN liaison officer and ensure that it is** regularly updated and any changes promptly communicated to provincial police headquarters;
6. Ensure that **trained social workers<sup>E</sup>**, listed on the provincial *Social Worker Contact Sheet*, **promptly act upon requests by the police** and prepare *social inquiry reports* in line with agreed timescales (ideally within 7 days following the child's arrest).
7. Ensure that CPAN closely **monitors** the use and effectiveness of *social inquiry reports* in the respective province by collecting data on their implementation and **reports to central MoLSAMD offices in their monthly monitoring reports** as well as to the LoA National Working Group.
8. **Conduct periodic reviews** of the forms currently used for *social inquiry reports* and propose any necessary changes to the signatories of this Letter of Agreement;
9. **Assign social workers to work alongside police of the Juvenile Justice Units of the Criminal Investigation Units at provincial police headquarters** to provide support in the assessment of cases and ensure prompt completion of *social inquiry reports* when required;
10. **Lead on policy advocacy** to institutionalize "Referrals between Social Workers, Police Officers and Prosecutors", particularly by using the experiences and lessons learnt documented by provincial CPANs.
11. Provide suitable shelter accommodation and psychological support to children after release from JRCs in **cases** where children's families or guardians are unknown or families or guardians refuse to receive their children.

## MINISTRY OF INTERIOR (MoI)

The Ministry of Interior (MoI) shall:

1. Appoint a senior level official authorised to represent MoI in the LoA National Working Group.
2. Instruct MoI provincial Police Commanders and Juvenile Police Units to provide the required support in implementing the LoA at provincial level.
3. Ensure both male and female Juvenile Police trained in child rights are present in all provinces and that there is a clear job description in place for each juvenile police officer.
4. Ensure that the Juvenile Police disseminate the messages of child rights to their colleagues and report any child rights abuses to the MoI Police Ombudsperson.

D. In line with the National Strategy for Children at Risk (NSFCAR), MoLSAMD, with support of UNICEF, initiated the establishment of Child Protection Action Networks (CPANs) in 2007, mandated to prevent and respond to child protection violations at provincial level. Chaired by DoLSAMD, CPANs are comprised of representatives of both governmental and non-governmental organizations. As of 2009, there are 28 provincial CPANs, and 32 district CPANs.

E. Or where not available care workers

5. **Appoint CPAN liaison police officers in the police headquarters and district police stations** (particularly those of highly populated districts) of all provinces with CPAN presence;
6. **Ensure timely compilation and submission of the list of CPAN liaison police officers to the respective provincial CPANs.** This list needs to be regularly updated and any changes promptly communicated to the provincial CPAN;
7. **Ensure prompt dissemination of the Social Worker Contact Sheet** from provincial police headquarters to all CPAN liaison police officers at district police stations;
8. Ensure that Police inform the family, guardians or appropriate adult of the child within 24 hours of arrest and ensure that the family, guardians or appropriate adult are present during all interrogations of the child.
9. **Instruct district police to immediately request the support of a trained social worker** listed in the provincial *Social Worker Contact Sheet* when responding to cases involving children;
10. In those provinces where there are Juvenile Justice Units of the Criminal Investigation Departments (CID) **ensure close cooperation of police with social workers assigned to them;**
11. **Ensure submission of social inquiry reports** prepared by trained social workers listed in the provincial *Social Worker Contact Sheet* **to the relevant prosecutor's office** for their consideration within 14 days;
12. **Ensure CPAN liaison police officers are trained in child protection and attend** monthly district and provincial CPAN meetings in the respective province;
13. **Regularly and systematically compile statistics** of the arrest of children and outcomes, together with the police response to cases involving children in contact with the law on a monthly basis to the LoA National Working Group
14. **Implement a policy on diversion** for children who have committed a first time offence and/or in obscenity or misdemeanour cases as defined in the Juvenile Code 2005.
15. Ensure that age determination is carried out by the Ministry for Public Health on the recommendations of the Social Worker who has completed the *social inquiry report*.

16. Support police, prosecutors and Judges by undertaking timely and impartial age verification of children referred to the newly established DNA test centre at centre and zone levels.

## THE ATTORNEY GENERAL'S OFFICE (AGO)

The Attorney General's Office (AGO) shall:

1. Appoint a senior level official authorised to represent AGO in the LoA National Working Group.
2. Instruct AGO provincial directors to provide the required support in implementing the LoA at provincial level.
3. Ensure that all prosecutors are trained in child rights in general and the Juvenile Code 2005 in particular.
4. Ensure that there are enough trained juvenile prosecutors in the provinces to meet the needs of children in contact with the law and ensure that these juvenile prosecutors receive juvenile cases from only the district prosecution units and refer to the Juvenile Court if necessary.
5. **Ensure that district/provincial prosecutors receive social inquiry reports on all children's cases** from a trained social worker listed in the provincial *"Social Worker Contact Sheet"*.
6. **Ensure that district/provincial prosecutors give due weight to social inquiry reports** while investigating children's offences and establishing their cases.
7. **Ensure that district/provincial prosecutors discuss the case with the social worker** who prepared the *social inquiry report* before making a legal decision about the juvenile case.
8. In those provinces where there are Juvenile Justice Units of the Criminal Investigation Departments (CID), **ensure that juvenile prosecutors are available to consult on juvenile cases with the police of the Juvenile Justice Units (CID) and their social work colleagues** assigned to these units.
9. **Regularly and systematically compile statistics** on all children in contact with the law and also on related actions taken by prosecutors and report these statistics monthly basis to the LoA National Working Group.



