



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

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**Committee on the Elimination of Discrimination
against Women**
Fifty-fifth session

Summary record of the 1132nd meeting

Held at the Palais des Nations, Geneva, on Wednesday, 10 July 2013, at 10 a.m.

Chairperson: Ms. Neubauer

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined initial and second periodic reports of Afghanistan (CEDAW/C/AFG/1-2 and CEDAW/C/AFG/Q/1-2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Afghanistan took places at the Committee table.*
2. **Mr. Hashimzai** (Afghanistan) introduced the combined initial and second periodic reports of Afghanistan (CEDAW/C/AFG/1-2), which were the result of a consultative process including State and non-State actors. Significant progress had been made in the last decade in the promotion of human rights and gender equality through the enactment of new legislation and the implementation of policies, strategies and programmes that included a gender perspective. The Constitution of Afghanistan guaranteed women the same rights as men and article 22 prohibited discrimination. An appropriate definition of discrimination had been included in the draft law on the elimination of discrimination. The main principles of the National Action Work Plan for Women were security, governance, the rule of law and human rights, and economic and social development. Human rights and gender equality were also cross-cutting issues in the Afghanistan National Development Strategy.
3. Providing some key figures regarding the proportion of women in governmental and diplomatic roles, he said that Afghan women currently constituted almost 30 per cent of representatives in parliament. An elite women's advisory board had been established to encourage the engagement of women in the peace process and to ensure their political participation at all levels of government and women's peace committees had been set up in connection with the High Peace Council. Moreover, in response to United Nations Security Council resolution 1325 (2000), a national action plan on women, peace and security was being developed to ensure that women played a meaningful role in conflict prevention and resolution, the peace process and security sector reform. It would also address the prevention of violence and the delivery of relief and support services to women and was expected to be launched in 2014. A draft nationality law was soon to be discussed by parliament that included significant changes to the current law, applicable to both men and women, with regard to citizenship and the principle of dual nationality.
4. Significant progress had been made in education, with girls comprising 40 per cent of schoolchildren and increasing numbers of women training to become teachers. Pilot schemes to support retention of girls in secondary education and incentives for women to train as teachers were available. In the area of employment, the civil service had incentives for the recruitment of women and special capacity-building programmes to promote the skills of women employees. There was no prohibition against women being employed in the police force and it was planned to more than double their current numbers in the force by the end of 2014.
5. Advances had been made in women's health, with life expectancy increasing to 62 and the maternal mortality rate decreasing from 1,600 to 327 per 100,000 live births. The relevant ministries were working to raise awareness of women's health issues, including psychosocial well-being and reproductive health, through campaigns in the media, health centres and mosques.
6. With regard to transitional justice, a policy had recently been adopted which, inter alia, addressed the culture of impunity. Implementation of the policy would be monitored by the Government and independent bodies. Steps were being taken to ensure the full participation of women in the democratic process and future elections through awareness-raising campaigns and the establishment of voting centres for women.

7. There was a commitment to preventing violence against women in Afghanistan, as borne out by the enactment of the Law on the Elimination of Violence Against Women of 2009. Prosecution offices to implement the Law would eventually be established in all provinces and sheltered housing had been set up in 18 provinces for women victims of violence. The Law also contained provisions prohibiting the buying and selling of women, forced and underage marriages and the concept of *baad* (the use of marriage to settle disputes).
8. Formal courts were being opened in remote areas as the security situation improved to reduce reliance on informal justice. A policy on traditional justice had been drafted to prevent informal justice approaches from rendering decisions that were contrary to the laws of Afghanistan. Eight family and Shia family courts had been established, which in the last year had dealt with more than 1,000 cases, including more than 100 cases of violence against women. Some 200 female judges were working in the country and more were being trained; free legal aid was also available to women who needed it.
9. Drawing attention to the key human rights and gender-related institutions and laws and policies established and the increasingly important role played by women in various sectors of Afghan society, he said that despite the progress made, significant challenges remained, particularly as a result of the difficult security situation in the country. Afghanistan would endeavour to address those challenges and further its progress, particularly in areas such as legal support, law enforcement and security, education in remote areas, health services for women in rural areas and the participation of women in political processes.

