THE RIGHTS YET TO BE REALIZED:

Submitted to: The UN Committee on the Rights of Persons with Disabilities

[Hassan Ali Faiz]
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August, 2016

Cover design: Hassan Ali Faiz

The following citation for this publication is suggested:

The development of this report was made possible by financial contribution of The Department for International Development (DfID); the United Kingdom government department responsible for administering overseas aid.

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ABOUT THIS REPORT

This report on implementation of the Convention on the Rights of Persons with Disabilities (CRPD) presents the perspectives and views of civil society with regard to Afghanistan’s compliance with its obligations under CRPD.

This report has been compiled from consultation with government institutions, civil society organization either working for persons with disabilities or persons without disability, focus group discussions, individual and collective interviews and expert group discussions. In the development of this report civil society submissions and reports released by national and international organizations have also been exploited.

The issues raised in this report and gaps highlighted in government compliance with the CRPD should be considered in the context of Afghanistan.
ABOUT COMMUNITY CENTER FOR DISABLED (CCD)

The Community Centre for the Disabled (CCD) acts as a Resource Centre for Persons with Disabilities. It was established in March 2004. Initially, it was a project of Handicap International (HI) from 2004 to 2007 and later it was registered as an independent NGO with the Ministry of Economy of the Islamic Republic of Afghanistan on May 3, 2007. CCD is a non-political, non-governmental, non-profit and non-religious Afghan led organization which advocates for the promotion of the rights of persons with disabilities and provides services in socioeconomic inclusion of persons with disabilities in collaboration with other disability and non-disability organization and the line ministries, especially Ministry of Labor, Social Affairs, Martyrs and Disabled (MoL-SAMD).

CCD is a disability focused and rights based organizations advocating for promotion and protection of the rights of persons with disabilities in Afghan society. CCD’s efforts are to create the opportunity to enable persons with disabilities to enjoy their basic rights on equal basis in Afghan society through advocacy to make it happen in collaboration with other organizations.

**Vision:** CCD’s vision is to create a positive culture towards disability through advocacy and building the capacity of persons with disabilities. CCD believes in the equal rights of all the segments of the Afghan society including the persons with disabilities in the all social, economic, cultural and political aspects.

**Mission:** CCD’s mission is to promote and improve the social, cultural, and economic situation of women, men and children with disabilities and their families so they can actively participate in Afghan society.

**Objectives:**

1. Advocate for the civil and human rights of persons with disabilities in Afghanistan in collaboration with civil society organizations.

1. Build the capacity of DPOs and improve social, cultural and economic situation of persons with disabilities in Afghanistan.
ACKNOWLEDGEMENTS

The CCD would like to thank the ministries, governmental institutions, private sector and NGOs for their collaboration, support and contributions. The CCD in particular would like to express its gratitude to the following government institutions: Ministry of Agriculture, Irrigation and Livestock; Ministry of Commerce and Industry; Ministry of Communications & Info-Technology; Ministry of Education; Ministry of Finance; Ministry of Higher Education; Ministry of Interior; Ministry of Justice; Ministry of Mines; Ministry of Public Health; Ministry of Rural Rehabilitation and Development; Ministry of Women’s Affairs and the Afghan Red Crescent.

CCD would also like to sincerely thank the private sectors and civil society organizations that work either for persons with disabilities and persons without disability especially the two partners: Afghan Landmines Survivors’ Organization (ALSO) and Rehabilitation Organization for Afghan War Victims.

CCD is particularly thankful to the Advocacy Committee for the Rights of Persons with Disabilities (ACRPD) for their time and invaluable contributions. In particular, Mr. Mohammad Ali Mohabti (AIHRC), Mr. Habiburrahman Malikzada (AIHRC), Mr. Sajim Perdis, (SERVE), Mr. Muniruddin Burhani (AABRAR), Mr. Islamuddin Mohammadi (ALSO), Ms. Amina Azimi, (ALSO), Ms. Arezo Haqiq (SCA), Mr. Mohibullah Musazai (ROAWV), Mr. Samiulhaq Sami (HI), Mr. Mohammad Sadiq Mohibi (ACAP III), Mr. Nabiullah Rahimi (ACSO), Mr. Mehdi Salemi (RAHYAB), Ms. Zakira (Shura-e- Zanan), Ms. Fatima Akbari (Women Council), Mr. Mohammad Ihsan Fayaz (ANAB), Mr. Harifullah (ROAWV) and Mr. Omara Khan Muneeb (DAO)

CCD expresses its deep gratitude to the community members, representatives from rural and remote communities, NGO workers, activists, individuals and representatives from organizations working for persons with disabilities and individuals with disability; the respondents, informants, and participants in our study areas; officials and community stakeholders who accommodated the research team's multiple questions with candidness and patience, and opened up sensitive issues in their individual, family, and community life.
CCD would also like to acknowledge and give special thanks to its staff members Haji Ahmad Shah Azami, Nasem Khan Aliyar, Mohammad Shafaq and Khairia Marial Fazel who provided constant support during the writing process.

CCD is also thankful to Mr. Hassan Ali Faiz who kindly agreed to write this report.

The CCD is particularly grateful to the financial contributions of Tawanmandi Project.

**Funding from the Afghan Government**

For writing this report no support was provided by the government in part or as whole; neither CCD has received support in kind or pro-bono services.

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**Saifudin Nezami**

Executive Director

Community Center for Disabled (CCD)
ENDORSEMENT

The following organizations have endorsed this report:

- Community Center for Disabled
- Handicap International
- Civil Society & Human Rights Network (CShRN)
- Swedish Committee for Afghanistan
- Afghan Landmine Survivors’ Organization
- ALSO
- serve AFGHANISTAN
BACKGROUND

Introduction to Afghan Government and Legal System and geo-political situation.

1. The Islamic Republic of Afghanistan by world standards is a poor nation, with a gross domestic product equivalent to USD 1885.3 per capita. Afghanistan is also one of the least developed countries in the world according to the United Nations Human Development Index.

2. Afghanistan is located in southwestern Asia with an area of 647,500 km². It is bordered by Pakistan, Iran, Turkmenistan, Uzbekistan, Tajikistan and the People’s Republic of China. The population of an estimated 30 million is divided into a number of ethnic groups, the largest of which are Pashtun, Tajik, Hazara and Uzbek. Eighty percent of the population is Sunni Muslim and most of the remainder is Shi’a Muslim. The official languages are Dari (Persian) and Pashto, but there are numerous other languages. The capital is Kabul.

3. Afghanistan is divided into 34 provinces. The president is head of state and head of government. Legislative power is vested in the bicameral National Assembly.

4. The 102-member Meshrano Jirga (House of Elders) is made up of one representative from each of the 34 provincial councils; one representative from each of the 34 local district councils; and 34 members appointed by the president. Two seats each are reserved for representatives of the Kuchi nomads and for representatives of persons with disabilities. At least 17 seats are reserved for women. The members chosen by the provincial councils and the district councils serve four-year terms, while the members appointed by the president serve five-year terms.

5. The 249-seat Wolesi Jirga is directly elected. There are 34 multi-member constituencies with between 2 and 33 members each. Ten seats are reserved for Kuchis, including at least three women, and 65 additional seats are reserved for women, giving a total of at least 68 women. The term of the Wolesi Jirga is five years.

6. The electoral system uses single non-transferable votes. Candidates who receive the most votes in each province win seats. If the number of women elected is below a certain thresh-
old, however, the difference is made up with the female candidates who received the most votes.

7. The president and two vice presidents are directly elected for a five-year term; if no candidate receives 50% or more of the vote in the first round of voting, a second round is held between the two candidates with the most votes. The president may be elected for two terms only.

8. On occasion, the government may also convene a Loya Jirga to amend and interpret the constitution, declare war, and adopt decisions on the most critical national issues.¹

¹ Independent Election Commission
9. The report below which presents the situation of persons with disabilities in Afghanistan, is based on a holistic study conducted between March 2015 – March 2016 to verify the status of implementation of the CRPD in Afghanistan.

10. The implementation of the CRPD is assessed on an article-by-article order. Each article is discussed on the basis of available data. However, implementation of some articles is explored in depth - where enough information was available - while the report remains sketchy on implementation of some other articles; and even silent where there was no information at hand. The report is in no way exhaustive and does not encapsulate all nuisances faced by persons with disabilities in Afghanistan.

11. The concept of the report was determined in accordance with state obligations under CRPD and areas recognized as most critical for persons with disabilities. All other aspects in the report arise in relation to state obligations under CRPD.

12. A portrayal of the current status of legislation with regard to persons with disabilities rights is conferred; disparities are analyzed and specific recommendations are furnished.

13. Experiences of individuals with disabilities, illustrating the high degree of discrimination against them and inequality affecting them in their daily live is also thrashed out in the report.

14. In compiling this report, the perspectives of persons with disabilities irrespective of their social status is particularly attended. The parents of children with disabilities and experts in the area of disability rights were all also closely consulted during the study. The study was conducted in all major cities of the country. The process involved a high level of participation and involvement, consultation and cooperation of all actors on the ground in particular the government institutions and civil society. It took eight months to finally assemble the report in August 2016.

15. The data used in this report are collected through questionnaire, interviews, case studies and focus group discussions. Individuals and groups participated in or contributed to the study were from different walks of life in particular persons with various forms of disability. Work on the report was coordinated by staff of the CCD.
EXECUTIVE SUMMARY

The Report and its Compilation Process

16. This Civil Society Report on implementation of the Convention on the Rights of Persons with Disabilities (CRPD) presents the perspective of civil society organizations with disability in relation to Afghanistan's compliance with its obligations under this convention.

17. This Civil Society Report has been compiled from consultations with persons with disabilities and their representative and advocacy organizations, evidence from government and community initiated inquiries and various reports and submissions produced by Civil Society involved in the protection and promotion of human rights of persons with disabilities.

Progress on the Rights of Persons with disabilities in Afghanistan

18. The CCD acknowledges that over the last 14 years since the collapse of the Taliban regime, Afghanistan has made enormous progress in advancing the civil, political, economic and cultural rights of Afghan citizens among them the persons with disabilities. In particular, with disabilities the achievements are as under:

A. The 2004 Constitution of Afghanistan promotes the integration of person with disabilities into public and social life. Article 22 prohibits any form of discrimination between Afghan citizens. Article 53 provides for financial aid to persons with disabilities and guarantees their participation and re-integration into society. Article 84 makes provision for two persons with disabilities to be appointed by the President as Members of Parliament in the House of Elders.

B. Afghanistan passed the National Law of Rights and Benefits of Persons with Disabilities in 2010. The law provides for economic, social, political, cultural, educational and rehabilitation support to women, men and children with disabilities, the protection of their rights and their active participation in society. The law also states that 3% of jobs in government and the private sector are to be reserved for persons with disabilities.

C. In September 2012 Afghanistan ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD), along its Optional Protocol. The CRPD is the first international, legally binding treaty aimed at protecting the human rights of persons with disabilities.

D. Afghanistan is also signatory to the Proclamation on the Full Participation and Equality of People with Disabilities in the Asia Pacific Region and the Biwako Millennium Framework for Action Towards an Inclusive, Barrier
Free and Rights Based Society for Persons with disabilities. Under this document Afghanistan committed to develop effective policy and programs at national, sub-regional and regional levels aimed at systematically improving the conditions of persons with disabilities and harnessing their full development potential.