10. **Fully support the implementation of a policy to divert children who have committed first time offences and/or accused of obscenity away from the formal court process**, building on Articles 20 and 21 of the Juvenile Code.
11. Ensure that the central AGO promotes the use of diversion by district and provincial prosecutors and supports cases where it has been recommended.

## MINISTRY OF JUSTICE (MoJ)

The Ministry of Justice (MoJ) shall:

1. Appoint a senior level official authorised to represent the MoJ in the LoA National Working Group.
2. Instruct MoJ provincial directors to provide the required support in implementing the LoA at provincial level.
3. In addition to those persons mentioned in Article 39 of the Law on Juvenile Rehabilitation and Correction Centres, **ensure the free and direct access of trained social workers of MoLSAMD and child protection service organisations to the Juvenile Rehabilitation Centres (JRC)** for case follow-up and completion of *social inquiry reports*.
4. Ensure that there are adequate funds, resources and numbers of staff allocated to maintain a healthy and safe environment for children in the JRCs in line with international juvenile justice standards. Ensure that JRC staff are trained and have clear job descriptions.
5. **Provide social workers with all necessary supports so that they can prepare individual care and reintegration plans for children placed in the JRCs.** This includes sharing with social workers all information relating to the child available to the JRC;
6. **Regularly and systematically compile statistics** on the children in contact with the law in JRCs and report these on a monthly basis to the LoA National Working Group.
7. **Provide defence attorneys with all the necessary support including access to records, the social inquiry report and physical access to JRCs in order that they can represent children detained in JRCs to ensure that detention is used as a last resort.**

8. Ensure that there are adequate programmes and trained male and female staff to promote the rehabilitation and psychological wellbeing of all children detained in JRCs.
9. Ensure that there are adequate links with the families and communities of the children detained in JRCs during their detention.
10. Ensure that JRCs prepare fully for the reintegration of children into the community before authorizing the release of the child and that children are released to only to approved family members or guardians

## MINISTRY OF EDUCATION (MoE)

The Ministry of Education (MoE) shall:

1. Appoint a senior level official authorised to represent MoE in the LoA National Working Group.
2. Instruct MoE provincial directors to provide the required support in implementing the LoA at provincial level.
3. Provide trained and qualified male and female teachers to educate the children detained in JRCs to the same standard as in schools in the community. Ensure that these teachers have clear job descriptions and are informed of their duties and curriculum responsibilities. Provide textbooks and teaching materials to the children detained in the JRC to facilitate their education.
4. Ensure that teachers within JRCs facilitate the coordination of the reintegration of children from JRCs back into the schools in their communities and that the monitor their attendance for 6 months following release.
5. Provide **social workers with access to a child's educational and school records** in order to write *social inquiry reports*.
6. Provide **social workers with all the necessary support and access to enter any school or education facility** relating to a child in conflict with the law and provide **assistance and facilitate any meetings with staff at the facility.**



7. **Cooperate with any requests for information pertaining to a child's age, degree of psychological development, character and aptitude, educational level** and any other information that would be required in order to complete a social inquiry report including any other information that can affect detention and sentence.
8. Regularly and systematically compile statistics on the children who have had contact with the law in schools and report these on a monthly basis to the LoA National Working Group.

## THE SUPREME COURT (SC)

The Supreme Court (SC) shall:

1. Appoint a senior level official authorised to represent SC in the LoA National Working Group.
2. Instruct all Judges to provide the required support in implementing the LoA at provincial level.
3. Ensure that all Judges and members of the Juvenile Court are trained in the Juvenile Code 2005 and the LoA.
4. Ensure that **Judges only consider juvenile cases that have been referred by the juvenile prosecutor's office.**
5. Instruct all Judges, when receiving a child's case, to **check the file for inclusion of a social inquiry report.** As with other incomplete files (Article 30, Juvenile Code), those missing a *social inquiry report* should be returned to the respective juvenile prosecutors for completion.
6. Ensure that Judges give **due weight to the recommendations made in the social inquiry reports** when making a decision on a case.
7. Ensure that no child's case is heard without the presence of their defence attorney.
8. Ensure that the **social worker** who has prepared the *social inquiry report* is **given the opportunity to provide testimony during the court hearing.**
9. **Develop programmes and implementation mechanisms that will enable judges to use alternative sentencing options** as per Article 35 of the Juvenile Code 2005.
10. **Regularly and systematically compile statistics on all children who have their cases heard in all three tiers of the court and report these on a monthly basis** to the LoA National Working Group.

## THE MINISTRY OF PUBLIC HEALTH (MoPH)

The Ministry of Public Health (MoPH) shall:

1. Appoint a senior level official dully authorized to represent MoPH in the LoA National Working Group.
2. Instruct provincial Directors of Health to provide required support in implementation of the LoA at provincial level.
3. Provide regular and on-going medical care including medical supplies to children in contact with the law when necessary at arrest stage and in the JRCs.
4. Conduct an impartial, non-intrusive and child-sensitive medical assessment of all children on entry to a JRC.
5. Conduct a health and hygiene assessment of JRCs on a quarterly basis including an assessment of the physical environment, food and hygiene practices. Assist in ensuring JRCs meet the necessary international standards of health and hygiene for the children.
6. Provide health and hygiene assessments of National Directorate of Security detention and provide medical care to children detained there.
7. Support police, prosecutors and Judges by undertaking timely and impartial age verification of children referred to forensic medicine.
8. In cases where health centres do not have some of the free health services, child health expenditures needs to be paid by Juvenile Rehabilitation Centres or family child if they have the ability to pay.
9. Regularly and systematically compile statistics on the children in contact with the law who have received medical check-ups, treatment or age-verification and report these on a monthly basis to the LoA National Working Group.

