

# Women and Conflict in Afghanistan

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## *Executive Summary*

As the presidential election approaches in 2014, with the security transition at the year's end, Afghan women, including parliamentarians and rights activists, are concerned that the hard-won political, economic and social gains achieved since the U.S.-led intervention in 2001 may be rolled back or conceded in negotiations with the insurgents. Afghanistan's stabilisation ultimately rests on the state's accountability to all its citizens, and respect for constitutional, legal and international commitments, including to human rights and gender equality. There will be no sustainable peace unless there is justice, and justice demands that the state respect and protect the rights of women, half its population.

Following the Taliban's ouster, Afghan women worked hard to reverse the damage wrought by more than two decades of a civil war that deprived them of the limited progress towards gender equality experienced in earlier times. As a result of international support, donor aid and their own efforts, women are now an essential part of the post-Taliban order and have played a major role in reconstructing the state and its institutions. 40 per cent of all schoolchildren are girls. Women are more than 27 per cent of parliament. They are in the bureaucracy, the judiciary and the Afghan National Security Forces (ANSF) and are lawyers, entrepreneurs, journalists and civil society activists.

In the last twelve years, women's legal status has improved considerably. Gender equality is enshrined in the constitution. The Elimination of Violence Against Women (EVAW) law criminalises rape for the first time. The state is now legally bound to protect women from violence. The ministry of women's affairs (MOWA) and the government's National Action Plan for Women (NAPWA) place empowerment at the heart of state building. Yet, women still struggle to avail themselves of their rights and to consolidate and advance their progress.

The implementation of laws to ensure women's rights and support their political and economic participation is uneven. Years of prioritising counter-insurgency over community policing have impeded the emergence of a police force able and willing to protect women from violence. Women are a mere 1 per cent of the Afghan National Police (ANP). Female police are marginalised and often incapable of responding effectively to incidents of violence against women. A fraction of the incidents of gender-based violence are tried under the EVAW law. Very few cases even make it to the formal justice system; most are decided by *jirgas* or *shuras* (local councils) mainly dominated by strongmen.

Moreover, persistent insecurity and violence threaten women's political, economic and social rights. Those in positions of authority are regularly threatened; many have been killed by insurgents. Militants have attacked girls' schools, students and staff. Qualified female teachers and health workers are reluctant to work outside relatively secure urban centres, undermining rural women's and girls' access to education and basic health services.

Since the formal transfer of the security lead to the ANSF in mid-2013, insurgent threats to women have increased. Their rights are also under attack from yesterday's warlords, now powerbrokers both within and outside government. Rearming their militias as a hedge against what may happen in the 2014 elections or after the transition

and attempting to consolidate their electoral base, including by demonstrating independence from the West, they could undo women's fragile gains.

The reversal of progress is already evident. With presidential and provincial council elections due in April, the latest electoral law has reduced the quota – guaranteed seats – for women in provincial assemblies from a quarter to a fifth. If passed by both houses of parliament, a change in the Criminal Prosecution Code disqualifying relatives of the accused from testifying against them would severely constrain women's ability to take abuse cases to court. Conservative members of parliament have strongly opposed the EAW law, calling it un-Islamic when it was introduced in parliament in May 2013. Though it remains valid at least until a vote in parliament, the attention its detractors have received could undermine its already limited use. A wide range of Afghan and international women's rights organisations have urged President Hamid Karzai, who enacted it by decree in 2009, to speak in favour of the law and endorse its implementation.

In the July 2012 Tokyo Framework defining the terms for continued donor aid after the security transition, Kabul pledged to improve governance, enforce rule of law and protect human rights, including by the EAW law. Signalling that it will not accept the erosion of women's rights, the international community should continue to support women activists and NGOs and in the interest of sustainability help such NGOs gain financial independence by giving core, as well as project-based funding.

If patchy implementation of the laws that protect and empower women raises doubts of Kabul's commitment, women are as much, if not more concerned about the efforts, with international backing, to broker peace with the Taliban. They have been sidelined in a process that will determine their future and that of their country. The role of female representatives in Kabul's High Peace Council (HPC) and Provincial Peace Councils (PPC) is largely limited to public outreach. It does not extend to talks with the insurgency. Given their exclusion and the opacity of the negotiations, there is reason for concern. The government and parliament may be tempted to backtrack on pro-women constitutional provisions and laws to assuage conservative power-brokers within and outside the armed insurgency.

Women activists and parliamentarians are not comforted by rhetoric from Kabul and the international community, including U.S. and EU assurances that any peace settlement would be based on respect for the constitution and women's rights. Agreement on protecting the rights of women must be a prerequisite rather than an elusive desired outcome of any reconciliation process.

## *Recommendations*

*To protect women's rights and sustain gains achieved for and by Afghan women*

### **To the government of Afghanistan:**

1. Increase women's and girls' access to health care and education, with particular emphasis on service quality, by creating incentives for qualified female staff to work in rural areas, including by adequate fiscal support for accompanying male family and protecting staff and beneficiaries.
2. Ensure implementation of laws protecting women's rights by:
  - a) supporting passage of the EVAW law in parliament, instead of keeping it a presidential decree, but without weakening its text;
  - b) strengthening the formal justice system and announcing a timetable for establishing EVAW law prosecution units, staffed by qualified female prosecutors in every province and major district; and
  - c) refraining from passing or modifying legislation that would undermine protections against gender-based violence.
3. Support the UN Assistance Mission in Afghanistan (UNAMA) and Afghanistan Independent Human Rights Commission (AIHRC) efforts to monitor human rights abuses and, in the AIHRC case, to also protect victims of violence, by:
  - a) respecting AIHRC independence, autonomy and credibility, including by consulting civil society and rights activists on appointments of commissioners; and
  - b) supporting renewal of UNAMA's mandate beyond March 2014 and providing protection to UN personnel in Kabul and field offices.
4. Enhance freedom of expression by ensuring that all journalists, including women, can work without political interference, harassment or threats from government officials and pro-government forces.
5. Restrain government and pro-government forces from violating women's rights and build a police force capable of protecting women from violence by:
  - a) including women in the vetting process for the ANSF and the Afghan Local Police (ALP);
  - b) staffing Family Response Units (FRUs) with qualified policewomen and female legal advisers;
  - c) building career paths for women to attract qualified, and dedicated police officers;
  - d) acting against harassment of policewomen by male colleagues and prosecuting police responsible for gender-based violence; and
  - e) ensuring that violations of women's rights are appropriately prosecuted and investigated.

**To the international community, and donor countries in particular:**

6. Continue to support women's access and the government's ability to provide basic services and economic opportunities to women by intensifying efforts to:
  - a) give sustained support for development, particularly in the health and education sectors, and emphasise quality of services over purely quantitative indicators;
  - b) ensure that gender is mainstreamed in all donor-funded programs; and
  - c) call on Kabul to ensure security of female staff and aid recipients.
7. Underwrite development of a national police committed to protecting citizens rather than fighting an insurgency by:
  - a) supporting professional, community-oriented policing;
  - b) providing training in psychological counseling to FRU personnel; and
  - c) reducing and ultimately ending funding for the ALP.
8. Support the formal justice system and implementation of laws that protect and empower women and use appropriate pressure, including using aid levers within the framework of the Tokyo commitments to discourage Afghan authorities from weakening existing legislation.
9. Ensure that violations of women's rights are effectively monitored by:
  - a) supporting renewal of UNAMA's mandate beyond March 2014 and ensuring UNAMA and AIHRC have the necessary funds, political space and security to effectively monitor and protect human rights; and
  - b) placing particular emphasis on protecting freedom of expression and on the security of women journalists.

*To give women a voice in shaping the Afghan future and capacity to build on gains*

**To the government of Afghanistan:**

10. Mainstream gender equality in all government activities and promote women's empowerment, as prescribed by the National Action Plan for the Women of Afghanistan (NAPWA), and increase women in decision-making positions.
11. Commit to implementing a National Action Plan for UN Security Council Resolution 1325 on Women, Peace and Security, including by ensuring women's substantial participation in negotiations with the Taliban and making the protection of their rights and empowerment a prerequisite for any peace deal.
12. Promote women's participation in elections, both as voters and candidates by:
  - a) providing, with hard timelines, their significant representation in electoral institutions, including the Independent Election Commission (IEC) and the Independent Electoral Complaints Commission (IECC);
  - b) ensuring sufficient numbers of female security personnel and electoral staff at women's polling stations; and

- c) reviewing the electoral law with the new parliament in 2015 to restore the 25 per cent minimum quota for women in provincial councils and consider such quotas for district and village councils.

**To the international community, and donor countries in particular:**

13. Promote fiscal independence and sustainability of women's rights groups and NGOs by:
  - a) providing core funding, in addition to project-based assistance; and
  - b) supporting creation of consortiums and networks for project implementation and advocacy.
14. Strengthen women's presence in decision-making in the bureaucracy by urging Kabul to achieve the 30 per cent representation recommended by the National Action Plan for Women.
15. Continue to remind Kabul of its domestic and international obligations for improved governance, rule of law and human rights protection, and use aid as a lever to persuade it to respect and advance women's rights and empowerment.
16. Fund women's participation in domestic and international electoral observation; and earmark portions of the aid to the IEC and IECC for women staff in central and provincial offices, for training women polling officers and for women police provide electoral security.
17. Support women's substantive participation in negotiations with the Taliban and ensure that preservation of their gains is a prerequisite for any peace deal.

**Kabul/Brussels, 14 October 2013**





# Women and Conflict in Afghanistan

## I. Introduction

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Women in Afghanistan have proved resilient against all odds, despite a dysfunctional state and more than two decades of a bloody civil war. During the Taliban regime, as gender apartheid replaced the anarchy of warlords, violations of their rights became the norm. Yet, even then Afghan women worked alongside men to assist the most vulnerable segments of the population, ensuring they had some access to education and health care, both at home and in exile. Since the U.S.-led intervention in 2001, they have played a major role in efforts to create a more inclusive political order, reverse the impact of decades of conflict and displacement and address the paucity of state services and protection.<sup>1</sup>

As the December 2014 deadline for the security transition approaches, however, and with the numbers of foreign forces already decreasing, women activists worry that Kabul's commitment to and the international community's support for gender equality may dwindle, halting, at best, the progress in protecting and empowering women or, at worst, unravelling hard-won gains. A woman parliamentarian said, "in our recent past, transition has always meant going from bad to worse. We can't help but be concerned".<sup>2</sup>

This report assesses the status of women in present-day Afghanistan, including the gains achieved with international support after the U.S.-led intervention in 2001. It examines gaps and challenges to women's legal, political and economic empowerment; identifies risks and opportunities in the context of the security transition, elections and negotiations with the Taliban and recommends ways of protecting and advancing the rights gained in the last twelve years. Field research was conducted in Kabul, Mazar-e-Sharif, Herat, Kandahar and Jalalabad. Some names and places have been withheld on security grounds.

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<sup>1</sup> For related analysis, see Crisis Group Asia Reports N°123, *Countering Afghanistan's Insurgency: No Quick Fixes*, 27 November 2006; N°138, *Reforming Afghanistan's Police*, 30 August 2007; N°175, *Afghanistan: What Now for Refugees?*, 31 August 2009; N°190, *A Force in Fragments: Reconstituting the Afghan National Army*, 12 May 2010; N°195, *Reforming Afghanistan's Broken Judiciary*, 17 November 2010; N°207, *The Insurgency in Afghanistan's Heartland*, 27 June 2011; N°210, *Aid and Conflict in Afghanistan*, 4 August 2011; N°221, *Talking about Talks: Towards a Political Settlement in Afghanistan*, 26 March 2012; and N°236, *Afghanistan: The Long, Hard Road to the 2014 Transition*, 8 October 2012; also, N°48, *Afghanistan: Women and Reconstruction*, 14 March 2003.

<sup>2</sup> Crisis Group interview, Jalalabad, June 2013.

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## II. Decades of Civil War

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At the time of the U.S.-led intervention, Afghanistan's women had lived through almost two decades of violence. A bloody civil war led to massive human rights' violations and displacement, reversing the progress, albeit limited, toward gender equality in the 1970s under President Mohammad Daoud Khan's government that, prior to the April 1978 communist coup, had enacted some reforms to benefit women as part of an effort to modernise the state.

The access of women and girls to health care, education, economic empowerment and political enfranchisement was, however, largely limited to the urban centres.<sup>3</sup> In 1965, no more than 20 per cent of urban women exercised the right to vote granted to them the previous year.<sup>4</sup> In 1975, over half a century after Queen Sorayya, the wife of reformist King Amanullah (1919-1929), inaugurated the first girls school in Kabul, only 8 per cent of Afghan girls received primary schooling, as compared to 44 per cent of the boys.<sup>5</sup> Health indicators were equally poor, with mortality rates for all infants as high as 35 deaths per 1,000 births in 1975 and maternal mortality rates at 3,070 deaths per 100,000 live births in 1978.<sup>6</sup>

Yet, there were also some signs of progress, even if urban-educated women remained the main beneficiaries. By the mid- to late-1970s, women were being appointed to senior government jobs, including ministerial posts. Those from the upper and middle classes joined academic institutions and the legal system and even played a role in drafting the 1977 constitution.<sup>7</sup>

### A. *The Anti-Soviet Jihad*

Ousting Daud in a military coup, the People's Democratic Party of Afghanistan (PDPA) promised women equal rights, compulsory education and protection against forced, arranged and child marriage. Successive PDPA regimes also encouraged female employment. By the time the Taliban took over in the mid-1990s, 70 per cent of teachers, about half of all civil servants and 40 per cent of doctors in Afghanistan were women.<sup>8</sup> However, the PDPA's agenda, which included radical land reforms, was resisted by traditional power holders, including the clergy and landowners.<sup>9</sup>

This opposition, initially restricted to Afghanistan, soon assumed a cross-border dimension, taking the shape of armed resistance against the PDPA and its Soviet backers. The mujahidin, many of whom operated out of Pakistani safe havens, were backed by several external actors, including the U.S., Saudi Arabia and China.<sup>10</sup> As the

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<sup>3</sup> Crisis Group Report, *Afghanistan: Women and Reconstruction*, op. cit., pp. 3-4.

<sup>4</sup> Deniz Kandiyoti, "The politics of gender and reconstruction in Afghanistan", occasional paper 4, UN Research Institute for Social Development, 2005, p. 6.

<sup>5</sup> Shireen Khan Burki, "The politics of *Zan* from Amanullah to Karzai: lessons for improving Afghan women's status", in Jennifer Heath and Ashraf Zahedi (eds.), *The Land of the Unconquerable: The Lives of Contemporary Afghan Women* (Berkeley, 2011), p. 46.

<sup>6</sup> Ibid. Also, "Afghanistan: country gender assessment, national reconstruction and poverty reduction: the role of women in Afghanistan's future", World Bank, 2005, p. 14.

<sup>7</sup> Crisis Group interviews, women activists, professors, politicians, Kabul and Mazar-e-Sharif, June 2013.

<sup>8</sup> See Crisis Group Report, *Afghanistan: Women and Reconstruction*, op. cit.

<sup>9</sup> Coercive efforts by PDPA cadres to hold coeducational adult literacy classes also alienated conservative segments of the population.

