1. Overview

Gender-based violence and the inadequate representation of women in civic and political life continue to be key problems in Afghanistan. This helpdesk research report explores initiatives aimed at countering gender-based violence and empowering women's voices. Information on the role of the legal system in Afghanistan - particularly sharia and customary law, is also highlighted throughout.

Gender-based violence

The following are some interventions by government, NGOs, women’s groups and donors, aimed at countering and mitigating the effects of gender-based violence:

- **Government policy**: the government National Action Plan on Women includes violence against women as the main pillar of its objectives and focus. The president's office has also publicly condemned violence against women and child marriage.
- **Legal instruments**: NGOs and women’s groups have been lobbying for legal reform and advocating for changes in the family and penal codes; the signing of a Protocol on Forced Child Marriages in 2005 is the successful outcome of an international conference; the drafting of a law on violence against women is in progress.
- **Accountability**: the Afghan Independent Human Rights Commission (AIHRC) and the Ministry of Women’s Affairs have sought to document, prevent, investigate and punish domestic violence.
- **Awareness-raising campaigns and training**: e.g. multi-media campaigns, public roundtable discussions and workshops; training focused on addressing domestic violence as a human rights violation, and definition of violence, types of violence, men's and women's rights according to Islam, and other culturally sensitive topics.
- **Research on various types of violence against women**: the AIHRC and the Afghanistan Research and Evaluation Unit, among other organisations, have been...
conducting research on child and forced marriages, domestic abuse and violence, including documenting causes.

- **Outreach to religious leaders**: NGOs and activists have been meeting with mullahs to discuss domestic violence as a violation of Islamic principles and teachings; and identifying cooperative religious leaders in spreading messages condemning violence against women.

- **Support services**: Family Response Units (FRUs) have been established in some provinces where women victims of domestic abuse can seek assistance. The FRUs are staffed by women police officers and have separate entrances, making it easier for female victims to report abuse without having to face male officers. Donors have also supported the setting up of shelters and safe houses, counselling and medical support, and free legal representation and advice.

**Gathering data and monitoring** is an area in which there have been significant developments in recent years. The AIHRC has been maintaining statistics on reported abuse, setting an important precedent by beginning to document the scale and form that violence takes. UNIFEM established a database to track violence against women, including sexual violence. More recently, Global Rights conducted a national survey, gathering data on domestic violence at the household level for the first time. It collaborated with four Afghan women’s organisations, which allowed for training and capacity building of these organisations in monitoring violence against women. The collection of such data has been essential as it provides solid evidence of the existence of gender-based violence and can be used to lobby the government to enact legislation that better protects women as well as to inform programming, awareness-raising, and service provision.

The literature notes however, that it is difficult at this stage to determine the impact that these and other initiatives have had overall in reducing violence against women in Afghan society; and there is little solid evidence or research and few evaluations that have been conducted to determine which strategies are proving to be effective and which are not.

**Women’s Voice and Participation**

Interventions aimed at increasing women’s voice and participation have enjoyed varying degrees of success. **Elections** are considered to have been fairly effective in terms of promoting women’s participation both as voters and as candidates. Women’s advocacy groups began to identify the problems and challenges the process was likely to create for women’s participation early on, and sought to address them. Government and NGO-sponsored programmes conducted public information campaigns to encourage female voter registration; correctly identified physical safety and security as a major concern; placed women in leadership positions for polling-station management and voter observation; created women-only voting stations staffed by female election workers and offered the highly publicised option of voter registration cards without the requirement of being photographed.

Women’s advocacy groups and NGOs were also successful in working together and lobbying for amendments during the **Constitutional Loya Jirga**. This resulted in new constitutional provisions that guaranteed the equality of men and women before the law, prohibited discrimination, and increased the quota for the participation of women in the **Wolesi Jirga** (lower house).

These established quotas in both the lower and upper house have contributed to **increased representation and acceptance of women in political institutions**. Representation in Afghanistan’s parliament now exceeds the number of reserved seats; and a 2006 survey found that 80% of Afghans supported women in parliament, suggesting significant changes in social attitudes towards women in politics. In addition, training and informal learning opportunities for women politicians are available – in areas such as parliamentary procedure and initiating legislation.
The literature emphasises, however, that the presence of women in political institutions has not translated into real influence over government policy or a strong representation of women’s issues. This can be attributed to the fact that women rarely occupy strategic or senior level positions; they do not provide a unified front on women’s issues as they are affiliated with different political parties; and the large presence of warlords intimidates them from arguing against legislation adverse to the interests of women. In addition, the absence of women at the executive level means that even when women’s gender interests are raised in parliament, they very rarely become legislation.