## MINISTRY OF WOMEN'S AFFAIRS (MoWA)

The Ministry of Women's Affairs (MoWA) shall:

1. Appoint a senior level official dully authorized to represent MoWA in the LoA National Working Group.
2. Instruct provincial Directors of Women's Affairs (DoWA) to provide required support in implementation of the LoA at provincial level.
3. Provide suitable shelter accommodation and psychological support to children after release from JRCs in cases where children's families or guardians are unknown or families or guardians refuse to receive their children.
4. Regularly and systematically compile statistics on female children in contact with the law and report these on a monthly basis to the LoA National Working Group.

## NATIONAL DIRECTORATE OF SECURITY (NDS)

The National Directorate of Security (NDS) shall:

1. Appoint a senior level official dully authorized to represent NDS in the LoA National Working Group.
2. Instruct provincial NDS Directors to provide required support in implementation of the LoA at a provincial level.

3. Guarantee that no child is arrested or detained illegally.
4. Provide lawyers with unfettered and private access to the children in NDS detention.
5. Guarantee that all children arrested or detained by the NDS are allowed access a trained social worker listed in the provincial *Social Worker Contact Sheet* including Kabul City in order for them to receive rehabilitation and shelter or protection for those at risk or not able to return to their families.
6. Guarantee that all children detained in NDS detention are treated according to international juvenile justice standards in line with the Convention on the Rights of the Child.

## AMENDMENTS

This Letter of Agreement is enforceable upon signature of all 9 parties. The parties to the LoA reserve the right to amend the provisions of this LoA by unanimous consent.

**By signing this letter the parties hereby confirm their approval, agreement and support to this Letter of Agreement.**

\* \* \*

# ANNEX C – Provincial Child Protection Action Network (CPAN)

## TERMS OF REFERENCE

### 1. BACKGROUND

Considering the limited experience available in the country regarding the emerging child protection challenges such as reintegration of children formerly associated with the armed forces and armed groups, juvenile justice, reform of residential care and child welfare system in post-conflict situation, a forum, the National Child Protection Action Network was set up to facilitate and demonstrate leadership in constructive inter-agency dialogues on key child protection issues at the national level on a quarterly basis. To improve the response to specific child protection issues at provincial level, to reach out to children in need of protection and their families and mobilize resources at community level, it was decided to expand CPAN to the provincial level.

### 2. RATIONALE

The Child Protection Action Network (CPAN)'s overall goal is to prevent and response to exploitation, abuse/violence and neglect and ensure protection of all children (boys and girls) in Afghanistan. Provincial CPAN will regularly provide monitoring and reporting of child protection cases which will help to inform programming at provincial level but also development of national level advocacy and policies.

While an effort in engaging constructive dialogues among agencies and key players should continue at both national and sub-national level, improving community outreach is also crucial to promote open dialogues on child protection issues and encourage positive behavioural changes in families and communities. Provincial CPANs recognize that there is a diversity in terms of child protection challenges that provinces face: some provinces are more affected by early marriages, others by child labour, etc. Provincial CPAN will be able to facilitate creation of more targeted interventions that will meet the real needs of children and families in a given province.

### 3. GENERAL PROVINCIAL CPAN OBJECTIVES

Ensure programming and operational responses to address specific provincial child protection issues, particularly drawing upon regular monitoring and reporting of child protection abuses at provincial level;

- Develop short/medium-term strategies in addressing immediate concerns and needs of the affected populations at the local level;
- Expand partnership and alliance at local level to address the needs of children at risks and children victims of child rights violations and to develop preventive strategies and measures;
- Identify gaps in responding to child protection issues at the local level, i.e. assess existing social services available for children using common tools, strengthen these services and provide recommendations for needed services;
- Establish systematic monitoring and reporting of child protection cases at local level using common tools and mechanisms;
- Develop a proper referral mechanism for children at risks or victims of child rights violations;
- Raise awareness among community key players on child rights/protection (i.e. youth groups, forum, child committees, etc.);
- Contribute to policy development through sharing concerns/experience with National CPAN.

### 4. SCOPE OF INTEREST

Specific issues of concern are:

- Detention of children
- Children in residential care
- Street-based children
- Hazardous child labour
- Displacement/forced migration
- Violation of the right to education
- Youth groups
- Child abuse/child sexual abuse
- Violence against girls (including harmful traditional practices such as child marriage)
- Substance abuse

## 5. EXPECTED DELIVERABLES OF THE PROVINCIAL CPAN

The provincial CPAN will be regularly convened by the Secretariat. The Secretariat will be responsible for developing the agenda for each regular meeting of the CPAN as well as preparation and dissemination of the meeting minutes. Members of the CPAN may request the Secretariat to call for a special meeting outside the regular meetings, if required.

