



# Convention on the Rights of the Child

Distr.: General  
20 October 2011  
English  
Original: French

---

## Committee on the Rights of the Child Fifty-sixth session

### Summary record of the 1587th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 18 January 2011, at 3 p.m.

*Chairperson:* Ms. Lee

## Contents

Consideration of reports of States parties (*continued*)

*Initial report of Afghanistan (continued)*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 3.05 p.m.*

### **Consideration of reports of States parties**

*Initial report of Afghanistan (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. **Ms. Herczog** asked what strategy had been put in place to prevent sexual violence, which affected a large number of young girls and many young people in the Armed Forces. She wished to know which professionals were required to report acts of sexual violence, whether there was a structure through which children could lodge complaints against such acts and if so, what follow-up there was to such complaints. Lastly, she noted that there was no specialized establishment to care for the victims of such acts, and asked whether specific programmes were planned to reintegrate victims in their family or community.
3. **Mr. Koompraphant** said that he wished to know what measures had been taken to protect young girls from forced marriage and honour killings, and whether parent training programmes had been set up. He also wished to know what measures had been taken to protect victims and witnesses in cases of sexual violence.
4. **Ms. Al-Asmar** asked what role the private sector played in protecting the rights of the child, whether the new legislation on children expressly prohibited child pornography and what cultural activities were available to children.
5. **Ms. Maurás Pérez** said that she wished to know whether the State party planned to collect data on adolescents, particularly on the state of their health, including through direct consultations with them, in order to gain a better understanding of their living conditions and to design specific programmes.
6. Given that the Shia Personal Status Act forbade women from going out unless accompanied by a mahram (a male relative close enough to preclude marriage), it would be useful to know whether the Government envisaged any exemptions from that regulation in order to allow women confidential access to health-care services. The delegation might also wish to give details of the HIV/AIDS infection rate among adolescents, particularly among adolescents forced to marry men much older than them. She also asked the delegation to provide further information on drug addiction among young people and to indicate whether a prevention plan had been set up in that regard.
7. **Ms. Varmah** said she was concerned that some 1,700 children living in prison with their mother did not have access to education or health-care services and had to share their mother's food rations. She asked whether the State party planned to take measures so that children over 7 years of age would be placed in shelters, which would ensure better living conditions for them.
8. **The Chairperson** said that, even though the State party had adopted the International Code of Marketing of Breast-milk Substitutes, advertisements for powdered milk were still broadcast on television. She emphasized that, given the particularly alarming infant mortality rate, unsanitary conditions, restricted access to drinking water and the lack of health-care providers, it was essential that the State party should respect the Code.
9. The delegation might wish to explain why the Elimination of Violence against Women Act, though it represented a great advance, punished honour killings only with a sentence of 2 years' imprisonment. It might also state its views on the allegations that the Shia Personal Status Act legitimized discriminatory practices against women.
10. **Mr. Hashimzai** (Afghanistan) said that forced marriage was prohibited under the Elimination of Violence against Women Act, regardless of whether the victim had reached

the age of majority, and that anyone who forced another person to marry was subject to a punishment of 2 years' imprisonment.

11. The provisions of the Shia Personal Status Act infringing international standards, and international human rights law in particular, had been repealed. His delegation took note that the article obliging women to be accompanied by a relative when they went out in public could hinder their access to health care and it would convey that information to the competent authorities with a view to the possible repeal of that measure.

12. **Mr. Filali** said that, even though forced marriage was prohibited under the Elimination of Violence against Women Act, Sharia authorized the marriage of young girls as soon as they reached puberty. He asked how the State party managed to reconcile those two sources of law.

13. **Mr. Hashimzai** (Afghanistan) said that the courts applied statute law and that it was only in the absence of written provisions that they turned to other sources of law.

14. The placement of minors in detention was authorized only as a last resort, in cases of serious crimes or offences, and the judge always sought an alternative solution, such as placement in an open institution.

15. **Ms. Burhani** (Afghanistan) said that the Ministry of Health brought together various partners to implement health policies, particularly through the Consultative Group on Health and Nutrition, which met twice per month. The Ministry had also drawn up a strategic plan to expand health-care coverage, with a view to providing all individuals with access to health-care services within three hours' walking distance. Some 2,800 midwives had been trained over the past eight years and 800 were currently in training, but another 5,500 or so were still needed.

16. There were about 1 million drug addicts in Afghanistan, of whom 60,000 to 100,000 were minors. Prevention measures had been implemented, and some 50 centres and a specialized hospital cared for addicts.

17. The Ministry of Health recommended exclusive breastfeeding, and media outlets that promoted powdered milk received a warning from the health authorities.