In 2002 Afghanistan signed the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. The document obliges signatories to clear all known areas contaminated by anti-personnel mines within 10 years. In 2012, the Afghan Government requested a ten-year extension to the treaty to meet its obligations.

In 2011 Afghanistan signed and ratified the Convention on Cluster Munitions, thereby agreeing to destroy all stockpiles of cluster munitions, clear all areas contaminated with cluster munitions.

A National Policy for Persons with Disabilities was developed in 2004. It was coupled with the revised Afghanistan National Disability Action Plan (ANDAP) 2008-2011, which included strategies to improve access to education, employment, justice, protection, care, social insurance and social assistance for persons with disabilities.

A National Strategy for Disability and Rehabilitation 2013-2016 has been developed with support from EU and the UN Afghanistan Disability Support Program.

Afghanistan’s National Development Strategy (ANDS) further identifies disability as an important crosscutting issue and seeks to advance the rights of persons with disabilities across various sectors. Since 2007, a number of development programs have included disability indicators.

19. While the CCD welcomes the adoption of a number of policies and laws, however, it remains concerned with poor implementation of these documents. The government of Afghanistan has failed systematically to implement policies and meet its human rights obligations under several conventions it has ratified.

20. A recent study by Freedom House Afghanistan in May 2016 has found that out of 162 articles of the constitution, 161 of them have been repeatedly violated over the past 13 years. The report shows the only article that has not been violated is article 21 which states that Kabul is the capital of Afghanistan.

21. According to the findings of the study, the Constitution is mostly violated by the Presidential Palace, ministers, high ranking officials and governors.
22. Based on the report, government, parliament and the judiciary, all three, have violated the Constitution. It has termed lack of awareness among officials and law enforcement officials, culture of impunity, corruption and lack of political will to implement the Constitution as the main reasons for the violations¹.

23. Despite a number of initiatives, persons with disabilities remain significantly behind persons without disability in Afghanistan.

24. This report provides a snapshot of the current situation of persons with disabilities in Afghanistan.

Participation of Persons with disabilities in CRPD Implementation Processes (Articles 4 & 33)

25. After four years since the ratification of the CRPD by Afghanistan, the country has done too little to systematically initiate the process of implementation of the Convention. The deferment to begin the implementation process is probably the most underpinning element of compliance with the CRPD. Involvement of persons with disabilities in planning, implementation and monitoring of the implementation of the Convention is yet to attend.

26. No systematic action has been taken by the state-party to bring in harmony its domestic laws and policies with the CRPD and has failed to respond to policy gaps in relation to full inclusion of persons with disabilities.

27. As required by the CRPD, Afghanistan has failed to: (1) designate one or more disability focal points within the Government to facilitate implementation of the Convention; (2) establish a coordinating mechanism to facilitate action in different sectors and at different levels of government. However, the AIHRC is monitors the implementation of the CRPD in line with its mandate and expertise.

28. Without any further delay, Afghanistan must initiate the process of implementation of the Convention and establish a robust mechanism to enable an effective and representative voice for persons with disabilities and their organizations in planning, monitoring and implementation of the CRPD.

Legislative Framework (Article 5)

29. Afghanistan has not reflected the provisions of the CRPD in its domestic laws to meet its state obligations under the Convention. Existing legislations fall short of complete implementation of Convention obligations. Anti-discrimination provisions in different legislative documents do not effectively protect persons with disabilities against systemic and

customary discrimination.

30. Afghanistan must incorporate the provisions of the CRPD into its domestic legislations to provide protection for a range of human rights reflected in the CRPD.

**Women with Disability (Article 6)**

31. Women with disability who experience more discrimination compared to men with disability in Afghan context are usually ignored by the government. Discrimination and disadvantage experienced by women with disability is not sufficiently acknowledged by disability policies of the government.

**Children with Disability (Article 7)**

32. Children and youth with disability are always excluded from decision making processes. In this report concerns for children and youth with disability, is raised and the government of Afghanistan is asked to conduct a comprehensive study of the situation of children with disability in Afghanistan.

**Disability Awareness (Article 8)**

33. Barely there is disability awareness program in the government despite the great need for actions by government to address disability awareness in the government structures, community and businesses. In particular, awareness on education, health, employment and legislative provisions in favor of persons with disabilities.

**Accessibility (Article 9)**

34. While few newly constructed public buildings are accessible to persons with disabilities, there are many buildings still not accessible. This report calls for a stouter effort by government to make infrastructures and transport fully accessible.

**Protection in Emergencies (Article 11)**

35. Afghanistan is often hit by natural disasters such as flood, avalanche and earthquakes. Government’s disaster planning and preparations ignore specific needs of persons with disabilities. We ask the government to include specific needs of persons with disabilities in preparation, planning, implementation and post disaster recovery phases of emergency.

**Equal Recognition Before the Law (Articles 12)**

36. Despite some legal provisions, in practice, the ability of persons with disabilities to exercise their legal capacity is diminished.

**Access to Justice (Article 13)**

37. Persons with disabilities normally do not have full access to participation in the justice
system. Affordable legal services, accessibility and adaptability of court processes and fair
treatment continue to allow discrimination on the grounds of disability. The Non-acknow-
ledgement of integrity of persons with cognitive or psychosocial disability before the law ei-
ther as witnesses or victims, undermines the persons with disabilities accessibility to justice.

38. The government of Afghanistan should take robust actions for major reforms with regard
to persons with disabilities treatment in the justice system.

Liberty and Security of the Person (Article 14)

39. Despite the fact that legislative documents protect liberty and security of person, persons
with disabilities are more prone to deprivation of their liberty than the general population.
In particular, there is concern for those persons with cognitive and psychosocial disability.

Freedom from Cruel and Inhumane Treatment and from Exploitation, Violence and Abuse
(Articles 15 & 16)

40. Persons with disabilities, in particular persons with cognitive and psychosocial disability are
widely neglected and there is proof of widespread abuse and inhumane treatment of them.

41. There is no systemic advocacy and protection mechanism for persons with disabilities in
particular persons with cognitive and psychosocial disability.

42. The report calls upon the government of Afghanistan to conduct a comprehensive study in
relation to abuse, mistreatment and neglect of persons with disabilities, especially those in
rehabilitation facilities.

Protecting the Integrity of the Person (Article 17)

43. There are no safeguards and resource to adequately protect the mental and physical integ-

rity of the individuals.

Freedom of Movement and Nationality (Article 18)

44. There is no policy for refugees and IDPs with disability and their family.

Living Independently and in the Community and Personal Mobility (Articles 19 & 20)

45. Afghanistan has done too little to ensure persons with disabilities to live in society autono-
mously and be included in the community with equal access to community services and
facilities.

46. There is very limited program in Afghanistan for personal mobility of persons with dis-
abilities and to facilitate their access to assistive devices, technologies, mobility aids, forms
of live assistance and training in mobility skills, and making these available.
Freedom of Expression and Access to Information (Article 21)

47. Afghanistan has passed the Access to Information Law but in practice there is no mechanism in place to make information available. It is still a long way for Afghanistan to enable persons with disabilities to share thoughts, beliefs and feelings through all forms of communication.

48. There is no mechanism in place to provide information in accessible media and alternative formats.

49. Afghanistan has not legally recognized sign language.

Respect for Home and the Family (Article 23)

50. A high ratio of persons with disabilities experience discrimination in relation to their rights to marriage and having a family. Evidence reveal that even among educated civil society activists the rate of people ready to marry a person with disability is very low.

51. Afghanistan must undertake robust programs to raise awareness among both persons with disabilities and the wider community in relation to increasing respect and recognition of fundamental human rights of persons with disabilities to participate in family life.

Education (Article 24)

52. Afghanistan has failed to ensure education is fully and equitably available to children and youths with disability. Inadequate resource allocation, lack of trained teachers and lack of commitment and will to inclusive education contributes to significant systemic failure in this area.

53. The government of Afghanistan must allocate adequate resource and provide strong leadership in making education fully and equitably available to children with disability.

Health, Habilitation and Rehabilitation (Articles 25 & 26)

54. Access to health services for persons with disabilities is limited specifically in remote areas. Equal access to the standard of health care and health-care services still remains a dream for persons with disabilities. There is also a need for special disability health services related to disability specific health needs.

55. Afghanistan must take all appropriate measures to ensure that persons with disabilities have access to health services that are gender-sensitive, including health-related rehabilitation. Health care must be provided on the basis of free and informed consent.

56. Afghanistan must ensure that persons with disabilities are included and are able to participate in all aspects of life: physical, mental, social and vocational.
Work and Employment (Article 27)

57. The proportions of employment of persons with disabilities in Afghanistan is extremely low. The government has taken no action to address structural and systemic barriers in the workplace that limit inclusion of persons with disabilities in workforce. Minimal work continues to be the only avenue of employment for majority of persons with disabilities. The employment opportunities for women with disability is diminutive.

58. Afghanistan must promote the realization of the right to work and take appropriate measures including to promote employment opportunities for persons with disabilities in the private sector.

Income and Social Protection (Article 28)

59. Afghanistan pays maximum up to 5000 Afs (75 USD) per month to only war-related persons with disabilities – non-war related persons with disabilities are excluded - this amount can hardly cover 1/3 of family expense of a small family (according to Afghan family size). While Afghanistan is obliged under CRPD to ensure that persons with disabilities and their families have access to food, shelter, clothing and drinking water.

60. This report calls upon the of Afghanistan to design programs to enable persons with disabilities to have a livable level of income that takes into account the different needs of persons with disabilities.

Participation in Political and Public Life (Article 29)

61. The reach out of persons with disabilities to polling stations and their accessibility to secret ballot arrangements is still a challenge in Afghanistan particularly for persons with vision impairments.

62. Afghanistan must take all feasible steps to facilitate and encourage participation of persons with disabilities in electoral processes.

Participation in Cultural Life, Recreation, Leisure and Sport (Article 30)

63. Afghanistan has no program to facilitate and support involvement of persons with disabilities in community cultural and recreation opportunities. Afghanistan has invested very little in sporting programs in the capital but has done nothing to include grass roots participation in recreation, arts and cultural events.

64. Afghanistan must also take all feasible steps to ensure that cultural activities are held in places accessible to persons with disabilities and the government must invest in programs that build social connections through participation in leisure and sport events.
Statistics and Data Collection (Article 31)

65. There is inefficient mechanism in Afghanistan to collect comprehensive disaggregated statistics and data on disability.

66. Afghanistan must develop mechanisms to collect data disaggregated by disability type and other demographic information such as gender, age, ethnicity etc.

International Cooperation and Development (Article 32)

67. As per information of CCD, Afghanistan has not taken steps to establish bilateral or multilateral partnership on implementation of the Convention, including capacity-building, research and access to scientific and technical knowledge, and technical and economic assistance.