The provincial CPAN will contribute to the following, when required and appropriate:

- Meet on monthly basis, share information on salient child protection issues, collect and disseminate data, provide monthly monitoring report on child protection cases and follow up on individual cases;
- Develop links with National CPAN and other provincial CPAN - Sharing information with other provincial CPAN on emerging issues in the province – refer individual child protection cases when needed;
- Formulate plans of action in response to child protection issues raised during the meeting;
- Establish referral mechanisms for children at risks and victims of child rights violations at provincial level;
- Encourage multi-sectorial interventions among line departments;
- Build capacity of key child protection players including key community leaders through training programmes by CPAN with direct and technical support from NGOs, AIHRC, children's organizations, UN, Government and other agencies;
- Establish links with youth groups at district level/ villages level;
- Support local mechanisms to identify children at risks;
- Identify sensitization activities on key child protection issues, particularly focusing on preventive strategies and measures at community and family level;
- Request additional support from National CPAN to address specific issues that require assistance;
- Contribute to identifying trends in the province vis-à-vis child protection;
- Review and provide feedback to national reports/ studies on child protection issues, when required and appropriate.

## 6. STRUCTURE AND MEMBERSHIP OF THE PROVINCIAL CPAN

### General members:

In principle the CPAN is an inclusive network, thus any interested organizations who have mandate and field interventions in the area of child protection may join the provincial CPAN as general members.

The proposed membership of the provincial CPAN includes:

1. International and national NGOs actively operational in the field of Child Protection/ Child Rights
2. UN agencies actively operational in the field of child protection (e.g. UNICEF, ILO, OHCHR, UNHCR)
3. Government agencies who have mandates child protection issues

### Secretariat

The Ministry of Labour, Social Affairs, Disabled and Martyrs serves as the secretariat of Provincial CPAN, with technical and other support from key child protection organizations present in the province.

### Thematic/Working Groups:

The provincial CPAN may also set up thematic working groups, if the CPAN decides that focused and extensive work is required on a specific child protection issue.



# ANNEX D – Main Multilateral and Non-Governmental Organisations Working with Children in Afghanistan

|                                  |  |
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| <p><b>UNICEF AFGHANISTAN</b></p> | <p>UNICEF advocates for the prevention, response to and eradication of violence, abuse and exploitation of children, early and child marriage, hazardous and exploitative labour and gender-based violence to ensure children have the space, freedom and safety to enjoy childhood and to grow into healthy adults</p> <p><b>Children and Armed Conflict</b></p> <p>UNICEF co-chairs the Monitoring and Reporting Mechanism (MRM) on grave violations committed against children in the context of conflict in Afghanistan. UNICEF led the establishment of regional task forces on Children and Armed Conflict (CAAC), to facilitate a regional and provincial level monitoring of and response to grave violations, including through local level advocacy, raising awareness of risks faced by children affected by armed conflict, and in monitoring of children detained under national security charges.</p> <p><b>Justice for Children</b></p> <p>UNICEF partners with the government, NGOs and other UN agencies to increase the protection for children in contact and in conflict with the law. This includes strengthening legal protection systems through the development of a comprehensive Child Act, capacity building of duty bearers, raising awareness of local communities – including children themselves – on the rights of children, improving coordination and collaboration among various stakeholders, specific service delivery such as legal aid and diversion of cases away from formal systems. These efforts have received a boost by the government's recent focus on Civil Registration and Vital Statistics under regional initiatives.</p> <p><b>Social Protection</b></p> <p>From 2003 onwards, UNICEF has supported the Government of Afghanistan in setting up the Child Protection Action Network (CPAN), a coalition of government organisations, NGOs, community and religious leaders working to provide access to services for children in need of protection.<sup>223</sup></p> |
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| <b>United Nations Assistance Mission in Afghanistan</b> | <p>The United Nations Assistance Mission in Afghanistan (UNAMA) is a political mission established by the Security Council in 2002 at the request of the Government of Afghanistan to assist it and the people of Afghanistan in laying the foundations for sustainable peace and development in the country.</p> <p>On 16 March 2015, the 15-member UN Security Council unanimously adopted Resolution 2210 (2015), which renewed the mandate of UNAMA and set out the scope and range of activities it is expected to undertake during the coming 12 months.</p> <p>On the delivery of humanitarian assistance, in particular, the resolution called for enhanced coordination among the United Nations agencies, funds and programmes, under the authority of the Special Representative of the Secretary General and in support of the Afghan Government, with a view to reinforcing the government's capacity and in accordance with humanitarian principles. This assistance includes providing effective support to national and local authorities in assisting and protecting internally displaced persons and creating conditions conducive to the voluntary, safe, dignified and sustainable return of refugees from neighbouring and other countries and internally displaced persons.<sup>224</sup></p> |
| <b>European Union Police Mission in Afghanistan</b>     | <p>The European Union Police Mission in Afghanistan (EUPOL Afghanistan) is a civilian common security and defence policy (CSDP) mission.</p> <p>The mission focuses on institutional reform of the Ministry of Interior (MoI) and on the professionalisation of the Afghan National Police (ANP), including the development of local training capacity and institutions. In addition, it supports the improved interaction among Afghan law enforcement and criminal justice actors, such as cooperation between police officers and prosecutors in criminal investigations. Human rights and gender issues, as well as aspects related to enhancing accountability and transparency, are being mainstreamed across all mission's activities. In all its undertakings, EUPOL Afghanistan ensures that the needs, abilities and skills of the local authorities guide the reform process.</p> <p>EUPOL Afghanistan's support is delivered by its police and rule of law experts from EU Member States, mainly through advising in relevant Afghan institutions (MoI, ANP and the Attorney General's Office) in Kabul, Herat and Mazar-e-Sharif. It carries out its tasks in a joint effort with the government and in close coordination with a number of local and international partners.<sup>225</sup></p>        |

