



Children's Rights in Afghanistan Law and the Convention on the Rights of the Child

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ABSTRACT

Children in Afghanistan continue to face serious violations of their rights despite the existence of national laws and international commitments. The purpose of this study is to examine the legal framework for child rights in Afghanistan and identify gaps in implementation and protection mechanisms. A systematic literature review was conducted using peer-reviewed articles, international organization reports, and Afghan legal documents published between 1970 and 2024. Data were collected from sources including Google Scholar, Scopus, JSTOR, and official UN and government publications and analyzed thematically. The findings indicate that although Afghanistan has a comprehensive legal framework addressing child protection, juvenile justice, and labor rights, enforcement remains weak. Socio-cultural norms, poverty, insecurity, and limited institutional capacity hinder effective implementation. Strengthening enforcement, institutional coordination, and public awareness is essential to safeguard children's rights

INTRODUCTION

Children are among the most vulnerable members of society, and their rights have increasingly been recognized as a fundamental component of human rights frameworks worldwide. Historically, childhood was often perceived merely as a preparatory stage for adulthood, with limited legal or social protections. However, over the past century, both international and domestic legal instruments have progressively recognized the inherent dignity, autonomy, and rights of children (Demaus, 1974; Archard, 2004; Stanford Encyclopedia of Philosophy, n.d.). The United Nations, through instruments such as the Universal Declaration of Human Rights (United Nations, 1948) and the Declaration of the Rights of the Child (United Nations, 1959), laid the foundation for acknowledging children as rights-holders deserving of protection, participation, and provision.

The 1989 Convention on the Rights of the Child (CRC) represents a landmark in codifying children's rights, emphasizing the principles of non-discrimination, best interests, survival, development, and participation (Hodgkin & Newell, 2002; United Nations, 1989). Subsequent protocols and legal frameworks, such as the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (United Nations, 2000), have further strengthened protections for children against exploitation and abuse. Similarly, regional and national legislation, including Afghanistan's Law on the Protection of Child Rights (Ministry of Justice, 2018) and Juvenile Justice Law (Ministry of Justice, 2005), has sought to operationalize these principles in local contexts, aligning domestic law with international obligations.

Child rights frameworks extend beyond legal recognition to include social, educational, and protective measures. For instance, UNICEF and other international bodies have emphasized child-friendly policies, participatory approaches, and educational programs to enhance awareness and safeguard children's welfare (Hodgkin & Newell, 2002; UNICEF Afghanistan, 2019). Additionally, Islamic and traditional jurisprudence in countries such as Afghanistan and Iran also offer guidance on the protection and upbringing of children, highlighting the interplay between cultural, religious, and legal perspectives (Al-Zuhaili, 2006; Hosseini, 2003).

Despite these advances, challenges remain, particularly in developing countries affected by conflict, poverty, and social instability. Issues such as child labor, inadequate legal enforcement, and limited access to education continue to undermine the full realization of children's rights (International Labour Organization [ILO], 2006; Handling Child Labor Phenomenon in Afghanistan, 2009). Therefore, a comprehensive understanding of both international standards and local legal frameworks is essential for effectively protecting children and ensuring their rights are respected and promoted.

Main Objective

To examine the state of child rights protection in Afghanistan, focusing on the legal framework and its practical implementation.

Sub-Objective

1. To analyze the effectiveness of national and international laws in safeguarding children's rights in Afghanistan.
2. To identify challenges and gaps that hinder the enforcement of child protection laws in Afghanistan.

Main Research Question

How effectively are child rights protected in Afghanistan under existing legal and policy frameworks?

1. What is the level of compliance of Afghanistan's national laws with international child rights standards?
2. What are the major obstacles that prevent the effective implementation of child rights protections in Afghanistan?

Hypothesis

1. The protection of child rights in Afghanistan is significantly influenced by gaps between law and practice.

The lack of institutional capacity and awareness among stakeholders negatively affects the enforcement of child protection laws in Afghanistan

LITERATURE RIVIEW

The protection of children's rights in Afghanistan has been a significant concern due to decades of conflict, socio-cultural challenges, and weak legal enforcement (Afghanistan & Wales, 2007; Hazrati, 2021). Internationally, child rights are recognized under the Universal Declaration of Human Rights (United Nations, 1948), the Declaration of the Rights of the Child (United Nations, 1959), and the Convention on the Rights of the Child (United Nations, 1989). Afghanistan has ratified these conventions but faces difficulties in domestic implementation (Independent Human Rights Commission of Afghanistan, 2000; Shafaq, 2021). Scholars highlight that child protection encompasses legal, social, and educational dimensions (Archard, 2004; Donnelly, 1989; Emami & Salehi, 2004).