18. As part of the new strategy to promote health, committees responsible for the health of children and adolescents met twice per year. Women of 15 to 49 years of age now had access to reproductive health services. Under the Elimination of Violence against Women Act, anyone who prevented a woman from visiting a health centre was subject to a punishment of 6 months' imprisonment.

19. The number of HIV-positive individuals in the country was estimated at 1,500, of whom 665 were thought to be adolescents. A programme focusing on prevention, awareness-raising and therapy was being implemented.

20. **Mr. Puras** asked what measures the Government planned to take in order to ensure that, in the context of the elimination of opium cultivation, indebted families deprived of that revenue source did not sell their child to pay their debts.

21. **Mr. Hashimzai** (Afghanistan) said that, generally speaking, the strategy to combat drug trafficking was working well, thanks to incentive measures provided to regions that eliminated opium cultivation. Such was not the case in the southern provinces in the hands of anti-Government forces, over which the Government had no control.

22. Pursuant to a recent presidential decree, children living in prison with their mothers now had the right to full food rations and those over 7 years of age were taught in schools outside the prison.

23. **Ms. Jamal** (Afghanistan) said that the low rate of school enrolment among girls was due not only to cultural factors and obstacles but also to the high level of insecurity in the country and to the poverty that prevented parents from buying school supplies and uniforms.

24. She recognized that impunity for serious offences was a major problem in Afghanistan. It was a by-product of the war that had ravaged the country for three decades and of the collapse of State structures.

25. Since the Afghan National Police had been included in the list of parties that recruited or used children, published as an annex to the 2010 report of the Secretary-General on children and armed conflict, the State had taken decisive measures to address the issue. A steering committee comprising nine deputy ministers had been established, which had developed an action plan aimed at informing and raising awareness among young people. The Afghanistan Country Task Force on Children and Armed Conflict would subsequently be included in the prevention efforts and would be responsible for reporting to the Security Council on changes in the situation.

26. Children who were victims of violence or who were forced to leave their family home could find refuge in the shelters run by the Ministry of Justice, the Ministry of Women's Affairs or non-governmental organizations (NGOs). It was regrettable, however, that there was no strategy to care for children for longer than six months or a year, owing to a lack of resources.

27. The Afghanistan Independent Human Rights Commission was a completely independent body that did not receive funds from donors and was not subject to any Government interference. It coordinated a system for registering and channelling complaints, which were then transferred to the various public bodies concerned.

28. **Mr. Muhmand** (Afghanistan) said that in 2006 Afghanistan had adopted a national strategy on child protection, with the focus on combating child labour. In 2009, the country had ratified the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182) and the ILO Minimum Age Convention, 1973 (No. 138). In order to promote respect for those instruments, the Ministry of Labour and Social Affairs, Martyrs and the Disabled and partner organizations had launched a campaign to prevent child labour and had organized workshops in various provinces in the country. The Child Protection Action Network was active in 28 provinces and was also responsible for coordinating efforts to fight child labour.

29. According to a recent study, 1.2 million children were currently working in Afghanistan. In order to address that issue, the Government had set up various family support programmes, support measures for child victims and job opportunities for parents. An accelerated education programme for street children had been set up in cooperation with the Ministry of Education. Children in orphanages were also enrolled in school. Efforts to combat child labour were primarily focused on particularly difficult or dangerous work.

30. **The Chairperson** said she wished to know under what conditions and at what level the decision was taken to place a child in an orphanage.

31. **Mr. Zermatten** said that street children should not be lumped together with working children. The number of children forced to work in Afghanistan was much higher than the number of street children, and the problem required targeted measures. He asked what body was responsible for monitoring employers and coordinating investigations, and whether child victims knew whom to turn to if they wished to file a complaint.

32. **Mr. Muhmand** (Afghanistan) said that the Ministry of Labour and Social Affairs, Martyrs and the Disabled had set up reintegration programmes for orphans, with the assistance of the United Nations Children's Fund (UNICEF). So far, several hundred

orphans had been taken in by members of their extended family. UNICEF also provided technical assistance to improve the lot of street children and to help design a strategy to that end. Efforts should focus in particular on street children who had been orphaned by the war and forced to work in order to pay for their basic needs.

33. **Ms. Mostafavi** (Afghanistan) said that the issue of honour killings was a thorny problem for the religious authorities in Afghanistan. It was very difficult for young girls who were victims of rape to be accepted by their family; that was why the services concerned organized mediation meetings between the family and the victim. It was regrettable that most cases of violence against women were not reported, especially in rural areas. The Government was aware that the available statistics did not reflect reality.