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| <b>Afghanistan Independent Human Rights Commission</b> | <p>The Afghanistan Independent Human Rights Commission (AIHRC) was established pursuant to the Bonn Agreement (5 December 2001) and on the basis of the decree of the chairman of the interim administration (6 June 2002) and resolution 134/48 of the United Nations General Assembly in 1993 and the Paris principles and on the basis of Article 58 of the Constitution of the Islamic Republic of Afghanistan. The Commission is performing its activities in the areas of promotion, protection and monitoring of human rights in Afghanistan.<sup>226</sup></p> <p>The Commission created a Child Rights Units in 2003. The Unit currently has 46 staff members working at the main office in Kabul and eight regional offices. The unit's staff includes child rights officers, assistants, field monitors and border-based monitors (the last two categories funded by UNICEF). The Unit works closely with the Commission's Investigations Unit on complaints involving children and the Commission's Education Section on awareness raising campaigns on children's rights (including workshops with teachers and parents, radio and television programs, etc.). The Child Rights Unit also works on research and advocacy on child rights violations, and produces reports on specific topics such as child trafficking.</p> <p>The Unit is a member of CPAN and uses network meetings to discuss complaints received on cases concerning children. The Commission receives complaints from its own field officers, from children directly (sometimes through their lawyers) and from non-government and civil society organisations.</p> |
| <b>ASCHIANA FOUNDATION</b>                             | <p>The Aschiana Foundation has trained, nourished and mentored more than 50,000 children and young adults. With assistance from TDH, and supporters from the United States.</p> <p>In Kabul, Aschiana operates a number of centres, including one centre for older girls who receive vocational training and basic education, and one emergency centre for children separated from their families. Aschiana also provides home-based schooling in modest houses for girls unable to seek education in the centres.</p> <p>Aschiana implements an educational program for street children in Kabul. The program runs in six centres; three of them are outreach centres mainly occupied by refugees and displaced persons. In addition, an educational centre with a medical clinic is being built for street children in Kabul. This centre will also serve as Aschiana's headquarters and a teacher training unit.</p> <p>Aschiana operates eight outreach centres outside of Kabul. In Mazar-e-Sharif, it established one vocational training centre for 300 students and three education programs focused on rehabilitating children of conflict that can accommodate 450 students. In Parwan, the centres provide vocational and literacy training for 250 girls. In Herat, the centres provide educational programmes for 150 refugee children in tented facilities. Finally, in Gardiz, one centre was established to offer educational and vocational training to 300 students.</p>  |

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| <b>SAVE THE CHILDREN –<br/>AFGHANISTAN</b> | <p>This organisation has worked with local communities and organisations to design sponsorship programs for children. Targeted to help children from early childhood to early adulthood, Save the Children's programs work to make a healthy and safe environment where children can learn and grow. Early childhood programs help prepare toddlers and young children for school by giving them access to quality preschools and early literacy programs, while programs designed for primary school-aged kids work to transform students into lifelong learners by building strong curriculum and passionate teachers. Save the Children also provides health education and care to children in need through school health programs to help children stay healthy, well-nourished and in school.<sup>227</sup></p> <p>Save the Children works closely with local communities, religious leaders, parents, teachers and the government at different levels to create and help maintain measures and structures that can prevent and respond to abuse, neglect, exploitation and violence affecting children.</p> <p>At the national level, Save the Children focuses on capacity building of the Child Protection Secretariat, a central government body that is in charge of child protection policy and work. At the local level, Save the Children focuses on building and strengthening Community Based Child Protection Networks. These will eventually link up with the government child protection structure that is under development on regional levels.</p>  |
| <b>WAR CHILD UK</b>                        | <p><b>Juvenile Justice</b></p> <p>War Child UK has been working in a Juvenile Rehabilitation Centre. It has established a program to train local police, community leaders and staff at the detention centres in alternatives to pre-trial detention and juvenile law. Once the children serve their sentences, War Child UK assists in building bridges with families in the hope they can return home to them.</p> <p>War Child UK has provided a kindergarten and playground for children with mothers in prison. Many imprisoned mothers have their children with them in cells. This program helps transports children to the kindergarten and back. Once the project was running successfully War Child UK handed over control of it to the Afghan government.</p> <p><b>Setting Up Early Childhood Development Centres</b></p> <p>War Child UK has established more than 25 kindergartens for children aged 4-6 to provide children with basic pre-school education, a daily snack and a chance to socialise with other children.</p> <p><b>Resource Centres For Street-Working Children</b></p> <p>These are safe places where children can come during the day and access a free education and support to either get back into mainstream school, or get some business skills, depending on how old they are.</p> <p><b>Running A Child Helpline</b></p> <p>This is for vulnerable children and care providers to call and get some support or advice. People can report cases of abuse, and children can call to get help if they feel they are in danger or are being exploited.<sup>228</sup></p> |