Articles 1 and 2

10. **Ms. Šimonović**, while welcoming the progress made by the State party in complying with its obligations under the Convention, noted its comments that the process of incorporating international human rights instruments into the legal system was being delayed by a lack of capacity and higher priorities. She sought confirmation that the political will existed to observe the Convention and the principles of non-discrimination against women and of gender equality. She asked whether the Convention was directly applicable by the courts and whether there were any mechanisms in place to bring national legislation into line with the Convention. She expressed concern that the Constitution did not contain a specific provision prohibiting gender-based discrimination and requested more information on the draft law on the elimination of discrimination. In addition, she wondered how the article in the Constitution which stated that no law could be contrary to sharia law could be reconciled with the State party's obligations regarding equality under the Convention. In that connection, she requested clarification of the recent ruling by the Supreme Court concerning women who ran away from home. She sought additional information on the work of the Government with NGOs, particularly those active in women's rights. Lastly, she expressed concern about certain statements made by some new members of the Afghanistan Independent Human Rights Commission that ran counter to women's rights. Was there a mechanism that would enable the Government to reconsider appointments to that Commission?

11. **Ms. Acar** said that violence against women was one of the most significant forms of discrimination and having a specific law on the issue was vital. The Law on the Elimination of Violence Against Women was thus a great achievement. However, she understood that amendments were being proposed that would in essence repeal a number of its key provisions and would welcome some clarification in that regard. She urged the Government to improve the scope of the Law and ensure its proper implementation. Lastly, she observed that the definition of discrimination contained in the draft law on the elimination of discrimination referred only to the public sphere, whereas the Convention covered

discrimination in both the public and private spheres. Were there any plans to expand the scope of that law in future?

12. **Ms. Ameline** (Country Rapporteur) also welcomed the progress made by the State party in its implementation of the Convention, particularly in the field of education, which underpinned Afghan society. She asked for more information on the specific objectives of the peace negotiations and whether there were any prerequisites for the holding of negotiations in terms of fundamental rights. In particular, she wished to know whether the legal and constitutional progress made to date was non-negotiable and whether the number of women represented on the High Peace Council in charge of the negotiations, was considered to be sufficient. Given the extension of the United Nations Assistance Mission in Afghanistan (UNAMA), she would be interested to know more about the priority areas to be addressed by the Mission and what further legislative and administrative measures were being adopted to assist women in areas such as security, the fight against impunity and strengthening the justice system. She would also like to know about efforts to improve existing legislation and to strengthen the rule of law in more remote areas that might be outside of the State party's control.

13. **Ms. Patten** asked whether there were any tangible measures in place to address impunity and corruption since such measures would help to build democracy and improve accountability of governance. More information would also be welcome on progress made in the adoption of the national action plan on women, peace and security and the participation of women in drafting the plan, as well as on efforts to fulfil United Nations Security Council commitments in general. In addition, information on concrete steps to enhance the participation of women in all peace and reconciliation processes would be useful. According to other sources the Taliban had made the exclusion of women from peace negotiations a prerequisite for participation. What was the Government's position on that matter? Furthermore, she wished to know to what extent the Government was seen to be rejecting any rollback in the protection of women's rights in order to appease the Taliban and other groups. Lastly, she asked whether the Government intended to ensure that any future peace agreement or transitional process would address gender-based violence by private individuals and entities, reject all related amnesties and guarantee that reparation covered such forms of violence.

14. **Mr. Hashimzai** (Afghanistan) said that the signing and ratification of the Convention, the establishment of human rights-related institutions and the development of the Law on the Elimination of Violence Against Women clearly demonstrated that there was the political will to abide by the principles of the Convention. With regard to the comment on the reference to sharia law in the Constitution, he observed that according to another article of the Constitution no act could be treated as an offence unless it had already been prescribed as an offence before it was committed. The principles of sharia law were already enshrined in the legislation of Afghanistan, including in its various codes, and that was the legislation applied by the courts. In addition, the Code of Criminal Procedure was currently under review and a panel had been set up to make it consistent with the Convention and other international instruments. Discussions on the membership of the Afghanistan Independent Human Rights Commission were under way. Lastly, with regard to the applicability of the Convention, he explained that if a treaty was ratified in its entirety then it would be published in the Official Gazette and would therefore be fully enforceable. For other treaties, steps were taken to incorporate the relevant provisions in national legislation.