<sup>10</sup> The mujahidin groups included Burhanuddin Rabbani's Jamiat-i Islami; Gulbuddin Hekmatyar's Hizb-i Islami and a splinter group of the Hizb, Abd Al-Rabb al-Rasul Sayyaf's Ittihad-i Islami;

civil war intensified, six million people had fled the country by the end of the 1980s, taking refuge in neighbouring Iran and Pakistan, and millions more were internally displaced.<sup>11</sup>

The PDPA regime arrested and killed dissidents, including women. In the countryside, Afghan and Soviet soldiers attacked and killed villagers as a warning or in retaliation for their assistance to the mujahidin.<sup>12</sup> Rape and other forms of gender-based violence, though not “generally part of the systematic massacres in the villages”, nevertheless reflected “the behaviour of an undisciplined and unrestrained occupation army”.<sup>13</sup> A human rights activist and head of a local NGO in Mazar-e-Sharif said, “left-wing feminist movements were attacked ideologically and their members physically by both the communist regime and the mujahidin”.<sup>14</sup>

The mujahidin used their control over camps in Pakistan to impose their idiosyncratic interpretation of the role of women on the refugee population, supported by General Zia-ul-Haq’s regime, which shared their puritanical version of Islam.<sup>15</sup> Gulbuddin Hekmatyar’s Hizb-i Islami, a major protégé of the Zia regime, for instance, used its women’s wing, schools and publications to impose its version of radical Islam on women refugees.<sup>16</sup>

Life in Pakistan’s refugee camps and cities, however frugal or controlled, gave Afghan women some access to health care, education and other services largely absent in rural Afghanistan. Women also participated in NGO-run training or income-generating projects and even formed their own NGOs for refugee women.<sup>17</sup> The mujahidin attacked NGOs that employed Afghan women and threatened, murdered or disappeared “those who supported the old regime ..., tribal elders who opposed the domination of Islamist commanders, Afghans associated with Western organisations such as relief groups, and women whose professional roles violated the stricture that the Islamists wanted to impose”.<sup>18</sup> Many commanders detained, tortured and killed both male and female prisoners in their detention centres in Pakistan.<sup>19</sup>

In April 1988, Afghanistan and Pakistan signed, with the U.S. and USSR acting as guarantors, the Geneva Accords, which set the timetable for Soviet troop withdrawal and attempted to establish a political settlement between the mujahidin and the PDPA

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Mohammad Nabi Mohammadi’s *Harkakat-i Islami Inqilab-i Islami-yi Afghanistan*; Sebghatullah Mujaddedi’s *Jabha-yi Nijiat-yi Islami*; and Syed Ahmad Gailani’s *Mahaz Milli-yi Islami-yi Afghanistan*. Crisis Group Report, *What Now for Refugees?*, op. cit.

<sup>11</sup> Ibid.

<sup>12</sup> “Women in Afghanistan: pawns in men’s power struggles”, Amnesty International, November 1999. Also “Tears, blood and cries: human rights in Afghanistan since the invasion 1978-1984”, Helsinki Watch (now Human Rights Watch), December 1984; and “War crimes and crimes against humanity: 1978-2001”, The Afghanistan Justice Project (AJP), 2005. AJP is a non-governmental, non-partisan research and advocacy organisation staffed primarily with Afghan researchers.

<sup>13</sup> “To die in Afghanistan”, Helsinki Watch and Asia Watch, December 1985, p. 39.

<sup>14</sup> Crisis Group interview, Mazar-e-Sharif, June 2013.

<sup>15</sup> The Pakistani military regime required that refugees register with one of the seven ultra-orthodox Sunni mujahidin parties to receive humanitarian assistance. For Zia’s Islamisation policy, see Crisis Group Asia Report N°49, *Pakistan: The Mullahs and the Military*, 20 March 2003.

<sup>16</sup> Crisis Group interview, Hizb-i Islami members, Jalalabad, 19 June 2013.

<sup>17</sup> Kandiyoti, op. cit., p. 9.

<sup>18</sup> “War crimes and crimes against humanity”, AJP, op. cit., p. 59. Also Crisis Group Report, *Afghanistan: Women and Reconstruction*, op. cit., p. 8.

<sup>19</sup> “By all parties to the conflict: Violations of the laws of war in Afghanistan”, Human Rights Watch, March 1988, pp. 37-39.

regime.<sup>20</sup> As the Soviet Union crumbled, the PDPA regime, bereft of its assistance, weakened. With Pakistan's generous help, the mujahidin managed to oust the regime, but unable to agree on a coalition government they soon turned on each other. Armed groups allied with the regime, such as that led by Uzbek commander General Abdul Rashid Dostum, also jostled for power.

As the country descended into anarchy, rival mujahidin militias and aligned criminal groups attacked and looted the civilian population. Women were raped, abducted, kept as sex slaves or sold into prostitution.<sup>21</sup> Human rights groups recorded accounts of women committing suicide or parents killing their daughters to prevent them from being subjected to sexual violence.<sup>22</sup> Hundreds of thousands of Afghans were displaced or forced into exile – among them women who had benefited from educational and professional opportunities under the Soviet-backed regime.<sup>23</sup> Many of the human rights violators of this period have held or are presently holding positions of authority in post-Taliban Afghanistan; none have been prosecuted for crimes committed in the 1990s.<sup>24</sup>

### B. *The Taliban's Gender Apartheid*

The predominantly Pashtun, Pakistan-backed Taliban movement emerged in Kandahar in 1994. Two years later, with Pakistan's support, it ousted Burhanuddin Haqqani's Jamiat-i Islami regime in Kabul. By 2000, it controlled 90 per cent of the country.<sup>25</sup> Its foot soldiers were the products of Pakistan's refugee camps, including those run by mujahidin who were now Taliban commanders. Its leaders, including Mullah Omar, had been educated in Pakistan's jihadi madrasas.

As the Taliban disarmed opponents, it brought a degree of order and physical security. Yet, women soon became the primary victims of its efforts to establish a system of governance based on an ultra-orthodox version of Sharia (Islamic law), although men were also targets of the harsh justice. Religious edicts made it compulsory for women to wear the *burka*<sup>26</sup> and be accompanied by a close male relative in public. Girls' education was suspended and women denied the right to employment except in the health sector. The ban on women's employment also impacted boys' education, given the high percentage of female teachers in boys' public schools.<sup>27</sup>

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<sup>20</sup> Barnett R. Rubin, *The Search for Peace in Afghanistan: From Buffer State to Failed State* (Yale: 1995), pp. 68-91.

<sup>21</sup> See Crisis Group Report, *Afghanistan: Women and Reconstruction*, op. cit. Also "Blood stained hands: past atrocities in Kabul and Afghanistan's legacy of impunity", Human Rights Watch, 2005.

<sup>22</sup> "Women in Afghanistan", Amnesty International, op. cit., p. 3.

<sup>23</sup> Crisis Group interviews, Kabul, Mazar-e-Sharif and Herat, April-June 2013.

<sup>24</sup> Norah Niland, "Impunity and insurgency: a deadly combination in Afghanistan", *International Review of the Red Cross*, vol. 92, no. 880, 2010.

<sup>25</sup> Crisis Group Report, *What Now for Refugees?*, op. cit., p. 4.

<sup>26</sup> A long garment, covering the entire body and the face, worn over clothes.

<sup>27</sup> When the Taliban took power, it insisted it did not oppose girls' education, but the absence of separate facilities for the sexes and the law and order situation made it impossible to ensure there would be respect for "Islamic rules and regulations". Nancy Hatch Dupree, "Afghan Women under the Taliban", in William Maley (ed.), *Afghanistan and the Taliban: The Rebirth of Fundamentalism?* (New Delhi, 2001), pp. 146-148, 154.

A department for the “promotion of virtue and prevention of vice” was given the task of enforcement; women violating the rules were publicly beaten.<sup>28</sup> In 1999, Amnesty International reported: “It is an irony that although the Taliban purport their policy on women is in place to ensure the physical protection and dignity of women, many women now cite fear of being beaten by the Taliban as their main security concern”.<sup>29</sup> Lacking support of a male relative, many of Kabul’s 40,000 war widows, banned from working, were forced into begging and prostitution.<sup>30</sup> The Taliban also resorted to forced marriages, concealing sexual assault under their cover.<sup>31</sup>

As it had since the withdrawal of the Soviet forces, the aid community – UN agencies and NGOs – continued providing basic services and food at subsidised rates, including to women.<sup>32</sup> In the health sector, where women were allowed to work, efforts to segregate female practitioners and patients undermined access to and the quality of care. Yet, the Taliban’s relative leniency on female employment in the sector allowed aid agencies to hire female staff and reach women through health-related projects.<sup>33</sup> Girls’ education resumed clandestinely with support from organisations such as the Swedish Committee for Afghanistan, including in southern and eastern Afghanistan, the Taliban’s home base. Afghan women, on their own, ran extensive networks of home schools, with an estimated enrolment of 134,000 by 2001 – almost equal to that of boys in regular schools.<sup>34</sup>

Working in insecure and volatile conditions and hampered by the Taliban’s restrictions, aid agencies’ ability to reach women was, however, constrained. The repercussions for women working for international organisations were far more serious. Obtaining a ministerial authorisation did not necessarily protect women employed in aid programs (and the men accompanying them) from Taliban insults and beatings.<sup>35</sup> Attitudes towards aid agencies varied geographically between moderate and hardline provincial governors. In cities and areas inhabited by ethnic and religious minorities, the Taliban tended to apply its edicts forcefully. Unwilling and largely unable to restore an administrative system responsive to citizens’ needs, but conscious of the importance of retaining popular support in the Pashtun heartland, the Taliban were more tolerant of aid agencies in the rural south and south east.

Throughout Taliban rule, many aid agencies had little choice but to work with the Taliban, given the dire need to provide humanitarian access, however limited. By doing so, however, they could not take a principled stand against the Taliban’s violations of human rights. As conditions for disbursement worsened, international aid diminished sharply. What remained was earmarked for essential humanitarian assistance and food, as drought, displacement and a dysfunctional and repressive regime exacerbated already dismal living conditions.<sup>36</sup>

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<sup>28</sup> Crisis Group interviews, survivors and witnesses of violence under the Taliban, Kabul, Herat, Mazar-e-Sharif, April-June 2013.

<sup>29</sup> “Women in Afghanistan”, Amnesty International, op. cit., pp. 5-6. Also Crisis Group interviews, politicians, members of civil society, Kabul, Herat, Mazar-e-Sharif, April-June 2013.

<sup>30</sup> “Women in Afghanistan”, Amnesty International, op. cit., p. 9.

<sup>31</sup> Kandiyoti, op. cit., p. 10.

<sup>32</sup> See Crisis Group Report, *Aid and Conflict*, op. cit., 4 August 2011.

<sup>33</sup> Dupree, op. cit., p. 157.

<sup>34</sup> Crisis Group interviews, women who ran or participated in clandestine home schools, Kabul, Herat, Mazar-e-Sharif and Jalalabad, April -June 2013. Also, Ralph H. Magnus and Eden Naby, *Afghanistan: Mullah, Marx, and the Mujahid* (Cambridge, 2002), p. 207

<sup>35</sup> Dupree, op. cit., p. 157.

<sup>36</sup> See Crisis Group Report, *Aid and Conflict*, op. cit.

In this environment, women rights activists within Afghanistan were largely silenced, but those in exile contributed to raising public awareness of the plight of Afghan women. Despite widespread international condemnation of the Taliban's "medieval" decrees, as Madeleine Albright, then U.S. Permanent Representative to the UN, termed them in late 1996,<sup>37</sup> the international community was either unable to press the regime to abandon its harsh and discriminatory policy or indifferent.<sup>38</sup> Laura Bush, the wife of former U.S. President George W. Bush, commented that it was only after the September 2001 attacks that "the world's eyes were opened to the horrors suffered by Afghanistan's women".<sup>39</sup>

In a November 2001 national radio address, Mrs Bush directly linked the U.S.-led intervention to the plight of women, emphasising that "the fight against terrorism is also a fight for the rights and dignity of women".<sup>40</sup> To coincide with the speech, the State Department published a report detailing the Taliban regime's violations of women's rights as part of a wider effort to draw international support for its ouster.<sup>41</sup> Although the U.S.-led intervention was primarily aimed at eliminating al-Qaeda's presence in Afghanistan, improving the condition of Afghan women became, at least in rhetoric, a key objective, both for it and for the international community's subsequent support for Afghanistan's political, economic and social reconstruction. After the Taliban's ouster, Afghan women and men returned from years of exile, determined to erase the legacy of war and oppression. In the words of a former Afghan ambassador, now in the political opposition, "we wanted to start with a clean slate; we wanted to start from scratch".<sup>42</sup>

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<sup>37</sup> Cited in Dupree, *op. cit.*, p. 149.

<sup>38</sup> See Crisis Group Report, *Afghanistan: Women and Reconstruction*, *op. cit.*

<sup>39</sup> Laura Bush, "Don't abandon Afghan women", *The Washington Post*, 19 May 2012.

<sup>40</sup> "Radio address by Mrs. Bush", 17 November 2001, [www.presidency.ucsb.edu/ws/?pid=24992](http://www.presidency.ucsb.edu/ws/?pid=24992).

<sup>41</sup> "The Taliban's war against women", U.S. State Department, 17 November 2001.

<sup>42</sup> Crisis Group interview, Mahmoud Saikal, National Coalition of Afghanistan (NCA), Kabul, 27 April 2013. NCA leader Abdullah Abdullah contested the 2009 election against President Karzai.

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### III. Post-2001 Gains

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Turning the page on the Taliban chapter depended on the international community's support for and Afghan powerholders' acceptance of an inclusive democratic order in which women would have a voice and a role. Meeting in Bonn in December 2001, the UN, NATO member states, neighbouring Iran and Pakistan and almost all important Afghan stakeholders, minus the Taliban, agreed on provisions to guarantee women's participation in rebuilding Afghanistan's institutions and government, including; a role in the interim administration and the Loya Jirga processes that led to the drafting of a new constitution.<sup>43</sup>

#### A. *Constitutional Guarantees and Electoral Rights*

In March 2003, Hamid Karzai's transitional administration ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). With the state now obliged to eliminate gender-based discrimination, women activists had some leverage to push for a constitution that would protect women's rights and participation in the public arena.<sup>44</sup> 100 of 502 delegates in the December 2003 Constitutional Loya Jirga were women.<sup>45</sup>

Approved in January 2004, the constitution gave equals rights to all citizens – specifically emphasising both men and women – and called for establishment of the Afghan Independent Human Rights Commission (AIHRC) to monitor and protect these rights. “We thought it better to specify men and women and not just all citizens. We felt that if we didn't, men would say this is a male-dominated society, so the term all citizens does not apply to women”, said Masooda Karokhil, a member of parliament (MP) from Herat province.<sup>46</sup>

The constitution also included legal guarantees for political participation and access to education and health care. Electoral law gives women equal voting rights. A system of reserved seats provides that, on average, there should be at least two women per province (68 of 250 members in the Wolesi Jirga, the lower house of parliament).<sup>47</sup> Women are also to be at least 16 per cent of the Meshrano Jirga, the upper house; the president appoints a third of its membership and is required to select half women.<sup>48</sup> “We faced a lot of pushback, but in the end we managed to get gender equity enshrined in the constitution”, said Shukria Barakzai, nominated in 2003 to the constitutional commission and now a Wolesi Jirga member. Senator Sara Surkhabi,

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<sup>43</sup> “Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions” (Bonn Agreement). Crisis Group Asia Briefing N°17, *The Loya Jirga: One Small Step Forward?*, 16 May 2002; Also, Crisis Group Report N°56, *Afghanistan's Flawed Constitutional Process*, 12 June 2003.

<sup>44</sup> Crisis Group interviews, national and provincial assembly female parliamentarians and members of civil society, Kabul, Mazar-e-Sharif, April-June 2013. Also, Cheshmak Farhoumand-Sims, “CEDAW and Afghanistan”, *Journal of International Women's Studies*, vol. 11, no. 1, 2009, p. 142.

<sup>45</sup> “Loya Jirga: Roundup of proceedings”, Institute for War and Peace Reporting, 16 November 2005.

<sup>46</sup> Crisis Group interview, Herat, 8 June 2013.

<sup>47</sup> According to the constitution, the elections law would “adopt measures to attain, through the electorate system, general and fair representation for all the people of the country, and proportionate to the population of each province, on average, at least two females shall be elected members of the House of People from each province”, Article 83.