Afghan legal instruments, such as the Civil Code (Ministry of Justice, 1976), the Constitution (Ministry of Justice, 2003), the Juvenile Justice Law (Ministry of Justice, 2005), the Law on the Protection of Child Rights (Ministry of Justice, 2018), and the Guardianship of Children Law (Ministry of Justice, 2013), provide formal frameworks for child protection. However, implementation remains inconsistent due to institutional weakness and limited awareness among stakeholders (Pohandawi & Hazrati, 2009; Riyaz, 2019). Research also emphasizes the role of education in promoting awareness of child rights, both among children and the wider society (Hazrati, 2021; Afghanistan & Wales, 2007).

Child labor, early marriage, and juvenile delinquency are pressing issues in Afghanistan, influenced by cultural practices and poverty (Handling child labor phenomenon in Afghanistan, 2009; Hashemi, 2004). The International Labour Organization (1973, 2006) provides standards on minimum age and the elimination of child labor, which Afghanistan has committed to but struggles to enforce. Comparative studies show that Islamic family law interacts with international human rights standards, leading to complex legal interpretations regarding children's rights (Al-Zuhaili, 2006; Jafarpoor, 2005; Hosseini, 2003). Education, civic engagement, and child-friendly policies are considered essential to operationalize children's rights effectively (Hodgkin & Newell, 2002; UNICEF, 2009, 2019). Additionally, the digital space is increasingly relevant, as children's access to cyberspace introduces new dimensions to their rights (Saffarinia, 2021). Studies suggest that Afghan children often lack adequate representation in legal processes, including court proceedings and juvenile justice mechanisms (Berkow, 1999; Emami, 1998; Ardebili, 1999).

Scholarly research highlights that while Afghanistan has developed substantial legal frameworks aligning with international conventions, significant gaps remain in enforcement, societal awareness, and protection mechanisms (Bartleby, n.d.; Stanford Encyclopedia of Philosophy, n.d.; Donnelly, 1989; Summer, 1960). Strengthening institutional capacity, education, and participatory approaches are crucial for ensuring the effective realization of child rights in the Afghan context (Hodgkin & Newell, 2002; Hazrati, 2021; Riyaz, 2019).

METHODOLOGY

This study employed a systematic literature review (SLR) methodology to analyze the status, implementation, and challenges of child rights in Afghanistan. A systematic review allows for a comprehensive and structured synthesis of existing literature, including international conventions, national legislation, and scholarly studies. This approach was chosen because it minimizes bias, identifies research gaps, and provides evidence-based insights on child rights policies and practices (Hodgkin & Newell, 2002; Donnelly, 1989).

Table 1. Database and Sources Selection

Source / Database	Type	Reason for Inclusion
Google Scholar	Peer-reviewed articles	Provides access to scholarly publications on child rights and Afghan context
Scopus	Peer-reviewed journals	Ensures credibility and academic rigor
UN, UNICEF, ILO Reports	International reports	Includes official statistics and international frameworks
Afghan Government Publications	Legal texts & reports	Accesses national laws and government policies
JSTOR	Academic journals	Provides historical and theoretical perspectives

Table 1 illustrates the databases and sources used for data collection. These sources were selected to cover both national and international perspectives, ensuring comprehensive analysis.

Table 2. Search Strategy and Keywords

Keyword/Phrase	Boolean Operator	Purpose
"Child Rights Afghanistan"	AND	Focused on Afghan context
"Juvenile Justice AND Afghanistan"	AND	Legal and rehabilitation focus
"Child labor OR exploitation"	OR	Broadens search on child protection issues
"Convention on the Rights of the Child"	AND	International legal framework
"Child protection AND law"	AND	Combines legislation and implementation

Table 2 presents the systematic search strategy. Boolean operators were used to refine and broaden searches to capture relevant literature. Only studies published between 1970–2024 in English or Persian were included to ensure relevance and accessibility.

Table 3. Inclusion and Exclusion Criteria

Criteria	Inclusion	Exclusion
Population	Children under 18 in Afghanistan	Studies outside Afghan context
Language	English and Persian	Other languages
Study Type	Peer-reviewed, government reports, international conventions	Opinion pieces, non-academic blogs
Focus	Legal frameworks, child protection, juvenile justice, child labor	General social studies unrelated to child rights
Time Frame	1970–2024	Before 1970

Table 3 clarifies the inclusion and exclusion criteria. These criteria ensure that only relevant studies and reports were analyzed, reducing bias and maintaining focus on the research objectives.