At the civil society level, Afghan women have been actively organising, and there are as many as 800 women’s organisations in Afghanistan, active in Kabul, Herat and northern and eastern provinces; more are emerging gradually in other, more rural provinces. RAWA, the Revolutionary Association of the Women of Afghanistan, has been especially influential since the terrorist attacks on 11th September, through its web presence. It successfully promoted women’s voices and challenged dominant discourses on fundamentalism and war, and the international community’s perceptions of women in Afghanistan.

**Sharia and customary law**

Despite the progress made in developing initiatives to counter gender-based violence and to promote women’s voice and participation – much of the literature stresses that women’s rights will never be properly fulfilled in the absence of a uniform legal system in Afghanistan. There are currently three competing components of the legal system: the state legal codes, sharia law and local customary law. Although sharia law is not described as the applicable law in the Constitution of Afghanistan, in practice, legal practitioners often refer to the sharia (in its variable interpretations) when faced with a legal question, particularly concerning matters of family law.

Further, customary law and practices (e.g. child marriages, bad -- the practice of selling or giving young girls in marriage or as a means to resolve disputes) are often mistakenly understood to reflect sharia, conferring a degree of legitimacy and status that is not warranted. As such, customary law is considered to have the most impact on the lives of women and girls, instead of statutory or sharia law – as the vast majority of cases seem to be resolved by resorting to such tribal customs. Various efforts have been made by women activists to distinguish tribal customs from sharia Islamic laws, including outreach to religious scholars and conferences.

### 2. Countering gender-based violence


This report contains the findings of the Special Rapporteur on violence against women in Afghanistan. Reports of domestic violence, rape and trafficking, among others, are said to have increased in the war and post-war contexts. The report stresses that violence against women is tolerated, and perpetrators enjoy impunity because the law enforcement and justice systems are generally dysfunctional and moreover biased against women. It argues that the failure to protect women is in large part due to the multiplicity of systems and the predominance of traditional customs and ‘informal’ justice over the formal justice machinery.

The report states that although sharia law is not described as the applicable law in the Constitution of Afghanistan, in practice, legal practitioners refer to the sharia (in its variable interpretations) when faced with a legal question, particularly concerning matters of family law.
law. Further, most practitioners do not have sufficient legal training to distinguish between tribal customs (child marriage, bad – the practice of selling or giving young girls in marriage or as a means to resolve disputes, and denial of the rights of widows and women’s inheritance rights) and sharia – and conflate the two.


Global Rights has engaged in a series of initiatives designed to counter domestic violence in Afghanistan. These include:

- Launching one of the first campaigns against domestic violence in Afghanistan, which featured trainings focused on addressing domestic violence as a human rights violation, an analysis of the causes and consequences of domestic violence in Afghan society, and a multi-media campaign to raise public awareness against domestic violence;
- Creating and distributing 500 copies of a brochure in Dari entitled Stop Domestic Violence Against Women, which discussed the reasons for and impact of domestic violence and encouraged Afghan men and women to work to prevent domestic violence;
- Organising a roundtable discussion on national television to raise awareness of domestic violence and to promote a rights-based legal framework to combat domestic violence;
- Creating posters depicting domestic violence and its impact on daily life and distributing these posters to schools, the Association of Lawyers and Judges, and the women’s prison;
- Conducting outreach with mullahs to discuss domestic violence as a violation of Islamic principles and teachings; five mullahs from different mosques spoke on the subject during their Friday afternoon prayers; and
- Hosting a National Conference on Women’s Rights, Law, and Justice to explore interpretations of Islamic law on issues such as domestic violence.

This report presents the findings of surveys on domestic violence conducted with women in 4,700 households in 16 provinces located across Afghanistan in 2006. It is the first report on domestic violence that gathers statistical data from surveys with women at the household level; and that is ethnically and geographically diverse. This research was conducted in collaboration with four Afghan’s women’s organisations, which allowed for training and capacity building of these organisations in monitoring and evaluation of violence against women.

The research found that an overwhelming majority of women, 87.2%, experienced at least one form of physical, sexual or psychological violence or forced marriage, and most, 62.0%, experienced multiple forms of violence. The report outlines the poor state of service provision to victims of domestic violence, including few shelters, and failures in police and health services to properly address such violence.