National Implementation and Monitoring (Article 33)

68. Afghanistan has not yet established implementation and monitoring mechanisms for the CRPD. Afghanistan – as required by the Convention – has not yet designated focal points to facilitated the implementation of the Convention and does not have a coordination mechanism to facilitate actions in different sectors and level of government. The AIHRC monitors implementation of the CRPD in line with its mandate.
ARTICLE 4 — GENERAL OBLIGATIONS

Legal Framework to Enact the CRPD

69. The government of Afghanistan has neither developed a law or policy to enact the CRPD nor has reviewed and revised existing legislations to incorporate the CRPD provisions.¹

70. Afghanistan passed the National Law on Rights and Benefits of Persons with Disabilities in 2010. The law provides for economic, social, political, cultural, educational and rehabilitation support to women, men and children with disabilities, the protection of their rights and their active participation in society. The law also states that a 3% quota of jobs in government and the private sector are to be reserved for persons with disabilities. However, the implementation of the law remains too sketchy and certain articles of the law infringes rights under the Convention. The law discriminates between war and non-war related disabilities.²

71. Article 81 para 4 and Article 88 para 2 of the “Law on Organization and Jurisdiction of Judiciary” allows discrimination on the ground of disability.³

72. There is discernable contradiction between Article 23 of the “Road Traffic Law” which explicitly conditions physical wellbeing as a requirement for a person to be issued driving license⁴ while Article 29 of the “National Law on Rights and Benefits of Persons with Disabilities” acknowledges issuance of driving license in favor of persons with disabilities.

Disability Discrimination Legislation

73. Afghanistan does not have a law to criminalize discrimination on the grounds of disability in relation to employment, education, health and access to public premises. There are few legal arrangements for provision of goods and services to persons with disabilities.

Policies and Programs

74. Afghanistan is also signatory to the Proclamation on the Full Participation and Equal-

¹ CCD’s desk study research
³ Law on Organization and Jurisdiction of Judiciary
⁴ Road Traffic Law
ity of Persons with Disabilities in the Asia Pacific Region and the Biwako Millennium Framework for Action Towards an Inclusive, Barrier Free and Rights Based Society for Persons with disabilities. Under this document Afghanistan committed to develop effective policy and programs at national, sub-regional and regional levels aimed at systematically improving the conditions of persons with disabilities and harnessing their full development potential. But in practice there is no policy developed on the basis of BMF.\(^1\)

**Engagement and Consultation of Persons with disabilities through their Representative Organizations**

75. While relevant government institutions consult persons with disabilities on sporadic cases related to disabilities but there is no meaningful engagement and consultation in the process of implementation and monitoring of the CRPD. Afghanistan is not meeting its obligations under article 4 of the CRPD to consult and engage representatives of persons with disabilities in implementation and monitoring of the CRPD.\(^2\)

76. There has not been a meaningful engagement of persons with disabilities in designing and implementing policies and programs in relation to disabilities.\(^3\)

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1 As per information from the Ministry of Labor and Social Affairs, Martyred and Disabled
2 Information provided during consultations on this report
3 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 5 — EQUALITY AND NON-DISCRIMINATION

Legal Framework to Combat Discrimination and Status of CRPD

77. There is no law or specific legal provisions to forbid discrimination on the basis of disability. However, there are legal provisions that generally prohibit discrimination against citizens. If a citizen is discriminated on the basis of disability, she/he may report it to the AIHRC (AIHRC is constitutionally mandated to register cases of human rights violation) which will then refer the case to the Office of Prosecutor. After thorough investigation, the case will be handed over to court. There is no case of discrimination on the basis of disability processed through the court system, because discrimination on the basis of disability is not criminalized in the penal laws. Breach of CRPD, however, will not end up to filing complaints because Afghanistan still does not consider the Convention as a legally binding instrument in the internal order, and has also not incorporated it systematically into the domestic legal system in order to make it applicable.¹

78. Although, Article 22 of the Constitution and other legislation guarantee the right to non-discrimination and equality to all citizens but there is no explicit prohibition of discrimination on the basis of disability.²

Legal Guarantees for Protection of Human Rights and Reprisal Arrangements

79. There is no legislative, judicial, administrative or other protection mechanism for human rights in Afghanistan. However, there are general provisions for protection of ad hoc human rights in some domestic laws including the Constitution.³

80. There is no mechanism in place to provide remedy to those who experience discrimination.⁴

Financial Support Provided to Persons with disabilities

81. The AIHRC conducted a study on financial support to persons with disabilities received from government. According to the AIHRC findings, 42.70 percent of the interviewees receive cash payment from the MoLSAM while 46.09 percent do not receive any payment. According to Articles four and eight of the Law on the Rights and Privileges of Persons with disabilities, only conflict-related persons with disabilities can receive payment while non-conflict related persons with disabilities are not entitled to any financial and non-financial privileges. Non-financial privileges include access to educational and higher educational services, health services, vocational trainings, residential land plots and apart-

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¹ Information received from the AIHRC
² CCD desk study research
³ CCD desk study research
⁴ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ments, Haj pilgrimage etc.¹

82. However, the law has come under repeated criticism from civil society for not being adequately rights-based and for favoring war victims over other persons with disabilities.

Legal Reforms

83. Despite government’s promise to reform laws and bring them in conformity with its human rights obligations, the reform efforts move at snail’s pace. The government has not yet initiated a vigorous systematic process to harmonize its domestic laws with human rights conventions to which it is a party. However, the law related disability is under amendment process. The representatives of disability related civil society organization regularly attend the review sessions.²

ARTICLE 6 — WOMEN WITH DISABILITIES

Data about Women with Disability and their Situation in Afghanistan

84. There is no data about the specific situation of women and girls with disability. Neither there has been research on situation of women with disability nor there has been a mechanism to collect and provide disaggregated information on situation of women with disability. However, women and girls are normally subjected to multiple layers of discrimination.

Violence against Women with Disability

85. It is common almost everywhere that women and girls with disabilities face comparatively high degree of gender-based violence, sexual abuse, neglect, maltreatment and exploitation. However, there is no data on violence, sexual abuse, neglect, maltreatment and exploitation of women and girls with disabilities in Afghanistan.

Discrimination and Inadequate Access to Healthcare

86. Normally, women with disability face discrimination with regard to access to healthcare services. In particular, with regard to sexual and reproductive healthcare. In practice, gender specific health needs are not considered for women with disabilities while providing healthcare services.

¹ The Report on Situation of the Rights of Persons with Disabilities in Afghanistan (AIHRC report released in 2014)
² Information provided during consultations on this report
Discrimination in Employment

87. Women with disability are significantly discriminated in employment. Women with disabilities are almost absent from workforce in Afghanistan. However, there is no disaggregated information on women with disabilities in employment.

ARTICLE 7 — CHILDREN WITH DISABILITIES

Policy Framework and Concluding Observation of the CRC Committee

88. There is no comprehensive national policy framework for children rights to articulate how their rights are implemented and monitored including the rights of children with disabilities. However, the UN Committee on the Rights of the Child asked the government...
of Afghanistan in 2011 to enact a comprehensive Child Act which should supersede all legislations that are not in conformity with the Convention, and provide children with appropriate means of redress. The government is the process of developing this document but we don’t know whether this would really supersede all legislations and would provide children with appropriate means of redress.¹

89. The CRC Committee had expressed concern over “the absence of a comprehensive data collection system, which allows disaggregation and further analysis of data on the living conditions of children, particularly girls, children in poverty, or children with disabilities”. The Committee had urged the government to establish a comprehensive data collection and analysis but so far the government has done nothing.

90. According to the CRC Committee “The Committee welcomes the National Strategy for Children with Disabilities (2008) and the Law on the Rights and Privileges of Persons with Disabilities and Martyrs’ Families (2010), which should ensure access to education and health services, and promote the participation of children with disabilities. The Committee is however concerned about the limited measures taken so far to implement the law and the strategy, and in particular to collect reliable data on children and their disabilities and support families raising children with disabilities. The Committee also expresses serious concern at the extent of maltreatment of children with disabilities in families and institutions, including psychiatric medication and deprivation of education for the majority of children with disabilities, in spite of the goals set in the above-mentioned National Strategy for Children with Disabilities.²

91. The Committee recommends that the State Party strengthen its efforts to implement the National Strategy for Children with Disabilities (2008) and the Law on the Rights and Privileges of Persons with Disabilities and Martyrs’ Families (2010), and in particular:

1. Collect data enabling analysis of the extent and nature of disabilities, and the conditions under which the children live;

2. Provide adequate financial, technical and educational support to families caring for children with disabilities in order to prevent their institutionalization;

3. Make sure that children with disabilities are not exposed to violence or neglect, and carefully monitor all facilities which work with children with disabilities;

4. Ensure access to education for all children with disabilities, and implement inclusive education by a realistic time-bound strategy which is effectively monitored;

¹ Information provided during CCD’s consultations on this report
² CRC Committee’s Concluding Observation (2011)
31 Ensure that the right of children with disabilities to participate in all measures of concern to them is respected”.1 However, of five bullet points (a-e), only ‘d’ is partially implemented. While for the rest no action is taken yet.2

92. The principle of ‘best interests’ of children is not respected to large extent by the government of Afghanistan. Afghanistan has not applied fully the principle into its policies and strategies in particular in the case of children with disabilities.3

93. With regard to respect of the views of the child, the CRC has also expressed concern: “The CRC Committee is concerned that traditional societal attitudes towards children limit, and often totally prevent, children from expressing their views on issues that affect them and from having their views duly taken into account within the family, schools, other children’s institutions, the judicial and administrative system, and society at large. The Committee also notes with concern that although the 2005 Juvenile Code provides therefor, the right of children to be heard in any judicial or administrative proceedings affecting them is rarely respected, especially when girls are concerned, and children are not present or often requested not to speak during proceedings that concern them”.4

94. The Committee had urged the government of Afghanistan to “undertake appropriate measures to fully implement the right of the child to be heard, the Committee urges the State party to actively combat negative attitudes which impede the full realization of the child’s right to be heard through public education programmes and campaigns, including opinion leaders and the media, and to pay special attention to the particularly disadvantaged situation of girls in this regard. The Committee also urges the State party to amend its civil and criminal code to ensure that children are heard in judicial and administrative proceedings affecting them. The Committee draws the attention of the State party to its General Comment No. 12 (2009) on the right of the child to be heard (CRC/C/GC/12)”5

95. In practice, the government of Afghanistan has not ‘taken appropriate measures’ with regard to respecting the right of the child to be heard. The case is even worse with children with disability.6

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1 CRC Committee’s Concluding Observation (2011)
2 Findings from CCD researches
3 Information provided during CCD’s consultations on this report
4 CRC Committee’s Concluding Observations (2011)
5 CRC Committee’s Concluding Observations (2011)
6 Information provided during CCD’s consultations on this report
ARTICLE 8 — AWARENESS-RAISING
Lack of Awareness on Disability Rights

96. Unfortunately, the government of Afghanistan, so far, has not taken initiatives to provide disability awareness, training and resources. There are no media guidelines to avoid stereotypes, and communicate, and interview persons with disabilities to have their perspectives as citizens.¹

97. The general level of awareness about the CRPD remains extremely limited, particularly with regard to disability rights. There is no strategy or awareness-raising programs on per-

¹ Information provided during CCD’s consultations on this report
persons with disabilities by utilizing appropriate channels of communication, such as media, education systems, public awareness campaigns and awareness-training programs. Lack of disability awareness often results in continuing stigma towards persons with disabilities in enjoying their rights and using services. The presentation of persons with disabilities as burden on family and society, perpetuates an image of disability as being about personal incapability at the individual level and a social and economic impediment at the societal level.  

