



Convention on the Rights of the Child

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Summary record of the 1586th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 18 January 2011, at 10 a.m.

Chairperson: Ms. Lee

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* No summary record was issued for the 1585th meeting.

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 44 of the Convention *(continued)*

Initial report of Afghanistan on the implementation of the Convention on the Rights of the Child (CRC/C/AFG/1; CRC/C/AFG/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Afghanistan took places at the Committee table.*
2. **Mr. Hashimzai** (Afghanistan) said that, following the establishment of the new administration in 2001, policies and development programmes in Afghanistan had given priority to human rights. One of the aims of the Juvenile Code adopted in March 2005 was to protect the best interests and rights of the child in the judicial system. The 2009 Law on Juvenile Rehabilitation Centres focused on the education and rehabilitation of young people in detention, taking into account international standards on the treatment of detainees, as well as improving the quality of services provided and introducing monitoring mechanisms for children in conflict with the law. All the legislation adopted on education, labour, public health and action against human trafficking was in compliance with the Convention. Basic education was free of charge and compulsory and the population had free access to health care. In spite of the lack of financial and human resources, the State was tirelessly striving to ensure the well-being of children.
3. The aim of the five-year education strategy adopted by the Government in 2007 was to facilitate the implementation of the Millennium Development Goals relating to education. The Ministry of Education intended to launch programmes to improve the quality of education, make schools safer, promote girls' attendance at school and incorporate human rights into the school curriculum. Access to education had significantly improved: by the end of 2009, 6.7 million pupils (of whom 37 per cent were girls) attended school or were enrolled in teacher training courses (a figure seven times greater than in 2001). Each province had at least one centre providing teacher training courses or further training for teachers. Despite that remarkable level of progress, 42 per cent of school-age children, mainly girls, still had no access to education and nearly half of schools had no sanitary facilities or running water. Security was also a problem. The interim education plan 2011–2013, which was currently being drawn up, aimed to address those concerns.
4. Within the framework of the public health strategy adopted in 2008, the Ministry of Public Health was working to improve health care and promote a healthy environment. The maternal mortality rate was 1,600 per 100,000 live births, infant mortality stood at 111 per 1,000 live births and the mortality rate for children under five was 161 per 1,000 live births. Infectious diseases, including diarrhoea, acute respiratory infections, tuberculosis and malnutrition, had a severe impact on the under 5s, while other problems, such as abuse, teenage pregnancies, drug addiction and HIV/AIDS, affected older children. The Government had developed a strategy to promote health and nutrition and a national policy on the health of children and adolescents.
5. Since 2006, the State had implemented a strategy to provide services and programmes aimed at protecting children from exploitation, violence and abuse, and measures had been taken by the Ministry of Labour and Social Affairs, Martyrs and the Disabled, other public bodies and civil society organizations to protect various categories of vulnerable children. During the previous four years, 2,578,928 children had thus been provided with protection. The social protection strategy for the period 2008–2013 aimed to guarantee a safety net for the most vulnerable groups in society, especially children and other persons with disabilities, the families of martyrs, orphans, street children, destitute women and the rural poor. Implemented in 2008, the National Strategy for Children with

Disabilities provided assistance to 196,000 children (110,000 boys and 86,000 girls) in the following sectors: education, health and professional and technical training.

6. The Child Protection Action Network established in 2003 by the Ministry of Labour and Social Affairs, Martyrs and the Disabled, with the support of the United Nations Children's Fund (UNICEF), amongst others, had covered 28 provinces by March 2008. The Network aimed to prevent exploitation, abuse and violence against children and to guarantee protection to all children in Afghanistan. It provided for the monitoring of violations of children's rights and the development of the relevant action programmes. Between 2007 and 2010, it had dealt with 4,654 reported cases of sexual abuse, children in conflict with the law, child abuse and children involved in hazardous labour. It had also launched a campaign to raise awareness of the Convention.

