



**THE ASIA PACIFIC FORUM**  
OF NATIONAL HUMAN RIGHTS INSTITUTIONS

... a partnership for human rights in our region

ABN 98 099 972 997

## Advisory Council of Jurists

### Terms of Reference on the legal obligations of States for the implementation of economic, social and cultural rights, with respect to the right to education

### Questionnaire for the Background Paper on the Right to Education

Please complete the questionnaire and send all responses by e-mail to Stephen Clark: [stephenclark@asiapacificforum.net](mailto:stephenclark@asiapacificforum.net)

Responses to this questionnaire will be used in the Background Paper on the Right to Education which will be distributed to the Advisory Council of Jurists.

The APF Secretariat requests APF members to submit all responses to the questionnaire by **Friday 12 May 2006**. Thank you in advance for your time and contribution.

Information about the Advisory Council of Jurists and the terms of reference on the right to education is available at <http://www.asiapacificforum.net/jurists/>

## Afghanistan

### Documentation

Please provide the APF Secretariat with the following documentation:

#### Constitutional provisions relating to:

- Right to education;  
(The answers are in italic and blue color)

#### *Article 43<sup>rd</sup> of the National Constitution reads:*

*" Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A level in the state educational institutes free of charge by the state. To expand balanced education as well as to provide mandatory intermediate education throughout the Afghanistan, the state shall design and implement effective programs and prepare the ground for teaching mother tongues in areas where they are spoken."*

#### *Article 44<sup>th</sup>:*

*" The state shall device and implement effective programs to create and foster balanced education for women, improve education for nomads as well as eliminate illiteracy in the country."*

*Article 46<sup>th</sup>:*

*" Establishing and administering higher, general and specialized educational institutions shall be the duty of the state.  
The citizens of Afghanistan shall establish higher, general and specialized as well as literacy institutions with permission of the state.  
The state shall permit foreign individuals to establish higher, general and specialized institutions in accordance with the provision of the law.  
Admission terms to higher educational institutes of the state and other related matters shall be regulated by law."*

- on-discrimination and the access for all; and
- Relevance of international law in the national jurisdiction.

*The abovementioned articles of the Afghan Constitution imply with the article 26 of the UDHR and Article 13 of the ICESCR.*

Relevant legislation referring to:

- Right to compulsory and free primary (or basic) education on a non-discriminatory basis;

*Article 43<sup>rd</sup> of the National Constitution reads:*

*" Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A level in the state educational institutes free of charge by the state.  
To expand balanced education as well as to provide mandatory intermediate education throughout the Afghanistan, the state shall design and implement effective programs and prepare the ground for teaching mother tongues in areas where they are spoken."*

- Right to secondary and higher education;

*Article 46 of the national constitution reads:*

*" Establishing and administering higher, general and specialized educational institutions shall be the duty of the state.*

- Financing of education;

According to article 43 of the national constitution, the government of Afghanistan has to provide adequate fund for the government educational institutions up to the university level

- Minimum age of employment;

The government of Afghanistan has not yet adapted the article 182 and 138 of the ILO Convention, however, in practice, the government don't recruit a person under 18, while the private sector recruit persons under 18, as apprentice or worker.

- Minimum age of marriage; and

*The minimum age of marriage in accordance with the civil law of Afghanistan is 16 for women and 18 for men*

- Minimum age of criminal responsibility

*According to the article 5 of the Law of Investigation of Children's Violation, those children who have not completed 12 years of age, in case of committed crime, are not counted responsible for their acts.*

#### NGO reports

Reports on education by local, national and / or international non-governmental organisations within your country, especially the shadow reports produced for the country sessions of the UN Treaty Bodies.

*The HRRAC's report on the Situation of Education in Afghanistan is attached. HRRAC is an advocacy and human right consortium that Afghanistan Independent Human Rights Commission is member of this consortium.*

## **Part 1: Issues raised in the Terms of Reference**

### **Preliminary Questions**

#### Education Policy and Programs

1. Please provide an overview of the framework of government education policies and programs in your country, including the division of responsibilities and financing between national, state and local governments.

*The free education for all has been started in 1935 in Afghanistan. In accordance with the National Constitution, the education facilities up to the BA and B.Sc level is provided free of charge by the state. This education cost covers the tuition fee, textbooks provision, specially for primary education (grade 1-9), and high schools, and accommodation, as far as the government could afford it. This is not only in the capital, but also applicable in the provinces. In addition to this, the state also provides technical education free of charge within its institutions.*

*The targets of the Millennium Development Goal (MDG) for Education in Afghanistan is as follow:*

- *Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary education*
- *Eliminate gender disparity in primary and secondary education preferably by 2005 and to all level of education no later than 2015.*