The report does note, however, some positive steps in official responses to domestic violence against women. The Afghan Independent Human Rights Commission (AIHRC) and the Ministry of Women’s Affairs, in particular, have sought to document, prevent, investigate and punish domestic violence. The AIHRC has also been maintaining statistics on reported abuse, setting an important precedent by beginning to document the scale and form that violence takes. In addition, the Government has included gender equity (which includes protecting women from violence) as a pillar of the Afghanistan National Development Strategy (ANDS), the Government’s blueprint for its development objectives over the next decade.
The report also discusses the important role of sharia law in the Afghan legal system. As such, it argues that it is critical to recognise that “domestic violence runs contrary to many interpretations of Islamic sharia law. Unfortunately, in Afghanistan, Islamic perspectives on domestic violence which emphasise equality between the sexes and the protections afforded to women by Islamic tenets have been silenced to a great extent, or ignored” (p. 44).

The report finds that customary law, however, has the most impact on the lives of women and girls, instead of statutory or sharia law – as the vast majority of cases are estimated to be resolved through customary law. Customary law is often mistakenly understood to reflect sharia, giving it a degree of legitimacy and status that is not warranted within the official hierarchy of laws in Afghanistan. It is essential, the report argues, that informal justice mechanisms be designed to protect against domestic violence rather than perpetuate it.


This report examines progress made in Afghanistan in promoting women’s security, rights, and participation. The report finds that justice sector reform has been weak in Afghanistan, hindering protection of women from violence and progress in women’s rights.

The report highlights, however, various ongoing initiatives that address judicial reform and aim to counter violence against women. These include (see pp. 18-25):

- Afghan women’s organisations have joined with the Ministry of Women’s Affairs to create the Gender and Law Working Group that lobbies on legal reform needs from a women’s rights perspective.
- The Ministry of Women's Affairs, with technical assistance from UNIFEM to the Ministry’s Legal Department, is actively advocating for changes in the family and penal codes that would protect the rights of women and girls.
- A Protocol on Forced and Child Marriages elaborated in 2005 as a result of an international conference on the elimination of violence against women has been signed and a special task force appointed to oversee its implementation.
- The Attorney-General recently joined a committee with the Supreme Court and several scholars to draft a law on violence against women, after women’s organisations criticised the Attorney General for general inaction on the issue.
- UNIFEM is also lobbying for more women judges to be appointed to the Supreme Court and assisting parliamentarians to address this issue.
- The AIHRC, which exists independently of the Government, but which cooperates with relevant ministries and officials, has been carrying out research and actively investigating cases of violence against women. The Commission has also been documenting causes of violence against women such as forced marriages, child marriages, polygamy, women’s drug addiction, suicide, and the running-away from home of women and girls, among other issues. The AIHRC plans to conduct research on forced marriages and domestic abuse in the next phase of its work. The collection of such data can be used to lobby the government to enact legislation that better protects women from domestic abuse as well as to inform NGO and government projects addressing the issue through programming, awareness-raising, and service provision.
- The Ministry of Women's Affairs and several Afghan and international organisations have initiated awareness-raising programmes on violence against women, using television, radio and print media. These awareness-raising efforts are a necessary
first step in countering the silence surrounding violence against women and its tacit acceptance in Afghan society.

- The Ministry has also organised several conferences, seminars and workshops with various actors including women’s organisations, mullahs, the international community, police, and other governmental departments.
- Family Response Units (FRUs) have been established in some provinces where women victims of domestic abuse can seek assistance. The FRUs are discrete sections of the police units with separate entrances for women and an emergency cellular phone number that women and girls at risk of violence can call. The perception of the police must also be changed from that of a punitive facility to a more protection-oriented service.
- The Afghan Women’s Network (AWN), a coalition of women’s organisations, has conducted gender-based violence case studies and has formed a network of organisations focused on addressing violence against women.
- Some women’s organisations as well as the Ministry of Women’s Affairs have been reaching out to religious leaders to discuss and speak out on violence against women, in the context of Islam. Identifying cooperative religious leaders is an important strategy in spreading messages condemning violence against women, as mosques are key sites where the values and norms of Afghan society are shaped and communicated.
- Other women’s organisations have been working with women’s shuras (councils) to assist them to better address cases of violence against women and to seek justice for women victims.
- International NGOs such as Oxfam have provided trainings on violence against women, medica mondiale provides psychosocial and trauma counselling and medical support as well as free legal representation and advice and is also engaged in issue specific research on violence against women. UN agencies have also been involved in providing legal assistance and establishing transitional houses for women.
- The Afghanistan Research and Evaluation Unit (AREU) is currently engaged in research on family dynamics and its interface with family violence.
- Shelters and safe houses have been supported by UNHCR, the Danish Embassy, UNIFEM and medica mondiale. There are two shelters in Kabul, one in Herat and one under construction in Mazar-i-sharif. However, women in remote provinces, away from larger cities generally do not have access to shelters due to a lack of awareness of their existence and cultural and security restrictions around women’s freedom of movement.