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| <p><b>CHILDREN IN CRISIS<br/>AFGHANISTAN</b></p> | <p><b>Community based education centres</b></p> <p>In the space of 3 years, Children in Crisis will deliver a full primary school education to out of school children in some of Kabul's poorest districts. These children will be taught in community based education centres, from where they offer homework support classes to children already attending school as well as vocational and literacy training to women.</p> <p><b>Social worker training</b></p> <p>Children in Crisis is working across 6 provinces of Afghanistan to provide a system of trained social workers, legal professionals and police officers who will represent and protect some of the country's most vulnerable children.</p> <p><b>Child rights training</b></p> <p>Children in Crisis' child rights programme works to ensure that children in Afghanistan are protected from harm and physical abuse. A recent survey found that adults frequently resort to violence to punish their children.<sup>229</sup></p>  |
| <p><b>TDH</b></p>                                | <p>Terre des Hommes (TDH) has been active in Afghanistan since 1995 and carries out projects related to child protection, mother and child health, rural economic development.</p> <p><b>Child protection</b> – A growing trend of internal and external migration is causing the exile of a number of minors, forcing them to provide for their own needs or supply the family income. This generates an increase in juvenile delinquency. TDH works with the government to support children in conflict with the law by improving the existing legal framework (alternatives to detention) and support to children in juvenile rehabilitation centres. TDH organizes training sessions for law enforcement agencies, judges and social workers. TDH also assist street children by providing access to food, basic education, hygiene and health support.</p> <p><b>Mother and child health</b> – TDH helps children and their mothers to benefit from rights to healthcare, food and hygiene. TDH advises and assists pregnant women, mothers of newborn infants or malnourished children. TDH staff provides psychological support to victims of domestic violence. During humanitarian crises, TDH ensures access to drinking water and sanitary facilities, improves hygiene in the affected communities.</p> <p><b>Rural economic development and natural resources management</b> – TDH helps families in the most remote and poorest areas in order to generate income to combat child poverty and labour. With the support of local partners, TDH helps the establishment of farmer cooperatives, women groups, setting up a fruit and livestock value chain and reforestation campaigns.<sup>230</sup></p> |




## ANNEX E – Questions for Focus Group Discussions with Children

1. In what situation did you encounter police officers for the first time?
2. How did the police behave when you were arrested? How were you treated?
3. Has your opinion of the police changed since you were arrested?
4. Do you trust police officers to protect you? If you do not trust police officers, who do you turn to when you need help (person, institution, etc.)?
5. If you were given the opportunity to teach the police, what would be the topics you would want to discuss with them? What aspects of their behaviour would you want to change?
6. Do you want to become police officers when you grow up? Why or why not?
7. Do you have recommendations for the police?



# ANNEX F – Social Inquiry Report Form

|   |                        |  |                               |
|---|------------------------|--|-------------------------------|
|  |                        |  |                               |
| MoLSAMD   |                        | Office of the Attorney General         |                               |
| Ministry of Interior  |                        |  |                               |
| Social Inquiry Report ( SIR)  |                        |  |                               |
| CONFIDENTIAL  |                        |  |                               |
| Case No:  | Name of Social Worker: | Phone #:                               | Date of Submission of Report: |
|   |                        |  |                               |
|   |                        |  |                               |
| Child's Name  | Father's Name:         | Contact/Address of parent:             | Current Place of the Child    |
|   |                        |  |                               |
|   |                        |  |                               |
| Name of Prosecutor  |                        | Provincial Juvenile Prosecution Office |                               |
|   |                        |  |                               |
|   |                        |  |                               |
| Name of Police  |                        | Provincial Police Office               |                               |
|   |                        |  |                               |
| CASE FACT   |                        |  |                               |
| Time and date of Incident:  |                        | Place of incident:                     |                               |
|   |                        |  |                               |
|   |                        |  |                               |



| Child's Perception of the incident                                      | Criminal record | Charged allegation |
|---|-----------------|--------------------|
|   |                 |                    |
| Summary of Social worker on child-home study:                           |                 |                    |
| Summary of Social worker comments of children in conflict with the law: |                 |                    |
| Evaluation of case:   |                 |                    |
| Conclusion of Social worker /final Recommendation:                      |                 |                    |
| Action taken by SW:   |                 |                    |
| Signature of Submitting Social Worker:                                  |                 |                    |
| Note: Please attach additional pages & indicate section                 |                 |                    |





# ANNEX G – Child Act Drafting Committee

## CHILD ACT DRAFTING COMMITTEE

### Technical Committee Members

1. Representative of Civil Society
2. Representative of Afghanistan Independent Human Rights Commission
3. Representative of International Organisations
4. Representative of UNICEF
5. Representative of Ministry of Education (MoE)
6. Representative of Ministry of Justice – Legislation Department (MoJ)
7. Representative of Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD)
8. Representative of Ministry of Public Health (MoPH)
9. Representative of Ministry of Woman Affairs (MoWA)
10. Representative of Ministry of Interior Affairs (MoIA)
11. Representative of Attorney General Office (AGO)
12. Representative of Supreme Court (SC)
13. Representative of Afghanistan Independent Bar Association

### Sub-committees

#### 1. Sub-committee on civil rights and freedom

- Ministry of Telecommunication
- Ministry of Information and Culture
- Ministry of Education
- Ministry of Haj
- Ministry of Labour and Social Affairs (MoLSAMD)
- Ministry of Interior
- UNICEF
- Civil Society
- Afghanistan Independent Human Rights Commission
- Central Statistics Office