7. A dynamic partnership involving non-governmental organizations (NGOs), social workers and civil society organizations also worked to protect children's rights. International cooperation was also very important and Afghanistan wished to thank UNICEF in that regard.

8. Afghanistan still faced serious problems, however, particularly the lack of security, which affected economic and social development, and a shortage of resources to fund protection measures for the most vulnerable groups in society.

9. **Mr. Krappmann** (Country rapporteur) noted that the issue of survival had not been addressed in the initial report of Afghanistan, although many children had been killed in the conflict in recent years. Information on measures taken or planned to provide better protection for children and ensure their survival would therefore be welcome. The Afghan national police force remained on the list of organizations that recruited children and he asked the delegation to explain why the authorities had not succeeded in putting an end to the practice.

10. He asked how the State ensured that the Convention was implemented throughout the country and what body coordinated the activities of the various actors in the field of children's rights. Given the cross-sectoral nature of those rights, a single coordinating body should supervise the activities of all the relevant ministries. He also wished to know whether the various existing bodies possessed the necessary human and financial resources to fulfil their mandates.

11. While he welcomed the fact that numerous plans of action and strategies had been adopted in the field of education, health, social protection and children at risk, he wished to know what body monitored the consistency and effectiveness of the measures taken, whether action plans focused on children's rights and whether Afghanistan planned to adopt a national plan on children's issues, with a view to improving coordination in that regard, and a child protection code to strengthen respect for children's rights. He asked whether the State had assessed the plans of action and strategies which had been implemented in recent years, such as the National Plan of Action against Human Trafficking and Kidnapping of Children (2004), the Juvenile Code (2005) and the National Strategy on Children at Risk (2006). Further information on the nature of the protection provided to the 2 million children who received such protection would be appreciated.

12. The creation of the Afghanistan Independent Human Rights Commission, with its children's rights unit and observers in the field, had been a laudable step. He asked, however, whether the Commission operated in line with the Paris Principles, whether it was competent to manage investigations and how its members were appointed.

13. The delegation might like to indicate whether a specific time frame had been set for implementing a centralized data collection system in order to gain a better understanding of

the situation of children at risk, destitute children, children from single-parent families or large families, children with disabilities, orphans and girls.

14. **Mr. Zermatten** requested more detailed information on the status of the Convention within the Afghan legislative system, in the light of the provisions of article 7 of the Constitution on integrating international instruments into domestic law. He welcomed the legislative measures taken, especially the adoption of the Juvenile Code, but wished to know what progress had been made with regard to drawing up the legislative texts required to give effect to the Convention and with regard to the work of the Human Rights Unit set up by the Ministry of Justice to review the legislation in force and bring it into line with the Convention. He asked whether the courts based their rulings directly on the Convention when dealing with the cases before them and what happened in the event of any conflict between the provisions of the various legal systems (substantive, Islamic and customary law) or with the Convention. Given that the concept of the best interests of the child had not been systematically integrated into law nor applied by the courts, it would be useful if the delegation could provide information in that regard.

15. **Mr. Gurán** requested further information on the coordination mechanisms in place and how they were organized, on the training given to officials at the Ministry of Labour and Social Affairs, Martyrs and the Disabled responsible for dealing with complaints of violations of children's rights and on the follow-up measures taken in such cases. The delegation might also wish to provide information on the training given to persons working for the Afghanistan Independent Human Rights Commission and on its human and financial resources.

16. It would be useful to have further information on the positive outcomes of the cooperation between various contingents of the International Security Assistance Force (ISAF) deployed in the country and the local population, especially in the field of education.

17. **Mr. Koompraphant** wished to know what measures had been taken to combat discrimination against children, particularly girls, within communities and families, especially with regard to education and health, and he wished to know whether the courts had issued rulings to punish those guilty of discrimination against children and to protect the victims.