<sup>48</sup> The remaining two thirds are elected by council members from among provincial and district councils, with no specific quota for women. Article 84, constitution.

twice selected to represent the northern province of Faryab, said, “2010 paved the way for women’s political participation”.<sup>49</sup> After two rounds of parliamentary elections, women are in the legislature in considerable numbers. They are 27.7 per cent of the Wolesi Jirga elected in 2010, surpassing the 21.7 per cent global average of women’s representation in directly-elected houses of parliament.<sup>50</sup>

Ahead of the 2010 parliamentary elections, the Independent Election Commission (IEC) had calculated the number of seats allocated to each province in the Wolesi Jirga, including the number of reserved seats for women per province so that their total would be twice the number of provinces, as mandated by electoral law and the constitution.<sup>51</sup> Using this formula, the IEC allocated two or more reserved seats for women in fifteen provinces and only one in the remaining nineteen provinces.<sup>52</sup> Three of the ten seats reserved for nomadic tribes were also for women. Under the electoral law, female candidates obtaining the largest number of votes in parliamentary or provincial council polls would be guaranteed a seat in every province.<sup>53</sup> In 2010, two women in the south-western province of Nimroz, which has one reserved seat for women, defeated male opponents, filling both seats allocated to the province in the lower house and bringing the total of women in parliament to 69.<sup>54</sup> Female candidates also defeated male opponents in three other provinces.<sup>55</sup>

Women were one fourth of the members of the provincial councils until the July 2013 electoral law (discussed below) reduced them to a fifth.<sup>56</sup> With size determining the number of members in provincial councils – between five to 29 members in the previous election law – the 25 per cent quota translated into one reserved seat for women in the smallest provincial councils and seven in the largest.<sup>57</sup> “Society has changed”, said Nader Nadery, former AIHRC commissioner. “People now think that if they endorse a man, they have less chance of winning than if they endorse a woman.

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<sup>49</sup> Crisis Group interviews, Kabul, 21, 27 April 2013.

<sup>50</sup> “Statement by Mohammad Qasim Hashimzai at the 55th session of the Committee on the Elimination of Discrimination Against Women”, Afghan foreign ministry, 10 July 2013, p. 2; “Women in national parliaments”, Inter-Parliamentary Union (IPU), 1 September 2013.

<sup>51</sup> “To determine the minimum number of female candidates to be elected in each province, the Commission shall prepare procedures and formula based on the population of each province to ensure that the number of elected female candidates shall be at least twice the number of provinces, as provided in Article 83 of the Constitution”. Article 23, Afghanistan Electoral Law, 2009.

<sup>52</sup> “Parliamentary elections 2010 – seat allocation for Wolesi Jirga”, IEC, 2010.

<sup>53</sup> Articles 23 and 29, Afghanistan Electoral Law, 2010, and Articles 25 and 31, draft electoral law approved by Wolesi Jirga and Meshrano Jirga 15 July 2013 (unofficial English translation).

<sup>54</sup> “Afghan women take seats in parliament, prepare for road ahead”, National Democratic Institute (NDI), 9 February 2011.

<sup>55</sup> Farah, Nuristan and Zabul provinces. Scott Worden and Nina Sudhakar, “Learning from women’s success in the 2010 Afghan elections”, U.S. Institute of Peace (USIP), June 2012, p. 3.

<sup>56</sup> Articles 4 and 29, Afghanistan Electoral Law, 2009; and Article 30, draft electoral law approved by Wolesi Jirga and Meshrano Jirga 15 July 2013 (unofficial English translation).

<sup>57</sup> Article 28, Afghanistan Electoral Law, 2009. In the new electoral law, provincial council size is between five and 33 members, depending on population of the province. Guaranteed female representation of 20 per cent means one reserved seat for women in the smallest, six in the largest. Article 30, draft electoral law approved by Wolesi Jirga and Meshrano Jirga 15 July 2013 (unofficial English translation).



With the quota system, female candidates now have a greater chance of winning than their male counterparts”.<sup>58</sup>

### B. *Institutional Equality, Protection and Development*

Over the past twelve years, women activists, female parliamentarians and members of the ministry of women’s affairs (MOWA)<sup>59</sup> have become influential advocates for women’s rights. The 2008 Afghanistan National Development Strategy (ANDS), a five-year, \$50 billion roadmap for reconstruction and development presented to donors by the Karzai administration, identifies gender as a cross-cutting component. Its gender equity strategy aims to “address and reverse women’s historical disadvantage [by] chang[ing] women’s position in society, their socio-economic condition and access to development opportunities”.

Approved by the cabinet also in 2008, the National Action Plan for the Women of Afghanistan (NAPWA) is “the government’s main vehicle for implementing policies and commitments on women’s empowerment and gender equality” over a ten-year period (to 2018). Under MOWA’s supervision and guidance, state institutions are expected to mainstream gender in their policies, annual plans and activities, and ministries are encouraged to dedicate at least 30 per cent of their budget to it. NAPWA commits the state to 30 per cent representation of women in the civil service by 2018: “30 per cent is deemed the minimum acceptable level of women’s representation [in elected and appointed bodies at all government levels], recognised as a ‘critical mass’ that may be capable of changing the status quo in a given context”.<sup>60</sup> The acting director of Balkh province’s department of women’s affairs (DOWA) said, “NAPWA gives us influence over other ministries. They have to explain, for instance, how many women they have recruited, how many have been fired”.<sup>61</sup>

Political leadership of a town, province or ministry is no longer a male prerogative. In 2005, Habiba Sarobi, a former women’s affairs minister, was appointed governor of Bamiyan, the first-ever female provincial governor in Afghanistan’s history. In 2009, Azra Jafari became the first-ever female mayor (of Nili town in Daikundi province).<sup>62</sup> In early 2013, Saira Shakeeb Sadat was appointed as the first-ever female district governor (in Jozjan province).<sup>63</sup> In addition to MOWA, the public health ministry and the labour, social affairs, martyrs and disabled ministry are headed by women, as is AIHRC.<sup>64</sup>

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<sup>58</sup> Crisis Group interview, Kabul, 22 April 2013. Nadery is founder and executive chairman, Free and Fair Election Forum of Afghanistan (FEFA), an independent civil society organisation that monitors elections and seeks to promote participation in the electoral process.

<sup>59</sup> The women’s affairs ministry was created through the Bonn Agreement to promote gender equity and mainstream gender in the state apparatus. Crisis Group Report, *Women and Reconstruction*, op. cit., p. 11.

<sup>60</sup> NAPWA, text at [www.unifem.org/afghanistan/media/pubs/08/NAPWA\\_EN.html](http://www.unifem.org/afghanistan/media/pubs/08/NAPWA_EN.html).

<sup>61</sup> Crisis Group interview, Rabia Mariam Muradi, Mazar-e-Sharif, 11 June 2013.

<sup>62</sup> Declan Walsh, “A first for Afghan women: the governor”, *The Guardian*, 26 April 2005. Golnar Motevalli, “Afghanistan’s first female mayor proves critics wrong”, *ibid*, 24 February 2013.

<sup>63</sup> Jennifer Glasse, “Afghan female governor breaks new ground”, *Al Jazeera*, 21 February 2013.

<sup>64</sup> M. Ashraf Haidari, “Afghan women as a measure of progress”, *Foreign Policy* (online), 18 March 2013.

Similarly, women's presence in rule-of-law institutions has increased significantly. There were 1,974 policewomen in June 2013, compared to fewer than 500 in 2007.<sup>65</sup> In 2003, when the Afghan Women Judges Association was created, there were 50 female judges; in 2012, when the group was relaunched, it had 150 members.<sup>66</sup> In April 2013, there were 300 female defence lawyers and 250 women prosecutors, among them Maria Bashir, Herat's chief prosecutor, the only woman yet to hold such a position.<sup>67</sup>

Legal protections for women have also been enhanced. Passed by presidential decree in 2009, the Elimination of Violence against Women (EVAW) law has criminalised "customs, traditions and practices causing violence against women and which are against Islamic Sharia".<sup>68</sup> The 22 listed offences include forced and underage marriage, denial of inheritance and rape, the latter a crime for the first time under Afghan law.<sup>69</sup> The law emphasises the state's protection and prosecution role, requiring the police to register complaints and protect victims and courts and prosecutors to prioritise such cases. Law enforcement agencies are required to apply the EVAW law and inform the women's affairs ministry about incidents.<sup>70</sup> Each provincial headquarters and large district is meant to have a Family Response Unit (FRU), staffed by policewomen. There are seventeen such units in Kabul, and, as of May 2013, 184 in 33 provinces.<sup>71</sup>

Women who are victims of violence can seek refuge in shelters or safe houses run by the women's affairs ministry or by Afghan NGOs.<sup>72</sup> There is also a special EVAW law prosecution unit in the attorney general's office in Kabul. Created in 2010, it investigates and prosecutes violence against women countrywide. Similar units are also gradually being formed at the provincial level, though there is no firm deadline for their formation in all provinces.<sup>73</sup> "Women are increasingly aware of their rights and the existence of the EVAW law", said Qudsia Niazi, who heads the EVAW law prosecution unit in Kabul.<sup>74</sup>

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<sup>65</sup> By mid-2013, the ANP had 139,631 personnel and aimed to reach 157,000. "The situation in Afghanistan and its implications for international peace and security", Report of the Secretary-General", A/67/981-S/2013/535, 6 September 2013. Also, Titus Moetsabi, "Afghan police force recruits women to fight crime and stigma", UN Development Programme (UNDP), 14 May 2013.

<sup>66</sup> "Afghanistan: First female judges association", IRIN, 9 January 2009; and "150 Afghan women judges form professional association", press release, U.S. Agency for International Development (USAID), 18 July 2012.

<sup>67</sup> Asar Hakimi, "Afghan female lawyers: Providing hope for female detainees", Bamdad.af, 21 April 2013; "Female prosecutor Zolfia: fight against injustice and for peace!", EU Police Mission Afghanistan, April 2013; and Graham Bowley, "Afghan prosecutor faces criticism for her pursuit of 'moral crimes'", *The New York Times*, 28 December 2012.

<sup>68</sup> Article 2, at [www.saarcgenderinfobase.org/programs/detail.php?aid=105&catid=3](http://www.saarcgenderinfobase.org/programs/detail.php?aid=105&catid=3).

<sup>69</sup> Ibid, Article 5. Also, "We have the promises of the world' – Women's rights in Afghanistan", Human Rights Watch, December 2009, pp. 45-46.

<sup>70</sup> Articles 7, 13, EVAW law. "Still a long way to go: Implementation of the law on elimination of violence against women in Afghanistan", UN Assistance Mission in Afghanistan (UNAMA), December 2012.

<sup>71</sup> Crisis Group interview, police reform and gender expert, Kabul, 23 April 2013. "Procurement notice: assessment of Family Response Units (FRUs) staff capacity and working conditions", UNDP, 4 September 2013. "Women and the Afghan police", Oxfam Briefing Paper, no. 173, 10 September 2013, p. 16.

<sup>72</sup> Sarah Crowe, "Shelters for women and girls in Afghanistan", UN Children's Fund, 14 March 2011.

<sup>73</sup> By mid-2013, there were EVAW law prosecution units in ten provinces. Hashimzai, op. cit.

<sup>74</sup> Crisis Group interview, Kabul, 15 June 2013.

A significant proportion of the \$72 billion in international reconstruction and development aid provided from 2002 to 2012 targeted female beneficiaries, by funding women's rights NGOs and such initiatives as shelters for female victims of gender-based violence, or indirectly through health care, education and other programs.<sup>75</sup> According to the finance ministry's latest figures, of some \$13 billion disbursed in 2011, donors spent \$503 million on health care, \$256 million on education and \$367 million on the "unclassified" category that includes gender.<sup>76</sup>

Girls are 40 per cent of all children enrolled in school.<sup>77</sup> From 2002 to 2011, their primary school enrolment rates increased from less than 40 per cent to over 80 per cent, and their secondary school enrolment increased from 5 per cent to more than 34 per cent.<sup>78</sup> 80 per cent of the population has access to basic health care today, compared to 8 per cent in 2001. Although infant and maternal mortality rates are still among the highest in the world, they have declined significantly: from 1,600 deaths per 100,000 live births in 2001, for example, the maternal mortality rate was reduced to 327 deaths per 100,000 live births by 2013.<sup>79</sup>

Civil society organisations have played an important role, both in service delivery and as lobbies for women's rights. By April 2012, 1,707 local NGOs and 3,100 social organisations were registered with the economy and justice ministries respectively.<sup>80</sup> Many of these work for women's rights. For instance, the Afghan Women Network (AWN) is an umbrella organisation of 103 women's and children's rights NGOs, with 5,000 individual members and a strong networking and advocacy role. The increase in female journalists and entrepreneurs also reflects an unprecedented diversity of voices, with the potential to shape policy and public opinion. According to Afghanistan's Independent Journalists Association, by late 2012, a quarter of all media personnel were women.<sup>81</sup>

This progress is not limited to cities. For instance, by early 2013, many of the 200 Afghan Women Business Federation members were from rural areas.<sup>82</sup> The National Solidarity Program (NSP) was initiated in 2003 by the ministry of rural rehabilitation and development ministry to improve local governance and build rural communities' capacity to identify and implement small-scale development. Villages receive small grants, and communities identify local development needs. The plan includes the formation of community development councils (CDCs) to plan, manage and monitor

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<sup>75</sup> Of the \$97 billion the U.S. appropriated, 2002 to mid-2013, \$43 billion was for security. Other donors gave \$29 billion in non-ANSF funding, 2002 to 2012. Kenneth Katzman, "Afghanistan: post-Taliban governance, security and U.S. policy", Congressional Research Service, 17 September 2013, pp. 61-62; "July 2013 Quarterly report to Congress", Special Inspector General for Afghanistan Reconstruction (SIGAR), 30 July 2013, p. 77.

<sup>76</sup> "Development Cooperation report", Afghan finance ministry, 2012.

<sup>77</sup> Hashimzai, op. cit.

<sup>78</sup> World Bank Data, World Development Indicators, Afghanistan, <http://data.worldbank.org/country/afghanistan>. "Afghanistan country profile: education", UNICEF, November 2011.

<sup>79</sup> "Better access to health care saves lives", World Bank, 28 February 2013. "Participation of women in various Afghan institutions", UNAMA, 8 March 2013.

<sup>80</sup> Crisis Group interview, Afghan Women Network (AWN), Kabul, 25 April 2013. Also, "Signposting success: civil society in Afghanistan", Internews and Altai Consulting, November 2012, p. 17. Social organisations are barred from receiving foreign funding.

<sup>81</sup> Tahir Khan, "Afghan female journalists brave threats, domestic pressure", *The Express Tribune*, 15 December 2012.

<sup>82</sup> Crisis Group interview, Gul Jan Zmarai, director, Afghan Women Business Federation, Kabul, 22 April 2013.

development projects. Since at least one of four CDC executive committee members must be a woman, the NSP has created opportunities for women to play a decision-making role in the development sector at the local level.<sup>83</sup>

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<sup>83</sup> Crisis Group interview, Tariq Ismati, deputy minister (programs), rural rehabilitation and development ministry, Kabul, 20 April 2013. NSP website, [www.nspafghanistan.org](http://www.nspafghanistan.org). Also, Chona Echavez, “Does women’s participation in National Solidarity Programme make a difference in their lives? A case study in Balkh province”, Afghanistan Research and Evaluation Unit (AREU), March 2012. The AREU published similar case studies in Kabul and Parwan provinces in April 2012 and October 2010 respectively.

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## IV. Two Steps Forward, One Step Back

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Despite considerable progress, Afghan women are still struggling to benefit from their new legal rights and to build on the progress they have made. Gender equality in the law has yet to be reflected in daily life. Insecurity and violence adversely affect women and girls far more than men. Prominent women and those holding positions of authority are regularly threatened. In 2012, there was a 10 per cent decrease in civilian casualties, the first reduction since the UN started recording such casualties in 2007. Yet, female civilian casualties increased by 20 per cent, with 300 women and girls killed and 560 injured.<sup>84</sup> In the first six months of 2013, the decrease in overall civilian casualties was reversed, and female civilian casualties increased further by 61 per cent compared to the same reporting period in 2012.<sup>85</sup>

### A. Political Empowerment and Electoral Gains

Officially, female polling stations in the 2005 and 2010 elections recorded a 40 per cent total turnout.<sup>86</sup> This figure was almost certainly misleading; the high turnout, particularly in the more conservative provinces, was likely the result of, in some places, men voting in lieu of women and, in others, ballot stuffing or manipulation of results. This would be easy enough, given the absence of identification pictures on women's voter registration cards and corrupt election officials.<sup>87</sup> Even when women were able to vote, particularly in rural areas, their choice was likely influenced, if not dictated, by male relatives.<sup>88</sup> Security threats, opposition within communities and from religious leaders, the absence of female security personnel and insufficient IEC staff at female polling stations have prevented women from exercising their franchise right.<sup>89</sup> While there are some plans to do better in 2014, there are no hard timelines for achieving the goals on assuring women's representation within electoral bodies, electoral security units, polling stations or observation teams.<sup>90</sup>

Quotas have enhanced women's presence in parliament, but the numbers do not necessarily translate into greater political legitimacy or ability to promote a pro-women legislative agenda. In past elections, some male candidates rejected the quota system as undemocratic. Many male politicians, including in parliament, also resent that a woman can win with fewer votes in a province than her male opponents.<sup>91</sup> While this leads some MPs to treat their female counterparts with scant respect, the quota system has paradoxically limited the number of female legislators to the minimum legal requirement. An international development expert said, "the quota system

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<sup>84</sup> Dylan Welch, "Women, girls, increasingly victim in Afghan war", Reuters, 19 February 2013.