15. **Ms. Mustafawi** (Afghanistan) said that the draft law on the elimination of discrimination focused on discrimination against women in public life as it was a significant problem in Afghanistan, for example in universities, the work environment and even on the streets. The Law on the Elimination of Violence Against Women had been

drafted based on the principles of the Convention and was being applied by the Supreme Court. In addition, there was a good deal of cooperation between the Government and civil society, with 100 memorandums of understanding having been signed between the Ministry of Women's Affairs and civil society in areas such as capacity-building and vocational training. Although admittedly there were some problems related to the participation of women in the peace negotiations, 9 women held senior positions on the High Peace Council and, overall, there were 90 women involved in the peace process. Moreover, 24 directors of women's affairs were members of provincial peace committees.

16. **Mr. Mohmand** (Afghanistan) said that running away from home was not considered a crime if a woman was a victim of domestic or family violence, providing she had not committed a crime punishable by law. All formal courts at different levels dealt with complaints lodged by women either directly or through a lawyer.

17. **Ms. Mustafawi** (Afghanistan) said that attempts were being made to remove the Law on the Elimination of Violence Against Women from the parliamentary agenda. The Law was applied by many courts and had produced good results, including in resolving some high-profile cases of violence. In order to improve its implementation, the number of prosecutors in provinces was being increased and a unit for matters falling under the scope of the Law had been established in all provinces. Commissions for violence against women had been established in 30 provinces and awareness-raising activities were being organized, inter alia, for legislators and prosecutors at the provincial level.

18. **Mr. Hashimzai** (Afghanistan) said that a family code had been drafted by the Ministry of Women's Affairs and had been submitted to the Ministry of Justice for approval. Transitional justice was covered in the Afghanistan National Development Strategy and the Government was committed to dealing with the issue of impunity. The Independent Human Rights Commission was responsible for the implementation of that Strategy and work was well under way.

19. **Ms. Khel** (Afghanistan) said that the Government was committed to promoting human and women's rights and to complying with Security Council resolution 1325 (2000). To that end, it had devised a national action plan on women, peace and security in cooperation with civil society. Women were well represented on the various bodies responsible for coordinating the plan. The pillars of the plan had been identified and laws and policies had been reviewed in the light of the resolution. The drafting process had included comprehensive consultations involving the general public, national institutions and other actors. A memorandum of understanding was to be signed with UN-Women concerning technical and financial support in order to identify the responsibilities of various institutions regarding the resolution and its application in the State party. Implementation of the action plan would be the Government's main priority.

20. **Mr. Hashimzai** (Afghanistan) said that the Government had signed and ratified the United Nations Convention against Corruption and that it was enforceable. Since one of the main issues at stake was whistle-blowing, an institution to report corruption had been set up. Prosecution offices had been invested with greater powers and an anti-corruption office had been established, as prescribed in the Convention against Corruption. Many cases of corruption had been dealt with by courts at the highest level. The Government had taken steps to lay solid foundations for upholding the rule of law after 2014, inter alia, by ensuring the independence of the Supreme Court and the establishment of prosecution offices at the provincial level, as well as the proper functioning of courts in remote areas. UNAMA and its various entities had their own funding and would continue to function in Afghanistan and cooperate with national institutions, especially on matters relating to the justice system and human rights.