*The state policy is to provide education facilities for both men and women, but within the present situation, also on the basis of cultural constraints that there should be separate schools for young girls, the number of schools for young girls and married women is much lower than the schools for boys. In rural areas, young girls are not able to maintain their education after the primary level. First, because of no availability of high schools and university at district level; second, there is cultural barriers deprive them of maintaining education; and third, the prevailing security situation particularly in the southern provinces.*

*Major cities such as Kabul and Herat have seen enrolment rates of 87% and 86% respectively while just a few kilometres outside of these cities less than half of all children get no schooling.*

*All cost of the schools and higher education institutions including the remuneration of teachers and service staff and other administrative costs are foreseen in the annual budget allocated for the ministries of Education and Higher Education, which comes into effect after the approval of the parliament. There are different budget allocation for different provinces and then for each district on the basis of their institutes.*

*After finishing the high school, which is up to twelve grade, all the students have the rights to pass the university admission test at national level. Everyone has the right to select the field of study as of their own choice if she or he could get the score number is admitted for a specific faculty. There is no discrimination for men and women for passing the admission test and selecting the type of study they wish.*

*The mandate of the Ministry of Education is to provide education in the formal education system, literacy education for adult, and also formal religious schools all over the country. The number of religious schools are rear due to low demand. The religious institutions like mosques and religious Madrasa provide religious education on the basis of peoples' donation, which have special curriculum other than the formal curriculum provides by the Ministry of Education.*

*The Ministry of Higher Education is responsible to run the governmental universities, and technical training institutions such as teacher training institutes.*

*There are big number of private courses for English and IT learning, mostly run in the centre of provinces. Only one university has been so far established by private sector in Kabul.*

*The Ministry of Education also provides literacy courses for illiterate government employees as on-job course. The Ministry also provides special schools for those women who have been failed to maintain education at their residential areas. The State also provides schooling facilities and higher education for those government employees in the night shift education, who have not been able to complete their study in the normal school or at the university. But, this is not available in all provinces nor at district level.*

*The state facilitates sending students abroad who has gotten scholarship/fellowship awarded by foreign institutions. There is no prohibition or limitation for those who are going abroad for post-graduate studies by their own expense.*

#### Justiciability of economic, social and cultural rights with respect to the right to education

2. Please provide details of cases from the national courts of your country with respect to the justiciability of economic, social and cultural rights, with a particular focus on the right to education. *Not available*
3. Please provide information about remedies available and the enforceability of the decisions of national courts with respect to the right to Education. *NA*

4. Please provide information relevant to your government's position regarding the proposed Optional Protocol for the International Covenant on Economic, Social and Cultural Rights. *Not been considered yet*

**The right to receive an education:  
available, accessible, acceptable, and adaptable**

**Availability**

*Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. (CESCR General Comment No. 13)*

Expenditure

5. Please provide an overview of government expenditure on all levels of education in your country. Where there is a divide in education expenditure between national, state and local governments please provide this information. Where possible, figures should be disaggregated (primary, secondary, higher education, formal and non-formal) and expressed in both real terms and as a percentage of gross national product.

*To achieve the education target set by the government, the Ministry of Education is requesting \$2.7 billion over 7 years. Previous responses to the international donors have left huge funding gape. Of \$250 million requested by the government in its National Development Budget in 2003 only \$77.47 million (13%) was committed by donors leaving a gap of \$172.53 million.*

*The budget allocation to the education sector for 2006 is UD\$ 125.4 million, which is 18.5 % of the total annual development budget. The breakdown of the budget by categories of education is not available.*

*The government provides accommodation and food for those universities' students who are poor who cannot afford to run his/her life personally. Accommodation service is indiscriminately awarded to poor students in accordance with the law of the dormitories service of the universities.*

6. Please provide information about education funding models used in your country. Issues for consideration could include (but are not restricted to):
- Funding for state and non-state (private) education institutions;
  - The dependence on school fees in any form, direct or indirect
  - Use of education vouchers;
  - Privatization of the education system.

*There is no education fee for the formal education carrying out by the governmental institutions up to the BA or B.Sc level. The informal education, which depends to the private sector, is based on paying fee. These are private courses for English, Computing, IT, Art, Social science, and Business administration. Those religious education, which is run by clergies, is based on collecting the religious dues for running Madresas.*

7. Please provide information about your government's laws, policies and programs regarding acceptance of international assistance and cooperation in relation to education.

*Principally the government of Afghanistan accepts foreign assistance. At the moment the expenses of implementing the development programme of education up to university level, in terms of capacity building in administration and programme, curriculum development, construction of premises, training and post graduate studies abroad, refreshing courses for teachers, are met by foreign assistance and technical cooperation.*

*The civil society organizations dealing with training and education can also receive foreign assistance. NGOs now have important role in construction of schools and capacity building in the primary and secondary education, particularly in rural areas.*

*UNICEF, UNISCO, UNDP, international NGOs and donor countries assist the education sector.*

8. Please describe the role and impact of non-state actors such as international financial institutions and trans-national corporations on the realisation of the right to education in your country. For example, if your country has adopted a structural adjustment program, has this impacted upon government expenditure on education policies and programs?