<sup>85</sup> "The situation in Afghanistan", Report of the Secretary-General, op. cit.

<sup>86</sup> "Learning from women's success in the 2010 Afghan elections", op. cit., p. 3.

<sup>87</sup> Crisis Group interview, gender unit, IEC, Kabul, 23 April 2013. Also, "One step forward, two steps back? Lessons learnt on women's participation in the 2009 Afghanistan elections", UN Development Fund for Women (UNIFEM) and IEC's gender unit, 2009.

<sup>88</sup> Crisis Group interviews, female MPs and members of civil society, Mazar-e-Sharif, Herat and Jalalabad, June 2013.

<sup>89</sup> Crisis Group interview, gender unit, IEC, Kabul, 23 April 2013. See also, "Equal rights, unequal opportunities", and "Learning from women's success in the 2010 Afghan elections"; both op. cit.

<sup>90</sup> Crisis Group interviews, international elections experts, Washington DC, September 2013.

<sup>91</sup> Oliver Lough and Chona R. Echavez, "Equal rights, unequal opportunities: women's participation in Afghanistan's parliamentary and provincial council elections", AREU, March 2012, p. 9. In a province with two Wolesi Jirga seats, a woman who is third behind two men wins the second seat.

has been interpreted as a cap, rather than as a minimum requirement” by those with little interest in seeing women represented in electoral institutions.<sup>92</sup>

Parliamentarians involved in women’s rights organisations and other civil society groups are the most prominent advocates of pro-women legislation, but they work in a very insecure environment. Insurgents have attacked female MPs, including two in central-eastern Ghazni province in August 2013.<sup>93</sup> Threats and insults from male legislators, when the national and provincial assemblies are in session and/or privately are also common. Speaking of a male colleague, a female member of a provincial council said, “he threatened to cut my stomach open if I refused to vote the way he wanted me to”.<sup>94</sup> Another female provincial council member said, “I won’t be a candidate in the next elections, because I haven’t been able to work freely in the past couple of years”.<sup>95</sup>

A number of women MPs have the backing of local powerbrokers, warlords, leaders of former armed factions or senior government officials. This enables them to tap patronage networks for votes in exchange for giving their patrons leverage in parliament.<sup>96</sup> According to an informed Afghan analyst, “these male-dominated patronage networks have little interest in supporting pro-women legislation or seeing women MPs unite over a cause of common interest”.<sup>97</sup> A female parliamentarian said, “a lot of women MPs are backed by the governor and the chief of police, so they consider their backers’ interests, not women’s interests, not women’s rights. For years, women were kept in the dark by the Taliban. Now many of them have come into politics not thanks to their own strengths but as followers of men”.<sup>98</sup>

Amendments to the electoral law in 2010 tripled a candidate’s non-refundable deposit and required civil servants to resign their posts to contest an election, with no provision for return if they lost. This made it more difficult for women civil servants, among the few women who have achieved a degree of personal and financial independence, to run for elected office.<sup>99</sup> The electoral law President Karzai signed in July 2013 is a step in the right direction. While the deposit remains unchanged, it is refundable if the candidate wins or obtains at least 2 per cent of the vote, and civil servants are to be reappointed to their posts if they lose.<sup>100</sup>

Many other well-intended institutional arrangements to empower women politically, such as women village-level *shuras* (local councils), created through the National Solidarity Program, have failed to achieve their objective. Women are rarely in charge of the development funds received by rural communities under the program.<sup>101</sup> According to the head of a women’s rights organisation in Herat, “women *shuras* are merely symbolic; village leaders just put their wives in them”.<sup>102</sup>

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<sup>92</sup> Crisis Group interview, Kabul, 6 June 2013.

<sup>93</sup> Jessica Donati and Mustafa Andalib, “High profile attacks on women in Afghanistan undermine rights campaign”, *The Guardian*, 13 August 2013.

<sup>94</sup> Crisis Group interview, June 2013.

<sup>95</sup> Crisis Group interview, Kandahar, 6 July 2013.

<sup>96</sup> Crisis Group interviews, female MPs and Afghan political analysts, Kabul, April 2013.

<sup>97</sup> Crisis Group interview, Kabul, 24 April 2013.

<sup>98</sup> Crisis Group interview, June 2013.

<sup>99</sup> “Equal rights, unequal opportunities”, op. cit. President Karzai amended the electoral law by decree in February 2010. For analysis of his interventions in the electoral process, see Crisis Group Briefing N°117, *Afghanistan’s Elections Stalemate*, 23 February 2011.

<sup>100</sup> Article 19, draft electoral law approved by the Wolesi Jirga and Meshrano Jirga on 15 July 2013.

<sup>101</sup> Chona Echavez, “Does women’s participation in National Solidarity Programme make a difference in their lives? A case study in Kabul province”, AREU, April 2012.

<sup>102</sup> Crisis Group interview, Herat, 8 June 2013.

MOWA, too, has limited capacity to influence policy. Some male members of parliament have questioned its very existence, on the grounds that it is ineffective and hence unnecessary.<sup>103</sup> “MOWA is not giving government the policy direction it should”, said a foreign gender expert advising a ministry in Kabul, adding, “even though each ministry now has a gender unit, these are often staffed by junior employees who are not very effective at pushing things”.<sup>104</sup> MOWA’s ability to deliver is also limited by scant funding. In 2010, the government, recognising the slow implementation of NAPWA, launched the Capacity Development to Accelerate NAPWA Implementation Program. By 2012, however, MOWA had secured only a small portion of the \$30 million needed for the program.<sup>105</sup>

MOWA has even clashed with women civil society networks, such as in February 2011, when the government attempted to bring NGO-run women shelters under its control. The proposed regulation would have given MOWA financial control over all and also subjected women seeking shelter to a virginity test and required their cases to be presented before a government panel. After considerable civil society pressure, the amended version of the law allows civil society and MOWA-run shelters to function in parallel, with the ministry performing an overall monitoring role.<sup>106</sup>

## B. *Rule of Law*

While women’s rights have improved, the application of legal safeguards remains weak. Few incidents of violence against women are reported, let alone investigated and tried. Registration of such cases with prosecutors has increased, from 529 between March 2010 and September 2011 to 1,538 between from October 2011 and September 2012.<sup>107</sup> Yet, this is a small fraction of the 4,010 cases AIHRC recorded between March and October 2011 alone, which were also likely a small fraction of the actual total.<sup>108</sup> Moreover, not all registered cases make it to court. Prosecutions and convictions under the EAW law are few. According to AIHRC, only some 400 of the 2,135 cases of violence against women it registered nationwide from August to December 2012 were prosecuted by early 2013.<sup>109</sup> Calling the EAW law a “significant achievement”, Navi Pillay, the UN High Commissioner for Human Rights, also pointed out that implementation was slow and patchy, particularly in rural areas, with “police reluctant to enforce the legal prohibition against violence, and prosecutors and courts also slow to enforce the legal protections contained in the law”.<sup>110</sup>

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<sup>103</sup> Kim Barker, “Afghanistan’s efforts to boost women falter”, *Chicago Tribune*, 16 January 2007.

<sup>104</sup> Crisis Group interview, Kabul, April 2013.

<sup>105</sup> “Afghan women on the brink: why the international community must act to end violence against women in Afghanistan”, Action Aid, June 2012, p. 4; and “Still a long way to go” op. cit., p. 3. In September 2013, USAID launched a three-year MOWA “Organizational Restructuring and Empowerment” (MORE) project. USAID press release, 10 September 2013.

<sup>106</sup> Crisis Group Report, *Aid and Conflict*, op. cit., p. 15. Also, Frud Bezhan, “Afghan women’s shelters face uncertain future”, Radio Free Europe, 21 May 2013.

<sup>107</sup> “Still a long way to go” op. cit., pp. 2-3. These are the most recent UNAMA figures.

<sup>108</sup> Between March and October 2012, AIHRC recorded 3,331 instances of violence against women. “Violence against women in Afghanistan—biannual report 1391”, AIHRC, p. 4.

<sup>109</sup> “Citizens access to justice: report on monitoring of decree n. 45 of the president of the Islamic Republic of Afghanistan”, AIHRC, January/February 2013, p. 36.

<sup>110</sup> “Afghanistan: Press conference by the UN High Commissioner for Human Rights, Navi Pillay”, UNAMA, 17 September 2013.

According to UNAMA, from October 2011 to September 2012, only 163 individuals were indicted out of 470 cases of violence against women in sixteen provinces; of these, 100 were convicted. Although the conviction rate is higher in cases under the EAW law, the prosecutor general's office lacks qualified female staff or EAW law prosecution units in the provinces.<sup>111</sup> In Nangarhar province, for instance, a male prosecutor heads the unit and was assisted by two female law school graduates until a year's funding for the positions by an NGO ended in June 2013.<sup>112</sup>

Instead of protecting women from violence by pursuing and prosecuting cases of gender-based violence, law enforcement agencies tend to arrest women attempting to escape violence at home, accusing them of "running away" or intending to commit *zina*.<sup>113</sup> Women who have been raped or forced into prostitution are also at risk of being accused of *zina*. In 2010, the Supreme Court instructed prosecutors on how to treat cases of women who had left abusive homes. It said it was a crime for a woman to leave her family for a non-relative's home, even if fleeing abuse, because this "could cause crimes such as adultery and prostitution and is against Sharia principles".<sup>114</sup> The following year, it reiterated this position in response to a UNAMA human rights unit report on implementation of the EAW law that criticised courts' treatment of women attempting to escape domestic violence.<sup>115</sup>

In September 2012, the justice and women's affairs ministers and a deputy interior minister emphasised that "running away" is not a crime under Afghan law.<sup>116</sup> Nevertheless, scores of such "crimes" are registered countrywide. In line with the Supreme Court's instructions, courts tend to rely in such cases on Article 130 of the constitution, which allows them to apply Sunni Hanafi jurisprudence to "rule in a way that attains justice in the best manner" when there is no clear national law provision.<sup>117</sup> According to interior ministry statistics, in May 2013, 600 women and girls were imprisoned for "moral crimes", compared to 400 eighteen months earlier. Public opposition to arrests of women for "running away" has increased, but Human Rights Watch found this has "merely resulted in a shift towards charging them with attempted *zina*" – a crime that carries up to fifteen years' imprisonment.<sup>118</sup>

Women who have been imprisoned are often ostracised by their families. "There are women who have already completed their sentence but stay in jail because of family-reintegration problems. There are also some 300 children born and raised in prison whose mothers are inmates", said a rule-of-law expert in Kabul. In 2011, prison

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<sup>111</sup> "Still a long way to go", op. cit., p. 3. Crisis Group interview, Abdullah Ibrahimkhil, adviser to the attorney general, Kabul, 16 June 2013.

<sup>112</sup> Crisis Group interviews, EAW law prosecution unit, Jalalabad, 18 June 2013.

<sup>113</sup> *Zina* is illicit sexual intercourse, defined by various interpretations of Sharia.

<sup>114</sup> Letter, General Administration Directorate of the Judiciary, Secretariat of High Council, Supreme Court, to the Judicial Research and Studies Department, Supreme Court, cited in "I had to run away": the imprisonment of women and girls for 'moral crimes' in Afghanistan", Human Rights Watch, March 2012, p. 34.

<sup>115</sup> Sari Kouvo, "A slippery slope: what happened to women's rights in March 2012?", Afghanistan Analysts Network, 6 April 2012. "Harmful traditional practices and implementation of the law on elimination of violence against women in Afghanistan", UNAMA, 9 December 2010.

<sup>116</sup> "Afghanistan: UN Women in Afghanistan welcomes government statements confirming that 'running away' is not a crime under Afghan law", press release, UN Women, 3 October 2012.

<sup>117</sup> "Still a long way to go" op. cit., pp. 16-17.

<sup>118</sup> "Afghanistan: Surge in women jailed for 'moral crimes'", Human Rights Watch, 21 May 2013. Crisis Group interview, Heather Barr, Afghanistan researcher, Human Rights Watch, Kabul, 25 April 2013.



administration was transferred from the justice ministry to the interior ministry, raising concerns about treatment and protection of women detainees. According to the expert, “there were good reasons for taking away prison administration from the interior ministry in 2003, which included prostitution rings run by the police in jails”.<sup>119</sup>

Widespread corruption in the justice system also hampers women’s access to justice. Convictions for perpetrators of violence do not guarantee imprisonment, since those with influential contacts often serve little or no jail time, undermining the judicial process and putting victims in danger of retaliation.<sup>120</sup> Survivors of gender-based violence, therefore, often avoid pressing charges.<sup>121</sup> Prosecutors, lawyers and AIHRC workers have received threats from perpetrators of crimes they were investigating or from their powerful backers. Moreover, female victims of violence and human rights defenders have little confidence in a police force that was responsible for around 15 per cent of known honour killings and sexual assaults from 2011 to 2013.<sup>122</sup> An AIHRC worker, for instance, said, “the men who had raped a teenage girl were under the protection of the district governor and police chief. They attacked the guesthouse where I was staying, but I had been warned and I escaped”.<sup>123</sup>

Very few cases make it through the formal justice system. Communities and even police and prosecutors commonly refer cases involving women to *jirgas* or *shuras* dominated by local male powerbrokers.<sup>124</sup> In their idiosyncratic interpretations of Sharia and tribal customs, these local councils have, in some cases, decided that a rape victim should marry her aggressor, or a woman who elopes should be killed by her male relatives for dishonouring her family.<sup>125</sup> On 22 April 2013, for instance, a father killed his daughter in compliance with the verdict of his village’s religious leaders.<sup>126</sup> According to a former judge, “two years ago, the justice ministry wanted to bring local councils into the formal justice system, [but] we managed to get it to abandon the idea. We’ve had them [*jirgas* and *shuras*] before; why should we promote them now? It’s not good to go backwards. When judges make a bad decision, they can be contested in a higher court. With these bodies, who do you appeal to?”<sup>127</sup>

There have been some efforts to improve the Afghan National Police’s (ANP) understanding of its role in protecting women and to strengthen its ability to build cases against perpetrators of gender-based violence. The European Union Police Mission

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<sup>119</sup> Crisis Group interview, Kabul, June 2013.

<sup>120</sup> In July 2011, the Supreme Court annulled as unconstitutional an EAW law provision stipulating that sentences of those convicted under it cannot be postponed, amended or pardoned. In July 2013, judges allowed the early release of three in-laws convicted of torturing a child bride who had been sentenced to ten years in 2002. In 2008, three men convicted of gang rape received a presidential pardon. “Still a long way to go”, op. cit., p. 17. Emma Graham-Harrison, “Afghan judges free three jailed for torture of child bride Sahar Gul”, *The Guardian*, 11 July 2013; Kate Clark, “Afghan president pardons men convicted of bayonet gang rape”, *The Independent*, 24 August 2008.

<sup>121</sup> Crisis Group interviews, human rights activists, lawyers and prosecutors, Kabul, Herat, Mazar-e-Sharif and Jalalabad, April-June 2013.

<sup>122</sup> “Women and the Afghan police”, op. cit., p. 9.

<sup>123</sup> Crisis Group interview, June 2013.

<sup>124</sup> “Still a long way to go”, op. cit.

<sup>125</sup> Crisis Group interview, Latifa Sultani, women’s rights program coordinator, AIHRC, Kabul, 24 April 2013.

<sup>126</sup> The woman had earlier allegedly eloped with a male cousin while her husband was in Iran. The cleric accused of issuing the verdict was arrested in July 2013. “Afghanistan: Woman killed for ‘dishonouring’ family”, Amnesty International, 30 April 2013. Mustafa Sarwar, “Honor-killing case raises fears for women’s rights in Afghanistan”, Radio Free Europe/Radio Liberty, 31 July 2013.