34. Awareness campaigns, workshops and seminars had been organized to combat gender-based violence. Training was provided for police officers, justice officials and members of the Attorney General's Office.

35. The Ministry of Women's Affairs had established an action plan to promote the rights of women and children, which would be subject to regular evaluation and follow-up. The Ministry had also recently signed a memorandum of understanding with the Women for Women organization, under which children would no longer be placed in detention with adults.

36. **Mr. Arian** (Afghanistan) said that the Ministry of Education had drawn up a new five-year strategic plan to improve the education system. As part of the Millennium Development Goals, the Government planned to achieve a school enrolment rate of 60 per cent for girls and 75 per cent for boys within the next five years, but those targets might have to be lowered owing to a lack of resources. Afghanistan hoped to receive increased aid through the Fast Track Initiative so that it could reach the Millennium Development Goals.

37. Because the school enrolment rate varied enormously from one province to another, the action plan called for more financial resources to be allocated to the poorest provinces, with a view to building schools and training teachers. In order to address the lack of female teachers, which partly accounted for the high dropout rate among girls, the Ministry of Education had decided to establish training centres in all provinces and to encourage young women to enter the teaching profession by offering incentive measures, particularly in rural areas. Women currently represented 30 per cent of teaching staff. A new department dedicated to education for girls had been established within the Ministry of Education.

38. In order to combat the problem of corruption in schools, school principals were held accountable to a supervisory authority, as part of a monitoring and follow-up system for proper school administration. In 2007, the Ministry of Education had established a mechanism to ensure the safety of students and teachers and to allow them to file a complaint in cases of violence or corruption. The complaint was then sent to the relevant authorities, who, where necessary, brought the case before the courts.

39. School curricula included lessons on human rights, the fight against drugs, HIV/AIDS and women's issues. Examinations were conducted on all of those subjects.

40. Funding for education and development programmes was a major problem in Afghanistan, which depended on aid from the international community for such purposes. Lack of security, widely scattered villages and the after-effects of 30 years of war made it difficult to achieve the educational goals that had been set. The Government, local communities and parents were working zealously to establish a quality education system and were grateful to the international community for the aid provided for that purpose.

41. **Mr. Krappmann** (Country Rapporteur) said that he wished to know more about the participation of children in school life and wondered whether their opinions about the

teaching methods and the operation of schools were taken into consideration. Were interactive teaching methods used?

42. **The Chairperson** asked for clarification on how children participated in designing school curricula.

43. **Mr. Arian** (Afghanistan) said that under the Education Act, each school must have a shura (consultative council) that comprised parents, students and community elders. The shura worked to increase the number of children in school, looked into ways to improve the school, decided on the allocation of funds from the Ministry of Education and monitored the quality of the education provided.

44. The authorities attached great importance to the participation of all parties concerned in the process of designing school curricula. As part of that process, parents, students and teachers had been consulted on the content of the curricula and on the courses of study that should be offered. Those new curricula were based on interactive teaching methods that encouraged children's active participation throughout the whole learning process. All new textbooks were tested in a pilot programme, at the end of which opinions were gathered from the teachers and students with a view to making any necessary changes.

45. **Mr. Krappmann** (Country Rapporteur) said that a large number of teachers had not been trained and asked how the authorities planned to address that issue.

46. **Mr. Arian** (Afghanistan) said that in-service training consisting of four courses had been provided to more than 100,000 teachers. As for a long-term strategy, the network of teacher training colleges had been extended to all provinces and teacher training support centres had been set up in each district. Teachers also trained for various specialties in universities. Moreover, teacher salaries had been increased considerably for all qualification levels.

47. **The Chairperson** asked whether an alert system had been set up in accordance with the recommendations of the Special Representative of the Secretary-General for Children and Armed Conflict.

48. **Mr. Hashimzai** (Afghanistan) said that the Ministry of Defence and the Ministry of the Interior had made a commitment not to employ persons under 18 years of age. However, the recruitment of children by insurgent groups and armed groups remained a problem.

49. Family ties were very strong in Afghanistan. The family, including the extended family, was thus the first to intervene in cases of child abuse. Moreover, the entire village looked after a child's well-being. There was an unofficial justice system used to resolve various issues, particularly those involving children. The Ministry of Justice was currently drafting a law that would establish a link between unofficial justice and the courts and would allow the courts to monitor the legality of the decisions taken, ensure that they did not infringe the interests of the women and children concerned, and overrule them if necessary.

