



RESEARCH ARTICLE

DEFINITION OF THE CHILD AND ITS FUNDAMENTAL RIGHTS IN THE AFGHAN LEGAL SYSTEM BASED ON THE PROVISIONS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

*Farahuddin Chaghaty

India

ARTICLE INFO

Article History:

Received 19th October, 2023
Received in revised form
18th November, 2023
Accepted 15th December, 2023
Published online 30th January, 2024

Key words:

Child, Fundamental Rights, International
Convention on the Rights of the Child,
Afghan Legal System, Islamic Legal
System

*Corresponding author:

Farahuddin Chaghaty

ABSTRACT

The child has always been one of the research topics in national and international law. Therefore, the definition of the child and its fundamental rights in the Afghan legal system based on the provisions of the Convention on the Rights of the Child is one of the issues that Afghan society needs to define it has. Understanding the importance of defining the child and its fundamental rights in the Afghan legal system based on the provisions of the Convention on the Rights of the Child, this study answers the following question: "What is the definition of the child and fundamental rights of the child in the Afghan legal system based on the provisions of the International Convention on the Rights of the Child »? The purpose of this study is to examine the definition of the child and its fundamental rights in the Afghan legal system based on the provisions of the International Convention on the Rights of the Child. And for conducting this research, the analytical-comparative method has been used by referring to the legal documents of Afghanistan. The findings of this study also indicate the dependence of the Afghan legal system on the Islamic legal system and the conflict between the provisions of the constitution and the provisions of the constitution with the ordinary laws of Afghanistan. The International Convention on the Rights of the Child A clear contradiction in the definition of the child and the protection of the fundamental rights of the child enshrined in the International Convention on the Rights of the Child is seen in the Afghan legal system for Afghan citizens, human rights activists and Human rights in Afghanistan have posed challenges.

Copyright©2024, Farahuddin Chaghaty. This is an open access article distributed under the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Citation: Farahuddin Chaghaty. 2024. "Definition of the child and its fundamental rights in the Afghan legal system based on the provisions of the Convention on the Rights of the Child". *International Journal of Current Research*, 16, (01), 26921-26929.

INTRODUCTION

The half-century war in Afghanistan, in addition to causing great damage to the country's infrastructure and resources, has caused harm to the citizens of this country, especially the vulnerable groups of this country, including children and women. Children, who are defined as one of the most vulnerable sections of Afghan society, have suffered serious injuries due to the violation and non-protection of children's rights during the war. Unfortunately, this trend continues in all parts of Afghanistan. It is seen and annually seen that children are identified as the main victims of the challenges in Afghanistan by human rights organizations, recognizing the importance of respecting the rights of the child for Afghan children and protecting the rights of children in Afghanistan. We are the basis of the provisions of the International Convention on the Rights of the Child, and precisely this research can help in a society like Afghanistan in the field of child welfare as one of the keys and most vulnerable segments of Afghan society. The International Convention on the Rights of the Child, adopted by the United Nations Universal Declaration of the Rights of the Child in 1989 and now has more than 193 member states, is also known as the Convention on the Rights of the Child. The International Convention on the Rights of the Child, which contains an introduction and 54 articles, is in fact a document that enshrines the civil, political, economic, social, and cultural rights of the child and guarantees and protects these rights for the child.

The Islamic Republic of Afghanistan, as an integral part of the international community, has accepted this international treaty in 1994 by submitting an interpretative declaration and preserving the right to bet. Following the ratification of this Convention, the UN Committee on the Rights of the Child has identified four key rights which, in fact, include the four principles of the Convention, as the fundamental rights of the child, and its implementation for the States Parties to implement all the provisions of this Convention. It has considered the treaty mandatory and has called on all member states of the treaty to guarantee and implement it in their jurisdiction. The four rights enshrined in the Convention on the Rights of the Child as fundamental rights of the child include the principle of non-discrimination (Article 2 of the International Convention on the Rights of the Child), the principle of respect for the interests of the child (Article 3 of the International Convention on the Rights of the Child), and the principle of the right to life. The Sixth International Convention on the Rights of the Child) and the principle of respect for the views of the child (Article 12 of the International Convention on the Rights of the Child). Is in the legal system of Afghanistan. Understanding the importance of the definition of the child and the fundamental rights of the child as set out in the International Convention on the Rights of the Child, this study seeks to answer the following question: "The definition of the child and the fundamental rights of the child "How is Afghanistan?"

Answering this question and conducting this research is of particular importance to the Afghan legal community, Afghan civil society, national and international organizations active in the field of child rights in Afghanistan and among all Afghan citizens in general. But the key importance of this research is related to support One of the four fundamental rights of the child in Afghan society, which the International Committee on the Rights of the Child has referred to as the fundamental rights of the child. The hypothetical answer to the question of this study is: "The Constitution of Afghanistan in its first article defines the government of Afghanistan as the Islamic Republic and in its second article states that the religion of the government of the Islamic Republic of Afghanistan is the holy religion of Islam and in the third article emphasizes that In Afghanistan, no law can be enacted against the beliefs and rules of Islam. Examining the provisions of these three articles of the Afghan constitution, it can be seen that the Afghan legal system is a system dependent on the provisions of Islamic law and no international rules, laws and documents can oppose the rules of religion. The mission of Islam should be established and implemented in this country. In addition to the three articles of the Afghan constitution that we have mentioned, this constitution also states in its seventh article the Government of Afghanistan, the UN Charter, international treaties, international treaties to which Afghanistan has acceded, and the Universal Declaration of Human Rights, which has been ratified. Examining the provisions of these four articles of the Afghan constitution, it can be seen that there is a serious contradiction in the provisions of the Afghan legal system, including the fact that the Afghan government introduces the first, second and third articles of the Afghan legal system as Islamic and rules that no ruling It cannot be enacted against the precepts of Islam, but Article 7 of the Constitution requires the Government of Afghanistan to comply with all international instruments, the Universal Declaration of Human Rights and other treaties that Afghanistan has signed with other countries. These are documents that must be implemented by the Government of Afghanistan in accordance with the provisions of Article 7 of the Afghan Constitution. Examining these cases, it can be seen that there is a great contradiction in the Afghan legal system, but it is still assumed that due to the Islamic nature of Afghan society, the child from the definition of child and fundamental rights proposed by the International Convention on the Rights of the Child "He enjoys presenting the rules of Islam or the Islamic legal system."

Children and the rights of the child are among the topics that have received limited attention or limited research on these two issues in Afghanistan. The research that we are seeking to conduct is one of the few studies that has received limited attention in Afghanistan or the study of the definition of the child and its fundamental rights in the Afghan legal system based on the provisions of the Convention on the Rights of the Child. Its research is not observed in Afghanistan, but outside Afghanistan, the study of the fundamental rights of the child based on the provisions of the Convention on the Rights of the Child has been scattered. We are looking forward to doing some of the research that has been done on child rights in Afghanistan.