18. **Mr. Pollar** said that he was concerned that the right of children to express their opinion was not respected during investigations or criminal proceedings, that judges instructed children not to speak before the court and, in contravention of the Juvenile Code, did not allow them to testify and that children were often excluded from informal judicial proceedings.

19. Although the efforts made by the State since 2007 to promote the registration of births were commendable, it should clarify how it planned to overcome obstacles such as the difficulty of access to conflict zones, the lack of trust towards State officials, the low rate of hospital deliveries and the lack of awareness of the advantages of registering births. It should also state whether children born out of wedlock could be registered.

20. **Mr. Citarella** asked what provisions addressed discrimination against girls — at school, in hospital or in the family — and whether the courts had, for example, already annulled any early marriages.

21. **Ms. Al-Asmar** welcomed the fact that NGOs had been involved in drawing up the initial report and asked whether the State involved them in all activities in the field of children's rights and protected their members when they ventured into dangerous areas.

22. She asked what was being done to ban corporal punishment outside the school environment, whether the rights of the child were taken into account when legislation on

the media was drafted and whether there were programmes designed to raise children's awareness of their rights and to promote the safe use of the media by children.

23. **Ms. El-Ashmawy** asked what was being done to ensure the equitable distribution of resources and to guarantee that they were used in the best interests of children, avoiding sexual, social or other discrimination, so that all children could enjoy the right to education, health care and access to drinking water.

24. She also asked whether steps had been taken to combat, prevent and punish corruption and thus to guarantee transparency in the use of resources earmarked for children's issues, as well as adequate resources for protecting children in times of crisis or natural disaster or in other emergency situations.

25. The delegation might also wish to describe measures taken to improve the capacity of members of the security forces, social workers, health-care workers and staff in children's institutions to work with children. It should indicate whether the State had implemented any measures to disseminate and raise public awareness of the Convention and whether it planned to incorporate classes on the Convention into the school curriculum.

26. **Ms. Varmah** asked whether the State party envisaged reviewing legislation specifically relating to children, in order to harmonize the various definitions of the child and to bring them in line with the Convention, and particularly the act of 2005 on children in conflict with the law, under which children were defined as boys younger than 18 and girls younger than 17. Although that same act had raised the age of criminal responsibility from 7 to 12, it was sometimes difficult to establish the age of a child, partly owing to the limited access to birth registration services or identity cards. The State party should therefore clarify how it determined the age of a child in criminal proceedings, for the purposes of marriage or for recruitment by the security forces.

27. The delegation should also indicate what measures were being taken to prevent early marriage, a common practice in Afghanistan, where around 60 per cent of girls married before the age of 16 and fewer than 10 per cent of children had a birth certificate, or to punish parents who married their children off before they reached the legal marriageable age.

28. She expressed concern that corporal punishment was permitted within the family environment, that it was not expressly forbidden in the alternative care system or as a disciplinary measure in the penal system, and that it continued to be used in schools, even though the education act forbade it, and she asked whether the State had followed up the commitment it had made at the South Asia Forum for Ending Violence against Children to ban corporal punishment in all circumstances, including within the family environment.

29. **Mr. Filali** asked whether international human rights instruments took precedence over domestic legislation and which legislation took precedence if there was a conflict between civil law deriving from the Convention and sharia law. He requested information on discrimination against minorities forced to flee the country, violence against children in police stations and detention centres and pretrial detention conditions.

30. **The Chairperson** asked about measures taken to implement in full the many laws adopted and the numerous programmes developed.

The meeting was suspended at 11.15 a.m. and resumed at 11.35 a.m.

31. **Mr. Hashimzai** (Afghanistan) said that, under the Constitution, from the moment that Afghanistan ratified an international instrument, the Ministry of Justice ensured that any new bill complied with it. The legislation in force prior to the ratification of an instrument had to be revised, but that process took time. Conferences had thus been held on

revising the Penal Code, the Civil Code and the Code of Criminal Procedure in order to bring them into line with human rights instruments to which Afghanistan was a party.