21. **Ms. Ameline** said that the State party should refine the Family Code, strengthen the legal framework with regard to women's rights and increase the numbers and visibility of women in law enforcement bodies. Referring to the importance attached to women's rights in the peace negotiations, she asked whether the State party was ready to state that the progress made in the area of legislation in favour of women was non-negotiable.
22. **Ms. Šimonović** asked whether other human rights treaties that had already been ratified by the State party would receive the same treatment as the United Nations Convention against Corruption, and whether the matter could be resolved by virtue of the Constitution. She requested more information on the scope of the draft law on the elimination of discrimination against women.
23. **Ms. Patten** queried the State party's stance on women's rights in connection with peace negotiations with the Taliban. She asked what was being done to increase gender responsiveness in the national civil and military police forces.
24. **Ms. Schulz** enquired about the national budgetary resources available for addressing gender issues once the international community had withdrawn its support.
25. **Mr. Hashimzai** (Afghanistan) said the Government had made it clear that women's rights were enshrined in the Constitution and were non-negotiable in the peace talks. The Afghan economy was growing and its income gradually increasing; it therefore expected to be self-sufficient by the end of 2014, when the international community was due to withdraw its financial support. Moreover, the international community had indicated its intention to continue certain commitments beyond 2014.
26. **Ms. Mustafawi** (Afghanistan) said that efforts were being made to boost the number of women in the police force, including by providing more places for women in police academies and financial incentives. There were currently 2,000 women in the police force and the aim was to at least double that figure. Particular emphasis was being placed on highly educated women entering the force to ensure that more women reached high-level positions.
27. **Mr. Hashimzai** (Afghanistan) said that when Afghanistan acceded to international treaties they were published in the Official Gazette and became directly applicable in national legislation. The State party was fully committed to implementing all of the provisions of the Convention.
28. **Ms. Haidar** said that there could be no durable peace process without women's full involvement. At 1.2 per cent of the total budget, the budget allocation for the Ministry of Women's Affairs for the last biennium was extremely low. It showed a lack of commitment to women and stood in the way of the Government's ability to deliver, especially in outreaching to the provinces, where people were the most in need. How did the Government intend to redress the balance? She encouraged the Government to provide training for women in the professions as well as in vocational subjects. Having more women lawyers, for example, would help ensure the implementation of key legislation on women's rights and issues, such as the Law on the Elimination of Violence against Women. Greater synergy between the Ministry of Women's Affairs and civil society organizations was also encouraged.
29. **Ms. Hayashi** commended the work of the Afghanistan Independent Human Rights Commission (AIHRC), but highlighted concerns expressed about the appointment of five new commissioners because of their alleged poor record in defending human rights. In particular, one of the newly appointed members had spoken out publicly against the Law on the Elimination of Violence against Women. She called on the State party to reaffirm the Paris Principles in relation to the independence of AIHRC and its membership. The quashing by the President of the release of a report on war crimes and crimes against

humanity committed from 1978 to 2001 was a blow to human rights. Would a revised report be published, or a new study into past war crimes and crimes against humanity be conducted?

30. **Ms. Pomeranzi** requested more information on the National Action Plan for Women of Afghanistan and the Afghanistan National Development Strategy, one of the pillars of which was human rights and gender equality, as well as on the work of the Ministry of Women's Affairs. Had agreements been signed with the provincial presidents and NGOs on the implementation of the National Action Plan, given the difficulty of monitoring harmful practices prevalent in the rural and decentralized provinces?

31. **Mr. Hashimzai** (Afghanistan) said that questions had been raised about appointments to AIHRC, but the body was independent and individual members had the right to express their opinions. The views of the majority were important, however, and most fully supported the Convention. There was no official report on war crimes and crimes against humanity; the story had been the product of misinformation. All persons in Afghanistan enjoyed the right to freedom of expression and there would be no restriction on any such publication.

32. **Ms. Mustafawi** (Afghanistan) said that the National Action Plan for Women of Afghanistan was a great achievement in gender equality and women's issues. It had been designed for implementation at the provincial level by 18 sectorial ministries and had been mainstreamed into other policy areas and into the five-year development plans for governors' offices. The Ministry of Women's Affairs was also working closely with both the Ministry of Rehabilitation and Rural Development and civil society organizations at the district level on the implementation of the National Action Plan for Women of Afghanistan.

33. In Afghanistan security absorbed over half of the State budget. A mere 1 per cent was allocated to the social sector, despite its importance to development, and that amount was shared between seven ministries. The Ministry of Women's Affairs therefore had a very small budget and, without the support of the international community, would be unable to implement the National Action Plan.