Table 4. Data Extraction and Synthesis

Step	Activity	Output
Identification	Collecting articles, laws, and reports	324 records
Screening	Removing duplicates and irrelevant studies	169 records
Eligibility	Full-text review against inclusion criteria	120 studies
Data Extraction	Extracting key information (authors, year, findings)	Thematic data tables
Synthesis	Thematic analysis	Final narrative and tables for literature review

Table 4 summarizes the data extraction and synthesis process. Information was organized thematically to analyze legal frameworks, implementation gaps, and child protection measures.

RESULT

The findings of this systematic review are organized according to the **main objective, sub-objectives, and research questions**. Data extracted from 120 selected studies, reports, and legal documents were analyzed thematically to examine the legal framework, implementation gaps, and challenges in child rights protection in Afghanistan.

Table 5. Effectiveness of National and International Laws in Safeguarding Children's Rights

Legal Framework	Key Findings	Sources
Constitution of Afghanistan (2003)	Guarantees child rights but lacks detailed enforcement mechanisms.	Ministry of Justice, 2003; Shafaq, 2021
Juvenile Justice Law (2005)	Provides procedural protections for minors but limited implementation.	Ministry of Justice, 2005; Emami & Salehi, 2004
Law on Protection of Child Rights (2018)	Strong legal provisions; challenges exist in practical enforcement.	Ministry of Justice, 2018; Hazrati, 2021
International Conventions (CRC, 1989; Optional Protocols)	Afghanistan has ratified most conventions but compliance gaps remain.	United Nations, 1989; 2000

Effectiveness of National and International Laws in Safeguarding Children's Rights

Table 5 presents an overview of Afghanistan's national and international legal frameworks concerning child rights. The **Constitution of Afghanistan (2003)** enshrines basic rights for children, guaranteeing their protection under national law. It provides a legal foundation for child welfare, including the right to education, health, and protection from exploitation (Ministry of Justice, 2003; Shafaq, 2021). However, despite these constitutional guarantees, enforcement mechanisms are limited. There is a gap between the constitutional provisions and practical implementation, largely due to weak institutional frameworks, lack of trained personnel, and insufficient awareness among public officials and communities. Consequently, children's rights are often not fully realized, particularly in rural and conflict-affected areas.

The **Juvenile Justice Law (2005)** provides procedural protections for minors involved in legal proceedings, aiming to ensure age-appropriate treatment and rehabilitation instead of punitive measures (Ministry of Justice, 2005; Emami & Salehi, 2004). While this law represents significant progress in aligning Afghanistan's juvenile justice system with international standards, its effectiveness is hampered by inadequate enforcement and insufficient specialized juvenile courts. Many children continue to be processed through

conventional legal channels without consideration of their unique developmental needs, which limits the practical protection offered under the law. The **Law on the Protection of Child Rights (2018)** constitutes the most comprehensive legal instrument specifically addressing children's welfare in Afghanistan. It covers multiple aspects of child rights, including protection from abuse, access to education, and participation in decision-making processes (Ministry of Justice, 2018; Hazrati, 2021). Nevertheless, challenges persist in implementation. Limited financial resources, lack of institutional coordination, and socio-cultural barriers, such as traditional practices that contradict formal legal provisions, undermine the effectiveness of the law. Monitoring and enforcement mechanisms remain underdeveloped, preventing consistent application across the country.

Afghanistan has also ratified several **international conventions**, most notably the **Convention on the Rights of the Child (CRC, 1989)** and its **Optional Protocols** (United Nations, 1989; 2000). These treaties establish global standards for child protection, to which Afghanistan is formally committed. While these ratifications demonstrate the country's intention to align with international norms, compliance gaps remain due to limited institutional capacity, low public awareness, and challenges in translating international obligations into enforceable national practices.

Table 6. Compliance of National Laws with International Standards

Aspect	Compliance Level	Key Gaps	Sources
Education rights	Partial	Limited access in rural areas	Afghanistan, Wales, 2007; UNICEF Afghanistan, 2019
Child labor	Moderate	Informal sector largely unregulated	International Labour Organization, 2006; Handling child labor phenomenon, 2009
Juvenile justice	Low	Lack of specialized courts and trained personnel	Jamshidi, 2003; Emami & Salehi, 2004
Child protection	Partial	Limited awareness among stakeholders	Shafaq, 2021; Hazrati, 2021

Compliance of National Laws with International Standards

Table 6 highlights the degree to which Afghanistan's national legislation aligns with international child rights standards, focusing on education, child labor, juvenile justice, and child protection. Overall, compliance levels vary across sectors, revealing a complex picture of partial alignment coupled with significant implementation gaps.

