

## Policy Brief

### Violence against Woman in Afghanistan

Violence against women is a serious and widespread human rights violation that regularly occurs across Afghanistan. Based on the Law on Elimination of Violence against Women, it is defined as “those acts that cause damage to the personality, body, property or soul of a woman.” According to the Afghanistan Independent Human Rights Commission (AIHRC), 2,579 cases of violence against women were recorded during the first six months of 1394 (2015). During the same period in 1393 (2014), this figure was reported at 2,403 cases which represents an increase of 7.32 percent from the prior year.<sup>i</sup>

Women suffer from many forms of violence which may include physical, economic, verbal and psychological violence. Factors known to contribute to violence against women are often related to harmful traditions and customs, lack of rule of law, corruption and poverty.

Considerable advances in women’s human rights have been achieved in Afghanistan since 2001. These achievements include legislation, policies and government actions which support women’s rights, including:

- Ratification of the new Constitution of Afghanistan which, in Article 22 “prohibits any kind of discrimination between Afghan citizens and provides equal rights and duties for men and women.”<sup>ii</sup>
- President’s decree on the Law on the Elimination of Violence against Woman (EVAW) in August 2009.
- Enactment of the Regulation on the Prohibition of Women Harassment in October 2015 in the country to support women and fight against violence.
- Formulation of gender-sensitive strategies and plans such as the National Action Plan for the Women of Afghanistan, Afghanistan National Development Strategy and the National Priority Program for Human Rights and Civic Responsibilities.
- GIROA’s establishment of the Ministry of Women Affairs, Afghanistan Independent Human Rights Commission, Gender Units within GIROA Ministries, the High Commission for the Prevention of Violence, Specialized Family Court and Special Prosecution Office for Elimination of Violence against Woman which support women’s rights and empowerment.
- Ratification of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)<sup>iii</sup>, International Covenant on Civil and Political Rights<sup>iv</sup>, International Covenant on Economic, Social and Cultural Rights<sup>v</sup>, Convention on the Rights of the Child<sup>vi</sup>.
- GIROA’s express commitment to observe the Universal Declaration of Human Rights.<sup>vii</sup>

One of the most important pieces of legislation with regard to violence against women, the EVAW Law was first drafted in 2008 by Afghan civil society organizations, women leaders and activists with the support of the Ministry of Women’s Affairs (MoWA) and the Ministry of Justice (MoJ). Enacted by presidential decree in August 2009, it is meant

to criminalize acts of violence against women including rape, domestic violence, child marriage, forced marriage, the exchange of women in blood feuds and other disputes (a practice known as 'Baad' prevalent in Afghanistan), among other forms of violent acts against women. In total, the law identifies 22 specific forms of violence against women (VAW).<sup>viii</sup>

The Regulation on Prohibition of Women Harassment enacted by the Government of Afghanistan in October 2015 is another key tool in the protection of women. The regulation contains measures which allow for complaints of harassment to be officially heard and processed; provide required support to the victims; prevent harassment of any kind against women; and encourage and ensure a harassment-free environment for women to work and study.<sup>ix</sup> While this regulation has been officially enacted, it is still in the early stages of application and advocacy is needed to be fully implemented in the country.

Similarly, the National Action Plan for the Women of Afghanistan (NAPWA) is an important policy framework with a ten-year (2008 - 2018) timeframe that pursues the twin goals of women's empowerment and gender equality. NAPWA comprises three pillars: security; governance, rule of law and human rights that comprises legal protection and human rights, leadership and political participation; and economic and social development that includes economy, work and poverty, and health and education.

However, at present, ratification and implementation of the EAW Law is still incomplete<sup>x</sup>. The EAW Law has not been ratified by the Parliament. Since the presidential decree was issued, several attempts have been made to weaken some provisions of the law, most notably when it was reintroduced in the Wolesi Jirga in May 2013, with some parliamentarians arguing that the prohibition of child marriage, forced marriage, and unrestricted access to health care, education and women's shelters is "against Islam" and, therefore, contradicts the Constitution. Currently, the law remains with the Commission on Women's Affairs, Civil Society and Human Rights of Wolesi Jirga, which plans to reintroduce it for approval in the upcoming parliamentary session in September.