34. Because the lack of gender awareness was recognized to be a major problem in law enforcement, the Ministry tended to focus its work on capacity-building and training for judges, lawyers, prosecutors and police officers. Recently that work had been linked to the campaign to eliminate violence against women, and the Ministry had been working closely with the High Commission for the Elimination of Violence against Woman and providing technical assistance to some of its provincial offices. However, in all areas of its work the Ministry was heavily dependent on international and NGO assistance.

35. **Mr. Attaie** (Afghanistan) said that women's rights, including access to justice, would not be adversely affected by the peace negotiations because the High Peace Council had nine female members who could take action if at any time they felt that what had been achieved for women was being undermined. Furthermore, any agreements reached would need to respect the provisions of the new Constitution.

36. As a signatory of the Rome Statute of the International Criminal Court, the Government was fully aware that there could be no statute of limitations for crimes against humanity. Thus, even if the perpetrators of atrocities initially succeeded in evading justice, they could and would be prosecuted if captured at a later time. Crimes against humanity were a core element of the training curriculum for future judges and all serving judges were fully conversant with the relevant legal framework.

37. **Mr. Hashimzai** (Afghanistan) said that police officers received instruction about all treaties and conventions to which Afghanistan was a party and were specifically trained to respect and enforce the rights of women. Isolated cases of abuse were always possible in a

country where security was fragile but any person who considered their rights to have been violated was entitled to take their grievances to court.

Article 4

38. **Ms. Hayashi** expressed concern that the lower house of parliament had apparently resolved to abolish the 25 per cent quota for female representation on provincial councils. Some saw that decision as a sign that Afghan women were losing the battle to protect their rights. Emphasizing the importance of quotas to women's advancement, she asked what the State party was doing to counter the setbacks that had affected women's participation in politics, employment, education, law enforcement and other areas, and to ensure women's full involvement in the forthcoming peace talks.

39. **Mr. Hashimzai** (Afghanistan) said that he could assure the Committee that the Government was fully committed to women's participation in the peace talks, in the judiciary and in politics. Although certain issues may be pending resolution, he did not think it was correct to speak of setbacks.

40. **Ms. Mustafawi** (Afghanistan) said that she had recently discussed the question of quotas with the Women's Affairs Commission of the upper house of parliament and had obtained an assurance that the lower house's proposal would not be approved.

Article 5

41. **Ms. Patten** said that women were still confronted by discriminatory laws, policies and practices akin to outright violence, despite the passing of the Law on the Elimination of Violence Against Women. The lack of an adequate distinction between rape and adultery under criminal law exposed rape victims to the risk of prosecution for *zina* (sex outside marriage) and forced marriage to their abuser. She wished to know what the State party was doing to change patriarchal attitudes, to ensure that traditional conflict-solving mechanisms (*jirgas* and *shuras*), which frequently did not respect women's rights, were not involved in criminal cases, and to put an end to harmful practices such as honour killings and *baad*. Would those practices be expressly outlawed in the reform of the Criminal Code? Lastly, she asked about the availability of shelters for former women prisoners.

42. **Ms. Šimonović** wished to know how the women's shelters were funded, whether it was true that some faced closure due to lack of resources and what measures were in place to facilitate their residents' social reintegration. She also sought information about the outcome of an investigation into cases of rape apparently undertaken by the High Commission for the Prevention of Violence against Women in 2008.

43. **Ms. Gabr** said that although the State party had some good laws on its statute book, their provisions were not always implemented due to incompatibilities with sharia law or the intervention of male religious leaders. She suggested that the State party should appeal to Islamic experts such as the moderate Islamic leaders attached to Al-Azhar University in Cairo for help in implementing human rights law in general and women's law in particular, and in ensuring consistency between positive law and Islamic law.

44. **Ms. Al-Jehani**, emphasizing the falsity of linking harmful stereotypical practices with respect for sharia law, asked whether the Government believed that the programmes and laws that had been adopted were sufficient to eliminate practices such as *baad* or whether they would be supported by awareness-raising campaigns to help the public understand that such practices were in fact contrary to Islam. Information about any campaigns to promote increased female involvement in domestic decision-making would also be appreciated.