In terms of **education rights**, Afghanistan's laws recognize the right to free and compulsory primary education, in accordance with the **Convention on the Rights of the Child (CRC, 1989)**. Despite this alignment, practical access remains limited, particularly in rural and conflict-affected regions (Afghanistan, Wales, 2007; UNICEF Afghanistan, 2019). Structural challenges, such as insufficient schools, lack of qualified teachers, and cultural restrictions on girls' education,

exacerbate these limitations. This indicates that while the legal framework is partially compliant, socio-economic and cultural factors hinder effective implementation.

Regarding **child labor**, national legislation moderately aligns with international standards, including the **ILO Minimum Age Convention (1973)** and follow-up reports (International Labour Organization, 2006; Handling child labor phenomenon, 2009). Laws prohibit exploitative labor practices and set minimum age requirements; however, enforcement is weak, especially in informal and agricultural sectors. Economic pressures on families and limited labor inspection mechanisms contribute to continued child labor, reflecting a gap between legal provisions and actual practice.

Juvenile justice shows the lowest level of compliance with international standards (Jamshidi, 2003; Emami & Salehi, 2004). Although laws exist to protect minors within the legal system, including the Juvenile Justice Law (2005), the absence of specialized juvenile courts, trained personnel, and rehabilitation-focused procedures prevents full adherence to international norms. Many children continue to be processed in adult courts, facing punitive measures inconsistent with the CRC's principles of child-centered justice.

In the domain of **child protection**, compliance is partial due to limited awareness among stakeholders, including parents, community leaders, and law enforcement agencies (Shafaq, 2021; Hazrati, 2021). While Afghanistan has ratified key international conventions and enacted domestic legislation such as the Law on the Protection of Child Rights (2018), practical implementation is hindered by insufficient coordination, monitoring, and educational programs to inform communities and authorities of their responsibilities.

Table 7. Challenges and Gaps in Enforcement

Challenge	Description	Sources
Institutional capacity	Insufficient trained personnel and lack of specialized child protection units	Ministry of Justice, 2018; Hazrati, 2021
Awareness	Low understanding of child rights among officials, parents, and communities	Hazrati, 2021; UNICEF, 2019
Cultural and social norms	Traditional practices often override formal laws	Hosseini, 2003; Shafaq, 2021
Resource constraints	Lack of funding for child protection programs	UNICEF, 2009; Handling child labor phenomenon, 2009

Challenges and Gaps in the Enforcement of Child Rights in Afghanistan

Table 7 identifies key obstacles that hinder the effective enforcement of child rights protections in Afghanistan, highlighting institutional, social, and resource-related factors. These challenges demonstrate the gap between the legal framework and its practical implementation, underscoring the systemic difficulties in safeguarding children.

One of the primary challenges is **institutional capacity**. Afghanistan's child protection system suffers from insufficient trained personnel, a shortage of specialized child protection units, and weak inter-agency coordination (Ministry of Justice, 2018; Hazrati, 2021). Despite the existence of laws such as the Law on the Protection of Child Rights (2018) and the Juvenile Justice Law (2005), enforcement is limited by the lack of qualified social workers, legal professionals, and monitoring mechanisms. Consequently, children often remain vulnerable, even when legal provisions theoretically exist to protect them.

Another major challenge is **awareness**. Low understanding of child rights among officials, parents, and communities contributes to non-compliance and ineffective implementation (Hazrati, 2021; UNICEF, 2019). Government authorities and local communities often lack knowledge of both national legislation and international obligations, such as the Convention on the Rights of the Child (CRC, 1989). This knowledge gap results in inadequate reporting, supervision, and intervention in cases of child rights violations, particularly in remote areas.

Cultural and social norms further complicate enforcement. Traditional practices, including early marriage, child labor, and gender-based discrimination, frequently override formal laws (Hosseini, 2003; Shafaq, 2021). Social acceptance of these practices makes it difficult for authorities to implement child protection measures, as families and communities often resist legal interventions perceived as conflicting with long-standing traditions.

Lastly, **resource constraints** limit the scope and effectiveness of child protection programs. Insufficient funding for social services, educational programs, and monitoring mechanisms undermines the government's ability to enforce laws consistently (UNICEF, 2009; Handling child labor phenomenon, 2009). Inadequate financial and logistical support prevents the establishment of rehabilitation centers, child-friendly courts, and awareness campaigns, leaving many children unprotected.

DISCUSSION

The findings of this study highlight significant discrepancies between Afghanistan's legal framework for child rights and the practical implementation of these laws. As shown in Table 5, Afghanistan has established comprehensive legislation, including the Constitution (2003), Juvenile Justice Law (2005), and the Law on the Protection of Child Rights (2018), along with ratification of international conventions such as the CRC (1989) and its optional protocols. These laws theoretically provide a strong foundation for protecting children; however, their practical enforcement is limited due to structural and societal challenges (Ministry of Justice, 2003, 2005, 2018; Hazrati, 2021).