*Since Afghanistan as a post-conflict country has been severely suffered from 25 years of devastating conflict. Its economy depends mostly on donor assistance. If there is no foreign assistance in education sector, the government will be failed to achieve its MDG targets. The foreign assistance effects positively on the equal right to education for boys and girls as well as easy access to education facilities through even distribution of education service throughout the country. Also more attention will be paid to develop a sound curriculum and appropriate teaching methodology and education management system.*

#### Infrastructure

9. Please provide information the availability and adequacy of infrastructure, especially for girls, for schools and other educational institutions in your country, including classrooms, library, sanitation facilities, safe drinking water and any other relevant facilities.

*About 80% of 6870 schools' buildings were destroyed during the 25 years of conflict. Off total budget of 2005 of the Ministry of Education, 40% of it allocated to school constructions and only 6% to teacher training and development. The number of schools has increased from 3,800 in 2002 to 6,870 in 2004. For example in Badghis province, the number of school buildings had increased from 72 in 2002 to 178 schools in 2004. On the other hand, because of enthusiasm with parent for sending their children to schools, the number of school students reached to 3.7 million children went to primary and secondary schools in 2003, while this developed to 4.3 million in 2006, which is much higher than the number of students in 1978. At the moment, about 50% of these students study under the tents due to unavailability of classrooms or no school building at all. The warm and cold weather always challenging these children. At the higher education level, there is also shortage of premises.*

*Out of 6780 schools (2004), there might be very few schools have been equipped with laboratory and library, even most of these schools have no space for sport. Healthy drinking water is not available in most of the schools. Sanitation condition is very poor. About 95% of schools have open-air latrines. There is not enough space in the classrooms. For example: 30-50 students are accommodated in small classroom of 8 x4 metre room. Due to unavailability of classrooms, all schools at least have two shifts education, morning and afternoon programme, while in some main cities where there is shortage of schools, there is three shift education programme.*

*In the provinces, education infrastructure have concentrated in the provincial centres, while some districts do not have high schools.*

#### Teachers and support staff

10. Please provide information about the availability of qualified teachers and support staff for all levels of education in your country, on teacher training initiatives to meet 'education for all' goals, and any other relevant issues that impact upon this availability.

*Statistics show that there was 74205 schools' teachers in 2003 all over the country, which 28000 more teachers was needed for 2004. The number of students per teacher varies by province. In the capital of the country, the ration is 84 students per teacher, while there are 45-50 students per teacher in other provinces.*

*The qualification of teachers is of great concern at this time. Many teachers were kept out of the education process for about twenty years of conflict that their pedagogic knowledge were degraded. On the other hand, due to lack of teachers particularly in rural areas, graduates from even 6-9 grades have been inevitably recruited for the primary schools especially female teachers. Also a number of teachers are over-aged which have no adequate update information and patience for teaching. The university lecturers and professors have not been updated with the latest development in the field of science took place in other countries. Because of old pedagogic style and lack/shortage of materials, the quality of teaching at universities is very poor. It needs at least 5-8 years to train young teachers to fill the gape.*

*The Ministry of Education (MoE) needs at least 28000 more teachers. Most do not have qualifications beyond grade 12 and the MoE inevitably recruited female teachers in rural areas who have not studied beyond six grade. Teachers are paid low salaries about US\$43 per month. The Ministry of Education has established refreshing courses for unqualified teachers. In addition of running teacher's training institutes in a few provinces, the Ministry of Higher Education has established the education university in Kabul and education faculties in other five provinces.*

#### Teaching facilities and materials

11. Please provide information about the availability and adequacy of teaching facilities and materials including: classrooms, books and writing materials, information and communications technology equipment, libraries, laboratories, workshops, sporting equipment and facilities and other relevant materials.

*As abovementioned, there is not adequate classrooms for the students. Even many schools in rural areas, also in the capital, tents have been provided for them, being used as extra classrooms. Only in few high schools in the capital or in main cities, computing is taught, but the rest of the schools in the country has no such facilities. Very few high schools have been equipped with laboratories, libraries and sport facilities. Sport field where exists at some schools are in a very bad shape with very less or no sport equipment.*

In answering questions 5-11, please give consideration to the issue of diversity and the impact of 'availability' on the rights of minorities and indigenous people.

*There is no discrimination in admitting students from any minority groups.*

#### **Accessibility**

*Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. (CESCR General Comment No. 13)*

#### Non-discrimination

12. Please provide details of legislation and government policies and programs relevant to issues of non-discrimination, equal treatment and equality of opportunity in education. Information provided should include (but is not limited to) consideration of issues of access for people living with disabilities, internally displaced persons, non-nationals, prisoners, refugees and other minorities.