ARTICLE 9 — ACCESSIBILITY

Policy Framework Related to Disability

98. All facilities for the continuation of a normal life, must be accessible for all social strata on an equal basis and without discrimination of any kind. Physical accessibility for the persons with disabilities as mentioned in the national and international documents is an important issue for inclusion of persons with disabilities in social life. Article 25 of the Law on the Rights and Privileges of the Persons with disabilities about designing constructions and transportation reads: “The ministries, state administrations and other organs while designing constructions, buildings, recreation and sports sites, public roads, transportation and other technologies should take into consideration accessibility facilities for the persons with disabilities.”

99. Article 9 of the Convention on the Rights of Persons with disabilities which is about physical accessibility and enabling of the persons with disabilities to live an independent life and fully participate in all sphere of social life and specifies the locations including, “buildings, roads, transportation facilities and other indoor and outdoor facilities such as schools, houses, medical establishments, work environments, communication facilities and other electronic and emergency services.”

100. Resolution 48/96 of the UN General Assembly dated 20 Dec. 1993 on provision of equal opportunities and access facilities for the persons with disabilities reads:

“The states should take necessary measures for the removal of physical obstacles in front of the persons with disabilities in the living environment. Such measures should include devising of standards, guidelines and evaluation of the laws for ensuring accessibility of the
persons with disabilities to different facilities in the society like houses, buildings, public transportation services and other transportation means, roads and other facilities.

- The states should ensure that sufficient information about policies related to the persons with disabilities and necessary measures for realization of access facilities are put at the disposal of constructors, architects and others who are involved in designing and building of physical environments.

- The conditions related to access facilities for the persons with disabilities should be included in the designing and building of the physical environment at the beginning stages.

- While establishing norms and criteria of access facilities for the persons with disabilities consultation should be made with their organizations. These organizations should be involved in planning and designing of the construction projects and building process at the local level to ensure maximum access facilities for the persons with disabilities”.

### Accessibility to Public Buildings

101. According to AIHRC, 29.2% of the public buildings used by persons with disabilities have ramps to facilitate their entrance while 66.6% of them do not have such facility. AIHRC monitored the public buildings in only secure provinces. The focus of the AIHRC team has been on public educational facilities like schools and universities.

102. However, it is worth mentioning that most governmental buildings, including some new ones, remain inaccessible by persons with disabilities.

### Accessibility to Public Transport

103. Afghanistan has very limited means of public transportation. There are buses in certain parts of big cities used for public transportation. Taxis, mini vans and individual vehicles are the most expanded means of transport. As for both private and public transport, none of them is accessible by persons with disabilities. No privilege such as custom duty exemption and special parking lots are available to persons with disabilities. Additionally, there is no proper sidewalks for persons with disabilities.

### Accessibility Challenges Faced by Persons with disabilities

104. So far, Afghanistan has not taken appropriate measures to ensure equality of access for persons with disabilities. There is no strategy or standard for accessible public buildings and

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1 Resolution 48/96 of the UN General Assembly
2 Study on the Situation of Physical Accessibility for Persons with disabilities to Public Places
3 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
transport. Specifically, there is no transport services for children with disabilities.¹

105. Accessible transport, is a big problem in remote areas where large distances, lack of transport means and being unable to afford aggravates the situation for persons with disabilities particularly where no other alternative exists. Making private services such as taxi services or domestic airlines accessible is still a dream for persons with disabilities.²

My name is Farhad Noori residence of Isa Khan Area Bamyan City, I am 20 years old now; I was two years old during the fighting due to lack of polio vaccination I acquired disability, we moved to Iran and there I only could continue literacy (reading and writing),

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
returned back to Afghanistan 10 years ago, my house is about 3 KM far from city, about a year ago I came to know about ALSO activities in Bamyan, right now I am studying computer and English at ALSO

I am at class 10 in Bamyan Boys High School though there is ramp constructed but still there are physical barriers in my school,

My family is fully supporting me, they bought a motorcycle for me, without family support is very difficult to work and solve my own life issues, the reasons that my family is supporting me is that are educated, at home I am using wheelchair.

I have problem in my mathematics and physics but my favorite subject is Dari and literature and enjoy the meaning of poems, due to education centers are not accessible in Bamyan I cannot attend, sometimes become upset by people behaviors, in order not to miss my school and be on time about two years ago ICRC provided me an orthosis, unfortunately the process was time consuming lasting about 3 weeks to finish fitting of orthosis and also made me tired and uneven ground delayed my daily arrival to school.1

1 Bamyan Monitoring Mission Report on VA / Disability (Mine Action Coordination Center of Afghanistan)
ARTICLE 10 — RIGHT TO LIFE

Policy Framework on Right to Life

106. Domestic laws in Afghanistan do not guarantee the right to life. However, Afghanistan has ratified the International Convention on Civil and Political Rights (ICCPR) which guarantees the right to life. But international treaties are not referred to as judicial document; their provisions must be incorporated into domestic laws to make them application. Or specific legislation must be enacted to incorporate the right to life. However, the right to life does manifest in criminal law, through the prohibition of intentional or reckless killing.

Connection Between Survival and Standard of Living

107. There is high correlation between survival and access to adequate standard of living. There has to be a mechanism in place to protect citizens against discrimination on the basis of disability such as employment, education, health the provision of goods and services and access to housing.¹

Lack of Data on Right to Life

108. There is no data on life expectancy of persons with disabilities in Afghanistan but like many other developing countries the life expectancy of persons with disabilities is low due to their limited access to healthcare services, education, extreme poverty and access to other services and support.

Contributing Factors to Non-enjoyment of Right to Life

109. Prolonged conflict in Afghanistan in addition to loss of thousands of lives and maiming, each year, causes psychiatric problems. However, there is no data on the number of people suffering from psychosocial disability. A number of these people commit suicide each year. Lack of available services for person with psychosocial disability is in stark contrast compared to other health care concerns. Lack of mental healthcare and suicide prevention strategy calls into question the commitment of the government to guarantee right to life; and signifies inequality on the basis of disability in enjoying the right to life and survival.²

¹ CCD’s desk study research
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 11 — SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES

Domestic Arrangements on Situation of Risk and Emergencies and Government’s Failures

110. Afghanistan has enacted the Law on Disaster Response, Management and Preparedness. Under this law a National Disaster Management Commission, chaired by the Second Vice President was established. The Commission is the principal body for setting out national policy for responding to emergency situations. The Afghanistan National Disaster Management Authority (ANDMA) is the principal executing body at national level acting as the Secretariat for the Commission.¹

111. Despite creating the law and institutional framework, emergency response planning has categorically failed to respond to natural disasters. The institutions exist by names without tangible achievement. There is no proper early warning system, evacuation plans and plans for restoring or improving the pre-disaster living conditions of the stricken community. Importantly, the actions taken by the Commission categorically ignore to contain provisions needed to protect the safety of persons with different types of physical, intellectual, sensory or communication abilities.²

112. The disability plans and policies do not contain specific measures to address emergency response for persons with disabilities. Disability organizations or individuals are not consulted in devising emergency management plans.³

UNAMA Report on Civilian Casualties⁴

113. The recent UNAMA report on civilian casualties “shows a record number of civilian casualties since counting began in 2009, with 5,166 civilians recorded killed or maimed in just the first six months of this year, of whom almost one-third were children. The total civilian casualty figure recorded by the UN between 1 January 2009 and 30 June 2016 has risen to 63,934, including 22,941 deaths and 40,993 injured”. There is no disaggregated data on the number of people who acquired permanent disability as a result of conflict. Afghanistan must act to stop civilian casualties. Under CRPD Afghanistan should take all appropriate additional measures to secure the safety of persons with disabilities.⁵

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² http://www.andma.gov.af/dr/home
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
⁴ http://unama.unmissions.org/protection-of-civilians-reports
⁵ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 12 — EQUAL RECOGNITION BEFORE THE LAW

Legal Provision on Equality before the Law

114. Para 2 of the Article 22 of the Afghan Constitution states: “The citizens of Afghanistan, man and woman, have equal rights and duties before the law”. This is the only legal guarantee on paper for equality before the law. In practice neither man and women are equal before the law nor persons with and without disabilities. Moreover, no other laws, policies and practices provide a presumption of legal capacity for persons with disabilities. Practices deny or diminish persons with disabilities’ ability to exercise legal capacity. The problem is more severe with persons suffering from psychosocial or intellectual disabilities.

Persons with Intellectual Impairments are not Recognized Equal Before the Law

115. Persons with cognitive impairments are automatically disqualified from holding property. Their fathers, grandfathers or grand grandfathers have to act on their behalf. They are not able to benefit from equal protection of the laws because they are prohibited by law to take action on their own.\(^1\)

116. The capacity of persons with cognitive impairments to participate as witnesses in court proceedings is not recognized by law, therefore crimes happened in their presence or to them go unpunished.\(^2\)

117. Persons with cognitive impairments are not allowed to exercise their rights to make a will on an equal basis with persons without disabilities.\(^3\)

118. Persons with cognitive impairments can inherit property but they are not allowed to make use of their properties or to have access to financial credits. They are prohibited from any financial transaction. Any transaction by them is considered invalid.\(^4\)

Legal Reforms Needed to Fulfill Requirement of Article 12 of the CRPD

119. Laws and policies should undergo extensive reforms to meet obligations under CRPD Article 12 and to enable persons with disabilities to assert and exercise legal capacity and to have safeguards against abuse and exploitation.\(^5\)

120. Little or no effort has been made so far to address and support processes tailored to maximize persons with disabilities’ potencies to exercise their legal capacity.\(^6\)

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\(^1\) Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
\(^2\) CCD’s desk study research
\(^3\) CCD’s desk study research
\(^4\) Information provided during consultations for this report
\(^5\) Information provided during consultations for this report
\(^6\) Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 13 — ACCESS TO JUSTICE

Lack of Data on Access to Justice and Challenges Faced by Persons with disabilities

121. There is no disaggregated data on persons with disabilities’ representation in the justice system of Afghanistan whether as complainants, defendants, victims or witnesses and even employees with disabilities. However, it is generally perceived that persons with disabilities experience difficulties to access justice and often find the justice system hostile and structurally inaccessible. Their inability to pay for legal services has further limited their access to justice.

122. Deficiencies in the provision of legal services are further magnified in remote areas where corruption prevails across legal and judicial entities.¹

Lack of Knowledge and Awareness Among Legal and Judicial Staff

123. Lack of awareness about disabilities issues among judicial staff and legal practitioners have led to discrimination and negative attitudes towards persons with disabilities. In particular, persons with cognitive disability find it difficult to establish credibility while interacting with justice system.²

124. There is a great need for training the judicial officials and legal practitioners on how to accommodate persons with disabilities in the justice system.³

125. Afghanistan must make appropriate accommodations to ensure that persons with disabilities have the same opportunity as others to participate in all legal proceedings.