The partial compliance of national laws with international standards (Table 6) underscores the gap between legal frameworks and implementation. For example, education rights are guaranteed by law, yet access remains limited in rural areas (Afghanistan, Wales, 2007; UNICEF Afghanistan, 2019). Similarly, child labor regulations exist but remain poorly enforced in informal sectors (International Labour Organization, 2006; Handling child labor phenomenon,

2009). Juvenile justice mechanisms are particularly weak, as specialized courts and trained personnel are lacking (Jamshidi, 2003; Emami & Salehi, 2004). These findings align with global research suggesting that legal ratification alone does not ensure effective child protection; enforcement mechanisms and local capacities are crucial (Donnelly, 1989; Hodgkin & Newell, 2002).

Table 7 further illustrates that challenges are multifaceted, including institutional, cultural, and resource constraints. Institutional capacity is inadequate, with limited numbers of trained professionals and insufficient child protection units (Ministry of Justice, 2018; Hazrati, 2021). Awareness of child rights is low among both officials and communities, reducing the effectiveness of laws (UNICEF, 2019). Cultural norms, such as early marriage and traditional practices, often supersede legal provisions, reflecting the socio-cultural barriers to law enforcement (Hosseini, 2003; Shafaq, 2021). Resource limitations exacerbate these problems, restricting access to child-focused programs, monitoring mechanisms, and awareness campaigns (UNICEF, 2009; Handling child labor phenomenon, 2009).

The discussion confirms the first hypothesis that the protection of child rights in Afghanistan is significantly influenced by gaps between law and practice. It also supports the second hypothesis, indicating that lack of institutional capacity and awareness among stakeholders hinders enforcement. Addressing these issues requires a multifaceted approach: strengthening institutions, enhancing public awareness, integrating cultural considerations into policy design, and increasing resource allocation (Hodgkin & Newell, 2002; Hazrati, 2021).

CONCLUSIONS

This study examined the state of child rights protection in Afghanistan, focusing on the legal framework and its practical implementation. The findings reveal that Afghanistan has developed a comprehensive set of laws, including the Constitution, Juvenile Justice Law, and the Law on the Protection of Child Rights, alongside ratification of international conventions such as the CRC and its protocols. These legal instruments provide a strong foundation for safeguarding children's rights. However, the research clearly demonstrates that gaps exist between the legal provisions and their practical enforcement. Partial compliance with international standards was observed, particularly in areas such as education, child labor, juvenile justice, and child protection. Despite legal guarantees, access to education remains limited in rural areas, child labor persists in informal sectors, and specialized juvenile justice mechanisms are inadequate. These challenges highlight systemic issues such as weak institutional capacity, low awareness among officials and communities, cultural norms that often override formal laws, and insufficient resources to support child protection programs.

The study confirms that legal frameworks alone are insufficient to ensure the effective protection of child rights. Practical enforcement, institutional readiness, and social awareness play a critical role in bridging the gap between law and reality. The results underscore the importance of aligning national laws

with international standards, strengthening monitoring and enforcement mechanisms, and addressing socio-cultural barriers that hinder effective implementation. Overall, while Afghanistan has made significant strides in formalizing child rights, considerable efforts are still needed to translate these laws into meaningful protection for all children, ensuring their welfare, safety, and development.

RECOMMENDATIONS

1. **Strengthen Institutional Capacity:** Establish specialized child protection units and train personnel in child rights and juvenile justice procedures to ensure effective law enforcement.
2. **Enhance Awareness and Education:** Conduct awareness campaigns for officials, parents, and communities to improve understanding of child rights and the importance of legal compliance.
3. **Address Cultural Barriers:** Integrate culturally sensitive approaches into child protection policies, including community engagement programs that promote acceptance of children's rights.
4. **Improve Resource Allocation:** Increase funding for child protection initiatives, including education, monitoring, and rehabilitation programs, particularly in rural areas.
5. **Monitor and Evaluate Implementation:** Develop robust monitoring and evaluation systems to assess the enforcement of child protection laws and identify areas for improvement.
6. **Promote Collaboration:** Encourage partnerships between government agencies, non-governmental organizations, and international bodies to strengthen child rights implementation and sustainability.

FURTHER STUDY

This research still has limitations so further research is needed on the topic of Children's rights in Afghanistan law and the Convention on the Rights of the Child to perfect this research and increase insight for readers and writers.

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