50. **Ms. Ortiz** said that many children were considered orphans when in fact they had a mother who might be single, widowed or divorced, which constituted a sufficient reason for placing the child in an institution or in the care of another family. She asked whether that issue was the subject of debate within the community and whether there were plans to change certain traditional practices in order to avoid depriving children of a family environment.

51. **Mr. Hashimzai** (Afghanistan) said that in villages, when a child was abandoned or lost his or her parents, the villagers immediately held a meeting and if the child had any relatives, even distant ones, he or she would be left in their care. If the child did not have

any relatives, it was easy to find a guardian. In the cities, however, when a child did not have any family, placement in an institution was often the only option.

52. **Mr. Citarella** said he wished to know what jurisdiction was held by the persons who took decisions as part of the unofficial justice system. Did they have the authority to decide on civil issues involving children, such as divorce or separation? Were their decisions binding?

53. **Mr. Hashimzai** (Afghanistan) said that there were no definite regulations in that regard; the norms that were applied were the local norms. The law currently being drafted would provide guidelines for local institutions. Unofficial justice, despite its disadvantages, had the advantage of being accessible, quick and accepted by all.

54. Cases of children whose mother was not in a position to carry out her parental responsibilities were invariably considered by the courts, which always gave preference to solutions that did not involve placement in an institution and resorted to the latter only as a last resort.

55. **Ms. Ortiz** asked whether the State party planned to pass an adoption law.

56. **Mr. Hashimzai** (Afghanistan) said that Afghan law did not recognize adoption, but it provided for the option of guardianship.

57. **Mr. Gurán** said that guardianship was very different from adoption, particularly with regard to the rights of parents and children.

58. **Mr. Hashimzai** (Afghanistan) said that, since Islamic law did not recognize adoption, the Civil Code provided for another type of guardianship, which it defined in detail. An individual who wished to become a child's guardian made a commitment to take care of the child for an unlimited period of time and was responsible for the child's education and training. Using legal norms as a basis, the judge evaluated the individual's ability to perform those obligations and ensured that he or she met the required conditions.

59. **Mr. Filali** said that the system Mr. Hashimzai had just described was kafalah, which was recognized in the Convention.

60. **Mr. Hashimzai** (Afghanistan) said that, with the help of UNICEF, all Afghan laws on juvenile justice had been brought into line with the Convention. The Juvenile Code was not applied in some provinces owing to a lack of resources, but throughout the country judges and prosecutors were given training in the provisions of the Convention. Moreover, there were special police units responsible for handling affairs involving children.

61. Minors were not sentenced to imprisonment except as a last resort and juvenile detention centres, which were under the supervision of the Ministry of Justice, conformed to international standards. Minors in those detention centres received vocational training with a view to their reintegration into society and had access to health-care services. In some provinces, however, such as Kandahar, minors were still detained in adult detention centres.

62. Minors did not currently have the option of serving their sentence in open institutions, because it was difficult for parents to drop them off in the morning and pick them up in the evening, but the Ministry of Justice was studying the possibility of implementing alternative measures to detention, and even establishing day centres.

63. **Mr. Zermatten** asked whether it was the Juvenile Code or the Act on the Investigation of Juvenile Violations that applied to minors in conflict with the law, and he asked what the difference was between rehabilitation centres and correction centres. He said he would also like clarification on the issue of separation of minors from adults in prisons, particularly with regard to girls. He wished to know why criminal sanctions were

applied for irregular behaviour that did not constitute an offence, as in the case of a girl wishing to escape from a forced marriage or a person who was a victim of rape.

64. **Mr. Hashimzai** (Afghanistan) said that the Act on Juvenile Correction Centres, which provided for rehabilitation measures for young offenders with a view to their social reintegration, the Act on the Investigation of Juvenile Violations and the Regulation on Juvenile Rehabilitation Centres were three distinct texts, which all complied with the Convention. No detention measures were applied in cases of irregular behaviour. When, for example, a child did not go to school or ran away from home, the issue was handled not by the police but by the mullahs, the elders or other members of the community.

65. **The Chairperson** asked what types of “irregular behaviour” justified the intervention of the criminal justice system.

66. **Mr. Hashimzai** (Afghanistan) said that children who were used by the mafia, especially for the transport of drugs, were dealt with by the criminal justice system but were given only light sentences.

67. **Mr. Citarella** asked which authority other than a judge could decide to place a child in a correction centre and whether, in the application of sentences, a distinction was made between children according to their age.

68. **Mr. Hashimzai** (Afghanistan) said that the correction centres were not prisons and that the term “correction” meant that the children were given rehabilitation and training. The age of criminal responsibility was set at 12 years. Prior to that age, it was the parents who answered for their children’s actions.