ARTICLE 14 — LIBERTY AND SECURITY OF PERSON

Policy Framework on Liberty and Security of Person and Guardianship Challenges

126. Afghanistan’s legislations protect - on paper - the liberty and security of all citizens including the persons with disabilities. In practice there is little that legislations can do to safeguard citizens including the persons with disabilities no to be deprived of their liberty without lawful reasons. However, it is generally perceived that persons with disabilities experience higher degree of deprivation of their liberty and security of person than the general population.

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
127. There is no guardianship legislation for persons with disabilities. However, Afghanistan has a children guardianship law which is also silent on guardianship of children with disability. The law further prohibits the guardianship of persons with disabilities in particular if their disability is considered barrier to their guardianship. There are provisions in the law which are in direct contradiction with the provisions of the CRC to which Afghanistan is a party.¹

128. There is not sufficient law provisions on treatment of persons with psychosocial disability. Persons with psychosocial disability are normally deprived of their liberty and security. The unwritten social norms extremely restrict autonomy of persons with psychosocial disability.²

**Criminal Charges Against Persons with Cognitive Impairment**

129. Persons with cognitive impairment are not found guilty of any criminal charges according to the Afghan penal law but in practice those committing crimes are detained and incarcerated mainly in psychiatric facilities for an indefinite period of time. Police normally behave inappropriately with persons suffering from cognitive impairment.³

**Access to Special Services**

130. There are no special services for persons with disabilities in prisons such as access to relevant aids and communication devices, sign language and personal care and hygiene.⁴

**ARTICLE 15 — FREEDOM FROM TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT**

**Legal and Policy Framework on Freedom from Torture**

131. Torture is prohibited and criminalized under Afghanistan’s Constitution and laws. However, the penal laws do not deal with specific types of harms experienced by persons with disabilities.⁵

132. Afghanistan is also signatory to the Convention against Torture and Other Cruel, Inhu-
man or Degrading Treatment or Punishment (CAT).\(^1\)

**No Report or Disaggregated Data on Situation of Places of Confinement for Persons with disabilities**

133. There is widespread allegation of torture and ill-treatment of conflict-related detainees in Government detention facilities, specifically in the detention facilities run by NDS, according to UNAMA report.\(^2\) However, there is no disaggregated information on detainees with disability. Yet, the persons with disabilities are subjected to treatment that may fall under CAT definition of torture, cruel, inhuman or degrading treatment. Persons with disabilities normally face long-term neglect of basic human needs and degrading behaviors.

134. There is no report by human rights watch-dogs on situation of persons with disabilities in places of confinement such as psychiatric facilities.\(^3\)

135. Generally, perpetrators of crime of torture are not held accountable; in cases when perpetrated against persons with disabilities; it is justified or remain invisible and are not recognized as torture or other cruel, inhuman or degrading treatment or punishment.

**Imprisoning Practices**

136. Persons with disabilities are usually subjected to unregulated imprisoning practices. Imprisoning practices also constitute punishments which are used against persons with disabilities as means of discipline by support providers including the family members. Under the guise of their ‘best interest’ or protection, majority of persons with disabilities in particular persons with psychosocial disability and cognitive impairments are subject to physical discomfort, prevention of freedom of movement, deprivation of liberty and deprivation of access to property. However, there is no data or research report on the use of restraining practices and the impact of these practices on persons with disabilities. Neither there is disaggregated data on women and children with disability.\(^4\)

137. Persons with disabilities are usually subjected to unregulated imprisoning practices. Imprisoning practices also constitute punishments which are used against persons with disabilities as means of discipline by support providers including the family members. Under the guise of their ‘best interest’ or protection, majority of persons with disabilities in particular per-

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1. Article 29 of the Afghan Constitution (2004 Constitution)
3. Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
4. Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
persons with psychosocial disability and cognitive impairments are subject to physical discomfort, prevention of freedom of movement, deprivation of liberty and deprivation of access to property. However, there is no data or research report on the use of restraining practices and the impact of these practices on persons with disabilities. Neither there is disaggregated data on women and children with disability.¹

138. The following factors normally result to incidence of imprisonment and seclusion:²

a) In remote areas and even in urban areas, families feel ashamed - due to social stigma - of their family members with disabilities in particular with cognitive impairment and psychosocial disability;

b) Persons with disabilities often feel devalued in society and lack self-confidence. Therefore, they often opt self-imposed seclusion.

c) Imprisonment and seclusion is culturally accepted as preferred means of behavior controlling technique.

d) Insufficient awareness on disability and inadequate community based support to provide appropriate level of family care and support.

ARTICLE 16 — FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

Legal, Policy and Administrative Framework Against Exploitation, Violence and Abuse

139. There is no specific legislative, policy and administrative framework for the protection of persons with disabilities against exploitation, violence and abuse. Terms such ‘neglect’ and ‘abused’ are not criminalized under domestic laws. Neither there is a mechanism to investigate cases of exploitation and prosecute the violators. However, persons with disabilities are more prone to violence, exploitation and neglect. The likelihood of persons with disabilities fall victims of crime is usually more than others.³

140. There is no disaggregated data available in Afghanistan in relation to exploitation, violence and abuse of persons with disabilities. However, in practice, women with disability, regardless of age, ethnicity and social status are subjected to high degree of exploitation, violence and abuse, including domestic and family violence.⁴

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¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ CCD desk study research
⁴ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
Persons with Disabilities Are Forced to Beg in the Streets

141. Thousands of persons with disabilities including men, women and children beg in the streets in Afghanistan’s big cities. Majority of them are forced to entreat people to pay them. Persons with disabilities in this business are at high risk of physical and sexual violence, and verbal and psychological abuse.¹

Situation of Residential Care Facilities

142. There are very few institutions and residential care facilities in the country which are not adequately staffed or have staff members with insufficient training to spot, prevent and respond to exploitation, violence and abuse. Current care facilities do not meet requirements of the CRPD to accommodate persons with disabilities including children and women with disabilities.²

Protection Measures and Incidence of Exploitation, Violence and Abuse

143. There is no protection measures and support plans to assist persons with disabilities who are subject to exploitation, violence and abuse.³

144. Despite high degree of incidence of exploitation, violence and abuse against women with disability, there is extreme lack of knowledge and expertise and a range of structural barriers within domestic violence, sexual assault and harassment that prevent appropriate measures and responses to support women with disability.⁴

¹ http://warisacrime.org/content/afghan-street-children-beg-change
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
⁴ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 17 — PROTECTING THE INTEGRITY OF THE PERSON

Legal and Policy Framework on Integrity of the Person

145. There is no law or policy for involuntary treatment of persons with psychosocial disability with intention to protect them not to harm themselves or others by providing enforced treatment in mental health facilities. However, almost every person with psychosocial disability and cognitive impairment experiences serious infringements of their human rights and widespread neglect, abuse and exploitation.¹

Deceases of Persons with disabilities in Psychiatric Facilities

146. Deaths of persons with psychosocial disability at state-run psychiatric facilities are usually not investigated. Given that all hospitals in Afghanistan are poorly equipped; understaffed or staffed with poorly qualified doctors and nurses, there is high probability of serious failings of health staff which in many cases contribute towards unexpected deaths.²

Data on Protection of Mental and Physical Integrity of Citizens

147. There is no data available with regard to protecting the mental and physical integrity of individuals. In fact, protection and respect for physical and mental integrity of individuals has never been a matter of concern in the Afghan society. Neither the ‘duty bearers’ see themselves obliged to protect the integrity of citizens nor the ‘right holders’ expect the authorities to protect it. The disrespect for integrity of person is always overshadowed by breach of their other basic rights.³

ARTICLE 18 — LIBERTY OF MOVEMENT AND NATIONALITY

Freedom of Movement, Nationality and Lack of Data

148. On paper, persons with disabilities have the same freedom and right to move within Afghanistan and obtain citizenship documents. However, persons with psychosocial disability or person suffering from intellectual impairment have very limited chance to travel. Freedom of movement of women with disability is out of question.⁴

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
⁴ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
149. There is no data available on restriction on movement and nationality of persons with disabilities.¹

ARTICLE 19 — LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

Legal Framework and Challenges of Independent Living

150. There is no legal provision on independent living of the persons with disabilities. However, the family members of the persons with disabilities do not allow their members of family with disabilities to live where they would like to live. The right of women with disability to live independently is out of question. Autonomous living of persons with disabilities is not recognized culturally.

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
151. Persons with disabilities often benefit from home care services, which require persons with disabilities to live and remain in their own homes.¹

152. Poverty is another factor which does not allow persons with disabilities to live autonomously. They have to rely on home care services.

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)

Ekram, 65 years old and a landmine survivor. Here Ekram is praying at the Ma’zar-e-Sharif mosque in Rawza Hazrat-e-ALI. Ekram’s family has emigrated to Iran and he lives alone in a small room in the city. He spends most of his time praying at the mosque and people donate money to him.
ARTICLE 20 — PERSONAL MOBILITY

Legal Framework on Personal Mobility

153. There is no law or policy framework to ensure personal mobility with greatest possible independence for persons with disabilities.

Access to Technology and Assistive Devices

154. The government has inadequate plan to facilitate access to assistive devices, technologies, mobility and forms of live assistance and training in mobility skills, and to make these available and affordable. The services are mainly available in big cities and with limited service coverage areas, and are less sustainable.¹

Challenges of Mobility in Rural Areas

155. Persons with disabilities in remote and rural areas are not even able to use wheelchairs as mobility device because of poor conditions of pathways and roads.²

ARTICLE 21 — FREEDOM OF EXPRESSION AND OPINION AND ACCESS TO INFORMATION

Legal Framework on Freedom of Expression

156. The Constitution has recognized freedom of expression and opinion, and access to information without any distinction between persons with and without disabilities. In practice only persons without disability have freedom of expression and opinion to a large extent but even they don’t have access to information as the law on Access to Information is not applied across the state institutions.³

Factors Restricting Freedom of Expression and Non-availability of Data

157. Persons with disabilities including children with disability do not enjoy their right to freedom of expression and opinion, and access information. A number of factors restrict their ability to express their views and opinions such as language, appropriate and accessible format of information and augmentative communication aids and personal required by some persons with disability to provide their opinions, to access information and to participate in consultations. All other information intended for the general public remains in an inac-

¹ CCD desk study research
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
accessible format and language for persons with disabilities. Problems are not only limited to
government laws and policies but to information given at public places such as government
institutions, hospitals, schools and other support providing facilities, as well.¹

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cessible format and language for persons with disabilities. Problems are not only limited to
government laws and policies but to information given at public places such as government
institutions, hospitals, schools and other support providing facilities, as well.²

ARTICLE 22 — RESPECT FOR PRIVACY

Legal Framework on Right to Privacy

159. The right to privacy is not recognized under Afghan legal framework. Respect for pri-
vacy of information in both public and private sector is not well regarded. Concerns about
individuals’ privacy is not limited to persons with disabilities, in fact it is with everyone.
However, there is no publicly reported, systematic disaggregated data available on respect
for privacy.