32. When a judge ruled on a case, he based his decision first and foremost on the Constitution, taking into account the relevant ratified international instruments. In the absence of any applicable constitutional provision, the judge's ruling was based on the relevant provisions of various laws, which covered nearly all circumstances. It was only as a last resort, in the absence of any other applicable provisions, that sharia would apply.

33. The Constitution and the legal system in force in Afghanistan prohibited police officers from mistreating children in order to extract a confession. If the judge was aware of such actions, he cancelled the investigation. It was generally the officers of the Afghanistan Independent Human Rights Commission who reported such incidents and they could alert the media if the judge failed to respect fundamental rights. Every child had the right to a lawyer and legal assistance. NGOs played an active role and provided legal assistance to children in remote areas.

34. Lawyers, judges and prosecutors were trained at the Independent National Legal Training Centre and their studies included international instruments ratified by Afghanistan.

35. **Mr. Krappmann** (Country Rapporteur) requested the delegation to comment on the Supreme Court ruling that a woman who left her home to escape an abusive husband could still be convicted of abandoning her marital home, which amounted to convicting the victim.

36. **Mr. Hashimzai** (Afghanistan) said that he did not know either the facts or the reasoning behind the Supreme Court's ruling in that instance.

37. **Mr. Muhmand** (Afghanistan) said that the Child Welfare Secretariat, which had been established two years previously by the Ministry of Labour and Social Affairs, Martyrs and the Disabled and had a ring-fenced budget, was responsible for enforcing, assessing and monitoring policies and programmes in the field of children's rights, drafting new legislative texts and promoting international cooperation and relations with various relevant bodies, such as NGOs.

38. **Mr. Gurán** asked how many people worked in the Secretariat.

39. **Mr. Hashimzai** (Afghanistan) said that the Child Welfare Secretariat employed 12 persons, but that number would shortly rise to 30. The Human Rights Unit recently set up by the Ministry of Justice was funded in part through international aid provided by the United Nations Development Programme (UNDP) and others. It was responsible for assessing the results of the implementation of international human rights instruments and had published a booklet on the Convention and other legislation relating to the protection of the rights of the child, as well as providing coordination and assessment training in a number of provinces.

40. **Mr. Gurán** asked whether an independent follow-up mechanism had been established.

41. **Ms. Jamal** (Afghanistan) said that the Afghanistan Independent Human Rights Commission represented civil society. At provincial and village level, the Government had set up community development councils and a number of ministries had a human rights department. However, it was true that the coordination of activities left something to be desired.

42. **Mr. Muhmand** (Afghanistan) said that the Child Protection Action Network, which was operational in 28 provinces and 54 districts, was active in implementing the Convention and the National Strategy on Children at Risk. It reported all cases of violations to the ministry concerned and assessed the follow-up measures taken.

43. **Mr. Arian** (Afghanistan) said that, with the support of UNICEF and NGOs, the Ministry of Education was continuing to provide educational services in areas where security was weak and in emergency situations. The military contingents of ISAF contributed by building schools, under the supervision of the Ministry of Education.

44. The school councils set up in over 10,000 educational establishments facilitated consultation with pupils and parents on a number of issues, including changes to the curriculum. Children without identity papers could be enrolled at school simply by presenting their parents' identity papers or on the recommendation of an elder from their village.

45. Girls were not discriminated against at school or university, but on the contrary benefited from positive discrimination measures. Incentive measures were already in place to attract more girls to teacher training centres and the authorities were considering a policy to provide financial incentives in order to increase the number of girls enrolled at school and encourage those who had dropped out to resume to their studies.

46. Human rights and children's rights, sexual equality, citizenship studies, lessons on the dangers of drugs and environmental conservation formed an integral part of the school curriculum. The Education Act expressly prohibited corporal punishment and the Ministry of Education had published specific guidelines to ensure compliance.