The Afghanistan Research and Evaluation Unit, under the title *The Evolution of Fundamental Rights in Afghanistan from 1924 to 2004*, examines the protection and guarantee of the fundamental rights of Afghan citizens in six constitutions that Afghans have experienced from 1924 to 2004. Aroni Jia Kudi, a researcher at the Afghanistan Research and Evaluation Unit, has studied many rights under the so-called fundamental rights of Afghan citizens in these six constitutions from 1924 to 2004, including rights such as the prohibition of arbitrary detention and the abolition of slavery. Equality and non-discrimination, prohibition of torture, freedom of movement, freedom of expression and security of property ownership, the right to political participation are among the fundamental rights defined in this study. He has considered the evolution of fundamental rights in Afghanistan. At the same time, he has defined the constitutions of 1977 and 1980 as a setback in protecting the fundamental rights of Afghan citizens (Aruni, 2015: 1). Examining this study, it can be seen that this study seeks to examine the fundamental rights of Afghan citizens in the constitutions of Afghanistan, but in this study, we only seek to define

the rights of the child and examine the four fundamental rights of the International Committee of the Child. The other purpose of this study is related to Aroni Jia Kudi's research. Fundamental rights of the child as expressed by the International Committee of the Child in accordance with the provisions of the International Convention on the Rights of the Child.

Siamak Zand Razavi, Nahid Rahimi Pouranaraki also conducted a study entitled "Comparison of the situation of working children in Iran and Afghanistan in Kerman province based on four principles of the Convention on the Rights of the Child (three sociology and two solutions). Afghan and Iranian workers in the city of Kerman the Islamic Republic of Iran has studied the situation of working children in Afghanistan and Iran and compared both. This study conducted by Iranian researchers is mostly to support the rights of working children, especially Afghan and Iranian child workers in the city of Kerman, Islamic Republic of Iran. This study is a great support for the realization of the protection of the fundamental rights of the child expressed by the International Committee of the Child.

Dr. Jafar Koosha and Yasman Khajeh Nouri have also done important research under the title of globalization of the concept of child in the context of criminal law. Although this research differs from the research we are looking at in terms of purpose and subject matter, the important point that brings this research closer to the research we are doing is related to the important part of this research that seeks to examine the definition of a child. In international documents, it is in the system of international law, and Mr. Koosha and Khajeh Nouri relate an important case that he states in his research to the lack of explicit definition of the concept of child in international documents (Koosha, Khajehzadeh, 1391: 189) and This can be one of the common points of these two studies, but there are serious differences between the research of Dr. Jafar Koosha and Yasman Khajeh Nouri with the research that we are looking to do, especially the scope of both studies, the research that Mr. Koosha and Khajeh Nouri did It covers the criminal field, while the research we seek to do includes the field of child rights.

Seyyed Anwar Sajjadi in a study entitled *Criminal responsibility of children in Afghan criminal law* has examined the responsibility of child punishment in Afghan criminal law. This research has big differences with the research that we are looking to do, but the important thing in this research is to examine the definition of the child, which connects this research with our research. This study defines the child both from the point of view of Islamic jurisprudence and based on the Convention on the Rights of the Child and later deals with the jurisdiction of the child in the criminal law system of Afghanistan (Sajjadi, 1394: 8-9 and 18) . As we have already mentioned, there are big differences between Mr. Sajjadi's research and this research, but the study of the definition of child in Islamic jurisprudence and the Convention on the Rights of the Child by Mr. Sajjadi is an important point in this research that can be a great help in protecting children's rights in Afghanistan.

Seyyed Mohammad Mousavi is one of the other researchers who has researched on children's rights. This researcher has defended the rights of children in the Afghan legal system under the title of *protecting child victims in Afghan law and international documents*. Although this research differs from this research both in terms of territory and purpose, but the discussion that connects Mr. Mousavi's research with this research is related to the definition of a child in the domestic laws of Afghanistan (Mousavi, 2015: p. 40). Despite the differences between Mr. Mousavi's research and this research, Mr. Mousavi's research can play an important role in promoting children's rights in the Afghan judiciary. Examining the above research, it can be seen that special research on the definition of the child and its fundamental rights has not been done in accordance with the provisions of the Law Convention. Has stated to have. At the end of this section, the research method of this research is based on analytical-comparative method and the method of data collection of this research is based on library method by referring to important

legal documents of Afghanistan, especially the constitution, civil law and penal code of Afghanistan.

Definition of the child in the Afghan legal system based on the provisions of the International Convention on the Rights of the Child:

After the formation of the new political system, Afghanistan has been obliged to fulfil its great obligations to the world community. One of the most important of these practical commitments is the provisions of international treaties and instruments to which Afghanistan has acceded or acceded. Man has known.¹ Since Afghanistan has acceded to the Convention on the Rights of the Child with the preservation of the right to bet in 1994 (Mousavi, 2015: 147) In its fifty-fourth article, it reaffirms its commitment to the protection of the rights of the child and emphasizes that the Government of Afghanistan shall take the necessary measures to protect children and to create better conditions for them. Adopted in 1989, it can be seen that in many cases the definition of the Convention on the Rights of the Child, which is presented in its first article, is accepted in the constitution and a number of ordinary laws and acts in accordance with it. Among other things, the Afghanistan Child Rights Protection Act mentions the definition of the Convention without distortion. And this law states in its third² article in the terminology section about the definition of a child, a child is a person who has not reached the age of eighteen years. In addition to this law, the Civil Code of Afghanistan in the definition of natural persons in its thirty-ninth article has stated the age of growth is eighteen years old and according to this personal law, Rashid is in the correct condition. Reason has full legal capacity in conducting transactions. Examining the provisions of this law on the definition of a child, the Afghan Election Law in its third chapter in the section of voters and candidates in Article 10 has once again set the standard for voters and candidates 18 years, according to this law, individuals can As a qualified voter who has reached the age of 18 on the day of the election, the Afghan Labor Law, with the approval of Article 48³ of the Afghan Constitution, which emphasizes the prohibition of child labor, states in its third article about the employee. Employee is a man and a woman, the word woman and man in the Afghan Labor Law means a person who has reached the age of 18 years. Has completed and has not completed 18 years, according to this article, it is seen that it distinguishes between a person who has completed 18 years and has not completed 18 years, and usually the official employee can be persons who have reached 18 years of age. Meanwhile, the Civil Service Employees Law in the section on the conditions of employment of an agent in its seventh article, including the conditions of employment of an agent, the completion of 18 years by the agent is considered. Recognized as a juvenile, in addition to this case, the Afghan Civil Code in Article 39⁴ defines the age of termination of childhood as eighteen years and emphasizes that a person who has reached the age of 18 has full legal capacity to conduct transactions, which This case is also mentioned in the Child Welfare Law of the Islamic Republic of Afghanistan in the section on the conditions of the child under guardianship. All articles of the Afghan constitution and common law on the child, including the Intrinsic Police Affairs Law and the Soldiers' Affairs Law, require the completion of 18 years of age as a condition of admission to the Afghan security and defense forces. The second paragraph of the article in its second chapter, in the second paragraph of its recruitment section, in the second paragraph of Article 5⁵ of the Law on Intrinsic Affairs of Soldiers, it stipulates the condition of employment in the ranks of security and defense forces over 18 or completing 18 years. Although it can be seen in many cases of Afghan military law, the age of a child is determined to be 18 years old, or in other words, a child is a person who has not reached the age of 18, but it can be seen that