The report stresses that it is difficult at this stage to determine the impact such initiatives have had overall in reducing violence against women in Afghan society, and little research has been conducted on which strategies are proving to be effective and those that are not. In response to this, UNIFEM’s Gender and Justice Unit has begun compiling the activities of Afghan women’s organisations, NGOs, and UN agencies on violence against women in order to better track the number and impact of such activities and learn from each other’s efforts as well as coordinate and prevent duplication.


This report offers a detailed assessment of the situation of Afghan women and girls over the past seven years and lays out gaps or areas of weakness, highlights strengths and achievements, and provides recommendations. It documents the following achievements in countering violence against women:

- **Domestic abuse**
Documenting of cases of violence against women has been introduced, first by the AIHRC.
Following the release of the 2006 UNIFEM report on violence against women in Afghanistan, a process was initiated to coordinate and standardise the collection of data from cases of violence against women reported to the AIHRC, MoWA and other government offices.
The international human rights organisation Global Rights undertook the first large sample size survey on domestic violence in 2006.
The Inter-Ministerial Task Force to Eliminate Violence Against Women (established in 2005 by presidential decree following pressure from women’s organisations) continues to meet, though specific impacts are not known.
A new shelter has opened in Mazar-i-sharif, the first in the northern region. At present, an estimated 8 to 10 shelters operate in the country (four in Kabul, one in Herat, one in Balkh and two in central Afghanistan).
The Killid Group, a media outlet, conducted a media campaign on domestic violence throughout 2006.

Violence in the community

The National Action Plan on Women includes VAW as the main pillar of its objectives and focus.
The AIHRC has made violence against women a cornerstone of its programming - collecting statistics and raising awareness on the issue for the first time in Afghan history.
There were no reported cases of women being stoned to death in 2006 or 2007.
Afghanistan’s criminal law contains provisions which criminalise harmful practices and violence against women.
A law against violence against women is currently being drafted by the AIHRC, UNIFEM and Afghan Women’s Network (AWN) under the co-ordination of the MoWA.
MoWA has been active in giving seminars on VAW across the country, as well as communicating messages against VAW in the Afghan media.
There are now 13 Family Response Units (FRUs) in operation, annexed to police stations and tasked with responding to cases of violence against women. The FRUs are staffed by women police officers and have separate entrances, making it easier for female victims to report abuse without having to face male officers.
In Kabul, female police officers now carry out foot patrols in parks, to ensure parks are safe for women.

Child marriage and forced marriage

The new nikamamah (marriage contract) contains progressive provisions to protect women’s rights in marriage.
The president’s office has publicly condemned VAW and child marriage, but has not issued an official decree against child marriage despite calls from women’s organisations.
Save the Children, MoWA and AWN conducted an awareness campaign on child marriage in Kabul schools. This could be a useful model for rural areas, where child marriage is more prevalent.

Rape and sexual violence

UNIFEM’s newly established database to track violence against women will also track reported cases of sexual violence.
In 2007, UNIFEM launched the Supporting Women’s Engagement in Peace-Building and Preventing Sexual Violence in Conflict: Community-led Approaches project, to be implemented in selected communities in Parwan and Nangarhar.
Hatfield, J., Thurston, W. E. and Basiri, S., 2008, 'Women's Participation in Domestic Violence Health Policy Development: Afghanistan Component', Women's Domestic Violence Health Project, Calgary

This report comprises the Afghanistan component of an international project examining women's participation in family and domestic violence health policy and policy development. It finds that there are virtually no services, such as legal aid clinics and shelters, available to protect women from violence and abuses. In addition, the criminal justice system is considered weak and ineffective. The UN Special Rapporteur on Violence Against Women has recommended that vulnerable women be empowered through free legal advice and counselling, the training of judicial personnel, and the empowerment of the Afghan Women Judges Association, which was founded in March 2002. Training for women lawyers and judges is now underway.