69. **Mr. Zermatten** asked where youth offenders awaiting trial were detained and what were their conditions of detention and the maximum duration of pretrial detention. He also requested information on police brutality and torture in police stations and asked whether, in practice, children were afforded the assistance of a lawyer when they were arrested, placed in pretrial detention or brought before the courts.

70. **Mr. Hashimzai** (Afghanistan) said that juvenile detention centres were equipped with separate areas for children in pretrial detention. The prosecutor had two weeks to consider the case file. If that time period proved to be insufficient, the court could authorize an extension of two additional weeks, at the end of which, if the prosecutor had not been able to reach a conclusion based on the evidence, the suspect must be released.

71. Torture was prohibited under the Constitution. Reported acts of torture were investigated and brought before the courts. The judge was required to ensure that confessions given by a child in pretrial detention had not been obtained through physical or psychological coercion.

72. Legal assistance was provided by the Legal Assistance Department and by many NGOs. A lawyer could be present from the start of the investigation until the delivery of the sentence. Legal assistance programmes subsidized by the World Bank had been set up.

73. **Mr. Filali** asked what was the maximum sentence applicable to a minor, whether Afghan domestic law included anti-terrorism legislation and if so, what such legislation provided for with regard to criminal proceedings, sentences, social rehabilitation and education for minors, and whether rehabilitation services were provided for victims.

74. **Mr. Hashimzai** (Afghanistan) said that children were sometimes used by anti-Government forces to participate in terrorist activities. If arrested, those children could be placed in juvenile detention centres. The sentences imposed on them were half those imposed on adults.

75. **Mr. Muhmand** (Afghanistan) said that the Ministry of Labour and Social Affairs, Martyrs and the Disabled had created more than 500 posts for social workers, a number of whom worked in correction centres and rehabilitation centres for minors in cooperation with the Ministry of Justice. They also monitored children after they were released and returned to their family.

76. **The Chairperson** asked whom children could turn to if they had been the victims of sexual violence, and in particular whether the Afghanistan Independent Human Rights Commission was authorized to receive complaints from children, how such complaints were handled and what types of services could be offered to the victim straight away.

77. **Ms. Mostafavi** (Afghanistan) said that child victims of sexual violence generally did not file complaints because the issue was taboo and the victims were ashamed. The few cases that were reported were communicated to the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission and NGOs that assisted victims of sexual violence. The Ministry of Women's Affairs provided victims with housing, legal aid and, in cooperation with the Ministry of Health, health-care services.

78. **Mr. Hashimzai** (Afghanistan) added that shuras were very active at the village, district and provincial levels and generally handled that type of problem themselves. The Afghanistan Independent Human Rights Commission, which had offices in the provinces, could inform the police about cases of sexual violence that had been brought to its attention.

79. **Mr. Krappmann** (Country Rapporteur) said that, although it had been submitted very late, the initial report of Afghanistan testified to the will of the authorities to work in support of the rights of the child. The Committee hoped that from now on Afghanistan would regularly submit periodic reports on the implementation of the Convention. The information provided by the delegation had allowed the Committee to take stock of the progress achieved regarding the rights of the child and to note the problems and gaps that needed to be addressed. The Committee would indicate in its concluding observations the actions that should be taken to ensure that the rights of the child were fully respected. The situation of women and girls in particular must be improved and measures to combat violence, especially sexual violence, were essential. Coordination among the many different laws, policies and strategies adopted should also be strengthened and their implementation should be more tightly monitored. The Committee urged the Government of Afghanistan to collaborate with civil society to achieve full implementation of the Convention.

80. **Mr. Hashimzai** (Afghanistan) said that it should not be forgotten that 10 years earlier there had been no judicial or governance system in the country. Much had already been done, but more time and considerable resources were needed to overcome the challenges hindering the full implementation of the Convention. The authorities were firmly resolved to incorporate all the provisions of the Convention into national legislation and to set up a coordinating mechanism that would facilitate the application of legislation and the monitoring of the implementation of the Convention. He thanked the Committee members for their extensive advice and added that the Afghan authorities were extremely grateful to UNICEF for the invaluable help it had provided in the drafting of laws and in the field, and also to Norway and Sweden, which provided assistance to the Government in the area of child protection.

81. **The Chairperson** said that the Afghan authorities could count on the Committee to help them with the implementation of the Convention. She encouraged the State party to submit as soon as possible its initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and its initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

She also encouraged the Government of Afghanistan to speed up the process of ratifying the Convention on the Rights of Persons with Disabilities.

*The meeting rose at 5.55 p.m.*