in some cases in the legal system There is a contradiction in the definition of a child and it is due to the contradiction in the articles of the constitution of this country, which can be seen as an example of this contradiction in the constitution and domestic laws regarding the definition of a child in Articles 2 and 3 with Article 7 of the Constitution. . Article 2 of the Constitution of Afghanistan defines the religion of this country as Islam, and Article 3 states that no law can be enacted contrary to the beliefs and rules of the holy religion of Islam, but since the religion of Islam has its own rules on matters, especially in These articles of the Constitution and the articles of Article 70 of the Civil Code determine the eligibility of marriage for a boy of 18 years and for a girl of 16 years, contrary to the provisions of Article 7 of the Constitution which obliges the Government of the Islamic Republic of Afghanistan to comply. And the observance of the provisions of the Charter of the United Nations, international treaties, the Covenants to which Afghanistan is a party and, finally, the Universal Declaration of Human Rights, according to the provisions of many domestic laws related to the child of Afghanistan, it has been completed for 18 years, contrary to the provisions of Articles 2 and 3 of the Constitution and Article 70 of the Civil Code, which sets the age of marriage for a girl at 18 years. Hanafi and Jafari, which is the year of the child compared to the religion of Maliki and Hanbali the Maliki and Hanbali religions have more specific rules regarding the definition of the age of the child, unlike the Hanafi and Ja'fari religions, even more than 16 years old. They know the age, but Hanafi jurisprudence, which as we have mentioned has the most followers among the Islamic religions in Afghanistan, mentions the age of puberty for boys as 18 years and for girls as 17 years. He mentioned puberty as 15 years for a boy and 9 years for a girl, which is an example of a clear contradiction between the provisions of the constitution and the civil law of Afghanistan. Other examples include the determination of age in the military and participation in armed conflict, which clearly contradicts the provisions of the Afghan constitution, especially Articles 2, 3, 7 and other provisions of the Afghan domestic law, but is clearly seen. It is possible that the criterion for ending a childhood is 18 years or so According to the provisions of the Afghan legal system, the child has the exact definition provided by the International Convention on the Rights of the Child and defines a child as a person who has not reached the age of 18, but still due to tensions between the provisions of the Constitution. And the constitution should not be clearly defined by the ordinary laws of the child. Eliminate many other issues in the Afghan legal system. However, the Government of Afghanistan, in accordance with the provisions of Article One Hundred and Fifty, can convene a Loya Jirga of the Constitution to amend the tense issues in the Constitution and ordinary laws and resolve the challenges.

Fundamental rights of the child in the Afghan legal system under the provisions of the International Convention on the Rights of the Child:

According to the Universal Declaration of Human Rights, the Universal Declaration of the Rights of the Child, and the International Convention on the Rights of the Child, the child has many fundamental rights, including the right to life. Right to name, right to citizenship, right to lineage, birth registration, breastfeeding, immunity from all forms of discrimination, right to custody and consent, right to access health care, right to vaccinations and health services, right to physical rehabilitation, right Enjoying physical health, the right to rest, play and recreation, the right to benefit and use the child fund, the right to protection against all forms of physical and mental discrimination, the right to education, the right to intellectual development and mental development, the right Access to information, the right to form associations, the right to protection and protection against economic exploitation, the right to protection against forced labor, the right to have a family, the right to security and safety in the family and community, the right to a guardian and protection, The right to refrain from employment in military and paramilitary activities, the right to protection against all forms of torture, and the punishment of other punishments Insulting and abusive behaviour, the right to separate custody of the child under house arrest and confiscation of the home apart from adults, the right to a fair trial, the right to prevent the child from being used in prostitution and sexual acts, the right to protection against abduction

¹.Article 7 of the Constitution of the Islamic Republic of Afghanistan approved in 2003.

².Article 3 of the Law on the Protection of Children of the Islamic Republic of Afghanistan;

³.Article 49 of the Constitution of the Islamic Republic of Afghanistan, approved in 2003; Imposing work on children is not allowed.

⁴.Article 39 of the Civil Code of the Islamic Republic of Afghanistan, approved in 1976; The age of growth is eighteen solar years.

⁵.The second paragraph of Article 5 of the Law on Intrinsic Affairs of the Soldiers of the Islamic Republic of Afghanistan, approved in 2018 AH; 2- His age should not be less than 18 years and not more than 44 years.

and trafficking, and so on. He pointed out that because the capacity to review all these rights during research is difficult, understanding the difficulty of this issue in this part of the research, we seek legal review in the Afghan legal system, which is based on the provisions of the International Convention on the Rights of the Child. International Law on the Rights of the Child is recognized as a fundamental right of the child and includes the right to non-discrimination (Article 2 of the International Convention on the Rights of the Child), the right to respect for the interests of the child (Article 3 of the International Convention on the Rights of the Child), the right to life (Article 6). The International Covenant on the Rights of the Child and the right to respect for the views of the child (Article 12 of the International Covenant on the Rights of the Child). The Convention on the Rights of the Child was adopted by the United Nations General Assembly in 1989.

The right to life of the child in the Afghan legal system under the provisions of the Convention on the Rights of the Child: The right to life is one of the natural rights of human beings and is the basis of all human rights. That is why all human rights depend on this right and without life no right can be understood. Life, which is considered as the most important divine gift for humanity, and this is one of the blessings that God has provided for human beings, and no government can deprive its citizens of this right or inflict physical and mental harm on it, but any government It is obliged to strive to protect and protect the lives of its citizens and this is one of the main duties of governments and this is to ensure the survival of any society and the basis of national and international security related to that philosophy of enacting and approving all criminal laws in the world. And the protection of human life and related issues (Danesh, 2010348). The child has the right to life and this is his or her inherent right and is recognized by all member states of the Covenant. Understanding the importance of the right to life for the child, we examine this right in important Afghan legal documents.

The Constitution of Afghanistan explicitly states in its simplest and ⁶23 article the right to life and states that life is a divine gift and a natural human right. No person shall be deprived of this right without legal authorization. No one can deprive Afghan citizens of this right, except in the case where Afghan citizens commit a crime and a fair court issues a deprivation of life right. In addition to these articles, the Constitution of Afghanistan has implicit provisions regarding the protection of the right to life of the child, which can be recalled from Articles 6 and 54 of this law, and these articles implicitly protect the right to life of the child. The provisions of the Afghan constitution protecting the right to life of the child are other common law protecting the right to life of the child. The Law on the Protection of the Rights of the Child is one of the most important laws that has been passed with the approval of Article 54 of the Constitution of Afghanistan and has explicitly included the right to life for children in its articles and has guaranteed it for children. In its third chapter, entitled "Children's Rights", this law deals with the definition and definition of children's rights. It is one of the first rights that this article recognizes for the child as one of the key members of society. In the continuation of this chapter, in its thirteenth article, this law emphasizes the protection of the child's right to life in two paragraphs and stipulates that every child born alive in Afghanistan has the right to life and that child must be in accordance with the Constitution, this law and other Legislative documents on child protection should be supported and the Ministry of Homes and responsible departments should be obliged to ensure the right to life and healthy development of children in the territory of Afghanistan. The important point that needs to be mentioned in these articles is that this right relates to the nature of the birth of a child from any formal or informal relationship born in Afghanistan and in accordance with this provision of the law of the Government of Afghanistan is responsible for protecting survival, education and protection. It also has other rights for the child in the community. The Afghan labor law is one of the other laws in