*The non-discrimination rule applied for accepting children in the schools. The language of the curriculum depends to the majority of the population of a certain province. The government tries to prepare textbooks for the primary schools in different local languages. All schools are open for enrolment of students from minority groups, IDP refugee communities, and non-nationals. Students with disabilities have no limitation to study in general schools according to his/her abilities. However, the number of special schools for blind and deaf people, providing special learning facilities and techniques, is very few, but PWD can attend the university classrooms with others. The education facilities are provided by the Ministry of Justice inside the prisons, but mostly confined with literacy and handicraft skill building. The children of female prisoners who live with their mothers are provided with kindergarten facilities in a separate space inside the Prison compound or somewhere else. Recently, the MoE and the Ministry of Justice have agreed to provide schooling facilities inside the prison for adult within the same curriculum as other school so as when a prisoner is released, he/she could maintain education from the grade he/she had completed in the prison.*

#### Gender parity and gender equality

13. Please provide details of legislation and government policies and programs directed to improving gender parity and gender equality in education at all levels.

*There is no legislation limiting the access of students by gender at any level. However, female student of high schools are going to separate schools or they are arranged in different shifts, morning or afternoon time, preventing to attend at the same time with young boys.*

*In practice, there are different accessibilities in terms of gender. Out of 3,705,233 school students, 1,171,963 {Central Statistic Organization (CSO), 2003} are female. According to "Securing Afghanistan Future" among over 22,000 students in the higher education system, only 4,363 are women. There is only one female professor holding a Ph.D, out of 89 female lecturers. Out of 11,749 dormitory students, only 121 women have access to dormitories. A strike regional and gender disparity is also evident from net enrolment rate, which are as high as 87 in Kabul ( boys 92% and girls 81 %). In three locations, the city of Herat, Badakhshan provinces and Heart provinces, girls' net enrolment is higher than that of boys. The other extreme can be found in Badghis and Zabul provinces, where enrolment for girls is as low as one per cent.*

*One of the reasons of gender disparity in enrolment is the traditional barriers that effect on girls' accessibility to education. Mostly In rural areas girls beyond 12 years old cannot go to school because; first, the tradition barrier; second, unavailability of girls school nearby residential areas; and third, the insecure situation.*

*While enrolment of girls and boys is relatively high for grade 1 and 2, it drops off substantially in the higher grades. The estimated data of drop-out shows that 74% of girls and 58% of boys drop out of schools by the time they reach to grade 5. Based on these figure for every 4 girls in grade 1 today only 1 will remain by grade 5 if the prevailing situation does not improve. The reason of drop-out are: cultural constraints, economic constraints, security, distance to school, poor teaching and inadequate building and supplies.*

#### Physical accessibility

14. Please describe the main issues regarding geographical location of and physical access to educational institutions for people from urban, rural and remote communities, as well as for people with physical disabilities.

a) *Rural areas*

*1-Lack or Shortage of infrastructure, i.e, school buildings, library, poor classrooms, shortage of teaching materials (Textbooks, visual aid eqts.)*

*2- Distance of schools from residential areas*

*3- Unavailability of healthy water and poor sanitation*

*4-Contaminated school's environment*

b) *Urban areas*

*1- Lack or shortage of school building*

*2- Shortage of teaching facilities (Textbooks, teaching materials, poor sanitation and sport space*

#### Economic accessibility

##### *Primary education*

15. Is primary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs. For example, does your government have a plan of action for making primary education free?

*In accordance with the national constitution of Afghanistan, education up to BA or B.Sc is free. Fifty years ago primary education was compulsory, but now nearly all families send their children to schools, and many parents are unaware of the mandatory of intermediate education throughout the country, enshrined in the national constitution of Afghanistan.*

16. Please provide information about any school fees, charges and other costs imposed on parents or guardians for primary education. Please describe the extent of financial assistance available for the completion of primary education.

*The is no fee, charge or other cost on students. The government has to provide textbooks and teaching materials, but due to lack of budget, many students receive less number of textbooks and the students have to buy those books from the market that the government failed to provide them. In rural areas, most of the maintenance cost of the school buildings is paid by the communities as pf their voluntary donation. The land of many schools in rural areas also have been donated by the communities. Under the development plan of the Ministry of Rural Development, the Ministry pays the 70% construction cost of a school building proposed by a community and the 30% has to be paid by the community itself so as to strengthen the feeling of ownership of the school by the community. This is a good practice that community itself takes care of the schools.*

#### *Secondary education*

17. Is secondary education compulsory and free for all? Please provide details of relevant legislation and government policies and programs.