47. With support from the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF, new policies and teacher training courses had been established to make schools more welcoming and to raise enrolment rates. The total education budget had increased by over 200 per cent between 2006 and 2010, and represented between 12 and 14 per cent of the State operating budget — which had been fully implemented — along with the development budget, for which the implementation rate was lower, since it depended on the financial capacity of the State and was used to fund multi-year programmes.

48. **Ms. Mostafavi** (Afghanistan) said that the Ministry of Women's Affairs also aimed to combat certain traditions that discriminated against women. The forthcoming family act, which was currently being drafted, would refer specifically to men's involvement in household duties and children's education. Police officers were trained to support women and children. There were plans to establish a commission for the elimination of violence against women and children, while the law on the elimination of violence against women and girls, adopted in 2009, criminalized early or forced marriage, the trading of women and children for the purposes of compensation or the coercion of women or girls into prostitution or marriage.

49. **Mr. Citarella** said that, in fact, forced or early marriages were widespread and asked whether such marriages were registered, despite being prohibited.

50. **Ms. Maurás Pérez** asked for specific examples of cases where the courts had applied child protection standards and requested details of the sentences handed down.

51. **Ms. El-Ashmawy** asked at what age a marriage could be legally registered.

52. **Ms. Mostafavi** (Afghanistan) said that Parliament had recently raised the legal age for marriage from 16 to 17 for girls, but early marriages were still possible because it was not compulsory to register marriages.

53. **Mr. Hashimzai** (Afghanistan) said that there were disparities between urban and rural areas, where the enforcement of domestic legislation was concerned. Decisions issued within the context of the informal justice system were sometimes incompatible with national law or even Islamic law. The Ministry of Justice was drafting a bill that would define the relationship between the informal justice system and the courts, to ensure that

rulings were in line with domestic legislation and the provisions of the Convention. Progress was being made, in terms of practices and laws and the way that they were implemented, and offenders in rural areas were convicted if the case was brought to court. Steps were currently being taken to raise public awareness of the rights enshrined in the Convention.

54. **Ms. Al-Asmar** asked what was being done to dispel the fear that prevented Christian, Hindu or Sikh children from attending school because of their religious beliefs and also what measures, other than a simple increase in the budget, were being taken to ensure that women returned to working in schools. She further wished to know how many persons had been convicted of harassment, abuse or offences against children.

55. **Ms. Mostafavi** (Afghanistan) said that 1,960 cases of acts of violence, relating to early or forced marriages in particular, had been recorded in 2009. However, even though adequate legislation did exist, there remained difficulties with regard to its implementation in practice.

56. The special Human Rights Unit in the Ministry of Justice provided the necessary information with regard to age and the Ministry of the Interior would then issue identity cards within six months.

57. **Ms. Burhani** (Afghanistan) said that the project to encourage the registration of births, which had been launched in 2007 with the support of UNICEF, was to be extended to four more provinces. Some 20 per cent of women gave birth in health-care centres. In order to resolve the problems related to the registration of refugee or displaced children, the Ministry of Public Health had trained more than 19,000 persons, including local elders and religious leaders, and had distributed birth certificate forms. UNICEF provided solid support in the field of paediatric and reproductive health care.

58. **Mr. Hashimzai** (Afghanistan) said that the Ministry of Justice supported the adoption of a legislative text incorporating all the provisions of the Convention. There had been hundreds of convictions for violations of the rights of the child, including a 16-year prison sentence for the rape of a minor.

59. **Mr. Krappmann** (Country Rapporteur) wished to know whether specific measures that were both realistic and had a definite time frame were planned to provide a school education to the nearly 50 per cent of children who did not yet attend school and why a very high number of girls still lacked access to schooling. He also wished to know what the authorities planned to do to change traditional attitudes and even out the regional disparities in terms of education, and what factors determined the school dropout rate: it seemed that corruption, which resulted in children from wealthier backgrounds achieving better results at school, was one such determining factor. Given that youth unemployment was high, information on vocational training would be appreciated.