ARTICLE 23 — RESPECT FOR HOME AND THE FAMILY

Policy and Legal Framework on Respect for Home and Family

160. There is no legal and policy framework on respect for home and the family of persons with
disabilities. There is no report and data available on respect for home and the family life.³

161. There is no legislative or policy framework to determine a person’s capacity to understand
marriage or consent to marriage which is essential for family life. Mainly the guardian of a

¹ Article 34 of Afghan Constitution (2004 Constitution)
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ CCD desk study research
ARTICLE 24 — EDUCATION

Legal Framework on Right to Education

163. Women with disability lack information on reproductive health, pregnancy, reproduction and family planning. And, there is no information on policy and procedures about the reproductive health, pregnancy and post-natal needs of women with disability. Women with disability face social discrimination about their right to experience parenthood.\(^3\)

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\(^1\) CCD desk study research
\(^2\) CCD desk study research
\(^3\) CCD desk study research
Sketchy Implementation of the Laws and Policies, Lack of Resources and Accessibility Challenges in Remote Areas

164. Article 43 of the Constitution secures the rights to education for all the citizens of the country. At the same time article 54 stresses on the wellbeing of the child and obliges the government to take measures in order to secure the physical and psychological safeties of the family, especially that of the child and the mother. The education law adopted in 2008 guarantees the rights of every child to educational opportunities without any discrimination. Under Article 19 of the Law on Rights and Privileges of Persons with Disability, the ministries of education and higher education have to prepare a comprehensive policy for persons with disabilities. The National Strategy of Children with Disabilities adopted in 2008 aims to protect children with disabilities by taking measures to improve their access to education, health and vocational education and training according to their disability needs.\(^1\)

165. The Government of Afghanistan has a number of good laws and policies which is commendable but the laws and policies are poorly implemented. Moreover, there is limited information on accessibility of education, school attendance, factors affecting access to education, quality of education, availability of school books, education opportunities for children with disabilities, availability of experienced and qualified teachers specifically for children with disabilities. However, school teaching materials are often not available and accessible to students with disability.\(^2\)

Insufficient Inclusive Education

166. Inclusive education policies are no more than rhetoric. Little has been done to ensure inclusive education.

Number of School-qualified Children with Disabilities and Challenges of Dropouts

167. As per the figures provided by the International Organization of Persons with Disabilities (NDSA 2005) there were almost 196,000 school-qualified children with disabilities in Afghanistan in the year 2005, of which only 22.4 percent, including 15 percent of girls, attended normal schools and the rest were deprived of education. Of all these children, over 75 percent drop out of school at the primary education level.\(^3\)

168. The presence of children with disabilities in higher education after completion of secondary education is below 1 percent. The International Organization of Persons with Disabilities

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1 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
2 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
attributed school dropout to such factors as lack of appropriate educational materials, lack of trained teachers who can communicate with children with disabilities, discriminatory treatment of children with disabilities, and other similar factors.¹

169. The statistics provided by Handicap International is outdated, however, contributing factors depriving children with disability of accessing education remains almost the same since then. Though, no comprehensive and disaggregated fresh data is available.

**Recent AIHRC Data on Children with Disability Who Attend Schools and the Number of Schools for them**

170. According to the findings of the AIHRC, 78.8 percent of interviewed children with disabilities do not attend schools. Only 20.7 percent of interviewees attend schools. Majority of them i.e. 51.8 percent of the interviewees stated the long distance as barrier to their school attendance.²

171. Presently, there are only three schools for persons with visual impairment across the country. MoE provides education for 150 visually impaired children, which is not enough at all. Over 3,900 children with disabilities are educated informally by NGOs. According to the HRFM, 2.6% of girls and 0.6% of boys have never had access to schools with disability being the main reason. It is, hence, understood that Afghanistan has extremely limited educational facilities for children with disabilities and most of these children are deprived of education Children's Fair Access to Education in Afghanistan, AIHRC, 1387 (2008/09).

**Disability as a Barrier for Attending School**

172. Considering the figures contained in this research, 2.6 percent of all girls and 6 percent of all boys regarded their disabilities as the reasons why they never had any access to school.³

**Insufficient Resource Allocation**

173. Schools across the country receive insufficient funding and resources to meet the needs and requirements of students with disability. This undermines the ability of schools to apply measures that would bolster inclusion such as provisions of adaptive equipment and technology, and accessible transport.

² [www.aihrc.org.af](http://www.aihrc.org.af) (The Report on the Situation of the Rights of Persons with Disabilities in Afghanistan 2014). This study was conducted in 22 provinces and 883 persons with disabilities were interviewed.
Program on Promoting Positive Image of Persons with disabilities

174. There are few educational programs in promoting positive image of persons with disabilities within schools among teachers and students.¹

Vocational Trainings and Lack of Skills

175. With regards to technical education and vocational training, majority of governmental vocational institutions are not accessible to students with disabilities.²

176. Lack of trained and professional teachers is the most crucial barriers to providing appropriate and high quality support to students with disability at pre-school, primary and secondary level. Other shortcomings include: (a) inadequate disability awareness skills training which results in poor knowledge of multiple needs of students with disability. (b) teachers are not sufficiently trained in using means and formats of communication and educational techniques and materials to support students with disability.³

Specialized Schools and Limited Educational Facilities

177. In the law, it is stipulated that the Ministry of Education (MoE) and Ministry of Higher Education (MoHE) is in charge of financing specialized schools and education for certain forms of disability. The ministries’ interventions have not sufficiently addressed the needs of students with disabilities in Afghanistan, in terms of aligning sign language, provision of books with Braille and other accessibility requirements which have hampered inclusive education.⁴

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
⁴ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
178. It is, therefore, concluded that there are extremely limited educational facilities for children with disabilities in Afghanistan and that the vast majority of them are deprived of education.

179. The provision of health services is a key responsibility of the Afghan government. The government provides free health services through the public health system to all citizens across the country. However, the health system remains underfunded and under resourced resulting in poor provision of health services. With regard to poor health of persons with disabilities...
disabilities, barriers to health services, communication impediments, lack of specialist skills in the health care system are the major factors. Health is perhaps the most important problem for Persons with disabilities in Afghanistan. Inadequate of medical coverage and the limited availability of disability related medical services is a major problem. There is limited governmental medical institution that has specialized services for persons with disabilities. Persons with disabilities experience poorer access to health services despite the fact that they require more healthcare than the general population. Persons with disabilities face inequities and inequalities in accessing mainstream health services. Health facilities are often inaccessible; information is often not communicated; transport is often not accessible or affordable; private health services are often not affordable. In particular, mental health services are significantly under-resourced and there are widespread access problems for persons with psychosocial disability.¹

**Improved Health Services and Persons Living with Disability**

180. The Afghan health system has made considerable progress in the past 14 years. There are sound public health policies and good service delivery compared to the time of Taliban regime. The number of functioning health facilities has considerably increased in the past decade. The Ministry of Public Health (MoPH) undertook a series of critical and strategic steps by defining both Basic Package of Health Services (BPHS) and Essential Package of Hospital Services (EPHS). But the packages have less been implemented.

181. The 2.7% of Afghans live with severe forms of disabilities mainly caused by years-long war, landmines and other factors. Majority of them have very limited access to basic services. However, there is no updated reliable statistics for their accessibility to basic services such as education and healthcare.²

**New Findings on Accessing Health Services**

182. According to the new findings of the AIHRC, 42.8 percent of the interviewees said that the health clinics are in distance of 1-2km from their homes, 31.9 percent had said that clinics are 3-5km away from their homes and 24.3 percent had said that they have travel a distance of more than 5km to reach health clinics.³

183. Majority of the interviewees, 70.2 percent indicated lack of medical facilities and financial means as barrier to their access to health services. (35.7 medical facilities, 34.5 financial means).

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1 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
184. While state institutions have increased their efforts to advance disability rights including their access to health, the majority of services for persons with disabilities continue to be provided by non-government organizations.¹

185. Despite a number of laws and policies calling on the state’s responsibility to provide persons with disabilities with adequate coverage and health care, the implementation remains too sketchy.

¹ www.moph.gov.af

Razya, 31 years old, with her daughter Hasina, 3 years old. Here she is begging in one of the main streets in Mazar-e-Sharif. Since giving birth to her daughter, Razya has not been able to walk. When she became ill she didn’t have enough money to pay a doctor so her health got worse, leaving her almost paralyzed. Her husband sells vegetables in the street but he doesn’t make enough money to support the family.
ARTICLE 26 — HABILITATION AND REHABILITATION

Legal Framework on Habilitation and Rehabilitation

186. The right to disability services is recognized under Afghan laws and less has been done to ensure that persons with disabilities are included and are able to participate in all aspects of life: physical, mental, social and vocational. The present disability support system is under-funded, inefficient and unfair which gives little access to supports and services.1

Habilitation and Rehabilitation Programs and Challenges

187. Inadequacies in provision of habilitation and rehabilitation programs provided through the health system are similar to those of the health sector in general.2

188. Lack of community based rehabilitation services is a major challenge for those in need of rehabilitation services at remote areas.3

1 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
2 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
3 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
189. Persons with psychosocial or intellectual disability have to bear the brunt of disadvantages such as homelessness, poverty, abuse and incarceration.¹

ARTICLE 27 — WORK AND EMPLOYMENT

Employment Rate, Challenges and Situation of Labor Market

190. Unemployment rate in Afghanistan increased to 40 percent in 2015 from 25 percent in 2014, reaching an all-time high of 40 percent in 2015 and a record low of 8 percent in 2013². The employment rate for persons with disabilities in the public and private sectors is disproportionately low compared to persons without disability. Finding a job in the private sector for persons with disabilities is difficult; retaining employment due to the lack of flexibility offered by some employers in relation to work times, job conditions and stereotypes associated with their employment is even more difficult. The employment rate for persons with intellectual disability is significantly less than both persons with other disability and persons without disability.³

191. The Afghan labor market is characterized by a dominant agricultural sector, which represents the majority of the Afghan work force but the sector has suffered from nearly 30 years of conflict and drought. The average size of landholdings is also small, and as a result agriculture is rarely the main source of food or income. Persons with disabilities have more difficulty to work in the fields due to their impairments.

192. In the labor market too, the persons with disabilities experience more difficulty in accessing employment. This is even more the case for persons with cognitive disabilities and mental illnesses, and women with disabilities who are less likely than other persons with disabilities to access the labor market. There is a high level of stigma and prejudice towards persons with mental impairments especially when it comes to the labor market.⁴

Poverty and Challenges of Finding Jobs

193. However, for great majority of persons with disabilities, it is too difficult to find job in the labor market – both public and private sectors - despite the fact that access to employment for persons with disabilities is an effective way to fight poverty, reduce vulnerability, and strengthen social inclusion. According to disability law 3% of public sector employees should be persons with disabilities. If the law is effectively enforced, it ensures to a great

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² World Bank Report
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
⁴ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
extent the Persons with disabilities’ access to the labor market. However, equal opportunities, promoting equal wages and fair labor conditions still remains dream for persons with disabilities.

194. The Government continues to make efforts to pursue economic development by reducing poverty and unemployment. In particular, the government provides vocational programs, to create jobs including for those who are with disabilities. In recent years, the government has also worked to assist with high numbers of IDPs and returnees, to obtain decent work.

