



REFERENCE: DB/follow-up/Afghanistan/65

6 December 2016

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined initial and second periodic reports of the Islamic State of Afghanistan at the Committee's fifty-fifth session, held in July 2013. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/AFG/CO/1-2). You may recall that in the concluding observations, the Committee requested Afghanistan to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 11 and 23 of the concluding observations.

The Committee welcomes the follow-up report received with a 9-month delay in April 2016 (CEDAW/C/AFG/CO/1-2/Add.1) under the CEDAW follow-up procedure. At its sixty-fifth session, held in November 2016 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 11** of the concluding observations that the State party "Set as a priority, for the next 18 months, the consolidation of the legislative achievements by reinforcing the implementation of the Law on the Elimination of Violence against Women and the Electoral Law, in line with the Convention": The State party mentioned that the implementation of the Law on the Elimination of Violence against Women (EVAW) remains partial. It identified the main obstacles to its effective application as being related, inter alia, to the low awareness about the law among women, the limited reliance (due to the lack of awareness and interest) of the police and the judiciary on the law, and the high reliance by women and men on informal justice mechanisms and mediation. It added that enforcement of the law is also hampered by war, insecurity, corruption, culture of impunity, and a lack of the rule of law. Moreover, the State party indicated that the MoWA conducted awareness programmes for 21 614 women and girls in 34 provinces in 2013 and 2014, as well as advisory and awareness-raising programmes with religious scholars and tribal leaders, civil society organizations, prosecutors and judges; a measure which - to some extent - changed attitudes regarding the EVA Law. In addition, the State party referred to the National Action Plan for Women of Afghanistan (NAPWA), which has, inter alia, resulted in the increase of provincial commissions against violence, the establishment of 27 women's protection centres for women survivors of violence and of a specialized Elimination of Violence against Women prosecution department in 24 provinces, as well as several other initiatives aimed at empowering women and girls and raising awareness of women's rights.

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With respect to the Electoral Law, the State party acknowledged that there are a number of challenges impeding its full implementation, including shortage of women candidates for provincial councils in some provinces in 2014, which resulted in the allocated positions/quota for women remaining vacant and in recruitment of male employees in many female voting sites during the 2014 elections. The State party also mentioned other challenges hindering the effective implementation of the Election Law, including insecurity, lack of credible data through census, lack of voters' addresses, budgetary problems, lack of credible identity cards and cultural issues (pages 2-5 of the State party's follow-up report). The Committee welcomes the efforts undertaken by the State party to increase awareness of the Law on the Elimination of Violence against Women. It considers however that the State party did not take sufficient measures to ensure effective prosecution of cases of violence against women and conviction of perpetrators, based on the ERAW law. Moreover, it considers that the State party did not take concrete measures to reinforce the implementation of the Electoral Law. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation "To ensure that the Wolesi Jirga and Meshrano Jirga joint commission working on amendments to the Electoral Law maintains the 25 per cent quota for women in the National Assembly and in the provincial councils as currently established in the Electoral Law": The State party mentioned that article 83 (paragraph 6) of the Constitution specifies a quota of women in Parliament. It also indicated that, according to amendments made to article 30 (paragraph 2) of the Electoral law, by virtue of Presidential decree #84 dated 16/Sept/2015, a 25 per cent quota is envisaged for women in provincial councils. The State party also mentioned that the number of female candidates was not necessarily sufficient (page 5 of the State party's follow-up report). The Committee notes that the 25 per cent quota for provincial councils is maintained. It is, however, concerned about the lack of information on whether a 25 per cent quota still applies to the National Assembly. It considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation "To consolidate the legislative framework relating to women's rights by adopting without delay the draft family code and by ensuring that any revisions of the Penal Code and the Code of Criminal Procedures repeal, and do not include, discriminatory provisions against women": The State party mentioned that the draft family law is under scrutiny at the Legislation Institute of the Ministry of Justice and that a learning exchange is scheduled with Malaysia for further processing of the draft (page 6 of the State party's follow-up report). The Committee notes that the draft family law is under scrutiny at the Legislation Institute of the Ministry of Justice. However, it notes that the State party did not take sufficient steps to adopt the said draft. Moreover, it notes that the State party did not provide information on the measures taken to ensure that any revisions of the Penal Code and the Code of Criminal Procedures repeal, and do not include, discriminatory provisions against women. The Committee considers that the implementation **has not been implemented**.