The report outlines initiatives at the national policy and NGO level to address violence against women. These include:

- Drafting a new law against violence against women.
- Informing enforcement agencies in Kabul of their responsibilities to investigate violence against women and killings of women and girls that may have been caused by violence in the family.
- The creation of the Ministry of Women's Affairs to deal with discriminatory attitudes and social practices.
- A three-day workshop on violence against women and legal rights training in 2005, organised by Voice of Women and supervised by a trainer from the Afghan Women's Network. Twenty-five participants from government and non-governmental organisations attended this workshop. The training topics included: definition of violence, types of violence, men's and women's rights according to Islam, and other culturally sensitive topics.
- Initiatives to directly address the issue of violence against women have also begun. Classes, workshops, campaigns, training programmes, films, and communication materials are now being provided by government and non-governmental organisations.

The report stresses that one of the challenges facing those who are working to change the situation for women in Afghanistan is the lack of solid statistics and the dependency on anecdotal evidence to evaluate the impact of initiatives.

http://afghanistan.unifem.org/docs/pubs/06/uncounted_discounted_EN.pdf

This report documents the types of violence being committed against women, the victims and perpetrators of such violence, the manner in which data is collected on violence against women, and the way referrals to organisations and institutions offering professional support are handled. It offers advice on how to improve on the collection of data in Afghanistan, as well as recommendations based on its own findings:

- Further research should be conducted to determine the causes and the health, social, security and economic consequences of violence against women.
- Policies and programmes must develop support mechanisms and increase the number of existing support services for women survivors of violence - including
health facilities, legal aid clinics, psychosocial support and counselling services, and safe houses.

- Further support should be given to the establishment of referral centres to encourage the reporting of violence against women and the prosecution of perpetrators.
- The government must take a tougher stand on domestic violence through campaigns both within the formal education system and in the community at large.
- The government must develop proper legislation, mechanisms, policies, programmes and remedies that ensure access to justice for women.
- Tougher laws should be enacted to punish rape and other sexual abuse crimes, including those that occur between spouses and in the family. Better policies, practices and legislation are required to ensure that the legal system does not punish the victim for these crimes.

http://ssrn.com/abstract=758904

The article focuses on the constitutional process in Afghanistan. It finds that the new Constitution was a vast improvement for women's formal rights – incorporating equal rights between men and women, prohibiting discrimination against women and guaranteeing a minimum level of participation of women in politics through a quota system. It argues, however, that the many constitutional provisions which require compatibility of government policy with an unspecified code of Islamic law may frustrate attempts to realise these formal rights. This is especially as many prominent positions in the post-Taliban political and legal system are held by men with often extreme religious views. They may seek to enforce medieval interpretations of Islamic sharia law and perpetuate Afghan laws and customs that oppress and promote violence against Afghan women. Such medieval practices include: stoning for adultery, involuntary seclusion of women, and forced and underage marriage.


This paper argues against assuming that sharia law or local customs are solely to blame for violence against women – and that attention should be focussed instead on the way in which the war economy has affected gender inequality and aggravated gender-based violence. The paper provides a historical overview of conflict, occupation and state collapse in Afghanistan and discusses how this history has destroyed social order and community bonds, increased insecurity and rendered women a vulnerable group. It argues that a distinction must be made, however, between (i.) ‘privatised’ violence exercised by kin groups and families in the service of honour and reputation; (ii.) sexual violence (against women, girls and boys) used as a systematic tool of war to intimidate, despoil and establish positional superiority, and (iii.) the public performances of Islamic retribution (featuring spectacular events such as lashings and executions) deployed by the Taliban as a means of social control.

3. Empowering women’s voices


This report (cited above) documents the following achievements in countering women's civil and political rights:
Women's political participation

- There are 68 women in Afghanistan’s parliament (of 249 MPs), exceeding the 25% quota in place for women’s representation.
- A 2006 survey found that 80% of Afghans supported women in parliament, suggesting significant changes in social attitudes towards women in politics.
- Women sit alongside men on provincial councils, representing women’s interests at this level. However, it is not known to what extent female representatives hold meaningful power.
- A women’s training centre has been established for women MPs with courses such as English, internet research, parliamentary procedure and initiating legislation. However, there are criticisms that the trainings are not well coordinated and do not meet the special needs of MPs — providing specific knowledge on key issues such as budget-creation, for example.
- There are at least 35,000 women employed in the national government.
- As of August 2006, 41.4% of registered voters were women.
- Women’s shuras (local councils), part of the National Solidarity Programme and administered by the Ministry for Rural Development and Rehabilitation, are active throughout Afghanistan. However, they are rarely taken as seriously in their authority or reach as the more established, traditional men's shuras.
- A 2006 proposed bill in parliament, which would have required women MPs to be accompanied by a mahram-e sharaii (male chaperone) when travelling, according to a conservative interpretation of sharia law, was defeated.