195. According to the findings of the AIHRC, “784 people making 88.8 percent of the interviewees had no official jobs, while, Article 22 of the Law on the Rights and Privileges of Persons with disabilities reads, “Based on the law, the government shall consider at least three percent employment quota for persons with disabilities who are eligible and apply for a job in the ministries and government agencies.”

196. Only 94 people, making up 10.6 percent of the interviewees stated that they had jobs.

197. According to the AIHRC, majority of those unemployed indicated disability as barrier to their employment.\(^1\)

**Legal Provisions on Employment and Regulation on Medical Services**

198. Pursuant to article 50 of the Constitution, State employees must be employed on the basis of qualification without any discrimination and conditions for recruitment of State employees are regulated by the 2005 Civil Service Law. According to the Civil Service Law, recruitment and appointment of civil servants should be based on candidates’ professional skills, such as education and professional experiences, through competitions. Any types of discriminations, based on gender, tribal, religious, and disabilities in the recruitment process is prohibited (arts. 2 and 11).\(^3\)

199. Article 53 of the Constitution requires that the State adopt necessary measures to regulate medical services as well as financial aid to survivors of martyrs and missing persons, and for reintegration of persons with disabilities and handicapped and their active participation in society in accordance with the law. The State shall guarantee the rights of retirees, and shall render necessary aid to the elderly, women without caretaker, persons with disabilities, and orphans in accordance with the law.\(^4\)

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3. Civil Service Law
4. 2004 Constitution
Disability as Barrier

200. Meanwhile, according to IMC, people who spoke to this media outlet had also said that their disability has come in the way of their finding work.¹

Improved Self-confidence and Discrimination

201. There is no program to increase the self-confidence of persons with psychosocial disability which is essential for their social inclusion and exhaustion of services.²

202. Systemic discrimination associated with negative attitudes and stereotypes, mindset against persons with disabilities that they are unable of working efficiently and effectively, adversely effects their chances of gaining employment.³

Statistics on Employment of Persons with disabilities

203. According to the AIHRC report “the statistic by the Central Statistics Office published in 2014 indicates that the total number of state employees is 382,076 people (300,487 men and 81,589 women), while the number of employees with disability [does not] exceeds 636

¹ www.pajhwok.xx (Independent Media Consortium is a joint initiative of Pajhwok Afghan News, The Killid Group (radio and print media), Saba Media Organisation (Saba TV-Radio Nawa networks) and daily newspaper Hasht-e-Subh. This story is part of a series of investigative reports on corruption and human rights cases supported by Tawanmandi).
² Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
³ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
people in 25 ministries. With regard to 3%, [allocate by law to the Persons with disabilities] the number of employees with a disability should have been 11,462 people in the state offices, but [there is] only 636 people (0.166%) [in the ministries which form] less than one percent”.¹

Ahmad Sha, 55 years old, deputy director and founder of the Community Center for the Disabled (CCD), an Afghan NGO. Here he is checking a new proposal in his office in Kabul. Haji is a landmine survivor who lost both hands to a landmine in the Nangarhar province. Haji very proudly states that four of his children go to university; one of them is actually attending two university courses – he is studying social science and engineering.

¹The Report on the Situation of the Rights of Persons with Disabilities in Afghanistan 2014 (AIHRC)
ARTICLE 28 — ADEQUATE STANDARD OF LIVING AND SOCIAL PROTECTION
Challenges of Adequate Standard of Living and Impact of Conflict

204. For majority of Afghans the level of income is insufficient to ensure an adequate standard of living. Persons with disabilities are less likely to earn enough to meet their basic needs. However, there is no data or research report on adequate standard of living and social protection. Yet, there is substantial lack of access to proper housing and urban infrastructure including clean water and sanitation for all citizens. The condition is worse for persons with disabilities. Majority of persons with disabilities live in destitute families where there are higher proportions of disease, abuse and domestic violence. The government’s hardly any

Sakyna, 18 years old, (left) and Fatima, 22 years old. The girls weave carpets in the village of Aliabad, in Mazar-e-Sharif. Sakyna has cerebral palsy and her left leg is shorter and weaker. Fatima became mute after an infection in her throat. Khawar, 34 years old (not in the photo), trains them how to weave carpets. The project is organized by the Swedish Committee for Afghanistan (SCA). Sakyna uses orthotics and a walking stick to move around.
disability support programs and services do not reach persons with disabilities in remote communities.¹

205. Afghanistan is one of the poorest countries in the world. Since the Soviet invasion in 1979, it has been the scene of a series of conflicts that have continued for over three decades. In addition to other evils of continued-conflict, it had negative economic consequences for people too. The government estimates that 42 per cent of the country’s total population lives below the national poverty line. Another 20 per cent of the people live just above that line; prone to falling into poverty.²

Fatima, 25 years old, prepares the oven to bake bread for her family and neighbours. Fatima suffered a serious infection to her face when she was nine years old and she lost part of her chin bone. She is paid 10 Afghani for every loaf of bread. Before the infection she worked as a shepherd in the Province of Ghur, her home. People avoid survivors of facial diseases. Nobody wants to speak to them, and they are isolated. People don’t even want to look at them. When Fatima’s brother married, he decided to offer Fatima in marriage to his future brother-in-law (an Afghan tradition known as Badali). She is now married with two children.

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
² http://www.outlookafghanistan.net/topics.php?post_id=8172
ARTICLE 29 — PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Political Life and Discrimination against Persons with disabilities

206. Free and fair elections are a cornerstone of democracy and essential to keeping governments accountable. But in many parts of the world the fundamental right to vote is denied to persons with disabilities. Persons with disabilities are frequently marginalized and rarely have a voice in political decision making. The voices of persons with disabilities, often the poorest of the poor, are frequently overlooked in political decision making.

207. Despite being state party to the Convention on the Rights of Persons with Disabilities, however, the new electoral law discriminates against the rights of persons with disabilities including landmine and cluster munitions survivors, by inclusion of an article which prohibits any person with physical or mental disabilities to candidate him/herself for presidency or parliament.

208. Article 29 of CRPD states that persons with disabilities are entitled to participate equally in political and public life. This includes the right to cast ballots in an independent and secret manner, and participate in decision making processes that affect themselves. Political participation represents a strategic step in realizing the rights of persons with disabilities.

Political Participation of Persons with disabilities

209. According to a survey conducted by CCD: In July 2013, CCD conducted a survey to assess the level of participation of persons with disabilities in Afghanistan in past three elections. The survey was carried out in three city centers, namely, Balkh, Bamyan and Kabul.

210. 500 (335 males vs. 135 females) persons with disabilities participated in the survey. The sample universe included (339) physical, (80) sensory, (44) multiple, (20) neurologic and (14) psychologically impaired individuals. All respondents were eligible as voters in past three elections “as this was an important survey inclusion criterion”

211. Among the key results, it was found that (302) persons with disabilities among the respondents participated in the elections while (198) did not. This indicates a participation rate of (60.4 %).

212. It was also determined that the level of participation has been correlated with type of disability and gender, for instance, participation rate for physically disabled was (73 %) while it was (18 %) for persons with neurologic disorders.

213. Participation by men and women reflected as 66 and 48 % respectively. To determine

whether this difference is significant, the statistical test for two proportions was employed. The test found a statistically significant result between men and women’s participation. It concluded that the difference in participation is not due to chance but women with disability had experienced higher barriers than men with disability.

**Challenges Experienced by Persons with Disabilities**

214. Major challenges experienced by persons with disabilities during past three elections included; inaccessibility of polling stations (26%), lack of accessible transportation facilities (17%), lack of civic education programs (15%), unfamiliarity with voting process (14%), long distance from residence (14%), Less cooperative behavior of polling stations staff (14%).

215. Major barriers to participation experienced by persons with disabilities who had not participated in any of past elections comprised; not having voter cards (17%); fear of being disabled (16%); not sure how to vote (14%); long distance to and from the voting areas (9%); lack of information about location of polling stations (8%); considering elections as not important (8%); lack of permission from family (8%); inaccessible polling stations (7%); security concerns (6%); nonexistence of polling stations in the adjacent areas (3%).

216. Regarding accessibility of the polling stations to persons with disabilities, (40%) of respondents reported that polling stations were not accessible. (73%) of respondents who participated in elections have been living in approximate 10 to 30 minutes walking distance from polling stations. (26%) lived in 60 to 120 minutes walking distance.

217. Many polling stations had no parking areas or adequate signage to provide direction to persons with disabilities.

218. Also, the doors were not wide enough for wheelchair users to get through and most of them had no ramps or pathways to enable access of persons with disabilities.

219. However, article 29 of CRPD asks state parties to take all feasible steps to facilitate and encourage participation of persons with disabilities in Government and other civic activities, such as the right to vote, stand for election or participate in political organizations.

220. Afghanistan has failed to some extent to implement this article of CRPD.

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ARTICLE 30 — PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

Policy Framework and Barriers on Participation in Cultural Life, Recreation, Leisure and Sport

221. There is no government policy with regard to increasing participation of persons with disabilities in social, cultural, religious, recreational and sporting life in communities. Despite the fact that there are substantial social and attitudinal barriers which prevent or limit participation of persons with disabilities and creates a situation of isolation and loneliness. However, there are no all-inclusive measures to address these barriers, particularly the conditions that create isolation and loneliness. Nonetheless, there is little presence of persons with disabilities in sporting and cultural events. Majority of persons with disabilities have to often stay at home on account of being unable to protect themselves as the primary reason. There is prevailing attitude that facilitating participation in recreation and cultural events is a luxury rather than a right.\(^1\)

222. The formats used to convey art and culture are not always accessible for some persons with disabilities. Information on art events and cultural exhibits are inaccessible for persons with disabilities with sensory or cognitive impairment.\(^2\)

Consultations on Participation on Cultural Life

223. The inaccessibility of transport to cultural performances is another barrier to cultural participation.

224. Individuals with disability and disability organizations are not consulted on issues important to them.

225. There is no research report or data available on participation in cultural life, recreation, leisure and sport.

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1 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
2 Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 31 — STATISTICS AND DATA COLLECTION
Disability Related Data

226. The lack of nationally consistent disaggregated data on disability is a major concern for persons with disabilities. Unfortunately, there is no comprehensive statistics and data on disability.¹

¹ Consultations with Advocacy Committee for the Rights of Persons with Disabilities (ACRPD)
ARTICLE 32 — INTERNATIONAL COOPERATION

International Cooperation on Disability

227. There is no data available on international cooperation on disability. However, international organizations are the most active entities in providing support to persons with disabilities.¹

ARTICLE 33 — NATIONAL IMPLEMENTATION AND MONITORING

Challenges of Implementation and Monitoring of the CRPD

228. For the sake of promoting human rights and monitor the CRPD, this article requires Afghanistan to: (1) designate one or more disability focal points within the Government to facilitate implementation of the Convention; (2) establish a coordinating mechanism to facilitate action in different sectors and at different levels of government; and (3) designate or establish an independent monitoring mechanism such as a human rights commission or ombudsman. Civil society, particularly persons with disabilities and their representing organizations, must be included in the monitoring process. However, in practice, there is no functioning focal points within the government to facilitate the implantation of the Convention; inadequate coordination mechanism to facilitate action in different sector of the government; However, the AIHRC is monitors the implementation of the CRPD in line with its mandate and expertise.²

229. The government has not initiated a formal and systematic process to implement the Convention on the Rights of Persons with disabilities.³
RECOMMENDATIONS (A)

CCD RECOMMENDATIONS FOR IMPROVING THE STATUS OF PERSONS WITH DISABILITIES

In order to support increased implementation of Afghanistan’s commitments under the UNCRPD, the CCD has prepared a list of commendations. The recommendations call upon the Afghan Government to:

ARTICLE 4 — GENERAL OBLIGATIONS

- Amend and reform laws that infringe the Afghan Constitution and international legal standards and ensure full implementation of existing laws and policies;
- Afghanistan must implement all recommendations it has received so far from the Universal Periodic Review and Treaty Body in particular the recommendations on disability.
- Afghanistan must make sure that persons with disabilities through their representative organizations, are meaningfully engaged in development and implementation of legislations and policies to contribute to implementation of the CRPD and other decision making processes concerning issues relating to persons with disabilities.