Regarding the recommendation "To reinforce its efforts to raise the awareness of parliamentarians and members of the provincial councils regarding women's rights with a view to upholding the gains already achieved": The State party indicated that the MoWA, in collaboration with other institutions, took measures to attract the support of organizations concerned with protection of women rights achievements and endorsement of pro women policies and laws, and that it has been in constant contact with the women/gender commissions of both houses of the Parliament. At the initiative of the MoWA, a gender budget was approved and a gender sub-committee was formed in the Cabinet of Ministers. Furthermore, the State party reported on the organization of a coordination meeting with members of provincial councils and advisors to the President, including governmental and non-governmental organizations (NGOs), to ensure further cooperation and communication on women's issues. The State party also mentioned the conduct of various activities, which resulted in an increase in the number of women in consultative council

(Jirgas) election processes, as well as of women candidates for parliamentary and provincial council elections in 2014 (page 6 of the State party's follow-up report). The Committee welcomes the various measures taken by the State party to raise the awareness of parliamentarians and members of the provincial councils regarding women's rights with a view to upholding the gains already achieved. The Committee considers that the State party took significant steps to implement the recommendation. It considers that the recommendation **has been implemented**.

Regarding the recommendation "To intensify its collaboration with women's organizations to eliminate violence against women and to improve women's access to education, health, justice and political participation": The State party mentioned that the MoWA strengthened its technical cooperation with national and international organizations to uphold the rights of women at policy level, as well as its collaboration with the Parliament and the Ministry of Justice to work on laws and policies for the prevention of violence against women. The State party further referred to the signature of the Memorandum of Cooperation with 80 national and international organizations to develop the capacity of women in social, economic, cultural and political areas. It also indicated that PROMOTE, a joint commitment between the Government of Afghanistan and the Government of USA to be developed during 2015-2024, would aim at empowering 75,000 women between the ages of 18-30 and that the project would be carried out in four areas, including development of women leadership in government, women in economy and coalitions and groups as advocates for women rights. In addition, the State party indicated that the implementation of the NAPWA has led to major achievements for women in terms of access and participation in the health and education sectors, as well as in the judiciary (page 7 of the State party's follow-up report). The Committee welcomes the efforts of the State party to intensify its collaboration with women's organizations to eliminate violence against women and to improve women's access to education, health, justice and political participation. The Committee considers that the State party took significant steps to implement the recommendation. It considers that the recommendation **has been implemented**.

The Committee recommends that, in relation to paragraph 11 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to

- 1) Consolidate the legislative achievements by reinforcing the implementation of the Law on the Elimination of Violence against Women and the Electoral Law, in line with the Convention;
- 2) Ensure that the Wolesi Jirga and Meshrano Jirga joint commission working on amendments to the Electoral Law maintains the 25 per cent quota for women in the National Assembly, as currently established in the Electoral Law; and
- 3) Consolidate the legislative framework relating to women's rights by adopting without delay the draft family code and by ensuring that any revisions of the Penal Code and the Code of Criminal Procedures repeal, and do not include, discriminatory provisions against women;

Regarding the recommendation made in **paragraph 23** of the concluding observations that the State party "Establish measures, as a priority, to effectively combat impunity and comply with its due diligence obligation to prevent, investigate, prosecute and punish violence perpetrated against women by State and non-State actors": The State party mentioned that the Ministry of Interior Affairs is obliged, according to the EVAW Law, to adopt measures to prevent violence against women. It also indicated that the Ministry of Interior Affairs follows violence against women cases and refers them to the Prosecutor Office for adjudication in 34 provinces and 17 districts of Kabul. The State party further provided information on cases of violence against women between 2013 and 2015 and indicated that, during this period, 927 cases of violence against women were adjudicated and handled in courts. Moreover, the State party mentioned that the Commission on combating Violence against Women was established in 2010 as an attached

body to the Attorney General Office in order to prosecute perpetrators of violence against women, and that a special prosecutor office on combating violence against women was established in 2011 and has been operational in 24 provinces (pages 7-9 of the State party's follow-up report). The Committee welcomes the various measures taken by the State party to prevent, investigate, prosecute and punish violence against women. However, it considers that the State party did not provide information on specific measures taken to effectively combat impunity for acts of violence perpetrated by both State and non-State actors. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented.**

Regarding the recommendation that the State party "Ensure the proper implementation of the Law on the Elimination of Violence against Women by, for example, providing systematic training on that law for all police officers working in family response units, issuing guidelines to the courts on the application of the Law on the Elimination of Violence against Women, including its mandatory application in conjunction with other relevant national legislation; and developing a strategy to ensure the recruitment and retention of female police officers": The State party mentioned that the Ministry of Interior Affairs formulated and disseminated, in 2013, a strategy based on its duty and legal obligation to hire women police officers and that an action plan was prepared, which is implemented by all departments of the national police. The State party also indicated that, as the provisions of the EVAW Law have been elaborated to avoid any ambiguity with regard to its interpretation, there has been no need for the preparation of guidelines to the courts and that in-service training courses for judges to develop their capacities were conducted instead (page 9 of the State party's follow-up report). The Committee welcomes the development of the Ministry of Interior Affairs' strategy and action plan to ensure the recruitment of female police officers. It further notes that in-service training courses for judge were conducted to develop their capacities. However, the Committee notes that the State party deems unnecessary to issue guidelines to the courts on the application of the EVAW Law, including its mandatory application in conjunction with other relevant national legislation. Moreover, it notes that the State party did not indicate whether specific measures have been taken to provide systematic training on the EVAW Law for all police officers in family response units. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented.**