<sup>127</sup> Crisis Group interview, Kabul, 22 April 2013.

(EUPOL) in Afghanistan thus provides training on the EVAW law and on police-prosecutor collaboration. “There is confusion about who is responsible for what”, said a member of EUPOL’s gender and human rights unit. “We try to tackle that in our training. The police are in charge of detection, the prosecutor of investigation. The police can only investigate under the authority of the prosecutor”.<sup>128</sup>

But recruits’ low education levels and high attrition rates complicate efforts to build law enforcement agencies in general and gender sensitivity within them in particular.<sup>129</sup> Anywhere between 70 to 80 per cent of police officers are illiterate.<sup>130</sup> Even those who are literate have a poor educational background. “Being a police officer is not a well-regarded profession”, said a trainer. “Here you join the police academy if you’ve scored low marks on your university entrance exam. There are no role models”.<sup>131</sup>

The problem is even more acute with female recruits. Mistreatment and discrimination against women within the force are common. Policewomen are sexually assaulted and harassed by male colleagues and rarely placed in positions of authority.<sup>132</sup> In July 2013, the Kabul city police commander set guidelines aimed at improving the working conditions of his force’s 300 policewomen and to prevent their mistreatment and discrimination by male colleagues.<sup>133</sup>

The insurgency often targets policewomen. In September 2008, the Taliban murdered Lt. Colonel Malalai Kakar, head of the department of crimes against women in Kandahar. In July 2013, Islam Bibi, the senior female officer in southern Helmand province was assassinated; her successor, Nigar, was killed in September.<sup>134</sup> Such attacks and threats undermine policewomen’s ability to perform their duties and deter women from joining the force, which in turn limits police protection for other women. Even when assigned to districts, policewomen tend to remain in provincial headquarters and urban centres. “We don’t go [into rural areas] because of insecurity, so women either have to come to us or are brought here by our male colleagues”, said a policewoman in an FRU.<sup>135</sup>

Since there are not enough female officers to staff all provincial FRUs, those seeking assistance often have to deal with male officers. “We take the victim’s deposition, and for secret issues that cannot be discussed with men, we call our female colleagues”, said a policeman who receives cases of violence against women.<sup>136</sup>

The interior ministry intends to increase the number of policewomen to 5,000 (just over 3 per cent in a force of around 157,000) by the end of 2014, but this may

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<sup>128</sup> Crisis Group interview, Kabul, 27 April 2013.

<sup>129</sup> See Crisis Group Report, *Reforming Afghanistan’s Police*, op. cit., and Asia Briefing N°85, *Policing in Afghanistan: Still Searching for a Strategy*, 18 December 2008.

<sup>130</sup> “Women and the Afghan police”, op. cit., p. 23.

<sup>131</sup> Crisis Group interview, Kabul, April 2013.

<sup>132</sup> Crisis Group interviews, international policing experts and policemen and women, Kabul, Jalalabad, Mazar-e-Sharif and Herat, April- June 2013. Also, “Afghan policewomen say sexual harassment is rife”, *The New York Times*, 16 September 2013.

<sup>133</sup> “Kabul police breaks new grounds with decree to improve conditions for female police”, EUPOL Afghanistan, 13 July 2013.

<sup>134</sup> “Top Afghan policewoman shot dead”, BBC News, 28 September 2008. Zubair Babakarkhail and Rob Crilly, “Helmand’s top female police officer shot dead”, *The Telegraph*, 4 July 2013. (Bibi had received threats from her own brothers.) “Top Afghan policewoman dies in gun attack”, Agence France-Presse, 17 September 2013.

<sup>135</sup> Crisis Group interview, June 2013.

<sup>136</sup> Crisis Group interview, Jalalabad, June 2013.

not lead to better protection of women or a greater role for female officers.<sup>137</sup> Many policewomen lack the capacity and influence to tackle cases of gender-based violence. Adequate legal training and psychological counselling is unavailable in most FRUs. A human rights advocate said, “women police register a lot of self-immolation cases at hospitals, when these are clearly attempted murders”.<sup>138</sup> Moreover, the preferred method for domestic violence cases is usually mediation. “We try to talk women out of divorce for the sake of the children”, said a policewoman in an FRU.<sup>139</sup> As a result even if a woman victim of domestic abuse summons the courage to contact police, she may be at even greater risk if told to return to an abusive husband.

### C. *Service Delivery and Security*

International reconstruction and development aid, channelled through government national priority programs and implemented by the state or NGOs, has bolstered citizen access to basic services, particularly in the education and health sectors. Yet, insecurity and militant violence remain major impediments to delivery of basic services, including to women. Progress has been uneven; much remains to be done to ensure women and girls have access to quality education and health care countrywide.

In 2013, 40 per cent of the over eight million schoolchildren were girls, compared to an estimated 3 per cent under the Taliban in 2001.<sup>140</sup> Though these numbers are impressive, attendance is often irregular and the quality of education poor.<sup>141</sup> As girls get older, enrolment drops. It was 32.6 per cent at secondary level and 27.5 per cent in high school in 2010.<sup>142</sup> Only 19,215 of the 101,315 students who attend public higher institutes and universities are women.<sup>143</sup> A daughter married young brings a poor family bride money and is one less mouth to feed. An estimated 43 per cent are married by age eighteen, and 15 per cent by fifteen, though the minimum legal age is sixteen.<sup>144</sup> Other lower-income families may want their children to assist with such income-generating activities as farming at home or outside employment. Two million children work at least part time.<sup>145</sup>

In rural areas, remoteness and insecurity further hamper girls’ education. Parents are reluctant to let their daughters travel long distances and risk harassment or attacks, and qualified female teachers are often unwilling or unable to relocate their

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<sup>137</sup> Crisis Group interview, Kabul, 23 April 2013. Also, “Women and the Afghan police”, op. cit.; and “Afghan police force recruits women to fight crime and stigma”, UNDP, 13 May 2013.

<sup>138</sup> Crisis Group interview, Herat, June 2013.

<sup>139</sup> Crisis Group interview, June 2013.

<sup>140</sup> This compares with 43 per cent for boys in 2001. “Afghanistan country profile: education fact-sheet”, UNICEF, November 2011; “Education in Afghanistan: achieving results in a difficult environment”, World Bank, 2011; Hashimzai, op. cit.

<sup>141</sup> Crisis Group interviews, international and Afghan aid workers familiar with education programs, education department official and former teachers, Kabul, Herat, Mazar-e-Sharif and Jalalabad, April-June 2013. Also, “High stakes: girls education in Afghanistan”, joint briefing paper, including OXFAM, CARE, Swedish Committee for Afghanistan, AWN, February 2011, pp. 10, 19.

<sup>142</sup> “High stakes”, op. cit., p. 10.

<sup>143</sup> “Higher education in Afghanistan: an emerging mountainscape”, World Bank, August 2013, p. 19.

<sup>144</sup> Gaia Chiti Strigelli, “Escaping child marriage in Afghanistan”, UN Population Fund (UNFPA), 4 October 2012.

<sup>145</sup> Amie Ferris-Rotman, “Afghan child labor fears grow as aid dries up”, Reuters, 7 February 2012.

families.<sup>146</sup> In 2013, the education ministry started offering stipends to men accompanying their wives, sisters or daughters posted to such areas.<sup>147</sup>

As in the education sector, progress in the provision of health care is significant but uneven. Urban centres have benefited far more than rural areas. The government, with donor support, has improved access to basic health care, including by increasing the number of hospitals and midwives. Yet, much more needs to be done. For instance, maternal mortality rates have fallen but remain among the highest in the world.<sup>148</sup> One in eleven women dies from pregnancy and delivery-related causes.<sup>149</sup> Two thirds of all births are unattended.<sup>150</sup> Access to skilled female health practitioners is a major challenge in rural areas. “The health ministry will tell you 80 per cent of the population has basic health care. Yes, the buildings are there, but there are no doctors, no nurses”, said an international aid agency employee who covers the west of the country.<sup>151</sup> All eight Kandahar province women doctors work in the provincial capital.<sup>152</sup>

The armed opposition has targeted educational and health institutions both as symbols of the Karzai government and to undermine its relationship with citizens. Its hostility to donor-backed efforts to provide basic services to women is evident in the attacks on female teachers and schoolgirls. Between 2006 and 2009, insurgents attacked 49 per cent of girls’ schools in Paktika province, 69 per cent in Zabul and 59 per cent in Helmand.<sup>153</sup> In 2009, the education ministry reported 695 school closures due to insecurity or insurgent attacks, affecting over 340,000 male and female students.<sup>154</sup> In 2012, according to UN figures, there were, in total, 167 attacks on schools and education personnel and 30 on health facilities and personnel. These included suicide attacks, destruction and forced closures of schools and intimidation, abduction and killing of education personnel.<sup>155</sup> In the first six months of 2013, UNAMA reported an 18 per cent increase in attacks on all schools and staff and in other incidents of violence affecting them, compared to the same period in 2012.<sup>156</sup>

On 21 April 2013, 74 schoolgirls in Takhar suffered a possible poison attack, the second such incident that month at a girls’ high school in the province.<sup>157</sup> In May 2013, the Taliban forced all schools to close in reaction to a local government ban on use of motorbikes, the transportation of choice for the militants to conduct attacks.<sup>158</sup>

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<sup>146</sup> In 2013, 31 per cent of school teachers and 15 per cent of university professors are women, Hashimzai, op. cit.

<sup>147</sup> Crisis Group interviews, education department, Jalalabad and Kandahar, June-July 2013.

<sup>148</sup> Between 2003 and 2010, health centres increased from 450 to 1,800 and trained midwives from 400 to 2,000. “Afghanistan life expectancy rising as healthcare improves, survey shows”, *The Guardian*, 30 November 2011.

<sup>149</sup> “Factbox: why are maternal deaths so high in Afghanistan?”, Reuters, 12 December 2011.

<sup>150</sup> “Better access to health care saves lives”, World Bank, 28 February 2013.

<sup>151</sup> Crisis Group interview, Herat, June 2013.

<sup>152</sup> Crisis Group telephone interview, Dr Abdul Qaum Pakhla, director, public health department, Kandahar, 4 July 2013.

<sup>153</sup> Stefanie Nijssen, “The Peace Process & Afghanistan’s Women”, Civil-Military Centre, April 2012, p. 6.

<sup>154</sup> David Cortright and Kristen Wall, “Afghan Women Speak: Enhancing Security and Human Rights in Afghanistan”, Kroc Institute for International Peace Studies, August 2012, p. 16.

<sup>155</sup> “Children and armed conflict – report of the Secretary-General”, UN General Assembly, A/67/845-S/2013/245, 15 May 2013.

<sup>156</sup> “Afghanistan mid-year report 2013 – Protection of civilians in armed conflict”, UNAMA, July 2013, p. 66.

<sup>157</sup> Folad Hamdard, “Afghan girls’ school feared hit by poison gas”, Reuters, 21 April 2013.

<sup>158</sup> “Afghanistan mid-year report 2013”, op. cit., p. 67.

The Taliban's Peshawar-based education commission<sup>159</sup> reportedly tolerates schools operated by the Afghan education ministry if they meet a number of conditions, including separate premises for girls and boys, no teaching of English to girls, and more time dedicated to Islam. The Taliban acknowledges it condones attacks on teachers and students who fail to comply with such restriction, but insists it does not permit attacks on schools – a position, however, it has clearly failed to enforce.<sup>160</sup>

Their use as polling stations also makes schools more vulnerable to attacks. An international aid worker said:

It makes sense because schools are adapted to the size of the population and located accordingly. But when schools are damaged and destroyed because they're used during elections, international aid agencies need to abide by their obligation to protect civilians and basic services from harm [instead of] down-playing, as they did in previous elections, the security risk involved in using schools as polling stations.<sup>161</sup>

On 20 August 2009, the Taliban attacked 26 of the 2,742 schools used as polling stations for the presidential and provincial council elections, destroying infrastructure and disrupting education.<sup>162</sup> It is, therefore, important to take the security threats to schools into account in the ongoing assessment of potential polling stations for the 2014 election.<sup>163</sup> The use of schools as barracks or bases by both insurgent and pro-government forces, though less common, also puts children at risk, making education hostage to the conflict. In 2012, the UN country task force on monitoring and reporting verified ten such cases, three attributed to insurgent groups, the rest to pro-government forces. In the first six months of 2013, UNAMA reported that insurgents were using civilian locations, including schools, to hide from government and International Security Assistance Forces (ISAF) searches and attacks or to launch attacks.<sup>164</sup>

Female teachers and civil servants often receive *shabnamah* (night letters), at times bearing the seal of the area's shadow Taliban governor, warning them to leave their jobs.<sup>165</sup> Other working women face similar threats. Many have been killed. On 10 December 2012, the acting head of the women's affairs department in Laghman province in the east was assassinated, six months after her predecessor was killed in

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<sup>159</sup> The Taliban reportedly has two education commissions, one established in 2006 under the Quetta *shura*, the other in 2009 under the Peshawar *shura*. The division of their tasks is geographic, and their methods differ: the Quetta-based commission reports to shadow provincial governors; the Peshawar-based commission has provincial education commissions. Antonio Giustozzi and Claudio Franco, "The ongoing battle for the schools: uprisings, negotiations and Taliban tactics", Afghanistan Analysts Network, June 2013.

<sup>160</sup> Ibid.

<sup>161</sup> Crisis Group interview, Kabul, 25 April 2013.

<sup>162</sup> "Afghanistan: over 20 schools attacked on election day", IRIN, 24 August 2009.

<sup>163</sup> The Chief Election Officer has agreed to discuss this issue with the ANSF. "The situation in Afghanistan", Report of the Secretary-General, op. cit., p. 4.

<sup>164</sup> "Children and armed conflict", UN General Assembly, op. cit., pp. 4, 9; "Afghanistan mid-year report 2013", op. cit., p. 35.

<sup>165</sup> "The 'ten-dollar Taliban' and women's rights – Afghan women and the risks of reintegration and reconciliation", Human Rights Watch, July 2010, pp. 25-27. Night letters are either delivered to individuals or posted in a village or locality. Crisis Group Asia Report N°158, *Taliban Propaganda: Winning the War of Words?*, 24 July 2008, pp. 12-13.

an attack attributed to the Taliban.<sup>166</sup> According to Afghanistan's Independent Journalists Association, ten female journalists have been killed in the past ten years.<sup>167</sup>

Women working with NGOs, the UN or on aid projects are accused of working for "infidels".<sup>168</sup> Although many NGOs have tried to assert their independence, their efforts have been undermined by the militarisation of aid. Soldiers doing reconstruction work under a counter-insurgency doctrine to win hearts and minds and civil-military assistance missions – Provincial Reconstruction Teams (PRTs) – associate Afghan and international aid workers with the foreign forces.<sup>169</sup> While this will change with PRT closures and the withdrawal of most foreign forces, it is unlikely to end insurgent attacks on professional women.

Facing insurgent threats to themselves and families, many female professionals are forced to leave their jobs and sometimes even homes, seeking the anonymity of a larger city or another province. Aside from the economic impact on their households, women and girls are deprived of female role models.<sup>170</sup> The loss of female employees, or their reduced mobility for fear of kidnapping and attack, reduces the state's and aid agencies' ability to reach female beneficiaries, hence to address the needs of the most vulnerable segments of the population in the most volatile areas.

Insecurity is undermining women's already limited economic participation. Only 5 per cent of all businesses are owned by women.<sup>171</sup> In rural areas, the employment to population ratio for women is 50 per cent, compared to a mere 16 per cent in urban areas. However, this involves largely underpaid, unskilled agricultural and pastoral activity. In 2008, 78 per cent of unpaid family workers were women, and women doing non-farm work were paid on average about half a man's wages.<sup>172</sup>

As NATO ends its combat role and withdraws, many women and rights activists fear they will be even more vulnerable.<sup>173</sup> Yet, the security transition also is an opportunity for state and aid agencies to dissociate services and policing from military objectives. An international police expert said, "with the transition, the idea of bringing back civilian policing is returning".<sup>174</sup> The UN-managed Law and Order Trust Fund created in 2002 will be merged in 2014 into a new funding mechanism for the ANP, the Justice and Rule of Law Trust Fund for Afghanistan.<sup>175</sup> Beyond the name change, it remains to be seen if the funding mechanism will effectively mainstream gender and help to transform the ANP into a force dedicated to law enforcement and community policing. With support of the UN's Office for the Coordination of Humanitarian Affairs (OCHA), humanitarian actors are also working toward a more coherent

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<sup>166</sup> Alissa J. Rubin and Habib Zahori, "Afghan women's affairs aide shot months after killing of predecessor", *The New York Times*, 10 December 2012.