#### 2. Sub-committee on family environment and alternative care

- Ministry of Labour and Social Affairs (MoLSAMD)
- Ministry of Justice
- Ministry of Women Affairs
- Ministry of Refugees and Returnees
- Civil Society
- Afghanistan Independent Human Rights Commission
- UNWOMAN
- Children in Crisis (CIC)

**3. Sub-committee on Provision of services (disability, basic health and welfare)**

- Ministry of Labour and Social Affairs (MoLSAMD)
- Ministry of Education
- Ministry of Information and Culture
- Ministry of Women Affairs
- Ministry of Public Health
- Ministry of Counter Narcotics
- Civil Society
- Save the Children
- International Committee of Red Cross (ICRC) & Afghan Red Crescent Society (ARCS)

**4. Sub-committee on Education, leisure & cultural activities**

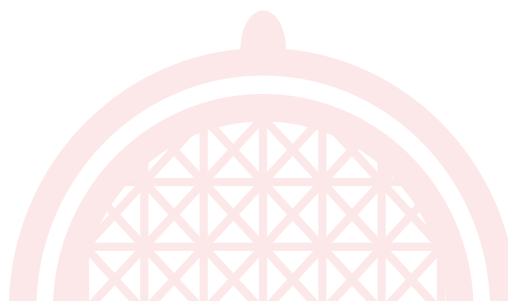
- Ministry of Education
- Ministry of Information and Culture
- Ministry of Labour and Social Affairs (MoLSAMD)
- Ministry of Haj
- Ministry of Women Affairs
- Civil Society
- National Olympic Committee

**5. Sub-committee on Protection from abuse & exploitation**

- Ministry of Labour and Social Affairs (MoLSAMD)
- Ministry of Interior
- Ministry of Public Health
- Ministry of Education
- Ministry of Justice
- Civil Society
- Afghanistan Independent Human Rights Commission
- Supreme Court
- Attorney General Office
- National Security General Office
- Bar Association

**6. Sub-committee on Administration of juvenile justice**

- Ministry of Interior
- Ministry of Justice
- Ministry of Labour and Social Affairs (MoLSAMD)
- Ministry of Education
- Ministry of Public Health
- Ministry of Women Affairs
- Civil Society
- Afghanistan Independent Human Rights Commission
- Attorney General Office
- Supreme Court
- National Security General Office
- Bar Association
- JSSP



# ANNEX H – About the International Bureau for Children's Rights

Founded in 1994, the International Bureau for Children's Rights – the "Bureau" or "IBCR" – is a Montreal-based non-governmental organisation that has special consultative status with the Economic and Social Council of the United Nations (ECOSOC). The Bureau is a centre of technical expertise and through its interventions it strengthens and builds the capacity of those who work directly with children, including social workers, representatives of security and defence forces, members of the judiciary, civil society groups, organisations in the formal and informal private sector, and decision makers in Canada and abroad. Through its work, the Bureau supports the efforts of its partners to bring about structural reforms leading to professional practices that reflect greater respect for the rights of children.



BUREAU INTERNATIONAL  
DES DROITS DES ENFANTS  
INTERNATIONAL BUREAU  
FOR CHILDREN'S RIGHTS  
OFICINA INTERNACIONAL  
DE LOS DERECHOS DEL NIÑO  
المكتب الدولي لحقوق الطفل

## OUR FIELDS OF ACTIVITY

### Children in emergency situations

During man-made crises or natural disasters, the Bureau trains peacekeeping personnel, disseminates and popularises applicable standards, supports systems for monitoring and communicating information, and supports the initial application of minimum standards for protecting children.

### The sexual exploitation of children

The IBCR works with its partners to prevent all forms of violence and exploitation, including sexual exploitation, child pornography, child trafficking, child prostitution, child sex tourism, and early and forced marriages.

### Empowering girls

The IBCR works to protect girls from danger. In addition it also seeks to build understanding of the central importance of girls' personal development and to raise awareness of their contribution to social progress.

## Children and the economy

The Bureau plays a constructive role by encouraging the private sector to be attentive to the rights of children when developing corporate social responsibility strategies and helps governments take their commitments to children's rights into account when planning budgets.

## Children and Justice

Through its programme for the defence of the rights of children in the criminal and civil justice systems, the IBCR conducts in-depth multidisciplinary analyses of the juvenile justice system in addition to building capacity and frameworks conducive to protecting children's rights repetitive.

## OUR TECHNICAL EXPERTISE

**Capacity-building** focused on the effective and lasting integration of knowledge, attitudes and skills by people involved in the child protection system

**Applied research** in the form of assessments, situational analyses and comparative analyses, all aimed at tracking progress and taking action

**Advocacy and institutional support** in the form of technical assistance with the reform process and an ongoing constructive dialogue with the parties responsible for promoting and protecting children's rights