Afghanistan that has clear provisions on the protection of the rights of the child, but this law, although implicitly strongly supports the right to life of the child, but explicitly mentions the right to life of the child and in some cases That the baby needs support both during the fetus and after birth, and has ordered the departments to provide the necessary support for the baby's life, and for this to establish a kindergarten and nursing home, as well as to provide services. Health has ruled for children. As one of the most important domestic laws of Afghanistan, the Afghanistan Commonwealth Code has explicit provisions on the protection of the right to life of the child. This law, by defining the child in its article 95⁷, has protected the right to life for the child in various sectors. Article 99⁸ of this law emphasizes that a child is not sentenced to death. In Article 114⁹, the age of death is set above 18 years, and this article emphasizes that a person who has not reached the age of twenty is not sentenced to death. In addition to this, this law also has explicit provisions for a child who is not born and is in the womb, and in Article 570 of this law, the destruction of a fetus or a child in the womb is also a crime and its perpetrators are punished. In the first paragraph of Article 571 and Article 572, he also condemns abortion by the mother as a punishment and defines it as a crime. The important thing that Articles 571¹⁰ and 572 entail is the protection of the child's right to life before birth, even the mother of a child whose child is formed in the mother's womb on the basis of a formal and informal relationship. This law further explicitly protects the right to life of the child after birth in Articles 609, 613, 616 and 617, especially in Articles 616 and 617, which emphasizes that a person who threatens the life of a child commits a crime for this purpose. This law has a special place in the Afghan legal system and among the citizens and lawyers of Afghanistan in order to protect and guarantee the right to life of the child.

Examining the provisions of the Afghan Constitution and the laws related to the rights of the child and the protection of the rights of the child, it can be seen that the right to life of the child is a major source of protection in the Afghan legal system. Afghanistan has a punishment and this right has been protected and guaranteed even until the fetal period or before the birth of the child, and it does not even allow abortion or elimination of the child in the mother's womb, and it has been punished and then From birth, the right to life is considered the right of all Afghan citizens, especially children, and prohibits acts that undermine this right, even in cases where the child commits crimes punishable by death under the Afghan Penal Code, but the Afghan legal system in particular The Afghan Penal Code does not allow the death penalty for children under the age of 18 and beyond until the age of 20, which is a positive step towards protecting the right to life of the child in the Afghan legal system, which is the case in many systems. The law of developed countries is not observed.

The right to prohibit discrimination against children in the Afghan legal system under the provisions of the Convention on the Rights of the Child: The Convention on the Rights of the Child enshrines the right to non-discrimination in its second article and states that every child within the territory of any member of the Convention shall be free from discrimination or discrimination on the basis of race, color, social origin and Ethnic or national, amount of property, disability, status of guardian or parent and any other position in which the child is entitled to all the rights of this treaty. The Afghan legal system has also upheld the principle of non-discrimination, recognizing the importance of the right to non-discrimination of children in its general laws. The Constitution of Afghanistan, the Law on the Protection of the Rights of the Child are among the laws that explicitly support this principle in the case of

⁷.Article 95 of the Penal Code of Afghanistan approved in 2016; A child is a person who has not reached the age of eighteen.

⁸ .Article 99 of the Afghanistan Penal Code adopted in 2016: The child shall not be sentenced to imprisonment or to a fine.

⁹ .Article 114 of the Afghanistan Penal Code adopted in 2016; A person who has not reached the age of 20 shall not be sentenced to death.

¹⁰.Paragraph 1 of Article 571 of the Afghan Penal Code, approved in 2016: A person who intentionally causes abortion by giving spices or using other means, even if the abortion is done with the consent of the woman, is sentenced to moderate imprisonment.

⁶ .Article 23 of the Constitution of the Islamic Republic of Afghanistan, adopted in 2003Life is a divine gift and a natural human right. No person shall be deprived of this right without legal permission.

children, and other ordinary laws of Afghanistan, which apply to adults and the general public of Afghanistan, also include this principle in the provisions of Articles It is included and supported. For this purpose, we will briefly review the protection of the Afghan Constitution, the Child Protection Law, and some laws that explicitly prohibit the principle of non-discrimination. The Constitution of Afghanistan, adopted after 2001 with the support of the international community and the United Nations, is one of the modern constitutions in the region and is endorsed by the provisions of the Universal Declaration of Human Rights and the UN Charter on Freedoms, Rights and Equality. To this end, it has explicit and implicit provisions prohibiting discrimination. Ratifying and respecting all international instruments, international treaties, the Charter of the United Nations and the Universal Declaration of Human Rights in its seventh chapter under the heading of the fundamental rights and duties of citizens in its twenty-second article explicitly prohibits all forms of discrimination Prohibits and emphasizes that it prohibits all forms of discrimination and privileges among the citizens of Afghanistan and that all citizens of Afghanistan, both men and women, have equal rights and duties before the law. Afghanistan has no place and the government of Afghanistan has equal rights and duties Recognizes the citizens of Afghanistan. In its forty-fifth article, this law emphasizes the equality of religions and the provision of education based on religions for school students. No discrimination is accepted in the service of the government under this law, and in its fifty-eighth article it emphasizes that the government, in order to monitor the observance, improvement and protection of human rights, establishes an independent human rights commission and any individual can complain to this commission in case of human rights violations. Examining these articles of the Constitution, especially Articles 2, 7 and 22¹¹, it can be seen that the Constitution of Afghanistan has an explicit provision prohibiting discrimination and combating it. Therefore, other laws and legislative documents of Afghanistan in accordance with the principles of the Constitution, especially Article Twenty-third of this law has special provisions prohibiting discrimination.

In accordance with the Constitution of Afghanistan, the first paragraph of Article 5 of the Afghan Electoral Law emphasizes that all citizens of Afghanistan, both men and women, have the right to participate in the elections and in the second paragraph emphasizes that whenever the conditions for participation in the elections in case of deprivation of the right to register or the right to vote or to be elected, they can complain to the relevant competent authorities. Ethnicity, sex, race, position, residence, social status or disability are prohibited and defined as implied. Participate in elections and prohibits any concessions or discrimination. Pursuant to Article 48 of the Afghan Labor Law, Article 9 of the Afghan Constitution, in its ninth article, on non-discrimination in employment, emphasizes the prohibition of discrimination in employment in Afghanistan in three paragraphs. In the first paragraph of its ninth¹² article, this law emphasizes that any kind of discrimination in employment, payment of wages, privileges, choice of job, profession, skills and specialization, and social security of any kind of discrimination is prohibited, and in the second and third paragraphs of this article Emphasizes the provision of privileges for women and the appointment of employees based on the field and specialization in the type of field of study. Although this law prohibits all forms of discrimination in the work process in Afghanistan, in its eleventh chapter, it provides benefits and positive discrimination for pregnant women and adolescent workers. Article 122 emphasizes the prohibition of sending pregnant women to travel, and Article 127 emphasizes the protection of young workers between the ages of 14 and 18. Although the provisions of this law apply to persons over 18 years of age, it also has special provisions for employees under 18

years of age, and the prohibition of discrimination and protection of employees of pregnant women and young people under 18 years of age can have a special place. The Civil Service Employees Act prohibits discrimination in the employment of civil servants in accordance with Article 50 of the Afghan Constitution for the purpose of qualified employment in civil service departments and in accordance with Article 23 of the Afghan Constitution and the Afghan Labor Law. Article 2 of the first paragraph of Article 28¹³ emphasizes that whenever a nominee in a civil service, a contract officer or a contract employee is discriminated against and treated unfairly, he can file his complaints to the designation and human resources committees of independent ministries and departments. Raise the government. Civil Service Employees Law, which has more authority over the employment of employees and transparency in government departments of Afghanistan, although the provisions of this law apply to citizens over 18 years of age, but the provisions of this law in accordance with the Afghan Constitution and the Afghan Labor Law It prohibits discrimination, which can affect children in the family.