*The primary education is from grade 1-9, and the secondary is from grade 10-12. The same policy for primary education is also applicable for the secondary education, which is not compulsory, but free of any charges.*

18. Please provide information about any school fees, charges and other costs imposed on parents or guardians for secondary education. Please describe the extent of financial assistance available for the completion of secondary education.

*There is no fee or charges imposed on parents, but no credit or any assistance is given to parents for the extra education cost of their children such as stationary, clothes, etc.*

#### *Higher education*

19. Please provide information about fees, charges and other costs for higher education. Please describe the extent of financial assistance (if any) available for the completion of higher education.

*In accordance with the national constitution, higher education facilities are provided by the government up to B.A or B.Sc free of any charge. The admission to any field of study in the universities is based on students' choice if they could gain the score mark set for the relevant field of study. Poor student are also provided food and dormitory facilities. Teachers' salary, transportation, teaching materials, and*

*research cost is paid by the government. In recent years the government has not been able to provide all of such facilities due to shortage of budget.*

*The government also provides technical education at high school and post-baccalaureate level up to grade 14, such as teacher training institutes, mechanics, electricians and other skill building education.*

#### Non-formal education

20. Please provide information about access to non-formal education in your country. Issues for consideration include (but are not restricted to):

- The existence of and support for Community Learning Centres
- The legal and policy framework for the improvement of literacy for women.

*Private sector has established several types of courses such as English learning, IT, business administration, art, and other skill building, which are based on fee. A number of NGOs also provided such facilities in urban and rural areas free of charge or at very low charge. The mosques or religious Madrassa provide religious education free, which is based on the peoples' religious donation.*

*The Ministry of Education has literacy education department, which is headed by a deputy minister. The government provides literacy education for those illiterate men and women, who work for the government departments, at work-place as on-job education programme. In some areas the government also provides schooling for those adult who have been failed, going to schools, mostly women are benefited. The number of such schools are very few comparing to formal schooling. This department also provide literacy coursed for women and men at residential areas.*

#### **Acceptability**

*The form and substance of education, including curricula and teaching methods, have to be acceptable (eg – relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents. (CESCR General Comment No. 13)*

#### Quality education and minimum standards

21. Please identify the relevant national and/or local institutions which are responsible for the implementation of the right to education. In particular, are there any specialised agencies, authorities or officials that have a mandate on the right to education?

*The Ministries of Education and Higher Education are responsible to implement the right to education enshrined in the national constitution. The Cabinet Ministers and Parliament are the institutions monitor the implementation of the right to education and also the implementation of the programme and annual plan of these ministries in the field of education.*

22. Please provide information about measures adopted by education authorities to provide quality education and to establish minimum education standards and an effective and transparent system for monitoring standards.

*To develop the school curriculum, there is the Department of publishing and Translation within the Ministry of Education. This department works in close collaboration with the Curriculum Development Committee of the Ministry of Education. The Committee and the Department are responsible to design the textbooks in a way that student could use the basic knowledge during higher education, and also to provide them with basic knowledge used in daily life. One of the main aims of developing curriculum is to strengthen the students' belief on democracy, peace, the use of new technology and respecting human rights.*

*The Ministry of Education has the Monitoring Department for monitoring the implementation of the curriculum and the quality of education.*

23. Please describe the indicators (including human-rights-based indicators) used by education authorities to monitor the realisation of the right to education in your country.

*NA*

24. Please provide details of legislation and government policies, practices and programs which may impact upon academic freedom and the autonomy of educational institutions.

*According to the policy of the Ministry of Education, all schools have to implement the same curriculum has been developed by the MoE, only the teaching language in the primary schools is different according the majority of people spoken in certain location.*

#### Discipline

25. Please provide information about the legal status of corporal punishment and other forms of discipline that operate within the education system in your country.

*The corporal punishment has not been legislated ever in Afghanistan, but it has been widely practiced traditionally in all schools particularly in religious madrasa. As a result of broad advocacy, the Ministry of Education will announce soon the prohibition of corporal punishment in schools. It is believed that more research should be conducted in the field of disciplines at schools so as to create efficient learning environment and grow up children with high social behaviour and self-confidence character. There is need to learn from the experience of other countries that may help Afghanistan in maintaining discipline in schools.*

#### Curriculum

26. Please provide an overview of how education authorities determine curriculum development at all levels of education within your country.

*The Curriculum Committee and the Publishing Textbook Department of the MoE, on the basis of the provisions of the national constitution, is responsible to develop the curriculum and renewing the textbooks. According to the spirit of the national constitution, Art. 45, the educational curriculum should be based on the tenets of*

*the sacred Islam, national culture as well as academic principles. The Committee also considers the comments of UNISCO in developing schools' curriculum.*

27. To what extent is human rights education incorporated into the curriculum of primary, secondary and higher education?

