



# Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General  
31 July 2019

Original: English  
English, French and Spanish only

---

## Committee on the Elimination of Discrimination against Women

### List of issues and questions in relation to the third periodic report of Afghanistan\*

#### Legislative framework, women's human rights achievements and definition of discrimination

1. Please provide information on the constitutional legality of the Law on Elimination of Violence against Women and the Penal Code, as they were promulgated by a presidential decree under article 79 of the Constitution. Please provide information on measures that the State party has taken to reaffirm the non-negotiable character of all human rights and adopt a strategy to preserve, uphold and foment further gains in women's rights. Please provide further details on the content of the draft anti-discrimination legislation and inform the Committee whether a mechanism for monitoring and evaluating its implementation is envisaged. Please also provide a timeline for its adoption.

#### Access to justice

2. In paragraphs 48 and 49 of the report of the State party (CEDAW/C/AFG/3),<sup>1</sup> it is indicated that the purpose of the draft legislation on the conciliation of civil disputes is to reform traditional justice mechanisms and determine whether a case should be decided by the traditional justice system or the formal justice system. Please provide further details on the draft legislation and describe how it aligns with the international human rights treaty obligations undertaken by the State party. Please also provide information on the possibilities to appeal against a decision taken by a traditional justice mechanism if the decision violates the provisions of the Convention or the draft legislation and on whether the draft legislation prohibits mediation in cases of violence against women. Please also provide information about the monitoring and reporting mechanisms envisaged in relation to the act. Please provide information about the possibilities for women and girls in the State party to acquire legal aid.

---

\* Adopted by the pre-sessional working group for the seventy-fifth session (25 and 26 July 2019).

<sup>1</sup> Unless otherwise indicated, paragraph numbers refer to the third periodic report of the State party.



**Women and peace and security**

3. Please provide information on the ongoing efforts to establish a road map to peace between the Government of the State party and the Taliban, and clarify the meaning of “protection of women’s rights within an Islamic framework”. In line with the Committee’s general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, please provide data, disaggregated by age, ethnicity, religion, disability and residence in a rural or urban area, on the participation of women in peace processes, reconstruction efforts and post-conflict reconciliation efforts, including through the High Peace Council, the provincial peace councils and the National Ulema Council. Please provide further information about the role and mandate of the Elite Women’s Advisory Board (para. 18), including efforts to coordinate its work with that of other entities involved in the peace negotiations.

4. Please clarify the roles of the High Peace Council and the Presidential Special Envoy and Minister for Peace, and describe how coordination between them is ensured. Please also provide information on the human, technical and financial resources allocated for the implementation of the national action plan for the implementation of Security Council resolution 1325 (2000) and the strategy of the peace and national reconciliation process.

**National machinery for the advancement of women**

5. Please provide information on measures taken to reduce the dependence of the Ministry of Women’s Affairs on external funding, as recommended by the Committee in its previous concluding observations (CEDAW/C/AFG/CO/1-2, para. 19 (a)). Please also inform the Committee of the outcome of the first national action plan for the women of Afghanistan, which concluded in 2018, and whether the State party intends to adopt a second action plan. Please inform the Committee about the content of the draft strategic plan of the Ministry, including the resources required for its implementation (para. 84).

**National human rights institution**

6. The State party indicates that the President selects the nine commissioners to serve on the Afghanistan Independent Human Rights Commission from a pool of candidates, half of whom must be women, proposed by a selection committee (para. 86). Please provide information on measures taken to ensure that the selection and appointment of commissioners is based on a transparent merit-based system and that it is free from political interference. Please also inform the Committee about how the delay in the selection and appointment of the commissioners has affected the Commission’s work, in particular with regard to women’s rights.

**Discriminatory stereotypes and harmful practices**

7. In paragraph 98 of the report, it is stated that specific working programmes are carried out with religious scholars and community leaders, along with public awareness programmes on the rights of women and girls under sharia and national laws. Please provide information on the impact of those programmes on combating stereotypes and harmful practices. Please also provide data, disaggregated by sex, age, ethnicity, disability and residence of the victim and the perpetrator in a rural or urban area, on the prevalence of the following harmful practices: (a) child marriage; (b) forced marriage; (c) *baad* (settlement of disputes by giving away girls); (d) *badal* (exchange marriages); (e) stoning; and (f) so-called “honour killings”. Please also update the Committee on measures taken to adopt a comprehensive policy and strategy to eliminate all harmful practices against women and girls.

8. It is indicated in the report that the draft family legislation sets the minimum age for marriage at 18 years for both girls and boys (para. 190). Please inform the Committee whether the legislation will be aligned with the provisions of the Convention and remove all exceptions currently in force in the State party that permit marriage before 18 years of age. Please provide a timeline for the adoption of the legislation. Please also provide information about the implementation of the national action plan to eliminate child marriage (2017).

9. Please provide information on the practical implementation of article 640 of the Penal Code, which criminalizes forced virginity testing, and on the implementation of the policy of the Ministry of Public Health that prohibits health clinics and hospitals from performing such tests. Please also provide information on the implementation of Approval No. 1133 regarding the non-criminalization of running away from home and inform the Committee whether there are any disciplinary or punitive actions for not complying with the judgment.

### **Gender-based violence against women**

10. It is indicated in exhibit 3 to the report that the number of cases of gender-based violence against women resolved by the courts has increased since the adoption of the Law on Elimination of Violence against Women. Please provide updated data on the number of convictions and acquittals in cases prosecuted under that legislation, disaggregated by sex, age, ethnicity, disability, residence in a rural or urban area and relationship of the perpetrator and the victim. Please also include information about any compensation paid to victims and, if possible, the number of cases of gender-based violence against women that were reported to authorities but never prosecuted. Please also provide information on measures taken to ensure the proper registration of cases of violence, including a national database on all forms of gender-based violence against women as recommended by the Committee in its previous concluding observations ([CEDAW/C/AFG/CO/1-2](#), para. 23 (e)).