The Afghan Penal Code, in accordance with the Constitution of Afghanistan with its punitive approach in Article 6¹⁴, emphasizes that all citizens of Afghanistan are equal before the law and states that the suspect, accused, and convicted regardless of nationality, race, language, tribe O, religious, political, sexual, educational, occupational, relative, wealth, social status, place of residence and stay are equal before the law and the mentioned cases have no place in the justice and penal system of Afghanistan and are emphasized in Article 9. That the crime is a personal act and the punishment does not spread to other people and in the second paragraph of Article 12 also emphasizes that all the punishment of Afghanistan on the perpetrator should be done with respect for human dignity. In its sixth chapter, Article 323 of this law, on insulting and discriminating against citizens' religions, stipulates that a person who intentionally insults one of the religions and disturbs their rituals or destroys their temples, commits a criminal act. Data and will be punished in accordance with the provisions of this law. The Afghan Penal Code as the most important domestic criminal law of Afghanistan, although it has an explicit provision on the definition and punishment of children and protection of children in its third part, but the ruling that cannot be explicitly prohibited from discriminating against children's rights, but also protection of children's rights in The prohibition of placing children in the military and forced labor sectors and the protection of other children's rights can define the Afghan Penal Code as one of the most important Afghan domestic laws in the field of child protection. The law of the Ministry of Higher Education is one of the educational laws that has been approved regarding the educational institutions of Afghanistan and the structure of the Ministry of Higher Education. The Ministry of Higher Education has banned university professors, administrative staff and students. In its thirty-third article, this law defines the institution of higher education in its first paragraph and considers it as an academic institution and the main duties of these institutions are outside any political, religious, ethnic, regional and linguistic activities. The second paragraph of this article emphasizes that no employee of a higher education institution can use members of the academic staff (professors) of the administrative staff (employees) for their group and political goals through scientific, teaching and administrative activities, or in other words To pursue non-scientific goals, which in itself is the prohibition of any discrimination in higher education institutions by the authorities and professors at the higher education institution. This law, in addition to prohibiting all professors and employees of higher education institutions from any kind of discrimination, in the section of student responsibilities, also prohibits students from engaging in any discriminatory ethnic, linguistic, religious and political activities in the academic

¹¹ Article 22 of the Constitution of the Islamic Republic of Afghanistan, adopted in 2003, Any kind of discrimination and privilege between the citizens of Afghanistan is prohibited. Afghan citizens, both men and women, have equal rights and duties before the law.

¹² The first paragraph of Article 9 of the Labor Law of the Islamic Republic of Afghanistan, approved in 2006 ;In employment, payment of wages and privileges, choice of job, profession, skills, and specialization, right to education and social security, any kind of discrimination is prohibited.

¹³ The second part of the first paragraph of Article 28 of the Law on Civil Servants of the Islamic Republic of Afghanistan, approved in 2008; Discriminatory and unjust treatment by the Civil Service Appointments Board, Appointments Committees and Human Resources Departments of Ministries and Independent Government Agencies.

¹⁴ Article 6 of the Penal Code of the Islamic Republic of Afghanistan, approved in 2016 AH: And reside before the law are fully equal.

environment. Has forbidden. Although this law is mostly for students and people over the age of 18, but in support of the principle of non-discrimination, it can have a large share in society as the most important influential institutions. Schools It is seen that an acceptable number of children, i.e., students under the age of 18, enter higher education institutions every year, and the provisions of the law of the Ministry of Higher Education can be a good support for these student children in higher education institutions in Afghanistan. The Education Law, which has been adopted in accordance with Articles 17, 43, 40, 45, 46 and 47 of the Constitution of Afghanistan, has explicit provisions prohibiting any kind of discrimination in the first chapter of the General Provisions, and any It prohibits discrimination in the institution of education. In its third article, this law emphasizes that all citizens of the Islamic Republic of Afghanistan, without regard to any discrimination, have the same right to education. The Ministry of Education of the Islamic Republic of Afghanistan Education of children and the basic generation of Afghanistan is considered as this article as the most important articles prohibiting any discrimination in obtaining education in educational institutions has a special place in supporting the principle of prohibition of any discrimination. Education or schools the acquisition of education and enrolment in schools from the age of six to nine years and enrolment in schools in the secondary (basic) education period in the first paragraph of Article 5 is mandatory and all children between these ages must enter educational institutions and This rule can take effect if implemented Have an important. The Child Protection Act, as the most important child protection law in Afghanistan, places special emphasis on the principle of non-discrimination. In Article 6¹⁵ of the first paragraph of this law, it prohibits any discrimination in terms of race, color, sex, language, ethnicity, religion, theories, political beliefs, or origin and place of birth or other cases against the child, and in its second paragraph It also emphasizes that children who are discriminated against on the basis of their parents' status or activity, ideas or opinions should be protected, and Article 7 emphasizes that the government should support the physical and intellectual development of children. This law, in addition to prohibiting any discrimination against children in its chapter, once again supports and emphasizes the right and principle of prohibition of any discrimination in its third chapter under the title of children's rights. This law in the third chapter under the rights of children And in Article 12 of the Constitution on the Rights of the Child, under number 33, he mentions and recognizes the number of children's rights. Deals with the protection of children against all forms of discrimination, including the protection of the rights of the child and the guarantee of a commitment to the Convention on the Rights of the Child. Examining the provisions of the Law on the Protection of the Rights of the Child, it can be seen that this law is one of the rarest and most comprehensive laws enacted by the legislature to prohibit discrimination against children and has been recognized by the Government of Afghanistan.

The Afghan legal system, especially the Afghan Constitution and the Law on the Protection of Children, although it provides the necessary protection to children subject to discrimination and prohibits all forms of discrimination against children in Afghanistan, and special institutions to combat this phenomenon. In its organizational structure, however, it can be seen that many children are threatened with all kinds of discrimination in Afghanistan on various grounds, which can be dangerous for the future of Afghan children, an example of children who are most harmed in Afghan society. Children of Afghanistan's religious minorities, the Jogis and Sikhs, have been discriminated against and have not been able to enjoy their minimum rights, especially their right to identity card, education and health, and in some cases even life, due to discrimination. The leadership of the Government of Afghanistan, especially the legislature and the executive branch of Afghanistan, to take appropriate measures to deal

with this ominous phenomenon in order to prevent the continuation of discrimination against children, especially children of Afghanistan's religious, ethnic and racial minorities. It can pave the way for the flourishing and use of the talents of these minorities to ensure the security and prosperity of Afghanistan in the future. Examining the legal system of Afghanistan, it can be seen that in both systems, it has supported the principle of non-discrimination, especially the principle of non-discrimination against children, and in various cases has emphasized that various government departments and institutions should provide the basis for combating discrimination against children. Provide the necessary support to children who are at risk of discrimination.