*Classically the language and social subjects taught in the primary and secondary schools, carrying the messages of humanism, strengthening social behaviour, but is not believed to have adequately addressed human rights. There are some elements of discrimination evident in these subjects. Nowadays, the MoE tries to include some messages of human rights in the textbooks. The Afghanistan Independent Human Rights Commission, in close cooperation with the Curriculum Committee of the MoE, makes effort to include the subject of human rights into various textbooks of schools.*

#### Parents / Legal Guardians

28. Please describe the extent to which parents and legal guardians are able to exercise freedom of choice with regards to educational institutions and educational programs.

*Since the primary and secondary school's programme are general, except the religious schools or Madrassa, parents therefore has very little chance in selecting the kind of school that children should attend. Parents indirectly encourage their children to select the subject of study in the higher education institutes as they wish for their children. However, generally students are free for their field of study in the higher education institutes. Off course, conservative parents encourage their children for attending the religious Madrassa.*

#### Religious and cultural practices, languages of minority groups

29. Please provide details of relevant legislation and government policies and programs regarding respect for religious and cultural practices and the use of languages of minority groups within schools and other educational institutions.

*According to the article 45 of the national constitution, the government has to develop religious curricula for schools on the basis of existing Islamic sects in Afghanistan. The government has not been able yet to implement the provision of this article. The contents of the religious subject still taught in the schools belong to the sect dominant in Afghanistan. Off course, all principles of beliefs in all sects of Islam are the same as other, but only there are some minor differences exist in the additional parts of the praying methods.*

*In accordance with the Article 43 of the national constitution, the state shall design and implement effective programs and prepare the ground for teaching mother tongues in areas where they are spoken. Still two official languages are used in schools according to language of the majority of inhabitants spoken in a certain area. The MoE plans to provide textbooks in other five local languages for students of different areas.*

*At higher education institutes, two popular official languages, Pashto and Persian, are used by teachers as of their own choice.*

**Adaptability**

*Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (CESCR General Comment No. 13)*

Education and work

30. Please provide details of legislation which prescribes the age for the completion of compulsory education and the minimum age of employment in your country.

*The required age for enrolment in the primary school is seven, but in practice, a six years old child can be enrolled depending on her/his physical growth and ability for going to school. There is no age limitation for education in Afghanistan. Even a forty years old person can attend the night-shift schools if such schools are available in the area. Nigh-shift education is for those government's employees who have been failed to regularly maintain his/her education in the ordinary schools. The minimum age for employment, according to the employment law, is 18, however, this law is not implemented in the private sector.*

31. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of those people who would otherwise not be able to undertake education. For example: working children and young people; children and young people in juvenile detention; working women; prisoners and other people in detention.

*Unfortunately the government has no adequate capacity to provide schooling facility for working children. Off course, a number of them attend the schools in the morning or afternoon time and spent half of its daily time in working. A few NGOs collect these working children and teach them some skill and literacy. The government has made decision to provide official education, according to school curriculum, for prisoners and detainees so they could maintain education according to his/her ability whenever they are released. In addition, skill building such as handicraft making also taught in the prisons. In juvenile detention and orphanages, regular education is implemented by the MoE.*

Education for women

32. Please provide details of legislation which impacts upon the right to education of women. Issues for consideration could include (but are not restricted to):

- The minimum age of marriage
- Pregnancy

*According to the Civil Law of Afghanistan, the minimum age for marriage is 16 for girls, but in practice, 14 and 15 years old girls get married as forced by their parents. In rural areas when a girl gets married at low age, she fails to maintain education, but in urban areas, there is not so much limitation as rural areas. The government has to provide education for married women in separate schools, but there is no limitation for married girls or pregnant women attending the university. However, poor women, who have to look after the house, by this way or another, are failed to maintain education due to poor economy and work load such as house and children care.*

33. Please provide an overview of the strategies, policies and programs of governments and education institutions which enable the education system in your country to adapt to the education needs of women.

*According to the five-year strategic socio-economic development plan of Afghanistan, achieving the objective of the MDG of Afghanistan, primary education will be provided for girls and boys, 60% and 75% respectively, by 2010. The number of female teachers will reach to 50% of all school's teachers. The government gives priority for construction of girls' high schools where there is no such schools.*

#### Special Needs Education

34. Please provide information about any special needs education policies and programs that have been developed and implemented by government and non-governmental organisations in your country.

*Tackling the special needs of women, the government recently constructed dormitories for female students of universities in several main cities. This plan will be implemented in other main cities where there is university or post-baccalaureate institutes. A number of NGOs are providing literacy education and other skill building for women such as computing, IT, office administration, handicraft making and business skills.*

35. To what extent are schools able to adapt to the special education needs of individual students?

## **Part 2: Activities of National Human Rights Institutions**

1. Please describe the mandate of your Commission for the protection and promotion of economic, social and cultural rights. What methods and approaches does your Commission use for the protection and promotion of human rights?