<sup>167</sup> "Afghan female journalists' brave threats, domestic pressure", op. cit.

<sup>168</sup> Crisis Group interviews, Afghan women aid workers, Jalalabad, Herat, Kabul and Mazar-e-Sharif, April-June 2013.

<sup>169</sup> Crisis Group Report, *Aid and Conflict*, op. cit.

<sup>170</sup> "The 'ten-dollar Talib' and women's rights", op. cit., pp. 27-29.

<sup>171</sup> "Factsheet on the situation of women and girls in Afghanistan", UNAMA, 2009.

<sup>172</sup> "Afghanistan: Time to move to sustainable jobs – study on the state of employment in Afghanistan", International Labour Organisation (ILO), May 2012, pp. 28, 33.

<sup>173</sup> Crisis Group interviews, Afghan women aid workers, rights activists, civil servants and politicians, Jalalabad, Herat, Kabul and Mazar-e-Sharif, April-June 2013.

<sup>174</sup> Crisis Group interview, Kabul, April 2013.

<sup>175</sup> "The situation in Afghanistan", Report of the Secretary-General, op. cit., p. 5.

response to needs.<sup>176</sup> As security conditions continue to deteriorate, an impartial and independent humanitarian community is essential if humanitarian actors are to maintain their access to populations in need.

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<sup>176</sup> Crisis Group interview, European Commission Humanitarian Aid and Civil Protection (ECHO), Brussels, 30 July 2013.

## V. Women and Afghanistan's Transition

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Militants continue to portray women's empowerment as a Western concept. "Foreigners have been using women's rights as an ideological weapon", said former Taliban commander Syed Muhammad Akbar Agha.<sup>177</sup> Nor is this view confined to the insurgency. Justifying their actions in the name of national sovereignty and independence from the West, Afghan powerbrokers, within and outside government, could undo the fragile gains achieved by Afghan women over the past twelve years.

### A. Multiple Challenges

#### 1. Rolling back pro-women legislation

As the political and security transitions draw closer, the executive and the legislature are taking steps that undermine Afghanistan's domestic and international commitments to gender equality and roll back progress. One example, among many, is the reduction of the quota for women in the provincial councils.

Unlike the quota in the national legislature, the quota at provincial and local levels is not constitutionally guaranteed. In June 2013, female members of the Meshrano Jirga alerted their Wolesi Jirga counterparts that the electoral law approved by the lower house in May did not include the earlier law's 25 per cent minimum for women in the provincial assemblies.<sup>178</sup> Women Wolesi Jirga members had either not read the law or, according to some, had been given a draft that retained the quota. The Meshrano Jirga reinserted the quota, and the two houses, per the constitution, formed a joint commission to reconcile the texts.<sup>179</sup> The final version, approved by parliament and signed into law by President Karzai in July, reduced the reserved seats for women in provincial councils to 20 per cent.<sup>180</sup> "This has taught us a lesson: we cannot take anything for granted; we have to fight and be united as women parliamentarians", said Wolesi Jirga MP Farhunda Zahra Naderi.<sup>181</sup>

Rights advocates are particularly concerned that legal protections for women could be easily reversed. In 2009, donor governments and women's rights activists successfully pressured President Karzai to revise a Shia Personal Status law that, among other provisions, allowed husbands to end financial support to wives if they failed to perform their sexual "duties" and gave child custody rights to the father. But the backlash from conservative Shia elements, part of Karzai's electoral base, resulted in an amended bill which retained the controversial provisions.<sup>182</sup> The EAW law, passed by presidential decree later that year, may have been Karzai's compromise with women's rights defenders in exchange for their tacit acceptance of the Shia Personal Status law.<sup>183</sup> The value of that bargain appears questionable, however, given the current challenges to the EAW law.

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<sup>177</sup> Crisis Group interview, Kabul, 24 April 2013.

<sup>178</sup> Articles 29, 32, 35, Afghanistan Electoral Law, 2010.

<sup>179</sup> Crisis Group interview, Farhunda Zahra Naderi, Wolesi Jirga member, Kabul, 16 June 2013.

<sup>180</sup> Crisis Group telephone interview, Wolesi Jirga member, 15 July 2013. Article 30, draft electoral law approved by Wolesi Jirga and Meshrano Jirga 15 July 2013.

<sup>181</sup> Crisis Group interview, Kabul, 16 June 2013.

<sup>182</sup> "We have the promises of the world", op. cit., p. 3.

<sup>183</sup> Crisis Group interviews, Wolesi Jirga members, women's rights activists and international researchers, Kabul, April-June 2013.



In May 2013, the parliamentary women's affairs commission brought the EAW law into plenary. According to its chair, Fawzia Koofi, the aim was to strengthen the law, which, as a presidential decree, could be easily repealed. Many women activists and female MPs were strongly opposed. "There is no benefit to be had by doing this", warned MP Shinkai Karokhail, "the law will either become weaker, or we will completely lose it".<sup>184</sup> Calling it "after the constitution, the only text protecting women", MP Massouda Karokhil was even more pessimistic: "If we have a fundamentalist as president in the future, we'll have a whole set of other problems on our hands. It won't matter if the EAW law was endorsed by parliament or not".<sup>185</sup>

The heated debate that forced the speaker of the assembly to adjourn the session reinforced concerns.<sup>186</sup> Conservative MPs, including the head of the parliamentary legislative commission, Qazi Nasir Ahmad Hanefi, criticised numerous articles of the entire law as un-Islamic.<sup>187</sup> For them, the most contentious articles included the definition of rape and a number of other acts of violence against women.

Article 3 defines rape as "perpetuating adultery and pederasty on adult women with force or perpetrating that with underage [girls] even if [the] victim gives consent, or attack to the chastity and honour of a woman". According to a religious scholar and senior Hizb-i Islami official, "sexual intercourse outside of wedlock is a crime regardless of whether there is consent on the woman's part". By this interpretation, not just the perpetrator but also the victim should be held criminally responsible, including underage girls in statutory rape cases. He also criticised the provisions (Articles 23, 29, 39) that criminalise verbal and physical abuse in the context of domestic violence as un-Islamic.<sup>188</sup> Dismissing this criticism, a human rights activist said, "Why didn't any religious scholar stand up against this law in the four years it's been implemented? Because they know that it's a good law that is not against Islam. This [opposition] is clearly aimed at pleasing the Taliban insurgency".<sup>189</sup>

Women's rights organisations and some political analysts argue that President Karzai should publicly support the law; they attribute the absence of such a statement to an attempt to appeal to an ultra-orthodox, conservative constituency, now that the internationals are departing.<sup>190</sup> According to a Wolesi Jirga member:

We asked the president to intervene, but he said the people from Helmand had told him they respected him because he didn't let his wife out in public, and visitors from Baghlan province had told him they disapproved of him signing the EAW law. This means Bonn was only a slogan, the president is backing away from the pledges he made twelve years ago, and the conservatives are getting stronger.<sup>191</sup>

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<sup>184</sup> Crisis Group interview, Kabul, 21 April 2013.

<sup>185</sup> Crisis Group interview, Herat, 8 June 2013.

<sup>186</sup> Crisis Group interviews, female MPs, Wolesi Jirga, Kabul and Herat, June 2013.

<sup>187</sup> Christine Roehrs and Ehsan Qaane, "Damage avoided for now? The very short debate about the EAW law", Afghanistan Analysts Network, 18 May 2013.

<sup>188</sup> Crisis Group interview, Jalalabad, 19 June 2013. Gulbuddin Hekmatyar's Hizb-i Islami is ostensibly composed of an insurgent wing, combating international and Afghan forces, and a political arm, with representatives at the highest level of government, including the economy minister, Abdul Hadi Arghandiwal. Senior members claim the party remains united. Crisis Group Asia Briefing N°141, *Afghanistan's Political Parties in Transition*, 26 June 2013, p. 4.

<sup>189</sup> Crisis Group interview, Kabul, June 2013.

<sup>190</sup> Crisis Group interviews, Kabul and Herat, June 2013. "Afghanistan: defend women's rights", Human Rights Watch, 28 June 2013.

<sup>191</sup> Crisis Group interview, Kabul, June 2013.

A Kabul-based political analyst added: “Revoking the ERAW law would not only remove the protections in place and violate the terms of the Tokyo Framework, it would amount to legalising violence against women”.<sup>192</sup>

In mid-2013, Wolesi Jirga MPs also introduced an amendment to the Criminal Prosecution Code that would disqualify relatives from testifying against an accused. This would constrain prosecutions under the ERAW law, in particular nullifying its application to domestic violence, the most common violence against women.<sup>193</sup>

Raising the ERAW law in parliament might have had, at least for now, the opposite effect intended. According to a human rights advocate in Herat, “before this debate, verdicts based on the ERAW law used to be printed in the press. Not anymore”, implying that opponents’ use of religion made it too contentious for public debate.<sup>194</sup> “Until the law is passed by parliament, I don’t think judges will use it”, said an activist in Mazar-e Sharif.<sup>195</sup> Yet, while prosecutions under it might be significantly fewer than the reported cases of violence against women, the AIHRC found there had been none by early 2013 in only three southern, more conservative provinces – Kandahar, Zabul and Helmand – indicating that use of the law was gaining some nationwide acceptance.<sup>196</sup> At least until an eventual vote in parliament, it remains in place. As recommended by the women’s affairs ministry, the MPs should pass the ERAW law without weakening it, and also make its criminal provisions part of the penal code.<sup>197</sup>

Fawzia Koofi has reportedly asked the Supreme Court to interpret the law’s compliance with Sharia and the international conventions Kabul has signed and ratified.<sup>198</sup> The all-male, nine-member Supreme Court does not, however, inspire confidence on women’s rights issues. In April 2011, for instance, Justice Mawlawi Mohammad Qasim declared that “virginity is a natural stamp, [and] when it’s lost, and the reason is proved to be illegitimate sexual relations, it implies adultery, which should be punished”.<sup>199</sup> Similarly, the Ulema Council, an advisory board on Sharia, declared in March 2012 that women were inferior to men and should not to venture into the public sphere or interact with non-family members.<sup>200</sup> President Karzai reportedly endorsed the council’s guidelines.<sup>201</sup>

## 2. Police, Warlords and Militias

Activists are concerned about the increased, public opposition to women’s rights as the international presence shrinks, evidenced by the positions of not just ultra-orthodox religious leaders but also some senior government officials. They fear the exit of international forces will further undermine female security and safety. Hardline Islamists, for instance, oppose ERAW provisions that commit MOWA to “protecting and

<sup>192</sup> Crisis Group interview, Kabul, June 2013. On the Tokyo Framework, see below.

<sup>193</sup> Graham-Harrison, “Afghan judges free three jailed for torture of child bride Sahar Gul”, *op. cit.*

<sup>194</sup> Crisis Group interview, Herat, 9 June 2013.

<sup>195</sup> Crisis Group interview, Mazar-e-Sharif, 12 June 2013.

<sup>196</sup> “Citizens access to justice”, *op. cit.*, p. 36.

<sup>197</sup> “Conference on reforming Afghanistan’s penal code: the women’s perspective (draft)”, UN Women, 20-21 February 2013, p. 5.

<sup>198</sup> Crisis Group interviews, female Wolesi Jirga members and international researcher, Kabul, June 2013.

<sup>199</sup> “Afghanistan: virginity-related penalties ‘extremely unfair’”, IRIN, 26 April 2011.

<sup>200</sup> “Points of view in Afghanistan on Ulema Council’s statement on women”, UNAMA, 19 March 2012.

<sup>201</sup> Lianne Gutcher, “Back to the bad old days: Karzai beats retreat on women’s rights”, *The Independent*, 8 March 2012.

keeping victims of violence in shelter care or ... other safe places, monitoring and evaluating them".<sup>202</sup> A religious scholar in Jalalabad, echoing initial allegations by the justice minister in June 2012, said, "the *Quran* does allow for safe houses, but at present these are brothels".<sup>203</sup>

Organisations running shelters are particularly concerned the ANP may target these after foreign troops leave.<sup>204</sup> There are already reports of the police abusing their authority, unconcerned about repercussions. The head of an NGO that runs shelters said, "we are receiving more and more threats ... how can the head of the department of women's affairs, a civil servant under the supervision of the governor, however well-intentioned, stand up to the provincial police chief who wants her to hand over the woman his men raped?"<sup>205</sup> Concerns that the security apparatus and local strongmen are accruing unchecked powers are based on a number of factors, including closure of PRTs, uncertainty about the 2014 presidential elections, apprehensions about talks with the Taliban, and doubts about the international community's commitment beyond the 2014 transition.

Women are especially troubled by the change in the attitude of Afghan power-brokers. A parliamentarian and woman activist said, "the mujahidin and the Taliban share the same stance on women. It's only because of the pressure of the B52s [U.S. bomber planes] that [they] accept women's rights, because they need U.S. air support to maintain their military superiority over the Taliban".<sup>206</sup> Many former mujahidin who regained power after the Taliban's downfall may not challenge the political order so long as they have lucrative government positions, but they have retained their militias to protect their political and economic interests, and, a senior police officer warned, "the warlords are rearming".<sup>207</sup> Because these private militias are not accountable to the state, they operate with virtual impunity. The more powerful the warlord and his militia, the more likely human rights violations will increase, and women's mobility will be restricted.

In early 2013, the Afghanistan Public Policy Research Organisation (APPRO) started research in seven provinces. The first report found support for and collaboration with the Afghan National Army (ANA) and ANP had increased, but, citing misconduct, intimidation and extortion, that rural communities were far warier of the Afghan Local Police (ALP), which was largely constituted, with U.S. support, from militias in 2010. Women saw the ALP as indistinguishable from other non-state militias, so a source of fear. The ALP attitude towards women is not likely to inspire confidence. Thus, in Balkh province's Dawlatabad district it told villagers not to let women attend school or vocational training, citing insecurity as its rationale.<sup>208</sup> Some members have

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<sup>202</sup> Article 8, EVAW law.

<sup>203</sup> Crisis Group interview, Jalalabad, 19 June 2013. "Declaration regarding the accusations against the safe houses/women's shelters", AWN, 18 June 2012. After officials, including the deputy justice minister, distanced themselves, the minister apologised for his statement but did not disown its content. Sari Kouvo, "The mud might stick: women's shelters again", Afghanistan Analysts Network, 6 July 2012.

<sup>204</sup> Crisis Group interviews, June 2013. There are currently eighteen shelters. DOWA runs two in Nangarhar and Parwan; the rest are run by six NGOs. Crisis Group interview, Pamela Hussain, deputy director, UN Women, Kabul, 28 July 2013.

<sup>205</sup> Crisis Group interview, June 2013.

<sup>206</sup> Crisis Group interview, Kabul, April 2013.

<sup>207</sup> Crisis Group interview, June 2013.