11. Please provide information on measures taken to change the negative perception of shelters or safe houses for women who are victims of violence. Please also provide information on measures taken to ensure funding for shelters or safe houses, including for the construction of new shelters in areas where they do not exist. Please inform the Committee whether accessibility is a requirement for the construction of new shelters.

### **Trafficking and exploitation of prostitution**

12. Please provide information about the preliminary findings of the research under way on the causes and factors of trafficking in persons (para. 107). Please also provide information about the mandate, role and outcome of the work of the High Commission for Combating Crimes of Abduction and Trafficking in Persons and of the provincial anti-trafficking commissions. In paragraph 108 of the report, it is stated that no victims of trafficking and abduction were prosecuted for having committed or intending to commit *zina* (unlawful extramarital sexual relations). Please provide detailed information on measures taken by the State party to ensure that no women or girls who are victims of trafficking, forced labour or exploitation of prostitution are prosecuted for so-called “moral crimes”.

### **Participation in political and public life**

13. It is indicated in the report that the implementation of the national action plan for the women of Afghanistan, covering the period 2008–2018, has resulted in tangible results, as demonstrated in table 3. Please provide information that allows

for a comparative assessment of the results, including data from before and after the implementation of the action plan.

14. Please state the measures taken to increase the participation of women in political processes, including in political parties and in elections as both candidates and voters. Please also provide data, disaggregated by sex, age, ethnicity, disability and residence in a rural or urban area, on the participation of women in the parliamentary elections in 2018 and the upcoming presidential elections in 2019 (if available). Please also specify whether the data refer to women registered on the electoral lists or to the actual turnout of women voters. Please provide further details on the implementation of the electoral legislation, which prohibits, inter alia, proxy voting, and include information on how the State party intends to ensure compliance with that legislation during the presidential elections. Please provide information on measures taken to guarantee the security of women active in government and politics.

### **Nationality**

15. It is indicated in the report that the State party has taken several measures aimed at increasing women's access to identity cards (paras. 129–132). Please provide information on the impact of those measures, including comparative statistical data showing the number of women who now have an identity card. Please also provide information on the status of the ratification of the citizenship legislation and explain the reasons for the delays in passing the draft act into law (para. 127).

### **Education**

16. As the State party is now halfway into the implementation of the third national education strategic plan, covering the period 2017–2021, please provide information on the preliminary assessments of the results obtained, in particular regarding the literacy rate for women and girls and the enrolment and dropout rates for girls at all levels of the education system. Please provide information on measures taken to address the root causes of school dropout among girls, including general insecurity, attacks on schools, the burden of household tasks and care responsibilities, and child and/or forced marriage. Please also provide information about the policy on girls' education, including the resources available for its implementation.

### **Employment**

17. Please provide information about the legislative framework that protects women, including pregnant or nursing women, from discrimination at work. Please also provide information about legislation regarding equal pay for work of equal value and the mechanisms in force to monitor its implementation. Please provide information about measures taken to ensure the effective enforcement of the anti-harassment legislation of 2017, including the establishment of committees to review complaints and support an appropriate resolution of those claims in all government ministries. Please respond to media reports regarding allegations of sexual harassment against members of the Government and provide information on any measures taken in that regard.

18. It is indicated in the report that the State party has undertaken several awareness-raising activities to increase the representation of women in the workforce (paras. 142–147). Please provide information about the outcome of those measures and any others taken to increase the participation of women in the workforce, such as temporary special measures in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures. Please also provide data on women's labour force participation rates disaggregated by sector (public, private, formal and informal).

**Health**

19. Please provide information on the causes of the worryingly high maternal mortality rate indicated in the report and specific measures taken to address them (para. 152). Please also provide information about awareness of and access to modern contraceptive methods in the country, and indicate whether a woman requires her husband's consent in order to have access to contraceptives. Please inform the Committee whether the State party plans to introduce age-appropriate, gender-sensitive education on sexual and reproductive health in schools and vocational education.

20. It is indicated in the report that abortion is still criminalized in the State party and that punishment is foreseen for those having abortions except when the life of the pregnant woman is in danger (para. 161). Please provide information on steps taken to expand the grounds on which abortion is permitted, in particular in cases of rape, incest and severe fetal impairment and when there are threats to the health of the pregnant woman, and to decriminalize it in all cases. Please inform the Committee of the budgetary allocations to the health-care sector, in particular for sexual and reproductive health services and the treatment and reintegration of victims of obstetric fistula.

**Rural women**

21. Please provide information on measures taken to increase the access of rural women to health-care services, education, decision-making processes and economic opportunities, including in the poorest regions. Please also provide information on the implementation of the policy on women's inheritance and property rights, including the action plan for its implementation. Please also provide information about the community development councils and describe how the State party intends to ensure that the legal requirement that 50 per cent of the participants be women is reflected in practice.

**Marriage and family relations**

22. It is indicated in the report that article 86 of the Civil Code allows for polygamy under certain conditions, such as when the first wife agrees thereto, when the husband has sufficient resources to support both wives or when the first wife is sick or infertile. The Committee draws the State party's attention to the Committee's general recommendation No. 21 (1994) on equality in marriage and family relations, which indicates that polygamous marriages should be discouraged and prohibited. Please provide information on the legislative and policy measures taken to abolish polygamous marriages, including in the draft family legislation. Please also provide information on the legislation governing a mother's guardianship of her children.