Freedom of expression and access to information

- It is believed there are at least 300 active women journalists in the country.
- Women journalists have access to training programmes and media support centres in Kabul.
- The Killid Group (TKG), a project of Afghan NGO Development and Humanitarian Services for Afghanistan (DHSA), has contributed numerous media initiatives, strengthening women’s human rights through coverage of gender issues, training women reporters and launching a women’s magazine that reaches every mursal (province).
- In 2007, there were over 50 independent radio stations in Afghanistan, including several women’s radio stations.
- There are several women’s magazines in circulation, such as Malalai, and the Women’s Weekly Mirror.

Women’s organising and women in civil society

- There may be as many as 800 women’s organisations in Afghanistan, active in Kabul, Herat and northern and eastern provinces; more are emerging gradually in other, more rural provinces.
- Afghan women’s organisations have gained exposure to new strategies, methodologies and ideas from the region (e.g. Iran or Pakistan) and from around the world through the international attention focused on Afghan women. Such strategies, which include ways of advocating for women’s human rights within Islamic frameworks, have bolstered their capacity to make grassroots change.


Section III of this report (cited above) focuses on participation. It states that women represent approximately 25 percent of civil servants. They are represented more strongly in some ministries and less in others. A positive step in women's political participation and gender equity in the Government has been the establishment of Gender Focal Points within the Ministries. The report emphasises, however, that women rarely occupy strategic or senior level positions with real power to influence and change government policies. In addition, while women’s presence in parliament is facilitated by the quotas (23 percent for the lower house and 33 percent for the upper house) - their presence does not necessarily mean that they hold the same degree of power as male MPs. The large presence of warlords and their affiliates in parliament silences many women, intimidating them from arguing against legislation adverse to the interests of women.

The report states that women’s participation in civic life depends to a great extent on opportunities for informal learning – for example, access to information in their own language and in forms accessible to illiterate and semi-literate women, such as through role plays, illustrated cards, audio, animation, posters and otherwise. Women's *shuras* can also serve as political spaces where women can gain a foothold in civic and political participation.


This paper argues that in spite of the sizeable presence of women in Afghanistan's *Wolesi Jirga* (lower house), the representation of women's gender interests remains minimal. The author explores the particular obstacles preventing women and men from raising these interests:

- **Women’s participation in the current context:** Women’s presence has been somewhat undermined by negative perceptions of the reserved seats system. Further, divisions between women have been starkly emphasised, countering assumptions that they would stand together as a consolidated bloc.

- **The articulation of collective interest:** Neither issues-based blocs nor collective political platforms have been strongly consolidated in Afghanistan’s political history. The formation of parliamentary groups and issues-based blocs has been highly problematic, and has not resulted in the emergence of potential spaces for the substantive representation of women’s gender interests.

- **Representation of constituencies:** The connection between Members of Parliament (MPs) and their constituents, and their potential to represent constituent interests (and by extension women’s gender interests), is generally weak. Practical needs (in the form of service provision) are more highly prioritised, strengthening patronage networks and class divides.

- **Executive indifference and intervention:** Even when women’s gender interests are raised in parliament, they very rarely become legislation. One reason for this is the lack of attention paid by the executive to gender issues. Female representation in the executive is extremely limited, there being only one female minister—the minister for women’s affairs. This containment is highly detrimental to the raising of women’s gender interests in other fields.

- **International assistance:** This is often based on assumptions about the needs of female MPs and assistance is given without an acknowledgement of the pre-eminence of patronage in the functioning of the legislature. As such, it creates unrealistic expectations on the part of both MPs and international actors.

The author makes the following suggestions as to how women’s gender interests may be more effectively raised within parliament:
- **Reserved seats**: A reserved seats system should be identified as a temporary measure to compensate for past inequalities, and not a means through which to provide women with an unfair advantage.

- **Issues based groups**: The substantive representation of women’s gender interests will require the institutional frameworks of solid issues-based groups or parties whose commitment to the representation of these interests is a key element of their policy platforms. Serious consideration needs to be given to how this could be achieved, given that issues-based groups, in general, have not been successfully established in Afghanistan’s political history to date.