*The establishment of AIHRC and its mandate has been adapted in the Article 58<sup>th</sup> of the national constitution as follow:*

*" Article fifty-eight: To monitor respect for human rights in Afghanistan as well as to foster and protect it, the state shall establish the Independent Human Rights Commission of Afghanistan.*

*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 defense of their rights.*

*Organization and method of operation of the Commission shall be regulated by the law."*

*In Addition, the Commission has a wide variety of authority in protection and promotion of human rights, enshrined in the Law of the Commission. (Attached)*

*To protect and promote the economic, social and cultural rights, the commission analyses the national development strategies of Afghanistan to know how these strategies address the economic, social and cultural rights as have been enshrined in the bill of rights in the national constitution and also to know how much these will imply with the ICESCR that Afghanistan is a party to that. We use these three principles for rights-based approach of the national development strategies: a) non-discrimination, b) justice, gender equality, and c) poverty reduction. AIHRC then gives its comments to the government for consideration of these rights into the national development strategies.*

*AIHRC also monitor the realization of the ESC rights in the field and within the governmental organizations, NGOs and private enterprises to know the level of realization of the ESC rights on the basis of accepted indicators and targets set in the development strategies.*

*AIHRC protects the rights of people in different ways:*

*First, through receiving complaints directly from a victims of human rights, his/her relatives, or from members of civil society and investigate the cases. The result of the investigation is referred to the relevant legal offices so as to protect the rights of the victim.*

*Second, whenever the rights of someone or a community, as a result of the intervention carrying out by the government, NGOs or private companies, have already been abused or being abused, the commission investigates such cases and refers it to the relevant government offices for taking the remedial action or to prevent of the rights being abuse, and*

*Third, the commission protects the rights of people through monitoring the police custody, detention centres, and prisons to receive complaints from detainees and prisoners to know if some has been tortured and ill-treated, either their cases have not been legally proceeded according to the law. The commission investigate any of such cases of violation, then refer it to the authorities to protect the rights of those whose their liberties have been restricted.*

*Promoting the rights of people, the education department of the commission convene training and awareness raising workshops for NGO workers, schools' teachers, police and army staff, clergies, prosecutors, university students and provincial and district representative councils. To nationally covering public awareness on human rights, the commission has assisted the film-making companies, TV and radio organizations, and NGOs who have awareness raising programs on human rights, particularly about women and child right, among communities. The commission also have its periodical and non-periodical publications, reaches to all provinces of Afghanistan.*

*To produce in-depth information about the social, economic, cultural and political elements contributing to the systematically human right violation, the commission conducts thematic researches, on library and field base, so as to give comprehensive information to strategic thinkers of social affairs and legislators about the root causes of human rights violation that, in the long run, promote human rights.*

2. Has your Commission received complaints from individuals or groups relating to the right to education? If so, please provide a breakdown of the different type of complaints and, where possible, describe some of the most important cases and the role of your Commission in resolving these complaints.

*The commission so far has not received any specific complaints denying the right to Education, for example on gender, disability or any other discrimination base. However, the commission regularly monitor the situation of education, particularly the primary and secondary education situation, throughout the country. The community and also schools' teachers and students always complain about the lack or shortage of classrooms, lack or shortage of furniture, lack of teaching materials, very poor remuneration for teachers, poor qualification of teachers, unavailability of textbooks, insecure situation specially for girls. The outcome of the monitoring has always been discussed with the authorities of the Ministry of Education, with policy makers, and donor agencies. The poor education situation always been reflected in the official reports and publications of the commission.*

*Burning schools by the terrorist groups now is of great concern of the people of Afghanistan that deprives thousands of children going to school, particularly girls. The government reconstructed these schools, using from th library and field fund assisted by the international communities for reconstruction of infrastructures in Afghanistan or by joined cooperation of the funding agencies and communities. The aim of terrorist in burning schools is to create fear among the students and also to sabotage the international efforts in bringing democracy, peace and stability in Afghanistan. But any way, the right to education is undermined by burning schools.*

3. Has your Commission conducted research and/or public inquiries on the issue of the right to education? If so, please provide the results of this research and the outcomes and recommendations of any public inquiries.

*The commission has not yet conducted research on the enquiries of people for the right to education. However, the annual growing number of students, the increasing request of communities from the Ministry of Education for construction of schools, and cooperation and donation of communities for construction of schools are the indicators for enquiries of people for the realization of the right to education.*

4. To what extent has your Commission identified laws / policies / practices in your country that impact on the realisation of the right to education?