The right to respect for the interests of the child in the Afghan legal system in accordance with the provisions of the International Convention on the Rights of the Child: Respect for the interests of the child is one of the rights enshrined in the International Covenant on the Rights of the Child and is one of the four fundamental rights of the child defined in the International Convention on the Rights of the Child. The International Covenant on the Rights of the Child guarantees this right in its third article and has the following meaning: The child's health takes precedence over other independent ones. The right to observe juvenile delinquency Although much attention has been paid to it in the International Convention on the Rights of the Child and other international and national instruments, it can be seen that a clear definition of this right or this principle has not been made in the international instruments of national documents. However, it is implicitly seen that issues including the welfare of the child and the protection of children are lived in different parts of the country. We examine this right in the system of international law and the legal system of Afghanistan.

Constitution; The Constitution of Afghanistan is defined as the embodiment of the Afghan legal system. Although it does not seriously define the interests of the child, it implicitly places great emphasis on the protection of the interests of the children of Afghanistan. Article 6 of the Constitution of Afghanistan emphasizes that the government is obliged to create a prosperous, progressive society and believe in social justice, protection of human dignity, protection of human rights, realization of democracy, ensuring unity among all citizens of Afghanistan, this law in its seventh article It is also committed to all international instruments, in particular the Universal Declaration of Human Rights and the international instruments to which it is a signatory. It is the main document and is obliged to fulfil its obligations towards this document, especially the protection and protection of the national interests of the child. In addition to these two articles, the Constitution of Afghanistan, in several chapters and another article, has implicitly addressed this principle, which can be found in Article 24, which emphasizes the protection of human freedom and dignity and the Government of Afghanistan is committed to respect and protection. They know about human freedom and dignity, Article 49 does not allow forced labor for children, and Article 54, which obliges the government to ensure the physical and mental health and proper upbringing of children, is one of the examples of these substances. Which is about the child and the protection of the interests of the child is included in the Constitution of Afghanistan and the Law on the Protection of the Rights of the Child of Afghanistan has been formed following the same articles, especially the fifty-fourth, and this law has observed the rights of children.

Afghanistan Child Protection Law, which is one of the great achievements of Afghanistan after 2001, which in several articles has addressed the protection of children's rights and the protection of the rights of the child, which can be referred to as an example of the following articles; Second, in terms of goals, including their goals, they consider themselves to protect the interests and interests of the child. In the ninth paragraph of its second article, this law emphasizes that one of the aims of this law is to respect the best interests of the child in all sectors and to deal legally with violators of children's rights. In its tenth chapter, in the section forbidding the separation of the child from the parents, this law emphasizes in its sixty-fourth article that in no case can the child be separated from the child's

¹⁵.The first paragraph of Article 6 of the Law on the Protection of the Rights of the Child of the Islamic Republic of Afghanistan, approved in 1397 AH; 1- Any kind of discrimination in terms of race, color, sex, language, ethnicity, religion, theories, political beliefs or origin and place of birth and the like, which is related to the child himself or his legal representative is prohibited.

parents, and if the law mentions the state of separation of the child from the parents, The main condition is separation from the parents, ie in both cases, both in the case of separation of the child from the mother and non-separation of the child from the mother, the principle of respecting the child's interests should be considered. One of the parties is separated and assigns the responsibility to the relevant ministries and institutions. This article in Article 68 also emphasizes the protection of the interests of the child in another way, this law in Article 68 Emphasizes that if a child is permanently or temporarily separated from family members for reasons such as non-observance of the child's higher interests, the government and relevant departments are obliged to support and take care of the child. The second paragraph of Article 69 also provides for the rights and duties of the guardian against the child. The guardian or guardian of the child is responsible for protecting the interests of the child in civil matters and preventing harm to the child. In the continuation of this law, in its ninetieth article, entitled the rights of the innocent child, it emphasizes that the innocent child has certain rights by observing the principle of the child's interests. The summary of this law reveals that this law has the necessary protection of the rights of the child in Afghanistan, especially the protection of the interests of the child, but an important challenge in this law as in the Convention on the Rights of the Child is the lack of clear definition of the best interests of the child. In its second article, it has stated that one of its ten main goals is to respect the interests and interests of the child. The articles of this law show that the manifestations of the interests of the rights of the child, especially Morally, spiritually and materially, in discussions such as the separation of the child from the parents or the lack of harm to the child when he is separated from his parents or under guardianship, he pointed out that for this purpose, if this law is amended, Determine the interests of the child's parents in proportion to its priority. Examining the above laws on the protection of the interests of children, it can be seen that the Afghan legal system has important emphases and materials on the protection of the interests of children. An important challenge in the Afghan legal system is the lack of a clear definition of the interests of the child. However, the protection of this right is of particular importance in the general law of Afghanistan for the protection of the rights of the child.

The right to respect for the views of children under the International Covenant on the Rights of the Child: The principle of respect for the views of children is another principle or fundamental right of the child that has been emphasized in the International Convention on the Rights of the Child. According to Article 12 of the Convention on the Rights of the Child, whenever a child is able to present his or her views, States Parties shall protect him or her. The right to respect for the views of children is one of the most challenging issues in the Afghan legal system regarding the protection of this right, especially under the provisions of Article 3 of the Afghan Constitution, which states that no law can violate the provisions of religion. In order to understand the importance of this principle, we will examine a number of legal documents that have protected this right in the international legal system of the Afghan legal system. The Constitution of Afghanistan, as one of the modern constitutions in the history of Afghanistan and the region, contains important and modern principles of human rights that are unique in the history of both the Constitution of Afghanistan and the constitutions of the region. Article 34 of the law protects the expression of views and freedom of expression and states that freedom of expression is inviolable. All Afghans have the right to express their views and opinions through various written, spoken and visual means or other means in accordance with the provisions of this Constitution. This article, which is the most important article of this law regarding the expression of views, has supported the expression of views and opinions, but at the end of this article, it is seen that the expression of any views and opinions is conditional on the cases that this law prohibits or legitimizes. It is one of the most important conditions and restrictions that this law has conditioned the expression of views and opinions. It refers to Articles 3 and 50 of this law, which emphasizes in its third article that no law can be enacted against the rules of Islam in Afghanistan Among the things that the religion of Islam is against is insulting the rituals of the religion of

Islam or the rejection of the religion of Islam by the followers of this religion, and Article 50 emphasizes that the right to access information has no restrictions unless it is against public security and freedom of others. We can say that the constitution of Afghanistan supports any thoughts and views expressed by the citizens of Afghanistan, but the condition is contrary to the provisions of Islam, which is insulting and abandoning the religion of Islam, and other important things are public safety and freedom of others according to the law. Basic Afghanistan It respects the whole view of the child, with the exception of the provisions of the religion of Islam and the national security and freedom of others, which were among the conditions of the Afghan government in accepting the 1989 Convention on the Rights of the Child, adopted by the UN General Assembly.