- **“Downwards” accountability**: There should be an increased commitment to “downwards” accountability, on the part of international organisations, towards the recipients of programmes, as opposed to donors. Documents should be produced on a regular basis, intended for MP readership, detailing agencies’ immediate plans for training and other forms of assistance.

- **Mainstreaming of gender training**: Training programmes should be streamlined to incorporate practical and immediately useful skills, such as the development of legislation. As such, gender should be fully integrated into all training sessions, in order to widen the application of a gender-sensitive approach and acknowledge that all parliamentary activities need to be considered in terms of gender equity.

- **Harmonisation of legislation on women’s rights**: There is very little understanding of the various forms of legislation and treaty obligations that exist to promote women’s rights. It is suggested that a compilation of these is made and presented to parliament. The forthcoming National Action Plan for the Women of Afghanistan (NAPWA) may well address this and should be seen as a means to consolidate legislation promoting women’s gender interests.

- **Women in the Executive/Supreme Court**: More women should be brought into the Executive and Supreme Court. Further, it will be necessary to ensure that women’s participation at this level is not limited to certain “women’s spaces,” such as the Ministry of Women’s Affairs, as there is a danger that women’s contained presence will act instead as a boundary to enlace women’s gender concerns within entities, unable to penetrate other areas of executive activity.

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Bernard, C., 2008, ‘Women and National-Building’, Rand, Centre for Middle East Public Policy, Santa Monica

This comprehensive report relies on Afghanistan as a case study. Chapter Four, Governance and Women, is of particular relevance to this section of the query. The chapter looks at three reform cases in post-conflict Afghanistan: elections (considered highly successful), the constitution (considered moderately successful) and legal rights (considered a failure).

**Elections**: Learning from the 2004 Presidential elections, the 2005 elections for Afghanistan’s Wolesi Jirga (lower house) and 34 provincial councils were considered a big success for women in Afghanistan. Women’s advocacy groups started early, identifying the problems and challenges the process was likely to create for women’s participation both as voters and as candidates (see Table 4.1 on p. 67 for a list of some of the challenges faced, the solutions chosen, and their effects on the elections). Government and NGO-sponsored programmes conducted public information campaigns to encourage female voter registration; correctly identified physical safety and security as a major concern; created women-only voting stations staffed by female election workers and offered the highly publicised option of voter registration cards without the requirement of being photographed.

**Constitution**: In preparation for the Constitutional Loya Jirga in 2003, Women for Afghan Women and the Afghan Women’s Network hosted a conference assembling 45 women in conservative Kandahar. The group drafted a Women’s Bill of Rights, which was endorsed by
President Karzai and prompted him to declare that half of his appointed delegates to the Constitutional Loya Jirga would be women. As a result of Afghan women’s lobbying, women’s rights and equality with men has been written into the Constitution. This, however, has not translated into the daily lives of women in the country: “The high levels of engagement and effort that went into ensuring a contemporary, equitable outcome for women by the constitution stand in stark and surprising contrast to the absence of any serious planning for the realization of the constitution’s lofty standards in real life” (p. 71)

Legal rights: Afghanistan has long had a system of justice based on multiple parallel precepts and processes. Tribal customs are prevalent in Afghan society – and a number of tribal traditions are strongly detrimental to the rights and well-being of women, and more than a few stand in flagrant violation of human rights and/or orthodox Islamic law and values (e.g. child marriages and bad). Interventions in Afghanistan have failed to establish a consistent and effective rule-of-law regime, which has resulted in a failure to protect women.

The report recommends the use of effective strategies used in elections to improve the state of judicial reform. In order to familiarise the Afghan population with basic notions of democracy and voting and to counter the proclamations during the Taliban rule that women cannot take part in public life, a combination of information, education, training, and accommodation created a successful outcome. This should be replicated in the legal realm: training or retraining of lawyers and judges, information programmes for police, and public-awareness campaigns should be conducted in parallel with the physical building of courts and prisons, which is currently ongoing. Media campaigns using television, plays, and radio, as well as street theatre, could be a helpful part of this. Educating both girls and boys in provincial schools at an early age about the rule of law and about women’s legal rights would also be effective, and there is a role for mullahs and religious leaders in clarifying the un-Islamic nature of many tribal customs.