60. The delegation should indicate whether there was an effective school inspection system in place, whether human rights and children's rights were the cornerstone of the school system, whether children had the right to express their opinions at school and, if not, where they could do so, and what was being done to remedy the lack of resources required to implement school programmes that focused on children.

61. **Ms. Ortiz** said that she was alarmed by the number of children who grew up in institutions, far away from their families, and asked what was being done to keep children with their biological families, to find those families or to provide them with foster families. She also wished to know who decided whether a child had to leave his or her family and be taken into a care home, a kafalah or a foster home, who was responsible for carrying out periodic assessments of the situation and whether there were minimum standards of care for children in care.

62. **Mr. Zermatten** asked how the Juvenile Code (2005), the law on the investigation of juvenile crimes and the law on juvenile rehabilitation centres (2000) tied in with each other. While the age of criminal responsibility was 12, there had been reports of children under 12 being detained in rehabilitation centres. The delegation should indicate the exact number of special courts for children and special prosecutor's offices, since there was a disparity between the figures in the report and those in the written responses.

63. With regard to the issue of status offences, he noted that in Afghanistan the irregular behaviour of children was a matter for the juvenile courts, even though the concept of the status offence was very broad and hardly had a legal basis; he drew attention in that connection to the Committee's general comment No. 10 on children's rights in juvenile justice. He asked how rehabilitation centres differed from correctional centres, since the definitions in the State party's documents seemed identical, and whether the draft regulations on correctional centres had been adopted. It would be useful to have more detailed information on conditions in pretrial detention centres, on the number of young persons held in such centres and on what was being done in Afghanistan to change the prevalent punitive approach. The delegation should also provide information on medical and psychosocial support for children, particularly girls, detained together with adults for lack of juvenile centres, on training for prosecutors, police officers and judges and, where relevant, on the role of the social worker in the juvenile justice system.

64. **Mr. Purás** noted that, in spite of the adoption of positive strategies, health indicators remained a cause for concern. The effectiveness of such strategies depended on the implementation of the reforms by local and national authorities, transparency with regard to the allocation and use of resources, and staff motivation. In that regard, it was necessary to know what was being done to recruit women, particularly midwives, to the health-care sector, in order to improve access to health-care services throughout the country, especially for the poorest families, to promote transparency and to adopt health-care policies at the provincial and district level.

65. He asked what was being done to ensure that children and adolescents who had been the victims of trauma or violence were provided with social and psychological rehabilitation and whether there existed integrated services to that end. The delegation should also provide information on measures taken to prevent and treat drug addiction among children and explain what was meant by the word "rehabilitation" in the report under consideration.

66. After welcoming Afghanistan's ratification in 2010 of the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), he asked about measures taken to implement the Convention and the relevant domestic legislation, given that the problem of street children should be treated as a social rather than a criminal matter.

67. He asked about the performance of the Strategy on Children with Disabilities and its follow-up, given that 90 per cent of children with disabilities had no access to education. He also requested information on data collection in that regard and measures to prevent the institutionalization and stigmatization of children with disabilities.

68. **Ms. El-Ashmawy** asked for more details on the implementation of the 2008 Law Countering Abduction and Human Trafficking, on the prevention of impunity and on measures taken to prevent trafficked children being treated as criminals and being convicted for prostitution, for example. She also asked for information on the protection of witnesses, on the strategy for combating criminal groups and on sanctions for families who sold their children into forced prostitution. The delegation should provide information on the role of the Government and civil society in the protection of children, especially boys, against trafficking for the purposes of exploitation and the role of the media in raising

awareness of trafficking. After welcoming the support provided to Afghanistan by the International Organization for Migration to combat human trafficking and to strengthen capacity-building measures in that regard, she asked whether support services existed for the victims of trafficking, such as a national victim referral mechanism, and whether Afghanistan intended to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

The meeting rose at 1 p.m.