The Government of Afghanistan, which signed the Convention on the Rights of the Child in 1994 with the right to bet and acceded to this Convention, at the time of signing the Convention on the Rights of the Child issued a statement interpreting the provisions of the Convention, stating that the Government of the Republic of Afghanistan the provisions of the Convention, which are in conflict with Islamic Shari'a law and applicable local law, give themselves the right to stipulate. (Mousavi, 2015: 147) In particular, insulting the sanctities of Islam, especially changing the religion of Islam. Knows and supports all children in exercising these rights. The Law on the Protection of the Rights of the Child in Afghanistan, in accordance with the provisions of the Constitution of Afghanistan, in its interpretive form, has supported the expression of all views of children. Article 12 of this law, entitled Constitutional Rights of Children, emphasizes that the children of Afghanistan, in accordance with the provisions of this law and other legislative documents, have specific rights, which include thirty-four cases, and one of the cases is emphasized in this law under number 18. This is the right of the child to freedom of expression and expression. In its eighth chapter, in the section on cultural development of the child, this law discusses the child's right to freedom of expression and expression from Articles 57 to Sixty-one, which includes five articles. Article 57 of this law emphasizes that the child has the right to freedom of thought, expression and expression, and this right includes searching, receiving and accessing all kinds of information that can be used orally, in writing, in print or other means. The provisions of the Afghan Constitution on freedom of expression in its second paragraph emphasize that the exercise of this right by the child is not restricted unless it is contrary to the law, contrary to national security, public morality, religious beliefs, public health or harm to liberty. Examining the provisions of this article, it can be seen that this law also considers freedom of expression of children to be conditional on insulting the beliefs of Islam, changing the religion of the child or harming the national security and freedom of others, and this is exactly the provisions of the law. The Constitution of Afghanistan is addressed in Articles 3 and 50 and the Declaration of Accession to the Convention on the Rights of the Child. In its fifty-eighth article, the law emphasizes in three paragraphs that the ministry and government departments are obliged to provide the ground for children to express themselves freely on issues that have a positive impact on children's lives, and in the third paragraph, families emphasizes that families are obliged to provide suitable conditions for children, considering the financial possibilities. Examining the provisions of the Law on the Protection of the Rights of the Child on the right to freedom of expression and expression, it can be seen that like the general provisions of the Constitution and the provisions of the Interpretation Declaration on the Acceptance of the Convention on the Rights of the Child, And the only thing that is related to it, unlike many countries that do not accept it with the right of condition, is the view of children about the change of religion and religion of children, which is considered a natural thing with the complete Islam of Afghan society, but support Other views of their children are supported and praised. The Afghan Public Media Law also endorses the freedom of expression and expression of citizens by endorsing the provisions of the Afghan Constitution. This law, which was approved in accordance with the provisions of Article 34 of the Afghan Constitution and Article 19 of the Universal Declaration of Human Rights, emphasizes

in its second article that the most important objectives of this law are to protect and guarantee the right to freedom of thought and expression. The thoughts and feelings of the citizens of the country are expressed by speech, writing, drawing, image, recording on tape, allegory, movement and other scientific, literary, artistic and publishing phenomena. In this article, this law emphasizes in its fifth paragraph that Freedom of expression is enshrined in the Universal Declaration of Human Rights with regard to the sacred religion of Islam. It has the right to request and receive information, and the only limitation it implies is in the national interest and security of Afghanistan. Examining this law, like the Afghan Constitution and the Afghan Government's Interpretative Declaration on the Adoption of the International Convention on the Rights of the Child, it is seen that the violation of the provisions of Islam and the security and national interests of Afghanistan are among the cases that restrict freedom of expression. And the freedom of expression of the citizens of Afghanistan, especially children, has been established, and in other cases, the Afghan Public Media Law has protected all types of freedom of expression of the citizens of Afghanistan. The media law, like the media law, still has important provisions to protect freedom of expression and expression of citizens and access to information. In the second article of this law, the most important purpose of this law is the right of access to the citizens of Afghanistan and the observance of Article 19 of the International Covenant on Civil and Political Rights, taking into account Article 3 of the Constitution of Afghanistan. Article 4 of the law also emphasizes that government departments are obliged to provide information to all citizens of Afghanistan, and Article 6 stipulates the time for access to information by government agencies to citizens, which is a maximum of ten days, with Examining the provisions of this law regarding the protection of the views of citizens, especially children, has expressed its necessary support for this principle, but the case that this law, like other laws, especially the constitution, is conditional and that freedom of access to information contrary to Article 3 It is the constitution of Afghanistan. The Afghan constitution, which emphasizes that no legal provisions are enacted in Afghanistan in violation of the rules of Islam, is seen as conditionally recognizing the right of Afghan citizens to access information and express their views.

Examining the Afghan legal system on the protection of the right to liberty of children according to the Convention on the Rights of the Child, it is seen that the Afghan legal system has conditionally accepted respect and protection of the views of children in its legal system and the Afghan legal system. The views and beliefs of the child are supported, with the exception of rulings that oppose the rulings of Islam, especially insulting the rites of Islam and changing the religion of Islam by the child, and the national security and interests of Afghanistan and ultimately harming the freedom of others for this purpose. Afghanistan has also accepted the Convention on the Rights of the Child with the right to bet, and this is one of the differences between the Afghan legal system and many other countries that have adopted the Convention on the Rights of the Child, and this is exactly the opposite of the international law. International law recognizes and guarantees respect for freedom of opinion and opinion for global citizens, especially children, without prejudice to freedom of opinion and belief, and only the conditions that restrict freedom of expression and opinion for citizens in particular. Therefore, there is a big difference between the Afghan legal system and the international legal system in terms of protecting the right of children to have a point of view. This is the conditional recognition of children's freedom of opinion and opinion. In the Afghan legal system and without any special conditions in the international legal system. Finally, Afghanistan has obligations under national and international law to ensure the rights of the child, and is obliged to provide appropriate and effective solutions to implement these laws and create the necessary conditions and measures for children to access their rights. In order to harmonize national laws with the constitution, the Afghan government has enacted a series of laws, regulations and bills to better ensure the rights of the child. In Afghanistan today, due to the many problems of the government, children do not have full protection and protection and are not immune in the community and family.