**Tools, reference guides and standards development** using monitoring and reporting tools

**Training of trainers workshops**, including in-depth courses, delivered to trainers seeking certification

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  155. Plenary discussion during a workshop held by the IBCR with the social sector, Park Star Hotel, Kabul, 13 April 2015
  156. Interview with Mohammad Osman Amini, Senior Manager of Social Services, Ministry of Labour, Social Services, Martyrs and Disabled
  157. Interview with Hamedullah Habib, CPAN National Manager, Ministry of Labour, Social Services, Martyrs and Disabled
  158. Interview with Hamedullah Habib, CPAN National Manager, Ministry of Labour, Social Services, Martyrs and Disabled
  159. Plenary discussion during a workshop with the MoIA held by the IBCR at the Park Star Hotel in Kabul, 14 April 2015
  160. Interview with Farida Baraki, Head of of Central Region of Kabul Juvenile Prosecution Office
  161. Interview with Fariba Farooq, Chief Prosecutor, Juvenile Prosecution Office of Balkh Province, Mazar-e-Sharif
  162. Interview with Farida Baraki, Head of of Central Region of Kabul Juvenile Prosecution Office
  163. Interview with Fariba Farooq, Chief Prosecutor, Juvenile Prosecution Office of Balkh Province, Mazar-e-Sharif
  164. Interview with Judge Anisa Rasooli, Head of Juvenile Appeal Court
  165. Interview with Hedayatullah Rameen, Juvenile Justice Project Manager and Amin Mamnoon, Juvenile Justice Project Officer, Terre des Hommes; Acting Minister of Justice, JRC High Council meeting, 2 March 2015, Sapidar Palace, Kabul
  166. Interview with Judge Homa Alizoy, Chief Judge of Kabul Juvenile Primary Court
  167. H.E. Dr Abdullah Abdullah, CEO of the Islamic Republic of Afghanistan, JRC High Council meeting, 2 March 2015, Sapidar Palace, Kabul
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  169. Interviews with Farida Baraki, Head of of Central Region of Kabul Juvenile Prosecution Office; Judge Anisa Rasooli, Head of Juvenile Appeal Court; and Mohammad Rahmani, Justice Director, Herat province
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  171. Interview with Mr Mohammad Sidiq Sidiqi, Director of Juvenile Rehabilitation Centers, Ministry of Justice
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  174. Interview with Mr Mohammad Sidiq Sidiqi, Director of Juvenile Rehabilitation Centers, Ministry of Justice
  175. Interview with Mr Mohammad Sidiq Sidiqi, Director of Juvenile Rehabilitation Centers, Ministry of Justice
  176. Interview with Farida Baraki, Head of of Central Region of Kabul Juvenile Prosecution Office
  177. Interview with Dr Faizal Ibrahim, Director of Social Protection, Ministry of Labour, Social Affairs, Martyrs and Disabled
  178. Interview with Sayed Mustafa Sekandari, Balkh Province Juvenile Rehabilitation Centre Director, Mazar-e-Sharif
  179. Interview with Mohammad Rahmani, Justice Director, Herat province
  180. Interview with Sultan Ahmad Oqabi, Manager of boys' dormitory and focus group discussion with 16 boys detained, Herat JRC
  184. Interview with Ashiga, Teacher, Girls' detention centre, JRC Herat
  182. Interview with Najibullah Zadran Babarakzai, National Coordinator for the Rights of Children, Afghan Independent Human Rights Commission
  183. Interview with Col. Wolf Wewers, Deputy Head of German Police Project Team Afghanistan
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199. Interviews with Major General Sayed Noorullah Zal, Commander of Afghanistan Police Academy; Colonel Jalaluddin Siddiqi, Teaching General Manager, Police Academy; Brigadier General Ahmad Jawid Beheshti, Deputy Planning and Policy of Education General Command, MoIA; Colonel Aminuddawlah Amin, Training Development Policy and Planning Manager, Education General Command, MoIA
200. Interview with Brigadier General Ahmad Jawid Beheshti, Deputy Planning and Policy of Education General Command, MoIA; Colonel Aminuddawlah Amin, Training Development Policy and Planning Manager, Education General Command, MoIA
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211. Interview with Najibullah Zadran Babarakzai, National Coordinator for the Rights of Children, Afghan Independent Human Rights Commission
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213. Interview with Safiullah Amarkhail, Child Protection National Advisor, Save the Children
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## Capacity Building for Child-Friendly Policing in Afghanistan

In order to make children's rights a reality as enshrined in the Convention on the Rights of the Child, lasting changes must first occur in the organisations and individuals responsible for promoting and protecting children's rights.

In 2014, the IBCR entered into discussions with UNICEF Afghanistan and the Ministry of Interior Affairs of the Islamic Republic of Afghanistan about designing a project to build the capacity of Afghan security forces in the area of child-friendly policing. The discussions led to a first phase involving the assessment of the situation of children in relation to law enforcement and the judicial system in Afghanistan, with a focus on training needs of the security forces.

The main goal of this project is to create a quality curriculum on children's rights that will be permanent and mandatory in police training institutions throughout the country. The curriculum will take a participative approach to learning, with lessons tailored to fit the context of Afghanistan. At each stage, a Steering Committee under the responsibility of the Ministry of Interior Affairs provides technical support to the IBCR, while a Reference Group provides insight and recommendations to the project when necessary.

### Steering Committee

In January 2015, the Ministry of Interior Affairs created a Steering Committee to oversee the implementation of the project. The Steering Committee is chaired by the Deputy Minister for Administration. The following departments are members of the Steering Committee:

- Human Rights, Women's and Children's Affairs Directorate, including the Child Rights Unit
- Criminal Investigations Department, including the Juvenile Police Unit and the Family Response
- Statistics Department
- Law Department
- Police Academy
- Education General Command
- Community Policing Department