In addition, women’s NGOs should focus on identifying the challenges that are logistically problematic for women in everyday life, as they did in the 2005 elections, especially in respect to their legal rights. First, they should consider overhauling the legal code, making key changes in the way in which the laws are written and understood. This will include making sure that all constitutional code is present and clear in penal and civil code, with the rights and needs of women more absolutely defined, minimising room for misinterpretation by local judicial systems.

Using the model that placed women in leadership positions for polling-station management and voter observation, women’s groups should continually push for women in key judicial and legal positions, not only to inform the content of the proceedings, but as a visible presence to encourage other women to find these institutions approachable.

http://jcmc.indiana.edu/vol8/issue2/bickel.html

This article profiles the women’s rights organisation RAWA, the Revolutionary Association of the Women of Afghanistan, which rose to prominence after the terrorist attacks on September 11th. RAWA did not have a physical presence and relied on its website to promote women’s alternate voices and leadership – challenging dominant discourses of fundamentalism and war, and the international community’s perceptions of women in Afghanistan. “The Web site gave Afghan women an unprecedented voice in the contest for a new vision for Afghanistan’s future and a new identity for its women”.

The RAWA website documents the organisation’s work, solicits support, highlights the work of donors, responds to critics and corrects misconceptions, with documents translated into various languages. Incident reports and the violence of fundamentalist oppression are also
profiled alongside resistance and community building efforts by Afghan women, and images of women working in schools, hospitals, and camps.


This article discusses the politics of gender in Afghanistan in the context of post-conflict reconstruction. It finds the Constitutional Loya Jirga (CLJ) and the new Constitution have been notable areas of success in the promotion of women’s rights. The Gender and Law Working Group was able to push through amendments to the draft constitution which lacked any specific guarantees concerning women’s rights. The amendments included an explicit reference to the equality of men and women before the law and increased the quota for the participation of women in the Wolesi Jirga. This successful participation of women led to optimism that women could act to counterbalance religious extremism and encourage greater pluralism. However, this participation has come at a cost, as some women participants in the CLJ have faced retaliation.

The article also explores the various mechanisms aimed at increasing women’s civic and political participation. They include the National Solidarity Programme (NSP) -- based on a participatory approach to local level development through democratic and representative Community Development Committees (CDCs) at village level. The NSP, the article argues, has failed to promote the inclusion of women as it did not include any mandatory clause to include women. This is because it was considered more controversial to exclude/upset conservative communities than to potentially exclude women. In addition, despite the presence of women in the Wolesi Jirga (with the majority depending on reserved seats), they do not function as a coherent political group, in contrast to the large group of conservative or Islamist representatives – which makes it more difficult to advocate from women’s issues.

The author argues, however, that gains in women’s formal rights will be irrelevant if problems with the absence of a uniform legal system in Afghanistan are not resolved. There are three competing components of the legal system: the state legal codes, sharia law and local customary law. “A strategy adopted by women activists is to distinguish tribal customs from Islamic laws, arguing that most discriminatory practices originate from customary laws giving themselves a (false) veneer of Islam. For instance, a conference organised by women, the Islamic Awareness Programme, invited male religious scholars to consider rethinking the issue of women’s rights within an Islamic framework. This divided the religious scholars, with some supporting the spirit of the women’s demands while others argued that women were not qualified to pass judgement on such issues. Women legal experts will, no doubt, continue to endeavour to forge alliances with more progressive sections of the clergy” (p. 187).

4. Further Resources


This National Action Plan lays out goals and objectives; issues and constraints; policies and strategies; programmes and projects regarding the advancement of women in the areas of security; governance; rule of law and human rights; and economic and social development. Of particular relevance to this query are the following sections:

Security

4.3 Affirmative action policy
4.4 Eliminating women-directed violence in public and private spaces
4.5 Raising awareness of human rights, especially women’s rights, and gender based violence in the sector
4.6 Promoting a culture of peace and non-violence

Legal protection and human rights

4.1 Reform and amendment of legal frameworks to protect the rights of women and girls

Leadership and political participation

4.1 Adoption and implementation of a comprehensive leadership and capacity building strategy for women

4. Additional information

Author
This query response was prepared by Huma Haider: huma@gsdrc.org

Contributors
Alexandra Gilbert (Rights and Democracy)
Gitanjali Singh (UNIFEM)
Hannibal Travis (Florida International University College of Law)
Halima Kazem (Amnesty International)
Jennifer Hatfield (University of Calgary)
Sally Engle Merry (New York University)
Seema Khan (GSDRC)
Susana Klien (Womankind Worldwide)

Websites visited

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