*Actually no law in Afghanistan denies the right to education, but the prevailing economic situation and conservative traditions undermine the right to education. Many families cannot afford to pay the cost of secondary education for their children. The children of poor families, particularly boys, have to work to strengthen their parents' economy. They have to work with their father in the farm field, or as apprentice in mechanical shops, bakeries, as carpet weaver or to work as vendors in the street. Since the labour wage is very low, several members of the poor families have to work to run their life at minimum level.*

*In many parts of Afghanistan, girls beyond 12 cannot maintain education due to conservative traditions and believes. Or, because of security problem and long distance of schools from the residential areas that that girls are deprived from the right to education.*

5. Has your Commission conducted awareness and education campaigns relating to the right to education? If so, please provide information about these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.

*The right to education as part of the social rights has been addressed at any awareness workshops, meetings with communities, authorities and civil society organizations. The Commission, with the cooperation of the Ministry of Education, plans to organize a two-day national seminar in the capital to produce a set of recommendations addressing the key actors within the government, donor agencies, civil society organizations and parliament to make any of necessary efforts in realization of the right to education on the basis of the national constitution and those treaties that Afghanistan is a party to them.*

6. Please provide information about your Commission's general human rights education activities, including: materials used, information produced and how these activities have been made accessible to the community.

- The commission had wide verities of human rights education activities. The commission, after long negotiation, convinced the Ministry of Education to include the issues of human rights into various textbooks of the schools. The MoE now is in close consultation with the commission about the inclusion of human rights issues into the curriculum.*
- The commission staff convened several training course on human rights for the 450 students of the Faculty of Journalism in Kabul University. As a result of*

*encouragement, teaching human rights and democracy started in the Education University of Kabul and in of the teacher training Institutes in the northern part of the country.*

- *Teaching human rights also started in the Police training Academy in Kabul.*
  - *The commission has convened several awareness workshops for the Prison staff about the rights of detainees and prisoners and the way of treating prisoners.*
  - *The commission has convened several awareness workshops for the staff of National Security Department and National Army on human rights and humanitarian laws.*
  - *Clergies, women, community workers, and schools' teachers have received awareness on human rights through awareness workshops and one day meetings, which in 2005, totally 21537 persons have received awareness on human rights in the capital and provinces through the commission's offices.*
  - *To raise public awareness on human rights, totally-2285 minutes of TV and 6240-minutes of radio programme prepared, directly by the commission or by the NGOs supported by the commission. The themes of these programs were different categories of human rights and democracy.*
  - *The commission has celebrated every year the 10<sup>th</sup> December, anniversary of the UDHR, International Children Day, and 25<sup>th</sup> November, Campaign on the violation against women.*
7. Has your Commission addressed the issue of the right to education in its annual reports? If so, please provide a copy of the relevant sections.

*Please see the AIHRC 2004/2005 annual report in the website : [www.aihrc.org.af](http://www.aihrc.org.af)*

8. Has your Commission intervened in court proceedings on an issue related to the realisation of the right to education? If so, please provide details of the cases, the role of the Commission and the outcomes of the cases. Please provide copies of any submissions and court decisions.

*Not yet*

9. If your government has ratified any of the international human rights conventions listed below, has your Commission been approached by the government to contribute to the periodic reports to the relevant Committees, or alternatively, has your Commission provided a shadow report to the relevant Committees? If so, please provide copies of the sections relevant to the issue of the right to education.

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination Against Women;
- Convention on the Rights of the Child
- Convention Against Discrimination in Education;
- Minimum Age Convention 1973
- Worst Forms of Child Labour Convention 1999

*The Commission has not yet produced any shadow treaty report*

10. Does your Commission work in collaboration with civil society including the private sector, government or United Nations agencies or multilateral donors such as the World Bank, the International Monetary Fund and the Asian Development Bank on the issue of the right to education? If so, in what way?

- *The commission has built its relation with civil society organizations for the protection and promotion of human rights. The commission financially and managerially supported one of the civil society organizations, Foundation for Free and Faire Election in Afghanistan (FEFA) for monitoring the presidential and parliament elections in 2004 and 2005.*
- *AIHRC is member of the Human Rights Advocacy Consortium (HRAC), consisted of several international and local Afghan NGOs working in Kabul. The main products of this consortium have been several research reports on Democracy, women and election, education, security, etc.*
- *AIHRC in a joint-cooperation with the UN Assistance Mission for Afghanistan (UNAMA) monitored the realization of the political rights during the presidential and parliament elections in 2004 and 2005. Six report produced in this regards, which were effective in improvement of the elections process.*
- *AIHRC and UNHCR have started joint monitoring of the situation of economic and social rights in the field. The activities so far carried out in rural and semi urban areas. This cooperation has been extended by the end of 2006.*
- *AIHRC has gotten fund for implementing its program from Denmark, Norway, Finland, Switzerland, Finland, UK, USA, New Zealand and Government of Afghanistan*

This is the end of the questionnaire. Thank you for taking the time to respond.