ARTICLE 5 — EQUALITY AND NON-DISCRIMINATION

- Identify and register, without discrimination, persons with disabilities entitled to social protection and develop mechanisms to protect their needs;
- Work in close cooperation with civil society to initiate campaigns and longer-term programs to eradicate discrimination and stereotypes against persons with disabilities in Afghanistan;
- Ensure that there is no discrimination on the basis of how or when disabilities came about while providing financial support and employment opportunity;
- Ensure that social welfare entitlements are administered according to the same criteria for all persons with disabilities, regardless of where they live or how and when their disability came about;

ARTICLE 6 — WOMEN WITH DISABILITIES

- In order to establish a baseline on the situation of women and girls with disability, Afghani-
stan must conduct a comprehensive assessment in order to check future progress towards the Convention on the Rights of Persons with disabilities.

**ARTICLE 7 — CHILDREN WITH DISABILITIES**

- Initiate special measures to encourage an increased number of children with disabilities to enroll in schools;
- Afghanistan must ensure that the rights in the CRPD, including the principle of the best interest of the child are incorporated into legislation, policies and programs of the government.
- Afghanistan must ensure that children and young persons with disabilities are equitably permitted to participate in consultations and decision-making processes.

**ARTICLE 8 – AWARENESS-RAISING**

- Provide awareness raising programs regarding the rights and capabilities of persons with disabilities with a view to combatting stereotypes, prejudices, and harmful traditions directed at Persons with disabilities;
- Afghanistan must develop and implement awareness raising programs on the rights of persons with disabilities across all government institutions.

**ARTICLE 9 – ACCESSIBILITY**

- Commit adequate funding to ensure accessibility of persons with disabilities to public premises and facilities and provide sign language interpretation services and signage and other materials in Braille;
- Ensure that all public transports are accessible to persons with disabilities;

**ARTICLE 10 – RIGHT TO LIFE**

- Ensure that persons with disabilities have the same right as others to enjoyment of the right to life.
ARTICLE 11 — SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES

- Afghanistan must develop policies and guidelines to coordinate the work of emergency and ensure that support services for persons with disabilities are accessible during an emergency and in the recovery phase.

ARTICLE 12 — EQUAL RECOGNITION BEFORE THE LAW

- In consultation with persons with disabilities, Afghanistan must conduct a comprehensive audit of laws in order to repeal or nullify legal restrictions and enable persons with disabilities to inherit and access property and to provide support to assist persons with disabilities in making decisions and exercising their legal capacity.

ARTICLE 13 — ACCESS TO JUSTICE

- Afghanistan must develop comprehensive programs with focus on gender and cultural aspect of supports and to identify and prevent situations that contribute to children with disability coming into contact with law.

ARTICLE 14 — LIBERTY AND SECURITY OF PERSON

- Afghanistan must ensure that all legislative, administrative and policy frameworks that infringes the right to liberty of persons with disabilities are fully consistent with provisions of the CRPD.

ARTICLE 15 — FREEDOM FROM TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT

- Afghanistan must conduct a national inquiry into the cases of torture.

ARTICLE 16 — FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

- Afghanistan, in consultation with persons with disabilities and their representing organizations develop strategic framework for the prevention of exploitation, violence and abuse experienced by men, women, girls and boys with disability.
ARTICLE 17 — PROTECTING THE INTEGRITY OF THE PERSON
• Afghanistan must undertake nationally consistent measures for the collection and public reporting of disaggregated data across the full range of obligations contained in the CRPD.

ARTICLE 18 — LIBERTY OF MOVEMENT AND NATIONALITY
• Disability support arrangements for persons with disability should be delivered in a way they have the same freedoms as people without disability to choose where they live.

ARTICLE 19 — LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY
• Ensure that persons with disability are able to choose where and with whom they live.

ARTICLE 20 — PERSONAL MOBILITY
• Establish adequately funded program for assistive devices, aids and equipment to enable persons with disability to participate in community life.

ARTICLE 21 — FREEDOM OF EXPRESSION AND OPINION AND ACCESS TO INFORMATION
• Develop standards for accessibility of all information and communication.

ARTICLE 22 — RESPECT FOR PRIVACY
• Ensure that people with disability are provided with accessible information about their privacy rights.

ARTICLE 23 — RESPECT FOR THE HOME AND THE FAMILY
• Afghanistan must develop measures to raise awareness on the persons with disabilities and their families and agencies involved in child protection and to promote positive images of parents with disability in the community.
• (legal barrier)
ARTICLE 24 — EDUCATION

- Ensure good quality inclusive education at all levels of education for children with disabilities, in accordance with UNCRPD and commit financial and other resources required for implementation;
- Allocate separate budget for inclusive education in particular for children with disabilities and other Persons with disabilities, including environmental adaptation and physical accessibility and providing teaching assistants, sign language interpreters, and personal assistance etc.;
- Include a mandatory element on the rights of persons with disabilities in all teaching and training programs at public institutions;
- Increase the number of professional teachers for persons with disabilities in order to raise the quality of education and undertake further efforts to develop appropriate curricula and teaching methods for children with disabilities in inclusive manner;
- Afghanistan must conduct research into the effectiveness of its inclusive education programs.

ARTICLE 25 — HEALTH

- Ensure that health services are accessible by persons with disabilities and that the health personnel are well aware of the rights of the persons with disabilities;
- Afghanistan must conduct research into the state of health of men, women, boys and girls with disability to identify the gaps of health service delivery between persons with disabilities and the rest of the community.

ARTICLE 26 — HABILITATION AND REHABILITATION

ARTICLE 27 — WORK AND EMPLOYMENT

- Put more resource on vocational training programs for Persons with disabilities and create employment opportunities for persons with disabilities;
- Afghanistan must conduct a comprehensive research into the current employment support arrangements for persons with a disability with a view to developing a national plan to increase support for men and women with disability.
ARTICLE 28 — ADEQUATE STANDARD OF LIVING AND SOCIAL PROTECTION

- Afghanistan must conduct research into economic situation of persons with disabilities and collect disaggregated on links between disability and poverty to identify and design poverty alleviation programs.

ARTICLE 29 — PARTICIPATION IN POLITICAL AND PUBLIC LIFE

- Ensure equal participation by persons with disabilities in the electoral processes, including accessibility and confidentiality of the ballot and the provision of election materials and voting papers in all the accessible formats;
- Afghanistan must conduct review of the administrative arrangements to ensure that persons with disabilities can fully and equally participate in electoral processes.

ARTICLE 30 — PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

- Afghanistan must develop programs and plans to encourage participation in cultural and recreational opportunities in line with aspirations and preferences of individuals with disability.

ARTICLE 31 — STATISTICS AND DATA COLLECTION

- In accordance with articles 31 and 33 CRPD, build government capacity to collect data and statistics on persons with disabilities’ economic and employment situations, with a view to eliminate poverty;
- Afghanistan must undertake nationally consistent measures for the collection and public reporting of disaggregated data across the full range of obligations contained in the CRPD.

ARTICLE 32 — INTERNATIONAL COOPERATION

- Mainstream disability in the development agenda in order to achieve equality for persons with disabilities.
- Afghanistan must promote the “twin-track approach” in order to break the cycle of poverty and disability and provide equal opportunities for persons with disabilities. (a) Disability Specific (empowerment): integrate disability-sensitive measures into the design, imple-
mentation, monitoring and evaluation of policies and programs.

(b) Societal (mainstreaming disability): provide disability-specific initiatives to empower the persons with disabilities.

- Afghanistan should attract international cooperation to support implementation of CRPD.
- Government should allocate specific funds for disability related issues in its annual budget.

ARTICLE 33 — NATIONAL IMPLEMENTATION AND MONITORING

- Ensure participation of persons with disabilities in consultative and decision-making processes relevant to persons with disabilities at all levels of government;
- Afghanistan must initiate measures to promote, protect and monitor the implementation of the CRPD.
RECOMMENDATIONS (B)

CCD RECOMMENDATIONS FOR IMPROVING THE STATUS OF PERSONS WITH DISABILITIES

The recommendations call upon the UN entities in Afghanistan to:

- Provide capacity building programs/technical support to civil society organizations in order to enhance their capacity to monitor the implementation of the CRPD;
- Provide technical support to the government of Afghanistan to enable the country to **PROVIDE** its state report in a timely manner.

RECOMMENDATIONS (C)

CCD RECOMMENDATIONS FOR IMPROVING THE STATUS OF PERSONS WITH DISABILITIES

The recommendations also call upon the donor community in Afghanistan to:

- Commit specific funding to persons with disabilities in all financial pledges to the government of Afghanistan;
- Provide financial support to Afghanistan to enable the country to implement the CRPD.
# LIST OF ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ACRPD</td>
<td>Advocacy Committee for the Rights of Persons with Disabilities</td>
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<td>AIHRC</td>
<td>Afghanistan Independent Human Rights Commission</td>
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<td>ANDMA</td>
<td>National Disaster Management Authority</td>
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<td>ANDS</td>
<td>Afghan National Development Strategy</td>
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<td>CCD</td>
<td>Community Center for Disabled</td>
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<td>CRPD</td>
<td>Convention on Rights of Persons with Disabilities</td>
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<td>EU</td>
<td>European Union</td>
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<td>HRFM</td>
<td>Human Rights Field Monitoring (under AIHRC)</td>
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<td>MDG</td>
<td>Millennium Development Goal</td>
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<tr>
<td>MoE</td>
<td>Ministry of Education</td>
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<td>MoF</td>
<td>Ministry of Finance</td>
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<td>MoLSAMD</td>
<td>Ministry of Labor, Social Affairs, Martyrs and Disabled</td>
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<td>MoPH</td>
<td>Ministry of Public Health</td>
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<td>NGO</td>
<td>Non-government Organization</td>
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<td>NRVA</td>
<td>National Risk and Vulnerability Assessment</td>
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<td>PwD</td>
<td>Persons with disabilities</td>
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<td>UN</td>
<td>United Nations</td>
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<td>VTC</td>
<td>Vocational Training Centers</td>
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<td>WHO</td>
<td>World Health Organization</td>
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