<sup>208</sup> Crisis Group interview, Melike Karlidag, researcher, APPRO, Kabul, 16 June 2013. The independent Kabul-based social research organisation intends to publish regular reports. The AWN has

influenced the proceedings of or even participated in *shuras* and *jirgas*. A women's rights activist in Herat said, "the ALP is more violent than the regular police, because in the rural areas there is informal justice; these militiamen are becoming decision-makers in such forums". She added, "the ANP has no control over them, and now that the PRTs are gone, they have no one to be afraid of anymore".<sup>209</sup>

The international community, particularly donors, should reduce and ultimately end funding to the ALP. It should also address concerns about the Afghanistan Peace and Reintegration Program (APRP). Funded by donors and with UN support, it aims to reintegrate low-level insurgents and reconcile their leadership, but, a rights activist said, "it's only about distributing money, it's a shelter for war criminals".<sup>210</sup> Also initiated in 2010, the APRP led to formation of the 70-member High Peace Council (HPC), tasked to head a political dialogue with the Taliban leadership (see below). Provincial Peace Councils (PPCs) were also set up.<sup>211</sup> A PPC official explained:

Each reconciled commander receives 13,000 Afghanis (\$233) a month for six months, and his fighters get 1,000 Afghanis (\$18) a month for six months. A commander gets the same amount of money whether he has ten or twenty men. Then the area they come from gets \$25,000 in small grants according to their needs, such as a mosque, a school, etc. When the six months are over, we want them to be self-sufficient. We teach them skills like carpentry, so they can work. Then the rural rehabilitation and development ministry implements \$200,000 in large projects in each district that has reconciled. Of the over 300 people reconciled so far in our province, none has gone back to the opposition.<sup>212</sup>

There is, however, evidence that "reconciled" fighters are joining the ALP, thus gaining power and authority.<sup>213</sup> Although the APRP and ALP are separate programs, there are no barriers to APRP beneficiaries joining the ALP if they have their communities' approval and pass the interior ministry's screening.<sup>214</sup> An Afghan rights activist and informed observer said, "drug dealers and smugglers joined the opposition for a while, then gave up their old weapons and joined the government. They later joined the Taliban, and now they're coming back [through the ALP]".<sup>215</sup> Among those "reconciled" are men with long records of women's rights violations. However, female and civil society PPC members can do little to oppose their inclusion, since they are outnumbered when a vote is held on an individual.<sup>216</sup> A PPC member said, "women must be

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commissioned the research and intends to use it to support its advocacy. The Netherlands-based Catholic Organisation for Relief and Development Aid (CORDAID) funds the initiative. "Afghanistan: Monitoring women's security in transition (baseline report)", APPRO and AWN, June 2013.

<sup>209</sup> Crisis Group interview, Herat, June 2013.

<sup>210</sup> Crisis Group interview, Herat, June 2013. Donors, including the U.S., UK and Japan, pledged \$235 million to APRP. Katzman, *op. cit.*, p. 40.

<sup>211</sup> The program had reconciled 7,220 insurgents by late August 2013. "The situation in Afghanistan", Report of the Secretary-General, *op. cit.*, p. 2.

<sup>212</sup> Crisis Group interview, 11 June 2013.

<sup>213</sup> Crisis Group interviews, researchers, human rights activists and police officers, Kabul, Herat, Mazar-e Sharif and Jalalabad, June 2013. Crisis Group Report, *Talking about Talks*, *op. cit.*; Deedee Derksen, "Impact or illusion? Reintegration under the Afghanistan Peace and Reintegration Program", USIP, 22 September 2011; and "Just don't call it a militia' – Impunity, militias and the 'Afghan Local Police'", Human Rights Watch, September 2011.

<sup>214</sup> "ISAF Reintegration Guide", Force Reintegration Cell HQ ISAF, 22 November 2010, p. 12.

<sup>215</sup> Crisis Group interview, June 2013.

<sup>216</sup> Crisis Group interviews, PPC members, Jalalabad, Herat and Mazar-e-Sharif, June 2013.

involved in vetting commanders who are candidates for reconciliation and fighters joining the ALP. There should be village-level committees with older influential women who are not afraid to speak out”.<sup>217</sup>

Although there are nine women in the HPC and 71 in the PPCs, their role seems to be largely limited to public outreach.<sup>218</sup> According to a female HPC member, “we are not in touch with the higher leadership. We organise conferences, and meet with female teachers, journalists and other women”.<sup>219</sup> A woman activist and PPC member said, “there are very influential men in this committee. They don’t really accept women as members”.<sup>220</sup> PPC members also cite lack of unity among women as an impediment to taking their concerns seriously in the peace and reconciliation process at both local and national levels.<sup>221</sup>

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<sup>217</sup> Crisis Group interview, Herat, June 2013.

<sup>218</sup> Crisis Group interviews, HPC and PPC members, Kabul, Jalalabad, Herat, Mazar-e-Sharif and Kandahar, April, June-July 2013. Also, “Annual Report 1390”, High Peace Council Afghanistan Peace and Reintegration Program.

<sup>219</sup> Crisis Group interview, Kabul, April 2013.

<sup>220</sup> Crisis Group interview, Herat, June 2013.

<sup>221</sup> Crisis Group interviews, Herat and Mazar-e-Sharif, June 2013.

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## VI. Sustaining Gains

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### A. *Building a Critical Mass*

Creating a critical mass in the bureaucracy is important if Kabul is to pay more than lip-service to women's rights. The numbers have grown considerably in the past twelve years; women are now 22 per cent of the civil service. Yet, they only hold 9 per cent of decision-making positions.<sup>222</sup> Some women politicians and government employees believe the numbers are declining since ISAF announced its withdrawal plans. If so, the goal of 30 per cent female representation in the civil service by 2018 recommended in the NAPWA (discussed above) will not be met.<sup>223</sup>

But even if the target is met, it will have little impact until female civil servants are appointed to senior positions. At present, most women are unfavourably placed to compete with male candidates for advertised posts. According to the head of an Herat-based NGO, "building capacity takes time. Women have ten years of experience, but few have degrees ... [so] they cannot apply for decision-making posts, while newly graduated women don't have the required experience, so there's a gap".<sup>224</sup>

Moreover, though years of donor support have produced a generation of professional women, many could be unemployed if aid declines. Capacity-building programs, such as the Women in Government Internship Program funded by the U.S. Agency for International Development (USAID) that places female graduates in government departments in Kabul and three provinces,<sup>225</sup> should be complemented with others that make women more competitive in the job market. These could include educational credits and/or supplementary training toward a university degree in management and similar disciplines.

The "Afghanistan Promote" program, launched by USAID in July 2013, partly seeks to address these needs. The U.S. pledged \$200 million and hopes to meet the goal of \$416 million over five years through contributions from other donors.<sup>226</sup> Launching the program, Administrator Rajiv Shah said, "we will provide skills, training, leadership support, and networking opportunities to ensure that women rise to decision-making roles". It also will support networking among women rights' groups.<sup>227</sup>

Only if the program is adequately funded and monitored over the full five years, with strong feedback from participants as obstacles arise, can it go beyond signalling commitment and have a chance to actually protect women's recent gains. Post-2001 aid has had little emphasis on gender mainstreaming. It has been directed overwhelmingly to the security sector, guided by short-term military objectives and with donors directing their contributions to provinces where their troops were stationed.<sup>228</sup> Pro-

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<sup>222</sup> "Participation of women in various Afghan institutions", UNAMA, 8 March 2013.

<sup>223</sup> Crisis Group interviews, Kabul, Herat, Mazar-e-Sharif, and Jalalabad, June 2013; NAPWA, p. 13.

<sup>224</sup> Crisis Group interview, Suraya Pakzad, Voice of Women Organisation, Herat, 8 June 2013.

<sup>225</sup> Over the last three years, the program placed some 440 women in government departments, with a full-time job placement rate of 77 per cent. "Women in Government Internship Program celebrates three years of success", press release, USAID Afghanistan, 21 February 2013.

<sup>226</sup> "USAID announces long-term commitment to Afghan women", press release, USAID, 18 July 2013. Through it, USAID aims "to increase women's contributions to Afghanistan's development by strengthening women's rights groups, boosting female participation in the economy, increasing the number of women in decision-making positions within the Afghan government, and helping women gain business and management skills".

<sup>227</sup> Remarks at USIP, 18 July 2013.

<sup>228</sup> Crisis Group Report, *Aid and Conflict*, op. cit.

grams to bolster women's presence in decision-making are an important shift toward a more strategic approach to women's empowerment. Moving away from short-term project funding toward building local NGOs' organisational capacity is equally vital if women and rights activists are to hold authorities to account.

### B. Donor Assistance and Development

Civil society organisations run for and by women work hard in a very difficult environment to promote women's rights through lobbying and activities on the ground. Yet, as the 2014 transition approaches, their reliance on donors could be problematic. Many worry they could be hard-hit, since donor funds are increasingly channelled through the government.<sup>229</sup> An NGO worker and activist said, "most NGOs run by and for women have no reserve funds. Without core funding, many of them won't survive in the long run".<sup>230</sup>

More on-budget international aid would not necessarily decrease donor assistance to NGOs, including those working on gender-focused projects. Donors, for instance, might support the health ministry budget but earmark the funds for NGOs providing health services.<sup>231</sup> However, on-budget international aid, combined with PRT closures, may affect funding for projects not on the government's priority list.<sup>232</sup> In addition to project-based funding, women's rights groups and NGOs should be given core funding to ensure fiscal independence and sustainability. Donors should also support the building of consortiums and networks for project implementation and advocacy.

Though progress is uneven, donor support has led to improvement in human development indicators, particularly in health and education. Younger Afghans will likely live longer than their parents, and more will be literate. A Kabul-based international expert said, "health and education are such success stories not only because the baseline indicators were so low in 2002, but also because these were sectors in which donors coordinated the most among themselves and with the government".<sup>233</sup> Continued donor support and Kabul's commitment to both sectors are essential to sustaining the gains. Instead of a numbers game, donors' and Kabul's attention should be more focused on ensuring that the lives of women and girls genuinely improve. Enrolment in primary school must not be an end in itself but should create opportunities for further studies and, ultimately, income. Similarly, an increase in the number of health facilities should translate into greater access to competent reproductive

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<sup>229</sup> Crisis Group interviews, Kabul, April 2013. At the July 2010 Kabul Conference, donors agreed to channel at least half their aid through the government. The U.S. disburses close to 47 per cent of its aid this way, as do other major donors such as the UK and Japan. According to the finance ministry, donors' on-budget contributions have increased since 2005 but were still only 18 per cent of aid disbursed in 2011. "Development Cooperation Report", op. cit., pp. 2, 20-21, 29; Katzman, op. cit.

<sup>230</sup> Crisis Group interview, Kabul, 25 April 2013.

<sup>231</sup> See Azam Ahmed and Matthew Rosenberg, "U.S. officials growl back at a watchdog", *The New York Times*, 11 September 2013; and "Factsheet: Partnership Contracts for Health (PCH)", USAID Afghanistan, September 2013

<sup>232</sup> "National Priority Programs", finance ministry, <http://mof.gov.af/en/page/3976>. "Kabul international conference communiqué", 20 July 2010; "Kabul explains its Priority Programs ahead of Tokyo", UNAMA, 25 June 2012. The Karzai government identified 22 national priority programs at the July 2010 Kabul Conference, grouped into six clusters: security (peace and reintegration); governance and human resources; infrastructure, private sector, agricultural and rural sector development.

<sup>233</sup> Crisis Group telephone interview, gender and development expert, July 2013.

health-care practitioners and increased awareness of the negative health implications for mother and child of underage marriages and high birth rates.<sup>234</sup>

### C. *Holding Kabul Accountable*

Contributions to the World Bank-administered Afghanistan Reconstruction Trust Fund (ARTF) will likely increase as donors channel a larger proportion of development aid through the government.<sup>235</sup> This creates an opportunity for better program coordination and more effective advocacy on gender issues with the government. In September 2013, to complement reporting on the fund, the ARTF completed its first scorecard, assessing results based on such indicators as the number of ARTF projects including women or gender mainstreaming.<sup>236</sup> A World Bank gender specialist said, “as the government’s reliance on ARTF for funds and for donors to channel their aid increases, the World Bank can continue a dialogue on gender issues with both. It can report back to donors who themselves insist on women’s rights and empowerment and can address these concerns with the government”.<sup>237</sup>

The ISAF withdrawal and PRT closures could also be a major opportunity to delink aid from immediate military objectives. Kabul and donors have agreed on a Mutual Accountability Framework (the July 2012 Tokyo Framework), outlining terms of partnership for a decade. Donors pledged to maintain funding at par with the past decade and to increasingly channel it through the Afghan government. Kabul pledged “to strengthen governance, grounded in human rights, the rule of law, and adherence to the Afghan constitution, [holding] it as integral to sustained economic growth and development”.<sup>238</sup>

The Tokyo Framework specifically mentions the ERAW law’s implementation as an indicator of Kabul’s commitment to these goals. On 20 May 2013, two days after the contentious Wolesi Jirga debate on the law discussed above, Ingibjorg Gisladottir, the UN WOMEN representative in Afghanistan, and Jan Kubis, UN Special Representative and head of UNAMA, called “upon the Afghan government and Parliament to fully respect and defend the fundamental rights of women and girls by ensuring that the ERAW law is respected and implemented”.<sup>239</sup> Such statements send the right signals and should be accompanied by quiet diplomacy. A technical group on elimination of violence against women and human rights, established as part of efforts to increase regular high-level dialogue since a July 2013 meeting between the donors and the government, may also be a useful forum for discussing the international commitment to and Kabul’s progress on eliminating rights violations.<sup>240</sup>

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<sup>234</sup> For negative health implications of child marriage, see, for instance, “Afghanistan – Ending child marriage and domestic violence”, Human Rights Watch, 3 September 2013, p. 6.

<sup>235</sup> ARTF was set up in 2002 as a pooled funding mechanism to cover recurrent government costs and finance national priority programs. Crisis Group Report, *Aid and Conflict*, op. cit., pp. 6-11.

<sup>236</sup> “ARTF scorecard 2013: Integrated performance and management framework”, September 2013.

<sup>237</sup> Crisis Group telephone interview, Rebecca Haines, World Bank Afghanistan, 25 July 2013.

<sup>238</sup> “Tokyo Mutual Accountability Framework”, 8 July 2012, [www.thekabulprocess.gov.af/index.php/tokyo-framework/tokyo-framework](http://www.thekabulprocess.gov.af/index.php/tokyo-framework/tokyo-framework).

<sup>239</sup> Press release, UNAMA and UN WOMEN, 20 May 2013.

<sup>240</sup> A strategic Steering Committee, a Technical Committee, monthly meetings between Afghan ministers and ambassadors of the five main donor countries (and of three rotating member countries), weekly meetings of heads of donor agencies and two other technical groups have also been established. “The situation in Afghanistan”, Report of the Secretary-General, op. cit., p. 10.



The EU seeks a Cooperation Agreement for Partnership and Development with Kabul that would provide a legal basis for continued aid.<sup>241</sup> Its Foreign Affairs Council emphasised that “the text should fully reflect Afghanistan’s international obligations”.<sup>242</sup> The level of EU help might appear to limit its ability to press Kabul on women’s rights. “USAID’s Promote program is the size of our entire annual budget for Afghanistan”, said an EU official.<sup>243</sup> Yet, Brussels should not sell itself short; it has the capacity, if member states are sufficiently committed, to influence policy directions through both political and economic engagement after the 2014 transition.

Influential international actors, particularly the U.S. and EU, should support renewal of UNAMA’s mandate beyond March 2014 and also give the financial, political and security guarantees it will need to continue its work. Similar support should be provided to AIHRC. UNAMA and AIHRC can play a crucial role in reporting on women’s rights violations and implementation of protecting laws. The closure of many of its provincial offices and threats to personnel, such as after its public support for the EAW law, may already be undermining UNAMA.<sup>244</sup> Pressured by Kabul and threatened by warlords and the armed opposition, AIHRC is also under siege. Expressing concern about the process that led to the appointment of five new commissioners, the UN Commissioner for Human Rights called on President Karzai “to do his utmost to strengthen the position of the AIHRC”.<sup>245</sup>

The international community, particularly donors supporting AIHRC, must ensure that it retains its independence and effectively exercises its monitoring and human rights protecting responsibilities. Continued support for the independent media, and women journalists in particular, is equally essential. The latter work in an increasingly hostile environment. Besides workplace harassment, they are threatened by powerbrokers in government and insurgents but continue to contribute to the growth of a robust, independent media. The Afghan Journalists Safety Committee, which, *inter alia*, focuses on protecting them, rightly noted that undermining the media “will weaken the process of institutionalisation of democracy and will also mean losing an effective tool in combating some major issues such as corruption, bad governance and human rights violations, especially women’s rights”.<sup>246</sup>

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<sup>241</sup> Negotiations started in March 2012. “European Union – Afghanistan: State of play July 2012”, European Commission, July 2012.

<sup>242</sup> “Council conclusions on Afghanistan”, EU Foreign Affairs Council meeting, 24 June 2013.

<sup>243</sup> Crisis Group interview, Brussels, July 2013.