It is hoped that practical steps will be taken as soon as possible by the responsible institutions to address the problems of Afghan children in the family and community, and that government programs will take more active and consistent action to seriously address deficiencies and inadequacies in accessing Afghan children to their rights. And the government, understanding its legal, national and international responsibilities to the general principles of the Convention on the Rights of the Child, which include non-discrimination, respect for the best interests of the child, ensuring growth and survival, and the important right to life and respect for the views of the child. Provide action. Studies show that Afghan law is still a long way from what it should be in terms of various aspects of child protection. (Mousavi, 1394: 48)

CONCLUSION

This study sought to examine the definition of the child and the four rights introduced by the International Committee of the Child in the Afghan legal system under the provisions of the International Covenant on the Rights of the Child. Define the definition of a child in the Afghan legal system and then examine the definition of a child in the Afghan Convention on the Rights of the Child. We have examined and confirmed the definition of a child in the International Covenant on the Rights of the Child in the Afghan legal system. A child is a person who has not reached the age of eighteen. In addition to presenting this clear definition of a child, Afghanistan also has other tense debates regarding the definition of a child and the place of the child within its legal system, especially Article 3 of the Afghan Constitution, which states that no law can be enacted contrary to Islamic law. It is possible that Islamic religions have various definitions of the rules of Islam regarding the child, including a number of religions that consider a child to have reached the age of nine, or some other religions that consider the child to be a person who is twelve or seventeen years old. It is obvious that there are many tensions within the Afghan legal system regarding the definition of a child, despite the clear definition of a child in the Child Rights Protection Act and other ordinary Afghan laws. The tensions arising from the provisions of the constitution were resolved before the adoption of the constitution, but the Afghan government can still modify this major challenge by holding a constitutional Loya Jirga and address the challenges arising from these tensions. The next section of this article, which dealt with the fundamental rights of children in the Afghan legal system under the International Convention on the Rights of the Child, is similar to the definition of a child. At present, countries, in accordance with the provisions of the Convention on the Rights of the Child, adopted by the UN General Assembly in 1989, have four important rights and principles (the right to life, the right to non-discrimination, the right to respect for the interests of children and the right to respect for the views of children). The Child Foundation defines the legal system of Afghanistan, although it has expressed its support for these rights and principles in relation to the first three rights and principles in accordance with the provisions of the Afghan Constitution and other laws of this country. In addition to accepting the right to bet and publishing a commentary on the Convention on the Rights of the Child, it can accept the provisions of this convention with the right to conditional discussions on the principle of respect for the views of the child, especially not accepting the right of the child to change religion or has expressed the child's views on the rules against Islam. In addition, the Afghan legal system, according to the provisions of Article 3 of the Constitution of the country, which stipulates that no law can be enacted in Afghanistan contrary to the provisions of Islam, shows that the Afghan legal system not only conditionally accepts the principle of respect for children. All cases, rulings, materials and documents whose contents are contrary to the rulings of the religion of Islam are conditionally accepted and committed to it. Examining the provisions of the Constitution and the ordinary laws of the Islamic Republic of Afghanistan, it can be seen that all legal cases in the Afghan legal system are defined and interpreted with respect for the provisions of Islamic law, and the definition of a child is no exception. According to Article 7 of its Constitution, it commits itself to all the provisions

of the international instruments to which it is a party and to the Universal Declaration of Human Rights. It can be seen that the child in the Afghan legal system did not have a single definition and the laws of this country have provided different definitions of the child according to the importance and position of the child, but the definition that is widely used in the Afghan legal system is exactly the same. International Convention on the Rights of the Child, and according to the provisions of this International Convention, a child is a person who has not reached the age of 18, but there is no single definition of a child in the Afghan legal system, and this is one of the clear points in System International law and the Afghan legal system are concerned with the definition of a child. In addition, the implementation of the fundamental rights of the child in accordance with the provisions of the International Convention on the Rights of the Child, defined by the International Committee of the Child, does not constitute a single procedure for guaranteeing such rights in the Afghan legal system. Or subject to these procedural rights, especially in the case of the principle of protection of the views of children, with which the Afghan legal system has acted in a special way. Realizing the importance of the issue of children at the international level for the Afghan legal system, it is necessary to revise the criteria related to the child, especially the criteria related to the definition of the child, the rights and status of the child, which can contribute to improving the legal status of children in Afghanistan. Great also help to present a positive image of Afghanistan.

REFERENCES

A: Books and articles

1. The Holy Quran, {Hujarat, verse 12}.
2. Danish, Sarwar (2010). The Basic Law of Afghanistan, Kabul, Ibn Sina Institute of Higher Education Publications.
3. Jayakody, Aruni (2015). The evolution of fundamental rights in Afghanistan; 1924-2004, Kabul, Afghanistan Research and Evaluation Unit.
4. Javadpour, Maryam (2016). Protecting the right of children to health in armed conflict from the perspective of Islam and international humanitarian law, Comparative Research Quarterly of Islamic and Western Law, Third Year, No. 4.
5. Koosha, Jafar, Khajehzadeh, Yasman (2012). Globalization of the concept of child in the context of criminal law, Journal of Legal Research, No. 9.
6. Mousavi, Seyed Mohammad (2015). Protecting Child Victims in Afghan Law and International Documents, Legal Discourse Quarterly, Fourth Year, No. 8.
7. Nouri, Seyed Massoud (2007). Protocol to the Convention on the Rights of the Child on the Sale of Child Prostitution and Pornography and the Study of Iran's Accession to it, Human Rights Quarterly, Volume 2, Number 1.
8. Rahmani, Mehdi, Piri Amir Hajiloo, Fatemeh (2009) 2. Support for the right to life of the child in armed conflict from the perspective of Islam and international documents with a view to Yemeni children, Children's Rights Quarterly, first year, third issue.
9. Sajjadi, Seyed Anwar (2015). Child criminal responsibility in Afghan criminal law, Legal Discourse Quarterly, Year 4, Issue 8
10. Zand razavi, Siamak, Rahimi Pouranaraki, Nahid (2011). Comparison of the situation of Iranian-Afghan working children in Kerman province based on four principles of the Convention on the Rights of the Child (three sociology and two solutions), Iranian Journal of Social Studies, Volume 5, Number 1.

B: International documents and domestic law of Afghanistan

1. Constitution of the Islamic Republic of Afghanistan (2003). Articles 2, 3, 6, 7, 22, 23, 24, 34, 45, 49, 50, 54, 58.
2. Civil Law (1976). Official Gazette 353, Article 39.70.
3. Public Media Law Islamic Republic of Afghanistan (2005), Official Gazette 817, Article 2, 5.
4. Labour Law (2006), Official Gazette 914, Article 3, 7, 9, 107, 110, 111, 112, 113, 116, 119, 120, 121, 122, 123, 124, 126, 127, 128.
5. Law of Education Islamic Republic of Afghanistan (2008). Official Gazette 955, Article 2, 5.
6. Civil Service Employees Law (2008), Official Gazette 951, Article 7, 28.
7. Law on Intrinsic Affairs of the Police (2010), Official Gazette 1040, Article 5.
8. Election Law Islamic Republic of Afghanistan (2013), Official Gazette 1112, Article 5,12.
9. Law on Access to Information Islamic Republic of Afghanistan (2014), Official Gazette 1156, Articles 2, 4, 6.
10. Child Custody Law Islamic Republic of Afghanistan (2014) Official Gazette 1130, Article 6.
11. Civil Higher Education Law Islamic Republic of Afghanistan (2015), Official Gazette 1195, Articles 33, 60.
12. Penal Code (2017). 1260 Official Gazettes, Articles 6, 9, 12, 95, 99, 114, 323, 570, 571, 572, 616, 617.
13. Law on the Protection of the Rights of the Child Islamic Republic of Afghanistan (2018).
14. Law on Intrinsic Affairs of Soldiers Islamic Republic of Afghanistan (2019), Official Gazette 1346, Article 5.
15. Convention on the Rights of the Child Islamic Republic of Afghanistan (November 23, 1989). Articles 1, 2, 13, 6, 12