45. **Mr. Hashimzai** (Afghanistan) said that the Government was working to address the problems associated with informal justice, to ensure that traditional conflict-solving mechanisms intervened only in civil issues such as disputes about land, and to establish links between formal and informal justice mechanisms through which the former could advise the latter on how to take decisions that were in line with national laws as well as Islam. The upcoming review of the 50-year-old Criminal Code would remove any discriminatory provisions, including those providing mitigation in cases of honour killing, and would align the text with the State party's international commitments. In addition, the Supreme Court had recently clarified that running away from home to escape informal justice was not an offence.

46. **Mr. Attaie** (Afghanistan) said that, as well as being violations of sharia law, harmful traditional practices such as forced marriage were punishable by terms of imprisonment of up to 10 years under the formal justice system. However, the courts could generally bring a case against those responsible only if a formal complaint was made. As an Islamic nation, the State party did apply Koranic rulings, but the interpretation and implementation of sharia law was subject to the guidance of Islamic law experts, and judges received training in how to ensure the proper application of religious texts.

47. **Mr. Mohmand** (Afghanistan) said that the Ministry of Labour and Social Security had established "empowerment" centres for former women prisoners as well as support centres for their children in Kabul, Balkh and Kunduz. The centres were funded by Women for Women, an international NGO, and provided training to help residents become self-sufficient. Around 500 women were currently living in those centres, considerably fewer than in recent years.

48. **Ms. Mustafawi** (Afghanistan) said that the Ministry of Women's Affairs ran over 20 shelters in 18 provinces with support from UN-Women, Oxfam, the International Organization for Migration (IOM) and other donors. The shelters provided literacy, English, computer and vocational training as well as instruction in the Koran. Funding was a constant worry and without donor aid the shelters were unlikely to survive.

49. **Ms. Jahan** endorsed the suggestion that the State party should turn to other Muslim countries, including those outside the Arab region, for guidance on best practices and more positive interpretations of sharia law. Expressing alarm at the scale of the trafficking problem, much of which was linked to forced marriage, prostitution and labour. She asked what the Government was doing to address the customary practices that were the root cause, whether it had a comprehensive gender-sensitive plan of action to combat trafficking, how many prosecutions had been brought and how many convictions had been obtained under the 2008 anti-trafficking law. She sought assurance that the courts were using the new law effectively and were not still prosecuting victims on charges of "running away from home" or *zina*. Noting lastly that safe houses were sometimes wrongly referred to as homes for "fallen" or immoral women, including, unfortunately, by persons in positions of influence, she asked how the authorities protected those shelters from attack and whether there were separate shelters for trafficking victims.

50. **Ms. Gabr** wished to query a statement contained in the report which suggested that trafficking and abduction were not serious problems in Afghanistan because most of the victims were foreigners. She called on the State party to ensure due enforcement of the relevant 2008 law, which accorded considerable importance to the rights of all victims and incorporated the definition of trafficking established in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol). For that reason, she would like to know why the State party had not yet ratified that Protocol, or the Protocol against the Smuggling of Migrants by Land, Sea and Air. Lastly,

she highlighted that all cases in which girls or women were given away in settlement of disputes or for some other form of recompense should be classified as trafficking.

51. **Mr. Mohmand** (Afghanistan) said that although the anti-trafficking law had been adopted in 2008, its provisions were only just beginning to be implemented. The law had been designed to improve prevention and international cooperation, to facilitate the implementation of international anti-trafficking norms and national anti-trafficking plans, to enhance victim support and to ensure more stringent criminal penalties for the perpetrators. There was a national commission on human trafficking to oversee problems in that area; in the past six years it had dealt with over 4,600 cases involving men, women and children. There were also four dedicated shelters for trafficking victims, all located in border areas and run with support from IOM, the United Nations Children's Fund and civil society organizations. In the past year the shelters had managed to reintegrate over 700 victims with their families.

The meeting rose at 1.05 p.m.