<sup>244</sup> Crisis Group interviews, Kabul, June 2013. Press release, UNAMA and UN WOMEN, *op. cit.*

<sup>245</sup> Press conference, UN High Commissioner for Human Rights, *op. cit.* Retaining four commissioners, including the chair, Sima Samar, Karzai appointed five new commissioners, including a former Taliban leader, Mawlawi Abdul Rehman Hotak. The appointees, according to Pillay, failed to meet eligibility standards of independence, popular trust, political impartiality and human rights commitment. “Afghanistan: Weak appointments undermine rights body: Donors should closely monitor performance of new commissioners”, Human Rights Watch press release, 18 June 2013. Saleha Sadat, “UN slams Afghan government over AIHRC appointments”, *Tolo News*, 1 July 2013.

<sup>246</sup> The Afghan Journalists Safety Committee (AJSC) is a network of journalists and civil society activists, dedicated to protection of Afghan and international reporters. “Afghan Journalists Safety Committee – Six month report”, August 2013, p. 16. Nazira Babori, “Why women are underrepresented in the Afghan media”, International News Safety Institute, 26 November 2012.

#### D. Electoral Laws

Women would be empowered by participating, as candidates and voters, in the 2014 presidential and provincial council and 2015 parliamentary elections. Their participation would also lend legitimacy to the exercise. Among other factors – particularly security – women’s ability to campaign and exercise their franchise depends on the IEC’s ability to recruit sufficient female personnel. In 2009, it created and tasked a gender unit with “ensuring gender is taken into consideration in all of IEC’s electoral work”, with “a gender strategy for promoting increased women’s participation in the electoral process”.<sup>247</sup> Progress has been slow, as it has been ahead of previous elections.<sup>248</sup> By August 2013, for instance, the IEC had hired only 2,000 of the 12,000 female security staff needed for polling stations.<sup>249</sup> This recruitment has been a challenge in the past, particularly in more conservative areas.

Other problems that marred previous elections also remain unaddressed. Unless a very robust ISAF/ANSF electoral security plan is implemented to assure not only voting but also that observers can reach an area, remain for the tally and safely leave, insecurity, particularly in the south and east, will mean again that voting in much of the country will not be observed by either civil society or party and candidate representatives, opening the door to ballot stuffing. There is no comprehensive and accurate voter registry: there will be no voter lists in polling stations, and an enormous number of duplicate and fake voter registration cards remain in circulation, increasing fraud possibilities.<sup>250</sup> IEC mechanisms for preventing corruption of polling staff, accounting for ballots and protecting against manipulation of tallies are unclear.

The use of *e-Taskira* (electronic national identity cards with biometric information) could have at the least minimised, if not completely prevented men, as in the past, voting in lieu of women. With elections months away, Afghan and international advisers say it is impossible for the *e-Taskira* to be issued to all legible voters. With multiple identity documents in use, the risk of fraud increases, particularly in female polling stations if the process and count are not adequately observed.<sup>251</sup>

On 9 July 2013, the U.S. Senate passed a resolution urging the Afghan government to ensure women’s “meaningful participation in the electoral process” and to maintain “the constitutionally-mandated allocation of seats for women’s parliamentary participation”.<sup>252</sup> Later that month, the Afghan parliament approved and President Karzai signed two laws, one detailing the structure and mandate of the IEC and of

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<sup>247</sup> “Gender mainstreaming in IEC”, IEC, website, [www.iec.org.af/2012-05-29-07-06-38/gender-mainstreaming](http://www.iec.org.af/2012-05-29-07-06-38/gender-mainstreaming).

<sup>248</sup> Crisis Group interviews, IEC personnel and senior Western officials, April-June 2013.

<sup>249</sup> The interior ministry reportedly may hire and train teachers for the job. Jessica Donati and Miriam Arghandiwal, “Shortage of female security forces could keep Afghan women from vote”, Reuters, 28 August 2013.

<sup>250</sup> Due partly to funding issues, partly to insecurity, it was decided not to do a full new registration but instead to add to the voters roll those who had turned eighteen since 2010 or not previously registered, and to issue cards to any who claimed to have lost theirs. Crisis Group interviews, IEC personnel, senior Western officials, April-June 2013. By late August, 435,775 new cards had been issued, 96,924 to women, repeating the pattern of men far outnumbering women. “The situation in Afghanistan”, Report of the Secretary-General, op. cit., p. 3; Crisis Group Briefing, *Afghanistan’s Parties in Transition*, op. cit., p. 13.

<sup>251</sup> Ibid; *e-Taskira* cards are on hold until the Registration and Population Records Law is passed.

<sup>252</sup> Resolution 151, urging Kabul to ensure transparent, credible presidential and provincial elections in 2014 by adhering to internationally accepted democratic standards, establishing a transparent electoral process and ensuring security for voters and candidates, 9 July 2013.

the Independent Electoral Complaints Commission, the other on electoral process modalities.<sup>253</sup> In its relief to see the electoral architecture in place, the international community appears to have overlooked changes that work against women, including the new law that reduces the female quota in provincial councils, undermining women's political empowerment and ability to influence policy at the provincial level.

#### E. *Negotiating with the Taliban*

Afghan women and rights activists are concerned about the Karzai government's efforts and those of influential international actors, particularly the U.S., to reach a negotiated settlement with the Taliban. They fear that the gains of the last twelve years might be bargained away as the international community rushes to the exits.

The Obama administration insists that the negotiations should result in the Taliban abandoning violence, ending ties with al-Qaeda and abiding "by the constitution of Afghanistan and its protections for all Afghans, including women".<sup>254</sup> During a July 2011 India visit, then Secretary of State Hillary Clinton said, "any potential for peace will be subverted if women and ethnic minorities are marginalised or silenced".<sup>255</sup> The HPC's "Peace Process Roadmap to 2015", echoing U.S. policy, emphasises that "any outcome of the peace process must respect the Afghan Constitution and must not jeopardise the rights and freedoms that the citizens of Afghanistan, both men and women, enjoy under the Constitution".<sup>256</sup> Yet Afghan women remain mistrustful, and with good reason.

In their December 2012 Paris meeting with Karzai's High Peace Council and his political opposition, Taliban representatives reportedly called for changes to the constitution.<sup>257</sup> In April 2013, a former Taliban commander and reconciled insurgent, Syed Muhammad Akbar Agha, said, "it all depends on the *ulema* (religious scholars) opinion. If they say the constitution is all right, then we will keep it as it is. If they say it needs to be changed, we will change it".<sup>258</sup>

It seems likely that government interlocutors would be willing to concede on pro-women legislation as a bargaining tool with the armed opposition. Moreover, women are troubled by the U.S. emphasis on outcomes rather than prerequisites. A female Wolesi Jirga member said, "the U.S. has changed its policy in the past. It first promised to bring democracy and then said peace and stability would be enough". Reflecting the fears, anxieties and suspicions of women, who would be the most vulnerable should the transition falter or fail, she added, "the Americans could even bring the Taliban back. They will either leave us to the warlords or to the Taliban".<sup>259</sup>

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<sup>253</sup> Nathan Hodge and Margherita Stancati, "Afghan leader approves law aimed at fair elections", *The Wall Street Journal*, 17 July 2013.

<sup>254</sup> Testimony of Ambassador-Designate Ryan C. Crocker, Senate Foreign Relations Committee, 8 June 2011.

<sup>255</sup> Text available at [www.state.gov/secretary/rm/2011/07/168840.htm](http://www.state.gov/secretary/rm/2011/07/168840.htm).

<sup>256</sup> Text available at [www.foreignpolicy.com/files/121213\\_Peace\\_Process\\_Roadmap\\_to\\_2015.pdf](http://www.foreignpolicy.com/files/121213_Peace_Process_Roadmap_to_2015.pdf).

<sup>257</sup> Haseeb Moudoodi, "Political parties hopeful after Paris; Taliban demand constitutional change", *Tolo News*, 22 December 2012. In a second meeting in Paris in March 2013, members of the insurgent group Hizb-i-Islami, HPC and the political opposition also discussed possible changes to the constitution and electoral law. Graham Bowley and Matthew Rosenberg, "Afghan officials hail talks with insurgents", *The New York Times*, 28 June 2013; Katzman, op. cit., p. 41.

<sup>258</sup> Crisis Group interview, Kabul, 24 April 2013.

<sup>259</sup> Crisis Group interview, Kabul, June 2013.

Afghan women have good reason to believe they would have the most to lose from a Taliban comeback. An Afghan policewoman with almost 30 years in the force said, “the last time the Taliban came, they forced us to stay at home. But this time, they’ll kill us, because we’ve done a lot for women; we’ve put a lot of bad guys in jail”.<sup>260</sup> Such fears are reinforced by the opacity of the negotiation processes between the Taliban and the government, the Obama administration and other influential actors, particularly Pakistan.

UN member states are bound by UN Security Council Resolution 1325 on Women, Peace and Security (2000) to include women and women’s concerns in peace building. It “urge[s] Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict”.<sup>261</sup> Afghanistan, however, has not adopted an implementation action plan.<sup>262</sup>

In December 2011, President Obama issued an executive order for a “national action plan on women, peace and security”, committing the U.S., among other provisions, to “improve the prospects for inclusive, just and sustainable peace by promoting and strengthening women’s rights and effective leadership and substantive participation in peace processes, conflict prevention, peacebuilding, transitional processes, and decision-making institutions in conflict-affected environments”.<sup>263</sup> In the Afghanistan context, the State Department’s implementation of the plan specifically identifies the importance of encouraging the High Peace Council to include women and civil society representatives in developing its strategies.<sup>264</sup>

Yet, the nine female HPC members of a total of 70, have not played a meaningful role in decision-making or direct talks with the Taliban.<sup>265</sup> “What can we do if the Taliban don’t want to talk to women? We can’t force them”, said a male member of a provincial peace council.<sup>266</sup> If the U.S. and other internationals are willing to accept such a process from the onset, a negotiated settlement with the Taliban might well result in “men with guns forgiv[ing] other men with guns for crimes committed against women”<sup>267</sup> – and set the stage for further violations of women’s rights.

On 18 June 2013, a day after the Taliban opened their office in Qatar, U.S. Senator Robert Casey said, “if the international community and Afghan government enter

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<sup>260</sup> Crisis Group interview, June 2013.

<sup>261</sup> “Security Council Resolution 1325 (2000), p. 2.

<sup>262</sup> The Afghan government signed a memorandum of understanding with Finland in June 2011 to create a National Action Plan for 1325. A steering committee chaired by the foreign minister and a technical group are working on its development. UN WOMEN is supporting the process. “Committee on the Elimination of All Forms of Discrimination against Women, fifty-fifth session 8-26 July 2013”, CEDAW/C/AFG/Q/1-2/Add.1, 30 January 2013.

<sup>263</sup> Office of the Press Secretary, The White House, 19 December 2011.

<sup>264</sup> U.S. State Department implementation plan, August 2012, p. 18. Melanne Verveer, U.S. ambassador for global women’s issues said, “we firmly believe that women need to whole-heartedly participate in that [reintegration and reconciliation] process because if peace is to endure, women will need to have a voice in the decision-making about the future of their country. Their rights must not be endangered or diminished in efforts to reconcile competing factions”. Joint subcommittee hearing, U.S. Senate Foreign Relations Committee, 23 February 2010.

<sup>265</sup> Crisis Group interviews, Kabul, April-June 2013.

<sup>266</sup> Crisis Group interview, Mazar-e-Sharif, June 2013.

<sup>267</sup> “Beyond Victimhood: Protection and participation of women in the pursuit of peace”, testimony of Donald Steinberg, then Crisis Group Deputy President, U.S. Senate Foreign Relations Committee, 1 October 2009.

into talks with the Taliban, the U.S. must send a clear and unequivocal message that women's rights are not a bargaining chip that can be negotiated away. The women and girls of Afghanistan should be fully empowered to participate in any conversation that charts the course of Afghanistan's future".<sup>268</sup> Six days later, the EU Foreign Affairs Council emphasised: "Lasting peace in Afghanistan will require an inclusive political settlement respecting the Afghan Constitution, including the rights of women, and comprising all national, regional and international stakeholders".<sup>269</sup> However, in the absence of clear redlines on what is and is not negotiable, Afghan women have little faith in EU and U.S. assurances that any negotiated peace will be based on respect for the constitution and their rights.<sup>270</sup>

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<sup>268</sup> "Casey statement on attacks on women's rights in Afghanistan", press release, 19 June 2013.

<sup>269</sup> "Council conclusions on Afghanistan", 24 June 2013. Ten of fifteen EU member states with a 1325 national action plan cite Afghanistan for specific focus: the Netherlands, UK, France, Norway, Italy, Estonia, Belgium, Denmark, Finland and Austria. [www.peacewomen.org/naps/list-of-naps](http://www.peacewomen.org/naps/list-of-naps).

<sup>270</sup> Crisis Group interviews, Kabul, Herat, Mazar-e-Sharif and Jalalabad, April-June 2013.

## VII. Conclusion

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With international community support, the post-Taliban political order has provided opportunities and impetus for women's political participation and economic and social empowerment. Access to education and health care has improved dramatically; and never in Afghanistan's history have so many women been active in the public sphere. The struggle, however, is far from over. While gender equality is enshrined in the constitution, most women have yet to enjoy the protections and rights the law guarantees. With the security transition imminent, the gains, and women's tenuous trust in the state, are at risk. The UN High Commissioner for Human Rights has warned: "Afghanistan needs to brace itself to ensure that the tumultuous changes that will take place before the end of 2014 do not trigger a serious deterioration of human rights of any segment of the population, especially women".<sup>271</sup>

The Taliban may not be able to militarily regain control of entire cities, let alone provinces, at least in the foreseeable future, but its capacity to attack individuals, including women activists and human rights defenders, who oppose its views will likely increase. The old warlords, now wielding considerable economic and political influence at local, provincial and national levels, are also largely unsympathetic to women's rights. While these warlords are strengthening their support base, and the Taliban has expanded its reach countrywide, the security apparatus is yet to emerge as a force committed to and capable of protecting women. The absence of a professional, impartial police and a climate of impunity undermine the security of all Afghan women and limit their mobility, economic activity and access to basic services.

As the withdrawal of ISAF draws nearer, insurgent attacks on pro-women legislators and senior female officials have multiplied. Conservative elements in parliament are also increasingly questioning laws aimed at protecting women's rights and at strengthening their participation in decision-making. Less than a year before elections, hurdles to women's participation as voters and candidates are unaddressed. Yet, failure to ensure broad participation could impact the legitimacy of the process.

Any peace process must be Afghan-led but also representative of the Afghan population and based on a broad public consensus on what is and is not for negotiation. Sustaining the past twelve years' gains, including constitutionally-guaranteed gender equality and adherence to laws protecting and empowering women, must be a negotiation prerequisite, not merely a desired outcome. Women's empowerment cannot be fully achieved without peace, but a sell-out on their rights would undermine prospects for a stable, inclusive, democratic post-transition Afghanistan.

**Kabul/Brussels, 14 October 2013**

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<sup>271</sup> Press conference, UN High Commissioner for Human Rights, *op. cit.*

Appendix A: Map of Afghanistan



Map No. 3958 Rev. 6 UNITED NATIONS  
July 2009

Department of Field Support  
Cartographic Section

## Appendix B: Glossary

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AIHRC	Afghanistan Independent Human Rights Commission
ALP	Afghan Local Police
ANA	Afghan National Army
ANDS	Afghanistan National Development Strategy
ANP	Afghan National Police
ANSF	Afghan National Security Forces
APRP	Afghanistan Peace and Reintegration Program
ARTF	Afghanistan Reconstruction Trust Fund, administered by the World Bank
EVAW law	Law on Elimination of Violence Against Women
FRU	Family Response Unit, in provincial capital and large district police stations
HPC	High Peace Council
IEC	Independent Election Commission
ISAF	International Security Assistance Force
MOWA	Women's Affairs Ministry
NAPWA	National Action Plan for the Women of Afghanistan
NSP	National Solidarity Program (run by Rural Rehabilitation and Development Ministry)
PC	Provincial Council
PPC	Provincial Peace Council
PRT	Provincial Reconstruction Team
UNAMA	United Nations Assistance Mission in Afghanistan