Regarding the recommendation that the State party "Ensure that shelters for women victims of violence are properly resourced and that the quality of services offered is regularly monitored; increase the number of shelters so as to strengthen support services for victims, such as counselling and rehabilitation services, both medical and psychological; and develop a strategy to ensure their financial support in the framework of the Tokyo Mutual Accountability Framework": The State party mentioned that, in 2013 and 2014, the MoWA took measures to improve the quality and quantity of support centres. It further indicated that standard guidelines and procedures have been developed to ensure the efficient functioning of these centres, including through the establishment of committees in charge of coordination, psychological health, security, literacy, and monthly supervision and control of peace houses. It indicated that 27 established support centres are regularly supervised by the MoWA and that a total of 4,200 women benefitted from such centres in 2013-14. The State party reported that a trust fund has been established to support women in dire need. However, it stated that safe houses are funded by donor agencies and that no step has been made to develop a strategy to ensure their financial support (page 9 of the State party's follow-up report). The Committee welcomes the measures taken by the State party to increase the number of shelters and improve the quality of services offered, including through the development of standard guidelines and procedures and the establishment of committees in charge of coordination, psychological health, security, literacy, and monthly supervision of such shelters. It further welcomes the regular monitoring of a number of shelters by the MoWA. However, the Committee notes that the State party did not indicate whether concrete measures have been taken to ensure that these shelters are in sufficient number and adequately resourced to strengthen support services for victims, in particular counselling and medical services. Moreover, it notes that no step has been made to develop a strategy to ensure their financial support in the framework of

the Tokyo Mutual Accountability Framework. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “Adopt a comprehensive policy and strategy to eliminate all harmful practices against women and girls, which includes raising the awareness of religious and community leaders with the aim of preventing misinterpretations of sharia law and Islamic principles, in addition to awareness-raising efforts targeting the general public and the media, in collaboration with civil society and women’s organizations”: The State party reported that a strategy to eliminate violence against women and provide an enabling environment for appropriate enforcement of the law is being developed and will be shortly finalized. It further indicated that, in conformity with the NAPWA, a specific working plan with religious scholars and tribal leaders for preventing violence against women has been enacted, that messages on the rights of women and girls are regularly diffused in different ways, that various research studies are conducted and information is disseminated on the issue of violence against women and the rights of women, and that sermons have been delivered on the rights of women (page 10 of the State party’s follow-up report). The Committee notes the efforts of the State party to raise awareness about the rights of women and the elimination of violence against women among the public at large as well as among religious and community leaders. However, it notes that the State party did not provide information on the implementation of the abovementioned recommendation. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party “Ensure the proper registration of cases of violence and the standardized collection of disaggregated data on all forms of violence against women”: The State party indicated that the MoWA has created a standard database in coordination with the Ministry of Interior Affairs and the Attorney General Office to register incidents of violence against women (page 10 of the State party’s follow-up report). The Committee welcomes the establishment of this database. However, it notes that the State party did not provide information on specific measures taken to ensure the standardized collection of disaggregated data on all forms of violence against women. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 23 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Effectively combat impunity and comply with its due diligence obligation to prevent, investigate, prosecute and punish violence perpetrated against women by State and non-State actors;
- 2) Ensure the proper implementation of the Law on the Elimination of Violence against Women by, for example, providing systematic training on that law for all police officers working in family response units, and issuing guidelines to the courts on the application of the Law on the Elimination of Violence against Women, including its mandatory application in conjunction with other relevant national legislation;
- 3) Ensure that shelters for women victims of violence are properly resourced; increase the number of shelters so as to strengthen support services for victims, such as counselling and rehabilitation services, both medical and psychological; and develop a strategy to ensure their financial support in the framework of the Tokyo Mutual Accountability Framework;
- 4) Adopt a comprehensive policy and strategy to eliminate all harmful practices against women and girls, which includes raising the awareness of religious and community leaders with the aim of preventing misinterpretations of sharia law and Islamic principles, in addition to

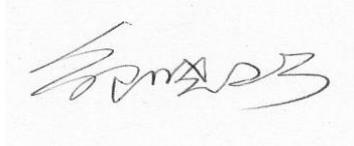
awareness-raising efforts targeting the general public and the media, in collaboration with civil society and women's organizations; and

5) Ensure the standardized collection of disaggregated data on all forms of violence against women.

The Committee looks forward to pursuing its constructive dialogue with the authorities of the Islamic State of Afghanistan on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Xiaoqiao Zou
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women