In addition, the EAW Law is not consistently or fully implemented in the country and, instead, traditional mediation is widely used in its place. Early and forced marriage is still common in the country, especially in rural areas. In many instances, the perpetrator, his family members and influential persons are called for a dialogue which puts immense pressure on women to withdraw their case. These long-standing traditions, illiteracy and lack of information about women's rights and the laws which offer protection all contribute to the continued violation of women's rights in Afghanistan.

In light of the challenges that the EAW law faces in terms of approval and implementation, as well as the current need for monitoring the implementation of the

newly-enacted Regulation on the Prohibition of Women Harassment, the following set of recommendations is submitted for consideration by the Violence against Women Coalition:

- In partnership with advocacy allies, especially community and religious leaders, organize awareness-raising campaigns on the Constitution of Afghanistan, specifically Articles 17, 22, 43, 44, 45, 48 and 54, the EAW Law, and the Regulation on Prohibition of Women Harassment;
- Meet, discuss and lobby with government officials to strengthen political will to approve the EAW law.
- Lobby and advocate for approval of the EAW law by the parliament, especially with members of parliament who do not currently support the law;
- Advocate for higher education institutes to adopt and enforce the current Ministry of Higher Education Anti-harassment Policy.
- Conduct oversight of the implementation of laws, regulations and gender policies related to violence against women;
- Conduct research on cases of violence against women and prepare position papers to be submitted to the relevant committees of parliament to support actions to mitigate violence against women.
- Conduct lobbying and advocacy efforts with Specialized Family Court and Special Prosecution Office for Elimination of Violence against Woman to strictly implement the EAW Law and apply a zero tolerance policy toward perpetrators;
- Organize advocacy campaigns for marriage registration and banning of early and forced marriages;
- Lobby and advocate with government ministries for the implementation of the National Action Plan for the Women of Afghanistan specifically pillar 2, which deals with governance, rule of law and human rights.

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<sup>i</sup> Afghanistan Independent Human Rights Commission, *Women and Long Way for Access to Justice*, 2016, available at <http://www.aihrc.org.af/home/research-reports>.

<sup>ii</sup> Constitution of Islamic Republic of Afghanistan, art. 22, 818 [series], 2004, available at: [http://moj.gov.af/content/files/Pages/OfficialGazetteIndex\\_D-header.htm](http://moj.gov.af/content/files/Pages/OfficialGazetteIndex_D-header.htm)

<sup>iii</sup> Afghanistan Independent Human Rights Commission, available at: <http://www.aihrc.org.af/home/document/747>

<sup>iv</sup> Afghanistan Independent Human Rights Commission, available at: <http://www.aihrc.org.af/home/document/747>

<sup>v</sup> Afghanistan Independent Human Rights Commission, available at: <http://www.aihrc.org.af/home/document/747>

<sup>vi</sup> Available at: <http://www.unic-ir.org/hr/convention-child.htm>

<sup>vii</sup> Constitution of Islamic Republic of Afghanistan, art. 7, 818 [series], 2004, available at: [http://moj.gov.af/content/files/Pages/OfficialGazetteIndex\\_D-header.htm](http://moj.gov.af/content/files/Pages/OfficialGazetteIndex_D-header.htm)

<sup>viii</sup> Law on the Elimination of Violence against Woman, art. 5, 989 [series], 2009, available at: [http://mojlaws.gov.af/index.php?option=com\\_aldb&view=legislations&Itemid=174&lang=af](http://mojlaws.gov.af/index.php?option=com_aldb&view=legislations&Itemid=174&lang=af)

<sup>ix</sup> Regulation on Prohibition of Women Harassment, art. 2, 1185 [series], 2015, available at:

[http://moj.gov.af/content/files/Pages/OfficialGazetteIndex\\_D-header.htm](http://moj.gov.af/content/files/Pages/OfficialGazetteIndex_D-header.htm)

<sup>x</sup> Afghanistan Human Rights and Democracy Organization, *Women in the Eyes of Men*.